



**REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 8, 2020 AT 7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

Planning Commission Business – Public Hearing

1. **Rezoning #04-19 for Perry Properties, LLC.**, submitted by Greenway Engineering, Inc. to rezone 6.18+/- acres from the M1 (Light Industrial) District to the B2 (General Business) District with proffers. The Property is located on the north side of Millwood Pike (Route 50 East) and the west side of Constitution Drive and is identified by Property Identification Number 64-A-158 in the Shawnee Magisterial District. (Ms. Perkins)

2. **Ordinance Amendment to the Frederick County Code, Chapter 165 Zoning, ARTICLE I GENERAL PROVISIONS; AMENDMENTS; AND CONDITIONAL USE PERMITS, PART 101 – GENERAL PROVISIONS, §165-101.02. DEFINITIONS AND WORD USAGE; ARTICLE II SUPPLEMENTARY USE REGULATIONS; PARKING; BUFFERS; AND REGULATIONS FOR SPECIFIC USES, PART 204 – ADDITIONAL REGULATIONS FOR SPECIFIC USES, §165-204.26. PUBLIC UTILITIES; ARTICLE IV AGRICULTURAL AND RESIDENTIAL DISTRICTS, PART 401 – RA RURAL AREAS DISTRICT, §165-401.02. PERMITTED USES, §165-401.03. CONDITIONAL USES, PART 402 – RP RESIDENTIAL PERFORMANCE DISTRICT, §165-402.02. PERMITTED USES, PART 403 – MH1 MOBILE HOME COMMUNITY DISTRICT, §165-403.02. PERMITTED USES; ARTICLE V PLANNED DEVELOPMENT DISTRICTS, PART 502 – RESIDENTIAL RECREATIONAL COMMUNITY DISTRICT, §165-502.04. PERMITTED USES; ARTICLE VI BUSINESS AND INDUSTRIAL DISTRICTS, PART 602 – B1 NEIGHBORHOOD BUSINESS DISTRICT, §165-602.02. ALLOWED USES, PART 603 – B2 GENERAL BUSINESS DISTRICT, §165-603.02. ALLOWED USES, PART 604 – B3 INDUSTRIAL TRANSITION DISTRICT, §165-604.02. ALLOWED USES, PART 606 – M1 LIGHT INDUSTRIAL DISTRICT, §165-606.02. ALLOWED USES, PART 608 – EM EXTRACTIVE MANUFACTURING DISTRICT, §165-608.02. PERMITTED USES, PART 609 – HE HIGHER EDUCATION DISTRICT, §165-609.02. PERMITTED USES.** REVISIONS TO THE FREDERICK COUNTY ZONING ORDINANCE TO INCLUDE A DEFINITION FOR PUBLIC UTILITIES THAT INCLUDES UTILITY-SCALE SOLAR POWER GENERATING FACILITIES AND AMENDMENTS TO THE SUPPLEMENTAL USE REGULATION FOR PUBLIC UTILITIES. (Mr. Klein)

Planning Commission Business – Other Planning Business

1. **Rezoning #06-19, Winchester Medical Center, Inc.**, Proposal: To revise the Proffered Generalized Development Plan approved with Rezoning #02-03 for 37.5424+/- acres zoned B2 (General Business) District and 51.8675+/- acres zoned MS (Medical Support) District to the MS (Medical Support) District. Minor text revisions are also proposed to reflect the updated internal street network within the development. (Ms. Perkins)

“Only Planning related items are identified above. The full Board of Supervisors Agenda is located on the Board of Supervisors homepage under Meeting Agenda on the Frederick County Webpage”

Planning Commission Business
Public Hearings

Item No. 1



REZONING APPLICATION #04-19

PERRY PROPERTIES, LLC.

Staff Report for the Board of Supervisors

Prepared: December 19, 2019

Staff Contact: Candice E. Perkins, AICP, CZA, Assistant Director

John A. Bishop, AICP, Assistant Director Transportation

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	12/04/19	Recommended Approval
Board of Supervisors:	01/08/20	Pending

PROPOSAL: To rezone 6.18+/- acres from the M1 (Light Industrial) District to the B2 (General Business) District with proffers.

LOCATION: The subject property is located on the north side of Millwood Pike (Route 50 East) and the west side of Constitution Drive.

EXECUTIVE SUMMARY & STAFF CONCLUSION FOR THE 01/08/20 BOARD OF SUPERVISORS MEETING:

This is an application to rezone 6.18+/- acres from the M1 (Light Industrial) District without proffers to the B2 (General Business) District with proffers. This site is located within the limits of the Senseny/Eastern Urban Area Plan of the 2035 Comprehensive Plan and is within the Sewer and Water Service Area. The Plan identifies this property with an industrial land use designation. In general, the proposed commercial zoning is inconsistent with the current land use supported by the Comprehensive Plan. However, considering the site is bordered by commercial zoned property to the south and east, the requested commercial may be acceptable. *The Planning Commission did not identify any concerns with the request and recommended approval of the application at their December 4, 2019 meeting.*

The proffers associated with this rezoning request are as follows:

Proffer Statement – Dated October 17, 2019:

A) Transportation Improvements

1. The Owner proffers to improve the Constitution Drive southbound travel lanes to provide the same widths as the Constitution Drive northbound travel lanes between Location A and Location B on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The Owner shall dedicate right-of-way and necessary easements as depicted on the approved public improvement plan sufficient for the Constitution Drive widening between Location A and Location B. The Owner shall complete the improvements and dedicate the right-of-way and necessary easements identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
2. The Owner proffers to construct a full access commercial entrance on Constitution Drive that is generally located at Location B on the attached Perry Properties Transportation Improvements

Exhibit dated October 17, 2019. The final location of the full access commercial entrance and required right turn lane/taper and left turn lane/taper will be approved by VDOT during the initial Site Plan within the B-2 District portion of the Property. The Owner shall complete the improvements identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.

3. The Owner proffers to construct a right-in/right-out commercial entrance on Millwood Pike that is generally located at Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The final location of the right-in/right-out commercial entrance and the right turn lane/taper described in Proffer Section A4 will be approved by VDOT during the initial Site Plan within the B-2 District portion of the Property. The Owner shall complete the improvements identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
4. The Owner proffers to construct a right turn lane along Millwood Pike between the Constitution Drive intersection and the right-in/right-out commercial entrance on Millwood Pike that is generally located between Location A and Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
5. The Owner proffers to construct an internal private road network to provide ingress and egress to the full access commercial entrance on Constitution Drive and the right-in/right-out commercial entrance on Millwood Pike Constitution Drive that is generally located between Location B and Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
6. The Owner proffers to provide for right-of-way dedication along the Millwood Pike frontage of the B-2 District portion of the Property as depicted on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The right-of-way dedication plat will be prepared and submitted to VDOT within 90 days of final non-appealable rezoning approval by Frederick County.
7. The Owner proffers to construct a 10' wide asphalt hiker/biker trail along the southeastern boundary of the Property between Location A and Location B on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The 10' wide asphalt hiker/biker trail will be located adjacent to and outside of the Constitution Drive public right-of-way and will serve as an alternative to a five-foot sidewalk. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
8. The Owner proffers to construct a 10' wide asphalt hiker/biker trail within the Millwood Pike right-of-way between Location A and Location C on the attached Perry Properties

Transportation Improvements Exhibit dated October 17, 2019. The 10' wide asphalt hiker/biker trail will serve as an alternative to a five-foot sidewalk and will be located a minimum of three feet from the B-2 District property line between Location A and Location C to provide for an appropriate maintenance strip. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.

9. The improvements to the Millwood Pike/Constitution Drive intersection were based on a VDOT approved traffic study that assigned 3,000 VPD background traffic for the Property. The Owner proffers to utilize current ITE Trip Generation Manual projections for the identified land use on each Site Plan within the B-2 District portion of the Property to determine when the cumulative traffic volume of development projects exceed 3,000 VPD. The Owner proffers to submit traffic studies as a component of all Site Plans within the B-2 District portion of the Property when cumulative traffic volumes exceed 3,000 VPD to determine traffic impacts to the Millwood Pike/Constitution Drive intersection or to the portion of Constitution Drive serving the B-2 District portion of the Property. The Owner will be responsible for the construction of improvements to the Millwood Pike/Constitution Drive intersection or to the portion of Constitution Drive serving the B-2 District portion of the Property identified in the traffic study for each Site Plan prior to the issuance of a certificate of occupancy permit for each Site Plan.
10. The Owner proffers to require all Site Plans for parcels within the B-2 District portion of the property that have Millwood Pike frontage to provide landscaping that is in addition to the landscaping requirements specified in Section 165-202.02.01D(13) of the Frederick County Zoning Ordinance. The additional landscaping shall include flowering plants and ornamental grasses planted in mulch beds along the Millwood Pike frontage of the B-2 District portion of the Property that will be located between the road right-of-way and the parking lot setback line as demonstrated in the Landscape Enhancement Area Detail provided on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019.

B) Monetary Contributions

The owner proffers to provide a monetary contribution of \$0.10 per developed building square foot for County Fire and Rescue services. The monetary contribution shall be made payable to Frederick County at the time of issuance of the certificate of occupancy permit for development on the 6.18± acre portion of the Property proposed for B-2, District zoning.

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

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

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	12/04/19	Recommended Approval
Board of Supervisors:	01/08/20	Pending

PROPOSAL: To rezone 6.18+/- acres from the M1 (Light Industrial) District to the B2 (General Business) District with proffers.

LOCATION: The subject property is located on the north side of Millwood Pike (Route 50 East) and the west side of Constitution Drive.

MAGISTERIAL DISTRICT: Shawnee

PROPERTY ID NUMBER: 64-A-158

PROPERTY ZONING: M1 (Light Industrial) District

PRESENT USE: Vacant

ADJOINING PROPERTY ZONING & PRESENT USE:

North:	M1 (Light Industrial)	Use:	Industrial/Vacant
South:	B2 (General Business)	Use:	Commercial
East:	M1 (Light Industrial) B2 (General Business)	Use:	Commercial/Industrial
West:	B2 (General Business)	Use:	Commercial

REVIEW EVALUATIONS:

Virginia Dept. of Transportation: *Please see email from Arthur Boyce, VDOT-Land Development Engineer dated October 10, 2019.*

Frederick Water: *Please see letter from Eric R. Lawrence, AICP, Executive Director dated August 14, 2019.*

Frederick County Department of Public Works: We offer no comments at this time. A comprehensive review of the site plan will occur when submitted in the future.

Frederick County Fire Marshall: Plan approved.

Winchester Regional Airport: No comment.

County of Frederick Attorney: Proffer is in acceptable legal form.

Planning & Zoning:

1) **Site History**

The original Frederick County Zoning Map (U.S.G.S. Winchester and Stephenson Quadrangles) depicts the zoning for the parcel as M1 (Light Industrial).

2) **Comprehensive Plan**

The 2035 Comprehensive Plan is the guide for the future growth of Frederick County.

The 2035 Comprehensive Plan is an official public document that serves as the Community's guide for making decisions regarding development, preservation, public facilities and other key components of Community life. The primary goal of this plan is to protect and improve the living environment within Frederick County. It is in essence a composition of policies used to plan for the future physical development of Frederick County.

The Area Plans, Appendix I of the 2035 Comprehensive Plan, are the primary implementation tool and will be instrumental to the future planning efforts of the County.

Land Use

The Senseny/Eastern Urban Area Plan provides guidance on the future development of the property. The property is located within the SWSA. The Plan identifies this property with an industrial land use designation. In general, the proposed commercial zoning is inconsistent with the current land use supported by the Comprehensive Plan. However, considering the site is bordered by commercial zoned property to the south and east, the requested commercial may be acceptable.

Transportation

The Eastern Road Plan calls for a New Major Collector roadway, which has now been constructed, along the eastern boundary of this property. In addition, the Eastern Road Plan and the MPO Long Range Plan call for the widening of Route 50 to 6 lanes along the frontage of this property. Both roadways are key in the long-range transportation vision for this area of Frederick County. The Applicant is accommodating these roadways through the proffer of right-of-way to allow for the Route 50 widening and an additional widening proffer for Constitution Drive that will allow that facility to have full width lanes that were not available with the previous right-of-way restrictions. The Applicant is also establishing an entrance along Constitution Drive that will allow for inter-parcel access to property not currently proposed for rezoning along that roadway and a right-in/right-out entrance along Route 50 that meets access management standards set by VDOT. The access management standards are an important goal noted in the Senseny/Eastern Frederick Urban Area Plan.

PLANNING COMMISSION SUMMARY AND ACTION FROM THE 12/04/19 MEETING:

Staff report the application is to rezone 6.18+/- acres from the M1 (Light Industrial) District to the B2 (General Business) District with proffers. Staff then provided an overview of the proffers offered with the rezoning with improvements to Constitution Drive and Millwood Pike.

Commissioner Manuel requested clarification, of the letter dated August 14, 2019 from Frederick Water stating the Westview Pump Station would need upgrades. Staff replied this will be address at the site plan stage.

Mr. Evan Wyatt of Greenway Engineering, LLC., representing the Applicant came forward. Mr. Wyatt stressed that Applicant, VDOT and Greenway Engineering worked to present acceptable proffers to the County. Mr. Wyatt reiterated the Westview Pump Station will be address at the site plan stage.

There were no public comments during the public hearing and the Planning Commission recommended approval of the rezoning application.

A motion was made, seconded and unanimously passed to recommend approval of the Rezoning #04-19 for Perry Properties, LLC.

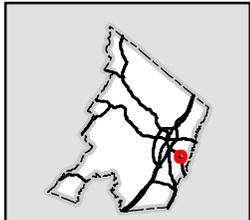
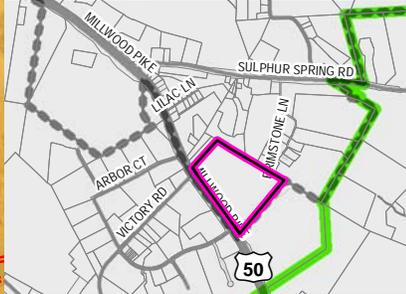
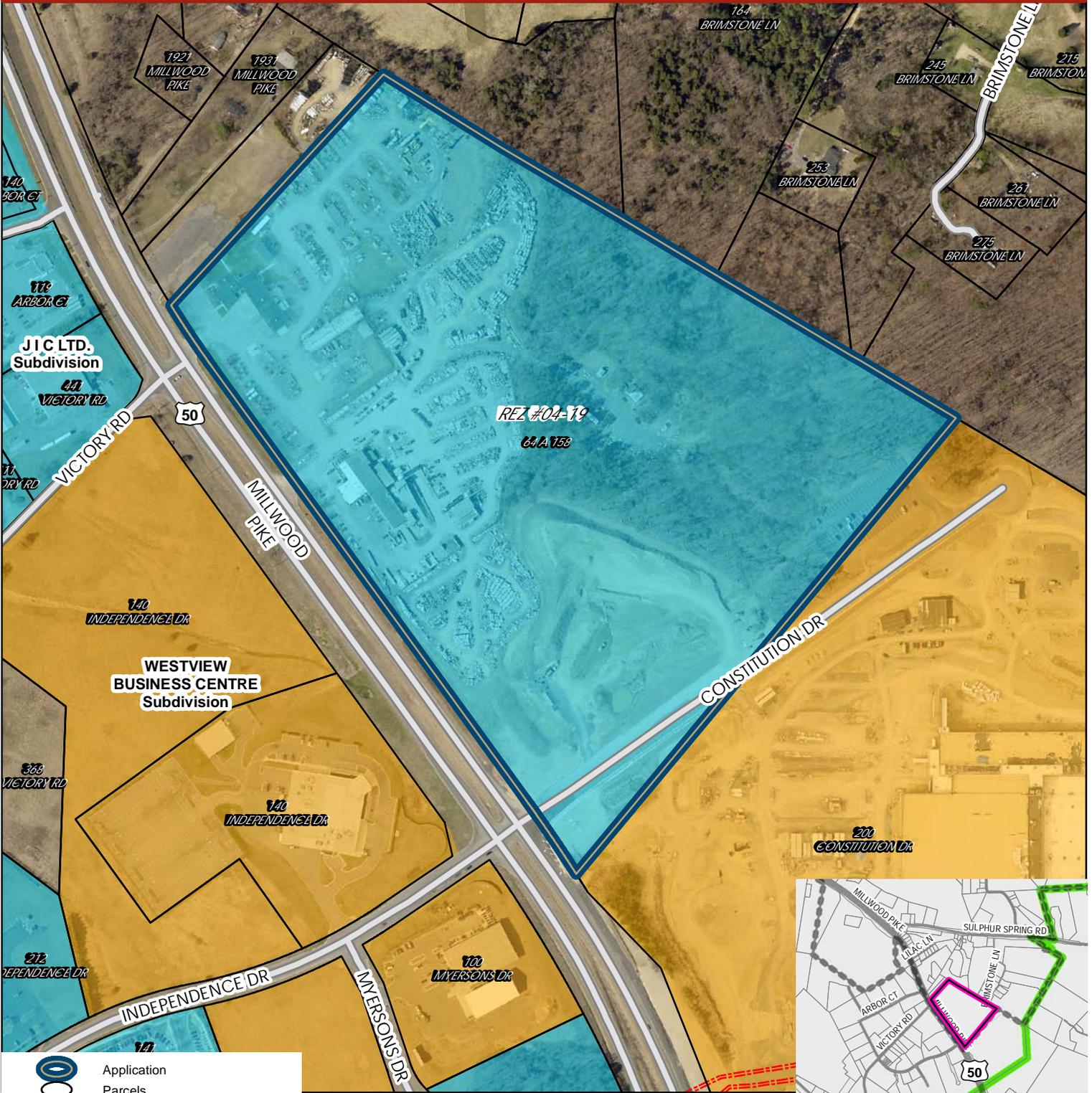
Following the required public hearing, a decision regarding this rezoning application by the Board of Supervisors would be appropriate. The Applicant should be prepared to adequately address all concerns raised by the Board of Supervisors.

REZ # 04 - 19: Perry Properties, LLC

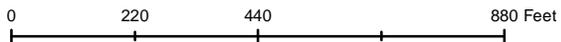
PIN: 64 - A - 158

Rezoning from M1 to B2

Zoning Map



- Application
- Parcels
- Future Rt 37 Bypass
- B2 (General Business District)
- M1 (Light Industrial District)



Frederick County Planning & Development
107 N Kent St
Winchester, VA 22601
540 - 665 - 5651
Map Created: October 29, 2019

REZ # 04 - 19: Perry Properties, LLC

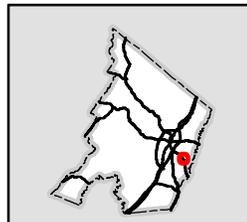
PIN: 64 - A - 158

Rezoning from M1 to B2

Location Map



Application
Parcels
Future Rt 37 Bypass



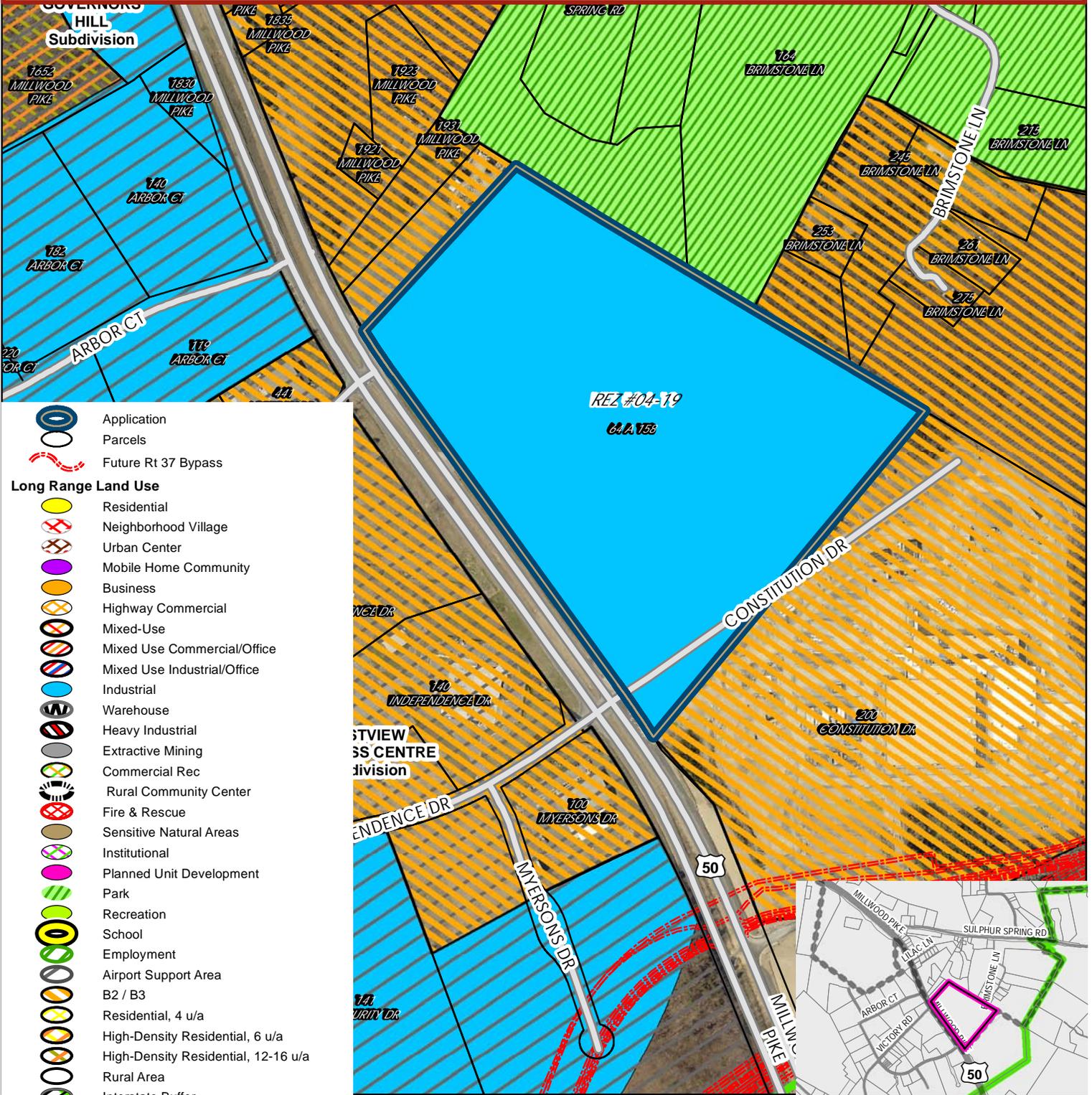
Frederick County Planning & Development
107 N Kent St
Winchester, VA 22601
540 - 665 - 5651
Map Created: October 29, 2019

0 220 440 880 Feet

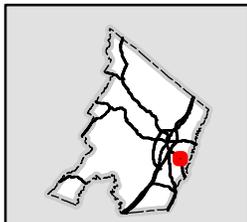
REZ # 04 - 19: Perry Properties, LLC

PIN: 64 - A - 158

Rezoning from M1 to B2
Long Range Land Use Map



- Application
- Parcels
- Future Rt 37 Bypass
- Long Range Land Use**
- Residential
- Neighborhood Village
- Urban Center
- Mobile Home Community
- Business
- Highway Commercial
- Mixed-Use
- Mixed Use Commercial/Office
- Mixed Use Industrial/Office
- Industrial
- Warehouse
- Heavy Industrial
- Extractive Mining
- Commercial Rec
- Rural Community Center
- Fire & Rescue
- Sensitive Natural Areas
- Institutional
- Planned Unit Development
- Park
- Recreation
- School
- Employment
- Airport Support Area
- B2 / B3
- Residential, 4 u/a
- High-Density Residential, 6 u/a
- High-Density Residential, 12-16 u/a
- Rural Area
- Interstate Buffer
- Landfill Support Area
- Natural Resources & Recreation
- Environmental & Recreational Resources



0 300 600 1,200 Feet

**PERRY PROPERTIES
COMMERCIAL REZONING
PROFFER STATEMENT**



**Tax Parcel 64-A-158 (portion)
Shawnee Magisterial District
Frederick County, Virginia**

October 17, 2019

Current Owners: Perry Properties, LLC

**Contact Person: Evan Wyatt, Director of Land Planning
Greenway Engineering, Inc.
151 Windy Hill Lane
Winchester, VA 22602
540-662-4185**

**PERRY PROPERTIES COMMERCIAL REZONING
TAX PARCEL 64-A-58 (portion)
PROFFER STATEMENT**

REZONING: RZ# _____
M-1, Light Industrial District to B-2, Business General District and M-1, Light Industrial District

PROPERTY: Tax Parcel 64-A-158 (here-in after the “**Property**”)

RECORD OWNER: Perry Properties, LLC

APPLICANT: Perry Properties, LLC (here-in after “**Owner**”)

PROJECT NAME: Perry Properties Commercial Rezoning

ORIGINAL DATE
OF PROFFERS: June 19, 2019

REVISION DATE: October 17, 2019

Preliminary Matters

Pursuant to Section 15.2-2296 Et. Seq. of the Code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned Owner hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application # _____ for the rezoning of a 6.18± acre portion of the 44.97± acre Property from the M-1, Light Industrial District to establish 6.18± acres of B-2, General Business District with proffers specific to the B-2, General Business District acreage, development of the Property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the Owner and such be approved by the Frederick County Board of Supervisors in accordance with the said Code and Zoning Ordinance. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the Owner and any legal successors, heirs, or assigns.

