



AGENDA

Board of Supervisors Meeting

April 5, 2022

9:00 AM

Moment of Silence

- A. Call to Order and Pledge of Allegiance of the United States of America
- B. Adoption of Agenda – Additions or Deletions
- C. Public Comment Period (60 Minute Time Limit)
- D. Report – Virginia Department of Transportation – Ed Carter
- E. Reports – Board Members, County Administrator, Interim County Attorney

UNFINISHED BUSINESS

- F. Resolution in Support of US Bike Route 211 – Joe Petty

NEW BUSINESS

- G. Consent Agenda
 - 1. Representative and Alternate Appointments to the Community Policy and Management Team – Jessica Amankrah
 - 2. Law Enforcement Representative Appointments to the Community Policy and Management Team – Jessica Amankrah
 - 3. Award for Firm Fixed Pricing on Aggregates – Alisa Scott
 - 4. Revisions to the Memorandum of Agreement with the Town of Front Royal for Destination Marketing Organization Services Provided by Discover Front Royal – Alisa Scott
 - 5. Authorization to Advertise for Public Hearing – Ordinance to Amend and Re-Ordain Chapter 38 (Procurement) of the Warren County Code – Alisa Scott
 - 6. Authorization to Advertise for Public Hearing – Ordinance to Add and Ordain Chapter 39, Warren County Guidelines Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 – Alisa Scott
 - 7. Authorization to Advertise for Public Hearing – SV2022-02-01, Robert and Crystal Dolan Variance Request for Warren County Code Section 155-3(B)(1)(b)[2] to Allow the Voluntary Transfer of a Proposed Subdivided Lot to an Immediate Family Member – Joe Petty

8. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-01, Emilia Simeonova and Sergei Kulaev for a Short-Term Tourist Rental Located at 5462 Browntown Road and Identified on Tax Map 28, as Lot 76 – Matt Wendling
 9. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-02, Jerry Lang, Jr., for a Short-Term Tourist Rental Located at 468 Lands Run Road and Identified on Tax Map 45, as Lot 4 – Matt Wendling
 10. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-03, Nicolas Webster and Morgan McCabe for a Short-Term Tourist Rental Located at 203 Mossy Rock Way and Identified on Tax Map 24B, Section 1, Block 21, as Lot 625 – Matt Wendling
 11. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-04, Pratik Patel for a Short-Term Tourist Rental Located at 368 Freeze Road and Identified on Tax Map 23C, Section 2, Block 2, as Lot 193 – Matt Wendling
 12. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-05, Michael and Judith Albarelli for a Short-Term Tourist Rental Located at 740 Broad Run Road and Identified on Tax Map 44, as Lot 38D – Chase Lenz
- H. Closed Session – Virginia Freedom of Information Act
1. Section 2.2-3711(A)(1) Personnel re: Northwestern Community Services Board
 2. Section 2.2-3711(A)(8) Consultation with Legal Counsel for the Provision of Legal Advice re: Shenandoah Farms Sanitary District
- I. Additional New Business (If needed)
- J. Adjournment

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WORK SESSION

- A. Discussion – Proposed Addition of Warren County Code Chapter 39, Guidelines Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 – Alisa Scott
- B. Discussion – Proposed Amendments to Chapter 38 (Procurement) of the Warren County Code Regarding County Purchasing Policy – Alisa Scott
- C. Presentation – Warren County Sanitary Districts – Mike Berry/Taryn Logan
- D. Adjournment

Maintenance:

- Mobilized for snow event
- Graded and applied stone to various stabilized roads throughout the County and will continue this month as weather improves
- Performed brush cutting on various roads and used new buzz saw on Guard Hill Road and hauled away 84 truckloads of brush
- Swept the bridges over the North and South Forks and will continue with remaining bridges this month
- Used contract forces to pick up litter on primary and secondary routes; picked up 2,586 bags of litter and RSW Regional Jail inmates picked up an additional 168 bags
- Repaired potholes on primary and secondary routes and will continue this month as they arise
- Plan to install some pipes on various routes and begin skin and asphalt patching in preparation for resurfacing

Board Issues:

- Verified repainting to be done on Howellsville Road and intersection of Route 340/522 and Country Club Road
- Received draft of Secondary Six-Year Plan; need to schedule a work session with the Board to review



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE 4/5/2022	ITEM F	SUBJECT: US Bike Route 211 Resolution of Support
<u>EXPLANATION & SUMMARY:</u> The American Association of State Highway and Transportation Officials (AASHTO) has designated a bicycle route corridor through Virginia to be developed as USBR 211. Warren County lies within that corridor and the proposed route has investigated the proposed route and found it to be suitable for bicycle tourists. This project is part of a national effort (through AASHTO) to expand the US Bicycle Route system and is being led by VDOT, Shenandoah Valley Bicycle Coalition, Virginia Bicycle Federation, and the Adventure Cycling Association. They are seeking support for designating USBR 211 through Warren County. Please see the attached resolution of support. Bicycle tourism is a growing industry in North America, contributing \$47 billion a year to the economies of communities that provide facilities for such tourists. Warren County can benefit from this opportunity both economically and from the health and environmental related benefits of encouraging bicycle travel in our region. There is nearly 18,000 miles that are currently established in 31 states and Washington D.C. The proposed route for USBR 211 will provide a benefit to Warren County and having the route mapped and signed, would promote bicycle tourism in our area. If the resolution is approved, it shall be sent with a letter to VDOT expressing our support for the route. As of March 14, four of the nine agencies along the route have submitted resolutions of support (Strasburg, Woodstock, Shenandoah County, and New Market). <u>PROPOSED OR SUGGESTED MOTION:</u> I move the Board of Supervisors adopt the proposed resolution to support the development of US Bicycle Route 211. OR I move that the Board of Supervisors deny proposed resolution of support.		
SUBMITTED BY: Joseph Petty, Planning Director	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (Describe)	PROCESSED BY:

RESOLUTION



of the Board of Supervisors of Warren County in Support of the Development of US Bike Route 211

WHEREAS, bicycle tourism is a growing industry in North America, contributing \$47 billion a year to the economies of communities that provide facilities for such tourists; and

WHEREAS, the American Association of State Highway and Transportation Officials (AASHTO) has designated a corridor crossing Virginia to be developed as United States Bicycle Route 211 (USBR 211); and

WHEREAS, the Adventure Cycling Association, Shenandoah Valley Bicycle Coalition, and the Virginia Bicycle Federation, with the cooperation of VDOT, have proposed specific route to be designated as USBR 211; and

WHEREAS, the proposed route for USBR 211 comes through Warren County and can therefore provide benefits to our county; and

WHEREAS, we have investigated the proposed route and found it to be a suitable route, and desire that the route be designated so that it can be mapped and signed, thereby promoting bicycle tourism in our area.

NOW THEREFORE BE IT RESOLVED, that Warren County hereby expresses its approval and support for the development of USBR 211, and requests that VDOT get the route officially designated by AASHTO as soon as this can be achieved, and authorizes the posting of signs within Warren County right-of-way identifying the route through the county once the official designation has been made.

Adopted: April 5, 2022

Cheryl L. Cullers, Chair
Warren County Board of Supervisors

ATTEST:

Edwin C. Daley, Clerk
Warren County Board of Supervisors

Background information on USBR route designation:

There is no inherent liability for local agencies per the federal Transportation Research Board:

http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_lrd_53.pdf

To view AASHTO information on the US Bicycle Route System:

<https://route.transportation.org/us-bicycle-routes/>

Signage is nice, but not required. There are a number of ways a route can be designated including maps (paper or Internet), signs, pavement markings, downloadable GPS coordinates, etc.

The choice of roads for a US Bicycle Route is a tradeoff between low traffic, direct routing, access to services (bike shops, motels, campgrounds, etc.), access to points of interest, and scenic roads. The best route for a family weekend bike ride may not be the best route for someone on a multi-day long distance bicycle trip.

Long distance bicycle tourists are experienced road riders and used to varying quality of road surface, absence of paved shoulders, and car and truck traffic. The number of cyclists who might use a given route is difficult to predict, but five to ten riders per day (1,000-2,000 per season) would be considered a significant increase in usage once a route is designated.

A change in the route can be proposed to VDOT and they propose the change to AASHTO. AASHTO has accepted every new route and route change requested by state DOTs. Route changes can be made twice per year.

Designating a USBR does not impose any constraints or restrictions on the use of a road, street, trail or right-of-way. It's current or future status or use for any other purpose is not changed.

There is no requirement that roads for US Bicycle Routes meet the guidelines in the AASTHO Guide for Bicycle Facilities. This was explicitly considered and it has been written into the process that there are no specific requirements for road or trail standards. It is recognized that local "engineering judgment" will determine when a road is suitable for inclusion in a USBR designation.

Building Bicycle Tourism with the U.S. Bicycle Route System



The U.S. Bicycle Route System



- Growing national network of numbered and signed bicycle routes
- Officially approved by state transportation agencies and AASHTO
- Coordinated by Adventure Cycling Association



Adventure Cycling Association

- Non-Profit Mission: *To inspire, empower, and connect people to travel by bike*
 - 50K mile route network + maps + organized tours
 - *Adventure Cyclist* magazine
 - National advocacy
- 53,000 members
- Adventure Cycling Route Network provided a blueprint for the first U.S. Bicycle Routes
- Adventure Cycling is the technical support organization to AASHTO for the USBRS

The U.S. Bicycle Route System



- 1982: First routes designated
- 2004: Project restarted & task force created
- 2005: Adventure Cycling pledged staff support
- 2008: AASHTO approved process & corridor plan
- 2011: First new route designated since 1982

Currently: 17,900 miles in 31 states + DC



The goal of The United States Bicycle Route System is to connect America through a network of numbered interstate bicycle routes.

NATIONAL CORRIDOR PLAN

January 2021

Adventure Cycling Association
America's bicycle travel experts

AMERICAN ASSOCIATION OF
STATE HIGHWAY AND
TRANSPORTATION OFFICIALS
AASHTO
THE VOICE OF TRANSPORTATION



ADVENTURECYCLING.ORG/USBRs

Well over 50,000 miles when complete

Note: dashed lines just general guidance for where a route could be designated.

Development of U.S. Bicycle Routes in VA



- USBR 1 – 280 miles from DC to North Carolina
 - Designated in 1982
 - Based roughly on Adventure Cycling Atlantic Coast Route
- USBR 76 – 558 miles from Yorktown to Kentucky
 - Designated in 1982
 - Based on Adventure Cycling TransAmerica Trail
 - Continually updated to reflect changed circumstances
- USBR 176 – 17 miles, Richmond/USBR 1 to USBR 76
 - Designated 2016
 - Uses East Coast Greenway alignment along James River
- USBR 211 – 108 miles proposed in Shenandoah Valley
 - Parallel to a proposed USBR 11 on the Blue Ridge Parkway

Related USBRs in Nearby States



- USBR 11 designated in NY
- USBR 11 planned for designation in PA in 2022
- USBR 11 designated in MD
- USBR 11 NC in discussions but no planned designation
- USBR 15 planned for designation in WV in 2022

Jurisdictional support required



- 5 “road owners” for USBR 211 + 4 Counties that VDOT wants to see supporting the route
- Resolution or letter of support to VDOT signifies support
- Adventure Cycling volunteers doing local agency outreach

USBR 211 in Northern Shenandoah

<https://ridewithgps.com/routes/37831151>

Browser address bar: <https://ridewithgps.com/routes/37831151?beta=false>

Navigation: Jump To, Find, Route Planner, Stories

Search: Search, Upgrade, Bike Paths, Map

Cue Sheet

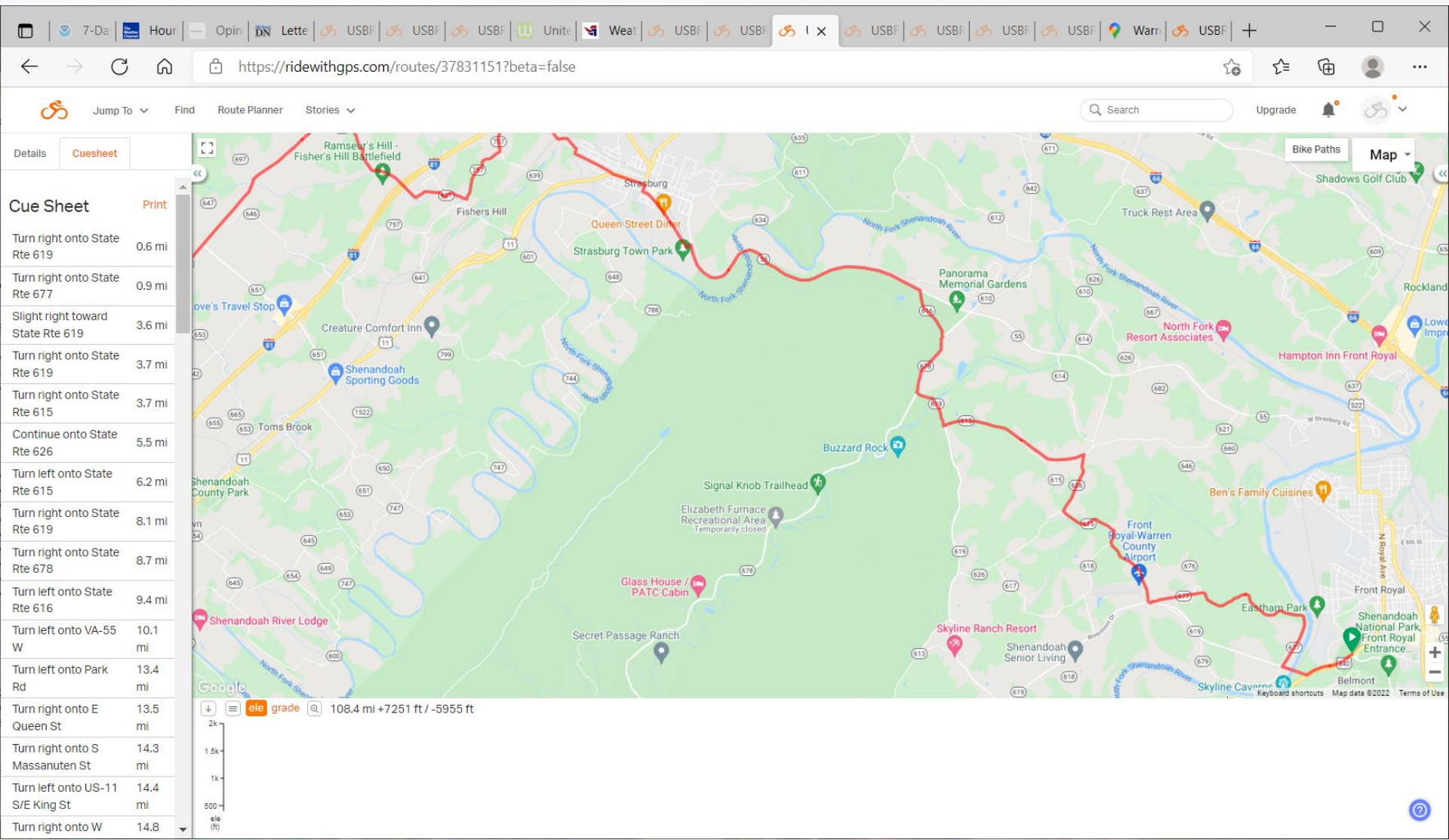
Print

Turn right onto State Rte 619	0.6 mi
Turn right onto State Rte 677	0.9 mi
Slight right toward State Rte 619	3.6 mi
Turn right onto State Rte 619	3.7 mi
Turn right onto State Rte 615	3.7 mi
Continue onto State Rte 626	5.5 mi
Turn left onto State Rte 615	6.2 mi
Turn right onto State Rte 619	8.1 mi
Turn right onto State Rte 678	8.7 mi
Turn left onto State Rte 616	9.4 mi
Turn left onto VA-55 W	10.1 mi
Turn left onto Park Rd	13.4 mi
Turn right onto E Queen St	13.5 mi
Turn right onto S Massanutten St	14.3 mi
Turn left onto US-11 S/E King St	14.4 mi
Turn right onto W King St	14.8 mi

Map details: 108.4 mi +7251 ft / -5955 ft

<https://ridewithgps.com/routes/37831151>

<https://ridewithgps.com/routes/37831151>



Proposed route through Warren County

The draft route in Warren County is all on VDOT highways, beginning on US 340 in Front Royal, then:

VA 619, VA 677, BA 619, VA 615, VA 626, VA 615, VA 619, VA 678, VA 616, VA 55 and Park Rd. into Strasburg.

Any changes agreed will be reflected in the map. The map link will stay the same.

Local route input expected



Local agencies have the final say so when they request a change to the route, it is accepted/negotiated.

Benefits of the USBR designation



- Improved routes for bicycle travelers
- Positive health/environmental impacts
- Economic development via bicycle tourism for smaller communities

Kerry Irons

USBR volunteer coordinator

Adventure Cycling Association

irons54vortex@gmail.com

989-513-7871 or 616-298-7883

Jennifer Hamelman

USBR Program Manager

Adventure Cycling Association

jhamelman@adventurecycling.org

800-755-2453 or 503 867-5726



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE April 5, 2022	ITEM G-1	SUBJECT: Representative and Alternate Appointments to the Community Policy and Management Team (CPMT)	PAGE 1 OF 1
<u>EXPLANATION & SUMMARY:</u> The Community Policy and Management Team (CPMT) has updated their membership appointments and alternative appointments to the team as follows: Department of Juvenile Justice: Jerry Stallings with Allison Straw as the alternate Department of Social Services: Jon Martz with Christie Lawson as the alternate Northwestern Community Services Board: Katie Heritage with Mike Elwell as the alternate Warren County Public Schools: Michael Hirsch with Tara Smith as the alternate The parent representative, Lonnie Phillips, also needs reappointment by the Board of Supervisors for a two-year term as parent representative as his previous term has expired. This term is renewable, and Mr. Phillips has expressed his interest in continuing his appointment to the CPMT. <u>COST & FINANCING:</u> N/A <u>CONSENT AGENDA MOTION:</u> I move that the Board of Supervisors appoint the following representatives and alternates to the Community Policy and Management Team, with no term limits: Department of Juvenile Justice: Jerry Stallings with Allison Straw as the alternate Department of Social Services: Jon Martz with Christie Lawson as the alternate Northwestern Community Services Board: Katie Heritage with Mike Elwell as the alternate Warren County Public Schools: Michael Hirsch with Tara Smith as the alternate I further move that the Board of Supervisors reappoint Lonnie Phillips as the parent representative to the Community Policy and Management Team for a two-year term, which is renewable.			
SUBMITTED BY: Jessica Amankrah, CSA Coordinator	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)		PROCESSED BY:



DATE	ITEM	SUBJECT:	PAGE 1 OF 1
April 5, 2022	G-2	Law Enforcement Representative Appointments to the Community Policy and Management Team (CPMT)	
<u>EXPLANATION & SUMMARY:</u>			
The Community Policy and Management Team (CPMT) would like to extend an invitation to the local law enforcement agencies to have a provisional invitation to join the CPMT for a period of six months with a review of their membership to the CPMT at that time. The Warren County Sheriff's Office (WCSO) requests the appointment of Deputy Cindy Burke as the representative from the WCSO, with Lieutenant Stephen Collins as the alternate. The Front Royal Police Department (FRPD) requests the appointment of Captain Crystal Cline.			
<u>COST & FINANCING:</u> N/A			
<u>CONSENT AGENDA MOTION:</u>			
I move that the Board of Supervisors appoint Deputy Cindy Burke as the representative from the Warren County Sheriff's Office and Lieutenant Stephen Collins as the alternate as well as Captain Crystal Cline as the representative from the Front Royal Police Department on the Community Policy and Management Team, each with respective six-month term limits.			
SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)		PROCESSED BY:
Jessica Amankrah, CSA Coordinator			



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT	PAGE 1 OF
April 5, 2022	G-3	Award for Firm Fixed Pricing on Aggregates	
<u>EXPLANATION & SUMMARY:</u> The County's Public Works and Parks & Recreation departments need various types of stone throughout the year and purchase from a local quarry, Hanson Aggregates. The pricing structure has historically, been consumer-based and unstable. By issuing an Invitation for Bids for firm fixed pricing on aggregate as needed, the County allowed for competition and reduced the overall cost of aggregate. On March 22nd, Purchasing held a bid opening and received one (1) response from Hanson Aggregates Pennsylvania LLC. The Board is requested to review and approve the award to Hanson Aggregates Pennsylvania LLC for firm fixed pricing of stone until December 31st, 2022. <u>COST & FINANCING:</u> This cost is budgeted in FY22 and FY23 as needed per firm fixed pricing and fuel surcharges. <u>CONSENT AGENDA MOTION:</u> I move that the Board of Supervisors approve the award to Hanson Aggregates for firm fixed pricing of stone and associated fuel surcharges until December 31st, 2022, on behalf of Warren County. OR I move that the Board of Supervisors do not approve the award to Hanson Aggregates for firm fixed pricing of stone until December 31st, 2022, on behalf of Warren County.			
SUBMITTED BY: Alisa Scott Deputy Finance Director	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)		PROCESSED BY:

Stone Description	Hanson Aggregates Pennsylvania LLC
1 - FOB Quarry #26 CRUSHER RUN	\$12.23
2 - FOB Quarry Aggregate Base Material VDOT #21B	\$13.05
3 - FOB Quarry #57	\$14.15
4 - FOB Quarry #21A PUGGED	\$13.23
5 - FOB Quarry OGB	\$15.70
6 - FOB Quarry Rip Rap CLASS 1	\$25.17
7 - FOB Quarry Rip Rap CLASS 1A	\$36.00
8 - FOB Quarry #3	\$13.83
9 - Grated Haul Rate to Shenandoah Farms Sanitary District	\$10.75
10 - Grated Haul Rate to 6363 Howellsville Rd Front Royal, VA	\$7.75
11 - Grated Haul Rate to 380 Menefee Lane Front Royal, VA	\$5.50
12 - Rip Rap Haul Rate to Shenandoah Farms Sanitary District	\$21.50
13 - Rip Rap Haul Rate to 6363 Howellsville Rd Front Royal, VA	\$15.50
14 - Rip Rap Haul Rate 380 Menefee Lane Front Royal, VA	\$11.00


 3/22/2022

Hanson Aggegates
Applicable fuel surcharge
when diesel fuel exceeds \$3.19/gal

\$3.20 - \$3.29	1.50%
\$3.30 - \$3.39	3.00%
\$3.40 - \$3.49	4.50%
\$3.50 - \$3.59	6.00%
\$3.60 - \$3.69	7.50%
\$3.70 - \$3.79	9.00%
\$3.80 - \$3.89	10.50%
\$3.90 - \$3.99	12.00%
\$4.00 - \$4.09	13.50%
\$4.10 - \$4.19	15.00%
\$4.20 - \$4.29	16.50%
\$4.30 - \$4.39	18.00%
\$4.40 - \$4.49	19.50%
\$4.50 - \$4.59	21.00%
\$4.60 - \$4.69	22.50%
\$4.70 - \$4.79	24.00%
\$4.81 - \$4.89	25.50%
\$4.90 - \$4.99	27.00%
\$5.00 - \$5.09	28.50%
\$5.10 - \$5.19	30.00%
\$5.20 - \$5.29	31.50%
\$5.30 - \$5.39	33.00%
\$5.40 - \$5.49	34.50%
\$5.50 - \$5.59	36.00%
\$5.60 - \$5.69	37.50%
\$5.70 - \$5.79	39.00%
\$5.80 - \$5.89	40.50%
\$5.90 - \$5.99	42.00%



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 5, 2022	G-5	Authorization to Advertise for Public Hearing – Ordinance to Amend and Re-Ordain Chapter 38 (Procurement) of the Warren County Code	

EXPLANATION & SUMMARY:

The Virginia Public Procurement Act, Va. Code §§ 2.2-4300 et seq., grants to public entities, including Warren County, the authority through ordinance or resolution, to establish their own policy and procedures that promulgate the Procurement Act.

Currently, Chapter 38 Procurement of the Warren Code, only includes a “process for solicitation and execution for Design-Build Contracts. This ordinance is the only codified Procurement Policy for the County and was most recently adopted on October 2, 2007.

The Procurement Act is updated each year and as such, staff recommends that the Warren County Code not only reflect previous updates, but also adopt articles that will provide additional information and guidance to County officials and employees.

The purpose of this ordinance is to increase public confidence in purchasing, to encourage competition among vendors and contractors, to administer fair and impartial purchasing procedures, and to obtain high quality goods and services at a reasonable price.

Staff requests the Board repeal the existing Section 38-1 Design-Build Contracts and add the attached articles to Chapter 38 to make up the Warren County Procurement Policy. Additionally, Staff recommends the Purchasing Agent consistently review any changes to the Procurement Act each year, usually in July and August, and present those updates to the Board for review.

COST & FINANCING: N/A

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize the advertisement of a public hearing for the proposed ordinance to amend and re-ordain Chapter 38 (Procurement) of the Warren County Code.

OR

I move that the Board of Supervisors do not authorize the advertisement of a public hearing for the proposed ordinance to amend and re-ordain Chapter 38 (Procurement) of the Warren County Code.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER	PROCESSED BY:
Alisa Scott, Deputy Finance Director	(DESCRIBE)	

ORDINANCE TO AMEND AND RE-ORDAIN CHAPTER 38 OF THE WARREN COUNTY CODE

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Chapter 38 (Procurement) shall be amended and re-ordained as follows:

~~Article I (Design-Build Contracts)~~

~~[Adopted 10-2-2007^[1]]~~

^[1]~~Editor's Note: This ordinance was originally adopted as Ch. 139, but was redesignated to maintain the organizational structure of the Code.~~

~~§ 38-1. Process for solicitation and execution.~~

- ~~A. While the competitive sealed bid process remains the preferred method of construction procurement for the County, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build basis, provided the County complies with the requirements of this section and has obtained the approval of the Commonwealth of Virginia Design-Build/Construction Management Review Board (the Review Board) pursuant to § 2.2-2406 of the Code of Virginia (1950), as amended, if required; provided, however, that projects undertaken pursuant to Subdivision D2 of § 2.2-4303 of the Code of Virginia (1950), as amended, shall be exempt from approval of the Review Board.~~
- ~~B. Prior to making a determination as to the use of design-build or construction management for a specific construction project, the County shall employ or contract with a licensed architect or engineer with professional competence appropriate to the project to advise the County regarding the use of design-build or construction management for that project and to assist in the preparation of the request for qualifications and the request for proposals and the evaluation of such proposals.~~
- ~~C. The following procedures shall be followed in the selection and evaluation of offerors and award of design-build and construction management contracts:~~
- ~~(1) Prior to the issuance of a request for qualifications, the County Administrator shall:~~
- ~~(a) Determine that a design-build or construction management contract is more advantageous for the construction project than a competitive sealed bid construction contract, that there is benefit to the County in using a design-build or construction management contract, and that competitive sealed bidding is not practical or fiscally advantageous. The basis for this determination shall be documented in writing; and~~
- ~~(b) Obtain approval by the Review Board of the use of a design-build or construction management contract for the construction project, unless exempt pursuant to § 2.2-4303D2 of the Code of Virginia.~~
- ~~(2) Upon approval by the Review Board of the use of a design-build or construction management contract for the specific construction project presented to the Review Board, the County Administrator shall appoint an evaluation committee of not fewer than three members, one of whom shall be the architect or professional engineer employed by or under contract with the County pursuant to Subsection B.~~
- ~~(3) Prequalification of potential offerors.~~

- ~~(a) The County Administrator shall issue a notice of request for qualifications from potential offerors by posting on a public bulletin board and advertising in a newspaper of general circulation in the County at least 10 days preceding the last day set for the receipt of qualifications. In addition, qualifications may be solicited directly from potential offerors. The request for qualifications shall indicate in general terms that which is sought to be procured, specifying the criteria which will be used in evaluating the potential offerors' qualifications, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of offerors. The request for qualifications shall request of potential offerors only such information as is appropriate for an objective evaluation of all potential offerors pursuant to such criteria. The County Administrator shall receive and consider comments concerning specifications or other provisions in the request for qualifications, prior to the time set for receipt of qualifications.~~
- ~~(b) The evaluation committee shall evaluate each responding potential offeror's qualifications submittal and any other relevant information, and shall select a minimum of two offerors deemed fully qualified and best suited on the basis of the criteria contained in the request for qualifications. An offeror may be denied prequalification only upon those grounds specified in § 2.2-4317 of the Code of Virginia (1950), as amended. At least 30 days prior to the date established for the submission of proposals, the purchasing agent shall advise in writing each potential offeror whether that offeror has been selected. In the event that a potential offeror is not selected, the written notification to such potential offeror shall state the reasons therefor.~~
- ~~(4) Request for proposals.~~
- ~~(a) The County Administrator shall issue a request for proposals to the selected offerors at least 10 days prior to the date set for receipt of proposals. The request for proposals shall include and define the requirements of the specific construction project in areas such as site plans, floor plans, exterior elevations, basic building envelope materials, fire protection information plans, structural, mechanical (HVAC) and electrical systems, and special telecommunications. The request for proposals may also define such other requirements as the County Administrator deems appropriate for the construction project. In the case of a construction management contract, the request for proposals shall also define the pre-design, design phase, bid phase and/or construction phase services to be performed by the construction manager. The request for proposals shall specify the evaluation criteria to be used by the evaluation committee to evaluate proposals. The County Administrator shall receive and consider comments concerning specifications or other provisions in the request for proposals, prior to the time set for receipt of proposals.~~
- ~~(b) Each selected offeror shall submit a cost proposal and a technical proposal. Cost proposals shall be sealed separately from technical proposals and, in the case of a construction management contract, shall include the offeror's lump sum price for all requested preconstruction phase services. A lump sum price or guaranteed maximum price shall be established for all requested construction services. Upon receipt of an offeror's technical and cost proposals, the offeror's cost proposal shall be secured by County Administrator and kept sealed until evaluation of all technical proposals is completed.~~

- ~~(c) The evaluation committee shall evaluate each technical proposal based on the criteria set forth in the request for proposals. As a part of the evaluation process, the evaluation committee shall grant each of the offerors an equal opportunity for direct and private communication with the evaluation committee. Each offeror shall be allotted the same fixed amount of time. In its conversations with offerors, the evaluation committee shall exercise care to discuss the same owner information with all offerors. In addition, the evaluation committee shall not disclose any trade secret or proprietary information for which the offeror has invoked protection pursuant to § 2.2-4342F of the Code of Virginia. Based upon its review of each offeror's technical proposal, the evaluation committee shall determine whether any changes to the request for proposals should be made to correct errors or omissions or to clarify ambiguities in the request for proposals, or to incorporate project improvements or additional details identified by the committee during its review. Any such changes shall be set out in an addendum to the request for proposals. Each offeror shall be provided an opportunity to amend or supplement its technical proposal to address the changes.~~
- ~~(d) Based on final technical proposals, the evaluation committee shall conduct negotiations with the offerors. After negotiations have been conducted, offerors may submit sealed additive and/or deductive modifications to their cost proposals.~~
- ~~(e) Following receipt of the cost proposal modifications, the evaluation committee shall publicly open, read aloud and tabulate the cost proposals including any modifications submitted by an offeror.~~
- ~~(5) Final selection of design-builder.~~
 - ~~(a) Following opening of cost proposals, the evaluation committee shall make its recommendation to the County Administrator based upon its evaluation and negotiations.~~
 - ~~(b) Following receipt of the recommendation of the evaluation committee, the County Administrator shall award the design-build contract, as specified in the request for proposals, to the offeror which has submitted an acceptable technical proposal at the lowest cost, the offeror which, in the opinion of the County Administrator, has made the best proposal, or the offeror meeting the criteria otherwise specified in the request for proposals.~~
- ~~(6) Final selection of construction manager.~~
 - ~~(a) Following the opening of cost proposals, the evaluation committee shall make its recommendation to the County Administrator based on its evaluation and negotiations. In making its recommendation, price shall be considered, but need not be the sole determining factor.~~
 - ~~(b) Following receipt of the recommendation of the evaluation committee, the Board of Supervisors shall select the offeror which, in the opinion of the Board of Supervisors, has made the best proposal, and shall award the contract to that offeror. Should the evaluation committee determine in writing that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the other offerors under consideration, a contract may be negotiated and awarded to that offeror.~~

~~(e) For any guaranteed maximum price construction management contract, the contract shall provide that not more than 10% of the construction work (measured by the cost of the work) shall be performed by the construction manager with its own forces, that the remaining 90% of the construction work shall be performed by subcontractors of the construction manager, and that the construction manager shall procure such work by competitive sealed bidding or competitive negotiation.~~

~~(7) Trade secrets or proprietary information provided by an offeror in response to a request for qualifications or a request for proposals shall not be disclosed to the public or to competitors, provided the offeror has invoked protection pursuant to § 2.2-4342 of the Code of Virginia.~~

~~(8) The County shall submit information for post-project evaluation when requested by the review board.~~

~~D. Subject to the approval of the Board of Supervisors, the County Administrator may promulgate such additional procedures, not inconsistent with the provisions of this section or the rules and regulations of the review board, and consistent with the procedures for the procurement of nonprofessional services through competitive negotiation, as he deems necessary and appropriate to effect the selection and evaluation of offerors and the award of design-build and construction management contracts.~~

Article I: General Provisions

Section 38-1. Introduction.

The Virginia Public Procurement Act, Va. Code §§ 2.2-4300 et seq. (the “Procurement Act”), grants to public entities, including Warren County, Virginia (the “County”), the authority to develop procedures for a wide variety of procurement methods if the public entity determines that there is a need for a qualifying purchase and to provide for competition wherever practicable.

This policy is intended to provide County officials and employees with information and guidelines for the procurement of goods and services on behalf of the County. This policy further provides procedures for the disposition of public property. The purpose of this policy is to increase public confidence in purchasing by the County, to encourage competition among vendors and contractors, to administer fair and impartial purchasing procedures, and to obtain high quality goods and services at a reasonable price. This policy applies to the procurement of goods, services, insurance, and construction by the County from nongovernmental sources and to ensure that all procurement activity promulgates the *Code of Virginia* 2.2-4300 et seq.

Except as herein provided, no official, elected or appointed, or any employee shall purchase or contract for any goods, services, insurance, or construction within the purview of this policy. Any purchase order or contract made contrary to the provisions of this policy is unauthorized and shall not bind the County.

A. Definitions

The definitions set forth in Section 2.2-4301 of the Procurement act are incorporated herein by reference, as the same may be updated from time to time.

B. Applicability of Other Laws

Nothing in the County code shall affect the duty of the County to comply with other applicable laws. When a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned on compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of the Procurement Act and this policy, the County may comply with such federal requirements, notwithstanding contrary provisions of state law or this policy, only upon the written determination by the County Administrator that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of state law and this policy that conflict with the conditions of the grant or contract.

Article II: Office of the Purchasing Agent

Section 38-2. Establishment, Appointment, and Authority.

There is hereby created a purchasing system to operate under the direction and supervision of the County Administrator.

The County Administrator shall be the County's Purchasing Agent. The Deputy County Administrator may act in the event the County Administrator is absent or unavailable.

The Purchasing Agent is authorized to procure goods, services, insurance and construction in accordance with this policy.

