AGENDA
Board of Supervisors Meeting

April 19, 2022

6:00 PM

A. Closed Session– Virginia Freedom of Information Act
   1. Section 2.2-3711(A)(5) Prospective Business or Industry Located in the Shenandoah Magisterial District Within and Outside the Limits of the Town of Front Royal
   2. Sections 2.2-3711(A)(7) and (A)(8) Consultation with Legal Counsel Pertaining to Actual or Probable Litigation and for the Provision of Legal Advice Relating to Economic Development Authority Matters
   3. Section 2.2-3711(A)(8) Consultation with Legal Counsel for the Provision of Legal Advice Relating to Shenandoah Farms Sanitary District

7:00 PM

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. Reports – Board Members, County Administrator, Interim County Attorney
E. Approval of Accounts
F. Appropriations and Transfers
G. Approval of Minutes
   a. Special Meeting of February 22, 2022
   b. Regular Meeting of March 1, 2022
   c. Regular Meeting of March 15, 2022
   d. Special Meeting of March 22, 2022

NEW BUSINESS

H. Consent Agenda
   1. Request to Close Warren County Offices and Resolution to Change a Regular Meeting Date of the Warren County Board of Supervisors – Ed Daley
   2. Memorandum of Understanding Regarding Drug Court Funding – Ed Daley/Beth Reavis

3. Cancellation of Old Oak Lane, Phases IV and V, Rural Addition Revenue Sharing Projects for Shenandoah Farms Sanitary District – Mike Berry
4. Broadband Fiscal Agency Agreement with Northern Shenandoah Valley Regional Commission – Ed Daley
5. Contract Renewal with Middle Department Inspection Agency, Inc. for Electrical Inspections – Alisa Scott/David Beahm
6. Authorization to Advertise for Public Hearing – Sale of County-Owned Property Located at 30 E Jackson Street – Alisa Scott
7. Authorization to Advertise for Public Hearing – Ordinance to Amend and Re-Ordain Chapter 38 (Procurement) of the Warren County Code – Alisa Scott
8. 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

7:30 PM

I. Public Hearings

1. 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
2. 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
3. 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
4. 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
5. 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
6. 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

J. Adoption of Certain Tax Rates for Calendar Year 2022 – Matt Robertson

K. Additional New Business (If needed)

L. Adjournment

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)(5) of the Virginia Freedom of Information Act for discussion concerning a prospective business or industry or expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, such business or industry proposed to be located in the Shenandoah Magisterial District located both within and outside the limits of the Town of Front Royal.

I also move the Board enter into a closed meeting under the provisions of Sections 2.2-3711(A)(7) and (A)(8) for consultation with legal counsel pertaining to actual or probable litigation and the provision of legal advice regarding the Industrial Development Authority of the Town of Front Royal and the County of Warren, Virginia (the "EDA"), the Town of Front Royal, the *EDA vs. Jennifer McDonald, et al*., the *Town of Front Royal vs. the EDA, et al*., the *EDA vs. the Town of Front Royal,* other potential claims and litigation relating to other possible liabilities of the EDA, the recovery of EDA funds and assets, and the outstanding indebtedness of the EDA.

Finally, I 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.

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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 Section 2.2-3711(A)(5), (A)(7), 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.

Warren County Delinquent Tax Collections Monthly Report

Month: March 2022

Pond Law Group:	$8,300.91
TACS:	$3,654.04

TOTAL: $11,954.95

Pond total for 2022:	$19,429.67
TACS total for 2022:	$19,169.50

Cumulative total for 2022: **$38,599.17**

Grand Total for 2016:	$251,948.77
Grand Total for 2017:	$523,039.78
Grand Total for 2018:	$431,438.35
Grand Total for 2019:	$307,386.55
Grand Total for 2020:	$148,238.27
Grand Total for 2021:	$218,732.30

Sands Anderson				
Date	**Invoice #**	**Amount**		
2/4/2019	337902	$49,781.44		
2/28/2019	338916	$50,559.83		
4/1/2019	340092	$83,053.09		
4/29/2019	343613	$97,993.94		
5/30/2019	349027	$95,751.89		
6/24/2019	353542	$105,677.60		
7/25/2019	358087	$105,344.62		
8/15/2019	363141	$132,559.98		
9/10/2019	367746	$97,055.56		
10/7/2019	214020	$1,485.00	Halasz Reporting & Video	
10/16/2019	381643	$118,603.44		
10/31/2019	977717TE1	$117,023.95	Superior Document Services	
10/31/2019	977717TE2	$6,565.00	Superior Document Services	
11/25/2019	383016	$175,313.87		
11/30/2019	977842TE1	$11,124.92	Superior Document Services	
11/30/2019	977842TE2	$6,340.00	Superior Document Services	
12/18/2019	312341	$866.25	Planet Depos	
12/23/2019	387536	$124,817.89		
12/31/2019	977957TE1	$9,086.18	Superior Document Services	
12/31/2019	977957TE2	$6,340.00	Superior Document Services	
1/13/2020	392047	$127,679.15		
1/22/2020	315265	$2,706.17	Planet Depos	
1/31/2020	978125TE1	$9,281.19	Superior Document Services	
1/31/2020	978125TE2	$6,490.00	Superior Document Services	
2/13/2020	318900	$1,175.25	Planet Depos	
2/20/2020	369533	$158,751.64		
2/29/2020	978239TE1	$9,357.94	Superior Document Services	
2/29/2020	978239TE2	$6,490.00	Superior Document Services	
3/13/2020	401012	$136,835.52		
3/31/2020	978318T	$452.79	Superior Document Services	
3/31/2020	978318TE1	$9,102.94	Superior Document Services	
3/31/2020	978318TE2	$6,490.00	Superior Document Services	
4/14/2020	415506	$119,235.96		
4/15/2020	79425	$2,400.00	Scott Insurance	
4/30/2020	978401TE	$10,778.38	Superior Document Services	
5/14/2020	423245	$135,843.50		
5/31/2020	978486TE	$11,319.00	Superior Document Services	
6/17/2020	427726	$127,987.84		
6/30/2020	978571TE	$11,067.78	Superior Document Services	
7/16/2020	428985	$130,183.76		
7/20/2020	337536	$566.18	Planet Depos	(Received on 10/13/20)
7/31/2020	978676TE	$10,298.52	Superior Document Services	
8/7/2020	433530	$133,312.50		

Sands Anderson				
Date	**Invoice #**	**Amount**		
8/15/2020	345192	$1,120.75	Planet Depos	
8/31/2020	978747	$9,984.77	Superior Document Services	(Received on 12/9/20)
9/18/2020	442067	$138,075.97		
9/30/2020	978847	$9,739.77	Superior Document Services	(Received on 10/27/20)
10/7/2020	356355	$397.50	Planet Depos	
10/15/2020	443408	$117,141.00		
10/31/2020	978915	$9,801.20	Superior Document Services	(Received on 11/20/20)
11/17/2020	448352	$120,209.55		
11/25/2020	N/A	$10,000.00	Retainer for Experts for Mediation	
12/7/2020	CINV-011172	$5,412.68	Mediation Consultant Invoice	(Received on 3/5/21)
12/12/2020	35371	$706.00	Courier One	
12/14/2020	P0100158271	$10,166.20	KLDiscovery (formerly Superior Document Services)	
12/17/2020	453266	$113,966.75		
1/13/2021	457980	$113,124.75		
1/19/2021	CINV-011784	$15,481.96	Mediation Consultant Invoice	(Received on 3/5/21)
1/28/2021	DR40982	$3,651.37	The McCammon Group	(Received on 3/29/21)
2/2/2021	CINV-012445	$30,542.84	Mediation Consultant Invoice	(Received on 3/5/21)
2/9/2021	339456	$1,227.05	Planet Depos	
2/9/2021	339457	$641.50	Planet Depos	
2/17/2021	462742	$133,253.39		
2/23/2021	387076	$309.75	Planet Depos	(Received 3/31/21)
3/1/2021	P0100169085	$9,189.30	KLDiscovery (formerly Superior Document Services)	
3/11/2021	P0100172805	$9,114.30	KLDiscovery (formerly Superior Document Services)	
3/12/2021	467623	$130,648.00		(Received 4/15/21)
4/9/2021	P0100176976	$9,039.30	KLDiscovery (formerly Superior Document Services)	
4/15/2021	472461	$134,955.15		
4/15/2021	398691	$1,480.55	Planet Depos	(Received 5/24/21)
4/15/2021	398695	$918.75	Planet Depos	(Received 5/24/21)
4/22/2021	398718	$695.60	Planet Depos	
4/22/2021	398721	$500.00	Planet Depos	
4/22/2021	402022	$344.50	Planet Depos	
5/5/2021	401658	$739.05	Planet Depos	
5/6/2021	405174	$641.50	Planet Depos	
5/10/2021	16260	$1,034.00	Rudiger, Green & Kerns	(Received 10/13/21)
5/12/2021	P0100183367	$8,719.30	KLDiscovery (formerly Superior Document Services)	
5/13/2021	407073	$394.00	Planet Depos	
5/13/2021	404491	$437.50	Planet Depos	
5/13/2021	404493	$595.85	Planet Depos	
5/13/2021	477247	$127,060.37		
5/14/2021	404412	$1,873.45	Planet Depos	
5/14/2021	404406	$1,062.50	Planet Depos	
5/14/2021	405166	$790.00	Planet Depos	
6/4/2021	409309	$931.25	Planet Depos	

Sands Anderson			
Date	**Invoice #**	**Amount**	
6/10/2021	P0100188099	$8,754.30	KLDiscovery (formerly Superior Document Services)
6/15/2021	482033	$133,365.05	
6/16/2021	N/A	$52,000.00	Payment to MoveOn8, LLC Bankruptcy Trustee
7/9/2021	420879	$350.00	Planet Depos
7/15/2021	P0100193199	$8,679.30	KLDiscovery (formerly Superior Document Services)
7/22/2021	486778	$128,239.06	
8/6/2021	427284	$1,561.25	Planet Depos
8/6/2021	427280	$839.50	Planet Depos
8/12/2021	P0100197486	$9,619.30	KLDiscovery (formerly Superior Document Services)
8/23/2021	P0100198232	$9,659.30	KLDiscovery (formerly Superior Document Services)
9/3/2021	432329	$786.00	Planet Depos
9/10/2021	P0100202487	$8,762.20	KLDiscovery (formerly Superior Document Services)
9/17/2021	496211	$120,505.13	
10/11/2021	P0100205568	$9,379.50	KLDiscovery (formerly Superior Document Services)
10/25/2021	446049	$1,200.60	Planet Depos
10/25/2021	446050	$641.50	Planet Depos
10/26/2021	500972	$126,954.16	
11/1/2021	143233	$878.00	Casamo Court Reporting
11/9/2021	P0100211273	$8,514.50	KLDiscovery (formerly Superior Document Services)
11/18/2021	505498	$130,168.18	
11/18/2021	451074	$1,208.95	Planet Depos
11/18/2021	451076	$740.50	Planet Depos
12/9/2021	P0100214091	$8,414.50	KLDiscovery (formerly Superior Document Services)
12/22/2021	509983	$115,486.18	
1/12/2022	465717	$442.50	Planet Depos
1/13/2022	514569	$102,870.55	
1/24/2022	1025	$11,550.00	Commonwealth Power
1/25/2022	P0100219963	$8,414.50	KLDiscovery (formerly Superior Document Services)
1/25/2022	144545	$708.00	Casamo Court Reporting
1/31/2022	469046	$851.25	Planet Depos
2/16/2022	P0100224185	$8,214.50	KLDiscovery (formerly Superior Document Services)
2/25/2022	522325	$103,634.09	

Sands Anderson			
Date	**Invoice #**	**Amount**	
	Start of New Billing Process		
3/9/2022	523678	$14,805.25	
3/9/2022	523681	$19,232.50	
3/9/2022	523682	$20,481.50	
3/9/2022	523683	$1,400.50	
3/9/2022	523684	$447.00	
3/10/2022	P0100228360	$8,444.50	KLDiscovery
3/17/2022	145439	$997.25	Casamo Court Reporting
4/4/2022	145399	$1,052.00	Casamo Court Reporting
4/5/2022	485781	$395.00	Planet Depos
Balance		**$5,039,917.28**	

Warren County Revenue Report
As of March 31, 2022

	DESCRIPTION	FY 2018 - 2019 ACTUAL	FY 2019 - 2020 ACTUAL	FY 2020 - 2021 ACTUAL	PRIOR YEAR ACTUAL TO DATE	FY 2021 - 2022 APPR AMOUNT	FY 2021 - 2022 COLLECTED Y-T-D	% FY 2021-22 COLLECTED	DIFFERENCE CURRENT TO PRIOR YR
	** GENERAL FUND **								
	GENERAL PROPERTY TAXES								
11010	Real Estate Taxes	28,409,845	32,067,392	29,736,257	14,091,504	31,183,001	15,074,784	48.34%	983,280
11020	Public Service Tax	6,026,139	7,000,793	6,846,454	3,508,218	6,600,000	2,628,969	39.83%	(879,249)
11030	Personal Property Tax	16,855,760	16,475,911	19,025,836	12,613,797	18,408,000	13,163,194	71.51%	549,397
11040	Machinery & Tools Tax	1,734,980	1,575,439	2,201,349	1,293,376	1,809,000	902,838	49.91%	(390,538)
11050	Mineral Rights	3,087	3,281	1,783	1,783	3,000	3,464	115.45%	1,681
11060	Penalties and Interest	905,562	871,424	982,603	729,577	1,000,000	764,567	76.46%	34,990
	*** SUBTOTAL ***	**53,935,373**	**57,994,240**	**58,794,282**	**32,238,255**	**59,003,001**	**32,537,816**	**55.15%**	**299,561**
	OTHER LOCAL TAXES								
12010	Local Sales, Use, Communications	3,925,330	4,575,698	4,309,845	3,398,681	5,880,000	4,694,893	79.85%	1,296,212
12020	Utility Tax	735,999	741,898	684,710	432,051	760,000	501,071	65.93%	69,020
12030	Business License	830,981	977,124	1,149,077	1,062,681	1,000,000	1,223,541	122.35%	160,860
12040	Recordation Taxes (Grantee)	481,619	650,593	859,490	594,545	740,000	610,579	82.51%	16,034
12050	Motor Vehicle License Tax	895,786	850,319	932,782	243,846	950,000	217,362	22.88%	(26,484)
12070	Recordation (Grantor) Will	135,524	154,419	199,419	137,798	100,000	163,253	163.25%	25,455
12080	Meals and Beverage Tax	1,015,726	898,042	979,542	665,222	1,000,000	817,484	81.75%	152,262
12090	Cigarette Tax	-	-	-	-	100,000	-	0.00%	-
312100	Lodging Tax	193,895	210,189	291,949	194,537	250,000	242,887	97.15%	48,350
	*** SUBTOTAL ***	**8,214,861**	**9,058,282**	**9,406,814**	**6,729,361**	**10,780,000**	**8,471,070**	**78.58%**	**1,741,709**
	PERMITS, FEES, AND LICENSES								
13010	Animal License Fees	41,877	32,557	37,586	33,314	45,000	32,965	73.26%	(349)
13030	Permits & Other Licenses	729,227	714,136	693,161	473,686	802,561	692,006	86.22%	218,321
130325	Waste Permit Decal Fee	2,061	2,405	2,800	1,380	-	1,815	0.00%	435
	*** SUBTOTAL ***	**773,165**	**749,098**	**733,547**	**508,380**	**847,561**	**726,786**	**85.75%**	**218,407**
	FINES AND FORFEITURES								
14010	Court Fines	98,148	65,027	109,310	65,781	90,000	78,699	87.44%	12,917
14020	Other Court Costs	-	-142	723	723	-	(5)	0.00%	(728)
	*** SUBTOTAL ***	**98,148**	**64,885**	**110,033**	**66,504**	**90,000**	**78,694**	**87.44%**	**12,190**

Warren County Revenue Report
As of March 31, 2022

	DESCRIPTION	FY 2018 - 2019 ACTUAL	FY 2019 - 2020 ACTUAL	FY 2020 - 2021 ACTUAL	PRIOR YEAR ACTUAL TO DATE	FY 2021 - 2022 APPR AMOUNT	FY 2021 - 2022 COLLECTED Y-T-D	% FY 2021-22 COLLECTED	DIFFERENCE CURRENT TO PRIOR YR
	USE OF MONEY AND PROPERTY								
15010	Revenue From Use of Money	497,943	432,648	124,732	120,675	250,000	(229,352)	-91.74%	(350,026)
15020	Revenue From Use of Property	375,835	330,399	310,371	229,349	492,000	253,558	51.54%	24,209
	*** SUBTOTAL ***	**873,778**	**763,047**	**435,103**	**350,024**	**742,000**	**24,206**	**3.26%**	**(325,818)**
	CHARGES FOR SERVICES								
16010	Charges for Services (Sheriff)	2,396	2,396	2,396	2,396	2,000	-	0.00%	(2,396)
16020	Charges for Commonwealth Att.	4,025	4,426	3,971	2,366	4,000	2,342	58.56%	(24)
16050	Charges for Corrections & Det.	73,220	45,530	68,634	44,749	70,000	53,561	76.52%	8,812
16080	Charges for Sanitation & Waste	1,061,121	1,228,912	982,174	750,424	1,300,000	904,723	69.59%	154,299
16160	Sales of Map Survey	12,239	17,649	9,359	5,339	17,000	6,969	0.00%	1,630
16170	Sale of Copies - Comm. Of Rev.	756	880	525	375	4,000	625	0.00%	250
16180	Sales of Copies - Treasurer	-	10	-	-	-	-	0.00%	-
16990	Other Charges for Services	7,500	15,780	50,757	33,895	57,500	62,768	109.16%	28,873
	*** SUBTOTAL ***	**1,161,256**	**1,315,583**	**1,117,817**	**839,544**	**1,454,500**	**1,030,989**	**70.88%**	**191,445**
	MISCELLANEOUS AND RECOVERED COSTS								
18030	Refunds, Loans, and Fees	1,465,204	649,907	1,283,687	327,073	648,000	777,550	119.99%	450,477
18990	Miscellaneous and Recovered Costs	1,040,425	647,263	1,152,211	1,464,929	3,443,485	385,294	11.19%	(1,079,635)
19120	Sale of Recyclable Materials	84,095	56,705	118,284	71,716	90,000	96,085	106.76%	24,369
	*** SUBTOTAL ***	**2,589,724**	**1,353,875**	**2,554,183**	**1,863,718**	**4,181,485**	**1,258,929**	**30.11%**	**(604,790)**
	STATE REVENUE								
22010	Non-Categorical Aid	213,493	190,468	30,808	26,999	211,000	25,915	12.28%	(1,084)
23010	Shared Expenses - Commonwealth's	420,119	488,698	439,640	312,318	517,756	332,206	64.16%	19,888
23020	Shared Expenses - Sheriff	1,703,155	1,751,230	1,532,260	1,131,720	1,838,572	1,469,142	79.91%	337,422
23030	Shared Expenses - Commissioner of	157,015	161,757	148,541	107,518	195,008	129,461	66.39%	21,943
23040	Shared Expenses - Treasurer	117,880	111,920	148,541	73,690	128,601	84,600	65.78%	10,910
23060	Shared Expenses - Registrar	42,436	68,361	47,286	-	40,000	744	1.86%	744
23080	Shared Expenses - Clerk of Court	342,858	333,649	311,625	230,066	354,750	239,847	67.61%	9,781
24010	State VPA/Welfare Reimbursement	1,086,228	1,131,478	1,022,353	885,076	1,432,657	933,015	65.12%	47,939
24020	Categorical Aid	1,014,390	866,288	899,464	444,832	1,050,004	483,124	0.00%	38,292
24040	Other Categorical Aid	1,031,845	1,211,178	438,807	125,708	1,915,197	427,831	22.34%	302,123
	*** SUBTOTAL ***	**6,129,420**	**6,315,027**	**5,019,325**	**3,337,927**	**7,683,545**	**4,125,886**	**53.70%**	**787,959**

Warren County Revenue Report
As of March 31, 2022

	DESCRIPTION	FY 2018 - 2019 ACTUAL	FY 2019 - 2020 ACTUAL	FY 2020 - 2021 ACTUAL	PRIOR YEAR ACTUAL TO DATE	FY 2021 - 2022 APPR AMOUNT	FY 2021 - 2022 COLLECTED Y-T-D	% FY 2021-22 COLLECTED	DIFFERENCE CURRENT TO PRIOR YR
	FEDERAL REVENUE								
31010	Revenue from the Federal Governme	1,980,125	2,068,016	4,732,976	3,515,199	2,503,051	1,624,382	64.90%	(1,890,817)
	*** SUBTOTAL ***	**1,980,125**	**2,068,016**	**4,732,976**	**3,515,199**	**2,503,051**	**1,624,382**	**64.90%**	**(1,890,817)**
	INTERGOVERNMENTAL								
41050	Transfers from Other Funds	5,147,179	5,254,583	1,663,481	1,545,066	2,076,119	458,905	22.10%	(1,086,161)
41900	Use of Fund Balance	0	-	-	-	1,805,177	-	0.00%	-
	*** SUBTOTAL ***	**5,147,179**	**5,254,583**	**1,663,481**	**1,545,066**	**3,881,296**	**458,905**	**11.82%**	**(1,086,161)**
TOTAL GENERAL FUND REVENUE		**80,903,030**	**84,936,636**	**84,567,561**	**50,993,978**	**91,166,439**	**50,337,663**	**55.22%**	**(656,315)**
	** FRONT ROYAL WARREN COUNTY AIRPORT **								
15010	Interest on Bank Deposits	-	-	-	-	-	-	0.00%	-
15020	Hangar Rentals	190,863	192,183	178,607	130,952	220,000	146,426	66.56%	15,474
18990	Miscellaneous Income	1,001	2,000	-	-	-	-	0.00%	-
24040	State Grants	29,408	9,894	4,785	1,365	2,756	36,678	0.00%	35,313
31020	Federal Grants	156,938	50,615	4,250	4,250	-	34,047	0.00%	29,798
41050	Transfer from Other Funds	-	-	-	-	-	-	0.00%	-
									-
TOTAL AIRPORT FUND		**378,210**	**254,692**	**187,641**	**136,567**	**222,756**	**217,151**	**97.48%**	**80,584**
	** COST RECOVERY **								
	Cost Recovery Fees	**1,092,766**	**967,994**	**997,861**	**540,326**	**900,000**	**695,872**	**77.32%**	**155,546**
	** ECONOMIC DEVELOPMENT AUTHORITY **								
	Miscellaneous Income	**1,092,766**	**967,994**	**1,404,357**	**1,286,499**	**1,785,300**	**1,284,123**	**71.93%**	**(2,375)**

Warren County Expenditure Report
As of March 31, 2022

	DESCRIPTION	FY 2018 - 2019 ACTUAL	FY 2019 - 2020 ACTUAL	FY 2020 - 2021 ACTUAL	PRIOR YEAR ACTUAL TO DATE	FY 2021 - 2022 APPR AMOUNT	FY 2021 - 2022 Y-T-D AMOUNT	% BUDGET EXPENDED	DIFFERENCE CURRENT TO PRIOR YR
	GENERAL GOVERNMENT								
11010	Board of Supervisors	919,699	2,404,331	2,160,448	1,265,579	179,000	134,294	75.02%	(1,131,285)
12020	County Administration	700,293	627,554	596,392	443,727	500,000	377,011	75.40%	(66,716)
12030	Human Resources	-	-	1,924	-	169,900	118,663	69.84%	118,663
12040	County Attorney	214,382	168,366	154,390	112,411	344,000	228,283	66.36%	115,872
12060	Information Technology	-	-	-	-	90,844	370,884	408.26%	370,884
12090	Commissioner of the Revenue	635,865	683,315	696,470	526,369	777,000	554,363	71.35%	27,994
12110	Reassessment	286,286	1,881	1,296	823	422,400	113,142	26.79%	112,319
12130	Treasurer	527,612	498,997	535,950	391,100	572,000	414,165	72.41%	23,065
12150	Finance & Purchasing	325,425	296,187	372,293	272,679	499,500	312,936	62.65%	40,256
13000	Elections	202,918	262,463	279,730	203,736	441,000	264,837	60.05%	61,101
	*** SUBTOTAL ***	**3,812,480**	**4,943,094**	**4,798,893**	**3,216,424**	**3,995,644**	**2,888,578**	**72.29%**	**(327,847)**
	JUDICIAL ADMINISTRATION								
21010	Circuit Court	28,301	35,751	7,133	4,959	65,400	25,828	39.49%	20,868
21020	General District Court	18,888	17,872	24,706	14,301	24,300	13,533	55.69%	(768)
21030	Magistrates	4,104	4,584	4,536	3,354	5,800	4,253	73.33%	899
21050	Juvenile and Domestic Court	17,859	18,468	15,604	9,423	19,000	11,727	61.72%	2,304
21060	Clerk of Circuit Court	591,866	577,068	595,585	450,598	638,600	458,105	71.74%	7,507
21080	Law Library	47,729	54,092	57,570	42,844	54,300	44,431	81.82%	1,587
22010	Commonwealth's Attorney	785,036	952,916	1,057,942	784,743	1,103,400	838,376	75.98%	53,633
	*** SUBTOTAL ***	**1,493,783**	**1,660,751**	**1,763,076**	**1,310,222**	**1,910,800**	**1,396,253**	**73.07%**	**86,030**
	PUBLIC SAFETY								
31020	Sheriff's Department	4,062,799	4,077,795	4,725,508	3,512,632	4,946,670	3,917,297	79.19%	404,665
31040	E-911 System	542,115	622,601	709,678	520,972	956,250	939,609	98.26%	418,637
31050	School Resource	584,491	725,798	826,414	670,438	766,800	447,331	58.34%	(223,107)
32000	Volunteer Fire & Rescue	955,520	1,012,916	1,724,094	1,234,553	1,013,000	287,040	28.34%	(947,513)
33000	Court Services	971,896	960,997	929,591	715,462	998,300	797,561	79.89%	82,099
33030	Probation	63,230	43,332	10,316	3,405	41,000	3,156	7.70%	(249)
34010	Building Inspections	650,795	669,739	738,866	522,308	618,000	471,125	76.23%	(51,183)
35010	Animal Control	649,641	685,432	573,852	435,158	717,147	475,660	66.33%	40,502
35030	Medical Examiner	740	780	680	200	1,000	420	42.00%	220
35050	Fire & Rescue Department	3,086,725	3,338,898	4,012,144	3,080,302	5,406,828	3,272,631	60.53%	192,329
	*** SUBTOTAL ***	**11,567,952**	**12,138,288**	**14,251,143**	**10,695,430**	**15,464,995**	**10,611,830**	**68.62%**	**(83,600)**

Warren County Expenditure Report
As of March 31, 2022

	DESCRIPTION	FY 2018 - 2019 ACTUAL	FY 2019 - 2020 ACTUAL	FY 2020 - 2021 ACTUAL	PRIOR YEAR ACTUAL TO DATE	FY 2021 - 2022 APPR AMOUNT	FY 2021 - 2022 Y-T-D AMOUNT	% BUDGET EXPENDED	DIFFERENCE CURRENT TO PRIOR YR
	PUBLIC WORKS								
41010	Public Works/Sanitary Districts	389,345	372,848	487,575	312,869	495,624	329,889	66.56%	17,020
41020	Streets and Highways	17,018	17,818	9,499	4,673	20,000	8,272	41.36%	3,599
42030	Refuse Collection	710,782	753,168	796,471	539,225	803,764	623,937	77.63%	84,712
42035	Refuse Collection/Transfer Station	156,669	183,701	210,292	143,137	229,274	138,111	60.24%	(5,026)
42040	Refuse Disposal	2,414,597	2,695,474	2,546,563	1,679,042	3,251,945	1,793,325	55.15%	114,283
43000	Maintenance of Bldgs. & Grounds	1,223,179	1,484,045	1,769,655	1,213,855	1,421,000	1,262,013	88.81%	48,158
	*** SUBTOTAL ***	**4,911,590**	**5,507,054**	**5,820,055**	**3,892,801**	**6,221,607**	**4,155,548**	**66.79%**	**262,747**
	HEALTH/WELFARE/PARTNERSHIPS								
51000	Health	355,798	350,963	392,676	296,320	382,412	382,412	100.00%	86,093
52000	Mental Health & Disability	32,500	32,500	32,500	199,693	32,500	115,637	355.80%	(84,057)
53000	Social Services	3,943,902	3,820,576	4,015,443	2,987,297	5,045,779	3,256,315	64.54%	269,018
53090	Other Social Services	115,178	115,489	118,289	73,789	110,000	98,300	89.36%	24,511
53500	Comprehensive Services Act	1,731,108	1,678,560	2,026,204	1,146,321	1,785,000	1,298,822	72.76%	152,501
64010	Regional Partnerships	3,607,210	3,653,113	4,390,466	69,656	4,193,850	3,767,841	89.84%	3,698,185
	*** SUBTOTAL ***	**9,785,696**	**9,651,201**	**10,975,578**	**4,773,076**	**11,549,541**	**8,919,326**	**77.23%**	**4,146,251**
	PARK, REC & CULTURAL								
71010	Parks & Rec - Administration	772,963	792,983	637,928	469,699	898,718	540,346	0.00%	70,647
71020	Parks & Rec - Rec Programs	53,270	45,646	19,566	10,999	52,577	25,086	47.71%	14,087
71030	Parks & Rec - Maintenance	1,464,175	1,386,698	1,440,844	1,023,694	1,555,918	1,095,023	70.38%	71,329
73000	Library, Museums, Cult. Enrich.	994,134	1,006,758	1,018,087	762,815	1,018,100	762,825	74.93%	10
	*** SUBTOTAL ***	**3,284,542**	**3,232,085**	**3,116,424**	**2,267,207**	**3,525,313**	**2,423,280**	**68.74%**	**156,073**
	COMMUNITY DEVELOPMENT								
81010	Planning & Zoning Administration	436,799	419,519	388,235	306,331	473,000	323,119	68.31%	16,788
81050	Economic Development	54,117	108,234	302,194	302,194	3,282,400	2,078,101	63.31%	1,775,907
82000	Environmental Management	26,045	18,530	20,500	20,500	18,500	20,010	108.16%	(490)
83000	VPI Extension Service	109,101	114,738	111,998	75,768	121,000	85,874	70.97%	10,106
	*** SUBTOTAL ***	**626,062**	**661,021**	**822,927**	**704,793**	**3,894,900**	**2,507,105**	**64.37%**	**1,802,312**
	MISCELLANEOUS								
91000	Non-Departmental	982,803	782,300	2,682,925	637,276	1,364,956	579,167	42.43%	(58,108)
92000	Capital Outlay	18,547,831	6,774,261	3,410,276	16,292,250	3,589,412	1,266,925	35.30%	(15,025,325)
95000	Debt Service	-	11,351,634	11,686,376	-	11,846,251	7,036,583	59.40%	7,036,583
99010	Transfers to Other Funds	27,333,773	27,057,371	29,079,883	15,628,077	27,803,020	18,032,773	64.86%	2,404,696
	*** SUBTOTAL ***	**46,864,407**	**45,965,566**	**46,859,459**	**32,557,602**	**44,603,639**	**26,915,448**	**60.34%**	**(5,642,154)**

Warren County Expenditure Report
As of March 31, 2022

	DESCRIPTION	FY 2018 - 2019 ACTUAL	FY 2019 - 2020 ACTUAL	FY 2020 - 2021 ACTUAL	PRIOR YEAR ACTUAL TO DATE	FY 2021 - 2022 APPR AMOUNT	FY 2021 - 2022 Y-T-D AMOUNT	% BUDGET EXPENDED	DIFFERENCE CURRENT TO PRIOR YR
TOTAL GENERAL FUND		**82,346,512**	**83,759,060**	**88,407,555**	**59,417,556**	**91,166,439**	**59,817,368**	**65.61%**	**399,812**
81	**AIRPORT FUND**								
	Operating Expenditures	369,736	226,983	179,874	113,290	222,756	219,382	98.49%	106,091
	Transfer to General Fund	21,335	20,105	-	-	-	-	0.00%	-
	*** SUBTOTAL ***	**391,071**	**247,088**	**179,874**	**113,290**	**222,756**	**219,382**	**98.49%**	**106,091**
83	**COST RECOVERY FUND**								
	Operating Expenditures	**597,225**	**295,811**	**797,009**	**539,142**	958,042	**217,623**	**22.72%**	**(321,519)**
94	**ECONOMIC DEVELOPMENT AUTHORITY**								
	Operating Expenditures	**-**	**1,634,541**	**1,457,290**	**1,040,812**	1,785,300	**813,857**	**45.59%**	**(226,955)**

Warren County Expense Report

Between March 1, 2022 and March 31, 2022

	This Month	Last Month	Difference	Avg. Month	Difference
Full-Time	$ 12,673,836	$ 12,738,104	$ (64,269)	$ 9,179,741	$ 3,494,095
Part-Time	$ 94,706	$ 96,445	$ (1,739)	$ 114,319	$ (19,613)
Overtime	$ 82,497	$ 137,678	$ (55,181)	$ 98,441	$ (15,944)
Salaries	**$ 12,851,038**	**$ 12,972,227**	**$ (121,189)**	**$ 9,392,500**	**$ 3,458,538**
Health Insurance	$ 184,925	$ 152,227	$ 32,698	$ 169,726	$ 15,199
VRS	$ 105,120	$ 107,818	$ (2,698)	$ 104,882	$ 238
Other	$ 104,325	$ 109,738	$ (5,414)	$ 106,878	$ (2,554)
Benefits	**$ 394,370**	**$ 369,784**	**$ 24,586**	**$ 381,487**	**$ 12,883**
Professional Services	$ 187,707	$ 174,550	$ 13,158	$ 143,639	$ 44,068
Legal Services	$ 597	$ 5,742	$ (5,144)	$ 7,449	$ (6,852)
Repairs & Maintenance	$ 611	$ 2,374	$ (1,763)	$ 4,361	$ (3,750)
Contracts	$ 6,143	$ 11,252	$ (5,109)	$ 43,041	$ (36,899)
Other	$ 211,739	$ 204,724	$ 7,014	$ 298,862	$ (87,123)
Services	**$ 406,797**	**$ 398,642**	**$ 8,155**	**$ 497,352**	**$ (90,555)**
Electric	$ 41,729	$ 30,249	$ 11,480	$ 39,959	$ 1,770
Water & Sewer	$ 6,422	$ 5,080	$ 1,342	$ 4,249	$ 2,173
Fuel	$ 17,954	$ 13,373	$ 4,581	$ 4,000	$ 13,954
Cable	$ 16,716	$ 1,359	$ 15,357	$ 4,083	$ 12,633
Telephone	$ 24,096	$ 15,676	$ 8,420	$ 18,569	$ 5,527
Other	$ 143,616	$ 204,849	$ (61,234)	$ 182,812	$ (39,196)
Utilities	**$ 250,533**	**$ 270,587**	**$ (20,054)**	**$ 253,672**	**$ (3,138)**
Office	$ 11,053	$ 11,710	$ (658)	$ 7,522	$ 3,531
Repairs & Maintenance	$ 51,692	$ 82,773	$ (31,081)	$ 39,805	$ 11,887
Motor Vehicles	$ 73,887	$ 69,241	$ 4,646	$ 52,040	$ 21,847
Internal Projects	$ 235	$ 775	$ (540)	$ 48,813	$ (48,578)
Travel, Training, Dues	$ (21,721)	$ 80,712	$ (102,433)	$ 16,147	$ (37,868)
Other	$ 285,650	$ 843,474	$ (557,824)	$ 514,777	$ (229,127)
Supplies	**$ 400,796**	**$ 1,088,686**	**$ (687,890)**	**$ 679,104**	**$ (278,308)**
Machinery & Equipment	$ 6,990	$ 13,085	$ (6,095)	$ 56,979	$ (49,989)
Vehicles	$ -	$ -	$ -	$ 9,960	$ (9,960)
Computer Equipment	$ 2,498	$ 15,206	$ (12,708)	$ 5,796	$ (3,298)
Other	$ 1,021,887	$ 268,200	$ 753,687	$ 696,570	$ 325,317
Assets	**$ 1,031,375**	**$ 296,490**	**$ 734,885**	**$ 769,305**	**$ 262,070**
Building Improvements	$ 4,016	$ 718	$ 3,298	$ 7,418	$ (3,402)
Equipment Rental	$ 2,636	$ 3,145	$ (509)	$ 3,541	$ (905)
Other	$ 93,140	$ 212,380	$ (119,240)	$ 58,803	$ 34,337
Debt Principal	$ -	$ -	$ -	$ 911,600	$ (911,600)
Debt Interest	$ -	$ -	$ -	$ 198,917	$ (198,917)
Capital Projects & Debt	**$ 99,791**	**$ 216,243**	**$ (116,451)**	**$ 1,180,280**	**$ (1,080,488)**
Total	**$ 15,434,700**	**$ 15,612,658**	**$ (177,958)**	**$ 13,153,698**	**$ 2,281,002**

Warren County Expense Report

Fiscal Year 2021 - 2022

Month		Salaries	Benefits	Services	Utilities	Supplies	Assets	Capital
	July	$ 3,984,588	$ 366,898	$ 40,523	$ 70,271	$ 759,284	$ 1,092,642	$ (110,866)
	August	$ 9,445,035	$ 380,131	$ 699,441	$ 497,961	$ 610,501	$ 204,374	$ 117,194
	September	$ 9,767,185	$ 397,383	$ 803,086	$ 152,997	$ 824,775	$ 1,403,730	$ 115,181
Quarter 1		**$ 23,196,808**	**$ 1,144,412**	**$ 1,543,050**	**$ 721,228**	**$ 2,194,560**	**$ 2,700,746**	**$ 121,509**
	October	$ 10,914,655	$ 368,651	$ 536,912	$ 296,597	$ 800,162	$ 114,402	$ 5,680,098
	November	$ 12,542,465	$ 392,755	$ 686,608	$ 269,658	$ 472,840	$ 436,732	$ 547,228
	December	$ 12,246,910	$ 394,740	$ 606,211	$ 277,730	$ 448,600	$ 1,069,881	$ 267,730
Quarter 2		**$ 35,704,030**	**$ 1,156,146**	**$ 1,829,731**	**$ 843,985**	**$ 1,721,602**	**$ 1,621,016**	**$ 6,495,056**
	January	$ 10,608,232	$ 380,635	$ 984,633	$ 262,716	$ 747,296	$ 579,588	$ 173,934
	February	$ 12,972,227	$ 369,784	$ 398,642	$ 270,587	$ 1,088,686	$ 296,490	$ 216,243
	March	$ 12,851,038	$ 394,370	$ 406,797	$ 250,533	$ 400,796	$ 1,031,375	$ 99,791
Quarter 3		**$ 36,431,496**	**$ 1,144,788**	**$ 1,790,071**	**$ 783,836**	**$ 2,236,778**	**$ 1,907,454**	**$ 489,968**
	April							
	May							
	June							
Quarter 4		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**
Annual		**0**	**0**	**0**	**0**	**0**	**0**	**0**

Comments

Costs have been consistent throughout March with the only large fluctuation in the Asset category. This is due primarily to the final quarter for the RSW Regional Jail being due in March, which is why the last month of every quarter is high in the Asset Category. Supplies also were down from last month after being significantly high - suggesting it was mostly a timing difference in when supplies were purchases. Warren County departments are now looking through budgets to get ready for year end and we look to be in good shape for ending the year under budget holistically despite some challenges.

Fiscal Year 2021-2022 Budget Appropriations and Transfers

	Dept/Fund	Tran/App	Description	Amount	Source
1	Elections	Appr.	Reimbursement to Warren County from the Town of Front Royal for their portion of the Expenses for the November 2, 2021 General and Special Elections	$14,458.00	Reimbursement
2	Sheriff	Appr.	To Appropriate VACORP checks to pay for vehicle repairs & to replace a vehicle that was totaled	$34,920.00	Reimbursement
3	Sheriff	Appr.	To Appropriate extradition reimbursements from travel expenses incurred to pick up fugitives	$726	Reimbursement
4	Sheriff	Appr.	To Appropriate funds from a grant to compensate the salary of a SRO.	$18,529	Grant
5	Refuse Disposal	Appr.	To Appropriate funds from Special Projects to pay off the remaining balance for a Loader Loan	$240,000	Special Projects
6	Board of Supervisors	Appr.	To Appropriate funds from Special Projects for the Appraisal of Jackson Street Property	$2,500	Special Projects
7	Juvenile & Domestic Court	Transfer	To Transfer funds from Furniture and Miscellaneous to Repair, Maintenance Equipment and Telephone to Balance their Budget	$2,200	Personnel Budget
8	Probation	Transfer	To transfer funds from Mobile Phone/Pager to Office Supplies due to no longer utilizing the Mobile Phone/Pager program	$720	Operating Budget

At a special meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on February 22, 2022 at 7:30 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Vicky L. Cook (Fork District); Jerome K. Butler (Happy Creek District); and Walter J. Mabe (Shenandoah District); also present Edwin C. Daley, County Administrator; Jason Botkins, Legal Counsel; Joe Petty, Director of Economic Development/Interim Planning Director; Emily Ciarrocchi, Deputy Clerk of the Board; and Roger Bianchini, Royal Examiner

Call to Order and the Pledge of Allegiance of the United States of America

Public Hearing – Conditional Use Permit 2021-10-02, Travis Dodson for a Commercial Outdoor Recreation Operation Located at 650 Water Plant Road and Identified on Tax Map 1, as Lots 3, 3A, and 3AA – Joe Petty

Joe Petty, Director of Economic Development/Interim Planning Director, reported the applicant is requesting a conditional use permit for a Commercial Outdoor Recreation Operation, which would consist of a private outdoor gun training facility and classroom. The owner/applicant currently owns and operated a well-established gun shop in Middletown, Virginia, and understands the need for a safe place to provided firearms training and education for both citizens and law enforcement officers. The business would operate year-round and is only available to those who have made reservations for private classes or appointments. The facility is not a public gun range for citizens and customers.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

1. The applicant shall comply with all Virginia Department of Transportation (VDOT), Warren County Building Inspections, Warren County Health Department, Warren County Sheriff's Office and applicable environmental regulations and requirements.
2. A site plan shall be prepared and approved by the Warren County Planning Department prior to the issuance of a Certificate of Zoning, showing the buildings, parking area, outdoor lighting, trash receptacles, signage, outdoor firing range, and other applicable zoning requirements.
3. All light fixtures shall be full cut-off fixtures and comply with the Zoning Ordinance requirements.
4. Activities associated with the commercial operation shall not produce sound levels which exceed 60 decibels during hours of operation at the nearest property line.
5. Activities associated with the commercial operation shall be by appointment or reservation only. Such activities shall only take place during the following hours:
    a. Classroom Instruction: Monday through Saturday 8:00 AM to 7:00 PM, and Sunday 10:00 AM to 5:00 PM.

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b. Outdoor discharge of firearms: Monday through Saturday 9:00 AM to 6:00 PM/or sunset, and Sunday 12:00 PM to 4:00 PM.

6. The maximum number of occupants per class shall not exceed twenty-five students and five instructors or as determined by the Warren County Health Department.

7. Special events which exceed the occupants listed in Condition #6, shall be limited to no more than ten events per calendar year with no more than seventy-five people per event. Such events shall meet Warren County Building Inspections and Warren County Health Department requirements.

8. The applicants shall have the well/drinking water tested annually for lead contamination and a copy of the results shall be submitted to the Planning Departments.

Since the Planning Commission public hearing on November 10, 2021, Mr. Petty has been in contact with the applicant and other individuals with comments in support of or opposition to the application. The following are points from staff that have been crafted from these discussions as well as the proposed edits to the conditions as recommended by the Planning Commission:

- Possible installation of evergreen landscaping around the berm and shooting area to provide additional buffering.
- Regarding the noise produced by the discharge of firearms. The property could be monitored from points around the property boundaries and reviewed and approved by a certified third party for compliance. The results from the sound study may require the need for baffles, buffering, or other improvements to reduce sounds levels.

  Condition #4: "Activities associated with the commercial operation shall not produce sound levels which exceed 60 decibels during hours of operation at the nearest property line. **A study shall be conducted, and results shall be provided to the Planning Department prior to conducting the commercial operation."**

- Regarding the time one should expect to hear the discharge of firearms. By amending the hours of operation, it would reduce the times for outdoor discharge of firearms.

  Condition #5(b): "Outdoor discharge of firearms: Monday through Saturday ~~9:00~~ **10:00** AM to 6:00 PM~~/or sunset~~, and Sunday 12:00 PM to 4:00 PM.

  Condition #6: "The maximum number of occupants per class shall not exceed twenty-five students and five instructors~~ or as determined by the Warren County Health Department~~."

  Condition #7: "Special events which exceed the occupants listed in Condition #6, shall be limited to no more than ten events per calendar year with no more than seventy-five people per event. ~~Such events shall meet Warren County Building Inspections and Warren County Health Department requirements.~~ **A Warren County special entertainment permit shall be issued for each event.**"

- Regarding the safety of the areas outside of the property boundaries. The outdoor firing range should be inspected and approved by a certified third party for compliance. In order to obtain compliance, the site plan requirements may include the need for baffles, buffering, or other improvements.

  Condition #9: **"The applicant shall have approval by a qualified organization/ individual to certify that the live-fire range is a safe operation; designed to prevent injury to personnel and to prevent property damage outside the range from the misdirected or accidental firing and ricochets prior to conducting the commercial operation."**

Mr. Mabe asked about septic system testing, and Mr. Petty referred to the comments submitted by the Warren County Health Department. The original proposal by Mr. Dodson was for a portable restroom facility, and the applicant will be working with the Health Department to provide facilities to accommodate the number of individuals coming to the facility.

Travis Dodson introduced himself as the applicant who, along with his wife Ashley Dodson, bought the property in 2020 with the goal to create a recreational facility that included a range. The range would not be open to the general public or by membership, and the naturally occurring berms on the property have been reinforced with rubber tires. They will not be storing or housing ammunition or firearms at this location, only providing firearms training. They have not been informed of any formal noise complaints coming from the facility by the Sheriff's Office, and they plan to work together with the nearby park to coordinate for future events to avoid discontent regarding noise. Mrs. Dodson and Jim Baker, one of the instructors, spoke briefly about the decibel readings taken on the property in October 2021 during a four-hour period when they expended more than 3,000 rounds. They spoke about the results of the readings and the distances between this property and the nearby Cedar Creek and Belle Grove National Historical Park.