The Property is identified as Tax Map Parcel 64-A-158, owned by Perry Properties, LLC recorded as Deed Book 670 Page 257 and subsequently adjusted as identified by Boundary Line Adjustment Plat prepared by Gilbert W. Clifford & Associates, Inc., recorded as Instrument No. 020001149. The 6.18± acre portion of the Property proposed to be rezoned B-2, General Business District is further identified by the attached Rezoning Plat On The Land of Perry Properties (Tax Parcel 64-A-158) prepared by Greenway Engineering, Inc., dated May 8, 2019 that is included as part of the Proffer Statement.

PROFFER STATEMENT

A) Transportation Improvements

1. The Owner proffers to improve the Constitution Drive southbound travel lanes to provide the same widths as the Constitution Drive northbound travel lanes between Location A and Location B on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The Owner shall dedicate right-of-way and necessary easements as depicted on the approved public improvement plan sufficient for the Constitution Drive widening between Location A and Location B. The Owner shall complete the improvements and dedicate the right-of-way and necessary easements identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
2. The Owner proffers to construct a full access commercial entrance on Constitution Drive that is generally located at Location B on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The final location of the full access commercial entrance and required right turn lane/taper and left turn lane/taper will be approved by VDOT during the initial Site Plan within the B-2 District portion of the Property. The Owner shall complete the improvements identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
3. The Owner proffers to construct a right-in/right-out commercial entrance on Millwood Pike that is generally located at Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The final location of the right-in/right-out commercial entrance and the right turn lane/taper described in Proffer Section A4 will be approved by VDOT during the initial Site Plan within the B-2 District portion of the Property. The Owner shall complete the improvements identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
4. The Owner proffers to construct a right turn lane along Millwood Pike between the Constitution Drive intersection and the right-in/right-out commercial entrance on Millwood Pike that is generally located between Location A and Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
5. The Owner proffers to construct an internal private road network to provide ingress and egress to the full access commercial entrance on Constitution Drive and the right-

- in/right-out commercial entrance on Millwood Pike Constitution Drive that is generally located between Location B and Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
6. The Owner proffers to provide for right-of-way dedication along the Millwood Pike frontage of the B-2 District portion of the Property as depicted on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The right-of-way dedication plat will be prepared and submitted to VDOT within 90 days of final non-appealable rezoning approval by Frederick County.
 7. The Owner proffers to construct a 10' wide asphalt hiker/biker trail along the southeastern boundary of the Property between Location A and Location B on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The 10' wide asphalt hiker/biker trail will be located adjacent to and outside of the Constitution Drive public right-of-way and will serve as an alternative to a five-foot sidewalk. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
 8. The Owner proffers to construct a 10' wide asphalt hiker/biker trail within the Millwood Pike right-of-way between Location A and Location C on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019. The 10' wide asphalt hiker/biker trail will serve as an alternative to a five-foot sidewalk and will be located a minimum of three feet from the B-2 District property line between Location A and Location C to provide for an appropriate maintenance strip. The Owner shall complete the improvement identified in this Proffer Section prior to the issuance of the first certificate of occupancy permit within the B-2 District portion of the Property.
 9. The improvements to the Millwood Pike/Constitution Drive intersection were based on a VDOT approved traffic study that assigned 3,000 VPD background traffic for the Property. The Owner proffers to utilize current ITE Trip Generation Manual projections for the identified land use on each Site Plan within the B-2 District portion of the Property to determine when the cumulative traffic volume of development projects exceed 3,000 VPD. The Owner proffers to submit traffic studies as a component of all Site Plans within the B-2 District portion of the Property when cumulative traffic volumes exceed 3,000 VPD to determine traffic impacts to the Millwood Pike/Constitution Drive intersection or to the portion of Constitution Drive serving the B-2 District portion of the Property. The Owner will be responsible for the construction of improvements to the Millwood Pike/Constitution Drive intersection or to the portion of Constitution Drive serving the B-2 District portion of

the Property identified in the traffic study for each Site Plan prior to the issuance of a certificate of occupancy permit for each Site Plan.

10. The Owner proffers to require all Site Plans for parcels within the B-2 District portion of the property that have Millwood Pike frontage to provide landscaping that is in addition to the landscaping requirements specified in Section 165-202.02.01D(13) of the Frederick County Zoning Ordinance. The additional landscaping shall include flowering plants and ornamental grasses planted in mulch beds along the Millwood Pike frontage of the B-2 District portion of the Property that will be located between the road right-of-way and the parking lot setback line as demonstrated in the Landscape Enhancement Area Detail provided on the attached Perry Properties Transportation Improvements Exhibit dated October 17, 2019.

B) Monetary Contributions

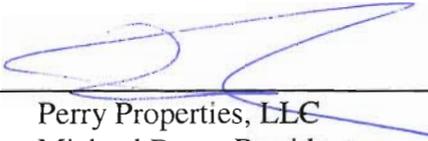
The owner proffers to provide a monetary contribution of \$0.10 per developed building square foot for County Fire and Rescue services. The monetary contribution shall be made payable to Frederick County at the time of issuance of the certificate of occupancy permit for development on the 6.18± acre portion of the Property proposed for B-2, District zoning.

OWNER SIGNATURE ON FOLLOWING PAGE

Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: 

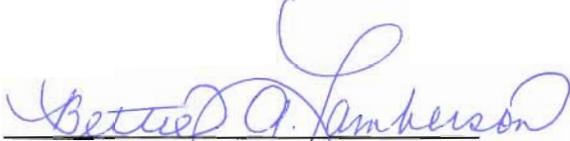
Perry Properties, LLC
Michael Perry, President

11/15/19
Date

Commonwealth of Virginia,

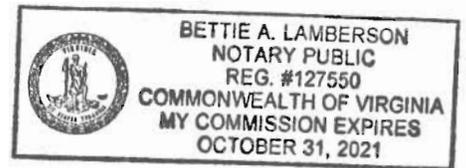
City/County of Frederick To Wit:

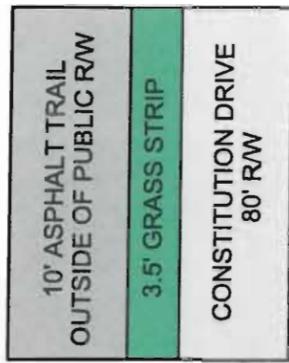
The foregoing instrument was acknowledged before me this 15th day of November
2019 by Michael Perry



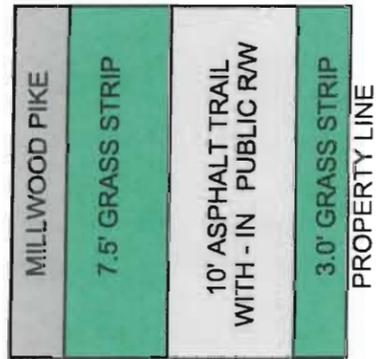
Notary Public

My Commission Expires October 31, 2021

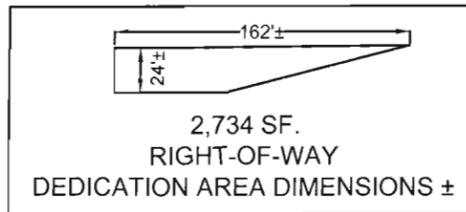




ASPHALT TRAIL SCHEMATIC
ADJOINING CONSTITUTION
DRIVE
N.T.S.



ASPHALT TRAIL
SCHEMATIC WITHIN
MILLWOOD PIKE R/W
N.T.S.



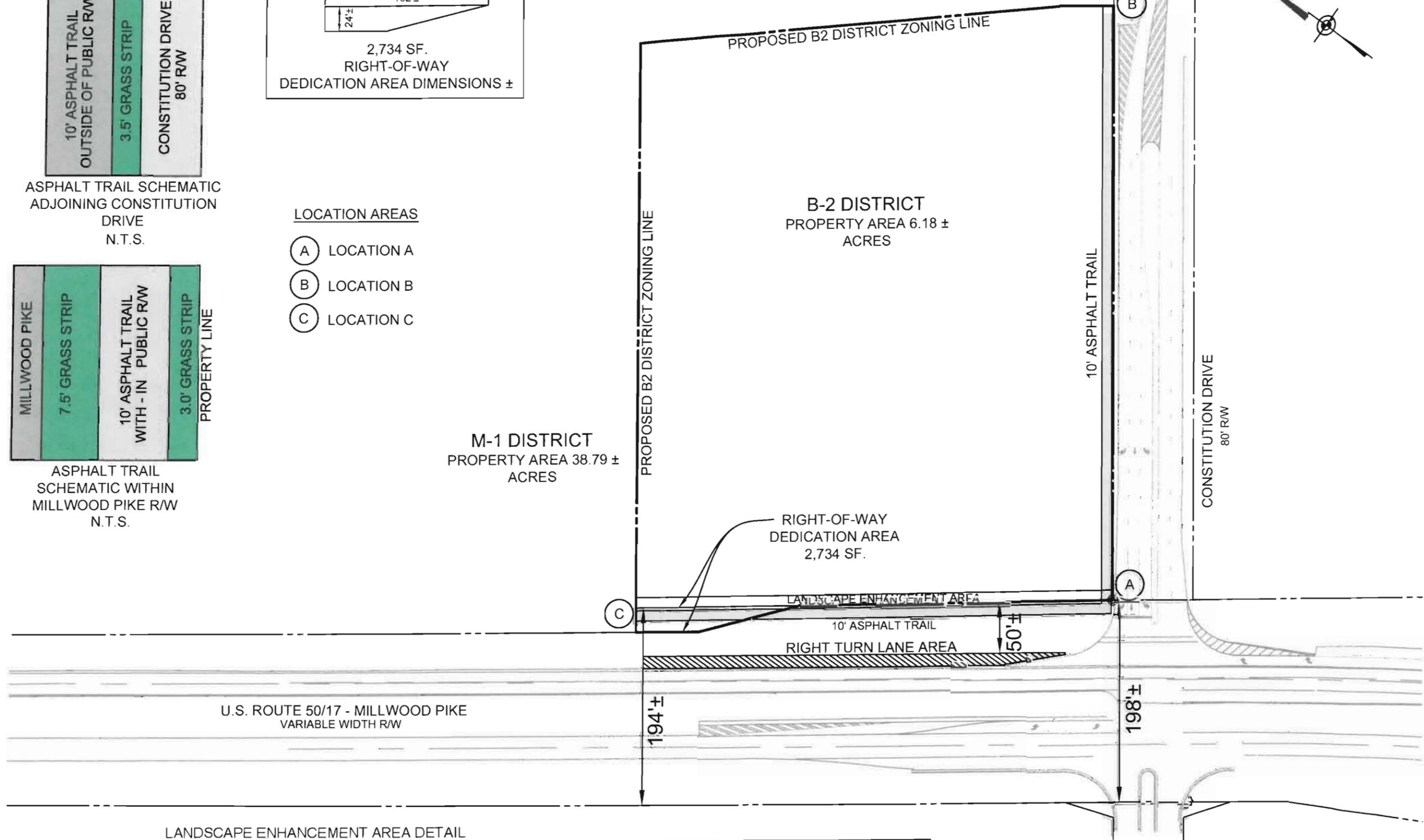
2,734 SF.
RIGHT-OF-WAY
DEDICATION AREA DIMENSIONS ±

LOCATION AREAS

- (A) LOCATION A
- (B) LOCATION B
- (C) LOCATION C

M-1 DISTRICT
PROPERTY AREA 38.79 ±
ACRES

B-2 DISTRICT
PROPERTY AREA 6.18 ±
ACRES



LANDSCAPE ENHANCEMENT AREA DETAIL



N.T.S.

LEGEND

- PARKING LOT EVERGREEN HEDGES
- ORNAMENTAL GRASSES
- FLOWER BEDS
- ORNAMENTAL TREES



SCALE: 1" = 100'



**PERRY PROPERTIES
TRANSPORTATION IMPROVEMENTS EXHIBIT**

SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VA



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

DATE:	OCT. 17, 2019
SCALE:	1"=100'
DESIGNED BY:	EAW/JMM
JOB NO.	0297
SHEET	1 OF 1



ORDINANCE

Action:

PLANNING COMMISSION: December 4, 2019 Public Hearing Held, Recommended Approval

BOARD OF SUPERVISORS: January 8, 2020

ORDINANCE AMENDING
THE ZONING DISTRICT MAP
REZONING #04-19 PERRY PROPERTIES, LLC

WHEREAS, REZONING #04-19, PERRY PROPERTIES, LLC, was submitted by Greenway Engineering, Inc. to rezone 6.18+/- acres from the M1 (Light Industrial) District to the B2 (General Business) District with proffers, with a final revision date of October 17, 2019. The subject property is located at the north side of Millwood Pike (Route 50 East) and the west side of Constitution Drive in the Shawnee Magisterial District, and is identified by Property Identification No. 64-A-158; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on December 4, 2019 and recommended approval; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on January 8, 2020; and

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to rezone 6.18+/- acres from the M1 (Light Industrial) District to the B2 (General Business) District with proffers with a final revision date of October 17, 2019. The conditions voluntarily proffered in writing by the Applicant and the Property Owner are attached.

This ordinance shall be in effect on the date of adoption. Passed this 8th day of January 2020 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Shawn L. Graber

J. Douglas McCarthy

Robert W. Wells

Gene E. Fisher

Judith McCann-Slaughter

Blaine P. Dunn

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

**PERRY PROPERTIES
COMMERCIAL REZONING
IMPACT ANALYSIS STATEMENT**



**Tax Parcel 64-A-158 (Portion)
Shawnee Magisterial District
Frederick County, Virginia**

October 17, 2019

Current Owner: Perry Properties

**Contact Person: Evan Wyatt, Director of Land Planning
Greenway Engineering, Inc.
151 Windy Hill Lane
Winchester, VA 22602
540-662-4185**

PERRY PROPERTIES COMMERCIAL DEVELOPMENT

INTRODUCTION

This report has been prepared for the purpose of assessing the impact on Fredrick County by the proffered rezoning of a 6.18±-acre portion of a 44.97± acre subject property owned by Perry Properties, and identified as Tax Map Parcel 64-A-158. The subject property is located on the north side of Millwood Pike (U.S. Route 50 East) and on the west side of Constitution Drive that has been constructed to provide access to the FBI Records Center Facility. The 44.97± acre subject property is currently zoned M-1, Light Industrial District and the Owner proposes to rezone the 6.18±-acre portion of the subject property to B-2 Business General District with proffers to allow for the property to be marketed for commercial development at this intersection along the Millwood Pike corridor.

Basic information

Location:	Fronting on the north side of Millwood Pike (U.S. Route 50 East) and the west side of Constitution Drive.
Magisterial District:	Shawnee District
Property ID Numbers:	64-A-158
Current Zoning:	M-1, Light Industrial District
Current Use:	Office and Heavy Construction Equipment/Concrete Yard
Proposed Zoning:	B-2, Business General District (6.18±-acre portion of subject property)
Proposed Use:	Commercial Development
Total Rezoning Area:	6.18±-acre with proffers for portion of the subject property

COMPREHENSIVE POLICY PLAN

Urban Development Area

The Urban Development Area (UDA) defines the general area in which residential, commercial, industrial and institutional land use development is encouraged in the County.

The 44.97± acre subject property is currently located outside of the UDA; however, expansion of the UDA boundary to accommodate the proposed development of commercial land use on the 6.18±-acre portion of subject property is not required for this rezoning application.

Sewer and Water Service Area

The Sewer and Water Service Area (SWSA) is generally consistent with the UDA, but also extends outside of the UDA to accommodate areas of the County in which commercial and industrial land use development is only desired. The 44.97± acre subject property is currently located within the SWSA; therefore, expansion of the SWSA boundary to accommodate the proposed development of commercial land use on the 6.18±-acre portion of subject property is not required for this rezoning application.

Comprehensive Plan Conformity

The Perry Properties 44.97± acre subject property is a component of the Senseny/Eastern Frederick Land Use Plan (SEFLUP) which is a large area plan within the County's Comprehensive Policy Plan. The subject property is located within the central area of the land use plan and is identified as industrial land use based on its current zoning and development condition. Adjoining properties to the north, south, east and west of the subject property are identified for future commercial land use and for park land. The SEFLUP Transportation Map identifies the location of a new major collector road (Constitution Drive) at the intersection of Millwood Pike (U.S. Route 50 East) and Independence Drive (Route 1092) which proceeds north along the eastern boundary of the subject property. The new major collector road has been constructed along the eastern boundary of the subject property to serve the FBI Records Center Facility. The 6.18±-acre portion of the subject property is consistent with adjoining property land use designations and would be accessible from Millwood Pike and Constitution Drive; therefore, the proposed commercial rezoning of this portion of the subject property would be in conformity with the Comprehensive Policy Plan.

SUITABILITY OF THE SITE

Access

The 6.18±-acre portion of the subject property is located on the north side of Millwood Pike (U.S. Route 50 East) and on the west side of Constitution Drive that has been constructed to provide access to the FBI Records Center Facility. Millwood Pike is a four-lane divided major arterial roadway and Constitution Drive is a four-lane divided major collector road that transitions to an undivided roadway approximately 600 feet to the north of the intersection with Millwood Pike. Access to 6.18±-acre portion of the subject property is planned to be provided with a shared right-in/right-out commercial entrance on Millwood Pike and a full commercial entrance located on Constitution Drive to the north of the divided section of the major collector road. The Owner's Proffer Statement provides for the construction of the

shared right-in/right-out commercial entrance on Millwood Pike, the full commercial entrance located on Constitution Drive and the private internal road network to provide ingress and egress to the 6.18±-acre portion of the subject property in conjunction with the initial Site Plan within the B-2 District.

Flood Plains

The 6.18±-acre portion of the subject property does not contain areas of floodplain as demonstrated on FEMA NFIP Map #51069C0219D and #51069C0240D, Effective Date September 2, 2009; as well as information from the Frederick County GIS Database.

Wetlands

The 6.18±-acre portion of the subject property does not contain wetland areas as demonstrated on the National Wetlands Inventory (NWI) Map and information from the Frederick County GIS Database.

Soil Types

The 6.18±-acre portion of the subject property contains three soil types as demonstrated by the Soil Survey of Frederick County, Virginia and the Frederick County GIS Database. The following soil types are present on site:

- 1B Berks Channery Silt Loams 2-7% slope
- 3B Blairton Silt Loams 2-7% slope
- 9C Clearbrook Channery Silt Loams 2-15% slope

The Blairton Silt Loam soil type is identified as a prime agricultural soil. The three soil types range from moderate to severe for the construction of small commercial buildings based on slope and wetness properties. The 44.97± acre subject property has been developed in areas with the same soil types; as well as commercial, office and industrial land uses within proximity of the subject property. The soil type is conducive for commercial development within the 6.18±-acre portion of the subject property.

Other Environmental Features

The 6.18±-acre portion of the subject property does not contain areas of steep slope, lakes or ponds or natural stormwater retention areas as defined by the Frederick County Zoning Ordinance. There are no known environmental features present that create development constraints for the proposed commercial development project.

SURROUNDING PROPERTIES

Adjoining property zoning and present use:

North:	M-1, Light Industrial District	Use:	Undeveloped (Perry Engineering)
South:	B-2, Business General District	Use:	Commercial/Retail (Harley Davidson)
East:	B-2, Business General District	Use:	Office (FBI Records Facility)
West:	M-1, Light Industrial District	Use:	Office and Heavy Construction Equipment/Concrete Yard (Perry Engineering)

TRANSPORTATION

The 6.18±-acre portion of the subject property is located on the north side of Millwood Pike (U.S. Route 50 East) and on the west side of Constitution Drive that has been constructed to provide access to the FBI Records Center Facility. Access to 6.18±-acre portion of the subject property is planned to be provided with a shared right-in/right-out commercial entrance on Millwood Pike and a full commercial entrance located on Constitution Drive to the north of the divided section of the major collector road. The Owner's Proffer Statement provides for the construction of the shared right-in/right-out commercial entrance on Millwood Pike, the full commercial entrance located on Constitution Drive and the private internal road network to provide ingress and egress to the 6.18±-acre portion of the subject property in conjunction with the initial Site Plan within the B-2 District.

VDOT working in partnership with Navy Federal Credit Union (NFCU) has obtained funding and recently completed the construction of additional improvements to the Millwood Pike intersection with Constitution Drive and Independence Drive. NFCU commissioned a Traffic Impact Analysis and Signal Justification Analysis for this intersection to determine the improvements that would be necessary to improve the level of service and enhance safety for the traveling public. The final Traffic Impact Analysis and Signal Justification Report dated November 27, 2017 was approved by VDOT and provided the basis for funding and design of improvements at this intersection. The Report identifies the recommended improvements on Page 60 (attached) that includes new traffic signalization and widening of the existing median crossing, dual left turn lanes on Independence Drive to accommodate westbound turning movements onto Millwood Pike, the extension of the right turn lane on Millwood Pike to accommodate northbound turning movements onto Constitution Drive, and the extension of the left turn lane on Millwood Pike to accommodate southbound turning movements onto Independence Drive.

Greenway Engineering met with the Frederick County Transportation Planning Director to discuss the proposed commercial rezoning at the Millwood Pike/Constitution Drive intersection and was advised that VDOT and the County agreed to use a background assumption of 6,000 GSF of fast-food with drive-through service as by-right development in this location of Tax Parcel 64-A-158 which is identified on Page 14 of the Report (attached). Greenway Engineering submitted a TIA Waiver request to the Frederick County Transportation Planning Director that was approved with the understanding that commercial development within the 6.18±-acre portion of the subject property would be limited to 6,000 GSF and additional commercial development would be restricted until the completion of the recommended intersection improvements that have been funded. Additionally, the TIA Waiver request was approved with the understanding that additional TIAs would be required in conjunction with Site Plans for commercial projects that exceeded 6,000 GSF within the 6.18±-acre portion of the subject property if deemed necessary by VDOT and Frederick County. The Owner's Proffer Statement provides for these commitments within the Transportation Section.

The Owner has provided a Proffer Statement to mitigate transportation impacts associated with the rezoning of the 6.18±-acre portion of the subject property from the M-1 District to the B-2 District. The proffered transportation improvements include the following:

- Widening of the Constitution Drive southbound travel lanes to match the northbound travel lanes.
- Shared right-in/right-out commercial entrance access on Millwood Pike.
- Full commercial entrance access on Constitution Drive to facilitate protected left turn movements onto Millwood Pike at the signalized intersection.
- Construction of a continuous right turn lane on Millwood Pike between the Constitution Drive intersection and the shared right-in/right-out commercial entrance.
- Millwood Pike right-of-way dedication.
- Construction of an off right-of-way 10' asphalt hiker/biker trail paralleling Constitution Drive along the 6.18±-acre portion of the subject property.
- Construction of an on right-of-way 10' asphalt hiker/biker trail along the Millwood Pike property frontage of the 6.18±-acre portion of the subject property.
- Additional TIA Reports during Site Plan process if deemed necessary by VDOT and Frederick County and improvements to the Millwood Pike/Constitution Drive intersection and Constitution Drive if warranted.

The Owner's Proffer Statement provides for transportation enhancements and commitments that will adequately mitigate transportation impacts associated with this rezoning proposal and throughout the commercial build-out of the 6.18±-acre portion of the subject property.

SEWAGE CONVEYANCE AND TREATMENT

The subject property is located within the Sewer and Water Service Area (SWSA); therefore, the property is entitled to be served by public sewer based on County Policy. Frederick

Water is the provider of public sewer service and owns and maintains the public sewer infrastructure within this area of the County.

The subject property currently operates a small private sewer grinder pump station for the existing Perry Engineering Office and Winchester Building Supply which pumps into a public 6-inch force main installed under Millwood Pike (U.S. Route 50 East). The 6-inch force main extends into the Westview Business Centre-Navy Federal Credit Union Pump Station which then directs effluent into the larger Frederick Water sewer collection system in their Eastern Service Region. This collection system directs effluent to the Opequon Wastewater Treatment Facility. The 6-inch force main will be utilized by the FBI Records Facility that is currently under construction.

