AGENDA
Board of Supervisors Meeting

May 3, 2022

9:00 AM

Moment of Silence

A. Call to Order and Pledge of Allegiance of the United States of America
B. Adoption of Agenda – Additions or Deletions
C. Public Comment Period (60 Minute Time Limit)
D. FY 2020-2021 Audit Presentation – Michael Lupton with Robinson, Farmer, Cox Associates
E. Report on Health and Dental Insurance Rates/Renewal – Jane Meadows
F. Report – Virginia Department of Transportation (written only) – Ed Carter
G. Reports – Board Members, County Administrator, Interim County Attorney
H. Approval of Minutes
    a. Regular Meeting of April 5, 2022
    b. Special Meeting of April 12, 2022
    c. Regular Meeting of April 19, 2022

NEW BUSINESS

I. Consent Agenda
    1. Designation of Chase Lenz as Zoning Administrator – Joe Petty
    2. Purchase of Certified Elections Software and Budget Transfers – Alisa Scott
    3. Reclassification of Administrative Assistant Positions – Jane Meadows
    4. Request of D.R. Horton for Release of Phase 3 Bond for Blue Ridge Shadows Subdivision – Taryn Logan
    5. Resolutions of Support to Name the Bridges over the North and South Forks of the Shenandoah River – Ed Daley
    6. Authorization to Advertise for Public Hearing – Z2022-03-01, Rivermont Baptist Church – Ordinance to Amend and Re-Ordain Sections 180-8 and 180-21 of the Warren County Code re: Day- or Child-Care Center (Nursery) – Matt Wendling
    7. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-03-01, Rivermont Baptist Church for a Day- or Child-Care Center/Nursery – Matt Wendling
    8. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-03-02, Solomon Stavis for a Short-Term Tourist Rental – Matt Wendling

9. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-03-03, Jared Smith for a Short-Term Tourist Rental – Chase Lenz
10. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-03-04, James and Jeonghe Lal for a Short-Term Tourist Rental – Matt Wendling
11. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-03-05, Rocky Quach for a Short-Term Tourist Rental – Chase Lenz
12. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-03-07, Richard Durkee, II for Private Use Camping – Matt Wendling

J. Closed Session – Virginia Freedom of Information Act

1. Section 2.2-3711(A)(1) Personnel
    a. Board of Building Code Appeals
    b. Economic Development Authority Board of Directors
    c. Front Royal-Warren County Airport Commission
2. Section 2.2-3711(A)(3) Acquisition of Real Property re: Property Located in the Fork Magisterial District Within the Limits of the Town of Front Royal
3. Section 2.2-3711(A)(8) Consultation with Legal Counsel for the Provision of Legal Advice re: Shenandoah Farms Sanitary District

K. Additional New Business (If needed)

L. Adjournment

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WORK SESSION

A. Discussion – VDOT Secondary Six-Year Plan and Hardsurface Priority Policy – Ed Carter/ Mike Berry

B. Discussion – Old Oak Lane, Phases IV and V, Rural Addition Revenue Sharing Projects for Shenandoah Farms Sanitary District – Mike Berry/Michael Coffelt

C. Discussion – Proposed Warren County Code Ordinances Regarding Procurement and the Public-Private Education Facilities and Infrastructure Act of 2002 – Alisa Scott

D. Discussion – Calendar Year 2022 Personal Property Tax Rates – Ed Daley

E. Adjournment

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
May 3, 2022	**D**	FY 2020-2021 Audit Approval	

EXPLANATION & SUMMARY:

Michael Lupton, CPA, with Robinson, Farmer, Cox Associates, the County's auditing firm, presented the audit for Fiscal Year 2020-2021 at the May 3rd, 2022 meeting of the Warren County Board of Supervisors. At this time, staff is requesting this audit be approved as it was presented.

COST & FINANCING: N/A

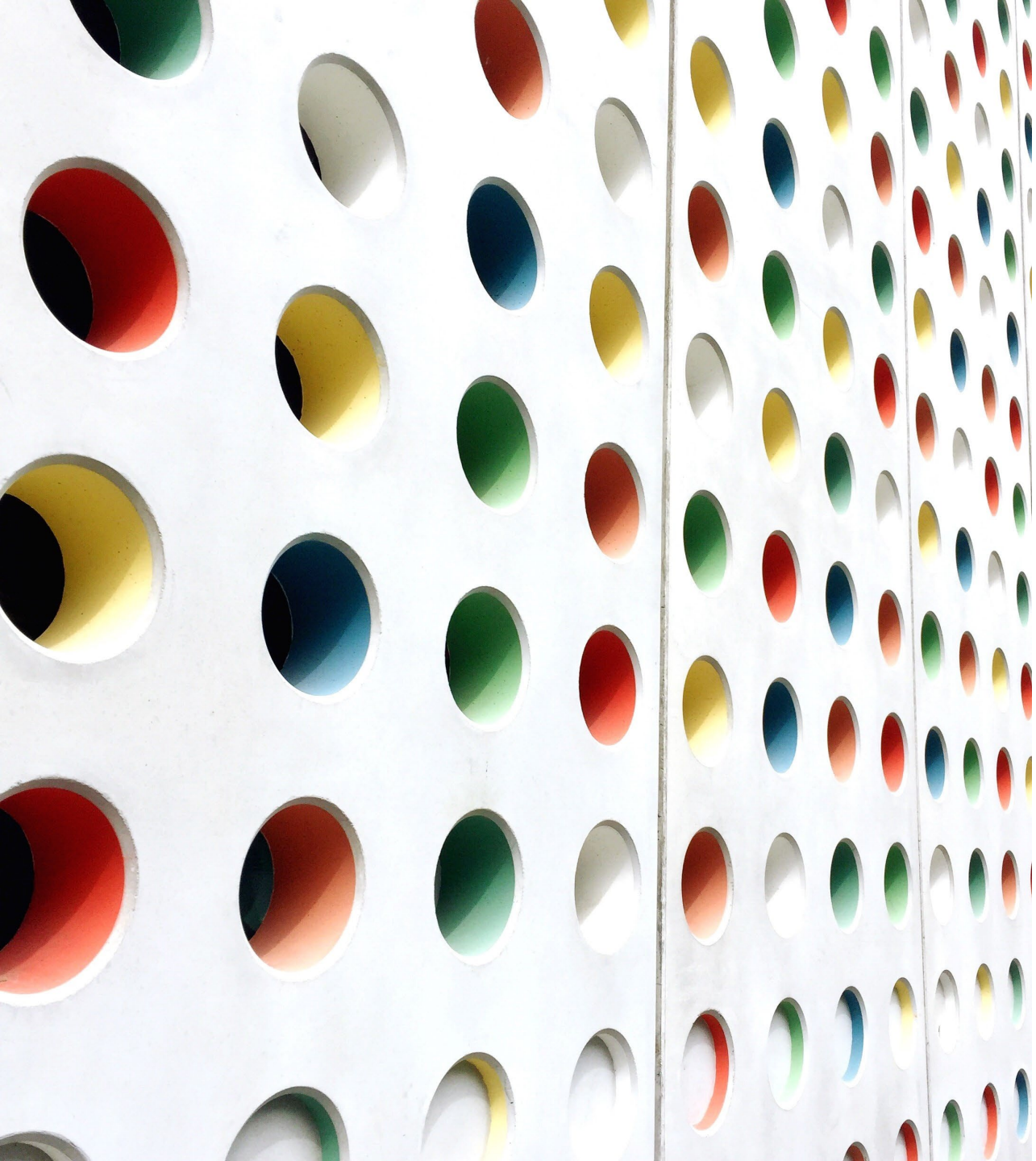
PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors approve the FY 2020-2021 audit as presented.

or

I move that the Board of Supervisors postpone further decision until _____.

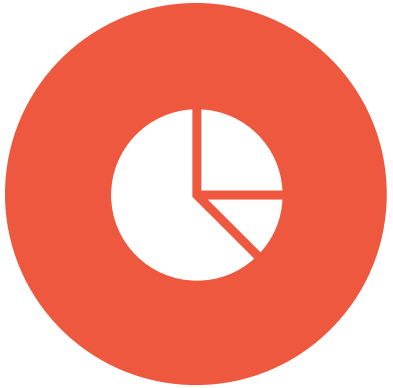
SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Matt Robertson, Finance Director		



2022-2023 Insurance Renewal

UNITED HEALTHCARE
INSURANCE RENEWAL

UnitedHealthcare Insurance Coverage



HEALTH

$250 & $1,000 PREMIUM PLANS



DENTAL

HIGH AND LOW PLANS



VISION

ONE PLAN

Renewal Rates 7/1/2022 – 6/30/2023

Factors impacting renewal rates:

- Lack of Experience Rating
  - Experience based on 7/1-11/30 period
- High dollar claims (over $150,000)
  - High dollar claims (5) increase PPM
- Age/Sex Adjustment (↑12%)
  - Higher the group age, the higher the premium

UnitedHealthcare

Medical Renewal Financial Exhibit for COUNTY OF WARREN

Effective Date: 7/01/2022 | Customer Number 00924496

Renewal rates effective: 7/1/22 to 6/30/23

Historical Information		Current Period	Prior Period	Blended
	Beginning of Experience Period	7/1/2021	Not Applicable	
	End of Experience Period	11/30/2021		
	Medical Incurred Claims	$1,016,304		
	Rx Incurred Claims	$221,719		
	Member Months	2,244		
Experience Rating PMPM				
A	Incurred Medical Claims PMPM	$452.90		
B	Pooled Claims Over $150,000	$0.22		
C	Adjusted Medical Claims (A - B)	$452.67		
D	Incurred Rx Claims PMPM	$98.81		
E	Total Incurred Claims (C + D)	$551.48		
F	COVID-19 Adjustment	1.000		
G	Trend Factor 15.5 mos	1.120		
H	Plan Change Adjustment	1.000		
I	Trended/Adjusted Claims (E * F * G * H)	$617.62		
J	Claim Period Weighting	100%		$617.62
K	Adj for Member Change Between Plans			1.000
L	Pooling charge for $150,000			$61.41
M	Expected claims (J *K + L)			$679.02
	Retention:			
N	Administration			13.0%
O	State Taxes and Assessments			2.3%
P	Other adjustment			0.0%
Q	Total retention (N + O + P)			15.3%
R	**Experience Premium PMPM (M / (1 - Q))**			**$801.34**
Manual Rating PMPM				
S	Manual Premium PMPM (unadjusted)			$594.01
T	Age/Sex Adjustment			1.122
U	Other Adjustment			1.000
V	**Manual Premium PMPM (S * T * U)**			**$666.53**
Renewal Action				

		Calculated Premium		Credibility Factor	
W	Experience Rating	$801.34	x	20.0%	$160.27
X	Manual Rating	$666.53	x	80.0%	$533.23
Y	Initial Calculated Renewal Cost PMPM (W + X)				$693.49
Z	First Year Renewal Adjustment				0.981
AA	**PMPM Prior to Reform Items, Commission, Fees (Y * Z)**				**$680.32**
	Renewal Prior to Reform Items, Commission, Fees				**28.03%**
AB	**Required Plan Change (Reform/Other)**				**1.000**
AC	**PPACA Insurer Fee/PCORI and State Assessments**				**0.03%**
AD	Other Programs				$0.00
AE	Commission %				0.00%
AF	Service Fee				1.0000
AG	Commission or Service Fee PEPM (converted to PMPM)				$0.00
AH	**Calculated Renewal Cost PMPM ((((AA * AB) / (1-AC) + AD) * (1+AE) * AF) + AG)**				**$680.52**
AI	Current Revenue PMPM				$531.38
AJ	Calculated Renewal Action (AH / AI) - 1				28.07%
AK	Suggested Renewal Action				16.41%
AL	Prospective Plan Change				1.000
AM	**Final Renewal Action ((AI * (1+AK) * AL / AI) - 1)**				**16.41%**
AN	**uBundle Discount**				**-2.50%**
AO	**PMPM with uBundle (AI * (1+AM) * (1-AN))**				**$603.14**
AP	**Final Renewal with uBundle (AO / AI) -1**				**13.50%**

Current Subscribers	274	**Final Renewal Cost PMPM**	**$603.14**
Current Members	455	Final Renewal Monthly Cost	$274,428
		Final Renewal Annual Cost	$3,293,139

*Annual trend rate: Medical 9.2%, Rx 9.2%
Final renewal monthly/annual premiums are calculated using current enrollment
Rates and benefits are subject to regulatory and home office approval

Renewal Rates
7/1/2022 – 6/30/2023

Current UnitedHealthcare Rate Renewal:

- Reduction renewal to 13.5% (from 15.8%)
- Offer a Premium Holiday in the amount of $75k to be paid in June (worth approx. 2.3%)

We have budgeted for the initial 15.8% renewal notice.

Maintenance:

- Mobilized and responded for (hopefully) the last snow event of the season
- Conducted grading and stone application operations on various stabilized roads throughout the County and will continue this month
- Repaired soft spots and prep patching for upcoming resurfacing work on various routes and will continue this month
- Completed sweeping operations on bridges and curb/ gutter
- Installed new pipes and flushed existing pipes on various routes
- Will begin 1st round of mowing on primaries next month

Board Issues:

- New traffic pattern striping at Route 340 and Rivermont Road is scheduled to be completed within the next sixty (60) days; will have a new layout for the Board within the next thirty (30) days
- Draft Secondary Six-Year Plan to be discussed with the Board today

At a regular meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on April 5, 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); Walter J. Mabe (Shenandoah District); also present Edwin C. Daley, County Administrator; Taryn G. Logan, Deputy County Administrator; Jason J. Ham, Interim County Attorney; Todd Jones, Director of Technology; Joe Petty, Director of Economic Development/Interim Planning Director; Matt Robertson, Finance Director; Shelley Hayes, Senior Office Associate; and Alex Bridges, Northern Virginia Daily

Absent: Jerome K. Butler (Happy Creek 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 Mr. Mabe, and by the following vote, the Board of Supervisors adopted the agenda as amended with the addition of an item to the closed meeting under 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 Economic Development Authority matters:

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

Public Comment Period (60 Minute Time Limit)

Melissa Chappell-White, 140 Dogwood Farm Road, said there has been a lot of misunderstanding about whether or not the Shenandoah Farms Sanitary District has a Property Owners Association (POA). This matter was, in fact, decided in a 1995 legal case (*Matlack v. Property Owners of Shenandoah Farms, Inc.* [POSF]) where it was determined that POSF is not legally a POA and does not meet the requirements of the Code of Virginia to be a POA, which means POSF has none of the rights, duties, or authorities of a POA under the laws of Virginia. This is why the Shenandoah Farms Sanitary District was created in 1996 to legally establish a Sanitary District fee and collect funds to improve the roads in the community.

Tony Carter, 33 Keyser Wood Lane, said he had spoken with Larry Johnson about the resolutions passed by the Board in September 2021 in support of naming the bridge over the north fork of the Shenandoah River as the "General Daniel Morgan Memorial Bridge" and the bridge over the south fork of the River as the "Major General Dr. Joseph Warren Memorial Bridge". Mr. Johnson was wondering where the Virginia Department of Transportation (VDOT) was in the renaming process, so Mr. Carter had reached out to VDOT and determined they were wondering why the County wanted to change the names of the bridges again. In May 2016, the Board adopted a resolution requesting the newly constructed bridge over the south fork be named the "Veterans' Memorial Bridge". This request was approved by the

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Commonwealth Transportation Board in July 2017, and Mr. Carter said while Mr. Johnson made a compelling case for renaming the bridge, the Board should revisit the reasons for this naming in 2016 and keep the original name.

There were no further presentations from the public.

Report – Virginia Department of Transportation

Matt Smith, Assistant Resident Engineer with VDOT, presented the following monthly report to the Board:

Maintenance:

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

Board Issues:

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

Reports – Board Members, County Administrator, Interim County Attorney

Mrs. Cook reported the following:

- Attended security training conducted by the County's IT Department
- Attended the Economic Development Authority meeting on March 25th
- Attended the Front Royal-Warren County Airport Commission meeting on March 31st

- Attended the Rivermont Fire Station's Easter breakfast on Saturday, April 2nd as well as the opening ceremonies for the Warren County Girls Little League Softball
- Received concerns from parents of students April 4th parents reaching out to School Board with concerns about inappropriate library books at WCPS middle and high schools, alarming to her, she and Mrs. Cullers went to library to see if they were shelved and they were, had conversation with principals of both high schools, once concerns were raised the schools pulled them off the shelves, parents have opportunity to lodge complaint about book(s) for a review by the school system, thanked parents for bringing awareness to the Board

Mr. Mabe spoke about taking constituent concerns and comments to heart and how much of a learning experience his time on the Board has been thus far. He and the other Board members try hard every day to make the community better.

Mrs. Oates reported the following:

- Attended the Habitat for Humanity's clam roast fundraiser on March 25th
- Attended the Fire and Rescue volunteer graduation ceremony on March 23rd

Mrs. Cullers reported the following:

- Also attended the Fire and Rescue volunteer graduation on March 23rd and recognized the six graduates of the program: Bethany Bauserman, Jonathan Buehler, Taylor Corathers, Kiersten Kennedy, Dylan Martin, and Jeffery Monti
- Attended a Farm Bureau dinner meeting on March 30th where there was a discussion and presentation about regional solar utilities; she asked the presenter to do another presentation for Warren County, which has been scheduled for Tuesday, April 26th at 6:00 PM
- Also attended the Rivermont Fire Station's Easter breakfast on Saturday, April 2nd as well as the opening ceremonies for the Warren County Girls Little League Softball
- The Chamber of Commerce will be hosting the first Valor Awards presentation on April 21st
- Recognized National Vietnam War Veterans Day, which was on March 29th

Dr. Daley reported the following:

- The Board will have a special meeting on Tuesday, April 12th beginning at 7:00 PM, and before the meeting at 6:00 PM there will be a joint closed session with Town Council
- Invited Finance Director Matt Robertson to deliver a presentation on personal property taxes
    - In 1998, the Commonwealth of Virginia initiated a five-year plan to eliminate car taxes completely by 2003. In 2001, the legislature stopped the plan early and capped at 70% for the 2002 tax year. In 2004, the legislature changed the cap from a percentage to a hard total number they would provide to localities.

Because it is a hard cap number, as vehicle valuations rise the state percentage of what they subsidize drops every year.

- Originally, the intention was for the state to pay 100% of vehicle taxes. After the hard cap in 2002, taxpayer subsidy was to be 70% of the first $20,000 in value. The subsidy now accounts for 30-35% in most localities as the state refuses to increase taxpayer assistance as was the original intention in 1998.
- In Warren County, the assistance for taxpayers has been:
    - Tax Year 2019 - 39%
    - Tax Year 2020 - 36%
    - Tax Year 2021 - 35%
    - Projected Tax Year 2022 with no change - 31%

Number of Vehicles	% of Total	Valuation Change
254	0.65%	Increased +$10,000
2,223	5.67%	Increased $6,000 - $9,999
14,274	36.43%	Increased $1,000 - $5,999
7,802	19.91%	Increased less than $1,000
628	1.60%	No change
14,000	35.73%	Decreased in value

Unfinished Business – Resolution in Support of US Bike Route 211 – Joe Petty

Joe Petty, Director of Economic Development/Interim Planning Director, reported the American Association of State Highway and Transportation Officials (AASHTO) has designated a bicycle route corridor through Virginia to be developed as USBR 211. Warren County lies within that corridor and the proposed route has investigated the proposed route and found it to be suitable for bicycle tourists. This project is part of a national effort (through AASHTO) to expand the US Bicycle Route system and is being led by VDOT, Shenandoah Valley Bicycle Coalition, Virginia Bicycle Federation, and the Adventure Cycling Association; they are seeking support for designating USBR 211 through Warren County.

Bicycle tourism is a growing industry in North America, contributing $47 billion a year to the economies of communities that provide facilities for such tourists. Warren County can benefit from this opportunity both economically and from the health and environmental related benefits of encouraging bicycle travel in our region. There is nearly 18,000 miles that are currently established in 31 states and Washington D.C. The proposed route for USBR 211 will provide a benefit to Warren County and having the route mapped and signed, would promote bicycle tourism in our area.

If the resolution is approved, it shall be sent with a letter to VDOT expressing our support for the route. As of March 14th, four of the nine agencies along the route have submitted resolutions of support (Strasburg, Woodstock, Shenandoah County, and New Market). At a special meeting on March 22nd, the Board tabled consideration of this resolution pending feedback from the public.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors tabled this proposed resolution indefinitely:

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

Consent Agenda

1. Representative and Alternate Appointments to the Community Policy and Management Team – Jessica Amankrah
2. Law Enforcement Representative Appointments to the Community Policy and Management Team – Jessica Amankrah
3. Award for Firm Fixed Pricing on Aggregates – Alisa Scott
4. Removed for further discussion
5. ~~Authorization to Advertise for Public Hearing – Ordinance to Amend and Re-Ordain Chapter 38 (Procurement) of the Warren County Code – Alisa Scott~~ *Pulled for work session discussion*
6. ~~Authorization to Advertise for Public Hearing – Ordinance to Add and Ordain Chapter 39, Warren County Guidelines Regarding Requests Made Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 – Alisa Scott~~ *Pulled for work session discussion*
7. Authorization to Advertise for Public Hearing – SV2022-02-01, Robert and Crystal Dolan Variance Request for Warren County Code Section 155-3(B)(1)(b)[2] to Allow the Voluntary Transfer of a Proposed Subdivided Lot to an Immediate Family Member
8. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-01, Emilia Simeonova and Sergei Kulaev for a Short-Term Tourist Rental Located at 5462 Browntown Road and Identified on Tax Map 28, as Lot 76
9. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-02, Jerry Lang, Jr., for a Short-Term Tourist Rental Located at 468 Lands Run Road and Identified on Tax Map 45, as Lot 4
10. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-03, Nicolas Webster and Morgan McCabe for a Short-Term Tourist Rental Located at 203 Mossy Rock Way and Identified on Tax Map 24B, Section 1, Block 21, as Lot 625
11. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-04, Pratick 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
12. Authorization to Advertise for Public Hearing – Conditional Use Permit 2022-02-05, Michael and Judith Albarelli for a Short-Term Tourist Rental Located at 740 Broad Run Road and Identified on Tax Map 44, as Lot 38D

Mrs. Oates requested the removal of item 4 for further discussion as well as the removal of items 5 and 6 for further discussion during the work session following the regular meeting.

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

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

Revisions to the 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 during its special meeting of March 22, 2022, the Board reached a consensus to approve the Agreement with the Town of Front Royal for Destination Marketing Organization Services Provided by Discover Front Royal as amended. During its regular meeting of March 28, 2022, the Front Royal Town Council reached a consensus to approve the Joint Tourism Agreement with Warren County as amended. The minimal differences between the approved documents are as follows:

1. The Town did not agree to remove the following from section I. Purpose, "In partnership with the Town of Front Royal's Special event Policies and Procedures, special events categorized as a "Community Gathering" or "Community", may be hosted by the Parties. Notwithstanding anything else in this Agreement, the Town and County may conduct tourism activities outside of this Agreement."

2. The Town revised section II. Obligations, The Town of Front Royal shall: "…provided that such funding amount to be provided by the Town for the fiscal year starting July 1, 2022 and ending June 30, 2023 shall be $200,000 with an additional appropriation by the County for $200,000 so that total funding of $400,000 shall be provided."

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

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

Closed Session – Virginia Freedom of Information Act

On a motion by Mrs. Oates, seconded by Mr. Mabe, 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, specifically in regard to the Northwestern Community Services Board.

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 the Shenandoah Farms Sanitary District.

Finally, the Board 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, and the outstanding indebtedness of the EDA:

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

On a motion by Mrs. Oates, seconded by Mr. Mabe, 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 Section 2.2-3711(A)(1) 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:

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

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors appointed Kerry "Kahle" Magalis to the Northwestern Community Services Board to fill an unexpired three-year term ending on December 31, 2025:

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

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

Adjournment

Mrs. Cullers adjourned the meeting at 12:55 PM.

At a special meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on April 12, 2022 at 6:00 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Jerome K. Butler (Happy Creek District); Vicky L. Cook (Fork District); Walter J. Mabe (Shenandoah District); also present Edwin C. Daley, County Administrator; Taryn G. Logan, Deputy County Administrator; James Bonzano, Chief of Fire and Rescue Services; Mark Butler, Sheriff; Zach Henderson, Finance Administrative Assistant; Todd Jones, Director of Technology; Gerry Maiatico, Fire Marshal; Jon Martz, Director of Social Services; Matt Robertson, Finance Director; Alisa Scott, Deputy Finance Director; Emily Ciarrocchi, Deputy Clerk of the Board; and Roger Bianchini, Royal Examiner

Closed Meeting – Virginia Freedom of Information Act

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board entered 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:

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 certified 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) 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

There were no motions to come out of this closed session.

Prior to the start of the public hearing, Mrs. Cullers reported it was National Public Safety Telecommunicators Week this week and brought forward several Warren County dispatchers to be recognized.

Public Hearing – Proposed Budget for FY 2022-2023 and Tax Rates for CY 2022 – Matt Robertson/Ed Daley

Matt Robertson, Finance Director, delivered a presentation to the Board on the proposed FY 2022-2023 budget and 2022 tax rates.

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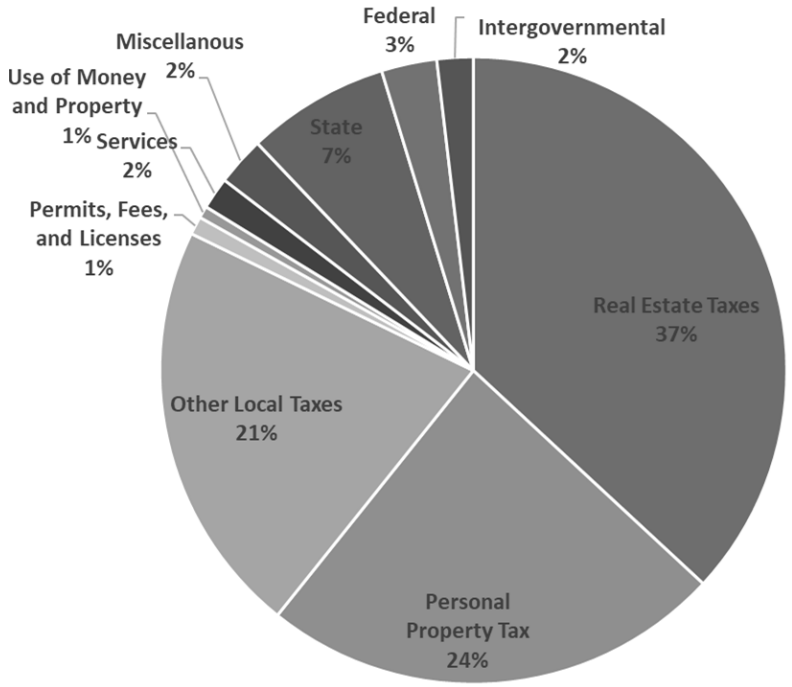
Budget Highlights:

- Real estate and personal property tax rates remain flat
- Limited the General Fund increase to 1.57%
    - School Operating Fund Budget increases by 11.02%
- 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 Drug Recovery Program

TAX RATES PER $100 OF ASSESSED VALUE

	Approved Calendar Year 2021	Proposed Calendar Year 2022
Real Estate	$0.655	$0.655
Manufactured Homes	$0.655	$0.655
Tangible Personal Property	$4.00	$4.00
Tangible Personal Property Business Furniture and Fixtures/ Equipment	$4.00	$4.00
Tangible Personal Property Volunteer Fire and Rescue Squad Members	$2.00	$2.00
Tangible Personal Property Aircraft	$0.75	$0.75
Machinery and Tools	$2.05	$2.05
Contract Carrier	$2.05	$2.05

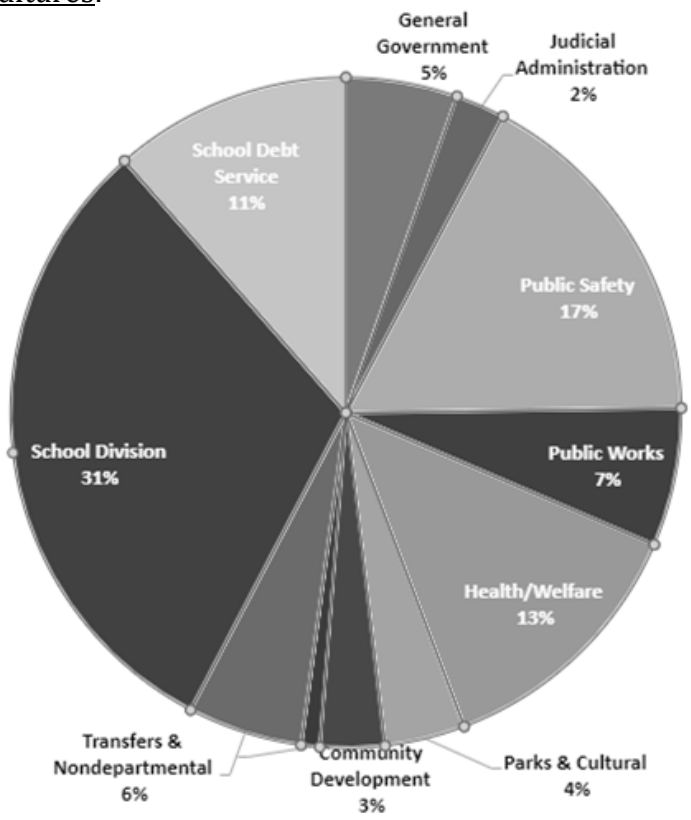
General Fund Revenues:



Revenue Changes:

- Staff is currently reviewing personal property tax rates and revenues from general property taxes are expected to adjust accordingly
- 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

General Fund Expenditures:



Personnel:

- A total of 14 additional (FTE) are proposed in the County budget
  - 6 new FTE in Fire and Rescue
  - 5 new FTE in Sheriff's Office
  - 1 new FTE in Information Technology
  - 1 new FTE in Airport
  - 0.5 new FTE in Children's Services Act (CSA) Office
  - 0.5 new FTE in Commonwealth Attorney
- A total of 24.5 additional FTE are proposed in the School Division budget
- COLA increases for staff are also proposed, subject to State budget approval
  - 5% COLA for County Staff
  - 5% COLA for School staff, plus a step upgrade for year of experience and a $752 bonus
- VRS and Health Insurance increases are projected at about $500,000 for the County

Capital Improvement Plan:

- A total of $14,839,853 is proposed in FY 22-23
    - $18.4 million was proposed in the School Capital Improvement Fund
        - This includes $8.1 million in grant funding, $2.2 million in Special Projects, $1 million from carryover, and $7.1 million from General Fund dollars; the County will look at debt financing and potential carryover funding for the $7.1 million share remaining outside of already identified funds
    - $1.2 million in Parks and Recreation projects
        - This includes $930,000 in grant funding, $58,000 in Special Projects Funding, and $174,000 in General Funds
    - $1.7 million in Public Works projects
        - This includes $25,000 in grant funding, $1.05 million in Special Projects Funding, and $645,000 in General Funds
    - $3.4 million in Fire and Rescue projects
        - This includes $3 million in debt funding and $400,000 in General Funds

Asset Replacement Plan:

- A total of $2,792,150 is proposed in FY 22-23
    - $163,550 in General Administration
    - $100,000 in Public Works/Refuse
    - $410,000 in Information Technology
    - $86,000 in Parks and Recreation
    - $1,263,100 in Sheriff's Office
    - $800,000 in Fire and Rescue
- Of the $2.8 million, approximately $1 million will be funded through Special Projects Funds

Debt Service:

- The Proposed FY 22-23 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 - $0.8 million

Mrs. Cullers opened the public hearing.

Mark Egger, 102 E 4th Street, read the following prepared statement: "I'm here to talk about the largest portion of the County budget - the school system. You should give this school system exactly zero dollars for this year's budget. You heard me right - zero dollars. This is a school system that continues teaching lies to the children. I spoke before the School Board last July about these lies, but at their next meeting they voted to teach lies anyway. They are teaching the children that a boy can become a girl and a girl can become a boy.

"I'm not going to use the nonsensical term 'transgender'. 'Gender' is a grammatical term. Nouns in some foreign languages have a 'gender'. Humans do not have a 'gender', they have a 'sex', and it is either male or female. This is simple science, simple biology. But our school system refuses to teach the truth to the children and continues to teach the lie. I'm not going to get into who or what is behind this "gender agenda", or whether the School Board, administrators, and teachers actually believe the lie they are teaching to the children. Maybe some of them do. If so, they are completely incompetent, and their employment should be terminated. Maybe some of them are going along with the lies because they are afraid of losing their jobs if they speak the truth. Imagine a teacher being fired for teaching science!

"Would you fund this school system if they were teaching that the earth is flat, or that the moon is made of green cheese? You would not give them a penny. But this lie is much more dangerous than that. It is destroying the minds, bodies, souls, and spirits of the children, and it must be stopped. This board has the ability to stop it, and you should stop it now. Do not give this school system one penny until they stop teaching this insanity to the children."

Michael Williams, 1405 Jefferson Avenue, said he has witnessed the unacceptable treatment of E. Wilson Morrison Elementary School (EWM) students in budget discussions and the lack of parity between EWM and other publicly funded schools in the County. Some improvements have occurred over the years, which is encouraging, but EWM is the only elementary school in the County without a true gymnasium. There is inadequate teaching space, an archaic elevator, and an auditorium that has not been renovated since its construction in the 1920s. He does not want to see the students of EWM continued to be treated as the redheaded stepchildren; he encouraged the Board to set politics aside and finally provide the long-awaited and much-needed improvements to EWM.

Melissa Chappell-White, 140 Dogwood Farm Road, read the following prepared statement: "The Agenda posted for tonight's Public Hearing for the FY 2022-2023 Warren County Proposed Budget does not contain sufficient information for the Shenandoah Farms Sanitary District. There appear to be no figures stated for revenues - which should be comprised of several categories. There should be around $1 million in sanitary district fees, plus significant amounts for equipment rental, lot fee delinquency sales, and other revenue categories. There appear to be no figures for expenditures, either. Thus, there is no way Shenandoah Farms Sanitary District resident taxpayers can evaluate that part of the Proposed Budget.

"Page 4 of the agenda states a figure of $810,093 for "contract payments for road maintenance, snow removal, VDOT revenue sharing project, maintenance of community common areas, VMA-VACo payment, and administration and miscellaneous expenses." But there is no line-item breakdown for any of these expenditures, nor any mention of amounts paid to, or on behalf of, POSF Inc., a private corporation which owns many properties within the Shenandoah Farms Sanitary District, and also serves as the SFSD advisory board (at least until termination of its contract effective 6/30/22).

"As you know, there are significant issues relating to the termination by POSF Inc. of its contract with the County to serve as the advisory board for the Shenandoah Farms

Sanitary District. One question is whether POSF Inc. has been paying Shenandoah Farms Sanitary District fees for the 70 or so properties POSF Inc. owns (including a 188.87-acre property that is not a common area). Another issue is whether POSF Inc. has been paying real estate taxes on any of its properties, most of which would probably not qualify for nonprofit real estate tax exemption even if POSF Inc. had applied for that on any of its properties, which there is no public evidence that it has. In fact, there is no publicly available evidence that POSF Inc's ownership of those properties is even on file with the Commissioner of Revenue's real estate office. Thus, there is at least a possibility, if not probability, that POSF Inc. owes decades worth of sanitary district fees (for which there is no nonprofit exemption), as well as real estate taxes on at least some of its properties, plus penalties and interest.

"Therefore, this is a written request to the Warren County Board of Supervisors, pursuant to its Rules, that immediate action be taken to:

1. Suspend any further action on the Shenandoah Farms Sanitary District proposed budget, pending public release and public hearing for all significant revenue and expenditure items; and
2. Suspend all involvement of, and payments to, POSF Inc. relating to its April 5, 2011 contract to serve as an advisory board for the Shenandoah Farms Sanitary District, pending completion of investigation, and resolution, of all currently outstanding issues."

Dennis Willingham, Sr., 792 Old Belmont Road, voiced his displeasure that the Board was not considering lowering the personal property tax rates on vehicle despite the value of vehicles increasing. He is on a fixed income, and not only is inflation causing the cost of living to increase, but his bill for his vehicle will too, and the Board does not seem to care. He thinks it is about time that someone stood up and took notice of what is going on.

Leslie Mathews, 143 Mathews Lane, asked the Board to cut the proposed budget by at least the amount that is anticipated to be collected due to the increased valuation of vehicles. Today's economy is no time to add a burden to taxpayers, and the rate of inflation occurring is a huge burden on citizens already. She urged the Board to review the working budget and cut it to the level necessary to operate the County in such a manner that provides all hardworking citizens and families the opportunity to live and thrive here.

Lynda McDonough, 1205 High Top Road, said she is in agreement with all previous speakers, specifically Ms. Chappell-White regarding the properties owned by POSF, Inc.

Wyatt Strickland, 180 Overbrook Lane, introduced himself as the President of Shenandoah Shores Volunteer Fire Department (Station 5). He said Station 5 has no career staffing but still deals with the same issues the other districts deal with. The Station needs to have career staffing 24/7/365 to ensure citizens in the Shenandoah Shores area are safe.

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

Dr. Daley reported there are three clouds currently looming over the proposed County budget:

1. The final determination on the Warren County Public Schools (WCPS) budget;
2. The final options, as determined by the State, for personal property tax rates; and
3. The final State budget figures, which will highly impact WCPS, Constitutional Offices, and the Department of Social Services.

