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**AGENDA  
REGULAR MEETING  
FREDERICK COUNTY BOARD OF SUPERVISORS  
WEDNESDAY, MAY 14, 2014  
7:00 P.M.  
BOARD ROOM, COUNTY ADMINISTRATION BUILDING  
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

**6:00 P.M. – Service Learning Presentations – James Wood High School**

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

**Invocation**

**Pledge of Allegiance**

**Adoption of Agenda:**

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

**Consent Agenda:**

(Tentative Agenda Items for Consent are Tabs: C and F)

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

**Board of Supervisors Comments**

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

1. Regular Meeting of April 23, 2014.
2. Work Session with Social Services, April 29, 2014.

**County Officials:**

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

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2. Resolution Recognizing H P Hood, Inc.'s Selection as 2013 Dairy Processor of the Year. **(See Attached)**----- **C**
  
3. Status and any Further Action as to Item 11 of the Finance Committee Report for the May 22, 2013 Board of Supervisors Meeting Regarding an Amendment to the Term Sheet/Special Assessment Roll Approved by the Russell 150 Community Development Authority. **(See Attached)** ---- **D**

**Committee Reports:**

1. Public Works Committee. **(See Attached)**----- **E**
  
2. Public Safety Communications Committee. **(See Attached)** ----- **F**
  
3. Transportation Committee. **(See Attached)**----- **G**

**Public Hearing:**

1. Outdoor Festival Permit Request of Sarah Fromme for TEENS, Inc. – “Boots and Bluegrass Festival”. Pursuant to the Frederick County Code, Chapter 86, Festivals; Section 86-3, Permit Required; Application; Issuance or Denial; Fee, for an Outdoor Festival Permit. Festival to be Held Friday, June 20, 2014, from 6:00 P.M.to 9:30 P.M. on the Grounds of Always Green, 2122 North Frederick Pike, Winchester, Virginia. Property Owned by Gas City, 17768 James Marlboro Highway, Leesburg, Virginia. **(See Attached)**----- **H**
  
2. Proposed Ordinance - Salaries of the Board of Supervisors – Pursuant to Section 15.2-1414.3 of the *Code of Virginia*, 1950, as Amended, the Board of Supervisors will Hold a Public Hearing to Fix the Annual Salaries of the Board of Supervisors as Follows: Chairman, \$10,800; Vice Chairman, \$10,200; and Each Other Member of the Board of Supervisors at \$9,000. **(See Attached)** ----- **I**

**Planning Commission Business:**

**Public Hearing:**

1. **Draft Update of the 2014-2015 Frederick County Primary and Interstate Road Improvement Plans** - The Primary and Interstate Road Improvement Plans Establish Priorities for Improvements to the Primary and Interstate

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Road Networks within Frederick County. Comments from the Transportation Committee will be Forwarded to the Planning Commission and Board of Supervisors. Ultimately, the Priorities Adopted by the Board of Supervisors will be Forwarded to the Commonwealth Transportation Board for Consideration.

**The Virginia Department of Transportation and the Board of Supervisors for the County of Frederick, Virginia, in Accordance with Section 33.1-70.01 of the Code of Virginia, will Conduct a Joint Public Hearing. The Purpose of this Public Hearing is to Receive Public Comment on the Proposed Secondary Road Improvement Plan for Fiscal Years 2015 Through 2020 in Frederick County and on the Secondary System Construction Budget for Fiscal Year 2015.** Copies of the Proposed Plan and Budget May be Reviewed at the Edinburg Office of the Virginia Department of Transportation, Located At 14031 Old Valley Pike, Edinburg, Virginia or at the Frederick County Offices Located at 107 North Kent Street, Winchester, Virginia. All Projects in the Secondary Road Improvement Plan that are Eligible for Federal Funds will be Included in the Statewide Transportation Improvement Program (STIP), which Documents How Virginia will Obligate Federal Transportation Funds. Persons Requiring Special Assistance to Attend and Participate in this Hearing Should Contact the Virginia Department of Transportation at 1-800-367-7623.

**(See Attached)** ----- J

**Other Planning Items:**

1. Conditional Use Permit #02-14 for Jessica M. Neff for a Kennel. This Property is Located at 461 Laurel Grove Road, and is Identified with Property Identification Number 73-9-3 in the Back Creek Magisterial District. **(Vote Postponed from April 23, 2014 Board Meeting.)**

**(See Attached)** ----- K

**Board Liaison Reports (If Any)**

**Citizen Comments**

**Board of Supervisors Comments**

**Adjourn**

*You are cordially invited*

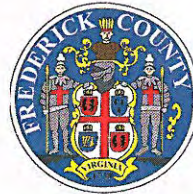
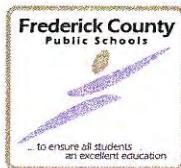
to attend  
Frederick County Public Schools'  
Government Service Learning  
Presentation of Student Projects

## **The Community Forum**

at  
Frederick County Administration Building  
Board of Supervisors Meeting Room  
107 N. Kent Street, Winchester, VA

Wednesday, May 14, 2014  
6:00–7:00 p.m.  
James Wood High School

Thursday, May 22, 2014  
6:00–8:00 p.m.  
Millbrook and Sherando High School



“ Never doubt that a small group of thoughtful,  
committed citizens can change the world. ”

—Margaret Mead



A

**FREDERICK COUNTY BOARD OF  
SUPERVISORS' MINUTES**

**REGULAR MEETING**

**April 23, 2014**

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, April 23, 2014 at 7:00 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

**PRESENT**

Chairman Richard C. Shickle; Charles S. DeHaven, Jr.; Christopher E. Collins; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

**CALL TO ORDER**

Chairman Shickle called the meeting to order.

**INVOCATION**

Supervisor Lofton delivered the invocation.

**PLEDGE OF ALLEGIANCE**

Vice-Chairman DeHaven led the Pledge of Allegiance.

**ADOPTION OF AGENDA – APPROVED AS AMENDED**

County Administrator John R. Riley, Jr. advised he had one addition for the agenda. He added a Proclamation Honoring the Centennial of the Smith-Lever Act Establishing Cooperative Extension as item number four (4) under County Officials.

Upon a motion by Supervisor Wells, seconded by Supervisor Hess, the Board approved the amended agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

**CONSENT AGENDA - APPROVED**

Administrator Riley offered the following items for the Board's consideration under the

consent agenda:

- Memorandum Re: Request to Set Schedule for Board Meetings During Summer Months and for November and December, 2014;
- Parks and Recreation Commission Report;
- Human Resources Committee Report; and
- Proclamation Honoring the Centennial of the Smith-Level Act Establishing Cooperative Extension

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board

approved the consent agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

#### **CITIZEN COMMENTS**

There were no citizen comments.

