



**AGENDA
CLOSED SESSION AND REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JUNE 14, 2017
4:00 P.M., 7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

4:00 P.M. - Closed Session:

There will be a Closed Session pursuant to Section 2.2-3711, A, (1) of the Code of Virginia, 1950, as amended, for discussion of personnel matters, specifically, the annual evaluation of the County Administrator and the County Attorney.

There will be a Closed Session pursuant to Section 2.2-3711 A (3) of the Code of Virginia, 1950, as amended, for discussion or consideration of the acquisition of real property for a public purpose, and of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board.

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

Invocation

Pledge of Allegiance

Adoption of Agenda:

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

Consent Agenda:

(Tentative Agenda Items for Consent are Tabs: A, C, D and E)

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

Board of Supervisors Comments

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

1. Closed Session and Regular Meeting of April 26, 2017.

County Officials:

1. Committee Appointments. **(See Attached)----- B**

2. Resolutions on Behalf of Shenandoah University: **(See Attached)----- C**

- a. Resolution of the Board of Supervisors of Frederick County Concurring with a Financing to be Undertaken by the Economic Development Authority of the Town of Mount Jackson, Virginia, to Benefit Shenandoah University.
- b. Resolution of the Board of Supervisors of Frederick County Concurring with a Financing to be Undertaken by the Economic Development Authority of the Town of Woodstock, Virginia, to Benefit Shenandoah University.

3. Request to Schedule a Public Hearing on the Conveyance of Security Drive. **(See Attached)----- D**

Committee Reports:

1. Transportation Committee. **(See Attached)----- E**

Public Hearing:

1. Twelve Month Outdoor Festival Permit Request of Cedar Creek Battlefield Foundation (Patrick Kehoe). Pursuant to the Frederick County Code, Chapter 86, Festivals; Section 86-3, Permit Required; Application; Issuance or Denial; Fee; Paragraph D, Twelve Month Permits. All Events to be Held on the Grounds of Cedar Creek Battlefield Foundation, 8437 Valley Pike, Middletown, Virginia, Back Creek Magisterial District. Property Owned by Cedar Creek Battlefield Foundation. **(See Attached)----- F**

Planning Commission Business:

Public Hearing:

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1. **Draft Update of the 2017-2018 Frederick County Primary and Interstate Road Improvement Plans** - The Primary and Interstate Road Improvement Plans Establish Priorities for Improvements to the Primary and Interstate Road Networks within Frederick County. Comments from the Transportation Committee will be Forwarded to the Planning Commission and Board of Supervisors. Ultimately, the Priorities Adopted by the Board of Supervisors will be Forwarded to the Commonwealth Transportation Board for Consideration.

The Virginia Department of Transportation and the Board of Supervisors for the County of Frederick, Virginia, in Accordance with Section 33.2-331 of the Code of Virginia, will Conduct a Joint Public Hearing. The Purpose of this Public Hearing is to Receive Public Comment on the Proposed Six Year Plan for Secondary Roads for Fiscal Years 2018 Through 2023 in Frederick County and on the Secondary System Construction Budget for Fiscal Year 2018. Copies of the Proposed Plan and Budget May be Reviewed at the Edinburg Office of the Virginia Department of Transportation, Located at 14031 Old Valley Pike, Edinburg, Virginia or at the Frederick County Offices Located at 107 North Kent Street, Winchester, Virginia. All Projects in the Secondary Road Improvement Plan that are Eligible for Federal Funds will be Included in the Statewide Transportation Improvement Program (STIP), which Documents How Virginia will Obligate Federal Transportation Funds. Persons Requiring Special Assistance to Attend and Participate in this Hearing Should Contact the Virginia Department of Transportation at 1-800-367-7623.

(See Attached)----- **G**

Other Planning Items:

1. Resolution to Allow Transfer of Development Rights (TDR) to be Utilized for Proffer Payments within the Village at Middletown. **(See Attached)** ----- **H**

Board Liaison Reports (If Any)

Citizen Comments

Board of Supervisors Comments

Adjourn

CONSENT AGENDA

A

MINUTES
CLOSED SESSION
AND
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
APRIL 26, 2017

A Closed Session and Regular Meeting of the Frederick County Board of Supervisors were held on Wednesday, April 26, 2017, beginning at 6:15 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, Virginia.

PRESENT

Chairman Charles S. DeHaven, Jr.; Vice-Chairman Gene E. Fisher; Blaine P. Dunn; Bill M. Ewing; Gary A. Lofton; Judith McCann-Slaughter; and Robert W. Wells.

CALL TO ORDER

Chairman DeHaven called the meeting to order.

CLOSED SESSION

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board of Supervisors convened in closed session pursuant to Section 2.2-3711 A (5) of the Code of Virginia, 1950, as Amended, for discussion concerning the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in expanding its facilities in the community.

The above motion was approved by the following recorded vote:

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

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

The above motion was approved by the following recorded vote:

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

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Dunn, the Board certified that to the best of each Board Member's knowledge only discussion concerning a prospective business or industry, or the expansion of an existing business or industry, where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, pursuant to Section 2.2-3711 A (5) of the Code of Virginia, 1950, as amended, was discussed.

The above motion was approved by the following recorded vote:

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

Chairman DeHaven announced the Board would recess until its 7:00 P.M. regular meeting.

REGULAR MEETING - CALL TO ORDER

Chairman DeHaven called the meeting to order.

INVOCATION

Reverend Mark Carey, Fellowship Bible Church, delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice Chairman Fisher led the Pledge of Allegiance.

ADOPTION OF AGENDA – APPROVED AS AMENDED

County Administrator Brenda Garton stated that item numbers 2 and 3 under the Minutes needed to be removed from the Consent Agenda as all Board members were not present at those meetings. She further stated the Stephens City Fire and Rescue proffer funds request that was previously postponed and referred to the Public Safety Committee, be added to the Finance Committee Report.

Upon a motion made by Supervisor Lofton, seconded by Supervisor Dunn, the Board approved the agenda as amended by the following recorded vote:

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

CONSENT AGENDA - APPROVED

Upon a motion made by Supervisor Ewing, seconded by Supervisor Wells, the Board approved the following items under the consent agenda:

- Minutes – Regular Meeting of March 22, 2017 - Tab A1;
- Memorandum Re: Request to Set Schedule for Board Meetings During Summer Months and for November and December, 2017 – Tab E;
- Board Vision 2036 and Strategic Priorities – Strategic Work Plan - Tab F;
- Parks and Recreation Commission Report - Tab G.

The above motion was approved by the following recorded vote:

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

CITIZEN COMMENTS

There were no citizen comments.

BOARD OF SUPERVISORS COMMENTS

There were no Board of Supervisors' comments.

MINUTES – APPROVED

The minutes of the Regular Meeting of March 22, 2017 were approved under the consent agenda.

Upon a motion made by Supervisor Slaughter, seconded by Vice Chairman Fisher, the minutes of the Work Session with the Economic Development Authority of March 30, 2017 were approved.

The above motion was approved by the following recorded vote:

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

Upon a motion made by Supervisor Ewing, seconded by Supervisor Dunn, the minutes of the Retreat with the Sanitation Authority of March 30, 2017 were approved.

The above motion was approved by the following recorded vote:

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

COUNTY OFFICIALS

**EMPLOYEE OF THE MONTH AWARD PRESENTED TO JUDY L. MYERS –
(RESOLUTION #072-17) – APPROVED**

Upon a motion made by Supervisor Dunn, seconded by Supervisor Slaughter, the resolution for Employee of the Month for Judy L. Myers was approved.

**Employee of the Month Resolution
Awarded to:
Judy L. Myers**

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

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

WHEREAS, the Board of Supervisors upon recommendation by the Human Resources Committee selects one employee from those nominated; and,

WHEREAS, Judy L. Myers who serves as an Animal Caretaker with the Frederick County Esther Boyd Animal Shelter was nominated for employee of the Month; and,

WHEREAS, Judy L. Myers went the extra mile to provide exceptional customer service to a concerned citizen when they called about "Buddy", an older dog they had recently adopted from the shelter. Buddy was not eating, depressed and was afraid to go outside after getting a shock from invisible fencing. Judy was familiar with Buddy, because she was his caretaker since he first arrived at the shelter, nearly emaciated from a resolved court case. Thanks to a special diet and Judy's care, Buddy was healthy and "Fluffy" and ready for adoption. Judy's concern for Buddy and the family that adopted him motivated her to visit their home to provide advice and help with Buddy's adjustment. Buddy perked right up when he saw Judy and by the end of the visit, Buddy was eating and felt comfortable going back into the yard. Buddy is happy, healthy and has adjusted well to his new home and family; and,

NOW, THEREFORE BE IT RESOLVED, by the Frederick County Board of Supervisors this 26th day of April, 2017, that Judy L Myers is hereby recognized as the Frederick County Employee of the Month for May 2017; and,

BE IT FURTHER RESOLVED that the Board of Supervisors extends gratitude to Judy L. Myers for her outstanding performance and dedicated service and wishes her continued success in future endeavors; and,

BE IT FURTHER RESOLVED, that Judy L. Myers is hereby entitled to all of and privileges associated with his award.

The above motion was approved by the following recorded vote:

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

COMMITTEE APPOINTMENTS

J. RHODES MARSTON REAPPOINTED TO THE FREDERICK COUNTY PLANNING COMMISSION AS REPRESENTATIVE FROM BACK CREEK DISTRICT - APPROVED

Upon a motion made by Supervisor Lofton, seconded by Vice Chairman Fisher, J. Rhodes Marston was reappointed to the Frederick County Planning Commission as a representative from Back Creek District, for a four year term, said term to commence June 12, 2017 and expire June 12, 2021.

The above motion was approved by the following recorded vote:

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

M. FRANK HEISEY REAPPOINTED TO THE FREDERICK COUNTY SOCIAL SERVICES BOARD AS REPRESENTATIVE FROM GAINESBORO DISTRICT - APPROVED

Upon a motion made by Supervisor Ewing, seconded by Supervisor Lofton, M. Frank Heisey was reappointed to the Frederick County Social Services Board as a representative from Gainesboro District, for a four year term, said term to commence July 1, 2017 and expire June 30, 2021.

The above motion was approved by the following recorded vote:

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

REQUEST FROM THE COMMISSIONER OF THE REVENUE FOR REFUNDS - APPROVED

Administrator Garton reviewed the following requests from the Commissioner of the Revenue to authorize the Treasurer to refund:

1. Ferguson Enterprises, Inc. in the amount of \$3,172.80 for adjustment of business license taxes from 2014 through first half of 2017. This refund resulted from reclassification of business license taxes. This refund is for the Treasurer to apply against current billings as the total billings are in excess of the refund amount.

Upon a motion made by Supervisor Slaughter, seconded by Supervisor Lofton, the above refund request and supplemental appropriation was approved.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Bill M. Ewing	Aye

Gene E. Fisher	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

2. Undisclosed Taxpayer – Disabled Veteran’s Relief in the amount of \$3,338.56 from 2011 through 2016 for real estate taxes, based on proper filing proof of 100% permanent and total disability directly due to military service as required under the Virginia Code change as a result of the Constitutional amendment that took effect for 2011. The Constitutional amendment and the enabling legislation automatically make qualifying property exempt as of that date for a veteran whose disability rating occurs prior to that date. Taxpayer’s name cannot be made public because of applicable legal requirements as to privacy, but is known to the Commissioner and the Treasurer on a confidential basis.

Upon a motion made by Supervisor Lofton, seconded by Supervisor Slaughter, the above refund request and supplemental appropriation was approved.

The above motion was approved by the following recorded vote:

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

MEMORANDUM RE: REQUEST TO SET SCHEDULE FOR BOARD MEETINGS DURING SUMMER MONTHS AND FOR NOVEMBER AND DECEMBER 2017. – APPROVED UNDER CONSENT AGENDA

The Board of Supervisors canceled their summer meetings of June 28, July 26 and August 23, 2017 and the November 22, 2017 and December 27, 2017 meetings, due to the holidays, under the consent agenda.

BOARD VISION 2036 AND STRATEGIC PRIORITIES – STRATEGIC WORK PLAN - APPROVED UNDER CONSENT AGENDA

The Board Vision 2036 and Strategic Priorities – Strategic Work Plan, as prepared by

County Administrator Brenda Garton, was approved under the consent agenda.

COMMITTEE REPORTS

PARKS AND RECREATION COMMISSION REPORT - APPROVED UNDER CONSENT AGENDA

The Parks and Recreation Commission met on April 11, 2017. Members present were: Randy Carter, Christopher Fordney, Natalie Gerometta, Gary Longerbeam, Ronald Madagan, Guss Morrison, Charles Sandy, Jr., Amy Strosnider and Robert Wells (Board of Supervisors' Non-Voting Liaison).

Items Requiring Board of Supervisors Action:

None

Submitted for Board Information Only:

1. Building and Grounds Committee -Frederick Heights - The Building and Grounds Committee recommended to request \$197,000 from the Parks and Recreation proffer funds for the development of Frederick Heights Park, subject to the project funding status in the FY18 budget, second by Mr. Fordney, motion carried unanimously (8-0). Request will be forwarded to the Finance Committee for review at their next meeting.

2. Building and Grounds Committee- Rose Hill Park Playground - The Building and Grounds Committee recommended to request \$68,577 from the Parks and Recreation proffer funds and \$21,200 to be transferred from donation revenue to capital expenditure for the installation of a playground at Rose Hill Park, subject to the project funding status in the FY18 budget, second by Ms. Strosnider, motion carried unanimously (8-0). Request will be forwarded to the Finance Committee for review at their next meeting.

HUMAN RESOURCES COMMITTEE REPORT - APPROVED

Supervisor Ewing presented the Human Resources Committee Report.

The HR Committee met in the First Floor Conference Room at 107 North Kent Street at 8:00 a.m. on Friday, April 14, 2017. HR Committee members present were: Supervisors Bill Ewing, Chairman; and Blaine Dunn; Citizen Members Don Butler and Dorrie Greene. Others present were: Brenda Garton, County Administrator; DeLois Blevins, HR Manager; and Tamara Green, Director of Frederick County Department of Social Services.

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

1. Employee of the Month May 2017 - Approved Earlier in the Meeting

The Committee reviewed the attached employee of the month for May. Upon a motion by Don Butler, seconded by Dorrie Greene, the Committee recommended approval; the motion was approved unanimously.

2. Department of Social Services Director Request for New Positions - Approved to Add to the Allocation List and Forward to Finance Committee for Funding

The Committee considered a request from Tamara Green, DSS Director, for two full-time Family Services Specialist positions. Tamara also shared with the committee additional information about the departments' services and workload as a result of substance-exposed infants in our locality.

After discussion and upon a motion by Don Butler, seconded by Blaine Dunn, the Committee unanimously agreed to recommend approval of the two positions to the Board of Supervisors.

Upon a motion made by Supervisor Ewing, seconded by Supervisor Wells, the above request was approved to add to the Allocation List and forward to the Finance Committee for funding.

The above motion was approved by the following recorded vote:

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

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

1. Mr. Ewing asked Ms. Brenda Garton to talk with Mr. Charles DeHaven, Jr., Chairman-At-Large, to see if there would be time at an upcoming Board of Supervisors work session to have Ms. Tamara Green, DSS Director, make a presentation about the drug problem in the area and the impact on services.

2. Mr. Ewing asked Human Resources to develop and present to the HR Committee a process by which employees, retiring from Frederick County, with a certain number of years of service, be recognized with a resolution by the Board.

There being no further business, the meeting was adjourned.

The next HR Committee meeting is scheduled for Friday, May 12, 2017 at 8:00 a.m.

FINANCE COMMITTEE REPORT - APPROVED

Supervisor Slaughter presented the Finance Committee Report.

A Finance Committee meeting was held in the First Floor Conference Room at 107 North Kent Street on Wednesday, April 19, 2017 at 8:00 a.m. All members were present. Item 3 was approved under consent agenda.

Upon a motion made by Supervisor Slaughter, seconded by Supervisor Ewing, Item 3 was approved under the consent agenda.

The above motion was approved by the following recorded vote:

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

1. The Parks and Recreation Director requests a General Fund supplemental appropriation in the amount of \$89,777 to install a playground at Rose Hill Park. Of this amount, \$68,577 are proffer funds and \$21,200 are funds received from the Glass-Glenn Burnie Foundation. See attached memo, p. 3. The committee recommends approval. - **Approved**

Upon a motion made by Supervisor Slaughter, seconded by Supervisor Lofton, the above request was approved.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Bill M. Ewing	Aye
Gene E. Fisher	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye

Robert W. Wells

Aye

2. The Parks and Recreation Director requests a General Fund supplemental appropriation in the amount of \$197,000 of proffer funds to design and install parking and a trail at Frederick Heights Park. See attached memo, p. 4. The committee took no action. – **Referred Back to the Finance Committee**

Upon a motion made by Supervisor Slaughter, this request was sent back to the Finance Committee for more information and recommendation.

Supervisor Ewing seconded the motion.