Mr. Butler wanted to know if there were going to be any caliber restrictions for the training, and Mr. Baker responded the vast majority of the training is with handguns.

Mrs. Cullers voiced concerns about potential groundwater contamination and runoff stemming from the shell casings, and Mr. Petty referred to the recommendations given by the Department of Environmental Quality. Because there is a well on the site, DEQ would be able to test and address the pH levels in the water, if needed. Mr. Dodson noted they teach their students to pick up their brass, which is what everyone is supposed to do at every range.

Mrs. Cullers also brought up a screenshot she had received of a comment on a Facebook regarding Mr. Dodson's future plans of making this a public range, and Mr. Dodson replied that this comment was taken out of context and was actually about his far-future plans involving the potential for an indoor range.

Mrs. Cullers opened the public hearing.

The following individuals appeared in person or submitted comments in support of Mr. Dodson's conditional use permit application:

- Gillian Roseberry, Junction Armory
- Richard Harsell
- Buz Grover
- Jan Boru
- Nancy Jo and Shawn Carrico
- Dusty Drummond
- Gary Finniff
- Sherry Jo McBrayer
- Cathy Schucker
- Eric Sine
- Katya Smith
- Brian Smith
- Corey Szwydek
- Suzi and Mike Wilt
- Chief Bill Copp, Stephens City Police
- Mayor Charles Harbaugh, Town of Middletown
- Sheriff Lenny Millholland, Frederick County Sheriff's Office
- Daniel Morgan
- Daniel Beasley
- Ken Logan
- Bradley Long
- Tommy Johnson
- Dan Arico
- Miles Adkins
- Bob Ryan
- Lorne Cooper
- William Burke
- Adam Luthi
- Brian Adams
- Nicholas Ault
- Anthony Bencivenga
- Russell Kuhn
- Jayson Vance
- Paul Hitchcock
- Franklin Martin
- Ian Berry
- Lucas Cook

The following individuals appeared in person or submitted comments in opposition to Mr. Dodson's conditional use permit application:

- Kristen Laise, Belle Grove
- Ross Bradford, National Trust for Historic Preservation (NTHP)
- Dan Downey
- Robin Young
- Virginia Pasquet
- Anne and Bill Mahoney
- Mary Ryan
- Fred Andreae
- Dave Blount
- Byron Brill and Kathleen Kanter
- Ashley Sonntag
- Lee Meyer
- Larry Andrick
- Katherine Malone-France, NTHP
- Keven Walker, Shenandoah Valley Battlefield Foundation
- Roy Downey
- Monty Loving
- Carol Polkinghorne
- Mike Sipes
- Karen Beck-Herzog

There being no further comments from the public, Mrs. Cullers closed the public hearing.

Mr. Butler asked the Dodsons to elaborate on the situation that occurred with the range they attempted to previously open in Frederick County. Mrs. Dodson responded that

three years ago, they had a contingent sale on a property in Frederick County, but their request for a range did not make it past the Planning Commission. She said that they purchased the property here in Warren County after that and opened a private range, which since it was not public, they did not think there would be an issue. However, as soon as they received the violation letter from the Planning Department, they ceased operations and began the application process.

Mr. Petty reviewed the conditions that were approved by the Planning Commission as well as the proposed modifications recommended by staff. There was discussion among the Board members and staff regarding noise mitigation, decibel readings, and whether to include any of the proposed condition modifications recommended by staff. The consensus of the Board was to accept the modifications to conditions 5, 6, and 7.

On a motion by Mrs. Cook, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors, finding that the requested conditional use is consistent with the Warren County Zoning Ordinance, approved the conditional use permit request of Travis Dodson for a Commercial Outdoor Recreation Operation with the conditions as recommended by the Planning Commission and staff, as amended and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, No

1. The applicant shall comply with all Virginia Department of Transportation (VDOT), Warren County Building Inspections, Warren County Health Department, Warren County Sheriff's Office and applicable environmental regulations and requirements.
2. A site plan shall be prepared and approved by the Warren County Planning Department prior to the issuance of a Certificate of Zoning, showing the buildings, parking area, outdoor lighting, trash receptacles, signage, outdoor firing range, and other applicable zoning requirements.
3. All light fixtures shall be full cut-off fixtures and comply with the Zoning Ordinance requirements.
4. Activities associated with the commercial operation shall not produce sound levels which exceed 60 decibels during hours of operation at the nearest property line.
5. Activities associated with the commercial operation shall be by appointment or reservation only. Such activities shall only take place during the following hours:
    a. Classroom Instruction: Monday through Saturday 8:00 AM to 7:00 PM, and Sunday 10:00 AM to 5:00 PM.
    b. Outdoor discharge of firearms: Monday through Saturday 10:00 AM to 6:00 PM, and Sunday 12:00 PM to 4:00 PM.
6. The maximum number of occupants per class shall not exceed twenty-five students and five instructors.

7. Special events which exceed the occupants listed in Condition #6, shall be limited to no more than ten events per calendar year with no more than seventy-five people per event. A Warren County special entertainment permit shall be issued for each event.
8. The applicants shall have the well/drinking water tested annually for lead contamination and a copy of the results shall be submitted to the Planning Departments.

Adjournment

Mrs. Cullers adjourned the meeting at 11:12 PM.

At a regular meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on March 1, 2022 at 9:00 AM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Vicky L. Cook (Fork District); Jerome K. Butler (Happy Creek District); also present Edwin C. Daley, County Administrator; Taryn G. Logan, Deputy County Administrator; Jason J. Ham, Interim County Attorney; Mike Berry, Public Works Director; Mark Butler, Sheriff; Michael Coffelt, Sanitary District Manager; Caitlin Jordan, Senior Assistant County Attorney; Jon Martz, Director of Social Services; Matt Robertson, Finance Director; Alisa Scott, Deputy Finance Director; and Emily M. Ciarrocchi, Deputy Clerk of the Board

Absent: Walter J. Mabe (Shenandoah District)

Call to Order and the Pledge of Allegiance of the United States of America

Adoption of Agenda – Additions or Deletions

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors adopted the agenda as amended with the addition of "as well as Building Code and FOIA matters" to the closed meeting motion for Section 2.2-3711(A)(8) and the addition of Consent Agenda item G-17 for Adoption of a Resolution Requesting Water and Sewer Services:

Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Public Comment Period (60 Minute Time Limit)

There were no presentations from the public.

Report – Virginia Department of Transportation – Ed Carter

Ed Carter, Residency Administrator with the Virginia Department of Transportation (VDOT), presented the following report to the Board:

Maintenance:

- Have been conducting grading operations on stabilized roads and applying stone as weather and conditions allowed; will be continuing this month
- Mobilized for some weather events but not to the extent from January
- Potholes have been frequent with the extreme temperature swings, and VDOT continues to address those as they arise

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- Continued with brush and tree trimming on Route 340 South to open up sight distance in the passing zones and along Browntown Road and Guard Hill Road; will continue along various other routes in March
- Will also be installing some pipes on various routes in March, weather permitting

Board Issues:

- Completed scaling operations along Route 340 South between the refuse site and the KOA campground last week utilizing a For Hire contractor as VDOT still does not have a District-wide contract in place
- Completed taking speed samples on Panhandle Road as requested by Supervisor Cook. Results indicate that there is no speeding issue as 85% of the drivers were traveling at 31 MPH in the statutory limit of 35 MPH. A copy of the results was shared with the Warren County Sheriff's Office

Mr. Carter also reported there is a common area next to Cedar Creek Bridge off Route 11 that has nefarious activities often going on, and VDOT was asked to install a gate to help prevent public access. They installed this gate and provided a code for the people who need access, and Sheriff Butler commended VDOT on their work on this multi-jurisdictional effort.

Reports – Board Members, County Administrator, Interim County Attorney

Mr. Butler had nothing to report.

Mrs. Cook reported the following:

- Reminded citizens of the current openings for local boards and committees, including the Front Royal-Warren County Airport Commission, the Economic Development Authority Board of Directors, and the newly formed Warren County Finance/Audit Committee

Mrs. Oates reported the following:

- Recognized today, March 1st, as Mask Liberation Day as millions of people across the country are releasing their masks with the COVID-19 pandemic-related mandate over
- Parks and Recreation is co-sponsoring a Hoops and Slices event on March 12th from 6:00 PM – 9:00 PM for all area high school students in grades 9-12; this event will have an open gym for basketball and free Melting Pot pizza with a DJ providing music
- Attended the Board of Supervisors/Warren County School Board (BOS/WCPS) Liaison Committee meeting on February 24th and discussed capital improvements and a number of budget issues; a subcommittee for budget review was formed with two members of the School Board along with Mrs. Oates and Mrs. Cook
- There will be a Drug Prevention Committee meeting on Thursday, March 10th at 5:00 PM followed by a presentation at 6:30 PM to the Board and the Town Council on the proposed establishment of a local Drug Court

- Read a prepared statement regarding the matters recently brought before the Board by County resident Matt Tederick stating the matters have been forwarded to a number of authorities, and the Board cannot provide further comments until the investigation is complete

Mrs. Cullers reported the following:

- Attended the State Corporation Commission (SCC) hearing on February 23rd regarding CenturyLink service and thanked Todd Jones and Sheriff Butler for providing her with reference materials for her comments; according to Rappahannock County Supervisor Debbie Donehey, a CenturyLink representative has been assigned to Warren County, and Mrs. Cullers said she looks forward to working with CenturyLink for solutions to the existing problems
- Attended a Workforce Consortium meeting on February 24th in Harrisonburg and listened to a presentation that gave many good ideas on workforce initiatives
- Also attended the BOS/WCPS Liaison Committee meeting on February 24th and looks forward to continuing to work collaboratively with the School Board
- Recognized today, March 1st, as the first day of Women's History Month and spoke about her great-grandmother, grandmother, and the many inspirational female teachers she had over the years

Dr. Daley reported the following:

- Reminded the Board of the upcoming meetings over the next six weeks:
  - Budget work session this afternoon, March 1st
  - Building Committee meeting on Thursday, March 3rd at 2:00 PM
  - Town/County Liaison Committee meeting on Thursday, March 3rd at 6:00 PM
  - Joint budget work session with Warren County Public Schools on Tuesday, March 8th at 5:30 PM
  - Joint work session with Town Council on Thursday, March 10th at 6:30 PM to receive a presentation from the Drug Prevention Committee about the creation of a local Drug Court
  - Regular Board meeting on Tuesday, March 15th at 7:00 PM
  - Special meeting on Tuesday, March 22nd at 7:00 PM to authorize the advertisement of the proposed FY 2022-2023 budget and to conduct one public hearing
  - Regular Board meeting on Tuesday, April 5th at 9:00 AM
  - Special meeting on Tuesday, April 12th at 7:00 PM to hold a public hearing on the proposed FY 2022-2023 budget
  - Regular Board meeting on Tuesday, April 19th at 7:00 PM where the adoption of the proposed FY 2022-2023 budget will be considered

Mr. Ham requested the Board amend the agenda for an addition of "and a claim regarding the Airport" to the closed meeting motion for Sections 2.2-3711(A)(7) and (A)(8).

On a motion by Mrs. Cook, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors amended the agenda for the addition of "and a claim regarding the Airport" to the closed meeting motion for Sections 2.2-3711(A)(7) and (A)(8):

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye

Mrs. Oates said she had read an article yesterday regarding a settlement that had been reached in the opioid litigation and asked Mr. Ham if he knew how the settlement funds would be distributed to localities. Mr. Ham replied while his office is not actively working on the opioid litigation, preliminary numbers show that Warren County will be receiving approximately $1.5 million. The funds should come in as early as April and will paid over the course of the next ten (10) years.

Approval of Minutes

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors approved the minutes of its regular meeting of February 15, 2022:

Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Consent Agenda

1. Removed for further discussion
2. Proclamation Recognizing National Procurement Month and Professional Buyer's Day – Alisa Scott
3. Additional Funding Request of the Humane Society of Warren County – Matt Robertson
4. Citizen Appointment to the Shannon Woods Sanitary District Advisory Committee – Michael Coffelt
5. Use of Courthouse Grounds for the Sexual Assault Awareness Teal Ribbon Campaign, The Laurel Center – Rachel Bollinger/Emily Ciarrocchi
6. Use of Courthouse Grounds for the Domestic Violence Awareness Purple Ribbon Campaign, The Phoenix Project – Melanie Stull/Emily Ciarrocchi
7. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-01, Aaron Hike for a Short-Term Tourist Rental Located off Pineview Drive and Identified on Tax Map 21B, Section 3, Block 6, as Lot U – Matt Wendling
8. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-02, Jana and Aaron Bricco for a Short-Term Tourist Rental Located at 179 Cliff Road and Identified on Tax Map 24A, Section 28A, as Lot 323 – Matt Wendling

9. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-03, Rachel Ward and Simon Booth for a Short-Term Tourist Rental Located at 627 Vesey Drive and Identified on Tax Map 7A, Section 1, as Lot 120A – Matt Wendling
10. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-04, Karen Thomson for a Short-Term Tourist Rental Located at 535 Sunset Village Road and Identified on Tax Map 27D, Section 1, Block 53, as Lot 3A – Joe Petty
11. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-05, Michael Ney for a Short-Term Tourist Rental Located at 207 Riverview Shores Drive and Identified on Tax Map 13C, Section 1, Block S, as Lot 15A – Chase Lenz
12. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-06, Alvand Khoshgavar for a Short-Term Tourist Rental Located at 668 Old Dam Road and Identified on Tax Map 13A, Section 5, as Lot 6 – Joe Petty
13. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-01-07, Jennifer Anderson and Christopher Olszewski for a Short-Term Tourist Rental Located at 1240 Downing Farm Road and Identified on Tax Map 36C, Section 2, Block 4, as Lot 48 – Matt Wendling
14. Authorization to Advertise for Public Hearing – Z2021-10-02, Ordinance to Amend and Re-Ordain Sections 180-8 and 180-16 of the Warren County Code re: Floodplain Overlay District – Matt Wendling
15. Authorization to Advertise for Public Hearing – Z2022-01-01, Ordinance to Amend and Re-Ordain Chapter 180 (Zoning) of the Warren County Code re: Family Day Home – Matt Wendling
16. Coyote Bounties – Marcia Breeden (3) – $50.00 Each – Animal Control
17. Resolution Requesting Water and Sewer Services

Mrs. Cullers requested the removal of item 1 for further discussion.

On a motion by Mrs. Oates, seconded by Mr. Butler, and by the following vote, the Board of Supervisors approved the Consent Agenda as amended:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye

PROCLAMATION OF THE BOARD OF SUPERVISORS OF WARREN COUNTY RECOGNIZING NATIONAL PROCUREMENT MONTH AND PROFESSIONAL BUYER'S DAY

WHEREAS, the Public Procurement Profession plays a significant role in the efficiency and efficacy of both government and private business; and

WHEREAS, in addition to the purchase of goods and services, procurement professionals add value to the organization by performing such functions as executing, implementing, and administering contracts, developing strategic procurement initiatives, and cultivating working relationships with the vending community and other departments within the organization; and

WHEREAS, public procurement professionals in Warren County and in other public and private organizations have tremendous influence on the economic conditions in the United States, with accumulative purchasing power running into the billions of dollars; and

WHEREAS, the public procurement professionals in Warren County are committed to providing high-caliber, strategic, logistical and operational support of all departments within Warren County; and

WHEREAS, the public procurement professionals in Warren County recognize, support and practice the Public Procurement Values and Guiding Principles of Accountability, Ethics, Impartiality, Professionalism, Service, and Transparency, established by NIGP - The Institute for Public Procurement (NIGP) as fundamental tenets of the Public Procurement Profession; and

WHEREAS, NIGP has proclaimed the month of March as Procurement Month to further expand the awareness of the public procurement professional's value within an organization to governmental officials, the general public, private businesses and corporate leaders.

NOW, THEREFORE, BE IT RESOLVED THAT, the Warren County Board of Supervisors does hereby recognize the Public Procurement Profession for its impact within business, industry, and government, and proclaim the month of March 2022 as

PROCUREMENT MONTH

and recognize the individual contribution of public procurement professionals proclaiming March 10, 2022, as

PROFESSIONAL BUYER'S DAY

RESOLUTION OF THE BOARD OF SUPERVISORS OF WARREN COUNTY REQUESTING THAT THE TOWN OF FRONT ROYAL, VIRGINIA PROVIDE WATER AND SEWER SERVICES TO CERTAIN OUT-OF-TOWN LOTS

WHEREAS, the Town of Front Royal, Virginia (the "Town") provides certain water and sewer services to some out-of-Town residents; and

WHEREAS, the County wants to request that the Town provide water and sewer services to Warren County tax parcels 4-41, 12-6, 12-6E and 12-9 for commercial and industrial uses.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Warren, Virginia hereby requests that the Town of Front Royal extend and provide water and sewer services to Warren County tax parcels 4-41, 12-6, 12-6E, and 12-9 for commercial and industrial uses. This Resolution does not provide any zoning approval and use of these tax parcels for commercial and industrial purposes is subject to the County's Zoning

Ordinance and consideration by the Board of Supervisors, if necessary, of a rezoning request in the future.

Donation of Two (2) Warren County Sheriff's Office Vehicles to Warren County Public Schools – Alisa Scott/Sheriff Mark Butler

Mrs. Cullers wanted to be sure the transfer of these vehicles was as transparent a process as possible. Sheriff Butler reported these two Animal Control vehicles do not meet the new standards, which is why they are requesting this transfer to a department that can utilize them.

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors authorized the transfer of two (2) 2013 Ford F-150 vehicles with VINs ending in 0196 and 9491 to the Warren County School Board and further authorized the County Administrator to sign over the titles of these vehicles to the Warren County School Board:

Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Closed Session – Virginia Freedom of Information Act

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board entered 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; she further moved that discussion be limited to the Front Royal-Warren County Economic Development Board of Directors and the Northwestern Community Services Board.

The Board also entered into a closed meeting under the provisions of Sections 2.2-3711(A)(7) and (A)(8) for consultation with legal counsel pertaining to actual or probable litigation and the provision of legal advice regarding the Industrial Development Authority of the Town of Front Royal and the County of Warren, Virginia (the "EDA"), the Town of Front Royal, the *EDA vs. Jennifer McDonald, et al*., the *Town of Front Royal vs. the EDA, et al*., the *EDA vs. the Town of Front Royal,* other potential claims and litigation relating to other possible liabilities of the EDA, the recovery of EDA funds and assets, the outstanding indebtedness of the EDA, and a claim regarding the Front Royal-Warren County Airport.

Finally, the Board entered 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 intergovernmental agreements as well as Building Code and FOIA matters:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board certified 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), (A)(7), 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:

Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Mr. Butler left the meeting at approximately 11:50 AM.

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors amended the agenda to add a citizen appointment to the Economic Development Authority (EDA) Board of Directors and further reappointed Marjorie Martin to the EDA Board of Directors for a four-year term beginning March 1, 2022 and ending February 28, 2026:

Oates, Aye; Cullers, Aye; Cook, Aye

There were no further motions to come out of this closed meeting.

Adjournment

Mrs. Cullers adjourned the meeting at 11:56 AM.

At a regular meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on March 15, 2022 at 6:00 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Vicky L. Cook (Fork District); Jerome K. Butler (Happy Creek District); and Walter J. Mabe (Shenandoah District); also present Edwin C. Daley, County Administrator; Taryn G. Logan, Deputy County Administrator; Jason J. Ham, Interim County Attorney; David Beahm, Building Official; Michael Coffelt, Sanitary District Manager; Chase Lenz, Zoning Administrator; Caitlin Jordan, Senior Assistant County Attorney; Joe Petty, Director of Economic Development/Interim Planning Director; Alisa Scott, Deputy Finance Director; Matt Wendling, Deputy Planning Director; and Emily M. Ciarrocchi, Deputy Clerk of the Board

Closed Session – Virginia Freedom of Information Act

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors entered into a closed meeting under the provisions of Sections 2.2-3711(A)(7) and (A)(8) of the Virginia Freedom of Information Act for consultation with legal counsel pertaining to actual or probable litigation and the provision of legal advice regarding the Industrial Development Authority of the Town of Front Royal and the County of Warren, Virginia (the "EDA"), the Town of Front Royal, the *EDA vs. Jennifer McDonald, et al*., the *Town of Front Royal vs. the EDA, et al*., the *EDA vs. the Town of Front Royal,* other potential claims and litigation relating to other possible liabilities of the EDA, the recovery of EDA funds and assets, the outstanding indebtedness of the EDA, *One Team Flight LLC, et al vs. Cass Aviation LLC, et al,* and airport matters.

The Board also entered 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 building code and FOIA matters, and regarding intergovernmental agreements related to water and sewer services, tourism development, and the enforcement of the building code:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors certified to the best of each member's knowledge only public business matters lawfully exempted from open meeting requirements under Sections 2.2-3711(A)(7) 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:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

Call to Order and the Pledge of Allegiance of the United States of America

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Adoption of Agenda

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors adopted the agenda as amended with the removal of item G-2 (Memorandum of Agreement with the Town of Front Royal for Destination Marketing Organization Services Provided by Discover Front Royal):

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Public Comment Period (60 Minute Time Limit)

There were no presentations from the public.

Reports – Board Members, County Administrator, Interim County Attorney

Mr. Butler reported the following:

- Attended the Parks and Recreation Commission meeting on March 14th
- Attended the Winchester Regional Airport Authority Board meeting on March 10th, and the County is once again a voting member on the Authority; the aim of the Authority is to help surrounding localities in the promotion of aviation for the betterment of the local communities and businesses

Mrs. Cook reported the following:

- Attended the Town/County Liaison Committee meeting on March 3rd
- Continuing with the FY 2022-2023 budget process and reviewing budget requests from partner agencies and Departments
- Attended the Fire Chiefs Advisory Board meeting on March 9th
- Attended Drug Prevention Committee meeting on March 10th and read a statement applauding the Committee for bringing together so many local and external partners to support the drug prevention initiative
- Attended the Samuels Public Library Board meeting on March 14th and invited everyone to attend the Library's upcoming Taste of Books event on April 23rd

Mr. Mabe reported the following:

- Attended the Shenandoah Shores Property Owners Association meeting on March 7th
- Attended the Ministerial Association meeting on March 8th and discussed faith-based initiatives for the area
- Also attended the Drug Prevention Committee meeting on March 10th and is glad to see how much it has grown since its establishment

Mrs. Oates reported the following:

- Also attended the Drug Prevention Committee meeting on March 10th; they are actively pursuing the establishment of a Drug Court for the locality, which is an intensive program overseen by the judicial system providing individuals a chance to rehabilitate instead of being sent to jail; Winchester has seen a 37% graduation rate of its Drug Court program
- The Festival of Leaves is returning this year after a hiatus due to the COVID-19 pandemic; the Festival will be on October 15th from 10:00 AM – 6:00 PM
- Habitat for Humanity is hosting an oyster roast on March 26th from 2:00 PM – 6:00 PM at Hazard Mill Farm

Mrs. Cullers reported the following:

- Thanked the staff of the Finance Department for their work on the proposed FY 2022-2023 budget and the questions they have answered
- Met with the School Board on March 8th to review the FY 2022-2023 budget request of Warren County Public Schools
- Attended the Building Committee meeting on March 3rd
- Also attended the Town/County Liaison Committee meeting on March 3rd
- Participated in a Zoom meeting with CenturyLink on March 9th, and the County now has a point of contact for any issues or concerns, which is a direct result from the hearing with the State Corporation Commission
- Also attended the Fire Chiefs Advisory Board meeting on March 9th where they discussed staffing, volunteerism, equipment, and fundraising; March 23rd is the graduation day for Firefighter 1 and 2 classes, and seven students will be graduating from paramedic training in August
- Met with Mrs. Cook with the Property Owners of Shenandoah Farms (POSF) Board members to talk about their request to return management responsibilities back to the POSF Board for the Shenandoah Farms Sanitary District; the Board will have a meeting on March 29th at 7:00 PM to give residents the opportunity to speak about this request

Dr. Daley reported the following:

- Reminded the Board of the following upcoming meetings:
  - Special meeting on March 22nd at 5:00 PM to discuss the proposed tourism agreement with the Town, to discuss the upcoming Smart Scale cycle through VDOT, to authorize the advertisement of the proposed FY 2022-2023 budget, and to hold a public hearing for one conditional use permit
  - Work session on March 29th at 7:00 PM to receive public comment about the proposed management transition for Shenandoah Farms Sanitary District
  - Regular meeting on April 5th at 9:00 AM that will include a presentation on the FY 2020-2021 audit

- Special meeting on April 12th at 7:00 PM for the public hearing on the proposed FY 2022-2023 budget and tax rates for 2022
- Regular meeting on April 19th at 7:00 PM that will include a vote on the proposed budget tax rates; if State has not completed its work and adopted its budget, the final vote for the County's budget may be delayed

- Invited the Board to attend the Employee Service Awards presentation on March 16th at 2:00 PM

- Revenue Updates for February

Year-to-Date	FY 2022	FY 2021	Difference
Sales Tax	$4,245,185	$2,964,238	$1,280,947 (43.21%)
Meals Tax	$729,101	$575,928	$153,173 (26.6%)
Lodging Tax	$227,261	$182,839	$44,422 (24.3%)
Business License Tax	$816,623	$626,723	$189,900 (30.3%)

- Wayfinding Signage – VDOT (Staunton office) is currently finishing their review of the County's staked locations for approval. Staff hopes to have that soon to move forward with installation of the signs in early spring.

- Building Inspections Statistics for February

New Home Starts			
County	Town	Total	February 2021
4	0	4	13

Permits Issued		
2022	2021	Difference
135	172	-37 (-27.41%)

Inspections Completed		
2022	2021	Difference
501	917	-416 (-83.03%)

- Parks and Recreation
  - Current/Upcoming Programs and Activities:
    - Gymnastics Classes: The Warren County Parks and Recreation Department is currently accepting registrations for its Gymnastics Beginner to Advanced II classes for children ages three (3) years and older. Classes will take place March 26, 2022 - April 23, 2022 from 11:00 AM - 2:00 PM at the Health and Human Services Complex gym. Cost is $85.00 per child (includes uniform).
  - Park Facility Projects:
    - Community Shelter Project Update: Park and Public Works staff placed the metal on the shelter roof on February 23rd. Project completion by April 30, 2022.

- Bing Crosby Stadium Netting Replacement: Custom Netting Company field staff replaced wall/backstop netting beginning February 28th and completed the project on March 2nd.

- Department of Social Services – In the month of February, DSS received:
  - 137 SNAP Applications
  - 188 Medicaid Applications
  - 29 TANF Applications
  - 14 Child Care Applications
  - 1,047 Lobby Visits
  - 1,638 Phone Calls

  On the Services side, for the month of February, DSS received:

  - 53 CPS referrals
  - 17 APS referrals

  Services rendered:

  - Through the Community Development Block Grant Motel voucher program, the Department assisted 12 people and spent $2,528.81
  - Used $508.16 from the Ministerial Fund
  - Took in $5,900.88 to the Ministerial Fund
  - Provided food to 14 individuals
  - 111 EBT cards given

  Job development:

  - New client/referrals in February – 12
  - Total clients to-date – 56
  - Clients actively participating in job search in February – 7
  - Jobs offered/accepted – 3

- Department of Fire and Rescue Services
  - Staff continues to develop the Strategic Plan and Needs Assessment for the Department that also includes revisiting the 2019 Staffing and Implementation Plan. A working copy of the document will be presented and discussed with the Fire Chiefs Advisory staff and Board of Supervisors throughout the development phase.
  - Staff is monitoring the fuel cost/increase noted nationwide and continue to evaluate appropriate budget lines to determine impacts of such increase. Appropriate modifications to conserve fuel usage have been implemented.
  - The Paramedic Program has reached the official halfway point; congratulations to the students attending the program for their success.
  - Captain Burrows along with Lieutenants Cole, Oliver, and Mawyer are attending the VDFP Officer Level II Program.
  - Station 6 upgrades continue, and the demolition of the living areas have started. Staff continues to explore replacement and location options.

- Planning and Development
  - Tourism Committee – The Joint Tourism Committee met on March 9th and decided on the proposed project allocation for the ARPA funding. Staff will report back to the State on the timeline. The revised MOA is on the Board's agenda for approval.
  - Development Review Committee – The Development Review Committee met on February 23, 2022 and discussed the following projects:
    - Planning Commission/Board of Supervisors Applications
      - Outdoor Commercial Recreation Facility – 650 Water Plant Road
      - Cluster Housing Development (47 lots) – Reliance Road
      - Short-Term Tourist Rentals
    - Update on ongoing projects
      - Comprehensive Plan Review Underway
      - Sheetz Site Plan Review (Linden)
    - Route 340/522 Corridor Projects
      - Proposed Warehouse Facility – Corner of Baugh Drive and Fairground Road
      - Enclosed Storage Facilities – Winchester Road (2)
      - Equus Warehouse Facility – Winchester Road
      - McKay Springs – Corner of Winchester Road and Reliance Road
      - Interchange Phase II – Toray Drive

    The Committee will meet again on March 23, 2022, at 10:00 AM.
- Commercial/Industrial Projects – Work continues on the following projects:
  - The new Warren Memorial Hospital has received a full Certificate of Occupancy at this time.
  - Interchange warehouse (Route 340/522 and Toray Drive) has most of the foundation in place and all of the private exterior fire line.
  - Equus Warehouse facility – The site work continues and building permits have been approved. Tilt-up walls have been completed and the exterior fire line is underway.
  - Storage facility on Route 340/522 has scheduled a Pre-Construction Conference, and work should begin soon.
  - New trucking facility on Winners Court has begun work on-site.

Appropriations and Transfers

Mrs. Cook asked about the requested transfer in the amount of $245,445 for the landfill property acquisition, and Dr. Daley replied this was a land purchase that was approved by the Board in 2021. This transfer is the one-time payment to the landowner per the sale agreement.

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors approved the additional appropriations and transfers as presented and shown below for March 2022:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

APPROPRIATIONS

Sheriff	To appropriate ICAC funds to pay for 5IPads and 5 Apple pencils purchased through CDW-G	$4,463.05
Fire and Rescue	To appropriate funds from the North Warren FD Building to North Warren VFS fund to purchase a washer and dryer	$2,765.00

TRANSFERS

Public Works	Insurance Damage for F350 Claim #0912022297706	$3,274
Public Works	To appropriate from the Special Projects fund on behalf of Public Works Refuse Disposal to cover the expenses for the Landfill Property Acquisition	$245,445

Approval of Accounts

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the list of March 2022 accounts as presented:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Consent Agenda

1. Agreement for the County to Provide Building Permit and Inspection Services for the Town of Front Royal – Ed Daley
2. *Removed from the agenda at the meeting by unanimous consent*
3. Award of Contract for Two (2) Rooftop HVAC Replacement Units at the Health and Human Services Complex – Alisa Scott

Mrs. Oates made the note that the building inspections agreement is the same that was approved by Town Council at its meeting on March 14th.

On a motion by Mr. Mabe, seconded by Mr. Butler, and by the following vote, the Board of Supervisors approved the Consent Agenda as presented:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

Public Hearing – Ordinance to Repeal Section 66-34 (Bounties for coyotes) of the Warren County Code – Cheryl Cullers

Mrs. Cullers said she had brought this request back due to being asked by members of the community why this program was still in place despite not effectively reducing the coyote population. The County has spent over $39,000 to-date through this program, and she feels the County can better spend this money than to pay someone for killing a coyote.

Lieutenant Robbie Seal with the Warren County Sheriff's Office stated a representative from the Virginia Department of Wildlife Resources (formerly the Department of Game and Inland Fisheries) came and spoke before the Board at its meeting in January 2021 and reported a bounty program was not a good measure to successfully cull the coyote population.

Mrs. Cook noted back in January 2021, the Board had directed staff to look into alternative methods to help reduce the coyote population and wondered if anybody did such research. Dr. Daley confirmed staff had looked into alternative methods, but none were found to be effective.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors adopted the proposed ordinance to repeal Warren County Code Section 66-34, "Bounties for coyotes":

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

ORDINANCE TO REPEAL SECTION 66-34 OF THE WARREN COUNTY CODE

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Section 66-34 of the Warren County Code (Bounties for coyotes) be repealed as follows:

Chapter 66. Animals

Article VI. Coyotes

~~§66-34 Bounties for coyotes.~~

~~A. Provided there are still unexpended and unappropriated funds available in any given annual County budget for such purpose, there shall be a bounty in the amount of $50 paid to any person who meets the criteria set forth in this section who applies for such payment to the Board of Supervisors for each coyote killed within the boundaries of Warren County; provided, however, prior to being entitled to such payment, such person shall furnish reasonable proof satisfactory to the Animal Control Officer and to the Board of Supervisors that:~~

~~(1) The animal for which the bounty is claimed is a coyote; and~~

~~(2) Such coyote was killed within 72 hours before the application was made for the bounty; and~~

~~(3) Such coyote was killed in Warren County; and~~

~~(4) Based on a sworn statement on a form furnished by the Animal Control Officer and signed by the applicant and the owner or tenant in possession of the property on which the coyote was killed, such coyote was killed either:~~

~~(a) On the applicant's own property; or~~

~~(b) On property which the applicant is the lawful tenant in possession; or~~

~~(c) On property in which such person has:~~

~~[1] The written permission of the owner or lawful tenant in possession to kill such coyote; and~~

~~[2] Written acknowledgement of the owner or lawful tenant in possession that such coyote was killed on such owner's or tenant in possession's property; and~~

~~(5) That such coyote was killed either:~~

~~(a) By the owner of livestock, as defined in § 66-1 of this Code; or~~

~~(b) By a person who produces written certification that he has completed a coyote educational program approved by resolution of the Board of Supervisors.~~

~~B. The Animal Control Officer shall certify in writing his finding as to being satisfied with such proof to the Board of Supervisors prior to its action on the application for payment of the bounty.~~

~~C. The Animal Control Officer shall keep a written record of all applications made for a bounty, such record to include:~~

~~(1) The name, address, and telephone number of the applicant.~~

~~(2) The type of animal, including a physical description thereof, which was killed.~~

~~(3) The name and address, if known, of the owner of any animal, if not a coyote, killed for which application for a bounty was made.~~

~~D. The total dollar amount of bounties to be paid under the Article VI shall not exceed the sum of $3,000 within a given fiscal year; provided, however, that such limit may be increased in a given year by duly adopted resolution of the Board of Supervisors of Warren County.~~

~~[Amended 8-20-2019]~~

THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION.

Language proposed to be deleted is lined through. ~~Example~~
Language proposed to be added is bolded and underlined. **Example**

Public Hearing – Z2021-10-02, Ordinance to Amend and Re-Ordain Sections 180-8 and 180-16 of the Warren County Code re: Floodplain Overlay District – Matt Wendling

Matt Wendling, Deputy Planning Director, reported on November 15, 2016, the Board of Supervisors approved a request to participate in National Flood Insurance Program and the NFIP Community Rating System (CRS) in order to encourage higher standards of community floodplain management which can benefit the citizens who pay flood insurance with lower costs to their current insurance rates. In order to qualify for the program, the County was required to participate in a Community Assistance Visit (CA V) overseen by FEMA at which time they reviewed the County's Floodplain Overlay District, Warren County Code Section 180-16.

The last major review and revision to the ordinance was done between 2012 and 2013 and adopted by the Board on May 21, 2013. During the CAV both FEMA and the Virginia Department of Conservation and Recreation assisted in the current review of the proposed amended ordinance providing recommendations based on the FEMA Region III Ordinance Review Checklist and the FEMA publication on Higher Standards.

In order for the County to meet the requirements of FEMA and the NFIP to participate in the CRS program the County's Floodplain Overlay District ordinance must meet certain provisions and incorporate the voluntary higher standards in order to gain credits for the CRS scoring system.

County staff has incorporated some changes and higher standards from what has been learned in the management of the floodplain and land-use requests that have been experienced since the last ordinance review. Staff has searched out input from State agencies, FEMA, local contractors, and citizens regarding some of these modifications which we hope allows us to incorporate fair and wise floodplain management practices. These changes specifically relate to the use of "Freeboard" in residential construction, and the construction requirements and limitations of accessory structures in both the Agricultural and Residential zoning districts.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors, finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and good zoning practice, approved the amendments to Warren County Code Sections 180-8 and 180-16 re: Floodplain Overlay District:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

AN ORDINANCE TO AMEND SECTION 180-16 OF THE WARREN COUNTY CODE AND ADD THE CHANGE TO THE DEFINITION OF SUPPLEMENTAL DAMAGE TO SECTION 180-8.

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Sections 180-8 and 180-16 of the Warren County Code (Zoning) be amended, added, and re-ordained as follows:

§ 180-16 Floodplain Overlay District; dam break inundation zones.

[Amended 2-21-1995; 2-17-1998; 5-20-2008]

A. Statutory Authorization and Purpose and Intent:

Statutory Authority: In accordance with the general purpose and intent, this ordinance is specifically adopted pursuant to the authority granted to localities by Va. Code § 15.2-2280 and §10.1-600 et seq. and all amendments thereto.

~~A.~~ Purpose **and intent**. **These flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.** The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruptions of commerce and **all** governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief and the impairment of the tax base by:

(1) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;

(2) Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding or located within dam break inundation zones; **[Amended 5-21-2013]**

(3) Requiring all those uses, activities and developments that do occur in flood-prone districts to be protected and/or **flood-proofed** against flooding and flood damage; and

(4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood or dam break hazards. **[Amended 5-21-2013]**

(5) The Planning Department shall maintain copies of all mapped dam break inundation zones. **[Added 5-21-2013]**

(6) Addressing a local need of property owners for flood insurance and to participate in the National Flood Insurance Program (NFIP).

B. Applicability: These provisions shall apply to all **privately or publicly owned** lands within the unincorporated limits of Warren County and identified as being in

the Special Flood Hazard Area (SFHA) by the Federal Insurance Administration **or by the community**. These lands are also identified in the most recent Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) adopted by the Warren County Board of Supervisors on June 3, 2008. **[Amended 5-21-2013]**

C. Compliance and **Disclaimer of L**iability.

(1) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this section and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this section.

(2) ~~(Reserved)~~ **The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection within the Special Flood Hazard Areas and adjacent areas.**

(3) ~~The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study.~~ Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages. **[Amended 5-21-2013]**

(4) Records of actions associated with administering this section shall be kept on file and maintained by the Planning Department **in perpetuity**. **[Added 5-21-2013]**

(5) This section **is not a waiver of sovereign immunity or any statutory immunities and** shall not create liability on the part of Warren County or any officer**, agency** or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

D. Abrogation and Greater Restrictions

(1) This chapter supersedes any less restrictive, conflicting ordinance currently in effect in flood-prone areas. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

(2) These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

(3) This chapter shall also include any subsequent revisions and amendments to the Flood Insurance Rate Maps and the Flood Insurance Study effective June 3, 2008.

E. Severability

(1) If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

F. Designation of County Floodplain Administrator

The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the County Floodplain Administrator. The County Floodplain Administrator may:

1) In the absence of a designated Floodplain Administrator, the duties are conducted by the Planning Director, Zoning Administrator or Zoning Officer.

2) The duties and responsibilities of the County Floodplain Administrator shall include:

a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

b) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

d) Administer the requirements related to proposed work on existing buildings: Make determinations as to whether buildings and structures that are located in the flood hazard areas and that are damaged by any cause have been substantially damaged.

e) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove

applications if the provisions of these regulations have not been met.

f) Assure that all other State and Federal permits are obtained.

g) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

h) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

i) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

1. **Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and**

2. **Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.**

j) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

k) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

G. Penalties

1) Enforcement. This section shall be administered and enforced by an officer to be known as the "Floodplain Administrator." The Floodplain Administrator may be assisted in the enforcement of this section by the Planning Director, Zoning Administrator, Building Official and all other officials of Warren County, Virginia, pursuant to their respective fields. The Floodplain Administrator shall have all necessary authority on behalf of the governing body to administer and enforce this section, including the ordering in writing of the remedying of any condition found in violation of this section and the bringing of legal action to ensure compliance with this section, including abatement or other appropriate action or proceeding.

2) **Violations. Any person who violates any of the provisions of this section or permits any such violation or fails to comply with any of the requirements hereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine or punishment as provided by law. Each day during which such violation continues shall constitute a separate offense. The imposition of a fine or penalty for any violation or failure to comply with any of the requirements hereof shall not excuse the violation or noncompliance.**

H. Reporting NFIP Participation and Local Permit Information and Submission of New Technical Data to FEMA

1) **The County shall submit to a report to FEMA concerning the county's participation in National Flood Insurance Program (NFIP), including, by not limited to, the County's development and implementation of floodplain regulations, under 44 Code of Federal Regulations (CFR) §59.22(b) either annually, biennially on upon request by FEMA.**

2) **The County shall on request from FEMA or VA Department of Conservation and Recreation submit a report which may include information, regarding the number of buildings, permits issued, appeals and variances for development of properties in the Special Flood Hazard Areas.**

3) **The County's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the county shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.**

~~D.~~ **I.** Definitions. Notwithstanding any other provision of the Warren County Code, for the purposes of this section, the following words and phrases shall have the meanings described herein:

BASE FLOOD (BFE)

The flood having a 1% chance of being equaled or exceeded in any given year **and may be referenced as the 1% Annual Chance Flood**.

BASE FLOOD ELEVATION

~~The Federal Emergency Management Agency designated one-hundred-year water surface elevation.~~ **The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the**

datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

BASEMENT

~~Any area of the building having its floor subgrade (below ground level) on all sides~~ **which includes building crawlspace and enclosure floor**. **Any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.**

BOARD OF ZONING APPEALS

The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this section.

CODE OF FEDERAL REGULATIONS (CFR) Title 44 Chapter 1

The code of federal rules and regulations published in the Federal Register implemented and enforced by FEMA under the Department of Homeland Security.

CRITICAL FACILITIES

Those structures or facilities such as hospitals, nursing homes, children and adult day care and housing which are likely to house occupants who may not be sufficiently mobile to avoid death or injury during a flood event; police stations, emergency rescue vehicle and equipment storage facilities and emergency operations centers; and public and private utility facilities which are vital to maintaining or restoring normal services to flooded areas before, during and after a flood event; structures which produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

DAM BREAK INUNDATION ZONE

The area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam. The dam break inundation zone shall be as shown on the dam break inundation zone map filed with the Virginia Department of Conservation and Recreation.

[Added 5-21-2013]

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING

A **non-basement** building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings or columns (posts and piers).

ENCROACHMENT

The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

ENGINEERED OPENING

An Engineered Opening is a mechanical opening, which is activated during a flood, revealing an unobstructed area for which floodwater can flow through to equalize the hydrostatic loads on the enclosure wall. These openings are performance tested and certified to cover a square footage amount.

EXISTING CONSTRUCTION

Any buildings and structures for which the start of construction commenced before May 1, 1980, in conjunction with the Flood Insurance Rate Maps. Existing construction is also referred to as existing structures.

[Added 5-21-2013]

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

A federal agency of the United States Department of Homeland Security that oversees the National Flood Insurance Program (NFIP).

FLOOD-DAMAGE-RESISTANT MATERIALS

Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

[Added 5-21-2013]

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community. DFIRM is the digital version of the FIRM.

[Added 5-21-2013]

FLOOD INSURANCE STUDY (FIS)

~~The official report provided by the Federal Emergency Management Agency containing the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (FBFM), the water-surface elevation of the base flood and supporting technical data.~~

A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

[Added 5-21-2013]

FLOOD or FLOODING

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(c) Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature such as flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection **(1)** of this definition.

FLOODPLAIN or FLOOD-PRONE AREA

Any land area susceptible to being inundated by water from any source.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures and their contents; these include required anchoring and strapping of structures and the inclusion of approved flood vents when necessary.
[Added 5-21-2013]

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height **not to exceed one (1) foot as set by the National Flood Insurance Program. Reference definition for Regulatory Floodway.**

FREEBOARD

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. It is a specific additional height requirement above the base flood elevation (BFE) that provides a margin of safety against extraordinary or unknown risks.
[Amended 5-21-2013]

HEC-RAS (HYDROLOGIC ENGINEERING CENTER - RIVER ANALYSIS SYSTEM)

A one-dimensional steady flow hydraulic model designed to aid hydraulic engineers in channel flow analysis and floodplain determination.
[Added 5-21-2013]

HIGHEST ADJACENT GRADE (HAG)
The highest natural elevation of the ground surface prior to construction ~~next~~ **located adjacent** to the proposed walls of a structure.
[Added 5-21-2013]

HISTORIC STRUCTURE
Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior such as the Virginia Department of Historic Resources (DHR); or **[Amended 5-21-2013]**

(b) Directly by the Secretary of the Interior in states without approved programs.

HYDROLOGIC AND HYDRAULIC (H&H) ANALYSIS
Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, flood profiles and mapping of the Special Flood Hazard Area.
[Added 5-21-2013]

LETTER OF MAP CHANGE (LOMC)
An official FEMA determination by ~~A~~ letter which reflects an official revision or amendment to an effective Flood Insurance Rate Map. A letter of map change is issued in lieu of the physical revision and republication of the effective map. **Letters of Map Change include:**

(1) Letters of Map Amendment (LOMA): an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a parcel of land as defined by metes and bounds or a structure is not located in a special flood hazard area.

(2) Letter of Map Revision (LOMR): a revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

(3) A Letter of Map Revision Based on Fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional Letter of Map Revision (CLOMR): a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

(5) Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a conditional determination that a structure or parcel of land will be elevated by fill above the base flood elevation and will be no longer exposed to flooding associated with the base flood. A LOMR-F is then submitted once fill has been placed in the area during construction. This construction may have taken place during the time the engineering study was being performed or subsequent to that study.
[Added 5-21-2013]

LOWEST ADJACENT GRADE (LAG)

The lowest natural elevation of the ground surface located adjacent to the walls of the structure.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable **non-elevation** design requirements of Federal Code 44 CFR 60.3.