- A. Duties.** In accordance with this policy, the Purchasing Agent shall: (a) purchase or supervise the purchasing of all goods, services, insurance, and construction needed by the County; (b) exercise direct supervision over the County's central stores and general supervision over all other inventories of goods belonging to the County; and (c) establish and maintain programs for specifications, development, contract administration, and inspection and acceptance, in cooperation with the departments using the goods, services, and construction.
- B. Operational Procedures.** The Purchasing Agent may adopt operational procedures relating to the execution of the duties assigned herein in a manner consistent with this policy.
- C. Delegation.** The Purchasing Agent may delegate authority to purchase certain supplies, services or construction items to other employees of the County if such delegation is deemed necessary by the Purchasing Agent for the effective procurement of those items.
- D. Unauthorized Purchases.** Except as herein provided, no official, elected or appointed, or any employee shall purchase or contract for any goods, services, insurance, or construction within the purview of this policy. Any purchase order or contract made contrary to the provisions of this policy is unauthorized and shall not bind the County.

Article III. METHODS OF PROCUREMENT

Section 38-3. Application.

A. SMALL PURCHASE

The following small purchase thresholds have been established for use when acquiring goods and nonprofessional services.

(1) Single Quote (Up To And Including \$10,000)

Price quotation (unsealed) for goods and nonprofessional services shall be solicited without sealed competition so long as one quote was obtained. The use of the eVA purchasing platform is highly encouraged.

(2) Informal Solicitation (Over \$10,000 Up To And Including \$100,000)

Written price quotations (unsealed) for goods and nonprofessional services, shall be solicited without sealed competition through the eVA platform or 3 written price quotations. Purchase Order and public posting on eVA required.

B. COMPETITIVE SEALED BIDDING (OVER \$100,000)

The County adopts the processes of the Procurement Act's competitive sealed bidding process which include (a) issuance of a written Invitation For Bids, (b) public notice, (c) public opening and announcement of all bids received, (d) evaluation of bids based upon the requirements set forth in the Invitation, and (e) award to the lowest responsive and responsible bidder upon the approval of the governing body.

(1) Contracts for the purchase or lease of goods, nonprofessional services, insurance, and construction shall be procured with competitive sealed bidding.

(2) The County reserves the right to reject any and all bids in whole or in part, to waive any informality, and to delete items prior to making an award.

(3) The right is reserved to make a separate award of each item, a group of items or all items, and to make an award either in whole or in part, whichever is deemed in the best interest of the County.

(4) Notice of the Invitation for bids shall be posted on the Department of General Services' central electronic procurement website or other appropriate website(s) at least 10 days prior to the date set for receipt of bids. Bids may be solicited directly from potential bidders. An Invitation for Bids shall contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement, state where solicitation documents and specifications may be obtained and identify the time and place for opening bids. No confidential or proprietary data shall be solicited in any Invitation for Bids.

- (5) Bids shall be date and time stamped upon receipt. Late bids shall not be considered.
- (6) After the deadline for receipt of bids, the Purchasing Agent shall review all bids, determine the lowest responsive and responsible bidder, and recommend the award(s) to the Governing Body that one or more contracts be awarded.
- (7) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw their bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.
- (a) The bidder shall notice in writing of their claim of right to withdraw their bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
- (b) Under this procedure, the mistakes shall be proved only from the original work papers, documents and materials delivered as required herein. The work papers, documents and materials submitted by the bidder shall, be at the bidder's request, be considered trade secrets or proprietary information subject to the conditions of the public inspection of certain records.
- (8) If stated in the solicitation, and unless cancelled or rejected, a responsible bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds budgeted funds, the Purchasing Agent may negotiate with the apparent low bidder to obtain a contract price within budgeted funds. The negotiations should be conducted in accordance with the following procedures:
- (a) The Purchasing Agent shall advise the lowest responsible bidder, in writing, that the low bid exceeds the County's funds budgeted the procurement. They may suggest a reduction in scope for the proposed purchase and invite the lowest responsible bidder to amend its bid proposal.
- (b) Repetitive informal discussions may be conducted with the lowest responsible bidder for purposes of obtaining a contract within the County's budgeted funds.
- (c) The lowest responsible bidder may submit an addendum to its bid that includes the change in scope for the proposed purchase, the reduction in price, and the new contract value.
- (d) If the proposed addendum is acceptable to the County, the Purchasing Agent should award a contract within its budgeted funds to the lowest responsible bidder based upon the amended bid.

(e) If the Purchasing Agent and the lowest responsible bidder cannot negotiate a contract within the County's budgeted funds, all bids should be rejected.

(9) May be used for lesser amounts if in the best interest of the County.

C. COMPETITIVE NEGOTIATION (OVER \$100,000)

The County adopts the processes of the Procurement Act's competitive negotiation process which include (a) issuance of a written Request for Proposals, (b) public notice, (c) proposal selection, (e) negotiations between the County and individual offeror(s), and award upon the approval of the governing body.

(1) Contracts for the purchase or lease of goods, services other than professional services, and insurance shall be procured with competitive sealed bidding.

(2) Professional services shall be procured by competitive negotiation.

(3) Construction must be procured by competitive sealed bidding except that competitive negotiation may be used in the following instances:

(a) For a fixed price design-build contract or a construction management contract.

(b) For the construction of highways and any draining, dredging, excavation, grading or similar work upon real property upon a determination, made in advance by the Purchasing Agent and set forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public. The writing shall document the basis for this determination.

(4) The County reserves the right to reject any and all proposals in whole or in part, to waive any informality, and to delete items prior to making an award.

(5) The right is reserved to make separate award(s) of each item, a group of items or all items, and to make an award either in whole or in part, whichever is deemed in the best interest of the County.

(6) Notice of the Request for Proposals shall be posted on the Department of General Services' central electronic procurement website or other appropriate website(s) at least 10 days prior to the date set for receipt of proposals. Proposals may be solicited directly from potential offerors. A Request For Proposals shall contain or incorporate by reference the statement of need and contractual terms and conditions applicable to the procurement, state where solicitation documents and specifications may be obtained and identify the time and place for opening proposals. No confidential or proprietary data shall be solicited in any Request For Proposals.

(7) After the deadline for receipt of proposals, the Purchasing Agent shall coordinate individual discussions/interviews, and negotiations with a selection committee made up of a group of employees and subject matter experts. Once the selection committee has

a consensus, the Purchasing Agent can recommend the award(s) to the Governing Body that one or more contracts be awarded.

- (8) May be used for lesser amounts if in the best interest of the County.

D. SOLE SOURCE

Sole Source is a procurement method determined in writing that only one source is practicably available to meet the County's need. A letter from the vendor and a signed sole source form/checklist shall demonstrate price reasonableness was conducted.

- (1) The contract shall be awarded to the sole source who can meet the County's requirements.
- (2) Purchases less than \$10,000 shall proceed with Small Purchase procedures and purchases over \$100,000 shall be approved by the Governing Body. A public notice on eVA shall follow.
- (3) Upon Governing Body approval, purchase order and posting of a public notice on eVA shall follow.
- (4) The Purchasing Agent may utilize any procurement method when doing so is in the best interest of the County.
- (5) The Purchasing Agent may also submit any purchase for approval to the Governing Body.

E. EMERGENCY

Emergency procurement is based on a circumstance of sudden and unexpected nature threatening public health, safety, or property. The Emergency Procurement method should be used with as much competition as is practicable.

- (1) The following are examples of an emergency procurement:
- (a) Goods and services procured to prevent loss of life or property;
- (b) Development of a dangerous condition;
- (c) Threatened curtailment, diminution, or termination of essential services
- (d) Essential machinery or equipment breakdown.
- (2) The contract shall be awarded to the vendor who can meet the County's requirements.
- (3) Department Director shall address the emergency first and notify either the Purchasing Agent, Finance Director, or County Administrator that an emergency exists as soon as practicable then shortly thereafter submit a memo or letter on County letterhead

stating the date, time, and circumstance, along with invoices, receipts, and costs to the Purchasing Agent.

(a) Purchases up to and including \$100,00 shall proceed with Small Purchase procedures and

(b) Purchases over \$100,000 shall be approved by the County Administrator and presented at the next available Regular Meeting or Work session of the Governing Body.

(4) A public Emergency Procurement notice on eVA shall follow.

F. PUBLIC AUCTION SALE

Upon a determination made in advance by the Purchasing Agent and set forth in writing that the purchase of non-technology goods, products or commodities from a public auction sale is in the best interests of the public; such items may be purchased at the auction up to \$100,000. The writing shall document the basis for this determination. (Code of Virginia, § 2.2-4303.H).

(1) Department Director shall supply the Purchasing Agent with a requisition to include required quantities and specifications.

(2) Once the Purchasing Agent determines in writing through issuing a purchase order that the purchase of non-technology goods, products or commodities from a public auction sale is in the best interests of the public; such items may be purchased at the auction.

G. REVERSE AUCTION (UP TO AND INCLUDING \$100,000)

Reverse Auction is a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed, and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

(1) Reverse auctioning should be used for non-technology goods or nonprofessional services that can be easily described and specified, with definable quantities and when an adequate number of vendors can be expected to respond. The maximum number of line items allowed for reverse auctioning is six (6). A bid is required for each line. \$0.00 is an acceptable line item bid and shall not be deemed to constitute a "no bid," but the bidder will be expected to provide that line item at no cost.

(2) Reverse auctioning should not be used for highly technical or complex solicitations, when prequalification is necessary, for solicitations with multiple attachments, for emergency procurements, construction, professional services, or bulk purchases of commodities used in road and highway construction in maintenance, and aggregates.

- (3) Any appropriate Special Terms and Conditions must be stated in or attached to the reverse auction.
- (4) Shall be Set-aside accordance with the Small Business Enhancement Award Priority, unless exempted.
- (5) Awards shall only be made on grand total basis.
- (6) Receipt of Bids – Only eVA registered vendors can participate. Paper responses are not allowed. A bidder must participate electronically.
- (7) Purchasing Agent shall advertise in eVA using the Reverse Auctioning tool.
- (8) The reverse auction shall be open for the period of time stated but must be open for at least three (3) business days (24 business hours). A reasonable amount of time should be allowed for vendors to respond based on the nature of the procurement. The closing time may not be extended and shall be set to close during eVA Customer Care's normal business hours, in order for vendors to have access to support if needed.
- (9) Purchasing Agent shall award the bid through eVA.

H. EXEMPTIONS TO COMPETITIVE PROCUREMENT METHODS

- (1) Cooperative Procurement: Subject to the requirements set forth in the Procurement Act § 2.2-4304. Joint and Cooperative Purchasing, the County is authorized to participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies, or institutions or localities, except as prohibited in the Procurement Act
 - (a) Department Director shall submit to the Purchasing Agent a signed "Cooperative Procurement Checklist".
 - (b) The contract shall be awarded to the supplier who can meet the County's requirements for quality, quantity, delivery time, and the lowest price.
 - (c) Purchases up to and including \$100,00 shall proceed with Small Purchase procedures and purchases over \$100,000 shall be approved by the Governing Body.
 - (d) The Purchasing Agent may utilize any procurement method when doing so is in the best interest of the County.
 - (e) The Purchasing Agent may also submit any purchase for approval to the Governing Body.
- (2) Legal Services: The County may contract for legal services, expert witnesses, and services associated with litigation or regulatory proceedings without competition.

(3) Purchases at Auction:

- (a) Upon a determination made in advance by the Purchasing Agent and set forth in writing that the purchase of goods or non-professional services from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.**
- (b) The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.**

Article III: DISPOSITION OF SURPLUS MATERIALS

Section 38-3 Application.

The disposition of surplus property is the final stage of the procurement cycle. Therefore, every effort should be made to place the surplus in a position that best serves the County and/or to obtain as high a price as possible. Employees and their immediate family members are prohibited from participating in any activity related to the approved surplus property or trade-in to avoid the appearance of impropriety.

The Purchasing Agent is responsible for the distribution of information pertaining to the proposed surplus property and coordinating the disposal. The using department is responsible for coordinating the approved trade-in and to dispose of refuse or rubbish.

- A. Department Heads are to approve and submit a completed surplus property form for surplus and a purchase order for trade-in. The form and purchase order shall serve as the reporting of surplus property or trade-in and may be submitted to the Purchasing Agent for approval on a one-time or on-going basis.**
- B. Both the surplus property form and purchase order shall contain item description(s), estimated value(s) and a statement from the department requesting surplus or trade-in determination. The Purchasing Agent will review and determine surplus disposal method or approve the trade-in determination of a vehicle or rolling stock within ten business days.**
- C. Transfer and Donations are the encouraged first attempt to dispose of surplus or trade-in property per the Procurement Act §15.2-1543.**
- D. Auction. Surplus property shall be disposed of by one of the following:**
 - (1) Approved Online Auction Site. Advertising the surplus property through Public Surplus, GovDeals, or eBay online auction where the highest bid wins the sale.**

- (2) Event hosted by the County through an auctioneer after advertising in a local newspaper where the highest bid wins the sale.
- (3) Sealed Bid. Advertising the surplus property through eVA or local paper where the sale of the surplus property cannot be easily transported, which failed to sell at an auction, or which is otherwise inappropriate for auction sale, may be sold by sealed bid on an individual or on-going firm fixed sale to the bidder with the highest bid and the bidder will be responsible for any associated shipping, towing, or transportation costs.
- (4) Negotiated Sale. If the surplus property cannot be transferred or has not been sold after auction or sealed bid, its sale may be negotiated through a negotiated sale. The sale will go to the bidder with the highest bid and the bidder will be responsible for any associated shipping, towing, or transportation costs.
- (5) Trade-in. To off-set the purchase of a new and unused item with the same commodity code, obsolete, worn out, inactive, or uneconomical operating equipment or rolling stock may be traded in upon issuance of purchase order.

Article IV: ETHICS AND CODE OF CONDUCT

Section 38-4. Application.

Because of the extraordinary trust and responsibility exercised by public officials conducting procurement transactions and because of the legitimate expectation by the public that this trust and responsibility be exercised properly, the laws of this Commonwealth dictate a higher standard of conduct for procurement officials than for public employees generally. All County employees having official responsibility for procurement transactions must conduct business with vendors in a manner above reproach in every respect. Transactions relating to the expenditure of public funds require the highest degree of public trust.

“No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry” (Code of Virginia, §2.2-4376). “Any person convicted of a willful violation of any provision of this article shall be guilty of a Class I misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment” (Code of Virginia, §2.2-4377). “Official responsibility means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom” (Code of Virginia, §2.2-4368).

Article V. Prequalification Generally; Prequalification for Construction.

Section 38-5 Procedures.

- A. The Purchasing Agent may prequalify prospective contractors for particular types of supplies, services, insurance, or construction, and limit consideration of bids or proposals to

prequalified contractors. The opportunity to prequalify shall be given to any prospective contractor who has not been suspended or debarred under this policy.

- B. The application form to prequalify contractors for construction shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective construction contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of § 13.2(f) of this policy. Advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.
- C. Any contractor that applies for prequalification shall be notified in writing whether they have been prequalified at least 30 days prior to the deadline for submitting bids or proposals under the procurement of the contract for which the prequalification applies. If prospective contractor is denied prequalification, the written notification shall include the reasons for denial and the factual basis of such reasons. Notices of refusal of prequalification shall be kept and made a part of the contract file.
- D. In considering any request for prequalification, the Purchasing Agent shall determine whether the contractor possesses management, financial soundness, and a history of performance that demonstrates the apparent ability to successfully complete all requirements of the contract being procured. The Purchasing Agent may require prospective contractors to submit information that the Purchasing Agent deems pertinent, including samples, financial reports, and references. The Purchasing Agent may employ standard forms designed to elicit necessary information, or may design other forms for that purpose.
- E. Prequalification of a contractor shall not constitute a conclusive determination that the contractor is responsible, and such bidder may be rejected as nonresponsible on the basis of subsequently discovered information.
- F. Failure of a contractor to prequalify with respect to one procurement transaction shall not bar the contractor from seeking prequalification as to other procurement transactions or bidding on procurement transactions that do not require prequalification.
- G. Prequalification may be denied to any contractor only if the Purchasing Agent finds one of the following:
- (1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury's list of acceptable surety corporations in the

amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

- (2) The contractor does not have appropriate experience to perform the construction project in question;
- (3) The contractor or any officer, director or owner thereof has had judgments entered against him or her within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;
- (4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the County has not contracted with a contractor in any prior construction contracts, the Purchasing Agent may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. This provision shall not be used to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto was given to the contractor at that time, with the opportunity to respond;
- (5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 15 of this policy; (ii) Article 6 (Virginia Code, § 2.2-4367 *et seq.*) of the Procurement Act, (iii) the Virginia Governmental Frauds Act (Virginia Code, § 18.2-498.1 *et seq.*), (iv) Chapter 4.2 of Title 59.1 of the Code of Virginia, or (v) any substantially similar law of the United States or another state;
- (6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; or
- (7) The contractor fails to provide information in a timely manner that is requested by the Purchasing Agent and is relevant to subdivisions 1 through 6 of this subsection.

Article VI Design-Build Procedures

Section 38-6 Approval of Use.

The County may procure contracts for construction on a fixed price or not-to-exceed price design-build or construction management basis in accordance with the provisions of this Article.

A. General Requirements.

- (1) Professional Advisor. Prior to electing to use a design-build or construction management contract for a specific construction project, the Purchasing Agent shall hire a licensed architect or professional engineer (the “Professional Advisor”) with professional competence appropriate to the project who shall advise the Purchasing Agent regarding the use of design-build or construction management for the project and who shall assist the Purchasing Agent with the preparation of the Request for Qualifications, Request for Proposal, and the evaluation thereof.
- (2) Eligibility Requirements. Prior to procuring a design-build or construction management contract, the Purchasing Agent shall issue a written determination that competitive sealed bidding is not practical or fiscally advantageous and document the basis for the determination to utilize design-build or construction management.
- (3) Evaluation Committee. An Evaluation Committee of not less than three members shall be appointed by the Purchasing Agent to review and evaluate submittals. To the extent possible, the Evaluation Committee shall include one licensed professional architect or professional engineer. The Professional Advisor may be a member of the Evaluation Committee. Members of the Evaluation Committee may be employees of the County, but may not be officers, directors, owners or employees of or otherwise affiliated with any offeror or potential offeror.
- (4) Reporting Requirements. The Purchasing Agent shall report no later than November 1 of each year to the Director of the Department of General Services on all completed design build or construction management projects in excess of \$2 million, including (1) the procurement method utilized, (2) the project budget, (3) the actual project cost, (4) the expected timeline, (5) the actual completion time, and (6) any post-project issues.

B. Design-Build Procurement Procedure.

Design-build contracts shall be procured using the following two-step competitive negotiation process:

- (1) Selection of Qualified Offerors.

 - (a) Request for Qualifications. The Purchasing Agent shall issue a Request for Qualifications inviting potential offerors to submit their qualifications as both “designer” and “builder” of the construction. The Professional Advisor shall assist the Purchasing Agent in preparing the Request for Qualifications. The Request for Qualifications shall describe in general terms the particular construction and specify all factors that will be used in evaluating potential offerors’ qualifications. The Request for Qualifications shall also contain or incorporate by reference other applicable contractual terms and conditions, including any unique capabilities or qualifications required for the project. The Request for Qualifications shall request only such information as is appropriate for an objective evaluation of all potential offerors pursuant to the criteria in the Request for Qualifications.

Notice of the Request for Qualifications shall be published at least 10 days prior to the deadline for qualification submittals by posting in a public area normally used for posting of public notices and by posting on the On-Line Bids page eVa, Virginia's electronic procurement website, at <http://eva.virginia.gov>. In addition, the notice shall be published in a newspaper of general circulation in the area in which the contract is to be performed. The intent of publication is to provide reasonable notice to the maximum number of potential offerors that can be reasonably anticipated to submit qualifications in response to the Request for Qualifications.

- (b) Review. The Evaluation Committee shall evaluate the qualification submittals based on the criteria set forth in the Request for Qualifications. Additional information submitted by potential offerors can be considered by the Evaluation Committee. The Evaluation Committee shall select and prequalify two to five offerors that it deems most qualified and suitable for the project.

Within a reasonable time after review of all qualification submittals, but no less than 30 days prior to the deadline for submission of proposals, all potential offerors shall be notified in writing whether they been prequalified. If an offeror is denied prequalification, the notice shall include the reasons for denial and the factual basis of those reasons. Potential offerors may be denied prequalification only upon those grounds specified in § 4.2(g) of this policy.

(2) Selection of Contractor.

- (a) Request for Proposals. The Purchasing Agent shall issue a Request for Proposals to the offerors prequalified by the Evaluation Committee. The Professional Advisor shall assist the Purchasing Agent in preparing the Request for Proposals. The Request for Proposals shall request that offerors submit separate sealed Technical Proposals and Cost Proposals. Cost Proposals shall be secured and kept sealed until evaluation of all Technical Proposals is completed.

The Request for Proposals shall define the criteria to be used by the Evaluation Committee to evaluate each proposal. In addition, the Request for Proposals shall include and define the criteria of the specific construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications. The Request for Proposals may also define such other requirements as the Purchasing Agent deems appropriate for that particular construction project.

Qualified offerors may comment on the specifications or other provisions of the Request for Proposals prior to the deadline for submission. Any comments made prior to the deadline for proposal submission will be considered by the Evaluation Committee when reviewing the Technical Proposals.

- (b) Review of Technical Proposals. The Evaluation Committee shall evaluate each of the Technical Proposals based on the criteria set forth in the Request for Proposals. As a part of the evaluation process, the Evaluation Committee shall grant each of the offerors an equal opportunity for direct and private communication with the Evaluation Committee. Each offeror shall be allotted the same fixed amount of time. The Evaluation Committee shall exercise care to discuss the same information with all offerors. The Evaluation Committee shall inform each offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the Request for Proposals. The Evaluation Committee shall not disclose any trade secret or proprietary information for which the offeror has invoked protection pursuant to § 13.2(f) of this policy and § 2.2-4342(F) of the Procurement Act.

Based upon its review of the Technical Proposals, the Evaluation Committee shall determine whether any changes to the Request for Proposals should be made to clarify errors, omissions or ambiguities or to incorporate project improvements or additional details, or both, identified by the Evaluation Committee during its review. If such changes are required, an addendum shall be provided to each offeror.

Based on any revisions to the Technical Proposals, the offeror may amend its Cost Proposal. In addition, an offeror may submit cost modifications to its sealed Cost Proposal which are not based upon revisions to the Technical Proposals.

- (c) Review of Cost Proposal. At the conclusion of this process, the Evaluation Committee shall publicly open, read aloud, and tabulate the Cost Proposals. The Evaluation Committee shall add to or deduct from the appropriate Cost Proposal any cost adjustments contained in amendments submitted by an offeror.
- (d) Selection of Contractor. The Evaluation Committee shall make its recommendation on the selection of the design-builder to the Purchasing Agent based on its evaluation and negotiations. Unless otherwise specified in the Request for Proposals, the design-build contract shall be awarded to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal. When the terms and conditions of multiple awards are so provided in the Request for Proposals, awards may be made to more than one offeror.

The Purchasing Agent shall notify all offerors who submitted proposals which offeror was selected for the project. Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful offerors.

Article VII Debarment

Section 38-7

The Purchasing Agent may, in the public interest, debar a prospective contractor from participating in the County's competitive procurement. The seriousness of the grounds and any mitigating factors should be considered in making any debarment decision.

A. Grounds for Debarment.

The Purchasing Agent may debar a prospective contractor for any of the following grounds:

(1) Conviction of or entry of a civil judgment for

- (a) Fraud or any criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract.
- (b) Violating federal or state antitrust statutes relating to the submission of offers.
- (c) Embezzlement, theft, forgery, bribery, falsification, destruction of records, making false statements, or receiving stolen property.
- (d) Any other offense that reflects a lack of business integrity or business honesty and directly affects the responsibility of a contractor or subcontractor.

(2) Breach of the terms of a government contract or subcontract so serious as to justify debarment, including:

- (a) Willfully failing to perform in accordance with the terms of a contract.
- (b) A history of failing to perform or of performing unsatisfactorily under a contract.
- (c) Any other cause of so serious or compelling that it affects the present responsibility of a contractor or subcontractor.

B. Debarment Procedure.

- (1) Notice of consideration. The prospective contractor shall be advised that debarment is being considered. The notice should be by certified mail, return receipt requested. The notice shall include the reasons for the proposed debarment.
- (2) Challenge. Within 10 days of the date of the notice, the prospective contractor may submit information challenging the proposed debarment.
- (3) Decision. The Purchasing Agent shall render a written decision within 5 days of receiving the prospective contractor's rebuttal information. Any debarment should be for a time period that reflects the seriousness of the cause.
- (4) Appeal. The Purchasing Agent's decision is final unless the prospective contractor appeals the decision within 10 days after receipt by invoking the administrative appeals procedure provided in § 12.4 or instituting legal action pursuant to § 12.6 of this policy.

ARTICLE 8

Section 38-8 APPEALS and REMEDIES

A. Ineligibility of Bidder, Offeror or Contractor.

(1) Any bidder, offeror or contractor refused permission to participate, or disqualified from participation, in public contracts shall be notified in writing. Prior to the issuance of a written determination of disqualification or ineligibility, the Purchasing Agent shall:

- (a) notify the bidder in writing of the results of the evaluation,
- (b) disclose the factual support for the determination, and
- (c) allow the bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Purchasing Agent shall issue its written determination of disqualification or ineligibility based on all information its possession, including any rebuttal information, within five business days of the date the Purchasing Agent received such rebuttal information.

If the evaluation reveals that the bidder, offeror, or contractor should be allowed permission to participate in the public contract, the Purchasing Agent shall cancel the proposed disqualification action. If the evaluation reveals that the bidder should be refused permission to participate, or disqualified from participation, in the public contract, the Purchasing Agent shall so notify the bidder, offeror or contractor. The notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking the administrative appeal procedure provided in § 12.4 or instituting legal action as provided in § 12.6 of this policy.

(2) If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia, applicable state law or regulations, the sole relief shall be restoration of eligibility.

B. Protest of Award or Decision to Award.

(1) Any bidder or offeror may protest the award or decision to award a contract by submitting the protest in writing to the Purchasing Agent no later than 10 days after the award or the announcement of the decision to award, whichever occurs first. Public notice of the award or the announcement of the decision to award shall be given in the manner prescribed in the terms or conditions of the Invitation to Bid or Request for Proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract

shall submit the protest in the same manner no later than 10 days after posting or publication of the notice of such contract. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction that are subject to inspection, then the time within which the protest shall be submitted shall expire 10 days after those records are available for inspection by such bidder or offeror, or at such later time as provided in this section. The written protest shall include the basis for the protest and the relief sought. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The Purchasing Agent shall issue a decision in writing within 10 days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within 10 days of the written decision by invoking the administrative procedures described § 12.4 or instituting legal action as provided in § 12.6 of this policy. Nothing in this subsection shall be construed to permit a bidder to challenge the validity of the terms or conditions of the Invitation to Bid or Request for Proposal.

- (2) If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.
- (3) Where the Purchasing Agent determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of Article 15, the Purchasing Agent may enjoin the award of the contract to a particular bidder.
- (4) An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

C. Contractual Disputes.

All contractual claims for money or other relief shall be adjudicated using the following procedure, which shall be included or incorporated by reference in every contract:

- (1) Notice. The contractor shall give written notice of his or her intention to file a contractual claim to the County Administrator at the time of the event or the beginning of the work upon which the claim is based.

- (2) Claim. Contractual claims must be submitted in writing to the County Administrator no later than 60 days after final payment.
- (3) Decision. The County Administrator or an authorized designee shall make a written decision addressing the claim within 90 days of submission.
- (4) Appeal. The decision of the County Administrator shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by invoking administrative procedures or instituting legal action. A contractor may not invoke administrative procedures or institute legal action prior to receipt of the County's decision on the claim, unless the County fails to render such decision within 90 days of submission.

D. Administrative Appeals Procedure.

- (1) Appealable Decisions. Any contractor may appeal a decision on a contract claim. In addition, any bidder or offeror, or person debarred or denied prequalification, may appeal:

 - (a) An award or a decision to award a contract.
 - (b) A decision refusing to allow the withdrawal of the appellant's bid.
 - (c) A denial of the appellant's prequalification.
 - (d) The appellant's debarment.
 - (e) A determination of the appellant's nonresponsibility.
- (2) Appeals Process. Any protest or appeal pursuant to this section shall be in accordance with the following administrative procedures:

 - (a) The appellant shall submit a written letter of appeal to the County Administrator within 10 days of the date of the decision being appealed. The letter of appeal must include the basis for the appeal and the relief sought, and whether the contractor wishes to have a hearing.
 - (b) If no hearing is requested, the County Administrator or a designee, shall render a written decision within 10 days of receiving the letter of appeal.
 - (c) If a hearing is requested, it shall be held within 10 days of receipt of the letter of appeal, and a final decision shall be rendered within 10 days of the hearing. During the hearing, the appellant shall have the opportunity to present pertinent information and to cross-examine adverse witnesses. The hearing shall be an informal administrative proceeding rather than a judicial-type trial, and it will be conducted by a disinterested person appointed by the County Administrator and who is not an employee of the County.
- (3) Judicial Review. Any party to the administrative procedure may institute judicial review within 30 days of receipt of the written decision. Findings of fact shall be final

and conclusive and shall not be set aside unless the same are fraudulent or arbitrary or capricious, or so grossly erroneous as to imply bad faith. No determination of an issue of law shall be final if legal action is instituted in a timely manner.

E. Effect of Appeal Upon Contract.

Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this chapter shall not be affected by the fact that a protect or appeal has been filed.

F. Legal Actions.

- (1) A bidder or offeror, actual or prospective, who is refused permission to participate or is disqualified from participating in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was (i) not an honest exercise of discretion, but rather was arbitrary or capricious; (ii) not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid; or (iii) in the case of denial of prequalification, based upon the criteria for denial of prequalification set forth in § 4.2(g) of this policy.
- (2) A bidder denied withdrawal of a bid under this policy may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the public body was (i) not an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid.
- (3) A bidder, offeror, or contractor, or a potential bidder or offeror on a contract negotiated on a sole source or emergency basis whose protest of an award or decision to award under § 12.2 of this policy is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is (i) not an honest exercise of discretion, but rather is arbitrary or capricious or (ii) not in accordance with the applicable law, regulations or the terms and conditions of the Invitation to Bid or Request for Proposal.
- (4) If injunctive relief is granted, the court, upon request of the County, shall require the posting of reasonable security to protect the County.
- (5) A contractor may bring an action involving a contract dispute with the County in the appropriate circuit court.
- (6) A bidder, offeror, or contractor need not utilize administrative procedures provided in § 12.4 of this policy, but if those procedures are invoked by the bidder, offeror, or

contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the County agrees otherwise.

- (7) Nothing herein shall be construed to prevent the County from instituting legal action against a contractor.

THIS ORDINANCE SHALL BE EFFECTIVE _____

Language proposed to be deleted is lined through. ~~Example~~

Language proposed to be added is bolded and underlined. **Example**



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 5, 2022	G-6	Authorization to Advertise for Public Hearing – Ordinance to Add and Ordain Chapter 39, Warren County Guidelines Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002	

EXPLANATION & SUMMARY:

The Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code §§ 56-575.1 *et seq.* (the “PPEA”), grants to public entities, including Warren County, Virginia (the “County”), the authority to develop and/or operate public-private partnerships for a wide range of qualifying projects if the public entity determines that there is a need for a qualifying project and that private involvement may provide the project to the public in a more timely or cost-effective fashion.

In general, projects that qualify for public-private partnerships under the PPEA include (i) education facilities, (ii) buildings or facilities that meet a public purpose and are developed or operated by or for any public entity, (iii) improvements and equipment necessary to enhance public safety or the security of public buildings, (iv) utility and communications infrastructure, (v) recreation facilities, (vi) technology infrastructure, services, and applications, (vii) services designed to increase the productivity or efficiency of a public entity, (viii) technology, equipment, or infrastructure designed to deploy wireless broadband services, and (ix) any solid waste management facility that produces electricity from waste. The term “qualifying project” is more fully defined in the PPEA.

The PPEA provides that a public entity may not consider any proposal by a private entity for approval of a qualifying project pursuant to the PPEA until the responsible public entity has first adopted and made publicly available reasonable guidelines that (i) are sufficient to enable the responsible public entity to comply with the PPEA, and (ii) which encourage competition and guide the selection of projects. Accordingly, these guidelines (the “Guidelines”) are adopted by the County, on behalf of itself and for all other public bodies for which the County’s Board of Supervisors serves as the governing body, and shall apply to the submittal, review, and selection of qualifying projects under the PPEA.

COST & FINANCING:

N/A

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize the advertisement of the public hearing for the proposed ordinance creating Warren County Code Chapter 39, Warren County Guidelines Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002.

OR

I move that the Board of Supervisors do not authorize the advertisement of the public hearing for the proposed ordinance creating Warren County Code Chapter 39, Warren County Guidelines Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Alisa Scott, Deputy Finance Director		

ORDINANCE TO ADD AND ORDAIN CHAPTER 39 OF THE WARREN COUNTY CODE

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Chapter 39 (Guidelines for Public-Private Education Facilities and Infrastructure Act) be added and ordained as follows:

Article I: General Provisions

Section 39-1. Introduction.

The Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code §§ 56-575.1 *et seq.* (the “PPEA”), grants to public entities, including Warren County, Virginia (the “County”), the authority to develop and/or operate public-private partnerships for a wide range of qualifying projects if the public entity determines that there is a need for a qualifying project and that private involvement may provide the project to the public in a more timely or cost-effective fashion.

In general, projects that qualify for public-private partnerships under the PPEA include:

- (i) education facilities,**
- (ii) buildings or facilities that meet a public purpose and are developed or operated by or for any public entity,**
- (iii) improvements and equipment necessary to enhance public safety or the security of public buildings,**
- (iv) utility and communications infrastructure,**
- (v) recreation facilities,**
- (vi) technology infrastructure, services, and applications,**
- (vii) services designed to increase the productivity or efficiency of a public entity,**
- (viii) technology, equipment, or infrastructure designed to deploy wireless broadband services, and**
- (ix) any solid waste management facility that produces electricity from waste.**

The term “qualifying project” is more fully defined in the PPEA.

The PPEA provides that a public entity may not consider any proposal by a private entity for approval of a qualifying project pursuant to the PPEA until the responsible public entity has first adopted and made publicly available reasonable guidelines that

- (i) are sufficient to enable the responsible public entity to comply with the PPEA, and**
- (ii) which encourage competition and guide the selection of projects.**

Accordingly, these guidelines (the “Guidelines”) are adopted by the County, on behalf of itself and for all other public bodies for which the County’s Board of Supervisors serves as the governing body, and shall apply to the submittal, review, and selection of qualifying projects under the PPEA.

A. Definitions

The definitions set forth in Section 56-575.1 of the PPEA are incorporated herein by reference, as the same may be updated from time to time.