Supervisor Dunn stated this is a neighborhood park that is now not usable. He further stated it is a good park and needs to be upgraded.

Supervisor Ewing asked when this would come back to the Finance Committee.

Supervisor Slaughter stated at the next meeting.

The above motion to send back to the Finance Committee was approved by the following recorded vote:

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

3. The Sheriff requests a General Fund supplemental appropriation in the amount of \$6,654.27. This amount represents prisoner extradition reimbursements. No local funds required. See attached memo, p. 5. – **Approved Under Consent Agenda**

4. The Voter Registrar requests a General Fund supplemental appropriation in the amount of \$49,551.70. This amount represents funds required for the June Democratic and Republican Primaries. Local funds are required. See attached memo, p. 6 – 7. The committee recommends approval. - **Approved**

Upon a motion made by Supervisor Slaughter, seconded by Supervisor Lofton, the above

request was approved.

The above motion was approved by the following recorded vote:

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

5. Stephens City Fire and Rescue Company requests a General Fund supplemental appropriation in the amount of \$224,105.51. This amount is a request for proffer funds for a proposed ancillary building project. The committee recommends approval. - **Approved**

Vice Chairman Fisher stated this item was referred to the Public Safety Committee at the Board of Supervisors meeting of March 22, 2017. He stated the Public Safety Committee met on April 20, 2017 and found no issues.

Upon a motion made by Supervisor Slaughter, seconded by Supervisor Dunn, the above request was approved.

The above motion was approved by the following recorded vote:

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

Information Only

1. The Finance Director provides a Fund 10 Transfer Report for March 2017. See attached, p. 8.

2. The Finance Director provides an FY 2016 Fund Balance Report ending April 13, 2017. See attached, p. 9.

3. The Finance Director provides financial statements for the month ending March 31, 2017. See attached, p. 10 – 20.

4. The current Proffer Policy is provided. See attached, p. 21.

PUBLIC HEARING

PUBLIC HEARING - OUTDOOR FESTIVAL PERMIT REQUEST OF OPEQUON PRESBYTERIAN CHURCH - OPEQUON ON THE LAWN. PURSUANT TO THE FREDERICK COUNTY CODE, CHAPTER 86, FESTIVALS; SECTION 86-3, PERMIT REQUIRED; APPLICATION; ISSUANCE OR DENIAL; FEE; FOR AN OUTDOOR FESTIVAL PERMIT. FESTIVAL TO BE HELD ON SATURDAY MAY 20, 2017 FROM 10:00 A.M. - 6:00 P.M., ON THE GROUNDS OF OPEQUON PRESBYTERIAN CHURCH, 217 CHURCH LANE, WINCHESTER, VIRGINIA, BACK CREEK MAGISTERIAL DISTRICT. PROPERTY OWNED BY OPEQUON PRESBYTERIAN CHURCH. - APPROVED

Michael Butler appeared before the Board on behalf of this outdoor festival permit application and highlighted the mission’s activities. He stated that he talked with the retirement community; there would be no alcohol and no admission fee.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion made by Supervisor Lofton, seconded by Supervisor Dunn, the above outdoor festival permit request of Opequon Presbyterian Church was approved.

The above motion was approved by the following recorded vote:

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

PUBLIC HEARING - PROPOSED CONVEYANCE TO THE CLOWSER FOUNDATION OF A 99-YEAR LEASEHOLD INTEREST IN A 18,436.3 SQUARE FOOT AREA, INCLUDING THE IMPROVEMENT THEREON (ALSO KNOWN AS THE CLOWSER HOUSE OR THE SHAWNEELAND COUNCIL HOUSE), WITHIN PROPERTY OWNED BY FREDERICK COUNTY, LOCATED AT 152 TOMAHAWK TRAIL, TAX PARCEL NUMBER 49A02-2-F, IN THE BACK CREEK MAGISTERIAL DISTRICT. - APPROVED

Public Works Director Joe Wilder presented the leasehold agreement request. He stated the Clowser Foundation wanted to save the Council House due to its historical significance. He stated the Clowser Foundation, the Shawneeland Advisory Committee and staff had met to discuss options and stated the 99 year leasehold interest in the Council House and a surrounding 18,436.3 square foot area to the Council House provided the answer. He further stated the Clowser Foundation will undertake the repairs to the Council House and will bear responsibility for labor and costs of repairs and maintenance to the buildings and grounds. He thanked everyone that had been involved in this endeavor; the Board of Supervisors, the Public Works Committee, staff, the Clowser Foundation and citizens.

Chairman DeHaven convened the public hearing.

Patsy Gochenour, Red Bud District, appeared before the Board and asked how you measure time; everyone should embrace time and that the Clowser family has stood the test of time. She asked for a positive vote on the 99 year lease.

Anna Campbell, Back Creek District, appeared before the Board in support of this request and stated she was glad to see this concluding.

Patty Artow, Back Creek District and Shawneeland resident, appeared before the Board and stated she was in support of this lease for historical purposes.

Larry Allen Clowser Webb, with the Clowser Foundation, appeared before the Board

and stated they had received a letter from the IRS for the 5013C designation for the organization and thanked the Board of Supervisors for their help.

Dody Stottlemeyer, Shawnee District, appeared before the Board and stated that she had followed this journey and asked for approval of this request.

Ruth Perrine, Back Creek District and resident of Shawneeland, addressed the Board and asked for approval.

Gretchen Coffey, Back Creek District, appeared before the Board and stated that people in the area are interested in history and asked for a favorable vote.

There were no further comments.

Chairman DeHaven closed the public hearing.

Upon a motion made by Supervisor Lofton, seconded by Supervisor Dunn, the Board approved the 99 year leasehold agreement.

Supervisor Lofton thanked everyone for coming together and working to find a solution.

Vice Chairman Fisher stated there is so much negative in the world and he appreciated the citizens, the Clowser Foundation and everyone involved that sat down and talked civilly to come to an agreement.

Supervisor Dunn stated there was a possibility of this house being torn down and thanked Josh Janny with the *Winchester Star* for his article on the history of this house. He stated all the comments received helped and he thanked everyone involved.

LEASE AGREEMENT

This Lease, made and dated on this the _____ day of _____ 2017, by and between the COUNTY OF FREDERICK, VIRGINIA, a political subdivision of Virginia, the Lessor (COUNTY), and the CLOWSER FOUNDATION, a Virginia non-stock corporation, Lessee (FOUNDATION).

WITNESSETH: That for and in consideration of the mutual covenants and agreements mentioned here to be kept and performed by the Lessor and Lessee, the parties do hereby agree as follows:

1. The COUNTY does hereby devise and lease to the FOUNDATION all those certain lots or parcels of real estate, and all improvements and fixtures thereon, lying and being situate in the Back Creek Magisterial District, comprised of approximately 18,436.3 square feet, as more particularly shown on the diagrams attached hereto (PREMISES).
2. The term of this lease shall be for a period of ninety-nine (99) years. The term of the lease shall be renewable at the mutual agreement of the parties at the end of the expiration of the Lease.
3. RENT: During the first term of this Lease, the FOUNDATION shall pay to the COUNTY the rent of \$99.00, or \$1.00 per year, with the total of \$99.00 being payable in advance, within sixty (60) days of the signing of the instant Lease.
4. DELIVERY OF POSSESSION TO THE LESSEE: The COUNTY hereby covenants and agrees that the FOUNDATION shall and may at all times peaceably and quietly have, hold, and enjoy the PREMISES during the term of this Lease. The COUNTY hereby covenants that the COUNTY owns the PREMISES.
5. It is expressly understood that the Clowser House, located on the PREMISES, is presently in a substantial state of disrepair. As a part of the consideration herefor, the FOUNDATION shall immediately undertake to reasonably secure the Clowser House against further deterioration, disrepair, and vandalism, and shall, within a reasonable time, not to exceed 365 days, repair and improve such building to a structurally stable condition, and maintain the Clowser House in a like condition throughout the remainder of the term of this Lease. All costs of preservation, repair, improvement, and maintenance of the Clowser House and utilities, amenities, and other expenses resulting from or relating to any use thereof shall be the sole responsibility of the FOUNDATION, and no payment or contribution by, or on behalf of, the COUNTY and/or Shawnee land Sanitary District shall be made or required for the same. The FOUNDATION agrees to indemnify and hold harmless the COUNTY and Shawneeland Sanitary District as to any liability for payment of such expenses. At the termination of this Lease, all improvements made to or erected on the PREMISES shall revert to the COUNTY, and shall be free from any encumbrance at the time of such reversion. Upon termination of this Lease, no payment for, or contribution, shall be required or demanded from the COUNTY and/or Shawnee land Sanitary District for any increased value of the PREMISES resulting from the FOUNDATION'S obligations hereunder to preserve, improve, or maintain the Clowser House.
6. OCCUPANCY AND USE: The FOUNDATION shall use the PREMISES solely for such

public or community non-commercial purposes as are intended for the benefit of the health, safety, welfare, education, recreation, cultural enlightenment, literacy, or civic awareness of the community. The FOUNDATION shall not use the PREMISES for yard sales or for the conduct of other sales of goods or food items for use or consumption off-premises. All parking for the PREMISES shall be in the adjacent parking lot or, if necessary, in designated overflow parking areas. No archaeological digging on the PREMISES shall be permitted without prior written consent from the COUNTY. Written notice of any such application or request shall be given by the COUNTY to the Shawneeland Sanitary District Advisory Committee so that it may provide comments on such application. With specific respect to the Clowser House, the FOUNDATION shall only permit its use as follows and in no other manner and for no other use: 1.) as a historical landmark with public access only to the exterior (for viewing purposes); 2.) for storage of materials needed at the site and accessed only at a very low frequency; and 3.) for interior access by appointment only for maintenance and inspection. The FOUNDATION shall indemnify and hold harmless the COUNTY and Shawneeland Sanitary District as to any liability, injury, or damage to any person or property as a result of their use of the Clowser House other than as permitted hereunder.

7. INSURANCE: The FOUNDATION acknowledges that it must secure its own insurance policy as to the contents and improvements to the PREMISES and that it must secure commercial general liability insurance, with coverage of not less than \$1,000,000 per occurrence, for its operation of the PREMISES. Any insurance required of the FOUNDATION hereunder shall be primary coverage and shall endorse the COUNTY as an additional insured. The FOUNDATION also assumes liability for injury or damage to the person or property of any person as the result of the use of the PREMISES or the condition thereof from the date of possession of the PREMISES and continuing throughout the term of the Lease. The FOUNDATION shall indemnify and hold harmless the COUNTY and Shawneeland Sanitary District as to any liability, injury, or damage to any person or property as a result of their use of the PREMISES.

8. RIGHT OF PUBLIC ACCESS: The FOUNDATION shall allow access to the general public and to residents of Shawneeland for the purposes of ingress and egress to the exterior areas of the PREMISES, as a general community historic resource.

9. MAINTENANCE OF THE PROPERTY: The FOUNDATION shall be responsible for all labor and costs associated with the maintenance of the PREMISES, to include, but not limited to, mowing, regular repairs and any other maintenance costs associated with the PREMISES.

10. DEFAULT: Should the FOUNDATION fail to abide by any of its obligations under this Lease, the COUNTY may give written notice of default to the FOUNDATION. Should the FOUNDATION fail to cure the default within sixty (60) days of such written notice, the COUNTY may declare this Lease terminated and re-take possession of the PREMISES. Any written notice of default shall detail the terms of the Lease by which the FOUNDATION has failed to abide. Failure of the COUNTY to exercise this power on any one or more occasion

shall not constitute waiver of the right to exercise this power upon further default.

11. COMPLETE AGREEMENT: This agreement as written constitutes the entire and complete understanding between the parties hereto and no representation, warranties, or promises not contained herein this document are in any way in effect between the parties, and this agreement may not be altered or changed except by written document signed by these parties.

12. GOVERNING LAW; VENUE: This Lease shall be governed by the laws of the Commonwealth of Virginia and any litigation arising out of or in connection with this Lease shall be brought only in the Circuit Court for Frederick County, Virginia.

13. This Lease was duly authorized and approved by resolution of the Board of Supervisors of Frederick County at a regularly scheduled meeting held on _____ and was authorized to execute the same on behalf of the COUNTY. A copy of such resolution is attached hereto and incorporated herein by reference.

Witness the following signatures this _____ day of _____, 2017.

The above motion was approved by the following recorded vote:

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

PLANNING COMMISSION BUSINESS

PUBLIC HEARING

PUBLIC HEARING - CONDITIONAL USE PERMIT #03-17 FOR KELLEY AND ROBERT LUCKETT, FOR A COTTAGE OCCUPATION FOR AN IN HOME DAYCARE. THE PROPERTY IS LOCATED AT 211 REBECCA DRIVE, WINCHESTER, VIRGINIA AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 55G-5-1-19 IN THE RED BUD MAGISTERIAL DISTRICT. - (RESOLUTION #070-17) - APPROVED

Zoning Administrator Mark Cheran appeared before the Board and presented this conditional use permit request. He stated this was a request for a conditional use permit for

an in-home daycare facility within a single-family detached residence in the RP (Residential Performance) Zoning District. He further stated the Planning Commission recommended approval with conditions.

Mrs. Lockett appeared before the Board on behalf of her request and stated she did not have anything to add.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Supervisor Ewing asked if there had been any complaints.

Mr. Cheran replied no.

Supervisor Ewing asked how many conditional use permits there are with 10-12 children.

Mr. Cheran replied the code states someone can have 5 children without a permit and above that amount requires a permit.

Supervisor Ewing stated he had a problem with this large of a business being in a residential neighborhood and they needed to look at this in the future.

Supervisor Dunn stated he had been at the applicant's home and had not seen any impacts. He stated the pick-up times are staggered.

Upon a motion made by Supervisor Dunn, seconded by Vice Chairman Fisher, conditional use permit #03-17 of Kelley Lockett and Robert Lockett was approved.

**RESOLUTION
CONDITIONAL USE PERMIT #03-17
KELLEY LUCKETT AND ROBERT LUCKETT**

WHEREAS, Conditional Use Permit #03-17 for an in-home daycare facility, submitted by Kelley and Robert Lockett, was considered. The Property is located at 211 Rebecca Drive,

Winchester, Virginia and is further identified with Property Identification Number 55G-5-1-19, in the Red Bud Magisterial District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on the Conditional Use Permit on April 5, 2017, 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 April 26, 2017; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #03-17 for an in-home daycare facility on the parcel identified by Property Identification Number 55G-5-1-19 with the following conditions:

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

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Bill M. Ewing	Aye
Gene E. Fisher	Aye
Gary A. Lofton	Aye

Judith McCann-Slaughter Aye
Robert W. Wells Aye

PUBLIC HEARING - CONDITIONAL USE PERMIT #04-17 FOR TRISHA SHANHOLTZ, FOR A COTTAGE OCCUPATION FOR AN IN HOME DAYCARE. THE PROPERTY IS LOCATED AT 120 REFUGE CHURCH ROAD, STEPHENS CITY, VIRGINIA AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 93-A-7D IN THE OPEQUON MAGISTERIAL DISTRICT. – (RESOLUTION #071-17) – APPROVED

Zoning Administrator Mark Cheran appeared before the Board and presented this conditional use permit request. He stated this is a request for a conditional use permit for an in-home daycare facility within a single-family detached residence in the RA (Rural Areas) Zoning District. He stated a septic system has been installed and the applicant has received a permit from the Health Department. He further stated the Planning Commission recommended approval with conditions.

Chairman DeHaven asked if the number of children, on more acreage, and only 1 employee, was related to the septic system issue.

Mrs. Shanholtz appeared before the Board on behalf of her request and addressed the septic system issue and stated everything had been approved and she was only waiting on Board of Supervisors approval.

Supervisor Dunn asked if she objected to 2 employees, that he would not object to adding an employee.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion made by Supervisor Wells, seconded by Supervisor Dunn, conditional use

permit #04-17 of Trisha Shanholtz was approved.

Supervisor Dunn moved to amend the conditions to allow up to two employees.

Supervisor Wells seconded the motion.

The above amendment was approved by the following recorded vote:

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

**RESOLUTION CONDITIONAL USE PERMIT #04-17
TRISHA SHANHOLTZ**

WHEREAS, Conditional Use Permit #04-17 Trisha Shanholtz for an in-home daycare facility, submitted by Trisha Shanholtz was considered. The Property is located at 120 Refuge Church Road, Stephens City, Virginia and is further identified with Property Identification Number 93-A-7D, in the Opequon Magisterial District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on the Conditional Use Permit on April 5, 2017, 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 April 26, 2017; 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 #04-17 for an in-home daycare facility on the parcel identified by Property Identification Number 93-A-7D with the following conditions:

1. All review agency comments and requirements shall be complied with at all times.
2. Hours of operation shall be permitted from 6:00 a.m. to 6:00 p.m., Monday

through Friday.