It is anticipated that the buildout of the subject property will yield 15,000 square feet of commercial land use. Based on comparable discharge patterns and typical flows from the 6.18±-acre portion of the subject property, a 60 gallons/day per 100 square feet calculation for commercial development with food preparation is appropriate for the sewer demand projections specific to this rezoning application.

$$\begin{aligned} Q &= 60 \text{ gallons/day per } 100 \text{ square feet commercial} \\ Q &= 60 \text{ GPD} \times 150 \text{ (15,000 sq.ft./100 sq.ft.)} \\ Q &= 9,000 \text{ GPD} \end{aligned}$$

$$\text{TOTAL: } Q = 9,000 \text{ GPD projected sewer demand}$$

The Westview Business Centre-Navy Federal Credit Union Pump Station has a design capacity of 54,150 GPD. Flow data for this pump station averages 20,395 GPD; therefore, the pump station has a remaining capacity of 33,755 GPD. There are two projects currently under construction that will add flows to this pump station. The FBI Records Facility is projected to require 16,100 GPD, and the Navy Federal Credit Union Office Building 3 is projected to require 7,180 GPD. This pump station will have a remaining capacity of 10,475 GPD after the completion of these office projects; therefore, the projected 9,000 GPD service demand for the 6.18±-acre commercial rezoning can be accommodated without improvements to this facility.

Evaluation of the Frederick Water 2017 Sanitary Sewer Master Plan dated August 17, 2017 identifies the subject property discharge into the Eastern Service Region. Review of the Eastern Service Region's Existing Conditions Section and Table 2.3 "Pump Station Summary" demonstrates that the major downstream pump stations identified as the U.S. 50 East Pump Station and the Senseny Road Regional Pump Station have capacity sufficient to accommodate the projected 9,000 GPD service demand for the 6.18±-acre commercial rezoning. The Opequon Wastewater Treatment Facility has a total capacity of 12.6 MGD, of which 5.475 MGD is allocated to Frederick Water. Frederick Water currently averages approximately 2.63 MGD of the allocated capacity and has approximately 2.845 MGD of allocated capacity available for future development projects. The projected 9,000 GPD for the 6.18±-acre commercial rezoning represents 0.31% of available treatment capacity;

therefore, the proposed rezoning can be sufficiently accommodated by public sewer service through a system with adequate conveyance, capacity and treatment.

WATER SUPPLY

The subject property is located within the Sewer and Water Service Area (SWSA); therefore, the property is entitled to be served by public water based on County Policy. Frederick Water is the provider of public water service and owns and maintains the public water infrastructure within this area of the County. Frederick Water has an existing 12-inch water transmission main located along Independence Drive that extends across Millwood Pike (U.S. Route 50 East). The subject property has an 8-inch water line along the frontage of the property that serves the existing land uses and will serve the proposed commercial land uses.

It is anticipated that the buildout of the subject property will yield 15,000 square feet of commercial land use. Based on comparable demands, a 60 gallons/day per 100 square feet calculation for commercial development with food preparation is appropriate for the water demand projections specific to this rezoning application.

$$\begin{aligned} Q &= 60 \text{ gallons/day per } 100 \text{ square feet commercial} \\ Q &= 60 \text{ GPD} \times 150 \text{ (15,000 sq.ft./100 sq.ft.)} \\ Q &= 9,000 \text{ GPD} \end{aligned}$$

$$\text{TOTAL: } Q = 9,000 \text{ GPD projected water demand}$$

Frederick Water obtains potable water from local quarries which are treated at the Diehl Filtration Plant (3.2 MGD) and the Anderson Filtration Plant (4.0 MGD). Frederick Water has sufficient water capacity to serve the subject property based on current and future demands. Additionally, Frederick Water has existing infrastructure that provides adequate transmission of potable water with adequate water pressure for land use and fire demands. Therefore, the proposed commercial rezoning can be sufficiently accommodated by public water service with adequate conveyance and pressure.

SITE DRAINAGE

The topographic relief on the 6.18±-acre subject property generally follows an east-to-southeast pattern which directs drainage towards the front of the property. Greenway Engineering has evaluated storm flows that would occur with the development of the 6.18±-acre commercial subject property which will be designed to drain toward the Millwood Pike (U.S. Route 50 East) roadside drainage swale and through piping and culverts located within the public right-of-way before reaching Opequon Creek.

Commercial development specific to the 6.18±-acre subject property is expected to exceed the thresholds for stormwater management waivers; therefore, stormwater quality and quantity will be evaluated, and appropriate measures will be implemented on-site to mitigate

stormwater impacts. The Owner will work with the Department of Public Works during the Site Development Plan process to identify stormwater volumes from the proposed development of the subject property to ensure that there are no detrimental impacts to the regional stormwater management facility and to adjoining properties. All stormwater management plans and erosion and sedimentation control plans associated with the development of the subject property will be required to be designed in conformance with all applicable state and local regulations; therefore, site drainage and stormwater management impacts to adjoining properties and the community will be mitigated.

SOLID WASTE DISPOSAL

The impact on solid waste disposal facilities associated with the development of the proposed commercial land use on the 6.18±-acre portion of the subject property proposed for rezoning can be projected from an average annual commercial consumption of 5.4 cubic yards per 1,000 square feet of structural area (Civil Engineering Reference Manual, 4th edition). It is anticipated that the buildout of the subject property will yield 15,000 square feet of commercial land use. Therefore, solid waste disposal impacts are based on the following figures that provide the increase in average annual solid waste volume based on commercial development on the 6.18±-acre portion of the subject property proposed for rezoning:

$$\begin{aligned} \text{AAV} &= 5.4 \text{ cu. yd. per 1,000 sq. ft. commercial} \\ \text{AAV} &= 5.4 \text{ cu. yd.} \times 15 \text{ (15,000 sq.ft./1,000 sq. ft.)} \\ \text{AAV} &= 81 \text{ cu. yd. at build-out, or 56.7 tons/yr. at build-out} \end{aligned}$$

The Municipal Solid Waste area of the Regional Landfill has a current remaining capacity of 13,100,000 cubic yards of air space. The projected commercial development will generate approximately 56.7 tons of solid waste annually on average. This represents a 0.028% increase in the annual solid waste received by the Municipal Solid Waste area of the Regional Landfill, which currently averages 200,000 tons per year. Solid waste produced by the commercial development will be disposed at the Regional Landfill by a commercial waste hauler; therefore, the County will receive tipping fees associated with this land use to mitigate this impact. The Regional Landfill has adequate capacity to accommodate the solid waste impacts associated with this rezoning proposal.

HISTORICAL SITES AND STRUCTURES

The Frederick County Rural Landmarks Survey identifies the Carper-Wynn House (#34-1129) and the Wilt-Dunn-Arnold House (#34-1131) within proximity of the 6.18±-acre portion of the subject property proposed for rezoning. The Frederick County Rural Landmarks Survey identifies both structures as potentially significant properties. The Wilt-Dunn-Arnold House is located approximately ½-mile from the subject property and the Carper-Wynn House is located approximately 2/3-mile from the subject property. Neither property is visible from the 6.18±-acre portion of the subject property proposed for rezoning due to distance, topography and mature vegetation.

The National Park Service Study of Civil War Sites in the Shenandoah Valley identifies the 6.18±-acre portion of the subject property proposed for rezoning as being located outside of defined Civil War Battlefields within the County. Additionally, the subject property is not located within potential historic districts that are identified by the Comprehensive Policy Plan.

The development of commercial land use on the 6.18±-acre portion of the subject property proposed for rezoning is consistent with other properties in this area of the County. The Senseny/Eastern Frederick Land Use Plan (SEFLUP) does not identify the subject property as historic or as developmentally sensitive area. The proposed rezoning of the property will not create negative impacts associated with historic properties and historic resources.

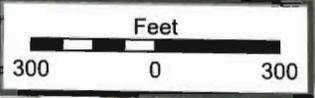
OTHER POTENTIAL IMPACTS

The commercial development of the 6.18±-acre portion of the subject property proposed for rezoning will provide new economic development opportunities for Frederick County. It is recognized that the development of commercial land use has the potential to increase service demands on fire and rescue services; therefore, the Applicant's Proffer Statement provides a monetary contribution of \$0.10 per developed building square foot to the County to provide additional revenues that are specifically directed to fire and rescue services. There are no other identified potential impacts above those discussed in this Impact Analysis Statement that would be detrimental to surrounding properties or to the County from the rezoning and development of the 6.18±-acre portion of the subject property.



Legend

- Perry Properties
- Commercial Zoning Area
- Parcel Boundary



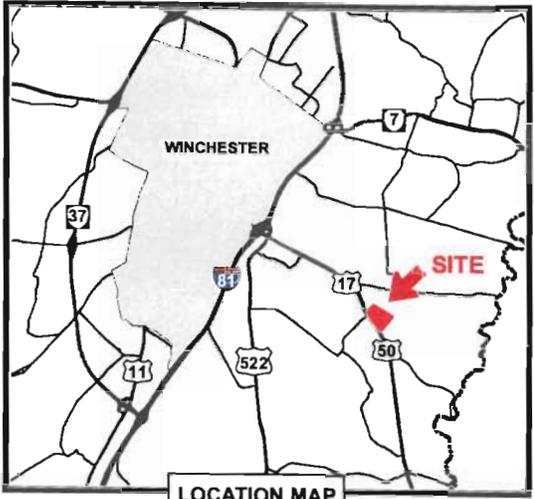
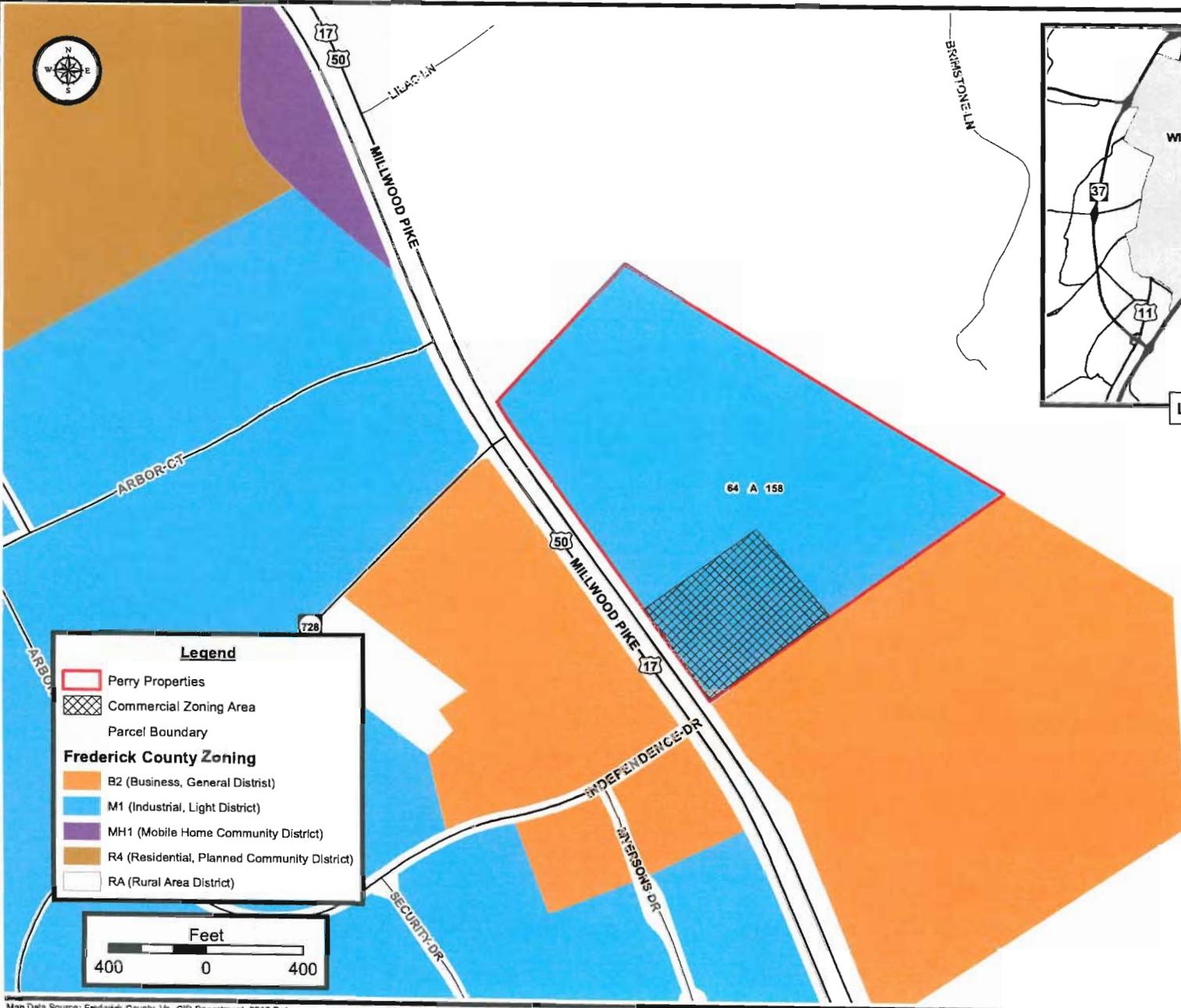
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**PERRY PROPERTIES
 COMMERCIAL REZONING
 AERIAL OVERVIEW**

PERRY PROPERTIES	
COMMERCIAL REZONING	
AERIAL OVERVIEW	
SHAWNEE MAGISTERIAL DISTRICT	
FREDERICK COUNTY, VIRGINIA	
DATE: 2019-06-06	PROJECT ID: 0287
DESIGNED BY: MEW	
SCALE: 1 inch = 300 Feet	

Map Data Source: Frederick County, Va. GIS Department, 2018 Data; Aerial Photo from 2017

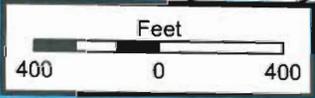


Legend

- Perry Properties
- Commercial Zoning Area
- Parcel Boundary

Frederick County Zoning

- B2 (Business, General District)
- M1 (Industrial, Light District)
- MH1 (Mobile Home Community District)
- R4 (Residential, Planned Community District)
- RA (Rural Area District)



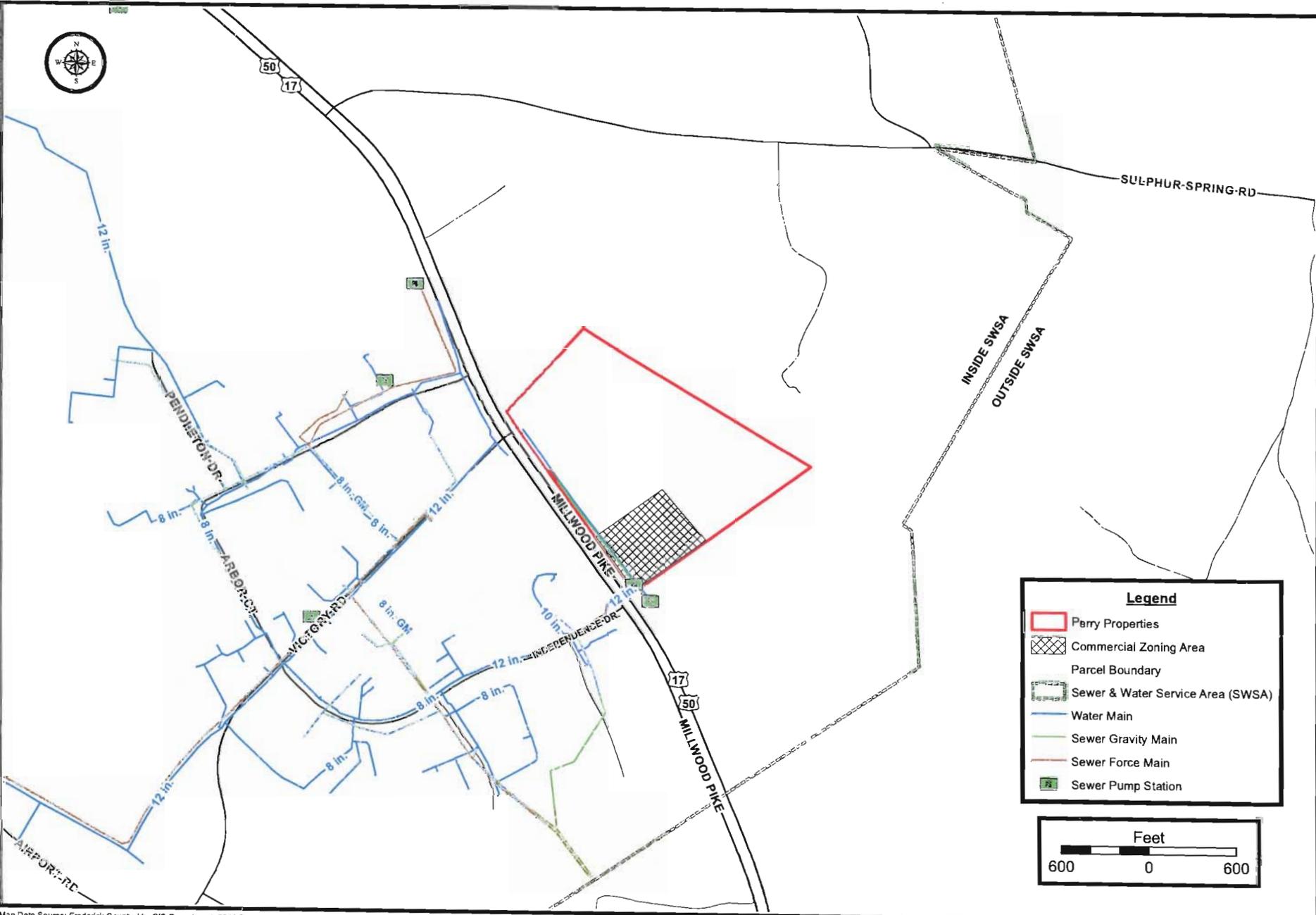
Map Data Source: Frederick County, Va. GIS Department, 2018 Data

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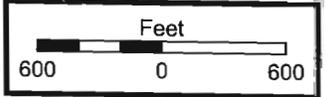
**PERRY PROPERTIES
 COMMERCIAL REZONING
 ZONING & LOCATION MAP**

PERRY PROPERTIES
COMMERCIAL REZONING
ZONING & LOCATION MAP
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
DATE: 2019-06-06 PROJECT ID: 0297 DESIGNED BY: MEW
SCALE: 1 inch = 400 Feet



Legend

- Perry Properties
- Commercial Zoning Area
- Parcel Boundary
- Sewer & Water Service Area (SWSA)
- Water Main
- Sewer Gravity Main
- Sewer Force Main
- Sewer Pump Station



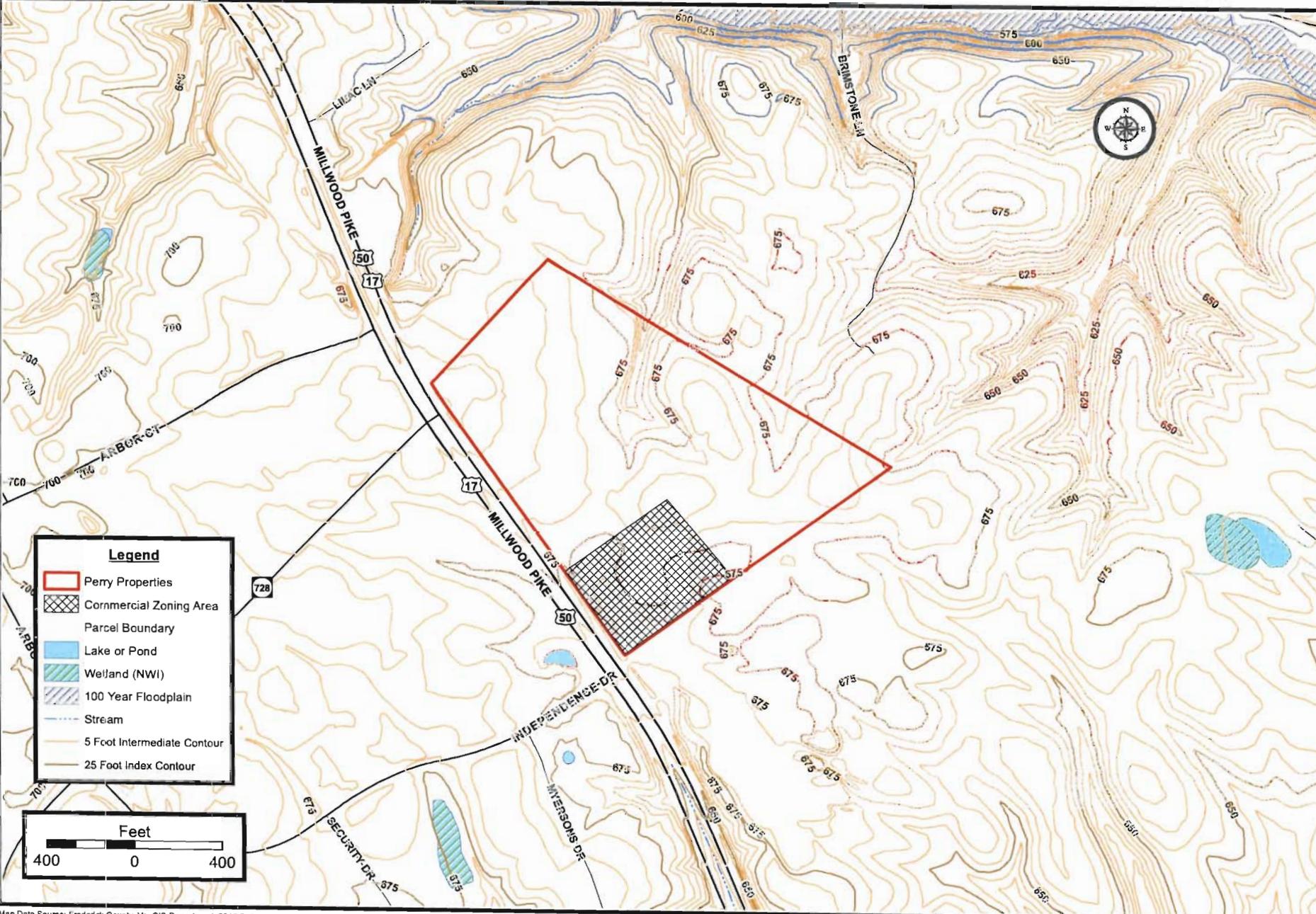
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**PERRY PROPERTIES
 COMMERCIAL REZONING
 WATER - SEWER - SWSA MAP**

PERRY PROPERTIES
COMMERCIAL REZONING
WATER - SEWER - SWSA MAP
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
DATE: 2019-06-06 PROJECT ID: 0297 DESIGNED BY: MEW
SCALE: 1 inch = 600 Feet

Map Data Source: Frederick County, Va. GIS Department, 2018 Data; Water & Sewer Data Courtesy of Frederick Water, 2016

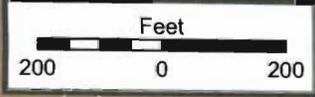
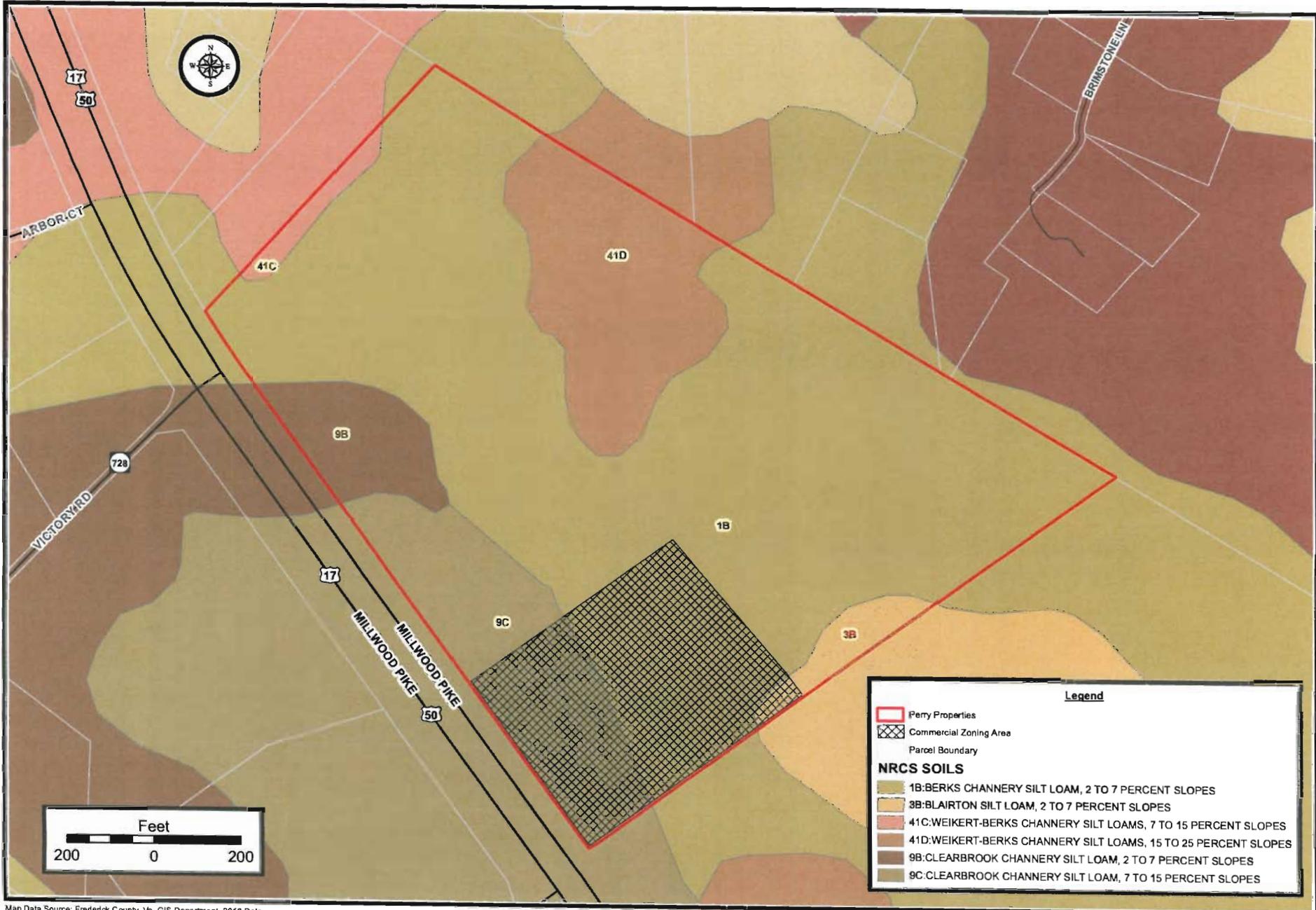