He proposes the Board adopt all calendar year 2022 tax rates, with the exception of Personal Property, at its meeting on April 19th so the Commissioner of the Revenue's and Treasurer's Offices can begin the billing process. The Board can come back to finalize the Personal Property tax rates and FY 2022-2023 budget figures after the State legislature has made its decision.

Mrs. Cullers acknowledged the concerns of the speakers regarding the personal property tax rate and vehicle valuations and confirmed the Board is working with the Finance Department and Commissioner of the Revenue's Office on potential solutions.

Dr. Daley then addressed the concerns raised about the lack of a line-item budget for the Shenandoah Farms Sanitary District. When the Public Works Department was managing the sanitary district, it submitted a line-item expenditures request, similar to the ones submitted for other County-managed sanitary districts. However, since the POSF, Inc. Board has requested to terminate the management agreement effective June 30, 2022, they are only required to submit an overall budget request. The Board does not adopt line-item budgets for all sanitary districts, only the ones that have maintenance agreements with the County.

Mrs. Cook asked when staff anticipates receiving final numbers and information from the State, and Dr. Daley said the earliest would be May, but more probably sometime in June. He mentioned as a contingency, all Department Heads and Constitutional Officers were instructed to find 2% to cut from their budgets. Mrs. Cook thinks there are other items that can be cut from the budget instead of asking Department Heads to cut their overall budgets, such as some of the funding that goes to partner agencies.

Mrs. Oates wondered if the Board would need to hold another public hearing if the final budget figures differ drastically from what is currently proposed. Dr. Daley replied that unless the budget increases, the Board would not need to hold another public hearing. He complimented the County Department Heads on doing a good job presenting conservative budget requests.

Adjournment

Mrs. Cullers adjourned the meeting at 7:55 PM.

At a regular meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on April 19, 2022 at 6:00 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Victoria 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; Mike Berry, Public Works Director; Michael Coffelt, Sanitary District Manager; Caitlin Jordan, Senior Assistant County Attorney; Chase Lenz, Zoning Administrator; Jon Martz, Director of Social Services; Joe Petty, Director of Economic Development/Interim Planning Director; Matt Robertson, Finance Director; Alisa Scott, Deputy Finance Director; Matt Wendling, Deputy Finance Director; Emily M. Ciarrocchi, Deputy Clerk of the Board; and Roger Bianchini, Royal Examiner

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 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.

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, and the outstanding indebtedness of the EDA.

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 the Shenandoah Farms Sanitary District:

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)(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:

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

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

Adoption of Agenda

Mrs. Oates requested the addition of item K-1 (Consideration of Termination of Shenandoah Farms Sanitary District Management Agreement), and Dr. Daley requested the addition of item K-2 (Sanitary District Policy Guidance for Tree/Brush Removal and Wood Disposal).

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors adopted the agenda as amended:

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

Public Comment Period (60 Minute Time Limit)

Melissa Chappell-White, 140 Dogwood Farm Road, requested the Board postpone item H-3 (Cancellation of Old Oak Lane, Phases IV and V, Rural Addition Revenue Sharing Projects for Shenandoah Farms Sanitary District). These projects have been in the pipeline for many years, and it does not seem wise or prudent to rush into cancelling these projects. She would like to see both Phases IV and V completed and accepted by the Virginia Department of Transportation for State maintenance.

Katie Peterson introduced herself as the representative for Warren County's first ever summer swim team, the Sunfish. She thanked the Board and the Parks and Recreation Department for their support in providing this opportunity and was proud to report that ninety (90) swimmers have signed up for summer 2022 (www.warrencountysunfish.com).

Lynda McDonough, 1205 High Top Road, read a prepared statement regarding a proposed 28th Amendment to the Constitution of the United States. This Amendment would not allow Congress to make any laws that apply to American citizens that do not apply equally to the members of Congress and would preclude them from making any laws that apply to themselves but do apply to all U.S. citizens. Members of Congress would no longer exempt themselves from prosecution for sexual harassment or from the healthcare reform they pass for the rest of the country. They would not retire at full pay after just one term, and their children would be required to pay back their college loans. The proposed Amendment would move the congressional retirement fund into the Social Security system, and legislators could no longer vote their own pay raises. Instead, they would receive 3% annually or the Consumer Price Index (CPI), whichever is lower.

Jon Martz, Director of Social Services, invited the Board members to the Department's Child Abuse Prevention Jubilee this Saturday, April 23rd from 11:00 AM to 3:00 PM at the Health and Human Services Complex track area with special guests, Bikers Against Child Abuse. This event is free to the public, and he hoped the Board members would attend.

There were no further presentations from the public.

Reports – Board Members, County Administrator, Interim County Attorney

Mr. Butler had nothing to report.

Mrs. Cook had nothing to report.

Mr. Mabe reported the following:

- Attended a meeting at the Department of Social Services on April 18th where coverages and benefits were discussed with regard to the COVID-19 pandemic and the eventuality that the health emergency declaration will end

Mrs. Oates reported the following:

- There are several events going on this weekend: the Jubilee on April 23rd as well as Earth Day downtown from 10:00 AM – 3:00 PM at the Gazebo and BioBlitz on Sunday, April 24th at Shenandoah River State Park beginning at 9:00 AM; she encouraged County citizens to get out and be good ambassadors of the community

Mrs. Cullers reported the following:

- Attended a Department of Environmental Quality meeting at Samuels Public Library on April 11th
- Invited everyone to attend the annual Browntown Community Center Redbud Festival this Saturday, April 23rd
- Attended an investment celebration in Frederick County on April 12th where Senator Mark Warner delivered $3.6 million in Federal dollars to Frederick Water to support the development of the new Henry F. Sliwinski Water Treatment Plant
- Thursday, April 21st is the first Valor Awards ceremony hosted by the Chamber of Commerce to honor local law enforcement, fire and rescue, and emergency medical services (EMS) personnel

Dr. Daley reported the following:

- Congratulated Jane Meadows and Kayla Darr as this Friday, April 22nd, County employees will receive their first bi-weekly check; he extended his appreciation to the Finance Department and the IT Department in helping bring about this transition

- Revenue Updates for March

Year-to-Date	FY 2022	FY 2021	Difference
Sales Tax	$4,694,893	$3,398,681	$1,296,212 (38.14%)
Meals Tax	$817,484	$665,222	$152,262 (22.89%)
Lodging Tax	$242,887	$194,537	$48,350 (24.85%)
Business License Tax	$1,223,541	$1,062,681	$160,860 (15.14%)

- Building Inspections Statistics for March

New Home Starts

County	Town	Total	March 2021
16	1	17	15

Permits Issued

2022	2021	Difference
192	176	16 (8.33%)

Inspections Completed

2022	2021	Difference
500	1,114	-614 (-122.8%)

- Parks and Recreation
  - Park Facility Projects:
    - Mowing Cycle 2022: Park staff began inspecting, mowing and trimming for the 2022 season on April 11th.
    - Community Shelter Project Update: Park and Public Works staff completed the shelter project. Maintenance Supervisor Brad Kresge is obtaining quotes for electrical service, lights, etc. The Avtex Retiree Club has consented to donate an additional $5,000. Director Dan Lenz obtained quotes for 12 picnic tables.
- Department of Social Services – In the month of March, DSS received:
  - 153 SNAP Applications
  - 116 Medicaid Applications
  - 21 TANF Applications
  - 14 Child Care Applications
  - 1,221 Lobby Visits
  - 1,522 Phone Calls

  On the Services side, for the month of March, DSS received:
  - 63 CPS referrals
  - 33 APS referrals

  Services rendered:
  - Through the Community Development Block Grant Motel voucher program, the Department spent $2,761.57 in March
  - Used $950.12 from the Ministerial Fund

- Took in $6,647.05 to the Ministerial Fund
- Provided food to 56 individuals
- 98 EBT cards given

Job development:

- New client/referrals in March – 7
- Total clients to-date – 66
- Jobs offered/accepted – 2

Upcoming events:

- April is Child Abuse Awareness Month, and the Department will once again host its Child Abuse Prevention Jubilee on April 23rd at the Health and Human Services Complex track
- Spring Job Fair will be on May 12th in the Health and Human Services Complex gymnasium; there are currently 22 confirmed vendors

- <u>Department of Fire and Rescue Services</u>
  - Staff is currently working with volunteer representation in evaluating the Volunteer Incentive Program and working to identify any changes needed, appropriate tracking mechanisms. County Code and WCFR Policy needs revisited as last update was completed in 1997.
  - WCFR recently operated on a missing persons event alongside the WCSO and multiple agencies. The volunteer membership of South Warren worked to establish a rehabilitation area for search and rescue personnel and provided refreshments.
  - WCFR Programs Managers continue to compile a grants list for potential application for the upcoming fiscal year.
  - The Chamber of Commerce Valor Awards Program will honor multiple Fire and Rescue career and volunteer responders; special thanks and congratulations to all award recipients.
- <u>Planning and Development</u>
  - Tourism Committee **–** The Joint Tourism Committee continues to meet bi-weekly. The Town and County have now both approved the revised Memorandum of Agreement. Work will progress towards creation of the 501c6 organization as the Destination Marketing Organization.
  - Development Review Committee **–** The Development Review Committee met on March 23, 2022 and discussed the following projects:
    - Planning Commission/Board of Supervisors Applications
      - 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
  - Terra Site Constructors – 6986 Winchester Road

  The Committee will meet again on April 27, 2022, at 10:00 AM.

- Commercial/Industrial Projects – Work continues on the following projects:
  - Interchange warehouse (340/522 and Toray Drive) has the foundation in place and now starting the foundation walls. The water service from the town has finally been approved and work is ongoing to connect the south side to the north side of Toray Drive.
  - Equus Warehouse facility – The site work continues, and the main structure is completed. The work now is focused on sealing the building up to start on the interior work.
  - Storage facility on 340/522 has started work and activity will soon increase at the site.
  - New trucking facility on Winners Court is continuing with site work.

Public Hearing – SV2022-02-01, Robert and Crystal Dolan Variance Request for Warren County Code Section 155-3(B)(1)(b)[2] to Allow the Voluntary Transfer of a Proposed Subdivided Lot to an Immediate Family Member – Joe Petty

Joe Petty, Director of Economic Development/Interim Planning Director, reported Warren County Code Section 155-3(B)(1)(b)[2] 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 Dolans have held the property since June 3, 2019 (approximately 2 years, 8 months). The Dolans 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.

If the Board were to approve this request, 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 applicants need to show that strict compliance with the requirements of the Ordinance would cause substantial injustice or hardship.

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

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.

Robert Dolan introduced himself as the applicant, along with his wife, and said there would be no financial gain from this transfer. His brother and sister moved to Warren County to work with him, and they sold their houses under the impression that he would be able to subdivide his property and provide them with land. He did not think it would be a problem considering he owns 125 acres and has owned one of the tracts for almost seven years.

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 Mrs. Cook, and by the following vote, the Board of Supervisors, finding that the variance request meets the criteria required by Section 155-18 of the Warren County Code, approved the request of Robert and Crystal Dolan 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 and listed below:

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

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.

Public Hearing – Conditional Use Permit 2022-02-01, Emilia Simeonova and Sergei Kulaev for a Short-Term Tourist Rental Located at 5462 Browntown Road and Identified on Tax Map 28, as Lot 76 – Matt Wendling

Matt Wendling, Deputy Planning Director, reported the applicants purchased the property in December 2020 and 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.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

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 approved the conditional use permit request of Emilia Simeonova and Sergei Kulaev 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 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.

Public Hearing – Conditional Use Permit 2022-02-02, Jerry Lang, Jr., for a Short-Term Tourist Rental Located at 468 Lands Run Road and Identified on Tax Map 45, as Lot 4 – Matt Wendling

Mr. Wendling reported the applicant was willed this property in 2020 by the late Robert W. Colton, and Mr. Lang 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 provide 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.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

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 Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Jerry Lang, Jr., 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 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.

Public Hearing – Conditional Use Permit 2022-02-03, Nicholas 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

Mr. Wendling reported 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, local property management and cleaning companies respectively, to manage the property.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

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 approved the conditional use permit request of Nicholas Webster and Morgan McCabe 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 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.

Public Hearing – Conditional Use Permit 2022-02-04, Pratik Patel for a Short-Term Tourist Rental Located at 368 Freeze Road and Identified on Tax Map 23C, Section 2, Block 2, as Lot 193 – Matt Wendling

Mr. Wendling reported the applicant is requesting a conditional use permit for a short-term tourist rental for the property he purchased in November 2021. Mr. Patel states he will be primarily using the property as a vacation home for his family, extended family, and friends for weekend visits. He would like the flexibility to rent short-term, which will also help him with the ability to maintain the property, and with the cost of insurance and taxes. He plans to retain a local handyman and property manager to be available for any emergencies.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

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 approved 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 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 four (4) as determined according to the Health Department conditional/operational permit for a three-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

Public Hearing – Conditional Use Permit 2022-02-05, Michael and Judith Albarelli for a Short-Term Tourist Rental Located at 740 Broad Run Road and Identified on Tax Map 44, as Lot 38D – Chase Lenz

Chase Lenz, Zoning Administrator, reported 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 for 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.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing.

Gary Kushner, 1106 Fetchett Road, Bentonville, said his residence adjoins this property. He believes the property owners are mature and responsible and trusts they will be respectful of their neighbors. He voiced his support of this application and urged the Board to approve the request.

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 approved 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 and listed below:

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

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.

Approval of Accounts

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

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

Appropriations and Transfers

On a motion by Mrs. Oates, 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 April 2022:

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

APPROPRIATIONS

Elections	Reimbursement to Warren County from the Town of Front Royal for their portion of the expenses from the November 2, 2021 General and Special Elections	$14,458
Sheriff	To appropriate VACORP checks to pay for vehicle repairs and to replace a vehicle that was totaled	$34,920
Sheriff	To appropriate extradition reimbursements from travel expenses incurred to pick up fugitives	$726
Sheriff	To appropriate funds from a grant to compensate the salary of a School Resource Officer	$18,529
Refuse Disposal	To appropriate funds from Special Projects to pay off the remaining balance for a Loader Loan	$240,000
Board of Supervisors	To appropriate funds from Special Projects for the appraisal of the Jackson Street property	$2,500

TRANSFERS

Juvenile & Domestic Court	To transfer funds from Furniture and Miscellaneous to Repair, Maintenance Equipment and Telephone to Balance their Budget	$2,200
Probation	To transfer funds from Mobile Phone/Pager to Office Supplies due to no longer utilizing the Mobile Phone/Pager program	$720

Approval of Minutes

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the minutes of its following meetings:

- Special Meeting of February 22, 2022
- Regular Meeting of March 1, 2022
- Regular Meeting of March 15, 2022
- Special Meeting of March 22, 2022

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

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. Removed for further discussion
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. Removed for further discussion
8. Removed for further discussion

Mrs. Oates requested the removal of items 3 and 7 for further discussion, and Mrs. Cullers requested the removal of item 8 as well.

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

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

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.

Cancellation of Old Oak Lane, Phases IV and V, Rural Addition Revenue Sharing Projects for Shenandoah Farms Sanitary District – Mike Berry

Mrs. Oates requested the removal of this item because she believes it would be premature to cancel these projects through VDOT. She would like to have more complete information before a determination is made.

Mrs. Oates made a motion to table consideration of this request pending additional information, which was seconded by Mr. Mabe for further discussion.

Mike Berry, Public Works Director, said the discussion of cancelling these projects through VDOT began before receiving the cancellation request from the Property Owners of Shenandoah Farms (POSF) Board. He then delivered a presentation to the Board on the history of these projects and the options for the future. Most recently, the projects were included in a resolution adopted by the Board on October 17, 2017 in support of the FY 2018-2020 Revenue Sharing Program. When this resolution was adopted, the estimated cost for Phase IV was $998,250 for 0.44 mile, and the cost for Phase V was estimated at $1,077,903 for 0.58 mile. These cost estimates included improving the existing road to minimum VDOT standards.

However, due to inflation, supply chain concerns, and various other factors, the estimate for Phase IV has increased by $598,950 to $1,597,200, and the estimate for Phase V has increased by $723,926 to $1,801,829. Despite these increases, VDOT has not agreed to increase its 50% share of these Revenue Sharing projects. Should the projects be cancelled through VDOT and completed internally, Mr. Berry presented the following options:

- Option 1 – Plant Mix asphalt $142,240 per ½ mile ($285,880 per mile)
  - 3" of BM.25OA (Base) & 1.5" of SM9.5A (Surface)

- Option 2 – Prime Coat, Double Modified $39,500 per ½ mile ($79,000 per mile).
  - Prime coat consists of 1 coat of RC250 oil with #68 & #78 stone followed by CRS2L oil and double coat of #8 aggregate

- SUBGRADE (NEEDED FOR BOTH OPTIONS)
  - Subgrade Preparation consists of rough grading, and a VDOT 21B stone application of 6 inches to establish grade and crown for adequate drainage flow. $69,391 per ½ mile ($137,782 per mile)

There was additional discussion regarding future maintenance of Old Oak Lane and the desire to upgrade the road to minimum VDOT standards for acceptance into the State road system for future maintenance.

The motion to table this item passed by the following vote:

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

Authorization to Advertise for Public Hearings – Ordinance to Amend and Re-Ordain Chapter 38 (Procurement) of the Warren County Code and 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

On a motion by Mrs. Cullers, seconded by Mr. Mabe, and by the following vote, the Board tabled these items to a work session for further discussion:

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

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

Matt Robertson, Finance Director, reported due to the Commonwealth of Virginia failing to meet the standard deadline for budget adoption, the County wishes to adopt calendar year 2022 tax rates (except for the Personal Property tax rate) prior to approving the FY 2022-2023 budget. There are no changes in the calendar year 2022 County-wide tax rates up for approval compared to the rates from calendar year 2021.

Mr. Robertson said the Finance Department, Commissioner of the Revenue's Office, and Treasurer's Office are still doing calculations on valuations in order to determine what relief can be provided to taxpayers. With the adoption of the real estate tax rate for 2022, the Commissioner's and Treasurer's Offices can proceed with first-half billing while the County waits for the State to make its decision.

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

On a motion by Mr. Mabe, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors adopted the Proposed Calendar Year 2022 tax rates as advertised except for the Tax Year 2022 Personal Property Tax Rate:

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

Consideration of the Termination of the Shenandoah Farms Sanitary District Management Agreement

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors accepted the notice of termination of the Shenandoah Farms Subdivision Sanitary District Management Agreement provided by the Property Owners of Shenandoah Farms, Inc., and further approved the termination of such Agreement to be effective June 30, 2022:

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

Sanitary District Policy Guidance for Tree/Brush Removal and Wood Disposal – Mike Berry

Mr. Berry reported there had been concerns raised about residents in a Sanitary District receiving free wood from trees that the Public Works Department had felled. Staff would like to establish a simple policy that would allow the community to know what the County does for disposal of brush and trees in sanitary districts.

Mrs. Cullers asked how this policy would be distributed so citizens would be made aware of its existence, and Mr. Berry replied the policy could be placed on the County website and sent to the County-maintained sanitary districts for further distribution.

Mrs. Oates believes this policy, and the creation of a wood request form on the County website, is overkill and creates unnecessary additional work for County employees. She would like to see the Property Owners Associations (POAs) of the districts know there is wood in the common area and let them handle the distribution of information. Mrs. Cullers noted the Board was considering adopting this policy because the concern came from someone who did not receive the notification from their POA.

On a motion by Mr. Mabe, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors approved the proposed Sanitary District policy providing guidance for tree and brush removal in the right-of-way and wood disposal as presented:

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

Adjournment

Mrs. Cullers adjourned the meeting at 9:17 PM.

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
May 3, 2022	**I-1**	Designation of Zoning Administrator *Chase Lenz*	

EXPLANATION & SUMMARY:

Warren County Code §180-60 (Zoning Ordinance) states that the zoning ordinance shall be administered and enforced by an officer to be known as the "Zoning Administrator" who shall be appointed by the Board of Supervisors of Warren County, Virginia. The Zoning Administrator shall have all necessary authority on behalf of the governing body to administer and enforce this chapter, including the ordering in writing of the remedying of any condition found in violation of this chapter and the bringing of legal action to ensure compliance with this chapter.

At this time, I would ask that the Board designate Chase Lenz as the Zoning Administrator, effective May 3, 2022. Chase began with the County in July 2021 as a Zoning Officer, and the new designation will give him the authority to effectively enforce the Warren County Zoning Ordinance.

COST & FINANCING: N/A

CONSENT AGENDA MOTION:

I move that the Board of Supervisors officially designate Chase Lenz as Zoning Administrator as prescribed by §180-60 of the Warren County Code to be effective as of May 3, 2022.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Joe Petty, Interim Planning Director		

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
May 3, 2022	**I-2**	Purchase of Certified Elections Software and Budget Transfer	

EXPLANATION & SUMMARY:

Carol Tobin, Director of Elections and General Registrar has submitted to the Finance & Purchasing Department, a purchase requisition for certified elections software. This purchase is a result of Legislation by the General Assembly in implementing new Security Standards by July 1, 2022.

In accordance with the Procurement Act, Section 2.2-4346, election goods and services are exempt from competition. Due to the amount of the purchase being over $20,000, Staff is submitting the purchase of ePollTAB Precinct Management System software in the amount of $32,638.00 to the Board.

There is a long lead time on implementing this system. It is Staff's recommendation the Board approve the purchase as soon as possible in order to meet the July 1, 2022, deadline.

COST & FINANCING:

Funding for this purchase is available in the Elections Department budget. The Board is requested to approve several FY22 interfund budget transfers from the line items in the amounts below of $32,638.

Interfund Budget Transfer	Amount
013000-3010	$ 3,120.00
013000-5407	$ 1,000.00
013000-5413	$ 9,118.00
013000-5415	$ 1,600.00
013000-5504	$ 3,000.00
013000-5801	$ 100.00
013000-7001	$ 2,000.00
013000-7002	$ 500.00
013000-8002	$ 200.00
013000-8005	$ 12,000.00

Purchase
4-1-13000-7001 Voting Machines. The annual recurring costs for software maintenance of $5,000 will be included in the Elections Department's FY24 budget as software maintenance for FY23 is included in the initial purchase.

PROPOSED OR SUGGESTED MOTION:

I move the Board of Supervisors authorize the interfund budget transfers totaling $32,638.00 and approve the award to DemTech Sales for new ePollTAB poll book deployment for $32,638.00 on behalf of Warren County.

or

I move the Board of Supervisors do not authorize the interfund budget transfers totaling $32,638.00 nor approve the award to DemTech Sales for new ePollTAB poll book deployment.

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

Warren County Appropriation and Transfer Form

Department: Elections
Contact: Carol Tobin, Registrar
Fiscal Year: 2022
Date Submitted: 4/26/2022

Type of adjustment: Transfer ✕ Appropriation ☐

Explanation of request (Required):
The purpose of this transfer is to cover the purchase of Electronic Poll Book Software needed for the current Fiscal Year

Revenue

Account Title	Account Code (3-xxx-xxxxxx-xxxx)	Current Budget	Adjustment Amount (+/-)	Revised Budget	Finance Use Only
				-	CR
	Total Adjustments		-		

Expenditure

Account Title	Account Code (4-xxx-xxxxxx-xxxx)	Current Budget	Adjustment Amount (+/-)	Revised Budget	Finance Use Only
Computer Maintenance	4 - 001 - 013000 - 3010	3,120	(3,120)	-	CR
Maintenance and Repairs	4 - 001 - 013000 - 5407	1,938	(1,000)	938	CR
Voting Machine Supplies	4 - 001 - 013000 - 5413	12,431	(9,118)	3,313	CR
Moving Voting Machines	4 - 001 - 013000 - 5415	2,600	(1,600)	1,000	CR
Travel	4 - 001 - 013000 - 5504	4,749	(3,000)	1,749	CR
Dues and Memberships	4 - 001 - 013000 - 5801	191	(100)	91	CR
Voting Machines	4 - 001 - 013000 - 7001	2,000	(2,000)	-	CR
Furniture and Fixtures	4 - 001 - 013000 - 7002	500	(500)	-	CR
Rental Voting Places	4 - 001 - 013000 - 8002	525	(200)	325	CR
Cyber Security Contract with Assura	4 - 001 - 013000 - 8005	12,000	(12,000)	-	CR
				-	
Program Voting Machines	4 - 001 - 013000 - 3002	12,992	32,638	45,630	DR
				-	
				-	
	Total Adjustments		-		

APPROVALS

Department (Required)
N/A
Signature **Date**

Finance
Matt Roberts
Signature
Comments:
4-26-22
Date

County Administration
Signature
Comments:
Date

Board Approval
Submission Packet:
Comments:
Date

Director of Elections and General Registrar

County of Warren

465 W 15th Street, Suite 800
Front Royal, VA 22630
(540) 635-4327
Fax (540) 635-5456

TO: Alisa Scott, Deputy Finance Director and Purchasing Agent

FROM: Carol L. Tobin, Director of Elections and General Registrar Carol L Tobin

SUBJECT: New Law Requiring Recertification of Voting Equipment Software. Purchase Request of Software to Meet the Requirements of this Legislation.

DATE: April 18, 2022

This request is the result of Legislation by the General Assembly implementing new Security Standards which required all voting equipment software go through a recertification process. This law requires Localities to meet these requirements by July 1, 2022.

Warren County has already updated the Voting Machine Software and now needs to update to the new certified software for the Electronic Pollbooks. This plan could not be implemented as early as we planned due to the wait time for availability of equipment due to COVID.

Attached is the Purchase Order and Quote from the Vendor in accordance with the security requirements of this new law. I respectfully ask that this request be approved for us to meet the timeline for implementing this legislation.

cc: Electoral Board
Attachments

Quotation

Hardware NOT Included

ePollTAB Precinct Management System

DEMTECH

Prepared for:
WARREN COUNTY

Created by:
Mike Brown

Doc Ref : HDTGZ-AXMVA-EHDXH-SSSST
Doc Seq : EPB_VA_ 414
Doc Date: Dec 13, 2021

Products - Services Quotation

We outlined the following package based on our discussion, including:

- Current Laptop
- Merlin Security HUB
- Training
- Premium Support
- Ballot On Demand
- Shipping and Handling
- Configuration
- Cases and Transport
- On-Boarding and Setup

Year 1 Products and Services	Price	QTY	Subtotal
CenterPoint CenterPoint Administration and Management	$750.00	1	$750.00
ePollTAB Software ePollTab Software. Use Licence	$325.00	44	$14,300.00
ePollTAB Configuration Setup, installation of all software, setup for specific customer needs	$154.00	44	$6,776.00
Laptop Imaging Deploy Certified O/S Image to a single laptop (Excludes Windows 10 Pro License)	$300.00	1	$300.00
MDM Meraki Meraki MDM security and device management account	$40.00	45	$1,800.00
Merlin Precinct Kit Merlin Secure Communication Kit, SSD, Mini USB (2), Software, Cables, Ubiquiti	$359.00	13	$4,667.00
Merlin Small Transport Case Merlin Case for transport - Small self-transporter unit	$65.00	13	$845.00
Training Day (On Site) Full Day training. On nominated site by customer, all inclusive cost.	$1,600.00	2	$3,200.00
			$32,638.00
		Tax	**$0.00**
		Total	**$32,638.00**

DEMTECH

Cover Letter

Dear Carol Tobin

Quotation for New ePollTAB poll book deployment 2020/21

Please accept the attached documentation in support of the proposed deployment and provision of the new ePollTAB poll book system.

Since 2009 Advocate 2.x has been providing service to the State of Virginia and now in 2020 we present the new advanced certified DemTech ePollTAB 1.0.

Year 1 includes training delivery and training materials, deployment of a fully managed solution architecture as part of your support for early voting and an enrollment into our MDM system to keep your poll books up to date, secure and checked for certification compliance automatically.

Thank you for your interest in our products and services and we respectfully submit this quotation for your consideration.

Thank You,

DemTech Sales
PH Contact: 844 893 5347
Email: sales@demtechvoting.com

Order Process

We hope this quotation provides you with every piece of information you need to place an order for the new ePollTAB solution for your jurisdiction. If you require any further help or assistance understanding what is included please call support or sales on the number below.

This quotation is based on conversations between your jurisdiction and DemTech to determine the details required to provide a complete solution to manage your precincts.

Thank You,

DemTech Sales
PH Contact: 844 893 5347
Email: sales@demtechvoting.com

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT	PAGE 1 OF
May 3, 2022	I-3	Reclassification of Administrative Assistant – Planning, County Attorney, and Economic Development	

EXPLANATION & SUMMARY:

The complexity and sensitivity of the Administrative Assistant positions in the Planning, County Attorney, and Economic Development departments and the higher level of experience needed for these open positions leads to the positions needing to be reclassified as an Office Manager rather than Administrative Assistant. These duties include the preparation of financial records and preparing legal documents, developing and maintaining record keeping systems, maintaining office inventory, assistance in billing processing and budget preparation.

In an effort to better recruit and select qualified candidates, staff has proposed reclassifying the Administrative Assistant positions in the Planning, County Attorney and Economic Development departments to an Office Manager. The Office Manager job description seems to be a more accurate reflection of the duties expected of and successfully performed in the positions. The job descriptions for both the Office Manager and Administrative Assistant positions are attached. The salary range for Office Manager is $42,933.37-$65,328.20 and the salary range for Administrative Assistant is $33,649.89-$51,202.30.

COSTS & FINANCING:

Additional funding would be necessary; if the increase is not able to be covered through the individual department operating budget, funding would need to be taken from the contingency reserve at the end of the FY.

PROPOSED OR SUGGESTED MOTION:

(1) I move that the Board of Supervisors approve the reclassification of the Administrative Assistant position to Office Manager in the Planning, County Attorney, and Economic Development Departments.

-OR-

(2) I move that the Board of Supervisors not approve the reclassification of the Administrative Assistant position to Office Manager in the Planning, County Attorney, and Economic Development Departments.

-OR-

(3) I move that this matter be postponed until _____ for further discussion.

SUBMITTED BY:	DISPOSITION OF BOARD: ☐ APPROVED ☐ OTHER (DESCRIBE)	PROCESSED BY:
Jane Meadows, Human Resources Director		

OFFICE MANAGER - 1091

GENERAL DEFINITION OF WORK: *FLSA Status: Non-Exempt*

Performs complex skilled clerical and responsible administrative work preparing legal documents and overseeing the clerical activities of the office staff; does related work as required. Work is performed under general supervision. Supervision is exercised over subordinate clerical personnel.

ESSENTIAL FUNCTIONS/TYPICAL TASKS:

Coordinating, overseeing and participating in the administrative and office assistance duties in a County office; training and supervising clerical staff; coordinating the preparation and maintenance of office files and records.

(These are intended only as illustrations of the various types of work performed. The omission of specific duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.)

- Plans, assigns, supervises and performs complex clerical work in a County office.
- Maintains clerical and financial records and prepares leave and time sheets.
- Answers telephone; assists public with questions; takes messages and schedules appointments.
- Maintains schedule of law enforcement's unavailable dates for scheduling of court dates; requests prior felony convictions from other jurisdictions; copies documents for attorneys and for judge's signature; pulls court dockets for attorneys; issues witness subpoenas; files lab analysis with court.
- Types legal documents, court orders, motions, briefs, indictments, letters, etc.; prepares jury instructions for attorneys; opens and closes case files.
- Maintains and replenishes inventory of office supplies.
- Prepares bills for payments and assists with budget preparation.
- Develops office filing, index and record systems and oversees the maintenance of same.
- Orients, trains, develops, assists, and reviews progress of clerical staff.
- Performs related tasks as required.

KNOWLEDGE, SKILLS AND ABILITIES:

Comprehensive knowledge of standard office procedures, practices, techniques and equipment; thorough knowledge of standard clerical practices and procedures and of fiscal or statistical record keeping, and reporting; thorough knowledge of business English and arithmetic; thorough knowledge of the operation of the department to which assigned; ability to communicate ideas effectively in both oral and written forms; ability to plan and supervise the work of subordinate clerical personnel; ability to prepare financial reports; ability to establish and maintain effective working relationships with associates, County officials and the general public.

EDUCATION AND EXPERIENCE:

Any combination of education and experience equivalent to graduation from high school supplemented by course work in business administration and extensive clerical and administrative support experience.

PHYSICAL REQUIREMENTS:

This is sedentary work requiring the exertion of up to 10 pounds of force occasionally, and a negligible amount of force frequently or constantly to move objects; work requires fingering, grasping, and repetitive motions; vocal communication is required for expressing or exchanging ideas by means of the spoken word; hearing is required to perceive information at normal spoken word levels; visual acuity is required for preparing and analyzing written or computer data, operation of machines, determining the accuracy and thoroughness of work, and observing general surroundings and activities; the worker is not subject to adverse environmental conditions.

SPECIAL REQUIREMENTS:

None.

Reasonable accommodations may be made to enable individuals with disabilities to perform the essential tasks.

ADMINISTRATIVE ASSISTANT - 1051

GENERAL DEFINITION OF WORK: *FLSA Status: Non-Exempt*

Performs difficult skilled clerical work providing a variety of administrative, secretarial and record keeping duties; does related work as required. Work is performed under regular supervision.

ESSENTIAL FUNCTIONS/TYPICAL TASKS:

Preparing, maintaining, retrieving and receiving records and files; taking and transcribing dictation; typing, word and data processing duties; serving as receptionist; assisting the public.

(These are intended only as illustrations of the various types of work performed. The omission of specific duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.)

- Types general correspondence, memorandum, reports, schedules, official notices, statistical tables, reports, motions, opinions, briefs, responses, indictments, case records and other materials from rough draft, copy, marginal notes or verbal instruction.
- Takes and transcribes dictation of letters, memoranda and articles relating to specialized fields of work.
- Composes replies to correspondence without dictation in accordance with established procedures.
- Maintains complex accounting, budget, personnel and payroll records; assists with budget preparation, maintenance and account reconciliation.
- Gathers and compiles detailed information for inclusion in special and/or complex reports; prepares reports in accordance with instructions; prepares and disseminates agenda packages.
- Gathers and enters a variety of complex data into computer system; prepares a variety of complex and specialized reports; handles confidential data and other sensitive information.
- Takes, transcribes and/or types minutes of meetings and hearings of a complicated nature; prepares and distributes minutes.
- Serves as a receptionist, answers telephone, and gives information in response to public inquiries.
- Maintains appointment schedules; makes travel arrangements.
- Balances department revenues and petty cash; prepares and submits deposits and related reports.
- Keeps an inventory and orders supplies for department; codes bills for accounts payable and receivable.
- Develops and maintains cross-referenced office files and a variety of other specialized records.
- Sets up filing systems, sorts, indexes, and files material alphabetically, numerically, geographically or by other predetermined classification.
- Operates standard office, data entry and word processing equipment; receives and processes incoming and outgoing mail.
- Performs related tasks as required.

KNOWLEDGE, SKILLS AND ABILITIES:

Thorough knowledge of office practices and procedures; thorough knowledge and ability to use correct grammar, vocabulary and spelling; general knowledge of office automation equipment and software including word processing, database management and spreadsheets; some knowledge of arithmetic and its uses in general office work; ability to communicate ideas effectively in both oral and written forms; ability to gather and give basic information and instructions on departmental programs based on inquiries; ability to enter data, key or type at a reasonable rate of speed; ability to establish and maintain effective working relationships with associates and the general public.

EDUCATION AND EXPERIENCE:

Any combination of education and experience equivalent to graduation from high school supplemented by courses in typing and/or data processing and considerable responsible clerical and office experience.

PHYSICAL REQUIREMENTS:

This is sedentary work requiring the exertion of up to 10 pounds of force occasionally, and a negligible amount of force frequently or constantly to move objects; work requires fingering, grasping, and repetitive motions; vocal communication is required for expressing or exchanging ideas by means of the spoken word; hearing is required to perceive information at normal spoken word levels; visual acuity is required for preparing and analyzing written or computer data, operation of machines, determining the accuracy and thoroughness of work, and observing general surroundings and activities; the worker is not subject to adverse environmental conditions.

SPECIAL REQUIREMENTS:

May require NCIC and/or Notary Public certification depending on departmental assignment.

Reasonable accommodations may be made to enable individuals with disabilities to perform the essential tasks.

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
5/3/2022	I-4	Class C Subdivision – Bond Release D.R. Horton, Inc. Blue Ridge Shadows Phase 3	1 of 1

EXPLANATION & SUMMARY:

Section 155-58(F) of the Warren County Subdivision Ordinance states that, "The Board of Supervisors shall release, either partially or fully, any bond, escrow, letter of credit or other performance guaranty required by the county under this section within 30 days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to be constructed hereunder unless the Board notifies said subdivider or developer, in writing, of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of said thirty-day period; provided, however, that the Board shall not be required to release such bond, escrow, letter of credit or other performance guaranty in an amount to exceed 90% of the actual cost of the construction for which the bond was taken until such facilities have been completed and accepted by the Board or state agency. For the purposes of this subsection, a certificate of partial or final completion of such facilities from a duly licensed engineer or from an appropriate governmental agency may be accepted without requiring further inspection of such facilities."