B. Proposals

- (1) Pursuant to Section 56-575.4 of the PPEA, a proposal to provide a qualifying project to the County may be either solicited from private entities by the County (a “Solicited Bid/Proposal”) or delivered to the County by a private entity on an unsolicited basis (an “Unsolicited Proposal”). In either case, any such proposal submitted to the County shall be clearly identified by the private entity as a “PPEA Proposal.”**
- (2) The requirements for any particular Solicited Bid/Proposal shall be as specified in the solicitation by the County for that particular proposal and shall be consistent with all applicable provisions of the PPEA and these Guidelines.**
- (3) Any Unsolicited Proposal may be submitted to the County by delivering six complete copies, together with the required initial review fee as provided below in § 39-3(F), to the County Administrator, 220 North Commerce Avenue, Suite 100, Front Royal, Virginia 22630. Other requirements for an Unsolicited Proposal are set forth below in § 39-3. A working group may be designated by the County Administrator to review and evaluate all unsolicited proposals.**
- (4) The County may require that any Unsolicited Proposal or Solicited Bid/Proposal be clarified at any time during the review process. Such clarification may include but is not limited to submission of additional documentation, responses to specific questions, and interviews with potential project participants.**

C. Affected Local Jurisdictions

- (1) Any private entity submitting a Solicited Bid/Proposal or an Unsolicited Proposal to the County for a qualifying project must provide any other affected jurisdiction with a copy of such proposal by certified mail, express delivery, or hand delivery within five (5) business days of submission of the proposal to the County. Any such other affected jurisdiction shall have 60 days from the date it receives its copy of the proposal to submit written comments to the County and to indicate whether the proposed qualifying project is compatible with the affected jurisdiction’s local comprehensive plan, local infrastructure development plans, capital improvements budget, or other government spending plan. The County will consider comments received within the 60-day period prior to entering into a comprehensive agreement pursuant to the PPEA regarding the proposal. However, the County may begin or continue its evaluation of any such proposal during the 60-day period for the receipt of comments from affected jurisdictions.**
- (2) In the event that the County is an affected local jurisdiction for a qualifying project submitted to another public entity, the County Administrator is authorized to develop and submit written comments on such project.**

D. Virginia Freedom of Information Act

Any proposal provided to the County shall be subject to disclosure under the Virginia Freedom of Information Act (“FOIA”), with the exception that confidential and proprietary information may be protected pursuant to § 56-575.4(G) of the PPEA provided that:

- (1) the protection of § 56-575.4(G) is requested by the submitting party,
- (2) such confidential and proprietary information is clearly identified in the proposal, and
- (3) the reasons why such protection is necessary are stated.

A private entity may request and receive a determination from the County as to the anticipated scope of protection prior to submitting the proposal. The County is authorized and obligated to protect only proprietary information, and thus will not protect any portion of a proposal from disclosure if the entire proposal has been designated as proprietary by the private entity without reasonably differentiating between the proprietary and non-proprietary information contained therein.

E. Use of Public Funds

Virginia constitutional and statutory requirements as they apply to appropriation and expenditure of public funds apply to any comprehensive agreement entered into under the PPEA. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into planning for any PPEA project or projects.

F. Applicability of Other Laws

Nothing in the PPEA shall affect the duty of the County to comply with all other applicable law not in conflict with the PPEA. The applicability of the Virginia Public Procurement Act (the “VPPA”) is as set forth in the PPEA.

Article II: Application

Section 39-2. Solicited Bids/Proposals.

The procedures applicable to any particular Solicited Bid/Proposal shall be specified in the solicitation for that proposal and shall be consistent with the requirements of the PPEA and any other applicable law. All such solicitations shall be by issuance of a written Invitation to Bid (“IFB”) or Request for Proposal (“RFP”). Any proposal submitted pursuant to the PPEA that is not received in response to an IFB or RFP shall be an Unsolicited Proposal under these Guidelines, including but not limited to

- (a) proposals received in response to a notice of the prior receipt of another Unsolicited Proposal as required by the PPEA and provided for below in § 39-3(A)(2) and
- (b) proposals received in response to publicity by the County concerning particular needs when the County has not issued a corresponding IFB or RFP, even if the County otherwise has encouraged the submission of proposals pursuant to the PPEA that address those needs.

Section 39-3. Unsolicited Proposals.

The process for evaluating an Unsolicited Proposal, which is described in detail below, consists of four steps. Briefly summarized, upon receipt of an Unsolicited Proposal the County's first step will be to determine whether to accept it for consideration at the conceptual stage. If so, then in step two the County will give public notice of the Unsolicited Proposal. In step three the County will proceed with a review at the conceptual stage of the original Unsolicited Proposal and/or any proposal received in response to the public notice and accepted for consideration at the conceptual stage. Step four is an in-depth review at the detailed stage of the original Unsolicited Proposal and/or any proposal received in response to the public notice and accepted for consideration at the detailed stage. However, the County may discontinue its evaluation of any proposal at any time. Furthermore, if the County determines that it is in the County's interest to do so with respect to any Unsolicited Proposal, the County may eliminate review at the conceptual stage and proceed directly to a review at the detailed stage.

A. Decision to Accept and Consider Unsolicited Proposal; Notice

- (1) Upon receipt from a private entity of any Unsolicited Proposal accompanied by payment of any required fees, the County will determine whether to accept the Unsolicited Proposal for publication and conceptual-phase consideration, as described below. If the County determines not to accept the proposal at this stage it will return the proposal and any unexpended portion of the accompanying initial review fee to the private entity.**
- (2) If the County chooses to accept an Unsolicited Proposal for conceptual-phase consideration, it shall make a copy of the Unsolicited Proposal available for public inspection, subject to any protections under § 39-1(D) of these Guidelines, and shall give public notice of the proposal in accordance with § 56-575.17(B) of the PPEA. In its notice, the County shall specify a period of time not less than 60 days during which it will receive competing Unsolicited Proposals. During the 60-day period for receiving competing Unsolicited Proposals, the County may continue to evaluate the original Unsolicited Proposal. The notice shall also state that the County**
 - (a) has received and accepted an unsolicited proposal under the PPEA,**
 - (b) intends to evaluate the proposal,**
 - (c) may negotiate a comprehensive agreement with the Proposer based on the proposal, and**
 - (d) will accept for simultaneous consideration any competing proposals that comply with the policy adopted by the County and the PPEA.**

The notice also shall summarize in general terms the proposed qualifying project or projects, and identify their proposed locations.

B. Contents of an Unsolicited Proposal

- (1) An Unsolicited Proposal must contain the information listed in § 39-3(C) and § 39-3(E). However, the private entity may request that the County consider a two-step proposal submission, with initial submittal of a more general proposal for conceptual review, to be followed by a more-detailed submission if requested by the County. In the event that**

a two-step proposal submission is proposed, the private entity may include only the information listed in § 39-3(C) with its initial submission, and the County may request the information listed in § 39-3(E) during the second stage, if applicable.

- (2) In the event that an Unsolicited Proposal does not contain the required information, the County may request a supplemental submission pursuant to § 39-1(B)(4) of these Guidelines, or may waive the information not provided. If waived, the County reserves the right to request the additional information, or any other information, at any time during consideration.

C. Content and Format for Submissions at the Conceptual Stage

Unsolicited Proposals at the conceptual stage shall contain the following information in the following format, plus such additional information as the County may request:

(1) Qualifications and Experience

- (a) Identify the legal structure of the firm or consortium of firms making the proposal. Identify the organizational structure for the project, the management approach and how each partner and major subcontractor in the structure fits into the overall team.
- (b) Describe the experience of the firm or consortium of firms making the proposal and the key principals involved in the proposed project including experience with projects of comparable size and complexity. Describe the length of time in business, business experience, public sector experience and other engagements of the firm or consortium of firms. Include the identity of any firms that will provide design, construction and completion guarantees and warranties and a description of such guarantees and warranties. Provide resumes of the key individuals who will be involved in the project.
- (c) Provide the names, addresses, and telephone numbers of persons within the firm or consortium of firms who may be contacted for further information.
- (d) Provide a current or most recently audited financial statement of the firm or firms and the names of each partner with an equity interest of three percent or greater.
- (e) Identify any persons known to the private entity who would be obligated to disqualify themselves from participation in any contract or transaction arising from or in connection to the project pursuant to the State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*

(2) Project Characteristics

- (a) Provide a description of the project, including the conceptual design, a scope of work, and a schedule for the initiation of and completion of the project to include the proposed major responsibilities and timeline for activities to be performed by both the County and the private entity. Describe the proposed project in sufficient detail so that type and intent of the project, the location, and the communities that may be affected are clearly identified.

- (b) Identify and fully describe any work to be performed by the County or any other public entity.
- (c) Identify any affected jurisdictions (jurisdictions in which all or a portion of the project is located).
- (d) Include a list of all federal, state and local permits and approvals required for the project and a schedule for obtaining such permits and approvals.
- (e) Identify any anticipated adverse social, economic and environmental impacts of the project. Specify the strategies or actions to mitigate known impacts of the project.
- (f) A statement describing the anticipated social, economic, environmental, or other benefits of the project to the public and the County. Project benefits to be considered may occur during the construction, renovation, expansion or improvement phase and during the life cycle of the project.
- (g) Identify the proposed schedule for the work on the project, including the estimated time for completion.
- (h) Propose allocation of risk and liability for work completed beyond the agreement's completion date, and assurances for timely completion of the project.
- (i) State assumptions related to ownership, legal liability, law enforcement and operation of the project and the existence of any restrictions on the public entity's use of the project.
- (j) A statement setting forth the method by which the private entity proposes to secure necessary property interests required for the qualifying project.
- (k) Provide information relative to phased or partial openings of the proposed project prior to completion of the entire work.
- (l) Describe any architectural, building, engineering, or other applicable standards that the proposed project will meet.

(3) Project Financing

- (a) Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.
- (b) Submit a plan for the development, financing and operation of the project showing the anticipated schedule on which funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds, and identify any dedicated revenue source or proposed debt or equity investment on the behalf of the private entity.
- (c) Include a list and discussion of assumptions underlying all major elements of the plan.
- (d) Identify all anticipated risk factors and methods for dealing with these factors.
- (e) Identify any local, state or federal resources that the private entity contemplates requesting for the project. Describe the total commitment, if any, expected from governmental sources (and identify each such source) and the timing of any anticipated commitment.

- (f) Identify any third parties that the private entity contemplates will provide financing for the project and describe the nature and timing of each such commitment.
- (g) A statement indicating whether the private entity intends to request the County to provide resources for financing the project and the nature and extent of any such resources.

(4) Project Benefit and Compatibility

- (a) Describe the anticipated benefits to the community, region or state, including anticipated benefits to the economic condition of the County, and identify who will benefit from the project and how they will benefit.
- (b) Identify any anticipated public support or opposition, as well as any anticipated government support or opposition, for the project.
- (c) Explain the strategy and plans that will be carried out to involve and inform the general public, business community, and governmental agencies in areas affected by the project.
- (d) Explain whether and, if so, how the project is critical to attracting or maintaining competitive industries and businesses to the County or the surrounding region.
- (e) Explain whether and, if so, how the project is compatible with the County's comprehensive plan, infrastructure development plans, capital improvements budget, or other government spending plan.

D. Initial Review at the Conceptual Stage

- (1) Only proposals for qualifying projects, as defined in the PPEA, and those proposals that contain sufficient information for a meaningful evaluation and that are provided in an appropriate format, as described in these Guidelines, will be considered by the County for further review at the conceptual stage.
- (2) The County may stop review and evaluation of a proposal at any time at the County's sole discretion and may reject an Unsolicited Proposal at any time for any reason whatsoever.
- (3) The County will determine at this initial stage of review whether it will proceed using procurement through competitive sealed bidding or competitive negotiation. Following this determination, the County will issue the public notice described in § 39-3(A)(2) which solicits competing Unsolicited Proposals.
- (4) After reviewing an Unsolicited Proposal and any competing Unsolicited Proposals submitted during the notice period, the County may determine
 - (a) not to proceed further with any proposal,
 - (b) to proceed to the detailed phase of review with the original proposal,
 - (c) to proceed to the detailed phase with a competing proposal, or
 - (d) to proceed to the detailed phase with multiple proposals.

E. Format for Submissions at the Detailed Stage

- (1) If the County decides to proceed to the detailed phase of review with one or more Unsolicited Proposals, then the following information must be provided by the private entity unless waived by the County:**
- (a) A topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project.**
 - (b) A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the private entity to accommodate such crossings.**
 - (c) A statement and strategy setting out the plans for securing all necessary property. The statement must include the names and addresses, if known, of the current owners of the subject property as well as a list of any property the private entity intends to request the public entity to condemn.**
 - (d) A detailed listing of all firms that will provide specific design, construction and completion guarantees and warranties, and a brief description of such guarantees and warranties.**
 - (e) A total life-cycle cost specifying methodology and assumptions of the project or projects and the proposed project start date. Include anticipated commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis should include, but not be limited to, a detailed analysis of the projected return, rate of return, or both, expected useful life of facility and estimated annual operating expenses.**
 - (f) A detailed discussion of usage of the project, and assumptions about user fees, lease payments, and other service payments over the term of the interim or comprehensive agreement pursuant to Virginia Code § 56-575.9 or Virginia Code § 56-575.9:1 and the methodology and circumstances for changes to such user fees, lease payments, and other service payments over time.**
 - (g) Identification of any known government support or opposition, or general public support or opposition for the project. Government or public support should be demonstrated through resolution of official bodies, minutes of meetings, letters, or other official communications.**
 - (h) A statement regarding the anticipated public reaction.**
 - (i) Demonstration of consistency with appropriate local comprehensive or infrastructure development plans or indication of the steps required for acceptance into such plans.**
 - (j) Explanation of how the proposed project would impact local development plans of each affected jurisdiction.**
 - (k) Detailed analysis of the cost and financial feasibility of the proposed project, including its impact on similar facilities operated or planned by the County. Include a detailed description of any financing plan proposed for the project, a comparison of that plan with financing alternatives that may be available to the County, and all underlying data supporting any conclusions reached in the analysis or the selection by the private entity of the financing plan proposed for the project.**
 - (l) Additional material and information as the County may request.**

F. Review Fees

- (1) A review fee will be charged a private entity submitting an Unsolicited Proposal to the County to cover the County's costs of processing, reviewing, and evaluating the proposal, including the cost to compare it to any competing proposals. Such costs include but are not limited to County staff time, the cost of any materials or supplies expended, and the cost of any outside advisors or consultants, including but not limited to attorneys, consultants, and financial advisors used by the County in its sole discretion to assist in processing, reviewing, or evaluating the proposal. Such fees are intended to be in the amount necessary to cover the County's costs.**
- (2) Such fees shall be imposed based on the reasonably anticipated costs to the County in accordance with the following schedule:**
 - (a) *Initial fee.* Payment of an initial fee must accompany the submission of the Unsolicited Proposal to the County in order for the County to proceed with its review. The initial fee shall be no less than \$2,500 regardless of the anticipated total cost.**
 - (b) *Additional fees.* Additional fees shall be imposed on and paid by the private entity throughout the processing, review, and evaluation of the Unsolicited Proposal if and as the County reasonably anticipates incurring costs in excess of the initial fee paid by the private entity. The County will notify the private entity of the amount of such additional fees as and when it anticipates incurring such costs. Prompt payment of such additional fees is required before the County will continue to process, review, and evaluate the proposal.**
 - (c) *Reimbursement of excess fees paid.* In the event the total fees paid by the private entity exceed the County's total costs incurred in processing, reviewing, and evaluating the proposal, the County shall reimburse the difference. Otherwise, the County shall retain all fees paid.**

Article III: Evaluation and Selection

Section 39-4. Proposal Evaluation and Selection Criteria

A. Analysis of costs and benefits.

- (1) Analysis regarding the specifics, advantages, disadvantages, and the long- and short-term costs of a request by a private entity for approval of a qualifying project shall be performed by employees of the County.**
- (2) As an alternative or supplement to analysis by County employees under § 39-4(A)(1), the County may engage the services of qualified professionals, which may include an architect, professional engineer, or certified public accountant, not otherwise employed by the County, to provide independent analysis regarding the specifics, advantages, disadvantages, and the long- and short-term costs of any request by a private entity for approval of a qualifying project.**

B. Procedure for Evaluation and Selection

The procedure for evaluation of proposals and selection of a proposal, if any, shall be

- (1) consistent with the PPEA and these Guidelines, and
- (2) in accordance with the County's procurement procedures for review and selection of competitive sealed bids or competitive negotiation.

C. Public Hearing

The County shall hold a public hearing on the proposals during the proposal review process at least 30 days prior to entering into an interim or comprehensive agreement pursuant to § 39-3.

D. Evaluation and Selection Factors

Some or all of the following matters may be considered in the evaluation and selection of PPEA proposals. However, the County retains the right at all times to reject any proposal at any time for any reason whatsoever.

- (1) *Qualifications and Experience.* Factors to be considered in either phase of the County's review to determine whether the private entity possesses the requisite qualifications and experience may include but are not necessarily limited to:

- (a) Experience with similar projects.
- (b) Demonstration of ability to perform work.
- (c) Leadership structure.
- (d) Project manager's experience.
- (e) Management approach.
- (f) Financial condition.
- (g) Project ownership.

- (2) *Project Characteristics.* Factors to be considered in determining the project characteristics may include but are not necessarily limited to:

- (a) Project definition.
- (b) Proposed project schedule.
- (c) Operation of the project.
- (d) Technology; technical feasibility.
- (e) Conformity to laws, regulations, and standards.
- (f) Environmental impacts.
- (g) Condemnation impacts.
- (h) State and local permits.
- (i) Maintenance of the project.

- (3) *Project Financing.* Factors to be considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project may include but are not necessarily limited to:

- (a) Cost and cost benefit to the County.

- (b) Financing and the impact on the debt or debt burden of the County.
- (c) Financial plan.
- (d) Estimated cost.
- (e) Life-cycle cost analysis.
- (f) The identity of any third party that will provide financing for the project and the nature and timing of their commitment.

(4) *Project Benefit and Compatibility.* Factors to be considered in determining the proposed project's compatibility with the appropriate local or regional comprehensive or development plans may include but are not necessarily limited to:

- (a) Community benefits.
- (b) Community support or opposition, or both.
- (c) Public involvement strategy.
- (d) Compatibility with existing and planned facilities.
- (e) Compatibility with local, regional, and state economic development efforts.

Section 39-5. Comprehensive Agreement.

A. Review and Approval of Comprehensive Agreement by Board of Supervisors.

Prior to acquiring, designing, constructing, improving, renovating, expanding, equipping, maintaining, or operating any qualifying project, a selected private entity shall enter into a comprehensive agreement with the County as provided by the PPEA. Any such comprehensive agreement, and any amendment thereto, must be approved by the County's Board of Supervisors (the "Board") before it is entered into on behalf of the County.

In considering any comprehensive agreement, the Board shall determine whether the project serves the public purpose of the PPEA, and whether

- (1) there is a public need for or benefit derived from the qualifying project of the type the private entity proposes as a qualifying project,
- (2) the estimated cost of the qualifying project is reasonable in relation to similar facilities; and
- (3) the private entity's plans will result in the timely development or operation of the qualifying project.

B. Interim Agreement.

Prior to or in connection with the negotiation of the comprehensive agreement, the County may enter into an interim agreement, upon approval by the Board, with the private entity proposing the development or operation of the qualifying project. Such interim agreement may

- (1) permit the private entity to commence activities for which it may be compensated relating to the proposed qualifying project, including, but not limited to, project planning and development, design and engineering, environmental analysis and

- mitigation, survey, and ascertaining the availability of financing for the proposed facility or facilities;
- (2) establish the process and timing of the negotiation of the comprehensive agreement; and
 - (3) contain any other provisions related to any aspect of the development or operation of a qualifying project that the parties may deem appropriate.

C. Contents of Comprehensive Agreement.

As provided by the PPEA, the terms of the comprehensive agreement shall include but not be limited to:

- (1) Delivery of maintenance, performance and payment bonds or letters of credit in connection with any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project, in the forms and amounts satisfactory to the County.
- (2) Review and approval of plans and specifications for the qualifying project by the County. This shall not be construed as requiring the private entity to complete design of a qualifying project prior to execution of a comprehensive agreement.
- (3) The right of the County to inspect the qualifying project to ensure that the private entity's activities are acceptable to the County and in accordance with the provisions of the comprehensive agreement.
- (4) Maintenance of a policy or policies of liability insurance or self-insurance in from and amount satisfactory to the County and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.
- (5) Monitoring of the practices of the operator by the County to ensure proper maintenance.
- (6) Reimbursement to be paid to the County for services provided by the County.
- (7) Filing by the private entity of appropriate financial statements on a periodic basis.
- (8) Policies and procedures governing the rights and responsibilities of the County and the operator in the event that the comprehensive agreement is terminated or there is a material default by the operator, including the conditions governing assumption of the duties and responsibilities of the operator by the County and the transfer or purchase of property or other interests of the operator by the County.
- (9) Providing for such user fees, lease payments, or service payments, if any, as may be established from time to time by agreement of the parties, which shall be the same for persons using the facilities under like conditions and shall not materially discourage use of the qualifying project. Classifications according to reasonable categories for assessment of user fees may be made.
- (10) Requiring a copy of any service contract to be filed with the County and providing that a schedule of the current user fees or lease payments shall be made available by the operator to any member of the public upon request.
- (11) The terms and conditions under which the County may contribute financial resources, if any, for the qualifying project.
- (12) Any other provisions required by applicable law or agreed to by the parties.

THIS ORDINANCE SHALL BE EFFECTIVE _____

Language proposed to be deleted is lined through. ~~Example~~

Language proposed to be added is bolded and underlined. **Example**



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:
04/05/2022	G-7	Subdivision Variance #2022-02-01 Robert & Crystal Dolan <i>Subdivision Variance to Warren County Code §155-3.B(1)(b)[2]</i>
EXPLANATION & SUMMARY:		
See attached application and staff report. Warren County Code §155-3.B(1)(b)[2] of the Subdivision Ordinance requires that the property owner requesting a subdivision shall have held fee simple title to the property to be subdivided for a period of five years prior to the filing of the family subdivision application with the county. At this time, the Dolan's have held the property since June 3, 2019 (approx. 2yr 8mo). If the Planning Commission were to recommend approval, a condition may be that the lot shall not be voluntarily transferred to a non-immediate family member for at least seven years after approval of the family subdivision plat. This would be in lieu of the required five years and make the timeframe approximately ten years, and concurrent with the ordinance requirement of five years to subdivide and five years to transfer outside the family. In order to grant a variance of the Subdivision Ordinance the applicant needs to show that strict compliance with the requirements of the Ordinance would cause substantial injustice or hardship. "Substantial injustice or hardship" is defined by the ordinance as a situation meeting the following criteria: (1) That, because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience. (2) That the conditions upon which the request is based are unique to the property for which the variance is sought and are not generally applicable to other property and have not been created by any person having an interest in the property. (3) That the reason for the variance is not based exclusively upon a desire for financial gain or avoidance of a financial loss. (4) That the granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the area in which the property is located. (5) That the injustice or hardship is not self-inflicted, whether done deliberately or with clear negligence.		

PLANNING COMMISSION STATUS:

On Wednesday, March 9, 2022, Mr. Henry moved to forward this application to the Board of Supervisors, recommending approval. The motion was seconded by Mr. Longo and approved by the Planning Commission by a vote of 4-0.

RECOMMENDED CONDITIONS:

The Planning Commission and staff is recommending the following condition be added to this subdivision variance request.

1. The lot shall not be voluntarily transferred to a non-immediate family member for seven years after approval of the family subdivision plat. This would be in lieu of the required five years and make the timeframe approximately ten years.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize the proposed subdivision variance request of Robert & Crystal Dolan for advertisement for a public hearing.

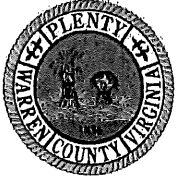
SUBMITTED BY:

Joseph Petty, 
Planning Director

DISPOSITION OF BOARD:

☐ APPROVED ☐ OTHER (Describe)

PROCESSED BY:



SUMMARY OF REQUEST

The applicants are requesting a variance to Warren County Code §155-3.B(1)(b)[2] of the Subdivision Ordinance to allow the voluntary transfer of a proposed subdivided lot to an immediate family member within the required five (5) years of having held fee simple title to the property. The applicants purchased the property on June 3, 2019. They would like to convey the proposed lot to their sister and her husband to be closer to family. If the variance is approved, they will then request a variance from the Board of Zoning Appeals for a reduction of lot size from the required 10 acre minimum.

Staff would recommend that, if the Planning Commission recommended and the Board approved the request, the condition be placed on the subdivision plat that the lot may not be voluntarily transferred to a non-immediate family member for at least seven years after approval of the family division plat in lieu of the required five years. This would make the timeframe approximately ten years and concurrent with the ordinance requirement of five years to subdivide and five years to transfer outside the family.

PROPERTY INFORMATION

Property Location: 0 Gruver Grade
Tax Map ID: 11-----24E
Magisterial District: North River
Subdivision: N/A

City: Middletown
Zoning: Agricultural (A)
Acres: 22.2009 Acres
Existing Land Use: Vacant

SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A)
South: Agricultural (A)
East: Agricultural (A)
West: Agricultural (A)

Use: Single-Family Dwelling
Use: Vacant Lot
Use: Single-Family Dwelling
Use: Vacant Lot

PROPERTY HISTORY

The property was part of a Class A Subdivision in 2018 by Stickley Enterprises LP. An Exempt Subdivision was completed in 2019, with a subsequent Boundary Line Adjustment in 2019 creating that lots as they exist today. The result of the parcel history is the subdivision rights have been exhausted for more than four lots, each lot containing less than 10 acres from a single parcel of land existing of record as of 12:01 a.m. April 6, 1977.

APPLICABLE WARREN COUNTY CODES

Chapter 155. Subdivision of Land: § 155-18. Variances. [Added 1-17-1984]

- A. The Board of Supervisors may reduce or otherwise vary the requirements of this chapter when strict adherence to the general regulations would result in substantial injustice or hardship. In granting such variances, the Board of Supervisors may attach and require such conditions as it deems to be necessary to secure the basic objectives of the varied regulations. The Board of Supervisors shall consider each case on its own merits and shall not grant variances to these regulations unless there is proof that substantial injustice or hardship, as defined below, exists.
- B. The subdivider shall be required to produce evidence justifying his contention that strict compliance with the requirements of this chapter would cause substantial injustice or hardship. "Substantial injustice or hardship" is defined as a situation meeting all of the criteria listed below:

ATTACHMENTS

☐ Agency Comments
☐ Location Map

☒ Application
☐ Public Comments

☐ Health Permit
☒ Submitted Plans

☒ Letter from Applicant
☐ Other: _____

1. That, because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience.
 2. That the conditions upon which the request is based are unique to the property for which the variance is sought and are not generally applicable to other property and have not been created by any person having an interest in the property.
 3. That the reason for the variance is not based exclusively upon a desire for financial gain or avoidance of a financial loss.
 4. That the granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the area in which the property is located.
 5. That the injustice or hardship is not self-inflicted, whether done deliberately or with clear negligence.
- C. No variance shall be authorized unless the Board of Supervisors finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.
- D. The subdivider shall further be required to make written application to the Planning Commission requesting the variance and to submit evidence in justification of his request. The application shall be accompanied by a fee as specified in § 155-9.
- E. The Planning Commission shall review the request and shall forward a recommendation to the Board of Supervisors, which shall contain the reasons for which the variance should or should not be granted. Before acting on the request, the Commission may hold a public hearing after proper advertisement and notification of adjacent property owners pursuant to § 15.2-2204, Code of Virginia, as amended. [Amended 10-21-2008]
- F. After receipt of the application and recommendation, the Board of Supervisors shall authorize advertisement of a public hearing and notification of adjacent property owners pursuant to § 15.2-2204, Code of Virginia, as amended. After the public hearing or within the time limits prescribed in § 156-27, the Board of Supervisors shall vote to approve or disapprove the variance in whole or in part. [Amended 10-21-2008]
- G. Requirements for the timing of the review of the application for a variance, from the filing of the application to the final decision by the Board of Supervisors, shall be the same as prescribed in § 155-27.

Chapter 155. Subdivision of Land: § 155-3. Definitions and word usage.

For the purpose of this chapter, certain words and terms used herein shall be interpreted or defined as follows:

- A. Word usage. Words used in the present tense include the future, words in the singular number include the plural, and the plural, the singular, unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel" or "tract"; the word "shall" is mandatory and not discretionary; the word "approve" shall be considered to be followed by the words "or disapproved"; any reference to this chapter includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.
- B. Definitions.

...

SUBDIVISION

The division of any parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development whether such transfer or development is immediate or future. The term "subdivision" includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

1. However, the term "subdivision" shall not include the following:
 - a. ...
 - b. Family subdivision. A single division of a lot or parcel for the sale or gift to a member of the immediate family of the property owner, including the family member's spouse. Only one such division shall be allowed per family member and shall not be for the purpose of circumventing

this chapter. A member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, parent or grandparent of the property owner; provided, however, that only one conveyance of land shall be permitted to each set of parents of each one of the individual property owners, and provided further that a maximum of two conveyances of land shall be permitted to a maximum of two different sets of parents where there is more than one individual property owner. No person who has previously received a conveyance of land as a grantee under § 15.2-2244 of the Code of Virginia or any local ordinance enacted pursuant thereto shall be eligible to be a grantee of a lot or parcel created pursuant hereto. The Planning Director shall have the authority to certify that a family subdivision is exempt as evidence by his signature on the plat, provided that the following requirements are met: [Amended 12-2-1991; 7-21-1998; 10-21-2008; 7-20-2010; 9-20-2011

[1] All applicable requirements of Chapter 180, Zoning.

[2] The property owner requesting such subdivision shall have held fee simple title to the property to be subdivided for a period of five years prior to the filing of the family subdivision application with the county.

...

Cc: Robert & Crystal Dolan – Owners/ Applicants

December 28, 2021

Warren County Planning Commission
20 North Commerce Ave, Suite 40
Front Royal, VA 22630

To whom it may concern,

This letter is in support of my request for a variance to reduce the minimum lot family subdivision from a 10 acre lot to a 2 acre lot. We purpose that the current 22.2 acre lot be subdivide for a 2 acre lot for my sister and her husband.

The property is located off of Gruver Grade Drive, tax map 11-24 E and the last flat lot suitable to build a single family dwelling.

The front of the lot is Gruver Grade Drive, the left and rear of the lot has a drop off/ravine with a wet weather stream, the right side of the property would be attached to the existing lot. Please see the proposed survey provided by CDF surveying.

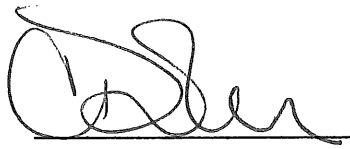
We would also like to request a site visit from the board.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Robert Dolan', written over a horizontal line.

Robert Dolan

A handwritten signature in black ink, appearing to read 'Crystal Dolan', written over a horizontal line.

Crystal Dolan

APPEAL TO THE PLANNING COMMISSION

Application Number: SV2022-02-01

Date Received: _____

Fee Amount: \$ 200.00

Date Received: 12-28-2021 CK# 744

I (we) Robert + Crystal Dolan respectfully request that a determination be made by the Planning Commission on the following appeal, which was denied by the Administrator on _____, 20____ for the reason that it was a matter which, in the opinion of the Administrator, should properly come before the Planning Commission.

An interpretation/variance is required to Section 155-21-A, of the Warren County Subdivision Ordinance for the reason that:

_____ It is an appeal for an interpretation of the Ordinance, or appeal of an administrative decision

☒ It is a request for a variance relating to 155-3.B(1)(b)[2] Section of the Ordinance

Remarks:

Applicant Information:

Robert + Crystal Dolan
Name

324 Gruver Grade Dr. Middletown VA. 22645
Address City State Zip

Property Location (if different than Applicant's Address)

703-499-2359
Primary Contact Number

Plans Prepared By:

Name Christopher Furstenger

1520 Commerce St. Winchester VA. 22601
Address City State Zip

540-974-4268
Primary Contact Number

Property Owner Information (if different from applicant):

Name

Address

City

State

Zip

Primary Contact Number

Property Information

A. Location of the property: Warren County VA.

Election District: North River District

Tax Map Number: 11-24E

Subdivision Name: _____

Present Zoning: Agriculture

B. The premises affected are situated at: _____

C. Legal description of the property involved in this appeal: _____

D. Has any previous application or appeal been filed in connection to these premises?

NO

E. Directions to the site: Left of Govt. Ctr. on N. Commerce Ave
right on N. Royal Ave. Right on N. Shenandoah Ave. stay straight
to Winchester Rd. Left on Reliance Rd. Left on Gruber
Grade Drive to 3rd Lot on the right

Proposed Use of Property:

A. Current land use and condition of site: Agricultural

B. Character of surrounding land/property: Backs to agricultural

C. What is the applicant's interest in the premises affected? Wanting to subdivide
2 acres from lot 24E for a single family dwelling

D. What purpose will the property be served by granting this variance? 2 acre lot
for my sister and brother-in-law to build a home

E. Site Plan Attached? ✓ yes no

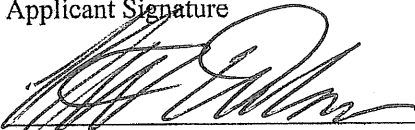
F. Ground plan/elevation attached? yes ✗ no

If no to Item E and F, please explain Have not done elevations yet

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Planning Commission/Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for a Variance, shall be charged to the applicant. **If the set of required documents is incomplete, your application will not be placed on the Planning Commission's Agenda.**

Applicant Signature

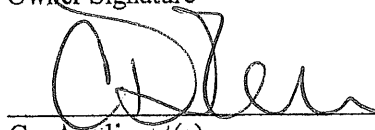
Date



12/28/21

Owner Signature

Date



12/28/21

Co-Applicant(s)

Date

Consideration: **\$175,000.00**
Assessed Value : **new parcel 24E**
Tax Map No: a portion of Tax Map 11 Parcel 24
Grantees Address:
3320 Reliance Road
Middletown, Virginia 22645

Document Prepared By:
David N. Crump, Jr., Esq. – VSB# 15014
1516 N. Shenandoah Avenue
P.O. Box 1754
Front Royal, Va. 22630
THIS DOCUMENT PREPARED WITHOUT
BENEFIT OF PREPARER'S REVIEW OF TITLE
EXAMINATION
File No:

Underwriter: None

DEED

THIS DEED is made this June 3rd 2019, by and between **STICKLEY ENTERPRISES, L.P.**, a Virginia Limited Partnership, hereinafter referred to as the **GRANTOR**, and **ROBERT P. DOLAN and CRYSTAL D. DOLAN**, husband and wife, hereinafter referred to as the **GRANTEES**.

WITNESSETH

THAT FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the **GRANTOR** does hereby grant, bargain, sell and convey, in fee simple, with GENERAL WARRANTY and English Covenants of Title, unto the **GRANTEES**, as joint tenants by the entirety with the right of survivorship as at common law, all the following described tract or parcel of land together with all improvements thereon, lying and being situate in the County of Warren, Commonwealth of Virginia, to-wit:

All that certain tract or parcel of land lying and being situate in the North River Magisterial District of Warren County Virginia, being know and designated as **NEW PARCEL 24E, as containing 22.2009 acres, more or less**, formerly known as Parcel 24, as further described by that plat and survey prepared by Joseph G. Brogan, Land Surveyor, dated the 19th day of April, 2019, entitled, **"BOUNDARY LINE ADJUSTMENT BETWEEN TAX MAP 11 PARCELS 24 AND 24G AND EXEMPT DIVISION OF TAX MAP 11 PARCEL 24 NORTH RIVER MAGISTERIAL DISTRICT WARREN COUNTY, VA."**, and plat and survey has been reviewed and certified by the Warren County, Virginia, Planning Director, Taryn G. Logan, as verified by her signature dated April 24th, 2019, and plat is of record in the Clerk's Office of the Circuit Court of Warren County, Virginia, as Instrument Number 190002029.