MANUFACTURED/MOBILE HOME

A structure, transportable in one or more sections~~, which is~~ built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. ~~The term "manufactured/mobile home" does not include a "recreational vehicle."~~ **For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.** **[Amended 5-21-2013]**

MANUFACTURED/MOBILE HOME PARK

A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

[Added 5-21-2013]

NEW CONSTRUCTION

For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map on or ~~after December 31, 1974~~ **July 19, 1974**, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures **which is on or after May 1, 1980**.

NONCONFORMING STRUCTURE

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions and Flood Insurance Rate Maps adopted on May 1, 1980

NON-ENGINEERED OPENING

A Non-engineered Opening is an opening or air vent device that is used to meet FEMA/NFIP's requirement of one (1) square inch of net open area for one (1) square foot of enclosed area.

POST-FIRM BUILDING

A building for which construction or substantial improvement occurred after May 1, 1980, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

[Added 5-21-2013]

PRE-FIRM BUILDING

A building for which construction or substantial improvement occurred on or before May 1, 1980, or before the effective date of an initial Flood Insurance Rate Map (FIRM).

[Added 5-21-2013]

RECREATIONAL VEHICLE

A vehicle which is:

(1) Built on a single chassis;
(2) Four hundred square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or able to be permanently towed; and **[Amended 5-21-2013]**
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

REGULATORY FLOODWAY

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height not to exceed one (1) foot.

REMEDY A VIOLATION

Remedy a violation means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

REPETITIVE LOSS STRUCTURE

~~A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten-year period~~ **ending on the date of the event for which a second claim is made,** ~~in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each flood event.~~ **Any insurable building for which two or more claims of more than $1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period since 1978. A repetitive loss property may or may not be currently insured by the NFIP.**
[Added 5-21-2013]

SEVERE REPETITIVE LOSS STRUCTURE

Repetitive loss structures with four separate claim payments greater than $5,000 each which include building and contents or two or more separate claim payments within any rolling 10-year period since 1978 for the building only, where the total of payments exceeds the current market value of the structure.

SHALLOW FLOODING AREA (SHEET FLOW AREA)

A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community's FIRM with a one-percent-or-greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where **the** path of

flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
[Added 5-21-2013]

SPECIAL FLOOD HAZARD AREA (SFHA)

The land in the floodplain subject to a one-percent-or-greater chance of being flooded in any given year as determined in § **180-16J (2)** of this section and formerly called the one-hundred-year floodplain. Includes areas having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) as Zones A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/A1-A30, V1-V30, VE and V.
[Amended 5-21-2013]

START OF CONSTRUCTION

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of the construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed ~~50%~~ **45%** of the ~~market~~ **assessed** value of the structure before the damage occurred: ~~**not inclusive of land value**~~.
This term does not, however, include either:
(1) Land value
(2) Sewer/septic system, well or landscape values.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds ~~50%~~ **45%** of the assessed value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been

identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE

A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION

The failure of a structure or **any** other development to be fully compliant with ~~the~~ **Warren** County's floodplain management regulations **shall be deemed a violation**. A structure or other development without the **required floodplain determination, zoning and building permits,** elevation certificate, other certifications, or other evidence of compliance required by 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided for the as-built structure prior to **final inspection approval and** issuance of a certificate of occupancy from the Building Inspections Department.
[Added 5-21-2013]

WATERCOURSE

A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

~~E.~~ **J.** Establishment of floodplain districts and dam break inundation zones. **[Amended 5-21-2013]**

(1) Description of districts.

(a) Basis of districts. The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for Warren County prepared by the Federal Emergency Management Agency, dated June 3, 2008, as amended.

[1] The Special Flood Hazard Area **(SFHA)** Floodway District is delineated, for purposes of this section, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in Table 4, Floodway Data, of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

[2] The Special Flood Hazard Area Zone AE District shall be those areas identified as an AE Zone on the Flood Insurance Rate Maps

accompanying the Flood Insurance Study for which base flood elevations have been provided but for which no floodway has been delineated.

[3] The Special Flood Hazard Area Zone A District shall be those areas identified as an A Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one-percent annual chance of flooding boundary has been approximated in the Flood Insurance Rate Maps and Digital Flood Insurance Rate Maps.

[4] Warren County may identify and regulate local flood hazard or ~~ponding~~ **stormwater** areas that are not delineated on the FIRM through the County's subdivision application process. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high-water marks or approximate study methodologies. This data may be submitted by a certified engineer and shall be used during the letter of map revision process for determination of the floodplain and base flood for a specific area.

(b) Overlay concept.

[1] The floodplain districts described below shall be overlays to the existing underlying districts as shown on the Official Zoning Map of Warren County and, as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

[2] Any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

[3] In the event that any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(2) Official Zoning Map. The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM) which is declared to be a part of this section and which shall be kept on file at the Warren County Planning and Zoning offices.

(3) District boundary changes.

(a) The delineation of any of the Floodplain Districts may be revised by the Warren County Board of Supervisors where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency

Management Agency (FEMA) after an elevation certificate and letter of map change (LOMC) have been submitted to them.

(b) Initial interpretation of the boundaries of the floodplain districts shall be made by the **County Floodplain Administrator, Planning Director,** Zoning Administrator **or Deputy Zoning Administrator**. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

(4) Jurisdictional boundary changes.

(a) In accordance with CFR, Title 44, Subpart (B), Section 59.22(a)(9)(v), all NFIP participating communities must notify the Federal Emergency Management Agency and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

(b) In order that all Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed, or relinquished floodplain management regulatory authority must be included with the notification.

~~F.~~ **K.** District provisions.

(1) Permit and application requirements. **[Amended 5-21-2013]**

(a) Permit requirement. All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a **floodplain determination,** zoning **and building** permit**s**. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code, Chapter **155**, Subdivision of Land, and Chapter **180**, Zoning, of the Code book of Warren County. Prior to the issuance of any such permit, the ~~Zoning Officer~~ **Zoning Administrator, Floodplain Administrator and Building Official** shall require all applications to include compliance with all applicable state and federal laws.

(b) Site plans and permit applications. All applications for development within any floodplain district and all building permits issued for the Special Flood Hazard Area shall incorporate the following information:

[1] The base flood elevation (BFE) at the site, topographic information showing existing and proposed ground elevations for structures to be elevated, and the lowest floor elevation (including basement).

[2] For structures to be **flood-proofed** ~~(nonresidential only),~~ **and** the elevation to which the structure will be **flood-proofed**.

[3] The issuance of an elevation certificate for an as-built **residential dwelling** structure prior to the final inspection and a certificate of occupancy being issued by Warren County Building Inspections and submitted to the Zoning **or County Floodplain** Administrator within 30 days prior to **the issuance of a certificate of** occupancy.

(2) General standards. In all SFHA Districts the following provisions shall apply **to all permits**: **[Amended 5-21-2013]**

(a) The building of critical facilities in the Special Flood Hazard Area 1% annual chance and 0.2% annual chance flood/shaded zone X area shall be prohibited.

~~(a)~~**(b)** New construction and substantial improvements shall be **built according to this ordinance and the VA USBC, and** anchored to prevent flotation, collapse or lateral movement of the structure.

~~(b)~~**(c)** Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

~~(c)~~**(d)** New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

~~(d)~~**(e)** New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

~~(e)~~**(f)** Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

~~(f)~~**(g)** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

~~(g)~~**(h)** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

~~(h)~~**(i)** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

~~(i)~~**(j)** Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this section shall meet the requirements of new construction as contained in this section.

~~(j)~~**(k)** Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this section shall be undertaken only if said nonconformity is not furthered, extended or replaced.

~~(k)~~**(l)** Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the United States Corps of Engineers **(USACE)**, the Virginia Department of Environmental Quality **(DEQ)** and the Virginia Marine Resources Commission **(VMRC).** ~~(~~A joint permit application is available from any of these organizations **or from other Virginia state offices of environmental programs**.~~)~~ Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation **(DCR)** ~~(~~Division of Dam Safety and Floodplain Management~~)~~ and the Federal Insurance **and Mitigation** Administration **(FIMA)**.

~~(l)~~**(m)** The flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained. **Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.**

(n) In any flood zone the Floodplain Administrator may require a hydrologic and hydraulic analysis for any development.

(o) Development within the Special Flood Hazard Areas shall not adversely impact any threatened and endangered special status faunal species as identified by the Virginia Department of Wildlife Resources (DWR)).

(3) Specific standards. In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to § **180-16 K(1)**, the following provisions shall apply and shall comply with the current Uniform Statewide Building Code (USBC):

(a) Residential construction. Construction of these structures within the regulatory floodway (SFHA Floodway District) shall be prohibited. Within the Special Flood Hazard Areas Zones A and AE, new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than ~~one foot~~ **two and a half feet (30 inches)** above the base flood elevation ~~and shall be constructed with an additional one foot of freeboard if within 100 feet of the regulatory floodway~~. They must also meet a linear setback of ~~25~~ **fifty (50')** feet from the edge of the regulatory floodway as determined in the Flood Insurance Study or through a base floodwater surface elevation **and contour** analysis **survey**. Such certifications and determinations, including the specific elevation (in relation to mean sea level) to which such structures are **flood-proofed**, shall be maintained by the County Planning Department. **The Zoning Administrator shall determine that the yard location and**

setbacks for structures located in residential zoned properties and adjacent to the waterway are compliant and meet the Warren County Code requirements and Floodplain Determination elevation and comments of the Floodplain Administrator. A signed and notarized letter of understanding for a non-conversion of the dwelling shall be submitted at the time of the permit application.

(b) Nonresidential **Commercial, Industrial and Institutional** construction. **New c**onstruction of these structures within the SFHA Floodway shall be prohibited. ~~New construction or~~ **S**ubstantial improvement of any **existing** commercial, industrial, or institutional buildings located in all A and AE Zones shall have the lowest floor, including basement, elevated to no lower than ~~one foot~~ **two and a half feet (30 inches)** above the base flood elevation. These buildings may be floodproofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE plus ~~one foot~~ **two and a half feet (30 inches)** are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided during the site plan process and must be approved by ~~Planning staff~~ **the County Floodplain Administrator or Zoning Administrator**.

(c) Accessory structures. Vacant lots in the Residential-1 (R-1) and Residential-2 (R-2) Zoning Districts, located in the Special Flood Hazard Area shall have a principal use for private-use camping established by conditional use permit prior to an accessory structure being located on the property. **Vacant lots in all residential and Agricultural (A) zoning districts located within or in a portion of the Special Flood Hazard Area shall require a floodplain determination, zoning and building permits prior to construction of any accessory structure used for by-right, conditional use permit or agricultural exemption uses. In residential districts there shall be a limit of one structure allowed within the Special Flood Hazard Area and t**he structure is to be used for storage of property maintenance**,** ~~and~~ recreation equipment, **or a pavilion** ~~only~~ and shall be composed of materials approved by the Planning Department. It shall be no larger than ~~160~~ **200** square feet and shall meet the requirements for flood venting based on square footage of the structure **and for anchoring**. **In the Agricultural district there shall be a limit of two structures allowed within the Special Flood Hazard Area inclusive of Agricultural exempt structures as determined by the County and shall not exceed the cumulative area of 320 square feet for both structures.** Structures shall be required to be **flood-proofed** and strapped or anchored according to the **Virginia** Uniform Statewide Building Code (USBC). The appropriate building permits shall be issued prior to construction and a final inspection ~~and elevation certificate~~ **shall be conducted by a County Building Inspector and the Floodplain**

Administrator, or Zoning official. **Accessory structures ~~shall not be used for human habitation~~ shall have no kitchen facilities and shall not be used for living quarters nor used for dwelling purposes or occupied overnight.**

(d) Fences: Prior to installation, any fence located within the Special Flood Hazard Area shall first receive a zoning permit, floodplain determination and documentation identifying the fence type and its location to be approved by the Floodplain Administrator or Zoning Administrator. Solid panel or board on board/batten fencing shall not be permitted.

~~(d)~~**(e)** Elevated buildings. Enclosed areas of new construction or substantially improved structures which are below the regulatory flood protection elevation shall:

[1] Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door) or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

[2] Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation;

[3] Include, in Zones A and AE, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

[a] Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

[b] The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.

[c] If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

[d] The bottom of all required openings shall be no higher than one foot above the adjacent grade.

[e] Openings may be equipped with screens, louvers or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

[f] Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

~~(e)~~**(f)** Standards for manufactured homes and recreational vehicles.

[1] All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood must meet all the requirements for new construction, including the elevation and anchoring requirements in § **180-16~~F~~K(1)** and **(2)**.

[2] All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

[a] The lowest floor of the manufactured home is elevated no lower than ~~one foot~~ **two and a half feet (30 inches)** above the base flood elevation; or

[b] The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength and of no less than 36 inches in height above the grade;

[c] The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;

[3] All recreational vehicles placed on sites must either:

[a] Be on the site for fewer than 180 consecutive calendar days, be fully licensed and ready for highway use; or

[b] Meet all the requirements for manufactured homes in § **180-16~~F~~K(3)(d)**, outlined above.

[4] A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(4) Standards for Special Flood Hazard Area Zone A District. **[Amended 5-21-2013]**

(a) When base flood elevation data or floodway data have not been provided, the Zoning **Administrator or County Floodplain** Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the

provisions of § **180-16~~F~~K**. In locations where the specific base flood elevations and floodway boundary cannot be determined using sources such as the United States Army Corps of Engineers Floodplain Reports, United States Geological Survey Flood-Prone Quadrangles or other existing data, then the applicant shall provide documentation certifying the base flood elevation and floodway boundary using hydrologic and hydraulic engineering methods and modeling. This analysis shall be certified by a state-registered professional engineer or surveyor and submitted to the Planning Department with supplemental data relating to the study. When such base flood elevation and floodway boundary data is utilized, the Zoning **Administrator or County Floodplain** Administrator shall obtain:

[1] An elevation certificate which states the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and

[2] Documentation that the structure has been **flood-proofed** in accordance with the requirements of § **180-16~~F~~K3~~)(b)~~**, above, the elevation in relation to the mean sea level to which the structure has been **flood-proofed**.

(b) New construction, development and substantial improvement of existing structures within the regulatory floodway shall be prohibited.

(c) Any new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than ~~one foot~~ **two and a half feet (30 inches)** above the base flood elevation. ~~The structure shall be constructed with an additional one foot of freeboard if within 100 feet of the regulatory floodway.~~

(d) Any new construction or development must meet a linear setback of ~~25~~ **fifty** feet **(50')** from the edge of the regulatory floodway based on best available data or through a hydrologic and hydraulic analysis study submitted by a certified engineer **or a topological field survey by a licensed surveyor**.

(e) Development activities in Zone A on the Warren County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with the Board of Supervisor's endorsement, for a conditional letter of map revision (CLOMR) or one based on fill (CLOMR-F), and receives the approval of the Federal Emergency Management Agency.

(5) Standards for the Special Flood Hazard Area Zone AE District. The following provisions shall apply within this district: **[Amended 5-21-2013]**

(a) New construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as AE on the Flood Rate Insurance Map and located **and setback fifty feet (50')** outside of the regulatory floodway.

[1] An elevation certificate which states the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and

[2] Documentation that the structure has been **flood-proofed** in accordance with the requirements of § **180-16~~F~~K3~~)(b),~~** above, the elevation in relation to the mean sea level to which the structure has been **flood-proofed**.

(b) New construction, development and substantial improvement of existing structures within the regulatory floodway shall be prohibited.

(c) Any new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than ~~one foot~~ **two and a half feet (30 inches)** above the base flood elevation. ~~The structure shall be constructed with an additional one foot of freeboard if within 100 feet of the regulatory floodway.~~

(d) Any new construction or development must meet a linear setback of ~~25~~ **fifty** feet **(50')** from the edge of the regulatory floodway as determined in the Flood Insurance Study or through a base floodwater surface elevation analysis completed by a certified engineer **or topological field survey by a licensed surveyor**.

(e) Development activities **within the AE flood zone** on the Warren County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with the Board of Supervisor's endorsement, for a conditional flood insurance rate map revision (CLOMR) or one based on fill (CLOMR-F), and receives the approval of the Federal Emergency Management Agency.

(6) Standards for the Special Flood Hazard Area Floodway District**:** The following provisions shall apply within this district: **[Amended 5-21-2013]**

(a) Encroachments, including fill, new construction, substantial improvements and other developments shall be prohibited, with the exception of accessory structures used solely for storage of recreation equipment and property maintenance equipment as referenced in § **180-16K(3)~~(a)~~(c). All development shall require a floodplain determination and shall have a zoning and building permit issued if it is deemed to be a qualifying accessory structure, fence and any land disturbance or erosion stabilization.**

(b) If § **180-16~~F~~K(6)(a)** is satisfied, all new construction of accessory structures shall comply with all applicable flood hazard reduction provisions of § **180-16~~F~~K**.

(c) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A

replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring, elevation and encroachment standards are met.

(7) Standards for subdivision proposals~~.~~ **:**

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(d) Hydrologic and hydraulic analysis and/or drainage study, erosion and sediment, encroachment analysis and base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions **greater than 50 lots or 5 acres**) that are in the SFHA or within 100 feet of the boundary of the Special Flood Hazard Area. **[Amended 5-21-2013]**

~~G.~~ **L.** Variances: factors to be considered.

(1) In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Ordinance and consider the following additional factors **that are exceptional, unusual, and specific to the property**:

(a) The showing of good and sufficient cause **and an exceptional hardship exists, the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public, and is the minimum action necessary to afford relief and meets the required standards for a variance as outlined in the Code of Warren Section §180-62(B)**.

(b) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any Floodway **or Floodplain** District that will cause any increase in the Special Flood Hazard Area base flood elevation. **[Amended 5-21-2013]**

(c) The danger that materials may be swept on to other lands or downstream to the injury of others.

(d) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(e) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(f) The importance of the services provided by the proposed facility to the community.

(g) The requirements **by other State Agencies** of the facility ~~for~~ **in** a waterfront location

(h) The availability of alternative locations not subject to flooding for the proposed use.

(i) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(j) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(k) **The risk to individuals stranded in isolated structures surrounded by what is, in many cases, rapidly flowing, debris-laden floodwater and the risk to rescue workers and the** safety of access by ordinary and emergency vehicles to the property in time of flood.

(l) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(m) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

(n) Such other factors which are relevant to the purposes of this section.

(o) The ability of the property owner to remove equipment and vehicles incidental to the use of the property prior to or during a flood event. **[Added 5-21-2013]**

(p) Development must not cause an increase in water surface elevations (WSEL) during floods of any magnitude.

(2) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed

project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

(3) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights **greater than one foot (1')**; additional threats to public safety; extraordinary public expense; and will not create nuisances; cause fraud or victimization of the public; or conflict with local, state or federal laws or ordinances. **[Amended 5-21-2013]**

(4) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

(5) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the Special Flood Hazard Area base flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance. **[Amended 5-21-2013]**

(6) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(7) A record of the issuance of a variance with any conditions attached shall be recorded with the deed to the property and on any elevation certificate submitted for the property within ~~60~~ **30** days from the approval of the variance by the Board of Zoning Appeals (BZA). **[Added 5-21-2013]**

Chapter 180. Zoning

Article II. Application

§ 180-8. Definitions.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed ~~50%~~ **45%** of the ~~market~~ **assessed** value of the structure before the damage occurred ~~**not inclusive of land value**~~.

This term does not, however, include either:

(1) Land value

(2) Sewer/septic system, well or landscape values.

SUBSTANTIAL IMPROVEMENT
Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds ~~50%~~ **45%** of the ~~appraised~~ **assessed** value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or**.** any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION.

Language proposed to be deleted is lined through. ~~Example~~
Language proposed to be added is bolded and underlined. **Example**

Public Hearing – Z2022-01-01, Ordinance to Amend and Re-Ordain Chapter 180 (Zoning) of the Warren County Code re: Family Day Home – Matt Wendling

Mr. Wendling reported the applicant, Dawn Sullivan has requested to amend the County Code to add Family Day Home as a land-use. This would allow her to expand her existing day-care service in which she cares for five or fewer children to allow for her to care for up to twelve children under the age of 13. The applicant has stated she has earned a number of Virginia State Department of Social Services certifications and license for operating a Family Day Home. The Warren County Code doesn't currently list this as a land-use for any of the zoning districts and it is not defined or included in the supplemental regulations, the approval of this text amendment would add and identify the standards for this land-use.

The Virginia Department of Social Services requires at least 16 hours of training per year to retain her license for her certification. The DSS bases the number of children allowed on a point system, the maximum for a Family Day Home is 16 points. The breakdown of age groups are as follows:

- Children from birth through 15 months of age count as four points each
- Children from 16 months through 23 months of age count as three points each
- Children from 2 years to 4 years of age count as two points each
- Children from 5 years through 9 years of age count as one point each
- Children from 10 years of age and older count as zero points

The applicant states the amendment would allow a property owner, like herself to run a Family Day Home but the County code does not list that as a use in any of the zoning districts. Her property is zoned Agricultural. She also mentions that there is a limited number of day-care resources in the Town and County and that she has had to turn down requests because she is at her limit. The approval of this use in the various zoning districts would

allow for more resources to be established for families needing to use child day-care in the County and allow for additional regulation by the County.

County staff is recommending language consistent with the Code of Virginia which allows the permit to be administratively issued by the Zoning Administrator once adjacent property owners have been notified by registered or certified mail giving them thirty (30) days to reply. The applicant shall also be required to meet the supplemental regulations and all other applicable ordinances regulated by the Health Department, Department of Social Services, and the County Building Official. The Zoning Administrator shall also have the authority to deny the permit based on comments received by neighbors and those agencies, at which time the applicant could request a public hearing with the Board of Supervisors to request their consideration of the use with conditions or have an option to deny the request.

Mrs. Cullers opened the public hearing.

Samantha Ruibal, 3100 Shenandoah Shores Road, said she currently operates a family day home as well and is the only other subsidy vendor in the County. She encouraged the Board to approve the proposed text amendments so she can apply for the permit as well and taking into consideration the limited number of operations like this in the County.

There being no further comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors, finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and good zoning practice, approved the amendments to Warren County Code Sections 180-8, 180-21, 180-22, 180-23, 180-24, 180-25, 180-26, and 180-46.1 re: Family Day Home:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

ORDINANCE TO AMEND AND RE-ORDAIN CHAPTER 180, ARTICLE II, ARTICLE IV AND ARTICLE V OF THE WARREN COUNTY CODE (ZONING ORDINANCE)

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Sections 180-8 (Definitions), 180-21 (Agricultural (A) District), 180-22 (Residential - 1 (R-1) District), 180-23 (Residential - 2 (R-2) District), 180-24 (Rural Residential (RR) District), 180-25 (Village Residential (VR) District), 180-26 (Suburban Residential (SR) District), and 180-46.1 (Reserved) be amended and re-ordained as follows:

Section 180-8. Definitions.

A. General usage.

…

C. Definitions of words and terms. As used in this chapter, the following words and terms shall have the meanings indicated:

…

DAY- OR CHILD-CARE CENTER (NURSERY) - Any facility operated for the purpose of providing care, protection and guidance to six or more children separated from their parents or guardian during a part of the day only. Exceptions to this definition are:

(1) A summer camp licensed under §§ 35-43 through 35-53, Code of Virginia.

(2) A public school or a private school unless it is determined that such private school is operating a child-care center outside of regular classes.

(3) Nursery school. A school designed to provide daytime instruction for six or more children from two to five years of age inclusive and operated on a regular basis.

(4) A facility which provides child-care on an hourly basis which is contracted for by a parent only occasionally.

(5) A school conducted by a religious institution**,** or a facility operated by a religious organization where children are cared for or educated during short periods of time while religious services are being conducted.

(6) Family Day Home

…

FAMILY DAY HOME - A child day program offered in the residence of the provider or the home of any of the children in care for five (5) through twelve (12) children under the age of 13, exclusive of the provider's own children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or voluntarily registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. However, no family day home shall care for more than four (4) children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. A Family Day Home where the children are all related to the provider whether biological, by-marriage or through adoption shall not be required to be licensed.

Section 180-21. Agricultural (A) District.

A. Statement of intent. This district is intended for areas where general agricultural

…

C. Accessory uses permitted by right. Accessory uses permitted by right shall be as follows:

…

(9) Family Day Home that satisfies the supplementary regulations set forth in § 180-46.1.

Section 180-22. Residential - 1 (R-1) District.
[Amended 12-20-1994; 1-16-1996; 12-17-1996; 5-20-1997; 8-17-1999; 3-21-2006]

A. Statement of intent. This district is intended for family living
…
C. Accessory uses permitted by right. Accessory uses permitted by right shall be as follows:
…
(6) Family Day Home that satisfies the supplementary regulations set forth in § 180-46.1.

Section 180-23. Residential - 2 (R-2) District.

A. Statement of intent. This district is intended for family living
…
C. Accessory uses permitted by right. Accessory uses permitted by right shall be as follows:
…
(3) Family Day Home that satisfies the supplementary regulations set forth in § 180-46.1.

Section 180-24. Rural Residential (RR) District.
[Added 2-5-2002]

A. Statement of intent. This district is intended to provide areas for low-density residential development
…
C. Accessory uses permitted by right. Accessory uses permitted by right shall be as follows:
…
(6) Family Day Home that satisfies the supplementary regulations set forth in § 180-46.1.

Section 180-25. Village Residential (VR) District.

A. Statement of intent. This district is intended to accommodate established villages/settlements
…
C. Accessory uses permitted by right. Accessory uses permitted by right shall be as follows:
…
(4) Family Day Home that satisfies the supplementary regulations set forth in § 180-46.1.

Section 180-26. Suburban Residential (SR) District.

A. Statement of intent. This district is intended to accommodate established villages/settlements

…

C. Accessory uses permitted by right. Accessory uses permitted by right shall be as follows:

…

(4) Family Day Home that satisfies the supplementary regulations set forth in § 180-46.1.

Section 180-46.1. ~~(Reserved)~~ Family Day Home

A. Statement of Intent: This section describes regulations and definitions for Family Day Home which are permitted in the residential and Agricultural zoning districts if the use is approved by the Zoning Administrator through the administrative process set forth in this section. The operation of a family day home may occur as a subordinate use to a residence provided the following supplemental regulations are met after said use is approved by the Zoning Administrator.

B. Definitions. As used in this section, the following terms relating to Family Day Home shall be defined as follows:

"Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least one day of a calendar week for compensation.

"Child-care facilities": Includes any commercial or residential structure that is used to provide child-care services.

"Licensed Family Day Home" A child day program offered in the residence of the provider or the home of any of the children in care serving five (5) through twelve (12) children under the age of 13, exclusive of the provider's own children whether biological, by-marriage or adopted and any children who reside in the home, and when at least one child receives care for compensation. The Licensed Family Day Home shall require a certificate of zoning to be issued after meeting all requirements of the supplementary regulations identified in Section 180-46.1.

"Exempt Family Day Home" Any family day home not required to be licensed by the Virginia Department of Social Services (VDSS). An exempt family day home where the children in care are all related to the provider biologically, by adoption or by marriage shall not be required to be licensed unless they include four (4) children under the age of two. These homes have four or less children

in care, not including the provider's own children or any that reside in the home. Any family day home that meets the exemption provisions for child day programs of the Code of Virginia.

"Voluntarily Registered Family Day Home" Any family day home not required to be licensed by the Virginia Department of Social Services (VDSS) but that has met the standards for voluntary registration with VDSS for such homes pursuant to regulations adopted by the agency and has obtained a certificate of registration. These homes have four or less children in care, not including the provider's own children or any that reside in the home.

C. Application Process: A resident of Warren County who wishes to operate a Licensed Family Day Home as defined in Warren County Code § 180-46.1(B) shall submit an application requesting a zoning permit to the Zoning Administrator. The applicant shall also submit a sketch plan showing the locations for parking, ingress/egress, child pick-up and drop-off zones to the Zoning Administrator with the application.

D. Public Notification and Request for Comments: After receiving an application for Licensed Family Day Home zoning permit, the Zoning Administrator shall notify each adjacent property owner via registered or certified letter that an application has been submitted. Adjacent property owners shall have thirty (30) days from the date the letter is sent to submit an objection to the application to the Zoning Administrator for his consideration. Additionally, the Zoning Administrator shall request comments from a representative of the Virginia Department of Social Services, Virginia Department of Health, Virginia Department of Transportation, the Warren County Fire Marshal and the County Building Official regarding the proposed use.

E. Review of Application and Issuing Approval or Denial of Zoning Permit: The Zoning Administrator shall review all applications seeking a zoning permit for a Licensed Family Day Home. The Zoning Administrator must consider any and all objections submitted by adjacent property owners as well as all comments submitted by local or state agencies.

The Zoning Administrator shall issue the zoning permit once the following has been met:

(1) No written objection is raised by any adjacent property owner within thirty (30) days as set forth in Warren County Code § 180-46.1(D); and

(2) The County has received all local and state agencies comments and the applicant has met all requirements identified by the local and state agencies; and

(3) The applicant has met all of the supplemental regulations set forth in Warren County Code § 180-46.1.

The Zoning Administer may issue the zoning permit once the following has been met:

(1) The Zoning Administrator has considered all written objections submitted by any adjacent property owner within thirty (30) days as set forth in Warren County Code § 180-46.1(D); and

(2) The County has received all local and state agencies comments and the applicant has met all of the requirements identified by the local and state agencies and approved by the Zoning Administrator as required; and

(3) The applicant has met all of the supplemental regulations set forth in Warren County Code § 180-46.1.

F. Appeal Process: In the event the Zoning Administrator denies the applications for a Licensed Family Day Home, the applicant may ask to have the application considered first by the Planning Commission then by the Board of Supervisors according to the process set forth in Code of Virginia, § 15.2-2204.

G. State and Local Agency Compliance: The applicant shall meet all requirements identified through comments by local and state agencies for licensed Family Day Homes prior to being issued a Certificate of Zoning for the applicant's Warren County business license.

H. State licensure for licensed Family Day Homes: After a zoning permit has been issued, the owner or operator shall maintain the required licensure from the Virginia Department of Social Services to operate the Licensed Family Day Home. The owner or operator of the family day home shall provide a copy of the license to the Zoning Administrator within 30 days of issuance. Failure to provide a copy of the license to the zoning administrator shall be deemed to be noncompliant with the provisions of this chapter and could subject the owner or operator to revocation of the zoning permit.

I. Traffic Access, Parking, Entrance and Egress: There shall be a minimum of one parking space for the owner and one for each additional non-resident employee and one space for every four (4) children. Failure to comply with this provision shall be deemed to be noncompliant with the provisions of this chapter and could subject the owner or operator to revocation of the zoning permit.

J. Property Appearance and Signage: There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such Family Day Home other than one non-illuminated sign. Maximum sign area: two square feet. Failure to comply with this provision shall be deemed to be noncompliant with the provisions of this chapter and could subject the owner or operator to revocation of the zoning permit.

K. Inspections by VA State Department of Social Services, Health Department and Warren County Agencies and Departments: Agents of the Virginia Department of Social Services, Warren County Health Department, Warren County Planning and Building Inspections Departments shall be authorized to conduct periodic inspections of the Family Day Home, either scheduled or unscheduled. Failure to comply with this provision shall be deemed to be noncompliant with the provisions of this chapter and could subject the owner or operator to

revocation of the zoning permit.

L. **Business License: A business license shall be required once a zoning permit has been issued by the Zoning Administrator pursuant to this section. Failure to comply with this provision shall be deemed to be noncompliant with the provisions of this chapter and could subject the owner or operator to revocation of the zoning permit.**

M. **Exempt Family Day Homes: Exempt Family Day Homes and Voluntarily Registered Family Day Homes are considered a by right use and are exempt from the zoning permit process described herein.**

N. **Relationship to other laws: These provisions are supplementary, and nothing stated herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, the Uniform Statewide Building Code or any other local, state or federal agency.**

O. **Fees: The fees for a Licensed Family Day Home shall be assessed to cover administrative costs for notifying the adjacent property owner(s) by registered mail and the fee for the certificate of zoning as identified in the Planning Department Fee Schedule. The applicant shall pay the assessed fees at the time their application is submitted. In the event the Zoning Administrator denies the Licensed Family Day Home zoning permit, the applicant shall pay any and all costs related to the applicant's request for a public hearing with the Board of Supervisors. The fees for voluntary registered Family Day Homes shall be the standard fee required for a certificate of zoning for a home occupation in order to apply for a business license as identified in the Planning Department Fee Schedule.**

THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION.

Language proposed to be deleted is lined through. ~~Example~~
Language proposed to be added is bolded and underlined. **Example**

Public Hearing – Conditional Use Permit 2022-01-01, Aaron Hike for a Short-Term Tourist Rental Located off Pineview Drive and Identified on Tax Map 21B, Section 3, Block 6, as Lot U – Matt Wendling

Mr. Wendling reported the applicant states he purchased this property in October 2019 and would like to construct a single-family dwelling to be used for a Short-Term Tourist Rental. The owner does intend to manage the rental himself since he is a general contractor who lives locally and owns a local business. The property is adjacent to a river lot he owns and was issued a conditional use permit for private use camping and is located on Beckwith Drive. The applicant hopes to start construction this Spring and open the rental by the Fall of 2022 if this conditional use permit is approved.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

1. The applicant 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 operational permit for a three-bedroom for the single-family dwelling.
3. The applicant 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 applicant 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.

Mr. Mabe asked if there is a landline on the premises, and Mr. Wendling replied that as part of the supplemental regulations, short-term tourist rentals are required to have a landline or a voiceover IP phone.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Butler, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Aaron Hike for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

1. The applicant 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 operational permit for a three-bedroom for the single-family dwelling.

3. The applicant 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 applicant 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.

Public Hearing – Conditional Use Permit 2022-01-02, Jana and Aaron Bricco for a Short-Term Tourist Rental Located at 179 Cliff Road and Identified on Tax Map 24A, Section 28A, as Lot 323 – Matt Wendling

Mr. Wendling reported the applicants are requesting a conditional use permit for a Short-term Tourist Rental for rental of the single-family dwelling for less than thirty days. The applicants recently purchased the property in September 2021 and would like to be able to offset the costs for maintenance, insurance, and mortgage by renting short term. In their statement of justification, the applicants state they plan to operate the rental part-time since their family will be using it for their own personal use as a second home and this allows for them to have flexibility in renting the property. The currently intend to manage the rental themselves since they reside 10 minutes away in Skyland Estates but will retain a management company if they move back to Northern Virginia to be closer to their jobs.

Mr. Wendling noted the Blue Mountain Property Owners Association provided comments in support of this application.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

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 operational permit for a three-bedroom for the single-family 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.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of Jana and Aaron for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

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 operational permit for a three-bedroom for the single-family 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.

Public Hearing – Conditional Use Permit 2022-01-03, Rachel Ward and Simon Booth for a Short-Term Tourist Rental Located at 627 Vesey Drive and Identified on Tax Map 7A, Section 1, as Lot 120A – Matt Wendling

Mr. Wendling reported the applicants are requesting this conditional use permit for a Short-Term Tourist Rental for the property they recently purchased with the intent to use as a second home and to occasionally lease it on a short-term basis. The applicants would like to offset some of their expenses for the property by renting to people who are interested in visiting the area. They mention that because it is a one-bedroom dwelling that is somewhat isolated, they do not anticipate any problems relating to intrusion of their neighbors' privacy and security. Their intent is to manage the property themselves.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

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 two as determined according to the Health Department operational permit for a one-bedroom for the single-family 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.

Rachel Ward, 627 Vesey Drive, introduced herself as one of the applicants and told the Board she and Mr. Booth are planning to hire a management company. Mr. Wendling stated he will make sure the phone number of the manager is in the property management plan as part of the Planning Department's review.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Butler, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of Rachel Ward and Simon Booth for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

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 two as determined according to the Health Department operational permit for a one-bedroom for the single-family 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.

Public Hearing – Conditional Use Permit 2022-01-04, Karen Thomson for a Short-Term Tourist Rental Located at 535 Sunset Village Road and Identified on Tax Map 27D, Section 1, Block 53, as Lot 3A – Joe Petty

Mr. Petty reported the applicant is requesting a conditional use permit for a short-term tourist rental. The rental will be available for short-term visitations for individuals who will be visiting the Warren County area to enjoy the outdoor activities and local retail and dining establishments. The owner/applicant currently lives in Maryland and plans to have the property cleaned and maintained and maintained by a private company in between reservations.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

1. The applicant 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 as determined according to the Health Department operational permit for a four-bedroom dwelling.
3. The applicant shall have the well/ drinking 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 applicant 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.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Butler, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Karen Thomson for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

1. The applicant 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 as determined according to the Health Department operational permit for a four-bedroom dwelling.
3. The applicant shall have the well/drinking 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 applicant 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.

Public Hearing – Conditional Use Permit 2022-01-05, Michael Ney for a Short-Term Tourist Rental Located at 207 Riverview Shores Drive and Identified on Tax Map 13C, Section 1, Block S, as Lot 15A – Chase Lenz

Chase Lenz, Zoning Administrator, reported the applicant is requesting a conditional use permit for a short-term tourist rental. The rental will be available during the spring and

summer seasons for short-term visitations for individuals visiting the Warren County area. The owner would like to use the property as a short-term tourist rental to supplement his income, and he will manage the property personally. He is currently renting the property to long-term guests.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

1. The applicant 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 the system capacity as determined by the Health Department permit per Warren County Code Section 180-56.4(B). The Certificate of Zoning shall only be issued with approved Health Department records.
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.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of Michael Ney for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

1. The applicant 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 the system capacity as determined by the Health Department permit per Warren County Code Section 180-

56.4(B). The Certificate of Zoning shall only be issued with approved Health Department records.

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.

Public Hearing – Conditional Use Permit 2022-01-06, Alvand Khoshgavar for a Short-Term Tourist Rental Located at 668 Old Dam Road and Identified on Tax Map 13A, Section 5, as Lot 6 – Joe Petty

Mr. Petty reported the applicant is requesting a conditional use permit for a short-term tourist rental. The rental will be available for short-term visitations for individuals who will be visiting the Warren County area as the property is ideal for tourism given its access to the Shenandoah River. The owner/applicant currently lives outside Warren County and plans to have the property cleaned and maintained in between reservations.

The subject property does not meet the required setback of 100' from the neighboring dwelling which is approximately 75' away. After the initial adoption of the short-term tourist rental ordinance the Board of Supervisor granted very few waivers to the 100' setback, however most recently the Board has not approved any waivers to the setback regulation. The property owner has provided letters from adjoining property owners supporting the application and setback waiver.

Given the recent amount of short-term rental applications and approvals that are able to meet Warren County Code Section 180-56.4(O) requiring the 100' setback, staff cannot support approval of this application given the Code as written and possible precedent that may be created.

Mr. Petty provided the Board with additional documentation recently received from the Health Department and the onsite soil evaluator (OSE) the Mr. Khoshgavar hired.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

1. The applicant 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 the system capacity as determined by the Health Department permit per Warren County Code Section 180-56.4(B). The Certificate of Zoning shall only be issued with approved Health Department records.
3. The applicant shall have the well/drinking 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 applicant 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.
7. A waiver to the required setback of 100' to the adjacent property dwelling shall be granted for the existing 75' setback to the dwelling east of the subject property.

Alvand Khoshgavar introduced himself as the applicant and reviewed the documentation provided by the OSE regarding the property's septic system capacity.

Mrs. Oates said she did not understand the disconnect between the one-bedroom capacity the Health Department shows in its records versus the pictures provided by Mr. Khoshgavar, which clearly show two bedrooms. Mr. Petty said it frequently happens that the number of bedrooms advertised by a realtor may not be the same as the approved records through the Health Department.

Mrs. Cullers voiced her concerns about the capacity of the well and septic system, and Mr. Butler said he was concerned about potential encroachment of drainage onto the neighboring properties. Mr. Petty referred the Board to the drainfield drawing from the OSE and the records of the system that show it has been in operation for a while and seems to be in adequate condition.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of Alvand Khoshgavar for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, No; Oates, Aye; Butler, Aye

1. The applicant 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 the system capacity as determined by the Health Department permit per Warren County Code Section 180-56.4(B). The Certificate of Zoning shall only be issued with approved Health Department records.
3. The applicant shall have the well/drinking 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 applicant 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.
7. A waiver to the required setback of 100' to the adjacent property dwelling shall be granted for the existing 75' setback to the dwelling east of the subject property.

Adjournment

Mrs. Cullers adjourned the meeting at 8:33 PM.

At a special meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on March 22, 2022 at 5:00 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Vicky L. Cook (Fork District); and Walter J. Mabe (Shenandoah District); also present Edwin C. Daley, County Administrator; Taryn G. Logan, Deputy County Administrator; Jason Ham, Interim County Attorney; Mike Berry, Public Works Director; Michael Coffelt, Sanitary District Manager; Caitlin Jordan, Senior Assistant County Attorney; Joe Petty, Director of Economic Development/Interim Planning Director; Matt Robertson, Finance Director; Alisa Scott, Deputy Finance Director; Matt Wendling, Deputy Planning Director; Emily Ciarrocchi, Deputy Clerk of the Board; and Roger Bianchini, Royal Examiner

Absent: Jerome K. Butler (Happy Creek District)

Closed Session – Virginia Freedom of Information Act

On a motion by Mrs. Cook, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors entered into a closed meeting under the provisions of Sections 2.2-3711(A)(7) and (A)(8) of the Virginia Freedom of Information Act for consultation with legal counsel pertaining to actual or probable litigation and the provision of legal advice regarding the Industrial Development Authority of the Town of Front Royal and the County of Warren, Virginia (the "EDA"), the Town of Front Royal, the *EDA vs. Jennifer McDonald, et al*., the *Town of Front Royal vs. the EDA, et al*., the *EDA vs. the Town of Front Royal,* other potential claims and litigation relating to other possible liabilities of the EDA, the recovery of EDA funds and assets, the outstanding indebtedness of the EDA, *One Team Flight LLC, et al vs. Cass Aviation LLC, et al,* and airport matters.

The Board also entered 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 intergovernmental agreements related to water and sewer services, tourism development, FOIA matters, and the enforcement of the building code:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors certified to the best of each member's knowledge only public business matters lawfully exempted from open meeting requirements under Sections 2.2-3711(A)(7) 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:

Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

The work session began at 6:00 PM, and the special meeting resumed at 7:00 PM.

DRAFT

Authorization to Advertise for Public Hearing – Proposed Budget for Fiscal Year 2022-2023 and 2022 Tax Rates – Matt Robertson/Ed Daley

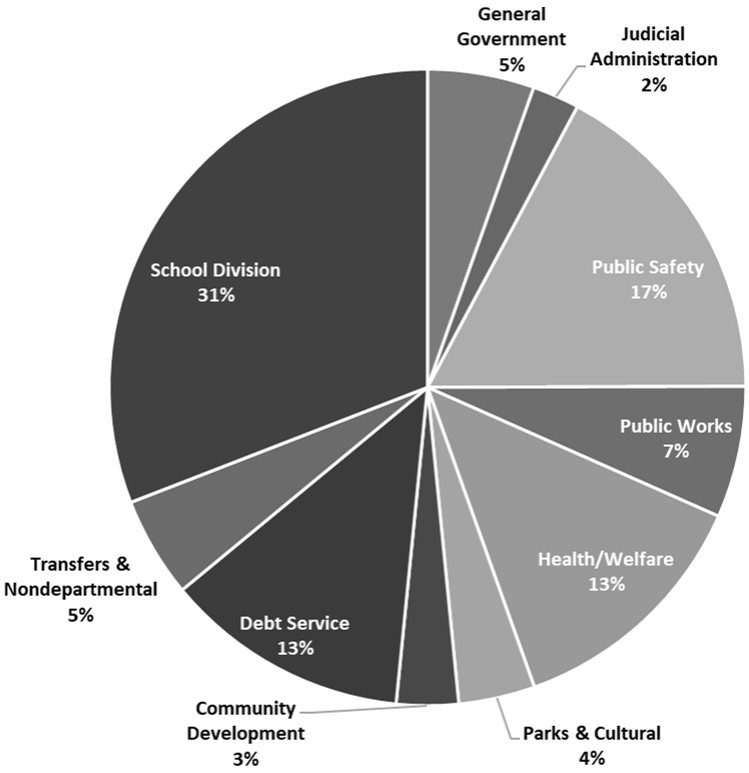
Matt Robertson, Finance Director, reported the proposed FY 2022-2023 budget and tax rates for 2022 are based on the same tax rates as calendar year 2021 with no increases.

The advertisement would also include the budgets, tax rates, and rates of charge for the Sanitary Districts as proposed by the HOAs/POAs/Advisory Boards/Committees. Mr. Robertson then delivered a brief presentation overviewing the proposed FY 2022-2023 budget.