The final plat for Blue Ridge Shadows subdivision (phase 3) was approved by the Planning Commission on January 10, 2006. A subdivision bond for this phase of the development was posted by D.R. Horton to the County in December 2005 for $2,070,442.00. I have attached a copy of the performance bond and the phasing plan for the entire subdivision. D.R. Horton has been working with VDOT to complete the roads in the subdivision to meet State standards and to be accepted into the State highway system. At this time, all of the required improvements for phase 3 of the subdivision have been completed. Phase 3 encompasses the entire townhouse section. D.R. Horton is still awaiting final approval from VDOT on the remaining phases and from DEQ on phases 1 and 4. The remaining bonds will come to the Board of Supervisors for release once the improvements are complete.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors approve the release of the performance bond (#580721S) for D.R. Horton, Inc. in the amount of $2,070,442.00 for the completion of the required physical improvements for Blue Ridge Shadows Subdivision Phase 3.

SUBMITTED BY:	DISPOSITION OF BOARD:	PROCESSED BY:
Taryn Logan, TGL Deputy County Administrator	☐ APPROVED ☐ OTHER (Describe)	

D·R·HORTON® DHI Listed NYSE
America's Builder

March 17, 2022

Via Email & FedEx Overnight Delivery
Mrs. Taryn Logan
220 North Commerce Ave.
Front Royal, Va. 22630

Re: Blue Ridge Shadows ~ Phases 2, 3, and 4 Bond Release Request

Dear Taryn,

At this time. we have completed our obligations to Warren County and VDOT for Phases 2, 3, and 4 of Blue Ridge Shadows. Shadows Drive which is part of Phase 2 and Phase 4, and also fronts Phase 3, i.e. the townhouse section, has been accepted into the VDOT state maintenance system as of August 14, 2020.

Per your telephone conversation with our Bond Release Consultant Jeff Beachy on March 17, 2022, please accept this letter as our official release request for the above bonds

Please let us know if you need anything further from us to release this bond.

Sincerely.

David Giovannacci
Land Development Manager – Northern Virginia
(301) 789-6517
DGiovannacci *a* drhorton.com

cc: Elliott Butler, D.R. Horton, Inc.
Jeff Beachy, Coastal Site Services, LLC

SUBDIVISION BOND

Bond No. 580721S

KNOW ALL MEN BY THESE PRESENTS, that we D.R. Horton, Inc.

11216 Waples Mill Road, Suite 105 Fairfax, VA 22030

as Principal, and Developers Surety and Indemnity Company

authorized to do business in the State of VA, as Surety, are held and firmly bound unto

County of Warren

as Obligee, in the penal sum of Two Million Seventy Thousand Four Hundred Forty Two Dollars and No Cents

($ 2,070,442.00) DOLLARS, lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, D.R. Horton, Inc.

has agreed to construct in Blue Ridge Shadows Phase 3

the following improvements: Site preparation, Roads and Paving, Earthwork, Water System, Sanitary Sewer System, Storm Drainage System, Erosion and Sediment Control, Landscaping and Mobilization

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall construct, or have constructed, the improvements herein described and shall save the Obligee harmless from any loss, cost or damage by reason of its failure to complete said work, then this obligation shall be null and void; otherwise to remain in full force and effect.

Signed, sealed and dated this 15th day of December 2005.

D.R. Horton, Inc.

Principal

By: [signature], VP

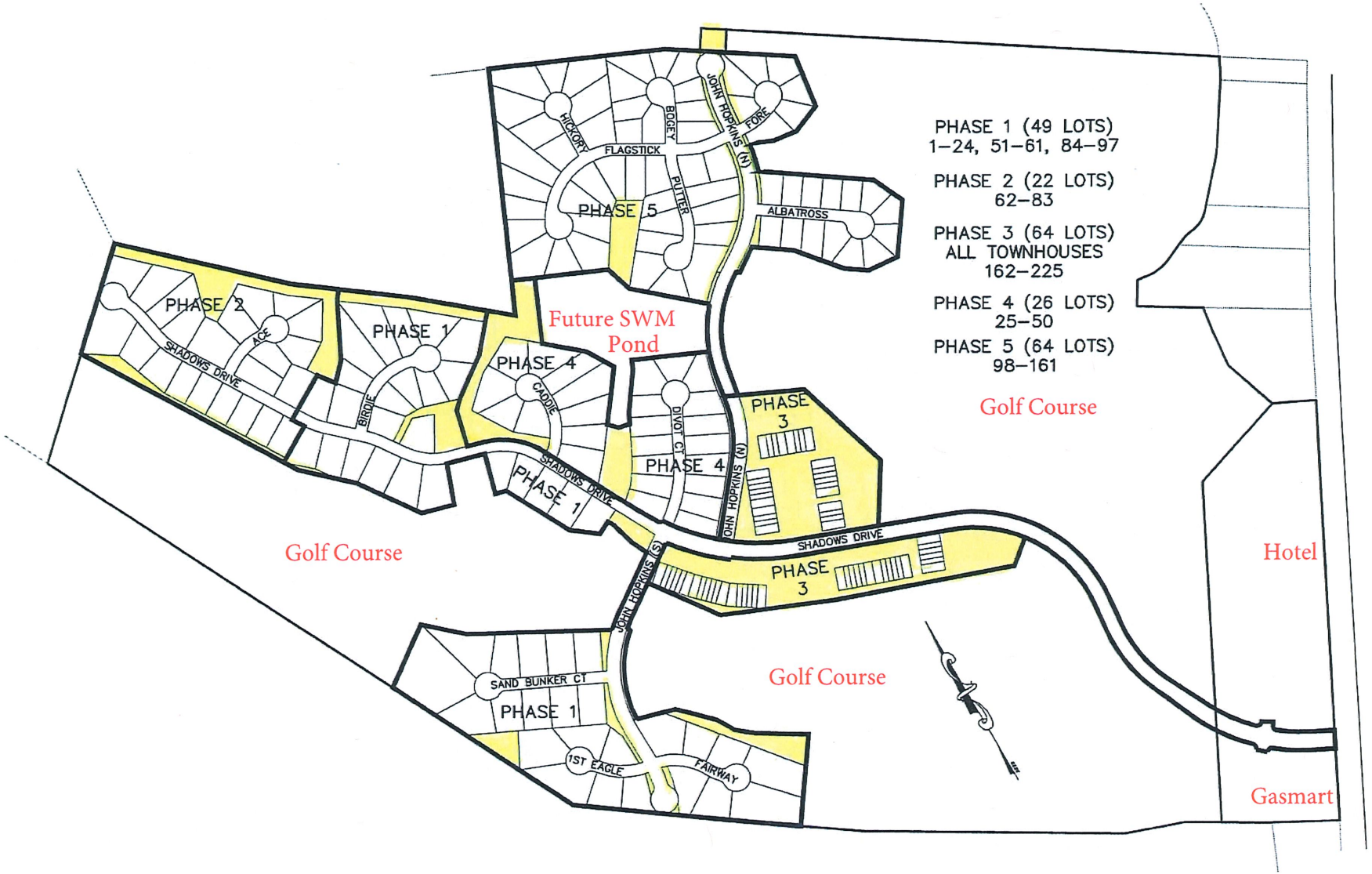
Developers Surety and Indemnity Company

By: [signature]

Denise Taylor

Attorney-in-Fact

C/O WILLIS OF FLORIDA
3000 BAYPORT DRIVE, #300
TAMPA, FL 33607
INQUIRIES: (813) 281-2095


PHASE 1 (49 LOTS)
1–24, 51–61, 84–97
PHASE 2 (22 LOTS)
62–83
PHASE 3 (64 LOTS)
ALL TOWNHOUSES
162–225
PHASE 4 (26 LOTS)
25–50
PHASE 5 (64 LOTS)
98–161
Golf Course
Future SWM Pond
PHASE 5
PHASE 2
PHASE 1
PHASE 4
PHASE 3
PHASE 4
PHASE 1
PHASE 3
PHASE 1
HICKORY
FLAGSTICK
BOGEY
PUTTER
JOHN HOPKINS (N)
FORE
ALBATROSS
ACE
SHADOWS DRIVE
BIRDIE
CADDIE
DIVOT CT
JOHN HOPKINS (N)
SHADOWS DRIVE
SHADOWS DRIVE
JOHN HOPKINS (S)
SAND BUNKER CT
1ST EAGLE
FAIRWAY
Golf Course
Golf Course
Hotel
Gasmart

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
May 3, 2022	**I-5**	Resolutions of Support to Name the Bridges over the North and South Forks of the Shenandoah River	

EXPLANATION & SUMMARY:

Attached are two resolutions of support for the naming of the bridges over the North and South Forks of the Shenandoah River.

COST & FINANCING: N/A

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors adopt the proposed resolutions supporting the naming of the bridge over the North Fork of the Shenandoah River to the "General Daniel Morgan Veterans' Memorial Bridge" and the bridge over the South Fork of the Shenandoah River to the "Major General Dr. Joseph Veterans' Warren Memorial Bridge".

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

RESOLUTION

of the Board of Supervisors of Warren County Naming the Route 340/522 Bridge over the North Fork of the Shenandoah Bridge in Warren County as the "General Daniel Morgan Veterans' Memorial Bridge"

WHEREAS, the people of this county joined in the fight for American Independence, as evidenced by the numbers of soldiers' graves marked in our soil by the Col. James Wood II Chapter of the Sons of the American Revolution; and

WHEREAS, among those joining in the fight for American Independence was one General Daniel Morgan of Frederick County, whose grave is in Mt. Hebron Cemetery in Winchester; and

WHEREAS, because the American fight for Independence went on for eight years with many disappointing outcomes that looked bleak for American Forces, General George Washington did Commission General Daniel Morgan, hero at Cowpens, to fortify Massanutten Mountain, an area of present Warren County, where American Forces and its citizens would take a stand if English Forces ultimately prevailed in the northern Colonies and at the Village of York Towne; and

WHEREAS, General Daniel Morgan, a renowned soldier and General whose war tactics that insured a major victory and a turning point at the Battle of Cowpens are taught still today in our war colleges and to our fighting troops, and whose bravery in the face of enemy forces and leadership brought great loyalty among his troops, insuring ultimate victory; and

WHEREAS, Warren County strongly supports the efforts and sacrifices made by all men and women who have served in the United States Armed Forces and recognizes the unselfish dedication and determination demonstrated by these brave patriots; and

WHEREAS, Section 33.2-213 of the Code of Virginia authorizes the Commonwealth Transportation Board (CTB) to give suitable names to state highways, bridges, interchanges, and other transportation facilities and change the names of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of state highways; and

WHEREAS, Section 33.2-213 provides that the Virginia Department of Transportation shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the CTB and requires that the costs of producing, placing, and maintaining such signs shall be paid by the localities in which they are located.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Warren County, Virginia, in accordance with Section 33.2-213 of the Code of Virginia, does hereby request that the Commonwealth Transportation Board name the bridge on Route 340/522 over the North Fork of the Shenandoah River in Warren County as the "General Daniel Morgan Veterans' Memorial Bridge"; and

BE IT FURTHER RESOLVED, that Warren County agrees to pay the costs of producing, placing, and maintaining the signs calling attention to this naming.

Adopted: May 3, 2022

_____
Cheryl L. Cullers, Chair
Warren County Board of Supervisors

ATTEST:

_____
Edwin C. Daley, Clerk
Warren County Board of Supervisors

RESOLUTION

of the Board of Supervisors of Warren County Naming the Route 340/522 Bridge over the South Fork of the Shenandoah Bridge in Warren County as the "Major General Dr. Joseph Warren Veterans' Memorial Bridge"

WHEREAS, the County of Warren is named for Major General Dr. Joseph Warren, a Founding Father of the United States of America; and

WHEREAS, Dr. Joseph Warren was martyred at the Battle of Bunker Hill June 17, 1775, by British Forces seeking to silence his voice advocating American Independence; and

WHEREAS, Warren County recognizes Dr. Warren's role as a Founding Father by adopting his name and the lowering of county flags on his birthday, June 11th; and

WHEREAS, the Warren County Board of Education has erected historic plaques in each of our schools educating our youth as to the history of Dr. Joseph Warren; and

WHEREAS, Warren County strongly supports the efforts and sacrifices made by all men and women who have served in the United States Armed Forces and recognizes the unselfish dedication and determination demonstrated by these brave patriots; and

WHEREAS, Section 33.2-213 of the Code of Virginia authorizes the Commonwealth Transportation Board (CTB) to give suitable names to state highways, bridges, interchanges, and other transportation facilities and change the names of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of state highways; and

WHEREAS, Section 33.2-213 provides that the Virginia Department of Transportation shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the CTB and requires that the costs of producing, placing, and maintaining such signs shall be paid by the localities in which they are located.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Warren County, Virginia, in accordance with Section 33.2-213 of the Code of Virginia, does hereby request that the Commonwealth Transportation Board name the bridge on Route 340/522 over the South Fork of the Shenandoah River in Warren County as the "Major General Dr. Joseph Warren Veterans' Memorial Bridge"; and

BE IT FURTHER RESOLVED, that Warren County agrees to pay the costs of producing, placing, and maintaining the signs calling attention to this naming.

Adopted: May 3, 2022

_____
Cheryl L. Cullers, Chair
Warren County Board of Supervisors

ATTEST:

_____
Edwin C. Daley, Clerk
Warren County Board of Supervisors

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
5/03/2022	I-6	Zoning Ordinance Amendment – Z2022-03-01 An ordinance to amend Sections §180-8 *Definitions* to Amend Correct State Code Section for Licensing, and §180-21 *Agricultural District*, to Add **Day- or Child-Care Center (Nursery)** as a use allowed by Conditional Use Permit	**1 of 1**

EXPLANATION & SUMMARY:

The applicant, Pastor Lorne Fyfe representing Rivermont Baptist Church has requested to amend the County zoning ordinance to allow for Day/Child Care Centers in the Agricultural zoning district by Conditional Use Permit. This use is currently allowed by conditional use permit in Residential-One and by-right in the Commercial zoning district. The definition allows for six or more children for this use and currently the County allows for five or less by-right in the residential and Agricultural zoning districts in the form of baby sitting and residential home day care services with a Home Occupation permit.

Rivermont Baptist Church would like to open a Day-Care center to serve the community and their congregation for working families. They would be using their Fellowship Hall located across the road from the church along with a vacant lot adjacent to the building which will be used as a non-commercial playground and recreation area. They feel there is a great need for this in the community for working parents in the Fork magisterial district and this use will also employ one full-time and a number of part-time employees depending on the enrollment.

During review of the Virginia State code for this request County staff noticed that the State code section for licensed summer camps had changed from Title 35; §§35-43 through 35-53 to Title 35.1; §§35.1-18 through 35.1-22. Staff is requesting the definition now reflect those changes made in the State Code.

See attached supplemental regulations, definitions and zoning district land uses.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize the proposed zoning ordinance amendment for advertisement for a public hearing.

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

Rivermont Baptist Church
575 Catlett Mountain Road
Front Royal, Virginia 22630

We here at Rivermont Baptist Church request that a text amendment be added regarding using our building as a Daycare facility. We ask that this be added to the conditional use permit. The Church is currently zoned agricultural.

Thank you for your consideration.

Pastor Lorne Fyfe

Pastor Tim Dyke

ORDINANCE TO AMEND AND RE-ORDAIN SECTIONS 180-8 AND 180-21 OF THE WARREN COUNTY CODE

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Sections 180-8 (Definitions) and 180-21 (Agricultural (A) District) be amended and re-ordained as follows:

§ 180-8. Definitions.

A. General usage.

...

B. Interpretation by Zoning Administrator...

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~~ **35.1-18 through 22**, 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

§ 180-21. Agricultural (A) District.

A. Statement of intent...

B. Uses permitted by right...

C. Accessory uses permitted by right...

D. Uses allowed by conditional use permit. The following named uses may be permitted upon issuance of a conditional use permit by the Board of Supervisors:

...

(44) Day- or child-care center (nursery).

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**

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:	PAGE
5/03/2022	I-7	Conditional Use Permit #2022-03-01 Rivermont Baptist Church *Day-Child Care Center/Nursery*	1 of 2

EXPLANATION & SUMMARY:

See attached application and staff report.

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

(1) The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan.

(2) The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

(3) The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

(4) The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or in conflict with the existing and anticipated traffic in the area.

(5) Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided.

(6) In determining whether or not to grant a permit and in determining conditions to be imposed, the governing body shall take into consideration the objectives and intent of this chapter and may impose reasonable conditions that:

(a) Abate or restrict noise, smoke, dust or other elements that may affect surrounding properties.

(b) Establish setback, side and front yard requirements necessary for orderly expansion and to prevent traffic congestion.

(c) Provide for adequate parking and ingress and egress to public streets or roads.

(d) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property.

(e) Prevent such use from changing the character and established pattern of development of the community.

Planning Commission Move to Approve:

Mr. Longo 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 5 – 0.

1. The Day- Child Care Center occupancy shall not exceed the number of occupants to be determined by the Virginia Uniform Statewide Building Code for an educational use facility and Health Department approval for the existing on-site sewage system.

2. The applicant shall comply with all Virginia State regulatory authorities for social services and education, Warren County Building Inspections, County Fire Marshal and Warren County Health Department and their respective regulations and requirements.

3. Any food service areas used for the Day- child Care Center shall be inspected to meet the Health Department regulations.

4. The applicants shall meet the requirements for Code Section §180-15 for Off-Street parking for a Day-care (Nursery) which requires one parking space per 10 children plus one per employee.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize for advertisement of a public hearing the proposed conditional use permit request for a Day/Child Care Center and Nursery.

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

Conditional Use Permit: 2022-03-01 / Day- or Child Care Center (Nursery)
Rivermont Baptist Church, *Applicant*
Staff Report for the Planning Commission
Prepared: February 10, 2022 **Revised:**
Staff Contact: Matt Wendling, Deputy Planning Director/County Floodplain Manager

SUMMARY OF REQUEST

The applicant, Rivermont Baptist Church would like to open a Day- Child Care center to serve the community and their congregation. They would be using their Fellowship Hall located across Catlett Mountain Road from the church along with a vacant lot directly across Figgins Road which will be used as their non-commercial playground and recreation area. They feel there is a great need for this service in the community for working parents in the Fork magisterial district and will also employ one full-time and a number of part-time employees depending on the enrollment. Pastor Lorne Fyfe, their youth pastor will be representing the applicant through the CUP process. This conditional use permit is concurrently going through the process with the text amendment to allow for Day-Child Care Center's in the Agricultural zoning district as a conditional use.

PROPERTY INFORMATION

Property Location: 575 Catlett Mountain Rd.
Tax Map ID: #19---88 and 89A
Magisterial District: Fork
Subdivision: Larry Andrews

City: Front Royal
Zoning: Agricultural (A)
Acres: 3.36 both lots
Existing Land Use: Church Fellowship Hall & Vacant Lot

SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A) — Use: Single Family Dwelling Wooded
South: Agricultural (A) — Use: Church with Parking Lot
East: Agricultural (A) — Use: Vacant Lot – Partially Wooded
West: Agricultural (A) — Use: Single Family Dwelling

PROPERTY HISTORY

This property and the structure originally served as the chapel for Rivermont Baptist Church and was built in 1954. After the construction of the new church and chapel this building reverted to a Fellowship Hall for bible study, Sunday school, a nursery and administrative offices. The structure has a kitchen, 2 bathrooms, nursery area and a church office.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The request is compatible with the Comprehensive Plan Chapter 4: Section 3 Housing and Community Development and Chapter 6: Economic Development and Growth Management which address housing and employment relating to the work force in the County. The need of child-care for working parents is not clearly identified in those chapters but can be assumed as a key component for the working families of Warren County to have access to affordable child-care.

A text amendment to Code Section §180-21 to allow this land-use as a conditional use in the Agricultural (A) zoning district has been submitted by the applicant and is currently in the planning process.

PROPOSAL

Section §180-8 defines Day- Child Care Center (Nursery) is defined as:

> *"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."*

SUPPLEMENTARY REGULATIONS FOR DAY- CHILD CARE CENTER (NURSERY)

The following are listed as supplemental regulations in the Warren County Zoning Ordinance for this land-use.

§ 180-44 **Day-care center or child-care center (nursery).**

A. No such use shall operate without being licensed by appropriate state agencies as a child-care center or adult day-care center. It shall be the responsibility of the owner/operator to transmit to the Zoning Administrator a copy of the original license and all renewals thereafter and to notify the Zoning Administrator of any license expiration, suspension or revocation within three days of such event. Failure to do so shall be deemed willful noncompliance with the provisions of this chapter.

B. Periodic inspection of the premises shall be made by the Warren County Building Official. Failure to promptly admit the Building Official for such inspection shall be deemed willful noncompliance with the provisions of this chapter.

C. These provisions are supplementary and nothing stated herein shall be deemed to preclude application of the requirements of the Virginia Department of Welfare, Virginia Department of Health, Virginia State Fire Marshal or any other local, state or federal agency.

SEWAGE DISPOSAL

This property received a septic permit July of 1957 and an inspection permit May 1959 for the installed septic system. The septic system has been serviced on a regular basis every five years as recommended in the permit.

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 conditions may be modified and additional conditions may be added after all agency comments have been received.

1. The Day- Child Care Center occupancy shall not exceed the number of occupants to be determined by the Virginia Uniform Statewide Building Code for an educational use facility and Health Department approval for the existing on-site sewage system.

2. The applicant shall comply with all Virginia State regulatory authorities for social services and education, Warren County Building Inspections, County Fire Marshal and Warren County Health Department and their respective regulations and requirements.

3. Any food service areas used for the Day- child Care Center shall be inspected to meet the Health Department regulations.

4. The applicants shall meet the requirements for Code Section §180-15 for Off-Street parking for a Day-care (Nursery) which requires one parking space per 10 children plus one per employee.

5. Signage at the location of road crossing to playground and the church at State roads Rt. 677 Catlett Mountain Rd. and Rt. 700 Figgins Rd. shall be posted according to Virginia Department of Transportation regulations.

Cc: Rivermont Baptist Church, Pastor Lorne Fyfe – *Applicant*

To Warren County Planning Commission:

The property located at 575 Catlett Mountain Road Front Royal, VA 22630- Rivermont Baptist Church fellowship hall is going to be used for Rivermont Daycare. This is a non-profit organization that plans on operating Monday-Friday from 6:00 A.M. to 6:00 P.M. The Daycare will have 1 full-time worker and numerous part-time workers contingent on the ratio needed for kids and how many kids will be attending. We also would like to request that the parcel across from the fellowship hall: Tax map #: 19 parcel#: 89A to be used as a playground. The playground still needs to be constructed at this time but if approved, will be built. We thank you for the time and consideration taken for this.

Rivermont Baptist Church

575 Catlett Mountain Road

Front Royal, VA 22630

Pastor Lorne Fyfe

814-494-7762

WCCUP-000163-2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-03-01
Date Received: 1-28-2022
Fee Amount: $ 200.00
Date Paid: 2-14-22 CK# 32617

Applicant Information:

Rivermont Baptist Church
Applicant Name

575 Catlett Mountain Rd. Front Royal VA 22630
Address *City* *State* *Zip*

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

814-494-7762 lornefyfe@gmail.com
Primary Contact Number *Email*

CONTACT: LORNE FYFE
~~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: 575 Catlett Mountain Rd. Front Royal, VA 22630
(2) Election District: Fork District
(3) Tax Map Number: 19 Parcel: 48 + 48A
(4) Subdivision Name: Andrews
(5) Total Area of Property (acres): 1.36 + 2.0 = 3.36
(6) Total Area to be Used (acres): 1.36 + 0.5 = 1.86
(7) Total Road Frontage (feet): 105 - Catlett, 400 ft. along Figgins
(8) Depth of Property (feet): 240
(9) Present Zoning: Agricultural

B. Proposed Use of Property

(1) State the proposed use(s) for the Conditional Use Permit: Day Care Center

(2) Current land use and condition of site: church

(3) Zoning of surrounding land/property: Agriculture / Church

(4) Will development be staged? ☐ Yes ☑ No

(5) Construction Time: None

(6) Season, days, and hours of operation: Mon - Friday 0600 - 1800

(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
This will may be unnecessary as this is a church daycare @ a church property

(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: 5 for now

(12) Number of parking spaces to be provided: Regular 200 Handicap 4

(13) What is the proposed landscaping and buffering for this property?
In place already

C. Plans Prepared By

Name: N/A

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. 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? 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. Nothing Need

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

☐ **An application fee of $500.00.** - wait until after turned in.

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.** - Deed (courthouse) LR- 17 000128 - instrument numbers LR- 16-000 3267

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.** - Fill out one at P&Z office

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

☐ **Environmental and Community Impact Statements** N/A

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** N/A

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.**

Left on South Royal Avenue, right on Rivermont Drive, right on Catlett Mountain Rd, destination is on left in 0.6 mile.

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.

Sean T Ohl / Pastor 1/22/2022

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

Matt Wendling

From: Arthur Boyce <bobby.boyce@vdot.virginia.gov>
Sent: Monday, April 25, 2022 2:51 PM
To: Matt Wendling
Cc: Funkhouser, Rhonda (VDOT)
Subject: Warren-Route 677-Rivermount Baptist Daycare CUP 2022-03-01

<<...>>

DEPARTMENT OF TRANSPORTATION

Staunton/Edinburg Land Development

14031 Old Valley Pike

Edinburg, VA 22824

Dear Mr. Wendling:

We have reviewed the above subject Conditional Use Permit Application dated February 17, 2022 for impacts to the local roadway system. We have no objections to the use of the existing fellowship as 5 child daycare as proposed.

We appreciate the County's efforts to include VDOT in the early planning stages for development and the opportunity to provide comments on this Conditional Use Permit. We ask that you include a copy of this transmittal for official public record. If you have any questions or need further information, please do not hesitate to give me a call.

Sincerely,

Bobby Boyce

VDOT- Land Development Engineer
Shenandoah, Frederick, Clarke, & Warren Counties
14031 Old Valley Pike
Edinburg, VA 22824
(540) 534-3211

Emily Ciarrocchi

From: Matt Wendling
Sent: Wednesday, April 27, 2022 4:29 PM
To: Emily Ciarrocchi
Subject: FW: Request for Comments 2022-03-01 – Rivermont Baptist Church – Conditional Use Permit for Day Care Center – WCCUP-000163-2022

From: David Beahm <Dbeahm@warrencountyva.net>
Sent: Wednesday, April 27, 2022 4:27 PM
To: Matt Wendling <Mwendling@warrencountyva.net>
Cc: Paula Fristoe <Pfristoe@warrencountyva.net>
Subject: Request for Comments 2022-03-01 – Rivermont Baptist Church – Conditional Use Permit for Day Care Center – WCCUP-000163-2022

Comments 2022-03-01 – Rivermont Baptist Church – Conditional Use Permit for Day Care Center – WCCUP-000163-2022:

- 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:
  - This request would require a Change of Use and Occupancy be applied for prior to this activity being approved. The applicant would need to supply detailed information as to the area being used, who will be using, anticipated numbers of individuals using each space and complete details of the entire building to address all code related requirements. The portion of building being used for educational purposes would need to be designed, stamped, sealed and signed by a Virginia Registered Design Professional (RDP).
  - This request would require a building permit for the Change of Use and any work that is required to achieve that. This would possibly include permits for electrical, mechanical, plumbing, etc.

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

Respectfully,

Warren County Building Inspections O

David C. Beahm, CBO
Building Official

220 North Commerce Av
Suite
Front Royal, VA 22

540/636-9
FAX 540/636-4

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.



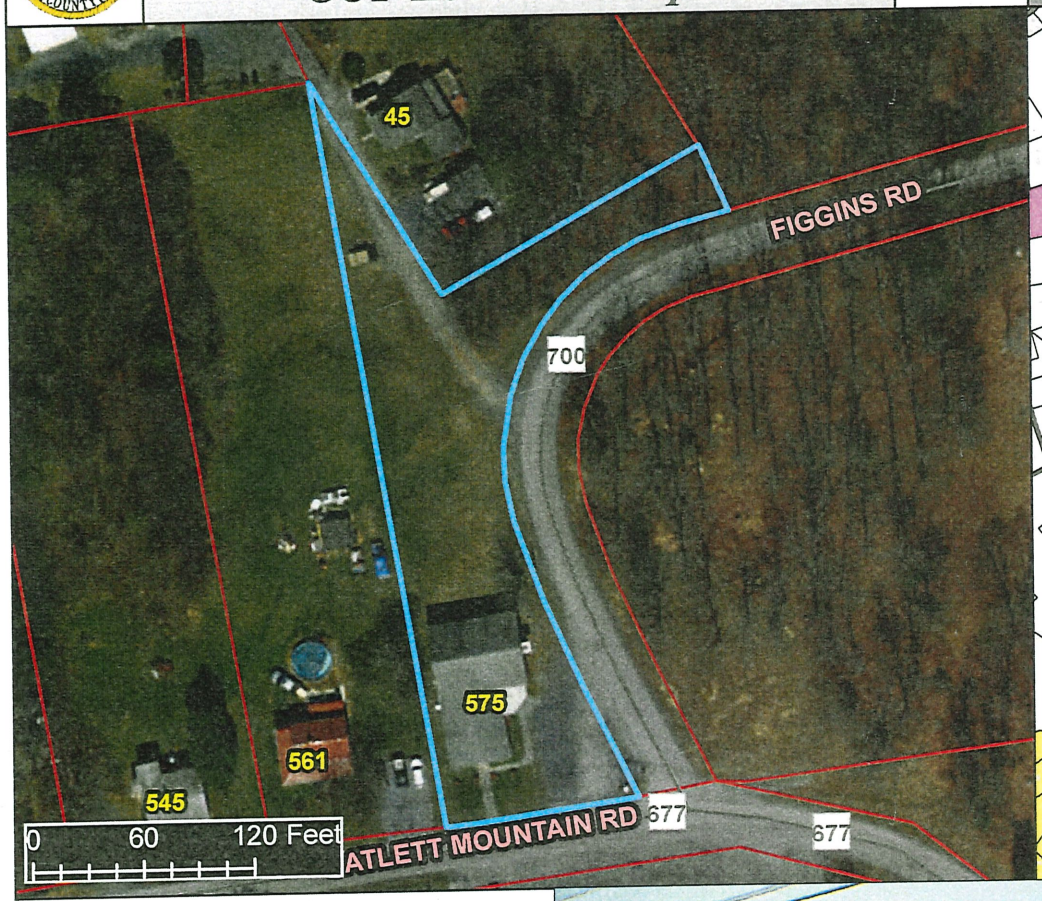


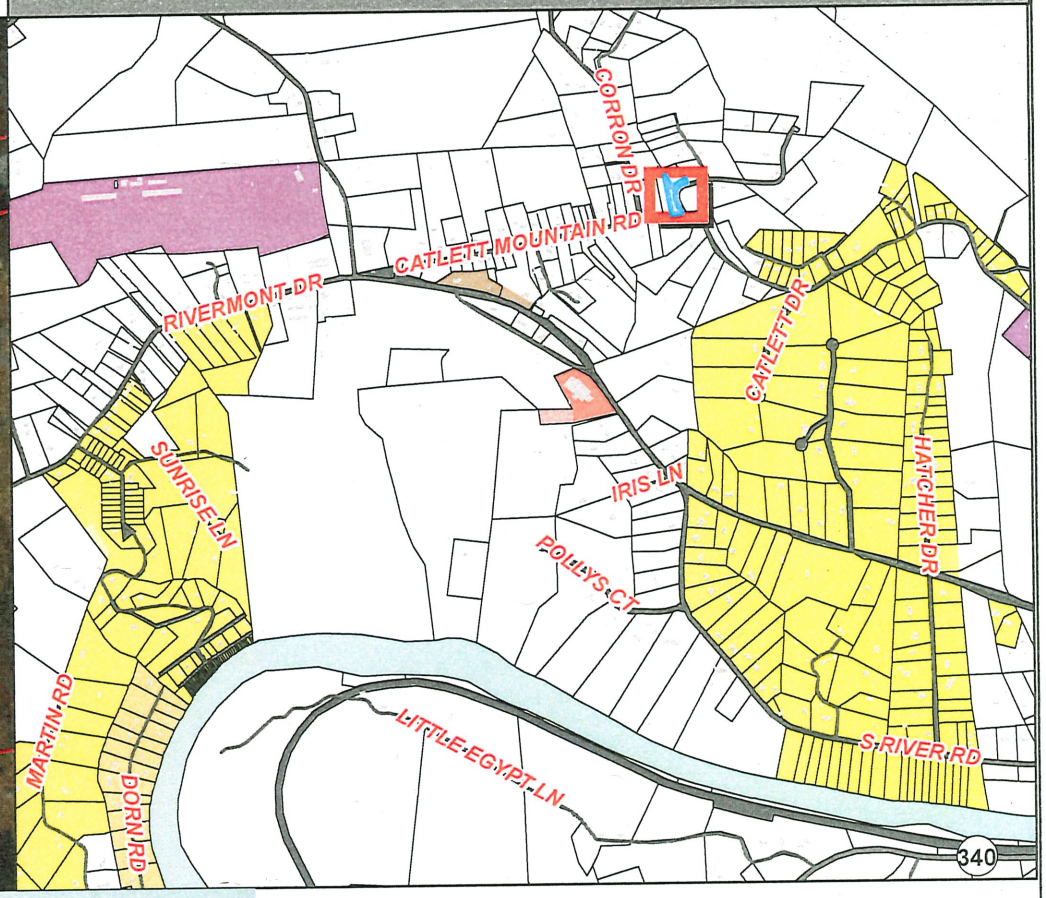


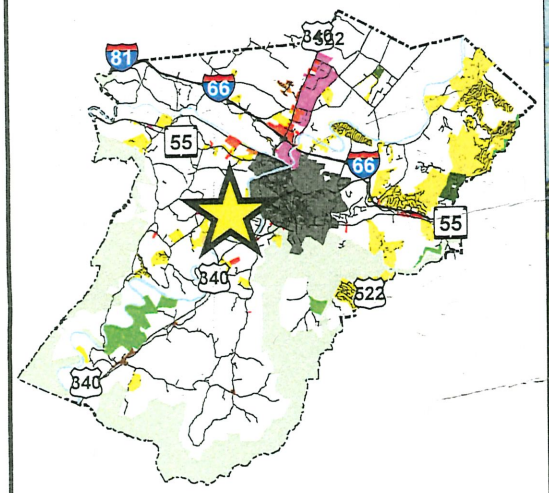
Warren County VA
CUP Location Map

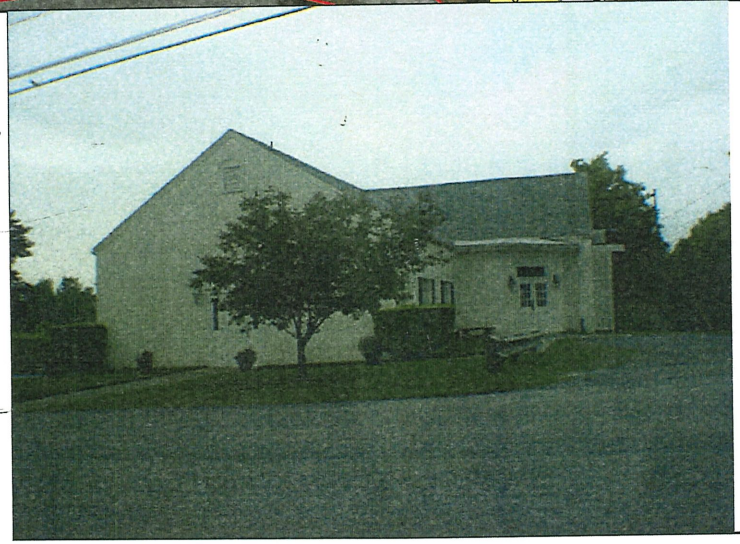
Non-Profit
Applicants: Rivermont Baptist Church

TM 19--------88









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
5/03/2022	I-8	Conditional Use Permit #2022-03-02 Solomon A. Stavis *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.

Planning Commission Move to Approve:

Mr. Longo 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 5 – 0.

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 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.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

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

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

Conditional Use Permit: 2022-03-02/ Short Term Tourist Rental
Solomon A. Stavis, *Applicant/ Owner*
Staff Report for the Planning Commission
Prepared: February 15, 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 rental of the single-family dwelling for less than thirty days. The applicant and his wife recently purchased the property in January 2022 in order to move to the Shenandoah Valley and Warren County and telecommute to Washington, D.C. Their jobs entail a significant amount of travel and they plan to rent the property when they are away. The do intend to manage the rental themselves but will have a property manager and cleaning company which will be available if emergency maintenance is necessary or arises with guests. They are currently researching and interviewing for a locally based manager and management company.

PROPERTY INFORMATION

Property Location: 9 Oak Hill Dr.
Tax Map ID: # 28P-2---6
Magisterial District: South River
Subdivision: Oak Hill Section 2
Town/Village: Front Royal
Zoning: Agricultural (A)
Acres: 2.69
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:	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 in a small Agricultural subdivision with single-family dwellings and woodland areas, it shares a common driveway with 2 neighbors which is located off Stonewall Jackson Highway (Rt.340S).

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 §180-21. 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. **Staff has submitted a request for septic system information for the property for the septic system operational permit to WCHD. Staff will provide additional comments if necessary once comments have been received from 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 is sufficient parking for at least three (3) vehicles in the driveway adjacent to 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 needs to be submitted to be reviewed and approved by staff. All other requirements will also need to be met prior to a certificate of zoning for the business is issued by the 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. **This property is located in Oak Hill subdivision which doesn't have a POA/HOA/Road Maintenance committee and the driveway is paved in the shared area.**

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 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. **This dwelling meets the setback requirements to adjacent single-family dwellings which is 110' to the closest dwelling 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 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 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.