Together with and Subject to that certain access easement and shown with more particularity and recorded as Instrument Number 160000570, in the aforesaid Clerk's Office.

AND BEING a portion of the real property conveyed to **STICKLEY ENTERPRISES, L.P.** a Virginia Limited Partnership, by deed dated July 29, 1996 from William R. Stickley and Genevieve G. Stickley, husband and wife, Beverly S. Morrison and Henderson Edwin Morrison, husband and wife, of record in

the aforesaid Clerk's Office as Instrument No. 070003309; and by deed dated June 13, 2014 from Beverly S. Morrison, married, of record in the aforesaid Clerk's Office as Instrument No.140002729.

Reference is made to the aforementioned deeds and plats for a more particular description of the property herein conveyed.

THIS CONVEYANCE is made expressly subject to the easements, conditions, restrictions, and rights-of-way of record contained in the instruments forming the chain of title to the property conveyed herein and to matters visible upon inspection.

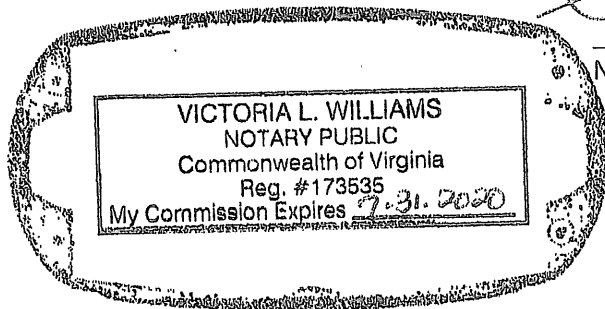
Beverly S. Morrison signs on behalf of **STICKLEY ENTERPRISES, LP**, and certifies under oath that she has full authority to sign on behalf of the limited partnership as its General Partner.

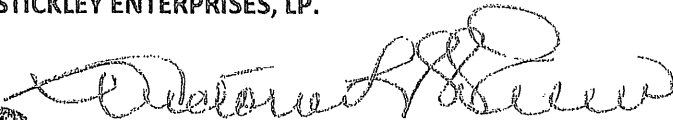
WITNESS the following signature and seal:

 (SEAL)
STICKLEY ENTERPRISES, LP
by Beverly S. Morrison, General Partner

Commonwealth of Virginia)
County of Warren) to wit:

The foregoing deed was acknowledged before me on June 30 2019
by Beverly S. Morrison, General Partner of **STICKLEY ENTERPRISES, LP**.

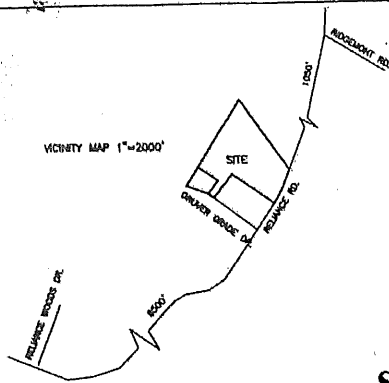



Notary Public:
My Commission Expires: 7/31/2020

After recording, please return to:

Robert and Crystal Dolan
1023 Rockland Road
Front Royal, Virginia 22630

Reserved for Recording Clerk:



CLASS A SUBDIVISION
LAND OF
**ROBERT P. DOLAN AND
CRYSTAL D. DOLAN**
NORTH RIVER MAGISTERIAL DISTRICT
WARREN COUNTY, VIRGINIA
TAX MAP 11 PARCEL 24E

SURVEYOR'S CERTIFICATE

I, Christopher D. Furstenau, a duly authorized Land Surveyor, do hereby certify that the land shown in this Subdivision in the names Robert P. Dolan and Crystal D. Dolan and is all of the land conveyed to them by Deed dated June 3, 2019 and recorded among the land records of the Clerk of the Circuit Court for Warren County, Virginia as Instrument Number 190002813.

Christopher D. Furstenau, L.S.

OWNER'S CERTIFICATE

The above and foregoing Subdivision of the land of Robert P. Dolan and Crystal D. Dolan as appears in the accompanying plat is with the free consent and in accordance with the desires of the undersigned owners, proprietors or trustees, if any.

Robert P. Dolan

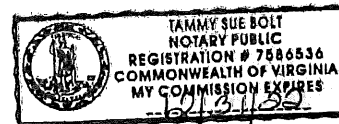
Crystal D. Dolan

State of Virginia
City/County of Warren

I, Tammy S. Bolt a notary public in and for the State of Virginia and the city/county of Warren do hereby certify that this day personally appeared before me, Robert P. Dolan and Crystal D. Dolan, whose names are signed to the above Owner's Certificate dated October 15, 2021 and acknowledged to the same before me in my state and city/county as aforesaid.

Notary Public

Given under my hand this 5th day of November
My commission expires 12/31/22



APPROVALS

Approved by Warren County as a Class "A" Subdivision under Section 155-21-A

Warren County Planning Director

Date

Warren County Health Department

Date

DATE: OCTOBER 15, 2021

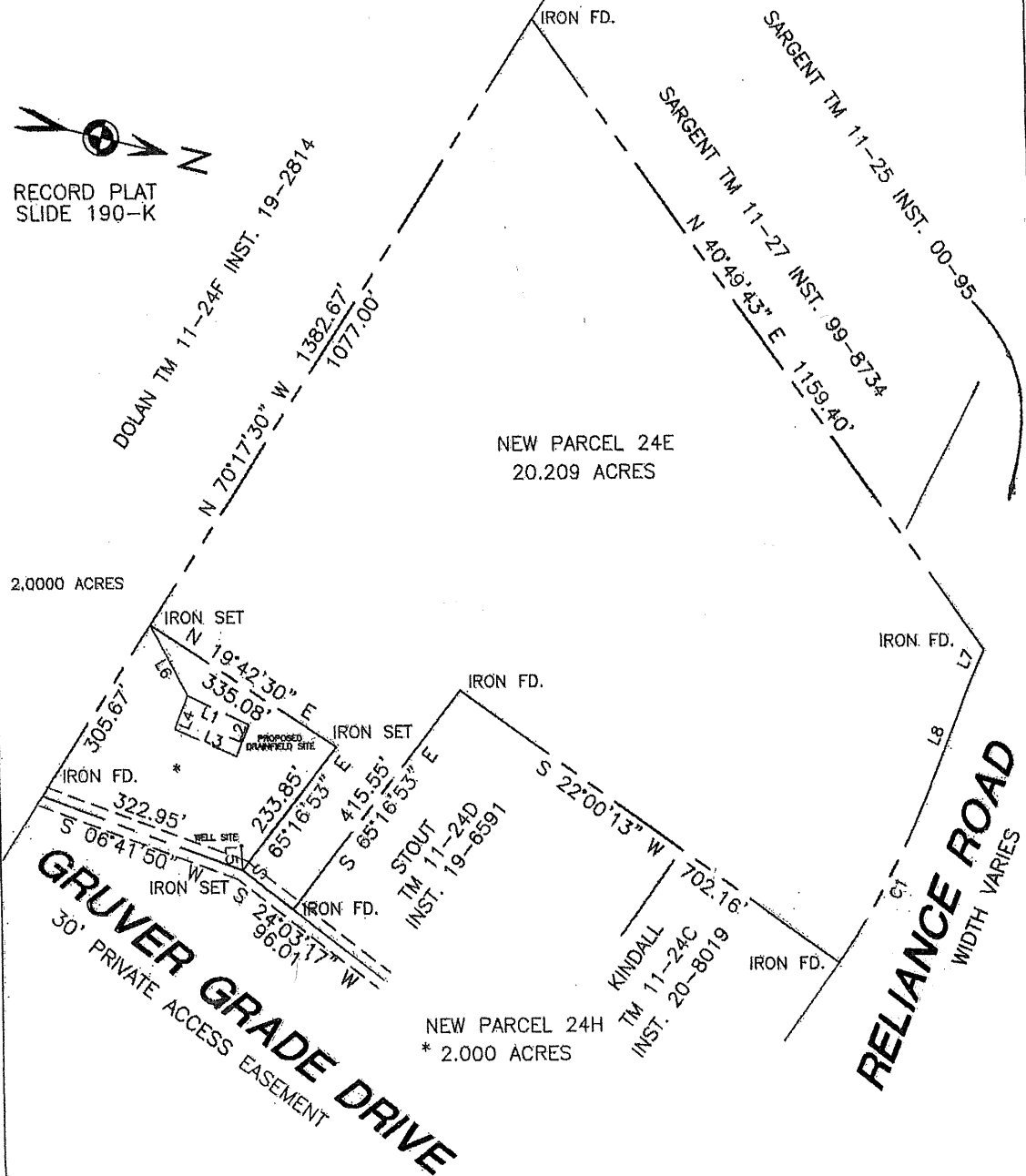
1520 COMMERCE STREET, #309
WINCHESTER, VIRGINIA 22601
540 974-4268
christopher@cdfsurveying.com



LINE	BEARING	DISTANCE
L1	N 12°07'48" E	102.02'
L2	N 81°11'37" W	50.87'
L3	N 10°37'56" E	100.99'
L4	N 82°10'35" W	53.57'
L5	S 73°30'07" W	36.22'
L6	N 48°48'54" E	119.18'
L7	S 77°54'19" E	49.84'
L8	S 81°41'31" E	193.84'

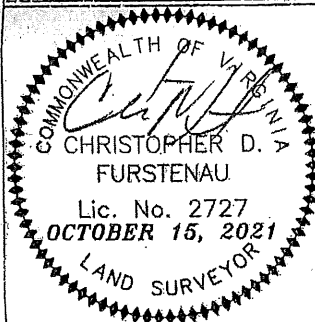
CLASS A SUBDIVISION
LAND OF
**ROBERT P. DOLAN AND
CRYSTAL D. DOLAN**

NORTH RIVER MAGISTERIAL DISTRICT
WARREN COUNTY, VIRGINIA



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	1153.61'	275.74'	275.08'	S 74°50'40" E	13°41'42"

DATE: OCTOBER 15, 2021 SCALE: 1" = 200'



1520 COMMERCE STREET, #309
WINCHESTER, VIRGINIA 22601
540 974-4268
christopher@cdfsurveying.com



Joe Petty

From: Joe Petty
Sent: Tuesday, November 16, 2021 3:13 PM
To: Bobby Dolan
Cc: Matt Wendling
Subject: RE: Preliminary Plat Review: Dolan Property

Good afternoon Bobby:

In 2024 this plat would not be approved as the property has exhausted all its rights for lots under 10 acres in size. However, in 2024 the property may have a Family Subdivision; though, it will be limited to creating lots of 10+ acres in size.

The one thing I will mention is that I cannot predict the future and Warren County Code is subject to change; therefore, when the 5-year limit has arrived there is no guarantee the Code is the same as written today regarding subdivision rights.

Best,

Joseph "Joe" Petty

Planning Director/Zoning Administrator

Phone: (540) 636-3354

From: Bobby Dolan <rdolan@absolutefloorsinc.com>
Sent: Monday, November 15, 2021 3:54 PM
To: Joe Petty <jpetty@warrencountyva.net>
Cc: Matt Wendling <Mwendling@warrencountyva.net>
Subject: Re: Preliminary Plat Review: Dolan Property

Certainly appreciate you getting back to me so quickly & taking the time to review this. With what you are saying in 2024 this plat would be approved since I would of have owned it for 5 years correct? Given there is hardship is there no other option here to make a exception on pushing this up to sooner than 5 years? If not can I go ahead and build them there house on the current 22 acre lot now were we are proposing then break off the 2 acres proposed to you in 2024?

Really need to make something happen here for my sister & brother law , he lost his job over a year ago & they had to sell there house. I have since given him a job with my company and they have moved here in hopes to start building.

Any help here would be greatly appreciated. Feel free to contact me on my cell anytime 703-499-2359.

Thanks,

Bobby Dolan

Absolute Floors, Inc.

999-B Shenandoah Shores Road

Front Royal, Virginia 22630
Phone: (540) 635-4499 EXT-1
Fax: (540) 635-4094

On Monday, November 15, 2021, 10:21:41 AM EST, Joe Petty <jpetty@warrencountyva.net> wrote:

Good morning Mr. Dolan:

I have reviewed your preliminary subdivision sketch and have the following comments.

The subdivision that was created along Reliance Road & Gruver Grade Drive was approved in 2019, and the parent parcel from April 6, 1977 has already been divided into four lots under 10 acres in size (see lots below). Also see the attached parcel history. Therefore, no additional lots under 10 acres in size shall be created. In addition to the lot size, and with the exception of a Family Subdivision, any new lot would require access to a road meeting state standards which Gruver Grade does not as it is a private access easement. For a family division to be requested, the owner of the lots shall have held fee simple title to the property to be subdivided for a period of five years prior to the filing of the family subdivision application; our records indicate you purchased the property in 2019. Given the aforementioned details this subdivision cannot be approved.

Four lots under 10 acres in size:

11-----24A: 8.7529 Acres

11-----24B: 9.4972 Acres

11-----24C: 2.0000 Acres

11-----24D: 5.0000 Acres

If you have any further questions, please feel free to contact our office.

Best,

Joseph "Joe" Petty

Planning Director/Zoning Administrator

Warren County Planning Department

220 North Commerce Ave., Suite 400

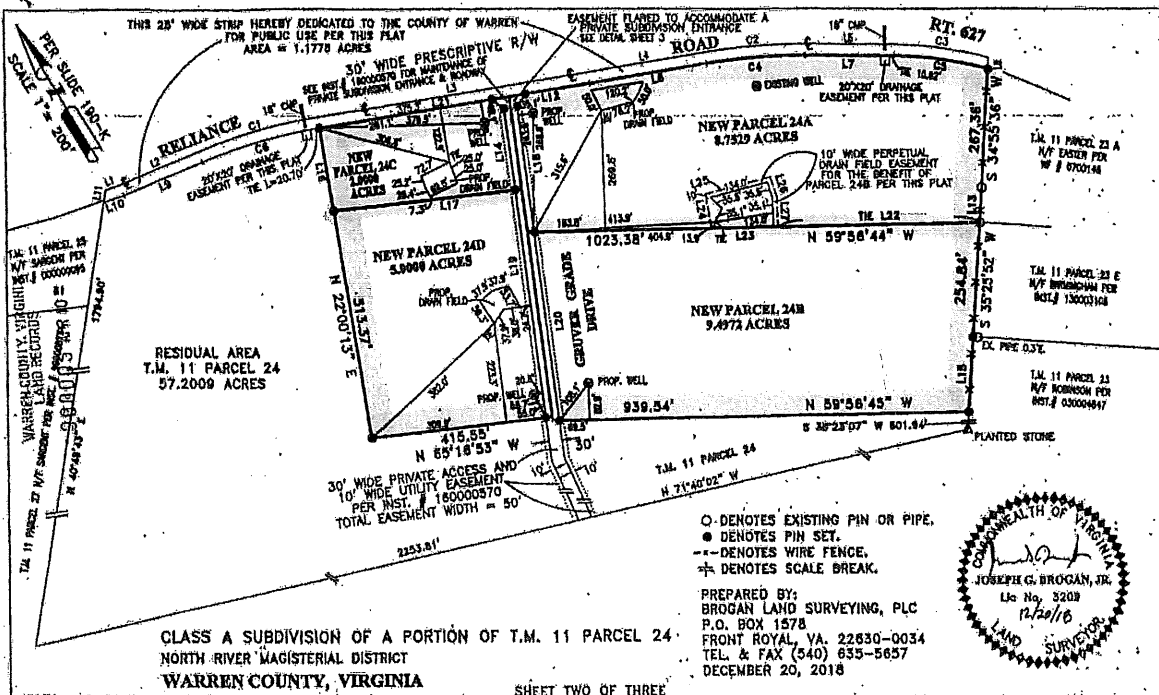
REV. DEC. 56, DEC. 61, DEC. 74, DEC. 76, AUG. 80, DEC. 83, DEC. 85, JUN. 87

SCALE 1" = 1000'

0 500 1000 1500 2000

NORTH RIVER DISTRICT

SECTION 11



THIS PLAT WAS MADE WITH THE FREE CONSENT AND DESIRE OF THE UNDERSIGNED OWNERS:

BY Stickley Enterprises LP

Acknowledged before me this 24 day of December 2018.

My Commission expires 3/31/2020

Tracy L. Bowers
Notary
Tracy L. Bowers
Notary Public
Commonwealth of Virginia
Reg. # 173524
My Commission Expires March 21, 2020

VICINITY MAP SCALE 1" = 2000'

CLASS A SUBDIVISION OF A PORTION OF TAX MAP 11 PARCEL 24 NORTH RIVER MAGISTERIAL DISTRICT WARREN COUNTY, VIRGINIA

PREPARED BY:
BROGAN LAND SURVEYING, PLC
P.O. BOX 1578
FRONT ROYAL, VA. 22630-0034
TEL. & FAX (540) 635-5657
DECEMBER 20, 2018

COMMONWEALTH OF VIRGINIA
JOSEPH G. BROGAN, JR.
Lic No. 3208
12/20/18
LAND SURVEYOR

APPROVED BY WARREN COUNTY AS A CLASS "A" SUBDIVISION UNDER SECTION 158-21-A

Tanya G. Logan 3/7/2019
Planning Director 3-01-2019 Date

APPROVED BY WARREN COUNTY HEALTH DEPARTMENT

[Signature] 3.7.19
Environmental Health Supervisor Date

APPROVED BY VDOT

[Signature] 3/7/19
Subdivision Specialist Date

SHEET ONE OF THREE



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
4/05/2022	G-8	Conditional Use Permit #2022-02-01 Emilia Simeonova & Sergei Kulaev <i>Short-Term Tourist Rental</i>	1 of 2

EXPLANATION & SUMMARY:

See attached application and staff report.

General standards/conditions. In addition to the specific standards set forth hereinafter with regard to particular conditional uses, all such uses shall satisfy the following general standards:

- (1) The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan.
- (2) The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- (3) The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
- (4) The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or in conflict with the existing and anticipated traffic in the area.
- (5) Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided.
- (6) In determining whether or not to grant a permit and in determining conditions to be imposed, the governing body shall take into consideration the objectives and intent of this chapter and may impose reasonable conditions that:
 - (a) Abate or restrict noise, smoke, dust or other elements that may affect surrounding properties.
 - (b) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion.
 - (c) Provide for adequate parking and ingress and egress to public streets or roads.
 - (d) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property.
 - (e) Prevent such use from changing the character and established pattern of development of the community.

Planning Commission Move to Continue Public Hearing:

The address and tax map and parcel number were incorrect on the public hearing notification letter and Mrs. Jordan recommended we continue the public hearing for the next Planning Commission meeting as old business. The Planning Commission will decide on this application at their April 13th meeting and their recommendation will be provided to you prior to the Board's public hearing on April 19th.

Mr. Henry moved to continue the public hearing until next month, in order for the correct adjacent property owners to be notified for this public hearing. The motion was seconded by Mr. Longo and approved by the Planning Commission by a vote of 4 - 0. Mr. Kersjes was absent.

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six (6) as determined according to the Health Department conditional operational permit for a three-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize for advertisement of a public hearing the proposed conditional use permit request for a Short-term Tourist Rental.

SUBMITTED BY:

Matt Wendling, CFM 
Deputy Planning Director
County Floodplain Manager

DISPOSITION OF BOARD:

☐ **APPROVED** ☐ **OTHER (Describe)**

PROCESSED BY:



Conditional Use Permit: 2022-02-01/ Short Term Tourist Rental

Emilia Simeonova & Sergei Kulaev, Applicants/ Owners

Staff Report for the Planning Commission

Prepared: January 6, 2022

Staff: Matt Wendling, Deputy Planning Director/County Floodplain Manager

MW

SUMMARY OF REQUEST

They purchased the property in December 2020 and the applicant have lived in it part-time. They would like to offset costs of the mortgage, maintenance and insurance as a second home. In their statement of justification, the applicants state they are requesting to use the property as a short-term tourist rental but will reside at the property part-time during the year. They have contracted a property manager from Winchester to be available on an emergency basis and a local trash collection company for garbage removal. This property backs up to the Shenandoah National Park and is not located in a subdivision with a POA/HOA.

PROPERTY INFORMATION

Property Location: 5462 Browntown Rd.

Tax Map ID: # 28---76

Magisterial District: South River

Subdivision: Pierce

Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

Town/Village: Front Royal

Zoning: Agricultural (A)

Acres: 10.73

Existing Land Use: SFD with Woodlands

SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A)

South: Agricultural (A)

East: Agricultural (A)

West: Agricultural (A)

Use: SFD with Woodlands

Use: SFD with Woodlands

Use: Shenandoah National Park

Use: SFD with Woodlands

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Agricultural (A) zoning district and has no previous zoning violations or conditional use permits issued to the property. This property is located directly off Browntown Road and adjacent to the Shenandoah National Park.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for residential land uses which allows for a Short-term Tourist Rental by conditional use permit in the Warren County Zoning Ordinance Section §180-22. Short-term Tourist Rentals provide transient-lodging taxes to the County and are typically used by tourists visiting the area. This use complies with Chapter 6: Economic Development chapter, Goal V and the promotion of tourism objectives of the comprehensive plan.

PROPOSAL:

A Short-Term Tourist Rental is defined by the Warren County Zoning Ordinance as, "A single-family dwelling not attached to any other dwelling by any means and located on an individual lot that is rented for compensation for periods of less than 30 days. See § 180-56.4 for supplementary regulations pertaining to short-term tourist rentals."

SUPPLEMENTARY REGULATIONS FOR SHORT-TERM TOURIST RENTAL (Section 180-56.4 of the Warren County Zoning Ordinance):

These regulations are as follows:

- A. The owner of a dwelling unit to be used for a short-term tourist rental shall apply and receive a zoning permit and/or a conditional use permit from the Planning Department prior to utilizing the dwelling unit as a short-term rental. The permit shall be reviewed by planning staff on an annual basis to ensure compliance with the performance standards listed in this section, along with all conditions placed on the conditional use permit, if applicable. Warren County may revoke a permit for repeated noncompliance with these performance standards.
- B. The maximum number of occupants in the dwelling unit shall be determined according to permit approval received by the Warren County Health Department; however, the maximum number of occupants shall not exceed 10. The applicants have provided the County with the permit from the Health Department, which shows approval and installation of a 3-bedroom with 6 person occupancy septic system.
- C. Parking for the use shall be located in driveways or other designated and approved parking areas. The parking of vehicles is prohibited in or along all right-of-ways and in yards. There is sufficient parking for three vehicles in the driveway in front and to the side of the dwelling.
- D. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times. The boundary lines shall be marked according to location shown on the survey.
- E. There shall be no visible evidence of the conduct of such short-term rentals on the outside appearance of the property.
- F. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code, and a carbon monoxide detector must be installed on each floor in every dwelling. A change of use for a transient boarding facility for the property dwelling and an inspection will be required to verify if it meets all Building Code requirements for fire/smoke protection and a fire extinguisher.
- G. The owner of a dwelling used for short-term tourist rentals shall give the County written consent to inspect any dwelling used for short-term rental to ascertain compliance with all of the above performance standards upon a 24-hour notice.
- H. A property management plan (PMP) demonstrating how the short-term tourist rental will be managed and how impacts to neighboring properties will be minimized shall be submitted for review and approval as part of the permitting process to the Planning Department. The plan shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, utility issues, etc. It shall also be posted in a visible location in the short-term rental. The contact numbers shall be provided to county staff, public safety officials, and if applicable, the HOA/POA of the subdivision. The plan must be provided as a part of the rental contract. A Property Management Plan will need to be submitted and will be reviewed and approved by staff with all other requirements shall need to be met prior to a certificate of zoning for the business being issued. The applicants have retained a property manager and have a third-party to pick-up the trash from the property and they will also have a local emergency contact available.

- I. If the property is located within a subdivision governed by a Home-Owners Association/Property Owners Association, the Planning Department must receive a recommendation of approval or disapproval from the HOA/POA to operate the short-term tourist rental. This property is not located within a subdivision.
- J. The short-term tourist rental shall have a "land-line" with local phone service. The phone number servicing the short-term tourist rental shall be included in the property management plan.
- K. The owners of the tourist rental shall provide an emergency evacuation plan for the dwelling and the neighborhood. The applicants shall have this posted in the bedrooms and in their guest registration packet.
- L. A copy of Chapter §123 of the Warren County Code relative to noise must be provided at the short-term tourist dwelling. The applicants shall have a copy of this in their guest registration packet and have it posted in a common area of the dwelling.
- M. Failure to comply with the approved conditions and/or supplemental regulations will subject the permit to revocation as described in Warren County Code Section §180-63.
- N. All outdoor burning shall comply with Chapter §92 of the Warren County Code.
- O. There shall be a minimum of 100 feet from the short-term tourist rental to all neighboring residences. The proposed dwelling location must meet the setback requirements to adjacent single-family dwellings, which would be approximately 221' to the closest dwellings located to the southwest.

RECOMMENDED CONDITIONS:

Staff recommends that, if the Planning Commission recommends approval of this application, the following conditions should be applied:

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six (6) as determined according to the Health Department conditional/operational permit which needs to be issued for a three-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

Cc: Emilia Simeonova and Sergei Kulaev, Applicants



Figure 1 Simeonova - Kulaev Dwelling

To: Warren County Planning Commission

From: Emilia Simeonova and Sergei Kulaev

Re: Justification statement for short-term rental

December 16, 2021

Dear Members of the Planning Commission,

We are writing to respectfully request permission for the part-time use our house located at 5462 Browntown Road, Front Royal, VA 22630 as short-term tourist rental housing. Our family will reside on the property for part of the year, and offer it for potential short-term use by visitors for the rest of the year. We are enclosing the required documentation with this application and we look forward to hearing from you.

Sincerely,

Emilia Simeonova and Sergei Kulaev,

Property manager: Jeffrey Segovia, 374-283-0128
Garbage: 540-252-5360

WARREN COUNTY CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-02-01
Date Received: 12-22-21
Fee Amount: \$ 500.00
Date Paid: 12-22-21

CK # 715

Applicant Information:

Emilia Simeonova and Sergei Kulaev

Applicant Name

706 7 street NE Washington DC 20002
Address City State Zip

5462 Browntown Rd, Front Royal, VA 22630

Property Location for conditional use permit if Different than Applicant's Address

Emilia Sergei
917 207 9669 / 212-729 0699 emilia.simeonova@gmail.com
Primary Contact Number Email

Property Owner (if same as applicant, leave blank)

Address City State Zip

Primary Contact Number

Respectfully request that a determination be made by the Warren County Planning Commission and Board of Supervisors on the following request for a Conditional Use Permit for the property described below.

A. Property Information:

- (1) Address/Location: 5462 Browntown Road, Front Royal, VA 22630
- (2) Election District: South River
- (3) Tax Map Number: TM28-76
- (4) Subdivision Name: Pierce
- (5) Total Area of Property (acres): 10.73
- (6) Total Area to be Used (acres): 10.73
- (7) Total Road Frontage (feet): 316
- (8) Depth of Property (feet): 1430
- (9) Present Zoning: residential Agricultural

B. Proposed Use of Property

- (1) State the proposed use(s) for the Conditional Use Permit: short term tourist rental
- (2) Current land use and condition of site: residential
- (3) Zoning of surrounding land/property: residential
- (4) Will development be staged? ☐ Yes ☒ No
- (5) Construction Time: not applicable
- (6) Season, days, and hours of operation: _____
- (7) Will there be a sign? ☐ Yes ☒ No
(If yes, please submit a sketch of the sign(s) showing size and shape and the sign permit check list with this application.)
- (8) Has there been any prior application for a conditional use permit/variance for this property? (If yes, enter the permit number and/or name, date of action, action taken by the Planning Commission, Board of Zoning Appeals and/or Board of Supervisors and a description of the request.) No
- (9) Number of full time employees: none
- (10) What type of sewage disposal system will be used? ☒ Private ☐ Central ☐ Public
- (11) Number of persons to be served by the sewage disposal system: 8
- (12) Number of parking spaces to be provided: Regular 5 Handicap _____
- (13) What is the proposed landscaping and buffering for this property? _____
property is separated from the main road by a hedge, and from adjacent
by a creek and vegetation. No further landscaping is proposed.

C. Plans Prepared By

Name: not applicable

Address: _____

Telephone Number: _____

D. Environmental Information

- (1) Will this proposed use adversely impact the community of the environment? (If yes, what are the adverse impact(s) and what is proposed to solve these adverse impacts?) _____
No
- _____
- _____

(2) Will there be any debris generated from the activity? (If yes, where and in what manner will the debris be stored and how and where will it be disposed of?) _____
No

(3) Will any potentially hazardous substances be used and/or stored on the property? (If yes, list the substances, their use and disposal of containers and substance residues.) _____
No

(4) List any potentially hazardous emissions including, but not limited to: fumes, gases, smoke noise, liquid effluent, waste water, dust, and state what measures will be used to control these emissions.
Not applicable

(5) Will there be any electrical or electronic activity which will interfere with local communications or telephone, television or radio reception? (If yes, describe the type of activity and potential interference.) No

(6) What will be the impact on traffic? None

(7) Will exterior lighting be used? (If yes, state the number of lights and the wattage of each. A lighting plan or lighting contour map may be required to show the nearest candle power as measured at ground level. No

**The following documents and/or information are required
to be submitted with the application:**

☒ **An application fee of \$500.00.**

Make payable to the Treasurer of Warren County. A non-refundable fee of \$500.00 will be required at the time of submittal.

☒ **A Statement of Justification**

This printed or typed statement is to be addressed to the Warren County Planning Commission. It is to summarize your proposed use and highlight any aspects of the request which are not addressed in the application form. Please note, the statement is required to be on 8 1/2 x 11 size paper.

☒ **A Site Plan/Survey.**

Your site plan should show the property boundaries, existing or proposed structure(s), adjacent roads, and any other pertinent information which would help outline your proposed use. A recent survey with the proposed uses/structures located on it will serve as a site plan for the purposes of this permit. The Planning Director, Planning Commission and/or the Board of Supervisors reserve the right to ask for an engineered site plan, if they deem it necessary for evaluation of the proposed conditional use permit.

☒ **Sewage Disposal and Well Site.**

Location of the existing or proposed septic system & drainfield and the well site are to be indicated on the survey or central/public connection location.

☒ **A copy of the deed to the property verifying the current ownership.**

A copy may be obtained at the Warren County Courthouse, Circuit Clerk's Office.

☐ **A statement verifying that real estate taxes have been paid.**

This may be obtained from the Treasurer's Office in Suite 800 of the Warren County Government Center.

☐ **Environmental and Community Impact Statements**

The Planning Director, the Planning Commission, and/or the Board of Supervisors reserve the right to ask for an environmental and/or community impact statements, prepared by a certified engineer or other person qualified to perform such work, if they deem it necessary for evaluation of the proposed request.

☐ **List of chemicals stored on the site**

A complete list of chemicals to be stored on the site in the form of an oath/statement for Industrial zoned properties only.

☒ **Location Map**

A map clearly legible, showing the location of the proposed project in relation to surrounding publicly maintained roads and showing the use of surrounding properties. County staff can assist in obtaining this information.

☒ **Directions to your property from the Warren County Government Center.**

please see attached google maps instructions

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for a Conditional Use Permit, shall be charged to the applicant.

Applicant Signature

Sergei Kulakov

Date

12/21/2021

Property Owner Signature

Date

Accepted by: _____

Date: _____

PLEASE NOTE: If the required documents are not provided and/or the application is incomplete, your application will not be placed on the Planning Commission Agenda.

NOTES

Property management plan

Address: 5462 Browntown Rd, Front Royal, VA

Property manager, your point of contact for any issues:

Jeffrey Segovia

374-283-0128

1321 Darlington Dr, Winchester VA 22603

Property owner, your secondary point of contact for any issues:

Sergei Kulaev

212-729-0699

Garbage collection:

Store food trash either using a kitchen trash can, or dedicated freezer in the garage. Do not store food trash in any other place outside the house, or in the garage – the smell will attract animals. When checking out, put all trash bags, tied up, into the garbage bin located at the gate (driveway entrance).