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**PERRY PROPERTIES
 COMMERCIAL REZONING
 ENVIRONMENTAL FEATURES MAP**

PERRY PROPERTIES
COMMERCIAL REZONING
ENVIRONMENTAL FEATURES MAP
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
DATE: 2019-06-06 PROJECT ID: 0297 DESIGNED BY: MEW
SCALE: 1 inch = 400 Feet



Legend

- Perry Properties
- Commercial Zoning Area
- Parcel Boundary

NRCS SOILS

- 1B:BERKS CHANNERY SILT LOAM, 2 TO 7 PERCENT SLOPES
- 3B:BLAIRTON SILT LOAM, 2 TO 7 PERCENT SLOPES
- 41C:WEIKERT-BERKS CHANNERY SILT LOAMS, 7 TO 15 PERCENT SLOPES
- 41D:WEIKERT-BERKS CHANNERY SILT LOAMS, 15 TO 25 PERCENT SLOPES
- 9B:CLEARBROOK CHANNERY SILT LOAM, 2 TO 7 PERCENT SLOPES
- 9C:CLEARBROOK CHANNERY SILT LOAM, 7 TO 15 PERCENT SLOPES

Map Data Source: Frederick County, Va. GIS Department, 2018 Data

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**PERRY PROPERTIES
 COMMERCIAL REZONING
 SOILS MAP**

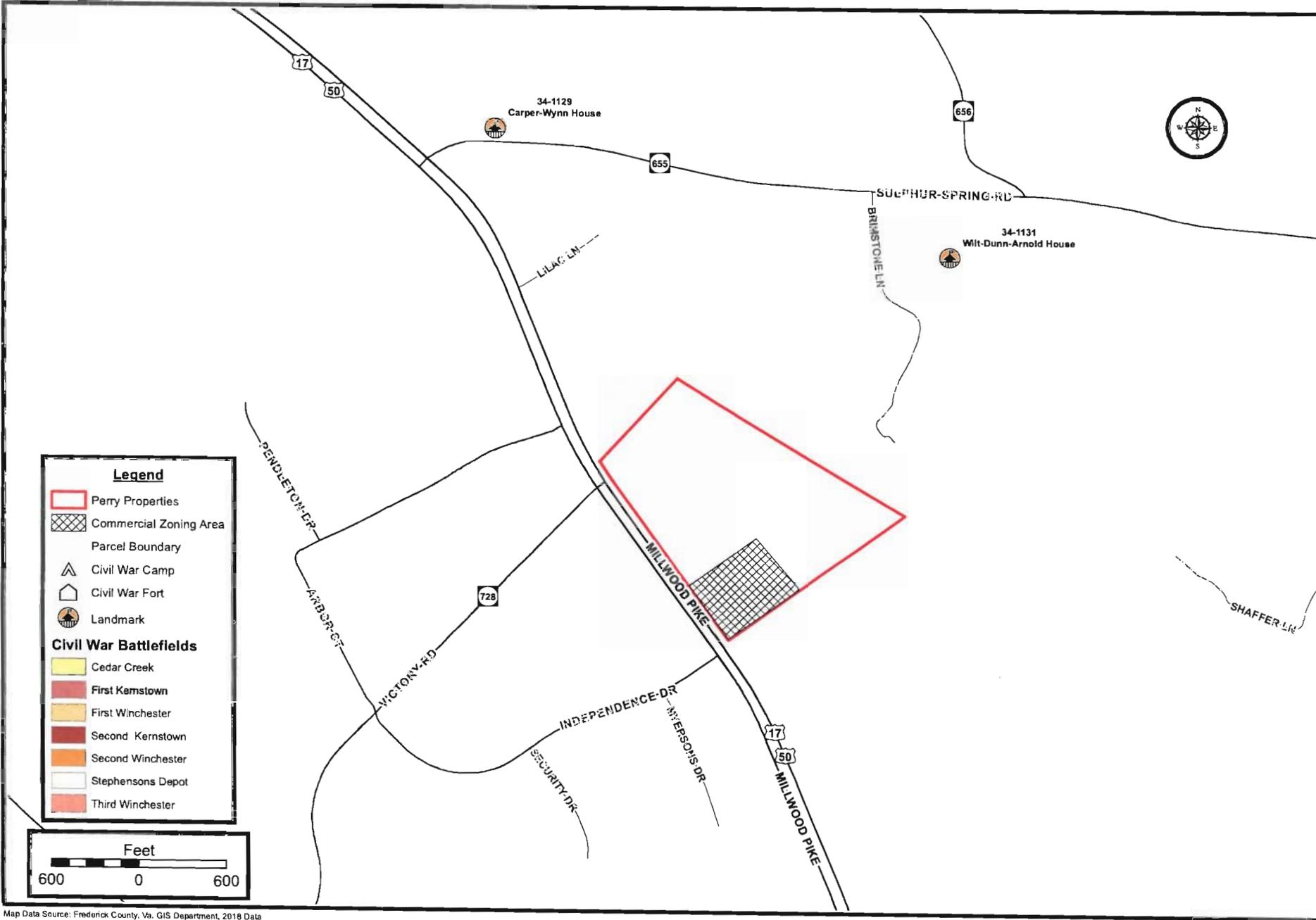
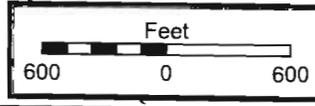
PERRY PROPERTIES
COMMERCIAL REZONING
SOILS MAP
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
DATE: 2019-08-06 PROJECT ID: 0297 DESIGNED BY: MEW
SCALE: 1" = 200 Feet

Legend

- Parry Properties
- Commercial Zoning Area
- Parcel Boundary
- Civil War Camp
- Civil War Fort
- Landmark

Civil War Battlefields

- Cedar Creek
- First Kernstown
- First Winchester
- Second Kernstown
- Second Winchester
- Stephens Depot
- Third Winchester



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**PERRY PROPERTIES
 COMMERCIAL REZONING
 HISTORIC FEATURES MAP**

PERRY PROPERTIES	DESIGNED BY: MEW
COMMERCIAL REZONING	PROJECT ID: 0297
HISTORIC FEATURES MAP	DATE: 2019-06-06
SHAWNEE MAGISTERIAL DISTRICT	
FREDERICK COUNTY, VIRGINIA	
SCALE: 1 inch = 600 Feet	

Map Data Source: Frederick County, Va. GIS Department, 2018 Data

From: Arthur Boyce <bobby.boyce@vdot.virginia.gov>
Sent: Thursday, October 10, 2019 5:04 PM
To: mcheran@co.frederick.va.us
Cc: Matthew Smith; Funkhouser, Rhonda (VDOT); Evan Wyatt
Subject: Frederick County - Route 50 -- Perry Properties Commercial Rezoning and Subdivision

<<...>>

DEPARTMENT OF TRANSPORTATION

Staunton/Edinburg Land Development

14031 Old Valley Pike

Edinburg, VA 22824

Dear Mr. Cheran:

We have reviewed the above subject Commercial Rezoning Proffer Statement received September 5, 2019. This application is to rezone and subdivide a 6.18 acre portion of the existing 44.97 acre parent parcel from B-2 to M-1. Our comments appear to be addressed with the following exceptions:

Proffer #1 - The proffer indicates the necessary additional right-of-way dedication along Constitution Drive and references the September 5, 2019 Exhibit. However, the dedication is not indicated on the exhibit (notation or graphic). Relocating the curb & gutter 2' along the Constitution Drive frontage between A and B is now acknowledged and proffered. The asphalt trail is off the proposed right-of-way if agreeable with the County.

Proffer #2 (Repeat Comment) - The proposed commercial entrance on Constitution Drive will also require either a joint-use entrance or interparcel connection with the M-1 parent tract. See Virginia Access Management Regulation.

Proffer #3 (Repeat Comment) - The proposed commercial entrance on Millwood Pike will also require either joint-use entrance or interparcel connection with the M-1 parent tract. This should be reflected somewhere in the proffer statement. See Virginia Access Management Regulation.

Proffer #4 - The future additional through lane on Millwood Pike should be installed along the frontage of both the proposed (B-2) and parent tract (M-1) when each develop. This additional through lane will act as a continuous right turn lane until needed at a future date. All entrances installed will then need to be offset 12' additional feet just as was done on Constitution Drive. The applicant is proffering to construct the right turn lane on the B-2 frontage however this should be proffered on the M-1 as well. Right turn lanes could then be constructed during a public improvement project and have very little impact to the entrance, parking lots, etc...

Proffer #5 - This internal road may provide the interparcel connections with the M-1 parent tract near Millwood Pike and Constitution Drive commercial entrances.

Proffer #6 (Repeat Comment) - A dimension should be provided in the text and/or exhibit and should include the residual (M-1). We need to verify that the width of the right-of-way dedication will accommodate the County Comprehensive Plan designation of a 6-lane divided facility for US 17/50 with the MPO Bicycle and Pedestrian Master Plan facilities along this section of US 17/50.

Proffer #9 - The development limit of 3,000 VPD needs to be based on ITE codes. This is the only way to determine / verify the potential site vehicular volume prior to development (especially for the initial site plan). Subsequent site plans on the B-2 portion of the development may be supported by actual traffic counts. A different use could double traffic generated and that could have an unknown impact on the adjacent road networks. Therefore, VDOT recommends a 3,000 VPD cap based on the current version of the ITE Trip Generation Manual, as the maximum development associated with the rezoning. Exceeding this trip threshold would require a proffer amendment with the provision for an additional TLA to determine impacts and recommended mitigation improvements to be provided by the developer.

Proffer #10 - Given proffer #9, we do not see where Proffer #10 is necessary. The TPOF / NFCU improvements will be completed prior to the initial development on the Perry Property.

Repeat Comment on Parent Parcel - The existing 80' right-of-way on Constitution Drive is insufficient for future widening of the 2 lane road to the U4D design depicted in Frederick County's Transportation Plan. Easements are also needed for construction grading, slope maintenance, drainage, utilities, etc... The inadequate space would render the future widening on Constitution Drive impossible without the voluntary dedication of additional right-of-way and easements from this 44.97 acre parcel. This rezoning and subdivision provides an opportunity to ensure complete widening of the facility by a developer or a government entity. Therefore, we suggest that the right-of-way and easements for the U4D are secure with the rezoning approval and the 4 lane improvements be tied to the first site plan submission for the M-1 portion of the property.

We appreciate the County's efforts to include VDOT in the early planning stages for development and the opportunity to provide comments. If you have any questions or need further information, please do not hesitate to give me a call.

Sincerely,

Bobby Boyce

Bobby Boyce
VDOT- Land Development Engineer
Shenandoah, Frederick, Clarke, & Warren Counties
14031 Old Valley Pike
Edinburg, VA 22824
(540)984-5631

From: Arthur Boyce <bobby.boyce@vdot.virginia.gov>
Sent: Wednesday, August 28, 2019 9:20 AM
To: 'mcheran@co.frederick.va.us' <mcheran@co.frederick.va.us>
Cc: 'Funkhouser, Rhonda (VDOT)' <Rhonda.Funkhouser@VDOT.Virginia.gov>; 'Smith, Matthew, P.E. (VDOT)' <Matthew.Smith@vdot.virginia.gov>; 'ewyatt@greenwayeng.com' <ewyatt@greenwayeng.com>
Subject: Frederick County - Route 50 -- Perry Properties Commercial Rezoning

<<...>>

DEPARTMENT OF TRANSPORTATION

Staunton/Edinburg Land Development

14031 Old Valley Pike

Edinburg, VA 22824



315 Tasker Road
Stephens City, Virginia 22655

PH (540) 868-1061
Fax (540) 868-1429
www.FrederickWater.com

Eric R. Lawrence
Executive Director

August 14, 2019

Evan Wyatt
Greenway Engineering
151 Windy Hill Lane
Winchester, VA 22602

**RE: Rezoning Application Comment
Perry Properties
Tax Map Numbers: 64-A-158
6.18+- acres**

Dear Mr. Wyatt:

Thank you for the opportunity to offer review comments on the Perry Properties commercial rezoning application package, dated June 19, 2019, and received at Frederick Water. Frederick Water (FW) offers comments limited to the anticipated impact/effect upon FW's public water and sanitary sewer system and the demands thereon.

The project parcel is in the sewer and water service area (SWSA) and is served by FW. Based on the project's location both water and sanitary sewer services are available. Water service is readily available, with adequate treatment and distribution capacities. Sanitary sewer treatment capacity at the wastewater treatment plant is presently available for the anticipated 9,000 gpd 6.18-acre site, but the sewage conveyance system has areas with limited capacity.

Flows from the subject rezoning site will flow to the West View Business Center sewage pumping station. The West View pump station requires upgrades to ensure adequate capacity is available to handle the projected 9,000gpd of sewage from the subject rezoning site. In recent months, the pump station has experienced overflows when the pump station facility was overwhelmed by excess flows. The pump station was designed and constructed by the developer of West View Business Center to accommodate the development's sewage flows, of which an adjacent 26-acre split zoned B2/M1 site remains undeveloped.

Flows which leave the West View pump station ultimately flow into additional downstream pump stations that also warrant consideration. The US 50 East Sewage Pumping Station is also in need of upgrades to accommodate additional flows.

Please keep in mind that sewer conveyance capacities and water supplies change daily, and with new customer connections bring additional flows. This letter does not guarantee system capacities to accommodate your development proposal, but offers a point in time observation to assist in the decision make process associated with rezoning a property.

Water and sanitary sewers are to be constructed in accordance with the FW standards specifications. Dedicated easements may be required and based on the layout vehicular access will need to be incorporated into the final design.

Thank you for the opportunity to offer review comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eric R. Lawrence", is written over a light gray rectangular background.

Eric R. Lawrence
Executive Director

Cc: Michael T. Ruddy, AICP, County Planning Department

To be completed by Planning Staff:

Zoning Amendment Number 04-19
Date Received 10/23/19

Fee Amount Paid \$ 10,618.00
Anticipated PC Hearing Date 12/13/19
Anticipated BOS Hearing Date 1/9/20

**REZONING APPLICATION
FREDERICK COUNTY, VA DEPARTMENT OF PLANNING & DEVELOPMENT**

1. Property Owner(s) (please attach additional page(s) if more than two owners):

Name: Perry Properties

Specific Contact Person if Other than Above: Mike Perry, President

Address: 1945 Millwood Pike Winchester, VA 22602

Telephone: (540) 667-4310 Email: mperry@perryeng.com

Name: _____

Specific Contact Person if Other than Above: _____

Address: _____

Telephone: _____ Email: _____

2. Other Applicant Party (such as a contract purchaser) (please attach additional page(s) if necessary):

Name: N/A

Specific Contact Person if Other than Above: _____

Address: _____

Telephone: _____ Email: _____

3. Law firm, engineering firm, or other person, if any, serving as the primary contact person for this application:

Firm Name: Greenway Engineering, Inc.

Specific Contact Person at Firm: Evan Wyatt, Director of Land Planning

Address: 151 Windy Hill Lane Winchester, VA 22602

Telephone: (540) 662-4185 Email: ewyatt@greenwayeng.com

Please note that, if a law firm, engineering firm, or other person, other than the owner of the property, will be acting on behalf of the owner and/or executing papers on behalf of the owner in connection with the rezoning, the owner will need to execute a power of attorney form granting the firm or person such authority.

4. Project Name (if any): Perry Properties Commercial Rezoning

5. Property Information:

a. Property Identification Number(s): 64-A-158

b. Total acreage of the parcel(s): 44.97+/- acres

c. Total acreage of parcel(s) to be rezoned (if other than whole parcel(s) is being rezoned):
6.18+/- acres

d. Current zoning designation(s) and acreage(s) in each designation:
M-1 District: 44.97+/- acres

e. Proposed zoning designation(s) and acreage(s) in each designation:
B-2 District: 6.18+/- acres M-1 District: 38.78+/- acres

f. Magisterial District(s): Shawnee District

g. Location - the property is located at (give street address(es) if assigned or otherwise exact location based on nearest road and distance from nearest intersection, using road names and route numbers):
The portion of Tax Parcel 64-A-158 proposed for B-2 District zoning is
located on the north side of Millwood Pike (Rt. 50 East) and the west
side of Constitution Drive

h. Adjoining Properties:

<u>Parcel ID Number</u>	<u>Use</u>	<u>Zoning</u>
<u>Refer to attached</u>	<u>_____</u>	<u>_____</u>
<u>Adjoining Properties</u>	<u>_____</u>	<u>_____</u>
<u>Map Exhibit</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>

Please attach additional page(s) if necessary.

Property identification numbers, magisterial districts, and deed book and page numbers/ instrument numbers may be obtained from the Office of the Commissioner of the Revenue, Real Estate Division, 107 North Kent Street, Winchester, VA 22601.

6. **Disclosure of real parties in interest.**

Virginia Code § 15.2-2289 provides that localities may by ordinance require any applicant for a zoning amendment to make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers, and directors, and in any case the names and addresses of all real parties of interest. Frederick County has, by County Code § 165-101.09, adopted such an ordinance.

For each business entity that is an owner or contract purchaser of the property, **please list the name and address of each person owning an interest in, or who is an officer or director of, any entity that is an owner or contract purchaser of the property** (you need not indicate the amount or extent of the ownership interest). Please note that this requirement does not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders.

Perry Properties - Mike Perry, President

Please attach additional page(s) if necessary.

7. **Checklist.** Please check that the following items have been included with this application:

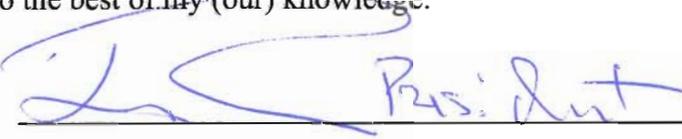
- Location Map
- Plat Depicting Metes/Bounds of Proposed Zoning
- Impact Analysis Statement
- Proffer Statement (if any)
- Agency Comments
- Fee
- Copies of Deed(s) to Property(ies)
- Tax Payment Verification
- Digital copies (pdf's) of all submitted items

7. **Signature(s):**

I (we), the undersigned, do hereby respectfully make application and petition the Frederick County Board of Supervisors to amend the zoning ordinance to change the zoning map of Frederick County, Virginia. I (we) authorize Frederick County officials to enter the property for site inspection purposes.

I (we) understand that the sign issued when this application is submitted must be placed at the front property line at least seven days prior to the Planning Commission public hearing and the Board of Supervisors public hearing and maintained so as to be visible from the road right-of-way until the hearing.

I (we) hereby certify that this application and its accompanying materials are true and accurate to the best of my (our) knowledge.

Owner:  Date 10/22/19

If signing on behalf of an entity, please state name of entity and your title:

Owner: _____ Date _____

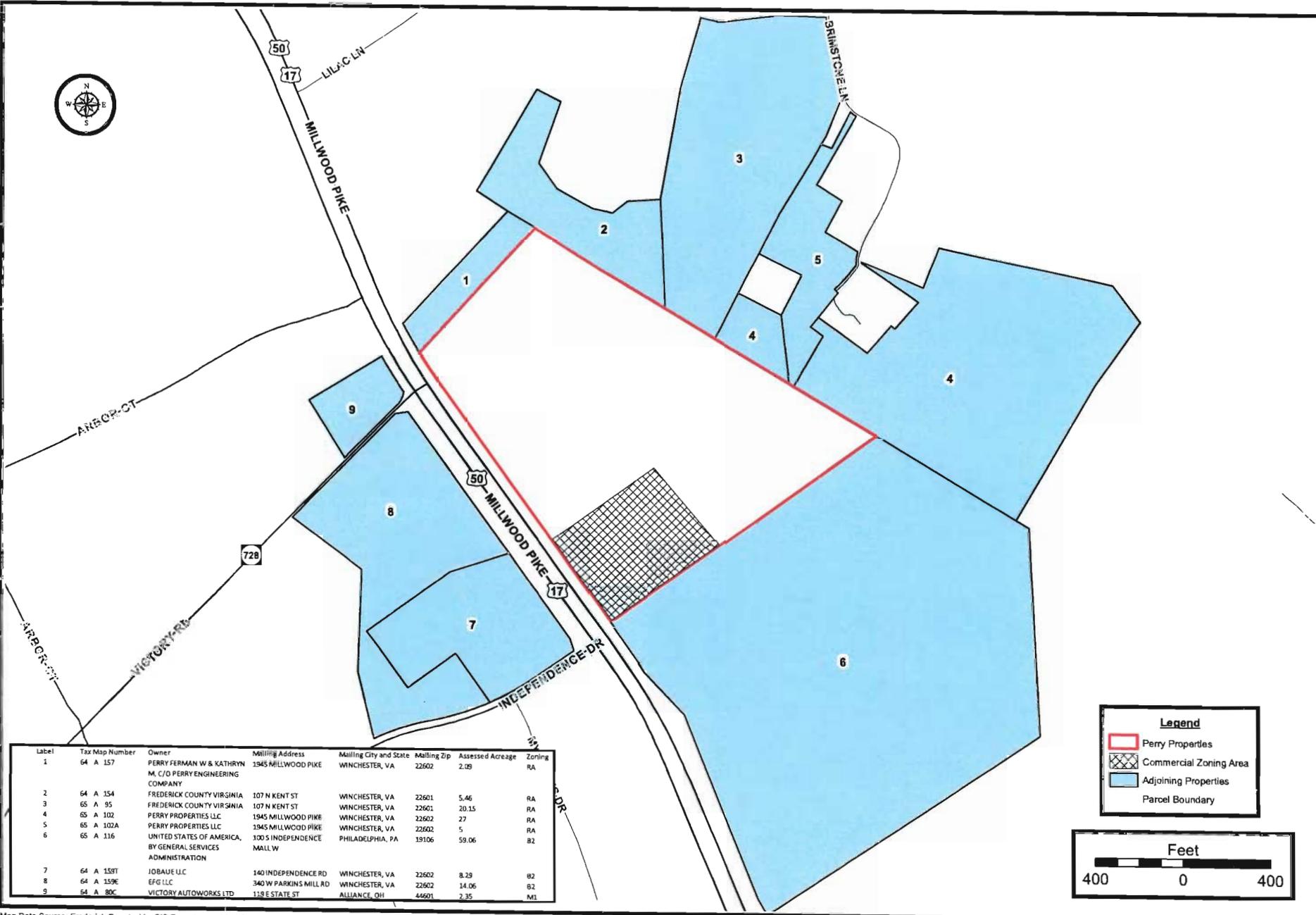
If signing on behalf of an entity, please state name of entity and your title:

Other Applicant Party (if any):  Date 10/17/19

If signing on behalf of an entity, please state name of entity and your title:

GREENWAY ENGINEERING, INC. ; DIRECTOR OF LAND PLANNING

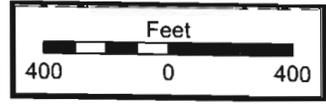
If additional signature lines are necessary, such as if more than two persons are owners, please use additional copies of this page.