#### **BOARD OF SUPERVISORS COMMENTS**

There were no Board of Supervisors comments.

#### **MINUTES - APPROVED**

Upon a motion by Supervisor Lofton, seconded by Vice-Chairman DeHaven, the Board

approved the minutes from the April 9, 2014 meeting by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

#### **COUNTY OFFICIALS**

**EMPLOYEE OF THE MONTH - APPROVED**

Upon a motion by Supervisor Hess, seconded by Vice-Chairman DeHaven, the Board approved Debborah A. Hamilton as Employee of the Month for April 2014.

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

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

**WHEREAS**, the Board of Supervisors selects one employee from those nominated based on the merits of outstanding performance and productivity, positive job attitude and other noteworthy contributions to their department and to the County; and

**WHEREAS**, Debborah A. Hamilton who serves the Northwestern Regional Adult Detention Center was nominated for Employee of the Month; and

**WHEREAS**, Debborah A. Hamilton, an Officer that can effectively work any post assignment in a productive and exceptional manner is being awarded Employee of the Month for April. Officer Hamilton displays great teamwork and loyalty to the facility when and wherever she is needed. Her selfless performance during challenging times not only aides in the team's ability to operate in a smooth, safe, and secure manner, but also attests to her professionalism and personal integrity; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Frederick County Board of Supervisors this 23<sup>rd</sup> day of April, 2014, that Debborah A. Hamilton is hereby recognized as the Frederick County Employee of the Month for April 2014; and

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

**BE IT FURTHER RESOLVED**, that Debborah A. Hamilton is hereby entitled to all of the rights and privileges associated with this award.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye

Gary A. Lofton                      Aye  
Robert W. Wells                      Aye

**COMMITTEE APPOINTMENTS**

**APPOINTMENT OF GEORGE MICHAEL CUNDIFF TO THE FREDERICK COUNTY SANITATION AUTHORITY TO FILL THE UNEXPIRED TERM OF RICHARD A. RUCKMAN - APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board appointed George Michael Cundiff to the Frederick County Sanitation Authority to fill the unexpired term of Richard A. Ruckman. Term expires April 15, 2016.

The above motion was approved by the following recorded vote:

Richard C. Shickle                      Aye  
Charles S. DeHaven, Jr.                      Aye  
Christopher E. Collins                      Aye  
Gene E. Fisher                      Aye  
Robert A. Hess                      Aye  
Gary A. Lofton                      Aye  
Robert W. Wells                      Aye

**APPOINTMENT OF CORDELL WATT TO THE AGRICULTURAL DISTRICT ADVISORY COMMITTEE - APPROVED**

Upon a motion by Supervisor Lofton, seconded by Vice-Chairman DeHaven, the Board appointed Cordell Watt to the Frederick County Agricultural District Advisory Committee.

The above motion was approved by the following recorded vote:

Richard C. Shickle                      Aye  
Charles S. DeHaven, Jr.                      Aye  
Christopher E. Collins                      Aye  
Gene E. Fisher                      Aye  
Robert A. Hess                      Aye  
Gary A. Lofton                      Aye  
Robert W. Wells                      Aye

**MEMORANDUM RE: REQUEST TO SET SCHEDULE FOR BOARD MEETINGS DURING SUMMER MONTHS AND FOR NOVEMBER AND DECEMBER, 2014 – APPROVED UNDER CONSENT AGENDA**

The Board of Supervisors canceled the following meetings during the summer months and November and December:

June 11, 2014; July 23, 2014; August 27, 2014; September 24, 2014; October 22, 2014; November 26, 2014; and December 24, 2014.

The above item was approved under the consent agenda.

**PROCLAMATION HONORING THE CENTENNIAL OF THE SMITH-LEVER ACT ESTABLISHING COOPERATIVE EXTENSION – APPROVED UNDER CONSENT AGENDA**

**WHEREAS**, The Smith-Lever Act of 1914 established the Cooperative Extension Service, a state-by-state national network of extension educators who extend the university-based research and knowledge to the people in the counties; and

**WHEREAS**, the Cooperative Extension System is a nationwide educational network that is a collaboration of federal, state and local governments and Virginia Tech and Virginia State University, the state's land-grant universities; and

**WHEREAS**, the mission of the Cooperative Extension System is to disseminate research-based information on topics as varied as nutrition and health, youth development, agriculture, horticulture, animal husbandry, small business and personal finance. Every U.S. state and territory has a central state Extension office at its land-grant universities and county offices staffed by professionals; and

**WHEREAS**, Cooperative Extension of Frederick County, serves its residents through faculty and staff providing educational programs and research to meet the needs of the county; and

**WHEREAS**, for 100 years, the Smith-Lever Act has stimulated innovative research and vital educational programs for youth and adults through progressive information delivery systems that improved lives and shaped a nation; and

**WHEREAS**, Cooperative Extension educational programs in the areas of Family and Consumer Sciences, Agriculture and Natural Resources, 4-H Youth Development, and Community Viability have benefitted our agricultural producers, businesses, families and youth in Frederick County; and

**NOW, THEREFORE, BE IT PROCLAIMED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF FREDERICK** as follows:

That this Board, on behalf of the citizens of Frederick County recognizes the 100th Anniversary of the Smith-Lever Act that established Cooperative Extension. We honor and thank all the faculty and staff, past, present and future, of Virginia Cooperative Extension of Frederick County who serve residents of all ages and backgrounds and that all residents continue to grow in awareness and support, and reap the benefits of the programs and services provided by Virginia Cooperative Extension of Frederick County.



GIVEN under my hand this 23rd day of April, 2014.

**COMMITTEE REPORTS**

**PARKS AND RECREATION COMMISSION – APPROVED UNDER CONSENT AGENDA**

The Parks and Recreation Commission met on April 8, 2014. Members present were: Greg Brondos, Jr., Randy Carter, Gary Longerbeam, Ronald Madagan, and Charles Sandy, Jr. Members absent were: Kevin Anderson, Patrick Anderson, Christopher Collins, and Marty Cybulski.

Items Requiring Board of Supervisors Action:

None

Submitted for Board Information Only:

1. Building and Grounds Committee – Proffer Recommendation – The Buildings and Grounds Committee recommended the use of \$15,000 from the Parks and Recreation proffer account for engineering services to develop access to the undeveloped area of Sherando Park along Warrior Drive, second by Mr. Carter, carried unanimously (5-0). This recommendation will be forwarded to the Finance Committee prior to requiring Board of Supervisors action.