Cc: Solomon A. Stavis, Applicant



STATEMENT OF JUSTIFICATION

February 6th, 2022

To Whom it May Concern,

Thank you for your consideration of my conditional use permit for short term rental of my personal residence located at 9 Oak Hill Dr, Front Royal, VA 22630. As a U.S. government employee, my job has provided me the flexibility to work remotely so my wife and I are happy to make the move to Shenandoah where we have wanted to live for many years. However, while we are not home, we would like the opportunity to offer our home to guests when we travel to see family and friends.

We be focusing on quiet renters who will be mindful of the area and the property. We plan to be the full-time property manager's and will make ourselves available to guests 24/7 in order to make sure our neighbors don't have any issues with guests. In addition, we plan to follow a thorough pre-qualification and verification process prior to renting to prospective guests.

Sincerely,

Mr. Solomon & Mrs. Anisa Stavis

WCCUP-000164-2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-03-02
Date Received: 2/9/22
Fee Amount: $500.00
Date Paid: 2/

Applicant Information:

Solomon Stavis
Applicant Name

9 Oak Hill Dr, Front Royal, VA 22630
Address *City* *State* *Zip*

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

202 351 1887 solomonstavis26@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: 9 Oak Hill Dr, Front Royal, VA 22630
(2) Election District: 6
(3) Tax Map Number: 28P 2 6
(4) Subdivision Name: OAK HILL
(5) Total Area of Property (acres): 2.69
(6) Total Area to be Used (acres): 2.69
(7) Total Road Frontage (feet): 230
(8) Depth of Property (feet): 564
(9) Present Zoning: A

B. Proposed Use of Property

(1) State the proposed use(s) for the Conditional Use Permit: Short term retnal while not lviing in the house

(2) Current land use and condition of site: residential and excellent

(3) Zoning of surrounding land/property: Residential

(4) Will development be staged? ☐ Yes ☒ No

(5) Construction Time: None

(6) Season, days, and hours of operation: while not living there but up to 365 days a year

(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: 6

(12) Number of parking spaces to be provided: Regular 2 Handicap

(13) What is the proposed landscaping and buffering for this property? Grass and Trees

C. Plans Prepared By

Name: Solomon Stavis

Address: 9 Oak Hill Dr

Telephone Number: 202 351 1887

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.

Solomon Stavis — 01/06/2021
Applicant Signature — Date

Solomon Stavis — 01/06/2021
Property Owner Signature — Date

Accepted by: Matt Wendling — Date: 2/14/2022

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

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

March 2, 2022

Mr. Matt Wendling, Deputy Planning Director / County Floodplain Manager
Warren County Planning and Zoning
220 N Commerce Avenue, Suite 400
Front Royal, Virginia 22630

RE: Request for comments; 2022-03-02
Owner: Solomon & Anisa Stavis

Dear Mr. Wendling,

I have reviewed the request for comments regarding the property at 9 Oak Hill Dr, Front Royal, Virginia, in Warren County, (property identified on tax map # 28P-2-6), and I offer the following comments:

1. The permit for a sewage disposal system was issued on August 25, 2011 with an operation permit issued November 30, 2012. The system is designed to serve a 3 bedroom house with 6 occupants maximum.

2. The property is served by a private well. The well water should be tested for bacteria. If the sample result is positive, steps must be taken to correct the problem and the water should be re-tested.

3. All trash and garbage shall be placed in containers with tight-fitting lids.

4. There shall be no food service provided unless the Virginia Department of Health Food Regulations are met.

5. All Virginia Department of Health Tourist Establishment Regulations shall be met as necessary. The owners can contact our office for further information.

6. The sewage disposal system should be pumped if this has not been done in the last three to five years.

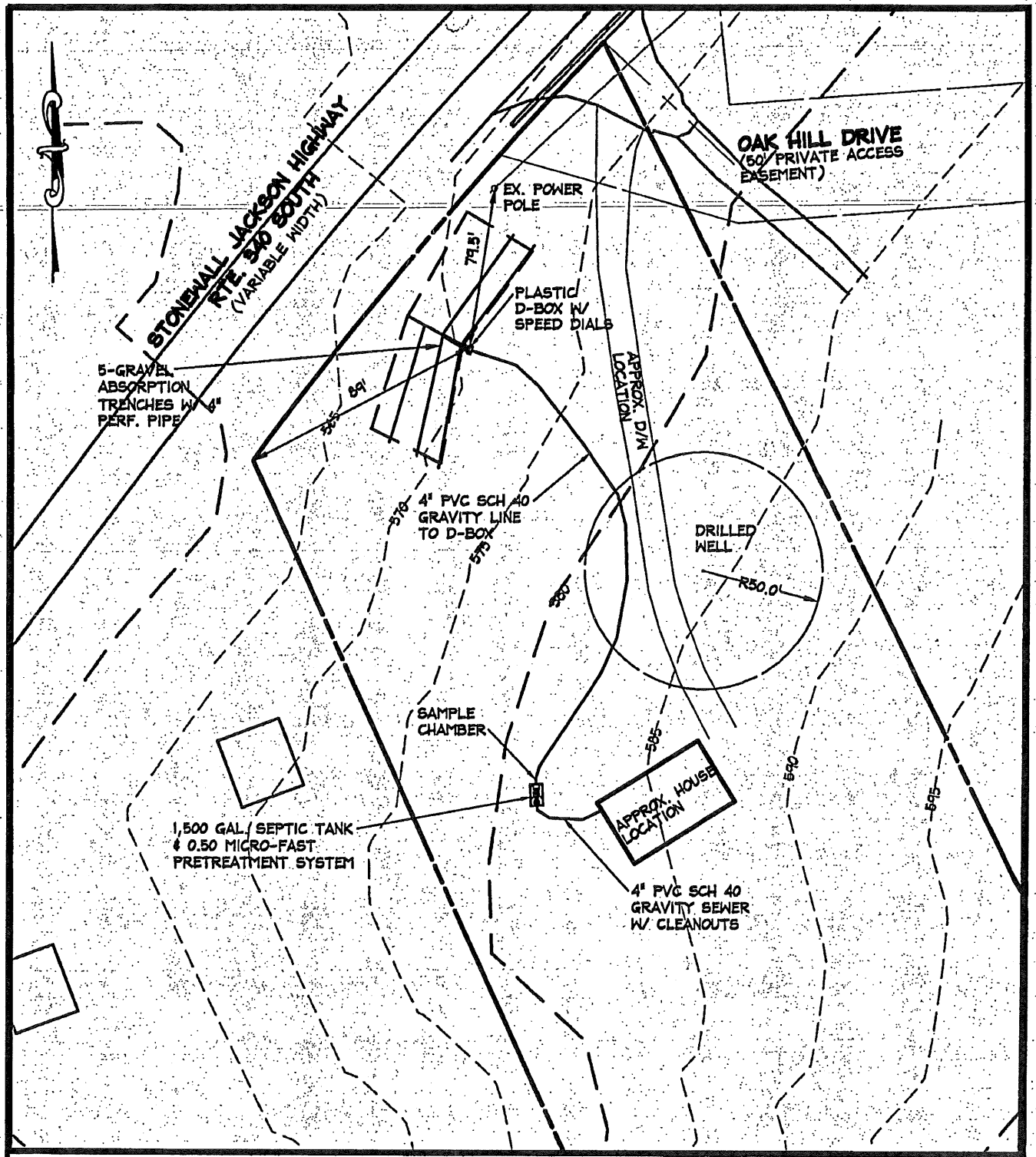
7. Do not connect any hot tub discharge to the sewage disposal system.

Please call me at (540) 635-3159 if you have any questions.

Sincerely,

GSmith

Greg Smith
Environmental Health Specialist



SYSTEM INSTALLATION PLAN

OAK HILL
SECTION 2, LOT 6

SOUTH RIVER DISTRICT
WARREN COUNTY, VIRGINIA

DATE	FEB. 2012
SCALE	1" = 60'
PROJECT NO.	21:9967
SHEET	1 OF 1

ECS LLC
MID-ATLANTIC

166 WINDY HILL LANE
WINCHESTER, VA 22602

PHONE: (540) 667-3750
FAX: (540) 667-3730
www.ecslimited.com

COMMONWEALTH OF VIRGINIA
MICHAEL S. STICKLEY
Lic. No. 031162
02/21/12
PROFESSIONAL ENGINEER

28P-2-6

Joiner Micro Laboratories, Inc.

77 West Lee Street, #202 • Warrenton, Virginia 20186 • 540-347-7212
info@joinermicrolab.com

JML LAB ID # 116625

CERTIFICATE OF ANALYSIS

NAME: Valley Water Solutions
ADDRESS: 1024 Horseshoe Drive
Front Royal, VA 22630

PROPERTY: Doug Saylor
9 Oak Hill Drive
Front Royal, VA 22630
Lot # 6 Oak Hill Subdivsion

SAMPLE SOURCE: Well
SAMPLE LOCATION: Bath Tap
DATE AND TIME SAMPLE COLLECTED: 11-20-12/1700
SAMPLE COLLECTED BY: James Dellinger
SAMPLE RECEIVED FROM: JML courier (George O'Connell)
DATE AND TIME SAMPLE RECEIVED IN LAB: 11-21-12/1404
SAMPLE CONTAINER: Sterile Plastic Container supplied by JML
CHLORINE SCREEN: Non Detectable (tested at Lab)
DATE AND TIME OF SAMPLE ANALYSIS: 11-21-12/1407

TESTS REQUESTED: TOTAL COLIFORM BACTERIA

METHOD OF ANALYSIS: ONPG-MUG TEST (SM21:9223)

RESULTS: ABSENT for Total Coliform Bacteria
ABSENT for *E. coli*

This water sample **HAS PASSED** the minimum potable water test requirements established by the Virginia Department of Health.

Certified by: Robyn Joiner
Lab Director
November 26, 2012

Reported results relate only to the items tested, as received by the laboratory.
The test results in this report meet all NELAC requirements for accredited parameters, unless otherwise noted in this report.
Pursuant to NELAC, this report may not be reproduced except in full, without written consent from Joiner Micro Laboratories.
For questions please contact the Lab Director at the email address listed on this page.

#460034

Emily Ciarrocchi

From: Matt Wendling
Sent: Wednesday, April 27, 2022 9:43 AM
To: Emily Ciarrocchi
Subject: FW: Request for Comments 2022-03-02 – Solomon Stavis – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000164-2022

From: David Beahm <Dbeahm@warrencountyva.net>
Sent: Wednesday, April 27, 2022 9:36 AM
To: Matt Wendling <Mwendling@warrencountyva.net>
Cc: Paula Fristoe <Pfristoe@warrencountyva.net>
Subject: Request for Comments 2022-03-02 – Solomon Stavis – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000164-2022

Comments 2022-03-02 – Solomon Stavis – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000164-2022:

- 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 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 it 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.
    - 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 O

David C. Beahm, CBO
Building Official

220 North Commerce Av
Suite
Front Royal, VA 2

540/636-9
FAX 540/636-4

dbeahm@warrencountyva.net

www.warrencountyva.net

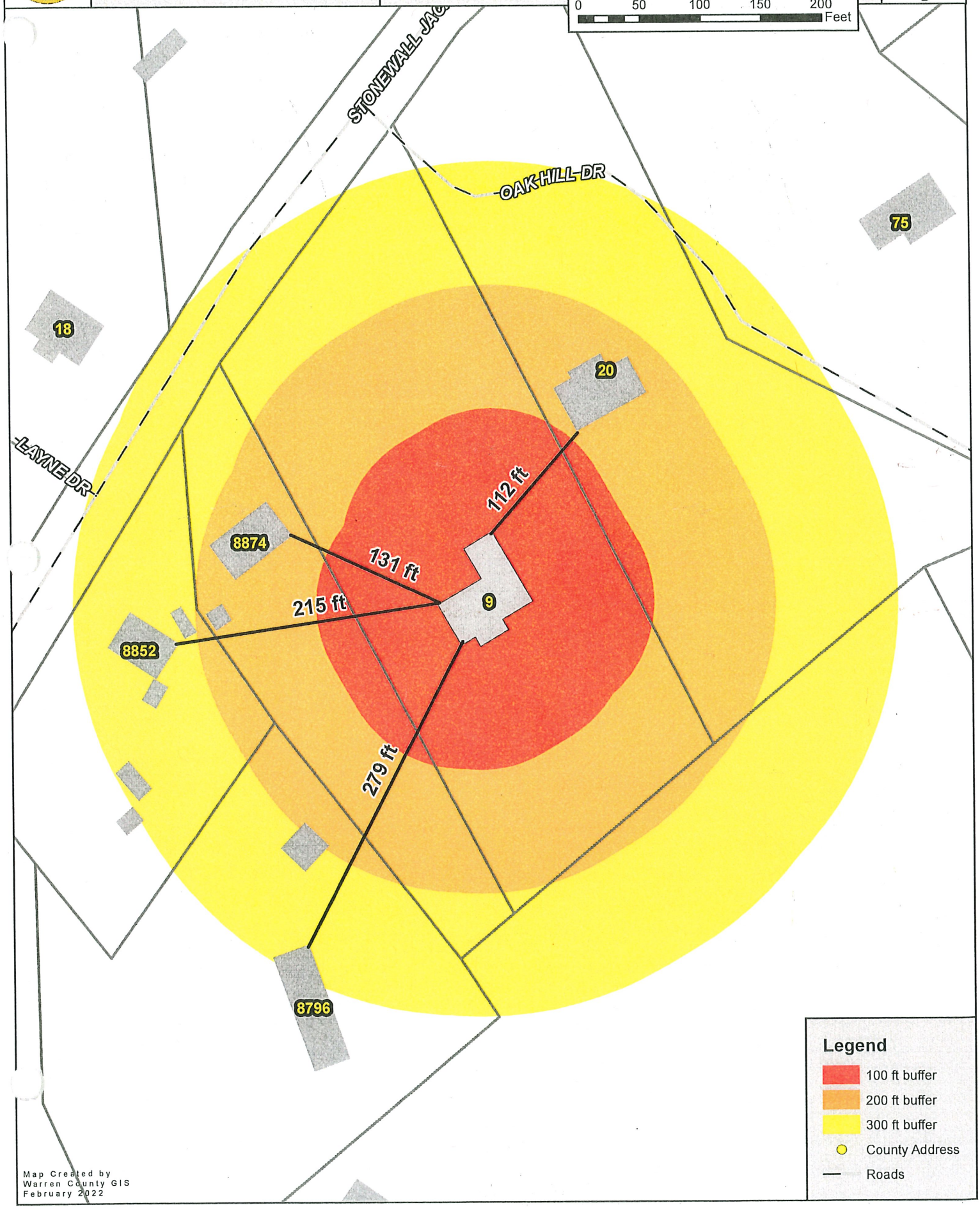
THIS MESSAGE IS INTENDED SOLELY FOR THE INDIVIDUAL(S) NAMED IN THE HEADER. THIS MESSAGE MAY CONTAIN MATERIAL THAT IS PRIVILEGED OR CONFIDENTIAL. IF YOU ARE NOT ONE OF THE INTENDED RECIPIENTS, PLEASE DO NOT READ, COPY, USE, OR DISCLOSE THIS MESSAGE TO OTHERS; PLEASE NOTIFY THE SENDER BY REPLYING TO THIS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

Warren County, VA
2021

9 Oak Hill Drive
TM 28P--2-----6

Distance to Surrounding Homes
1 inch = 100 feet

0 50 100 150 200 Feet

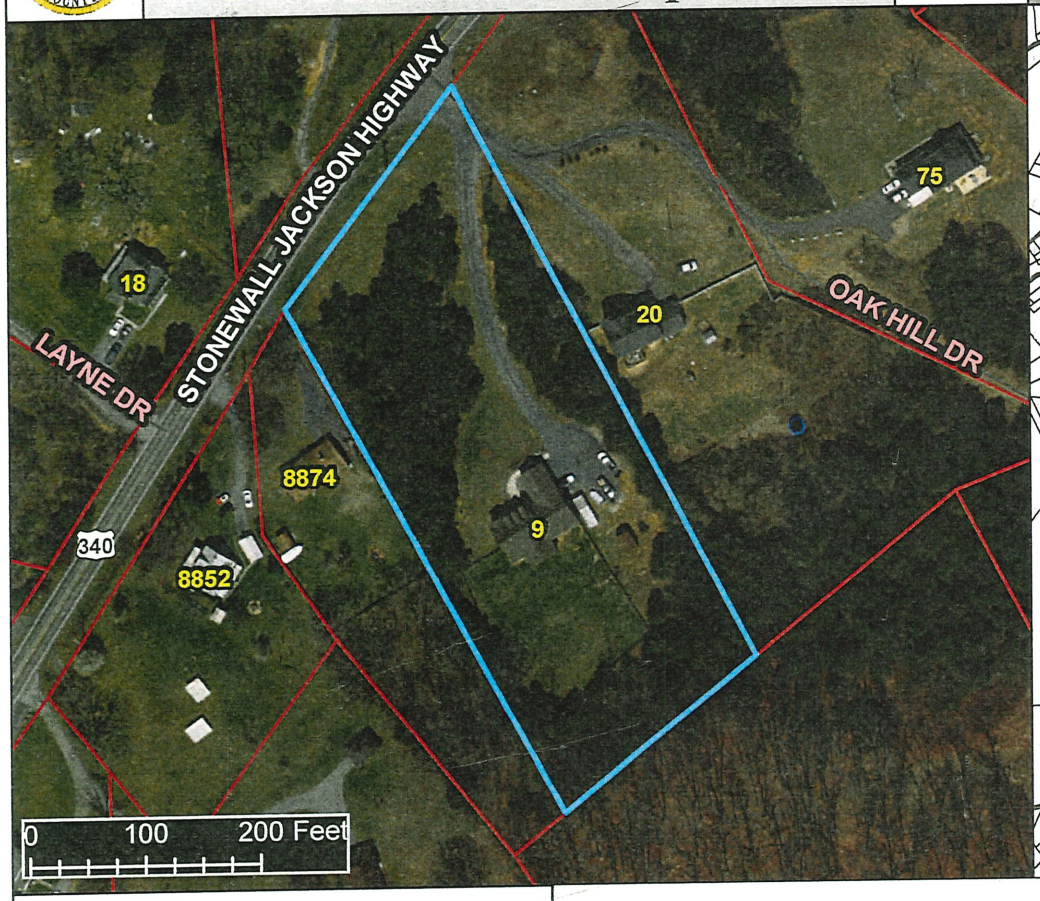


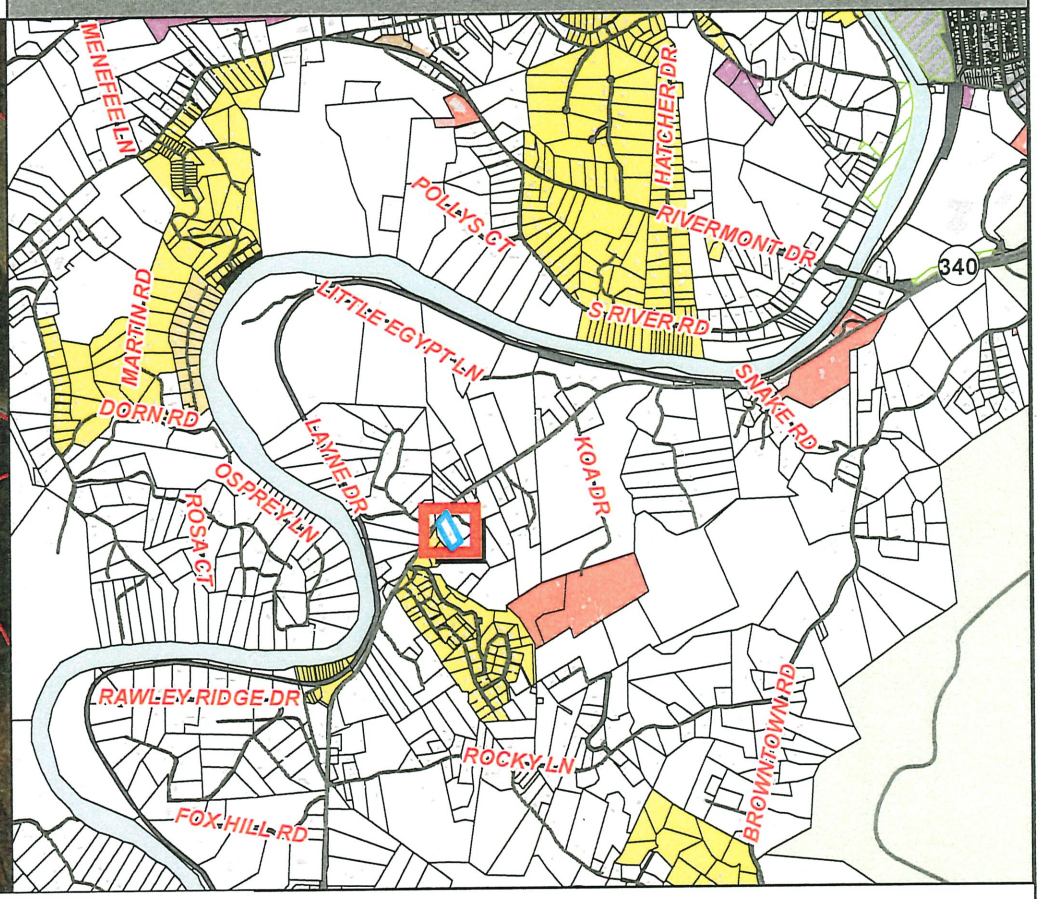
Map Created by
Warren County GIS
February 2022

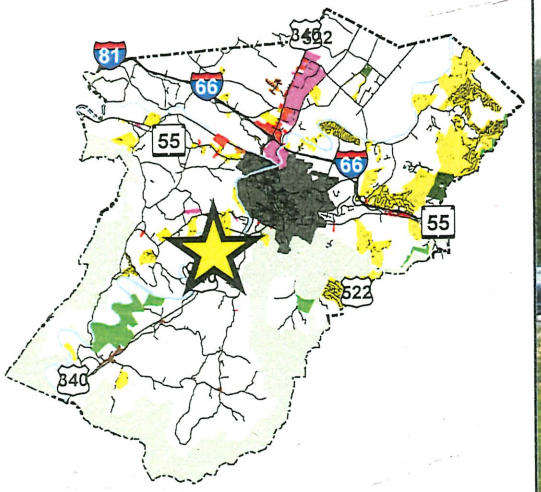
Warren County VA
CUP Location Map

hort Term Tourist Rental
Applicants: Solomon Stavis

28P--2-----6
Oak Hill 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:
05/03/2022	I-9	Conditional Use Permit #2022-03-03 Jared Smith *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, April 13, 2022, Mrs. Richardson 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 5-0.

RECOMMENDED CONDITIONS:

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

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.

2. The maximum number of occupants shall not exceed six as determined according to the Health Department permit for a three-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 within the subdivision shall be prohibited.

PROPOSED OR SUGGESTED MOTION:

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

SUBMITTED BY:	**DISPOSITION OF BOARD:**	**PROCESSED BY:**
Chase Lenz, Zoning Administrator	☐ APPROVED ☐ OTHER (Describe)	

Conditional Use Permit: 2022-03-03 / Short-Term Tourist Rental
Jared Smith, *Current Owner/Applicant*
Prepared: February 24, 2022
Staff Contact: Chase Lenz, Zoning Administrator

SUMMARY OF REQUEST

The applicant is requesting a conditional use permit for a short-term tourist rental for the property he recently purchased in December of 2021. The dwelling will be available year-round for short-term rentals for individuals visiting the Warren County area. The owner is currently vetting local property management companies to assist with coordinating professional services for weekly garbage removal, cleaning, and property management. The applicant currently lives in Ashburn and has owned and operated a 5-star rated short-term tourist in Stafford County for the past year.

PROPERTY INFORMATION

Property Location: 31 Henry Way
Tax Map ID: 24A--2-7-313
Magisterial District: Shenandoah
Subdivision: Blue Mountain
City: Linden
Zoning: Residential-One (R-1)
Acres: 1.33 Acres
Existing Land Use: Single Family Dwelling

SURROUNDING ZONING DISTRICTS & USES

North: Residential-One (R-1) — Use: Single Family Dwelling
South: Residential-One (R-1) — Use: Single Family Dwelling
East: Residential-One (R-1) — Use: Vacant Lot - Woodlands
West: Residential-One (R-1) — Use: Vacant Lot - Woodlands

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Residential-One zoning district. The single-family dwelling was constructed in 2003. The property was used for long-term rentals by the previous owner. 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 residential land uses. A short-term tourist rental is a use allowed by conditional use permit in the Residential-One 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 six (6) occupants for the dwelling. The applicant has provided documentation requesting a maximum of six (6) occupants. Warren County Assessment data lists three (3) 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. **Wooded areas on the property partially screen the dwelling from all adjacent property boundaries. The adjacent parcels to the east and west are undeveloped lots with native vegetation. The nearest properties to the north and south are separated by New Dominion Way and by Henry Way, respectively.**

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. **The Blue Mountain Owners' Board of Directors has submitted comments stating they have no objection to the request.**

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 170' to the southwest.**

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 six as determined according to the Health Department permit for a three-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 within the subdivision shall be prohibited.

Cc: Jared Smith – Owner/Applicant

Statement of Justification

To: Warren County Planning Commission

Summary of Proposed Use: As the new owner of 31 Henry Way as of December 2021, and member of the Blue Mountain community, I am seeking the approval of a conditional use permit to convert this property to a short-term rental. For the last five years this property has been utilized as a long-term rental, with little to no routine property maintenance, and the exterior was strewn with trash from careless tenants. My plan for this property is to renovate the interior, and rehabilitate the exterior environment by keeping the yard cut weekly, trash & debris removed weekly, and the property professional cleaned on a weekly basis.

As a Superhost of a 5-Star rated short-term rental located at 303 King Street, Falmouth, VA in Stafford County, I feel equipped to own and operate this short-term rental property with a high level of professionalism, and with a focus on limiting the impact to the neighborhood. I have never had a complaint from a neighbor on my other rental properties, and I intend to keep it that way with this property.

We are currently vetting Property Management Companies in the area to assist with coordinating services for garbage removal, maid service, and preventative maintenance. The Property Management Company will provide a 24x7 emergency phone number that will be provided to guests in case of emergency.

If a permit is approved, I will make every guest I host aware of the rules and regulations of the permit, and covenants of the BMPOA as directed, and uphold the character and establish pattern of the community.

I look forward to your review and feedback of my Conditional Use Permit request.

Best Regards,

Jared Smith
412-400-0474
jared@landsmithusa.com

WCCUP-000165-2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-03-03
Date Received: 2·11·22
Fee Amount: $ 500.00 CK# 1093
Date Paid: 2·11·22

Applicant Information:

Jared Smith
Applicant Name

44374 Apache Circle, Ashburn, VA 20147
Address *City* *State* *Zip*

31 Henry Way, Linden, VA 22642
Property Location for conditional use permit if Different than Applicant's Address

202-577-7427 jared_smith@outlook.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: 31 Henry Way, Linden, VA 22642
(2) Election District: Blue Mountain Sanitary District
(3) Tax Map Number: 24A 2 7 313
(4) Subdivision Name: Blue Mountain Property Owners Association - BMPOA
(5) Total Area of Property (acres): 1.33 acres
(6) Total Area to be Used (acres): 0.6 acres
(7) Total Road Frontage (feet): 246 feet on Henry Way, 231 feet on Cliff Road (corner lot)
(8) Depth of Property (feet): 255 feet
(9) Present Zoning: Residential R1

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: Residential

(3) Zoning of surrounding land/property: Residential R1

(4) Will development be staged? ☐ Yes ☒ No

(5) Construction Time: NA

(6) Season, days, and hours of operation: Construction is NA - Short Term Rental is 24/7

(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: 6

(12) Number of parking spaces to be provided: Regular 4 Handicap 0

(13) What is the proposed landscaping and buffering for this property?

Private corner lot with no direct view into the property other than the driveway only from the neighbor at 28 Henry Way
All usable area including deck and yard are behind the house and surrounded completely by trees, not visible by neighbors.
Landscaping will maintain the natural environment of grass and trees with no additional man made structures other than existing shed

C. Plans Prepared By

Name: Jared Smith

Address: 44374 Apache Circle, Ashburn, VA 20147

Telephone Number: 202-577-7427

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 impact of visibility, quiet hours from 10pm to 9am, minimal traffic increase from a maximum of 6 guests at one time.

(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?)

Garbage will be collected and hauled away. No other debris anticipated.

(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 - House does not have fireplace and yard does not have fire pit.

(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.)

None.

(6) What will be the impact on traffic?

The short term rental will be occupied at most 60% of the year (likely much less) with a maximum of four cars, which decreases the impact on traffic compared to the long-term rental format from the last 5 years of the Seller's tenants which had 4 cars coming and going from this property daily.

(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.

2 motion activated flood lights over the driveway - 80 watt each

1 front door entry light - 65 watt

4 back door entry lights (2 upstairs, 2 downstairs) - 65 watt each

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.**

Right on N. Commerce Ave > Left on South Street Route 55

Left on Freezeland Road Route 638 > Left on Blue Mountain Road Route 638

Left on Cliff Road > Left on Henry Way > First house on the left

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: 2/11/22

Property Owner Signature — Date: 2/11/22

Accepted by: Matt — Date: 2/11/2022

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

HenryHouse
PROPERTY MANAGEMENT PLAN
Address: 31 Henry Way, Linden, VA 22642

IN CASE OF EMERGENCY

If there is an emergency, or there are questions in regards to the property, please contact **Jared Smith** at **412-400-0474** & jared@landsmithusa.com, or at **Property Mgmt Co (TBD)** at **PHONE #.** If the emergency requires immediate assistance, call the following or 911.

Warren County Sheriff's Department: 540-636-7100 or 911, 200 Skyline Vista Drive, Front Royal, VA 22630.

Linden Volunteer Fire & Rescue: 540-636-3830 or 911, 4561 John Marshall Hwy, Linden, VA 22642

Warren Memorial Hospital: 540-636-0300 or 911, 351 Valley Health Way, Front Royal, VA 22630

Electrical Outage: Rappahannock Electric Cooperative at 800-552-3904.

Emergency Evacuation:

Head East (uphill) on Henry Way
Turn right onto Rocky Mt. Road
Turn left onto Old Logging Rd
Turn right onto Freezeland Rd (Rt 638)
Turn right on John Marshall Hwy (Rt 55)
Turn right on Apple Mountain Rd (Rt 79)
Turn left onto interstate 66 to head west, or turn right on interstate 66 to head east

OCCUPANCY

The Conditional Use Permit and Health Department records limit the occupancy for this short-term rental at Six (6) People and Three (3) Bedrooms.

NOISE

Quiet hours are from 10pm to 9am daily. It shall be a violation of the Warren County Code Chapter 123 for any person, without compelling reason, to make noise that by reason of its volume, pitch, duration, or repetition, considering the time of day, is likely to disturb the rest of any person of ordinary sensibilities or interfere with such person's lawful and peaceful enjoyment of property owned or rented by him.

PARKING

Parking is limited to six (6) cars in the driveway. Under no circumstances should cars park along the roadway.

TRASH AND RECYCLING

All trash and recycling shall be placed in containers provided by the owner. Owner and cleaning team to pick up guests' trash on a routine basis; no outdoor trash will be permitted.

CHECK-IN & CHECK -OUT

An online platform will be used which prescreens all guests through 3rd party ID verification; host may further qualify guests with minimum age requirements, previous host feedback, limit number of guests, and notice of Host Rules which details expected behavior and care of Property during a guest's occupancy. Once a host accepts a reservation, guests are sent a greeting that includes host's full contact details, property address, and reiterates Host Rules. A second welcome message is sent just prior to the day of check in with lockbox code instructions and reiterates Host's Rules and instructs guests to review Property Guide Book the property immediately upon access. Property

Guide Book includes Host's Rules, emergency contact info, area detail, local business recommendations, internet access, neighborhood rules and details, and multiple, local, travel brochures and area guide and maps (and example of House Rules is attached)

WIFI/PHONE/ETC

Property will have landline as required, as well as free internet for all guests. The property Guide Book will provide login information.

SPECIFIC PROPERTY DETAILS

Outside: In advance of bookings, Property shall cite all of the specific property regulations identified below. This would be reiterated at actual time of booking and in Property Guide Book located on premises too.

Property corners are clearly identifiable; on the other side the lot is vacant. All railings on single deck are to code; deck and all improvements are in good, well-maintained condition.

Inside: In advance of bookings, Property shall cite all of the specific property regulations identified below. This would be reiterated at actual time of booking and in property Guide Book located on premises.

House amenities would include a fully-stocked kitchen, beds with fresh linen service, a washer/dryer, and fully-furnished living spaces. HVAC, electric and all plumbing in good, well-maintained condition. All windows are in working order and are sized according to code for emergency ingress/egress. House is equipped with smoke detectors, Carbon monoxide alarm, and two fire extinguishers.

Property inspections would be completed after every stay by a trained cleaning team and when necessary the Owners will inspect as well. Inspections include interior and exterior review of Property for general upkeep and routine maintenance as needed to keep Property in excellent condition.

AREA ATTRACTIONS

List area attractions and distance to location. Example provided below:

- Listing and Guide Book shall promote the Property being a short drive to the Shenandoah National Park, Golf Course, Canoe Companies, downtown shopping and restaurants, grocery stores, drug stores, etc. Additionally, Host will also stock the Guide Book with brochures, maps and guides from Front Royal Visitor's Center.
- An example of Host's Recommendations in the Guide Books, promoting local attractions, restuarants, wineries & breweries, is attached.