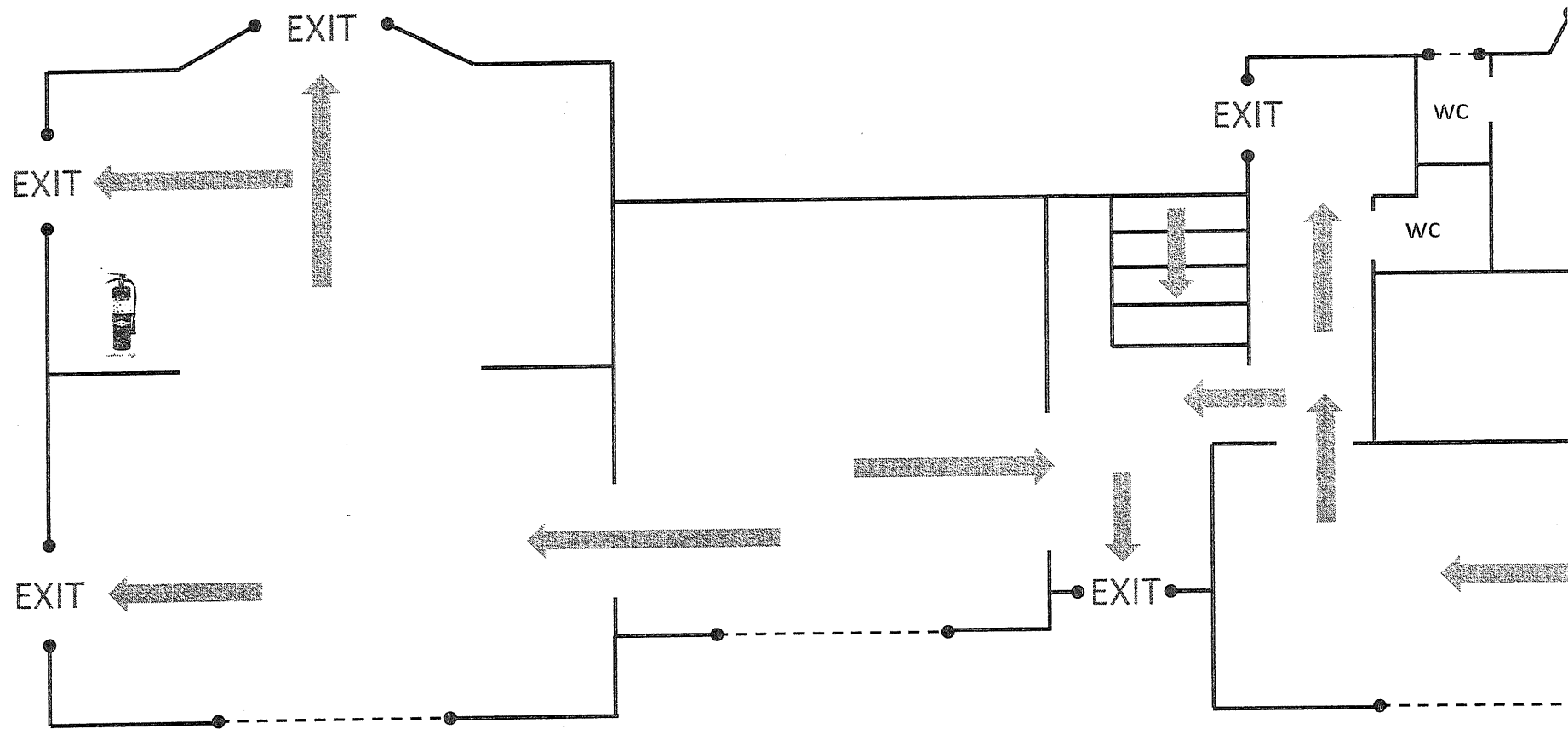
Trash collection service: every Saturday morning, by Zip-A-Dee services, contact information:

Marigrace Duda

www.ZipadeeServices.com

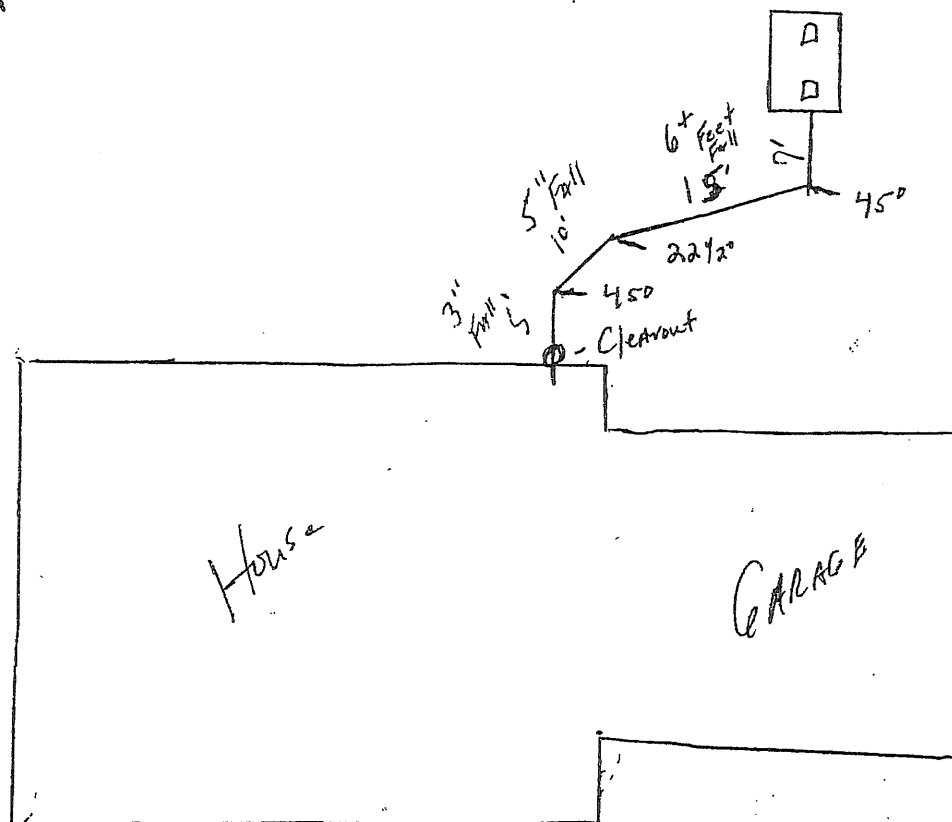
Office: (540) 252-5360

FIRST FLOOR EVACUATION PLAN



Müller

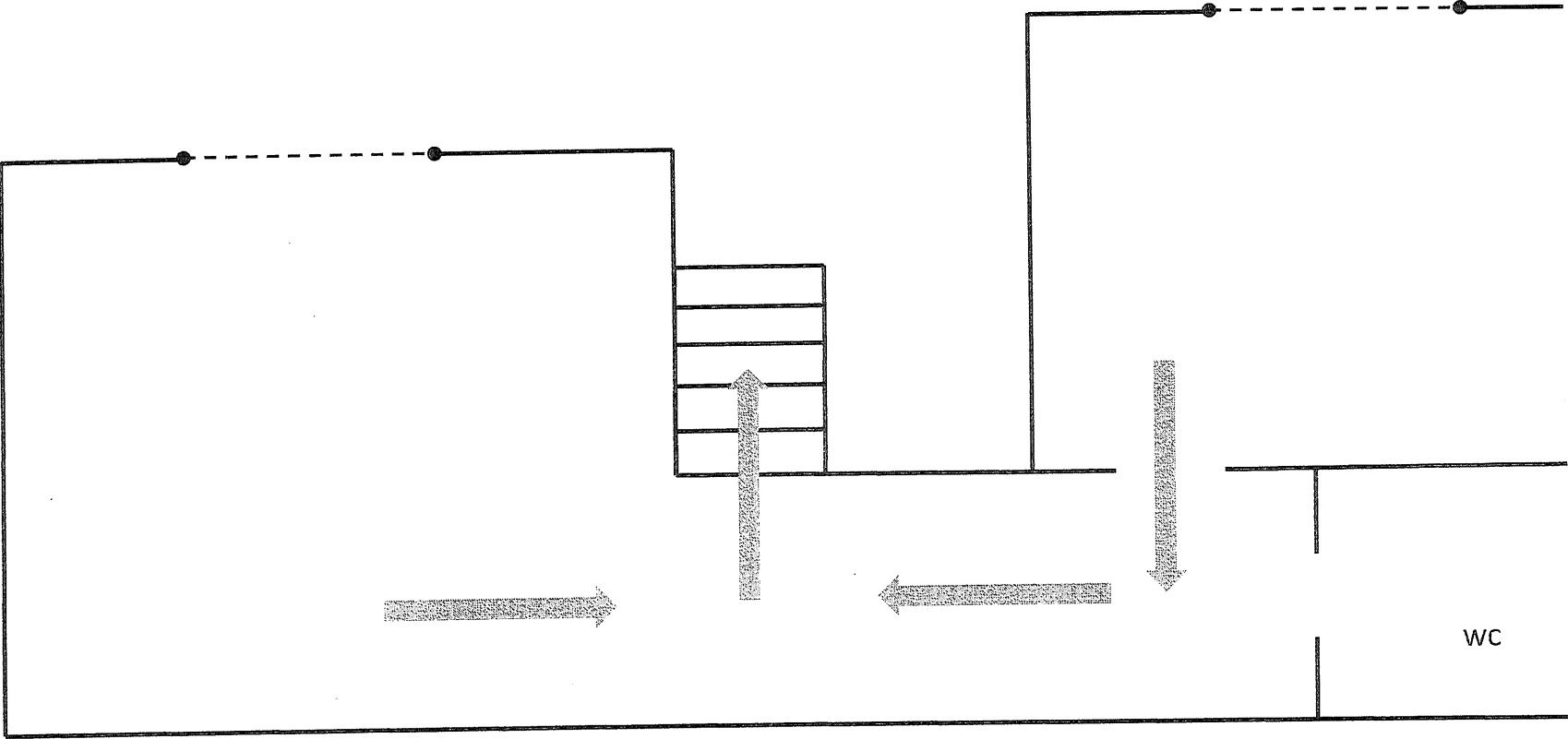
All Pipe & Fittings - 4" Sch. 40 PVC



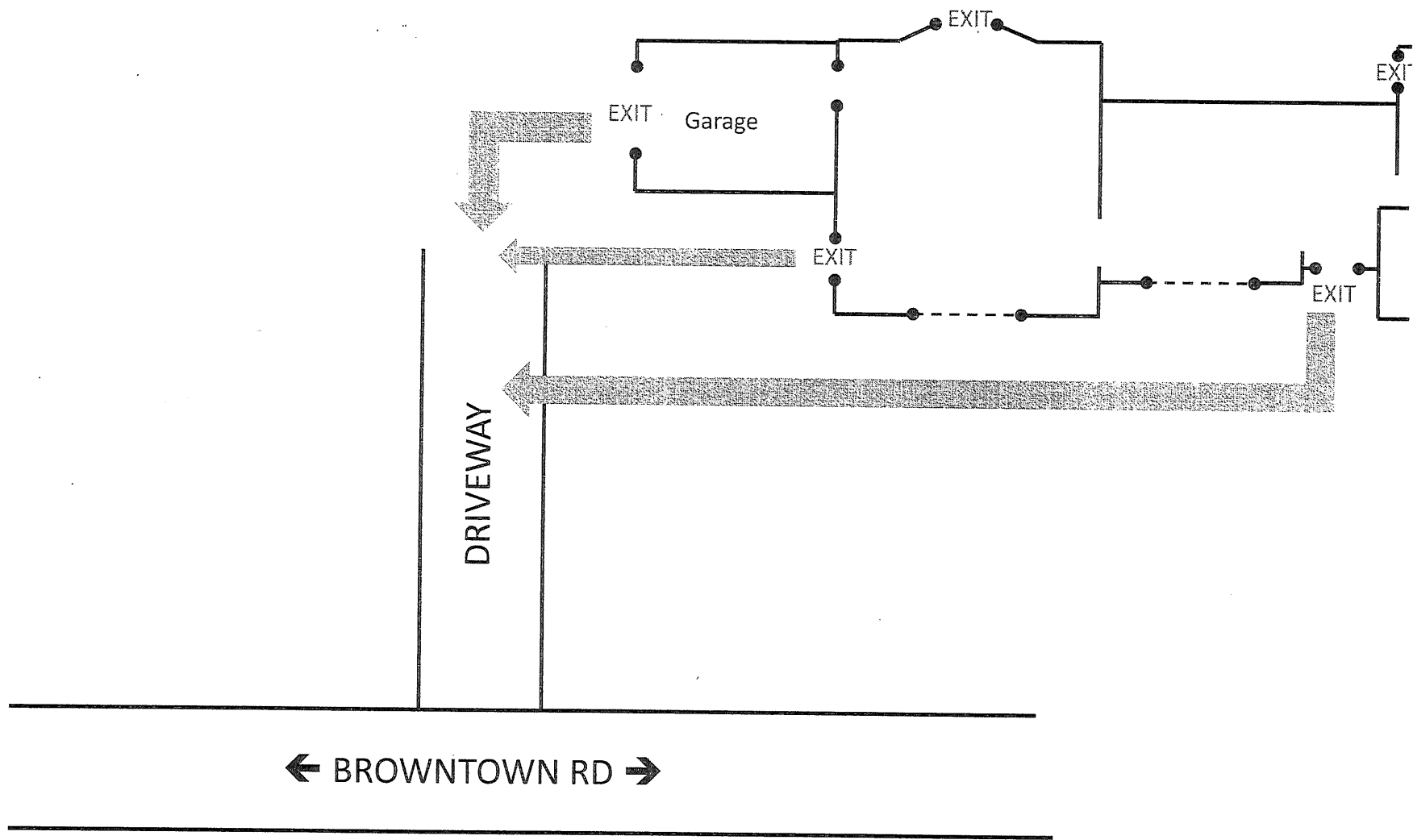
Paul J. Knecht

5-27-98

SECOND FLOOR EVACUATION PLAN



EGRESS PLAN FROM THE PROPERTY



Lord Fairfax Health District



Warren County Health Department
465 West 15th Street, Suite 200
Front Royal, Virginia 22630
Tel. (540) 635-3159 ~ Fax (540) 635-9698
www.vdh.virginia.gov



January 25, 2022

RECEIVED

JAN 28 2021

WARREN COUNTY
PLANNING DEPARTMENT

Matt Wendling, Deputy Planning Director
Warren County Planning and Zoning
220 N Commerce Ave., Suite 400
Front Royal, Virginia 22630

RE: Request for Comments (2022-02-01)

Owner: Emilia Simeonova & Sergei Kulaev

Dear Mr. Wendling,

I have reviewed your request for comments regarding the property at 5642 Browntown Rd. Front Royal, VA (Tax Map# 28-76) and I offer the following comments:

1. There is a Construction Permit, ROI and Operation Permit on file for the referenced property dated 12/16/1996, 6/19/1997 and 6/09/1998 respectively.
2. The dwelling is served by a Conventional Onsite Sewage System (COSS). The COSS is designed for Three (3) Bedrooms, Six (6) Occupants and 450 gallons per day.
3. The dwelling is served by a private Class IIIB Well. A sample of the water should be collected and tested by a state approved lab at least annually.
4. All refuse shall be placed in containers with tight-fitting lids.
5. Do not connect any Jacuzzi or hot tub discharge to the sewage disposal system.

Please contact me at (540) 635-3159 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Davis".

Jim Davis

Environmental Health Supervisor

Chloe Phillips

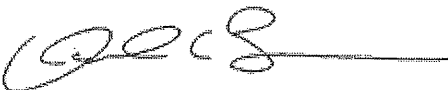
From: David Beahm
Sent: Friday, January 7, 2022 3:52 PM
To: Chloe Phillips
Cc: Matt Wendling; Paula Fristoe
Subject: Request for Comments 2022-02-01 – Emilia Simeonova & Sergei Kulaev – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000158-2021

Comments 2022-02-01 – Emilia Simeonova & Sergei Kulaev – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000158-2021:

- Erosion and Sediment Control Items:
 - There does not appear to be any land disturbance at this time and therefore nothing would be required. If this is not the case, the normal submission process would be required.
- Building Inspections Items:
 - The use of the existing dwelling(s) for a “short-term rental” would require a building permit to establish it as a transient boarding facility which is the term used by the building code for this type of use. The dwelling would receive a new Certificate of Occupancy designating as a short-term rental.
 - Given the timeframe that the structure was originally built it more than likely will require an Electrical permit to meet the building code requirements for this change.
 - This change requires that smoke detectors are installed as required by the Virginia Residential Building Code.

If anything should change in the scope additional requirements may be required.

Respectfully,



Warren County Building Inspections

David C. Beahm, CBO
Building Official

220 North Commerce,
Sui
Front Royal, VA

dbeahm@warrencountyva.net

www.warrencountyva.net

540/636
FAX 540/636

THIS MESSAGE IS INTENDED SOLELY FOR THE INDIVIDUAL(S) NAMED IN THE HEADER. THIS MESSAGE MAY CONTAIN MATERIAL THAT IS PRIVILEGED OR CONFIDENTIAL. IF YOU ARE NOT ONE OF THE INTENDED RECIPIENTS, PLEASE DO NOT READ, COPY, USE, OR DISCLOSE THIS MESSAGE TO OTHERS; PLEASE NOTIFY THE SENDER BY REPLYING TO THIS MESSAGE; AND THEN PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU.



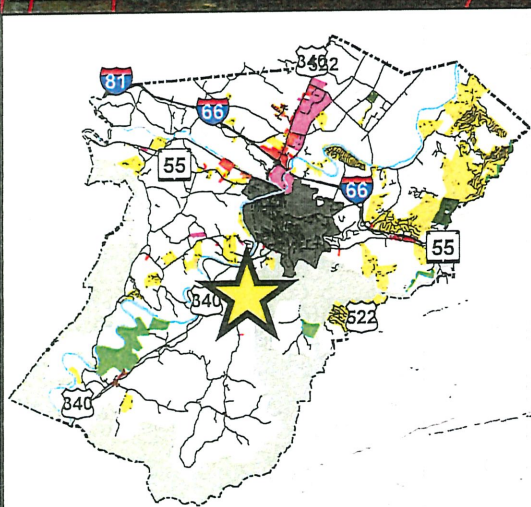
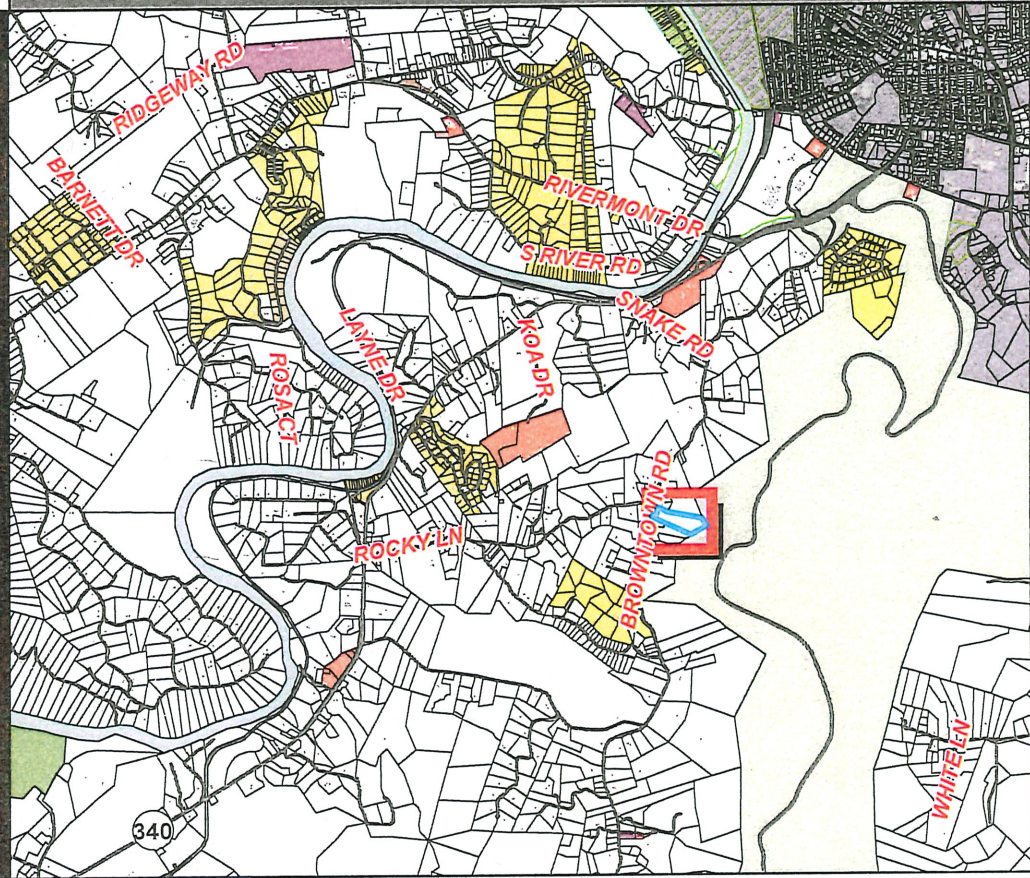
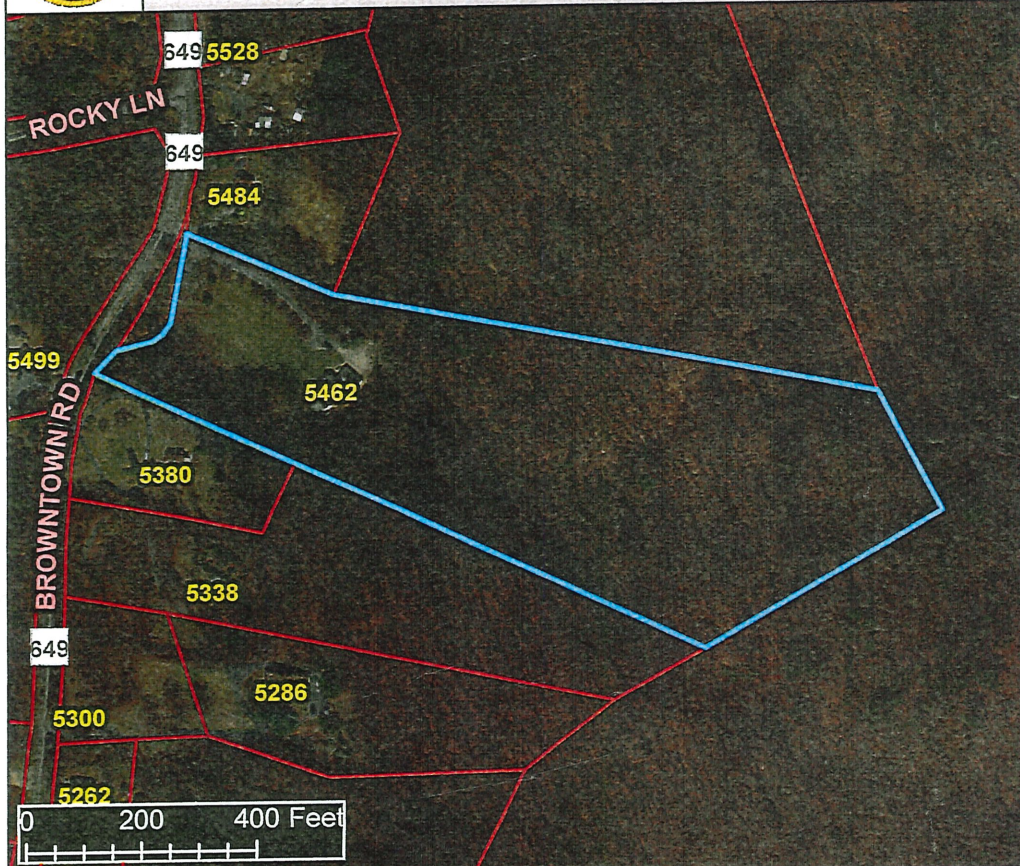
Warren County VA

CUP Location Map



Short Term Tourist Rental
Applicants: Emilia Simeonova

PM 28-----76



Zoning

Agricultural	Rural Residential
Commercial	Right of Way
Industrial	Front Royal
Residential One	Federal Land
Residential Two	State Land
Suburban Residential	Water
Village Residential	VOF Conservation Easements
	WC Conservation Easements

Map produced by
Warren County GIS 2021
Department of Planning



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
4/05/2022	G-9	Conditional Use Permit #2022-02-02 Jerry L. Lang Jr. <i>Short-Term Tourist Rental</i>	1 of 2

EXPLANATION & SUMMARY:

See attached application and staff report.

General standards/conditions. In addition to the specific standards set forth hereinafter with regard to particular conditional uses, all such uses shall satisfy the following general standards:

- (1) The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan.
- (2) The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- (3) The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
- (4) The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or in conflict with the existing and anticipated traffic in the area.
- (5) Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided.
- (6) In determining whether or not to grant a permit and in determining conditions to be imposed, the governing body shall take into consideration the objectives and intent of this chapter and may impose reasonable conditions that:
 - (a) Abate or restrict noise, smoke, dust or other elements that may affect surrounding properties.
 - (b) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion.
 - (c) Provide for adequate parking and ingress and egress to public streets or roads.
 - (d) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property.
 - (e) Prevent such use from changing the character and established pattern of development of the community.

Planning Commission Move to Approve:

Mrs. Richardson moved to forward this application to the Board of Supervisors, recommending approval. The motion was seconded by Mr. Henry and approved by the Planning Commission by a vote of 4 - 0. Mr. Kersjes was absent.

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four (4) as determined according to the Health Department conditional operational permit for a two-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize for advertisement of a public hearing the proposed conditional use permit request for a Short-term Tourist Rental.

SUBMITTED BY: Matt Wendling, CFM  Deputy Planning Director County Floodplain Manager	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (Describe)	PROCESSED BY:
---	---	----------------------



Conditional Use Permit: 2022-02-02/ Short Term Tourist Rental

Jerry L. Lang Jr., *Applicants/ Owners*

Staff Report for the Planning Commission

Prepared: January 11, 2022

Staff: Matt Wendling, *Deputy Planning Director/County Floodplain Manager*

SUMMARY OF REQUEST

The applicant was willed this property in 2020 by the late Robert W. Colton and he has requested to be granted this permit to operate a Short-Term Tourist Rental in order to supplement his income to pay taxes and insurance on the property. He would like to rent it to mature adults and families in order to transient lodging to people who want to visit Warren County and the Village of Browntown. He hopes that this will contribute to the commerce of the local area and showcase the County's many tourist destinations and natural resource amenities that it offers.

PROPERTY INFORMATION

Property Location: 468 Lands Run Rd.

Tax Map ID: # 45---Parcel 4

Magisterial District: South River

Subdivision: Colton

Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

Town/Village: Bentonville

Zoning: Agricultural (A)

Acres: 10.77 Total 67 with adjacent lots

Existing Land Use: SFD with Woodlands

SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A)

South: Agricultural (A)

East: Agricultural (A)

West: Agricultural (A)

Use: SFD with Woodlands

Use: SFD with Woodlands

Use: SFD with Woodlands

Use: SFD with Woodlands

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Agricultural (A) zoning district and has no previous zoning violations or conditional use permits issued to the property. This property is located directly off Lands Run Road and adjacent to the vacant parcels owned by Mr. Lang and backs up to a small area of the Shenandoah National Park.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for Agricultural land uses which allows for a Short-term Tourist Rental by conditional use permit in the Warren County Zoning Ordinance Section §180-22. Short-term Tourist Rentals provide transient-lodging taxes to the County and are typically used by tourists visiting the area. This use complies with Chapter 6: Economic Development chapter, Goal V and the promotion of tourism objectives of the comprehensive plan.

PROPOSAL:

A Short-Term Tourist Rental is defined by the Warren County Zoning Ordinance as, "A single-family dwelling not attached to any other dwelling by any means and located on an individual lot that is rented for compensation for periods of less than 30 days. See § 180-56.4 for supplementary regulations pertaining to short-term tourist rentals."

SUPPLEMENTARY REGULATIONS FOR SHORT-TERM TOURIST RENTAL (Section 180-56.4 of the Warren County Zoning Ordinance):

These regulations are as follows:

- A. The owner of a dwelling unit to be used for a short-term tourist rental shall apply and receive a zoning permit and/or a conditional use permit from the Planning Department prior to utilizing the dwelling unit as a short-term rental. The permit shall be reviewed by planning staff on an annual basis to ensure compliance with the performance standards listed in this section, along with all conditions placed on the conditional use permit, if applicable. Warren County may revoke a permit for repeated noncompliance with these performance standards.
- B. The maximum number of occupants in the dwelling unit shall be determined according to permit approval received by the Warren County Health Department; however, the maximum number of occupants shall not exceed 10. **The applicants have provided the County with the permit from the Health Department, which shows approval and installation of a 2-bedroom with 4 person occupancy septic system.**
- C. Parking for the use shall be located in driveways or other designated and approved parking areas. The parking of vehicles is prohibited in or along all right-of-ways and in yards. **There is sufficient parking for two vehicles in the driveway.**
- D. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times. **The boundary lines shall be marked according to location shown on the survey.**
- E. There shall be no visible evidence of the conduct of such short-term rentals on the outside appearance of the property.
- F. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code, and a carbon monoxide detector must be installed on each floor in every dwelling. **A change of use for a transient boarding facility for the property dwelling and an inspection will be required to verify if it meets all Building Code requirements for fire/smoke protection and a fire extinguisher.**
- G. The owner of a dwelling used for short-term tourist rentals shall give the County written consent to inspect any dwelling used for short-term rental to ascertain compliance with all of the above performance standards upon a 24-hour notice.
- H. A property management plan (PMP) demonstrating how the short-term tourist rental will be managed and how impacts to neighboring properties will be minimized shall be submitted for review and approval as part of the permitting process to the Planning Department. The plan shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, utility issues, etc. It shall also be posted in a visible location in the short-term rental. The contact numbers shall be provided to county staff, public safety officials, and if applicable, the HOA/POA of the subdivision. The plan must be provided as a part of the rental contract. **A Property Management Plan will need to be submitted and will be reviewed and approved by staff with all other requirements shall need to be met prior to a certificate of zoning for the business being issued. The applicant lives in Luray and will be acting as the property manager as he lives about 30 minutes away.**

- I. If the property is located within a subdivision governed by a Home-Owners Association/Property Owners Association, the Planning Department must receive a recommendation of approval or disapproval from the HOA/POA to operate the short-term tourist rental. **This property is not located within a subdivision that has a POA/HOA and is accessed by a state road.**
- J. The short-term tourist rental shall have a "land-line" with local phone service. The phone number servicing the short-term tourist rental shall be included in the property management plan.
- K. The owners of the tourist rental shall provide an emergency evacuation plan for the dwelling and the neighborhood. **The applicants shall have this posted in the bedrooms and in their guest registration packet.**
- L. A copy of Chapter §123 of the Warren County Code relative to noise must be provided at the short-term tourist dwelling. **The applicants shall have a copy of this in their guest registration packet and have it posted in a common area of the dwelling.**
- M. Failure to comply with the approved conditions and/or supplemental regulations will subject the permit to revocation as described in Warren County Code Section §180-63.
- N. All outdoor burning shall comply with Chapter §92 of the Warren County Code.
- O. There shall be a minimum of 100 feet from the short-term tourist rental to all neighboring residences. **The dwelling location meets the setback requirements to adjacent single-family dwellings, which is approximately 681' to the closest dwelling located to the west.**

RECOMMENDED CONDITIONS:

Staff recommends that, if the Planning Commission recommends approval of this application, the following conditions should be applied:

- 1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
- 2. The maximum number of occupants shall not exceed four (4) as determined according to the Health Department conditional/operational permit which needs to be issued for a two-bedroom dwelling.
- 3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
- 4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
- 5. The discharge of firearms and hunting on the property by guests shall be prohibited.
- 6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on the State road shall be prohibited.

Cc: Jerry L. Lang Jr., Applicant



Figure 1 Jerry L. Lang Jr. Dwelling

Warren County Planning Commission

220 N Commerce Ave # 400

Front Royal VA 22630

December,2021

Dear Planning Commission,

I am writing in regards to opening my home at 468 Lands Run Road Bentonville Va to a Vacation Rental. The home is located outside of cooperation limits , it is nestled in the woods on 10 acres of land. I would only allow mature adults/ families to use the home. By doing this I would be bringing families to the Lovely Town of Front Royal and Beautiful Scenic surroundings. The home is located approximitly within 10 miles from the Entrance to Skyline Drive, Andy Guest State Park, Down River Canoe Company as well as many others. Allowing our home to become a Vacation Destination would aide in bringing commerce to the Town and County . By allowing us to open our home would also give the visiting Families the chance to see how close Warren County is to many destinations, such as Northern Virginia, this may aide in future endeavors for the Retail Market.

Sincerly,

Jerry L Lang / LangCo LLC

WARREN COUNTY CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-02-02
 Date Received: 12-27-21
 Fee Amount: \$ 500.00
 Date Paid: 12-27-21 CK# 3557

Applicant Information:

Jerry L. Lang Jr.
 Applicant Name
468 Landsrun Rd Bentonsville Va. 22610
 Address City State Zip

Property Location for conditional use permit if Different than Applicant's Address

Primary Contact Number Email

Property Owner (if same as applicant, leave blank)

309 Shenandoah Dr. Luray Va. 22835
 Address City State Zip

540-244-6078 JLANG2@GMU.EDU
 Primary Contact Number

Respectfully request that a determination be made by the Warren County Planning Commission and Board of Supervisors on the following request for a Conditional Use Permit for the property described below.

A. Property Information:

- (1) Address/Location: 468 Landsrun Rd Bentonsville Va. 22610
- (2) Election District: South River
- (3) Tax Map Number: 45-4 Parcel A-2
- (4) Subdivision Name: 1/A
- (5) Total Area of Property (acres): 67
- (6) Total Area to be Used (acres): 2
- (7) Total Road Frontage (feet): 200'
- (8) Depth of Property (feet): 800'
- (9) Present Zoning: _____

B. Proposed Use of Property

- (1) State the proposed use(s) for the Conditional Use Permit: Vacation Rental
- (2) Current land use and condition of site: Residential / Good
- (3) Zoning of surrounding land/property: _____
- (4) Will development be staged? ☐ Yes ☒ No
- (5) Construction Time: -
- (6) Season, days, and hours of operation: -
- (7) Will there be a sign? ☐ Yes ☐ No
(If yes, please submit a sketch of the sign(s) showing size and shape and the sign permit check list with this application.)
- (8) Has there been any prior application for a conditional use permit/variance for this property? (If yes, enter the permit number and/or name, date of action, action taken by the Planning Commission, Board of Zoning Appeals and/or Board of Supervisors and a description of the request.) no
- (9) Number of full time employees: _____
- (10) What type of sewage disposal system will be used? ☒ Private ☐ Central ☐ Public
- (11) Number of persons to be served by the sewage disposal system: no more than 6
- (12) Number of parking spaces to be provided: Regular _____ Handicap _____
- (13) What is the proposed landscaping and buffering for this property? As is -
wooded

C. Plans Prepared By

Name: _____

Address: _____

Telephone Number: _____

D. Environmental Information

- (1) Will this proposed use adversely impact the community of the environment? (If yes, what are the adverse impact(s) and what is proposed to solve these adverse impacts?) _____
no

- (2) Will there be any debris generated from the activity? (If yes, where and in what manner will the debris be stored and how and where will it be disposed of?) House hold debris, Disposed of at Warren County Facility
- (3) Will any potentially hazardous substances be used and/or stored on the property? (If yes, list the substances, their use and disposal of containers and substance residues.) no
- (4) List any potentially hazardous emissions including, but not limited to: fumes, gases, smoke noise, liquid effluent, waste water, dust, and state what measures will be used to control these emissions. none
- (5) Will there be any electrical or electronic activity which will interfere with local communications or telephone, television or radio reception? (If yes, describe the type of activity and potential interference.) no
- (6) What will be the impact on traffic? minimal to none
- (7) Will exterior lighting be used? (If yes, state the number of lights and the wattage of each. A lighting plan or lighting contour map may be required to show the nearest candle power as measured at ground level. Only existing residential Exterior lighting

**The following documents and/or information are required
to be submitted with the application:**

- ☐ **An application fee of \$500.00.**
Make payable to the Treasurer of Warren County. A non-refundable fee of \$500.00 will be required at the time of submittal.
- ☐ **A Statement of Justification**
This printed or typed statement is to be addressed to the Warren County Planning Commission. It is to summarize your proposed use and highlight any aspects of the request which are not addressed in the application form. Please note, the statement is required to be on 8 ½ x 11 size paper.
- ☐ **A Site Plan/Survey.**
Your site plan should show the property boundaries, existing or proposed structure(s), adjacent roads, and any other pertinent information which would help outline your proposed use. A recent survey with the proposed uses/structures located on it will serve as a site plan for the purposes of this permit. The Planning Director, Planning Commission and/or the Board of Supervisors reserve the right to ask for an engineered site plan, if they deem it necessary for evaluation of the proposed conditional use permit.
- ☐ **Sewage Disposal and Well Site.**
Location of the existing or proposed septic system & drainfield and the well site are to be indicated on the survey or central/public connection location.
- ☐ **A copy of the deed to the property verifying the current ownership.**
A copy may be obtained at the Warren County Courthouse, Circuit Clerk's Office.
- ☐ **A statement verifying that real estate taxes have been paid.**
This may be obtained from the Treasurer's Office in Suite 800 of the Warren County Government Center.
- ☐ **~~Environmental and Community Impact Statements~~**
The Planning Director, the Planning Commission, and/or the Board of Supervisors reserve the right to ask for an environmental and/or community impact statements, prepared by a certified engineer or other person qualified to perform such work, if they deem it necessary for evaluation of the proposed request.
- ☐ **~~List of chemicals stored on the site~~**
A complete list of chemicals to be stored on the site in the form of an oath/statement for Industrial zoned properties only.
- ☐ **Location Map**
A map clearly legible, showing the location of the proposed project in relation to surrounding publicly maintained roads and showing the use of surrounding properties. County staff can assist in obtaining this information.
- ☐ **Directions to your property from the Warren County Government Center.**

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for a Conditional Use Permit, shall be charged to the applicant.