**HUMAN RESOURCES COMMITTEE – APPROVED UNDER CONSENT AGENDA**

The HR Committee met in the First Floor Conference Room at 107 North Kent Street on Friday, April 4, 2014, at 8:00 a.m. Committee members present were: Supervisors Robert Hess, Supervisor Chris Collins, citizen member Dorrie Greene, and citizen member Beth Lewin. Supervisor Robert Wells was absent. Also present were: Assistant County Administrator Kris Tierney, IT Director Walter Banks, and DSS Representative Delsie Butts.

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

**1. Approval of the Employee of the Month Award.**

The Committee recommends approval of Correctional Officer Deborah Hamilton as the Employee of the Month for April 2014.

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

**1. Presentation by the Director of Information Technology, Walter Banks.**

At the request of the Committee, Mr. Banks presented an overview of the objectives and responsibilities of the IT Department. The presentation also provided the Committee an

understanding of his department's role, authority, projects, and topics of importance within his department. Presentation attached.

**There being no further business, the meeting was adjourned.**

Due to the Apple Blossom Holiday, the next HR Committee meeting is scheduled for Friday, May 9, 2014.

### **BUSINESS FRIENDLY COMMITTEE – INFORMATION ONLY**

Staff is providing the Board of Supervisors with an update on the status of the recommendations derived from the Business Friendly Committee. Some of these recommendations remain a work in progress, while others are ready for Board action.

### **REVIEW AND EVALUATION OF THE MASTER DEVELOPMENT PLAN PROCESS**

The Board referred the re-evaluation of the current Master Development Plan process to the Planning Commission and the Development Review and Regulations Committee. The DRRC reviewed the requirements and did not believe the MDP requirement should be eliminated. It was felt this was an important process for both the applicant and the public. The DRRC recommended that the MDP ordinance be modified to allow for a waiver of the MDP requirement if an applicant chooses to process a detailed site plan in lieu of the MDP.

The Planning Commission considered this item at their April 2, 2014 meeting and concurred with the DRRC's recommendation. This will be an agenda item for the Board's April 23, 2014 meeting. Planning staff is seeking direction from the Board regarding whether to send this proposed amendment forward for public hearing.

### **ESTABLISHMENT OF AN ECONOMIC DEVELOPMENT AUTHORITY**

At the January 8, 2014 meeting of the Board of Supervisors, the Board approved an ordinance changing the name of the Industrial Development Authority of the County of Frederick, Virginia to the Economic Development Authority of the County of Frederick, Virginia. In addition, the Board sought special legislation to allow the Board to appoint a member of the Board of Supervisors as a voting member of the EDA. This legislation has been approved by the General Assembly and signed by the Governor. This new legislation will be effective July 1, 2014.

The Board voted on the proposed make up of the newly named EDA board which would consist of three members each from the existing Economic Development Commission and Economic Development Authority and one member of the Board of Supervisors. Since that time, the EDA members have held discussions and unanimously agreed the Board of Supervisors needed the flexibility to consider all available and interested talent within Frederick County when appointing the new members to the Economic Development Authority and should not be restricted to three members from each of the current Economic Development Commission and Economic Development Authority. Based on the EDA members' position, the Board should give serious consideration to opening up the pool for EDA membership. As you might recall, the

Board reappointed Mrs. Beverley B. Shoemaker to the EDA until July 1, 2014.

The Executive Director of the Economic Development Commission will attend the next EDA meeting to brief the Authority on the upcoming transition to include staffing, working group functionality, and funding after July 1, 2014.

### **REDUCTION IN PROFFER REQUIREMENTS**

The Development Impact Model Oversight Committee conducted a re-evaluation of the current Development Impact Model, taking into account current economic conditions. The Committee discussed the possibility of offering credits for proffered transportation improvements above those typically expected to address transportation impacts. The Development Impact Model Oversight Committee recommended approval of a policy modification to enable credit for transportation. The Board affirmed the change to the Development Impact Model to allow transportation credits for rezonings.

The Development Impact Model Oversight Committee continued to re-evaluate the model to see if further modifications would be appropriate. Those additional areas of study include:

- Tax contributions that may result from new residential development.
- Tax contributions that may result from new commercial development associated with a residential development proposal.

In addition, the Committee reviewed the model to see if there were any components that prohibited growth. The Committee recommended no further changes to the Development Impact Model.

### **SIMPLIFICATION OF THE LANDSCAPE ORDINANCE**

The Board referred the re-evaluation of the current Buffers and Landscaping Ordinance to the Planning Commission and the Development Review and Regulations Committee. The DRRC reviewed the suggested changes from the Business Friendly Committee. The DRRC recognized that the buffer and landscaping sections were recently reviewed and felt the existing ordinance was appropriate. The DRRC recommended that the parking lot landscaping requirements be incorporated into the main landscaping session.

The Planning Commission considered this item at their April 2, 2014 meeting. After some discussion and hearing comments from members of the public, the Commission referred this item back to the DRRC for further review and consideration.

### **SIGNAGE ALONG MAJOR ROUTES ENTERING FREDERICK COUNTY**

The Board referred this recommendation to the Transportation Committee and the Economic Development Commission for review of signage placement and messaging, respectively. The EDC shared their preliminary recommendations with the Economic Development Authority since the EDA will ultimately fund this initiative. The EDA discussed this item at their February

20, 2014 and March 20, 2014 meetings. A signage subcommittee was established to select a design and craft the messaging. The subcommittee continues to work with the EDC Executive Director and the Executive Director of the Winchester-Frederick County Convention and Visitors' Bureau regarding messaging and branding. At the EDA's March 20, 2014 meeting, the EDA referred this item to the Transportation Committee for input regarding placement and how best to work with VDOT on this initiative. Once the EDA has finalized their recommendation it will be forwarded to the Board of Supervisors for endorsement.

### **PUBLIC HEARING**

**OUTDOOR FESTIVAL PERMIT REQUEST OF MR. ALAYA WHITE AND MR. OMAR TEAGLE – P.M. DAY GLOW WILLOW GROVE FESTIVAL. PURSUANT TO THE FREDERICK COUNTY CODE, CHAPTER 86-3, PERMIT REQUIRED; APPLICATION; ISSUANCE OR DENIAL; FEE, FOR AN OUTDOOR FESTIVAL PERMIT. FESTIVAL TO BE HELD ON SATURDAY, MAY 3, 2014 FROM 7:00 P.M. TO 11:00 P.M.; ON THE GROUNDS OF WILLOW GROVE, 750 MERRIMANS LANE, WINCHESTER, VIRGINIA. PROPERTY OWNED BY ALAYA WHITE. (WITHDRAWN)**