3. The Applicant shall satisfy the licensing requirements of the Virginia Department of Social Services and the County of Frederick.
4. The Applicant shall apply for and install an approved septic system within one (1) year of approval date of this Conditional Use Permit.
5. This Conditional Use Permit shall be void and revoked if condition #4 is not implemented.
6. One cottage occupation sign is permitted.
7. Other than those children residing on the property, there shall be no more than twelve (12) children being cared for at any given time.
8. Other than those persons residing on the property, there shall be no more than two (2) employees working at the daycare at any time.
9. Any expansion or change of use will require a new Conditional Use Permit.

The above motion, with amended conditions, was approved by the following recorded

vote:

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

BOARD LIAISON REPORTS

Supervisor Dunn stated the Handley Regional Library Board thanked County Administrator Brenda Garton and the Board of Supervisors for the appropriation in the budget.

CITIZEN COMMENTS

Alan Morrison, Gainesboro District, addressed the Board and commended staff, the Board of Supervisors and citizens for the work on the Clowser House. He stated when citizens

are included, a lot can be achieved. He stated people should look for other opportunities instead of expecting government to do everything.

Ruth Perrine, Back Creek District and resident of Shawneeland, addressed the Board with reference to the Clowser House and stated she was thankful the journey was over and for the outcome. She thanked everyone that had been involved and said that she appreciated all of the hard work.

BOARD OF SUPERVISORS COMMENTS

Supervisor Dunn thanked the Clowser Foundation and everyone involved and for the favorable resolution to the Clowser House issue.

Supervisor Wells stated that he had recently attended the Sherando High School FFA Banquet and it was a great event.

Vice Chairman Fisher stated that at the last Board meeting no action was taken on the proposed ordinance amendment regarding medical offices. He stated he had his questions answered and if the Board was in agreement, to place this back on the Board of Supervisors agenda.

ADJOURN

UPON MOTION MADE BY VICE CHAIRMAN FISHER, SECONDED BY SUPERVISOR WELLS, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THE MEETING WAS ADJOURNED. (8:06 P.M.)

B



Brenda G. Garton
County Administrator

540/665-6382

Fax 540/667-0370

E-mail: bgarton@fcva.us

MEMORANDUM

TO: Board of Supervisors
FROM: Brenda G. Garton, County Administrator
DATE: June 7, 2017
RE: Committee Appointments

Listed below are the vacancies/appointments due through August, 2017. As a reminder, in order for everyone to have ample time to review applications, and so they can be included in the agenda, please remember to submit applications prior to Friday agenda preparation. Your assistance is greatly appreciated.

APRIL 2017

Board of Building Appeals

Clay A. Whitacre – Frederick County Representative
304 Whitacre Road
Gore, VA 22637
Home: (540)888-3898
Term Expires: 04/25/17
Five year term

(Mr. Whitacre advised staff he does not want to be reappointed.) (FYI - There are seven members on the Board of Building Appeals. One member serves as an alternate. Members serve a five year term. *Members should, to the extent possible, represent different occupational or professional fields of the building industry. At least one member should be an experienced builder and one other member should be a licensed professional engineer or architect.*)

Historic Resources Advisory Board

Elizabeth B. Fravel – Opequon District Representative
5211 Main Street
Stephens City, VA 22655
Home: (540)869-4378
Term Expires: 04/26/17

Four year term

(The Historic Resources Advisory Board is comprised of nine members, one member from each magisterial district and three members at large.)

JUNE 2017

Historic Resources Advisory Board

David O'Neil – Gainesboro District Representative
161 Harrelson Place
Winchester, VA 22603
Home: (540)722-8955
Term Expires: 06/12/17
Four year term

(The Historic Resources Advisory Board is comprised of nine members, one member from each magisterial district and three members at large.)

Planning Commission

Roger L. Thomas – Opequon District Representative
127 Halifax Avenue
Stephens City, VA 22655
Home: (540)869-4904
Term Expires: 06/14/17
Four year term

Winchester-Frederick County Tourism Board

Joint Appointment with the City of Winchester

Dan Martin – Private Sector Representative
Hampton Inn and Suites North
170 Getty Lane
Winchester, VA 22602
Term Expires: 06/30/17
Three year term

James E. Richard, Jr. – Private Sector Representative
Richard's Fruit Market
6342 Middle Road

Stephens City, VA 22655
Term Expires: 06/30/17
Three year term

Karen B. Helm – Non-Profit Sector Representative
311 Fairmont Avenue
Winchester, VA 22601
Term Expires: 06/30/17
Three year term

(See Attached Recommendation from the Tourism Director and Board.) *(The Executive Tourism Director advised the Tourism Board recommends to the Board of Supervisors (and City Council) the reappointment of Dan Martin, Karen Helm and James Richard, Jr. The Tourism Board was formed by Joint Resolution of the Board of Supervisors and the City Council in April, 2001. Recommendation for appointment is contingent upon like approval by the City of Winchester.)*

JULY 2017

ShawneeLand Sanitary District Advisory Committee

Lynn Schmitt
106 Echota Trail
Winchester, VA 22602
Home: (540)877-1236
Term Expires: 07/13/17
Two year term

(The Advisory Committee is comprised of five members made up of resident property owners and serve a two year term.)

AUGUST 2017

Conservation Easement Authority

Gene Fisher – Board of Supervisors Representative
Term Expires: 08/24/17
Three year term

Diane Kearns – County Representative
P. O. Box 2368
Winchester, VA 22604

Phone: (540)667-3390
Term Expires: 08/24/17
Three year term

*(The Conservation Easement Authority was established in August, 2005. The Authority consists of seven citizen members, one member from the Board of Supervisors and one member from the Planning Commission. **Members shall be knowledgeable in one or more of the following fields: conservation, biology, real estate and/or rural land appraisal, accounting, farming, or forestry.** Members serve a three year term and are eligible for reappointment.)*

Frederick-Winchester Service Authority (FWSA)

Wellington “Wendy” H. Jones – Frederick County Representative
299 Lake Serene Drive
Winchester, VA 22603
Home: (540)662-1154
Term Expires: 08/31/17
Three year term

James R. Wilkins, III – Member-At-Large (Joint Appointment)
13 South Loudoun Street
Winchester, VA 22601
Home: (540)722-0779
Term Expires: 08/31/17
Three year term

(The county has three representatives on the Service Authority as is in accordance with the Joint Agreement and Memorandum of Understanding with the City of Winchester. The member-at-large seat is a joint appointment by both localities; therefore, any recommendation for appointment/reappointment is submitted to the City of Winchester for similar action.)

BGG/tjp

Attachment



June 1, 2017

To: Frederick County Board of Supervisors & Winchester City Council
From: Justin Kerns, Executive Director, Winchester-Frederick County Convention & Visitors Bureau

Subject: **Winchester-Frederick County Tourism Board Nominations**

The Winchester-Frederick County Tourism Board respectfully recommends the re-appointment of Dan Martin, whose term as a Private Sector representative expires on 6/30/2017. According to the bylaws, Dan is eligible for re-appointment as Board Chair, and his final term will expire on 6/30/2018. Dan is General Manager of the Hampton Inn and Suites North, which is located in Winchester.

The Board also recommends the re-appointment of Karen Helm, whose first term as a Non-Profit Sector representative expires on 6/30/2017. According to the bylaws, Karen is eligible for re-appointment, and her second term will expire on 6/30/2020. Karen is Chairman of the Board for Celebrating Patsy Cline, which is located in Winchester.

The Board also recommends the re-appointment of Eddie Richard, whose first term as a Private Sector representative expires on 6/30/2017. According to the bylaws, Eddie is eligible for re-appointment, and his second term will expire on 6/30/2020. Eddie is the owner of Richard's Fruit Market, which is located in Frederick County.

These members will join: Eric Campbell, Mary Braun and Kristin Laise who represent the Non-Profit Sector, and Priya Patel, Andy Gyurisin and Sharon Farinholt who represent the Private Sector, With approval of the new nominations and the re-appointments, the board will consist of five private-sector representatives, two of whom represent lodging, and four public/non-profit-sector representatives, as outlined in the Winchester-Frederick County Tourism Bylaws.

CONSENT AGENDA

C



COUNTY of FREDERICK

Jay E. Tibbs
Deputy County Administrator

540/665-5666
Fax 540/667-0370

E-mail:
jtibbs@co.frederick.va.us

MEMORANDUM

TO:	Board of Supervisors
FROM:	Jay E. Tibbs, Deputy County Administrator <i>JET</i>
SUBJECT:	Concurring Resolutions re: Shenandoah University Financings
DATE:	June 6, 2017

Shenandoah University is pursuing two Bank Qualified financings this calendar year – one with the EDA of the Town of Woodstock and one with the EDA of the Town of Mt Jackson. The University intends to finance primarily its purchase and renovation of the Health Professions Building (located in the City) and, to the extent that unused bond proceeds remain, other capital improvements to be located on its main campus (partially in the City and partially in the County).

As in the past, the University's use of an "outside" EDA to serve as a conduit issuer to finance capital improvements located in Winchester and Frederick County necessitates the concurrence of both the Winchester Common Council and the Frederick County Board of Supervisors.

The EDA of the Town of Woodstock and the Town Council of Woodstock are scheduled to consider their approving resolutions on June 6. The EDA of the Town of Mt Jackson and the Town Council of Mt Jackson are scheduled to consider their approving resolutions on June 13. Thereafter, the University is seeking the concurrence of the Frederick County BOS on June 14 and the Winchester Common Council on June 27.

Attached are draft resolutions for the Board of Supervisors' consideration in connection with (1) the EDA of the Town of Mt Jackson financing and (2) the EDA of the Town of Woodstock financing. The two resolutions are identical other than the references to the particular EDA as the conduit issuer. The University is requesting that both resolutions be considered at the Board's June 14, 2017 meeting.

Attachment



BOARD OF SUPERVISORS

RESOLUTION OF THE BOARD OF SUPERVISORS OF FREDERICK COUNTY, VIRGINIA CONCURRING WITH A FINANCING TO BE UNDERTAKEN BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE TOWN OF MOUNT JACKSON, VIRGINIA, TO BENEFIT SHENANDOAH UNIVERSITY

WHEREAS, the Economic Development Authority of the Town of Mount Jackson, Virginia (the "Authority"), has received an application from Shenandoah University, a not-for-profit Virginia non-stock corporation (the "University"), requesting the Authority to issue its Educational Facilities Revenue Bond in an aggregate principal amount not to exceed \$10,000,000 (the "Bond") to finance (1) the Project, as described on Exhibit A, and (2) issuance expenses incurred in connection with the issuance of the Bond;

WHEREAS, Section 15.2-4905 of the Code of Virginia of 1950, as amended (the "Virginia Code"), states that an industrial development authority may not finance facilities in another jurisdiction that has created its own industrial development authority "unless the governing body of such county, city or town in which the facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the Authority, and shows such concurrence in a duly adopted resolution;"

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") requires that the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of the Bond is located approve the issuance of such Bond;

WHEREAS, Section 147(f) of the Internal Revenue Code requires that any such approval by the applicable governmental unit be given after a public hearing following reasonable public notice, which hearing may be held by the public authority issuing the Bond;

WHEREAS, on June 13, 2017, in accordance with the requirements of Section 147(f) of the Internal Revenue Code and Section 15.2-4906 of the Virginia Code, the Authority held a public hearing and adopted a resolution (the "Resolution"), a copy of which has been filed with the records of the Clerk of the Board of Supervisors of the County; and

WHEREAS, the University has requested the Board of Supervisors of the County to express its concurrence with the Resolution so that a portion of the net proceeds of the Bond may be loaned to the University to finance such portions of the Project to be located in the County.

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

1. The Board of Supervisors hereby approves the issuance of the Bond by the Authority for the benefit of the University, as required by Section 147(f) of the Internal Revenue Code and Section 15.2-4906 of the Virginia Code, and concurs with the Resolution adopted by the Authority for the benefit of the University to the extent required by Section 15.2-4905 of the Virginia Code to permit the Authority to loan the proceeds of the Bond to the University to finance the portion of the Project to be located in the County.

2. The approval of the issuance of the Bond does not constitute an endorsement of the Bond or the creditworthiness of the University. As required by Section 15.2-4909 of the Virginia Code, the Bond shall provide that the County will have no obligation to pay the Bond or the interest thereon or other costs incident thereto.

3. All acts and doings of the officers of the County and members of the Board of Supervisors that are in conformity with the purposes and intent of this resolution shall be, and the same hereby are, in all respects approved and confirmed.

4. This Resolution shall take effect immediately.

Passed this 14th day of June, 2017.

Upon motion made by _____ and seconded by _____, the above resolution was _____ by the following recorded vote:

Charles S. DeHaven, Jr.	_____	Blaine P. Dunn	_____
Gary A. Lofton	_____	Gene E. Fisher	_____
Bill M. Ewing	_____	Judy McCann-Slaughter	_____
Robert W. Wells	_____		

A COPY TESTE:

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

THE PROJECT

The proceeds of the Bond will be loaned to the University to finance the acquisition, construction, renovation, rehabilitation and equipping of various capital improvement projects including but not limited to (1) the Health Professions Building located in the City of Winchester, Virginia, at 1775 North Sector Court, (2) classroom, office, laboratory, study, lounge, conference and event spaces located or to be located on the Main Campus (as defined below), (3) residential facilities housing up to 200 students to be located on the Main Campus, and (4) additions of approximately 10,000 to 75,000 sq. ft. to the new athletic field house (including athletic facilities, locker rooms and office space), located on the Main Campus near the corner of Tulane and Shockey Drives.

The University's main campus (the "Main Campus") is located partly within the boundaries of the City of Winchester, Virginia, and partly within the boundaries of the County of Frederick, Virginia, generally (although not exclusively) in the area south of Winchester Recreation Park and the Winchester Country Club, north of E. Jubal Early Drive and Millwood Pike, east of South Pleasant Valley Road and west of Tulane and Shockey Drives.



BOARD OF SUPERVISORS

RESOLUTION OF THE BOARD OF SUPERVISORS OF FREDERICK COUNTY, VIRGINIA CONCURRING WITH A FINANCING TO BE UNDERTAKEN BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE TOWN OF WOODSTOCK, VIRGINIA, TO BENEFIT SHENANDOAH UNIVERSITY

WHEREAS, the Economic Development Authority of the Town of Woodstock, Virginia (the "Authority"), has received an application from Shenandoah University, a not-for-profit Virginia non-stock corporation (the "University"), requesting the Authority to issue its Educational Facilities Revenue Bond in an aggregate principal amount not to exceed \$10,000,000 (the "Bond") to finance (1) the Project, as described on Exhibit A, and (2) issuance expenses incurred in connection with the issuance of the Bond;

WHEREAS, Section 15.2-4905 of the Code of Virginia of 1950, as amended (the "Virginia Code"), states that an industrial development authority may not finance facilities in another jurisdiction that has created its own industrial development authority "unless the governing body of such county, city or town in which the facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the Authority, and shows such concurrence in a duly adopted resolution;"

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") requires that the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of the Bond is located approve the issuance of such Bond;

WHEREAS, Section 147(f) of the Internal Revenue Code requires that any such approval by the applicable governmental unit be given after a public hearing following reasonable public notice, which hearing may be held by the public authority issuing the Bond;

WHEREAS, on June 6, 2017, in accordance with the requirements of Section 147(f) of the Internal Revenue Code and Section 15.2-4906 of the Virginia Code, the Authority held a public hearing and adopted a resolution (the "Resolution"), a copy of which has been filed with the records of the Clerk of the Board of Supervisors of the County; and

WHEREAS, the University has requested the Board of Supervisors of the County to express its concurrence with the Resolution so that a portion of the net proceeds of the Bond may be loaned to the University to finance such portions of the Project to be located in the County.

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

1. The Board of Supervisors hereby approves the issuance of the Bond by the Authority for the benefit of the University, as required by Section 147(f) of the Internal Revenue Code and Section 15.2-4906 of the Virginia Code, and concurs with the Resolution adopted by the Authority for the benefit of the University to the extent required by Section 15.2-4905 of the Virginia Code to permit the Authority to loan the proceeds of the Bond to the University to finance the portion of the Project to be located in the County.

2. The approval of the issuance of the Bond does not constitute an endorsement of the Bond or the creditworthiness of the University. As required by Section 15.2-4909 of the Virginia Code, the Bond shall provide that the County will have no obligation to pay the Bond or the interest thereon or other costs incident thereto.

3. All acts and doings of the officers of the County and members of the Board of Supervisors that are in conformity with the purposes and intent of this resolution shall be, and the same hereby are, in all respects approved and confirmed.

4. This Resolution shall take effect immediately.

Passed this 14th day of June, 2017.

Upon motion made by _____ and seconded by _____, the above resolution was _____ by the following recorded vote:

Charles S. DeHaven, Jr.	_____	Blaine P. Dunn	_____
Gary A. Lofton	_____	Gene E. Fisher	_____
Bill M. Ewing	_____	Judy McCann-Slaughter	_____
Robert W. Wells	_____		

A COPY TESTE:

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

THE PROJECT

The proceeds of the Bond will be loaned to the University to finance the acquisition, construction, renovation, rehabilitation and equipping of various capital improvement projects including but not limited to (1) the Health Professions Building located in the City of Winchester, Virginia, at 1775 North Sector Court, (2) classroom, office, laboratory, study, lounge, conference and event spaces located or to be located on the Main Campus (as defined below), (3) residential facilities housing up to 200 students to be located on the Main Campus, and (4) additions of approximately 10,000 to 75,000 sq. ft. to the new athletic field house (including athletic facilities, locker rooms and office space), located on the Main Campus near the corner of Tulane and Shockey Drives.