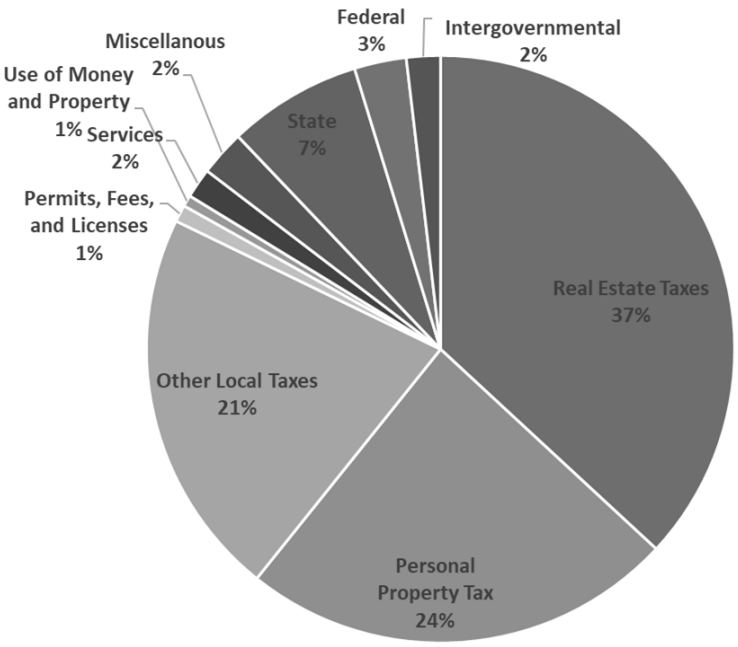
Budget Highlights:

- Real estate and personal property tax rates remain flat
- Limited the General Fund increase to 1.57%
- New, detailed Capital Improvement Plan
- Creation of an Asset Replacement Fund
- Funding for the Information Technology Department
- Significant investment into Public Safety personnel
- Funding for the creation of a Regional Drug Court

General Fund Expenditures:



General Fund Revenue:



Real Estate / Manufactured Home	$0.655
Personal Property	
Tangible Personal Property	$4.00
Volunteer Fire and Rescue Squad	$2.00
Office Furniture, Fixtures and Equipment	$4.00
Machinery and Tools	$2.05
Contract Carrier	$2.05
Aircraft	$0.75

Revenue Changes:

- Approximate $3.2 million increase in General Property Taxes, due mostly to Real Estate and Personal Property valuation increases
- Currently reviewing options to lower valuation of personal property to lower tax bills
- Decrease of about $200,000 in Revenue from Use of Money and Property due to declining interest rates
- Loss of State Revenue is due to Revenue Sharing Projects being moved to Capital Improvement Fund
- Use of Fund Balance decreasing from $1.5 million to $1.1 million

Personnel:

- A total of fourteen (14) additional full-time employees (FTE) are proposed in the FY 2022-2023 Budget
    - 6 new FTE in Fire and Rescue Services
    - 5 new FTE in Sheriff's Office
    - 1 new FTE in Information Technology Department

    - 1 new FTE at Front Royal-Warren County Airport
    - 0.5 new FTE in Children's Services Act (CSA) Office
    - 0.5 new FTE in Commonwealth's Attorney's Office
- The proposed budget also projects a 5% cost of living adjustment (COLA) increase for all staff estimated at $700,000
- VRS and Health Insurance increases are projected at about $500,000

Capital Improvement Plan:

- A Total of $14,839,853 is proposed in FY 2022-2023
    - $8.5 million in School Division projects
    - $3.4 million in Fire and Rescue Services projects
    - $1.7 million in Public Works projects
    - $1.2 million in Parks and Recreation projects
- Of the $14.8 million total, all but $1.2 million will be funded through
    - Grants – $6.2 million
    - Special Projects Funding – $3.3 million
    - Debt – $3 million – subject to carryover process
    - Prior Year Fund Balance – $1 million

Asset Replacement Program:

- A total of $2,792,150 is proposed in Fiscal Year 2022-2023
    - $1,263,100 in Sheriff's Office
    - $800,000 in Fire and Rescue
    - $410,000 in Information Technology
    - $163,550 in General Administration
    - $100,000 in Public Works/Refuse
    - $86,000 in Parks and Recreation
- Of the $2.8 million, approximately $1 million will be funded through Special Projects Funds

Debt Service:

- The proposed FY 2022-2023 budget necessitates the creation of a Debt Service department to separate it from Capital Improvement funding
- Debt payments of approximately $11.1 million are expected
    - Principal – $7.8 million
    - Interest – $3.3 million
- Debt service accounts for approximately 12.6% of the FY 22-23 Proposed Budget
    - School-related debt – $10.3 million
    - County-related debt – $800,000

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors authorized the advertisement of the proposed FY 2022-2023 budget with the same tax rates as 2022 with no increases and the sanitary district tax rates and budgets as proposed by the Sanitary District HOAs/POAs/Advisory Boards for a public hearing to be held on April 12, 2022:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye

Resolution Dedicating Right-of-Way for the Norfolk Southern Railway Grade Separated Bridge Overpass – Taryn Logan

Taryn Logan, Deputy County Administrator, reported in 2016, the Board of Supervisors began discussions with VDOT and the Virginia Inland Port to seek funds to build and design a right-of-way for a bridge over the railroad crossing at Rockland Road. The Board of Supervisors has adopted several resolutions in recent years supporting a grade separation bridge overpass for Rockland Road over the Norfolk Southern Railway. The Board has worked with VDOT and the Virginia Inland Port over the years to address the issues stemming from the railroad being blocked. Rockland Road serves as the primary means of access for several industries, Rockland Park, several golf courses, the Rockland community, which includes the village and dozens of residential subdivisions. The grade separated railroad crossing is shown on the County's 2035 Transportation Plan which was approved by the Board of Supervisors on November 20, 2012.

In December 2018, the Virginia Inland Port was awarded $15.5 million from the U.S. Department of Transportation's Better Utilizing Investment to Leverage Development (BUILD) Grant to help ease traffic in and out of the port as well as decrease traffic around the port. The grant will establish three new loading tracks, extend the current rail tracks, purchase two new carriers and build a new highway bridge grade separation.

The preliminary plans for a grade separated crossing were presented at a public hearing held by VDOT on June 21, 2021. The right-of-way proposed to be dedicated is equal to approximately 1.515 acres. At this time, VDOT is requesting the right-of-way be donated from the County for this project. This would be the County's contribution to the project. VDOT representatives have explained to staff that the cost of the project is approximately $27 million. The federal grant will cover $15.5 million and VDOT is responsible for the remainder of the funding. Construction is proposed to start in late 2023.

Mr. Mabe wondered if this property could be used in another way or sold for a different use, and Mrs. Logan responded the bridge project is the greatest potential for the property at this time.

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors adopted the proposed Resolution agreeing to the dedication of right-of-way for the proposed Rockland Road Grade Separated Bridge Overpass:

Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

RESOLUTION RE: ROCKLAND ROAD – DEDICATION OF RIGHT-OF-WAY FOR THE NORFOLK SOUTHERN RAILWAY GRADE SEPARATED BRIDGE OVERPASS

WHEREAS, Rockland Road, Virginia Route 658, currently serves as the primary means of access for several industries, the Rockland Park, several golf courses, and the Rockland Community, which includes the village itself and dozens of residential subdivisions in northeastern Warren County; and

WHEREAS, Rockland Road is often blocked by trains on the Norfolk Southern railway tracks, and it has been confirmed some of these traffic blockages have lasted well over one hour in time, resulting in safety hazards, significant delays, and cost to residents, business and industry traffic, school buses, and emergency services apparatus; and

WHEREAS, the closest detour route from the Rockland Road railway crossing to avoid these delays is 7.0 miles and takes on average an additional 10 – 12 minutes of travel time; and

WHEREAS, the majority of trains which block traffic on Rockland Road are serving the adjacent Virginia Inland Port facility; and

WHEREAS, the Virginia Port Authority is committed to resolving this significant issue and was awarded a $15.5 million Better Utilizing Investment to Leverage Development (BUILD) Grant through the U. S. Department of Transportation to fund the design, right-of-way acquisition, and construction of a grade separated bridge overpass on Rockland Road at the Norfolk Southern railway crossing; and

WHEREAS, the Virginia Department of Transportation has estimated the cost to design, acquire right-of-way, and construct a grade separated bridge overpass on Rockland Road to be $26,522,847; and

WHEREAS, this Board understands the importance of addressing this significant safety issue and inconvenience to Warren County residents, business and industry traffic, school buses, and emergency services apparatus; and

WHEREAS, the Rockland Road crossing of the Norfolk Southern railway is identified to be improved with a grade separated bridge overpass on the Virginia Department of Transportation's 2035 Front Royal Area Transportation Plan; and

WHEREAS, the Virginia Department of Transportation has requested that the County donate ±1.525 acres of land for right-of-way and the necessary construction easements for the development of this project on the County's property identified on tax map number 12I, section 2, as lot 11 and tax map 12, as lot 60B (Rockland Park property).

NOW, THEREFORE, BE IT RESOLVED, this Board fully supports the efforts of this project and agrees to dedicate the ±1.525 acres of land for right-of-way and the necessary construction easements needed for this project to occur.

Resolution in Support of US Bike Route 211 – Joe Petty

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors tabled further consideration of this item to the regular meeting on April 5, 2022:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye

Memorandum of Agreement with the Town of Front Royal for Destination Marketing Organization Services Provided by Discover Front Royal – Alisa Scott

Alisa Scott, Deputy Finance Director, reported since June 21, 1993, the Town had been responsible for funding the Visitor's Center and tourism for the community as the vast majority of beneficiaries were located inside the limits of the Town. In 2017, due to significant growth outside of the Town's limits, the County adopted an ordinance that increased the transient occupancy tax from two percent (2%) to five percent (5%).

The County and Town entered into a Memorandum of Agreement that established the Front Royal-Warren County Joint Tourism Advisory, investing additional resources into branding and marketing the community as a destination, and to enhance the many amenities in the community. The Town and County appointed the Advisory Committee to advise, assist, support, and advocate for tourism policies, program, and activities to market and promote Front Royal-Warren County and its environs, and to serve as the "local tourism industry organization" referred to in Section 58.1-3819 of the Code of Virginia, as amended.

The Town and County amended the Advisory Committee's name to "Front Royal Warren County Joint Tourism Committee," and entered into a new Memorandum of Agreement to establish an eleven (11) member committee defining the working relationship between the Town and County for the conduct of work of the Joint Tourism Program. Further the Town and County contributed financially to a Destination Marking Organization, to provide visitor services, marketing and advertising for the community, research, and more. The Destination Marketing Organization was mutually selected to provide oversight for strategic planning and budgeting as well as a partner liaison from a Request For Proposals issued and subsequently contracted by the Town in accordance with the Virginia Public Procurement Act.

A new Front Royal-Warren County Joint Tourism Agreement with the Town of Front Royal follows for the anticipated creation of "Discover Front Royal", a 501C6 non-profit organization. Discover Front Royal shall become the Destination Marketing Organization of Front Royal and Warren County and serve as the sole tourism authority.

Dr. Daley noted the following proposed amendments to the agreement:

- Section I, paragraph 4, line 4, "…authority for the Parties. **Prior to any tourism expenditures outside of this agreement, the Town or County shall consult with Discover Front Royal.**"

- Section III, The Town of Front Royal shall: subsection 2, line 2, "…as part of their respective budget process **and paid quarterly**"
- Section III, The County of Warren, Virginia shall: subsection 2, line 2, "…as part of their respective budget process **and paid quarterly**"

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the Front Royal-Warren County Joint Tourism Agreement with the amendments as presented by Dr. Daley and further authorized the Chair and County Administrator to execute the agreement on behalf of Warren County:

Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

Public Hearing – Conditional Use Permit 2022-01-07, Jennifer Anderson and Christopher Olszewski for a Short-Term Tourist Rental Located at 1240 Downing Farm Road and Identified on Tax Map 36C, Section 2, Block 4, as Lot 48 – Matt Wendling

Matt Wendling, Deputy Planning Director, reported the applicants purchased this property in March 2021 and are using the home as a second residence and would like to also rent it as a short-term tourist rental. The dwelling is unique in that the guest suite is attached via a covered and enclosed breezeway that was permitted by the County. The applicants state that this bedroom/guest suite will be used as the primary rental unit of the dwelling. They state they do plan to stay in the principal area of the dwelling while guests stay in the addition. They do plan to manage the rental themselves including the maintenance but are currently researching local property management companies and will retain one in case of emergencies during their guests' stays and to assist in the cleaning and managing of the rental.

This proposed short-term tourist rental meets the required setbacks at 351 feet away from the nearest dwelling. He noted the Thunderbird Farms Property Owners Association sent out a survey asking whether or not residents wanted short-term tourist rentals to be allowed in Thunderbird Farms and received 25 responses against rental, 12 responses in favor of rentals, and one neutral response. These responses were regarding short-term rentals in general and not directed towards this specific application.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

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 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.
7. The property shall be used only as a single-family dwelling and shall only be rented to one set of guests at any one time.

Jennifer Anderson introduced herself as a co-applicant for this permit and thanked the Planning Department for its assistance and insight during the application process. This is a second home for her family and includes a main residence with a one-bedroom suite attached by a breezeway.

Mrs. Cook permit commented on the maximum number of occupants being six while the space slated to be rented is only one-bedroom suite. Mr. Wendling replied the six-person limit is for the entire home inclusive of the suite. Ms. Anderson said they had applied for the most expansive rental possibility in case they change their mind in the future and desire to rent out the entire home and taking into consideration that the permit carries with the property.

Mrs. Cullers opened the public hearing.

Eric Peterson, 1215 Stoney Bottom Road, introduced himself as the President of the Thunderbird Farms Property Owners Association. He came to voice the POA's opposition to the permit and said this application process has been the impetus for the POA to seek to amend its covenants to disallow short-term tourist rentals within the boundaries of the community.

There being no further comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors, approved the conditional use permit request of Jennifer Anderson and Christopher Olszewski for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye

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 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.
7. The property shall be used only as a single-family dwelling and shall only be rented to one set of guests at any one time.

Adjournment

Mrs. Cullers adjourned the meeting at 8:12 PM.

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS WORK SESSION ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-1**	Warren County Offices Closure Request	

EXPLANATION & SUMMARY:

June 21, 2022, Dual Primary Election (if held)

Please see the attached correspondence from Carol Tobin, Director of Elections and General Registrar. The Warren County Electoral Board is requesting to use the Community Meeting Room of the Warren County Government Center to hold a Dual Primary Election (if needed) on Tuesday, June 21, 2022. Warren County Offices are closed on the General and Special Elections day in November, and this request will mirror this closure (should the Dual Primary Election be needed).

County offices will be closed on Monday, June 20, 2022 in observance of Juneteenth, and at this time, staff is requesting the regular meeting of June 21st be rescheduled to the following Tuesday, June 28th at 7:00 PM.

COST & FINANCING: N/A

CONSENT AGENDA MOTION:

I move that the Board of Supervisors approve the request to close Warren County Offices on June 21, 2022 should a Dual Primary Election need to be held in Warren County. I further move the Board of Supervisors adopt the proposed resolution to change the regular meeting date of the June 21, 2022 meeting to Tuesday, June 28, 2022.

OR

I move that the Board of Supervisors _____.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Ed Daley, County Administrator		

The Electoral Board of Warren County
465 W 15th Street, Suite 800
Front Royal, Virginia 22630

Members
Marilyn G. King
Leander B. Bowen
Robert J. Hill

March 18, 2022

WARREN COUNTY
BOARD OF SUPERVISORS

MAR 28 2022

RECEIVED
WARREN COUNTY
ADMINISTRATOR'S OFFICE

Dr. Edwin Daley, Warren County Administrator
Warren County Government Center
220 North Commerce Avenue, Suite 100
Front Royal, VA 22630

Dear Dr. Daley :

I am writing on behalf of the Warren County Electoral Board. The purpose of this letter is to inform you that we will have need of your facility for the following Elections in 2022:

June 21, 2022 **Dual Primary Election (if held)**
November 8, 2022 **General & Special Elections**

The use of the facility for voting is federally mandated and it is hoped that this facility will be as graciously provided as in the past. **The Community Meeting Room is the area that is used as a Polling Location on Election Day.**

As a reminder, we will need access to your facility before the election to move the voting equipment in place and after the elections to remove the voting equipment. We sincerely hope to accomplish these functions with as little disruption to your schedule as possible.

In the weeks before each election we will contact your office to obtain a key or information to access the facility for the use of our election officials. Thank you for your assistance and excellent support with this important process. If you have any questions, please contact the Registrar's Office at 635-4327 or by email at vote@warrencountyva.net.

Best regards,

Carol L. Tobin

Carol L. Tobin, CPGR, VREO
Director of Elections and General Registrar

CLT

RESOLUTION

Changing the Regular Meeting Date of the Board of Supervisors of Warren County, Virginia

Warren County, Virginia hereby changes the date of the June 21, 2022 regular Board of Supervisors meeting to Tuesday, June 28, 2022, at 7:00 PM in the Board Meeting Room of the Warren County Government Center, 220 North Commerce Avenue, Front Royal, Virginia.

CERTIFICATE

The undersigned Chair and Clerk of the Board of Supervisors of Warren County, Virginia hereby certify that the foregoing constitutes a true and correct copy of a Resolution Changing the Regular Meeting Date of the Board of Supervisors of Warren County, Virginia adopted by the Board of Supervisors at a meeting held on April 19, 2022. A record of the roll-call vote by the Board is as follows:

NAME	AYE	NAY	ABSTAIN	ABSENT
Cheryl L. Cullers, Chair				
Delores R. Oates, Vice Chair				
Jerome K. Butler				
Vicky L. Cook				
Walter J. Mabe				

Date: April 19, 2022

_____
Chair, Board of Supervisors
Warren County, Virginia

[SEAL]

ATTEST:

_____
Clerk, Board of Supervisors
Warren County, Virginia

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-2**	**Adoption of Memorandum of Understanding regarding Drug Court Funding**	

EXPLANATION & SUMMARY:

The Board of Supervisors established drug recovery programs as an objective in 2020.

Warren County has been working with the Town of Front Royal, Warren County Public Schools and numerous community agencies on drug recovery programs for the past two years.

This joint effort has led to collaboration with the Valley Health System and the Northern Shenandoah Valley Substance Abuse Coalition to establish a Warren County Drug Court. The County will also join the Coalition.

Warren County will be applying for state funding after the program guidelines as established this next year.

COST & FINANCING: The Fiscal Year 2022-23 cost to Warren County for this project is $ 40,000 for the Warren County Drug Court and $ 10,000 for the regional coordinator. These funds are included in the proposed budget for fiscal year 2022-23.

PROPOSED OR SUGGESTED MOTIONS:

I move that the Board of Supervisors approve the Memorandum of Understanding regarding Drug Court Funding

OR

I move that approval of that this Memorandum of Understanding regarding Drug Court Funding be denied.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Edwin C. Daley, County Administrator		

MEMORANDUM OF UNDERSTANDING
REGARDING DRUG COURT FUNDING

On this ___ day of _____, 2022, the undersigned parties agree to the terms contained in this *Memorandum of Understanding Regarding Drug Court Funding* ("MOU") between the **County of Warren, Virginia** (the "County"); the **Town of Front Royal, Virginia** (the "Town"); **Valley Health System** ("Valley Health"); and the **Northern Shenandoah Valley Substance Abuse Coalition**, (the "NSVSAC"). The foregoing (and undersigned) being hereinafter referred to collectively as "the parties".

RECITALS

1. WHEREAS, at all times herein mentioned, the County of Warren, Virginia, was and remains a municipal corporation formed and operating under the laws of the Commonwealth of Virginia; and

2. WHEREAS, at all times herein mentioned, the Town was and remains a municipal corporation formed and operating under the laws of the Commonwealth of Virginia; and

3. WHEREAS, the NSVSAC is a nonprofit entity formed under the laws of the Commonwealth of Virginia. The mission of the NSVSAC is to collaborate with community partners, and to identify and develop effective resources to ensure that the necessary continuum of care for substance use and addiction services is available to all members of the community; and

4. WHEREAS, Valley Health is a not-for-profit health system dedicated to meeting the medical needs of residents of the Northern Shenandoah Valley, including the County and the Town, and to partnering with local communities to provide the care residents need; and

5. WHEREAS, the parties desire to create a drug treatment court program in the County (hereinafter the "Warren County Adult Drug Treatment Court") in accordance with the provisions of §18.2-254.1 of the Code of Virginia; and

6. WHEREAS the parties desire to compete to receive funding under the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program; and

7. WHEREAS, said grant is limited to states, state and local courts, counties, units of local government, and federally recognized Indian Tribal Governments on behalf of a single jurisdiction drug court; and

8. WHEREAS, the parties have requested that the County apply for said grant and stand as fiscal agent for any funds awarded pursuant to said grant; and

9. WHEREAS, the County and the Town have expressed their support for the Warren County Adult Drug Treatment Court Program and in furtherance thereof, the County has agreed to authorize the County's service as fiscal agent for the grant funds; and

10. WHEREAS, NSVSAC has represented that the grant provisions allow for a nonprofit organization like the NSVSAC to be a sub-recipient of funds received under the grant.

AGREEMENT

The parties understand that participating in this agreement will increase the ability of the County and the Town to promote overall public safety, prevent substance abuse, promote recovery services, and provide the best possible service to the citizens and visitors to those localities; and the parties hereto intend by this MOU to enter into an understanding for cooperation in the establishment and utilization of such activity, subject to the specific terms and conditions herein. The parties jointly agree with one another as follows:

1. The County agrees to provide an initial amount of funding in the amount of $40,000 to be used for the hiring of a coordinator to plan and implement the creation of the Warren County Adult Drug Treatment Court program. Thereafter, the County agrees to provide an annual amount of funding in the amount of $50,000 per year to support the operation of the Warren County Adult Drug Treatment Court program. The County also agrees to provide office space and internet connectivity for the position of drug treatment court administrator/coordinator. All County funding and other support described in this MOU shall be subject to annual appropriation and approval by the Warren County Board of Supervisors.

2. The Town agrees to provide an initial amount of funding in the amount of $40,000 to be used for the hiring of a coordinator to plan and implement the creation of the Warren County Adult Drug Treatment Court program. Thereafter, the Town agrees to provide an annual amount of funding in the amount of $50,000 per year to support the operation of the Warren County Adult Drug Treatment Court program. All Town funding and

other support described in this MOU shall be subject to annual approval and appropriation by the Town of Front Royal.

3. Valley Health agrees to provide an initial amount of funding in the amount of $40,000 to be used for the hiring of a coordinator to plan and implement the creation of the Warren County Adult Drug Treatment Court program. Thereafter, Valley Health agrees to provide an annual amount of funding in the amount of $50,000 per year to support the operation of the Warren County Adult Drug Treatment Court program. This allocation shall be subject to annual approval and appropriation by Valley Health.

4. The monies provided in the MOU shall be paid to the NSVSAC for the support and operation of the Warren County Adult Drug Treatment Court. The NSVSAC will collaborate with community partners in the County and the Northern Shenandoah Valley to identify and develop effective resources to ensure that the necessary continuum of care for substance use and addiction services are available for participants in the Warren County Adult Drug Treatment Court program.

5. Contingent upon fiscal appropriation from the Board of Supervisors of Warren County, the County agrees to act as the applicant and fiscal agent for the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program.

6. NSVSAC and Valley Health shall comply with all grant requirements and keep, maintain and provide to the County and Town within five days of request all necessary documentation to ensure compliance with grant requirements. In the event that the entity providing grant funding, or any other entity authorized to recover grant funds, decides that grant program requirements are or may not have been complied with, NSVSAC and Valley Health shall cooperate with the County and Town in responding to such matters. In the event that the entity providing grant funding, or any other entity authorized to recover grant funds, decides that grant proceeds must be repaid by the County, NSVSAC shall repay to the County and Town all such grant proceeds.

7. In order to properly administer the funds received from the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program, Valley Health System will be responsible for hiring an administrator/coordinator for the Warren County Adult Drug Treatment Court Program. The NSVSAC will be responsible for the reimbursement of costs incurred for compensation of the drug treatment court administrator/coordinator and for payment of substance abuse treatment services for participants in the Warren County Adult Drug Treatment Court Program. The NSVSAC will provide quarterly invoices to the County and the Town for the

reimbursement of costs incurred for compensation of the drug treatment court administrator and for the payment of substance abuse treatment services, which shall be paid for using funds from the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program.

8. The collective monetary total of the provided invoices shall not exceed the dollar amount of the awarded grant and the funds provided herein.

9. The parties to this agreement shall not be required to provide any additional funding other than the funding provided herein, and shall not receive invoices from NSVSAC outside the scope of the grant funds or the funds provided herein.

10. The parties shall bear no funding responsibility for any services associated with this MOU or the aforementioned grant should the funding not be awarded, rescinded, or otherwise modified from its original expected scope.

11. At all times herein mentioned, the County, the Town, Valley Health and NSVSAC, their respective employees, agents, and assigns, shall be construed and remain independent entities. Nothing in this MOU shall be construed to form an employment relationship between any of the parties.

12. This MOU represents the entire agreement between the parties. All prior or subsequent agreements concerning these matters are hereby deemed to be null and void unless said terms are incorporated into a written Addendum to this MOU signed by all parties.

13. This MOU shall automatically renew on January 1st of each year following execution for ten years following execution and may be terminated without cause or recourse by any party upon thirty days written notice issued to the other parties to this MOU. This MOU shall remain in effect despite the expiration of tenure of any of the representatives whose signatures appear hereon.

14. This document shall be construed under the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of the terms of this MOU shall be litigated solely in the Circuit Court for Warren County, Virginia.

15. This MOU constitutes a fully negotiated agreement among sophisticated parties, with the assistance of legal counsel, and must not be construed and interpreted for or against any party thereto.

By executing this Memorandum of Understanding Regarding Drug Court Funding, the undersigned parties represent that they are authorized to and hereby bind their respective entities to all terms of this MOU:

WARREN COUNTY, VIRGINIA:

_____ _____

Edwin Daley**,** County Administrator Date

TOWN OF FRONT ROYAL, VIRGINIA:

_____ _____

Steven Hicks**,** Town Manager Date

NORTHERN SHENANDOAH VALLEY SUBSTANCE ABUSE COALITION

_____ _____

Lauren Cummings, Executive Director Date

VALLEY HEALTH SYSTEM

_____ _____

Signature Date

_____ _____

Print Title

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT	PAGE 1 OF
April 19, 2022	**H-3**	Cancellation of Old Oak IV & Old Oak V Rural Addition, Revenue Sharing Projects	

EXPLANATION & SUMMARY:

On March 29, 2022, the Property Owners of Shenandoah Farms (POSF) sent a request to withdraw from Old Oak IV and Old Oak V, Rural Addition -Revenue Sharing Projects. A copy of the email request from Ralph Rinaldi, POSF Chairman, is attached.

The decision to withdraw was made after County Staff presented the significant construction cost increases anticipated, to the POSF. Old Oak IV construction costs is currently estimated at $598,950 beyond the VDOT approved construction budget of $998,250. Similar increases are anticipated for Old Oak V with a current VDOT budget of $1,077,903. Additionally, Old Oak V would no longer be an eligible Rural Addition project if Old Oak IV is not completed. 100% of the anticipated construction cost increase would need to be paid by Warren County and Shenandoah Farms Sanitary District.

Cancelation of the projects mentioned will require formal notification from Warren County to VDOT. A draft letter is attached for reference.

COST & FINANCING:

The County and POSF will be responsible to reimburse eligible expenses to the date of correspondence. VDOT costs are currently estimated at roughly $24,000. Final VDOT costs will be determined after formal notification of cancelation.

County contracted engineering and survey project costs associated with the projects are currently estimated at $30,000 but (3) three change orders/invoices are pending. Warren County has notified our engineers of the pending withdraw decision, requested a stop on further progress and is awaiting final invoicing for work performed to date.

PROPOSED MOTION(S):

I move the Board of Supervisors send formal notification to VDOT to cancel the Old Oak Lane, Phase IV and Old Oak Lane, Phase V Rural Addition Projects.

OR

I move the Board of Supervisors deny the request at this time.

SUBMITTED BY:	DISPOSITION OF BOARD: □ APPROVED □ OTHER (DESCRIBE)	PROCESSED BY:
Michael R. Berry Public Works Director		

Emily Ciarrocchi

From: Ralph A Rinaldi <rrinaldi@centurylink.net>
Sent: Tuesday, March 29, 2022 7:58 AM
To: Mike Berry
Subject: Rural road addition

The POSF BOARD has voted to withdraw from Old Oak 4&5 rural road addition project. The reason is the cost increase. All engineering needs to be discontinued so no further cost is incurred. At this time any further rural road program should be paused until further notice.

The board also voted to hold off all internal projects.

Thank you for your assistance
Ralph

COUNTY OF WARREN

County Administrator's Office
Warren County Government Center
220 North Commerce Avenue, Suite 100
Front Royal, Virginia 22630
Phone: (540) 636-4600
Facsimile: (540) 636-6066
Email: edaley@warrencountyva.net

Dr. Edwin C. Daley
County Administrator

April 20, 2022

BOARD OF SUPERVISORS

*****

CHAIR
Cheryl L. Cullers
South River District

VICE CHAIR
Delores R. Oates
North River District

Jerome K. Butler
Happy Creek District

Vicky L. Cook
Fork District

Walter J. Mabe
Shenandoah District

*****

Dr. Edwin C. Daley
County Administrator

Virginia Department of Transportation
Attn: Mrs. Kimberly Cameron, PE
811 Commerce Road
Staunton, VA 24401

Dear Mrs. Cameron:

At this time, the County of Warren wishes to cancel the Old Oak IV and Old Oak V Rural Addition Projects, UPC #112958 and UPC#112946. After review of Old Oak IV (UPC#112958), current construction costs increases are estimated at $598,950 beyond approved Revenue Sharing funding.

After review and explanation of the substantial project construction cost increases anticipated for Old Oak IV and high probability of similar increases for Old Oak V, the Property Owners of Shenandoah Farms (POSF) Board voted to withdraw from the current projects. A copy of the email from the POSF Board is also attached to this letter.

The County and POSF understands that we are responsible to reimburse eligible expenses to the date of this correspondence.

We appreciate VDOT's help and cooperation with this project and regret that we will not be able to continue. We look forward to other future opportunities.

Sincerely,

Dr. Edwin C. Daley, ICMA-CM
County Administrator
Warren County, Virginia

DRAFT

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-4**	**Adoption of Fiscal Agent Agreement for Regional Broadband Services**	

EXPLANATION & SUMMARY:

The Board of Supervisors established County-wide broadband funding as an objective in 2020.

Warren County is participating in a regional broadband effort with the Commonwealth of Virginia, utility companies and cooperatives, other local governments, the Northern Shenandoah Valley Region Commission (NSVRC) and All Points Broadband.

In December 2021, the County as part of the Northern Shenandoah Valley Regional Commission (NSVRC) for the All Points Broadband Virginia Telecommunication Initiative (VATI) Grant project was awarded funding for a the expansion of broadband in Fauquier County. As part of the process to go under contract with the Virginia Department of Housing and Community Development (DHCD), state administering agency for the VATI grant program, NSVRC and the participant localities are required to approve to sets of agreements. These agreements including the DHCD grant agreement and a fiscal agent agreement or memorandum of understanding between NSVRC and the localities.

The NSVRC and localities anticipate formal contract authorization by May 5, 2022. As such, all required agreements must be approved and ratified by related parties prior to this date. The fiscal agent agreement outlines the policies and procedures related to the NSVRC act as fiscal agent and grantee on the behalf of the project localities, while ensuring the necessary cash flows for the project.

COST & FINANCING:

The County cost for this project is $6,900,000, contingent upon receipt of VATI funds from the Commonwealth. The County share will be paid from the County's American Rescue Plan Act of 2021 allocation.

PROPOSED OR SUGGESTED MOTIONS:

I move that the Board of Supervisors approve the fiscal agent agreement for regional broadband services with such changes as may be approved by the County Administrator in cooperation with the County Attorney.

OR

I move that approval of the initial agreement for regional broadband services be denied.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Edwin C. Daley, County Administrator		

FISCAL AGENT AGREEMENT

This Fiscal Agent Agreement (this "Agreement") is entered into as of the date last set forth below by and between the Northern Shenandoah Valley Regional Commission ("NSRVC") and Augusta County, Virginia; Clarke County, Virginia; Fauquier County, Virginia; Frederick County, Virginia; Page County, Virginia; Rappahannock County, Virginia; Rockingham County, Virginia; and Warren County, Virginia (each, a "Participating County," and, collectively, the "Participating Counties"). NSVRC and the Participating Counties are each a "Party" and are, collectively, the "Parties."

WHEREAS, the Parties, in coordination with APB Partners Valley, LLC ("APB") and its affiliates, have collaborated on the development of a regional broadband plan pursuant to which APB will be constructing a last-mile broadband network within the Participating Counties;

WHEREAS, NSVRC and APB are designated by the Participating Counties as the Applicant and Co-Applicant, respectively, for Application ID 86508092021134115 (as amended, modified, and/or supplemented during the application process and by the Contract Negotiation Record, the "VATI Application") to the Virginia Telecommunications Initiative ("VATI") program, administered by the Virginia Department of Housing and Community Development ("DHCD"), and the project set forth in the VATI Application (the "VATI Project") has been awarded $96,873,500 in grant funding from DHCD (the "VATI Award");

WHEREAS, as a requirement of the VATI Award, DHCD has required NSVRC to enter into an Agreement with DHCD (the "DHCD Agreement") which provides, among other things, for the administration of the VATI Project by NSVRC and the repayment of some or all of the VATI Award to DHCD under certain circumstances described therein;

WHEREAS, the DHCD Agreement requires NSVRC to enter into an agreement with APB (the "Grant Agreement") that requires APB to carry out VATI Project and which obligates APB to repay the VATI Award if so required under the DHCD Agreement;

WHEREAS, the Participating Counties have committed to provide APB with an aggregate of $62,450,000 in local contributions designated as match for the VATI Project (the "County VATI Match"), as set forth in more detail in Exhibit A; and

WHEREAS, the Participating Counties wish to designate NSVRC to serve as their administrative/fiscal agent and administrator for the VATI Project.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. Fiscal Agent. NSVRC will act as fiscal agent for the VATI Project and maintain accurate records of the financial expenditures of the VATI Award and the County VATI Match, including, but not limited to financial reports, monthly funding draws, submission of APB expenditures and invoices to DHCD, and documentation of matching funds.

2. ARPA Obligations. NSVRC will provide reporting and documentation to the Participating Counties, in a manner consistent with guidelines provided by DHCD for reporting on ARPA compliance to DHCD, so that the Participating Counties may document compliance with ARPA rules and regulations.

3. VATI Grant Management. NSVRC will provide, in accordance with the terms of the DHCD Agreement, overall grant management of the VATI Project and provide coordination and administration of the VATI Project by working as a liaison between the Participating Counties, APB and DHCD.

4. Construction and Implementation of Broadband Services. NSVRC will oversee APB's construction of the VATI Project in the manner set forth in the VATI Application. All facilities constructed by APB will be owned by APB and the Participating Counties shall have no obligation for ongoing maintenance related thereto.

5. Collection, Invoicing of Expenses and Payment of the County VATI Match.

a. NSVRC will collect each Participating County's share of the County VATI Match from such Participating County as set forth herein. On or before July 1, 2022, each Participating County shall make an initial payment to NSVRC equal to 20% of such Participating County's share of the County VATI Match specified on Exhibit A. On or before October 1, 2022, and on or before the first day of each succeeding calendar quarter thereafter (January 1, April 1, July 1, and October 1), each Participating County shall make a quarterly installment payment to NSVRC equal to 10% of such Participating County's share of the County VATI Match with the ninth and final payment due on or before July 1, 2024. Any Participating County that fails to make a payment in a timely manner shall be responsible any resulting damages suffered by NSVRC. All payments by the Participating Counties to NSVRC shall be made in the manner specified by NSVRC, which manner of payment may be changed from time to time in NSVRC's sole discretion.

b. Payments made by NSVRC to APB from the VATI Award and the County VATI Match will be governed by (i) a Grant Administration Agreement between NSVRC and APB, and (ii) an agreement between DHCD and NSVRC relating to the VATI Award and VATI Project. NSVRC expects that the payment procedures established by those agreements will be roughly consistent with those outlined herein. Once work on the VATI Project commences, APB will submit invoices for VATI Project expenses to NSVRC on a monthly basis, which invoices shall provide a breakdown of APB's reimbursable expenses consistent with DHCD guidelines and procedures. APB will submit the invoice for any given month to NSVRC no later than the business day before the date on which NSVRC is required to submit its corresponding monthly report to DHCD. NSVRC will, in turn, submit such invoice to DHCD and request reimbursement for such expenses against the VATI Award, which reimbursement from DHCD shall be payable to NSVRC. With respect to any monthly invoice submission by APB, NSVRC will pay to APB the VATI-reimbursable and Participating County-reimbursable portion of such invoiced expenses within seven calendar days of receiving the VATI-reimbursable portion of the invoice from DHCD. DHCD's determinations concerning the reimbursement of expenses invoiced by APB will be final and binding upon NSVRC and the Participating Counties.

~~b.~~c. Any County VATI Match funds not expended by December 31, 2026, will be returned to the Participating County which contributed such funds unless otherwise agreed in writing between NSVRC and the Participating County.

~~c.~~d. In the event that the VATI Project is fully completed and NSVRC is holding unexpended County VATI Match funds, NSVRC will promptly return such funds to the Participating County which contributed such funds. In the event that County VATI Match funds are repaid to NSVRC pursuant to the repayment provisions of the Grant Agreement, NSVRC will promptly return such County VATI Match funds to the Participating County which contributed such funds unless otherwise agreed in writing between NSVRC and the Participating County.

6. Monthly Reports Regarding the County VATI Match. Within 10 calendar days of the date on which NSVRC makes any payment to APB from the County VATI Match in accordance with Section 4 above, NSVRC will provide each applicable Participating County with a report (a) detailing the APB expenses being reimbursed by NSVRC from the County VATI Match attributable to such Participating County, (b) reporting APB's progress against established project milestones for the VATI Project as approved by DHCD and (c) providing an updated balance of the County VATI Match funds of such Participating County being held by NSVRC.

7. Notices. Any notice under this Agreement will be made to the Parties at their respective addresses set forth below. Any Party may change its address upon 10 days' written notice to the other Party.

Formatted: Indent: Left: 1", No bullets or numbering

Northern Shenandoah Valley Regional Commission
Attn: Brandon Davis, Executive Director
400 Kendrick Lane
Front Royal, Virginia 22630

With a copy by email to bdavis@nsvregion.org.

If to a Participating County, to the address specified on such Participating County's signature page to this Agreement.

8. Miscellaneous.

a. This Agreement is governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to the conflict of laws provisions of such Commonwealth.

b. This Agreement shall inure to the benefit of and be binding upon each of the Parties and each of their respective successors and assigns.

c. If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

d. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

e. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which constitute one and the same agreement. Delivery of an executed counterpart of this Agreement electronically (including by DocuSign or similar electronic signature software) or by facsimile shall be effective as delivery of an original executed counterpart of this Agreement.

f. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. For the purpose of clarification, this Agreement does not supersede that certain Memorandum of Understanding, effective as of June 30, 2021, by and between Virginia Electric and Power Company dba Dominion Energy Virginia, All Points Broadband Partners, LLC, Shenandoah Valley Electric Cooperative, and the Participating Counties.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Fiscal Agent Agreement as of the date last set forth below.

NORTHERN SHENANDOAH VALLEY REGIONAL COMMISSION

By: _____
Name: Brandon Davis
Its: Executive Director

Date: _____

IN WITNESS WHEREOF, the parties hereto have executed this Fiscal Agent Agreement as of the date last set forth below.

WARREN COUNTY, VIRGINIA

By: _____
Name:
Its:

Date: _____

Address:

_____

_____

_____

EXHIBIT A

County VATI Match
for each
Participating County

Participating County	County VATI Match
Augusta County	$8,400,000
Clarke County	$5,400,000
Fauquier County	$10,500,000
Frederick County	$8,650,000
Page County	$7,800,000
Rappahannock County	$5,900,000
Rockingham County	$8,900,000
Warren County	$6,900,000
Total	**$62,450,000**

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-5**	Recommendation to Renew Contract: Electrical Inspections	

EXPLANATION & SUMMARY:

The County has previously solicited and awarded a contract for services for electric inspections to be performed by a "third party", to Middle Department Inspection Agency, Inc., on January 23, 2020. The initial term of the contract was for two years, ending January 23, 2022.

Staff recommends the Board approve the first contract modification, Contract Modification 1 of 3, with an increase in pricing to commence on January 23, 2022, and end on January 23, 2023.

COST & FINANCING:

Funding for this service is budged and available in the Building Inspections department line item 34010-3002

PROPOSED OR SUGGESTED MOTION:

I move the Board of Supervisors approve the County Administrator be authorized to sign the contract modification to the electrical inspections contract for services performed by Middle Department Inspection Agency, Inc., and proposed price increase.

or

I move that the Board of Supervisors table this request for further discussion.

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

CONTRACT MODIFICATION 1 OF 3
TO THE AGREEMENT BETWEEN
THE COUNTY OF WARREN, VIRGINIA
AND MIDDLE DEPARTMENT INSPECTION AGENCY, INC.
FOR ELECTRICAL INSPECTION SERVICES

THIS AMENDMENT dated this _____ day of _____, 2022, by and between the County of Warren, Virginia, a political subdivision of the Commonwealth of Virginia (hereinafter the "County"), and Middle Department Inspection Agency, Inc. (hereinafter the "Service Provider")

WITNESSETH:

WHEREAS, the County and the Service Provider executed an agreement for professional services on January 23, 2020 (hereinafter the "Agreement"); and

WHEREAS, the Agreement was in effect for a term of two (2) years from January 23, 2020 through January 23, 2022; and

WHEREAS, the County and Service Provider both desire to extend the Agreement for an additional term of one (1) year; and

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties hereto mutually covenant and agree as follows:

(1) Contract Term – The Agreement shall be extended for an additional term of one (1) year to be effective **January 23, 2022, and to extend (unless terminated in accordance with the terms of the Agreement) until January 23, 2023** (hereinafter the "Contract Term").

(2) Renewal - The Contract Term may be renewable for up to two (2) additional one (1) year terms at the option of the County, and upon written mutual agreement between the County and the Service Provider.

(3) Rates – The rates for the Contract Term will increase, the hour rates and transaction fees are attached hereto as "Attachment A".

(4) Other Terms of the Agreement – All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereafter have made and executed this Amendment to the Agreement the day and year first written above.

(SEAL) **County of Warren, Virginia**

Attest: _____ By: _____

Type Name: _____ Type Name: _____

Title: _____ Title: _____

Date: _____

(SEAL) **Middle Department Inspection Agency, Inc.**

Attest: _____ By: _____

Type Name: _____ Type Name: _____

Title: _____ Title: _____

Date: _____

Approved as to form:

_____
Caitlin W. Jordan
Senior Assistant County Attorney

EXHIBIT A RESPONSE TO REQUEST FOR PROPOSAL PUBLIC SAFETY SALARY STUDY REFRESH WARREN COUNTY, VIRGINIA

WARREN COUNTY, VA

Middle Department Inspection Agency, Inc.

P.O. Box 1626, Winchester, Virginia 22604

Phone: (540) 667-8484
800-248-MDIA
Fax: (540) 662-6855

Electrical Fee Schedule

Commercial & Industrial

All switches, lighting & receptacles to be counted as outlets

1 to 25 Outlets.....$ 80.00
Each additional group of 10 Outlets.....$ 12.00

Equipment & Appliances

Outlets of 10 K.W. or less.....$35.00
Each additional Outlet.....$14.00

Motors, Frequency Drives, Transformers, Central Heating, Duct Heaters, Roof Top Units, Air Conditioners & Welders

Less than 1 HP, KW or KVA.....$13.00
Each additional unit.....$ 8.00
1 to 10 HP, KW or KVA.....$33.00
11 to 50 HP, KW or KVA.....$40.00
51 to 75 HP, KW or KVA.....$58.00
76 to 100 HP, KW or KVA.....$75.00
Over 100 HP, Kw or KVA.....$95.00

Feeders & Sub Panels – Up to 600 Volts

Up to 200 Amps.....$22.00
201 to 400 Amps.....$30.00
401 to 800 Amps.....$39.00
801 to 1200 Amps.....$58.00
1201 to 2500 Amps.....$70.00
Over 2500 Amps.....$89.00

Service-Meter Equipment, Transfer Switch, Or Motor Control Centers – Up to 600 Volts

Up to 200 Amps.....$75.00
201 to 400 Amps.....$90.00
401 to 800 Amps.....$110.00
801 to 1200 Amps.....$135.00
1201 to 2500 Amps.....$165.00
Over 2500 Amps.....$205.00

Carnivals, Circuses, Fairs & Tent Events

Kiddie, Adult, Coaster, & Similar Rides..(each) $14.00
Tents with power & Similar Events.....$90.00

Signs

First Sign.....$60.00
Each additional sign.....$15.00

Residential

New Construction & Renovation with Service Change

Single Family Dwelling up to 200 Amps.....$117.00
Single Family Dwelling 201 to 400 Amps.....$136.00

Single Family Dwelling with larger than 400 Amp service
Priced at $ .07 Per Square Foot
Includes unfinished areas & attached garages

Townhouse – priced as Single Family Dwelling
Duplex – each side priced as Single Family Dwelling

Multi-Family Dwelling – first unit.....**.....$85.00
Each additional unit.....$59.00
**Add 50% of service equipment Schedule

Additions, Finished Basements, or Renovations

Up to 25 Switches, Lights & Receptacles.....$ 70.00
Over 25 Switches, Lights & Receptacles.....$ 83.00
For the above with service change use Single Family Price

Garages or Out Buildings

Powered from Dwelling.....$ 83.00
Powered from Power Utility (Independent).....$ 96.00

Modular Home or Mobile Home

Up to 200 Amps.....$ 94.00
201 to 400 Amps.....$ 101.00

Service Change/Upgrade, Construction Service or RV Service

Up to 200 Amps.....$ 75.00
201 to 400 Amps.....$ 90.00

Stand-by Generator

Residential System.....$ 96.00

Pools & Hot Tubs

In-ground Swimming Pool.....$ 98.00
Above-ground Swimming Pool.....$ 69.00
Hot Tub.....$ 80.00

PV Systems (Solar)

Residential System.....$ 112.00

Recall Fee for Locked, Incomplete, 2nd Trip (same violation/multiple trips) or Reinstate Permit $50.00

Special Conditions Not Provided for In This Schedule. Apply for Fee.
Minimum Application Fee $ 70.00

This fee schedule supersedes all other fee schedule and is effective as of

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-6**	Authorization to Advertise for Public Hearing – Sale of County Real Property	

EXPLANATION & SUMMARY:

The County has solicited appraisal services in preparation of the sale of 30 E. Jackson through its broker Adams-Nelson & Associates, Inc. After requesting best and final offers, the County received one offer from Brian A Conley and Ann M. Conley for $280,000.00. The contract purchase price exceeds the appraisal.

There is a deposit of $7,000.00 with a 90-day feasibility study period. Closing will be 15 days after the end of the feasibility study period. The deposit becomes forfeitable if the purchaser goes past the 90-day feasibility study period and does not close.

Adams-Nelson & Associates, Inc. recommends the County accept this offer.

COST & FINANCING:

Excluding commission and normal seller closing costs, the County will receive at closing $263,200.

PROPOSED OR SUGGESTED MOTION:

I move the Board of Supervisors authorize the advertisement of a public hearing for the proposed sale of 30 E Jackson Street Front Royal, VA 22630 tax map number 20A7 4 39A for a contract price of $280,000.00.

or

I move the Board of Supervisors do not authorize the advertisement of a public hearing for the proposed sale of 30 E Jackson Street Front Royal, VA 22630 tax map number 20A7 4 39A for a contract price of $280,000.00.