**OUTDOOR FESTIVAL PERMIT REQUEST OF MR. DEMARCHI SPEARS – COLLEGE SPRING FORMAL DANCE/CHRISTENDOM COLLEGE. PURSUANT TO THE FREDERICK COUNTY CODE, CHAPTER 86, FESTIVALS; SECTION 86-3, PERMIT REQUIRED; APPLICATION; ISSUANCE OR DENIAL; FEE, FOR AN OUTDOOR FESTIVAL PERMIT. FESTIVAL TO BE HELD ON SATURDAY, MAY 3, 2014 FROM 8:00 P.M. TO 1:00 A.M.; ON THE GROUNDS OF TRUMPET VINE FARM, 266 VAUCLUSE ROAD, STEPHENS CITY, VIRGINIA. PROPERTY OWNED BY DEMARCHI SPEARS. - APPROVED**

Administrator Riley advised this was a request for an outdoor festival permit by DeMarchi Spears for the College Spring Formal/Christendom College. The event will take place on Saturday, May 3, 2014 from 8:00 P.M. to 1:00 A.M. on the grounds of Trumpet Vine Farm, 266 Vaucluse Road, Stephens City.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Supervisor Lofton, seconded by Supervisor Hess, the Board approved the outdoor festival permit request of DeMarchi Spears.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

## **PLANNING COMMISSION BUSINESS**

### **PUBLIC HEARING**

#### **CONDITIONAL USE PERMIT #02-14 FOR JESSICA M. NEFF FOR A KENNEL. THIS PROPERTY IS LOCATED AT 461 LAUREL GROVE ROAD, AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 73-9-3 IN THE BACK CREEK MAGISTERIAL DISTRICT. – POSTPONED UNTIL THE MAY 14, 2014 MEETING**

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was a request for a conditional use permit for a kennel – dog boarding. The property is located at 761 Laurel Grove Rd in the Back Creek Magisterial District. The property is zoned RA (Rural Areas) District and kennels are permitted in the zoning district with an approved conditional use permit. The proposed kennel will be a covered structure measuring 20 feet by 30 feet with an exercise yard. Zoning Administrator Cheran advised the Planning Commission recommended approval of this conditional use permit with the following conditions:

1. All review agency comments shall be complied with at all times.
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.
3. This CUP is solely to enable the boarding of dogs on this property.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.

6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require the approval of a new CUP.

Zoning Administrator Cheran concluded by saying staff would be glad to answer any questions from the Board and the applicant was also present to answer any questions.

Supervisor Hess asked if the number of dogs was suggested by the applicant or arrived at through discussions with the applicant and staff.

Zoning Administrator Cheran responded the number was arrived at through discussions with the applicant.

Supervisor Fisher asked if the Board had any way of evaluating the construction specifications.

Zoning Administrator Cheran responded the Board could add that as a condition; however, the applicant would need to get an engineer to sign and seal the plans and it would have to go through the permitting process.

**Jessica Neff**, applicant, addressed the Board regarding construction of the proposed building. She noted the walls would be constructed of 2'x6' studs and additional insulation. The floor would consist of two feet of concrete. The walls would be covered with 5/8 inch sheet rock. There would a wrap placed between the siding and the wall. Additional insulation would be blown into the attic area and doors would be used to damp the noise. She noted that not all of the dogs would be out at the same time during the day and they would not be outside unsupervised. She went on to say she had contracted with a waste disposal company to collect the dog waste. She concluded by saying pick up and drop off of dogs would be by appointment only.

Supervisor Hess asked the applicant how long they had owned the property.

Ms. Neff responded 10 years.

Supervisor Hess asked if the applicant had spoken to her neighbors about this proposal.

Ms. Neff responded she had after she filed the application.

Supervisor Hess asked how many dogs would be needed to make this business successful.

Ms. Neff responded she would need at least 10 dogs.

Chairman Shickle convened the public hearing.

**Eds Coleman**, attorney for Mr. & Mrs. Berman, adjacent property owners, appeared before the Board on behalf of his clients. He noted the proposed conditional use permit was not an appropriate use on that property. He stated the area was more residential than rural. He went onto say his clients would like to see additional conditions placed on this application, to include:

- Requiring the applicant to secure a contract regarding waste handling;
- Reduction in the number of allowed dogs;
- Time limit on how long dogs can stay at the kennel;
- One person must be present on site at all times;
- Limit the number of dogs allowed outside to one at a time; and
- The conditional use permit should not be transferrable, but limited to this applicant.

Mr. Coleman distributed the following memorandum to the Board of Supervisors:

*"To: [mcheran@co.frederick.va.us](mailto:mcheran@co.frederick.va.us); [rhess@fcva.us](mailto:rhess@fcva.us); [rshickle@fcva.us](mailto:rshickle@fcva.us);  
[cdehaven@fcva.us](mailto:cdehaven@fcva.us); [gfisher@fcva.us](mailto:gfisher@fcva.us); [rwells@fcva.us](mailto:rwells@fcva.us); [glofton@fcva.us](mailto:glofton@fcva.us);  
[ccollins@fcva.us](mailto:ccollins@fcva.us)*

*Subject: BOS 4/23/14 Public Hearing on CUP 02-14 -- **Opposition of Scott and Bethanne Berman to Conditional Use Permit #02-14 ("CUP")/Jessica M. Neff***

*To: Members of the Frederick County Board of Supervisors ("BOS") and the Frederick County Planning Staff*

*From: Scott and Bethanne Berman*

*Our home is located at 247 Laurel Grove Road, TM # 7383 as shown on the **attached***



*Planning Department Map created March 11, 2014. We have resided in our home for 15 years. Based on the scale of the attached Map, our home is approximately 1,890 feet from the proposed site of Jessica Neff's Kennel. The proposed Kennel site and our home are both located on a ridge of essentially equivalent elevation, meaning that noise from the proposed Kennel will readily travel to our home.*

*Consistent with comments presented at the April 2 Planning Commission Hearing, we oppose the approval of a CUP for the Kennel based on the following concerns:*

- 1. The Kennel, clearly a commercial use increasing vehicle traffic on Laurel Grove Road, will be a use inconsistent with the residential nature of the neighborhood.*
- 2. The presence of the Kennel will reduce the value of our property and of our neighbors' properties.*
- 3. The Kennel, as presently planned consistent with the Planning Commission's "Conditions," will constitute a nuisance to the neighborhood.*

*We respectfully submit that no CUP, regardless of the "Conditions" imposed, should be granted for the establishment of the Kennel. If, however, a CUP is to be granted, then, as set forth on Page 3 of the Staff Report to the BOS, the Zoning Ordinance **requires** that this proposed Kennel be subject to "performance standards" to assure the mitigation of the **negative impacts** which will result to us and our neighbors.*

*Further, Page 6 of the Staff Report suggests that the Commissioner of Revenue apparently has "no issues" concerning devaluation of properties located near kennels with approved CUPs. This establishes that protection against devaluation of our and our neighbors' properties is dependent upon this Board adopting specific, enforceable Conditions to mitigate the damaging effects of the proposed Kennel.*