Label	Tax Map Number	Owner	Mailing Address	Mailing City and State	Mailing Zip	Assessed Acreage	Zoning
1	64 A 157	PERRY FERMAN W & KATHRYN M. C/O PERRYENGINEERING COMPANY	1945 MILLWOOD PIKE	WINCHESTER, VA	22602	2.08	RA
2	64 A 154	FREDERICK COUNTY VIRGINIA	107 N KENT ST	WINCHESTER, VA	22601	5.46	RA
3	65 A 95	FREDERICK COUNTY VIRGINIA	107 N KENT ST	WINCHESTER, VA	22601	20.15	RA
4	65 A 102	PERRY PROPERTIES LLC	1945 MILLWOOD PIKE	WINCHESTER, VA	22602	27	RA
5	65 A 102A	PERRY PROPERTIES LLC	1945 MILLWOOD PIKE	WINCHESTER, VA	22602	5	RA
6	65 A 116	UNITED STATES OF AMERICA, BY GENERAL SERVICES ADMINISTRATION	100 S INDEPENDENCE MALL W	PHILADELPHIA, PA	19106	59.06	B2
7	64 A 158T	JOBAUE LLC	140 INDEPENDENCE RD	WINCHESTER, VA	22602	8.29	B2
8	64 A 159E	EFG LLC	340 W PARKINS MILL RD	WINCHESTER, VA	22602	14.06	B2
9	64 A 80C	VICTORY AUTOWORKS LTD	118 E STATE ST	ALLIANCE, OH	44601	2.35	M1

Legend

- Perry Properties
- Commercial Zoning Area
- Adjoining Properties
- Parcel Boundary



Map Data Source: Frederick County, Va. GIS Department, 2018 Data

Greenway Engineering, Inc.
 151 W Piney Hill Lane
 Winchester, VA 22,702
 T: 540.662.4185
 F: 540.722.4185
 www.GreenwayEng.com



**PERRY PROPERTIES
 COMMERCIAL REZONING
 ADJOINING PROPERTIES MAP**

PERRY PROPERTIES
 COMMERCIAL REZONING
 ADJOINING PROPERTIES MAP
 SHAWNEE MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA
 DATE: 2019-06-06 | PROJECT ID: 0297 | DESIGNED BY: MEW
 SCALE: 1 Inch = 400 Feet



Special Limited Power of Attorney
County of Frederick, Virginia
 Frederick Planning Website: www.fcva.us

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

Know All Men By These Presents That:

Perry Properties, LLC

Name of Property Owner/Applicant

Please note: If the property owner/applicant is an entity, the name of the entity should appear above.
 If multiple persons own the property or are applicants, an executed power of attorney from each owner will be needed.

1945 Millwood Pike Winchester, VA 22602 (540) 667-4310
 Mailing Address of Property Owner/Applicant Telephone Number

as owner of, or applicant with respect to, the tract(s) or parcel(s) of land in Frederick County, Virginia, identified by following property identification numbers:

Tax Parcel 64-A-158 (6.18 +/- acre portion)

do hereby make, constitute, and appoint:

Greenway Engineering, Inc.

Name of Attorney-In-Fact (540) 662-4185
 151 Windy Hill Lane Winchester, VA 22602 Telephone Number
 Mailing Address of Attorney-In-Fact

to act as my true and lawful attorney-in-fact for and in my name, place, and stead, with the same full power and authority I would have if acting personally, to file and act on my behalf with respect to application with Frederick County, Virginia for the following, for the above identified property:

- | | | | |
|-------------------------------------|--|--------------------------|---------------------------|
| <input checked="" type="checkbox"/> | Rezoning | <input type="checkbox"/> | Subdivision |
| <input type="checkbox"/> | Conditional Use Permit | <input type="checkbox"/> | Site Plan |
| <input type="checkbox"/> | Master Development Plan (prelim. or final) | <input type="checkbox"/> | Variance or Zoning Appeal |

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

N/A

This appointment shall expire one year from the day that it is signed, or at such sooner time as I otherwise rescind or modify it.

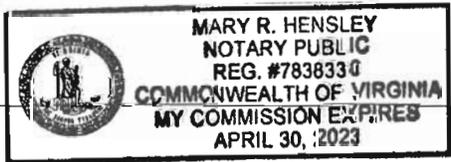
Signature _____
 Title (if signing on behalf of an entity) President

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

I, Mary Hensley, a Notary Public in and for the jurisdiction aforesaid, certify that the person who signed the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 22 day of October, 2019

Mary Hensley
 Notary Public

My Commission Expires: April 30, 2023
 Registration Number: 7838330



Item No. 2



MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: M. Tyler Klein, AICP, Senior Planner 

SUBJECT: Ordinance Amendment – Public Utilities including utility-scale solar power generating facilities – Public Hearing

DATE: December 20, 2019

At their November 13th public hearing, the Board of Supervisors directed Staff to amend the proposed ordinance amendment for “public utilities” to further specify “utility-scale solar power generating facilities” as a conditional use in the RA Zoning District, and not allow this use by-right. As a result of this change in the use allowance, the item was sent back to the Planning Commission for a new public hearing.

This is a proposed amendment to Chapter 165 – Zoning Ordinance to provide:

1. A definition for “Public Utilities” that includes utility-scale solar power generating facilities;
2. A definition for “decommissioning” and “utility-scale solar power generating facilities,” consistent with the *Code of Virginia*;
3. Additional regulations for specific uses that requires utility-scale solar generating facilities to make arrangements, including financial security, for decommissioning consistent with/as required by the *Code of Virginia*, and site plan review/approval only for utility-scale solar power generating facilities; and
4. Add “utility-scale solar power generating facilities” as a conditional use in the RA (Rural Areas) Zoning District.

The above changes to the additional regulations for specific uses section does not affect current public utilities, including water/sewer treatment and distribution facilities. The only change from what was previously considered by the Planning Commission on October 16th is “utility-scale solar power generating facilities” as a conditional use in the RA Zoning District.

The General Assembly amended the Code of Virginia (§15.2-22.41.2) to include decommissioning of solar energy facilities effective July 1, 2019. Previously, the County Attorney and Staff

provided a determination that was shared with the Board of Supervisors on July 2018, stating that utility-scale solar power generating facilities would qualify as a “public utility” type-facility and would otherwise be allowed by-right in the County’s RA (Rural Areas) Zoning District (and other zoning districts where public utilities are permitted by-right). In that determination, it was noted that the Board could restrict the use to a conditional use permit.

This item was proposed by the County Attorney and Staff and discussed by the DRRC at their June 27th, July 25th, and August 22nd regular meetings. The DRRC agreed with the proposed changes from August 22nd, and the item was forwarded to the Planning Commission for discussion. The Planning Commission discussed this item on September 4th and the Board of Supervisors discussed this item on September 25th. During their discussion, the Board directed Staff to also provide a definition for “decommissioning” and “utility-scale solar power generating facilities” and the item was sent forward, with requested amendments, for public hearing. The Planning Commission held a public hearing on the public utilities ordinance amendment on October 16th and recommended the item go forward to the Board of Supervisors for approval. However, at their November 13th public hearing, the Board of Supervisors directed Staff to amend the proposed ordinance amendment to include “utility-scale solar power generating facilities” as a conditional use in the RA Zoning District.

The Planning Commission held a public hearing on December 18th. No members of the public spoke on the proposed item. Several Planning Commissioners expressed concern with requiring utility-scale solar power generating facilities as a conditional use noting that the intensity of the use may be less impactful than other by-right uses in the RA (Rural Areas) Zoning District (i.e. other public utilities such as electric substations and power generating facilities), the investment made to establish solar facilities and the potential for revocation of a conditional use permit (CUP), and in creating additional conditional uses in general. Planning Commissioners Mohn and Morrison expressed support for making utility-scale solar power generating facilities a conditional use, citing notification to the public and seeking public input through the CUP process as important in hearing from the Community about such facilities. The Planning Commission voted 9-2-2 (Commissioners Mohn & Morrison – No; Commissioners Thomas & Unger – Absent) to send the item forward to the Board of Supervisors with a recommendation of denial.

The attached document shows the existing ordinance with the proposed changes (with bold italic for text added). **This proposed amendment is being presented to the Board of Supervisors as a public hearing item. A decision by the Board of Supervisors, on this proposed Zoning Ordinance text amendment is sought.** Please contact Staff if you have any questions.

-
- Attachments:**
- 1. Revised ordinance with additions shown in bold underlined italics.**
 - 2. Code of Virginia §15.2-2241.2**
 - 3. Memo to the Board of Supervisors, July 26, 2018**
 - 4. Resolution**

MTK/pd

ARTICLE I
General Provisions; Amendments; and Conditional Use Permits

Part 101
General Provisions

§ 165-101.02 Definitions and word usage.

Decommissioning

The removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the County to be subject to § 15.2-2232 of the Code of Virginia and therefore subject to § 15.2-2241.2 of the Code of Virginia. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

Public Utilities

Power generating facilities, booster or relay stations, transformer substations, transmission lines and towers, pipes, meters and other facilities (including utility-scale solar power generating facilities), and sewer and water treatment facilities including sewer and water transmission lines. Such facilities may be owned by public utilities, public agencies, those operators with a Certificate of Public Convenience, or those that are operating under a Permit by Rule (PBR).

Utility-Scale Solar Power Generating Facilities

Any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight. Any such facility primarily designed or intended to offset personal energy consumption by the owner of the facility does not constitute a utility-scale solar power generating facility.

ARTICLE II
Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses

Part 204
Additional Regulations for Specific Uses

§ 165-204.26. Public Utilities

1. Public utilities. Lot requirements for lots used by political subdivisions, municipal corporations, the Virginia Department of Transportation, the Frederick-Winchester Service Authority, or the Frederick ~~Water County Sanitation Authority~~ for public utility purposes shall be as follows:

- A. In all zoning districts, the Zoning Administrator shall have the authority to determine the minimum lot size necessary for such public utilities and the appropriate setbacks for such lots used for public utility purposes.
- B. Such lots shall be exempt from the individual on-site sewage disposal system requirements.
- C. Such lots may be accessed by private access easements; any such easement shall be a minimum of 15 feet in width.

2. Utility-Scale Solar Power Generating Facilities.

- A. **Any owner, lessee, or developer of real property for the purposes of solar power energy generation shall enter into a written agreement, prior to site plan approval, with Frederick County to decommission solar energy equipment, facilities, or devices pursuant to the terms and conditions of § 15.2-2241.2(B) of the Code of Virginia.**
- B. **For Utility-Scale Solar Power Generating Facilities a site plan, in accordance with Article VIII, shall be submitted to and approved by Frederick County, prior to the establishment of the use.**

**ARTICLE IV
Agricultural and Residential Districts**

Part 401
RA Rural Areas District

§ 165-401.02. Permitted Uses

~~Q. Public utility generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters and other facilities, railroad facilities and sewer and water facilities, and lines owned by public facilities, railroad companies or public agencies.~~ **Public Utilities except Utility-Scale Solar Power Generating Facilities**

§165-401.03. Conditional Uses

CC. Utility-Scale Solar Power Generating Facilities

Part 402
RP Residential Performance District

§ 165-402.02. Permitted Uses

B. Structures and land shall be used for one of the following uses:

~~(6) Utility distribution facilities necessary to serve residential uses, including, but not limited to, poles, lines, distribution transformers, pipes, and meters.~~ **Public Utilities excluding energy generating facilities.**

Part 403
MH1 Mobile Home Community District

§ 165-403.02. Permitted Uses

~~H. Public utilities including poles, lines, distribution transformers, pipes and meters, water and sewer facilities and lines.~~ **Public Utilities excluding energy generating facilities.**

ARTICLE V
Planned Development Districts

Part 502
R5 Residential Recreational Community District

§165-502.04. Permitted uses.

P. ~~Public sewer and water facilities and lines.~~ ***Public Utilities excluding energy generating facilities.***

**ARTICLE VI
Business and Industrial Districts**

Part 602
B1 Neighborhood Business District

§165-602.02. Allowed Uses.

~~Public utility distribution facility~~ **Public Utilities excluding energy generating facilities.**

Part 603
B2 General Business District

§165-603.02. Allowed Uses.

~~Public utility distribution facility~~ **Public Utilities excluding energy generating facilities.**

Part 604
B3 Industrial Transition District

§165-604.02. Allowed Uses.

~~Public utility distribution facility~~ **Public Utilities**

Part 606
M1 Light Industrial District

§165-606.02. Allowed Uses.

~~Public utility distribution facility~~ **Public Utilities**

Part 608
EM Extractive Manufacturing District

§165-608.02. Permitted Uses.

~~**K. Public utilities, including poles, lines, distribution transformers, pipes, meters, and sewer facilities.**~~
Public Utilities.

Part 609
HE Higher Education District

§165-609.02. Permitted uses.

~~**B. Utilities necessary to serve allowed uses, including poles, lines, distribution transformers, pipes and meters.**~~ **Public Utilities excluding energy generating facilities.**

CHAPTER 743

An Act to amend the Code of Virginia by adding a section numbered **15.2-2241.2**, relating to rezoning and site plan approval; decommissioning solar energy equipment, facilities, or devices.

[H 2621]

Approved March 21, 2019

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **15.2-2241.2** as follows:

§15.2-2241.2. *Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.*

A. *As used in this section, unless the context requires a different meaning:*

"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to §15.2-2232 and therefore subject to this section. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

"Solar energy equipment, facilities, or devices" means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

B. *As part of the local legislative approval process or as a condition of approval of a site plan, **any locality shall require** an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.*

CHAPTER 744

An Act to amend the Code of Virginia by adding a section numbered **15.2-2241.2**, relating to rezoning and site plan approval; decommissioning solar energy equipment, facilities, or devices.

[S 1091]

Approved March 21, 2019

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **15.2-2241.2** as follows:

§15.2-2241.2. *Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.*

A. *As used in this section, unless the context requires a different meaning:*

"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to §15.2-2232 and therefore subject to this section.

"Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

"Solar energy equipment, facilities, or devices" means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

B. *As part of the local legislative approval process or as a condition of approval of a site plan, a locality shall require an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning, and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.*



MEMORANDUM

TO: Frederick County Board of Supervisors

CC: Kris C. Tierney, County Administrator
Roderick B. Williams, County Attorney
Mike T. Ruddy, AICP, Director of Planning & Development
Mark R. Cheran, Zoning Administrator

FROM: M. Tyler Klein, AICP, Senior Planner 

SUBJECT: Solar (Photovoltaic) Energy Facilities Text Amendment – Update

DATE: July 26, 2018

This is an update to the proposed text amendment to Chapter 165 – Zoning Ordinance to add solar (photovoltaic) power generating facilities (i.e. solar farms) to the permitted use list for the RA (Rural Areas) Zoning District. This item was previously discussed by the Board of Supervisors on January 10th, February 14th and April 11th. Following our last discussion, the Board of Supervisors had directed Staff to make the proposed use a “conditional use” and provide additional supplemental use regulations to address abandonment on the facility and return of the land to its pre-development state. At the time of the presentation to the Board, the premise of the draft text amendment, as supported by the Development Review and Regulations Committee (DRRC), and previously discussed by the Planning Commission, was that because solar farms are typically “privately-owned”, they would not qualify as “public utility” generating facilities.

Since the Board discussion in April, the County Attorney and the Planning and Development Staff have met and determined that solar (photovoltaic) energy facilities would *appear* to qualify as “public utility generating” facilities and would otherwise today be allowed by-right in the County’s RA Zoning District. The Zoning Ordinance currently permits a by-right use in the RA Zoning District, “Public utility generating, booster, or relay stations, transformer substations, transmission lines, and towers, pipes, meters, and other facilities, railroad facilities, and sewer and water facilities and lines owned by public utilities, railroad companies or public agencies” (§165-401.02(Q)). The term “public utility” does not address the public or private nature of the ownership of the facility; most electricity generating facilities in the United States are owned by “private” entities as opposed to government, i.e. “public” entities.

Further, the Frederick County Zoning Ordinance does not define the term “public utility” and definitions not included in the definitions section of the Zoning Ordinance “shall have the meaning ascribed to such word, term or phrase in the most recent addition of Merriam-Webster’s Dictionary unless, in the opinion of the Zoning Administrator, established customs or practices in Frederick

County, Virginia justify a different or additional meaning” (§165-101.02). Webster’s defines “public utility” simply as “a business organization (such as an electric company) performing a public service and subject to special governmental regulation.” This definition does not limit the concept of a “public utility” to entities that sell electricity directly to the public or to entities that are publicly traded and therefore does not exclude from its reach solar farms owned by non-publicly traded entities. Within the Code of Virginia §56-1, nothing in the definition of public service companies suggests a distinction between the types of companies that operate solar farms and the types of companies that operate other types of electricity generation facilities. State law specifically regulates solar facilities as it does other electricity generating facilities, regardless of the nature of ownership, by requiring the operator to seek a certificate of public convenience and necessity from the State Corporation Commission (SCC) (§56-265.2). The County would recognize a solar energy facility as a public utility under this interpretation.

This determination of solar electric generating facilities qualifying as a “public utility” would not preclude the Board of Supervisors in the future from further regulating solar (photovoltaic) energy facilities as allowed under the Code of Virginia or excluding them all from the current allowance in §165-401.02(Q). Staff notes that possible supplementary regulations as previously discussed, such as a requirement for removal of the facilities upon abandonment of use would place them in a category currently unique to telecommunications towers. As well, any requirement for a bond securing the removal of an abandoned facility might be sufficient economic disincentive as to preclude any use of the opportunity that would be enabled by the ordinance generally.

Please contact the County Attorney’s office or Planning and Development Staff directly with any questions or comments. Unless otherwise directed by the Board of Supervisors, Staff will proceed with the above interpretation to allow solar energy facilities (i.e. solar farms), by right, under the present allowance for public utilities in the RA Zoning District.

MTK/pd



ORDINANCE AMENDMENT

Action:

PLANNING COMMISSION: October 16, 2019 Public Hearing Held; Recommended Approval
December 18, 2019 Public Hearing Held; Recommended Denial

BOARD OF SUPERVISORS: November 13, 2019 Public Hearing Held; Directed Staff to Amend
January 8, 2020 the Proposed Ordinance Amendment

**AN ORDINANCE AMENDING
THE FREDERICK COUNTY CODE
CHAPTER 165 ZONING**

**ARTICLE I
GENERAL PROVISIONS; AMENDMENTS; AND CONDITIONAL USE PERMITS
PART 101 – GENERAL PROVISIONS
§165-101.02. DEFINITIONS AND WORD USAGE**

**ARTICLE II
SUPPLEMENTARY USE REGULATIONS; PARKING; BUFFERS; AND REGULATIONS FOR
SPECIFIC USES
PART 204 – ADDITIONAL REGULATIONS FOR SPECIFIC USES
§165-204.26. PUBLIC UTILITIES**

**ARTICLE IV
AGRICULTURAL AND RESIDENTIAL DISTRICTS
PART 401 – RA RURAL AREAS DISTRICT
§165-401.02. PERMITTED USES
§165-401.03. CONDITIONAL USES
PART 402 – RP RESIDENTIAL PERFORMANCE DISTRICT
§165-402.02. PERMITTED USES
PART 403 – MH1 MOBILE HOME COMMUNITY DISTRICT
§165-403.02. PERMITTED USES**

**ARTICLE V
PLANNED DEVELOPMENT DISTRICTS
PART 502 – RESIDENTIAL RECREATIONAL COMMUNITY DISTRICT
§165-502.04. PERMITTED USES**

**ARTICLE VI
BUSINESS AND INDUSTRIAL DISTRICTS
PART 602 – B1 NEIGHBORHOOD BUSINESS DISTRICT
§165-602.02. ALLOWED USES**

PART 603 – B2 GENERAL BUSINESS DISTRICT
§165-603.02. ALLOWED USES
PART 604 – B3 INDUSTRIAL TRANSITION DISTRICT
§165-604.02. ALLOWED USES
PART 606 – M1 LIGHT INDUSTRIAL DISTRICT
§165-606.02. ALLOWED USES
PART 608 – EM EXTRACTIVE MANUFACTURING DISTRICT
§165-608.02. PERMITTED USES
PART 609 – HE HIGHER EDUCATION DISTRICT
§165-609.02. PERMITTED USES

WHEREAS, an ordinance to amend Chapter 165, Zoning to include a definition for “Public Utilities” that includes utility-scale solar power generating facilities, a definition for utility-scale solar power generating facilities, and a definition for decommissioning; and

WHEREAS, the proposed ordinance to amend Chapter 165, Zoning to include additional supplemental use requirements for utility-scale solar power generating facility decommissioning and site plan requirements were considered; and

WHEREAS, the Planning Commission held a public hearing on this ordinance amendment on October 16, 2019 and recommended approval; and

WHEREAS, the Board of Supervisors held a public hearing on this ordinance amendment on November 13, 2019 and directed Staff to amend the proposed ordinance amendment to include “utility-scale solar power generating facilities” as a conditional use in the RA Zoning District; and

WHEREAS, the Planning Commission held a public hearing on this ordinance amendment, as amended by the Board of Supervisors, on December 18, 2019 and recommended denial; and

WHEREAS, the Board of Supervisors held a public hearing on this ordinance amendment on January 8, 2020; and

WHEREAS, the Frederick County Board of Supervisors finds that the adoption of this ordinance to be in the best interest of the public health, safety, welfare, and in good zoning practice; and

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that **Chapter 165 Zoning, is amended to include a definition for “Public Utilities” that includes utility-scale solar power generating facilities and solar power generating facility decommissioning requirements and includes “utility-solar power generating facilities” as a conditional use in the RA Zoning District.**

Passed this 8th day of January 2020 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Shawn L. Graber

J. Douglas McCarthy

Blaine P. Dunn

Gene E. Fisher

Robert W. Wells

Judith McCann-Slaughter

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

Planning
Commission
Business

Item No. 1



**REZONING APPLICATION #06-19
WINCHESTER MEDICAL CENTER, INC.
Staff Report for the Board of Supervisors
Prepared: December 27, 2019**

Staff Contact: Candice E. Perkins, AICP, CZA, Assistant Director

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	12/18/19	Recommended Approval
Board of Supervisors:	01/08/20	Pending

PROPOSAL: To revise the proffered Generalized Development Plan approved with rezoning #02-03 for 37.5424+/- acres zoned B2 (General Business) District and 51.8675+/- acres zoned MS (Medical Support) District to the MS (Medical Support) District. Minor text revisions are also proposed to reflect the updated internal street network within the development.

LOCATION: The subject property is on the northern side of Route 50 West and west of Route 37.

EXECUTIVE SUMMARY & STAFF CONCLUSION FOR THE 01/08/20 BOARD OF SUPERVISORS MEETING:

This is a proposed minor proffer amendment for minor text revisions and revisions to the approved Generalized Development Plan (GDP) associated with Rezoning #02-03 which rezoned parcel 53-A-68 to the B2 (General Business) and MS (Medical Support) Districts with proffers. The site consists of 37.5424+/- acres zoned B2 (General Business) District and 51.8675+/- acres zoned MS (Medical Support) District. The approved GDP labeled individual land bays with specific uses; the Applicant proposes to remove the uses shown on the proffered GDP to allow for potential alternative development. The Applicant is also proposing to remove proffer 3 from the landscape design features which required a landscaped roundabout. This feature was removed, and the internal road system has already been constructed – therefore this proffer is unnecessary.

The impacts associated with the change of use are very limited; no additional impacts to Frederick County or the surrounding property owners are anticipated. *Staff is supportive of this request for a minor proffer modification to the GDP and text. The Planning Commission did not identify any concerns with the request and recommended approval of the application at their December 18, 2019 meeting.*

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

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

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	12/18/19	Recommended Approval
Board of Supervisors:	01/08/20	Pending

PROPOSAL: To revise the proffered Generalized Development Plan approved with Rezoning #02-03 for 37.5424+/- acres zoned B2 (General Business) District and 51.8675+/- acres zoned MS (Medical Support) District to the MS (Medical Support) District. Minor text revisions are also proposed to reflect the constructed internal street network within the development.

LOCATION: The subject property is on the northern side of Route 50 West and west of Route 37.

MAGISTERIAL DISTRICT: Gainesboro

PROPERTY ID NUMBER: 53-A-68

PROPERTY ZONING: B2 (General Business) District
MS (Medical Support) District

PRESENT USE: Vacant

ADJOINING PROPERTY ZONING & PRESENT USE:

North:	RA (Rural Areas)	Use:	Agricultural
South:	B2 (General Business)	Use:	Commercial
East:	N/A Interstate	Use:	Route 37
West:	RA (Rural Areas) B2 (General Business)	Use:	Agricultural, Residential Vacant

REVIEW EVALUATIONS:

Virginia Dept. of Transportation: We have reviewed the above subject Rezoning Application dated August 5, 2019 for impacts to the local transportation system. We have no overall objection to the proposed rezoning with the following comment being addressed.