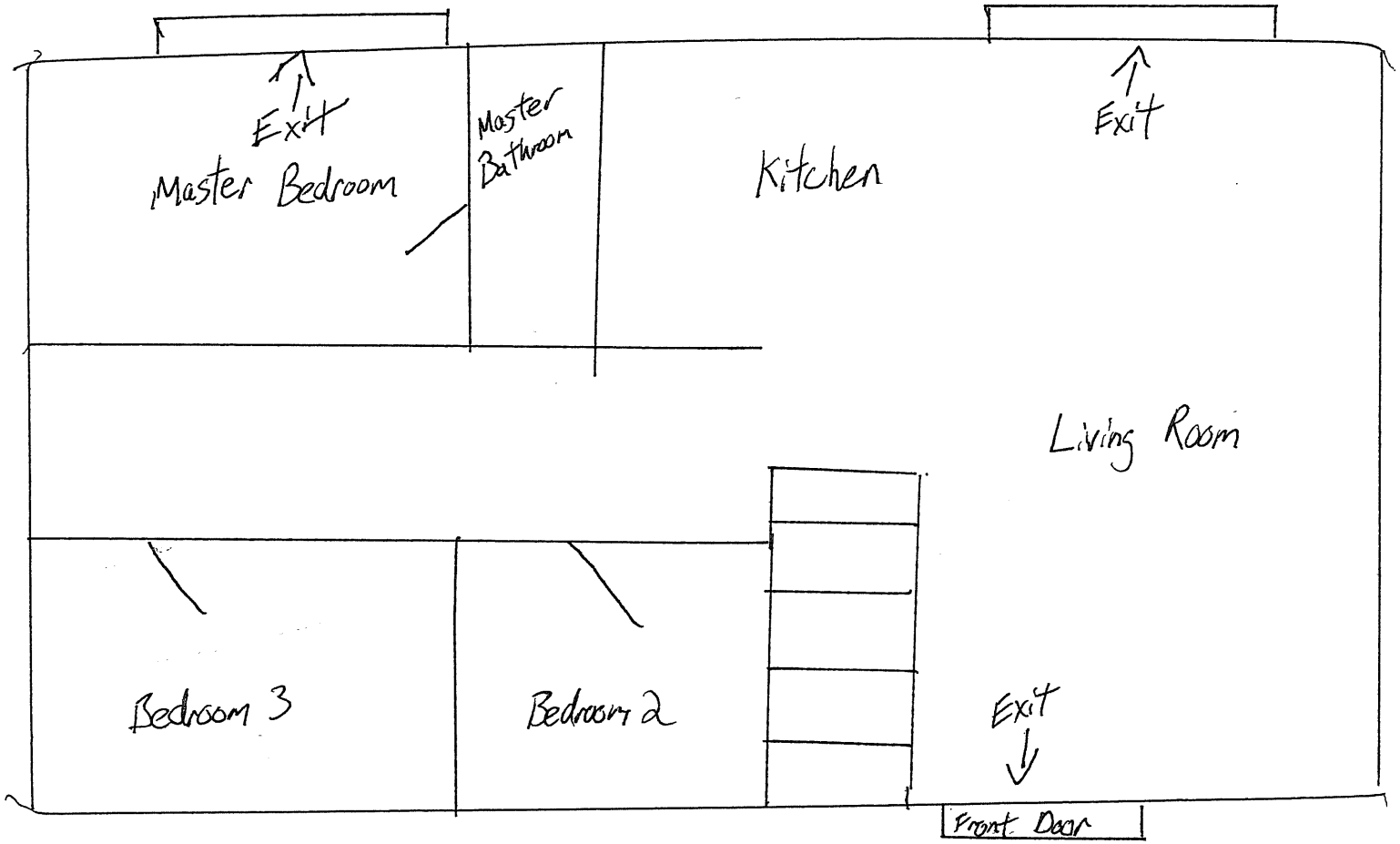
SPECIFIC PROPERTY REGULATIONS

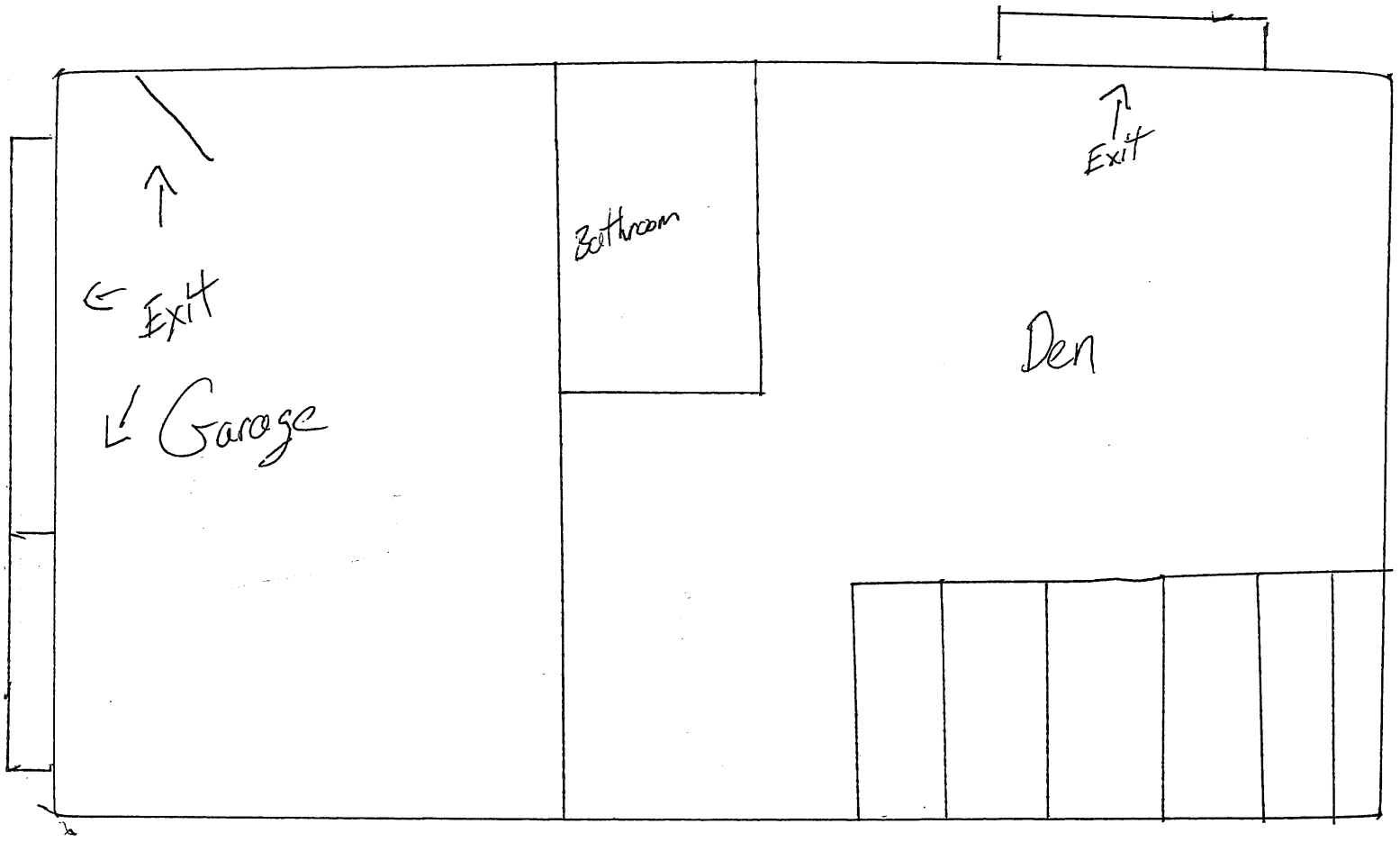
May be dictated by approved conditions or owner preference, example below:

- No firearms permitted
- No fireworks
- No pets
- No loud or amplified music
- Parking in designated areas only
- No fires
- No outdoor trash storage
- No candles
- No smoking indoors
- No unauthorized guests

ATTACHMENTS

- Property Map
- Dwelling Evacuation Plan


Exit
Master Bedroom
Master Bathroom
Kitchen
Exit
Living Room
Bedroom 3
Bedroom 2
Exit
Front Door


Exit
Garage
Bathroom
Exit
Den

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

March 2, 2022

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

RE: Request for comments; 2022-03-03
Owner: Jared Smith

Dear Mr. Lenz,

I have reviewed the request for comments regarding the property at 31 Henry Way, Linden, Virginia, in Warren County, (property identified on tax map # 24A-2-7-313), and I offer the following comments:

1. The construction permit for a sewage disposal system was issued on August 02, 2001 with an operation permit issued September 30, 2002. The system is designed to serve a 3 bedroom house with 6 occupants maximum.

2. The property is served by a private well. The well water should be tested for bacteria. If the sample result is positive, steps must be taken to correct the problem and the water should be re-tested.

3. All trash and garbage shall be placed in containers with tight-fitting lids.

4. There shall be no food service provided unless the Virginia Department of Health Food Regulations are met.

5. All Virginia Department of Health Tourist Establishment Regulations shall be met as necessary. The owners can contact our office for further information.

6. The sewage disposal system should be pumped if this has not been done in the last three to five years.

7. Do not connect any hot tub discharge to the sewage disposal system.

Please call me at (540) 635-3159 if you have any questions.

Sincerely,

GSmith

Greg Smith
Environmental Health Specialist

PERMIT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH

IDENTIFICATION # 41208 / 373189 **TAX MAP # 24A-7-313**
DATE OF ISSUE: September 30, 2002 **SUBDIVISION:** Blue Mountain; Sec. 7; Lot 313

OPERATOR: Homestead Builders
ADDRESS: P.O. Box 341
Front Royal, VA 22630

*The above operator has made application and in accordance with the regulations of the **BOARD OF HEALTH OF THE COMMONWEALTH OF VIRGINIA** is authorized by the WARREN COUNTY HEALTH DEPARTMENT to operate the following:*

☒ ON-SITE SEWAGE DISPOSAL SYSTEM
SYSTEM TYPE: I / BEDROOMS IN STRUCTURE: 3
DESIGN CAPACITY: 450 gpd / MAXIMUM OCCUPANCY: 6
OTHER:

☒ PRIVATE WATER SUPPLY SYSTEM
Class of non-public water well: IIIB
Based on the inspection of this water supply system, the information contained on the water completion report and the sample results, this water supply meets the requirements of the *PRIVATE WELL REGULATIONS:* ☒

An "X" in the ☒ indicates the system approval for which this permit has been issued.

The issuance of an operation permit does not denote or imply any guarantee by the Virginia Department of Health that the sewage disposal system will function, as designed, for any specified period of time. It shall be the responsibility of the owner or any subsequent owner to maintain, repair, or replace any sewage disposal system that ceases to operate as defined in the operation permit and in 12 VAC 5-610-350.

If a conditional permit has been issued, the owner or any subsequent owner is advised to review the conditions that have been imposed on the operation of this sewage disposal system.

This permit not valid unless affixed with the embossed seal of the Lord Fairfax Health District.

Walter P. Bailey Jr. — **HEALTH OFFICIAL**

10/1/02 — **DATE**

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

WARREN COUNTY HEALTH DEPARTMENT
134 PEYTON STREET
P. O. BOX 1318
FRONT ROYAL, VA 22630

IN COOPERATION WITH THE
STATE DEPARTMENT OF HEALTH

540-635-3159
FAX # 540-635-9698

8/1/01

RE: APPLICATION--CONSTRUCTION PERMIT
WITH CONDITIONS

Location: Mercy Way

Subdivision: Blue Mountain
Sect.: 7 Block: ___ Lot: 313
ID# 37318
Tax Map: 24A-7-313

Peter Chi
14821 Mockingbird Drive
Darnestown, Md., 20874

Dear Mr. Chi:

Your application for a conditional sewage disposal system construction permit filed on 5/18/01 with the Warren County Health Department has been evaluated in accordance with the requirements contained in the Code of Virginia, Section 32.1-164.1 and Section 2.13 of the Sewage Handling and Disposal Regulations, 5-89.

Based on the information filed with your application, soil and site evaluations conducted by the Department's representatives, and review and study of all data presented and available, this is to inform you that your application for a conditional sewage disposal system construction permit is hereby approved. All items listed below are a part of the permit and the conditions that are and have been applied to the approval, installation and use of the sewage disposal system.

A. This letter is a part of the conditional sewage disposal system construction permit issued for the above referenced location.

B. The permit shall be recorded and indexed in the grantee index under your name in the land records of the Clerk of the Court of Warren County.

C. You must furnish to the Warren County Health Department certification, by the Clerk of the Circuit Court, indicating the deed book number and page number upon which the permit and all conditions have been recorded. A copy of the certification shall be attached to all copies of the permit prior to giving validation to the building official for issuance of a building permit.

Homestead Builders 41208

Blue Mountain, Section 7, Lot 313 Health Department Identification Number 37318

Schematic drawing of sewage disposal and/or water supply system and topographic features.

Show the lot lines of the building site, sketch of property showing any topographic features which may impact on the design of the well or sewage disposal system, including existing and/or proposed structures and sewage disposal systems and wells within 200 feet. The schematic drawing of the well site or area and/or sewage disposal system shall show sewer lines, pretreatment unit, pump station, conveyance system, and subsurface soil absorption system, reserve area, etc. When a nonpublic drinking water supply is to be permitted, show all sources of pollution within 200 feet. 3 Bedroom, 6 Occupants Maximum Design

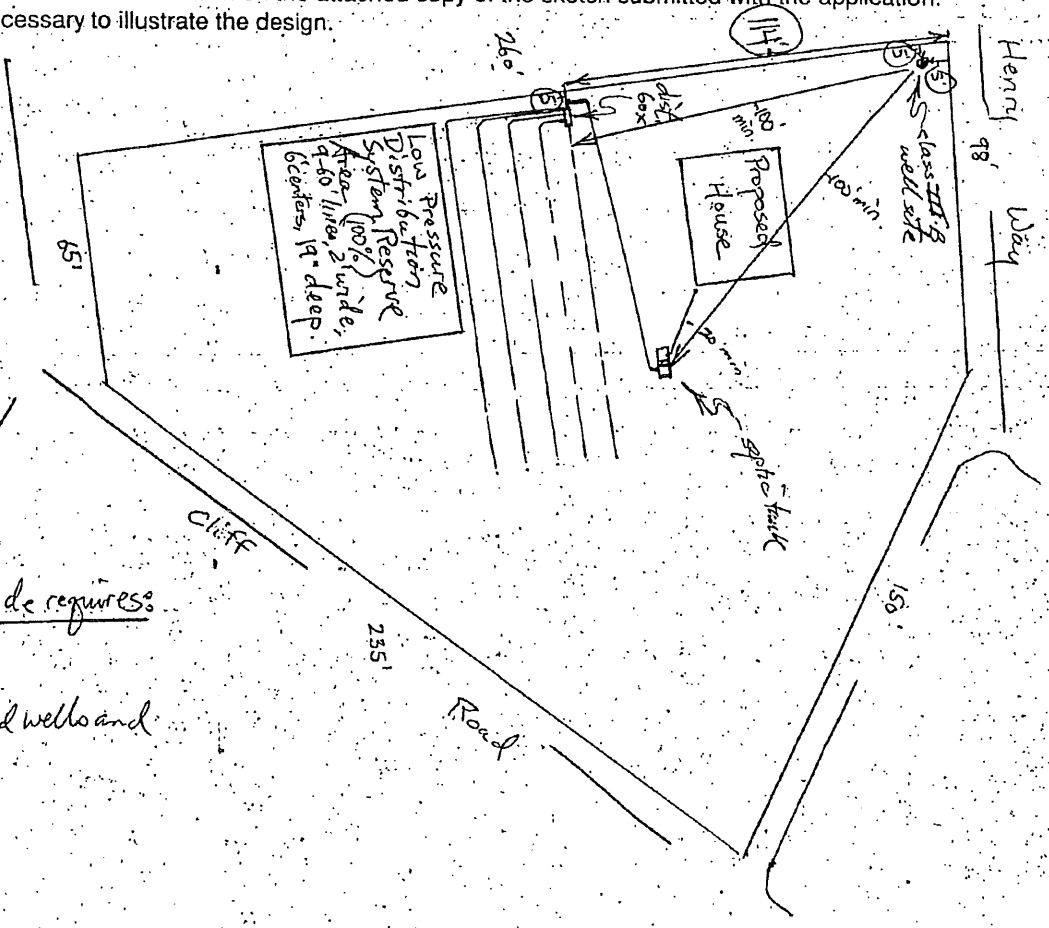
☐ The information required above has been drawn on the attached copy of the sketch submitted with the application.

Attach additional sheets as necessary to illustrate the design.

Main
5-100' lines.
3' wide.
9' centers.
19" deep
Install along contour.

Reserve Area
00% Low Pressure Required
-60' lines.
2' wide
' centers.
' deep.
Engineered plans are required.

Chapter 179 - Warren County Code requires:
00% Reserve Area
Class III B well
00' separation between wells and wells and septic tanks and drainfields.



THIS PERMIT IS NOT TRANSFERABLE AND IS ONLY VALID TO THE OWNER INDICATED ON THIS PERMIT.

This sewage disposal system and/or water supply is to be constructed as specified by the permit ✓ or attached plans and specifications ____.

This sewage disposal system and/or well construction permit is null and void if (a) conditions are changed from those shown on the application (b) conditions are changed from those shown on the construction permit. =NOT TO SCALE=

No part of any installation shall be covered or used until inspected, corrections made if necessary, and approved, by the local health department or unless expressly authorized by the local health dept. Any part of any installation which has been covered prior to approval shall be uncovered, if necessary, upon the direction of the Department.

Date: 8/1/01 Issued by: Walter P. Bailey, Jr., EHSS, AOSE

Date: 8/2/01 Reviewed by: Benjamin T. Cernaman
5/24/02 (BTC) Supervisory Sanitarian

This Construction Permit Valid until 2/1/03
10/24/03 (BTC)

If FHA or VA financing

ISSUED UNDER 2000 REGULATIONS

Reviewed by Date _____ _____ Supervisory Sanitarian Date _____ _____ Regional Sanitarian

C.H.S. 202B

Chloe Phillips

From: David Beahm
Sent: Monday, February 14, 2022 10:37 AM
To: Chloe Phillips
Cc: Joe Petty; Paula Fristoe
Subject: Request for Comments 2022-03-03 – Jared Smith – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000165-2022

Comments 2022-03-03 – Jared Smith – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000165-2022:

NOTE: Prior to giving approval for this request, outstanding permits would need to be addressed and completed.

- 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 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 it 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.
    - 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
540/63
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.

RE: Conditional Use Permit

Matt Wendling <Mwendling@warrencountyva.net>

Thu 3/24/2022 2:30 PM

To: Mike Veasey <mike_veasey@yahoo.com>

Cc: Chase Lenz <clenz@Warrencountyva.net>

Thank Mike,
I'm forwarding this to Chase Lenz, our Zoning Administrator, he's taking this one through the process.
Regards,
Matt

Matt Wendling
Warren County Planning Department
Deputy Planning Director / County Floodplain Manager
220 N. Commerce Ave., Suite 400
Front Royal, VA 22630
(540)-636-3354
www.warrencountyva.net
http://ecode360.com/9745479
www.warrengis.org

From: Mike Veasey <mike_veasey@yahoo.com>
Sent: Thursday, March 24, 2022 2:16 PM
To: Matt Wendling <Mwendling@warrencountyva.net>
Subject: Conditional Use Permit

Matt,

I can't find any record of where we closed the loop with you on the short term rental request of Jared Smith, 2022-03-03.

The Blue Mountain Property Owners' Board of Directors has considered the request and has no objection to it.

Mike Veasey
Treasurer

"To Change You, It Has To Cost You."

April 5, 2022

Chase Lenz, Zoning Administrator
County of Warren
Department of Planning
Warren County Government Center
220 North Commerce Avenue, Suite 400
Front Royal, VA 22630

Mr. Lenz

We are responding to Letter from your office regarding Public Hearing for Jared Smith requesting Conditional Use Permit for a Short-term Tourist Rental located at 31 Henry Way Linden VA 22642.

We, Patrick Darrow and Bobby Edwards are adjacent property owners to subject property at 75 Henry Way. We have previously attended a hearing for Hot Tub Heaven Properties to agree with their intended use. We agree with the owners that they should be able to use their property in the prescribed way, however we as neighbors still want to protect the environment from excessive noise and unintended use and for all applicable laws and rules of our Blue Mountain Association and county laws and regulations to be maintained by the Owners and Guests of Property. We believe a noise curfew after 11:00 PM is reasonable and standard. Our stated rules governing Blue Mountain Properties of note are no ATV vehicles allowed on roads which are constantly and consistently violated, No excessive tree removal, rather keeping trees that are not a danger to be left alone, etc.

We have general concerns as would most neighbors to maintain a calm quiet mountain living lifestyle and that seems to be stretched as more land is used to build yet another house and clear cut to build the house and then the barking dogs, the designs of the housing that doesn't fit in, yard fencing, the list is endless turning a mountain into a suburb housing development is not the ideal most people want when they move here.

We too own another property in another county and use it as a short stay rental, but our guests follow a list of rules and agree to it before we allow them to rent and for several years we have had no issues with the short stay property or with neighbors dealing with our guests.

Please use this as our formal review of the situation and maintain for us our stated concerns.

Thank you and Best Regards,

Patrick Darrow and Bobby Edwards

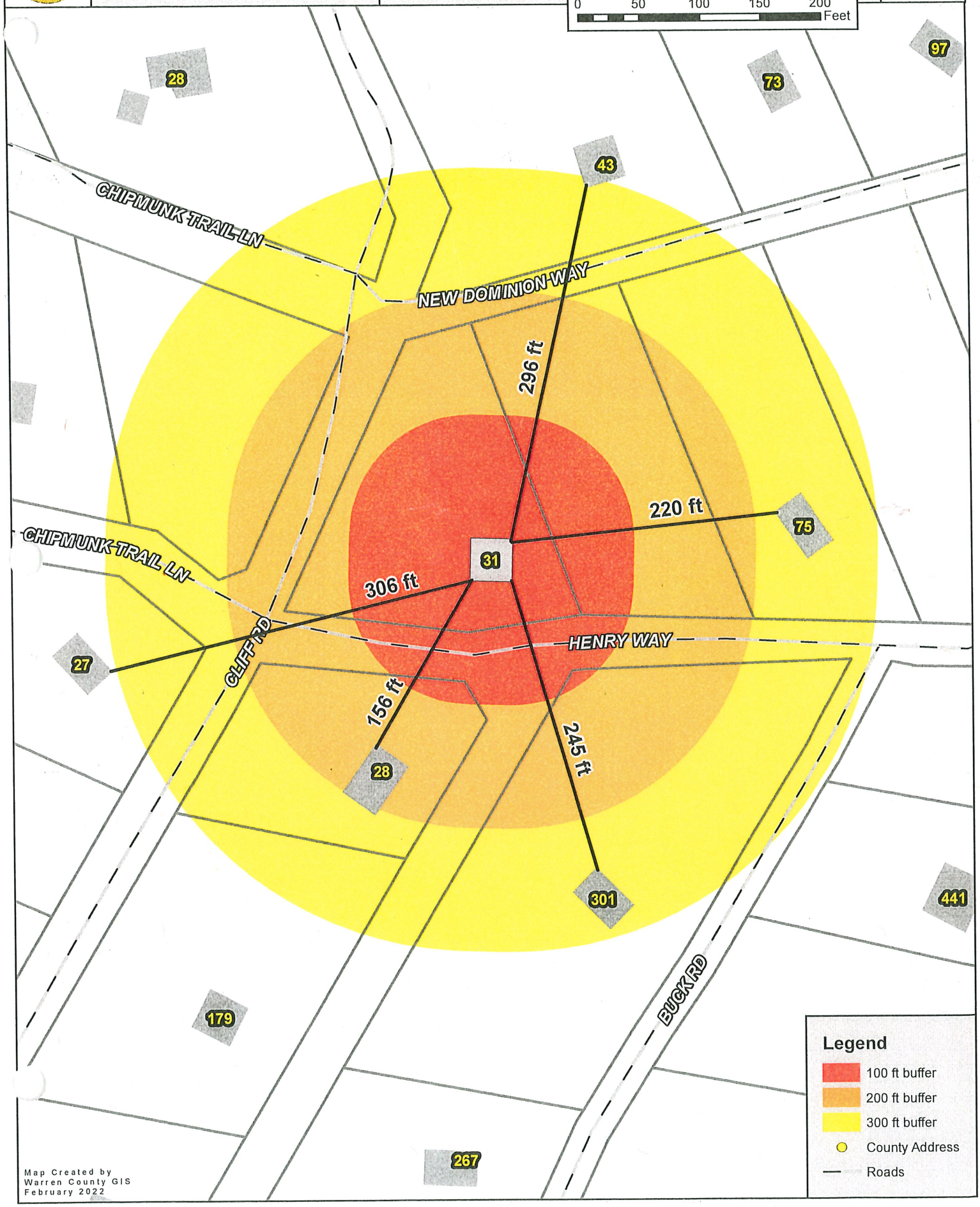
Patrick Darrow
Bobby Edwards

Warren County, VA
2021

31 Henry Way
TM 24A--2-7-313

Distance to Surrounding Homes
1 inch = 100 feet

0 50 100 150 200 Feet

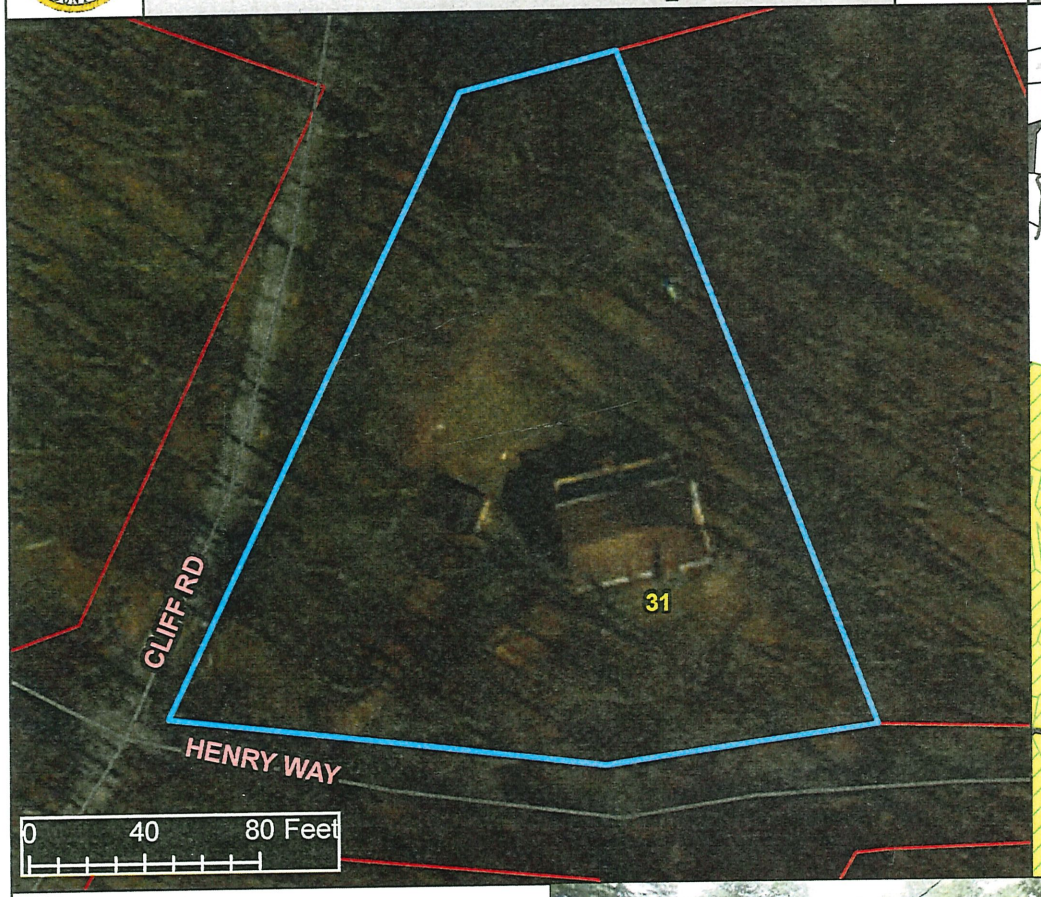


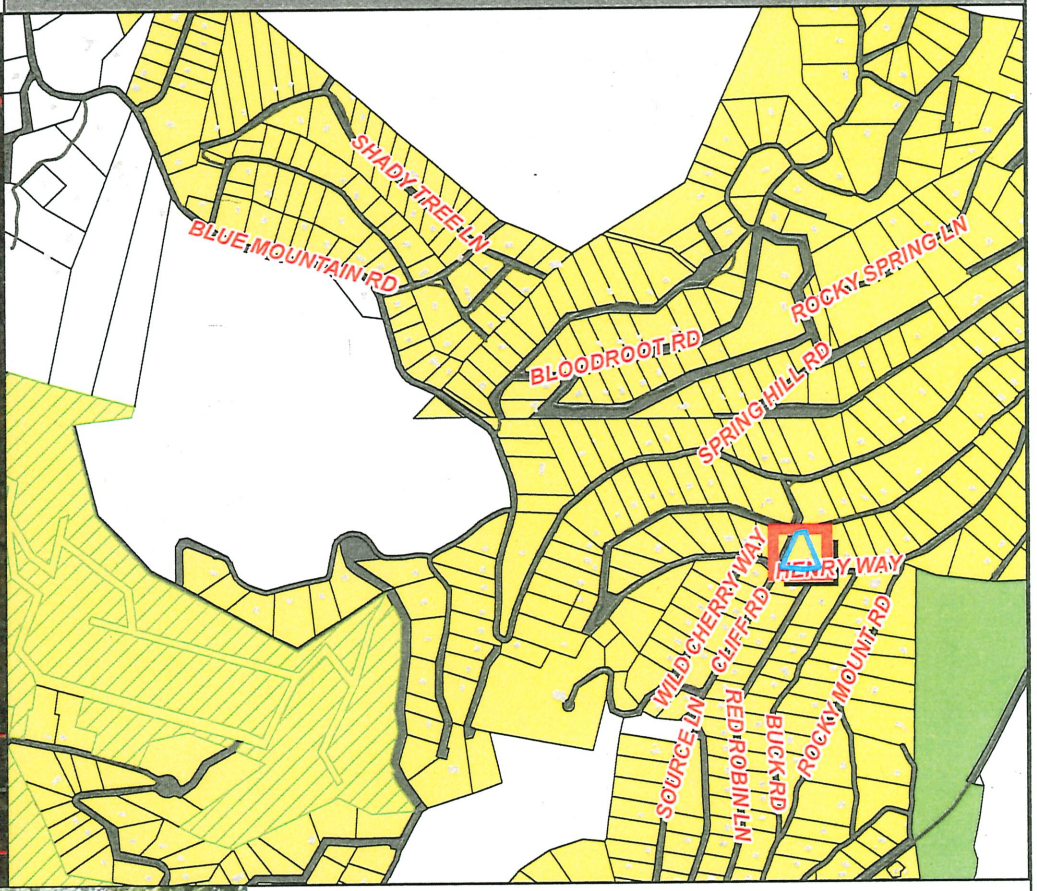
Map Created by
Warren County GIS
February 2022

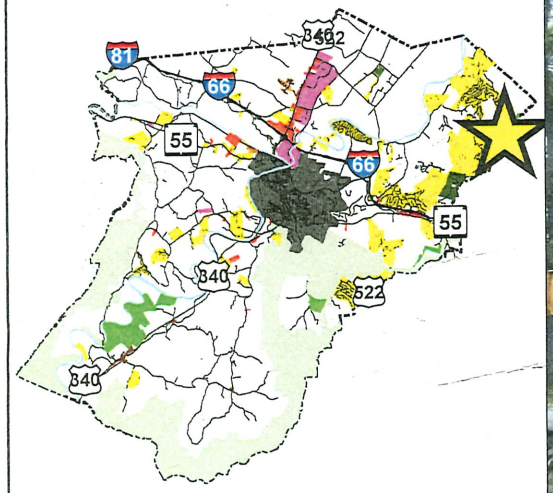
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Jared Smith

T[illegible]4A--2-7-313
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
5/03/2022	I-10	Conditional Use Permit #2022-03-04 James B. & Jeonghe C. Lal *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.

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 5 – 0.

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 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.

BOARD OF SUPERVISORS PROPOSED OR SUGGESTED MOTION:

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

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

Conditional Use Permit: 2022-03-04/ Short Term Tourist Rental
James B. & Jeonghe C. Lal, *Applicants/ Owners*
Staff Report for the Planning Commission
Prepared: February 16th, 2022
Staff: Matt Wendling, *Deputy Planning Director/County Floodplain Manager*

SUMMARY OF REQUEST

The applicants constructed their home in 2018 after being granted a variance to the front setback by the Warren County Board of Zoning Appeals and have used this as their primary residence since then. They are requesting this conditional use permit because their work as Christian missionaries to Malawi, Africa take them out of the country for long periods of time and they would like to rent the property short term during that time. They would like to rent it less than 30 days in order to supplement their income to pay for the mortgage, taxes, insurance and the upkeep of the property. This also allows them the flexibility of scheduling renters when they return from their mission trip instead of having the property occupied by long term renters.

PROPERTY INFORMATION

Property Location: 280 Overbook Ln.
Tax Map ID: # 13C-3-3-Parcel 568
Magisterial District: Shenandoah
Subdivision: Shenandoah Shores
Town/Village: Front Royal
Zoning: Residential One (R-1)
Acres: 2.028
Existing Land Use: SFD with Woodlands, Riverfront
Special Flood Hazard Area: The dwelling is located in a Non-Floodzone "X" area and a narrow portion of the property is located in the SFHA.

SURROUNDING ZONING DISTRICTS & USES

North:	Residential One (R-1)	Use: SFD with Woodlands
South:	Residential One (R-1)	Use: Shenandoah River and SFD
East:	Residential One (R-1)	Use: SFD 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 or conditional use permits issued to the property. In May 2017 the Warren County Board of Zoning Appeals approved a request for a fifteen foot variance to the front setback requirement for fifty feet. The owner was able to show a hardship due to topography and drainfield location after exercising all options to resolve the matter.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for Residential One (R-1) land uses which allows for a Short-term Tourist Rental by conditional use permit in the Warren County Zoning Ordinance Section §180-23. 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 staff with an appraisal of the property, which shows that it is a three-bedroom dwelling. A request for comments has been sent to the WC Health Department to verify the septic system and occupancy approved for 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 right-of-ways and in yards. **There is sufficient parking for three 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 in the Shenandoah Shores subdivision and a request for comments have been sent to their property owners association.**

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 280' to the closest dwellings located to the east and 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 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 on the State road shall be prohibited.

Cc: James & Jeonghe Lal, Applicants



Figure 1 James & Jeonghe Lal Single-Family Dwelling

Statement of Justification

Reference: Zoning Permit and/or Dwelling Unit for Short term Tourist Rental

In accordance with Warren County, Virginia Code 180=22.D(14), we, as the owners of 280 Overbrook Lane in Front Royal, Warren County, Virginia are applying for a short term tourist rental zoning permit and/or a conditional use permit from the Planning Department prior to utilizing the dwelling unit as a short term rental.

I am a partially disable, retired military veteran with 25 years in the United States Air Force, and I also worked for the Circuit Court for Prince George's County. Maryland for almost 20 years. My wife and I are christian missionaries in Malawi, Africa. We returned from Malawi because of the covid pandemic and are planning to return very soon.

The short term rental zoning permit and/or a conditional use permit will allow us:

(1) To provide us supplemental income to enable us to pay the monthly mortagage.

(2) To generate income for the county from taxes.

(3) To have less wear and tear on the property compared to long term rental/lease.

We greatly appreciaate all the assistance provided in obtaining the permit.

WCCUP 000166 2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-03-04
Date Received: 2-15-22
Fee Amount: $500.00
Date Paid: 2-15-22 CK# 1021

Applicant Information:

JAMES B. & JEONGHE C. LAL
Applicant Name

4358 SUTLER HILL SQ, FAIRFAX VA 22033
Address *City* *State* *Zip*

280 OVERBROOK LN. FRONT ROYAL VA 22630
Property Location for conditional use permit if Different than Applicant's Address

703-201-1414 JBLAL1950@gmail.com
Primary Contact Number *Email*

Property Owner (if same as applicant, leave blank)

Address *City* *State* *Zip*

703-201-1414
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: 280 OVERBROOK LN. FRONT ROYAL, VA
(2) Election District: SHENANDOAH DISTRICT - PRECINCT: 401
(3) Tax Map Number: 13C 33 568
(4) Subdivision Name: SHENANDOAH SHORES
(5) Total Area of Property (acres): 2.03
(6) Total Area to be Used (acres): DWELLING AND DRIVEWAY
(7) Total Road Frontage (feet): TO BE PROVIDED BY ZONING OFFICE
(8) Depth of Property (feet): TO BE PROVIDED BY COUNTY GIS COORDINATOR
(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: RESIDENTIAL

(3) Zoning of surrounding land/property: RESIDENTIAL

(4) Will development be staged? ☐ 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: 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 6 Handicap 0

(13) What is the proposed landscaping and buffering for this property? N/A

C. Plans Prepared By

Name: N/A

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 TRASH - DISPOSED AT COUNTY TRASH/ RECYCLE COLLECTION STATION

(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.) NONE

(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. NONE

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.** PLAT - DITTO
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.** LOOK IN BZA PACKET 2018 LAL
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.**
STAFF This may be obtained from the Treasurer's Office in Suite 800 of the Warren County Government Center.

☐ **Environmental and Community Impact Statements**
N/A 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**
N/A 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**
N/A 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 N. COMMERCE AVE. RIGHT ON 6TH ST/HAPPY CREEK RD. LEFT ON ROUTE 606/SHENANDOAH SHORES RD. LEFT ON MOUNTAIN VIEW RD. LEFT ON WOODWARD LN. RIGHT ON OVERBROOK LN.

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.

James B. Lail — 02/15/22

Applicant Signature — Date

Jennifer C. Lail — 02/15/22

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

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

March 02, 2022

Mr. Matt Wendling, Deputy Planning Director / County Floodplain Manager
Warren County Planning and Zoning
220 N Commerce Avenue, Suite 400
Front Royal, Virginia 22630

RE: Request for comments; 2022-03-04
Owner: James B & Jeonghe C Lal

Dear Mr. Wendling,

I have reviewed the request for comments regarding the property at 280 Overbrook Ln, Front Royal, Virginia, in Warren County, (property identified on tax map # 13C-3-3-568), and I offer the following comments:

1. The permit for a sewage disposal system was issued on March 16, 2017 and the operation permit was issued on November 20, 2018. The system is designed to serve a 3 bedroom house **limited to 4 occupants maximum**. This is an alternative sewage disposal system that requires yearly maintenance inspections. The owners can contact our office for further information.

2. The property is served by a central water source.

3. All trash and garbage shall be placed in containers with tight-fitting lids.

4. There shall be no food service provided unless the Virginia Department of Health Food Regulations are met.

5. All Virginia Department of Health Tourist Establishment Regulations shall be met as necessary. The owners can contact our office for further information.

6. The sewage disposal system should be pumped if this has not been done in the last three to five years.

7. Do not connect any hot tub discharge to the sewage disposal system.

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

The applicant has requested no more than eight occupants at a time. This will **NOT** be possible. The system is designed for a maximum of four people. The Warren County Health Department would have no objection to this request as long as the comments above are complied with, and the design flow of the sewage disposal system is not exceeded. There are to be no more than **FOUR** occupants. If the system malfunctions, immediate pump and haul will be required, and the system will need to be repaired or replaced if possible.

Please call me at (540) 635-3159 if you have any questions.

Sincerely,

GSmith

Greg Smith
Environmental Health Specialist

VDH VIRGINIA DEPARTMENT OF HEALTH

Protecting You and Your Environment

Warren County Health Department
465 W 15th St. Ste 200
Front Royal, VA 22630
(540) 635-3159 Voice
(540) 635-9698 Fax

Sewage Disposal System Operation Permit

Property Owner

James B Lal
9922 Coffer Woods Rd.
Burke, VA 22015
Phone: (540)

Health Dept. ID: **187-17-0054**
Tax Map/GPIN: **13C-3-3-568**
Locality: **Warren County**

Property Location

Property Address: 280 Overbrook Ln.
Front Royal, VA 22630
Subdivision: Shenandoah Shores **Section:** 3 **Lot:** 568

James B Lal is hereby granted permission to operate a **Residential Alternative Onsite Sewage System** at the above referenced location, under the following parameters:

Daily Flow: 300 gallons
Number of Bedrooms: 3
Occupancy Limit: 4 maximum
Conditions: Limitations on the number of persons occupying the dwelling or using the facility.

This permit is issued in accordance with the provisions of Title 32.1, Chapter 6 of the Code of Virginia as Amended, and Section 12VAC 5-610-340 of the Sewage Handling and Disposal Regulations of the Virginia Department of Health. The issuance of an operation permit does not denote or imply any guarantee by the department that the sewage disposal system will function for any specified period of time. It shall be the responsibility of the owner or any subsequent owner to maintain, repair, or replace any sewage disposal system that ceases to operate in accordance with the regulations.