Jerry L. L. [Signature]
Applicant Signature

12-27-21
Date

Jerry L. L. [Signature]
Property Owner Signature

12-27-21
Date

Accepted by: _____

Date: _____

PLEASE NOTE: If the required documents are not provided and/or the application is incomplete, your application will not be placed on the Planning Commission Agenda.

NOTES

Lord Fairfax Health District

Warren County Health Department

465 West 15th Street, Suite 200

Front Royal, Virginia 22630

Tel. (540) 635-3159 ~ Fax (540) 635-9698

www.vdh.virginia.gov



RECEIVED

JAN 28 2021

WARREN COUNTY
PLANNING DEPARTMENT

January 25, 2022

Matt Wendling, Deputy Planning Director
Warren County Planning and Zoning
220 N Commerce Ave., Suite 400
Front Royal, Virginia 22630

RE: Request for Comments (2022-02-02)

Owner: Jerry L. Laing, Jr.

Dear Mr. Wendling,

I have reviewed your request for comments regarding the property at 468 Lands Run Rd. Bentonville, VA (Tax Map# 45-4) and I offer the following comments:

1. There is a Construction Permit and ROI on file for the referenced property dated 4/05/1985 and 6/10/1986 respectively. No Operation Permit has been issued due to lack of water sample report from c. 1986.
2. The dwelling is served by a Conventional Onsite Sewage System (COSS). The COSS is designed for One (1) Bedroom, Two (2) Occupants and 150 gallons per day.
3. The dwelling is served by a private Class IIIC Well. A sample of the water should be collected and tested by a state approved lab at least annually for the presence/absence of Total/Fecal Coliform.
4. All refuse shall be placed in containers with tight-fitting lids.
5. Do not connect any Jacuzzi or hot tub discharge to the sewage disposal system.

Please contact me at (540) 635-3159 should you have any questions.

Sincerely,

Jim Davis

Environmental Health Supervisor

Chloe Phillips

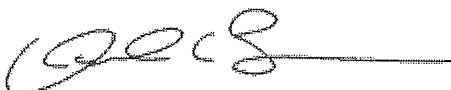
From: David Beahm
Sent: Friday, January 7, 2022 4:18 PM
To: Chloe Phillips
Cc: Joe Petty; Paula Fristoe
Subject: Request for Comments 2022-02-02 – Jerry L. Lang, Jr. – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000159-2021

Comments 2022-02-02 – Jerry L. Lang, Jr. – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000159-2021:

- Erosion and Sediment Control Items:
 - There does not appear to be any land disturbance at this time and therefore nothing would be required. If this is not the case, the normal submission process would be required.
- Building Inspections Items:
 - The use of the existing dwelling(s) for a “short-term rental” would require a building permit to establish it as a transient boarding facility which is the term used by the building code for this type of use. The dwelling would receive a new Certificate of Occupancy designating as a short-term rental.
 - Given the timeframe that the structure was originally built it more than likely will require an Electrical permit to meet the building code requirements for this change.
 - This change requires that smoke detectors are installed as required by the Virginia Residential Building Code.

If anything should change in the scope additional requirements may be required.

Respectfully,



Warren County Building Inspections

David C. Beahm, CBO
Building Official

220 North Commerce

Sui

Front Royal, VA

540/636

FAX 540/636

dbeahm@warrencountyva.net

www.warrencountyva.net

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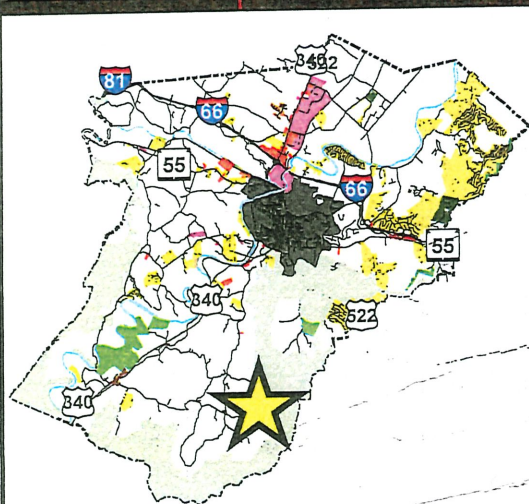
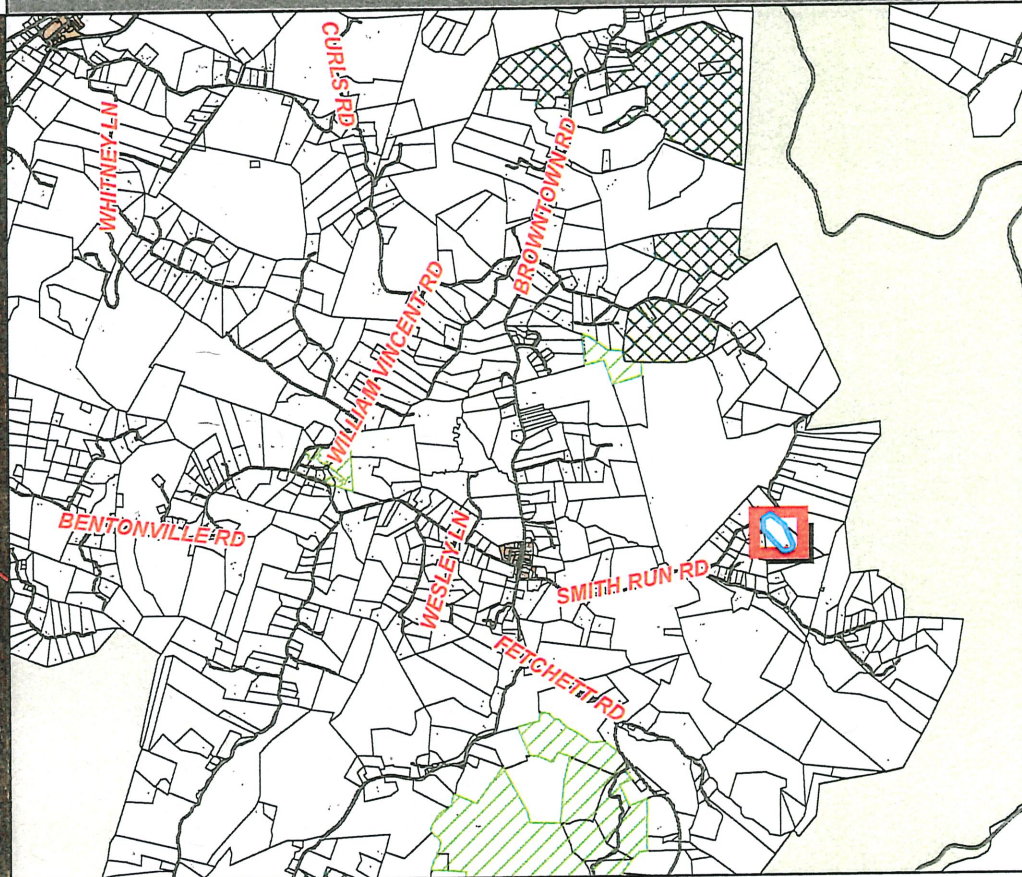
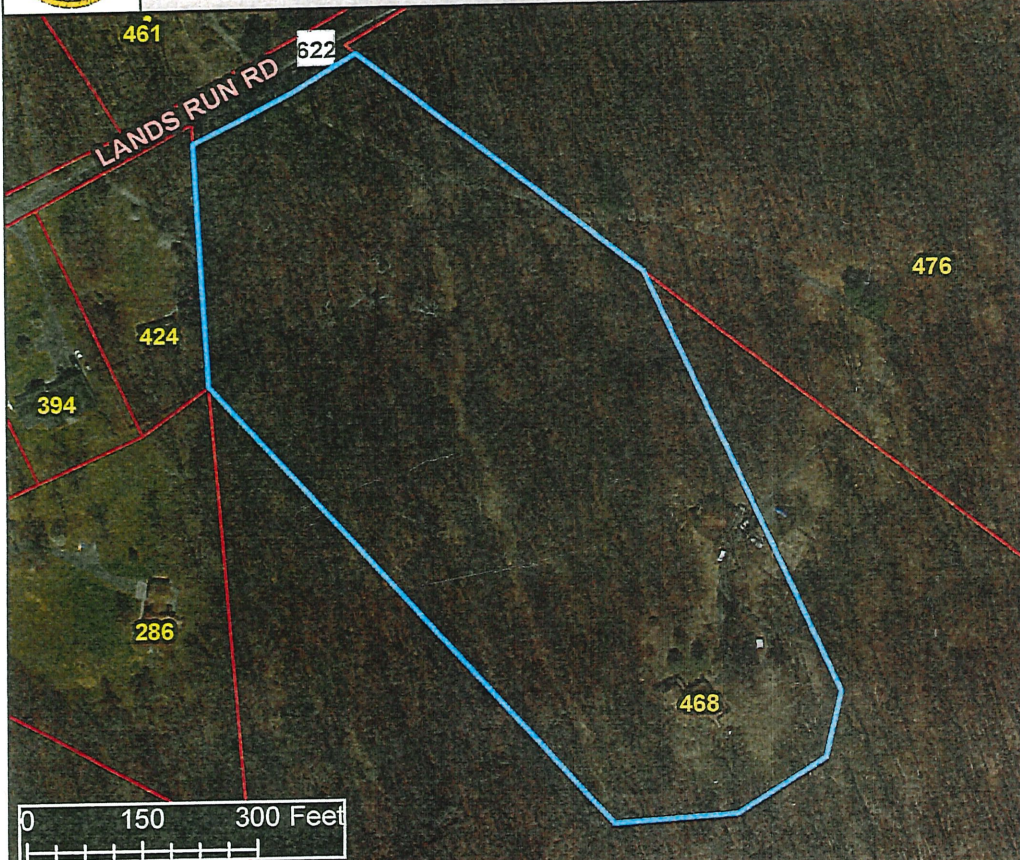
Warren County VA

CUP Location Map



Short Term Tourist Rental
Applicants: Jerry Lang

M 45-----4



Zoning

Agricultural	Rural Residential
Commercial	Right of Way
Industrial	Front Royal
Residential One	Federal Land
Residential Two	State Land
Suburban Residential	Water
Village Residential	VOF Conservation Easements
	WC Conservation Easements

Map produced by
Warren County GIS 2021
Department of Planning



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
4/05/2022	G-10	Conditional Use Permit #2022-02-03 Nicholas Webster & Morgan McCabe <i>Short-Term Tourist Rental</i>	1 of 2

EXPLANATION & SUMMARY:

See attached application and staff report.

General standards/conditions. In addition to the specific standards set forth hereinafter with regard to particular conditional uses, all such uses shall satisfy the following general standards:

- (1) The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan.
- (2) The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- (3) The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
- (4) The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or in conflict with the existing and anticipated traffic in the area.
- (5) Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided.
- (6) In determining whether or not to grant a permit and in determining conditions to be imposed, the governing body shall take into consideration the objectives and intent of this chapter and may impose reasonable conditions that:
 - (a) Abate or restrict noise, smoke, dust or other elements that may affect surrounding properties.
 - (b) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion.
 - (c) Provide for adequate parking and ingress and egress to public streets or roads.
 - (d) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property.
 - (e) Prevent such use from changing the character and established pattern of development of the community.

Planning Commission Move to Approve:

Mr. Henry moved to forward this application to the Board of Supervisors, recommending approval. The motion was seconded by Mr. Longo and approved by the Planning Commission by a vote of 4 - 0. Mr. Kersjes was absent.

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four (4) as determined according to the Health Department conditional operational permit for a two-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize for advertisement of a public hearing the proposed conditional use permit request for a Short-term Tourist Rental.

SUBMITTED BY:

Matt Wendling, CFM 
Deputy Planning Director
County Floodplain Manager

DISPOSITION OF BOARD:

☐ **APPROVED** ☐ **OTHER (Describe)**

PROCESSED BY:



Conditional Use Permit: 2022-02-03 Short Term Tourist Rental

Nicholas Webster & Morgan McCabe, Applicants/ Owners

Staff Report for the Planning Commission

Prepared: January 24, 2022

Staff: Matt Wendling, Deputy Planning Director/County Floodplain Manager *MFW*

SUMMARY OF REQUEST

The applicants are requesting a conditional use permit for a Short-term Tourist Rental for the property they purchased in March 2021. According to the applicants the home had been unoccupied for a number of years, and they have in the past year spent quite a bit of time and funds in making improvements to the dwelling. They state they are only able to utilize the property for their own use six months out of the year and would like to rent it short term to recoup their costs for improvements, general maintenance, taxes, and insurance. They currently live in Washington, D.C. and have contracted Evolve and Generations Clean, both local property management and cleaning companies to manage the property.

PROPERTY INFORMATION

Property Location: 203 Mossy Rock Way

Tax Map ID: # 24B-121-625

Magisterial District: Shenandoah

Subdivision: Blue Mountain

Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

Town/Village: Linden

Zoning: Residential One (R-1)

Acres: 1.3

Existing Land Use: Single Family Dwelling

SURROUNDING ZONING DISTRICTS & USES

North: Residential One (R-1)

South: Residential One (R-1)

East: Residential One (R-1)

West: Residential One (R-1)

Use: Vacant Lot with Woodlands

Use: Vacant Lot with Woodlands

Use: Vacant Lot with Woodlands

Use: Vacant Lot with Woodlands

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Residential One (R-1) zoning district and has no previous zoning violations. This property was consolidated from two lots to one after having been approved by County Planning Director and recorded at the Circuit Court Clerk's office.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for residential land uses which allows for a Short-term Tourist Rental by conditional use permit in the Warren County Zoning Ordinance Section §180-22. This property is located in the Blue Mountain subdivision which is zoned Residential One and the dwelling is sufficiently located away from other adjacent dwellings. Short-term Tourist Rentals provide transient-lodging taxes to the County and are typically used by tourists visiting the area. This use complies with Chapter 6: Economic Development chapter, Goal V and the promotion of tourism objectives of the comprehensive plan.

PROPOSAL:

A Short-Term Tourist Rental is defined by the Warren County Zoning Ordinance as, "A single-family dwelling not attached to any other dwelling by any means and located on an individual lot that is rented for compensation for periods of less than 30 days. See § 180-56.4 for supplementary regulations pertaining to short-term tourist rentals."

SUPPLEMENTARY REGULATIONS FOR SHORT-TERM TOURIST RENTAL (Section 180-56.4 of the Warren County Zoning Ordinance):

These regulations are as follows:

- A. The owner of a dwelling unit to be used for a short-term tourist rental shall apply and receive a zoning permit and/or a conditional use permit from the Planning Department prior to utilizing the dwelling unit as a short-term rental. The permit shall be reviewed by planning staff on an annual basis to ensure compliance with the performance standards listed in this section, along with all conditions placed on the conditional use permit, if applicable. Warren County may revoke a permit for repeated noncompliance with these performance standards.
- B. The maximum number of occupants in the dwelling unit shall be determined according to permit approval received by the Warren County Health Department; however the maximum number of occupants shall not exceed 10. The dwelling was constructed in 1973 and tax records show that the property has been taxed as two -bedroom single family dwelling. A request for comments has been sent to the Health Department for research and review of any records they may have on file. The maximum occupancy would be four guests for a two-bedroom dwelling.
- C. Parking for the use shall be located in driveways or other designated and approved parking areas. The parking of vehicles is prohibited in or along all right-of-ways and in yards. There will be sufficient parking for two vehicles in the driveway in front of the dwelling.
- D. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times. The boundary lines shall be adequately marked according to location shown on the survey.
- E. There shall be no visible evidence of the conduct of such short-term rentals on the outside appearance of the property.
- F. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code, and a carbon monoxide detector must be installed on each floor in every dwelling. A change of use for a transient boarding facility for the property dwelling and an inspection will be required to verify if it meets all Building Code requirements for fire/smoke protection and a fire extinguisher. This inspection may be scheduled after Board of Supervisor approval and in conjunction with the final for the certificate of occupancy.
- G. The owner of a dwelling used for short-term tourist rentals shall give the County written consent to inspect any dwelling used for short-term rental to ascertain compliance with all of the above performance standards upon a 24 hour notice.
- H. A property management plan (PMP) demonstrating how the short-term tourist rental will be managed and how impacts to neighboring properties will be minimized shall be submitted for review and

approval as part of the permitting process to the Planning Department. The plan shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, utility issues, etc. It shall also be posted in a visible location in the short-term rental. The contact numbers shall be provided to county staff, public safety officials, and if applicable, the HOA/POA of the subdivision. The plan must be provided as a part of the rental contract. **A Property Management Plan needs to be submitted and will be reviewed and approved by staff and all other requirements shall need to be met prior to a certificate of zoning for the business license being issued. The owners have contracted two local companies and Teanna Harrigan to provide property management and cleaning services.**

- I. If the property is located within a subdivision governed by a Home Owners Association/Property Owners Association, the Planning Department must receive a recommendation of approval or disapproval from the HOA/POA to operate the short-term tourist rental. **This property is located within the Blue Mountain subdivision, and they have been notified of the application and we have received correspondence from the applicant and the POA.**
- J. The short-term tourist rental shall have a "land-line" with local phone service. The phone number servicing the short-term tourist rental shall be included in the property management plan.
- K. The owners of the tourist rental shall provide an emergency evacuation plan for the dwelling and the neighborhood. **The applicants shall have this posted in the bedrooms and in their guest registration packet.**
- L. A copy of Chapter §123 of the Warren County Code relative to noise must be provided at the short-term tourist dwelling. **The applicant shall have a copy of this in their guest registration packet and have it posted in a common area of the dwelling.**
- M. Failure to comply with the approved conditions and/or supplemental regulations will subject the permit to revocation as described in Warren County Code Section §180-63.
- N. All outdoor burning shall be in compliance with Chapter §92 of the Warren County Code.
- O. There shall be a minimum of 100 feet from the short-term tourist rental to all neighboring residences. **This dwelling meets the setback requirements to adjacent single-family dwellings. The closest which is 350' to the applicants dwelling and located to the northeast.**

RECOMMENDED CONDITIONS:

Planning Staff is recommending the following conditions be added to this conditional use permit if the Planning Commission chooses to recommend approval of this permit to the Board of Supervisors. Please note that additional conditions may be added after all agency comments have been received, prior to the Planning Commission public hearing.

Staff recommends that, if the Planning Commission recommends approval of this application, the following conditions should be applied:

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four (4) as determined according to the Health Department operational permit for a two-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.

Cc: Nicholas Webster & Morgan McCabe, Applicants



Warren County Planning Department
220 North Commerce Ave
Front Royal, VA 22630

Dear Planning Commission,

We, Morgan McCabe (Webster) and Nicholas Webster, are the owners of 203 Mossy Rock Way and pleased to have the opportunity to apply for a Conditional Use Permit for short-term rental of our property.

Prior to our purchase, the home had not been inhabited for several years, and we have spent considerable time making significant improvements to the safety, comfort, and function of the home, appropriate for the charming setting of the Blue Mountain community. With our first child on the way, we expect to only be able to spend approximately 6-months of the year living in this home ourselves, and our goal has been to prepare it as a part time short-term rental property. We love what the Shenandoah Valley has to offer: remarkable natural beauty, unmatched local produce, a range of outdoor sports and activities, engaging historical sites, and unique small businesses run by caring individuals. We want to share this with visitors to the region.

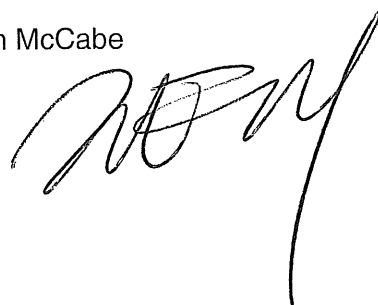
We greatly respect our community's privacy and lifestyle and have and will continue to take the necessary steps to make sure that our guests' experiences are in harmony with this. As detailed in our property management plan, we will ensure adherence to principles such as no parties or loud music.

Enclosed in our application please find:

- Signed Warren County Conditional Use Permit Application
- Application fee payment
- Property Management Plan
- Warren County Health Department documentation for well and septic
- Proof of ownership and taxes are paid from Warren County Treasurer
- Correspondence with the Blue Mountain Property Owners Association notifying them of our intent to apply for the STTR permit

Thank you for your time and consideration, please let us know if any further information would be helpful.

Sincerely,
Nicholas Webster and Morgan McCabe



WARREN COUNTY CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-02-03
 Date Received: 1-11-2022
 Fee Amount: \$ 500.00
 Date Paid: 1-11-2022 CK# 165

Applicant Information:

Nicholas Webster and Megan McCabe
 Applicant Name

3151 Mt Pleasant St NW Apt 403 Washington DC 20010
 Address City State Zip

203 Mossy Rock Way Front Royal VA 22630
 Property Location for conditional use permit if Different than Applicant's Address

(609) 206 7378 morgan.mccabe302@gmail.com
 Primary Contact Number Email

Property Owner (if same as applicant, leave blank)

Address City State Zip

Primary Contact Number

Respectfully request that a determination be made by the Warren County Planning Commission and Board of Supervisors on the following request for a Conditional Use Permit for the property described below.

A. Property Information:

- (1) Address/Location: 203 Mossy Rock Way
- (2) Election District: _____
- (3) Tax Map Number: 24B--121-625
- (4) Subdivision Name: Blue Mountain Property ~~etc~~
- (5) Total Area of Property (acres): 1.3
- (6) Total Area to be Used (acres): 1.3
- (7) Total Road Frontage (feet): _____
- (8) Depth of Property (feet): _____
- (9) Present Zoning: residential

B. Proposed Use of Property

- (1) State the proposed use(s) for the Conditional Use Permit: short term tourist rental
- (2) Current land use and condition of site: _____
- (3) Zoning of surrounding land/property: _____
- (4) Will development be staged? N/A ☐ Yes ☐ No
- (5) Construction Time: N/A
- (6) Season, days, and hours of operation: N/A
- (7) Will there be a sign? ☐ Yes ☒ No
(If yes, please submit a sketch of the sign(s) showing size and shape and the sign permit check list with this application.)
- (8) Has there been any prior application for a conditional use permit/variance for this property? (If yes, enter the permit number and/or name, date of action, action taken by the Planning Commission, Board of Zoning Appeals and/or Board of Supervisors and a description of the request.) No.
- (9) Number of full time employees: _____
- (10) What type of sewage disposal system will be used? ☐ Private ☐ Central ☐ Public
- (11) Number of persons to be served by the sewage disposal system: _____
- (12) Number of parking spaces to be provided: Regular _____ Handicap _____
- (13) What is the proposed landscaping and buffering for this property? _____
- _____
- _____
- _____

C. Plans Prepared By

Name: _____

Address: _____

Telephone Number: _____

D. Environmental Information

- (1) Will this proposed use adversely impact the community of the environment? (If yes, what are the adverse impact(s) and what is proposed to solve these adverse impacts?) No.
- _____
- _____
- _____

(2) Will there be any debris generated from the activity? (If yes, where and in what manner will the debris be stored and how and where will it be disposed of?) NO

(3) Will any potentially hazardous substances be used and/or stored on the property? (If yes, list the substances, their use and disposal of containers and substance residues.) NO

(4) List any potentially hazardous emissions including, but not limited to: fumes, gases, smoke, noise, liquid effluent, waste water, dust, and state what measures will be used to control these emissions. NO

(5) Will there be any electrical or electronic activity which will interfere with local communications or telephone, television or radio reception? (If yes, describe the type of activity and potential interference.) NO

(6) What will be the impact on traffic? NO

(7) Will exterior lighting be used? (If yes, state the number of lights and the wattage of each. A lighting plan or lighting contour map may be required to show the nearest candle power as measured at ground level. NO

**The following documents and/or information are required
to be submitted with the application:**

☐ **An application fee of \$500.00.**

Make payable to the Treasurer of Warren County. A non-refundable fee of \$500.00 will be required at the time of submittal.

☐ **A Statement of Justification**

This printed or typed statement is to be addressed to the Warren County Planning Commission. It is to summarize your proposed use and highlight any aspects of the request which are not addressed in the application form. Please note, the statement is required to be on 8 ½ x 11 size paper.

☐ **A Site Plan/Survey.**

Your site plan should show the property boundaries, existing or proposed structure(s), adjacent roads, and any other pertinent information which would help outline your proposed use. A recent survey with the proposed uses/structures located on it will serve as a site plan for the purposes of this permit. The Planning Director, Planning Commission and/or the Board of Supervisors reserve the right to ask for an engineered site plan, if they deem it necessary for evaluation of the proposed conditional use permit.

☐ **Sewage Disposal and Well Site.**

Location of the existing or proposed septic system & drainfield and the well site are to be indicated on the survey or central/public connection location.

☐ **A copy of the deed to the property verifying the current ownership.**

A copy may be obtained at the Warren County Courthouse, Circuit Clerk's Office.

☐ **A statement verifying that real estate taxes have been paid.**

This may be obtained from the Treasurer's Office in Suite 800 of the Warren County Government Center.

☐ **Environmental and Community Impact Statements**

The Planning Director, the Planning Commission, and/or the Board of Supervisors reserve the right to ask for an environmental and/or community impact statements, prepared by a certified engineer or other person qualified to perform such work, if they deem it necessary for evaluation of the proposed request.

☐ **List of chemicals stored on the site**

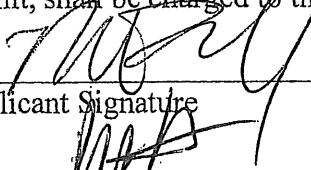
A complete list of chemicals to be stored on the site in the form of an oath/statement for Industrial zoned properties only.

☐ **Location Map**

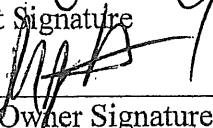
A map clearly legible, showing the location of the proposed project in relation to surrounding publicly maintained roads and showing the use of surrounding properties. County staff can assist in obtaining this information.

☐ **Directions to your property from the Warren County Government Center.**

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for a Conditional Use Permit, shall be charged to the applicant.


Applicant Signature

1/11/22
Date


Property Owner Signature

1/11/22
Date

Accepted by: _____

Date: _____

PLEASE NOTE: If the required documents are not provided and/or the application is incomplete, your application will not be placed on the Planning Commission Agenda.

NOTES

PROPERTY MANAGEMENT PLAN

203 Mossy Rock Way, Front Royal, VA

In Case of Emergency

In case of emergency, call 911.

Warren Memorial Hospital

+1(540) 636- 0300
351 Valley Health Way, Front Royal, VA 22630

Valley Health Urgent Care

+1(540) 635- 0700
65 Riverton Commons Plaza, Front Royal, VA 22630

Warren County Fire and Rescue

_____ +1 (540) 636-3830
200 Skyline Vista Drive, Front Royal, VA 22630

Shenandoah Farms Volunteer Fire Department

+1(540) 837-1290
6363 Howellsville Rd, Front Royal, VA 22630

Rappahannock Electric Company (in case of power outage):

_____ +1(800) 552-3904

Emergency Evacuation Route:

In case of evacuation, Take Mossy Rock Way and make a left on Spring Hill Road. Take the next left on to Blue Mountain Road. Follow Blue Mountain Road, which becomes Freezeland Road, to John Marshall Highway (Rt 55).

Occupancy

The maximum occupancy for this property is 8 guests.

Trash/Recycling

All trash and recycling shall be placed in containers provided by the owners. Property owners and cleaners will dispose of trash after your stay.

Internet

Wifi is available on the property with login information provided in the welcome packet.

Check in & Out

Bookings will be managed with an online platform that allows for 3rd party verification. Hosts may deny booking requests based on guest minimum age requirements, guest limits, or previous host feedback. Once a booking has been confirmed, the host will send the guest a welcome and confirmation email containing property details and property rules. On the day of check in, guests will receive lockbox instructions and a reminder to read the welcome book and property rules.

Property Rules

- No firearms
- No fireworks
- No ATVs
- No parties
- No unauthorized guests
- No loud music
- No unattended fires
- No pets
- No smoking
- No candles

Owner Contact Information

Nicholas Webster
E: njwebster8@gmail.com
C: 609 902 3002

Morgan McCabe
E: morganmccabe302@gmail.com
C: 609 206 7378

Property Map

Lord Fairfax Health District



Warren County Health Department
465 West 15th Street, Suite 200
Front Royal, Virginia 22630
Tel. (540) 635-3159 ~ Fax (540) 635-9698
www.vdh.virginia.gov



January 25, 2022

RECEIVED

JAN 28 2021

WARREN COUNTY
PLANNING DEPARTMENT

Matt Wendling, Deputy Planning Director
Warren County Planning and Zoning
220 N Commerce Ave., Suite 400
Front Royal, Virginia 22630

RE: Request for Comments (2022-02-03)

Owner: Nicholas Webster & Morgan McCabe

Dear Mr. Wendling,

I have reviewed your request for comments regarding the property at 203 Mossy Rock Way Linden, VA (Tax Map# 24B-1-21-625) and I offer the following comments:

1. There is a Construction Permit, ROI and Operation Permit on file for the referenced property dated 4/07/1977 and 6/16/1977 respectively.
2. The dwelling is served by a Conventional Onsite Sewage System (COSS). The COSS is designed for Two (2) Bedrooms, Four (4) Occupants and 400 gallons per day.
3. The dwelling is served by a private Class III Well. A sample of the water should be collected and tested by a state approved lab at least annually.
4. All refuse shall be placed in containers with tight-fitting lids.
5. Do not connect any Jacuzzi or hot tub discharge to the sewage disposal system.

Please contact me at (540) 635-3159 should you have any questions.

Sincerely,

Jim Davis

Environmental Health Supervisor

Chloe Phillips

From: David Beahm
Sent: Thursday, January 27, 2022 2:29 PM
To: Chloe Phillips
Cc: Joe Petty; Paula Fristoe
Subject: Request for Comments 2022-02-03 – Nicholas Webster and Morgan McCabe – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000160-2022

Comments 2022-02-03 – Nicholas Webster and Morgan McCabe – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000160-2022:

- Erosion and Sediment Control Items:
 - There does not appear to be any land disturbance at this time and therefore nothing would be required. If this is not the case, the normal submission process would be required.
- Building Inspections Items:
 - The use of the existing dwelling(s) for a “short-term rental” would require a building permit to establish it as a transient boarding facility which is the term used by the building code for this type of use. The dwelling would receive a new Certificate of Occupancy designating as a short-term rental.
 - Given the timeframe that the structure was originally built it more than likely will require an Electrical permit to meet the building code requirements for this change.
 - This change requires that smoke detectors are installed as required by the Virginia Residential Building Code.

If anything should change in the scope additional requirements may be required.

Respectfully,



Warren County Building Inspections

David C. Beahm, CBO
Building Official

220 North Commerce

Su
Front Royal, VA

540/631

FAX 540/631

dbeahm@warrencountyva.net

www.warrencountyva.net

THIS MESSAGE IS INTENDED SOLELY FOR THE INDIVIDUAL(S) NAMED IN THE HEADER. THIS MESSAGE MAY CONTAIN MATERIAL THAT IS PRIVILEGED OR CONFIDENTIAL. IF YOU ARE NOT ONE OF THE INTENDED RECIPIENTS, PLEASE DO NOT READ, COPY, USE, OR DISCLOSE THIS MESSAGE TO OTHERS; PLEASE NOTIFY THE SENDER BY REPLYING TO THIS MESSAGE; AND THEN PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU.

Warren County, VA
Wednesday, March 9, 2022

Chapter 92. Burning, Outdoor

§ 92-2. Outdoor burning prohibited in designated locations.

Except as hereinafter provided, all open burning is prohibited in the following designated areas of Warren County, which, in the opinion of the Board of Supervisors, are so heavily populated as to make such burning dangerous to the inhabitants thereof or their property:

- A. Within the boundary lines of High Knob Subdivision, as set forth on the plats of said subdivision recorded by High Knob, Incorporated, in the Clerk's office of the Circuit Court of Warren County.
- B. Within the boundary lines of all sections of Blue Mountain Subdivision, as shown on Warren County Tax Maps 15A; 16A; 24A, Sheets 1 and 2; 24B, Sheets 1 and 2; and 24D.
[Added 11-16-2004]

Matt Wendling

From: Mike Veasey <mike_veasey@yahoo.com>
Sent: Tuesday, February 15, 2022 11:08 AM
To: Matt Wendling
Subject: 203 Mossy Rock Way Short Term Rental

Matt,

The Executive Board of the Blue Mountain Property Owners Association met on February 14th, 2022 and considered the request for short term rental of 203 Mossy Rock Way by Nicholas Webster and Morgan McCabe.

The Board recommends approval of this request.

Mike Veasey
Treasurer

Sent from Yahoo Mail on Android



Nicholas Webster <njwebster8@gmail.com>

Re: A message from your BMPOA contact form.

Greg Young <younggm3@gmail.com>

Thu, Dec 23, 2021 at 2:57 PM

To: Nicholas Webster <njwebster8@gmail.com>

Cc: Jim Cook <jcook0313@gmail.com>, Benjamin Hutchison <b.hutchison2014@gmail.com>, Morgan McCabe <morganmccabe302@gmail.com>

People seem to do it both ways, meaning some submit to the county first and some send it to us first. Some have sent it all at the same time. If you want to send it to us first that is fine.

Greg

On Thu, Dec 23, 2021, 2:35 PM Nicholas Webster <njwebster8@gmail.com> wrote:

Hi Greg,

Thanks so much for getting back so quickly, this is really helpful. Presumably we submit our application to BMPOA first, then if successful we submit it to the county?

Best,
Nick

On Wed, Dec 22, 2021 at 4:26 PM Greg Young <younggm3@gmail.com> wrote:

Hi Nick and Morgan,

You will need to follow Warren county rules in terms of conditional use permit. <https://www.warrencountyva.net/forms/file/1063-conditional-use-permit-application-packet-updated-2018>

As an association there has been a lot of discussion amongst the members about short term rentals. Currently we are reviewing each request individually on the merits. Looking forward to reviewing your application.

Greg

Greg Young (BMPOA President)

On Wed, Dec 22, 2021 at 2:12 PM BMPOA <notice@godaddy.com> wrote:

BMPOA
has received a new message.

Name

Nicholas Webster

Email

njwebster8@gmail.com

Phone

6099023002

Message

Hi BMPOA,

My wife and I are thinking about renting out our home for short periods of time when we are not residing there. I wanted to reach out to you to see what we need to provide BMPOA and to ask if the association has any guidance for association members on this.

Given the number of properties available for short-term rentals in our association I expect that there is flexibility from the township/county that allows us to do so, but it's unclear from the resources online.

Thanks in advance and have a merry Christmas and happy New Year! We appreciate all you do for us association members.

Best,

Nick and Morgan Webster

Device

desktop

Language

en-US

Submitted from

Homeowners

Reply to this email to respond.

This message came from your website contact form, <http://bmpoa.org>.