We suggest that the conditions as they relate to the Western Campus-Limited Access Control Changes Route 37 (December 17, 2009) be brought into the amended proffer. As it remains important for all parties to be reminded of the gated-access limitation envisioned as part of the Commonwealth Transportation Board (CTB) approval. This could be accomplished by amending the Street Improvements section of the proffers as follows: “The Applicant shall design and construct all roads on the subject property consistent with the County’s adopted Round Hill Land Use Plan for the area, **and requirements as consistent with the Commonwealth Transportation Board’s “Right of Way and Limited Access Control Changes Route 37 and Campus Boulevard Interchange” approval dated December 17, 2009**, and according to uniform standards...” We also suggest including a copy of the Resolution of the CTB (attached) be included as an appendix to the proffer.

Staff Note: Per VDOT’s comment, the Applicant has referenced the Commonwealth Transportation Board’s “Right of Way and Limited Access Control Changes Route 37 and Campus Boulevard Interchange” approval dated December 17, 2009 in the updated proffer statement.

County of Frederick Attorney: Proffer appears acceptable.

Planning & Zoning:

1) Site History

The subject property was rezoned from the RA (Rural Areas) District to the B2 (General Business) District and the MS (Medical Support) District with the approval of Rezoning #02-03.

2) Comprehensive Plan

The 2035 Comprehensive Plan is the guide for the future growth of Frederick County.

The 2035 Comprehensive Plan is an official public document that serves as the Community's guide for making decisions regarding development, preservation, public facilities and other key components of Community life. The primary goal of this plan is to protect and improve the living environment within Frederick County. It is in essence a composition of policies used to plan for the future physical development of Frederick County.

The Area Plans, Appendix I of the 2035 Comprehensive Plan, are the primary implementation tool and will be instrumental to the future planning efforts of the County.

Land Use

The site is located within the limits of the Route 37 West Area Land Use Plan of the 2035 Comprehensive Plan and depicts the subject property with commercial land use designation. The existing B2 Zoning and MS Zoning is consistent with the Comprehensive Plan.

PLANNING COMMISSION SUMMARY AND ACTION FROM THE 12/18/19 MEETING:

Staff stated that this is an application to revise the proffered Generalized Development Plan approved with Rezoning #02-03 for 37.5424+/- acres zoned B2 (General Business) District and 51.8675+/- acres zoned MS (Medical Support) District to the MS (Medical Support) District. Staff then provided an overview application and stated that this amendment only intends to revise the GDP to remove the land use specifications that restricted the site to certain uses.

Commissioner Morrison requested clarification on the original proffer and the traffic circle off of Route 37 for the Medical Center and if it would be opened up for general traffic to improve Route 50. Staff stated that there were limitations placed on this access by the Commonwealth Transportation Board for this access break and the Medical Center is limited in the number of trips that can access the property via this interchange. The Applicant further clarified that this access will be controlled via a gate and that they were not changing any proffer other than the GDP.

This item was a minor proffer amendment and therefore no public hearing was required. A motion was made, seconded and unanimously passed to recommend approval of Rezoning #06-19 for Winchester Medical Center.

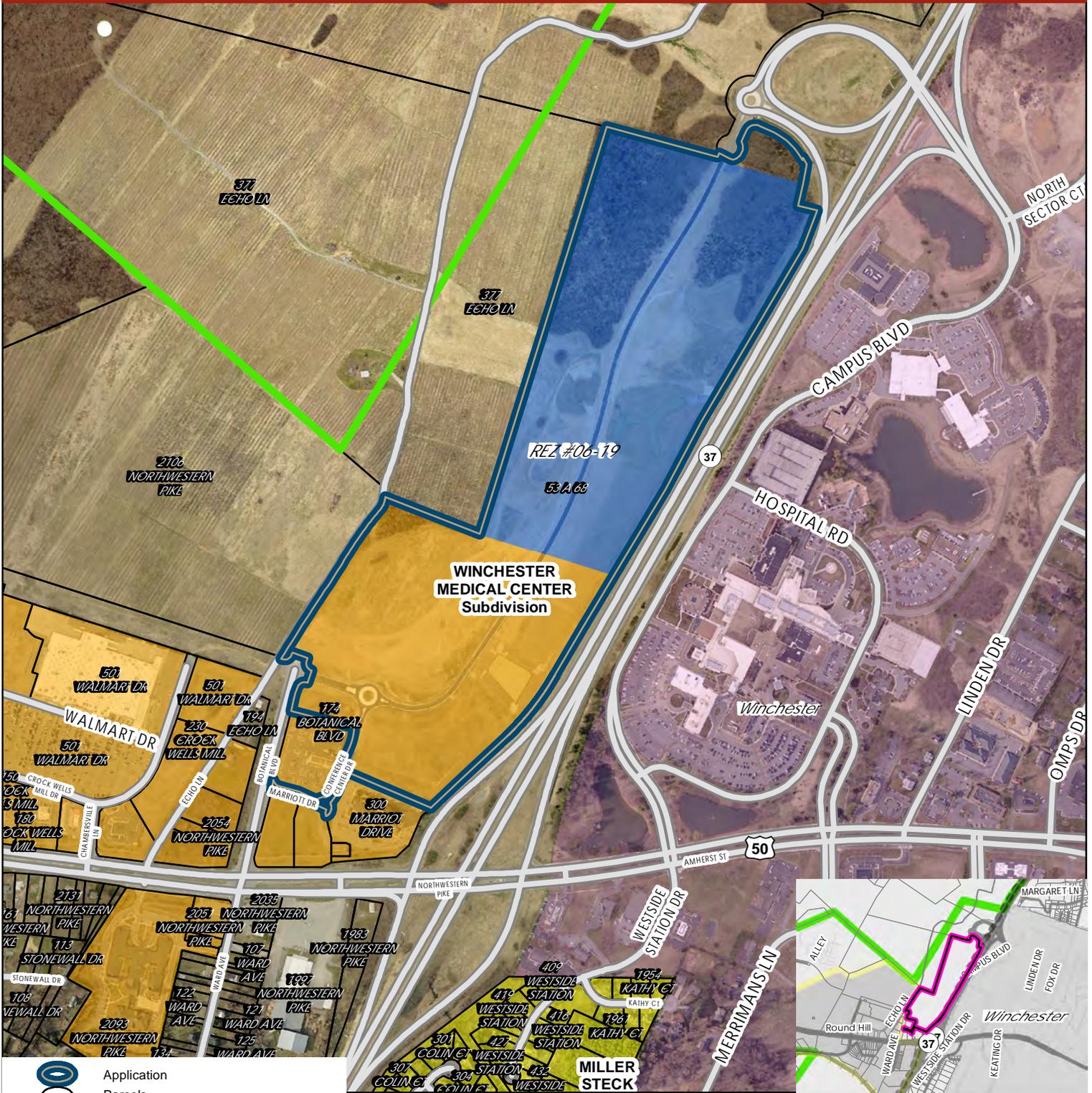
Following the public meeting, a decision regarding this rezoning application by the Board of Supervisors would be appropriate. The Applicant should be prepared to adequately address all concerns raised by the Board of Supervisors.

REZ # 06 - 19: Winchester Medical Center, Inc.

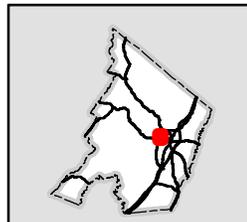
PIN: 53 - A - 68

Rezoning from B2 to MS

Zoning Map



-  Application
-  Parcels
-  B2 (General Business District)
-  MS (Medical Support District)
-  RP (Residential Performance District)

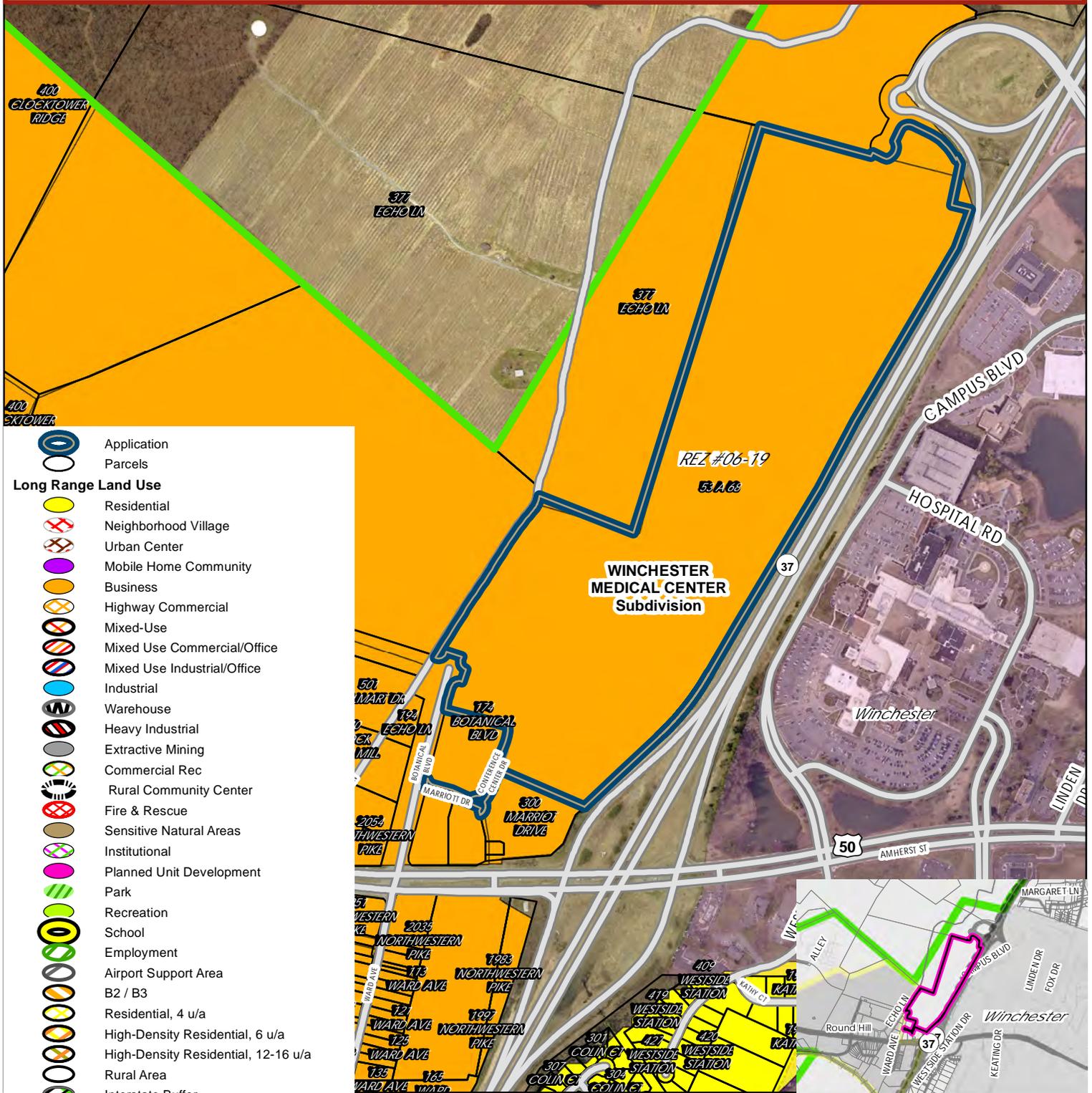


0 455 910 1,820 Feet

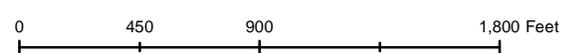
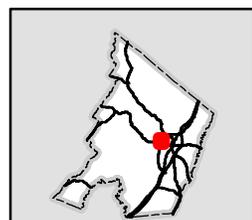
REZ # 06 - 19: Winchester Medical Center, Inc.

PIN: 53 - A - 68

Rezoning from B2 to MS
Long Range Land Use Map



- Application
- Parcels
- Long Range Land Use**
- Residential
- Neighborhood Village
- Urban Center
- Mobile Home Community
- Business
- Highway Commercial
- Mixed-Use
- Mixed Use Commercial/Office
- Mixed Use Industrial/Office
- Industrial
- Warehouse
- Heavy Industrial
- Extractive Mining
- Commercial Rec
- Rural Community Center
- Fire & Rescue
- Sensitive Natural Areas
- Institutional
- Planned Unit Development
- Park
- Recreation
- School
- Employment
- Airport Support Area
- B2 / B3
- Residential, 4 u/a
- High-Density Residential, 6 u/a
- High-Density Residential, 12-16 u/a
- Rural Area
- Interstate Buffer
- Landfill Support Area
- Natural Resources & Recreation
- Environmental & Recreational Resources



REZONING REQUEST PROFFER
Property Identification Number 53-((A))-68
Revised 11-20-19

WINCHESTER MEDICAL CENTER
“West Campus”

Preliminary Matters

Pursuant to Section 15.2-2296 *et.seq.*, of the code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned Owner hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application # ____ for the rezoning of 88.1212 acres, out of a parcel total of 89.5100 acres, of the existing MS/B2 Zoning District, development of the subject property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the Owner and such be approved by the Frederick County Board of Supervisors in accordance with Virginia law. Should this petition for rezoning not be approved by the Board of Supervisors then the existing proffer statement for the B-2 tract will remain in effect and these proffers shall be deemed withdrawn and of no effect whatsoever. These proffers shall be binding upon the Owner and their legal successor assigns.

General Development Plan

The development of the subject property, and the submission of any Master Development Plan shall be in conformance with all pertinent County regulations and shall be in substantial conformity with the Generalized Plan of Development, dated 10-18-19, which is attached hereto and incorporated herein by reference.

Street Improvements

The Owner shall design and construct all roads on the subject property consistent with the County's adopted Round Hill Land Use Plan for the area, , **and requirements as consistent with the Commonwealth Transportation Board's "Right of Way and Limited Access Control Changes Route 37 and Campus Boulevard Interchange" approval dated December 17, 2009**, and according to uniform standards established by the Virginia Department of Transportation (VDOT), and as may be provided in these proffers as illustrated on the Generalized Plan of Development which is attached hereto and incorporated herein by reference.

1. On U.S. Route 50 at the intersection of Route 1317, a 200 feet left turn lane for eastbound traffic will be provided. (#1)
2. On U.S. Route 50, an acceleration/deceleration lane will be added across the entire U.S. Route 50 frontage of the site, and the only exit on U.S. Route 50 will be located at the Route 1317 intersection. Curb and gutter will be provided along the entire frontage. (#2)
3. At the VA Route 1317 intersection, traffic leaving the site will be provided two left turn lanes, (on left turn with through movement) and one right turn lane. (#3)
4. Lanes will be added to the VA Route 37 exit ramps to allow dedicated right and left turn lanes (#4) as follows:
 - At U.S. Route 50/VA Route 37 eastern signal, Northbound left turn – 200 feet with transition to provide 3 lanes at intersection including a dedicated left, a left with through and right turn lanes.
 - At U.S. 50/VA Route 37 Western signal, Southbound right turn – 200 fee with transition to provide full 2 lanes at intersection.
5. A traffic signal will be provided at U.S. Route 50 and VA Route 317 intersection. (#5)
6. An additional left turn lane will be provided on U.S. Route 50 for the eastbound traffic at the US Route 50/VA Route 37 eastern signal. (#6)

7. A major collector road, 1800 feet in length and 5 lanes wide, with 80 feet right of way. (#7)

Transportation items 1 through 6 shall be constructed during the initial site development phase of the project and shall be either complete or bonded for completion prior to issuance of the first occupancy permit.

The Owner shall limit entrance connections onto U.S. Route 50 to one point as shown on Generalized Development Plan.

The Owner shall prepare a traffic generation estimate for uses established by the Site Development Plan to be submitted for initial construction approval to the County. The combined trip generation (ADT) shall not exceed 14,000 TPD (average weekday volume) without further approval by the County. The actual trip generation from the project shall be determined by the Winchester Medical Center Management annually, from data collected in May and with the results due on July 1 of each year, and be available for review as individual site plans and subdivisions for future uses are submitted for review by VDOT and the County. The combined traffic impact from Tax Map 53-A-68, including parcels A, B, C, D, and E, is not to exceed 14,000 TPD (average weekday volume) when current actual counts and proposed counts are added for cumulative total. If the cumulative total for any site plan at WMC causes the total to exceed 14,000 TPD then it is agreed that the Owner shall not file additional site plan application until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways. The SIC code system and the ITE shall be utilized for the subject projections. The Owner shall perform an updated TIA of the project intersection on U.S. Route 50 and the Route 50/Route 37 interchange when traffic generation from the original 102 acre site reached 14,000 TPD (average weekday volume). The County may revise this 14,000 TPD limit upward, without modification of this proffer agreement, should results of the TIA show that additional loading is appropriate.

Landscape Design Features

The development of the subject property, and the submission of any Master Development Plan shall include the following landscape design feature provided in these proffers and as illustrated on the Generalized Plan of Development revised November 05, 2019 which is attached hereto and incorporated herein by reference.

1. A fifty foot (50') landscaped buffer along the US Route 50 frontage portion of the site. (#8). Internal parking, travel ways and commercial structures shall not extend closer than 50' to front right of way line on U.S. Route 50. An illustrative detail is attached to this proffer for the purpose of establishing a standard of quality to be implemented upon final design. (See ID "A").
2. A landscaped green area along the north side of the main entrance. (See ID "A") (#9)

On Site Development

The Winchester Medical Center shall establish an Architectural Review Committee (ARC) to review all planning within the 89.4099 acre site to insure conformance with the standard of quality described in the Master Development Plan and Covenants. In general, project covenants shall establish a standard of quality for structures and site design as follows:

1. Materials utilized for the facades of the buildings shall include but not be limited to concrete masonry units (CMU) brick, architectural block, dryvit, or other simulated stucco (EFIS), real or simulated wood and/or glass.
2. All building within the development on the property shall be constructed using compatible architectural style and materials, and signage for such buildings shall be of a similar style and materials.
3. All building within the property shall be developed as a cohesive entity, ensuring that building placement, architectural treatment, parking lot lighting, landscaping, trash disposal, vehicular and pedestrian circulation and other development elements work together functionally and aesthetically.
4. A single monument type sign shall be utilized near the project entrance to describe internal features. Sign height shall be limited to 20' within 50' landscape area long U.S. Route 50. Individual signs to be allowed per ordinance requirements to announce individual uses. On building signage to be the preferred sign type for individual uses. No other signs shall be located within 50' buffer area.

The Owner shall record and include in each deed as well as provide Frederick County with a complete set of Covenants and Restrictions pursuant to site design developed and approved by Frederick County at the time of master plan.

Property owners shall be notified of conditions relating to adjoining active agricultural operations.

Monetary Contribution to Offset Impact of Development

The undersigned, who owns the above described property hereby voluntarily proffers that if the Board of Supervisors for the County of Frederick, Virginia approves the rezoning for the 88.1212 acres, of the 89.5100 acre parcel, lying on the north side of U.S. Route 50 in the Gainesboro Magisterial District of Frederick County, Virginia as presented, the undersigned will pay to Frederick County for the Round Hill Fire and Rescue Company the sum of \$25,000.00, the Sheriff's Office the sum of \$5,000.00 and the Administration Building the sum of \$5,000.00 for a total payment of \$35,000.00, at the time of the first building permit on the 89.4099 acre tract is issued. This payment will not be required if it is shown that this payment was made with the original rezoning of the property in 2003.

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the Owner. In the event the Frederick County Board of Supervisors grant said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted,

WINCHESTER MEDICAL CENTER

By (Print Name): MARK BAICAR

Signature: *Mark Baicar*

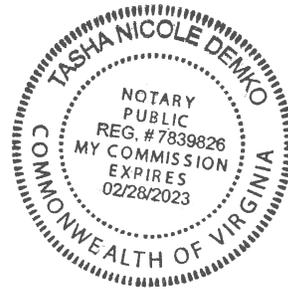
Title: VP, FACILITIES MANAGEMENT & SAFETY

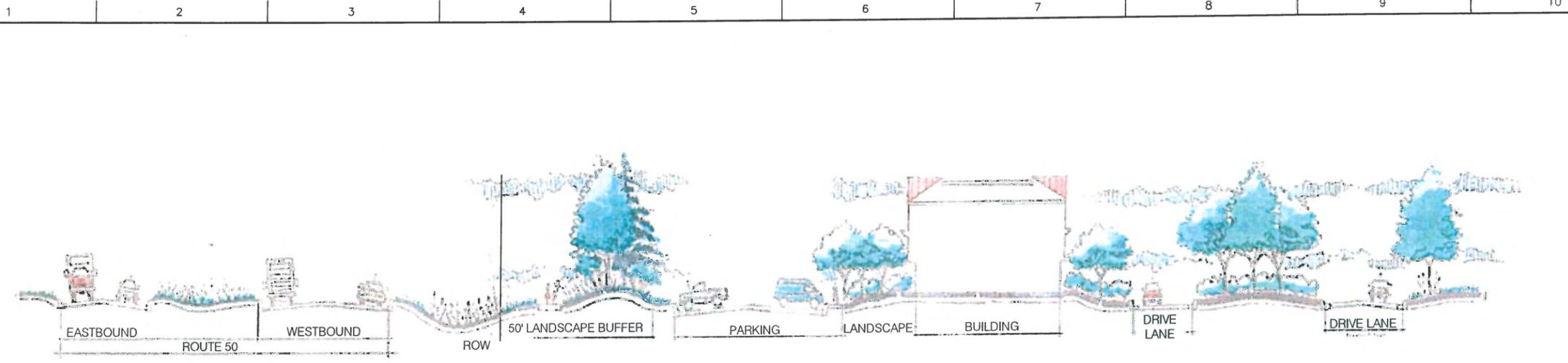
Date: 12-05-19

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

The foregoing instrument was acknowledged before me this 5 day of December,
2019, by TASHA NICOLE DEMKO.