*We understand that the Planning Commission has recommended only the following eight (8) Conditions, which we respectfully suggest must be substantially strengthened and made more specific:*

- 1. All review agency comments shall be complied with at all times.*

*We believe the only significant agency comment to be the Health Department's statement that "Applicant may not dispose of canine waste via the septic tank drainfield on site." Page 6 of the Staff Report states merely that "The Applicant has contacted a company for the disposal of dog waste."*

*We understand that while there may not be established regulations for average waste produced per dog per day, nevertheless we understand there to be a "low" estimate of 5 gallons per day per dog and a "high"*

*estimate of 10 gallons per day per dog, which would produce a range of 140-280 gallons per day of wastewater assuming the Kennel operates at the Planning Commission's maximum of twenty-eight (28) dogs.*

*We request that the Board, as a Condition of any CUP, require the Applicant to provide a written plan confirming:*

- a. *projected wastewater usage for the Kennel under maximum capacity;*
  - b. *projected system for containing and storing both wastewater and solid waste; and*
  - c. *the frequency of waste pumping/waste removal, with confirmation of a contract with a waste hauler.*
2. *No more than twenty-eight (28) dogs shall be permitted on the property at any given time.*

*Given the waste containment and disposal issues of Condition 1 above and the control and noise issues of Condition 5 below, we submit that the maximum number of dogs not be permitted to exceed 20 at any given time.*

3. *This CUP is solely to enable the boarding of dogs on this property.*

*The Applicant's Application notes the desire to operate the Kennel "for those going on vacation and need a temporary home for their dogs while away." Therefore, we request that this Condition be expanded to provide that no dogs shall be maintained in the Kennel for a time period exceeding 28 consecutive days.*

4. *No employees other than those residing on the property shall be allowed.*

*In order to assure the performance of Conditions 5 and 6 below, we request that there be a Requirement that at least one person residing on the property shall remain on site at all times that any dogs are housed in the Kennel.*

5. *All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.*

*As we understand it, Section 48-23 "Unreasonable noise unlawful" of the Frederick County Code provides merely that it shall be unlawful, after written notice by the Sheriff to the custodian of a dog for such custodian to allow such dog to make unreasonably loud noises as are*

*plainly audible to adjoining residents for property owners so as to unreasonably annoy or disturb such residents or property owners. Since Section 48-23 requires prior written notice from the Sheriff, and since this Section contains no specific criteria assisting its enforcement, the Board must set specific Conditions on the proposed Kennel.*

*Pages 3 and 6 of the Staff Report note that the proposed 20 x 30 square foot free-standing garage that is to serve as the Kennel will be constructed with wider than normal walls to provide noise insulation. However, while the Planning Commission noted concerns for noise abatement, Condition 5 provides no standards.*

*Obviously, noise mitigation of dog barking (both inside and outside of the kennel structure) must be achieved, in order to make Condition 5 meaningful and enforceable. To assure performance, we suggest:*

- a. *specific noise-abatement construction standards, with the use of specific sound absorbing materials, must be imposed upon the proposed kennel garage structure, since the facility apparently will not consist of concrete walls or a standard wood type roof construction.*

*The type of construction should provide at least a nominal 50-55 STC performance which equates to a nominal 45-50 dBA noise reduction at the typical dog bark frequency range.*

*Further, the building requirements should address the “composite performance” provided by walls, roof, doors, windows and any ventilation openings, as typically windows and doors represent the “weakest path” to abating noise. Noise emanation from the facility should be addressed by reducing openings represented by windows, doors and/or ventilation systems.*

- b. *a specific size/dimension should be imposed on the “exercise yard,” and a fencing Requirement of a minimum of six (6) feet in height, with all fencing to be maintained throughout the life of the CUP.*
- c. *general experience establishes that individual dogs under control of a person generally do not bark. Generally, one dog or a few dogs under the control of individuals during outdoor activities may not bark, and if barking occurs, the dogs could be brought indoors.*

*Therefore, we suggest a Limitation as to the number of dogs*

that will be permitted to be outside of the kennel structure at any one time should be established, along with a Requirement that the dogs be supervised/controlled while outside. We suggest that no more than 5 supervised dogs be permitted to be outside at any one time, and that no more than 2 unsupervised dogs be permitted to be outside at any one time.

6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.

*Without strengthening Condition 5 as suggested above, this Condition literally permits the Applicant to maintain 100% of the dogs outdoors, everyday, during the 13 hour period of 8:00 a.m. to 9:00 p.m. The Board must impose specific Requirements to avoid the creation of a nuisance.*

7. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.

*No comment, other than the Zoning Ordinance defines a "Cottage Occupation" as "an occupation or profession customarily carried on in a dwelling unit or an accessory building which '...is clearly incidental and secondary to the use of the dwelling unit for residential purposes.'" The presence of twenty-eight (28) dogs (each generating a fee on a daily basis), 24 hours per day and 7 days per week, "stretches" the logical definition of a "Cottage Occupation," and makes the residential use of Ms. Neff's property (and the residential use of our and our neighbors' properties) incidental and secondary to the Kennel itself.*

8. Any expansion or modification of this use will require the approval of a new CUP.

In addition, we suggest that any CUP be restricted solely to the Applicant (Jessica M. Neff), and that the operation of the Kennel under the CUP not be transferable to any other person or entity without the prior approval of the Board as an amendment to the CUP Conditions.

*Page 3 of the Staff Report references a 400 foot distance as being required for a "no screen Category C Buffer." Page 5 of the Staff Report notes comments of Planning Commissioners that the Kennel location is buffered by corn fields and large stands of trees. Given, however, that there is no guarantee of the continued existence of the corn fields or the trees, and given the siting of the Kennel on the ridge, we suggest that supplemental screening through Applicant's planting of Evergreen trees along the southeastern boundary of Applicant's property be required.*

*Thank you for your consideration of our concerns, which we look forward to discussing further during the April 23 Public Hearing.*

*Respectfully submitted,*

*Scott and Bethanne Berman”*

**Sheila Pinner**, 408 Laurel Grove Road, spoke in opposition to this proposed kennel. She stated that one voice in protest should ensure that due diligence is done by the Planning Commission and the Board of Supervisors. She stated this was an RA area and she had lived there for 42 years. She went on to say the tone of the Planning Commission meeting left her feeling dejected and that her concerns were not important. She asked the Board to consider her concerns. She was concerned about the loss of property value due to this kennel. She hoped the Board would look at Clarke County’s recent action. She asked if the applicant was converting an existing garage or building a new building. She objected to having 28 dogs on the property. She urged the Board to review the conditions while considering what was right for the neighborhood.