The University's main campus (the "Main Campus") is located partly within the boundaries of the City of Winchester, Virginia, and partly within the boundaries of the County of Frederick, Virginia, generally (although not exclusively) in the area south of Winchester Recreation Park and the Winchester Country Club, north of E. Jubal Early Drive and Millwood Pike, east of South Pleasant Valley Road and west of Tulane and Shockey Drives.

CONSENT AGENDA

D



MEMORANDUM

TO: Board of Supervisors

FROM: John A. Bishop AICP, Assistant Director - Transportation *JAB*

RE: Security Drive

DATE: June 2, 2017

At the May 10, 2017 Board of Supervisor's meeting staff was instructed to advertise for the abandonment of a portion of Security Drive as highlighted in blue on the following map. Staff has begun that advertising and that item will be before the Board for action on July 12, 2017.

Assuming the Board does choose to proceed with that abandonment a second action and public hearing will be needed to deal with the conveyance of the abandoned right-of-way to the surrounding property owners. In this case, that would be Navy Federal Credit Union.

At this time staff is seeking authorization to begin advertising for a public hearing regarding that conveyance. This item would come after the abandonment item on your July 12, 2017 agenda.

JAB/pd

Attachments



LEGEND

- NEW RW LIMITS
- - - PERMANENT VDOT TURNAROUND EASEMENT
- - - R/W ABANDONMENT AREA

DATE 03/23/2017

SCALE 1" = 100'

DRAWN BY: EW/JW

JOB NO. 3015L

SHEET 1 OF 1

SECURITY DRIVE R/W EXHIBIT

SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA



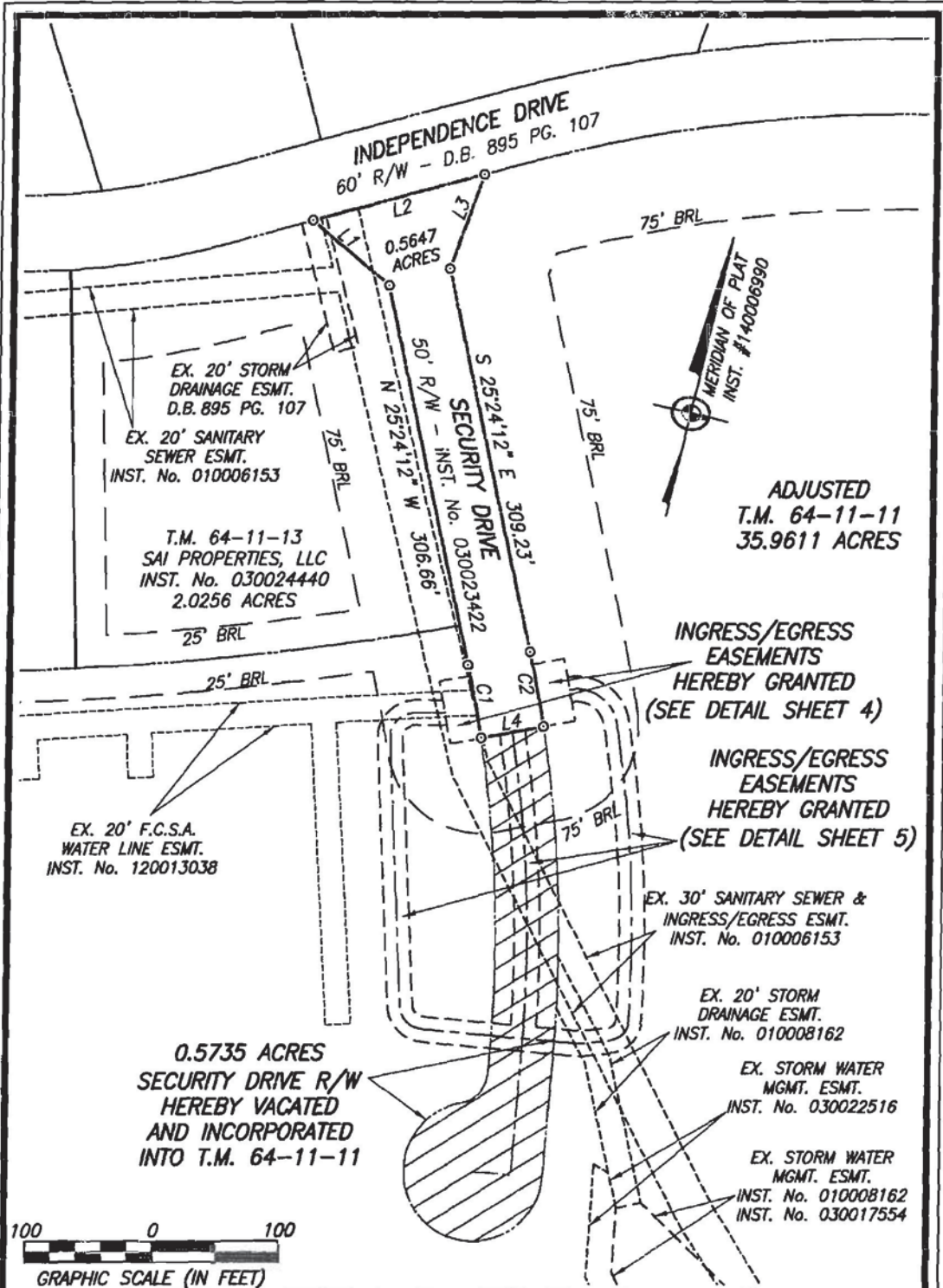
Founded in 1877

Engineers
Surveyors

GREENWAY ENGINEERING

101 Woody Hill Lane
Winchester, Virginia 22602

Telephone 540-862-4185
FAX 540-722-9026
www.greenwayeng.com



T.M. 64-11-13
SAI PROPERTIES, LLC
INST. No. 030024440
2.0256 ACRES

ADJUSTED
T.M. 64-11-11
35.9611 ACRES

INGRESS/EGRESS
EASEMENTS
HEREBY GRANTED
(SEE DETAIL SHEET 4)

INGRESS/EGRESS
EASEMENTS
HEREBY GRANTED
(SEE DETAIL SHEET 5)

EX. 20' F.C.S.A.
WATER LINE ESMT.
INST. No. 120013038

EX. 30' SANITARY SEWER &
INGRESS/EGRESS ESMT.
INST. No. 010006153

0.5735 ACRES
SECURITY DRIVE R/W
HEREBY VACATED
AND INCORPORATED
INTO T.M. 64-11-11

EX. 20' STORM
DRAINAGE ESMT.
INST. No. 010008162

EX. STORM WATER
MGMT. ESMT.
INST. No. 030022516

EX. STORM WATER
MGMT. ESMT.
INST. No. 010008162
INST. No. 030017554



RIGHT-OF-WAY VACATION & DEDICATION PLAT

SECURITY DRIVE
WESTFIELDS BUSINESS CENTRE

SHAWNEE MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

SCALE: 1" = 100'

DATE: APRIL 13, 2017



GREENWAY ENGINEERING, INC.

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



3015L SHEET 3 OF 5
BNDY 17-01

CONSENT AGENDA

E



MEMORANDUM

TO: Board of Supervisors
FROM: John A. Bishop, AICP, Assistant Director - Transportation ^{JB}
RE: Transportation Committee Report for Meeting of May 22, 2017
DATE: June 6, 2017

The Transportation Committee met on May 22, 2017 at 8:30 a.m.

Members Present

Gary Lofton – Chairman (voting)
Judith McCann-Slaughter (voting)
James Racey (voting)
Lewis Boyer (liaison Stephens City)
Gregory Unger (PC Liaison filling for Gary Oates)

Members Absent

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

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

NONE

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

1. Interstate, Primary, and Secondary Road Plan Updates

This item was reviewed and recommended for approval by the Committee, but appears independently on the Board of Supervisors agenda due to its status as a public hearing item.

2. County Projects Update

Snowden Bridge Boulevard:

Stub connection from Snowden Bridge Boulevard to Milburn Road is complete and that will be the last step of the project prior to requesting adoption into the State System of Highways.

Tevis Street Extension/Airport Road/I-81 Bridge:

Bridge design is ongoing and draft environmental documents for VDOT have been received. Bridge design has reached 75% and comments have been received. Pennoni is incorporating the recent round of comments on the TIA, as well as incorporating additional scenarios to evaluate a potentially reduced section for the Northern Y. The updated TIA is expected June 7, 2017. Comments have been received on the roundabout from the Roundabout Committee in Richmond and our consultant is working on addressing those.

Renaissance Drive:

TPOF agreements have been received from VDOT. Evaluating with the Board of Supervisors on the status of revenue sharing matching funds prior to beginning of design. Completing new project documentation for CSX through the County Attorney.

Valley Mill Road Realignment:

Private partner has indicated a desire not to continue the project. Staff is following up to clarify their intentions.

Coverstone Drive:

No activity at this time.

Jubal Early Drive Extension and Interchange with Route 37:

Staff has participated in a number of recent meetings regarding the status of previous design work and permits.

3. Other

Staff relayed Supervisor Fisher's concerns regarding VDOT's reluctance to use advance warning flashers that indicate when the signal ahead will be changing for signalized intersections with poor sight distance and noted it will be on an upcoming agenda.

Staff reported on their recent attendance at the I-81 Corridor Coalition and noted that it was a very good event.

Progress of the Exit 310 construction project was also noted.

JAB/pd

F



APPLICATION FOR OUTDOOR FESTIVAL PERMIT COUNTY OF FREDERICK, VIRGINIA

(Please Print Clearly)

APPLICANT INFORMATION

Name of Applicant: Cedar Creek Battlefield Foundation

Telephone Number(s): 540 869-2064 home office cell 540 335-9518 home office cell

Address: P.O. Box 229, Middletown, VA 22645

Contact Email: info@ccbf.us

FESTIVAL EVENT ORGANIZATIONAL INFORMATION

Festival Event	Name of Festival: <u>Annual Event Permit</u>			
Cost of Admission to Festival: <u>TBD</u>	Business License Obtained: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Date(s)	Start Time	End Time	Maximum No. of Tickets Offered For Sale Per Day	Estimated No. of Attendees Per Day
Civil War Kids Day Camp 6/17	8:00 AM	4:00 PM	80	100-125
Reenactment 10/14-15/2017	9:00 AM	6:00 PM	7,000	6,000
Other TBD	TBD			
Location	Address: <u>8437 Valley Pike, Middletown, VA 22645</u>			
Owner of Property	Name(s): <u>Cedar Creek Battlefield Foundation</u> Address: <u>P.O. Box 229, Middletown, VA 22645</u> <small>(*NOTE: Applicant may be required to provide a statement or other documentation indicating consent by the owner(s) for use of the property and related parking for the festival.)</small>			
Promoter	Name(s): <u>Cedar Creek Battlefield Foundation</u> Address: <u>P.O. Box 229, Middletown, VA 22645</u> <small>(*NOTE: For festivals other than not-for-profit, promoter may need to check with the Frederick County Commissioner of Revenue to determine compliance with County business license requirements; in addition, promoters who have repeat or ongoing business in Virginia may be required to register with the VA State Corporation Commission for legal authority to conduct business in Virginia.)</small>			
Financial Backer	Name(s): <u>NONE</u> Address: _____			
Performer	Name of Person(s) or Group(s): <u>Reenactments of historical events, civil war, living history, public participation.</u> _____ _____ <small>(*NOTE: Applicant may need to update information as performers are booked for festival event.)</small>			

FESTIVAL EVENT LOGISTICS INFORMATION AND DOCUMENTATION

1. Attach a copy of the printed ticket or badge of admission to the festival, containing the date(s) and time(s) of such festival (may be marked as "sample"). copy attached OR copy to be provided as soon as available

2. Provide a plan for adequate sanitation facilities as well as garbage, trash, and sewage disposal for persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the VA Department of Health (Lord Fairfax Health District).
Outdoor restrooms will be provided by Johnny Blue; Trash will be collected in dumpsters provided by D & M Container Services.

3. Provide a plan for providing food, water, and lodging for the persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the VA Department of Health (Lord Fairfax Health District).
Reenactors and other participants will bring their own food and tents for lodging.
Boyer Water Hauling will provide water for the event.
Food for spectators will be provided by Vendors permitted by Frederick County Health Department.

4. Provide a plan for adequate medical facilities for persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the County Fire Chief or Fire Marshal and the local fire and rescue company.
Middletown Fire and Rescue will be on site during the event. They will be on stand-by during off hours.

5. Provide a plan for adequate fire protection. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the County Fire Chief or Fire Marshal and the local fire and rescue company.
Middletown Fire and Rescue will be on site during the event. They will be on stand-by during off hours.

6. Provide a plan for adequate parking facilities and traffic control in and around the festival area. (A diagram may be submitted.)
Parking will be on lands owned and leased by Cedar Creek Battlefield Foundation. Frederick County Sheriff's Office will handle traffic on public roads and assist as needed.

7. State whether any outdoor lights or lighting will be utilized: YES NO
If yes, provide a plan or submit a diagram showing the location of such lights and the proximity relative to the property boundaries and neighboring properties. In addition, show the location of shielding devices or other equipment to be used to prevent unreasonable glow beyond the property on which the festival is located.
The Civil War Kid's Day Camp will be during daylight hours only with no lighting used.
The 153rd Anniversary Reenactment of the Battle of Cedar Creek event, CCBF will utilize a tower lighting for our registration tent from dusk to 1:00 AM. Light will be situated in the middle of a field, 150+ feet from public roads and buildings and will be pointed down.

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

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

FESTIVAL PROVISIONS

Applicant makes the following statements:

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

CERTIFICATION

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

Patrick Kehoe

Signature of Applicant

Patrick Kehoe, Manager, CCBF

Printed Name of Applicant

Date: May 1, 2017

THE BOARD SHALL HAVE THE RIGHT TO REVOKE ANY PERMIT ISSUED UNDER THIS ORDINANCE UPON NON-COMPLIANCE WITH ANY OF ITS PROVISIONS AND CONDITIONS.



USA CAVALRY CAMP

NORTH ENTRY

USA CAVALRY CAMP

USA CAMPS

USA CAMPS

Meadow Brook

Creek Grove



CSA CAMPS

Living History
Sutlers
EMT

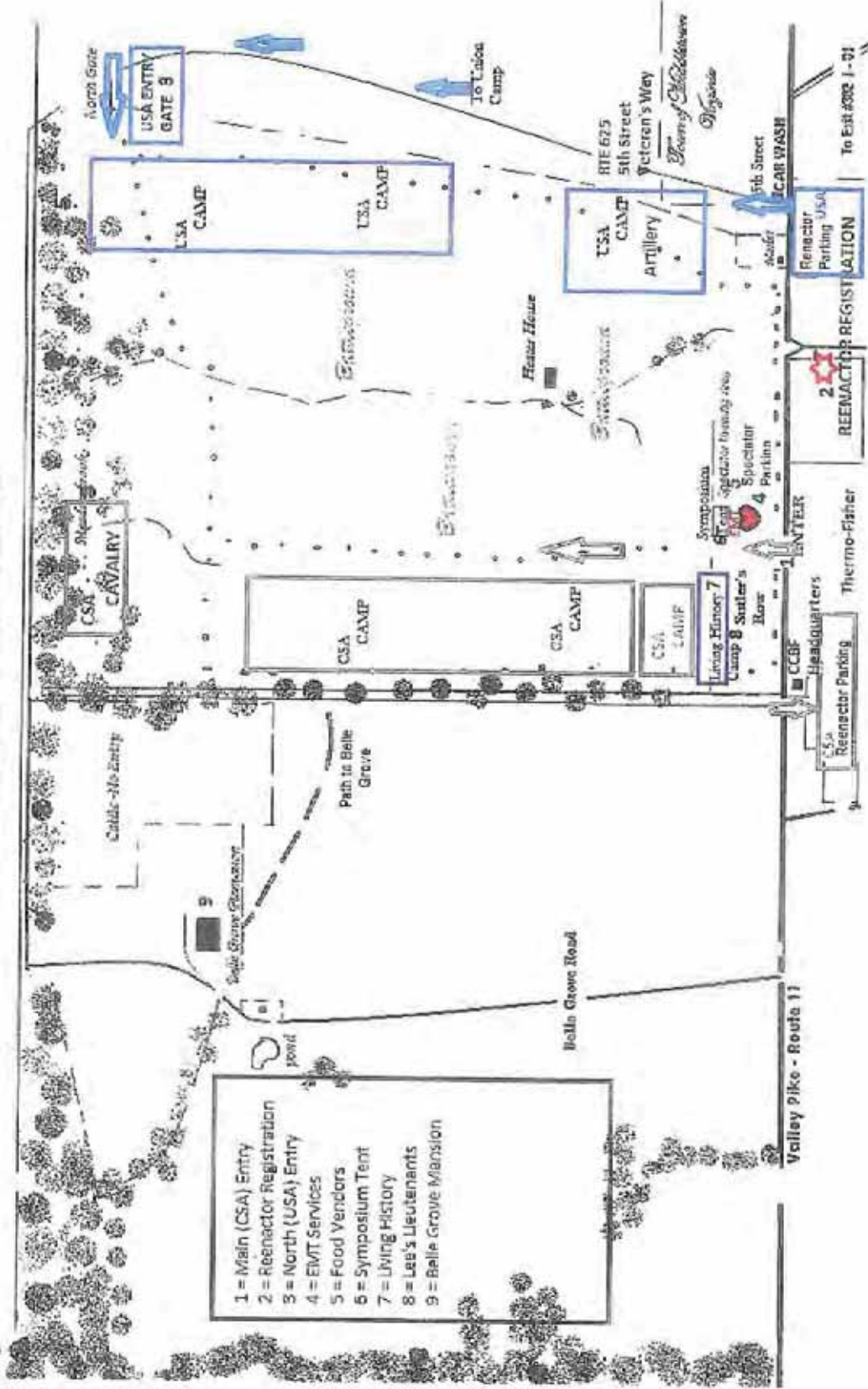
Food Vendors
Spectator Parking

MAIN ENTRY

Spectator Pariking
LIGHT TOWER
REGISTRATION

CEDAR CREEK
BATTLEFIELD
FOUNDATION
HEADQUARTERS





- 1 = Main (CSA) Entry
- 2 = Reenactor Registration
- 3 = North (USA) Entry
- 4 = EMT Services
- 5 = Food Vendors
- 6 = Symposium Tent
- 7 = Living History
- 8 = Lee's Lieutenants
- 9 = Belle Grove Mansion