Sent via Websites + Marketing



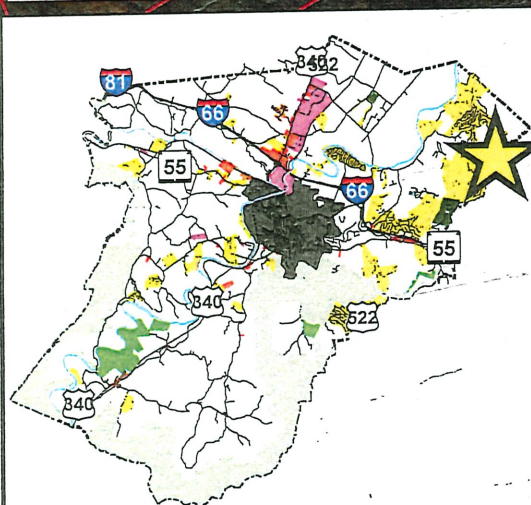
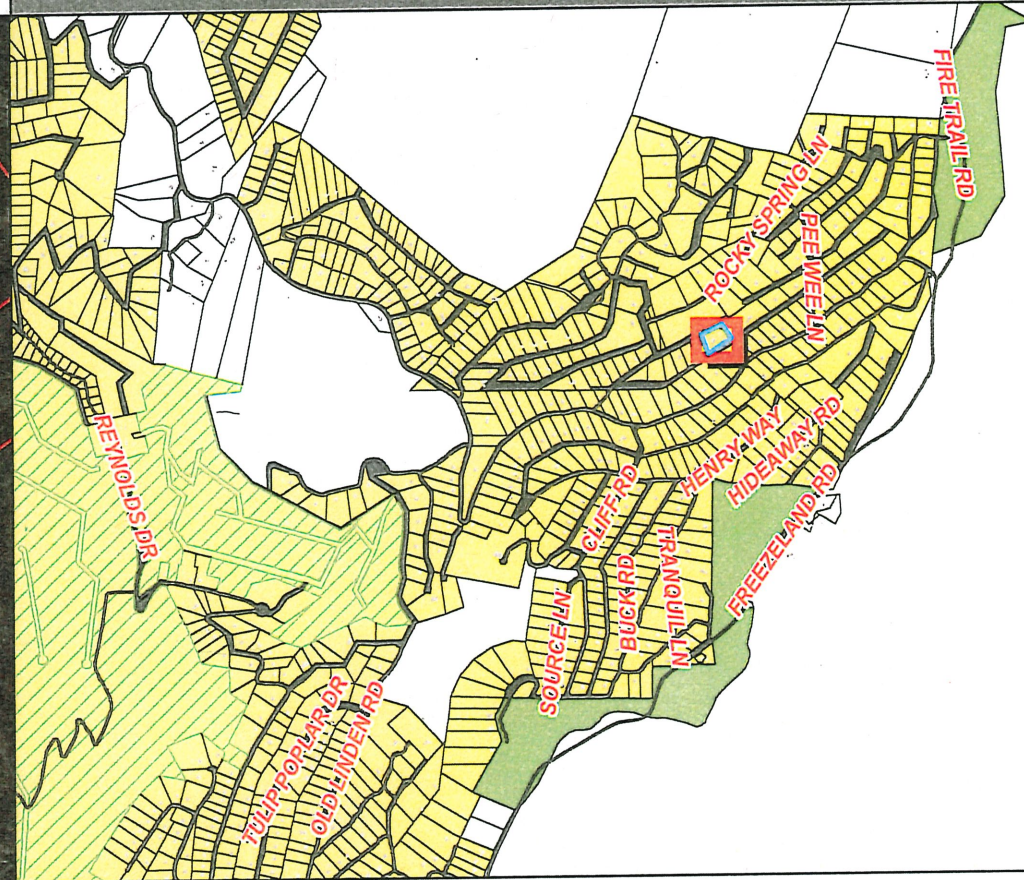
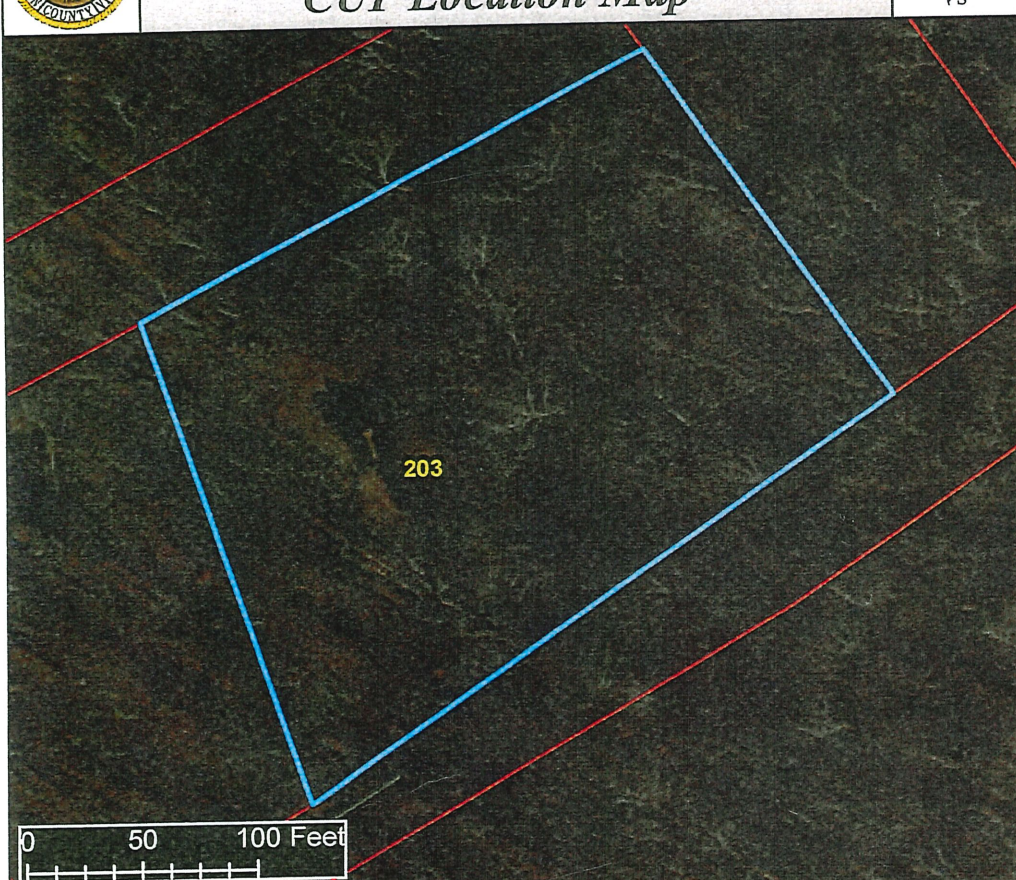
Warren County VA

CUP Location Map



Short Term Tourist Rental
Applicants: Nicholas Webster

4B--121-625
Blue Mountain Subdivision



Zoning

Agricultural	Rural Residential
Commercial	Right of Way
Industrial	Front Royal
Residential One	Federal Land
Residential Two	State Land
Suburban Residential	Water
Village Residential	VOF Conservation Easements
	WC Conservation Easements

Map produced by
Warren County GIS 2022
Department of Planning



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
4/05/2022	G-11	Conditional Use Permit #2022-02-04 Pratik Patel <i>Short-Term Tourist Rental</i>	1 of 2

EXPLANATION & SUMMARY:

See attached application and staff report.

General standards/conditions. In addition to the specific standards set forth hereinafter with regard to particular conditional uses, all such uses shall satisfy the following general standards:

- (1) The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan.
- (2) The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- (3) The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
- (4) The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or in conflict with the existing and anticipated traffic in the area.
- (5) Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided.
- (6) In determining whether or not to grant a permit and in determining conditions to be imposed, the governing body shall take into consideration the objectives and intent of this chapter and may impose reasonable conditions that:
 - (a) Abate or restrict noise, smoke, dust or other elements that may affect surrounding properties.
 - (b) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion.
 - (c) Provide for adequate parking and ingress and egress to public streets or roads.
 - (d) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property.
 - (e) Prevent such use from changing the character and established pattern of development of the community.

Planning Commission Move to Approve:

Mr. Henry moved to forward this application to the Board of Supervisors, recommending approval. The motion was seconded by Mrs. Richardson and approved by the Planning Commission by a vote of 4 - 0. Mr. Kersjes was absent.

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four (4) as determined according to the Health Department conditional operational permit for a three-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize for advertisement of a public hearing the proposed conditional use permit request for a Short-term Tourist Rental.

SUBMITTED BY: Matt Wendling, CFM Deputy Planning Director County Floodplain Manager	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (Describe)	PROCESSED BY:
---	---	----------------------



Conditional Use Permit: 2022-02-04 Short Term Tourist Rental

Pratick Patel, *Applicant/ Owner*

Staff Report for the Planning Commission

Prepared: January 21, 2022

Staff: Matt Wendling, *Deputy Planning Director/County Floodplain Manager*

SUMMARY OF REQUEST

The applicant is requesting a conditional use permit for a Short-term Tourist Rental for the property they purchased in November 2021. The applicant states he will be primarily using the property as a vacation home for his family, extended family and friends for weekend visits. In order to have the flexibility to rent he hopes to rent short term which will also help him with the ability to maintain the property, and with the cost of insurance and taxes. The property owner plans to retain a local handyman and property manager to be available for any emergencies.

PROPERTY INFORMATION

Property Location: 368 Freeze Rd.

Tax Map ID: # 23C-2-2-193

Magisterial District: Shenandoah

Subdivision: Shenandoah Farms - Mountain View

Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

Town/Village: Linden

Zoning: Residential One (R-1)

Acres: 0.46

Existing Land Use: Single Family Dwelling

SURROUNDING ZONING DISTRICTS & USES

North: Residential One (R-1)

South: Residential One (R-1)

East: Residential One (R-1)

West: Residential One (R-1)

Use: Vacant Lot with Woodlands

Use: Vacant Lot with Woodlands

Use: Single Family Dwelling with Woodlands

Use: Vacant Lot

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Residential One (R-1) zoning district and has no previous zoning violations.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for residential land uses which allows for a Short-term Tourist Rental by conditional use permit in the Warren County Zoning Ordinance Section §180-22. This property is located in a mountain subdivision with Residential One zoning but is sufficiently located away from other dwellings by 235'. Short-term Tourist Rentals provide transient-lodging taxes to the County and are typically used by tourists visiting the area. This use complies with Chapter 6: Economic Development chapter, Goal V and the promotion of tourism objectives of the comprehensive plan.

PROPOSAL:

A Short-Term Tourist Rental is defined by the Warren County Zoning Ordinance as, "A single-family dwelling not attached to any other dwelling by any means and located on an individual lot that is rented for compensation for periods of less than 30 days. See § 180-56.4 for supplementary regulations pertaining to short-term tourist rentals."

SUPPLEMENTARY REGULATIONS FOR SHORT-TERM TOURIST RENTAL (Section 180-56.4 of the Warren County Zoning Ordinance):

These regulations are as follows:

- A. The owner of a dwelling unit to be used for a short-term tourist rental shall apply and receive a zoning permit and/or a conditional use permit from the Planning Department prior to utilizing the dwelling unit as a short-term rental. The permit shall be reviewed by planning staff on an annual basis to ensure compliance with the performance standards listed in this section, along with all conditions placed on the conditional use permit, if applicable. Warren County may revoke a permit for repeated noncompliance with these performance standards.
- B. The maximum number of occupants in the dwelling unit shall be determined according to permit approval received by the Warren County Health Department; however the maximum number of occupants shall not exceed 10. The dwelling was constructed in 2006 and tax records show that the property has been taxed as three -bedroom single family dwelling. The maximum occupancy would be four guests for a three-bedroom dwelling as allowed by the Conditional Permit issued by the Health Department.
- C. Parking for the use shall be located in driveways or other designated and approved parking areas. The parking of vehicles is prohibited in or along all right-of-ways and in yards. There will be sufficient parking for three vehicles in the driveway in front of the dwelling.
- D. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times. The boundary lines shall be adequately marked according to location shown on the survey.
- E. There shall be no visible evidence of the conduct of such short-term rentals on the outside appearance of the property.
- F. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code, and a carbon monoxide detector must be installed on each floor in every dwelling. A change of use for a transient boarding facility for the property dwelling and an inspection will be required to verify if it meets all Building Code requirements for fire/smoke protection and a fire extinguisher. This inspection may be scheduled after Board of Supervisor approval and in conjunction with the final for the certificate of occupancy.
- G. The owner of a dwelling used for short-term tourist rentals shall give the County written consent to inspect any dwelling used for short-term rental to ascertain compliance with all of the above performance standards upon a 24 hour notice.
- H. A property management plan (PMP) demonstrating how the short-term tourist rental will be managed and how impacts to neighboring properties will be minimized shall be submitted for review and approval as part of the permitting process to the Planning Department. The plan shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, utility issues, etc. It shall also be posted in a visible location in the short-term rental. The contact numbers

shall be provided to county staff, public safety officials, and if applicable, the HOA/POA of the subdivision. The plan must be provided as a part of the rental contract. **A Property Management Plan needs to be submitted and will be reviewed and approved by staff and all other requirements shall need to be met prior to a certificate of zoning for the business license is issued. The owner will be the acting property managers.**

- I. If the property is located within a subdivision governed by a Home Owners Association/Property Owners Association, the Planning Department must receive a recommendation of approval or disapproval from the HOA/POA to operate the short-term tourist rental. **This property is located within the Shenandoah Farms subdivision, and they have been notified of the application and staff has submitted a request for comments.**
- J. The short-term tourist rental shall have a "land-line" with local phone service. The phone number servicing the short-term tourist rental shall be included in the property management plan.
- K. The owners of the tourist rental shall provide an emergency evacuation plan for the dwelling and the neighborhood. **The applicant shall have this posted in the bedrooms and in their guest registration packet.**
- L. A copy of Chapter §123 of the Warren County Code relative to noise must be provided at the short-term tourist dwelling. **The applicant shall have a copy of this in the guest registration packet and have it posted in a common area of the dwelling.**
- M. Failure to comply with the approved conditions and/or supplemental regulations will subject the permit to revocation as described in Warren County Code Section §180-63.
- N. All outdoor burning shall be in compliance with Chapter §92 of the Warren County Code.
- O. There shall be a minimum of 100 feet from the short-term tourist rental to all neighboring residences. **This dwelling meets the setback requirements to adjacent single-family dwellings. The closest which are 235' to the applicant's dwelling and located to the east and west.**

RECOMMENDED CONDITIONS:

Planning Staff is recommending the following conditions be added to this conditional use permit if the Planning Commission chooses to recommend approval of this permit to the Board of Supervisors. Please note that additional conditions may be added after all agency comments have been received, prior to the Planning Commission public hearing.

Staff recommends that, if the Planning Commission recommends approval of this application, the following conditions should be applied:

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four (4) as determined according to the Health Department operational permit for a three-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.

Cc: Pratik Patel, Applicant



Statement of Justification

Short-Term Tourist Rental

Warren County

Applicant: Pratik Patel

Subject Property: 368 Freeze Road, Linden, VA 22642

General description of proposed use and request:

Located in the mountains of Linden Virginia is a pleasant and secluded half acre property that was acquired on November 17th, 2021. The property will be used primarily as a vacation home and short-term rental. Living between the suburbs of two major cities (Washington DC and Baltimore), I have always looked forward to the times I have the chance to escape to a calmer surrounding such as Linden, Virginia. To have the opportunity to purchase a second home here, to me, means a great deal as this provides a place for my family and I to come and enjoy nature without having to travel too far. I'm also excited that this home can serve as a place for my family to host our extended family and friends for a getaway. Beyond that, it also provides a place for others who enjoy nature or are seeking an escape from the hustle and bustle of city life or suburbia to come and enjoy while the house is not in use by my family.

Over the past month, I have gone to the property myself to do work to get it ready for future stays. I have also contracted with local companies to get work done. Please note, this property will not be used as a hotel, but rather as accommodations for known guests that are family/friends or other vetted individuals. We would not want to rent the property to any individuals who could potentially disturb neighbors, the environment, or community; ergo, the approval of this rental property should have no negative impact on the surroundings.

Purchasing this home was and is an important decision of mine. I plan on treating the home and community it is in as such. Therefore, enforcement of house rules (for any guests, including my own family!) is a top priority of mine. I would like to enjoy the property and community for years to come; that is only achieved through clear house rules that are strictly enforced.

The property features a large front yard, family/pet friendly backyard, three bedrooms, two full bathrooms, a living room, and full kitchen; no other amenities are located on the property. I feel as though this house is a great place for many people to be able to enjoy the local scene and nature - I know I will. Thank you for your consideration.

Sincerely,

Pratik Patel

WARREN COUNTY CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-02-04
 Date Received: 1-12-22
 Fee Amount: \$ 500.00
 Date Paid: 1-12-22 CK# 110

Applicant Information:

Pratik Patel

Applicant Name

9902 Sienna Way Laurel MD 20723
Address City State Zip

368 Freeze Road Linden VA 22642

Property Location for conditional use permit if Different than Applicant's Address

240-338-5357 Onyxcg1@gmail.com
Primary Contact Number Email

Property Owner (if same as applicant, leave blank)

Address City State Zip

Primary Contact Number

Respectfully request that a determination be made by the Warren County Planning Commission and Board of Supervisors on the following request for a Conditional Use Permit for the property described below.

A. Property Information:

- (1) Address/Location: 368 Freeze Rd, Linden, VA 22642
- (2) Election District: Shenandoah
- (3) Tax Map Number: 23C 2 2 193
- (4) Subdivision Name: Mountain View Section Part 2 - Shenandoah Farms
- (5) Total Area of Property (acres): .46
- (6) Total Area to be Used (acres): .46
- (7) Total Road Frontage (feet): 100
- (8) Depth of Property (feet): 200
- (9) Present Zoning: Residential One

B. Proposed Use of Property

- (1) State the proposed use(s) for the Conditional Use Permit: Short Term Tourist Rental
- (2) Current land use and condition of site: Residential One - good
- (3) Zoning of surrounding land/property: Residential One
- (4) Will development be staged? ☐ Yes ☒ No
- (5) Construction Time: NA
- (6) Season, days, and hours of operation: 4-6 months (spring/summer/fall)
- (7) Will there be a sign? ☐ Yes ☒ No
(If yes, please submit a sketch of the sign(s) showing size and shape and the sign permit check list with this application.)
- (8) Has there been any prior application for a conditional use permit/variance for this property? (If yes, enter the permit number and/or name, date of action, action taken by the Planning Commission, Board of Zoning Appeals and/or Board of Supervisors and a description of the request.) NA
- (9) Number of full time employees: 1
- (10) What type of sewage disposal system will be used? ☒ Private ☐ Central ☐ Public
- (11) Number of persons to be served by the sewage disposal system: 4
- (12) Number of parking spaces to be provided: Regular 3 Handicap _____
- (13) What is the proposed landscaping and buffering for this property? _____
Welcoming and minimal front landscaping to include plants and borders
around flower beds. No major plans for the backyard at this time.

C. Plans Prepared By

Name: NA

Address: NA

Telephone Number: NA

D. Environmental Information

- (1) Will this proposed use adversely impact the community of the environment? (If yes, what are the adverse impact(s) and what is proposed to solve these adverse impacts?) _____
No
- _____
- _____
- _____

- (2) Will there be any debris generated from the activity? (If yes, where and in what manner will the debris be stored and how and where will it be disposed of?) _____
No - ensured trash (large and small) that the previous
owner had left was disposed of off the property _____

- (3) Will any potentially hazardous substances be used and/or stored on the property? (If yes, list the substances, their use and disposal of containers and substance residues.) _____
No _____

- (4) List any potentially hazardous emissions including, but not limited to: fumes, gases, smoke noise, liquid effluent, waste water, dust, and state what measures will be used to control these emissions. _____
NA _____

- (5) Will there be any electrical or electronic activity which will interfere with local communications or telephone, television or radio reception? (If yes, describe the type of activity and potential interference.) _____
No _____

- (6) What will be the impact on traffic? _____
No _____

- (7) Will exterior lighting be used? (If yes, state the number of lights and the wattage of each. A lighting plan or lighting contour map may be required to show the nearest candle power as measured at ground level. _____
No _____

**The following documents and/or information are required
to be submitted with the application:**

☒ **An application fee of \$500.00.**

Make payable to the Treasurer of Warren County. A non-refundable fee of \$500.00 will be required at the time of submittal.

☒ **A Statement of Justification**

This printed or typed statement is to be addressed to the Warren County Planning Commission. It is to summarize your proposed use and highlight any aspects of the request which are not addressed in the application form. Please note, the statement is required to be on 8 ½ x 11 size paper.

☒ **A Site Plan/Survey.**

Your site plan should show the property boundaries, existing or proposed structure(s), adjacent roads, and any other pertinent information which would help outline your proposed use. A recent survey with the proposed uses/structures located on it will serve as a site plan for the purposes of this permit. The Planning Director, Planning Commission and/or the Board of Supervisors reserve the right to ask for an engineered site plan, if they deem it necessary for evaluation of the proposed conditional use permit.

☒ **Sewage Disposal and Well Site.**

Location of the existing or proposed septic system & drainfield and the well site are to be indicated on the survey or central/public connection location.

☒ **A copy of the deed to the property verifying the current ownership.**

A copy may be obtained at the Warren County Courthouse, Circuit Clerk's Office.

☒ **A statement verifying that real estate taxes have been paid.**

This may be obtained from the Treasurer's Office in Suite 800 of the Warren County Government Center.

☒ **Environmental and Community Impact Statements**

The Planning Director, the Planning Commission, and/or the Board of Supervisors reserve the right to ask for an environmental and/or community impact statements, prepared by a certified engineer or other person qualified to perform such work, if they deem it necessary for evaluation of the proposed request.

☒ **List of chemicals stored on the site**

A complete list of chemicals to be stored on the site in the form of an oath/statement for Industrial zoned properties only.

☒ **Location Map**

A map clearly legible, showing the location of the proposed project in relation to surrounding publicly maintained roads and showing the use of surrounding properties. County staff can assist in obtaining this information.

☒ **Directions to your property from the Warren County Government Center.**

Take E 3rd St to N Commerce Ave

Take VA-55 E to State Rte 638 towards Linden

Continue on State Rte 638, drive to Freeze Rd, turn left on High Top Rd

Turn left on Crossway Ln, Turn right on Freeze Ln, turn right onto Property drive
way

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for a Conditional Use Permit, shall be charged to the applicant.

P. Patel 1/11/22
Applicant Signature Date

P. Patel 1/11/22
Property Owner Signature Date

Accepted by: _____ Date: _____

PLEASE NOTE: If the required documents are not provided and/or the application is incomplete, your application will not be placed on the Planning Commission Agenda.

NOTES

Management Plan

Overview:

Pratik Patel and Chirag Pancholi own and manage 368 Freeze Rd as friends and business partners. The owners wish to frequently visit the property to escape city life and to also offer it to other friends and trusted guests for the same escape. It is approximately two hours from our primary residences however the owners plan to actively manage the property and its operations with the help of a local property management team.

The Home:

From time to time when the house is not in use for personal stays, the property will be open for friends and guests to stay on a short term basis. This will provide trusted guests the ability to come to a secluded house surrounded by nature and also contribute to the local community tourism. The home is available to a maximum of 4 guests at a time. All safety precautions such as security system, exterior cameras, fire extinguisher, flood sensor, smoke and co detectors are fully functioning and available to guests. The basement which is currently unfinished will be locked and not accessible to guests.

Operations:

Upon screening and accepting stays from other guests, guests will be provided a copy of the Guest Welcome Packet attached to this management plan which will provide all the information they will need before, during, and after their stay. The owners will be in full and open communication with guests for whatever they need and plan to respond immediately to issues, complaints, and or concerns. If immediate attention is required at the property, our local property management team will be available and can arrive in a timely fashion.

Neither the property nor the immediate surrounding areas provide outdoor amenities therefore we do not anticipate any issues or complaints from neighbors or other tourists.

Marketing Plan:

When the property is deemed available by the owners, the owners will turn to their direct network connections looking to stay or use an online platform where potential guests are screened, reviewed, and vetted. Fees will vary depending on demand, season, and competition.

Property Information:

This secluded home is located deep in the mountains of the Shenandoah Farms district. It features three bedrooms, a full kitchen, a cozy living room with a fireplace, and an open back yard. You will find yourself surrounded mostly by trees, greenery, and a few neighbors in the distance. Built in 2007, the house has its own private well for water supply and a private septic tank. All of the flooring, bathrooms, kitchen, and appliances have been upgraded recently and are well maintained. The driveway is private and has space for 3 cars in addition to a covered carport. Temperature and climate can be controlled by the guest using a digital thermostat.

This is the perfect get away location for a family or couple that is looking to escape the hustle and bustle of city life for a week, weekend, or month. The peaceful sounds and ambiance surrounding the property create an unmatched environment to relax and enjoy the quiet side of life. You may even see deer trek across the front yard (they should not be disturbed!). With all household necessities provided, you may not even need to leave the property...the home is also fully equipped with entertainment including a 65 inch smart TV and board games. For those who would like to explore the great town of Front Royal, the property is within a few miles - a short drive to many fine eateries as well as breweries and wineries. Come experience the serenity yourself!

Local Attractions:

- Marriott Ranch Trail Barn
- Skyline Caverns
- Shenandoah Valley Discovery Museum
- Dinosaur Land
- Luray Caverns

Local Restaurants:

- The Apple House
- Soul Mountain Restaurant & Bar
- El Maguey Mexican Restaurant
- PaveMint Smokin' Taphouse
- Melting Pot Pizza
- ViNoVa Mediterranean Bistro
- Blue Wing Frog
- Mom's Country Kitchen
- Rancho Nuevo
- Spelunker's

Activities:

- Bowling Green Country Club
- Trumbo Hollow Hike Trailhead
- Fantasyland Playground
- The Underground Railroad Experience Trail
- Thompson Lake

Breweries & Wineries:

- Linden Vineyards
- Capstone Vineyards
- The Apple House
- Chester Gap Cellars
- Arterra Wines
- Fox Meadow Winery

Emergency Information:

Name	Number	Address	Notes
Warren County Sheriff's Office	911	200 Skyline Vista Drive, Front Royal, Virginia 22630	Sheriff Mark A. Butler
Warren Memorial Hospital	540-636-0300	351 Valley Health Way, Front Royal, VA 22630	9.3 miles away
Valley Health	540-536-8000	295 Front Royal Pike, Winchester, VA 22602	26.6 miles away
Linden Volunteer Fire Department	540-636-3473	4561 John Marshall Hwy, Linden, VA 22642	5.4 miles away
Local Property Management Team Emergency Contact	540-671-3676		Olivia Dougherty
Owners	Pratik Patel 240-338-5357 Chirag Pancholi 919-800-7729		Onyxcg1@gmail.com

Emergency Evacuation Route:

1. Head south (turn left from driveway) on Freeze Rd toward Crossway Ln - 0.4 mi
2. Turn left onto Crossway Ln - 430 ft
3. Turn right onto High Top Rd - 0.6 mi
4. Turn right onto State Rte 638

Trash and Recycling:

Place full trash bags and recyclables in large gray trash canister located in the covered carport. Trash and recycling will be segregated and put out for pick up after your stay. As this house has a septic tank, we would appreciate it if all kitchen refuse goes into the trash bin NOT down the sink. Oil and grease can be placed into the marked container and will be cleared after your stay.

Household supplies, amenities, and items we provide and make available:

- Smart television
- Bluetooth sound bar
- Paper towels
- Kitchen linens
- Salt, pepper, and basic seasoning/spices
- Basic set of pots and pans
- Cooking, serving, and eating utensils
- Keurig coffee machine with K cups
- Bathroom linens
- Toilet paper
- Soap, shampoo, conditioner, and body wash
- Laundry detergent
- Bedroom linens, pillows, and blankets
- No physical keys to keep track of, both locks are digital
- Trash bags

House Rules:

- No smoking inside the house
- No use of illegal drugs on the premises
- No shooting firearms on the premises
- No loud music at any time
- No parking on the street of Freeze Road



**368 Freeze Road
Linden, VA 22642**

Hosts: Pratik Patel & Chirag Pancholi
Email: Onyxcg1@gmail.com
Phone: 240-338-5357

Lord Fairfax Health District



Warren County Health Department
465 West 15th Street, Suite 200
Front Royal, Virginia 22630
Tel. (540) 635-3159 ~ Fax (540) 635-9698
www.vdh.virginia.gov



January 26, 2022

Matt Wendling, Deputy Planning Director
Warren County Planning and Zoning
220 N Commerce Ave., Suite 400
Front Royal, Virginia 22630

RE: Request for Comments (2022-02-04)
Owner: Pratik Patel

Dear Mr. Wendling,

I have reviewed your request for comments regarding the property at 368 Freeze Rd. Linden, VA (Tax Map# 23C-2-2-193) and I offer the following comments:

1. There is a Construction Permit, ROI and Operation Permit on file for the referenced property dated 12/11/2006, 4/10/2007 and 6/20/2007 respectively.
2. The dwelling is served by a Conventional Onsite Sewage System (COSS). The COSS is designed for Three (3) Bedrooms Conditional to Four (4) Occupants and 300 gallons per day.
3. The dwelling is served by a private Class IIIB Well. A sample of the water should be collected and tested by a state approved lab at least annually for the presence/absence of Total/Fecal Coliform.
4. All refuse shall be placed in containers with tight-fitting lids.
5. Do not connect any Jacuzzi or hot tub discharge to the sewage disposal system.

Please contact me at (540) 635-3159 should you have any questions.

Sincerely,

Jim Davis
Environmental Health Supervisor

From: David Beahm
To: Chloe Phillips
Cc: Joe Petty; Paula Frisoe
Subject: Request for Comments 2022-02-04 – Pratik Patel – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000161-2022
Date: Thursday, January 27, 2022 2:22:00 PM
Attachments: image001.png
image004.png

Comments 2022-02-04 – Pratik Patel – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000161-2022:

NOTE: There appears to be a carport/metal structure located on the property that we have no record of being permitted. Please provide information on the permit status of this prior to this office approving this application. Once this issue has been addressed the following comments will still remain.

- Erosion and Sediment Control Items:
 - There does not appear to be any land disturbance at this time and therefore nothing would be required. If this is not the case, the normal submission process would be required.
- Building Inspections Items:
 - The use of the existing dwelling(s) for a “short-term rental” would require a building permit to establish it as a transient boarding facility which is the term used by the building code for this type of use. The dwelling would receive a new Certificate of Occupancy designating as a short-term rental.
 - Given the timeframe that the structure was originally built it may not require an Electrical permit to meet the building code requirements for this change.
 - The requirement is for smoke detectors to be installed as required by the Virginia Residential Building Code.

If anything should change in the scope additional requirements may be required.

Respectfully,

	Warren County Building Inspections Office
David C. Beahm, CBO Building Official	220 North Commerce Avenue Suite 400 Front Royal, VA 22630 540/636-9973 FAX 540/636-4698
dbeahm@warrencountyva.net	www.warrencountyva.net

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Matt Wendling

From: P.O.S.F BUSINESS <shenandoahfarms@comcast.net>
Sent: Thursday, February 3, 2022 12:45 PM
To: Matt Wendling
Subject: 2022-02-04

We have no issues with this permit.

Respectfully,

Property Owners of Shenandoah Farms

6401 Howellsville Road

Front Royal, VA 22630

(540) 837-2068



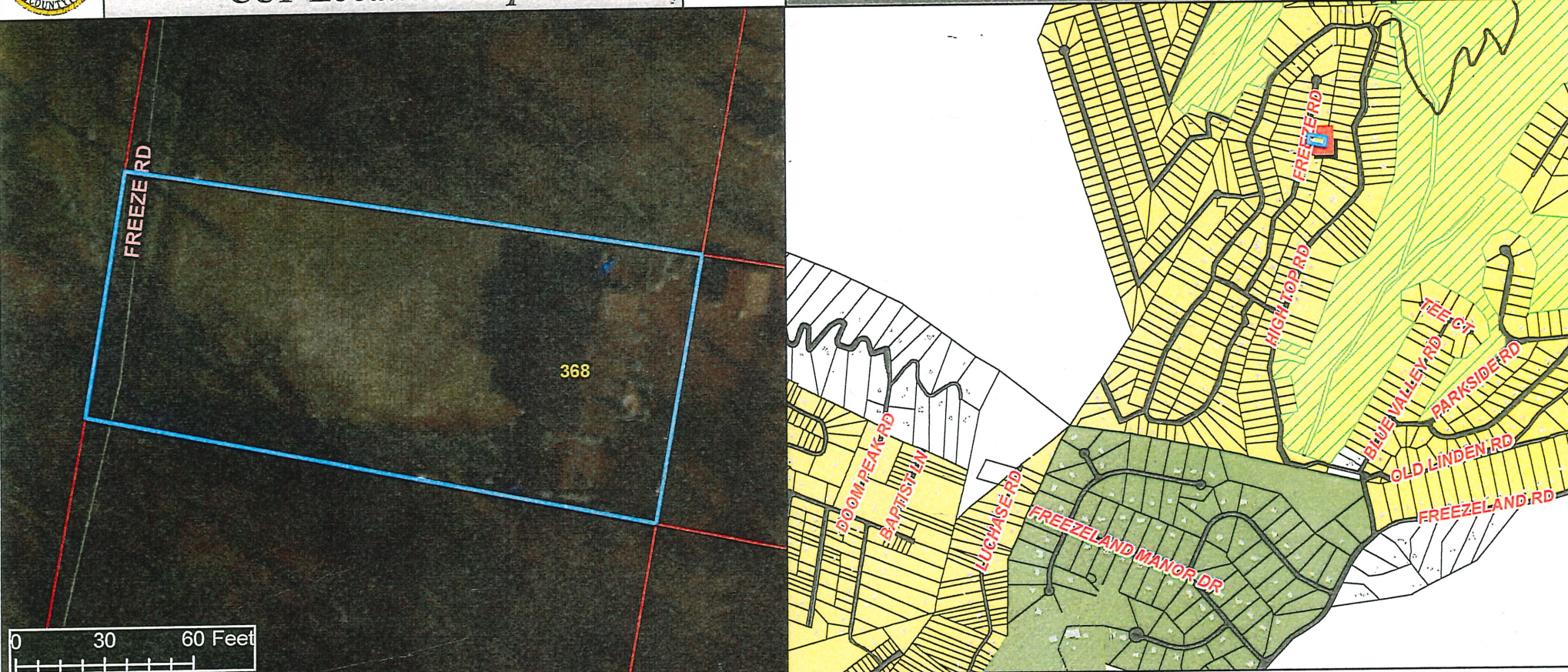
Warren County VA

CUP Location Map

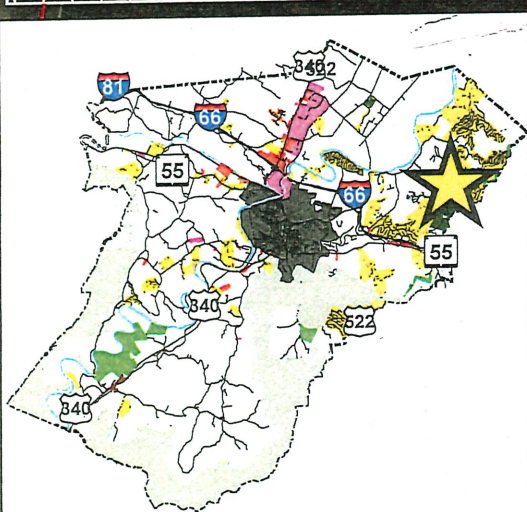


Short Term Tourist Rental
Applicants: Pratik Patel

23C--2-2-193
Shenandoah Farms - Mountain View Section



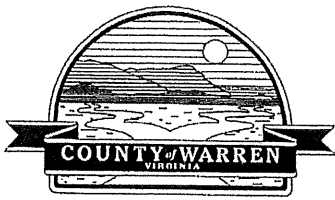
0 30 60 Feet



Zoning

Agricultural	Rural Residential
Commercial	Right of Way
Industrial	Front Royal
Residential One	Federal Land
Residential Two	State Land
Suburban Residential	Water
Village Residential	VOF Conservation Easements
	WC Conservation Easements

Map produced by
Warren County GIS 2021
Department of Planning



COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:
04/05/2022	G-12	Conditional Use Permit #2022-02-05 Michael & Judith Albarelli <i>Short-Term Tourist Rental</i>
<u>EXPLANATION & SUMMARY:</u> See attached application and staff report. General standards/conditions. In addition to the specific standards set forth hereinafter with regard to particular conditional uses, all such uses shall satisfy the following general standards: 1) The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan. 2) The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations. 3) The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof. 4) The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or in conflict with the existing and anticipated traffic in the area. 5) Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. 6) In determining whether or not to grant a permit and in determining conditions to be imposed, the governing body shall take into consideration the objectives and intent of this chapter and may impose reasonable conditions that: a) Abate or restrict noise, smoke, dust or other elements that may affect surrounding properties. b) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion. c) Provide for adequate parking and ingress and egress to public streets or roads. d) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property. e) Prevent such use from changing the character and established pattern of development of the community.		