The continued validity of this permit is contingent upon compliance with the operation and maintenance requirements contained in the Owner's Operation and Maintenance Manual and Regulations for Alternative Onsite Sewage Systems of the Virginia Department of Health (12VAC5-613-100 et seq.). Owners are advised to be aware of the operation and maintenance instructions for their alternative onsite sewage system and to follow them. Copies of the operation and maintenance instructions can be found by contacting the local health department for the locality where the onsite sewage disposal system is located.

November 20, 2018	Walter P. Bailey, Jr.	Walter P. Bailey, Jr. EHSS
Effective Date	Environmental Health Specialist Senior	Signature

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

Warren County Health Department
465 W 15th St. Ste 200
Front Royal, VA 22630
(540) 635-3159 Voice
(540) 635-9698 Fax

Construction Permit

Well and Sewage Contractors: Please notify Health Department and OSE or PE 48 hours prior to installation to arrange for inspection

March 16, 2017

James B Lal
9922 Coffer Woods Rd.
Burke, VA 22015

RE: Overbrook Dr., Front Royal, VA 22630
Tax Map/GPIN: 13C-3-3-568 (Warren County)
HDID: 187-17-0054 **Reserve:** 50% reserve area provided
System Capacity: Residential, **Conditional** to 300 gallons per day
Occupancy Limit: 4 persons maximum

Dear James B Lal :

This letter and the attached drawings, specifications, and calculations (9 pages) dated February 14, 2017 and revised March 13, 2017, constitute your permit to install a sewage disposal system and well if applicable on the property referenced above. Your application for a permit was submitted pursuant to §32.1-163.5 of the Code of Virginia, which requires the Health Department to accept private soil evaluations and designs from an Onsite Soil Evaluator (OSE) or a Professional Engineer working in consultation with an OSE for residential development. VDH is not required to perform a field check to verify the private evaluations of OSEs or PEs and such a field check may not have been conducted for the issuance of this permit.

The soil absorption area ("site"), sewage system design, and the well location and construction if applicable were certified by Stickley, Scott M. PE as substantially complying with the Board of Health's regulations (and local ordinances if the locality has authorized the local health department to accept private evaluations for compliance with local ordinances). This permit is issued in reliance upon that certification. VDH hereby recognizes that the soil and site conditions acknowledged by this permit are suitable for the installation of an onsite sewage system. The attached plat shows the approved area for the sewage disposal system; there are additional records on file with the Warren County Health Department pertaining to this permit, including the Site and Soil Evaluation Report. This construction permit is null and void if any substantial physical change in the soil or site conditions occurs where a sewage disposal system is to be located.

If modifications or revisions are necessary between now and when you construct your dwelling, please contact the OSE/PE who performed the evaluation and design on which this permit is based. Should revisions be necessary during construction, your contractor should consult with the OSE/PE that submitted the site evaluation or site evaluation and design. The OSE/PE is authorized to make minor adjustments in the location or design of the system at the time of construction provided adequate documentation is provided to the Warren County Health Department.

The OSE/PE that submitted the certified design for this permit is required to conduct a final inspection of this sewage system when it is installed and to submit an inspection report and completion statement. As the owner, you are responsible for giving reasonable notice to the OSE/PE of the need for a final inspection. If the designer is unable to perform the required inspection, you may provide an inspection report and

completion statement executed by another OSE/PE. The Warren County Health Department is not required to inspect the installation but may perform an inspection at its sole discretion. No part of this installation shall be covered until it has been inspected by the OSE/PE as noted herein. The sewage system may not be placed into operation until you have obtained an Operation Permit from the Warren County Health Department.

This Construction Permit is null and void if conditions are changed from those shown on your application or if conditions are changed from those shown on the Site and Soil Evaluation Report and the attached construction drawings, specifications, and calculations. VDH may revoke or modify any permit if, at a later date, it finds that the site and soil conditions and/or design do not substantially comply with the Sewage Handling and Disposal Regulations, 12 VAC 5-610-20 et seq., or if the system would threaten public health or the environment.

This permit approval has been issued in accordance with applicable regulations based on the information and materials provided at the time of application. There may be other local, state, or federal laws or regulations that apply to the proposed construction of this onsite sewage system. The owner is responsible at all times for complying with all applicable local, state, and federal laws and regulations. If you have any questions, please contact me.

This permit expires: **September 15, 2018.** This permit is not transferable to another owner or location.

Sincerely,

Walter P. Bailey, Jr., EHSS

Walter P. Bailey, Jr., EHSS
Environmental Health Specialist Senior
Warren County Health Department

CC: Stickley, Scott M. PE

Chloe Phillips

From: David Beahm
Sent: Monday, March 28, 2022 12:16 PM
To: Chloe Phillips
Cc: Joe Petty; Paula Fristoe
Subject: Request for Comments 2022-03-04 – James B. and Jeonghe C. Lal – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000166-2022

Comments 2022-03-04 – James B. & Jeonghe C. Lal – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000166-2022:

- 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 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 it as a short-term rental.
  - Given the timeframe that the structure was originally built it should not 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

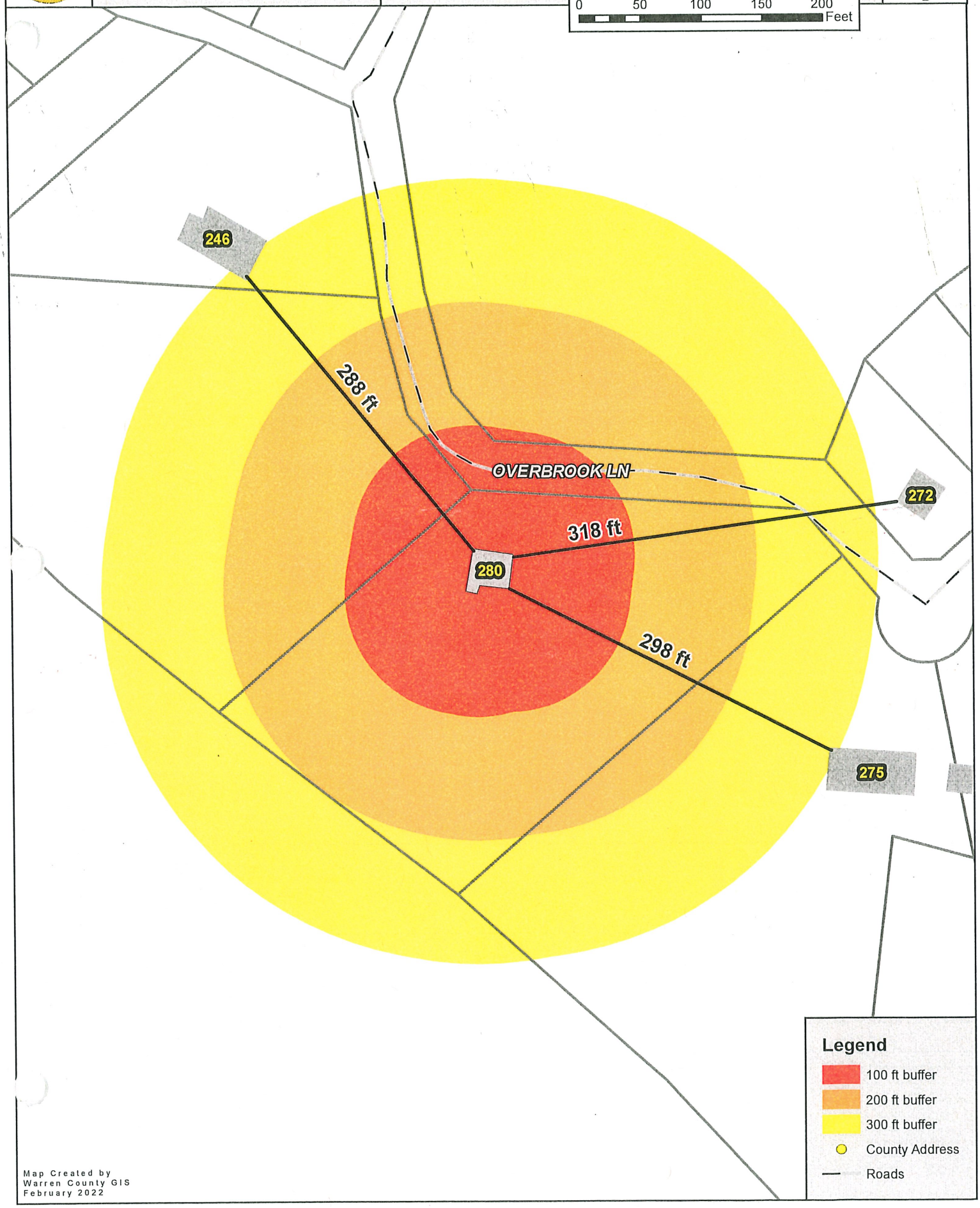
www.warrencountyva.net

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
2021

280 Overbrook Ln
TM 13C--3-3-568

Distance to Surrounding Homes
1 inch = 100 feet
0 50 100 150 200 Feet

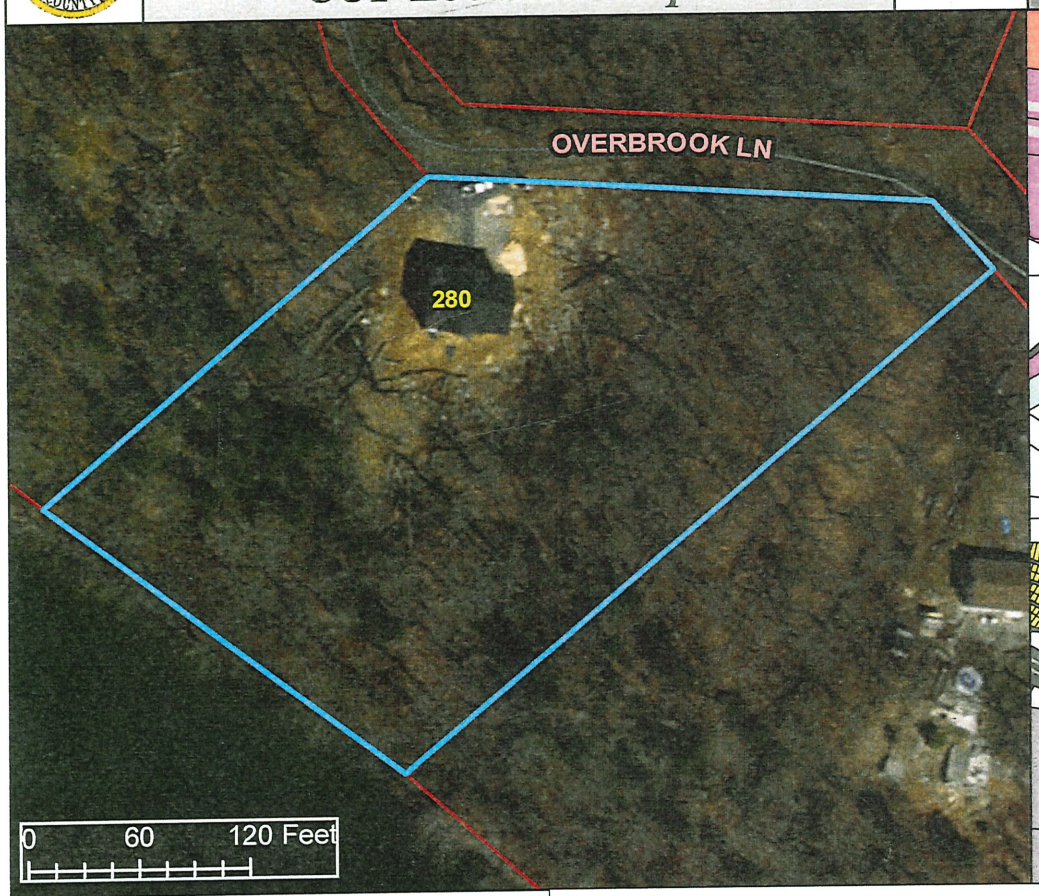


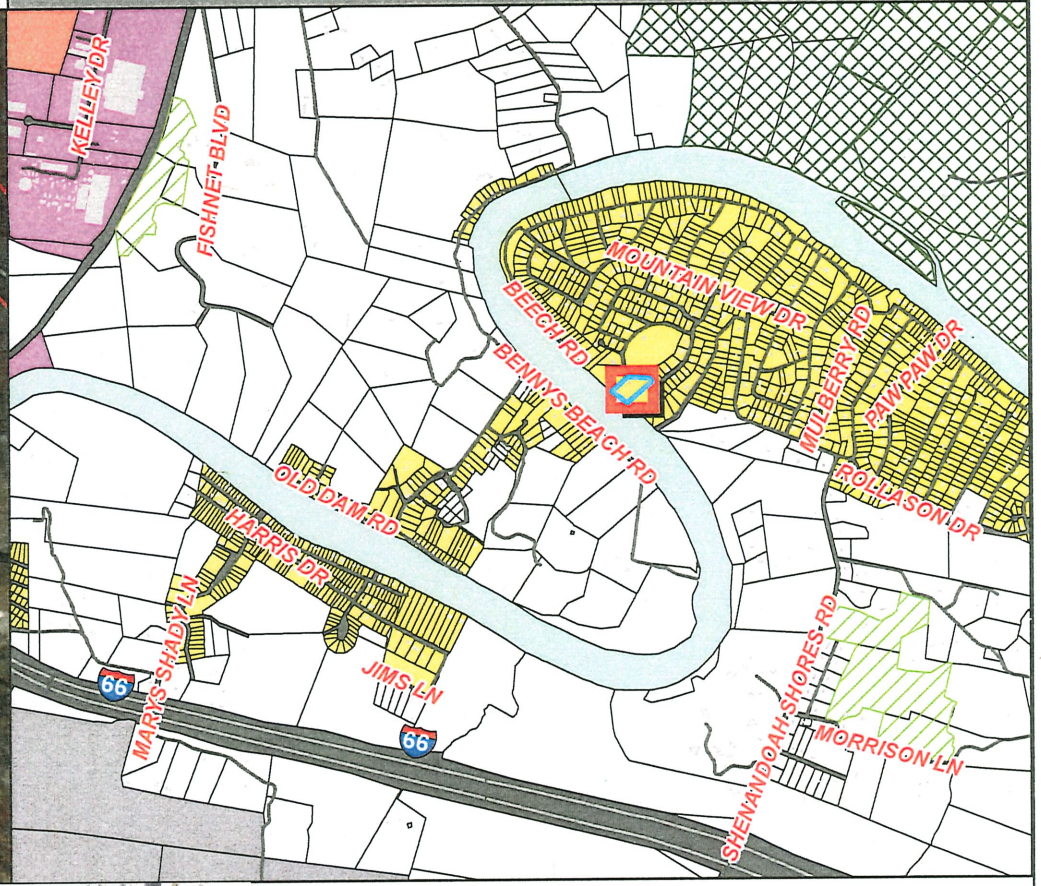
Map Created by
Warren County GIS
February 2022

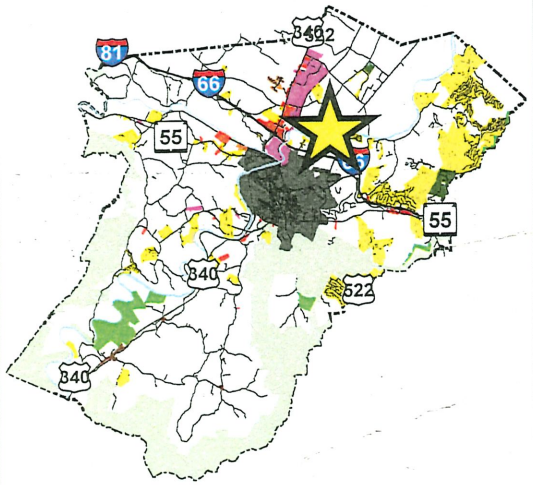
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: James Lal

T[illegible]3C--3-3-568
Shenandoah Farms - Mountain Lake 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 2022
Department of Planning

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS AGENDA ITEM

DATE	ITEM	SUBJECT:
05/03/2022	I-11	Conditional Use Permit #2022-03-05 Rocky Quach *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, April 13, 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 5-0.

RECOMMENDED CONDITIONS:

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

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

PROPOSED OR SUGGESTED MOTION:

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

SUBMITTED BY:	DISPOSITION OF BOARD:	PROCESSED BY:
Chase Lenz, Zoning Administrator	☐ APPROVED ☐ OTHER (Describe)	

Conditional Use Permit: 2022-03-05 / Short-Term Tourist Rental
Rocky Quach, *Current Owner/Applicant*
Prepared: February 24, 2022
Staff Contact: Chase Lenz, Zoning Administrator

SUMMARY OF REQUEST

The applicant is requesting a conditional use permit for a short-term tourist rental for the property he recently purchased in February of 2022. The dwelling will be available year-round for short-term rentals for families visiting the Warren County area. The applicant currently resides in San Jose, California. He will hire a local property management company to manage the operation of the short-term rental and property maintenance. In an effort to promote rentals from families primarily, the applicant will provide additional amenities for infants, including high-chairs and a portable travel crib.

PROPERTY INFORMATION

Property Location: 524 Freezeland Road
Tax Map ID: 23F--------2
Magisterial District: Happy Creek
Subdivision: Cherry Ridge
City: Linden
Zoning: Agricultural (A)
Acres: 2.56 Acres
Existing Land Use: Single Family Dwelling

SURROUNDING ZONING DISTRICTS & USES

North: Agricultural (A) — Use: Single Family Dwelling
South: Agricultural (A) — Use: Single Family Dwelling
East: Agricultural (A) — Use: Vacant Lot - Woodlands
West: Agricultural (A) — Use: Vacant Lot - Woodlands

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Agricultural zoning district. The single-family dwelling was constructed in 1997. 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 operation permit on file approving six (6) occupants for the dwelling. The applicant has provided documentation requesting a maximum of six (6) occupants. Warren County Assessment data lists three (3) 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. **The dwelling is fully screened from the rear property boundary by existing wooded areas. The dwelling is set back approximately 415' from the edge of the platted right-of-way for Freezeland Road. There is a fence along the property boundary with the adjacent property to the south.**

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 record of an HOA or POA for the Cherry Ridge 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 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 dwellings are 120′ to the southwest and 130′ to the northwest, respectively.**

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 six as determined according to the Health Department operation permit for a three-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: Rocky Quach – Owner/Applicant

Statement of Justification

Short-Term Tourist Rental Permit
February 14th 2022

The property owners of Single Family Residential Unit 524 Freezeland Rd, Linden, Virginia, 22642 seek approval of a Short-Term Tourist Rental Permit to allow future rental uses for less than 30 days.

Proposal

We're seeking families as our primary guests by providing high chairs and pack'n play/travel crib. The maximum number of guests will not exceed 10.

We will be hiring a professional property management company to manage any short-term rental related matters, include but not limited to:

- Guests screening before accepting bookings to prioritize safety.
- Communication team available 24/7 for guests: answering questions, and providing support before, during, and after their stays.
- A professional cleaning team maintains the same property condition after every checkout, covering both inside and outside of the property, to include trash pickup.
- Collecting and managing/paying lodge tax properly.
- Septic maintenance: pumping annually.

Home Safety

In the property, we provide emergency contact information for any emergency needs – phone numbers of local guest contact and local police department. Safety amenities include smoke alarm, carbon monoxide alarm, fire extinguisher, and first aid kit. A Ring doorbell security camera, located next to the front door facing out, and also multiple security Ring cameras monitoring the exterior, would be used for safety.

House Rules for Guests

- No smoking, events, parties or large gatherings to limit noise pollution/disturbances on neighboring properties.
- Guests be at least 25 years old to book, and photo ID may be required upon check-in for neighborhood safety.
- A copy of chapter 123 of the Warren County Code related to Noise will be provided at the property.
- No outdoor fire pits.

Liability

Property owners will purchase Short-Term Rental liability insurance for the guests, and the service partners provide liability insurance for the service crews for on-site jobs.

In summary, the proposed property short term rental prioritizes safety, limiting impact on neighboring properties, and being good hosts. We still intend to occupy this property when work/time permits. Thank you for your consideration.

Rocky Quach & Yun Zhou
2/14/22

WCCUP-000167-2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-03-05
Date Received: 2-15-2022
Fee Amount: $ 500.00 credit
Date Paid: 2-15-2022

Applicant Information:

Rocky Quach
Applicant Name

1496 Hillsdale Ave | San Jose | CA | 95118
Address | *City* | *State* | *Zip*

524 Freezeland Rd Linden VA 22642
Property Location for conditional use permit if Different than Applicant's Address

858-212-3327 | rkquach@yahoo.com
Primary Contact Number | *Email*

Rocky Quach and/or Yun Zhou
Property Owner (if same as applicant, leave blank)

524 Freezeland Rd | Linden | VA | 22642
Address | *City* | *State* | *Zip*

858-212-3327
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: 524 Freezeland Rd, Linden VA 22642
(2) Election District: Happy Creek
(3) Tax Map Number: 23F---2
(4) Subdivision Name: Cherry Ridge
(5) Total Area of Property (acres): 2.56
(6) Total Area to be Used (acres): 2.56
(7) Total Road Frontage (feet): _____
(8) Depth of Property (feet): _____
(9) Present Zoning: A

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: N/A

(6) Season, days, and hours of operation: Year round

(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: Hiring a professional management company

(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: 6

(12) Number of parking spaces to be provided: Regular 4 Handicap

(13) What is the proposed landscaping and buffering for this property? N/A

C. Plans Prepared By

Name: Rocky Quach

Address: 1496 Hillsdale Ave San Jose CA 95118

Telephone Number: 858-212-3327

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? Minimal.

(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.
(3) Waterproof string lights sets around the house: 100 watts per set

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.**

Head toward E 3rd St

Right on E 3rd St

Right on N Commerce Ave

Left on VA-55 E and Left on State Route 638

Turn right on 3rd driveway and then left at fork

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	2/14/22 Date
Property Owner Signature	2/14/22 Date

Accepted by: _____ Date: _____

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

NOTES

Attached Septic Sewage Permit Documents.

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

April 13, 2022

Mr. Chase Lenz, Zoning Administrator
Warren County Planning and Zoning
220 N Commerce Avenue, Suite 400
Front Royal, Virginia 22630

RE: Request for comments; 2022-03-05
Owner: Rocky Quach

Dear Mr. Lenz,

I have reviewed the request for comments regarding the property at 524 Freezeland Rd, Linden, Virginia, in Warren County, (property identified on tax map # 23F-2), and I offer the following comments:

1. The construction permit for a sewage disposal system was issued on February 5, 1997 and the operation permit was issued September 4, 1997. The system is designed to serve a 3-bedroom home with 6 occupants maximum.

2. The property is served by a private well. The well water should be tested for bacteria. If the sample result is positive, steps must be taken to correct the problem and the water should be re-tested.

3. All trash and garbage shall be placed in containers with tight-fitting lids.

4. There shall be no food service provided unless the Virginia Department of Health Food Regulations are met.

5. All Virginia Department of Health Tourist Establishment Regulations shall be met as necessary. The owners can contact our office for further information.

6. The sewage disposal system should be pumped if this has not been done in the last three to five years.

7. Do not connect any hot tub discharge to the sewage disposal system.

Please call me at (540) 635-3159 if you have any questions.

Sincerely,

GSmith

Greg Smith
Environmental Health Specialist

97016941

No. 97016941
TAX MAP #23-12-34

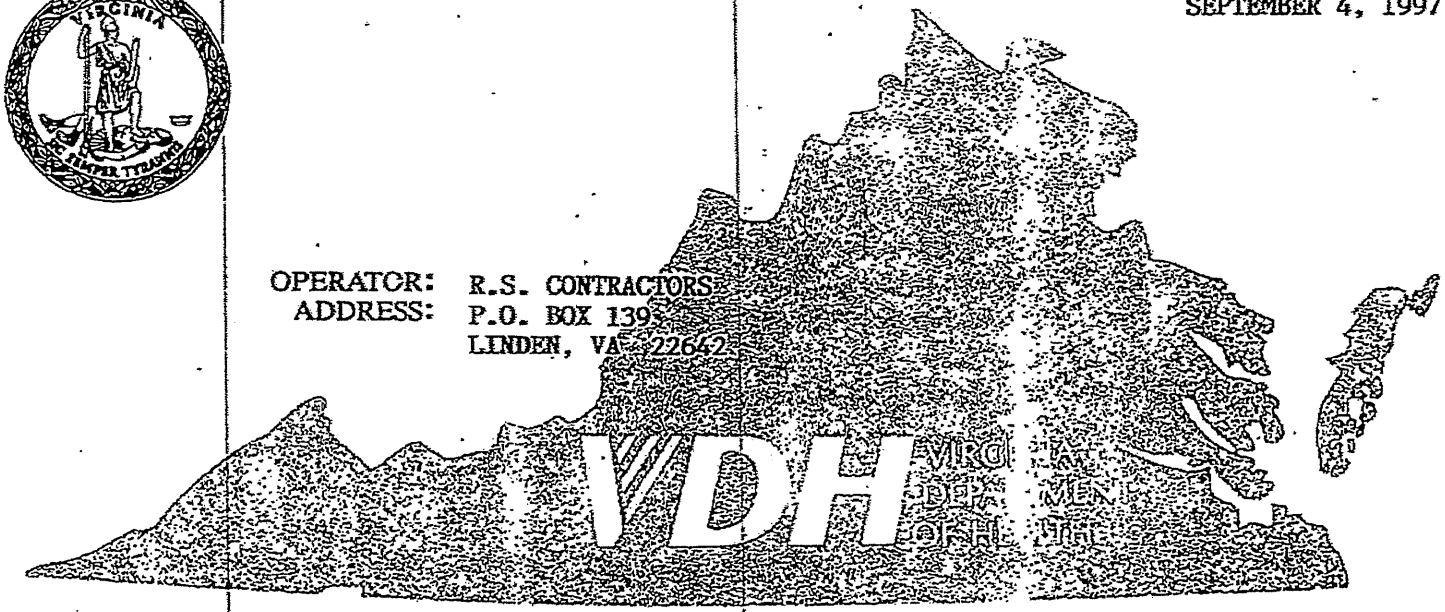
PERMIT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH

~~THIS PERMIT~~
~~EXPIRES ON~~

DATE OF ISSUE

SEPTEMBER 4, 1997



OPERATOR: R.S. CONTRACTORS
ADDRESS: P.O. BOX 139
LINDEN, VA 22642

The above operator has made application and in accordance with the regulations of the Board of Health of the Commonwealth of Virginia is authorized by the WARREN COUNTY *Health Department to operate a* TYPE I SEWAGE DISPOSAL SYSTEM W/450 GPD (3 BR, 6 PERSON MAX. OCC.) AT CHERRY RIDGE; LOT 2.

Walter P. Butler Jr. EHSS
HEALTH OFFICIAL

~~THIS PERMIT IS NOT TRANSFERABLE FROM ONE INDIVIDUAL OR LOCATION TO ANOTHER~~

Water Supply and/or Sewage Disposal System Construction Permit

Commonwealth of Virginia
Department of Health
Warren County Health Department

Health Department Identification Number 97016941 CS-97-031-2
Map Reference 23-12-3-1

General Information

Water Supply System: New ✓ Repair ___ Public ___ FHA ___ VA ___ Case No. ___
Sewage Disposal System: New ✓ Repair ___ Expanded ___ Conditional ___ Public ___

Based on the application for a sewage disposal system construction permit filed in accordance with Section 2.13 E, of the Sewage Handling and Disposal Regulations and/or Section 2.13 of the Private Well Regulations a construction permit is hereby issued to:

Owner R.S. Contractors Telephone 636-7100
Address P.O. Box 139, Linden, Va. 22642 For a Type I Sewage Disposal System or Well to be constructed on/at Rt. 638
Subdivision Cherry Ridge Section/Block ___ Lot 2 Actual or estimated water use 450 gpd

DESIGN 3BR. / 60cc. MAX.	NOTE: SEWAGE DISPOSAL SYSTEM INSPECTION RESULTS
Water supply, existing: (describe) ___	**Water supply location:** Satisfactory yes ☒ no ☐ comments Installed, need to mark property line so location can be checked! Completion Report G. W. 2 Received: yes ☒ no ☐ not applicable ☐
To be installed: class III-B cased 50' grouted 50'	
Building sewer: 4" I.D. PVC Schedule 40, or equivalent. Slope 1.25" per 10' (minimum), ☐ Other ___	**Building sewer:** yes ☒ no ☐ comments Satisfactory
Septic tank: Capacity 1000 gals. (minimum). ☐ Other ___	**Pretreatment unit:** yes ☒ no ☐ comments Satisfactory
Inlet-outlet structure: PVC Schedule 40, 4" tees or equivalent. ☐ Other ___	**Inlet-outlet structure:** yes ☒ no ☐ comments Satisfactory
Pump and pump station: No ☒ Yes ☐ describe and show design. If yes: ___	**Pump & pump station:** yes ☐ no ☐ comments Satisfactory n/a
Gravity mains: 4" or larger I.D., minimum 6" fall per 100', 1500 lb. crush strength or equivalent. ☒ Other ___	**Conveyance method:** yes ☒ no ☐ comments Satisfactory
Distribution box: Precast concrete with 1-master-6port. 2-d.boxes-8-10port. ports ☒ Other install concrete pad under boxes	**Distribution box:** yes ☒ no ☐ comments Satisfactory
Header lines: Material: 4" I.D. 1500 lb. crush strength plastic or equivalent from distribution box to 2' into absorption trench. Slope 2" minimum. ☐ Other ___	**Header lines:** yes ☒ no ☐ comments Satisfactory (master 1, 2, 8) 1 2 3 4 5 6 7 8
Percolation lines: Gravity 4" plastic 1000 lb. per foot bearing load or equivalent, slope 2" 4" (min. max.) per 100'. ☐ Other ___	**Percolation lines:** yes ☒ no ☐ comments Satisfactory 7½" 8½" 9⅝" 11¾" 12¾" 14⅝" 16" 12'7" / 7½" 8½" 9⅝" 11¾" 12¾" 14⅝" 16½" 12'8¼" / 7½" 8½" 9⅝" 11½" 12⅝" 14'9½" 16⅜" 12'10½"
Absorption trenches: Square ft. required 1800; depth from ground surface to bottom of trench 21"; aggregate size ½-1½; Trench bottom slope 2"-4"/100'; center to center spacing 9'; trench width 3' Depth of aggregate 13"; Trench length 15'; Number of trenches 8	**Absorption trenches:** yes ☒ no ☐ comments Satisfactory
	Date 5/22/97 (AB) Inspected and approved by: ___ Sanitarian

THIS PERMIT IS NOT TRANSFERABLE AND IS ONLY VALID TO THE OWNER INDICATED ON THIS PERMIT.

C.H.S. 202A

Joiner Micro Laboratories, Inc.

77-F West Lee Street • Warrenton, Virginia 20186 • (540) 347-7212

CERTIFICATE OF ANALYSIS

LAB ID: #19473

NAME: R.S. Contractors, Inc.
ADDRESS: P.O. Box 139
Linden, VA 22642

PROPERTY: R.S. Contractors/Parr
CS-97-031-2
Cherry Ridge, Lot 2

SAMPLE SOURCE: Well
SAMPLE LOCATION: Kitchen Tap
SAMPLE RECEIVED FROM: Roger
DATE AND TIME SAMPLE COLLECTED: 9-3-97/1030
DATE AND TIME SAMPLE RECEIVED IN LAB: 9-3-97/1120
SAMPLE COLLECTED BY: Shelley
SAMPLE CONTAINER: Sterile Plastic Container supplied by JML
CHLORINE RESIDUAL: Non Detectable (tested at Lab)

TESTS REQUESTED: TOTAL COLIFORM BACTERIA

METHOD OF ANALYSIS: ONPG-MUG TEST

RESULTS: ABSENT FOR TOTAL COLIFORM BACTERIA

This water sample **HAS PASSED** the minimum potable water test requirements established by the Virginia Department of Health.

Certified by: Robyn Joiner
Robyn Joiner, Biologist
September 4, 1997

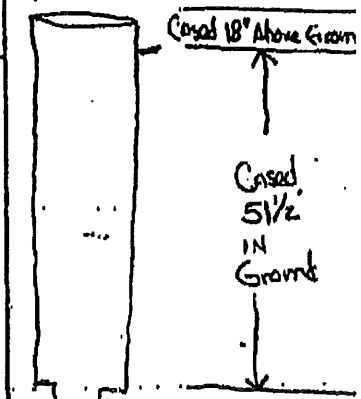
Owner_____ BWCM No. 1

9. State law requires submitting to the Virginia State Water Control Board information about groundwater and wells for every well made in the state intended for water, or any other non-exempt well. This information must be submitted whether the well is completed, on standby, or abandoned. Information required includes: an accurately and completely prepared water well completion report, full data from any aquifer pumping tests, drill cuttings taken at ten foot intervals (unless exemption is secured), the results of any chemical analysis, and copies of any geophysical logs. Quarterly pumpage and use reports are required from owners of public supply and industrial wells. County or State permits to drill may be required in some parts of the state. Some counties require submission of a water well completion report. The Virginia State Health Department requires a water well completion report for public supply wells.

10. DRILLERS LOG (use additional sheets if necessary)

DEPTH (feet) From	To	TYPE OF ROCK OR SOIL (color, material, fossils, hardness etc.)	REMARKS (water, caving, cavities, broken, core, shot, etc.)	11. Drilling Time (Min.)
0	3'	Overburden	Soft	
3	264'	Gray shale	Hard	
264	270'	Gray shale / Quartz	med	
270	280'	Gray shale 1'	Hard	

12. DIAGRAM OF WELL CONSTRUCTION (with dimensions)





State Water Control Board Regional Offices

Valley Reg. Off.
116 North Main Street
P.O. Box 268
Bridgewater, Va. 22812
703-828-2595

Piedmont Reg. Off.
4010 West Broad Street
P.O. Box 6616
Richmond, Va. 23230
804-257-1006

Southwest Reg. Off.
408 East Main Street
P.O. Box 476
Abington, Va. 24210
703-628-5183

Tidewater Reg. Off.
287 Pembroke Office Park
Suite 310 Pembroke No. 2
Va. Beach, Va. 23462
804-499-6742

West Central Reg. Off.
Executive Park
5312 Peters creek Road
Roanoke, Va. 24019
703-982-7432

Northern Virginia Reg. Off.
5515 Cherokee Avenue
Suite 404
Alexandria, Va. 22312
703-750-9111

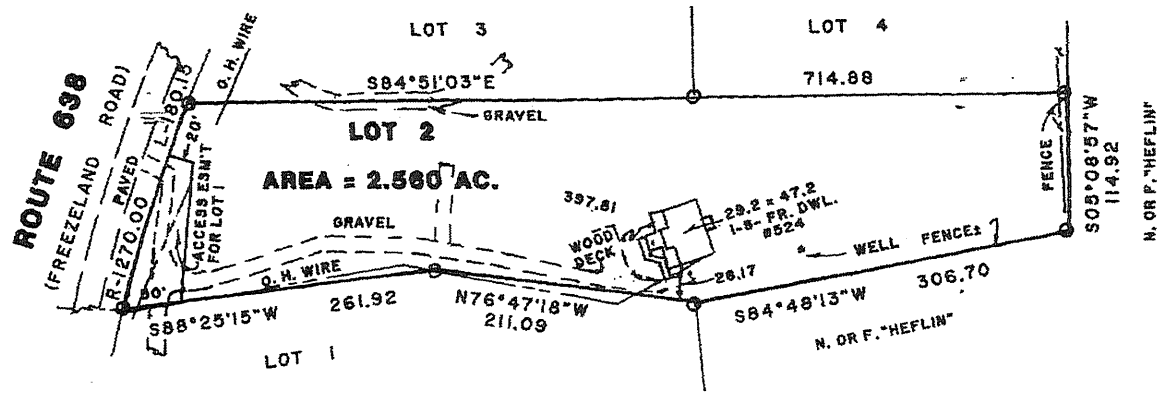
13. Well lot dedicated?____ :Size____ ft. x____ ft.:Well house?____
Distance to nearest pollutant source____ ft., Type____
Distance to nearest property line____ ft,. Building____ ft.

14. WATER SERVICE PIPE: Checked under____ P.S.I. for____
minutes: Pipe size____ Inches, Material____
Installer____
Date____

15. I certify that the information contained herein is true and correct and that this well and/or system has been installed and constructed in accordance with the requirements for well construction as specified in compliance with appropriate county or independent city ordinances and the laws and rules of the Commonwealth of Virginia.

Signature [signature] (Seal). Date 4-10-97
(Well driller or authorized person)

License No. 015640



● DENOTES IRON PIN SET
○ DENOTES EXISTING PIN OR PIPE
NOTE -PARCEL IN FLOOD ZONE C PER HUD MAPS.

DERIVATION OF TITLE -STEVEN R. AND CYNTHIA L. PARR INSTRUMENT #970004767.

SURVEY OF LOT 2, CHERRY RIDGE SUBDIVISION RECORDED IN INSTRUMENT # 970000349.