My commission expires 02/28/2023
Notary Public Commonwealth of Virginia





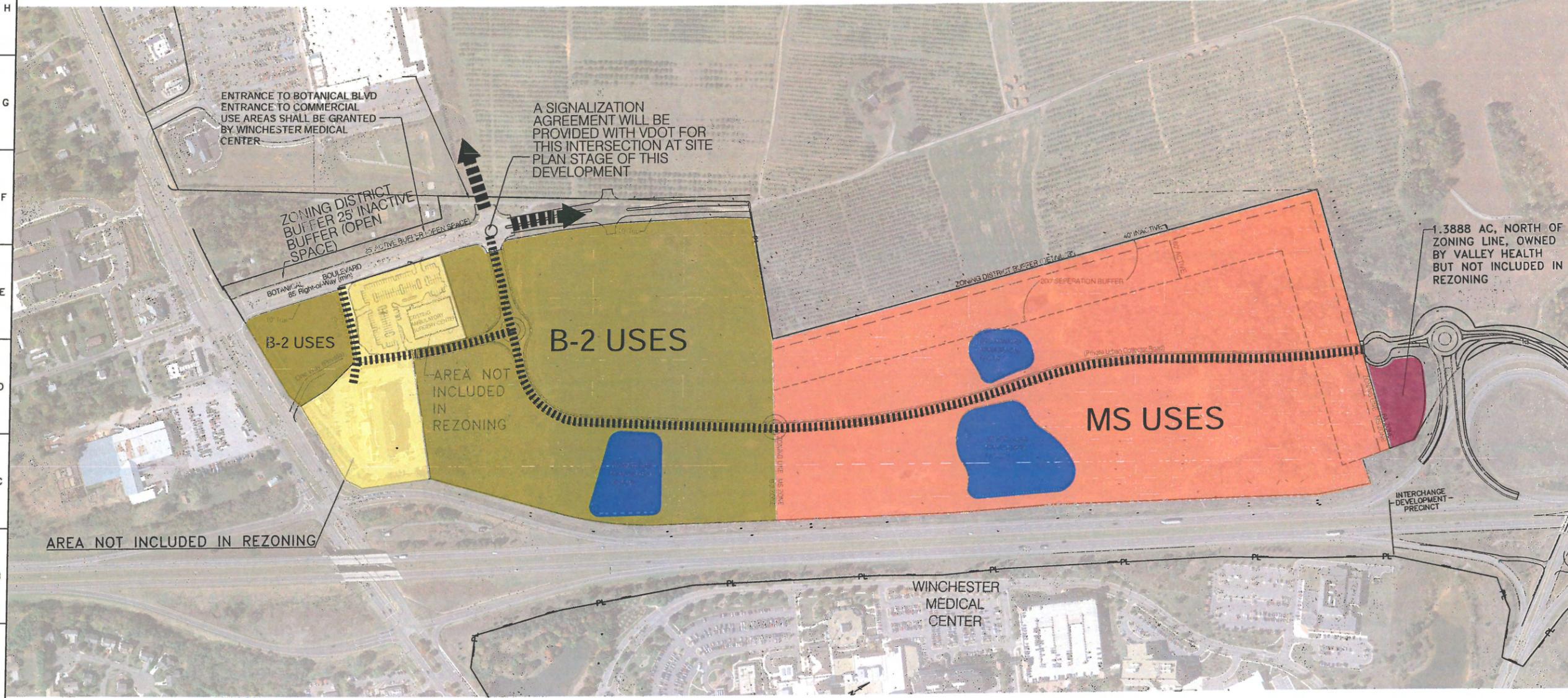
Section A - A

**WINCHESTER
MEDICAL
CENTER
WEST CAMPUS**
FREDERICK COUNTY, VA

VALLEY ENGINEERING
IDEAS MADE REAL

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PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

REVISIONS:

DATE: 10-18-19

PROJECT No.: 7767-2

EXP./CLIENT No.: 11054-7

SCALE: 1"=200'

**GENERALIZED
PLAN OF
DEVELOPMENT**

SHEET NO.:

1

**WINCHESTER
MEDICAL
CENTER
WEST CAMPUS**
FREDERICK COUNTY, VA

VALLEY ENGINEERING
IDEAS MADE REAL

3231 PEOPLES DRIVE
HARRISONBURG, VIRGINIA 22801
TELEPHONE (540) 434-6365 OR (800) 343-6365
FAX (540) 432-0665
www.valleyesp.com

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PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

REVISIONS:

DATE: 10-18-19

PROJECT No.: 7767-2

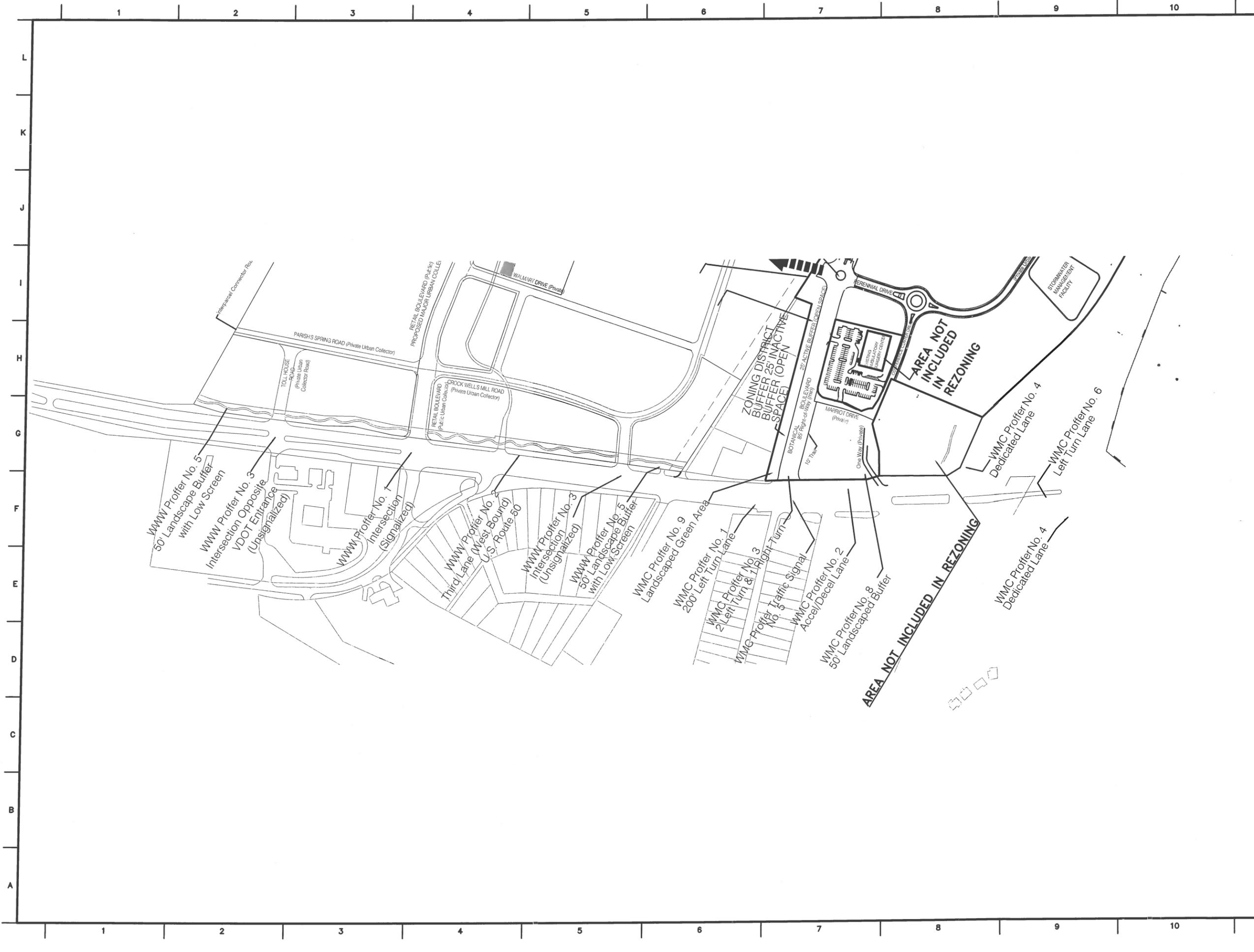
EXP./CLIENT No.: 11054-7

SCALE: TBLKSCALE

**GENERALIZED
PLAN OF
DEVELOPMENT**

SHEET NO.:

2





ORDINANCE

Action:

PLANNING COMMISSION: December 18, 2019 Recommended Approval

BOARD OF SUPERVISORS: January 8, 2020

ORDINANCE AMENDING
THE ZONING DISTRICT MAP
REZONING #06-19 WINCHESTER MEDICAL CENTER, INC.

WHEREAS, REZONING #06-19, Winchester Medical Center, Inc., was submitted by Valley Engineering, PLC to revise the proffered Generalized Development Plan approved with Rezoning #02-03 for 37.5424+/- acres zoned B2 (General Business) District and 51.8675+/- acres zoned MS (Medical Support) District to the MS (Medical Support) District; minor text revisions are also proposed to reflect the updated internal street network within the development with a final revision date of October 17, 2019. The subject property is on the northern side of Route 50 West and west of Route 37 in the Gainesboro District and is identified by Property Identification No. 53-A-68; and

WHEREAS, the Planning Commission discussed this rezoning at their December 18, 2019 meeting and recommended approval; and

WHEREAS, the Board of Supervisors discussed this rezoning at their January 8, 2020 meeting; and

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to remove the uses shown on the approved proffered GDP to allow for potential alternative development. The Applicant will remove proffer 3 from the landscape design features which required a landscaped roundabout; this feature was removed, and the internal road system has already been constructed; with a final revision date of October 17, 2019. The conditions voluntarily proffered in writing by the Applicant and the Property Owner are attached.

This ordinance shall be in effect on the date of adoption. Passed this 8th day of January 2020 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Shawn L. Graber

J. Douglas McCarthy

Robert W. Wells

Gene E. Fisher

Judith McCann-Slaughter

Blaine P. Dunn

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

AMENDMENT

Action:

PLANNING COMMISSION: March 19, 2003 - Recommended Approval

BOARD OF SUPERVISORS: April 9, 2003 - APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #02-03 FOR THE WINCHESTER MEDICAL CENTER - WEST CAMPUS

WHEREAS, Rezoning #02-03 of the Winchester Medical Center - West Campus, was submitted by G. W. Clifford & Associates, Inc., to rezone 50.0540 acres from B2 (Business General) to B2 (Business General) with revised proffers, and 51.9676 acres from RA (Rural Areas) to MS (Medical Support). This property is located north of (and adjacent to) Route 50, and west and adjacent to Route 37, and identified with Property Identification Number 53-A-68 in the Gainesboro Magisterial District; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on March 19, 2003; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on April 9, 2003; and

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

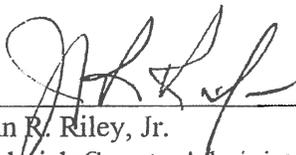
NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to change 50.0540 acres from B2 (Business General) to B2 (Business General) with revised proffers, and 51.9676 acres from RA (Rural Areas) to MS (Medical Support) as described by the application and plat submitted, subject to the attached conditions voluntarily proffered in writing by the applicant and the property owner.

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

Passed this 9th day of April 2003 by the following recorded vote:

Richard C. Shickle, Chairman	<u>Aye</u>	Sidney A. Reyes	<u>Aye</u>
Gina A. Forrester	<u>Nay</u>	Margaret B. Douglas	<u>Aye</u>
W. Harrington Smith, Jr.	<u>Aye</u>	Robert M. Sager	<u>Aye</u>
Lynda J. Tyler	<u>Aye</u>		

A COPY ATTEST



John R. Riley, Jr.
Frederick County Administrator

REZONING REQUEST PROFFER
Property Identification Number 53-((A))-68

WINCHESTER MEDICAL CENTER
"West Campus"

Preliminary Matters

Pursuant to Section 15.1 - 491.1 *et. seq.*, of the code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned applicant hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application # 02-03 for the rezoning of 51.9676 acres from Rural Area (RA) Zoning District to the Medical Services (MS) Zoning District, development of the subject property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Frederick County Board of Supervisors in accordance with Virginia law. Also within this tax parcel is 50.0540 acres zoned B-2 which will remain B-2 after rezoning. The proffers which exist on the 50.0540 acre parcel have been included in this proffer statement and together with the added proffers constitute the complete proffer for the entire tract of 102.0216 acres. Should this petition for rezoning not be approved by the Board of Supervisors then the existing proffer statement for the B-2 tract will remain in effect and these proffers shall be deemed withdrawn and of no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

General Development Plan

The development of the subject property, and the submission of any Master Development Plan shall be in conformance with all pertinent County regulations and shall be in substantial conformity with the Generalized Development Plan, dated September 2002, sheets 5 of 6 and 6 of 6, which are attached hereto and incorporated herein by reference.

Street Improvements

The Applicant shall design and construct all roads on the subject property consistent with the County's adopted Round Hill Land Use Plan for the area, and according to uniform standards established by the Virginia Department of Transportation (VDOT), and as may be provided in these proffers as illustrated on the Generalized Development Plan which is attached hereto and incorporated herein by reference.

1. On U.S. Route 50 at the intersection of Route 1317, a 200 feet left turn lane for eastbound traffic will be provided. (#1)
2. On U.S. Route 50, an acceleration/deceleration lane will be added across the entire U.S. Route 50 frontage of the site, and the only exit on U.S. Route 50 will be located at the Route 1317 intersection. Curb and gutter will be provided along the entire frontage. (#2)
3. At the VA Route 1317 intersection, traffic leaving the site will be provided two left turn lanes, (on left turn with through movement) and one right turn lane. (#3)
4. Lanes will be added to the VA Route 37 exit ramps to allow dedicated right and left turn lanes (#4) as follows:
 - At U.S. Route 50/VA Route 37 western signal, Southbound right turn - 200 feet with transition to provide full 2 lanes at intersection.

Rezoning Request Proffer
Property Identification Number 53-A-68
Gainesboro Magisterial District

- At U.S. Route 50/VA Route 37 eastern signal, Northbound left turn - 200 feet with transition to provide 3 lanes at intersection including a dedicated left, a left with through and right turn lanes.
- 5. A traffic signal will be provided at U.S. Route 50 and VA Route 1317 intersection. (#5)
- 6. An additional left turn lane will be provided on U.S. Route 50 for the eastbound traffic at the US Route 50/VA Route 37 eastern signal. (#6)
- 7. A major collector road, 1800 feet in length and 5 lanes wide, with 80 feet right of way. (#7)

Transportation items 1 through 6 shall be constructed during the initial site development phase of the project and shall be either complete or bonded for completion prior to issuance of the first occupancy permit.

The applicant shall limit entrance connections onto U.S. Route 50 to two points as shown on GDP.

The applicant shall prepare a traffic generation estimate for uses established by the Site Development Plan to be submitted for initial construction approval to the County. The combined trip generation (ADT) shall not exceed 14,000 TPD (average weekday volume) without further approval by the County. The actual trip generation from the project shall be determined by the Winchester Medical Center Management annually, from data collected in May and with results due on July 1 of each year, and be available for review as individual site plans and subdivisions for future uses are submitted for review by VDOT and the County. The combined traffic impact from the 102 acre site is not to exceed 14,000 TPD (average weekday volume) when current actual counts and proposed counts are added for cumulative total. If the cumulative total for any site plan at WMC causes the total to exceed 14,000 TPD then it is agreed that the applicant shall not file additional site plan application until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways. The SIC code system and the ITE shall be utilized for the subject projections. The applicant shall perform an updated TIA of the project intersection on U.S. Route 50 and of the Route 50/Route 37 interchange when traffic generation from the 102 acre site reaches 14,000 TPD (average weekday volume). The County may revise this 14,000 TPD limit upward, without modification of this proffer agreement, should results of the TIA show that additional loading is appropriate.

Landscape Design Features

The development of the subject property, and the submission of any Master Development Plan shall include the following landscape design feature provided in these proffers and as illustrated on the Concept Plan revised 3/4/03 which is attached hereto and incorporated herein by reference.

Rezoning Request Proffer
Property Identification Number 53-A-68
Gainesboro Magisterial District

1. A fifty foot (50') landscaped buffer along the US Route 50 frontage portion of the site. (#8). Internal parking, travel ways and commercial structures shall not extend closer than 50' to front right of way line on U.S. Route 50. An illustrative detail is attached to this proffer for the purpose of establishing a standard of quality to be implemented upon final design. (See ID "A").
2. A landscaped green area along the north side of the main entrance. (See ID "A") (#9)
3. A landscaped, open, green visual focal link and park located at a "roundabout" (#10). An illustrative example (ID "B") is attached to this proffer for the purpose of establishing a standard of quality to be implemented upon final design.

On Site Development

The Winchester Medical Center shall establish an Architectural Review Committee (ARC) to review all planning within the 104 acre site to insure conformance with the standard of quality described in the Master Development Plan and Covenants. In general, project covenants shall establish a standard of quality for structures and site design as follows:

1. Materials utilized for the facades of the buildings shall include but not be limited to concrete masonry units (CMU) brick, architectural block, dryvit, or other simulated stucco (EFIS), real or simulated wood and/or glass.
2. All building within the development on the property shall be constructed using compatible architectural style and materials, and signage for such buildings shall be of a similar style and materials.
3. All building within the property shall be developed as a cohesive entity, ensuring that building placement, architectural treatment, parking lot lighting, landscaping, trash disposal, vehicular and pedestrian circulation and other development elements work together functionally and aesthetically.
4. A single monument type sign shall be utilized near the project entrance to describe internal features. Sign height shall be limited to 20' within 50' landscape area along U.S. Route 50. Individual signs to be allowed per ordinance requirements to announce individual uses. On building signage to be the preferred sign type for individual uses. No other signs shall be located within 50' buffer area.

The Applicant shall record and include in each deed as well as provide Frederick County with a complete set of Covenants and Restrictions pursuant to site design developed and approved by Frederick County at the time of master plan.

Property owners shall be notified of conditions relating to adjoining active agricultural operations.

Rezoning Request Proffer
Property Identification Number 53-A-68
Gainesboro Magisterial District

Monetary Contribution to Offset Impact of Development

The undersigned, who owns the above described property hereby voluntarily proffers that if the Board of Supervisors for the County of Frederick, Virginia approves the rezoning for the 51.9676 acre tract 2, lying on the north side of U.S. Route 50 in the Gainesboro Magisterial District of Frederick County, Virginia from RA to MS and approves the revised planning for the 50.0540 acre tract 1, the undersigned will pay to Frederick County for the Round Hill Fire and Rescue Company the sum of \$25,000.00, the Sheriff's Office the sum of \$5,000.00 and the Administration Building the sum of \$5,000.00 for a total payment of \$35,000.00, at the time the first building permit on the 102.0216 acre tract is issued.

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the Applicant and Owner. In the event the Frederick County Board of Supervisors grant said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully submitted,

PROPERTY OWNER

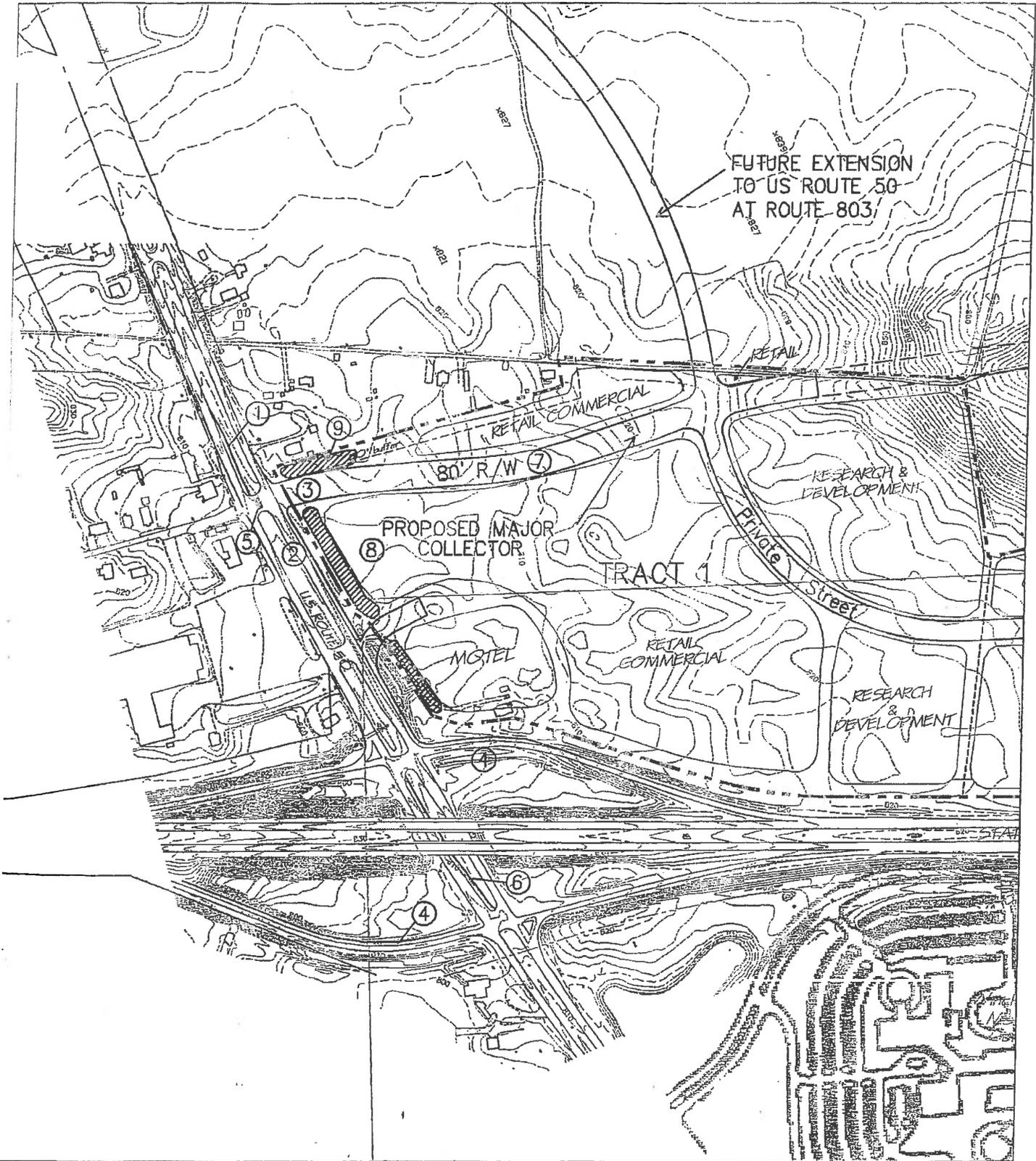
By: C. Douglas Rosen SVP of Valley Health System

Date: 4/3/03

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

The foregoing instrument was acknowledged before me this 3rd day of April, 2003, by C. Douglas Rosen.

My commission expires April 30, 2003
Notary Public Monroe Morrison



1" = 400'
 9/10/02
WINCHESTER MEDICAL CENTER PROPERTY
 GENERALIZED DEVELOPMENT PLAN
 "WEST CAMPUS"
 FREDERICK COUNTY, VIRGINIA

B-2 Property
 Sheet
 5
 of
 6

gilbert w. clifford  & associates, inc.
 Engineers Land Planners Water Quality
 117 E. Piccadilly St. Winchester, Virginia 22601
 VOICE: (540) 667-2139 FAX: (540) 665-0493 EMAIL: gcliff@mnsinc.com

Revised 3/4/03

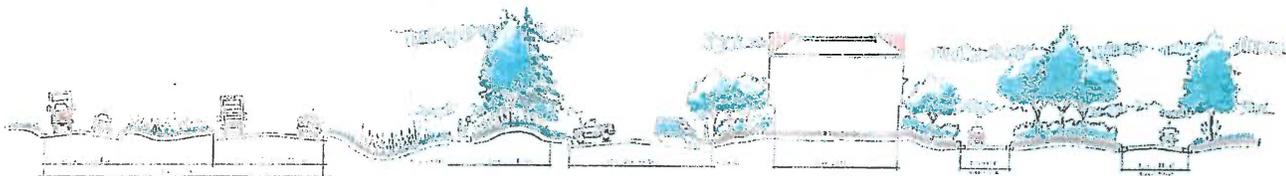


9/10/02
 WINCHESTER MEDICAL CENTER PROPERTY
 GENERALIZED DEVELOPMENT PLAN
 "WEST CAMPUS"
 FREDERICK COUNTY, VIRGINIA

MS Property
 Sheet
 6
 of
 6

gilbert w. clifford & associates, inc.
 Engineers Land Planners Water Quality
 117 E. Piccadilly St. Winchester, Virginia 22601
 VOICE: (540) 667-2139 FAX: (540) 665-0493 EMAIL: gwc.lf@msinc.com

Revised 3/4/03



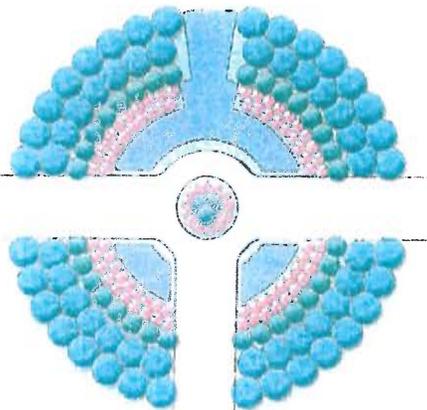
Section A - A1
Scale: 1" = 20'



Section B - B1
Scale: 1" = 20'



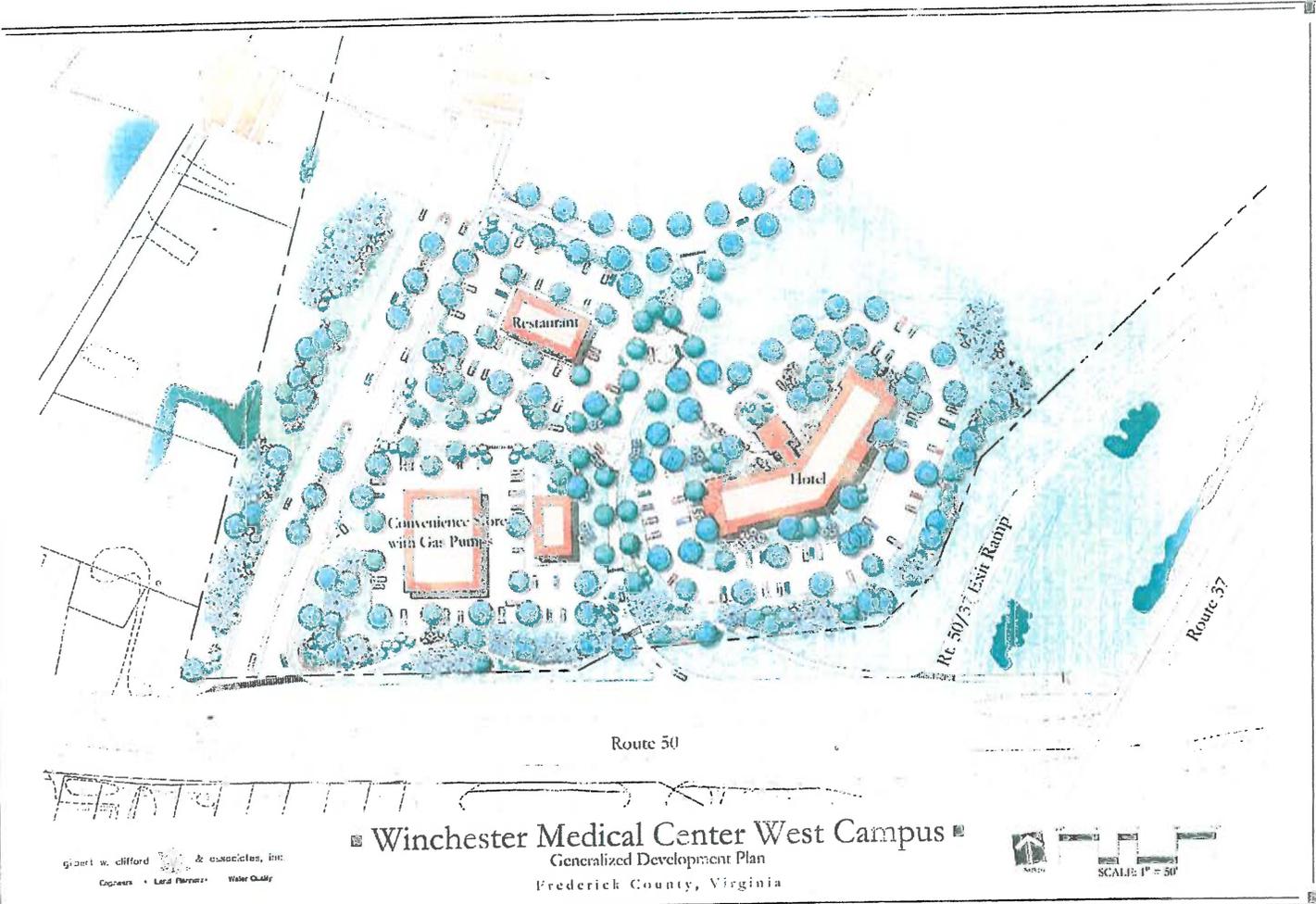
Section Key
Scale: 1" = 200'