**Rusty Clark**, the applicant’s father, appeared before the Board in support of this application. He stated he had lived next to a kennel for 25 years and it did not affect his property value. He went on to say he believed the applicant went above and beyond what was needed.

**Bethanne Berman**, 247 Laurel Grove Road, stated she and her husband moved to the area to enjoy the peace and quiet. She noted a lot of problems could be solved with a phone call. She went on to say only one family stands to benefit from this business. She concluded by saying she was concerned her family’s quality of life would be changed with approval of this permit.

**Chris McKenna**, Back Creek District, expressed concerns about this proposal to include a decline in home values, increased traffic, and there were no other businesses on this road. He suggested approval of this business may change the character of the area.

**Laura Kulp**, 442 Laurel Grove Road in the Back Creek District, stated the Virginia Tech

research center was already located along her road, which guarantees there is already traffic along the road. As for dogs barking, she noted there were already several other barking dogs in the area. She concluded by saying dog barking was no louder than farm equipment.

**Ray Hayslett**, 245 Laurel Grove Road in the Back Creek District, stated he had not heard where any engineering science had been applied to the acoustics of this proposed building. He asked what expert had vouched for the acoustics. He went on to say he was a small business owner in the county and had lived here for five years. He noted there was some traffic tied to the Virginia Tech research center, but he begged to differ about the amount. He concluded by asking the Board to consider the concerns raised.

**Christy McLaughlin**, Treasurer of Shirley's Angels Boxer Rescue, stated Ms. Neff had been a loyal foster for her rescue agency and she would be very dedicated to keeping the property up.

**Carroll Anderson**, representing Charlene Anderson, stated he was trying to rent his mother's house, but his family had concern about noise from the proposed kennel and its effect on their ability to rent this house.

**Scott Berman**, 247 Laurel Grove Road, advised he had spoken with neighbors of an existing kennel and those individuals were concerned about their property values. He noted that barking dogs were a concern as well.

There being no further public comments, Chairman Shickle closed the public hearing.

Supervisor Lofton noted he had received materials last evening and having heard the neighbors he had more questions. He went on to say he did not want to unnecessarily withhold a decision, but he had questions that he needed to have answered. Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board postponed this item until the May 14, 2014

meeting.

Supervisor Collins stated he was concerned with what happens in the rural areas. He recalled an applicant, a few years ago, who sought a conditional use permit for a car wash. The applicant's request was denied, so he opened a pig farm.

There being no further discussion, the motion to postpone was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

**ORDINANCE AMENDMENT TO THE FREDERICK COUNTY CODE –  
CHAPTER 165 ZONING, ARTICLE VII – OVERLAY DISTRICTS, PART 702 FP  
FLOODPLAIN DISTRICTS. REVISIONS TO THE FREDERICK COUNTY  
ZONING ORDINANCE TO BRING PART 702 – FLOODPLAIN DISTRICTS  
INTO COMPLIANCE WITH THE VIRGINIA DEPARTMENT OF  
CONSERVATION AND RECREATION (DCR) VIRGINIA MODEL  
FLOODPLAIN MANAGEMENT ORDINANCE. - APPROVED**

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised these were revisions to Part 702 of the Frederick County Zoning Ordinance, Floodplain districts to ensure the ordinance meets or exceeds the minimum requirements of the National Flood Insurance Program and the Commonwealth of Virginia. The primary revisions were:

- New text regarding designation and duties of the Floodplain Administrator;
- New sections for jurisdictional boundary changes and submitting technical data;
- Relocation and revisions to the "Description of Special Flood Hazard Districts" sections;
- Revised "Factors to be considered in granting variances";
- Revised "Elevation and Construction Standards"; and
- New and revised definitions.

She noted the proposed revisions were discussed by the Development Review and Regulations



Committee, Planning Commission, and Board of Supervisors and were sent forward for public hearing. The Planning Commission recommended approval of the proposed revisions and staff is seeking Board action.

Supervisor Fisher asked if the Floodplain Administrator was a new position.

Senior Planner Perkins responded no those responsibilities belong to the Zoning Administrator.

Supervisor Collins stated it was his understanding the draft ordinance was given to the County by the State and we were told this is what we need to pass.

Senior Planner Perkins responded correct, but noted the ordinance was modified to fit Frederick County.

Chairman Shickle convened the public hearing

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Supervisor Collins, seconded by Supervisor Fisher, the Board approved the ordinance amending the Frederick County Code, Chapter 165 Zoning, Part 702 FP Floodplain Districts, Article VII Overlay Districts, Article I General Provisions, Amendments, and Conditional Use Permits, Part 101 General Provisions, §165-101.02 Definitions & Word Usage.

**WHEREAS**, the Frederick County Department of Planning and Development was directed by the Virginia Department of Conservation and Recreation (DCR) to prepare changes to Chapter 165 Zoning pertaining to the Floodplain Districts, to meet the minimum regulatory standards required in a fully compliant floodplain ordinance.

**WHEREAS**, the Development Review and Regulations Committee (DRRC) recommended this item be forwarded to the Planning Commission and Board of Supervisors; and

**WHEREAS**, the Frederick County Planning Commission held a public hearing on this proposed amendment on April 2, 2014; and

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this proposed amendment on April 23, 2014; and

WHEREAS, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice; and

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that CHAPTER 165 ZONING, PART 702 FP FLOODPLAIN DISTRICTS, ARTICLE VII – OVERLAY DISTRICTS; ARTICLE I GENERAL PROVISIONS, AMENDMENTS, AND CONDITIONAL USE PERMITS; PART 101 GENERAL PROVISIONS § 165-101.02 DEFINITIONS & WORD USAGE be amended to meet the minimum regulatory standards required in a fully compliant floodplain ordinance.