Cedar Creek Battlefield Foundation

P.O. Box 229

Middletown, VA 22645

Telephone (540) 869-2064

Museum (540) 465-5884

Email: info@ccbf.us

Website: www.ccbf.us

May 5, 2017

Jay E. Tibbs
Deputy Frederick County Administrator
107 North Kent Street
Winchester, VA 22601

Re: Cedar Creek Battlefield Foundation request for Outdoor Festival Permit

Dear Mr. Tibbs,

Cedar Creek Battlefield Foundation (CCBF) has submitted a request for an Outdoor Festival Permit (Submittal) for 2017, consistent with CCBF's annual request to host a Civil War reenactment event, this year on October 14-15, 2017. The request for permit is for an annual permit as CCBF will also host a "Kid's Civil War Day Camp" on June 17 (one day only). The Submittal was made electronically, via email, with maps of the site, etc. to follow.

A response from Erin Swisshelm, Assistant County Attorney, was received on May 4, 2017 acknowledging CCBF's submittal, notifying us of standard procedure and that it needs to be considered by the Frederick County Board of Supervisors.

CCBF was there-in also requested to supply additional information regarding the fall event as to expected attendance and ticket information. Information regarding expected attendance was on the Submittal. But I will offer numbers here-in.

Kids Civil War Day Camp, June 17, 8 AM to 4 PM: Expected Attendance 125

There is no associated ticket for this day camp. Advance registration is available online at our website: www.ccbf.us. A maximum of 80 children, ages 8-14 is allowed (due to logistics and available staff). Walk-on admittance is permitted to maximum limit of participants.

153rd Anniversary Reenactment Event of the Battle of Cedar Creek, Oct. 14-15, 2017;
Expected attendance: Reenactors in attendance (and camping on site) 2,500 to 3,000.
Expected attendance: Spectator attendance is expected to range between 3,000-6,000 daily.

A campground waiver will be submitted to the Commonwealth of Virginia for review and approval regarding the reenactor camps. That application will address camp density (it will of necessity, consistent with Civil War Camps, represent military camps by company and

Regiments in military style). That application will also address sanitation, waste disposal, potable and waste water, traffic, etc. and will be duly executed.

Spectator tickets:

Advance purchase of tickets in the amount of \$12.00 per adult for tickets is available online at our website, www.ccbf.us. Walk-on ticket purchase is also available for the same price.

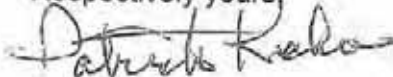
Seniors (65+ years of age), students through 17 years of age, retired and active military and law enforcement individuals are half price (\$6.00) with valid ID. All spectators will be issued a wrist band upon arrival. Color TBD.

Group tickets are available by calling CCBF in advance. Group tickets are not available the day of the event.

CCBF has been hosting this event annually for many years. It is one of the largest annual events in Frederick County and brings substantial patronage to the area of tourists as well as the community at large. Local hotels and restaurants welcome the event to boost patronage. Other enterprising businesses have taken advantage of the attendance to CCBF's hosted events to reap rewards in increased revenue to the area.

On behalf of Cedar Creek Battlefield Foundation, I wish to thank you for your consideration in issuing us this Outdoor Festival Permit. I also hope that you might attend the events were present and interact with the individuals who bring a piece of our heritage from the 19th Century into the 21st Century.

Respectively yours,



Patrick Kehoe
CCBF, manager

cc: Gary A. Lofton, Back Creek District Supervisor
Erin Swisshilm, Assistant County Attorney

G



MEMORANDUM

TO: Board of Supervisors
FROM: John A. Bishop, AICP, Assistant Director - Transportation
RE: Update of the Interstate, Primary, and Secondary Road Plans
DATE: June 8, 2017

This is a public hearing item to consider the update of the 2017–2018 Interstate, Primary, and Secondary Road Improvement Plans.

Summary of Changes:

1. Interstate Road Improvement Plan – Updated Exit 310 from Phase I to Phase II
2. Primary Road Improvement Plan – No Change
3. Secondary Road Improvement Plan
 - a. Update of rankings and promotion of Old Baltimore Road and Babbs Mountain Road to scheduled list for non-hard surface roads.

The Transportation Committee reviewed this item on May 22, 2017 and has recommended approval to the Board of Supervisors. The Planning Commission held a public hearing at their meeting on June 7, 2017 and unanimously recommended approval. One citizen spoke in favor of Laurel Grove Road. Staff is seeking an action from the Board of Supervisors on the plans.

Attachments

JAB/pd

2017-2018

INTERSTATE ROAD IMPROVEMENT PLAN

for

FREDERICK COUNTY, VIRGINIA



Frederick County Transportation Committee: 5/22/2017

Frederick County Planning Commission: 6/07/2017

Frederick County Board of Supervisors: 06/14/2017

I-81 Improvements:

Provide additional travel lanes on the main line, evaluate collector-distributor lanes adjacent to the main line, modifications to existing interchange areas, and develop new interchange areas and bridge crossings of the main line as recommended by the WinFred MPO Long Range Plan.

In addition, as the State continues to work toward an ultimate plan for the I-81 widening, the County of Frederick continues to support the study of Eastern Route 37 as a potential corridor on new location as an alternative for that effort.

Moreover, the County of Frederick supports exploration of the potential for rail transportation as a component of the Interstate 81 Corridor improvements.

- A) Phase 2 of the FHWA approved interchange modification to Exit 310
(as illustrated on map as priority A)

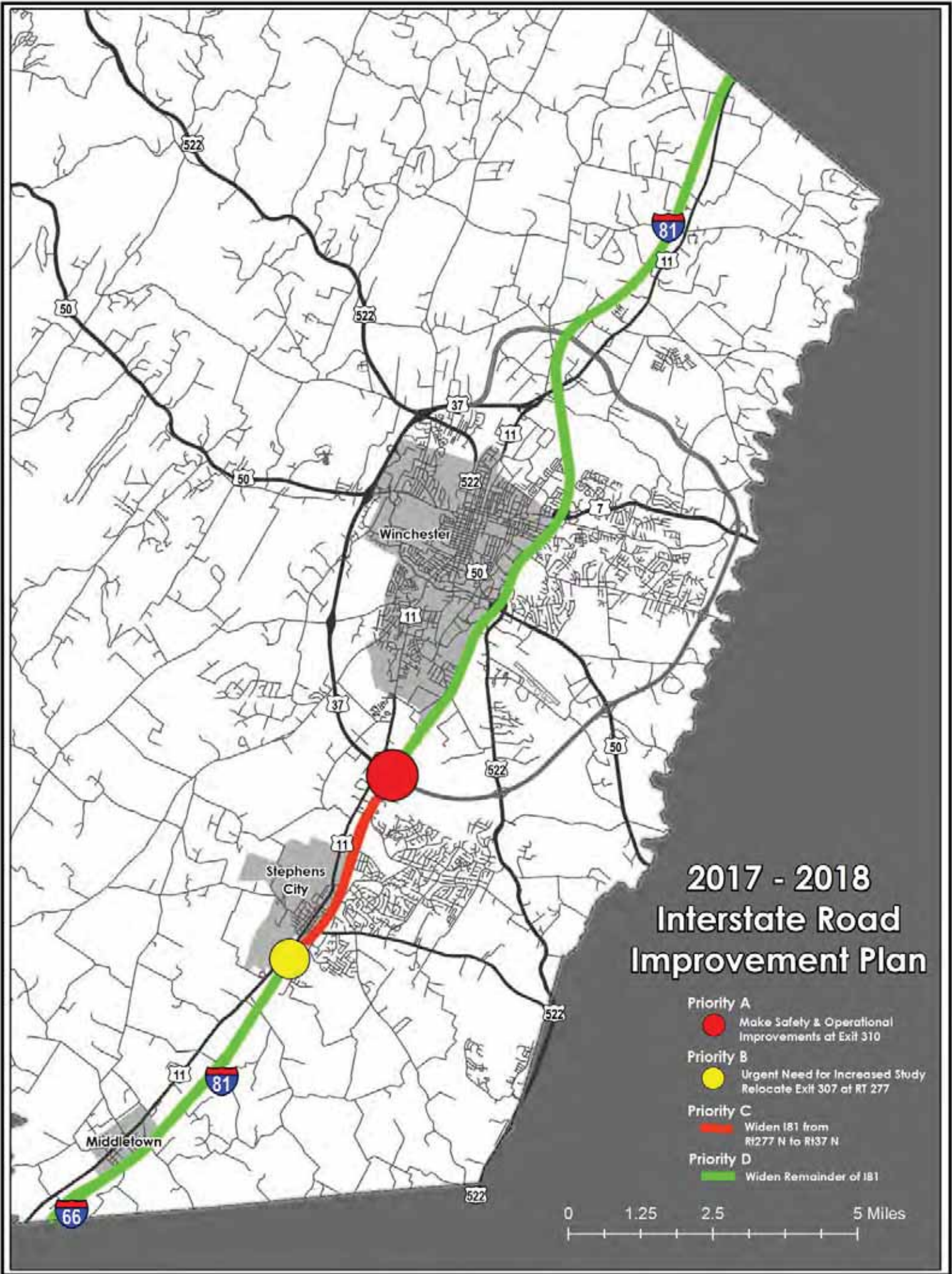
- B) Relocate Exit 307 further south to alleviate existing and future congestion on Route 277. Note: Relocation study is underway.
(as illustrated on map as priority B)

- C) Widen I-81 from Fairfax Pike to Route 37 North. This should include the relocation of the 277 Interchange.


From: Route 277, Exit 307
To: Route 37 North, Exit 310
(as illustrated on map as priority C)

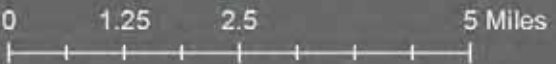
- D) Widen Remainder of I-81 in Frederick County
From: West Virginia line
To: Warren County line
(as illustrated on map as priority D)

- E) Spot Improvements on I-81 in Frederick County. Provide spot improvements at various interchanges to increase capacity and/or enhance safety for the motoring public.



2017 - 2018 Interstate Road Improvement Plan

- Priority A**
 Make Safety & Operational Improvements at Exit 310
- Priority B**
 Urgent Need for Increased Study Relocate Exit 307 at RT 277
- Priority C**
 Widen I81 from R1277 N to R137 N
- Priority D**
 Widen Remainder of I81





RESOLUTION 2017-2018 INTERSTATE ROAD IMPROVEMENT PLAN

WHEREAS, the Frederick County Transportation Committee recommended approval of this plan on May 22, 2017; and,

WHEREAS, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on June 7, 2017; and,

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

WHEREAS, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2017 – 2018 Interstate Road Improvement Plan and the Construction Priority List; and,

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

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

The 2017-2018 Interstate Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Interstate Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2017-2018 Interstate Road

Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on June 14, 2017.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Bill M. Ewing	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Judith McCann-Slaughter	_____
Blaine P. Dunn	_____		

A COPY ATTEST

Brenda G. Garton
Frederick County Administrator

2017-2018

PRIMARY ROAD IMPROVEMENT PLAN

for

FREDERICK COUNTY, VIRGINIA



Frederick County Transportation Committee: 5/22/2017

Frederick County Planning Commission: 6/07/2017

Frederick County Board of Supervisors: 06/14/2017

1) Route 37 Bypass

A. Route 37 - Phase 1

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the southern segment of the Route 37 Eastern Bypass from Interstate I-81 to Front Royal Pike (Route 522 South).

(As illustrated on map as priority 1A)

B. Route 37 - Phase 2

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the preferred alternative between existing Route 37 around Stonewall Industrial Park and Route 7.

(As illustrated on map as priority 1B)

C. Route 37 - Phase 3

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the preferred alternative between Route 7 and Route 522.

(As illustrated on map as priority 1C)

2) Route 277 (East of Stephens City)

From: I-81/Route 277/Route 647 Intersection (East of Stephens City)

To: Route 340/Route 522 South Intersection (East of Double Toll Gate)

Improve to a four lane divided roadway with County Staff to work with site developers to acquire dedicated right-of-way and achieve grading, drainage, and construction improvements in conjunction with development projects which occur along the corridor until such time that funding is available for construction.

Establish a construction schedule for the phased improvement of Fairfax Pike (Route 277).

Program funding for the completion of right-of-way acquisition and construction of each phase as described above.

3) Route 11 (North and South of Winchester)

A) Establish an Urban Divided Four Lane System

From: Southern limits of the City of Winchester
To: 0.4 miles south of intersection of Route 37 South, Exit 310
(As illustrated on map as priority 3A)

B) Establish an Urban Divided Six Lane System

From: Northern limits of the City of Winchester
To: Intersection of Cedar Hill Road
(As illustrated on map as priority 3B)

C) Establish an Urban Divided Four Lane System

From: Intersection of Cedar Hill Road
To: West Virginia line
(As illustrated on map as priority 3C)

4) Route 7 – Establish a 6 Lane Cross Section

From: Exit 315 Interchange
To: Future Route 37 Interchange
(As illustrated on map as priority 4)

5) Route 50 East and West

A) Establish a 6 Lane Cross Section

From: The Interchange at Exit 313
To: The Future Route 37 Interchange
(As illustrated on map as priority 5A)

B) Establish a 6 Lane Cross Section

From: The Interchange with Route 37
To: Poorhouse Road
(As illustrated on map as priority 5B)

6) South Frederick County Parkway

From: Relocated Exit 307
To: Intersection with Route 277 approximately 1 mile west of the intersection of Route 277 and Route 522

This is a planned new roadway with limited access points serving a mixture of predominantly commercial and industrial development.