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

For Sale
4,380 SF Brick Office Building
30 E. Jackson Street, Front Royal, VA 22630

Suzanne Conrad
Associate Broker / Senior Commercial Specialist
540.931.4716
suzanne-conrad@adamsnelson.com

or

Mike Silek
Senior Commercial Specialist
540.247.6317
michaelsilek@adamsnelson.com

Adams-Nelson & Associates, Inc.

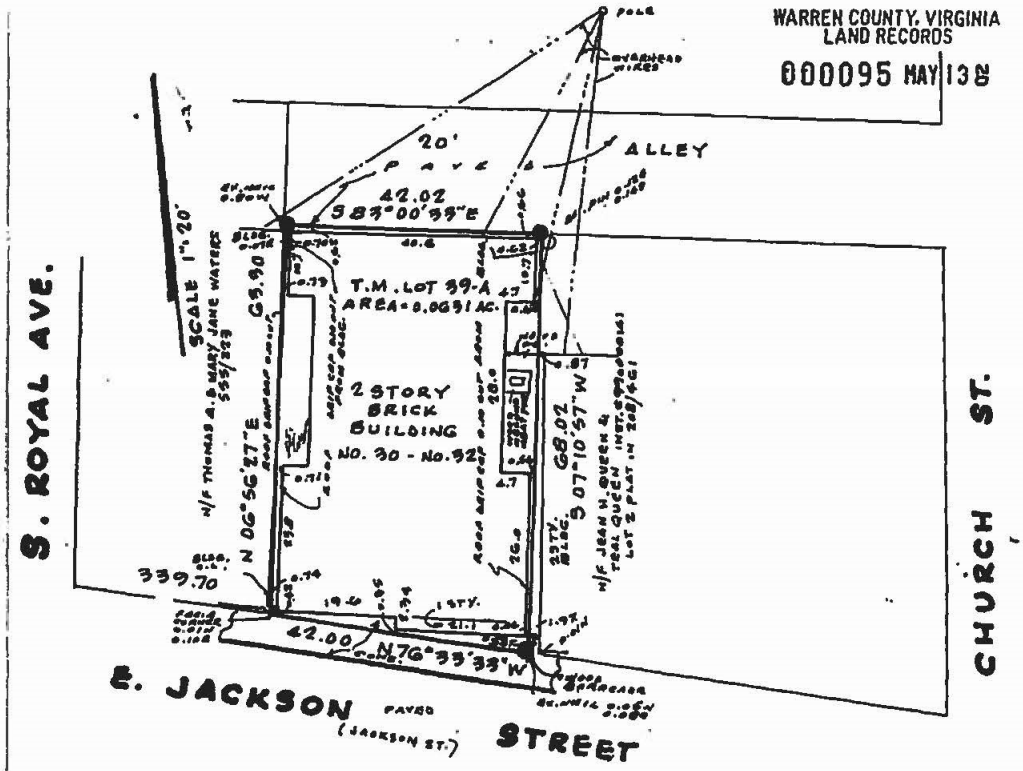
The Fern Adams Building
303 S. Loudoun Street
Winchester, VA 22601
Phone: 540.667.2424
Fax: 540.667.2441
www.adamsnelson.com

- **4,380 SF Two-Story Brick Office Building**
- **Built in 1954**
- **0.07 Acres**
- **Great High Visibility, High Traffic Location**
- **Ideal for any Office Use or First Floor Retail & Upstairs Offices**
- **Tax Map #20A-7-4-39A**
- **Available Immediately!**

Information contained herein is obtained from sources deemed reliable; however, it is not guaranteed and is subject to change without notice.

FOR SALE
540-667-2424

WARREN COUNTY, VIRGINIA
LAND RECORDS
000095 MAY 13 02



NO TITLE REPORT FURNISHED TO THIS OFFICE.
SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.
● denotes pin set, or drill hole set.
○ denotes existing pin or pipe.
DERIVATION OF TITLE TO ALENE H. EASTHAM IN 415/866, PLAT IN P. B. 2 P. 126.
PROPERTY SHOWN ON TAX MAP SECTION 20A7 (A) LOT 39-A.
PROPERTY IS IN ZONE AE PER FIRM MAP PANEL NO. 510167 0002 B, EFFECTIVE DATE JULY 15, 1988.

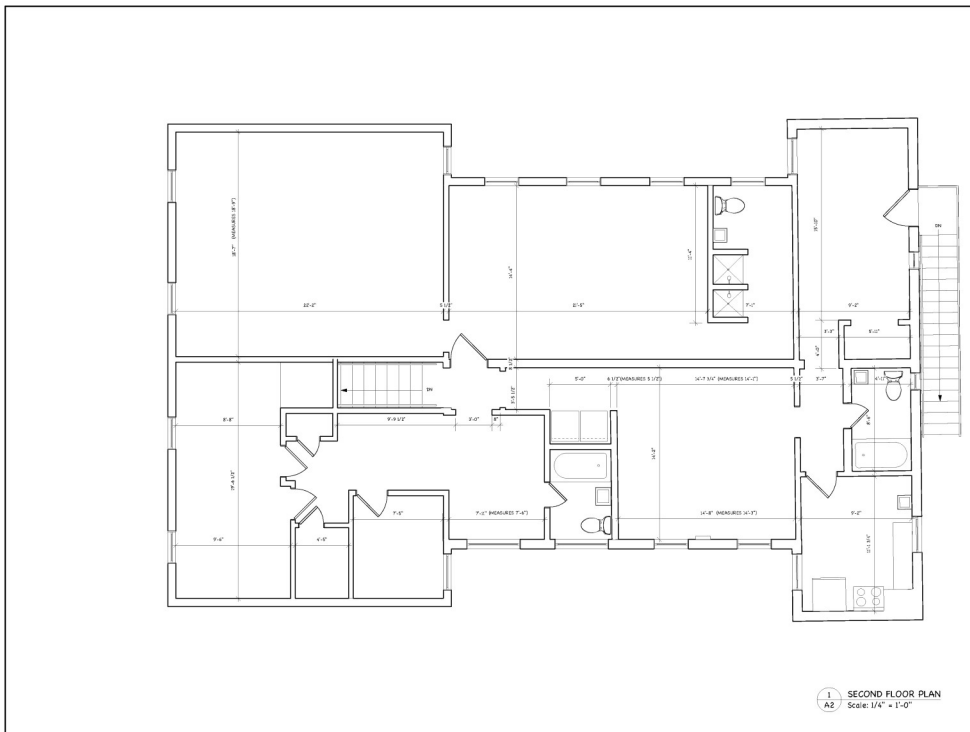
SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED THIS PROPERTY ON THE GROUND; THAT THIS PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AND THAT THERE ARE NO ENCROACHMENTS EITHER WAY ACROSS THE PROPERTY LINES EXCEPT AS SHOWN.

SURVEY OF THE EASTHAM PROPERTY RECORDED IN 415/866
Fork Magisterial District
T O W N O F F R O N T R O Y A L , V A.
prepared by:
JOSEPH G. BROGAN, SR.
PROFESSIONAL LAND SURVEYOR
P.O. BOX 1578 FRONT ROYAL, VA. 22630
TEL & FAX (540) 635-5657
MAY 7, 2002

COMMONWEALTH OF VIRGINIA
[redacted]
CERTIFICATE NO.
1011
CERTIFIED LAND SURVEYOR

Floor Plans



1 / A2 SECOND FLOOR PLAN
Scale: 1/4" = 1'-0"

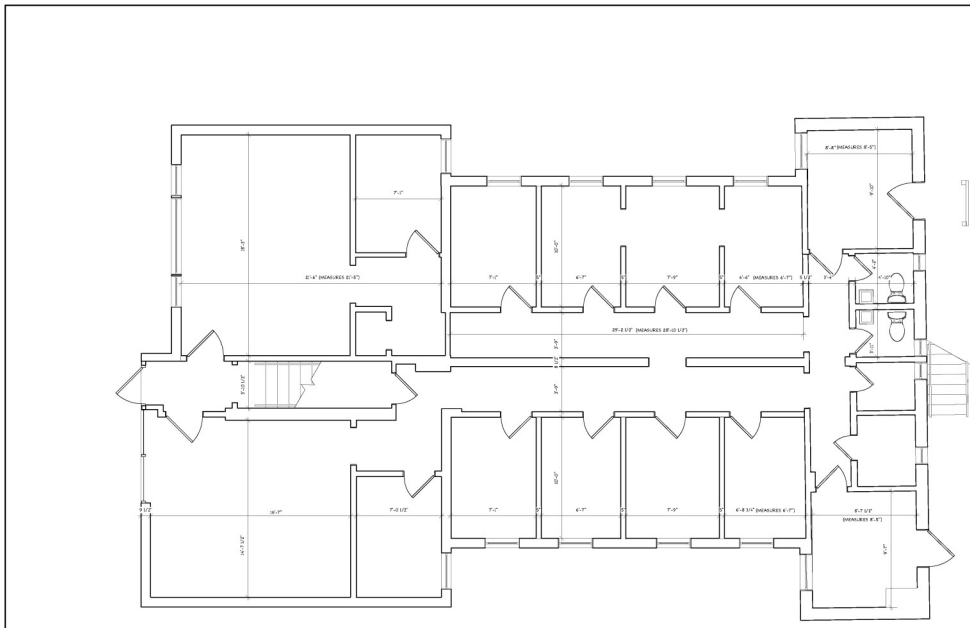
WARREN COUNTY WORK RELEASE BUILDING
30 JACKSON STREET, FRONT ROYAL, VA 22630

FREDERICK ANDREAE ARCHITECTS
211 SOUTH ROYAL AVE., FRONT ROYAL, VA 22630 TELEPHONE 540-635-5555

REVISION:

DATE: 4-14-20

A2
OF
2



1 / A1 FIRST FLOOR PLAN
Scale: 1/4" = 1'-0"

WARREN COUNTY WORK RELEASE BUILDING
30 JACKSON STREET, FRONT ROYAL, VA 22630

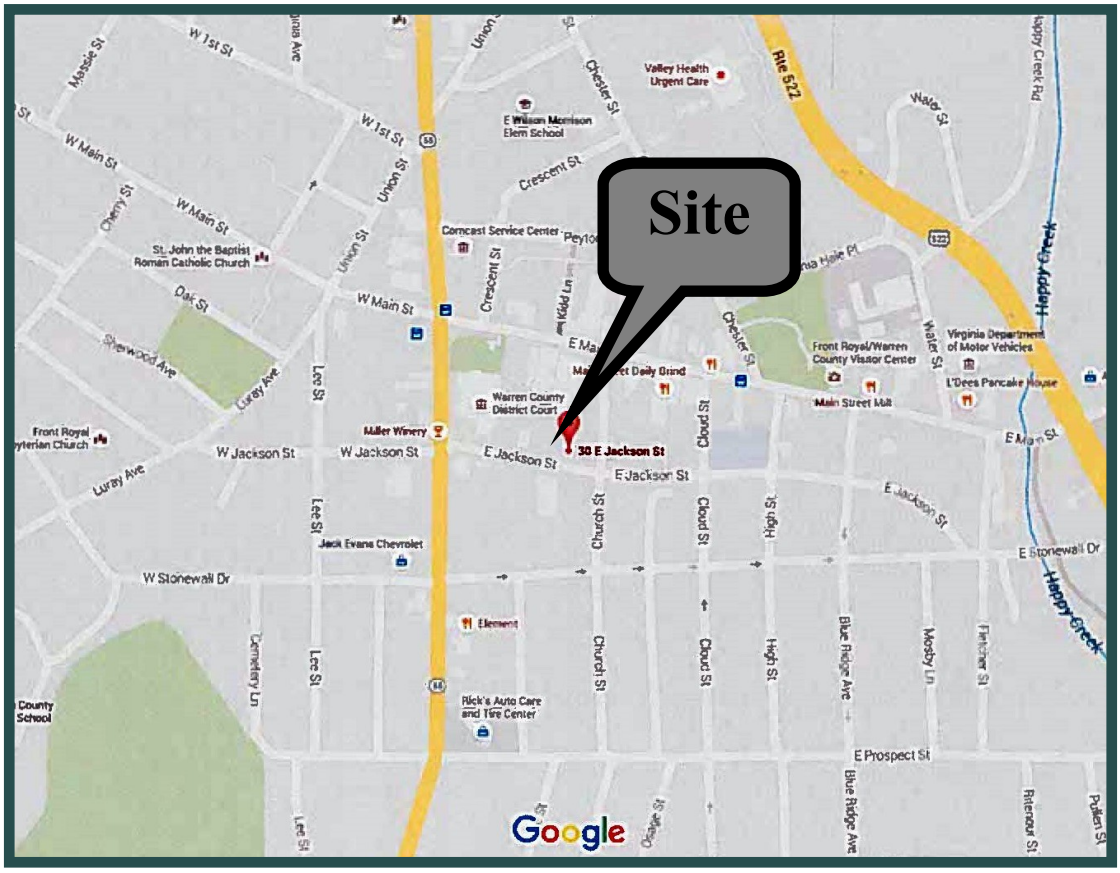
FREDERICK ANDREAE ARCHITECTS
211 SOUTH ROYAL AVE., FRONT ROYAL, VA 22630 TELEPHONE 540-635-5555

REVISION:

DATE: 4-14-20

A1
OF
2

Site
E Main St
E Jackson St
S Royal Ave
Google


Site
W 1st St
W Main St
E Main St
E Jackson St
W Jackson St
Crescent St
Cherry St
Union St
Chester St
Cloud St
Church St
High St
Lee St
Blue Ridge Ave
E Prospect St
W Stonewall Dr
E Stonewall Dr
Happy Creek
Valley Health Urgent Care
E Wilson Morrison Elem School
Comcast Service Center
St. John the Baptist Roman Catholic Church
Warren County District Court
Miller Winery
Front Royal/Warren County Visitor Center
Virginia Department of Motor Vehicles
L'Dees Pancake House
Main Street Mall
Jack Evans Chevrolet
Element
Rick's Auto Care and Tire Center
38 E Jackson St
Google

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-7**	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. There have been un-substantive grammatical edits highlighted in yellow in the attachment. 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 (DESCRIBE)	PROCESSED BY:
Alisa Scott, Deputy Finance Director		

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PROCUREMENT POLICY

ARTICLE 1
GENERAL PROVISIONS

§ 1.1 Preamble.

These provisions shall collectively be the procurement policy for Warren County (the "County").

§ 1.2 Purpose.

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. 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.

§ 1.3 Application.

(a) This policy applies to the procurement of goods, services, insurance, and construction by the County from nongovernmental sources.

(b) 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 Virginia Public Procurement Act (Va. Code § 2.2-4300, *et seq.*) 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.

§ 1.4 Effective Date of Policy.

This policy shall become effective MONTH D, 2022, and shall replace all purchasing and contracting policies previously adopted. Any contract entered into prior to MONTH D, 2022, shall

be governed by the procurement policies and regulations of the County in effect at the time the contract was executed.

§ 1.5 Severability.

If any provision of this policy is declared invalid under any circumstances, all other provisions of this policy shall remain in full effect to the greatest extent possible without the invalid provision.

§ 1.6 Definitions.

As used in this policy, the terms listed below have the following meanings. Any term not defined has the meaning assigned in the Virginia Public Procurement Act (Va. Code § 2.2-4300, *et seq.*).

(1) Best Value. The overall combination of quality, price, and various elements of required services that in total is optimal relative to the County's needs.

(2) Business. Any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

(3) Change Order (Unilateral). A written order signed and unilaterally issued by the Purchasing Agent directing the contractor to make changes that is issued pursuant to a contract provision that authorizes the Purchasing Agent to order such changes without the consent of the contractor.

(4) Confidential Information. Any information available to an employee only because of the employee's status as an employee of the County and that is not a matter of public knowledge or available to the public on request.

(5) Construction. Building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

(6) Construction Management Contract. A contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

(7) Contract. All types of County agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.

(8) Contract Modification. Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract.

(9) Contractor. Any person having a direct contract with the County.

(10) Cost-Reimbursement Contract. A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this policy, and a fee or profit, if any.

(11) County. Warren County, Virginia.

(12) Design-Build Contract. A contract under which a contractor agrees to both design and build the structure or other item specified in the contract.

(13) Direct or Indirect Participation. Involvement in any procurement transaction through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or acting in any other advisory capacity.

(14) Employee. Any person receiving a salary or wages, performing personal services, or serving as an elected official for the County or any department, agency, commission, council, board or other entity established by the County.

(15) Goods. All material, equipment, supplies, printing and automated data processing hardware and software.

(16) Governing Body. The County's Board of Supervisors.

(17) Immediate Family. A spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

(18) Informality. A minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

(19) Insurance. A contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

(20) Invitation to Bid or Invitation for Bid. All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

(21) Job Order Contracting. A method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending on the needs of the County. A minimum amount of work may be specified in the contract.

(22) Multiphase Professional Services Contract. A contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

(23) Nonprofessional Services. Any services not specifically identified as professional services in the definition of professional services.

(25) Official Responsibility. Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any claim resulting therefrom.

(26) Person. Any business, individual, union, committee, club, other organization, or group of individuals.

(27) Personal Interest. A financial benefit or liability that exists by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, $5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, $5,000 annually; (iv) ownership of real or personal property if the interest exceeds $5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consists of (i) or (iv) above.

(28) Potential Bidder or Offeror. A person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

(29) Pricing Data. Factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

(30) Procurement Act. The Virginia Public Procurement Act, § 2.2-4300; Chapter 43, Title 2.2, 1950 Code of Virginia, as amended.

(31) Procurement Transaction. All functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(32) Professional Services. Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering.

(33) Public Body. Any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty and empowered by law to undertake the activities described in this policy.

(34) Purchasing Agent. The County Administrator or an authorized designee.

(35) Request for Proposal. A written public notification soliciting proposals for professional, nonprofessional, or contractor services. A Request for Proposal generally describes the services sought, the unique capabilities or qualifications needed to perform the work, factors to be used to evaluate the proposals and the conditions for negotiating the prices and terms with the offerors. A Request for Proposal includes all documents attached or incorporated by reference that are utilized for soliciting proposals.

(36) Request for Qualifications. A written public notification inviting interested qualified persons to apply for prequalification.

(37) Responsible Bidder or Offeror. A person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

(38) Responsive Bidder. A person who has submitted a bid which conforms in all material respects to the Invitation to Bid.

(39) Reverse Auctioning. 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.

(40) Services. Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

(41) Specification. A description of the performance, design, or combination of performance and design of a required good and/or, service. It may include a description of any requirement for inspecting, testing, or preparing a good, service, or construction item for delivery.

(42) Statement of Need. In general terms, a clear and flexible statement that conveys the County's need for the successful delivery of goods and/or performance of services.

ARTICLE 2
OFFICE OF THE PURCHASING AGENT

§ 2.1 Establishment and Appointment.

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

(b) 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.

§ 2.2 Purchasing Agent's Authority.

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

§ 2.3 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.

§ 2.4 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.

§ 2.5 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.

§ 2.6 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 3
EXCEPTIONS TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT

§ 3.1 Purchases From Governmental Sources.

Purchases from governmental agencies are not covered by the Procurement Act or this policy. There are no procedural requirements for such purchases.

§ 3.2 Cooperative Procurement.

The County may purchase goods and services under a procurement process initiated by another governmental body. This provision does not apply to contracts for architectural services, engineering services, or construction.

§ 3.3 Small Purchases.

(a) Subject to Subsection (c), the Purchasing Agent may award single or term contracts using the procedures in Subsection (b) without competitive sealed bidding or competitive negotiation for:

(1) Goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed $200,000;

(2) Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed $25,000; and

(3) Professional Services, if the aggregate or sum of all phases is not expected to exceed $80,000.

(b) Small Purchase Procedures.

(1) Purchases Less Than $10,000:

Contracts may be awarded for the purchase of goods or services of less than $10,000 without any procurement process so long as the individual making the purchase has no reason to believe that equivalent goods or services are available at a lower cost elsewhere.

(2) Purchases Greater Than $10,000 Up To $200,000:

(i) If reasonably possible, written price quotations should be solicited from three vendors who can meet the County's requirements for quality, quantity, delivery time, etc. Price quotations may be secured via telephone, catalog, internet, eVA, or written inquiry.

(ii) Once price quotations are secured under Subsection (b)(2)(i), a purchase order must be prepared that includes the following information:

- The date of preparation;
- The preparer's name and department;
- The name of the vendor;
- A description of each article or service being purchased;
- The unit price and total amount for each item;
- The quantity of units being purchased;
- The total purchase order amount; and
- Copies of price quotes obtained pursuant to Subsection (b)(2)(i).

(iii) Approval by a Department Head, the Finance Department, and Purchasing Agent is required for purchases under this subsection.

(c) Notwithstanding Subsections (a) and (b):

(1) Any construction contract for a building or an addition to or improvement of an existing building involving state funds of $50,000 or more must be procured by competitive sealed bidding or competitive negotiation as provided in § 4.1.

(2) The Purchasing Agent may utilize any procurement process described in Article 4 for any small purchase when doing so is in the best interest of the County.

(3) The Purchasing Agent may also submit any purchase otherwise authorized under Subsections (a) and (b) for approval by the Governing Body.

§ 3.4 Legal services.

The County may contract for legal services, expert witnesses, and services associated with litigation or regulatory proceedings without competitive procurement.

§ 3.5 Sole Source Procurement.

Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. Sole source justification based on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. The Purchasing Agent shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. The notice shall be posted on the County's website and in a designated public area of the County's offices. The notice may be posted on the Department of General Services' central electronic procurement website and published it in a newspaper of general circulation on the day the contract is awarded or the decision to award the contract is announced, whichever occurs first.

§ 3.6 Emergency Purchases.

(a) In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The Purchasing Agent shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. The notice shall be posted on the County's website and in a designated public area of the County's offices. The notice may be posted on the Department of General Services' central electronic procurement website and published it in a newspaper of general circulation on the day the contract is awarded or the decision to award the contract is announced, whichever occurs first.

(b) The Purchasing Agent or an authorized designee may deem an emergency to exist in the following circumstances:

(1) A breakdown in machinery or equipment;
(2) A threatened termination of essential services;
(3) The development of a dangerous condition;
(4) Any circumstance causing curtailment or diminution of an essential service; or
(5) Any circumstance in which materials or services are needed to prevent loss of life or property.

§ 3.7 Purchases at Auction.

(a) Upon a determination made in advance by the Purchasing Agent and set forth in writing that the purchase of 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, 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 4
SOURCE SELECTION
and GENERAL REQUIREMENTS

§ 4.1 Source Selection.

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

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

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

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

(2) 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.

§ 4.2 Prequalification Generally; Prequalification for Construction.

(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.

§ 4.3 Discrimination Prohibited.

In the solicitation or awarding of contracts, the County shall not discriminate against a bidder or offeror on the basis of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment.

§ 4.4 Comments Concerning Specifications or Statement of Need.

Comments concerning Specifications, the County's Statement of Need, or other terms and conditions in a solicitation shall be submitted either in writing or during conferences with potential contractors as set forth in the solicitation's instructions. The Purchasing Agent shall be responsible for issuing addenda to the solicitation. Potential contractors are responsible for obtaining any addenda that may be issued.

§ 4.5 Rejection of Bids or Proposals.

(a) An Invitation to Bid, a Request for Proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. The Purchasing Agent shall not cancel or reject an Invitation to Bid, a Request for Proposal, any other solicitation, bid or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

(b) The Purchasing Agent may waive informalities in bids.

§ 4.6 Contract Pricing Arrangements.

Except as prohibited herein, contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited. However, no contract shall be awarded on the basis of cost plus a percentage of cost ("cost-plus") except in cases of emergency affecting public health. If a cost-plus contract is to be used in an emergency situation, a written determination of the basis of the emergency and the selection of the particular contractor shall be included in the contract file. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.

§ 4.7 Multi-Term Contracts.

(a) Unless otherwise provided by law, a contract for goods, services, or insurance may be entered into for any period of time deemed to be in the best interests of the County provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation or request and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

(b) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

§ 4.8 Contract Modification.

(a) Any contract award, change order, or contract modification that requires the submission and certification of cost or pricing data shall contain a provision stating that the price, including any profit or fee, excludes any significant increase that the Purchasing Agent finds to be the result of cost or pricing data furnished by the contractor that was inaccurate, incomplete or not current at the time provided.

(b) Provisions for modification of the contract during performance may be included in the contract, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or $50,000, whichever is greater, without the advance written approval of the Governing Body. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

(c) The Purchasing Agent may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

(d) Modifications that fail to comply with this section are voidable at the discretion of the Governing Body, and the unauthorized approval of a modification may not be the basis of a contractual claim brought pursuant to § 12.3 of this policy.

§ 4.9 Retainage on Construction Contracts.

(a) Retainage Limit. In any construction contract which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with no more than five percent being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Escrow Option for Retainage. When procuring construction of $200,000 or more of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, the Invitation to Bid shall include an option for the contractor to use an escrow account procedure for utilization of retainage funds. In the event the contractor elects to use the escrow account procedure, the escrow agreement form included in the Invitation to Bid and Contract shall be executed and submitted to the Purchasing Agent within fifteen calendar days after notification. Otherwise, the contractor shall forfeit his rights to the use of the escrow account procedure. The contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth. The escrow agreement shall be substantially the same as that used by the Virginia Department of Transportation.

(c) Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.

§ 4.10 Required Contract Provisions.

(a) Every contract shall contain the Compliance with Immigration Law and Authorization to Transact Business in the Commonwealth clauses.

(b) Every contract that allows subcontracting shall include the Prompt Payment and Interest clause.

(c) Every contract of $10,000 or more shall contain the Employment Discrimination and Drug-free Workplace clauses.

(d) Additional provisions are required in contracts procured either in part or in whole with federal funds. Please consult Article 14 and Appendices 1 and 2 of this policy prior to issuing a solicitation for any such procurement.

ARTICLE 5
BOND REQUIREMENTS

§ 5.1 Bid Bonds.

(a) Except in cases of emergency, all bids or proposals for (1) nontransportation-related construction contracts in excess of $500,000; or (2) transportation-related construction contracts authorized under Virginia Code § 33.2-208, *et seq.*, in excess of $250,000 and partially or fully funded by the Commonwealth of Virginia shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, the bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the bid amount.

(b) For nontransportation-related construction contracts in excess of $100,000 but less than $500,000, prospective contractors shall be prequalified for each individual project in accordance with § 4.2 if bid bond requirements are waived.

(c) No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

(d) Nothing in this section shall preclude the Purchasing Agent from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000 for nontransportation-related projects of $250,000 authorized under Virginia Code § 33.2-208, *et seq.*, in excess of $250,000 and partially or fully funded by the Commonwealth of Virginia

§ 5.2 Performance and Payment Bonds.

(a) Except as provided herein, upon the award of any (1) public construction contract exceeding $500,000 to any prime contractor; (2) construction contract exceeding $500,000 to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property owned or leased by the County; (3) construction contract exceeding $500,000 in which the performance of labor or furnishing of materials will be paid with public funds; or (4) any transportation-related project exceeding $350,000 that is partially or wholly funded by the Commonwealth, such contractor shall furnish the following bonds to the County:

(i) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under Virginia Code, § 33.2-208, *et seq.*, such bond shall be in a form and amount satisfactory to the Purchasing Agent.

(ii) A payment bond in the sum of the contract amount. The payment bond shall be for the protection of claimants who have and fulfill contracts to supply

labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the prosecution of the work provided for in the contract, and shall be conditioned upon the prompt payment for all material furnished or labor supplied or performed in the prosecution of the work. For transportation-related projects authorized under Virginia Code, § 33.2-208, *et seq.*, and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the Purchasing Agent.

"Labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) For nontransportation-related construction contracts in excess of $100,000 but less than $500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with § 4.2.

(c) Each bond shall be (1) executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia; (2) made payable to the County; and (3) filed with the County or a designated office or official thereof.

(d) Nothing herein shall preclude the Purchasing Agent from requiring payment or performance bonds for construction contracts below $500,000 for nontransportation-related projects or $350,000 for transportation-related projects authorized under Virginia Code § 33.2-208, *et seq.*, and partially or wholly funded by the Commonwealth.

(e) Nothing herein shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

(f) The performance and payment bond requirements of Subsection (a) for transportation-related projects that are valued in excess of $250,000 but less than $350,000 may only be waived if the bidder provides satisfactory evidence that a surety company has declined an application from the contractor for a performance or payment bond.

§ 5.3 Action on Performance Bond.

No action against the surety on a performance bond shall be brought unless within five years after the final payment to the contractor pursuant to the terms of the contract. However, if a final certificate of occupancy, or written final acceptance of the project is issued prior to final payment, the five-year period to bring an action shall commence no later than 12 months from the date of the certificate of occupancy or written final acceptance of the project.

§ 5.4 Action on Payment Bonds.

(a) Any claimant who has a direct contractual relationship with the contractor and who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due for the labor and material. The obligee named in the bond need not be named a party to the action.

(b) Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he or she has given written notice to the contractor within 90 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he or she claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place where his or her office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performance or materials furnished shall not be subject to the time limitations stated in this subsection.

(c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

(d) Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

§ 5.5 Bonds on Other Than Construction Contracts.

The Purchasing Agent may require bid, payment, or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.

§ 5.6 Alternative Forms of Security.

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check, cashier's check, or cash escrow in the face amount required for the bond.

(b) If approved by the County's attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

ARTICLE 6
COMPETITIVE SEALED BIDDING

§ 6.1 Definition.

Competitive sealed bidding is a method of contractor selection, other than for professional services, which includes (a) issuance of a written Invitation to Bid, (b) public notice of the Invitation to Bid, (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.

§ 6.2 Invitation to Bid.

(a) An Invitation to Bid shall contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement, state where bid documents and specifications may be obtained and identify the time and place for opening bids. Unless the Purchasing Agent has provided for prequalification of bidders pursuant to § 4.2 of this policy, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. No confidential or proprietary data shall be solicited in any Invitation to Bid.

(b) An Invitation to Bid shall include a provision that requires a bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid the identification number issued to it by the State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid a statement describing why the bidder is not required to be so authorized.

(c) Any bidder described in Subsection (b) that fails to provide the required information shall not receive an award unless a waiver of this requirement is granted by the Purchasing Agent.

§ 6.3 Multistep Sealed Bidding.

When it is impractical to initially prepare a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

§ 6.4 Notice of Invitation to Bid.

(a) Notice of the Invitation to bid shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites at least 10 days prior to the date set for receipt of bids. In addition, notice may also be published in a newspaper of general circulation. Bids may be solicited directly from potential contractors.

(b) The notice of Invitation to Bid shall include a general description of the goods or services to be purchased, the location where bid documents and specifications may be obtained, and the time and place for opening bids.

§ 6.5 Use of Brand Names.

Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer shall not restrict bidders to the specific brand, make or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the Purchasing Agent, in his or her sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

§ 6.6 Bid Openings.

Sealed bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. The name of each bidder and the amount of each bid shall be recorded along with any other relevant information deemed appropriate by the Purchasing Agent. The contract record and each bid shall be open to public inspection as provided in § 13.2 of this policy.

§ 6.7 Evaluation of Bids.

(a) Evaluation of bids shall be based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, lifecycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

(b) If the Purchasing Agent determines that the apparent low bidder is not responsible, he or she shall proceed as follows:

(1) Prior to the issuance of a written determination of nonresponsibility, the Purchasing Agent shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low 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.

(2) Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Purchasing Agent shall issue a written determination of responsibility based on all information in its possession, including any rebuttal information, within five business days of the date the Purchasing Agent received the rebuttal information. At the same time, the Purchasing Agent shall notify, with return receipt requested, the bidder in writing of the determination.

(3) Such 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 filing a letter of appeal pursuant to the administrative appeals procedure described in § 12.4 or by instituting legal action pursuant to § 12.6 of this policy.

(4) If, upon appeal, it is determined that the decision of the Purchasing Agent 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, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question. If it is determined that the decision of the Purchasing Agent 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 and the contract has been awarded, the relief shall be as set forth in § 12.2(b) of this policy.

(5) A bidder contesting a determination that he or she is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under § 12.2 of this policy.

(6) Nothing herein shall require the County to furnish a statement of the reasons why a particular bid was not deemed to be the most advantageous when procuring by competitive negotiation.

§ 6.8 Award of Contract.

(a) A contract shall be awarded to the lowest responsive and responsible bidder. When the terms and conditions of multiple bids are so provided in the Invitation to Bid, awards may be made to more than one bidder.

(b) 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:

(1) The Purchasing Agent shall advise the lowest responsible bidder, in writing, that the low bid exceeds the County's funds budgeted the procurement. He or she may suggest a reduction in scope for the proposed purchase, and invite the lowest responsible bidder to amend its bid proposal.

(2) Repetitive informal discussions may be conducted with the lowest responsible bidder for purposes of obtaining a contract within the County's budgeted funds.

(3) 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.

(4) 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.

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

(c) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Purchasing Agent and made a part of the procurement file.

§ 6.9 Tie Bids; Preference Matching.

(a) In the case of a tie bid, preference shall be given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations; otherwise the tie shall be decided by lot.

(b) Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a price-matching preference, a like preference shall be allowed to responsive and responsible bidders who are residents of Virginia. If the lowest bidder is a resident contractor of a state with an absolute preference, the bid shall not be considered. The Purchasing Agent may rely upon information posted on the website for the Department of General Services for the purposes of compliance with this subsection.

(c) Notwithstanding the provisions of Subsections (a) and (b), in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.

(d) For the purposes of this section, a Virginia person, firm or corporation shall be deemed to be a resident of Virginia if such person, firm or corporation has been organized pursuant to Virginia law or maintains a principal place of business within Virginia.

§ 6.10 Withdrawal of Bid Due to Error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her 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.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his or her bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid that shall 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.

(b) The bidder shall give notice in writing of any claim of right to withdraw his or her bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. The mistake 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, at the bidder's request, be considered trade secrets or proprietary information subject to the conditions of § 13.2(f) of this policy and Virginia Code § 2.2-4342(F).

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or to another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) The Purchasing Agent shall notify the bidder in writing within five business days of the decision regarding the bidder's request to withdraw its bid. If the Purchasing Agent denies the withdrawal of a bid under the provisions of this section, it shall state in the notice the reason for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the Purchasing Agent shall return all work papers and copies thereof that have been submitted by the bidder.

(g) A decision denying withdrawal of bid shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking the administrative appeals procedure provided in § 12.4 or instituting legal action as provided in § 12.6 of this policy.

(h) If no bid bond was posted, a bidder shall, prior to appealing, deliver to the Purchasing Agent a certified check or cash bond in the amount of the difference between the bid

sought to be withdrawn and the next lowest bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

(i) If, upon appeal, it is determined that the decision refusing withdrawal of the bid 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, the sole relief shall be withdrawal of the bid.

ARTICLE 7
COMPETITIVE NEGOTIATION

§ 7.1 Definition.

Competitive negotiation is a method of procurement which includes (a) issuance of a written Request for Proposal, (b) public notice of the Request for Proposal, and (c) negotiations between the County and individual offerors.

§ 7.2 Request for Proposals.

(a) A Request for Proposal shall be in writing and indicate in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal, indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.

(b) A Request for Proposal shall include a provision that requires an offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its proposal the identification number issued to it by the State Corporation Commission. Any offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its proposal a statement describing why the offeror is not required to be so authorized.

(c) Any offeror described in Subsection (b) that fails to provide the required information shall not receive an award unless a waiver of this requirement is granted by the Purchasing Agent.

§ 7.3 Public Notice.

Notice of the Request for Proposal shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites at least 10 days prior to the date set for receipt of proposals. In addition, the notice may be published in one or more

newspapers of general circulation in the area in which the contract is to be performed. Proposals may be solicited directly from potential contractors.

§ 7.4 Negotiations for Professional Services.

(a) The Purchasing Agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the Purchasing Agent in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. As the discussion stage, the Purchasing Agent may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. For architectural or engineering services, offerors shall not be required to list exceptions to proposed contractual terms and conditions, unless required by applicable law, until after the qualified offerors are ranked for negotiations.

At the conclusion of discussion, outlined herein, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the Purchasing Agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. If the terms and conditions for multiple awards are included in the Request for Proposal, the Purchasing Agent may award contracts to more than one offeror. Should the Purchasing Agent determine in writing and in his or her sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

(b) A contract for architectural or professional engineering services relating to construction projects may be negotiated for multiple projects provided (1) the projects require similar experience and expertise, (2) the nature of the projects is clearly identified in the Request for Proposal, and (3) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.

Such contracts may be renewable for four additional one-year terms at the option of the County. The fair and reasonable prices as negotiated shall be used in determining the cost of each

project performed. The sum of all projects performed in one contract term shall not exceed $750,000.

The project fee for any single project for architectural or professional engineering services relating to construction projects shall not exceed $150,000. Any unused amounts from a contract term may not be carried forward to subsequent terms.

Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term. Such procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

(c) Multiphase professional services contracts satisfactory and advantageous to the County for completion of large, phased, or long-term projects may be negotiated and awarded based upon qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Purchasing Agent shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the County require awarding the contract.

§ 7.5 Negotiations For Other than Professional Services.

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the Purchasing Agent shall select the offeror which, in his or her opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the Purchasing Agent determine in writing and in his or her sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

ARTICLE 8
JOB ORDER CONTRACTS

§ 8.1 Approval of Use.

The Purchasing Agent may award a job order contract for multiple jobs, provided (a) the jobs require similar experience and expertise; (b) the nature of the jobs is clearly identified in the solicitation; and (c) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized by § 8.2 of this policy, whichever occurs first. Contractors may be selected through either competitive sealed bidding or competitive negotiation.

§ 8.2 General Requirements.

Job order contracts may be renewed by the Purchasing Agent for up to two additional one-year terms. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed $6 million. Individual job orders shall not exceed $500,000. Any unused amounts from one contract term shall not be carried forward to any additional term.

§ 8.3 Restrictions.

(a) Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in § 8.2 of this policy is prohibited.

(b) Job order contracting may not be used solely for the purpose of purchasing professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Code of Virginia § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services are (i) incidental and directly related to the job; (ii) do not exceed $25,000 per job order; and (iii) do not exceed $75,000 per contract term.

(c) Job order contracting may not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to $250,000, subject to the maximum annual threshold established above.

ARTICLE 9
DESIGN-BUILD and CONSTRUCTION MANAGEMENT CONTRACTS

§ 9.1 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.

§ 9.2 General Requirements.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

§ 9.3 Design-Build Procurement Procedure.

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

(a) Selection of Qualified Offerors.

(1) 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.

(2) 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.

(b) Selection of Contractor.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

§ 9.4 Construction Management Procurement.

(a) Prerequisites for Use. Construction management contracts may be procured (1) for any project whose cost is expected to exceed $10 million; and (2) any complex project whose cost is less than $10 million and construction management has been approved by the Governing Body. A "complex project" is a construction project that includes difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding impractical. The written approval of the Governing Body shall be maintained in the procurement file.

(b) Procurement Procedure. Construction management contracts shall be procured using the following two-step competitive negotiation process:

(1) Selection of Qualified Offerors.

(i) Request for Qualifications. The Purchasing Agent shall issue a Request for Qualifications inviting potential offerors to submit their qualifications for coordinating and administering contracts for construction services. 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 projects 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 posted on the Department of General Services' central electronic procurement website at least 30 days prior to the deadline for qualification submittals. In addition, the notice may also be published in a newspaper of general circulation in the area in which the contract is to be performed.

(ii) 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.

(i) 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 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 proposals.

(ii) Evaluation of Proposals. The Evaluation Committee shall evaluate each of the proposals based on the criteria set forth in the Request for Proposals. After evaluating the proposals, the Evaluation Committee shall conduct negotiations with two or more offerors submitting the highest ranked proposals, or, if the Purchasing Agent determines, in writing and at his or her sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

(iii) Award of Contract. The Evaluation Committee shall make its recommendation on the selection of the construction manager to the Purchasing Agent based on its evaluation and negotiations. The construction management 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. Price shall be a critical basis for awarding the contract. Prior construction management experience may be considered but is not required as a prerequisite for award of a contract. 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 contract must be entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions.

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.

(c) Required Terms for Construction Management Contracts.

Any construction management contract entered into by the County shall contain provisions requiring that (1) not more than 10 percent of the construction work (measured by cost of the work) will be performed by the construction manager with its own forces; and (2) that the remaining 90 percent of the construction work will be performed by subcontractors of the construction manager which the construction manager must procure by publicly advertised, competitive sealed bidding, to the maximum extent practicable.

ARTICLE 10
COOPERATIVE PROCUREMENT

§ 10.1 Conditions for Use.

The County may participate in, sponsor, conduct or administer a joint procurement agreement in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the U.S. General Services Administration, or the Metropolitan Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.

Any public body that enters into a cooperative procurement agreement with the County shall comply with the policies and procedures herein, except that if the County enters into a cooperative procurement agreement with a county, city or town that has alternative policies and procedures adopted pursuant to subsections (A)(9) or (A)(10) of § 2.2-4343 of the Procurement Act, the County shall comply with those policies and procedures.

ARTICLE 11
DEBARMENT

§ 11.1 Authority to Debar.

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.

§ 11.2 Grounds for Debarment.

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

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

(1) Fraud or any criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract.

(2) Violating federal or state antitrust statutes relating to the submission of offers.

(3) Embezzlement, theft, forgery, bribery, falsification, destruction of records, making false statements, or receiving stolen property.

(4) Any other offense that reflects a lack of business integrity or business honesty and directly affects the responsibility of a contractor or subcontractor.

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

(1) Willfully failing to perform in accordance with the terms of a contract.

(2) A history of failing to perform or of performing unsatisfactorily under a contract.

(3) Any other cause of so serious or compelling that it affects the present responsibility of a contractor or subcontractor.

§ 11.3 Debarment Procedure.

(a) 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.

(b) Challenge. Within 10 days of the date of the notice, the prospective contractor may submit information challenging the proposed debarment.

(c) 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.

(d) 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 12
APPEALS and REMEDIES

§ 12.1 Ineligibility of Bidder, Offeror or Contractor.

(a) 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 (1) notify the bidder in writing of the results of the evaluation, (2) disclose the factual support for the determination, and (3) 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.

(b) 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.

§ 12.2 Protest of Award or Decision to Award.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

§ 12.3 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:

(a) 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.

(b) Claim. Contractual claims must be submitted in writing to the County Administrator no later than 60 days after final payment.

(c) Decision. The County Administrator or an authorized designee shall make a written decision addressing the claim within 90 days of submission.

(d) 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 the time period specified in Subsection (c).

§ 12.4 Administrative Appeals Procedure.

(a) 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:

(1) An award or a decision to award a contract.

(2) A decision refusing to allow the withdrawal of the appellant's bid.

(3) A denial of the appellant's prequalification.

(4) The appellant's debarment.

(5) A determination of the appellant's nonresponsibility.

(b) Appeals Process. Any protest or appeal pursuant to this section shall be in accordance with the following administrative procedures:

(1) 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.

(2) 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.

(3) 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-exam 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.

(c) 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.

§ 12.5 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.

§ 12.6 Legal Actions.

(a) 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.

(b) 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.

(c) 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.

(d) If injunctive relief is granted, the court, upon request of the County, shall require the posting of reasonable security to protect the County.

(e) A contractor may bring an action involving a contract dispute with the County in the appropriate circuit court.

(f) 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.

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

ARTICLE 13
RECORD RETENTION and PUBLIC ACCESS

§ 13.1 Record Retention.

The County shall maintain such written records as required by this policy and applicable law. All records and contract documents shall be maintained for at least three years after the County makes final payment and all other pending matters have concluded with respect to any given procurement transaction.

§ 13.2 Public Access to Procurement Information.

(a) Except as provided herein, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code, § 2.2-3700, *et seq.*).

(b) Cost estimates relating to a proposed transaction prepared by or for the County shall not be open to public inspection.

(c) Any competitive sealed bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County rejects all bids and reopens the contract. Otherwise, bid and proposal records shall be open to public inspection only after award of the contract.

(d) Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

(e) Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

(f) Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, offeror, or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, identify the data or other materials to be protected, and state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (1) an entire bid, proposal, or prequalification application; (2) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (3) line item prices or total bid, proposal, or prequalification application prices.

ARTICLE 14
ADDITIONAL PROVISIONS APPLICABLE TO PROCUREMENTS INVOLVING FEDERAL FUNDS

§ 14.1 Applicability.

The County is required to comply with federal regulations when a procurement is conducted in whole or in part with federal funds. The United States Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards apply to all federal grants.

§ 14.2 Full and Open Competition.

All procurement transactions must be conducted in a manner providing full and open competition. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. The following are considered to be restrictions upon full and open competition:

(a) Imposing unreasonable business requirements for bidders or offerors to qualify to do business.

(b) Requiring unnecessary experience or bonding.

(c) Specifying only a brand name product without listing salient characteristics and allowing an equivalent product to be offered. Brand names are among the most restrictive types of specification.

(d) Non-competitive practices between firms or affiliated companies.

(e) Noncompetitive contracts with consultants that are on retainer contracts.

(f) Organizational conflicts of interest.

(g) Any arbitrary action in the procurement process.

§ 14.3 Geographic Preferences Prohibited.

The County prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts any Virginia law requiring that a contractor within a particular profession be licensed within the Commonwealth. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

§ 14.4 Affirmative Steps Pertaining to Minority and Other Businesses.

The County is required to take certain steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(f) Requiring the contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e) of this section.

§ 14.5 Recovered Materials.

The County must comply with certain laws that require a preference for items that protect the environment, including Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 14.6 Equal Opportunity.

All contracts greater than $3,500 must contain a clause in which the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with all applicable Federal laws and regulations pertaining to nondiscrimination.

§ 14.7 Federal Awarding Agency Review.

The County must make procurement documents and technical specifications available to the federal awarding agency upon request. The County may affirmatively seek review by the federal awarding agency when the County believes that such review is needed to comply with federal regulations.

§ 14.8 Debarment and Suspension.

A contract award must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM). The SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.

§ 14.9 Davis-Bacon Act.