SHENANDOAH MAGISTERIAL DISTRICT

WARREN COUNTY, VIRGINIA

PREPARED BY

LARRY C. HIMELRIGHT P. C.
PROFESSIONAL LAND SURVEYOR
694 RED BUD ROAD, STRASBURG, VA.
PHONE 465-8767

JUNE 1, 1999

WARREN COUNTY, VIRGINIA
LAND RECORDS
000116 JUN-96

Request for Comments 2022-03-05 – Rocky Quach – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000167-2022

David Beahm <Dbeahm@warrencountyva.net>

Mon 3/28/2022 1:33 PM

To: Chloe Phillips <cphillips@Warrencountyva.net>

Cc: Chase Lenz <clenz@Warrencountyva.net>; Paula Fristoe <Pfristoe@warrencountyva.net>

Comments 2022-03-05 – Rocky Quach – Conditional Use Permit for Short-Term Tourist Rental – WCCUP-000167-2022:

- 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 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 it 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.
    - 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 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

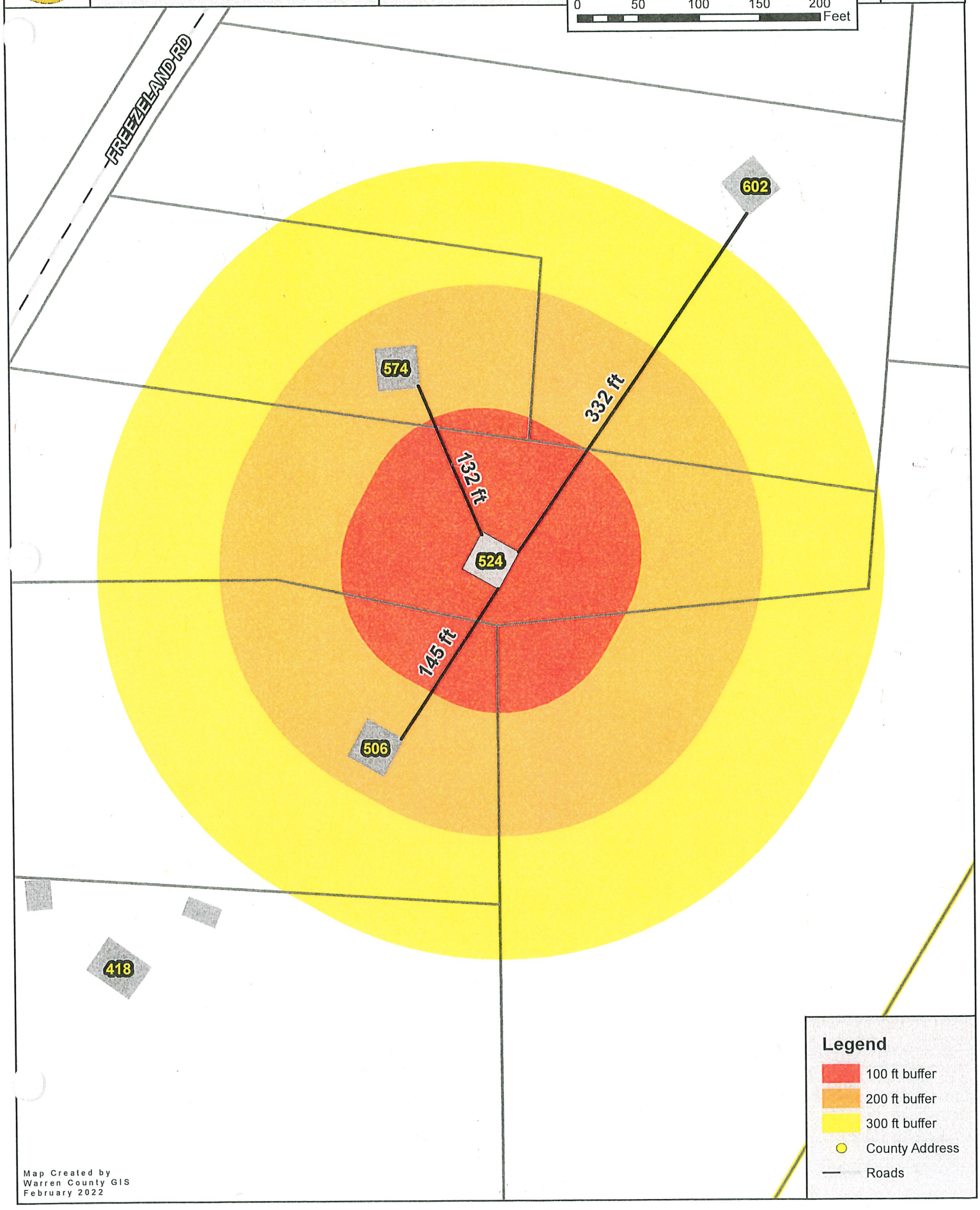
www.warrencountyva.net

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.

Warren County, VA
2021

524 Freezeland Rd
TM 23F--------2

Distance to Surrounding Homes
1 inch = 100 feet
0 50 100 150 200 Feet

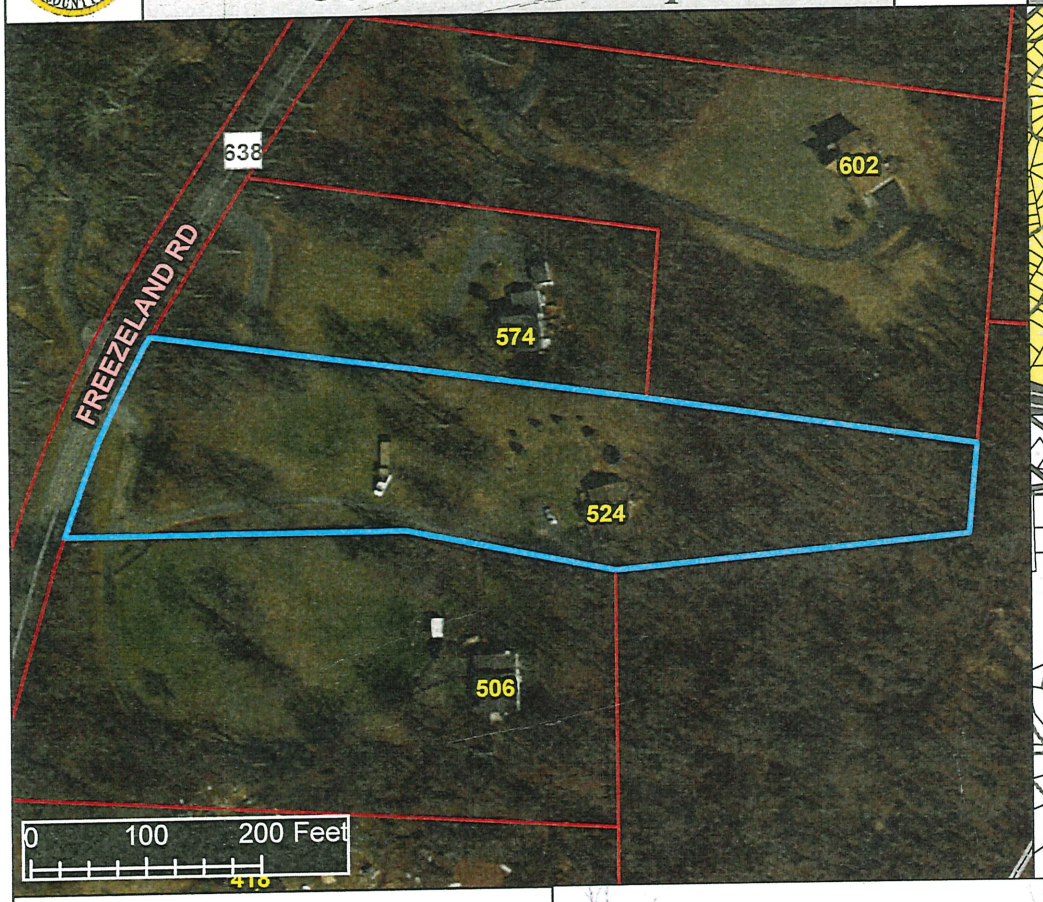


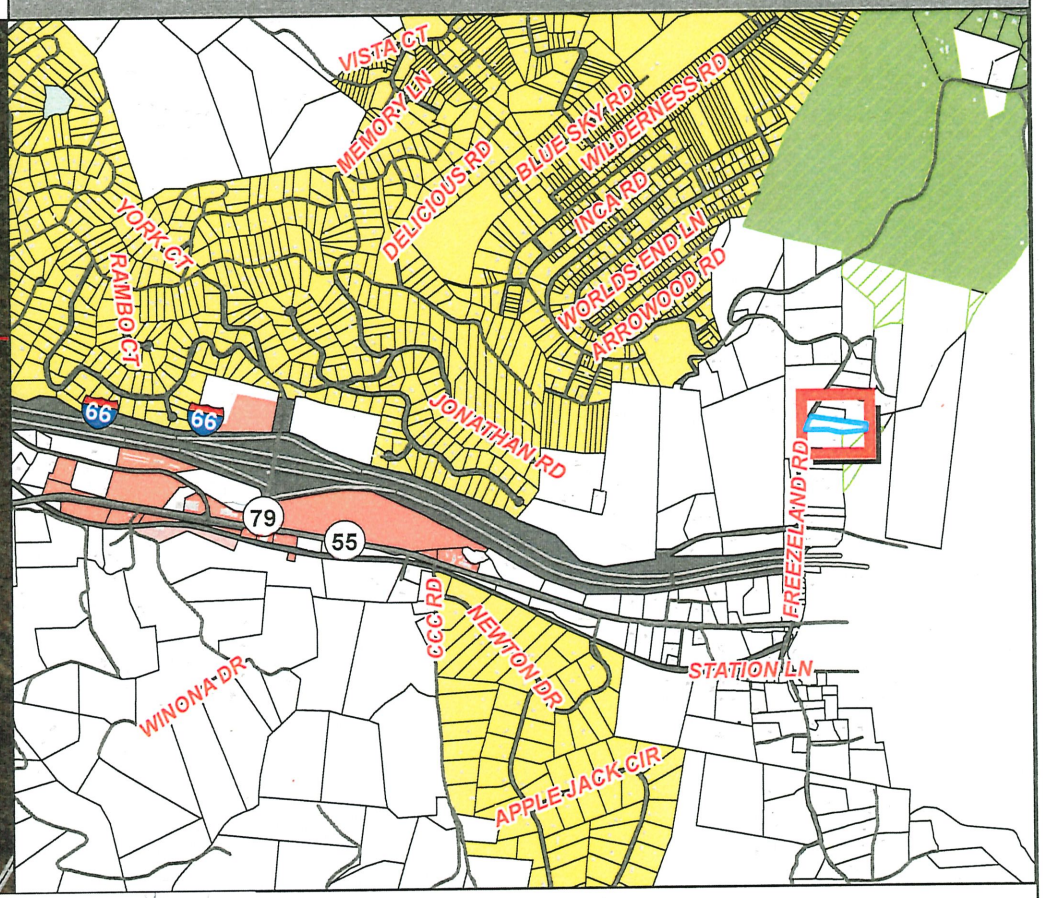
Map Created by
Warren County GIS
February 2022

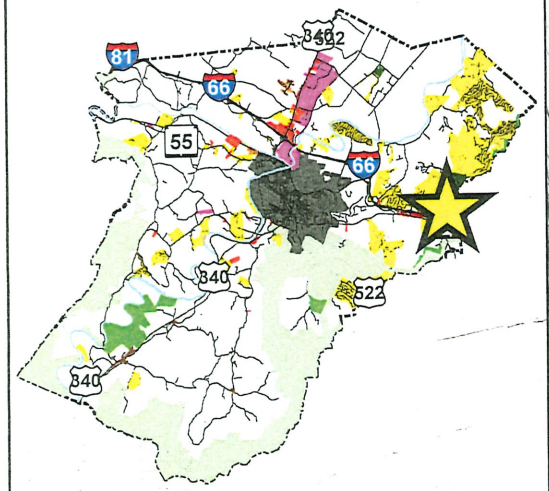
Warren County VA
CUP Location Map

Short Term Tourist Rental
Applicants: Rocky Quach

23F--------2
Cherry Ridge 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
5/03/2022	I-12	Conditional Use Permit #2022-03-07 Richard W. Durkee *Private Use Camping (Non-Commercial)*	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:

1. The applicant shall comply with all Warren County Health Department regulations and requirements.

2. Materials associated with the campers are to be stored in a neat and orderly fashion during the time of use and are to be removed from the site when not in use.

3. Any development, structure or fencing shall require a building and zoning permit.

4. The applicant shall post the property with a lot/parcel number for Fire and Emergency Rescue Services and have an emergency egress plan for removal of the recreational vehicles and portable commode prior to a predicted flood event.

Motion to Approve:

Mr. Henry moved to forward this application to the Board of Supervisors, recommending approval with the conditions listed above. The motion was seconded by Mr. Kersjes and approved by the Planning Commission by a vote of 5 to 0.

PROPOSED OR SUGGESTED MOTION:

I move that the Board of Supervisors authorize the proposed conditional use permit request for authorization for advertisement for a public hearing.

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

Conditional Use Permit: 2022-03-07 / Private Use Camping (Non-Commercial)
Richard W. Durkee, *Current Owner/Applicant*
Staff Report for the Planning Commission
Prepared: March 9, 2022
Staff Contact: Matt Wendling, *Deputy Planning Director/County Floodplain Manager* MPW

SUMMARY OF REQUEST

The applicant is requesting a conditional use permit for Private Use Camping on two vacant lots in the Shenandoah Farms – Riverview Section of the subdivision which are located in the Special Flood Hazard Area (SFHA). The applicant's family has owned the lots since the 1960's. The original retreat home was substantially damaged by Hurricane Agnes in June of 1972 and was removed from the property shortly afterward. https://en.wikipedia.org/wiki/Hurricane_Agnes
The CUP would also allow him to erect a single accessory structure up to 160 sq. ft. for storage of recreational and property maintenance equipment with the issuance of a building permit. The applicant plans to have a recreational vehicle and utilize a port-o-john for seasonal use while staying on the property.

PROPERTY INFORMATION

Property Location: Farms River Rd.
Tax Map ID: #15B-1-1 Parcels 33 & 34
Magisterial District: Shenandoah
Subdivision: Shenandoah Farms - Riverview
City: Front Royal
Zoning: Residential One (R-1)
Acres: 2.63 accumulative
Existing Land Use: Outdoor Recreational Use

SURROUNDING ZONING DISTRICTS & USES

North: Residential One (R-1)	Use: Vacant Lot in SFHA - Recreational Use
South: Residential One (R-1)	Use: Vacant Lot in SFHA - Recreational Use
East: Residential One (R-1)	Use: Vacant Lot & Single Family Dwelling Lot
West: Agricultural (A)	Use: Shenandoah River – Woodlands in SFHA

PROPERTY HISTORY

This property has not had any previous Conditional Use Permits issued for uses in the Residential One (R-1) zoning district. There are a number of properties on this road which have been issued Conditional Use Permits for this use.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Future Land Use Map in the Comprehensive Plan identifies this area to be used for residential land uses. Private Use (Non-commercial) Camping is a use allowed by conditional use permit in the Residential One (R-1) zoning district and is compatible with the current Warren County Zoning Ordinance Section §180-22.

PROPOSAL:

Private Use Camping (non-commercial) is defined by the Warren County Zoning Ordinance as, *"No more than two major recreational vehicles used for living, sleeping or other occupancy on any lot or combination of lots under one ownership, provided that such use is limited to the owner, family members or guests, and no fee is charged for camping."*

SUPPLEMENTARY REGULATIONS FOR MAJOR RECREATIONAL VEHICLES AND EQUIPMENT

§ 180-40.1 **Major recreational vehicles and equipment.**
[Added 1-16-1996; amended 10-18-2011; 8-18-2020]

A. Statement of intent. These provisions are intended to ensure that camping in major recreational vehicles and the parking, storage and use of major recreational equipment is conducted in a safe and healthful manner.

B. For the purposes of this section, the term "major recreational equipment" shall include "major recreational vehicles."

C. Parking, storage and use of major recreational equipment in residential districts. The following regulations shall apply to major recreational equipment in residential districts:

(1) No major recreational equipment shall be used for living, sleeping or other occupancy when parked or stored on a residential lot or in any other location not approved for such use.

(2) Major recreational equipment not parked or stored in a garage, carport or other building. All major recreational equipment shall be located at least three feet from all buildings and shall not be located in any front yard, except in a driveway, perpendicular to the street and a minimum of 10 feet from the right-of-way.

D. Limitation on parking and storage of inoperative major recreational equipment. No more than one inoperative major recreational equipment item shall be parked or stored outdoors on any lot or combination of contiguous lots under one ownership.

E. Use and location of major recreational vehicles where permitted.

(1) The placement of major recreational vehicles on vacant lots shall comply with the established setbacks of the respective zoning district.

(2) Major recreational vehicles shall not be used as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

(3) Major recreational vehicles shall not be used for storage facilities.

F. Parking, storage and use of major recreational equipment within the special flood hazard area (SFHA). The following regulations shall apply to major recreational equipment within the SFHA:

(1) Be on site for less than 180 consecutive calendar days in any one year; be fully licensed and ready for highway use.

(2) The major recreational equipment is ready for highway use if it is on its wheels or jacking system, attached to the site by only quick disconnect-type utilities and securities and has no permanently attached additions.

(3) The parking and storage of inoperative major recreational equipment shall be prohibited.

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 regulations and requirements.

2. Materials associated with the campers are to be stored in a neat and orderly fashion during the time of use and are to be removed from the site when not in use.

3. Any development, structure or fencing shall require a building and zoning permit.

4. The applicant shall post the property with a lot/parcel number for Fire and Emergency Rescue Services and have an emergency egress plan for removal of the recreational vehicles and portable commode prior to a predicted flood event.

Cc: Richard W. Durkee – *Owner/Applicant*

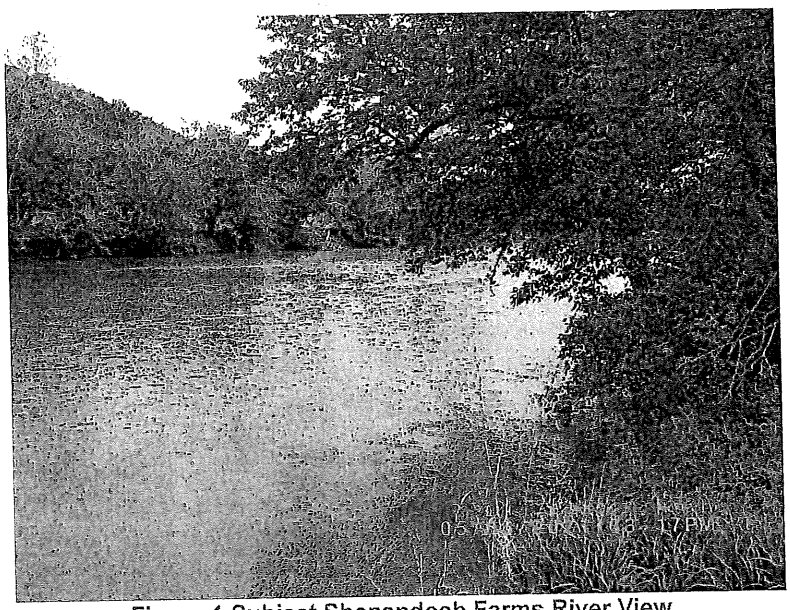


Figure 1 Subject Shenandoah Farms River View

Date: November 30, 2021

To: Warren County Planning Commission

From: Richard Durkee

Subj: Statement of Justification – Private Camping

The property has been in my family since the 1960's. As a child I spent many summers living and working in Shenandoah Farms.

I would like to be able to spend time on the property. Although zoned as R1, I am unable to build a permanent structure due to periodic flooding. My father lost his original summer home there in the '70s when hurricane Agnus passed through.

As such, I am requesting a variance to allow the temporary and periodic use of a Recreational Vehicle on the property.

WCCUP-169-2022

WARREN COUNTY
CONDITIONAL USE PERMIT APPLICATION

Application Number: 2022-03-07
Date Received: 2-17-2022
Fee Amount: $ 200.00
Date Paid: 2-17-2022 CK# 1106

Applicant Information:

Richard William Durkee
Applicant Name

897 Gallant Fox Ln Davidsonville, Maryland 20135
Address *City* *State* *Zip*

L33 & L34 ~~Shen~~ Farms River~~view~~ (Property ID# 15B 1 1 33 & 15B 1 1 34)
Property Location for conditional use permit if Different than Applicant's Address

410 271-1117 rwdurkee@yahoo.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: L33 & L34 Shen Farms Riverview
(2) Election District:
(3) Tax Map Number: 15B 1 1 33 & 15B 1 1 34
(4) Subdivision Name: Shenandoah Farms
(5) Total Area of Property (acres): 2.63
(6) Total Area to be Used (acres): 2.63
(7) Total Road Frontage (feet): 160
(8) Depth of Property (feet): 640
(9) Present Zoning: R1

B. Proposed Use of Property

(1) State the proposed use(s) for the Conditional Use Permit: Private Recreational Camping

(2) Current land use and condition of site: Undevelped with driveway

(3) Zoning of surrounding land/property: R1

(4) Will development be staged? ☐ Yes ☐ No

(5) Construction Time: N/A

(6) Season, days, and hours of operation: As desired

(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: N/A

(12) Number of parking spaces to be provided: Regular N/A Handicap _____

(13) What is the proposed landscaping and buffering for this property? N/A

C. Plans Prepared By

Name: N/A

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?
N/A

(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. N/A

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: 2/14/22

Property Owner Signature — Date: 2/14/22

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

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

March 02, 2022

Mr. Matt Wendling, Deputy Planning Director / County Floodplain Manager
County of Warren, Department of Planning and Zoning
220 N Commerce Ave, Suite 400
Front Royal, VA 22630

RE: Request for Comments; # 2022-03-07

Dear Matt,

I have reviewed the request for comments regarding the property on Farms River Rd, Front Royal, VA in Warren County, (property identified on tax map # 15B-1-1-33, 34.), and I offer the following comments:

1. If a camper is placed on the lot, it must have a sealed leak proof self-contained wastewater disposal system to prevent odors or leakage onto the ground. This tank is to be emptied at an approved dump station.

2. The camper must have a potable water tank or bottled water can be used.

3. There is to be no connection of pipes or drainlines to the camper, and there is to be no discharge of any type of wastewater onto the ground or into the waters of the Commonwealth.

4. No drainfield or water supply can be installed at this lot without proper application, evaluation, permitting, and inspection of the installation by this department.

5. There is to be no trash or junk disposed of on the lot.

Sincerely,

GSmith

Greg Smith,
Environmental Health Specialist

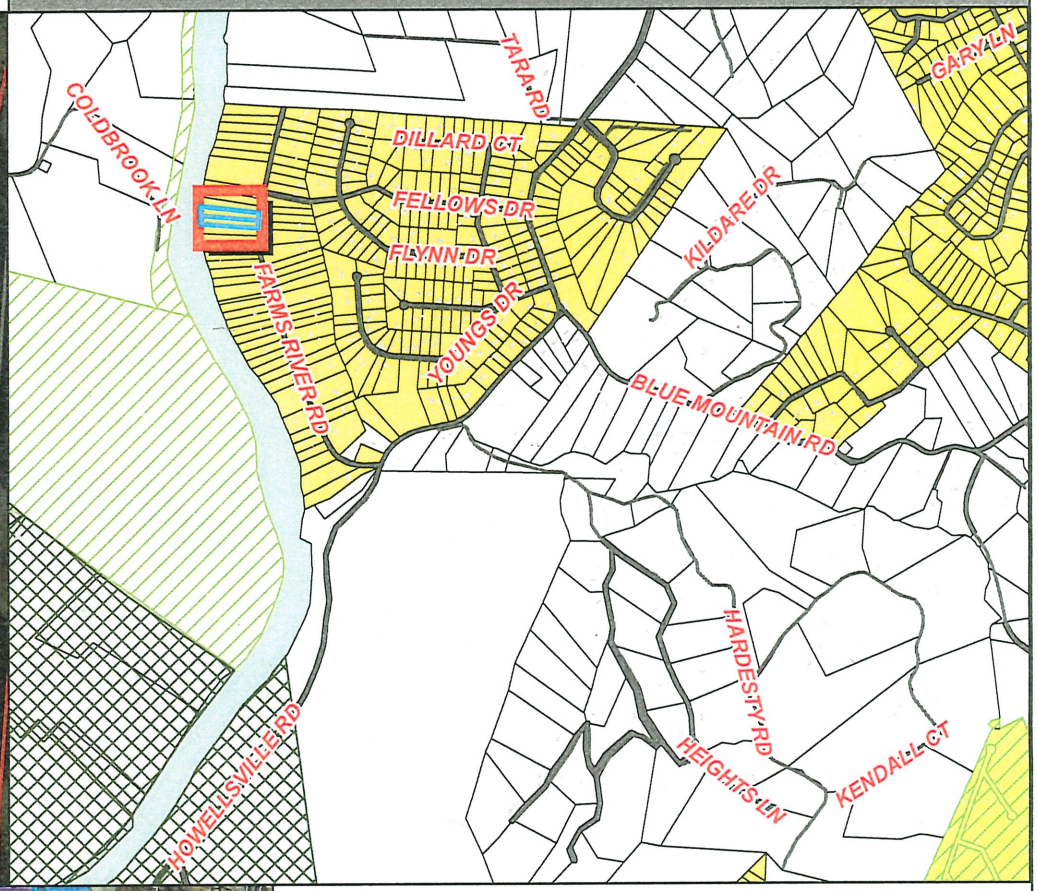
Warren County VA

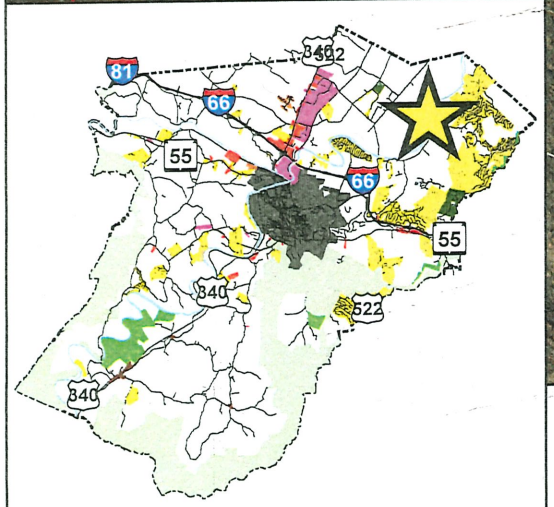
CUP Location Map

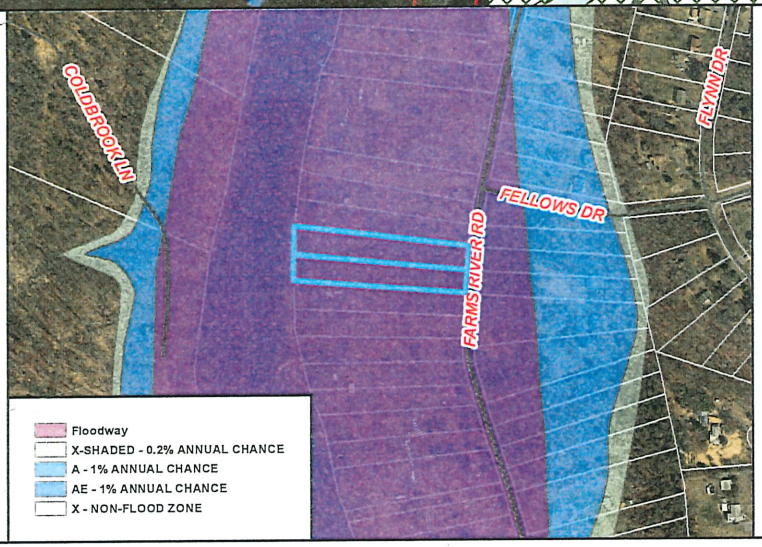
Private Use Camping
Applicants: Richard Durkee

TM [illegible]-1-1--33, 34
Shenandoah Farms - River 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 2022
Department of Planning

Motion to be Made Going into Closed Meeting

I move the Board enter into a closed meeting under the provisions of Section 2.2-3711(A)(1) of the Virginia Freedom of Information Act for the discussion or consideration of the assignment, appointment, promotion, performance, demotion, salaries, or resignation of a specific public officer of the public body, specifically in regard to the Board of Building Code Appeals, the Economic Development Authority Board of Directors, and the Front Royal-Warren County Airport Commission.

I also move the Board enter into a closed meeting under the provisions of Section 2.2-3711(A)(3) for discussion or consideration of the acquisition of real property for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, such property being located in the Fork Magisterial District within the limits of the Town of Front Royal.

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.

- - -

Motion to be Made Coming out of Closed Meeting

I move that the Board certifies to the best of each member's knowledge only public business matters lawfully exempted from open meeting requirements under Sections 2.2-3711(A)(1), (A)(3), 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.

Secondary System
Warren County
Construction Program
Estimated Allocations

Fund	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	Total
CTB Formula - Unpaved State	$0	$0	$0	$0	$0	$0	$0
Formula Secondary State	$0	$0	$0	$0	$0	$0	$0
Secondary Unpaved Roads	$0	$0	$0	$0	$0	$0	$0
TeleFee	$55,258	$55,258	$55,258	$55,258	$55,258	$55,258	$331,548
State Funds	$0	$0	$0	$0	$0	$0	$0
District Grant - Unpaved	$234,088	$249,346	$249,346	$220,768	$220,768	$220,768	$1,395,084
Total	$289,346	$304,604	$304,604	$276,026	$276,026	$276,026	$1,726,632

Board Approval Date:

Residency Administrator Date

County Administrator Date

Warren County

Warren County (093)

UPC **Description**

17714 **#HB2.FY17 RTE 624 - RECONSTRUCTION**

0001.03 Project 0624093186 ECL FRONT ROYAL ROUTE 645

Previous	Budget	Projected	Total
$5,431,725	$0	$0	$5,431,725

Total Estimate $4,737,868

Balance: -$693,857

	PE	RW	CN
Schedule:	07/31/13	07/01/19	01/12/21
Estimate:	$1,187,399	$373,333	$3,177,136

Funding Detail (in $1000s)		Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
3190000	DGP Supplemental (HB1414)	$696	$0	$0	$0	$0	$0	$0
6011007	DGP - State	$4,147	$0	$0	$0	$0	$0	$0
6011907	DGP - State	$61	$0	$0	$0	$0	$0	$0
6030601	.Formula - Secondary :Federal/State - Warren (CNS601)	$117	$0	$0	$0	$0	$0	$0
6030605	Secondary Formula - Unpaved Roads : Warren	$51	$0	$0	$0	$0	$0	$0
6030606	Secondary Formula - Telecommunications : Warren	$360	$0	$0	$0	$0	$0	$0

111061 **Rocky Hollow Road Rd - Rural Rustic**

0003.08 Project 0628093811 Rt. 613 - Indian Hollow Road Rt. 629 - Acorn Hill Road

Previous	Budget	Projected	Total
$250,000	$109,458	$0	$359,458

Total Estimate $359,458

Balance: $0

	PE	RW	CN
Schedule:			08/31/20
Estimate:	$0	$0	$359,458

Funding Detail (in $1000s)		Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
3001500	CTB Formula: Unpaved - Warren	$39	$0	$0	$0	$0	$0	$0
6071700	HB2 DG: Unpaved - Warren	$211	$109	$0	$0	$0	$0	$0

116774 **Kendrick Ford Road - Rural Rustic**

0003.11 Project 0660093817 Punch Run Rd. Rt. 621 End of State Maintenance

Previous	Budget	Projected	Total
$4,111	$124,630	$125,259	$254,000

Total Estimate $254,000

Balance: $0

	PE	RW	CN
Schedule:			06/13/22
Estimate:	$0	$0	$254,000

Funding Detail (in $1000s)		Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
6071700	HB2 DG: Unpaved - Warren	$4	$125	$125	$0	$0	$0	$0

Warren County

Warren County (093)

UPC **Description**

116773 Panhandle Road Phase II - Rural Rustic

0003.12 Project 0613093818 Mountain Road Rt. 619 Wilson Burke Road Rt. 608

Previous	Budget	Projected	Total
$0	$0	$173,250	$173,250

Total Estimate $173,250

Balance: $0

	PE	RW	CN
Schedule:			01/16/25
Estimate:	$0	$0	$173,250

Funding Detail (in $1000s)	Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
6071700 HB2 DG: Unpaved - Warren	$0	$0	$124	$49	$0	$0	$0

117036 FY25 & FY26 Warren County Rural Rustic Roads Projects

0003.13 Project 9999093830 Various Various

Previous	Budget	Projected	Total
$0	$0	$420,951	$420,951

Total Estimate $420,951

Balance: $0

	PE	RW	CN
Schedule:			10/07/25
Estimate:	$0	$0	$420,951

Funding Detail (in $1000s)	Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
6071700 HB2 DG: Unpaved - Warren	$0	$0	$0	$200	$221	$0	$0

121192 FY27 & FY28 Warren County Rural Rustic Roads Projects

0003.14 Project 9999093 Various Various

Previous	Budget	Projected	Total
$0	$0	$441,536	$441,536

Total Estimate $441,536

Balance: $0

	PE	RW	CN
Schedule:			
Estimate:	$0	$0	$441,536

Funding Detail (in $1000s)	Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
6071700 HB2 DG: Unpaved - Warren	$0	$0	$0	$0	$0	$221	$221

100215 COUNTYWIDE ENGINEERING & SURVEY

9999.99 Budget Item 1204005 VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY

Funding Detail (in $1000s)	Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
6030606 Secondary Formula - Telecommunications : Warren	$293	$0	$0	$0	$0	$0	$0

-26904 COUNTYWIDE - TRANSPORTATION SERVICES

9999.99 Project 9999093

Previous	Budget	Projected	Total
$0	$55,258	$276,290	$331,548

Total Estimate $331,548

Balance: $0

	PE	RW	CN
Schedule:	07/01/22	06/30/23	07/01/24
Estimate:	$50,000	$50,000	$231,548

Funding Detail (in $1000s)	Previous	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
6030606 Secondary Formula - Telecommunications : Warren	$0	$55	$55	$55	$55	$55	$55

WARREN COUNTY

NEW HARD SURFACE PROJECT --- SCORING SHEET

							Currently Ranked - (Y)=Yes or (N)=No
							ROAD NAME
							Average Daily Traffic Count *0 to 100 =5 pts, 101 to 200 =10 pts, 201+ =20 pts*
							Occupied Structures *0 to 100 =5 pts, 101 to 200 =10 pts, 201+ =20 pts*
							Road Geometrics *0 to 20 points (20 is good condition)*
							Drainage *0 to 10 points (10 is good)*
							Accident Data **0 to 5 = 5** *points, 6 to 10 =10 points, greater than 10 = 20 points*
							School Bus Travel *Yes = 10 points / No = 0 points*
							Time on Road Plan in Years **(TIE BREAKER)**
							FINAL SCORE

HARDSURFACE IMPROVEMENT PROJECT RATING SYSTEM POLICY

Adopted by the Warren County Board of Supervisors on _____(Draft).

The following procedures are intended to delineate the steps necessary for the application of this rating system policy. Adherence to these procedures will ensure consistency in the application of this rating system policy for existing and future hardsurface road improvement project requests. This policy shall be effective following the adoption of these procedures by the Board of Supervisors and shall only be altered through the same process. Information pertaining to the rating system application for each hardsurface road improvement project shall be maintained in the Warren County Planning Department.

The Board of Supervisors shall have the authority to revise the Hardsurface Road Improvement Projects section of the Warren County Secondary Road Improvement Plan subsequent to the application of the rating system to ensure the health, safety, and general welfare of the citizens of Warren County.

RATING SYSTEM REVIEW AGENCIES

Candidate projects shall be evaluated by Warren County, and the Virginia Department of Transportation (VDOT).

One rating sheet shall be prepared for each candidate project.

Staff from Warren County and VDOT shall coordinate to complete a rating sheet for each candidate project and submit the results to the designated Committee for review.

RATING SYSTEM APPLICATION METHODOLOGY

Candidate projects shall be rated utilizing the following information and methodology detailed on the scoring sheet for each category:

1. Average Daily Traffic Count – utilize the most recent traffic counts for each candidate project provided by the VDOT residency (seasonal activity to be included in calculation).
2. Occupied Structures – utilize the Warren County Planning Department addressing database and digital mapping system to determine the total number of occupied structures that have direct access to, or whose only means of ingress and egress from a private road is achieved by each candidate project.
3. Road Geometrics – County staff to perform review with VDOT Residency. (i.e., surface width, shoulder width, horizontal curvature)
4. Drainage
    a. Good: Pipes are of adequate size and number. Water drains away from the roadway and creates no problem with surface maintenance. Ditches are of adequate size which produce no flooding within the roadway.
    b. Fair: Pipes are of adequate size; however, additional pipes may be needed. Water drains away from the roadway with minimal maintenance problems. Drainage ditches are in good condition, require little maintenance, and produce no flooding within the roadway.
    c. Poor: Pipes are not adequate in size or number. Ditch lines are inadequate and require extra maintenance water does not drain from the roadway effectively, creating maintenance problems and flooding.
5. Accident Data – obtain crash data from the VDOT Residency detailing the most recent accident data available.
6. School Bus Travel – utilize information reflecting current or proposed school bus travel routes for each candidate project provided by the Warren County Public Schools Transportation Supervisor.

7. Time on Road Plan / Years Requested – utilize information from current and previously approved Warren County Secondary Road Improvement Plans to determine when candidate projects were incorporated (Time on Road Plan to be used as Tie Breaker if necessary).

RATING SYSTEM POINTS APPLICATION

Total points are determined for each category element. A cumulative total is obtained for each candidate project utilizing the total points derived from each category element.