PLANNING COMMISSION STATUS:

On Wednesday, March 9, 2022, Mrs. Richardson moved to forward this application to the Board of Supervisors, recommending approval. The motion was seconded by Mr. Henry and approved by the Planning Commission by a vote of 4-0.

RECOMMENDED CONDITIONS:

Staff recommends that if the Board of Supervisors is going to approve of this request that the following conditions should be applied:

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four as determined according to the Health Department permit for a two-bedroom dwelling.
3. The applicants shall provide documentation to County Staff for the maintenance of the sewage treatment system as recommended by the Warren County Health Department.
4. The applicants shall have the well water tested annually for e- coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments by the end of the calendar year.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on the state road shall be prohibited.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize the proposed Conditional Use Permit request for a Short-Term Tourist Rental for advertisement of a public hearing.

SUBMITTED BY:

Chase Lenz,
Zoning Administrator

DISPOSITION OF BOARD:

☐ APPROVED ☐ OTHER (Describe)

**PROCESSED
BY:**



Conditional Use Permit: 2022-02-05 / Short-Term Tourist Rental
Michael & Judith Albarelli, *Current Owners/Applicants*
Prepared: January 25, 2022
Staff Contact: Chase Lenz, Zoning Officer

SUMMARY OF REQUEST

The applicants are requesting a conditional use permit for a short-term tourist rental for a restored 18th-century log cabin they purchased in 2018. The dwelling will be available seasonally from April to November for short-term rentals for individuals visiting the Warren County area. The owners would like to use the property to serve visitors of the Shenandoah Valley as a quiet respite from hiking, canoeing, cycling, or other activities. The applicants currently live on Broad Run Road and will be managing the property personally. They have been operating a short-term tourist rental on a separate property on Broad Run Road since it was approved in 2019.

PROPERTY INFORMATION

Property Location: 740 Broad Run Road
Tax Map ID: 44-----38D
Magisterial District: South River
Subdivision: N/A

City: Browntown
Zoning: Agricultural (A)
Acres: 15.00 Acres
Existing Land Use: Single Family Dwelling

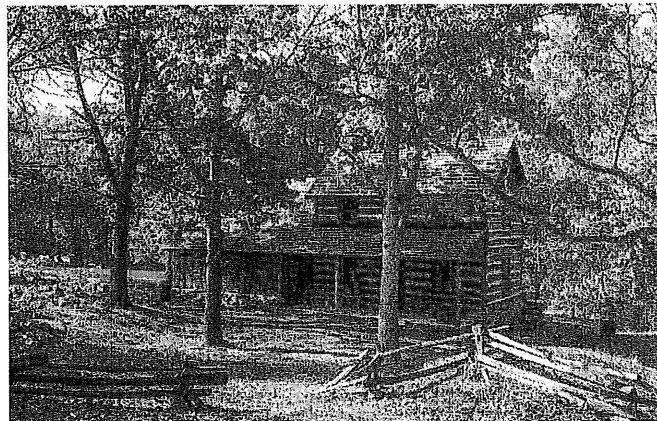
SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A)
South: Agricultural (A), Federal
East: Agricultural (A), Federal
West: Agricultural (A)

Use: Single Family Dwelling
Use: Vacant Lot - Woodlands, Shenandoah National Park
Use: Vacant Lot - Woodlands, Shenandoah National Park
Use: Single Family Dwelling

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Agricultural zoning district. The original smaller section of the cabin was constructed in the 18th century and the larger section was added in the 1980s. No zoning violations have been recorded for the property.



COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for agricultural/residential land uses. A short-term tourist rental is a use allowed by conditional use permit in the Agricultural zoning district and is compatible with the current Warren County Zoning Ordinance.

SUPPLEMENTARY REGULATIONS

Warren County Zoning Ordinance: § 180-56.4: Short-term tourist rentals.

- A. The owner of a dwelling unit to be used for a short-term tourist rental shall apply and receive a zoning permit and/or a conditional use permit from the Planning Department prior to utilizing the dwelling unit as a short-term rental. The permit shall be reviewed by planning staff on an annual basis to ensure compliance with the performance standards listed in this section, along with all conditions placed on the conditional use permit, if applicable. Warren County may revoke a permit for repeated noncompliance with these performance standards.
- B. The maximum number of occupants in the dwelling unit shall be determined according to permit approval received by the Warren County Health Department; however, the maximum number of occupants shall not exceed 10. There is a Health Department permit on file approving four (4) occupants for the dwelling. The applicants are requesting a four (4) person maximum. Warren County Assessment data lists two (2) bedrooms in the dwelling.
- C. Parking for the use shall be located in driveways or other designated and approved parking areas. The parking of vehicles is prohibited in or along all rights-of-way and in yards. There is sufficient parking for at least four (4) vehicles in the driveway.
- D. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times. Existing woodlands on the property fully screen the dwelling from all adjacent property boundaries.
- E. There shall be no visible evidence of the conduct of such short-term rentals on the outside appearance of the property.
- F. A fire extinguisher shall be provided and visible in all kitchen and cooking areas; smoke detectors shall be installed in all locations as identified in the Uniform Statewide Building Code, and a carbon monoxide detector must be installed on each floor in every dwelling. The applicant shall obtain building permits to ensure the dwelling meets the current code requirements for fire protection systems.
- G. The owner of a dwelling used for short-term tourist rentals shall give the County written consent to inspect any dwelling used for short-term rental to ascertain compliance with all of the above performance standards upon a 24-hour notice.
- H. A property management plan (PMP) demonstrating how the short-term tourist rental will be managed and how impacts to neighboring properties will be minimized shall be submitted for review and approval as part of the permitting process to the Planning Department. The plan shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, utility issues, etc. It shall also be posted in a visible location in the short-term rental. The contact numbers shall be provided to county staff, public safety officials, and if applicable, the HOA/POA of the subdivision. The plan must be provided as a part of the rental contract. The PMP has been provided and shall be reviewed by Planning staff.
- I. If the property is located within a subdivision governed by a Home Owners Association/Property Owners Association, the Planning Department must receive a recommendation of approval or disapproval from the HOA/POA to operate the short-term tourist rental. There is no HOA or POA associated with the property.
- J. The short-term tourist rental shall have a "land-line" with local phone service. The phone number servicing the short-term tourist rental shall be included in the property management plan.

- K. The owners of the tourist rental shall provide an emergency evacuation plan for the dwelling and the neighborhood. The property shall have the evacuation plan posted in each bedroom and in the guest registration packet.
- L. A copy of Chapter 123 of the Warren County Code relative to noise must be provided at the short-term tourist dwelling. The applicant shall have a copy of the ordinance in their guest registration packet and posted in a common area of the dwelling.
- M. Failure to comply with the approved conditions and/or supplemental regulations will subject the permit to revocation as described in §180-63 of the Warren County Zoning Ordinance.
- N. All outdoor burning shall be in compliance with Chapter 92 of the Warren County Code.
- O. There shall be a minimum of 100' from the short-term tourist rental to all neighboring residences. The dwelling meets the setback requirement to adjacent single-family dwellings. The closest dwelling is 740' to the northwest.

RECOMMENDED CONDITIONS

Planning Staff is recommending the following conditions be added to this conditional use permit if the Planning Commission chooses to recommend approval of this permit to the Board of Supervisors. *Please note that additional conditions may be added after all agency comments have been received, prior to the Planning Commission public hearing.*

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four as determined according to the Health Department permit for a two-bedroom dwelling.
3. The applicants shall provide documentation to County Staff for the maintenance of the sewage treatment system as recommended by the Warren County Health Department.
4. The applicants shall have the well water tested annually for e- coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments by the end of the calendar year.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on the state road shall be prohibited.

Cc: Michael & Judith Albarelli – Owners/ Applicants

To: Warren County Planning Commission

From: Michael and Judith Albarelli

Subject: Statement of Justification to Accompany CUP for Short-Term Rental

Owners are requesting a conditional use permit to allow the short-term tourist rental of our fully restored 18th century log cabin located on the aforementioned 15 acre property plat at 740 Broad Run Road in Browntown, VA. The cabin is located approximately 600 yards away from our residence, and is bordered on all sides by property we own. It will be rented to tourists, and guests who desire respite from hiking, have plans to hike and/or canoe nearby; mountain bicyclists; naturalists; and those visiting the Shenandoah Valley area. All guests that apply for cabin rental will first identify the purpose and intended activities during their stay. Cabin rental will occur from April through November. (The cabin is closed four months of the year). Owners will be available nearby during cabin occupancies, and there will be no disruptive activities or noise problems.

In keeping with its 18th century character, the cabin is without internet, television, amplified sound systems, central heating or air conditioning. Included however, is the convenience of indoor plumbing and tested mountain spring water. Renters will have immediate access to nearly 500 acres of wooded hiking trails and mountainside scenery. A map with detailed locations of the hiking trails is made available to each renter.

As detailed in the risk management plan, all guests are greeted personally upon arrival and informed first hand of rules and emergency protocols. In the event of emergencies, owner has a medical background and is CPR trained and certified. In addition, first-aid medical supplies are furnished at the cabin, along with emergency contact numbers, addresses and directions. Although cell phone service has improved greatly in the area, renters will also have access to the house land line in case of incoming or outgoing emergency calls. While the discharge of firearms and hunting is prohibited to renters, during hunting season renters will be encouraged to wear orange vests and/or hats available at the cabin. All of the other requirements detailed in Warren County's short-term tourist rentals supplemental regulations will be met.

Homeowner liability and medical insurance is maintained by two policies including a homeowner's policy on both the owner residence and cabin, and a supplemental liability catastrophe protection policy on the entire property including all acreage and trails.

Finally, the owner's will encourage renters to patronize local commerce. Owners have a working relationship with the staff of "Discover Front Royal", and will bring into play our knowledge of the many recreational and tourist related opportunities in the area.

B. Proposed Use of Property

- (1) State the proposed use(s) for the Conditional Use Permit: SHORT-TERM RENTAL
- (2) Current land use and condition of site: SINGLE family dwelling
- (3) Zoning of surrounding land/property: Agricultural
- (4) Will development be staged? ☐ Yes ☒ No N/A
- (5) Construction Time: N/A
- (6) Season, days, and hours of operation: SEASONAL APR - NOV
- (7) Will there be a sign? ☐ Yes ☐ No
(If yes, please submit a sketch of the sign(s) showing size and shape and the sign permit check list with this application.)
- (8) Has there been any prior application for a conditional use permit/variance for this property? (If yes, enter the permit number and/or name, date of action, action taken by the Planning Commission, Board of Zoning Appeals and/or Board of Supervisors and a description of the request.) NO
- (9) Number of full time employees: N/A
- (10) What type of sewage disposal system will be used? ☒ Private ☐ Central ☐ Public
- (11) Number of persons to be served by the sewage disposal system: 4
- (12) Number of parking spaces to be provided: Regular 2 Handicap _____
- (13) What is the proposed landscaping and buffering for this property? Wooded

C. Plans Prepared By

Name: MICHAEL ALBARELLI

Address: SAME

Telephone Number: SAME

D. Environmental Information

- (1) Will this proposed use adversely impact the community of the environment? (If yes, what are the adverse impact(s) and what is proposed to solve these adverse impacts?) _____

NO

- (2) Will there be any debris generated from the activity? (If yes, where and in what manner will the debris be stored and how and where will it be disposed of?) _____

Household trash only - metal trash containers &
Recycle containers provided and removed by owner.

- (3) Will any potentially hazardous substances be used and/or stored on the property? (If yes, list the substances, their use and disposal of containers and substance residues.) _____

NO

- (4) List any potentially hazardous emissions including, but not limited to: fumes, gases, smoke noise, liquid effluent, waste water, dust, and state what measures will be used to control these emissions. NONE

- (5) Will there be any electrical or electronic activity which will interfere with local communications or telephone, television or radio reception? (If yes, describe the type of activity and potential interference.) NO

- (6) What will be the impact on traffic? NOMINAL

- (7) Will exterior lighting be used? (If yes, state the number of lights and the wattage of each. A lighting plan or lighting contour map may be required to show the nearest candle power as measured at ground level. NO

The following documents and/or information are required
to be submitted with the application:

☒ An application fee of \$500.00.

Make payable to the Treasurer of Warren County. A non-refundable fee of \$500.00 will be required at the time of submittal.

☒ A Statement of Justification

This printed or typed statement is to be addressed to the Warren County Planning Commission. It is to summarize your proposed use and highlight any aspects of the request which are not addressed in the application form. Please note, the statement is required to be on 8 1/2 x 11 size paper.

☒ A Site Plan/Survey.

Your site plan should show the property boundaries, existing or proposed structure(s), adjacent roads, and any other pertinent information which would help outline your proposed use. A recent survey with the proposed uses/structures located on it will serve as a site plan for the purposes of this permit. The Planning Director, Planning Commission and/or the Board of Supervisors reserve the right to ask for an engineered site plan, if they deem it necessary for evaluation of the proposed conditional use permit.

☒ Sewage Disposal and Well Site.

Location of the existing or proposed septic system & drainfield and the well site are to be indicated on the survey or central/public connection location.

☒ A copy of the deed to the property verifying the current ownership.

A copy may be obtained at the Warren County Courthouse, Circuit Clerk's Office.

☒ A statement verifying that real estate taxes have been paid.

This may be obtained from the Treasurer's Office in Suite 800 of the Warren County Government Center.

☐ Environmental and Community Impact Statements

The Planning Director, the Planning Commission, and/or the Board of Supervisors reserve the right to ask for an environmental and/or community impact statements, prepared by a certified engineer or other person qualified to perform such work, if they deem it necessary for evaluation of the proposed request.

☐ List of chemicals stored on the site

A complete list of chemicals to be stored on the site in the form of an oath/statement for Industrial zoned properties only.

☒ Location Map

A map clearly legible, showing the location of the proposed project in relation to surrounding publicly maintained roads and showing the use of surrounding properties. County staff can assist in obtaining this information.

☒ Directions to your property from the Warren County Government Center.

BROWNTOWN RD INTO BROWNTOWN. STRAIGHT ONTO
GOONEY MANOR LOOP RT 631; LEFT ONTO FETCHETT RD,
RT 632; LEFT ONTO BROAD RUN RD, RT 633; @
end of state maintenance stay straight onto
PRIVATE ROAD (1/3 mile to end).

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for a Conditional Use Permit, shall be charged to the applicant.

Michael Altarelli
Applicant Signature

January 18, 2022
Date

Michael Altarelli
Property Owner Signature

January 18, 2022
Date

Accepted by: Chase Lang

Date: 1/21/2022

PLEASE NOTE: If the required documents are not provided and/or the application is incomplete, your application will not be placed on the Planning Commission Agenda.

NOTES

Cabin Rental Management Plan
740 Broad Run Road, Browntown, VA
January 2022

Summary

Management considerations included in this document are not intended to be all-inclusive. They will change and be amended as the owners become more experienced with rentals and County requirements are changed. At this time, the information below presents the most important actions necessary to the safe and successful operation of our short term rental. This Plan has been presented to the Warren County Planning Commission and staff and meets all current local government requirements for short term rentals.

Owners will maintain insurance coverage on all claims by renters relating to bodily injury and property damage. In addition, liability coverage on the entire property will be maintained. Fire protection on the building will also be maintained.

Rentals Bookings and Renter Notifications

A booking schedule will be maintained annually. At the time of booking all guests will be notified of their responsibilities, directions, check in/out times, and amenities included, (e.g., fire and carbon monoxide detectors, wood stove & firewood, hiking trails and camp sites, etc), as well as those things not provided, (e.g., central heating and air conditioning, land line telephone and internet service). It is noted that most cell phone carriers receive service at the property, and a hot spot device has been provided at the cabin to boost both internet and cell phone reception. Until Centel (local telephone carrier) upgrades the necessary lines in Browntown, renters will be informed of their optional use of our house land line phone, and in case of emergencies arrangements will be made with the closest neighbors. The owners and/or their surrogates will be on site and available during all renters stays. Cancellation policies will also be included in renter notifications. In the event of severe weather warnings, renters will be notified and encouraged to cancel their stay without penalty. Owners reserve the right to cancel rental reservations in the event of severe weather warnings.

Actions necessary to the safety and comfort of rental guests are both common sense by nature and unique to the conditions and environ of our property. For example, in the event of power outages a full range of lamps and flash lights will be available. For hikers, detailed maps and pathway markings will be available, as well as a medical emergency kits, orange hats and vests, and a full supply of insect repellants and insect and snake bite kits are provided.

Property Maintenance and Renter Information

Every effort will be undertaken to maintain a safe and comfortable environment for renters. The property will be cleaned after every rental, clean linens, toiletries, and kitchen utensils will be provided and bottled water included for those not wanting to consume spring water. (In this regard, the house water will be inspected annually, and the report posted at the property). In addition, the septic system and the wood burning stove will be inspected and serviced in accordance with the schedule directed by the installation/service companies. The landscape will be professionally maintained throughout the rental months. Whereas, the cabin is located on approximately 600 yards of private (trespasser restricted) road. This roadway will be maintained by the owners during the months the cabin is available for rent.

Every effort will be made to provide all information and notifications necessary for the safe and comfortable renter stay. For example, detailed instructions for the safe operation of the wood stove will be posted. A full range of pamphlets and tourist guides will be available, as well as the annual hunting season schedule. A detailed map and directions to the hospital is provided. No hunting or discharge of firearms is permitted on the property, and fire pit burning is restricted to conform to County schedules and in a pit constructed for this purpose and adjacent to an outdoor water hose. In addition, the names and telephone numbers of emergency service providers will be posted including fire, police/sheriff, ambulance, and automobile towing/service calls) along with our plumber and electrician.

Lord Fairfax Health District

Warren County Health Department

465 West 15th Street, Suite 200

Front Royal, Virginia 22630

Tel. (540) 635-3159 ~ Fax (540) 635-9698

www.vdh.virginia.gov



January 26, 2022

Chase Lenz, Zoning Officer
Warren County Planning and Zoning
220 N Commerce Ave., Suite 400
Front Royal, Virginia 22630

RE: Request for Comments (2022-02-05)
Owner: Michael & Judith Albarelli

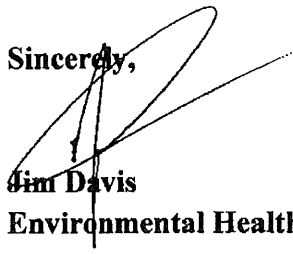
Dear Mr. Lenz,

I have reviewed your request for comments regarding the property at 740 Broad Run Rd. Bentonville, VA (Tax Map# 44-38D) and I offer the following comments:

1. There is a Construction Permit and ROI on file for the referenced property dated 4/20/1993 and 6/07/1993 respectively.
2. The dwelling is served by a Conventional Onsite Sewage System (COSS). The COSS is designed for Two (2) Bedrooms, Four (4) Occupants and 300 gallons per day.
3. The dwelling is served by a Spring. A water sample should be collected and tested by a state approved lab at least annually for the presence/absence of Total/Fecal Coliform. The owner should consider installing chlorination or UV disinfection to the house plumbing if not already equipped.
4. All refuse shall be placed in containers with tight-fitting lids.
5. Do not connect any Jacuzzi or hot tub discharge to the sewage disposal system.

Please contact me at (540) 635-3159 should you have any questions.

Sincerely,



Jim Davis

Environmental Health Supervisor

Chloe Phillips

From: David Beahm
Sent: Tuesday, January 25, 2022 3:01 PM
To: Chloe Phillips
Cc: Joe Petty; Paula Fristoe
Subject: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

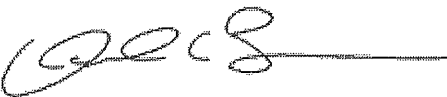
Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022:

NOTE: Prior to giving approval for this request, additional information will be required to be submitted to fully understand the applicant's statement, "of our fully restored 18th century log cabin." It doesn't appear that any permits have been applied for or approved and inspected for any work at this location. While the work may not require permitting, that will need to be clarified before any approval can be given. Once this issue has been addressed the following comments will still remain.

- Erosion and Sediment Control Items:
 - There does not appear to be any land disturbance at this time and therefore nothing would be required. If this is not the case, the normal submission process would be required.
- Building Inspections Items:
 - The use of the existing dwelling(s) for a "short-term rental" would require a building permit to establish it as a transient boarding facility which is the term used by the building code for this type of use. The dwelling would receive a new Certificate of Occupancy designating as a short-term rental.
 - Given the timeframe that the structure was originally built it more than likely will require an Electrical permit to meet the building code requirements for this change.
 - The requirement is for smoke detectors to be installed as required by the Virginia Residential Building Code.

If anything should change in the scope additional requirements may be required.

Respectfully,



Warren County Building Inspections



David C. Beahm, CBO
Building Official

220 North Commerce
Su
Front Royal, VA
540/636
FAX 540/636

dbeahm@warrencountyva.net

www.warrencountyva.net

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Re: Fw: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

Chase Lenz <clenz@Warrencountyva.net>

Thu 1/27/2022 9:58 AM

To: michael.albarelli@gmail.com <michael.albarelli@gmail.com>

Cc: Joe Petty <jpetty@warrencountyva.net>; Matt Wendling <Mwendling@warrencountyva.net>

Good morning Mr. Albarelli,

I would advise visiting the Department of Building Inspections at 220 N Commerce Avenue, Suite 400, Front Royal, VA 22630 to apply for any permits needed for the work completed and any ongoing improvements. If you have any questions, please contact Building Inspections at 540-636-9973.

Regards,

Chase Lenz

Zoning Officer

Warren County Planning Department

220 North Commerce Ave., Suite 400

Front Royal, VA 22630

Phone: (540) 636-3354

Fax: (540) 636-4698

www.warrencountyva.net

[Warren County Zoning Code](#)

[Zoning Setbacks](#)

[Warren County GIS](#)

From: David Beahm <Dbeahm@warrencountyva.net>

Sent: Thursday, January 27, 2022 9:15 AM

To: Chase Lenz <clenz@Warrencountyva.net>

Cc: michael.albarelli@gmail.com <michael.albarelli@gmail.com>

Subject: RE: Fw: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

Chase,

Yes, the work that is described would require permits to be applied for. Also, regardless of who preformed the work it would still require permits.

Respectfully,

David C. Beahm, CBO

Building Official

County of Warren

540-636-9973

Fax 540-636-4698

dbeahm@warrencountyva.net

www.warrencountyva.net

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From: Chase Lenz <clenz@Warrencountyva.net>

Sent: Thursday, January 27, 2022 9:11 AM

To: David Beahm <Dbeahm@warrencountyva.net>

Cc: michael.albarelli@gmail.com

2/1/22, 10:00 AM

Mail - Chase Lenz - Outlook

Subject: Fw: Fw: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

Good morning David,

Based on the improvements described in Mr. Albarelli's email below, can you confirm if any of the work requires a building permit or inspection?

Thank you,

Chase Lenz

Zoning Officer
Warren County Planning Department
220 North Commerce Ave., Suite 400
Front Royal, VA 22630
Phone: (540) 636-3354
Fax: (540) 636-4698
www.warrencountyva.net
[Warren County Zoning Code](#)
[Zoning Setbacks](#)
[Warren County GIS](#)

From: Mike Albarelli <michael.albarelli@gmail.com>

Sent: Thursday, January 27, 2022 6:52 AM

To: Chase Lenz <clenz@warrencountyva.net>

Subject: Re: Fw: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

Hi Mr Lenz,

Thanks for the email. Improvements to the cabin utilities were made at the time of sale by the former owners. Also, they used the cabin as a weekend residence up until the time of sale. I'm sorry if I gave the impression that the structure was previously not inhabitable.

We required improvements to the cabin plumbing, septic, and spring source as a condition of sale. These were done. Thereafter, we have made significant repairs to the roof, logs, foundation and flooring. These are still underway and we expect to have it all complete by April or May.

We will be glad to invite the County to visit the cabin at any time.

Mike Albarelli

On Wed, Jan 26, 2022 at 9:12 AM Chase Lenz <clenz@warrencountyva.net> wrote:

Good morning Mr. Albarelli,

As part of the conditional use permit process for a short-term tourist rental, we request comments from the Building Official. Please see the comments below from the building official regarding any restorations or improvements you made to the cabin. Please contact the Department of Building Inspections at 540-636-9973 to clarify any work done on the cabin. If any of the improvements require a building permit, that will need to be addressed before we can complete the process for the short-term tourist rental.

Regards,

Chase Lenz

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From: Chloe Phillips <cphillips@Warrencountyva.net>
Sent: Tuesday, January 25, 2022 3:40 PM
To: Chase Lenz <clenz@Warrencountyva.net>
Subject: FW: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

From: David Beahm <Dbeahm@warrencountyva.net>
Sent: Tuesday, January 25, 2022 3:01 PM
To: Chloe Phillips <cphillips@Warrencountyva.net>
Cc: Joe Petty <jpetty@warrencountyva.net>; Paula Fristoe <Pfristoe@warrencountyva.net>
Subject: Request for Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022

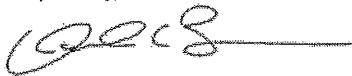
Comments 2022-02-05 – Michael & Judith Albarelli – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000162-2022:

NOTE: Prior to giving approval for this request, additional information will be required to be submitted to fully understand the applicant's statement, "of our fully restored 18th century log cabin." It doesn't appear that any permits have been applied for or approved and inspected for any work at this location. While the work may not require permitting, that will need to be clarified before any approval can be given. Once this issue has been addressed the following comments will still remain.

- Erosion and Sediment Control Items:
 - There does not appear to be any land disturbance at this time and therefore nothing would be required. If this is not the case, the normal submission process would be required.
- Building Inspections Items:
 - The use of the existing dwelling(s) for a "short-term rental" would require a building permit to establish it as a transient boarding facility which is the term used by the building code for this type of use. The dwelling would receive a new Certificate of Occupancy designating as a short-term rental.
 - Given the timeframe that the structure was originally built it more than likely will require an Electrical permit to meet the building code requirements for this change.
 - The requirement is for smoke detectors to be installed as required by the Virginia Residential Building Code.

If anything should change in the scope additional requirements may be required.

Respectfully,



David C. Beahm, CBO
Building Official

dbeahm@warrencountyva.net

Warren County Building Inspections Office

220 North Commerce Avenue
Suite 400
Front Royal, VA 22630
540/636-9973
FAX 540/636-4698

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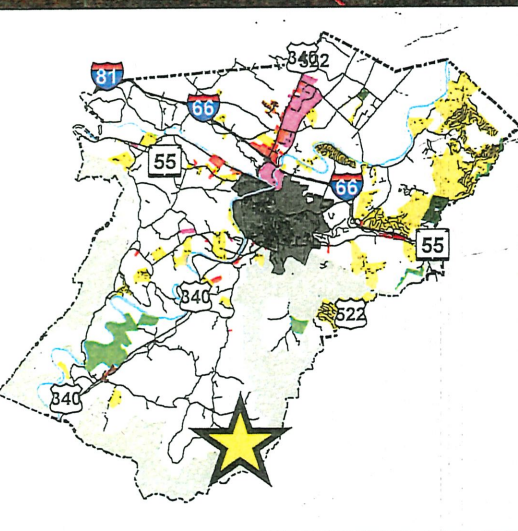
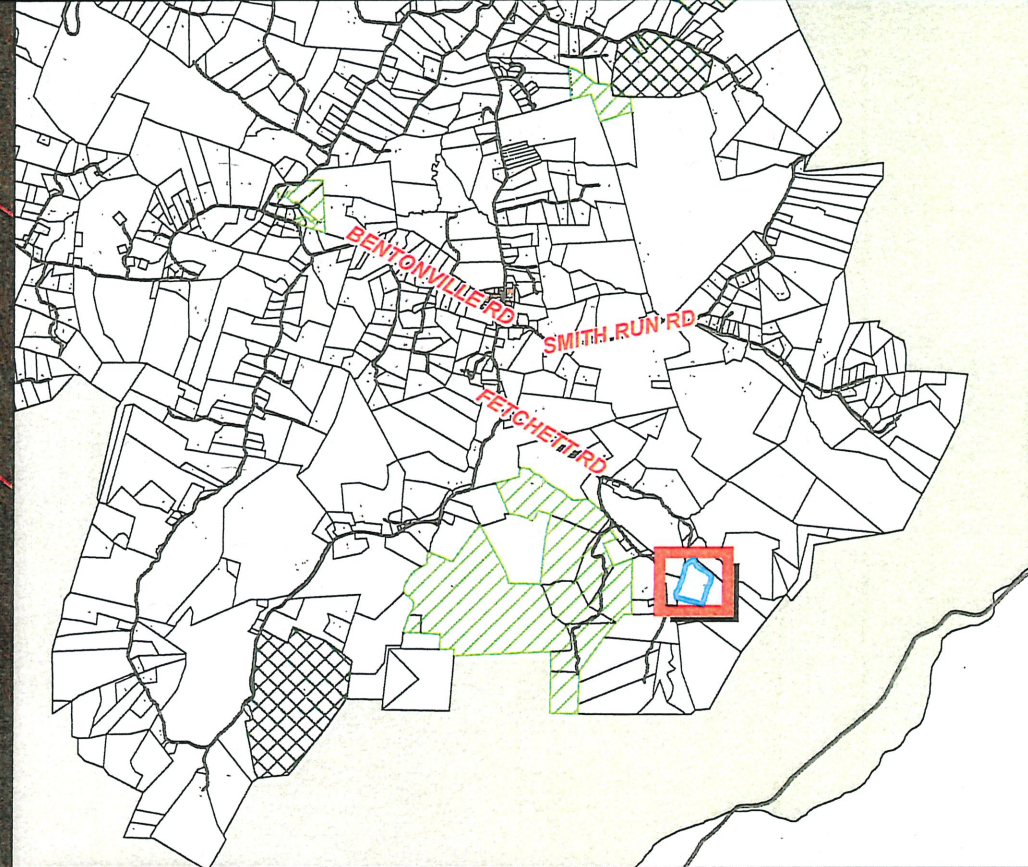
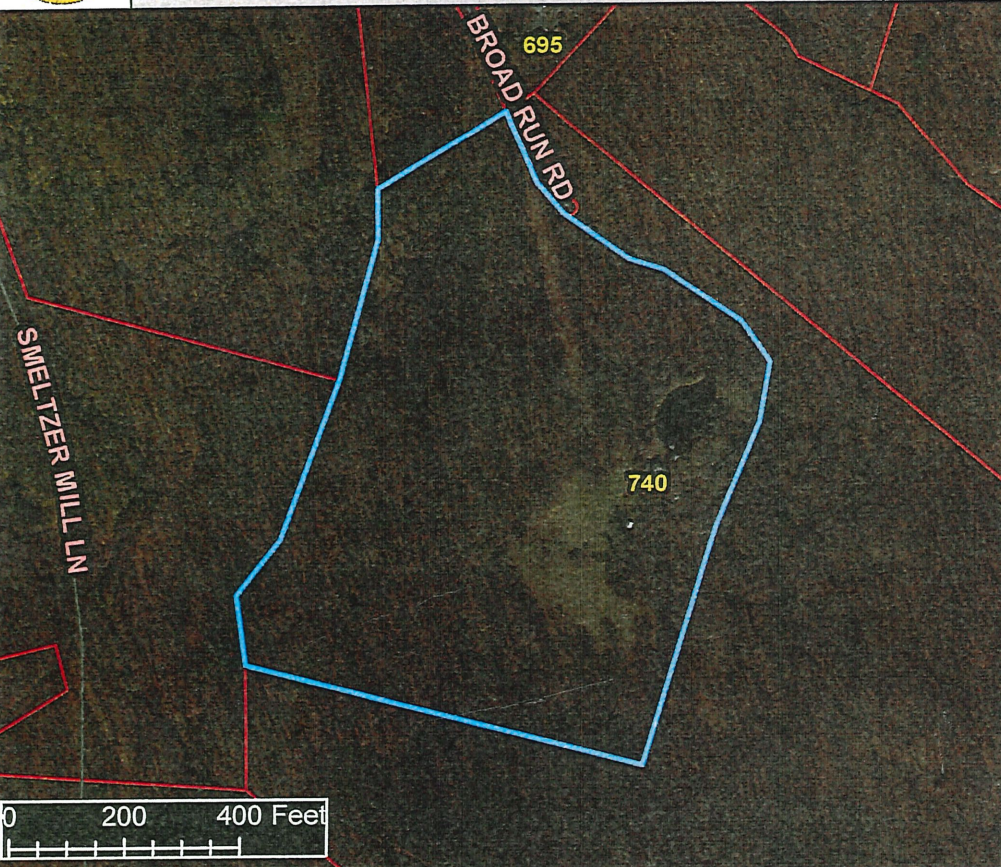
Warren County VA

CUP Location Map



Short Term Tourist Rental
Applicants: Michael Albarelli

TM 44-----38D



Zoning

Agricultural	Rural Residential
Commercial	Right of Way
Industrial	Front Royal
Residential One	Federal Land
Residential Two	State Land
Suburban Residential	Water
Village Residential	VOF Conservation Easements
	WC Conservation Easements

Map produced by
Warren County GIS 2022
Department of Planning

Motion to be Made Going into Closed Meeting

I move the Board enter into a closed meeting under the provisions of Section 2.2-3711(A)(1) of the Virginia Freedom of Information Act for the discussion or consideration of the assignment, appointment, promotion, performance, demotion, salaries, or resignation of a specific public officer of the public body, specifically in regards to the Northwestern Community Services Board.

I also move the Board enter into a closed meeting under the provisions of Section 2.2-3711(A)(8) for consultation with legal counsel for the provision of legal advice regarding the Shenandoah Farms Sanitary District.

- - -

Motion to be Made Coming out of Closed Meeting

I move that the Board certifies to the best of each member's knowledge only public business matters lawfully exempted from open meeting requirements under Sections 2.2-3711(A)(1) and (A)(8) of the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body.