All procurements for federally-assisted construction contracts in excess of $2,000 must require the contractor to comply with the Davis-Bacon Act, as supplemented by United States Department of Labor regulations, which require that the contractor and its subcontractors pay prevailing wages to certain categories of employees.

§ 14.10 Byrd Anti-Lobbying Amendment.

All federally-funded procurements in excess of $100,000 must require that bidders and offerors provide a certification that the funds will not be used to pay any person or organization to lobby agencies, members of Congress, or other federal officials. In addition, any lobbying in connection with obtaining any federally-funded project must be disclosed.

§ 14.11 Other Required Federal Contract Clauses.

Certain contract clauses are required in federally-funded contracts, such clauses being dependent on the nature of the goods or services being procured and the dollar amount of the contract. Please consult Appendix 1 for a list of many required state and federal contract clauses. On larger contracts or with atypical funding sources, the County should consult with counsel prior to the issuance of a procurement solicitation.

ARTICLE 15
CONFLICTS OF INTEREST and ETHICS IN PUBLIC CONTRACTING

§ 15.1 Purpose.

Public employment is a public trust, particularly when public funds are being expended. This Article is intended to set organizational and behavioral guidelines for the manner in which employees should act in order to preserve and in furtherance of public trust and comply with all applicable laws and regulations. Employees should also maintain a standard of conduct that will inspire public confidence in the integrity of the County. The County is committed to the responsible exercise of governmental authority and expressly prohibits all forms of impropriety, threats, favoritism, and undue influence.

The provisions of this Article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§ 2.2-3100, *et seq.*), the Virginia Governmental Frauds Act (§ 18.2-498.1, *et seq.*) and Article 2 (§ 18.2-438, *et seq.*) and Article 3 (§ 18.2-446, *et seq.*) of Chapter 10 of Title 18.2. The provisions of this Article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

§ 15.2 General Principles.

County employees[1] must follow the following principles when doing their work:

(a) Act in Best Interest of the Public. Employees shall perform their official duties in such a manner as to promote the best interest of the members and general public at all times.

(b) No Additional Value for Service. Employees shall not solicit or accept money or other thing of value for services performed within the scope of their official duties, except the compensation, expenses or other remuneration paid by the agency of which they are an officer or employee. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law. Furthermore, no employee shall offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency.

(c) No Use of Confidential Information for Own Benefit. Employees shall not use for their own economic benefit or that of another party confidential information that they have acquired by reason of his public position and which is not available to the public.

(d) No Accepting of Gifts That Tend to Influence. Employees shall not accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence them in the performance of official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 of Title 24.2 of the Code of Virginia.

(e) No Accepting of Business Opportunities Intended to Influence. Employees shall not accept any business or professional opportunity when they know that there is a reasonable likelihood that the opportunity is being afforded to influence the performance of official duties.

(f) No Accepting Money for Expertise or Opinions within Scope of Duties. Employees shall not accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or opinions related to the performance of official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time.

(g) No Accepting Gifts for Influence. Employees shall not accept a gift from a person who has interests that may be substantially affected by the performance of the employee's official

[1] For the purpose of this Article, the word “employee” includes both officers and employees of the County.

duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor. Any gift that is received by an employee as a result of the performance of their official duties that is sharable (fruit baskets, desert trays, product samples) should be shared among other County employees.

(h) No Accepting of Frequent Gifts. Employees shall not accept gifts from sources on a basis so frequent as to raise an appearance of the use of public office for private gain.

Explanatory note for Subsections (g) and (h): Certain small gifts are de minimis under Virginia's Conflict of Interest Act and are allowed. The Conflict of Interest Act imposes a $100 per year limitation on the receipt of gifts from any person, organizations, or businesses who contracts with or is seeking to contract with the County. See Va. Code § 2.2-3103.1. Gifts that are greater than $20 are aggregated toward the $100 annual limit. Therefore, it does not violate this policy to have one lunch or dinner with a contractor who pays for the check. However, multiple lunches or dinners which exceed $20 individually and $100 in the aggregate would violate this policy. Any gift that exceeds $100 must be returned.

(i) No Retaliating. Employees shall not use their public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.

(j) No Misrepresentations. No County 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.

(k) Conserve County Property. Employees shall protect and conserve County property and shall not use it for other than authorized activities.

(l) No Use of County Property for Personal Benefit. The use of County equipment, machines, property or services for purposes other than County business is strictly prohibited, except; however, for a *de minimis* use. No employee shall authorize any work to be performed on any property owned by such employee, the employee's relatives, or an individual with whom or business to which the employee has a financial interest.

(m) Comply with Laws and Policies. Employees are expected to comply with all federal and state laws, grants and regulations and all County policies.

(n) Additional Considerations During Pending or Active Procurements. During any pending or active procurement, employees should (i) avoid and limit individual discussions with bidders and offerors, and (ii) direct bidders and offerors to submit any questions about the procurement in writing to the Purchasing Agent.

§ 15.3 Prohibited Conduct by Employees in Procurement Transactions.

(a) Each employee with more than a *de minimis* personal interest in any contract or any prospective contract shall disqualify himself or herself from participating in the award or administration of that contract and shall file a disclosure of such personal interest with the County

Administrator. In addition, if the County Administrator has a personal interest in a contract or prospective contract, he or she shall disclose such interest to the Governing Body.

(b) No employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the County when the employee knows that:

(1) The employee is contemporaneously employed by a bidder, offeror, or contractor involved in the procurement transaction;

(2) The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

(3) The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

(4) The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror, or contractor.

§ 15.4 Subsequent Employment.

No employee or former employee of the County having official responsibility for procurement transactions shall accept employment with any bidder, offeror, or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the employee or former employee provides written notification to the County Administrator prior to commencement of employment by that bidder, offeror or contractor.

§ 15.5 Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any supplier or subcontractor, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the County and will be recoverable

from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

§ 15.6 Participation in Bid Preparation; Limitation on Submitting Bid for Same Procurement.

No person who, for compensation, prepares an Invitation to Bid or Request for Proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement that is not available to the public. However, the Purchasing Agent may permit such person to submit a bid or proposal for that procurement or any portion thereof if he or she determines that the exclusion of the person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the County.

§ 15.7 Purchase of Building Materials, etc., from Architect or Engineer Prohibited.

(a) Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association, or corporation in which such architect or engineer has a personal interest as defined by this policy and Virginia Code § 2.2-3101.

(b) Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in the building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined by this policy and Virginia Code § 2.2-3101.

§ 15.8 Principles of Ethical Decision-Making.

To assist in fostering a climate of ethical awareness, conduct and decision-making, employees may find it useful to refer, either by themselves or in consultation with their peers or supervisor, the following five considerations:

(a) Is the decision or conduct lawful?

(b) Is the decision or conduct consistent with the County's policy and objectives?

(c) What will the outcome be for the employee, work colleagues, the County, citizens, and other parties?

(d) Do these outcomes raise a conflict of interest or lead to private gain at public expense?

(e) Can the decision or conduct be justified in terms of the public interest and would it

withstand public scrutiny?

§ 15.9 Reporting Conflicts of Interest.

(a) Employees may consult with the County Administrator with any questions as to the existence of a potential conflict of interest.

(b) Any employee with a serious, well founded reason to believe that another County employee has violated this policy may speak in confidence with the County Administrator about such concerns. The County Administrator shall promptly investigate such allegations and take appropriate actions if a problem is found to exist.

(c) Any employee with a serious, well founded reason to believe that the County Administrator has violated this policy may speak in confidence to the Chairman of the Governing Body about such concerns. The Chairman of the Governing Body shall promptly investigate such allegations and take appropriate actions if a problem if found to exist.

(d) Employees presenting serious, well founded concerns to either the County Administrator or the Chairman of the Governing Body are protected from retaliation by their superiors and co-workers. Any supervisor or co-worker attempting to retaliate will face discipline up to and including dismissal.

§ 15.10 Penalty for Violation.

A willful violation of any provision of this Article shall constitute a Class 1 misdemeanor under Virginia Code § 2.2-4377. Upon conviction, any County employee, in addition to any other fine or penalty provided by law, shall forfeit his or her employment.

ARTICLE 16
DISPOSITION OF PUBLIC PROPERTY

§ 16.1 Application.

The Purchasing Agent is responsible for disposing of surplus property in the manner that best serves the County. County employees and their immediate family members are prohibited from directly or indirectly purchasing surplus property, unless authorized by the Purchasing Agent.

§ 16.2 Disposal Methods.

The Purchasing Agent may dispose of surplus property using any of the following processes:

(a) Online Auction. Advertising surplus property through Public Surplus, GovDeals, or eBay online auction where the highest bid wins the sale.

(b) Local Auction. Advertised event hosted by the County through an auctioneer where the highest bid wins the sale.

(c) Sealed Bid. Soliciting sealed bids for surplus property through eVA or other appropriate means for sale to the highest bidder inclusive of any associated shipping, towing, or transportation costs.

(d) Trade-in. Surplus property may be traded in upon issuance of purchase order as an off-set to the price of newly-purchased property.

For surplus property which cannot be practically disposed using any of the foregoing means, the Purchasing Agent may dispose of the property through a negotiated sale.

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
April 19, 2022	**H-8**	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 (Procurement) 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**

PUBLIC-PRIVATE PARTNERSHIPS (P3s):
What Local Government Managers Need to Know

A Policy Issue White Paper for
ICMA, International City/County Management Association

Prepared by

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Public-Private Partnerships (P3s): What Local Government Managers Need to Know

A policy issue white paper prepared on behalf of the ICMA Governmental Affairs and Policy Committee, January 2018, by Lawrence L. Martin, PhD, MBA, Professor of Public Affairs, Doctoral Program in Public Affairs, University of Central Florida, HPA 1, Room 218, 12805 Pegasus Drive, Orlando, Florida 32816-3680; phone: 407-823-5731; email: martinl@ucf.edu.

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PUBLIC-PRIVATE PARTNERSHIPS (P3s): What Local Government Managers Need to Know

INTRODUCTION

The United States is facing a public infrastructure crisis. The American Society of Civil Engineers assigns the grade of D+ to the nation's infrastructure and estimates the cost at some $4 trillion to bring it up to minimally acceptable standards.[1, 2] Similar sentiments are expressed by government agencies. The U.S. Department of Transportation estimates that $170 billion is needed annually to improve the nation's roads, bridges, and transit, while the U.S. Environmental Protection Agency estimates some $400 billion is needed over the next 20 years to maintain the nation's drinking water infrastructure.[3, 4]

The costs will fall heavily on local governments that own and maintain a significant proportion of the nation's infrastructure.[5] However, this comes at a time when many local governments are still recovering from the Great Recession of 2008.[6, 7] The result for local governments is a perfect storm of increased infrastructure needs and inadequate resources.

Consequently, local governments are increasingly looking to public-private partnerships (P3s) as a means of delivering public facility and infrastructure projects.[8-14] This white paper introduces local government professionals to the types and uses of public-private partnerships as well as the major issues local governments encounter when using P3s.

Table 1 Types and Components of Infrastructure

Economic Infrastructure	Social Infrastructure
• Highways and roads	• Hospitals and health care facilities
• Bridges	• Schools (elementary and high school)
• Tunnels	• Universities (classrooms, dorms)
• Public transit	• Correctional facilities (jails, prisons, others)
• Rail (light rail, streetcars, etc.)	• Parks and recreation
• Airports	• Housing
• Seaports	• Convention centers
• Waterways	• Sports facilities
• Water/wastewater/storm water	• Libraries
• Solid waste (collection and disposal)	• Museums
• Parking garages	• Government buildings (all types)
• Highspeed broadband	

What Are Public-Private Partnerships (P3s)?

Much confusion exists about public-private partnerships, in part because the term is used to describe a variety of arrangements—privatization, outsourcing, grants, leases, asset sales, and others—between governments and private sector organizations (both for-profit and nonprofit).[15]

This white paper adopts the definition and classification system that the National Institute of Governmental Purchasing (NIGP, the professional association of state and local government procurement officials) uses in its *Public-Private Partnership (P3) Practice Guidance*.[16] Several aspects of the P3 definition are worth highlighting:

- The definition identifies P3s as a class of facility and infrastructure contracts.
- The basic P3 is a design-build (DB) *facility or infrastructure contract*. Other components—financing (F), operations (O), and maintenance (M)—may be added. (Note that in the procurement field, DB, F, O, and M are commonly used abbreviations. This paper does not use the abbreviations except in tables.)
- The definition distinguishes P3s from other public-private relationships not directly tied to design-build facility or infrastructure contracts.
- The P3 definition includes renovation and rehabilitation in addition to new construction.
- The P3 definition is sufficiently broad to encompass most facility and infrastructure sectors and activities of concern to local governments (see Table 1).

The lists of Table 1 aren't exhaustive yet still make it evident that the potential uses of P3s are numerous. While the greatest use of P3s is in transportation (highways, roads, bridges, tunnels, airports, transit, etc.), P3s are increasingly being used in the other areas.[17-19]

What You May Not Know About Public-Private Partnerships

- The more activities bundled in a P3, the greater the number of risks involved.
- The general rule of thumb today is that the party (local government or contractor) best able to manage a risk should assume that risk.
- One of the biggest misconceptions about P3s is that the private sector is providing free money for infrastructure projects.
- State legislation is considered important because it removes uncertainty about the legal authority for state departments, regional governments, and local governments to use P3s.
- Research in the U.S. and in other countries (e.g., Australia, Canada, United Kingdom) suggests that P3 project size and urban/rural status are important considerations in attracting private sector financing. Private sector financial institutions prefer larger projects to smaller ones and urban projects to rural projects. Small and rural local governments have several options in dealing with these size and geographic issues (e.g., bundling, public pension funds, and private foundations).
- The skills needed to procure a P3 and to manage the resulting contract are in short supply in government.

ADVANTAGES AND DISADVANTAGES OF P3s

In terms of advantages, P3s can deliver needed facilities and infrastructure projects faster and less expensively than can local governments working on their own (see Table 2). Various project risks can be transferrable to contractors, and P3s can provide access to private sector expertise and financing.

In terms of disadvantages, P3s can result in higher financing costs compared to traditional government financing approaches (e.g., tax-exempt bonds). P3 procurement and contracting processes are complex. Only a limited number of bidders/providers may be interested in a particular P3. The shared decision-making associated with P3s reduces local government flexibility. Citizens do not understand P3s, and many projects are criticized for a lack of transparency.

TYPES OF P3s

The NIGP practice guidance identifies six types of P3s (Table 3). The taxonomy uses as its organizing framework the major components of a P3 facility or infrastructure project *(design, construction, financing, operations, and maintenance)*. The taxonomy follows similar frameworks used by the U.S. Department of Transportation and the Congressional Budget Office.[20, 21]

Table 2 Advantages and Disadvantages of P3s

P3 Advantages	P3 Disadvantages
- Faster and less expensive delivery of facilities and infrastructure - Project risk transfer to contractors - Access to private sector expertise - Access to private sector financing	- Increased financing costs - Complex procurement and contracting - Few bidders/providers - Reduced flexibility in decision making - Not well understood by citizens - Lack of transparency

Source: California Legislative Analyst's Office, *Maximizing State Benefits From Public-Private Partnerships* (2012), available at http://www.lao.ca.gov/reports/2012/trns/partnerships/P2_110712.pdf.

National League of Cities, *Municipal Action Guide: Public-Private Partnerships for Transportation Projects* (2012), available at https://www.mnsenaterepublicans.com/wp-content/uploads/2014/08/public-private-partnerships-for-transportation-projects-mag-may12-1.pdf.

Romero, M.J., *What Lies Beneath?—A Critical Assessment of PPPs and Their Impact on Sustainable Development* (2015).

Table 3 Types of P3s

P3 Type	Characteristics
Design-Build (DB)	Design (D) and construction (B) are bundled into one procurement and contract.
Design-Build-Finance (DBF)	Design (D) and construction (B) are bundled into one procurement and contract with financing (F) provided by the contractor.
Design-Build-Maintain (DBM)	Design (D), construction (B), and maintenance (M) are bundled into one procurement and contract.
Design-Build-Finance-Maintain (DBFM)	Design (D), construction (B), and maintenance (M) are bundled into one procurement and contract with financing (F) provided by the contractor.
Design-Build-Finance-Operate (DBFO)	Design (D), construction (B), and operations (O) are bundled into one procurement and contract with financing provided by the contractor
Design-Build-Finance-Operate-Maintain (DBFOM)	Design (D), construction (B), maintenance (M), and operations (O) are bundled into one procurement and contract with financing (F) provided by the contractor. This P3 type is also called a concession.

A recent study applied the NIGP definition and taxonomy to the P3 database maintained by *Public Works Financing*.[19, 22] The *PWF* database is arguably the most comprehensive compilation of U.S. P3 projects. After removing all projects not meeting the NIGP definition, all federal projects, and any projects in existence in a state prior to that state's passage of P3 legislation, the study identified 221 P3 projects that state and local governments implemented between 1996 and 2016 (Table 4). The majority (53.9 percent) of these P3 projects are design-build. A third (31.7 percent) include a financing component, and 14 percent involve operations or maintenance without a financing component.

MAJOR DIFFERENCES BETWEEN P3s AND TRADITIONAL FACILITY AND INFRASTRUCTURE CONTRACTS

The four major differences between P3s and traditional infrastructure contracts are (1) **bundling**, (2) **risk transfer**, (3) **shared decision making**, and (4) **private sector financing**.

Bundling

"Design-bid-build" is the traditional approach to local government facility and infrastructure procurements and contracting. Following this approach, one procurement and contract is for the design of a public facility or infrastructure project, and a second and separate procurement and contract is for the actual construction/build. Bundling both design and construction into one procurement and contract reduces project delivery time while simultaneously reducing project delivery costs.

P3s of the design-build type have additional benefits. A contractor has no incentive to cut corners with materials or specifications in the design phase because it will be constructing the facility or infrastructure project. If something goes wrong during the construction phase, the design-build P3 precludes finger pointing because the same contractor is responsible for both design and construction. The same logic applies when adding financing, operations, and maintenance to the design-build bundle. When the same contractor who designs and constructs a facility or infrastructure project is also going to operate and/or maintain it, no incentive exists to use cheaper materials that might result in higher operating costs later. As the American Institute of Architects points out, "By assuming long-term maintenance responsibility, the private entity is held more accountable for the delivered asset and is therefore incentivized to produce a high-quality, long-lasting asset."[23]

Risk Transfer

Risk transfer involves shifting the responsibility and costs for performance failure in a P3 activity from the government to the contractor. Risks are associated with all phases of P3 projects: design, construction, finance, operations, and maintenance.[13, 24] The more activities bundled in a P3, the greater the number of risks involved and the greater the number of decisions about which risks to transfer, retain, and/or share.

Table 4 Types of P3s That State and Local Governments Implemented 1996–2016

P3 Type	Number (Percent)
Design-Build (DB)	119 (53.9%)
Design-Build-Finance (DBF)	19 (8.6%)
Design-Build-Operate (DBO) & Design-Build-Maintain (DBM)	32 (14.5%)
Design-Build-Finance-Operate (DBFO), Design-Build-Finance-Maintain (DBFM), & Design-Build-Finance-Operate-Maintain (DBFOM)	51 (23.1%)
TOTAL	**221 (100%)**

In the past, local governments assumed many risks that are transferrable to contractors. The general rule of thumb today is that the party (local government or contractor) best able to manage a risk should assume that risk. Two critical risks involved with P3s are (1) design and construction risk and (2) demand risk.

Design and construction risk involves the responsibility and costs associated with design flaws and construction delays as well as labor and material price increases. The contractor assumes design and construction risk in most P3s.

Demand risk is associated with long-term P3s that include financing and where tolls or user fees fund the project. In P3s of this type, if demand (e.g., the number of cars using a P3 toll road) declines, then revenue declines and the financial viability of a P3 project is affected. Accurately estimating demand is difficult.[20] Depending upon how the P3 contract is structured, demand risk is transferred to the contractor, retained by the local government, or shared.

The U.S. Department of Transportation, Federal Highway Administration has developed a risk allocation matrix (Table 5) for design-build and design-build-finance-operate-maintain P3s.[24] While the matrix was designed for transportation-related P3 projects, it also has implications for other types. The matrix is not intended to be exhaustive.

Shared Decision Making

With bundling comes increased contractor involvement in decision making. Table 6 illustrates the progression.

As additional components are added to the basic design-build P3, the contractor assumes more responsibility for the overall success of the project. Likewise, contactor participation in decision making necessarily increases. The relationship becomes less of a buyer-seller relationship and more of a partnership. This situation is particularly true when financing is involved. When providing the financing for a P3, the contractor will naturally want to participate more fully in decision making to protect its investment. In all instances, the local government maintains responsibility for planning, thereby insuring that P3 projects are in keeping with the local government's facility and infrastructure plans and priorities.

Private Sector Financing

The ability of local governments to attract private sector financing for facilities and infrastructure projects is an attractive feature of P3s. However, financing is not funding. One of the biggest misconceptions about P3s is that the private sector is providing free money for infrastructure projects.[25] The private sector views P3s as investments; repayment of the investment plus a profit is required.

LOCAL GOVERNMENT AUTHORITY FOR P3s

Authority for local government use of P3s comes from two sources, state P3 legislation and home rule authority.

State P3 Legislation

In 2015, the National Conference of State Legislatures identified 33 states with some form of P3 legislation.[26] Since the NCSL study, two additional states (Kentucky and New Hampshire) passed P3 legislation, bringing the total to 35.[27] State legislation is considered important because it removes uncertainty about the legal authority for state departments, regional governments, and local governments to use P3s.[9, 25] Table 7 identifies the 35 states with P3 legislation and looks at two aspects: (1) legislation is restricted to transportation projects only and (2) legislation includes local government.

As Table 7 points out, the P3 legislation in 27 states (77 percent) is restrictive, allowing only transportation-related projects. The types of transportation-related projects allowed vary widely from state to state. For example, Mississippi's P3 statute only allows toll roads and bridges. In eight states (23 percent), the P3 legislation is broader and covers other types of projects (e.g., waste/wastewater, office buildings, parks, sport facilities) in addition to transportation. The P3 legislation in 18 states (51 percent) includes local governments.

Home Rule Authority

Municipalities and home rule counties have the option of relying on their own authority to utilize P3s. According to Allen & Overy, LLP, these local governments can define their own approaches to P3s and no additional authority is required.[28] The city of Miami, Florida, is a case example. Even though the state of Florida extends P3 authority to local governments, the city of Miami has adopted its own P3 ordinance.[29, 30]

Table 5 Common Risk Allocation for DB and DBFOM P3s

Risk	Design-Build (DB)	Design-Build-Finance-Operate-Maintain (DBFOM)
NEPA (environmental approvals)	Government	Government
Permits	Shared	Contractor
Right of way	Government	Shared
Utilities	Shared	Shared
Ground conditions	Government	Contractor
Hazardous materials	Government	Shared
Quality assurance and quality control	Shared	Contractor
Security	Government	Contractor
Force majeure	Shared	Shared

Source: Adapted from: U.S. Department of Transportation, Federal Highway Administration, *Risk Assessment for Public-Private Partnerships: A Primer* (2012), available at: https://www.fhwa.dot.gov/ipd/pdfs/p3/p3_value_riskassessment_manual_v1.pdf.

Table 6 Shared Decision Making and P3 Types

Risk	Design-Build (DB)	Design-Build-Finance (DBF)	Design-Build-Maintain (DBM)	Design-Build-Finance-Maintain (DBFM)	Design-Build-Finance-Operate (DBFO)	Design-Build-Finance-Operate-Maintain (DBFOM)
Planning	Gov	Gov	Gov	Gov	Gov	Gov
Design	Con	Con	Con	Con	Con	Con
Build	Con	Con	Con	Con	Con	Con
Finance	Gov	Con	Con	Con	Con	Con
Operations	Gov	Gov	Gov	Gov	Con	Con
Maintenance	Gov	Gov	Gov	Con	Gov	Con

Primary Responsibility: Gov = Government, Con = Contractor.

Source: Adapted from National Institute of Governmental Purchasing, *Public-Private Partnership (P3): Facilities & Infrastructure* (2016), available at: http://engage.nigp.org/acton/attachment/24793/f-00a2/1/-/-/-/-/Public-Private%20Partnership%20%28P3%29%20Facilities%20and%20Infrastructure.pdf.

Table 7 States with P3 Legislation

State	P3 Legislation Restricted to Transportation Projects Only	State P3 Legislation Applies to Local Governments
Alabama	YES	NO
Alaska	YES	NO
Arizona	YES	YES
Arkansas	YES	YES
California	NO	YES
Colorado	YES	YES
Connecticut	NO	NO
Delaware	YES	NO
Florida	NO	YES
Georgia	NO	YES
Illinois	YES	YES
Indiana	NO	YES
Kentucky	NO	YES
Louisiana	YES	YES
Maine	YES	NO
Maryland	NO	NO
Mass	YES	NO
Minnesota	YES	YES
Mississippi	YES	YES
Missouri	YES	YES
Nevada	YES	YES
N. Carolina	YES	YES
N. Dakota	NO	YES
N. Hampshire	YES	NO
Ohio	YES	NO
Oregon	YES	NO
Pennsylvania	YES	NO
S. Carolina	YES	NO
Tennessee	YES	NO
Texas	YES	YES
Utah	YES	NO
Virginia	YES	YES
Washington	YES	NO
W. Virginia	YES	NO
Wisconsin	YES	NO
TOTAL	**27**	**18**

Sources: National Conference of State Legislatures, *Public-Private Partnerships for Transportation: Categorization and Analysis of State Statutes* (2017), available at: http://www.ncsl.org/Portals/1/Documents/ transportation/P3_state_statutes2.pdf.

U. S. Department of Transportation, Federal Highway Administration (FHWA) Center for Innovative Financing, "State P3 Legislation" (2017), available at https://www.fhwa.dot.gov/ipd/p3/legislation/.

LegiScan, "New Hampshire Senate Bill SB549" (2017), available at: https://legiscan.com/NH/bill/SB549/2016.

P3s WITH FINANCING COMPONENTS

P3s with financing components are either short-term or long-term arrangements.

Short-Term P3s

Only one P3 type, design-build-finance, falls into this category. In this P3 type, the contractor provides the short-term construction financing needed for the design and construction of a fixed-price "turnkey" project. Short-term design-build-finance P3s represent only about nine percent of all P3 projects implemented over the last 20 years (Table 4).

Long-Term P3s

Three P3 types fall into this category: design-build-finance-operate, design-build-finance-maintain, and design-build-finance-operate-maintain. The design-build-finance-operate-maintain P3 type has received the most attention because of its potential to finance large facility and infrastructure projects.[23, 31]

Long-term P3s, as the name suggests, use long-term contracts (20–50 years). Long-term contracts provide a method for local governments to repay the costs of design, construction, and financing of a facility or infrastructure project over several years. This approach is analogous to a home mortgage. A local government gets the use of a new or rehabilitated facility or infrastructure project now and pays for it in installments over multiple years.

FINANCING AND FUNDING LONG-TERM P3s

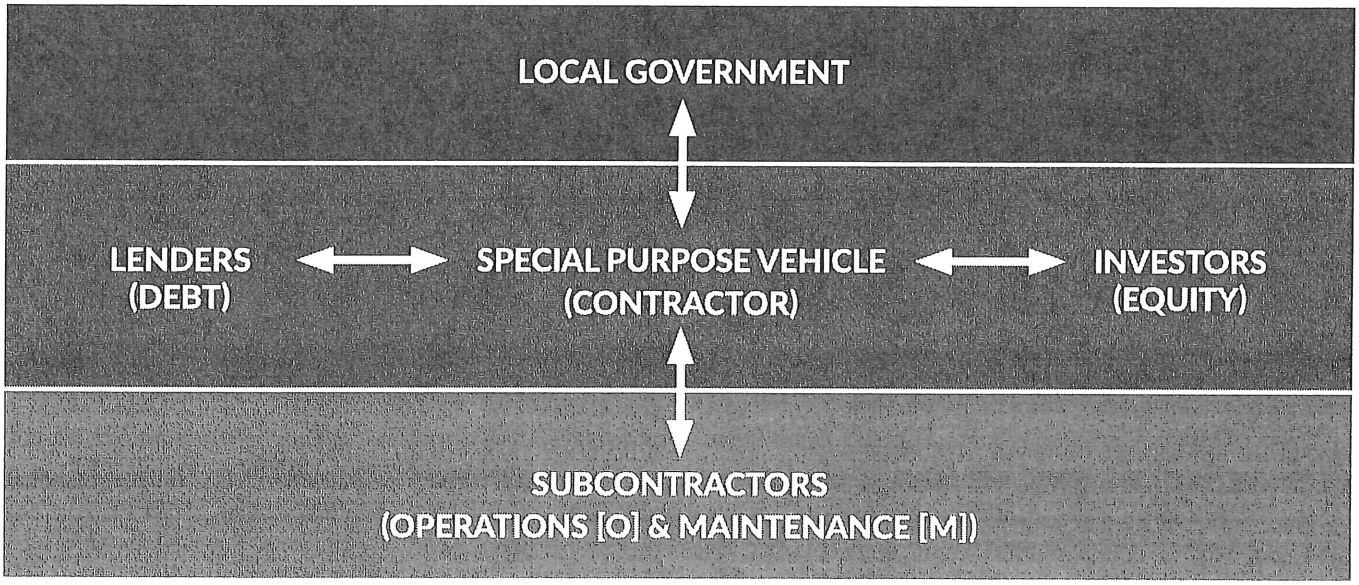
The *financing* of long-term P3s involves acquiring the upfront capital needed to pay for the design and construction of a facility or infrastructure project. The *funding* of long-term P3s deals with how contractors are paid for the upfront capital costs of design, construction, and financing as well as the costs of operations and maintenance of the facility or infrastructure project.

Financing

The financing of long-term P3s takes two forms: *equity* and *debt*. Contractors and investors provide equity in the form of capital. Sources of debt include loans from U.S. and foreign banks, financial institutions, pension funds (both public and private), and others. Long-term P3s are heavily leveraged, with an average debt-to-equity ratio of 80 percent to 20 percent.

The federal government offers assistance to local governments for small and large, short-term and long-term, and urban and rural P3 projects. This assistance comes in the form of grants, direct loans, loan guarantees, and standby lines of credit. Examples are the Transportation Infrastructure Finance & Innovation Act (TIFIA), the Railroad Rehabilitation & Improvement Financing (RRIF) program, private activity bonds (PABs), and the Infrastructure for Rebuilding America program.[32, 33]

Figure 1 The Special Purpose Vehicle



Project Financing and the Special Purpose Vehicle (SPV)

Project financing and the special purpose vehicle (SPV) play major roles in long-term P3s.

Project financing, also called *limited recourse financing,* is described as "a method of raising long-term debt financing for major projects through financial engineering based on lending against cash flow generated from the project alone."[34] With project financing, cash flow generated by the long-term P3 project is used primarily, if not exclusively, to repay creditors.[35]

Special purpose vehicle (SPV) is a separate corporation created exclusively to serve as the contractor for a long-term P3 project.[39] The idea behind the SPV is that the entity serving as the contractor should have no other lines of business and no other financial concerns. Figure 1 graphically illustrates the role played by the SPV in a long-term P3 project.

As Figure 1 illustrates, the SPV is the central actor in a long-term P3. The SPV is responsible for the design and construction of the P3 project, providing or arranging for the financing through its relationships with banks, financial institutions, and other investors. It is also responsible for operating and maintaining the facility or infrastructure project over a number of years, either directly or through its subcontractors.

The use of project financing and the SPV shields local governments from financial exposure. If a long-term P3 project experiences financial difficulties, creditors have recourse only against the SPV and not the local government.

Funding

Long-term P3s are funded in three basic ways: (1) tolls and user fees, (2) shadow tolls, and (3) availability payments.

Tolls and user fees are charged for the use of P3 facility and infrastructure projects (e. g., roads, bridges, tunnels, water/wastewater connections, solid waste collection and disposal, transit, airports, and admission to convention centers and museums). Either the local government or the contractor collects the tolls or user fees. When they are collected by the contractor, absent any other funding considerations (e.g., government guarantee), demand risk is assumed by the contractor. When a local government collects the tolls or user fees, the government retains demand risk.

Shadow tolls are similar to tolls or user fees, except the local government pays, not the user. For example, the local government pays a shadow toll to the contractor every time someone uses a bridge, tunnel, recreation facility, museum, and the like. Local governments use shadow tolls when regular tolls or user fees are unpopular with stakeholders or when little political support exists for their use.[35] The local government retains demand risk when shadow tolls are used.

Availability payments are a payment approach not tied to usage. Availability payments fund the contractor when a P3 facility or infrastructure project is "open for business." For example, a contractor might receive a payment for every month that a P3 facility or infrastructure project is open, functioning, and unobstructed.[36] Availability payments can be tied to key performance measures.[37] With availability payments, the local government retains demand risk.

Moody's Investor Service notes that since the 2008 recession, a number of long-term P3s have used availability payments.[38]

SMALL AND RURAL LOCAL GOVERNMENTS AND P3s

With short-term design-build and design-build-finance P3s as well as with long-term design-build-operate P3s, the size of a local government or its urban/rural status makes little difference. The situation is different with long-term P3s, other than design-build-operate.

Research in the U.S. and in other countries (e.g., Australia, Canada, United Kingdom) suggests that P3 project size and urban/rural status are important considerations in attracting private sector financing.[39] Private sector financial institutions prefer larger projects to smaller ones and urban projects to rural projects. Small and rural local governments have several options in dealing with these size and geographic issues.

Bundling can increase P3 project size. Several smaller P3 projects can be bundled into one larger project.[40] Likewise, two or more local governments can bundle several smaller P3 projects. Smaller and/or rural local governments may be able to piggyback their P3 projects onto larger ones developed by state departments or agencies. The state of Pennsylvania's "Small Bridge Renovation and Repair" project combined 558 structurally deficient bridges in the state into one large P3.[41, 42]

Public pension funds and private foundations, particularly community foundations, are potential sources of financing for long-term P3 projects proposed by smaller and rural local governments. These financial

institutions are beginning to recognize that long-term P3s are not only viable investment opportunities, but also contribute economically to the development of their communities and states.

CONTINUING CHALLENGES WITH LONG-TERM P3s

A number of additional challenges are involved with local government use of long-term P3s.

Transparency and Stakeholder Education

Citizens do not understand long-term P3s. Local governments considering their use can expect to hear such comments as "they are selling our roads" and "they are privatizing our libraries and parks." A major challenge for local governments is being fully transparent and educating citizens about P3s.[25]

Procurement

The bundling of design and construction with financing operations and maintenance into one long-term P3 project creates a new approach to public procurement and contracting that is neither a capital project nor a service contract, but rather is both. A long-term P3 procurement usually involves some variation of a "two-step" approach. At step one, potential bidders or proposers are pre-screened for capability, past performance, and ability to provide or arrange for private sector financing. A request for qualifications (RFQ) or some similar approach is used.

After a smaller number of prospective bidders or proposers are pre-qualified, step two involves issuing a formal request for proposals (RFP). As part of the review of formal proposals, a value-for-money (VfM) analysis or some other economic analysis is frequently conducted to justify adopting a P3 approach rather than using more traditional financing.[43] The successful bidder or proposer becomes the special purpose vehicle (SPV) for the P3 project.

P3 Expertise

Local government expertise and experience with long-term P3s is limited. The skills needed to procure a P3 and to manage the resulting contract are in short supply in government. Some states (e.g., Oregon, Virginia, Texas, and Kentucky) have created organizational units staffed with individuals knowledgeable about P3s. These "P3 units" can provide consultation and technical assistance to local governments that are considering use of P3s. Additionally, many private sector firms and individuals with expertise in P3s are available as consultants.

Contracting

Just as long-term P3s present procurement challenges, they also present contracting challenges. Developing a 20–50-year contract that covers all potential issues that might arise over such a long term is impossible. An approach used to overcome the challenges of long-term P3 contracts is to specify that the contract and the partnership understandings are to be periodically revisited, either on the basis of time (e.g., every five years) or on the basis of some occurrence (e.g., significant increase in inflation).

Unsolicited Proposals

An unsolicited proposal is one *not* received in response to a formal local government procurement. The idea behind unsolicited proposals is to encourage the submission of innovative private sector solutions to local government facility and infrastructure needs based on P3 approaches.[44] Unsolicited proposals create several challenges: when and how to use them, procedures for review, and allowing competing proposals. Unsolicited proposals can assist in advancing facility and infrastructure projects, but they can also cause disruption when they fall outside a local government's facility and infrastructure plans and priorities.

CASE EXAMPLES

The case examples that follow address many of the P3 issues identified in the preceding sections.

DBOM P3: Snohomish County, Washington, New Paine Field Airport Terminal

Snohomish County, Washington, has entered into a design-build-operate-maintain P3 for a new airport passenger terminal at the county's Paine Field. Paine Field (Everett, Washington) is better known as where the nearby Boeing Company parks its airplanes. The county approved the design-build-operate-maintain P3 contract in 2015, and groundbreaking took place in June 2017. The new terminal is scheduled to open in 2018. The contactor, Propeller Airports of New York, will provide all carrier and passenger services. The design-

build-operate-maintain P3 contract term is for 30 years. The county is providing the financing. The county is to receive rent payments of $450,000 annually as well as a percentage of the profits from terminal operations.[45-47]

DBO P3: City of Phoenix, Arizona, Lake Pleasant Water Treatment Plant

Ten years ago, the city of Phoenix, Arizona, entered into a long-term P3 with a consortium (special purpose vehicle) of private companies to design-build-operate the Lake Pleasant Water Treatment Plant. Private sector financing was not an issue. Instead, the city's objectives were to reduce project delivery time, promote innovation, reduce risk, and achieve life cycle cost savings. The plant's current capacity is 80 million gallons per day. The city retains rate-setting authority. When the Lake Pleasant Treatment Plant came online, it was the largest such plant in North America.[48]

DBFM P3: State of Pennsylvania Small Bridge Renovation and Repair

The state of Pennsylvania's Rapid Bridge Replacement Program design-build-finance-maintain P3 program has as its objective the rehabilitation of some 558 structurally deficient small bridges across the state. This design-build-finance-maintain P3 is an example of bundling and piggybacking smaller projects into a larger one. Plenary Walsh Key Partners serves as the special purpose vehicle (SPV). Walsh is a Chicago-based company while Plenary Group is a Melbourne, Australia, firm specializing in P3s. The $1.1 billion contract calls for the SPV to rehabilitate the bridges and maintain them for 25 years. Financing comes from private equity and $250 million in private activity bonds (PADs).[41, 42] Availability payments fund this P3 project.

DBFOM P3: City of Lakewood, California, Street Lighting

Over 20 years ago, the city of Lakewood, California, entered into a design-build-finance-operate-maintain P3 for street lighting. The P3 called for the contractor, City Light & Power (CL&P), to repair, replace, and maintain the city's streetlights at its own cost. CL&P used more energy-efficient streetlights that were easier to maintain. By using a P3, the city of Lakewood was able to upgrade its aging streetlights while avoiding approximately $7 million in up-front capital costs.[49]

DB P3: Washington, D.C., NoMA-Gallaudet University Metrorail Station

The Washington Metropolitan Transit Authority (WMATA) District used a design-build (DB) P3 for its NoMA- Gallaudet Metrorail Station. The Gallaudet University and surrounding area is referred to as NoMA (North of Massachusetts Avenue). This DB P3 served as the catalyst for the economic revitalization of this section of the District of Columbia. The area had a substantial amount of undeveloped land. The station opened in 2004 with some $110 million in financing provided by the federal government, the District of Columbia, and private sources. The assessed valuation of the 35-block area surrounding the station increased from $535 million in 2001 to $2.3 billion in 2007.[50-52]

DBFOM P3: Long Beach, California, Court House

The Judicial Council of the State of California, Administrative Office of the Courts used a design-build-financing-operate-maintain P3 for a new courthouse in Long Beach named after former California Governor George Deukmejian. The $492 million courthouse contains approximately 500,000 square feet of office space. Long Beach Judicial Partners, a consortium of several private sector firms headed by Meridiam Infrastructure acting as the special purpose vehicle, provided the financing for the project. The Governor George Deukmejian Courthouse is the first courthouse P3 project in the U.S. The term of the design-build-financing-operate-maintain P3 contract is for 35 years. The Courthouse opened for business in August 2013.[10, 18, 53]

DBFOM P3: City of Rialto, California, Water/Wastewater

The city of Rialto, California, and Rialto Water Services (RWS) entered into a design-build-finance-operate-maintain P3 in 2013 with Veolia Water North America. The P3 contract term is for 30 years. The city of Rialto received an up-front "monetized" payment of $35 million to be used for rehabilitating and replacing water mains and sewers. RWS provides contract administration and oversight of the infrastructure upgrades. One of the original investors in the P3 project is a labor-owned insurance and investment company. The city of Rialto maintains rate-setting authority. [31, 54, 55]

DBFOM P3: Miami, Florida, Tunnel

The Miami Tunnel design-build-finance-operate-maintain P3 is a collaborative effort of the Port of Miami, Miami-Dade County, and the Florida Department of Transportation. The tunnel moves large vehicle traffic directly from Interstates I-95 and I-395 to the island that serves as the Port of Miami, bypassing and reducing traffic on Miami surface streets. The original special purpose vehicle was MAT Concessionaire, LLC. The tunnel cost some $900 million. Financing was a combination of equity contributed by the SPV and debt. Availability payments fund the P3 project. The source of funding for the availability payments is user fees charged to cruise ship passengers.[56-58]

CONCLUDING COMMENTS

P3s represent a new and exciting approach to local government delivery of facilities and infrastructure. The various P3 types provide local governments with opportunities to advance facility and infrastructure delivery dates, tap private sector expertise, and leverage private sector financing. P3s are nontraditional approaches and require outside-the-box thinking. At the same time, P3s present local governments with unique challenges. While P3s may not be right for all local governments, for some they ultimately enhance the government's capacity to serve the community. The sidebar of additional resources (see next page) may help local governments make this determination.

ADDITIONAL RESOURCES

Overview of P3s

California Debt and Investment Advisory Commission [2007]. *Issue Brief: Privatization vs Public-Private Partnerships: A Comparative Analysis*. Sacramento, CA: Author. Available at: http://www.treasurer.ca.gov/cdiac/publications/privatization.pdf.

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ADDITIONAL RESOURCES, *continued*

Best Practices

U.S. Department of Transportation (2016), Federal Highway Administration. Successful Practices for P3s.Washington DC: Author. Available at: https://www.transportation.gov/sites/dot.gov/files/docs/P3_Successful_Practices_Final_BAH.PDF.

Other Topics

N. Macek, E. Claney & E. Neely (2017). *Public Transportation Guidebook for Small and Medium Sized Public-Private Partnerships (P3s).* Washington, DC: National Academy of Sciences. Available at: https://www.nap.edu/catalog/24754/public-transportation-guidebook-for-small-and-medium-sized-public-private-partnerships-p3s.

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COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:
04/19/2022	I-1	Subdivision Variance #2022-02-01 Robert & Crystal Dolan *Subdivision Variance to Warren County Code §155-3.B(1)(b)[2]*

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:

Finding that the variance request meets the criteria required by Section 155-18, I move that the Board of Supervisors approve the applicant' s request for a variance to Section 155-3.B(1)(b)[2] of the Subdivision Ordinance with the condition as recommended by the Planning Commission and staff, that 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.

OR

I move that the Board of Supervisors deny the applicant's request for a variance to Section 155-3.B(1)(b)[2] of the Warren County Subdivision Ordinance.

SUBMITTED BY:	DISPOSITION OF BOARD:	PROCESSED BY:
Joseph Petty, Planning Director	☐ APPROVED ☐ OTHER (Describe)	

Subdivision Variance 2022-02-01
Owners/Applicants: Robert & Crystal Dolan
Prepared: February 8, 2022
Staff Contact: Joseph Petty, Planning Director

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) — Use: Single-Family Dwelling
South: Agricultural (A) — Use: Vacant Lot
East: Agricultural (A) — Use: Single-Family Dwelling
West: Agricultural (A) — 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,

Robert Dolan

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 Brewer Brade 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 Furstenau

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. Cntr. 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 X 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:

Beverly S. Morrison (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 3rd 2019
by Beverly S. Morrison, General Partner **of STICKLEY ENTERPRISES, LP.**

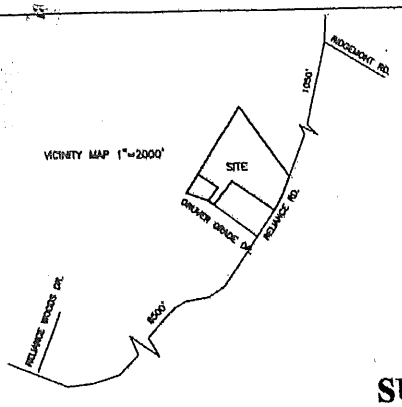
Victoria L. Williams
Notary Public:
My Commission Expires: 7/31/2020

VICTORIA L. WILLIAMS
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #173535
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 apeared 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 commision expires 6/30/22.