If two or more candidate projects have the same cumulative point average, a tie-breaking system will be utilized. First priority will be given to the project that has been on the road plan longer. Following that each affected candidate project will be compared to the others starting with the category of greatest weight and working through the categories of lesser weights respectively until the tie is broken.

The cumulative point average for each candidate project shall be final. Any citizen request to alter the termini of a current candidate project and subsequent Board action will require a new rating sheet to be completed for the resulting segment(s). The resulting segment(s) will retain the 'time on road plan' date of the previous segment.

HARDSURFACE ROAD IMPROVEMENT PLAN FORMAT

The Hardsurface Road Improvement Projects section of the Warren County Secondary Road Improvement Plan will reflect the candidate projects with the highest cumulative point total that can be incorporated into the VDOT Six-Year Improvement Program based on available funding. This information will be provided to Warren County by the VDOT Residency.

All remaining candidate projects will be placed on an Unscheduled Hardsurface Improvement Projects list which will be incorporated within the Warren County Secondary Road Improvement Plan. Candidate projects incorporated into this section of the plan will be ranked from the highest cumulative point total to the lowest cumulative point total.

VDOT will advise Warren County when funding is available for the inclusion of new candidate projects within the Hardsurface Road Improvement Projects section of the Warren County Secondary Road Improvement Plan. All candidate projects placed on the Unscheduled Hardsurface Improvement Projects list, as well as newly requested candidate projects, will be reviewed by the procedure detailed above to determine current conditions. Appropriate ranking for all candidate projects will be determined at that time and placed accordingly. New project requests and supporting materials must be received by Warren County by January 1st, of the plan update year, to be included in the next plan update. (Plan updates will occur every other year beginning in 2023).

NEW PROJECT REQUESTS

New project requests and supporting materials must be received by Warren County by January 1st to be included in the next plan update.

A written request must be provided to Warren County which describes the location of the candidate project, the origin and terminus of the segment, and a petition signed by at least 51% of all property owners fronting on the proposed segment.

The Designated Transportation Committee shall recommend new project requests which meet these criteria after determining that the candidate project includes a segment of a state route that has a rational origin and terminus. The Transportation Committee shall have the authority to adjust the project origin and terminus to create a more rational segment at their discretion.

PROJECT REMOVAL

Road Improvements projects shall be removed from the plan once VDOT has notified Warren County that the project has been completed.

The Board of Supervisors may remove projects from the plan if VDOT has provided notification that right-of-way efforts have been ceased.

COUNTY OF WARREN, VIRGINIA
BOARD OF SUPERVISORS WORK SESSION ITEM

DATE	ITEM	SUBJECT	PAGE 1 OF
May 3, 2022	WS-B	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.

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

*****

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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.

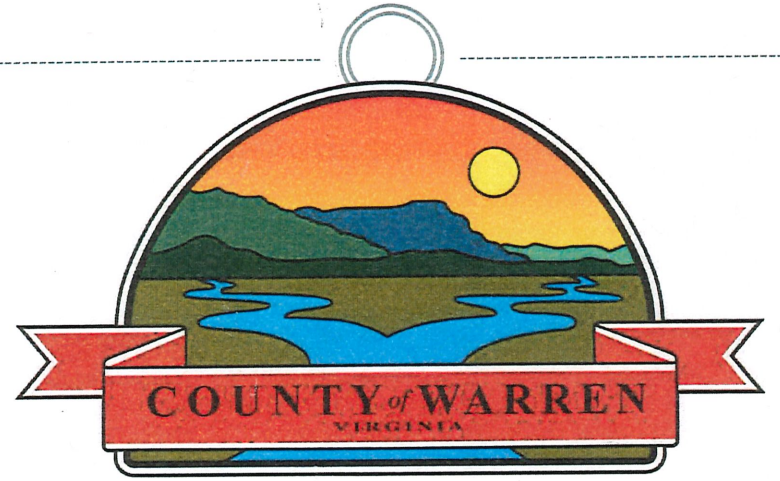
After review and explanation of the substantial project construction cost increases anticipated for Old Oak IV and high probability of similar increases for Old Oak V, the Property Owners of Shenandoah Farms (POSF) Board voted to withdraw from the current projects. A copy of the email from the POSF Board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



WARREN COUNTY
-PUBLIC WORKS DEPARTMENT-

SHENANDOAH FARMS SANITARY DISTRICT

OLD OAK IV & V

April 19, 2022

POSF request to withdraw from Old Oak IV & Old Oak V

Mike Berry

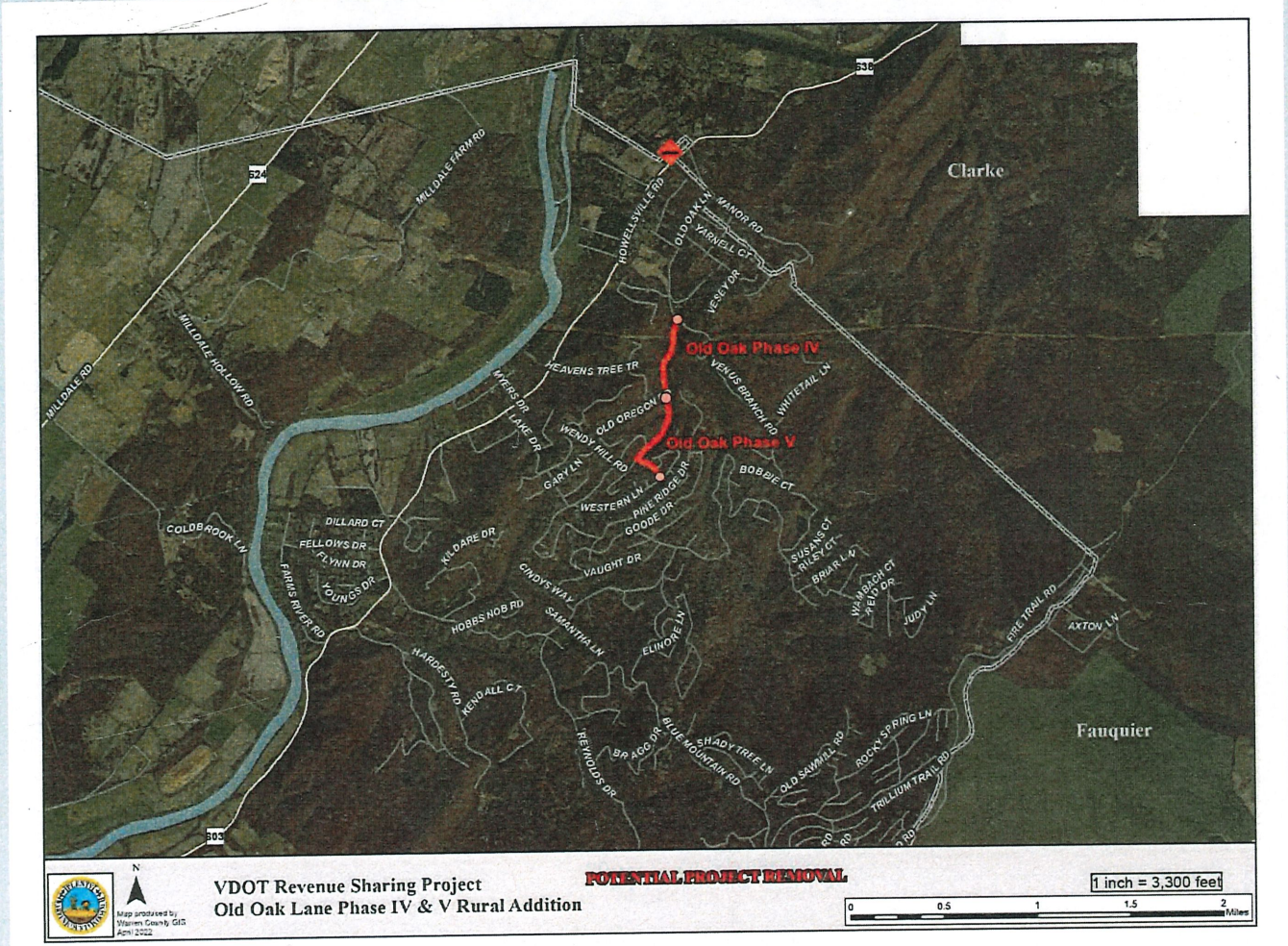
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The board also voted to hold off all internal projects.

Thank you for your assistance
Ralph

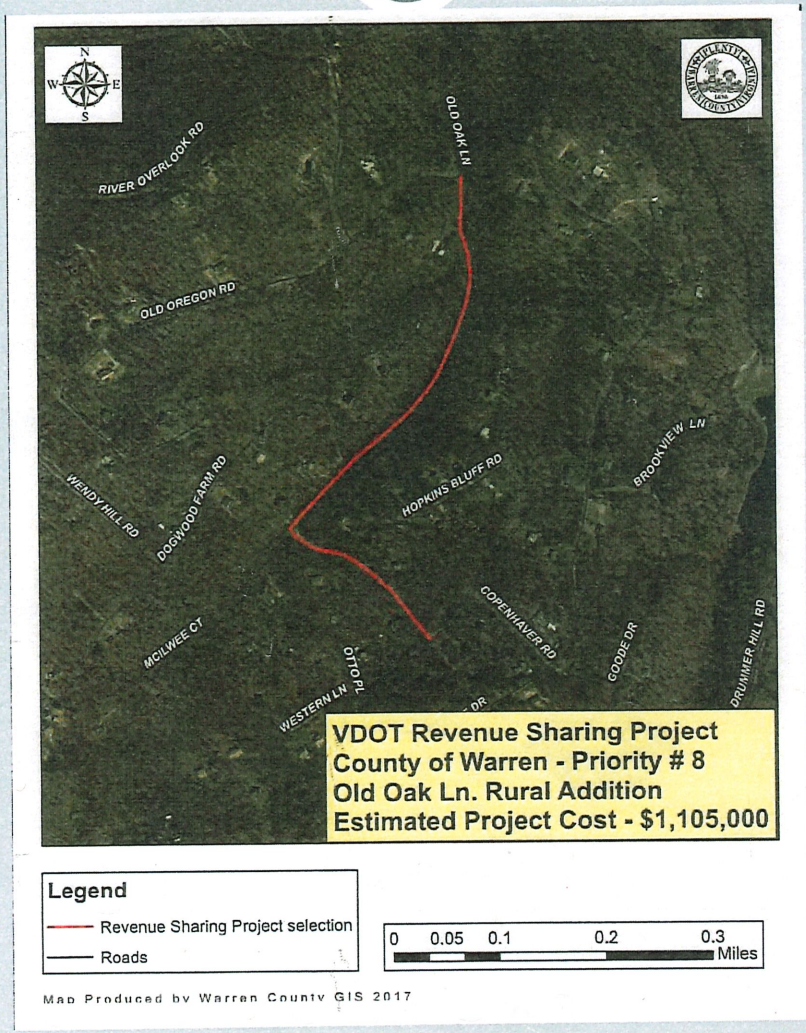
Old Oak IV & V


Clarke
Fauquier
Old Oak Phase IV
Old Oak Phase V
MILLDALE FARM RD
MILLDALE RD
MILLDALE HOLLOW RD
HOWELLSVILLE RD
OLD OAK LN
MANOR RD
YARNELL CT
VESEY DR
HEAVENS TREE TR
VENUS BRANCH RD
WHITETAIL LN
MYERS DR
LAKE DR
OLD OREGON
WENDY HILL RD
GARY LN
WESTERN LN
PINE RIDGE DR
GOODE DR
BOBBIE CT
COLDBROOK LN
DILLARD CT
FELLOWS DR
FLYNN DR
YOUNGS DR
FARMS RIVER RD
KILDARE DR
CINDYS WAY
VAUGHT DR
HOBBS HOB RD
SAMANTHA LN
ELINORE LN
HARDESTY RD
KENDALL CT
REYNOLDS DR
BR AGG DR
BLUE MOUNTAIN RD
SHADY TREE LN
OLD SAMMIL RD
ROCKY SPRING LN
TRILLIUM TRAIL RD
SUSANS CT
RILEY CT
BRIAR LN
WILDBRIAR CT
REID DR
JUDY LN
FIRE TRAIL RD
AXTON LN
524
636
303
N
Map produced by Warren County GIS April 2022
VDOT Revenue Sharing Project
Old Oak Lane Phase IV & V Rural Addition
POTENTIAL PROJECT REMOVAL
1 inch = 3,300 feet
0
0.5
1
1.5
2
Miles

Old Oak IV Project
0.44 miles



Old Oak V
0.58 miles



BOS Resolution
Old Oak IV & V

RESOLUTION

of the Board of Supervisors of Warren County
FY 2018-2020 REVENUE SHARING PROGRAM

At a regularly scheduled meeting of the Board of Supervisors of Warren County held on October 17, 2017, on a motion by Supervisor Murray, seconded by Supervisor Fox, the following resolution was adopted by a vote 5 to 0.

WHEREAS, the Board of Supervisors of Warren County desires to submit an application for an allocation of funds of up to $13,772,800 through the Virginia Department of Transportation Fiscal Year 2018-2020 Revenue Sharing Program; and,

WHEREAS, $13,772,800 of these funds are requested to fund the following projects:

- Priority #1 – Rockland Road – TIGER Grant/SmartScale Project – $710,000. Project would provide a grade-separated crossing for Route 658 (Rockland Road).
- Priority #2 – Old Oak Lane, Phase IV – Rural Addition Project – [Rural Addition Priority #1] – 0.44 miles (Shenandoah Farms Sanitary District) – $998,250. Project would improve existing gravel road to minimum VDOT standards.
- Priority #3 – Route 705 (Fishnet Boulevard) – Pavement Reconstruction and Bike Lane Installation – 0.60 mile – $150,000. Project would improve park entrance and allow for full-striping for bike/walking trail.
- Priority #4 – Rural Addition Project – Youngs Drive, Phase II – [Rural Addition Priority #2] – 0.47 miles (Shenandoah Farms Sanitary District) – $485,000. Project would improve existing gravel road to minimum VDOT standards.
- Priority #5 – Rural Addition Project – T-Bird Drive, Phase I – [Rural Addition Priority #3] – 0.49 miles (Thunderbird Farms Subdivision) – $100,000. Project would improve existing paved road to minimum VDOT standards.
- Priority #6 – Rural Addition Project – Grove Farm Road – [Rural Addition Priority #4] – 0.29 miles (Fairfield Acres Subdivision) – $75,000. Project would improve existing paved road to minimum VDOT standards.
- Priority #7 – Rural Addition Project – Blue Valley Road, Phase I – [Rural Addition Priority #5] – 0.11 miles (Linden Heights Sanitary District) – $150,000. Project would improve existing gravel road to minimum VDOT standards.
- Priority #8 – Rural Addition Project – Old Oak Lane, Phase V – [Rural Addition Priority #6] – 0.58 miles (Shenandoah Farms Sanitary District) – $1,105,000. Project would improve existing gravel road to minimum VDOT standards.
- Priority #9 Crooked Run Boulevard Extension – 1.01 miles – $10,000,000 ($25,900,000 Total estimated project cost) would fund a portion of project to extend Crooked Run Boulevard from its intersection with Crooked Run Plaza 119' (travel lanes and turn lane) to the west to a proposed 3-lane 300' bridge over Crooked Run and 1.01 miles to connect to Route 609 (Ritenour Hollow Road).

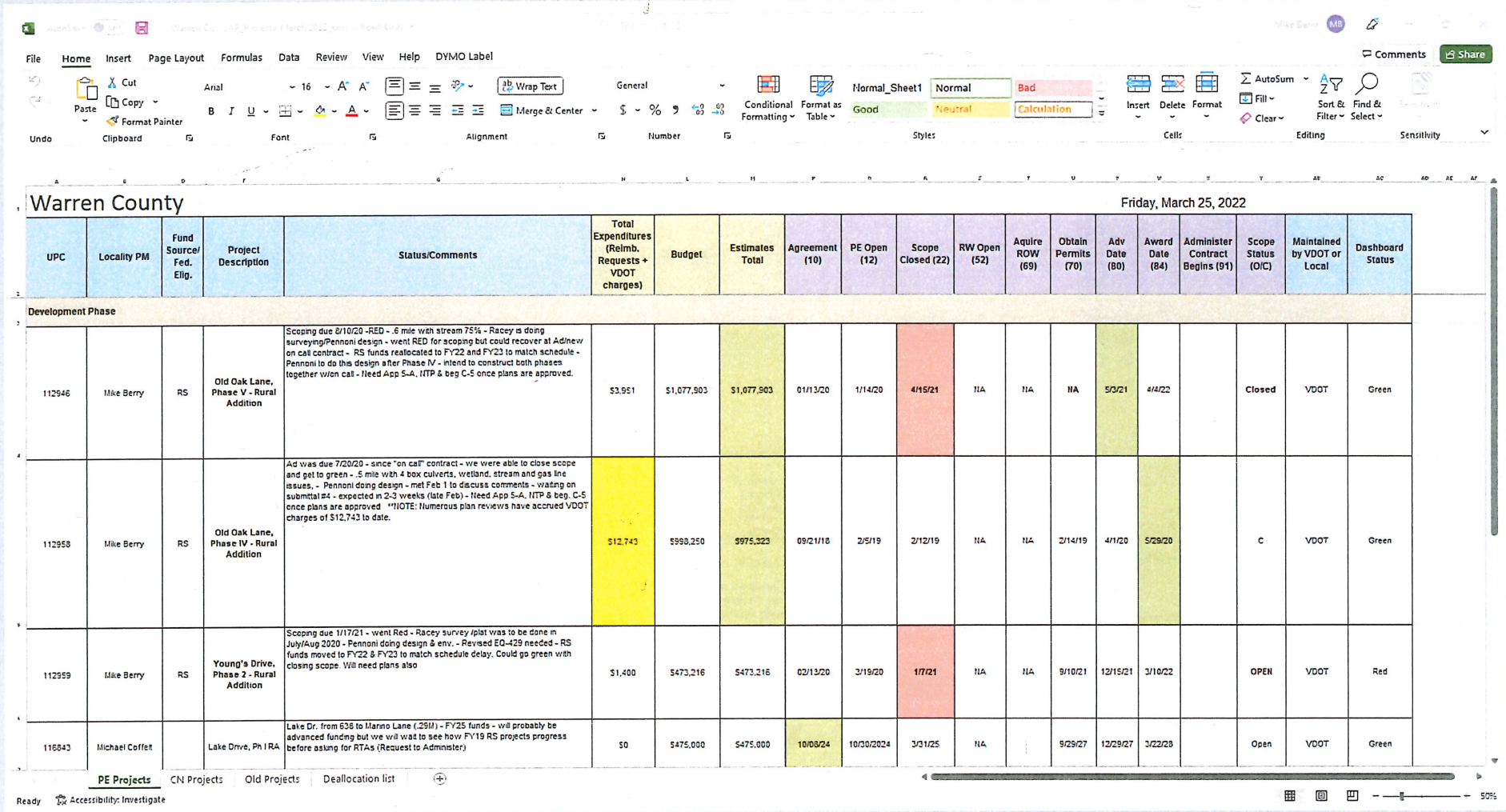
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Warren County hereby supports this application for an allocation of $13,772,800 through the Virginia Department of Transportation Revenue Sharing Program; and,

BE IT FURTHER RESOLVED that the Board of Supervisors of Warren County hereby grants authority for the County Administrator, Mr. Douglas P. Stanley, to execute project administration agreements for any approved revenue sharing project.

A COPY ATTEST

Douglas P. Stanley, AICP ICMA-CM
Clerk, Board of Supervisors
County of Warren, Virginia

VDOT – LAP



Warren County

Friday, March 25, 2022

UPC	Locality PM	Fund Source/ Fed. Elig.	Project Description	Status/Comments	Total Expenditures (Reimb. Requests + VDOT charges)	Budget	Estimates Total	Agreement (10)	PE Open (12)	Scope Closed (22)	RW Open (52)	Aquire ROW (69)	Obtain Permits (70)	Adv Date (80)	Award Date (84)	Administer Contract Begins (91)	Scope Status (O/C)	Maintained by VDOT or Local	Dashboard Status
Development Phase																			
112946	Mike Berry	RS	**Old Oak Lane, Phase V - Rural Addition**	Scoping due 8/10/20 -RED - .6 mile with stream 75% - Racey is doing surveying/Pennoni design - went RED for scoping but could recover at Ad/new on call contract - RS funds reallocated to FY22 and FY23 to match schedule - Pennoni to do this design after Phase IV - intend to construct both phases together w/on call - Need App 5-A, NTP & beg C-5 once plans are approved.	$3,951	$1,077,903	$1,077,903	01/13/20	1/14/20	4/15/21	NA	NA	NA	5/3/21	4/4/22		Closed	VDOT	Green
112958	Mike Berry	RS	**Old Oak Lane, Phase IV - Rural Addition**	Ad was due 7/20/20 - since "on call" contract - we were able to close scope and get to green - .5 mile with 4 box culverts, wetland, stream and gas line issues, - Pennoni doing design - met Feb 1 to discuss comments - waiting on submittal #4 - expected in 2-3 weeks (late Feb) - Need App 5-A, NTP & beg. C-5 once plans are approved **NOTE: Numerous plan reviews have accrued VDOT charges of $12,743 to date.	$12,743	$998,250	$975,323	09/21/18	2/5/19	2/12/19	NA	NA	2/14/19	4/1/20	5/29/20		C	VDOT	Green
112959	Mike Berry	RS	**Young's Drive, Phase 2 - Rural Addition**	Scoping due 1/17/21 - went Red - Racey survey /plat was to be done in July/Aug 2020 - Pennoni doing design & env. - Revised EQ-429 needed - RS funds moved to FY22 & FY23 to match schedule delay. Could go green with closing scope. Will need plans also	$1,400	$473,216	$473,216	02/13/20	3/19/20	1/7/21	NA	NA	9/10/21	12/15/21	3/10/22		OPEN	VDOT	Red
116843	Michael Coffelt		Lake Drive, Ph I RA	Lake Dr. from 638 to Manno Lane (.29M) - FY25 funds - will probably be advanced funding but we will wait to see how FY19 RS projects progress before asking for RTAs (Request to Administer)	$0	$475,000	$475,000	10/08/24	10/30/2024	3/31/25	NA		9/29/27	12/29/27	3/22/28		Open	VDOT	Green

PE Projects | CN Projects | Old Projects | Deallocation list

Ready | Accessibility: Investigate

SFSD CIP

Shenandoah Farms Sanitary District
Capital Improvement Project Priority List
VDOT Rural Addition Revenue Sharing Program Projects

Priority	Project Name/Section/Description/Notes	Location/Length/ADT		Estimated Total Project Cost		Estimated SFSD Share
1	**Old Oak Ln. – Phase IV/Timberline/Camels Back Sections** Grade, drain, stabilize, and pave unpaved roadway. Extensive stream work and several special design drainage structures required. VDOT Approved: Yes FY 18 Year Added: 2014	From	Venus Branch Road	P.E.	$93,500	$23,375
		To	Old Oregon Road	R.W.	$26,775	$26,775
		Length	0.44 mile	Construction	$877,975	$219,494
		Est. ADT	7,564	**Total**	**$998,250**	**$269,644**
2	**Youngs Drive – Phase II/Riverview Section** Grade, drain, stabilize and pave unpaved roadway. VDOT Approved: Yes FY 19 Year Added: 2014	From	Farm View Road	P.E.	$20,000	$5,000
		To	Cul-de-sac	R.W.	$26,775	$26,775
		Length	0.47 mile	Construction	$438,225	$109,556
		Est. ADT	477	**Total**	**$485,000**	**$141,331**
3	**Old Oak Ln – Phase V – Camels Back/Mountain Lake Sections** – Grade, drain, stabilize and pave unpaved roadway. Extensive stream work and several special design drainage structures required. VDOT Approved: Yes FY 19 Year Added: 2016	From	Old Oregon Road	P.E.	$35,700	$8,925
		To	Western Lane	R.W.	$66,300	$66,300
		Length	0.57 mile	Construction	$1,104,543	$276,136
		Est. ADT	7,564	**Total**	**$1,206,543**	**$351,361**
4	**Lake Drive – Phase I – Riverview Section** Grade, drain, stabilize, and pave unpaved roadway. Extensive drainage work required. VDOT Approved: Pending FY 21/22 Year Added: 2016	From	Howellsville Road/Rte. 638	P.E.	$20,000	$5,000
		To	Marino Lane	R.W.	$40,000	$40,000
		Length	0.29 mile	Construction	$415,000	$103,750
		Est. ADT	2,914	**Total**	**$475,000**	**$148,750**
5	**Tulip Poplar Drive – Phase I – Mountain View Section** Grade, drain, stabilize and pave unpaved roadway. Extensive drainage work required. VDOT Approved: Pending FY 21/22 Year Added: 2017	From	Old Linden Road	P.E.	$15,000	$3,750
		To	McDonald Farm Road	R.W.	$25,000	$35,000
		Length	0.19 mile	Construction	$300,000	$75,000
		Est. ADT	554	**Total**	**$350,000**	**$113,750**
6	**Western Lane – Phase II – Mountain Lake Section** Grade, drain, stabilize, and pave unpaved roadway. VDOT Approved: Pending FY 21/22 Year Added: 2017	From	Old Oak Lane	P.E.	$25,000	$6,250
		To	Lake Drive	R.W.	$100,000	$100,000
		Length	0.58	Construction	$500,000	$125,000
		Est. ADT	11,504	**Total**	**$625,000**	**$231,250**

Additional cost estimated for Shenandoah Farms Sanitary District Old Oak IV

- Approved VDOT Old Oak IV project funding $998,250
  - Old Oak IV original cost for SFSD $269,644
- Old Oak IV- additional construction cost increase anticipated $598,950
  - 100% SFSD (no additional County or VDOT funding)
- Total Estimated Cost $1,597,200
  - SFSD Share $868,594

Additional cost estimated for Shenandoah Farms Sanitary District Old Oak V

- Approved VDOT Old Oak V project funding $1,077,903
  - Old Oak V original cost for SFSD $351,361
- No hard numbers but similar to Old Oak IV construction
  - - Old Oak V- $723,926 additional construction cost increase estimated
  - 100% SFSD (no additional County or VDOT funding)
- Total Estimated Cost $1,801,829
  - SFSD Share for Old Oak V $1,075,287

Internal Options

- OPTION 1 -Plant Mix asphalt $142,240 per ½ mile ($285,880 per mile)
  - 3" of BM.25OA (Base) & 1.5" of SM9.5A (Surface)
- OPTION 2 – Prime Coat, Double Modified $39,500 per ½ mile ($79,000 per mile).
  - Prime coat consists of 1 coat of RC250 oil with #68 & #78 stone. Followed by CRS2L oil and double coat of #8 aggregate.
- SUBGRADE – (NEEDED FOR BOTH OPTIONS)
  - Subgrade Preparation consists of rough grading, and a VDOT 21B stone application of 6 inches to establish grade and crown for adequate drainage flow. $69,391 per ½ mile ($137,782 per mile)

Future & Annual Maintenance

- Rural Addition turned over to VDOT. $0 dollars in the future for maintenance.
- SFSD Maintenance if not turned over to VDOT – Anticipated maintenance at 10 years on plant mix and 5 years on Double modified.

- Routine Annual Maintenance for SFSD - *Annual cost per mile based on Actual 2021 budget expenditures of $656,362.*
  - *$15,264 per mile (43 miles of road, predominantly unpaved)*

End

COUNTY OF WARREN, VIRGINIA

BOARD OF SUPERVISORS WORK SESSION ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
May 3, 2022	**WS-C (1)**	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

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



PROCUREMENT POLICY

ARTICLE 1 GENERAL PROVISIONS....1

§ 1.1 Preamble....1
§ 1.2 Purpose....1
§ 1.3 Application....1
§ 1.4 Effective Date of Policy....1
§ 1.5 Severability....2
§ 1.6 Definitions....2

ARTICLE 2 OFFICE OF THE PURCHASING AGENT....6

§ 2.1 Establishment and Appointment....6
§ 2.2 Purchasing Agent's Authority....6
§ 2.3 Duties....6
§ 2.4 Operational Procedures....6
§ 2.5 Delegation....6
§ 2.6 Unauthorized Purchases....6

ARTICLE 3 EXCEPTIONS TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT....7

§ 3.1 Purchases From Governmental Sources....7
§ 3.2 Cooperative Procurement....7
§ 3.3 Small Purchases....7
§ 3.4 Legal Services....8
§ 3.5 Sole Source Procurement....8
§ 3.6 Emergency Purchases....9
§ 3.7 Purchases at Auction....9

ARTICLE 4 METHODS OF SOURCE SELECTION and GENERAL REQUIREMENTS....10

§ 4.1 Methods of Procurement....10
§ 4.2 Prequalification Generally; Prequalification for Construction....10

§ 4.3 Discrimination Prohibited....12
§ 4.4 Comments Concerning Specification....12
§ 4.5 Rejection of Bids or Proposals....12
§ 4.6 Contract Pricing Arrangements....13
§ 4.7 Multi-Term Contracts....13
§ 4.8 Contract Modification....13
§ 4.9 Retainage on Construction Contracts....14
§ 4.10 Required Contract Provisions....14

ARTICLE 5 BOND REQUIREMENTS....15

§ 5.1 Bid Bonds....15
§ 5.2 Performance and Payment Bonds....15
§ 5.3 Action on Performance Bonds....16

§ 5.4 Action on Payment Bonds 17
§ 5.5 Bonds on Other Than Construction Contracts. 17
§ 5.6 Alternative Forms of Security 17

ARTICLE 6 COMPETITIVE SEALED BIDDING 18

§ 6.1 Definition 18
§ 6.2 Invitation to Bid. 18
§ 6.3 Multistep Sealed Bidding 18
§ 6.4 Notice of Invitation to Bid. 18
§ 6.5 Use of Brand Names 19
§ 6.6 Bid Openings 19
§ 6.7 Evaluation of Bids 19
§ 6.8 Award of Contract 20
§ 6.9 Tie Bids; Preference Matching 21
§ 6.10 Withdrawal of Bid Due to Error 21

ARTICLE 7 COMPETITIVE NEGOTIATION 23

§ 7.1 Definition 23
§ 7.2 Request for Proposals 23
§ 7.3 Public Notice. 24
§ 7.4 Negotiations for Professional Services 24
§ 7.5 Negotiations for Other Than Professional Services. 25

ARTICLE 8 JOB ORDER CONTRACTS 26

§ 8.1 Approval of Use. 26
§ 8.2 General Requirements. 26
§ 8.3 Restrictions 26

ARTICLE 9 DESIGN-BUILD and CONSTRUCTION MANAGEMENT CONTRACTS 26

§ 9.1 Approval of Use; Exceptions 26
§ 9.2 General Requirements. 27
§ 9.3 Design-Build Procurement Procedure 27
§ 9.4 Construction Management Procurement Procedure 30

ARTICLE 10 COOPERATIVE PROCUREMENT 32

§ 10.1 Conditions for Use. 32

ARTICLE 11 DEBARMENT 33

§ 11.1 Authority to Debar 33
§ 11.2 Grounds for Debarment 33
§ 11.3 Debarment Procedure 33

ARTICLE 12 APPEALS AND REMEDIES 34

§ 12.1 Ineligibility of Bidder, Offeror or Contractor. 34
§ 12.2 Protest of Award or Decision to Award. 35
§ 12.3 Contractual Disputes. 36
§ 12.4 Administrative Appeals Procedure. 36
§ 12.5 Effect of Appeal Upon Contract 37
§ 12.6 Legal Actions. 37

ARTICLE 13 RECORD RETENTION and PUBLIC ACCESS 38

§ 13.1 Record Retention. 38
§ 13.2 Public Access to Procurement Information 38

ARTICLE 14 ADDITIONAL PROVISIONS APPLICABLE TO PROCUREMENTS INVOLVING FEDERAL FUNDS 39

§ 14.1 Applicability 39
§ 14.2 Full And Open Competition. 39
§ 14.3 Geographic Preferences Prohibited. 40
§ 14.4 Affirmative Steps Pertaining to Minority and Other Businesses. 40
§ 14.5 Recovered Materials 40
§ 14.6 Equal Opportunity 41
§ 14.7 Federal Awarding Agency Review 41
§ 14.8 Debarment and Suspension 41
§ 14.9 Davis-Bacon Act 41
§ 14.10 Byrd Anti-Lobbying Amendment 41
§ 14.11 Other Required Federal Contract Clauses 41

ARTICLE 15 CONFLICTS OF INTEREST and ETHICS IN PUBLIC CONTRACTING 42

§ 15.1 Purpose. 42
§ 15.2 General Principles 42
§ 15.3 Prohibited Conduct by Employees in Procurement Transactions. 44
§ 15.4 Subsequent Employement. 45
§ 15.5 Kickbacks 45
§ 15.6 Participation in Bid Preparation; Limitation on Participating in Same Procurement 45
§ 15.7 Purchase of Building Materials, etc., from Architect or Engineer Prohibited 45
§ 15.8 Principles of Ethical Decision-Making 46
§ 15.9 Reporting Conflicts of Interest 46
§ 15.10 Penalty for Violation 47

APPENDIX 1 – GUIDE TO REQUIRED CONTRACT PROVISIONS 48

APPENDIX 2 – STATE AND FEDERAL CONTRACT CLAUSES 49



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 WORK SESSION ITEM

DATE	ITEM	SUBJECT:	PAGE 1 OF
May 3, 2022	**WS-C (2)**	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

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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CONTENTS

Introduction 1
What Are Public-Private Partnerships (P3s)?
Advantages and Disadvantages of P3s 2
Types of P3s 3
Major Differences Between P3s and Traditional Facility and Infrastructure Contracts 4
Bundling | Risk Transfer | Shared Decision Making | Private Sector Financing
Local Government Authority for P3s 5
State P3 Legislation | Home Rule Authority
P3s with Financing Components 8
Short-Term P3s | Long-Term P3s
Financing and Funding Long-Term P3s 8
Financing | Project Financing and the Special Purpose Vehicle (SPV) | Funding
Small and Rural Local Governments and P3s 9
Continuing Challenges with Long-Term P3s 10
Transparency and Stakeholder Education | Procurement | P3 Expertise | Contracting | Unsolicited Proposals
Case Examples 10
Snohomish County, Washington, New Paine Field Airport Terminal | City of Phoenix, Arizona, Lake Pleasant Water Treatment Plant | State of Pennsylvania Small Bridge Renovation and Repair | City of Lakewood, California, Street Lighting | Washington, D.C., NoMA-Gallaudet University Metrorail Station | Long Beach, California, Court House | City of Rialto, California, Water/Wastewater | Miami, Florida, Tunnel
Concluding Comments 12
Additional Resources and Endnotes 13
ICMA Governmental Affairs and Policy Committee 2017-2018 17

Public-Private Partnerships (P3s): What Local Government Managers Need to Know

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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

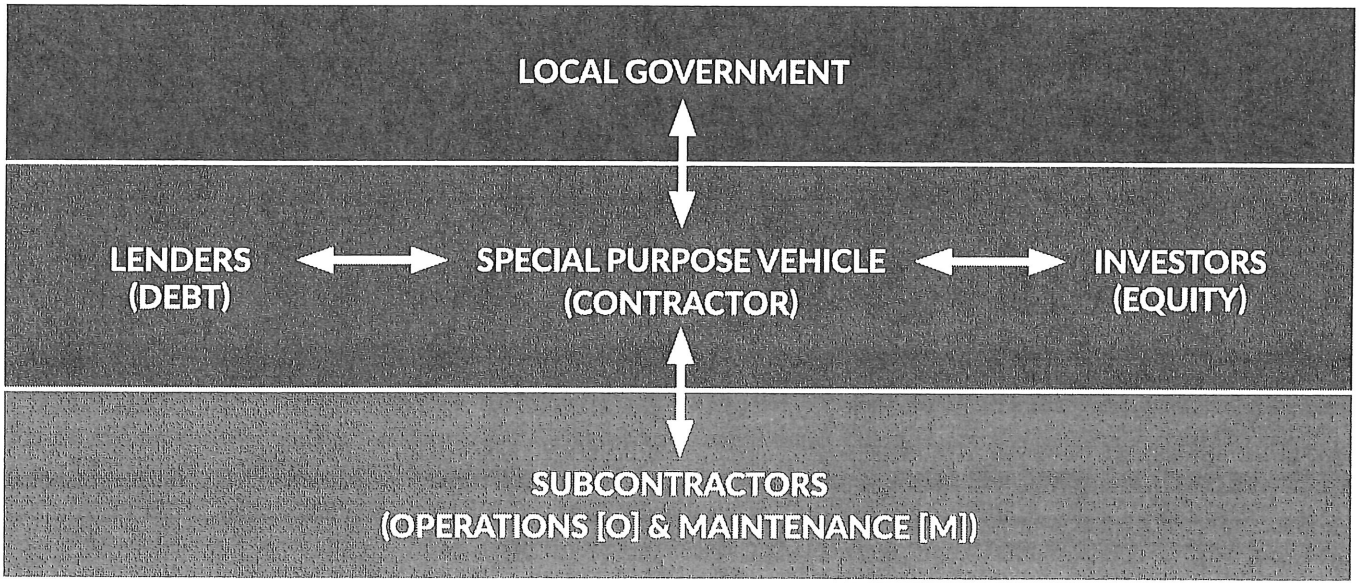
The *financing* of long-term P3s involves acquiring the upfront capital needed to pay for the design and construction of a facility or infrastructure project. The *funding* of long-term P3s deals with how contractors are paid for the upfront capital costs of design, construction, and financing as well 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

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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

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