Focal Point at Overpass Roundabout
Scale: 1" = 40'

Robert W. Clifford & Associates, Inc.
Engineers • Land Planners • Water Quality

Winchester Medical Center West Campus
Generalized Development Plan
Frederick County, Virginia



Route 50

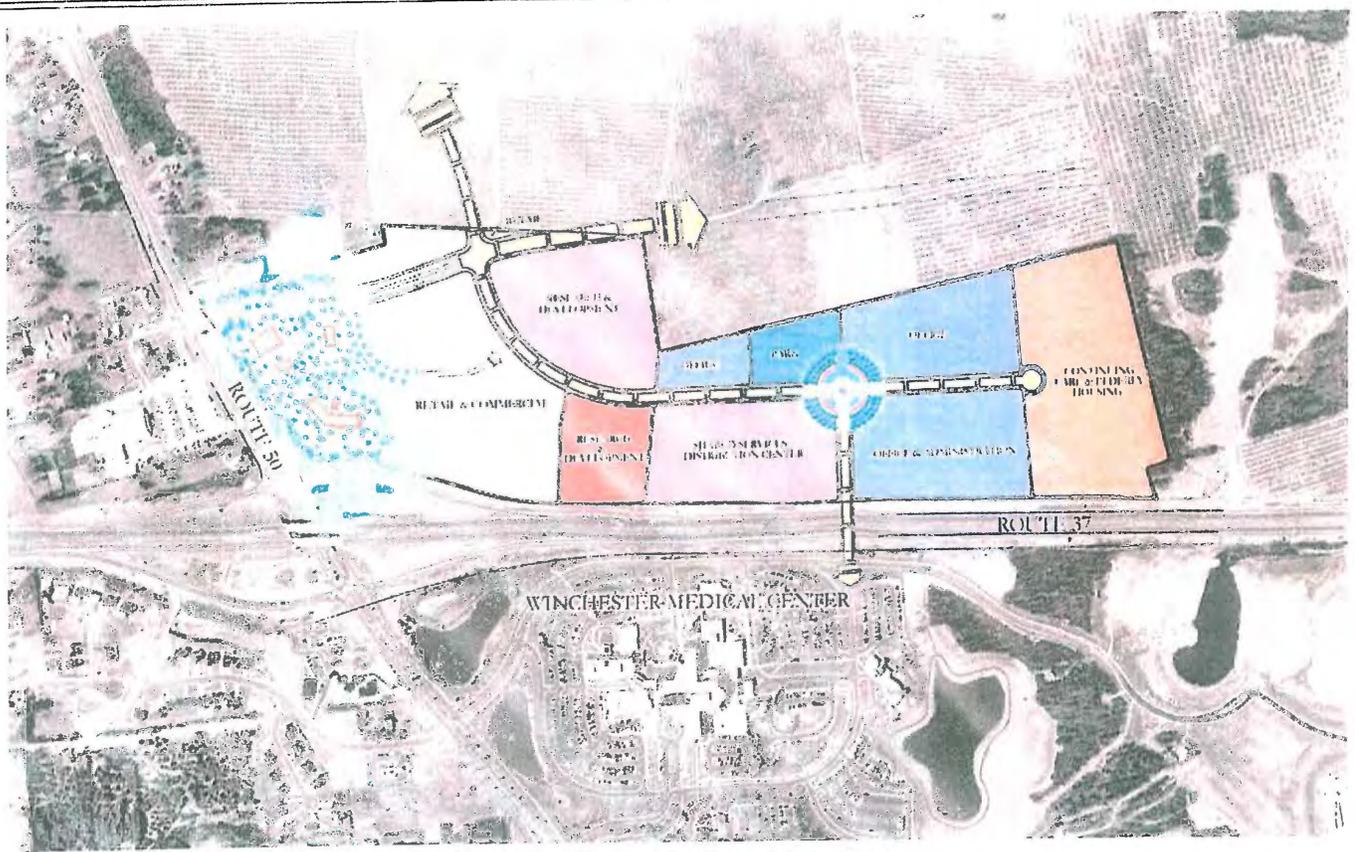
Exit Ramp

Route 37

Winchester Medical Center West Campus
 Generalized Development Plan
 Frederick County, Virginia

gibert w. clifford & associates, inc.
 Engineers • Land Planners • Water Quality

SCALE: 1" = 50'



Robert W. Clifford & Associates, Inc.
 Engineers • Land Planners • Water Quality

Winchester Medical Center West Campus
 Generalized Development Plan
 Frederick County, Virginia





COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Pierce R. Homer
Chairman

1401 East Broad Street - Policy Division - CTB Section - #1106
Richmond, Virginia 23219

(804) 786-1830
Fax: (804) 225-4700

Agenda item # 6-A

**RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD**

December 17, 2009

MOTION

Made By:Dr. Davis Seconded By:Mr.Davies
Action: Motion Carried, Unanimously

Title: Right of Way and Limited Access Control Changes
Route 37 and Campus Boulevard Interchange, Frederick County

WHEREAS, Route 37, between its southernmost intersection with Interstate 81 continuing in a northerly direction for approximately 9 miles to a point along Route 11, north of the City of Winchester, in Frederick County, was designated as a Limited Access Highway by the State Highway Commission, predecessor to the Commonwealth Transportation Board (CTB), on March 17, 1966; and

WHEREAS, in connection with a section of Route 37, State Highway Project 6037-034-101, RW-202, which is located between the aforesaid locations, the Commonwealth acquired certain lands and limited access easements from various landowners; and

WHEREAS, the land on both the northwest and southeast sides of the Route 37 proposed right of way and limited access lines, as shown on the plans for said State Highway Project, between the interchanges at Route 522 and Route 50, was identified as the location for an interchange (hereinafter referred to as "Campus Boulevard Interchange") to serve the Winchester Medical Center, Inc., property located on the southeast side, and potential access for future development for properties on the northwest side of said Route, necessitating changes to the said right of way and limited access control in the vicinity of approximate Station 440+00, which were approved by the CTB on May 21, 1992; and

WHEREAS, Valley Health (formerly Winchester Medical Center, Inc.) has identified and requested right of way (R/W) and limited access control changes (LACC) consisting of a northerly shift and LACC along the Campus Boulevard Interchange Ramp D northwest revised proposed right of way and limited access line (5/21/1992), to provide direct access to the northwestern campus of the Hospital, as well as inter-campus connectivity, facilitating the planned expansion of medical related services in the region and supporting economic development of Frederick County (County); and

WHEREAS, the County, by letter dated February 3, 2006, supports the request for the R/W and LACC; and

WHEREAS, the Virginia Department of Transportation (VDOT) has determined that the said shift of the right of way and limited access line in the vicinity of approximate Station 440+00 (Route 37 southbound lane baseline) and conditional LACC of approximately 70 feet in length, from a point 398.9 feet opposite Station 17+17.39 (Route 37 and Campus Boulevard Interchange Ramp D baseline) to a point 434.3 feet opposite Station 17+60.48 (Route 37 and Campus Boulevard Interchange Ramp D baseline), with roadway and ramp modifications as required, to provide direct access to the northwestern campus of the Hospital, as well as inter-campus connectivity, both located along the northwest side of the Route 37 and Campus Boulevard Interchange Ramp D northwest revised proposed right of way and limited access line (5/21/1992), as shown on the plans for State Highway Project 0037-138-101, RW-201, are appropriate for said interchange ramp from a design standpoint subject to further VDOT review and approval; and

WHEREAS, a global traffic analysis was prepared and reviewed, and VDOT has determined that the said proposed R/W and LACC for said interchange ramp will require further operational review and approval by VDOT in the future, however from a safety and traffic control standpoint regional growth demands on the Route 37 corridor far exceed any immediate operational impacts of the said proposed R/W and LACC; and

WHEREAS, a long term plan for the Route 37 corridor is under development by VDOT and the Win-Fred Metropolitan Planning Organization; and

WHEREAS, Valley Health and VDOT have agreed to the following conditions for the said proposed R/W and LACC:

- Valley Health shall donate and convey in fee simple, free of any liens and with General Warranty of title, all land and easements, including but not limited to easements of access, air and light, necessary to accommodate the said R/W and LACC to the Commonwealth without cost, compensation or mitigation; and

- Valley Health will construct new termini for the southbound Route 37 ramps at Relocated Campus Boulevard, providing access to the northwestern campus of the Hospital, as hereinafter described, to VDOT specifications and subject to VDOT approval; and
- Valley Health will construct modifications to the existing northbound Route 37 ramps at Campus Boulevard to permit westerly movements to and from the said ramps subject to VDOT specifications and approval; and
- Valley Health will construct a second right turn lane at the northbound Route 37 ramp termini with Route 522 to mitigate queuing issues on said ramp concurrently with the said Campus Boulevard ramp improvements and gates herein described; and
- All right of way, engineering, construction, utility relocation, re-signing, and all necessary safety improvements shall meet all VDOT standards and requirements; and
- All parties concur that traffic safety on Route 37 is the first priority, and full and adequate operational functioning of Route 37 is the next priority; and
- Valley Health shall construct actuated gates within its property at the proposed LACC for access to the northwest campus of the Hospital, as part of and coinciding with the said ramp improvements, in order to permanently prohibit the general public from traveling between the northwestern campus of the Hospital and the Campus Boulevard Interchange; and
- All costs, infrastructure, and maintenance associated with the said gates shall be borne by Valley Health; and
- Valley Health will be permitted to issue up to 500 cards or passes to the said gates, for the exclusive use of campus employees, patients, and/or patient family members for inter-campus access; and
- VDOT may request independent audits, to be funded by Valley Health, of outstanding cards or passes to assure compliance with the conditions of this Resolution at any time VDOT deems appropriate; and
- The said access is subject to revocation and closure at any time if VDOT deems the management of the said restricted access is being abused or determines that any operational or safety conflicts are occurring; and
- Valley Health will complete all plans, posting of any bonds and obtain any permits, as necessary or required, within one year of CTB approval of the said proposed R/W and LACC; and
- All costs of engineering and construction, utility relocation, re-signing, including all necessary safety improvements, will be borne by the Valley Health; and
- A Memorandum of Agreement (hereinafter MOA) will be executed between Valley Health and VDOT, and made available to the County to confirm compliance of these conditions, current zoning restrictions on the northwestern

campus of the Hospital, and to consider participation in regional transportation projects in the future; and

- The said MOA shall be executed and recorded among the land records of Frederick County, Virginia within one (1) year of CTB approval of the said proposed R/W and LACC; and

WHEREAS, VDOT has determined that the said time frame for Valley Health to complete the requirements for all plans, posting of any bonds and obtaining any permits, as necessary or required, being within one year of CTB approval of the said proposed R/W and LACC is appropriate; and

WHEREAS, VDOT has determined there will be no adverse environmental impacts, pending a Phase 1 Archeology study to be completed after the plans are developed and prior to construction, to be conducted as part of the permit process; and

WHEREAS, public notices were posted in the Winchester Star and Northern Virginia Daily newspapers on November 2, 2009 and November 24, 2009; and the Shenandoah Valley Hit newspaper on November 6, 2009, all of which closed on December 1, 2009, with no comments received; and

WHEREAS, VDOT has determined that due to the restricted nature of the actuated gates within the Valley Health property at the proposed LACC for access to the northwest campus of the Hospital, no compensation shall be due VDOT in consideration of the said proposed LACC for access; or the said proposed shift due to utilization for public street purposes; and

WHEREAS, other than the period for completion of all plans, posting of any bonds, obtaining any permits, and execution/recordation of the MOA, the proposed R/W and LACC is in compliance with the Commonwealth Transportation Board Policy; and

WHEREAS, upon completion of all conditions and work by Valley Health and acceptance by VDOT, all work, roadway construction, improvements and equipment within the said revised proposed right of way and limited access of the Route 37 and Campus Boulevard Interchange (12/17/2009) will become the property of the Commonwealth.

NOW, THEREFORE, BE IT RESOLVED, in accordance with the provisions of Section 33.1-58 of the *Code of Virginia* (1950), as amended, the CTB hereby finds and concurs with the aforesaid VDOT determinations, and approves the said R/W and LACC shift for public street purposes; and that the CTB's earlier designation of Route 37 as a

limited access highway be amended to allow a restricted traffic limited access break from a point 398.9 feet left of existing Ramp D station 17+17.39 to a point 434.3 feet left of Resolution of the Board
Right of Way and Limited Access Control Changes – Route 37 and Campus Boulevard Interchange
Frederick County
December 17, 2009
Page Five

existing Ramp D station 17+60.48, a width of approximately 70 feet, conditioned upon the following:

1. That ingress and egress gates be constructed on the Valley Health property to restrict traffic entering the Route 37/Campus Boulevard Interchange limited access break to employees, patients and/or patient family members requiring inter-campus access. Valley Health may issue up to 500 cards or passes to actuate the gates for passage.
2. That, if at any time the Department deems the management of the restricted access is being abused or determines that operational or safety conflicts are occurring, the limited access change will be revoked and the break will be closed.
3. That Department concurs with and approves the design of the interchange modifications and any other improvements that are required.
4. That Valley Health or others agree to provide the additional limited access right of way and pay all costs of the improvements as identified herein.

The Commonwealth Transportation Commissioner is hereby authorized to execute any and all documents needed to comply with this resolution.

####

To be completed by Planning Staff:
Zoning Amendment Number 06-19
Date Received 10/25/19

Fee Amount Paid \$1,000.00
Anticipated PC Hearing Date 12-4-19
Anticipated BOS Hearing Date 1/8/19

REZONING APPLICATION
FREDERICK COUNTY, VA DEPARTMENT OF PLANNING & DEVELOPMENT

1. Property Owner(s) (please attach additional page(s) if more than two owners):

Name: Winchester Medical Center, Inc.

Specific Contact Person if Other than Above: Mark Baker

Address: 1836 Amherst Street, Winchester, VA 22601

Telephone: (540) 536-4543 Email: mbaker@valleyhealthlink.com

Name: _____

Specific Contact Person if Other than Above: _____

Address: _____

Telephone: _____ Email: _____

2. Other Applicant Party (such as a contract purchaser) (please attach additional page(s) if necessary):

Name: _____

Specific Contact Person if Other than Above: _____

Address: _____

Telephone: _____ Email: _____

3. Law firm, engineering firm, or other person, if any, serving as the primary contact person for this application:

Firm Name: Valley Engineering, PLC

Specific Contact Person at Firm: Daniel Michael, PE

Address: 4901 Crowe Drive, Mount Crawford, VA 22841

Telephone: (540) 434-6365 Email: dmichael@valleyesp.com

Please note that, if a law firm, engineering firm, or other person, other than the owner of the property, will be acting on behalf of the owner and/or executing papers on behalf of the owner in connection with the rezoning, the owner will need to execute a power of attorney form granting the firm or person such authority.

4. **Project Name (if any):** Winchester Medical Center II

5. **Property Information:**

a. Property Identification Number(s): 53-A-68

b. Total acreage of the parcel(s): 89.4099

c. Total acreage of parcel(s) to be rezoned (if other than whole parcel(s) is being rezoned):

d. Current zoning designation(s) and acreage(s) in each designation:
B-2 - 37.5424 AC, MS - 51.8675 AC

e. Proposed zoning designation(s) and acreage(s) in each designation:
B-2 - 37.5424 AC, MS - 37.5424 AC

f. Magisterial District(s): Gainseboro

g. Location - the property is located at (give street address(es) if assigned or otherwise exact location based on nearest road and distance from nearest intersection, using road names and route numbers):
1998 Northwestern Pike, Winchester, VA

h. **Adjoining Properties:**

<u>Parcel ID Number</u>	<u>Use</u>	<u>Zoning</u>
<u>53-B-3, 83</u>	<u>C STORE - LIVESTOCK EXCHANGE</u>	<u>RA</u>
<u>53-A-84</u>	<u>RESIDENTIAL</u>	<u>RA</u>
<u>53-A-75,76,77</u>	<u>RESIDENTIAL</u>	<u>B-2</u>
<u>53-A-74</u>	<u>RESIDENTIAL</u>	<u>B-2</u>
<u>53-A-73</u>	<u>RESIDENTIAL</u>	<u>RA</u>
<u>53-A-A,69,1</u>	<u>AGRICULTURAL</u>	<u>RA</u>
<u>53-A-68A</u>	<u>HOTEL</u>	<u>B-2</u>

Property identification numbers, magisterial districts, and deed book and page numbers/ instrument numbers may be obtained from the Office of the Commissioner of the Revenue, Real Estate Division, 107 North Kent Street, Winchester, VA 22601.

6. Disclosure of real parties in interest.

Virginia Code § 15.2-2289 provides that localities may by ordinance require any applicant for a zoning amendment to make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers, and directors, and in any case the names and addresses of all real parties of interest. Frederick County has, by County Code § 165-101.09, adopted such an ordinance.

For each business entity that is an owner or contract purchaser of the property, **please list the name and address of each person owning an interest in, or who is an officer or director of, any entity that is an owner or contract purchaser of the property** (you need not indicate the amount or extent of the ownership interest). Please note that this requirement does not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders.

NOT APPLICABLE AS VALLEY HEALTH IS A NON-PROFIT ENTITY

Please attach additional page(s) if necessary.

7. Checklist. Please check that the following items have been included with this application:

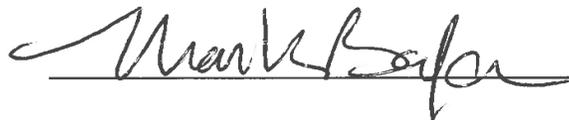
- Location Map
- Plat Depicting Metes/Bounds of Proposed Zoning
- Impact Analysis Statement
- Proffer Statement (if any)
- Agency Comments
- Fee
- Copies of Deed(s) to Property(ies)
- Tax Payment Verification
- Digital copies (pdf's) of all submitted items

7. **Signature(s):**

I (we), the undersigned, do hereby respectfully make application and petition the Frederick County Board of Supervisors to amend the zoning ordinance to change the zoning map of Frederick County, Virginia. I (we) authorize Frederick County officials to enter the property for site inspection purposes.

I (we) understand that the sign issued when this application is submitted must be placed at the front property line at least seven days prior to the Planning Commission public hearing and the Board of Supervisors public hearing and maintained so as to be visible from the road right-of-way until the hearing.

I (we) hereby certify that this application and its accompanying materials are true and accurate to the best of my (our) knowledge.

Owner:  Date 10/16/19

If signing on behalf of an entity, please state name of entity and your title:

Owner: _____ Date _____

If signing on behalf of an entity, please state name of entity and your title:

Other Applicant Party (if any): _____ Date _____

If signing on behalf of an entity, please state name of entity and your title:

If additional signature lines are necessary, such as if more than two persons are owners, please use additional copies of this page.

ADJOINING PROPERTY OWNERS

Owners of property adjoining the land will be notified of the Planning Commission and the Board of Supervisors meetings. For the purpose of this application, **adjoining property is any property abutting the requested property on the side or rear or any property directly across a public right-of-way, a private right-of-way, or a watercourse from the requested property.** The applicant is required to obtain the following information on each adjoining property including the parcel identification number which may be obtained from the office of the Commissioner of Revenue. *The Commissioner of the Revenue is located on the 2nd floor of the Frederick County Administrative Building, 107 North Kent Street.*

Name and Property Identification Number	Address
Name FARMERS LIVESTOCK EXCHANGE	PO BOX 2696
Property # 53-B-3, 83	WINCHESTER, VA 22604
Name KEVIN L. ANDERSON	180 THURSTON CT
Property # 53-A-84	CLEARBROOK, VA 22624
Name NANCY RENNER JOHNSON	2054 NORTHWESTERN PIKE
Property # 53-A-75, 76, 77	WINCHESTER, VA 22603
Name CRT PROPERTIES, LLC	424 W CECIL ST
Property # 53-A-74	WINCHESTER, VA 22601
Name MARSHA A. DEHAVEN AND JANCICE P. LLEWELLYN	500 S HAYFIELD RD
Property # 53-A-73	WINCHESTER, VA 22602
Name FRUIT HILL ORCHARD, INC	PO BOX 2368
Property # 53-A-A, 69, 1	WINCHESTER, VA 22604
Name WINCHESTER HOTEL PARTNERS, III LP	610 EDGE GROVE RD
Property # 53-A-68A	HANOVER, PA 17331
Name	
Property #	
Name	
Property #	

Name and Property Identification Number	Address
Name	
Property #	
Name	
Property #	
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Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Website: www.fcva.us

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

Know All Men By These Presents That:

WINCHESTER MEDICAL CENTER, INC

Name of Property Owner/Applicant

Please note: If the property owner/applicant is an entity, the name of the entity should appear above.
 If multiple persons own the property or are applicants, an executed power of attorney from each owner will be needed.

1836 AMHERST STREET, WINCHESTER, VA 22601

(540) 536-4543

Mailing Address of Property Owner/Applicant

Telephone Number

as owner of, or applicant with respect to, the tract(s) or parcel(s) of land in Frederick County, Virginia, identified by following property identification numbers:

53-A-68

do hereby make, constitute, and appoint:

DANIEL MICHAEL, PE

Name of Attorney-In-Fact

VALLEY ENGINEERING, PLC, 8401 CROWE DRIVE, MOUNT CRAWFORD, VA 22841

(540) 434-6365

Mailing Address of Attorney-In-Fact

Telephone Number

to act as my true and lawful attorney-in-fact for and in my name, place, and stead, with the same full power and authority I would have if acting personally, to file and act on my behalf with respect to application with Frederick County, Virginia for the following, for the above identified property:

- | | | | |
|-------------------------------------|--|--------------------------|---------------------------|
| <input checked="" type="checkbox"/> | Rezoning | <input type="checkbox"/> | Subdivision |
| <input type="checkbox"/> | Conditional Use Permit | <input type="checkbox"/> | Site Plan |
| <input type="checkbox"/> | Master Development Plan (prelim. or final) | <input type="checkbox"/> | Variance or Zoning Appeal |

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

NONE

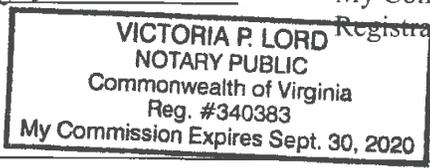
This appointment shall expire one year from the day that it is signed, or at such sooner time as I otherwise rescind or modify it.

Signature *[Handwritten Signature]*
 Title (if signing on behalf of an entity) Vice President Facilities Management + Safety

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

I, Victoria P. Lord, a Notary Public in and for the jurisdiction aforesaid, certify that the person who signed the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 16 day of October, 2019.

[Handwritten Signature]
 Notary Public My Commission Expires: Sept 30, 2020
 Registration Number: 340383



Real Estate Ticket Detail

[Previous](#)

2019 REAL ESTATE

Dept Ticket# RE2019-439380001	Frequency: 1	Supplements: 0
Name: WINCHESTER MEDICAL CENTER INC	Map: 93 A 60	Account: 001004
Name 2:	Bill Date: 06/16/2019	Acceage: 0.00
Address: PO BOX 2280	Due Date: 08/25/2019	Improvements: 0.00
WINCHESTER VA	Desc: 19.51 ACRES	Land Value: \$1,077,000.00
Zip: 22181		Land Use: 0.00
		Minerals: 0.00
Penalty Paid: 0.00	Interest Paid: 0.00	Last Transaction Date: 08/15/2019

Current Payment Status

Original Bill	Payments	Principal Balance Due	Penalty	Interest	Balance Due
\$13,592.63	(13,592.63)	0.00	0.00	0.00	0.00

Transaction History

Date	Type	Transaction#	Amount	Balance
6/6/2019	Charge	0	\$13,592.63	\$13,592.63
5/14/2019	Principal Paid	43093	(\$13,592.63)	\$0.00

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