TAMMY SUE BOLT
NOTARY PUBLIC
REGISTRATION # 7586536
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
6/30/22

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

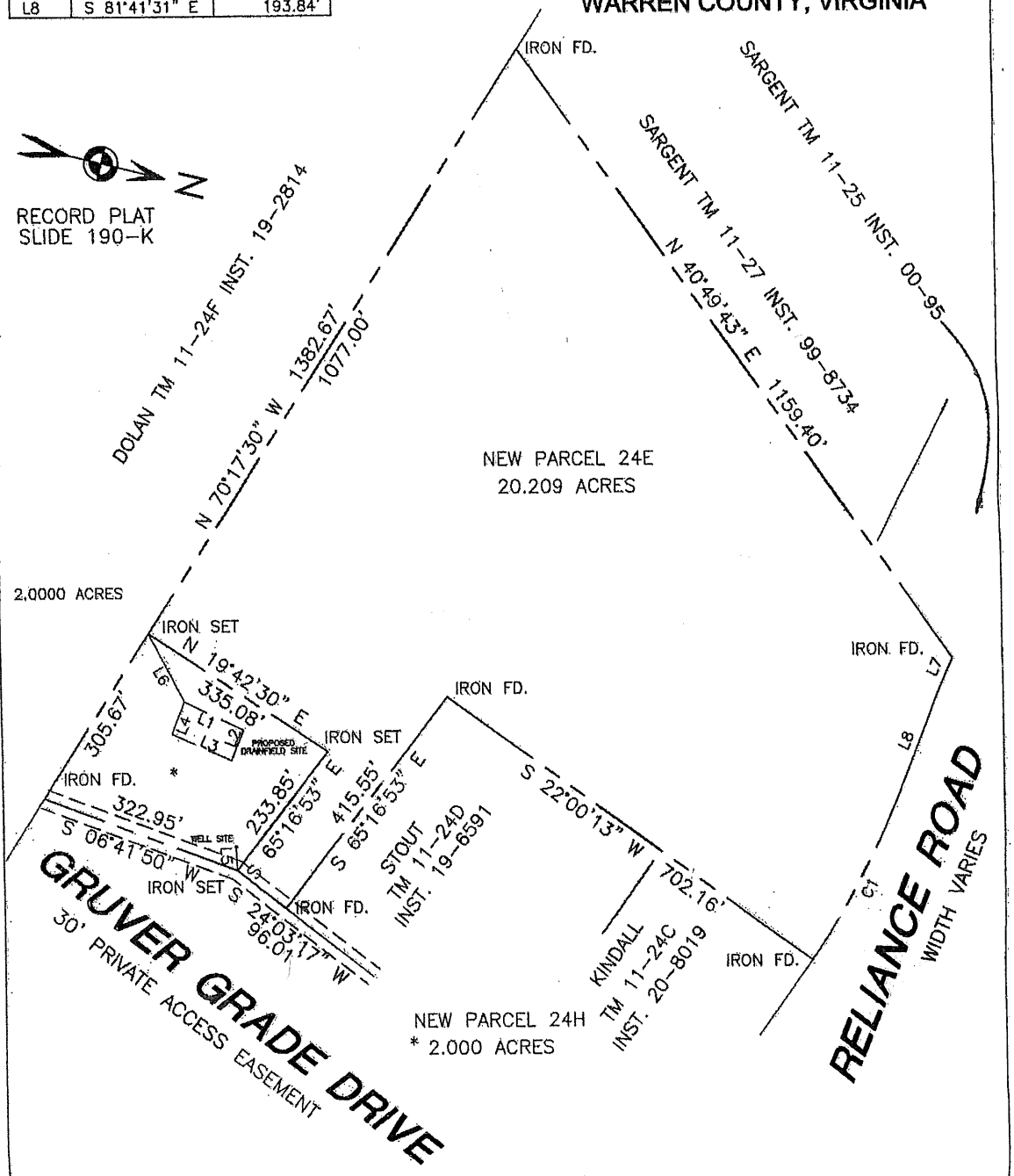
CDF LAND SURVEYING

CLASS A SUBDIVISION
LAND OF

ROBERT P. DOLAN AND CRYSTAL D. DOLAN

NORTH RIVER MAGISTERIAL DISTRICT
WARREN COUNTY, VIRGINIA

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'



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'

COMMONWEALTH OF VIRGINIA
CHRISTOPHER D. FURSTENAU
Lic. No. 2727
OCTOBER 15, 2021
LAND SURVEYOR

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

CDF LAND SURVEYING

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,

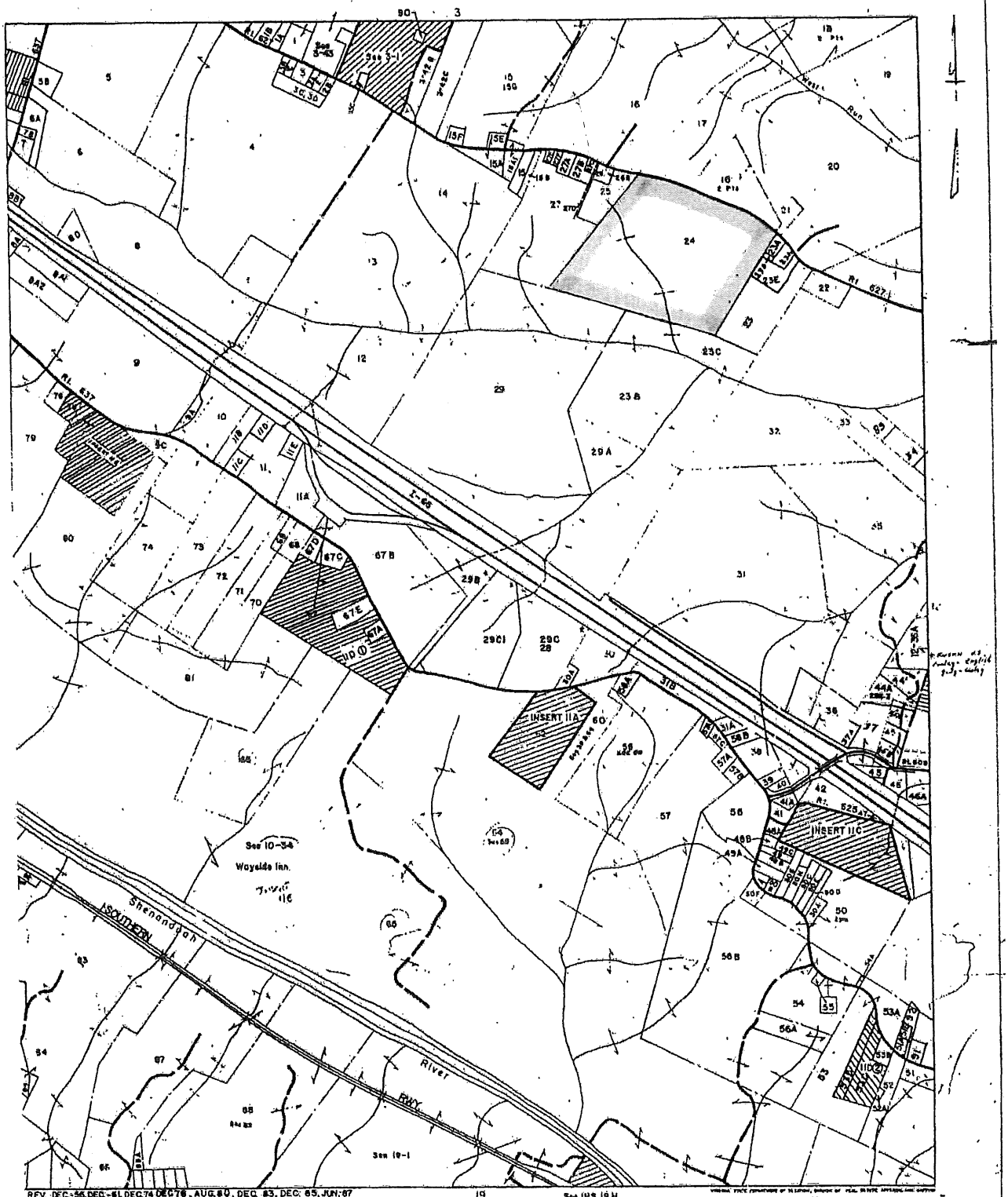
Joseph *"Joe"* Petty

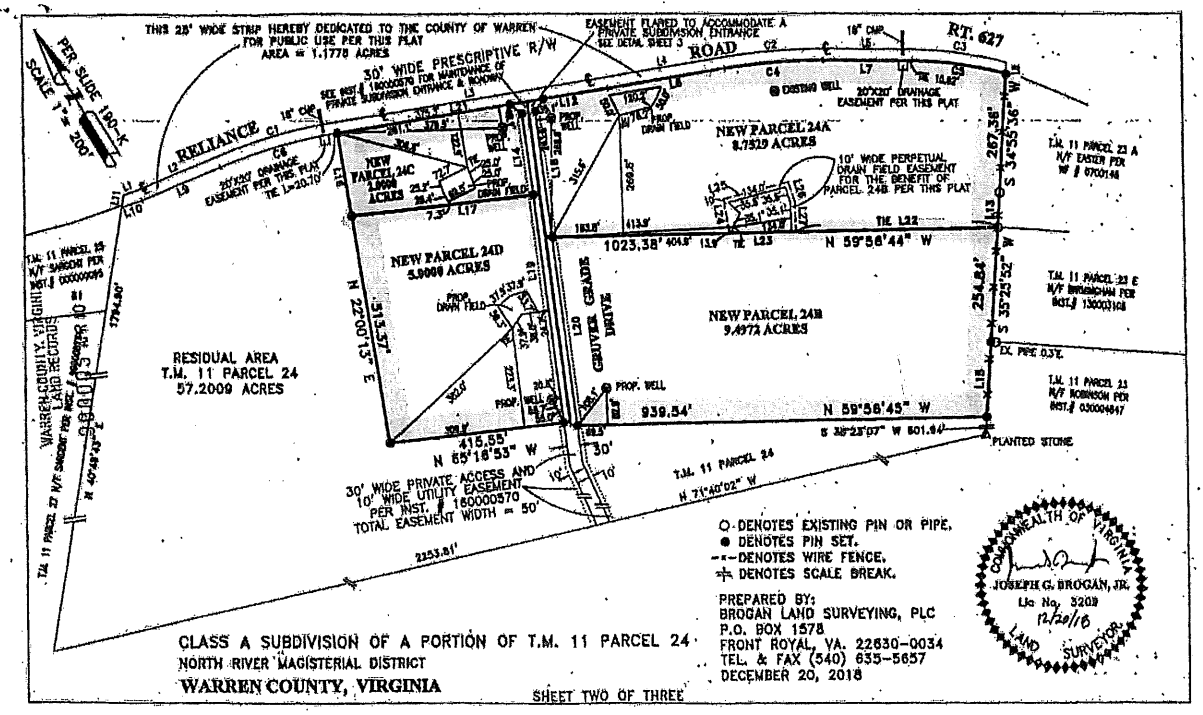
Planning Director/Zoning Administrator

Warren County Planning Department

220 North Commerce Ave., Suite 400

WARREN COUNTY





CLASS A SUBDIVISION OF A PORTION OF T.M. 11 PARCEL 24
NORTH RIVER MAGISTERIAL DISTRICT
WARREN COUNTY, VIRGINIA

SHEET TWO OF THREE

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

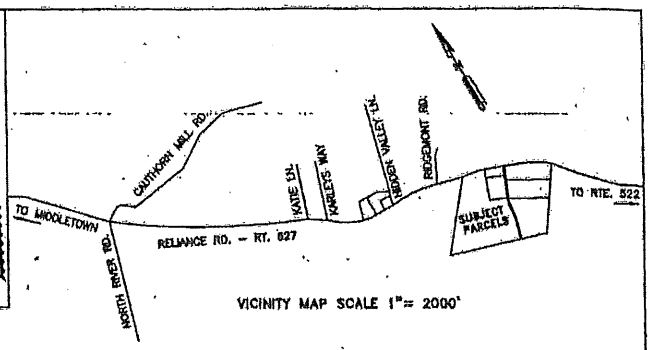
BY _____
STICKLEY ENTERPRISES LP

Acknowledged before me this 24th day of December 2018.

My Commission expires 3/31/2020

_____ Notary

TRACY L. BOWERS
Notary Public
Commonwealth of Virginia
Reg. # 179624
My Commission Expires March 31, 2020



VICINITY MAP SCALE 1"= 2000'

APPROVED BY WARREN COUNTY AS A CLASS "A" SUBDIVISION UNDER SECTION 155-21-A

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

APPROVED BY WARREN COUNTY HEALTH DEPARTMENT

_____ — 3.7.19
Environmental Health Supervisor — Date

APPROVED BY VDOT

_____ — 3/7/19
Subdivision Specialist — Date

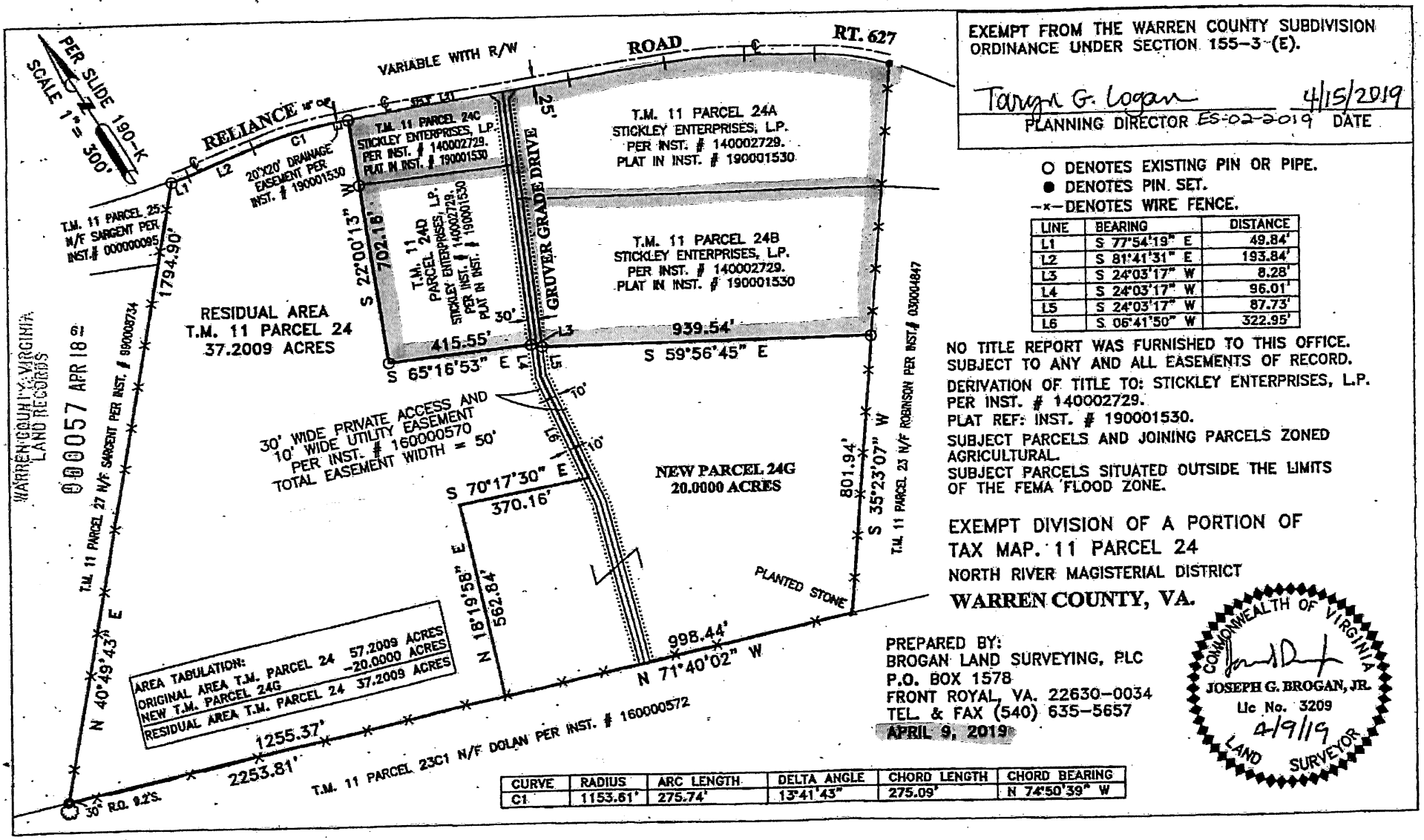
CLASS A SUBDIVISION OF A PORTION OF TAX MAP 11 PARCEL 24
NORTH RIVER MAGISTERIAL DISTRICT
WARREN COUNTY, VIRGINIA

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. 3209
12/20/18
LAND SURVEYOR

SHEET ONE OF THREE

WARREN COUNTY, VIRGINIA LAND RECORDS



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD LENGTH	CHORD BEARING
C1	1153.61'	275.74'	13°41'43"	275.09'	N 74°50'39" W

EXEMPT FROM THE WARREN COUNTY SUBDIVISION ORDINANCE UNDER SECTION 155-3-(E).

Taryn G. Logan 4/15/2019

PLANNING DIRECTOR ES-02-2019 DATE

O DENOTES EXISTING PIN OR PIPE.

● DENOTES PIN. SET.

-x- DENOTES WIRE FENCE.

LINE	BEARING	DISTANCE
L1	S 77°54'19" E	49.84'
L2	S 81°41'31" E	193.84'
L3	S 24°03'17" W	8.28'
L4	S 24°03'17" W	96.01'
L5	S 24°03'17" W	87.73'
L6	S 06°41'50" W	322.95'

NO TITLE REPORT WAS FURNISHED TO THIS OFFICE. SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

DERIVATION OF TITLE TO: STICKLEY ENTERPRISES, L.P. PER INST. # 140002729.

PLAT REF: INST. # 190001530.

SUBJECT PARCELS AND JOINING PARCELS ZONED AGRICULTURAL.

SUBJECT PARCELS SITUATED OUTSIDE THE LIMITS OF THE FEMA FLOOD ZONE.

EXEMPT DIVISION OF A PORTION OF TAX MAP. 11 PARCEL 24

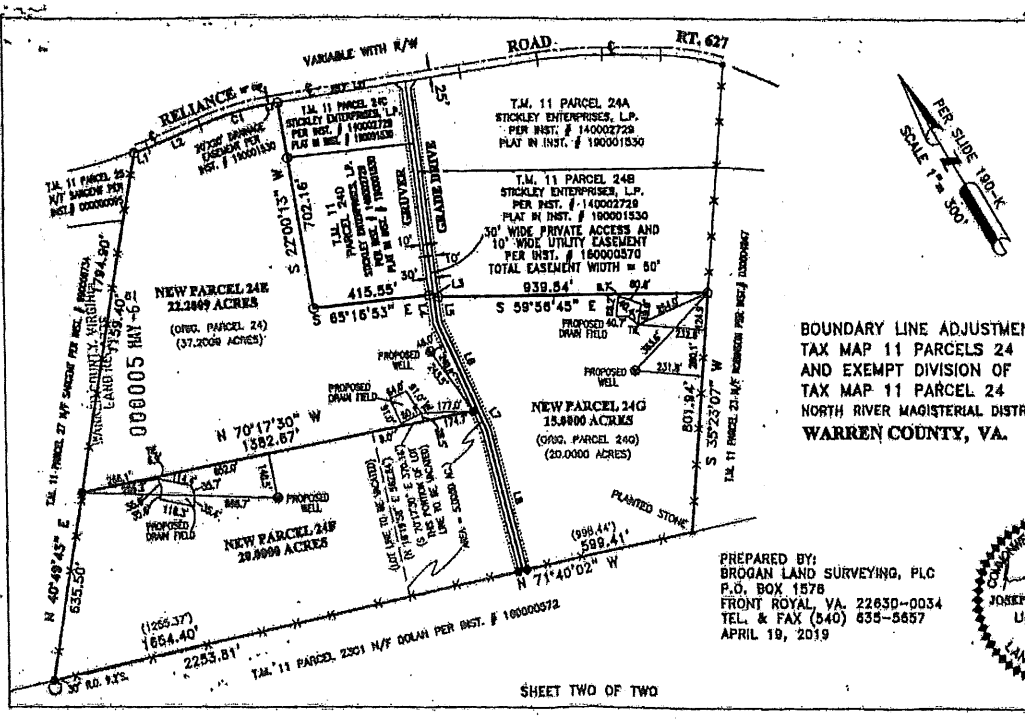
NORTH RIVER MAGISTERIAL DISTRICT

WARREN COUNTY, VA.

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

APRIL 9, 2019

COMMONWEALTH OF VIRGINIA
JOSEPH G. BROGAN, JR.
Lic No. 3209
4/9/19
LAND SURVEYOR



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.

PREPARED BY:
BROGAN LAND SURVEYING, PLC
P.O. BOX 1578
FRONT ROYAL, VA. 22630-0034
TEL. & FAX (540) 635-5657
APRIL 19, 2019

COMMONWEALTH OF VIRGINIA
JOSEPH G. BROGAN, JR.
Lic No. 3209
4/19/19
LAND SURVEYOR

SHEET TWO OF TWO

EXEMPT FROM THE WARREN COUNTY SUBDIVISION ORDINANCE UNDER SECTION 155-3 (E).

Tanya G. Logan 4/24/19
PLANNING DIRECTOR ES-05-2019 DATE

REVIEWED AND CERTIFIED AS EXEMPT FROM THE WARREN COUNTY SUBDIVISION ORDINANCE UNDER SECTION 155-38(1)(a), ALLOWING BOUNDARY LINE ADJUSTMENTS AND AND MAY BE COMMITTED TO RECORD.

Tanya G. Logan 4/24/19
PLANNING DIRECTOR E-19-2019 DATE

WARREN COUNTY, VIRGINIA LAND RECORDS
008004 MAY-61

AREA TABULATION:	
ORIGINAL AREA T.M. PARCEL 24	37.2009 ACRES
AREA ADDED FROM T.M. PARCEL 24G	+5.0000 ACRES
NEW T.M. PARCEL 24E	-22.2009 ACRES
NEW T.M. PARCEL 24G	-20.0000 ACRES
TOTAL	37.2009 ACRES

AREA TABULATION:	
ORIGINAL AREA T.M. PARCEL 24G	20.0000 ACRES
AREA ADDED TO T.M. PARCEL 24	-5.0000 ACRES
RESIDUAL AREA T.M. PARCEL 24G	15.0000 ACRES

LINE	BEARING	DISTANCE
L1	S 77°54'19" E	49.84'
L2	S 81°41'31" E	193.84'
L3	S 24°03'17" W	8.28'
L4	S 24°03'17" W	86.01'
L5	S 24°03'17" W	87.73'
L6	S 06°41'50" W	322.85'
L7	S 06°41'50" W	76.35'
L8	S 19°41'18" W	480.35'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD LENGTH	CHORD BEARING
C1	1153.61'	275.74'	13°41'43"	275.09'	N 74°50'38" W

O DENOTES EXISTING PIN OR PIPE.
● DENOTES PIN SET.
-x-DENOTES WIRE FENCE.

NO TITLE REPORT WAS FURNISHED TO THIS OFFICE.
SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.
DERIVATION OF TITLE TO: STICKLEY ENTERPRISES, L.P.
PER INST. # 140002729.
PLAT REF: INST. # 190001530 AND INST. # 190001665.
SUBJECT PARCELS AND JOINING PARCELS ZONED AGRICULTURAL.
SUBJECT PARCELS SITUATED OUTSIDE THE LIMITS OF THE FEMA FLOOD ZONE.

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.

PREPARED BY:
BROGAN LAND SURVEYING, PLC
P.O. BOX 1578
FRONT ROYAL, VA. 22630-0034
TEL. & FAX (540) 635-5657
APRIL 19, 2019

COMMONWEALTH OF VIRGINIA
JOSEPH G. BROGAN, JR.
Lic No. 3209
4/19/19
LAND SURVEYOR

SHEET ONE OF TWO

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
4/19/2022	I-2	Conditional Use Permit #2022-02-01 Emilia Simeonova & Sergei Kulaev *Short-Term Tourist Rental*	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.

After proper advertisement and a public hearing by the Planning Commission, the application has been forwarded to the Board of Supervisors recommending approval with the following conditions:

Planning Commission Move to Approve:

Mr. Henry motioned that the Planning Commission continue the public hearing until the April 13th meeting due to an error on the public hearing adjacent property owner letters at which time the public hearing will be closed and a recommendation will be provided. Mr. Longo seconded the motion and the Planning Commission voted 4 – 0 in favor. 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 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.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors approve the conditional use permit request of Emilia Simeonova & Sergei Kulaev for a Short-term Tourist Rental with the conditions as recommended by the Planning Commission and staff.

OR

I move that the Board of Supervisors deny the conditional use permit request of Emilia Simeonova & Sergei Kulaev for a Short-term Tourist Rental (List reasons).

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

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*

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
Town/Village: Front Royal
Zoning: Agricultural (A)
Acres: 10.73
Existing Land Use: SFD with Woodlands
Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

SURROUNDING ZONING DISTRICTS & USES

North:	Agricultural (A)	Use: SFD with Woodlands
South:	Agricultural (A)	Use: SFD with Woodlands
East:	Agricultural (A)	Use: Shenandoah National Park
West:	Agricultural (A)	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

WCUP-000158-2021

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-02-01
Date Received: 12-22-21
Fee Amount: $ 500.00 CK #715
Date Paid: 12-22-21

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 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.

N/A ☐ **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.

N/A ☐ **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.

Sergei Kulaev 12/21/2021

Applicant Signature Date

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

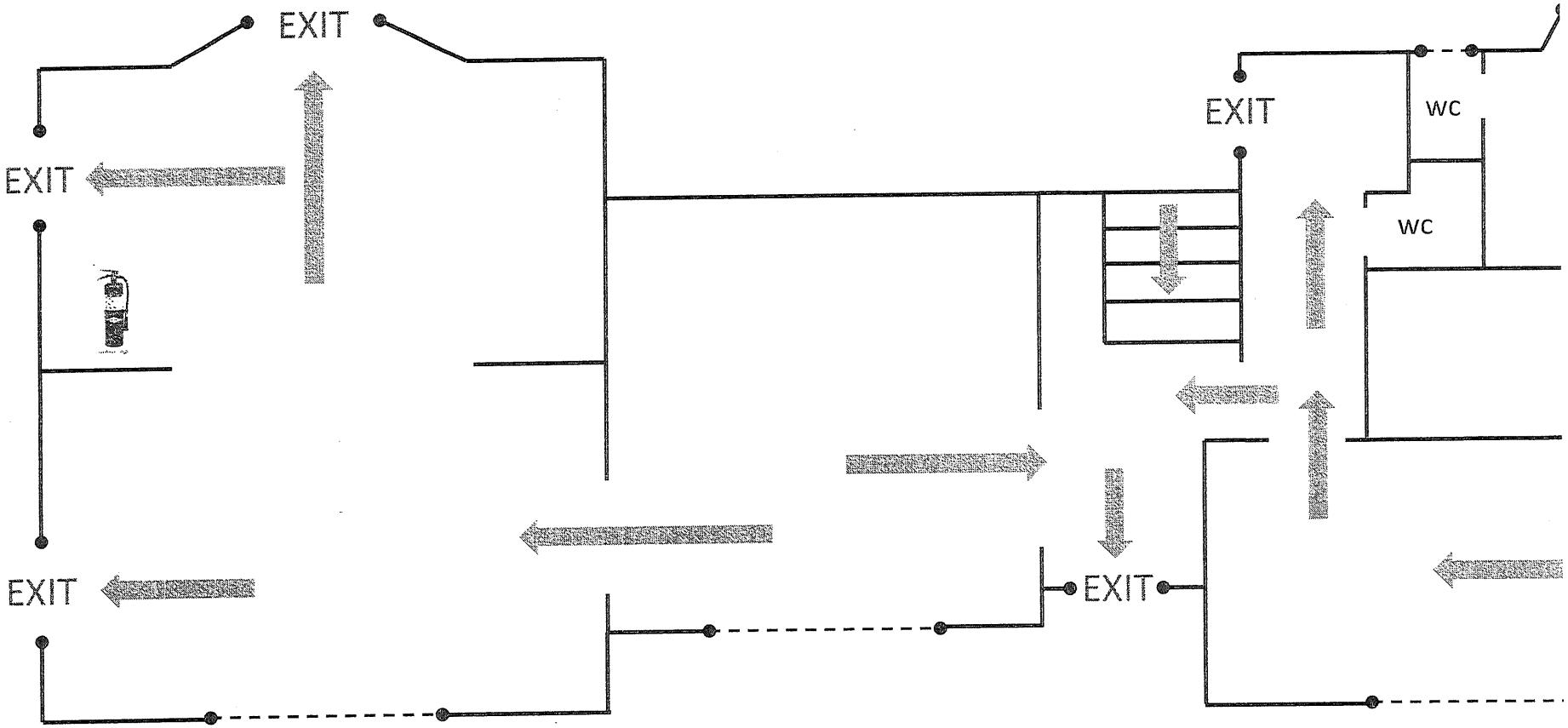
Address: 5462 Browntown Rd, Front Royal, VA

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

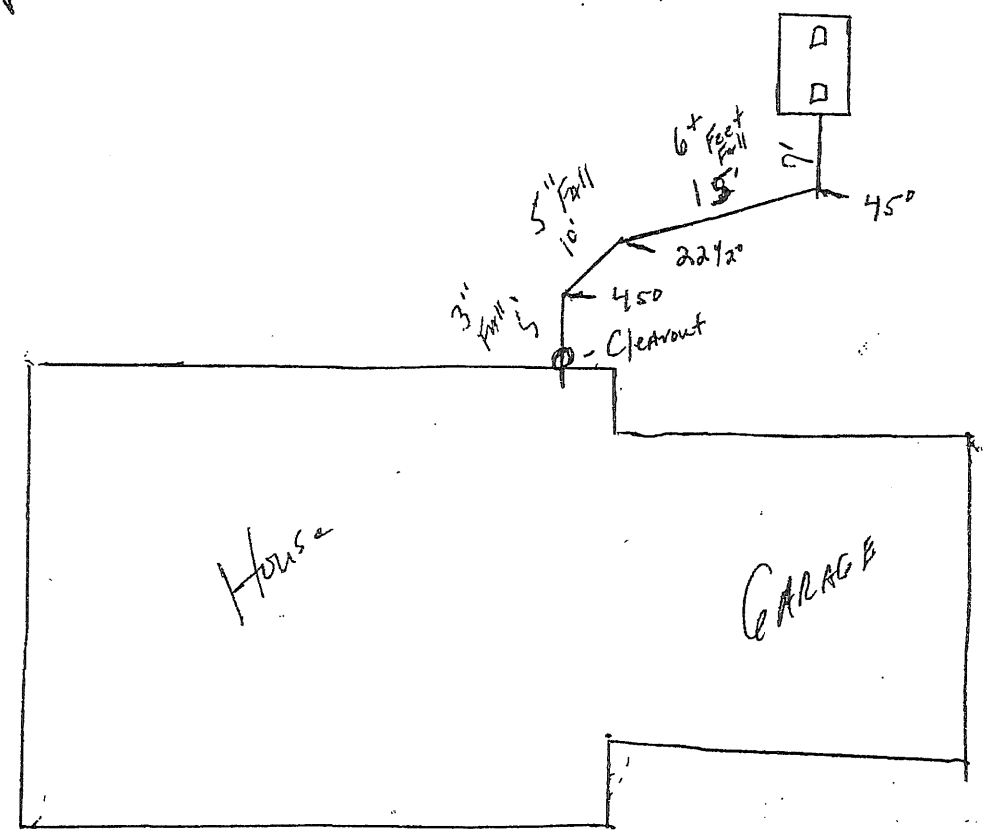
Garbage collection:
Store food trash either using a kitchen trash been, or dedicated freezer in the garage. Do not store food trash in any other place outside the house, or in the garage – the smell will attract animals. When checking out, put all trash bags, tied up, into the garbage bin located at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



Miller

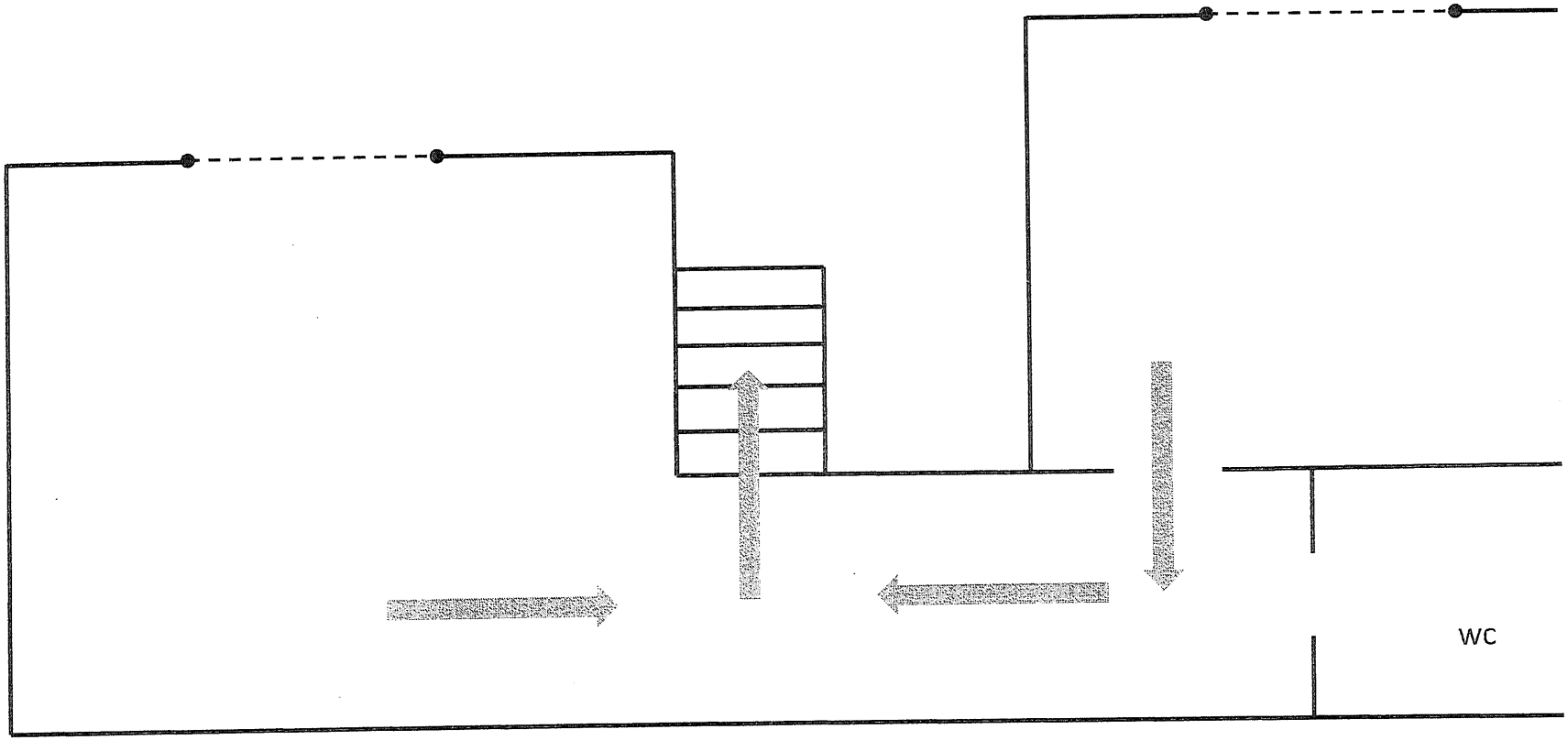
All Pipe & Fittings - 4" Sch. 40 PVC



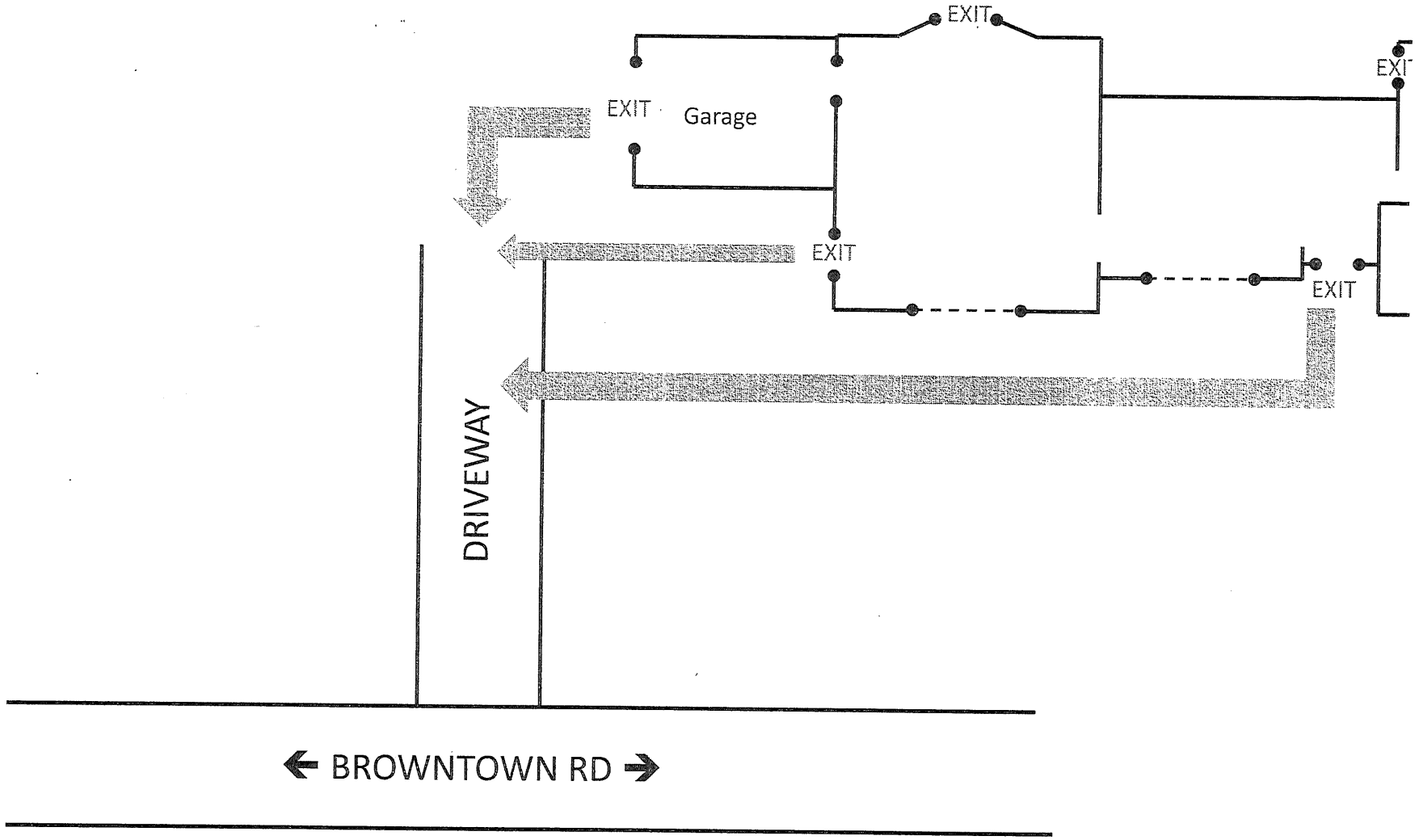
Frank L. Kendall

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

LORD FAIRFAX HEALTH DISTRICT

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

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 (2022-02-01)
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,

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

540/636
FAX 540/636

dbeahm@warrencountyva.net

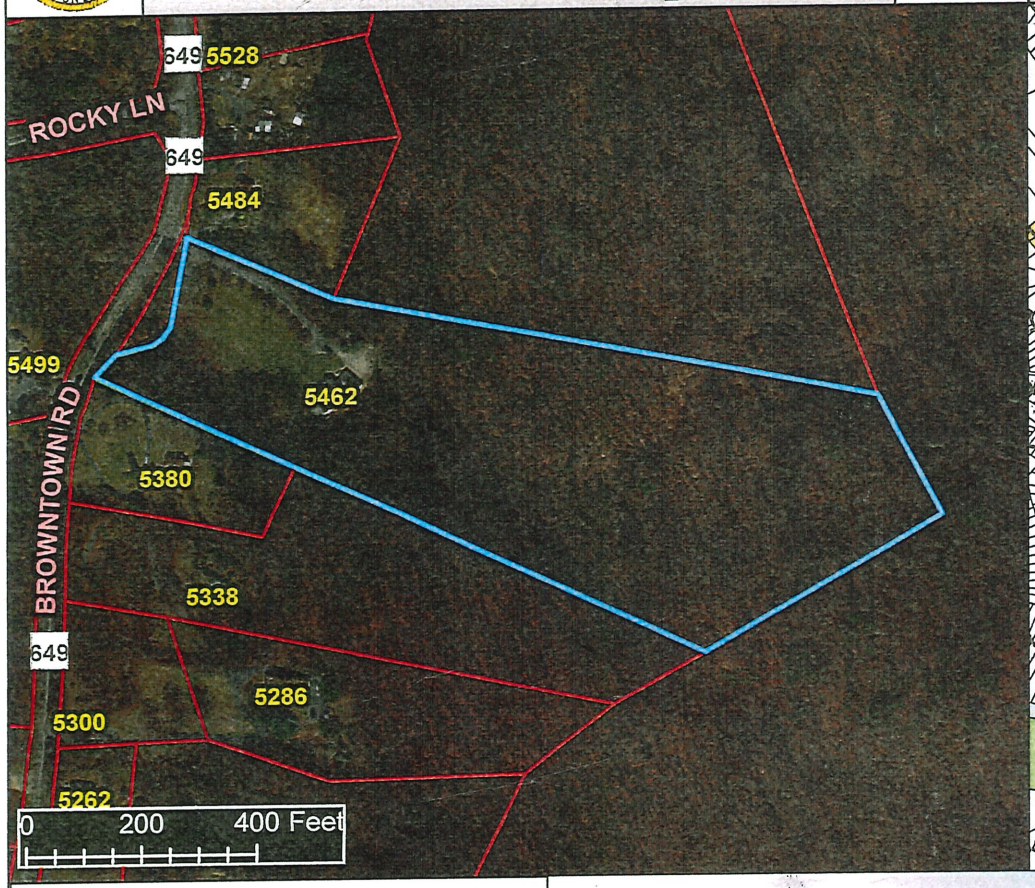
www.warrencountyva.net

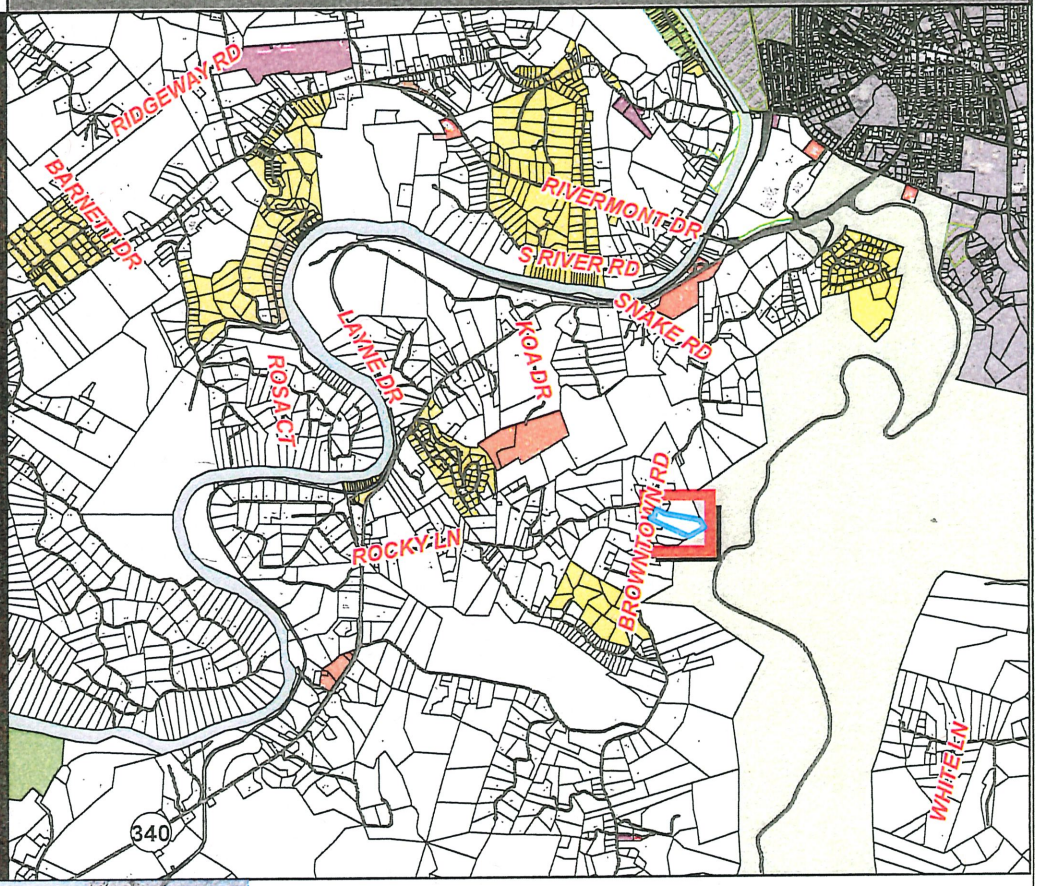
THIS MESSAGE IS INTENDED SOLELY FOR THE INDIVIDUAL(S) NAMED IN THE HEADER. THIS MESSAGE MAY CONTAIN MATERIAL THAT IS PRIVILEGED OR CONFIDENTIAL. IF YOU ARE NOT ONE OF THE INTENDED RECIPIENTS, PLEASE DO NOT READ, COPY, USE, OR DISCLOSE THIS MESSAGE TO OTHERS; PLEASE NOTIFY THE SENDER BY REPLYING TO THIS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

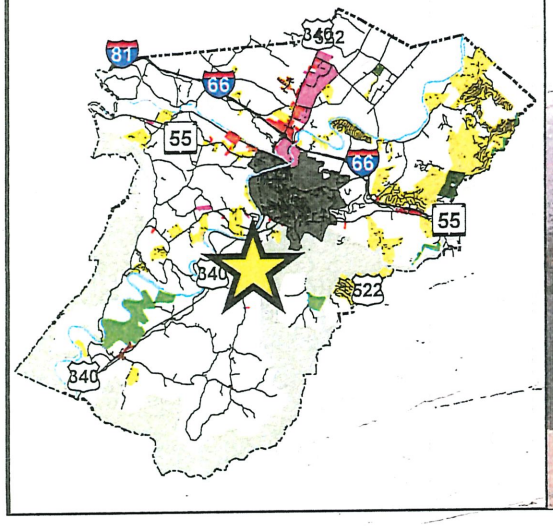
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Emilia Simeonova

TM 28-------76







Zoning

- Agricultural
- Commercial
- Industrial
- Residential One
- Residential Two
- Suburban Residential
- Village Residential
- Rural Residential
- Right of Way
- Front Royal
- Federal Land
- State Land
- Water
- 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
4/19/2022	I-3	Conditional Use Permit #2022-02-02 Jerry L. Lang Jr. *Short-Term Tourist Rental*	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.

After proper advertisement and a public hearing by the Planning Commission, the application has been forwarded to the Board of Supervisors recommending approval with the following conditions:

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 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.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors approve the conditional use permit request of Jerry L. Lang Jr. for a Short-term Tourist Rental with the conditions as recommended by the Planning Commission and staff.