**ARTICLE VII  
OVERLAY DISTRICTS**

**Part 702 - FP Floodplain Districts**

**§ 165-702.01.—~~Purpose.~~ Statutory Authorization and Purpose.**

**This ordinance is adopted pursuant to the authority granted to localities by Va. Code §15.2-2280.**

The purpose of these provisions are to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

**§ 165-702.02. Applicability.**

These provisions shall apply to all ~~lands within the jurisdiction of Frederick County and identified as being in the 100-year floodplain by the Federal Insurance Administration.~~ **Privately and publicly owned lands within the jurisdiction of Frederick County and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to Frederick County by FEMA.**

**§ 165-702.03. Compliance and Liability.**

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable regulations which apply to uses within the jurisdiction of this chapter.
- B. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district, or that land uses permitted within such district, will be free from flooding or flood damages.
- C. Records of actions associated with administering this chapter shall be kept on file and maintained by the Frederick County Zoning Administrator.
- D. This chapter shall not create liability on the part of Frederick County or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 165-702.04. Abrogation and Greater Restrictions.**

This chapter supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

**§ 165-702.05. Severability.**

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

**§ 165-702.06. Administration.**

**A. Designation of the Floodplain Administrator. The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:**

**(1) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Frederick County Planning Director.**

**(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.**

**(3) Enter into a written agreement or written contract with another locality or private sector**

entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

B. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (4) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, US Army Corps of Engineers) and have submitted copies of such notifications to FEMA.
- (6) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
- (7) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (8) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (9) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

- (10) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Frederick County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (11) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
- (a) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
  - (b) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (12) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (13) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (14) Administer the requirements related to proposed work on existing buildings:
- (a) Make determinations as to whether buildings and structures that are located in special flood hazard areas and that are damaged by any cause have been substantially damaged.
  - (b) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (15) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (16) Notify the Federal Emergency Management Agency when the boundaries of Frederick County have been modified and:
- (a) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  - (b) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate

requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(17) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(18) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

C. Use and Interpretation of FIRMs. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(1) Where field surveyed topography indicates that adjacent ground elevations:

(a) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on the FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

(b) Are above the base flood elevation, the area shall be regulated as special flood hazard area, if so indicated on the FIRM, unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

(3) Base flood elevations and designated floodway boundaries on FIRMs and in Flood Insurance Studies shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.

(4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in Flood Insurance Studies.

(5) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(a) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(b) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to § 165-702.06 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

§ 165-702.07. Jurisdictional Boundary Changes.

In accordance with the Code of Federal Regulations, Title 44, Part 59, Subpart B, Section 59.22 (a) (9) (v), all NFIP participating communities must notify the Federal Insurance Administration Emergency Management Agency and optionally the State Coordinating Office Virginia Department of Conservation and Recreation - Division of Dam Safety and Floodplain Management in writing whenever the boundaries of the County have been modified by annexation or the County has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

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

§ 165-702.08. Submitting Technical Data.

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

§ 165-702.0609. Description of Special Flood Hazard Districts.

A. Basis of districts. The various flood hazard floodplain districts shall include areas subject to inundation by waters of the one-hundred-year flood the Special Flood Hazard Areas. The basis for the delineation of these districts shall be the Flood Insurance Study and the Flood Insurance Rate Maps (FIRM) for Frederick County prepared by the Federal Emergency Management Agency, Insurance Administration, dated September 2, 2009, as amended. The boundaries of the Special Flood Hazard Areas are established as shown on the FIRM which is declared to be a part of this article and which shall be kept on file at the Frederick County Department of Planning and Development.

- (1) The Floodway District is in an AE Zone delineated for purposes of this article using the criteria that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood one-hundred (100)-year flood without



increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Maps.

- (2) ~~The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided. The basis for the outermost boundary of this district shall be the one hundred year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Maps.~~
- (3) ~~The Approximated Floodplain District shall be those areas identified as an A Zone on the maps accompanying the Flood Insurance Studies. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.~~

(i) The following provisions shall apply within the Floodway District of an AE zone:

a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the County during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with Frederick County’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If §165-702.09 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 165-702.13 through 165- 702.17.

b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

- (2) The AE, or AH Zones on the FIRM accompanying the FIS shall be those areas for which

one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH zone:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Frederick County.

Development activities in Zones A1-30 and AE or AH, on the Frederick County FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with Frederick County’s endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

- (3) The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level no lower than one (1) foot above the base flood elevation.

During the permitting process, the Floodplain Administrator shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,

- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

- (4) The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:

- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

- b. All new construction and substantial improvements of non-residential structures shall:

- 1) Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

- 2) Together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrastatic and hydrodynamic loads and effects of buoyancy.

- c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

B. Overlay concept.

- (1) The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Maps, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- (2) Where there happens to be any conflict between the provisions or requirements of any of the Floodplain Districts and those of any underlying district, those pertaining to the floodplain districts shall apply.

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

**§ 165-702.07 10. Flood Insurance Rate Map.**

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map, which are by reference made a part of this chapter and which shall be kept on file at the Frederick County offices.

**§ 165-702.08 11. District boundary changes.**

The delineation of any of the floodplain districts may be revised by Frederick County where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or individual documenting the necessity for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration Emergency Management Agency.

**§ 165-702.09 12. Interpretation of District Boundaries.**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**§ 165-702.10 13. Permit and Application Requirements.**

A. Permit Requirement. All development and/or construction activities occurring within any floodplain district shall be undertaken only upon the issuance of a permit. Such development and/or construction activities shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and regulations, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC), the Frederick County Zoning and Subdivision Ordinances and the Erosion and Sediment Control Ordinance. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, development and/or construction activities adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

1. In circumstances where a permit is not required, all development and/or construction activities occurring within any floodplain district shall be undertaken only upon approval by the Zoning Administrator.

~~B. Alteration or Relocation of a Watercourse. Prior to any proposed alteration or relocation of any channel or of any watercourse within this jurisdiction, a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any one of these~~

organizations). Further notification of the proposal shall be given to all adjacent jurisdictions, the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation), and the Federal Insurance Administration.

- C. B. Site Plans and Permit Applications. All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
1. The elevation of the Base Flood at the site.
  2. The elevation of the lowest floor (including basement).
  3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
  4. The elevation of the one-hundred-year flood.
  5. Topographic information showing existing and proposed ground elevations.

**§ 165-702.11-14. General Standards for all Special Flood Hazard Areas.**

~~In all special flood hazard areas~~ The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or

contamination from them during flooding.

**In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:**

- ~~I. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter.~~
- J. I. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced **subject to the substantial improvement provision in 165-702.19C.**
- K. J. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration **Emergency Management Agency.**
- L. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

**§ 165-702.12–15. Specific Elevation and Construction Standards.**

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated **by a certified professional** according to §165-702-13A 06, the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation.

B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the base flood elevation. Buildings located in all A, and AE zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

C. Elevated Buildings Space Below the Lowest Floor

~~Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:~~ In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Include, ~~in Zones A, AO, and AE,~~ measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet

all the requirements for new construction, including the elevation and anchoring requirements in § 165-702.14A through B, and § 165-702.15A.

2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has not incurred substantial damage as the result of a flood shall elevated so that either
  - a. The lowest floor of the manufactured home is elevated no lower than one (1) foot above the base flood elevation; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade
  - c. And be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. All recreational vehicles placed on sites must either:
  - a. be on the site for fewer than 180 consecutive days;
  - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
  - c. Meet all the requirements for manufactured homes in § 165-702.12D.