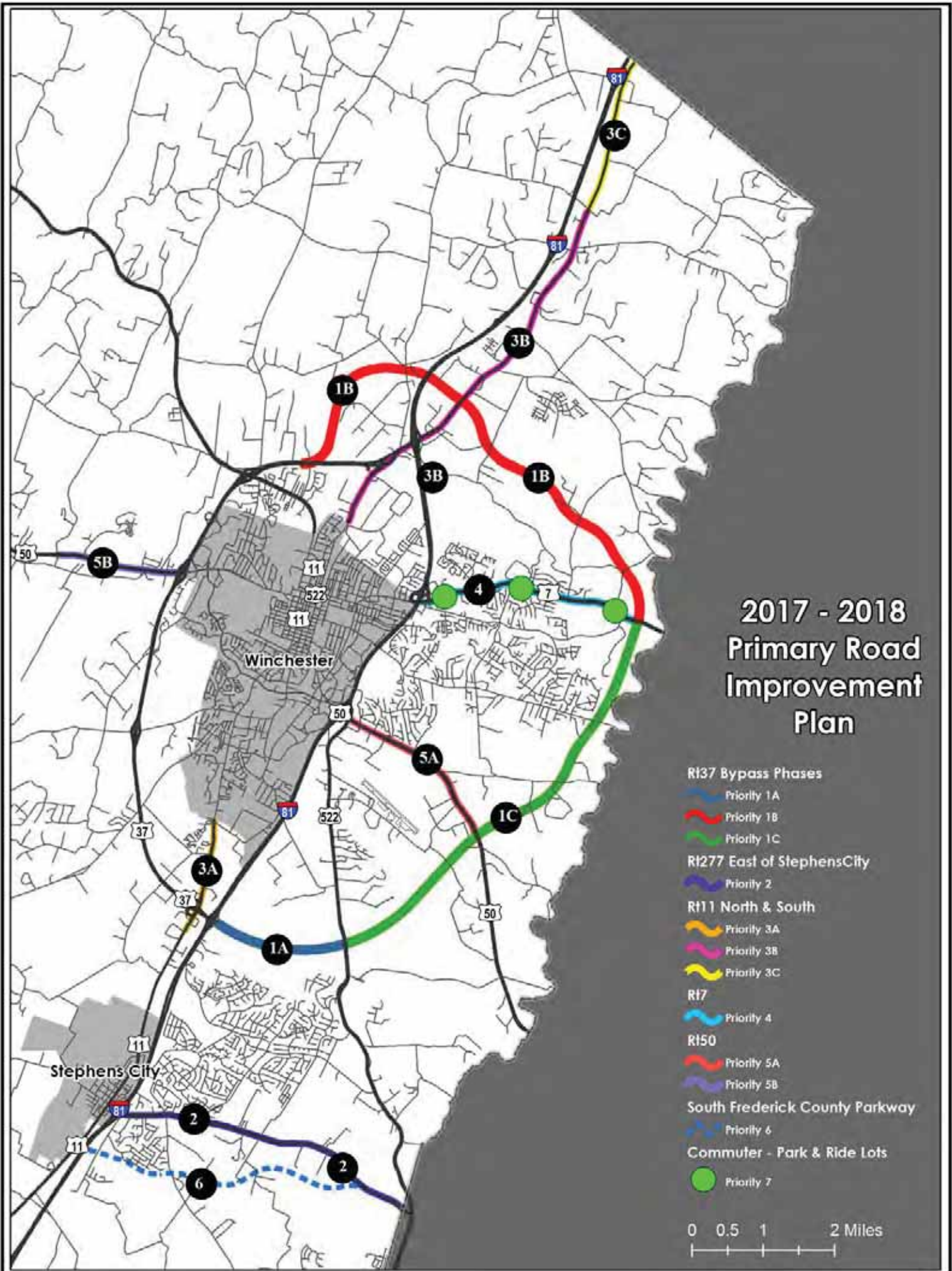
There is a need to study this project in conjunction with the Exit 307 relocation and planning for Route 277 improvements noted in item 3.

Phasing of this project is not yet clearly defined, however general phasing would be from West to East with the clear first phase being from relocated Exit 307 to Warrior Drive.
(As illustrated on map as priority 6)

7) Commuter Park and Ride Lots

Establish a new park and ride facility along the Berryville Pike (Route 7) corridor. Work with the Northern Shenandoah Valley Regional Commission to determine appropriate locations for park and ride facilities at other strategic locations within the County's Urban Development Area. For Park and Ride locations in Frederick County the primary goal should be that they are situated in such a manner that they reduce traffic in Frederick County in addition to adjacent localities.

(As illustrated on map as priority 7)



2017 - 2018 Primary Road Improvement Plan

- RI37 Bypass Phases**
 - Priority 1A
 - Priority 1B
 - Priority 1C
- RI277 East of Stephens City**
 - Priority 2
- RI11 North & South**
 - Priority 3A
 - Priority 3B
 - Priority 3C
- RI7**
 - Priority 4
- RI50**
 - Priority 5A
 - Priority 5B
- South Frederick County Parkway**
 - Priority 6
- Commuter - Park & Ride Lots**
 - Priority 7





RESOLUTION 2017-2018 PRIMARY ROAD IMPROVEMENT PLAN

WHEREAS, the Frederick County Transportation Committee recommended approval of this plan on May 22, 2017; and,

WHEREAS, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on June 7, 2017; and,

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

WHEREAS, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2017 – 2018 Primary Road Improvement Plan and the Construction Priority List; and,

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

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

The 2017-2018 Primary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Primary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2017-2018

Primary Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on June 14, 2017.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Bill M. Ewing	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Judith McCann-Slaughter	_____
Blaine P. Dunn	_____		

A COPY ATTEST

Brenda G. Garton
Frederick County Administrator

2017/18-2022/23

SECONDARY ROAD IMPROVEMENT PLAN

for

FREDERICK COUNTY, VIRGINIA



Frederick County Transportation Committee: 5/22/2017

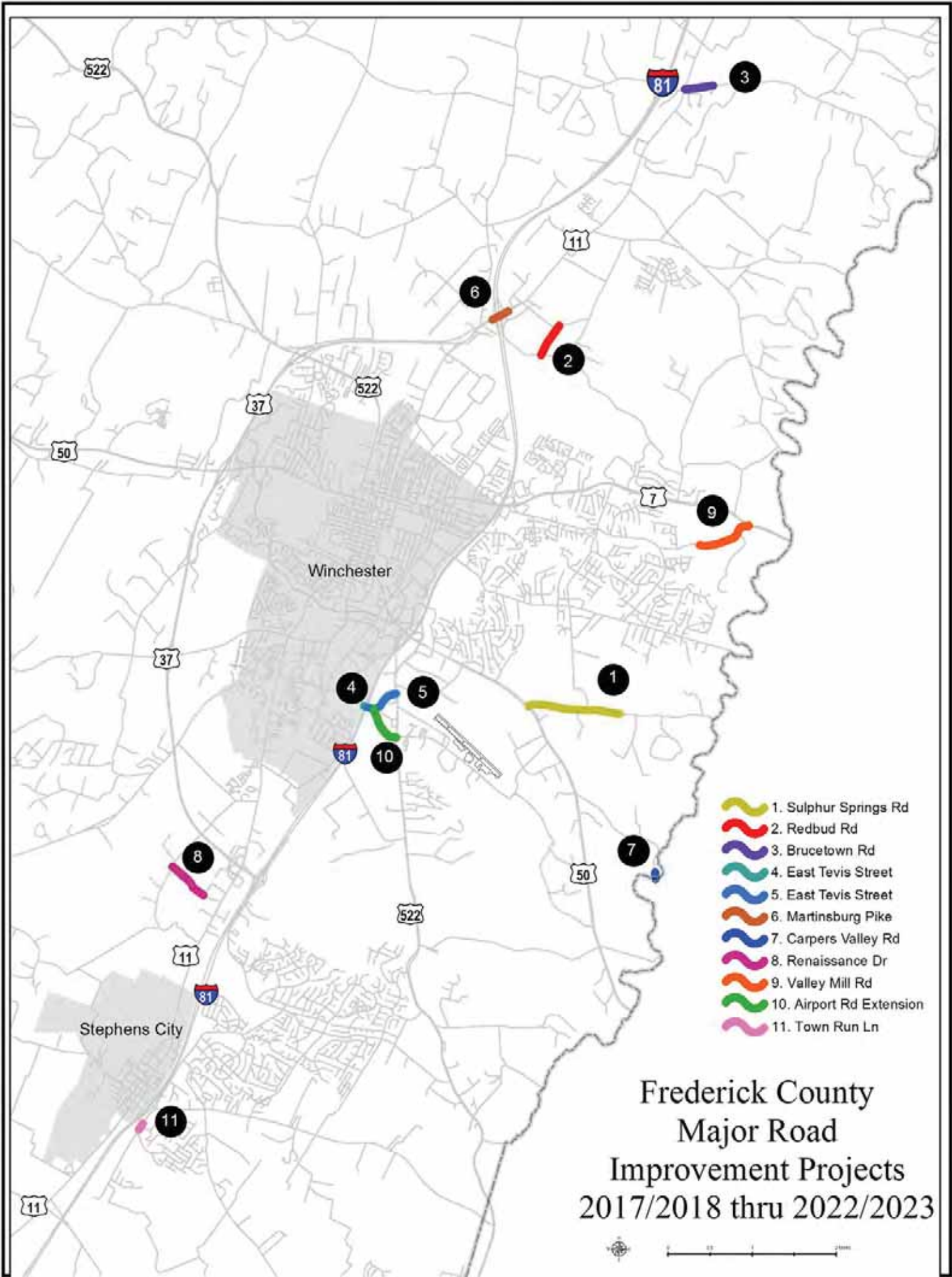
Frederick County Planning Commission: 6/07/2017

Frederick County Board of Supervisors: 06/14/2017

MAJOR ROAD IMPROVEMENT PROJECTS 2017/2018 through 2022/2023

Major road improvement projects command the reconstruction of hardsurfaced roads to enhance public safety. Improvements required for road width, road alignment, road strength, and road gradient are considered major road improvements projects.

RANK	ROUTE	ROAD NAME	FROM	TO	AVERAGE DAILY TRAFFIC COUNT	DISTANCE	MAGISTERIAL DISTRICT	ESTIMATED COST	ADVERTISEMENT DATE	COMMENTS
1)	655	Sulphur Springs Road	Route 50	.30 Mi East Rt. 656	6000	1.1 miles	SH	\$7,505,445	After 2022	\$5,798,052 Allocated SSYP Smart-Scale
2)	661	Red Bud Road	.47 Mi South Route 11	Int. Snowden Bridge Blvd.	1300	0.5 miles	ST	\$2,000,000	After 2022	Partial Funded Relocation
3)	672	Bruce town Road	Route 11	.35 Mi East	3200	0.35 miles	ST	\$1,500,000 Significantly Variable	UN/SH	Partial Funded \$100,000 Thru Plan
4)	788	East Tevis Street	Route 522	Winchester City Limit	N/A	0.44 miles	SH	\$10,414,000 Revenue Sharing	UN/SH	Applied for R/S Funds
5)	788	East Tevis Street	Route 522	I-81	N/A	0.40 miles	SH	\$1,400,000 Revenue Sharing	UN/SH	Cover Overall Project Needs
6)	11	Martinsburg Pike	Under 81 Overpass Exit 317		16000	0.20 miles	ST	\$3,346,924 Revenue Sharing	UN/SH	LF Turn Lns SBound @ I-81 Overpass \$1.9 M Smart Scale
7)	723	Carpers Valley Road	At Clarke County line		1100	N/A	SH	\$1,262,327	2017	Federal Bridge Replacement Funding
8)	788	Renaissance	.24 Mi West Route 11	Int. Shady Elm Road	N/A	.18 miles	BC	\$1,635,658	UN/SH	R/S & TPOF Funds
9)	659	Valley Mill Road	.5 Mi East Of Channing Dr.	Rt. 7	N/A	.65 miles	RB	\$7,200,000	UN/SH	R/S Funds Under Funded \$5.2M
10)	645	Airport Road Extension	Int Route 522	Int East Tevis Road	N/A	.4 Miles	SH	\$5,600,000	UN/SH	R/S Funds
11)	1012	Town Run Lane	280 Ft. S. Stickley Drive Int.	210 Ft. N. Stickley Drive	N/A	.1 Miles		\$150,000	UN/SH	Funded \$150,000 Thru Plan



Frederick County Major Road Improvement Projects 2017/2018 thru 2022/2023



NON-HARDSURFACE ROAD IMPROVEMENT PROJECTS 2017/2018 through 2022/2023

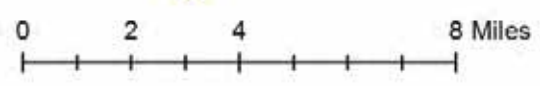
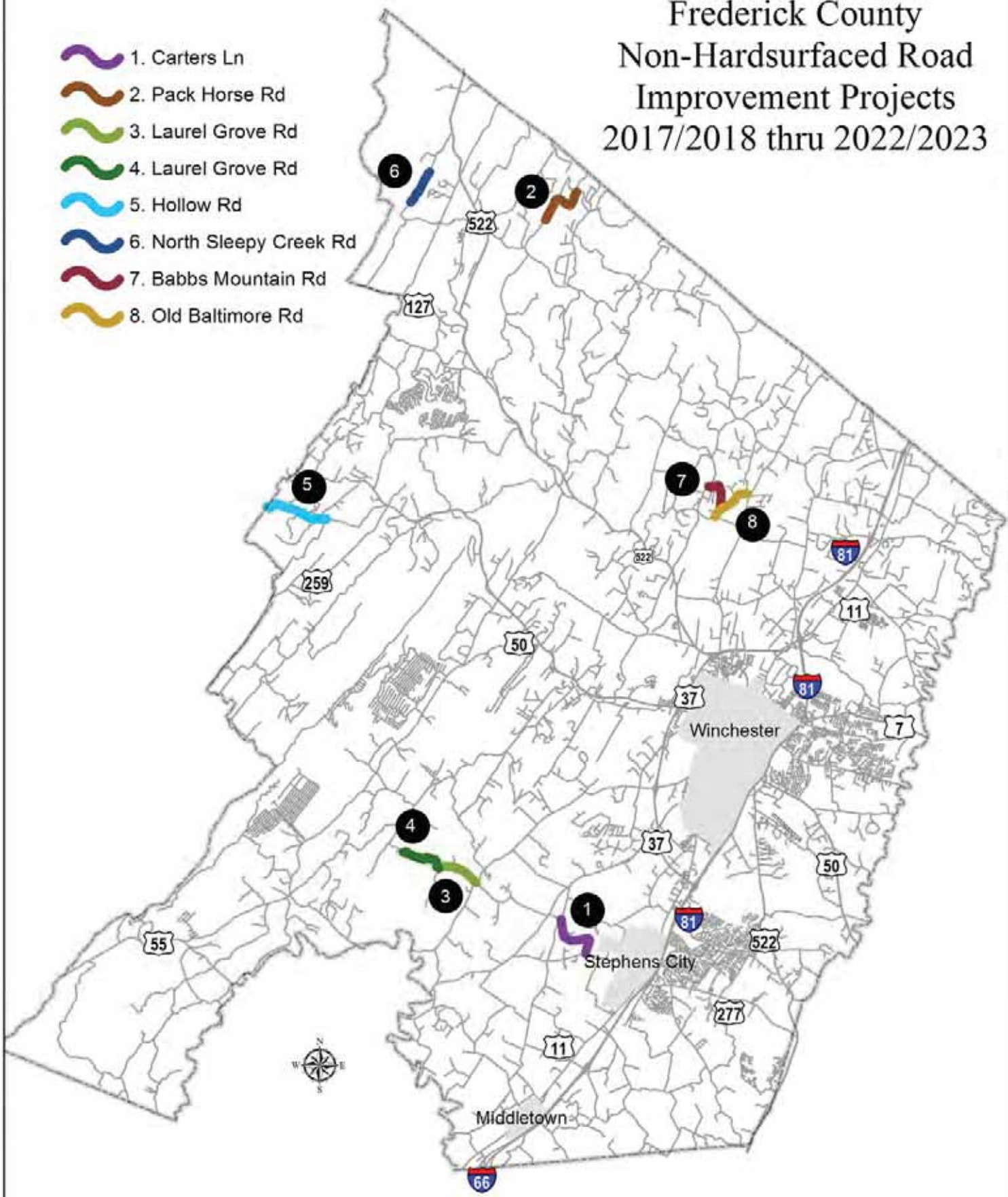
Non-Hardsurface road improvement projects provide impervious resurfacing and reconstruction of non-hardsurfaced secondary roads. Non-Hardsurface improvement projects are prioritized by an objective rating system, which considers average daily traffic volumes; occupied structures; physical road conditions including geometrics, drainage, and accident reports; school bus routing; and the time that project requests have been on the Secondary Road Improvement Plan.