OR

I move that the Board of Supervisors deny the conditional use permit request of Jerry L. Lang Jr. for a Short-term Tourist Rental (List reasons).

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

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
Town/Village: Bentonville
Zoning: Agricultural (A)
Acres: 10.77 Total 67 with adjacent lots
Existing Land Use: SFD with Woodlands
Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

SURROUNDING ZONING DISTRICTS & USES

North:	Agricultural (A)	Use: SFD with Woodlands
South:	Agricultural (A)	Use: SFD with Woodlands
East:	Agricultural (A)	Use: SFD with Woodlands
West:	Agricultural (A)	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

WCCUP-000154-2021

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

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

Applicant Information:

Jerry L. Lang Jr.
Applicant Name

468 Landsrun Rd Bentonville 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 Lands run Rd Bentonville Va. 22610
(2) Election District: South River
(3) Tax Map Number: 45-4 Parcel A-1
(4) Subdivision Name: n/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] 12-27-21
Applicant Signature Date

Jerry L L [signature] 12-27-21
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

Lord Fairfax Health Distri

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

LORD FAIRFAX HEALTH DISTRICT

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

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

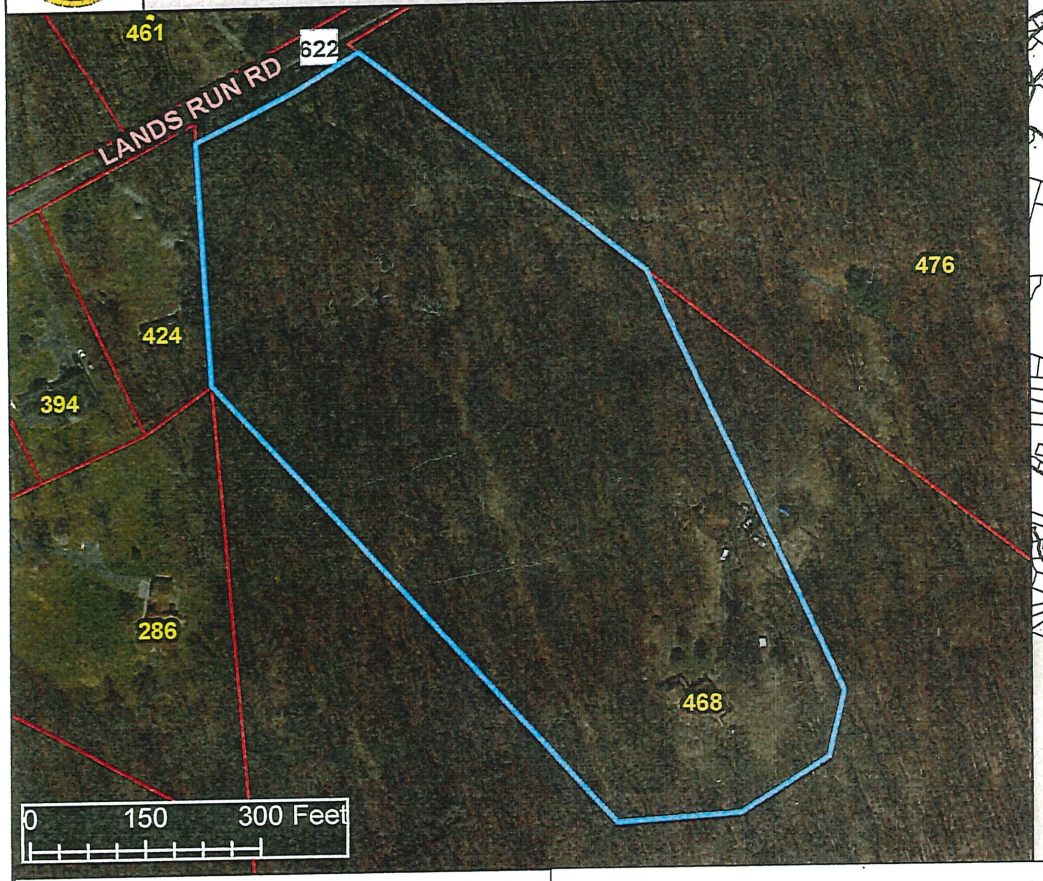
dbeahm@warrencountyva.net
www.warrencountyva.net

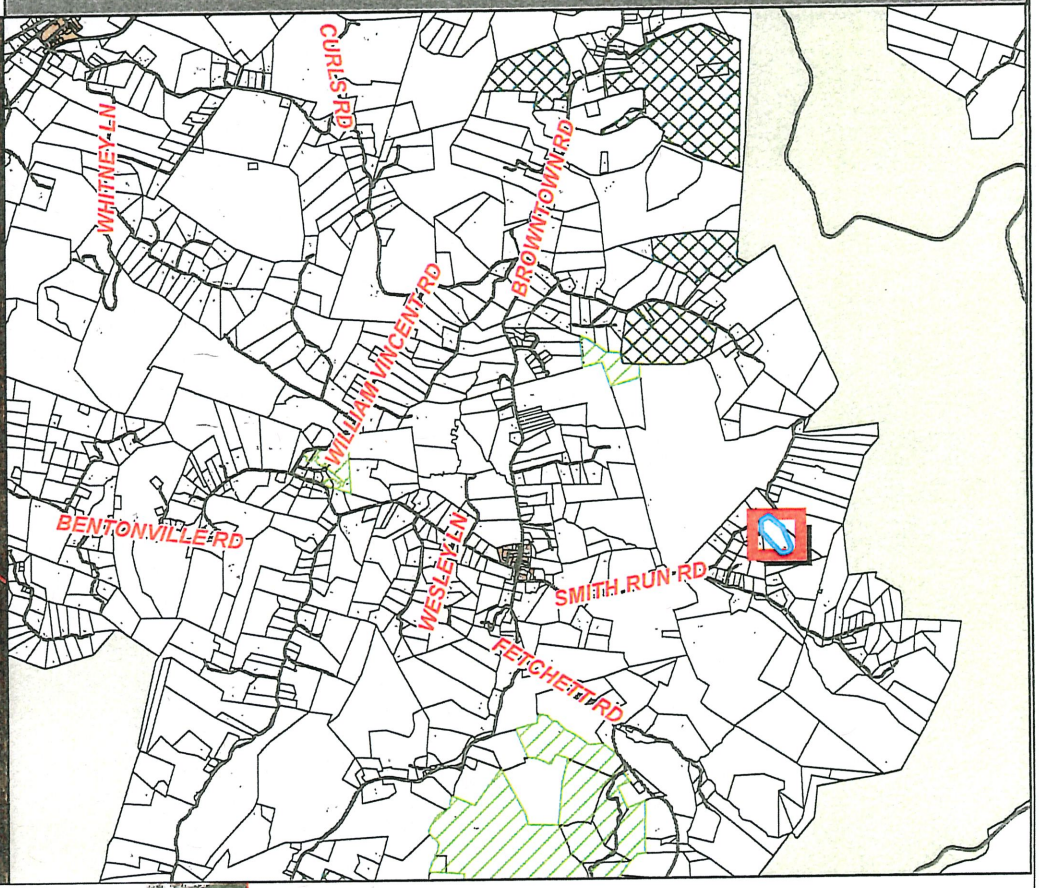
THIS MESSAGE IS INTENDED SOLELY FOR THE INDIVIDUAL(S) NAMED IN THE HEADER. THIS MESSAGE MAY CONTAIN MATERIAL THAT IS PRIVILEGED OR CONFIDENTIAL. IF YOU ARE NOT ONE OF THE INTENDED RECIPIENTS, PLEASE DO NOT READ, COPY, USE, OR DISCLOSE THIS MESSAGE TO OTHERS; PLEASE NOTIFY THE SENDER BY REPLYING TO THIS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

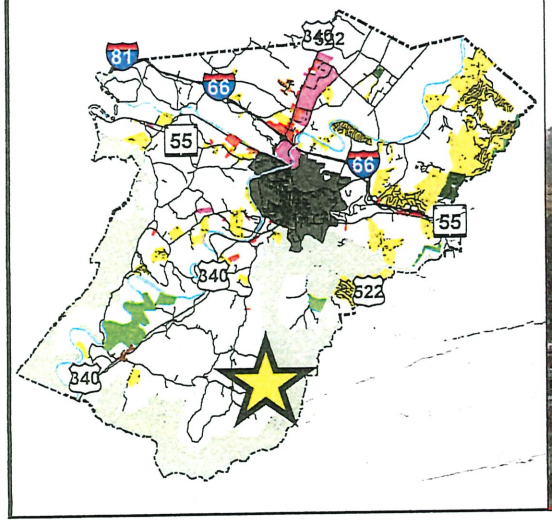
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Jerry Lang

M 45---------4







Zoning

- Agricultural
- Commercial
- Industrial
- Residential One
- Residential Two
- Suburban Residential
- Village Residential
- Rural Residential
- Right of Way
- Front Royal
- Federal Land
- State Land
- Water
- 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
4/19/2022	I-4	Conditional Use Permit #2022-02-03 Nicholas Webster & Morgan McCabe *Short-Term Tourist Rental*	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.

After proper advertisement and a public hearing by the Planning Commission, the application has been forwarded to the Board of Supervisors recommending approval with the following conditions:

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 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.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors approve the conditional use permit request of Nicholas Webster & Morgan McCabe for a Short-term Tourist Rental with the conditions as recommended by the Planning Commission and staff.

OR

I move that the Board of Supervisors deny the conditional use permit request of Nicholas Webster & Morgan McCabe for a Short-term Tourist Rental (List reasons).

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

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*

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
Town/Village: Linden
Zoning: Residential One (R-1)
Acres: 1.3
Existing Land Use: Single Family Dwelling
Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

SURROUNDING ZONING DISTRICTS & USES

North:	Residential One (R-1)	Use: Vacant Lot with Woodlands
South:	Residential One (R-1)	Use: Vacant Lot with Woodlands
East:	Residential One (R-1)	Use: Vacant Lot with Woodlands
West:	Residential One (R-1)	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:

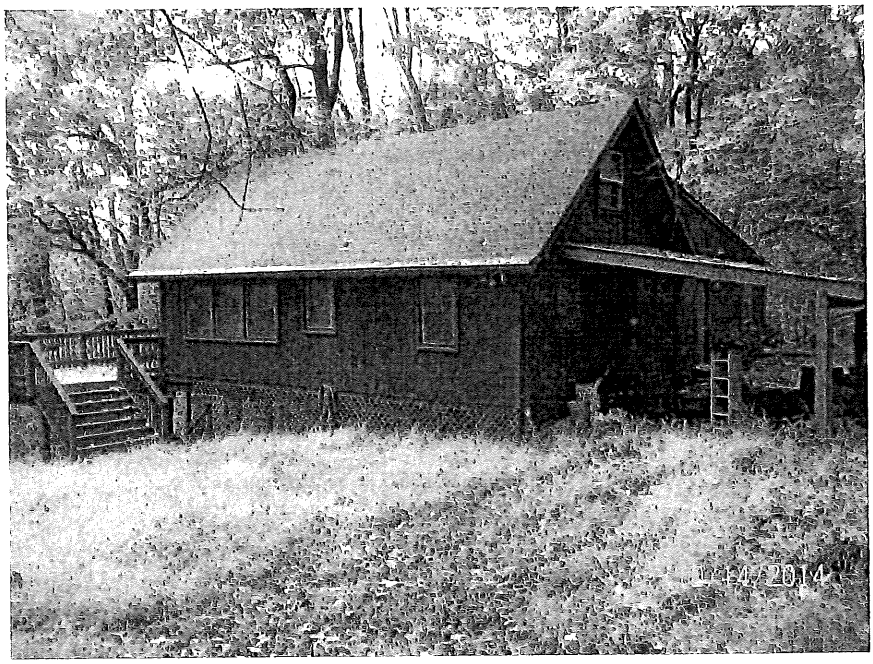
1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.

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

WCCUP-000160-2022

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 Morgan 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 morganmccabe302@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
(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 _____ Date 1/11/22

Property Owner Signature _____ Date 1/11/22

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 Distr..t

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

LORD FAIRFAX HEALTH DISTRICT

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

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 (2022-02-03)
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
540/63
FAX 540/63

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

Gmail 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.

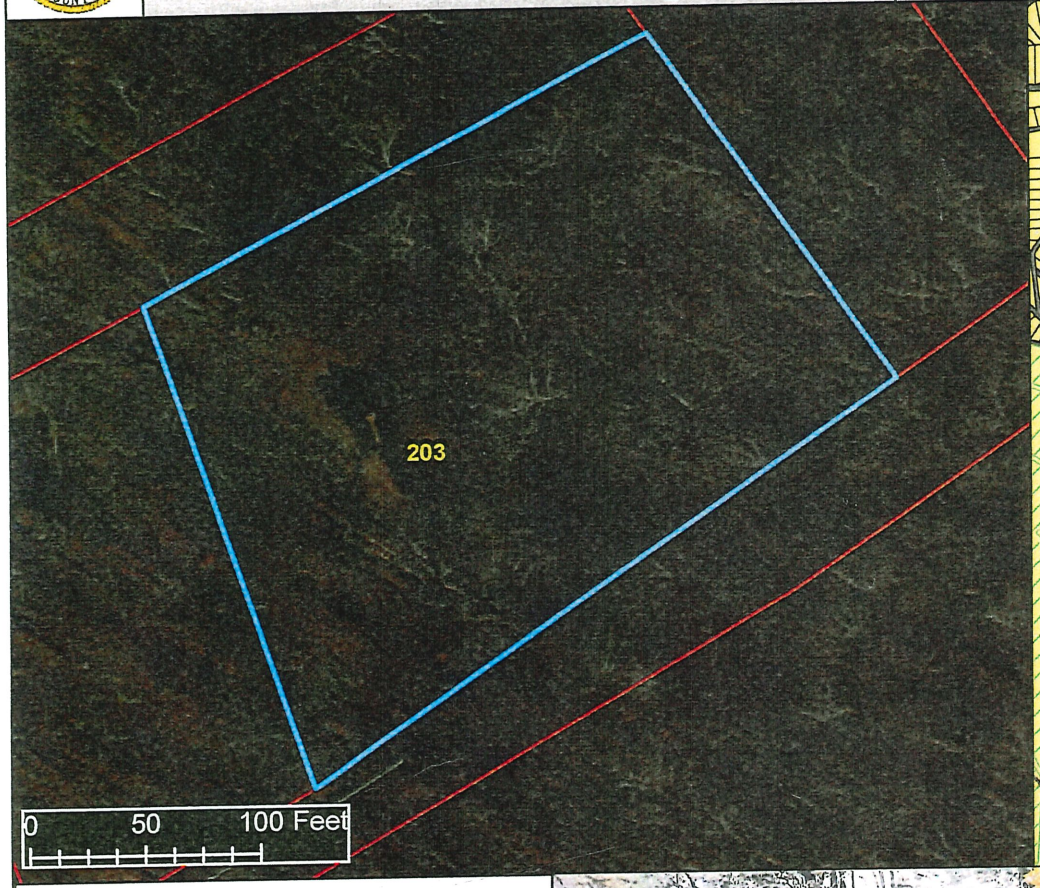
This message came from your website contact form, http://bmpoa.org.

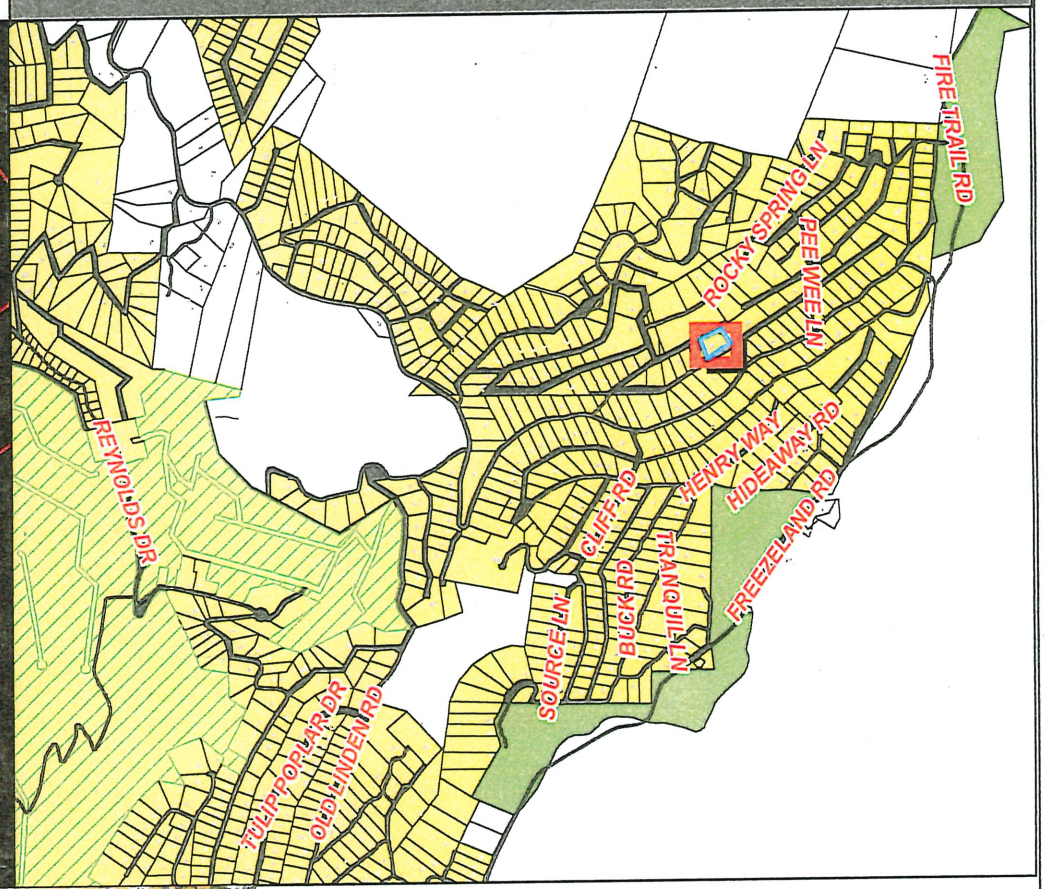
Sent via Websites + Marketing

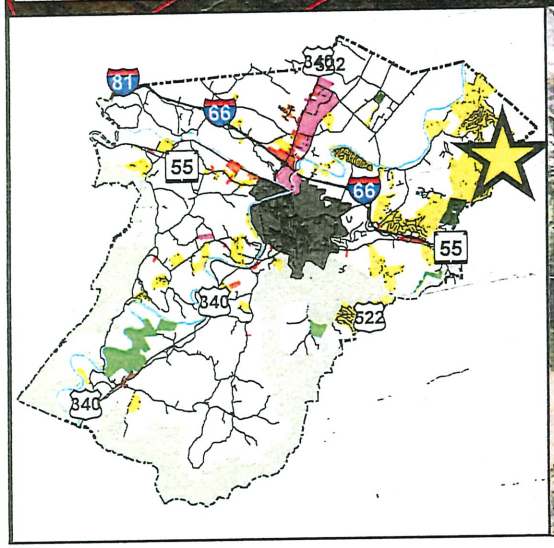
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Nicholas Webster

[illegible]24B--121-625
Blue Mountain Subdivision







Zoning

- Agricultural
- Commercial
- Industrial
- Residential One
- Residential Two
- Suburban Residential
- Village Residential
- Rural Residential
- Right of Way
- Front Royal
- Federal Land
- State Land
- Water
- 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
4/19/2022	I-5	Conditional Use Permit #2022-02-04 Pratik Patel *Short-Term Tourist Rental*	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.

After proper advertisement and a public hearing by the Planning Commission, the application has been forwarded to the Board of Supervisors recommending approval with the following conditions:

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 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.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors approve the conditional use permit request of Pratik Patel for a Short-term Tourist Rental with the conditions as recommended by the Planning Commission and staff.

OR

I move that the Board of Supervisors deny the conditional use permit request of Pratik Patel for a Short-term Tourist Rental (List reasons).

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

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
Town/Village: Linden
Zoning: Residential One (R-1)
Acres: 0.46
Existing Land Use: Single Family Dwelling
Special Flood Hazard Area: The property and dwelling are in a Non-Floodzone "X" area.

SURROUNDING ZONING DISTRICTS & USES

North:	Residential One (R-1)	Use: Vacant Lot with Woodlands
South:	Residential One (R-1)	Use: Vacant Lot with Woodlands
East:	Residential One (R-1)	Use: Singe Family Dwelling with Woodlands
West:	Residential One (R-1)	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

WCCUP-000161-2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

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

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 boarders 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 towarsds 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:

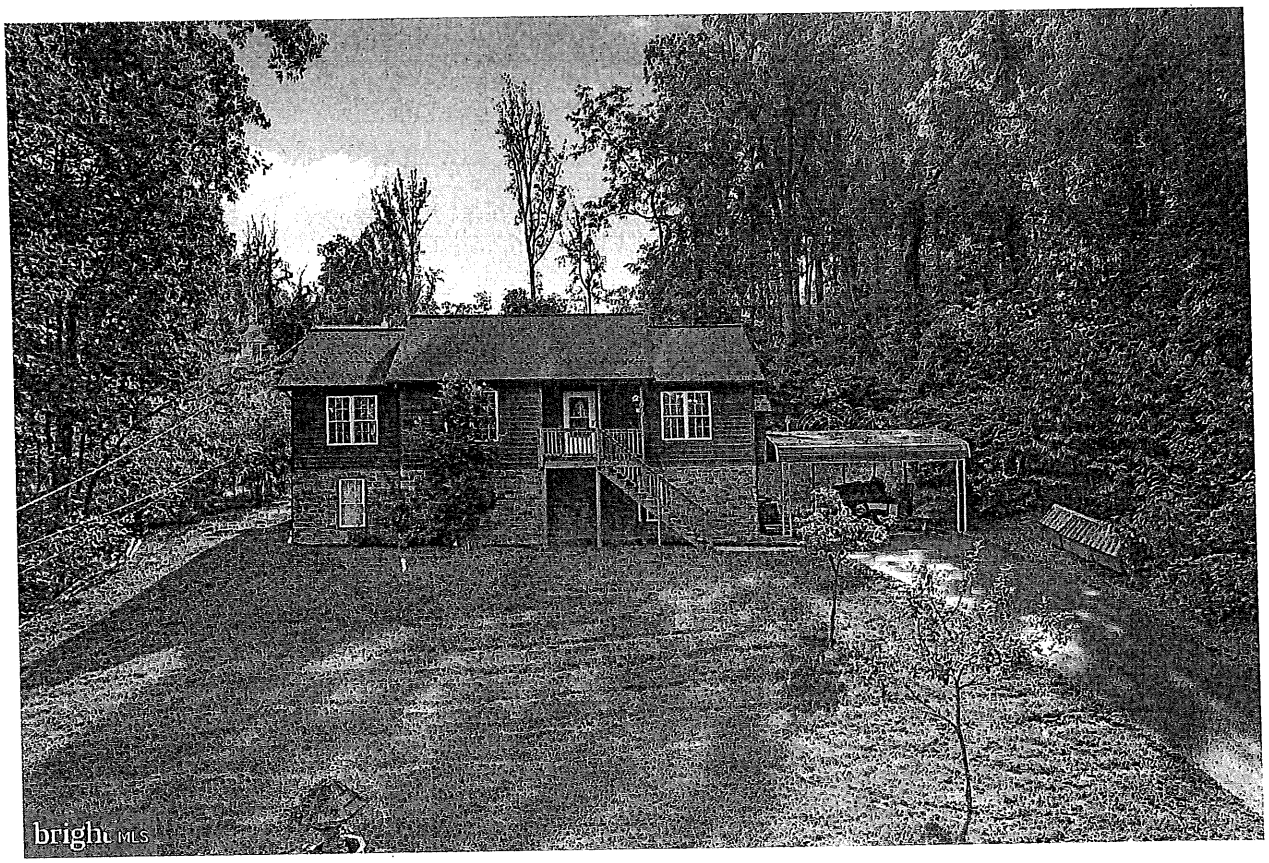
Place full trash bags and recyclables in large gray trash canister located in the covered carport. Trash and recycling will be segregated and put out for pick up after your stay. As this house has a septic tank, we would appreciate it if all kitchen refuse goes into the trash bin NOT down the sink. Oil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

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

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

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 Fristoe
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

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.

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

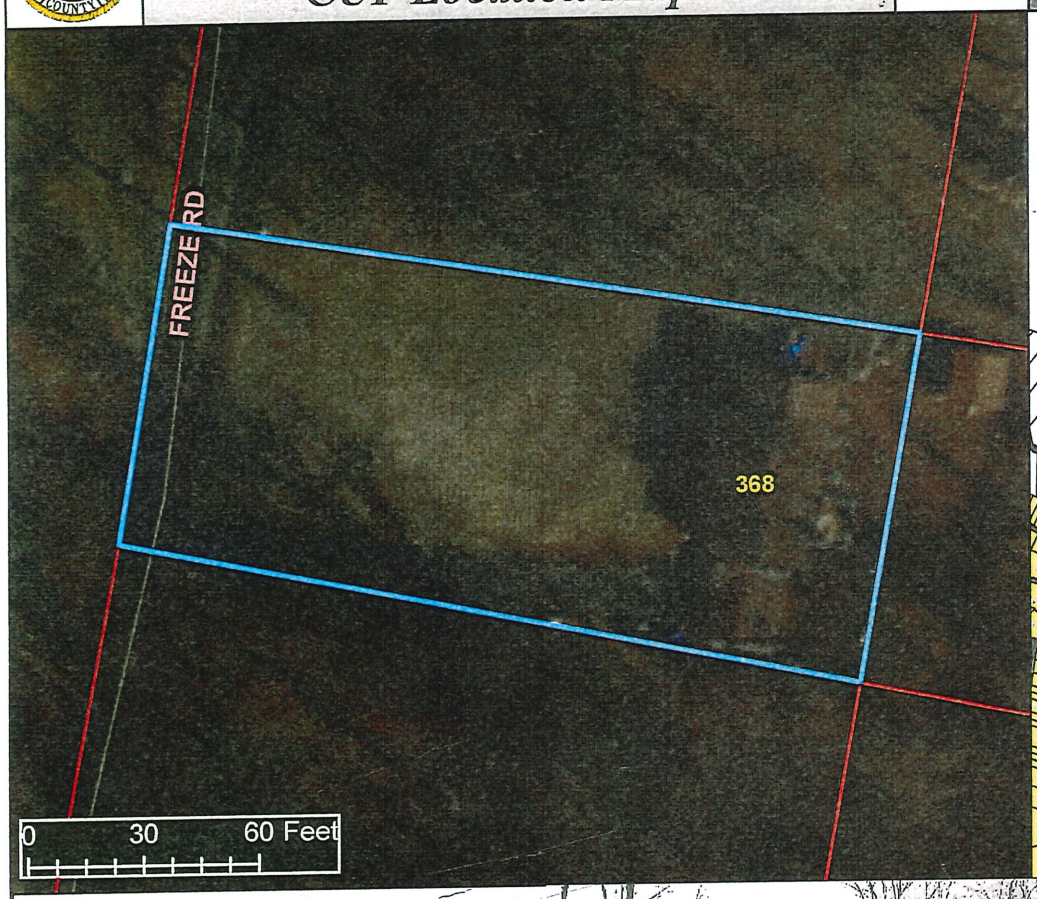
Front Royal, VA 22630

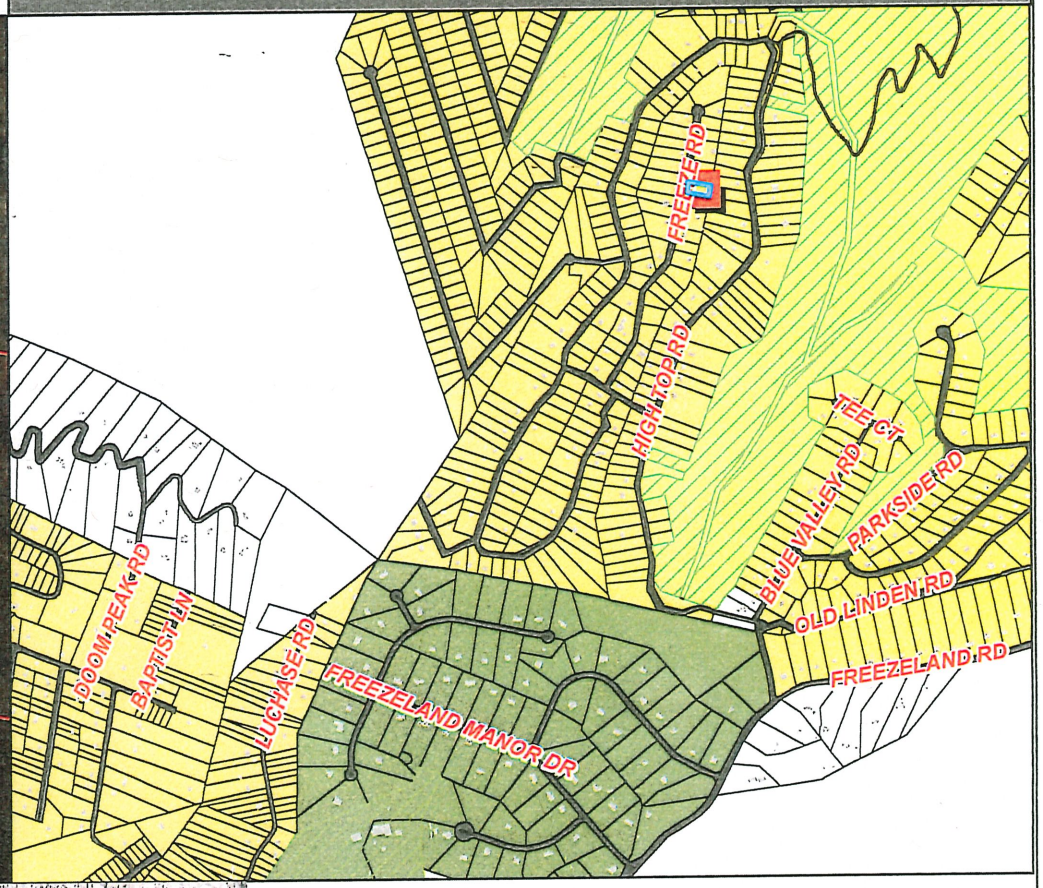
(540) 837-2068

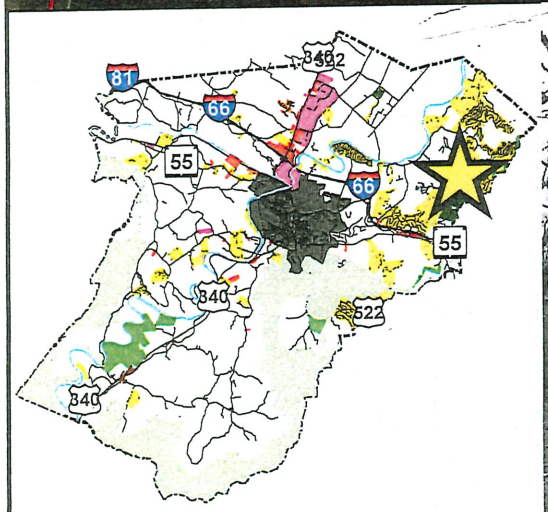
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Pratik Patel

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







Zoning

- Agricultural
- Commercial
- Industrial
- Residential One
- Residential Two
- Suburban Residential
- Village Residential
- Rural Residential
- Right of Way
- Front Royal
- Federal Land
- State Land
- Water
- 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:
4/19/2022	I-6	Conditional Use Permit #2022-02-05 Michael & Judith Albarelli *Short-Term Tourist Rental*

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 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:

The Planning Commission and staff is recommending the following conditions be added to this conditional use permit.

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 approve the conditional use permit request of Michael and Judith Albarelli for a Short-Term Tourist Rental with the conditions as recommended by the Planning Commission and staff.

OR

I move that the Board of Supervisors deny the conditional use permit request of Michael and Judith Albarelli for a Short-Term Tourist Rental.

SUBMITTED BY:	DISPOSITION OF BOARD:	PROCESSED BY:
Chase Lenz, CL Zoning Administrator	☐ APPROVED ☐ OTHER (Describe)	

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

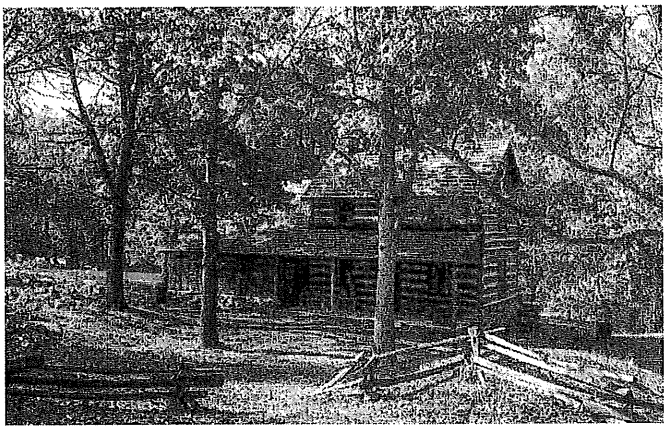
Property Location: 740 Broad Run Road
Tax Map ID: 44--------38D
Magisterial District: South River
Subdivision: N/A
City: Browntown
Zoning: Agricultural (A)
Acres: 15.00 Acres
Existing Land Use: Single Family Dwelling

SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A) — Use: Single Family Dwelling
South: Agricultural (A), Federal — Use: Vacant Lot - Woodlands, Shenandoah National Park
East: Agricultural (A), Federal — Use: Vacant Lot - Woodlands, Shenandoah National Park
West: Agricultural (A) — 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 guest 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.

WARREN COUNTY CONDITIONAL USE PERMIT APPLICATION

WCCUP-000162-2022

Application Number: 2022-02-05
Date Received: 1/21/2022 – deadline waived by Joe
Fee Amount: $ 500.00 Check # 868
Date Paid: 1/21/2022

Applicant Information:

MICHAEL & JUDITH ALBARELLI
Applicant Name

309 BROAD RUN ROAD BROWNTOWN VA. 22610
Address *City* *State* *Zip*

740 BROAD RUN ROAD, BROWNTOWN VA. 22610
Property Location for conditional use permit if Different than Applicant's Address

540-635-9035 MICHAEL.ALBARELLI@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: 740 BROAD RUN RD., BROWNTOWN VA 22610
(2) Election District: SOUTH RIVER
(3) Tax Map Number: 44(A) 38D
(4) Subdivision Name: N/A
(5) Total Area of Property (acres): 15
(6) Total Area to be Used (acres): 15
(7) Total Road Frontage (feet): 75
(8) Depth of Property (feet): 100
(9) Present Zoning: Agricultural

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 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.**

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 ON TO 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 Abarelli — January 18, 2022
Applicant Signature — Date

Michael Abarelli — January 18, 2022
Property Owner Signature — Date

Accepted by: Chase Lewis — 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

LORD FAIRFAX HEALTH DISTRICT

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

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
540/63
FAX 540/63

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

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

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.

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

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***
> 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: 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.

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- 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 Office

David C. Beahm, CBO
Building Official

220 North Commerce Avenue
Suite 400
Front Royal, VA 22630

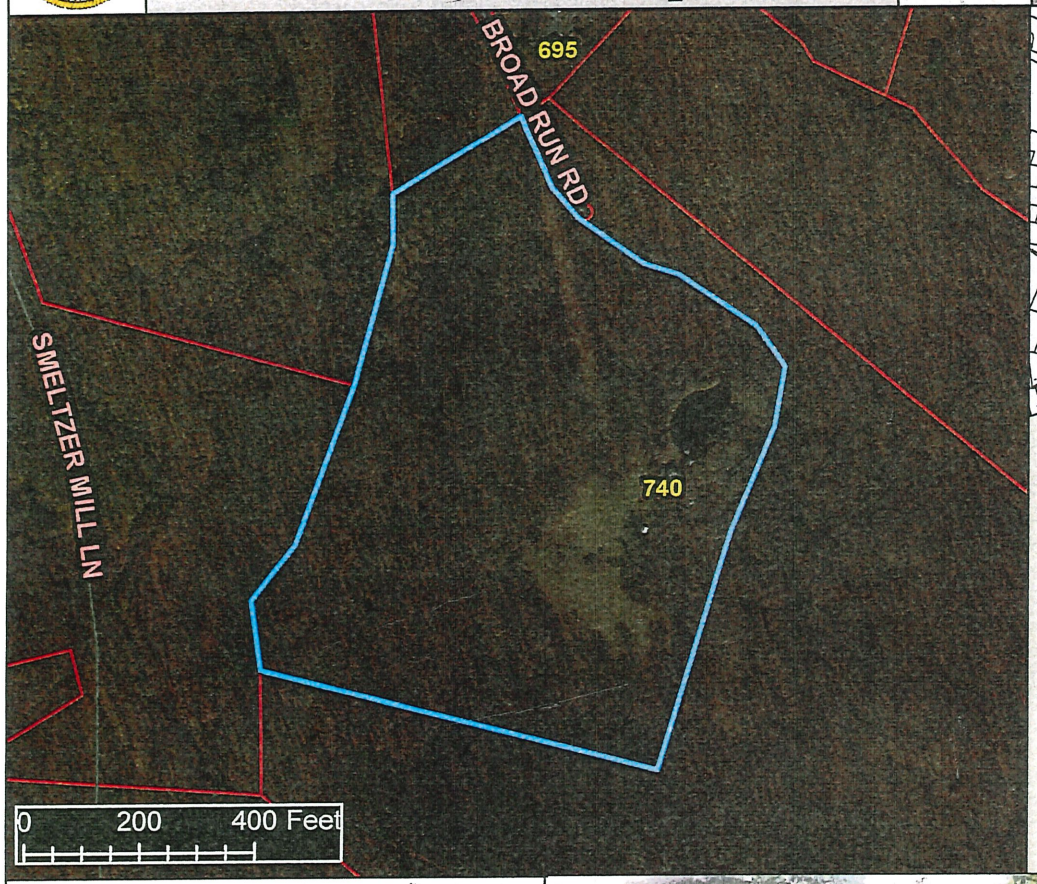
540/636-9973
FAX 540/636-4698

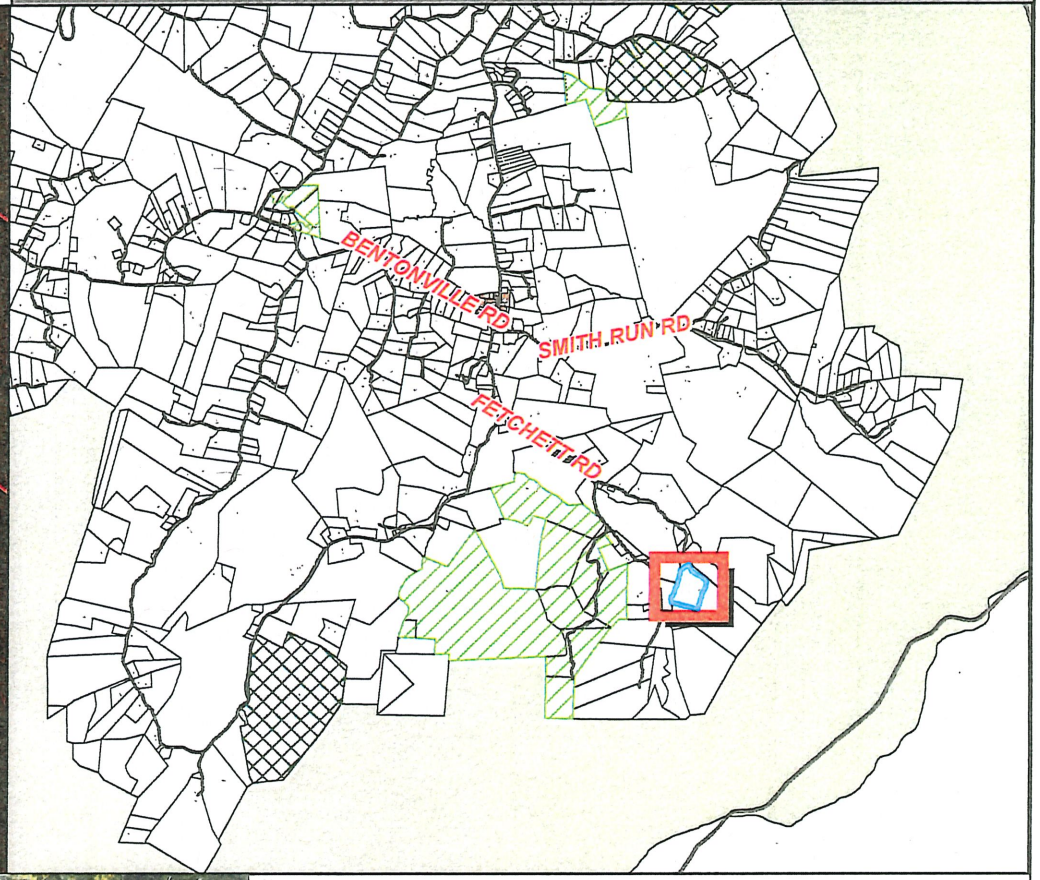
dbeahm@warrencountyva.net www.warrencountyva.net

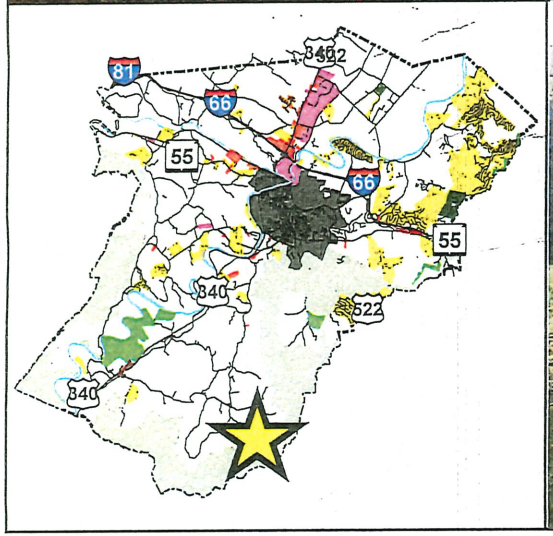
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Michael Albarelli

TM 44--------38D







Zoning

- Agricultural
- Commercial
- Industrial
- Residential One
- Residential Two
- Suburban Residential
- Village Residential
- Rural Residential
- Right of Way
- Front Royal
- Federal Land
- State Land
- Water
- 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 1 OF
April 19, 2022	**J**	Adoption of Certain Tax Rates for Calendar Year 2022	

EXPLANATION & SUMMARY:

Due to the Commonwealth of Virginia failing to meet the standard deadline for budget adoption, the County of Warren wishes to adopt Calendar Year 2022 tax rates outside of the Personal Property tax rate prior to approving the FY 22-23 Budget. There are no changes in the Calendar Year 2022 County-wide tax rates up for approval.

Proposed changes in the per-lot fees for the Sanitary Districts, as recommended by the HOAs/POAs/Advisory Boards/Committees of the respective districts, are as follows:

High Knob Sanitary District
- From: $423 per unimproved lot; $684 per improved lot
- To: **$478 per unimproved lot; $773 per improved lot**

Lake Front Royal Sanitary District
- From: $345 per lot plus $0.05 per $100 of assessed value on improvements
- To: **$410 per lot plus $0.05 per $100 of assessed value on improvements**

Skyland Estates Sanitary District
- From: $0.35 per $100 of assessed value on improvements
- To: **$0.37 per $100 of assessed value on improvements**

The notice of public hearing for the proposed budget has been advertised in the Northern Virginia Daily and on the County website. As required by State law the public hearing has been held seven days prior to the approval of the tax rates. The Calendar Year 2022 Proposed Tax Rates for approval are attached.

COST & FINANCING: N/A

PROPOSED OR SUGGESTED MOTION(S):

1) I move that the Warren County Board of Supervisors adopt the Proposed Calendar Year 2022 tax rates as advertised except for the Tax Year 2022 Personal Property Tax Rate

OR

2) I move that the Warren County Board of Supervisors does not adopt the Proposed Calendar year 2022 tax rates as advertised except for the Tax Year 2022 Personal Property Tax Rate

OR

3) I move that the Board of Supervisors postpone the request until _____.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Matt Robertson, Finance Director		

	Approved Calendar Year 2021	Proposed Calendar Year 2022
Real Estate	$0.655	$0.655
Machinery and Tools	$2.05	$2.05
Contract Carrier	$2.05	$2.05
Manufactured Homes	$0.655	$0.655

SANITARY DISTRICT TAX RATES AND RATES OF CHARGE

(per lot tax on lots in existence as of January 1, 2022)	Approved Calendar Year 2021	Proposed Calendar Year 2022
Blue Mountain	$65.00 per lot plus $0.24 per $100 of assessed value on improvements	$65.00 per lot plus $0.24 per $100 of assessed value on improvements
Cedarville Heights	$200.00 per lot	$200.00 per lot
High Knob	$423.00 per unimproved lot; $684.00 per improved lot	$478.00 per unimproved lot; $773.00 per improved lot
Lake Front Royal	$345.00 per lot plus $0.05 per $100 of assessed value on improvements	$410.00 per lot plus $0.05 per $100 of assessed value on improvements
Linden Heights	$375.00 per lot	$375.00 per lot
Osprey Lane	$100 per unimproved lot; $1,000 per improved lot	$100 per unimproved lot; $1,000 per improved lot
Riverside	$60.00 per lot plus $0.12 per $100 of assessed value on improvements	$60.00 per lot plus $0.12 per $100 of assessed value on improvements
Shangri-La	$385.00 per lot	$385.00 per lot
Shannon Woods	$300.00 per lot	$300.00 per lot
Shenandoah Farms	$350.00 per lot	$350.00 per lot
Shenandoah Shores	$65.00 per lot plus $0.20 per $100 of assessed value on improvements	$65.00 per lot plus $0.20 per $100 of assessed value on improvements
Skyland Estates	$0.35 per $100 of assessed value on improvements	$0.37 per $100 of assessed value on improvements
South River Estates	$300.00 per lot plus $0.05 per $100 of assessed value on improvements	$300.00 per lot plus $0.05 per $100 of assessed value on improvements
Wildcat Drive	$150.00 per unimproved lot; $400.00 per improved lot	$150.00 per unimproved lot; $400.00 per improved lot