RANK	ROUTE	ROAD NAME	FROM	TO	AVERAGE DAILY TRAFFIC COUNT	DISTANCE	MAGISTERIAL DISTRICT	ESTIMATED COST	ADVERTISEMENT DATE	COMMENTS
	629	Carter Lane	Route 631	Route 625	220	1.8 miles	BC	\$549,000	2020	CTB Unpaved Roads Funding
	692	Pack Horse Road	1.2 Mi NE of Rt. 600	Route 671	210	1.4 miles	GA	\$427,000	2021	CTB Unpaved Roads Funding
	629	Laurel Grove Road	Route 622	1.25 Mi W of Rt. 622	200	1.25 miles	BC	\$376,000	2022	CTB Unpaved Roads Funding
	629	Laurel Grove Road	1.25 Mi W of Rt. 622	2.5 Mi W of Rt. 622	200	1.25 miles	BC	\$376,000	2021	CTB Unpaved Roads Funding
	707	Hollow Road	WV state line	Rt. 610 Muse Road	190	1.8 miles	GA	\$495,000	2021	CTB Unpaved Roads Funding
	734	North Sleepy Creek Road	1.27 MI S of RT 522	2.27 MI S of RT 522	50	0.9 miles	GA	\$305,000	2021	District Grant Unpaved Road
	730	Babbs Mountain Road	Route 654	Route 677	130	0.9 miles	GA	\$275,000	2022	District Grant Unpaved Road
	677	Old Baltimore Road	Route 676	Route 672	90	1.23 miles	GA	\$366,000	2023	District Grant Unpaved Road

**NOTE: Projects are placed on the scheduled list based upon VDOT revenue projections. Changes to those projections can lead to projects being delayed or removed from the scheduled list.*

Frederick County Non-Hardsurfaced Road Improvement Projects 2017/2018 thru 2022/2023

- 1. Carters Ln
- 2. Pack Horse Rd
- 3. Laurel Grove Rd
- 4. Laurel Grove Rd
- 5. Hollow Rd
- 6. North Sleepy Creek Rd
- 7. Babbs Mountain Rd
- 8. Old Baltimore Rd



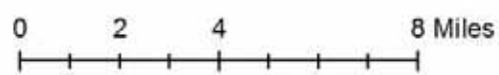
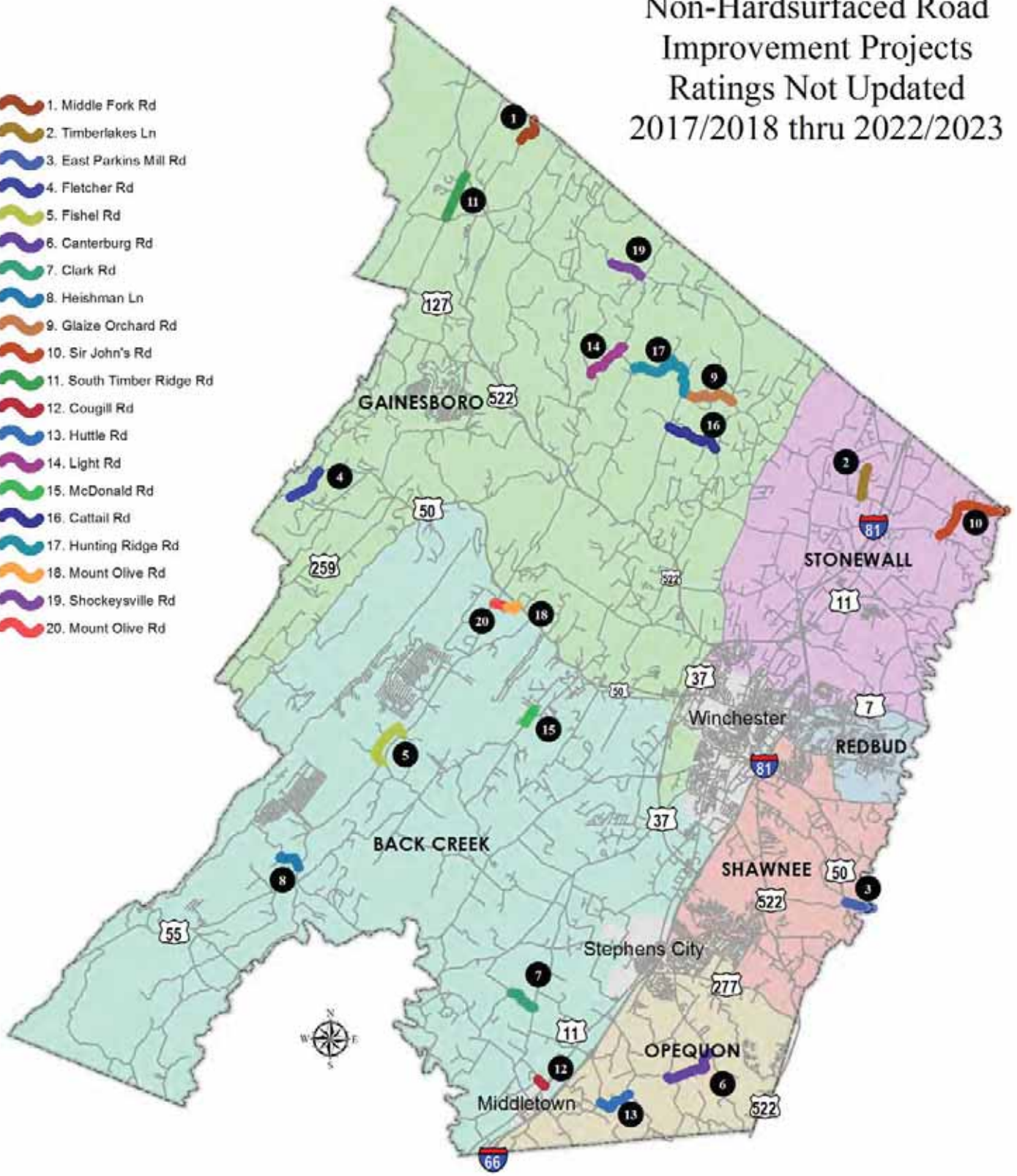
**UNSCHEDULED
NON-HARDSURFACE ROAD IMPROVEMENT PROJECTS
RATINGS NOT UPDATED
2017/2018 through 2022/2023**

<u>RANK</u>	<u>ROAD NAME</u>	<u>ROUTE</u>	<u>FROM</u>	<u>TO</u>	<u>AVERAGE DAILY TRAFFIC COUNT</u>	<u>DISTANCE (MILES)</u>	<u>MAGISTERIAL DISTRICT</u>	<u>RATING</u>	<u>COMMENTS</u>
1	Middle Fork Rd	695	*522	WV Line	50	0.9	GA	68.33	
2	Timberlakes Ln	811	671	*671	280	0.25	ST	68.00	
3	East Parkins Mill Rd	644	50	Clark Line	200	0.81	SH	66.79	
4	Fletcher Rd	733	50	707	170	1.3	GA	66.65	
5	Fishel Rd	612	600	600	60	1.6	BC	66.56	
6	Canterburg Rd	636	640	641	140	1.5	OP	63.17	
7	Clark Rd	638	625	759	70	0.8	BC	62.94	
8	Heishman Rd	607	600	600	70	0.78	BC	62.37	
9	Glaize Orchard Rd	682	608	654	240	1.54	GA	61.22	
10	Sir John's Road	667	672	Last Residence	290	2.37	ST	60.44	
11	South Timber Ridge	696	522	694	220	1.3	GA	58.58	
12	Cougill Rd	634	635	11	120	0.25	BC	58.00	
13	Huttle Rd	636	709	735	110	1.1	OP	53.05	
14	Light Rd	685	600	681	80	1.3	BC	51.46	
15	McDonald Rd	616	608	.44 N. of 608	60	0.45	BC	51.33	
16	Cattail Rd	731	608	654	60	1.7	GA	51.24	
17	Hunting Ridge Rd	608	682	681	90	2.44	GA	51.01	
18	Mount Olive Road	615	50	Hammack Lane	110	0.37	BC	49.00	
19	Shockeysville Road	671	690	.90 miles west of 690	120	0.9	GA	46.67	
20	Mount Olive Road	615	Hammack Lane	600	110	0.4	BC	38	

Note: Project ratings are updated only when funding is available to promote projects to the scheduled list.

Frederick County Unscheduled Non-Hardsurfaced Road Improvement Projects Ratings Not Updated 2017/2018 thru 2022/2023

-  1. Middle Fork Rd
-  2. Timberlakes Ln
-  3. East Parkins Mill Rd
-  4. Fletcher Rd
-  5. Fishel Rd
-  6. Canterburg Rd
-  7. Clark Rd
-  8. Heishman Ln
-  9. Glaize Orchard Rd
-  10. Sir John's Rd
-  11. South Timber Ridge Rd
-  12. Cougill Rd
-  13. Huttie Rd
-  14. Light Rd
-  15. McDonald Rd
-  16. Cattail Rd
-  17. Hunting Ridge Rd
-  18. Mount Olive Rd
-  19. Shockeyville Rd
-  20. Mount Olive Rd





RESOLUTION 2017-2018 SECONDARY ROAD IMPROVEMENT PLAN

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

WHEREAS, the Frederick County Transportation Committee recommended approval of this plan on May 22, 2017; and,

WHEREAS, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on June 7, 2017; and,

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

WHEREAS, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2017 – 2018 Secondary Road Improvement Plan and the Construction Priority List; and,

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

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

The 2017-2018 Secondary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Secondary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2017-2018 Secondary

Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on June 14, 2017.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Bill M. Ewing	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Judith McCann-Slaughter	_____
Blaine P. Dunn	_____		

A COPY ATTEST

Brenda G. Garton
Frederick County Administrator

H



MEMORANDUM

TO: Frederick County Board of Supervisors

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

SUBJECT: Resolution to Allow the Use of Transfer of Development Rights for Proffer Payments for the Village at Middletown

DATE: June 2, 2017

Staff has received a request from Dave Holliday Construction to allow the use of extinguished Transfer of Development Rights (TDR's) to serve as monetary proffer payments within the Village at Middletown. This development is located within the Town of Middletown but has proffers payable to Frederick County per the Joint Agreement for the Administration of Proffers. The site was originally rezoned in 2006 and revised in 2017. With the 2017 proffer revision an allowance to utilize extinguished TDR's was included if approved as an option by the Board of Supervisors.

The Village at Middletown proffered the following monetary contribution:

- The Applicant shall contribute to the Town for transfer to the County the sum of \$13,952.06 per single family detached dwelling unit for capital improvements to capital facilities located at Middletown Elementary School, Robert E. Aylor Junior High School, Sherando High School, or any newly constructed capital school facility which serves school age children of the Town of Middletown, payable upon the issuance of an occupancy permit for each single family detached unit.

Per proffer 16.1 of the Village at Middletown – “Subject to approval by Frederick County, in lieu of the per unit monetary contributions for School Construction as provided above, the Applicant may extinguish a Transferrable Development Right (TDR) within Frederick County. No monetary proffers for School Construction shall be required for any dwelling unit constructed utilizing this method, but all remaining proffered commitments shall remain applicable to such dwelling units”.

As stated in proffer 16, the use of TDR's in lieu of the monetary contribution is subject to approval by the Board of Supervisors. If approved, staff would oversee the severance and extinguishment of all TDR's utilized for the proffer payments. Please contact staff if you have any questions.

Attachments:

1. Request Letter
2. Village at Middletown Proffers
3. Joint Agreement for the Administration of Proffers
4. Resolution

CEP/pd



April 3, 2017

Candice Perkins, AICP
Deputy Director
Department of Planning and Development
Frederick County
107 North Kent Street
Winchester, VA 22601

RE: Village at Middletown – Use of Transfer of Development Right (TDR) Program

Dear Mrs. Perkins,

Thank you for our recent discussions regarding the potential use of TDR's for development of the Village at Middletown project located within the Town of Middletown. The proffer statement for the project, as approved by the Town Council on October 11, 2016, included the following proffer language:

16. TRANSFER OF DEVELOPMENT RIGHTS (TDR) OPTION

16.1 Subject to approval by Frederick County, in lieu of the per unit monetary contributions for School Construction as provided above, the Applicant may extinguish a Transferrable Development Right (TDR) within Frederick County. No monetary proffers for School Construction shall be required for any dwelling unit constructed utilizing this method, but all remaining proffered commitments shall remain applicable to such dwelling units.

As discussed, we would like to apply the TDR program for the Village at Middletown in a manner that is consistent with the proffers. We believe that that this would help advance the purpose of the TDR program by reducing development pressures in the County's rural areas and locating new development where it can be more efficiently served by public services and infrastructure. As the proffer language states that the use of TDR's at the project is subject to approval by Frederick County, please accept this correspondence as our request that the Frederick County Board of Supervisors consider the use of TDR's at the Village at Middletown pursuant to the above proffer language.

If you have any questions or would like to discuss further, please feel free to contact me at (540) 336-3333.

Sincerely,

Patrick Sowers
Director of Land Development

PROPOSED PROFFER STATEMENT

REZONING: RZ. # _____
Middletown Traditional Neighborhood Design District
(MTND) to Middletown Traditional Neighborhood Design
(MTND)

PROPERTY: 60.44 +/- Acres
Tax Map Parcel 91-A-102, 91-A-102B, 91-A-102D, 91-A-
102E, 91-A-102F, 91-A-102G (the "Property")

RECORD OWNER: The Village at Middletown, LC

APPLICANT: The Village at Middletown, LC

PROJECT NAME: The Village at Middletown

ORIGINAL DATE
OF PROFFERS: November 1, 2006

REVISION DATE(S): 11/21/06; 11/27/06; 11/29/06; 1/30/07; 2/2//07; 3/19/07;
3/30/07; 4/4/07; 4/6/07; 4/19/07; 4/30/07; 8/29/2016

Pursuant to Chapter 17, Article 5-A of the Zoning Ordinance for the Town of Middletown, Virginia (the "Zoning Ordinance"), The Village at Middletown, LC, a Virginia limited liability company, (the "Applicant"), as the owners of certain parcels of land identified as Frederick County Tax Map Parcels 91-A-102, 91A-102B, 91-A-102D, 91-A-102E, 91-A-102F, and 91-A-102G, more particularly identified on the attached General Implementation Plan ("GIP") consisting of 60.44 acres, more or less (the "Property"), on behalf of themselves and their successors in interest, do hereby voluntarily submit the following proffers to be effective in the event the property is rezoned by the Town Council of Middletown, Virginia (the "Town"), to the Middletown Traditional Neighborhood Design District zoning classification ("MTND").

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Property adjacent to or including the improvement or other proffered requirement, unless otherwise specified herein. The term "Applicant" as referenced herein shall include within its meaning all future owners and successors in interest. When used in these proffers, the "General Implementation Plan", shall refer to the plan entitled "General Implementation Plan for Village at Middletown", dated April 19, 2007 and revised July 29, 2016 ("GIP"), and shall include the following:

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 supercede all other proffers that may have been made prior hereto. In the event that the above referenced MTND 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 the rezoning which is in effect on the day following the last day upon which the Town Council of Middletown, Virginia ("Town") may be contested in the appropriate court. If the Town'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 Town which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

1. LAND USE

- 1.1 The area of the Property to be rezoned for residential development includes approximately 53.05 +/- acres. No more than one hundred eighty (180) residential dwelling units shall be constructed in the residential area. The residential dwelling units constructed on the Property shall consist of single-family detached dwellings.
- 1.2 The area of the Property to be rezoned for commercial development includes approximately 7.39 +/- acres with a maximum (FAR) of 0.25 and a maximum permitted square footage of 80,477 sq. ft. as generally shown on the GIP.
- 1.3 A maximum of twenty-two (22) dwelling units (in addition to the one hundred eighty (180) dwelling units permitted to be constructed within the residential area on the Property) may be constructed above any proposed commercial buildings located on the Property.
- 1.4 The minimum amount of open space to be provided is thirty percent (30%) of the entire parcel subject to rezoning which is generally 18.13 +/- acres as shown on the GIP.
- 1.5 All of the foregoing commitments are subject to change contingent on final engineering subsequent to presenting a Specific Implementation Plan ("SIP").

2. CONDITIONS PRECEDENT TO THE ISSUANCE OF PERMITS AND PLAN APPROVALS.

- 2.1 The Property shall be developed as one single and unified development in accordance with applicable ordinances, regulations, design standards established by the Town of Middletown and these proffers.
- 2.2 Construction of the one hundred eighty (180) residential dwelling units shall be phased over a three-year period commencing with the Date of Final Rezoning ("DOR"). The Applicant shall not make application for more than 75 building permits for residential dwelling units during the first year after the DOR, 75 building permits during the second year following the DOR, and 30 building permits during the third year following the DOR. The above-referenced annual phasing limitations shall be cumulative and shall not apply to any of the 22 dwelling units which may be constructed above any commercial buildings located on the Property.
- 2.3 Notwithstanding any representations to the contrary contained in these Proffers. Should market conditions dictate a slower pace of construction of the residential dwelling units on the Property, the time schedule for total build out of the Property may exceed three years.

3. PARKS AND RECREATION:

- 3.1 The Applicant shall construct a trail system within the open space as generally depicted on the GIP.
- 3.2 Any deed of dedication for the Property that creates any open space area shall include language that reserves the open space area for the Town for a period of five years. Within 90 days of receiving written request from the Town, provided said request is received by the Applicant during the 5 year reservation period, the Applicant shall dedicate any open space area requested by the Town provided that the land is used for open space and/or parks and recreation type uses. Any open space areas dedicated to the Town may still be used by the Applicant to comply with open space requirements for development of the Property.
- 3.3 The Applicant shall contribute to the Town the sum of \$100.00 per dwelling unit for capital improvements to capital facilities used for

parks and recreation purposes. Any cash payments would be payable upon the issuance of an occupancy permit for each unit.

4. FIRE & RESCUE:

4.1 The Applicant shall contribute to the Town the sum of \$790.00 per single-family detached dwelling unit for capital improvements to capital facilities owned or maintained by the Middletown Volunteer Fire Department, payable upon the issuance of an occupancy permit for each single family detached unit.

5. SCHOOL CONSTRUCTION:

5.1 The Applicant shall contribute to the Town for transfer to the County the sum of \$13,952.06 per single family detached dwelling unit for capital improvements to capital facilities located at Middletown Elementary School, Robert E. Aylor Junior High School, Sherando High School, or any newly constructed capital school facility which serves school age children of the Town of Middletown, payable upon the issuance of an occupancy permit for each single family detached unit.

6. GENERAL GOVERNMENT:

6.1 The Applicant shall contribute to the Town the sum of \$100.00 per dwelling unit toward capital facilities payable upon the issuance of an occupancy permit for each dwelling unit.

6.2 In addition to any funds proffered to the Town pursuant to Proffer 6.1, the Applicant shall contribute to the Town a lump sum of \$15,000.00 to be used to purchase a vehicle or vehicles to be used by the Middletown Police Department, payable prior to the issuance of the first residential occupancy permit.

7. CREATION OF HOMEOWNERS' ASSOCIATION:

7.1 The residential development shall be made subject to an HOA that shall be responsible for the ownership, maintenance and repair of all common areas, including any conservation areas that may be established in accordance herewith not dedicated to the Town or others, for each area subject to their jurisdiction, and shall be provided such other responsibilities, duties and powers as are customary for such associations or as may be required for such HOA herein.

7.2 In addition to such other duties and responsibilities as may be assigned, the HOA shall have title to and responsibility for (i) all common open areas not otherwise dedicated to public use, (ii) common buffer areas located outside of residential lots; and (iii) common solid waste disposal programs, if they decide to use a commercial collection company.

8. WATER & SEWER:

8.1 The Applicant shall be responsible for connecting the Property to public water and sewer, and for constructing all facilities required for such connection. All water and sewer infrastructure shall be constructed in accordance with the requirements of the Town of Middletown.

9. ENVIRONMENT:

9.1 Stormwater management for the Property shall be provided in accordance with all applicable ordinances.

9.2 Any historic artifacts discovered during construction of the project shall be donated to the Town.

10. ARCHITECTURE:

10.1 The sketches of the elevations of the proposed residences submitted along with the GIP are representative of the architectural character of the homes proposed to be constructed on the site.

11. TRANSPORTATION:

11.1 Transportation improvements shall be initiated at the outset of the development process unless otherwise specified below.

11.2 Development of the Property shall occur in phases. Transportation improvements necessary to adequately serve each phase of the development for the Property shall be constructed as part of each respective phase.

11.3 Design of the roadway system shall be substantially consistent with the GIP and study entitled "A Traffic Impact Analysis of The Village at Middletown," prepared by Patton, Harris, Rust & Associates, dated August 20, 2007 (the "TIA"). The exact location and design of any public roadways and proffered improvements shall be subject to review and approval by the Virginia Department

of Transportation and the Town of Middletown with reasonable adjustment upon final engineering thereof.

- 11.4 All public roads shall be designed and constructed in accordance with the Virginia Department of Transportation specifications. Any private street systems, such as alley ways, shall be subject to review and approval by the Town of Middletown.
- 11.5 A strip of land will be reserved along the southern boundary of the Property to facilitate a possible future extension of Grand Street to the north to tie into the internal road system depicted on the GIP.
- 11.6 27 feet of ROW will be dedicated (measured from the centerline of the roadway) along the Property's frontage for Cougill Road.
- 11.7 Half section improvements (to subdivision roadway standards) will be made to Cougill Road. The proposed half section improvements will occur from Route 11 to the existing culvert as depicted by the GIP. Improvements between the Northern Property Boundary and the intersection of Cougill Road with Route 11 shall be constructed only to the extent possible within the existing prescriptive ROW for Cougill Road and, without the requirement to obtain offsite easements or ROW.
- 11.8 The Applicant will consult with the Town Council and the Middletown Heritage Society for a list of possible names for proposed streets.
- 11.9 Sidewalks will be provided along the Property's frontage of Routes 11 and 627 as depicted on the GIP.
- 11.10 The Applicant shall design and construct a traffic signal at the intersection of Route 11 and Route 627 prior to issuance of a certificate of occupancy for the 30th dwelling unit constructed on Property provided that VDOT has provided written notice that the signal is warranted. In the event that the traffic signal is not warranted per VDOT at the time of issuance of the certificate of occupancy for the 30th dwelling unit, then said improvements shall be installed within 180 days of receiving written notice from VDOT and the Town that the signal is warranted.

12. EXCLUSION OF PUBLIC PROPERTY FROM PROFFERS:

- 12.1 Any portion of the Property may hereafter be dedicated for public street purposes (or otherwise conveyed to a public entity) shall, upon such dedication, be excluded from the terms and conditions

of these Proffers and the remainder of the Property shall continue to be subject to the full force and effect of these proffers.

13. SEVERABILITY:

13.1 In the event any portion of these Proffers are subsequently determined to be illegal or unenforceable, the remaining Proffers shall continue in full force and effect.

14. BINDING EFFECT:

14.1 These Proffers run with the land and shall be binding upon all heirs, executors, administrators, assigns and successors in interest of the Applicant.

15. ESCALATOR CLAUSE:

15.1 In the event the monetary contributions set forth in the Proffer Statement are paid to the Town within 48 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 Town after 48 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 the 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.

16. TRANSFER OF DEVELOPMENT RIGHTS (TDR) OPTION

16.1 Subject to approval by Frederick County, in lieu of the per unit monetary contributions for School Construction as provided above, the Applicant may extinguish a Transferrable Development Right (TDR) within Frederick County. No monetary proffers for School Construction shall be required for any dwelling unit constructed utilizing this method, but all remaining proffered commitments shall remain applicable to such dwelling units.

SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE

Respectfully submitted,

The Village at Middletown, LC

By:


David B. Holliday

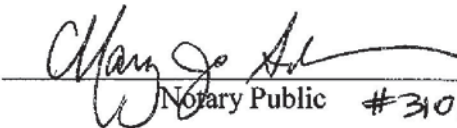
Title:

Manager

STATE OF VIRGINIA,
COUNTY OF FREDERICK, to-wit:

The foregoing instrument was acknowledged before me this 29th day of August, 2016, by David B. Holliday, Mgr.

My commission expires: 10-31-19


Notary Public #310393



RESOLUTION AUTHORIZING ADOPTION OF JOINT AGREEMENT FOR
ADMINISTRATION OF PROFFERS

WHEREAS, the Town of Middletown and the County of Frederick have enjoyed a cooperative relationship over many years; and

WHEREAS, both the Town of Middletown and the County of Frederick recognize that development within the corporate boundaries of Middletown creates additional service obligations for the County of Frederick; and

WHEREAS, the citizens of the Town of Middletown utilize many services provided by the County of Frederick, including but not limited to, public schools, recreation facilities, fire protection assistance and assistance in police protection; and

WHEREAS, in recognition of the historically cooperative relationship between the Town of Middletown and Frederick County, the Town Council adopted during its June 13, 2005 meeting an ordinance pursuant to Section 15.2-1300 which authorizes the Town of Middletown to collect proffers on behalf of Frederick County; and

WHEREAS, in order to permit Middletown to begin collecting proffers for Frederick County, a Joint Agreement for Administration of Proffers collected must be entered into by the Town of Middletown and the County of Frederick; and

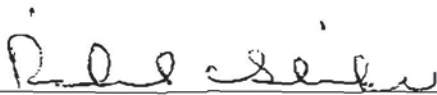
WHEREAS, the proposed Joint Agreement for Administration of Proffers between the Town of Middletown and the County of Frederick is attached to this Resolution as Exhibit 1 and made a part hereof;

NOW, THEREFORE BE IT RESOLVED by the Board of Supervisors of Frederick County, in a meeting held on the 10th day of August, 2005;

1. The Board of Supervisors of Frederick County, by this Resolution, expresses its intent to enter into the Joint Agreement for Administration of Proffers with the Town of Middletown; said Agreement being attached to this Resolution as Exhibit 1.

2. By this Resolution, the Frederick County Board of Supervisors approve this Joint Agreement for Administration of Proffers and authorize their Chairman, Richard C. Shickle to execute two originals of the Joint Agreement and return one original to the Town of Middletown to be placed on record in the Town Clerk's Office.

IN WITNESS WHEREOF, the Frederick County Board of Supervisors have caused this Resolution to be duly executed on its behalf by its Chairman and attested by its Clerk.



Chairman, Richard Shickle

ATTEST:



Clerk of the Board of Supervisors

Board Resolution No.: 002-05

EXHIBIT 1

JOINT AGREEMENT FOR ADMINISTRATION OF PROFFERS

THIS JOINT AGREEMENT, dated this ____ day of _____, 2005, by and between the TOWN OF MIDDLETOWN, VIRGINIA ("Town"), and the COUNTY OF FREDERICK, VIRGINIA, ("County").

WHEREAS, the Town has adopted conditional zoning provisions in its zoning ordinance;
and

WHEREAS, under such conditional zoning provisions the Town may accept proffered conditions in zoning actions taken by the Town, including but not limited to, accepting proffers for the benefit of the County; and

WHEREAS, pursuant to Virginia Code Section 15.2-1300 the Town and County desire to enter into this Joint Agreement to provide for the Town to accept proffers for the benefit of the County, for the enforcement and administration of proffers accepted by the Town for the benefit of the County and for the County to provide data to the Town for the Town's use in conditional zonings.

NOW, THEREFORE, the Town and the County do hereby jointly agree as follows:

1. The duration of this Joint Agreement shall be twenty (20) years, and may be renewed by ordinance adopted by both jurisdictions.
2. The purpose of this Joint Agreement is to provide for the Town to accept proffers for the benefit of the County and to provide for the enforcement and administration of proffers accepted by the Town for the benefit of the County.
3. The parties do not anticipate additional costs related to this joint agreement.

4. Upon the filing with the Town of an application for a rezoning, the Town shall provide to the County a copy of the rezoning application.

5. The County may provide the Town with information concerning the County's calculation of the net cost to the County of public facilities and services which would be generated by the proposed rezoning, and the fiscal impact to the County of the proposed rezoning, based on the County's fiscal impact model which information the Town may use in any discussions concerning proffer offers in conjunction with the proposed rezoning.

6. The Town may accept proffers for the benefit of the County.

7. Administration of Proffers

A. Proffers accepted by the Town for the benefit of the County, both monetary and non-monetary, shall be received and administered by the Town, subject to the terms of this Agreement.

B. Cash proffers for the benefit of the County for facilities to be provided by the County shall be paid by the Town to the County as such proffer payments are made.

8. Enforcement of Proffers

A. It is the intent of the Town and County that the cost of enforcement of proffers, to include, without limitation, attorney fees, court costs, and expert witness fees, shall be borne by the jurisdiction benefiting from the proffer.

B. For monetary proffers, the cost of enforcement shall be borne by the jurisdiction which is to receive the monetary proffer. If monetary proffers are to be received in part by both jurisdictions, the cost of enforcement shall be shared by the jurisdictions prorata upon the amount of monetary proffer claimed by each jurisdiction.

C. The cost of enforcement of non-monetary proffers shall be borne by the jurisdiction to be primarily benefited from the non-monetary proffer.

D. For circumstances not clearly covered by subparagraph B or C above, the Town and County agree to cooperate in good faith to carry out the intent as set forth in subparagraph A, above.

E. In the event the Town is unable or fails for any reason to enforce proffers on any property subject to this Agreement, the County shall have the right to enforce such proffers, with the recipient of cash proffers and the allocation of the expense of enforcement to be as set forth in this Agreement.

9. The Town and County recognize that future proffers may be of a kind not expressly anticipated by this Agreement. The Town and County agree to use their best efforts to handle proffers consistent with the basis of the proffers and the terms of the proffers. The Town and County further agree to amend this Agreement in the future, where necessary, to address issues not addressed by this Agreement including without limitation, proffers which exist on property when the property comes into the Town by annexation or boundary line agreement. This Agreement also expressly covers any lands which comes into the Town by annexation or boundary line agreement following the execution of this Agreement.

10. The County shall be responsible for the reporting requirements under Virginia Code Section 15.2-2303.2 for cash proffers collected by the Town and paid to the County pursuant to this Agreement.

11. In the event this Agreement is terminated prior to the payment of all monetary proffers for the benefit of the County, such monetary proffers will continue to be paid by the Town to the County as such proffer payments are made. In the event this Agreement is

terminated prior to the completion of non-monetary proffers for the benefit of the County, such non-monetary proffers shall continue to be enforced as set forth in Paragraph 8, above.

WITNESS the following signatures and seals:

Approved by the
Middletown Town Council

TOWN OF MIDDLETOWN

On _____, 2005

By: _____ (SEAL)
GENE DICKS, Mayor

Approved by the
Frederick County Board of
Supervisors on

COUNTY OF FREDERICK, VIRGINIA

On August 10, 2005

By: *Richard Shickle* (SEAL)
RICHARD SHICKLE, Chairman



JOINT AGREEMENT FOR ADMINISTRATION OF PROFFERS

THIS JOINT AGREEMENT, dated this ____ day of _____, 2005, by and between the TOWN OF MIDDLETOWN, VIRGINIA ("Town"), and the COUNTY OF FREDERICK, VIRGINIA, ("County").

WHEREAS, the Town has adopted conditional zoning provisions in its zoning ordinance; and

WHEREAS, under such conditional zoning provisions the Town may accept proffered conditions in zoning actions taken by the Town, including but not limited to, accepting proffers for the benefit of the County; and

WHEREAS, pursuant to Virginia Code Section 15.2-1300 the Town and County desire to enter into this Joint Agreement to provide for the Town to accept proffers for the benefit of the County, for the enforcement and administration of proffers accepted by the Town for the benefit of the County and for the County to provide data to the Town for the Town's use in conditional zonings.

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2. The purpose of this Joint Agreement is to provide for the Town to accept proffers for the benefit of the County and to provide for the enforcement and administration of proffers accepted by the Town for the benefit of the County.
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5. The County may provide the Town with information concerning the County's calculation of the net cost to the County of public facilities and services which would be generated by the proposed rezoning, and the fiscal impact to the County of the proposed rezoning, based on the County's fiscal impact model which information the Town may use in any discussions concerning proffer offers in conjunction with the proposed rezoning.

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B. For monetary proffers, the cost of enforcement shall be borne by the jurisdiction which is to receive the monetary proffer. If monetary proffers are to be received in part by both jurisdictions, the cost of enforcement shall be shared by the jurisdictions prorata upon the amount of monetary proffer claimed by each jurisdiction.

C. The cost of enforcement of non-monetary proffers shall be borne by the jurisdiction to be primarily benefited from the non-monetary proffer.

D. For circumstances not clearly covered by subparagraph B or C above, the Town and County agree to cooperate in good faith to carry out the intent as set forth in subparagraph A, above.

E. In the event the Town is unable or fails for any reason to enforce proffers on any property subject to this Agreement, the County shall have the right to enforce such proffers, with the recipient of cash proffers and the allocation of the expense of enforcement to be as set forth in this Agreement.

9. The Town and County recognize that future proffers may be of a kind not expressly anticipated by this Agreement. The Town and County agree to use their best efforts to handle proffers consistent with the basis of the proffers and the terms of the proffers. The Town and County further agree to amend this Agreement in the future, where necessary, to address issues not addressed by this Agreement including without limitation, proffers which exist on property when the property comes into the Town by annexation or boundary line agreement. This Agreement also expressly covers any lands which comes into the Town by annexation or boundary line agreement following the execution of this Agreement.

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11. In the event this Agreement is terminated prior to the payment of all monetary proffers for the benefit of the County, such monetary proffers will continue to be paid by the Town to the County as such proffer payments are made. In the event this Agreement is terminated prior to the completion of non-monetary proffers for the benefit of the County, such non-monetary proffers shall continue to be enforced as set forth in Paragraph 8, above.

WITNESS the following signatures and seals:

Approved by the
Middletown Town Council

TOWN OF MIDDLETOWN

On July 11th, 2005

By: *Gene L. Dicks* (SEAL)
GENE DICKS, Mayor

Approved by the
Frederick County Board of
Supervisors on

COUNTY OF FREDERICK, VIRGINIA

On _____, 2005

By: _____ (SEAL)
RICHARD SHICKLE, Chairman



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

The Board of Supervisors of Frederick County, in regular meeting on the 14th day of June 2017, adopted the following:

WHEREAS, Frederick County has received a request from Dave Holliday Construction to allow the use of extinguished Transfer of Development Rights (TDR's) to serve as monetary proffer payments within the Village at Middletown, located in the Town of Middletown;

WHEREAS, proffer 16.1 of the Village at Middletown states "Subject to approval by Frederick County, in lieu of the per unit monetary contributions for School Construction as provided above, the Applicant may extinguish a Transferrable Development Right (TDR) within Frederick County. No monetary proffers for School Construction shall be required for any dwelling unit constructed utilizing this method, but all remaining proffered commitments shall remain applicable to such dwelling units";

WHEREAS, The Frederick County Board of Supervisors is supportive of the use of extinguished Transfer of Development Rights (TDR's) to serve as monetary proffer payments within the Village at Middletown;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Frederick County hereby supports and approves the use of extinguished Transfer of Development Rights (TDR's) to serve as monetary proffer payments within the Village at Middletown.

BE IT FURTHER RESOLVED, that this approval is contingent upon receipt by Frederick County of an acceptable document extinguishing the subject development rights.

Passed this 14th day of June, 2017 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Robert W. Wells	_____	Bill M. Ewing	_____
Gene E. Fisher	_____	Judith McCann-Slaughter	_____
Blaine P. Dunn	_____		

A COPY ATTEST

Brenda G. Garton
Frederick County Administrator