~~§ 165-702.13. Standards for the Floodway District.~~

~~The following provisions shall apply within the Floodway District:~~

~~A. Encroachments, including fill, new construction, substantial improvements or other development, shall be prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.~~

~~1. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer first applies, with the Frederick County's endorsement, for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency. The following uses shall also be permitted in the Floodway District:~~

- ~~i. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.~~
- ~~ii. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and natural preserves, game farms, fish hatcheries, trap and skeet game ranges and hunting and fishing areas.~~
- ~~iii. Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.~~



~~B. If Section §165-702.15A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.~~

~~C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.~~

~~D. In the Floodway District, a conditional use permit shall be required for accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips and other similar uses and activities, provided that they cause no increase in flood heights and/or velocities. All uses, activities and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and regulations.~~

~~§ 165-702.14. Standards for the Special Floodplain District.~~

~~The following provisions shall apply within the Special Floodplain District:~~

~~Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within Frederick County.~~

~~Development activities in Zones A and AE, on the Frederick County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with Frederick County's endorsement, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.~~

~~§ 165-702.15. Standards for Approximated Floodplain District.~~

~~The following provisions shall apply with the Approximate Floodplain District:~~

~~A. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses,~~

~~computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Frederick County Engineer.~~

~~B. When such base flood elevation data is utilized, the lowest floor shall be one (1) foot above the base flood elevation. During the permitting process, the developer or applicant shall obtain:~~

~~3) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,~~

~~4) If the structure has been flood proofed in accordance with the requirements of this article, the elevation to which the structure has been flood proofed.~~

**§ 165-702.16 . Standards for Subdivision Proposals.**

A. All subdivision proposals shall be consistent with the need to minimize flood damage;

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

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

D. *In A Zones, Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.*

**§ 165-702.17. Design criteria for utilities and facilities.**

A. New sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) are prohibited in the Special Flood Hazard Areas and Floodplain Districts.

B. Replacement sanitary sewer facilities and private package sewer treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

C. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the systems and be located and constructed to minimize or eliminate flood damages.

D. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from building and on-site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less

frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

- E. All utilities, such as gaslines, electrical and telephone systems, being placed in flood-prone areas should be elevated (where possible) and constructed to minimize the change of impairment during a flooding occurrence.

**§ 165-702.18. Factors to be considered in granting variances.**

**A. Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.**

**B. While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.**

**C. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.**

D. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any Floodway District that will cause any increase in the one-hundred-year flood elevation.
- (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the County.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development

anticipated in the foreseeable future.

- (9) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
  - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) Such other factors which are relevant to the purposes of this article.
- E. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to the County Engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
- F. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety or extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public or conflict with local laws or ordinances.
- G. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.
- H. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one-hundred-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.
- I. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

**§ 165-702.19. Existing Structures in Floodplain Areas.**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.

- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this chapter and shall require the entire structure to conform to the VA USBC.

**§ 165-702.20. Penalties for Violations.**

- A. Any person who fails to comply with any of the requirements or provisions of this article or directions of the Zoning Administrator or any authorized employee of Frederick County shall be guilty of a misdemeanor and subject to the penalties outlined in §165-101.08 of this Chapter. *The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115.*
- B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by Frederick County to be a public nuisance and abated as such. Flood insurance may be withheld from structures constructed in violation of this article.

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**ARTICLE I  
GENERAL PROVISIONS, AMENDMENTS, AND CONDITIONAL USE PERMITS**

**Part 101 – General Provisions**

**§165-101.02. Definitions and word usage.**

BASE FLOOD - The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) – ~~The Federal Emergency Management Agency designated one hundred year surface water elevation.~~ *The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the County’s Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.*

BASEMENT - Any area of the building having its floor sub-grade (below ground level) on all sides.

BOARD OF ZONING APPEALS - A Board whose members are appointed by the Circuit Court for the express purpose of considering and acting on variances and zoning appeals.

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

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

ENCROACHMENT - With respect to a floodplain an encroachment shall be the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**EXISTING CONSTRUCTION - structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."**

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the County.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

#### FLOOD OR FLOODING

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland or tidal waters; or,
  - b. the unusual and rapid accumulation or runoff of surface waters from any source.
  - c. **mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.**
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
3. ~~Mudflows which are proximately caused by flooding as defined in paragraph 1 and 2 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.~~

FLOOD INSURANCE RATE MAP (FIRM) – An official map of the County on which the Floodplain Administrator has delineated both the special hazard areas and the risk premium zones applicable to the County.

FLOOD INSURANCE STUDY (FIS) – An examination, evaluation and determination of flood hazards and, if

appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

**FLOODPLAIN OR FLOOD-PRONE AREA** - Any land area susceptible to being inundated by water from any source.

**FLOODPROOFING** – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FREEBOARD** - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

**HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - Any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. by an approved state program as determined by the Secretary of the Interior; or,
  - b. directly by the Secretary of the Interior in states without approved programs.

Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the *base flood*, other frequency floods, *flood elevations*, *floodway* information and boundaries, and *flood profiles*.

**LETTERS OF MAP CHANGE (LOMC)** - **A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:**

- **LETTER OF MAP AMENDMENT (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a Land as defined by meets and bounds or structure is not located in a special flood hazard area.** L
  
- **LETTER OF MAP REVISION (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the County's floodplain management regulations.** L
  
- **CONDITIONAL LETTER OF MAP REVISION (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.** C

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

**MOBILE OR MANUFACTURED HOME** – A structure, transportable in one or more sections, which in travel mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built in a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

**MOBILE OR MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel (or contiguous parcels) of land or a subdivision divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** - For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by **the County** and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the **County**.



RECREATIONAL VEHICLE - A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.

Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

SPECIAL FLOOD HAZARD AREA - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in § 165-702.10.

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

STRUCTURE – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either ~~any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been~~

~~identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.~~

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.**

VIOLATION - For floodplain management purposes, violation includes the failure of a structure or other development to be fully compliant with the County's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

Passed this 23<sup>rd</sup> day of April, 2014 by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

### **OTHER PLANNING ITEMS**

### **DISCUSSION OF MASTER DEVELOPMENT PLAN REQUIREMENTS – BUSINESS FRIENDLY RECOMMENDATIONS – SENT FORWARD FOR PUBLIC HEARING**

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised the Master Development Plan requirements were a discussion topic of the Board's

Business Friendly Committee initiative. The Business Friendly Committee recommended elimination of the master development plan requirement contained in the zoning ordinance. The Development Review and Regulations Committee reviewed this suggestion and the master development plan requirements and disagreed with their elimination. The Committee felt this was an important process for both the applicant and the public. The Committee ultimately recommended the master development plan ordinance be modified to allow for a waiver of the master development plan requirement if an applicant chooses to process a detailed site plan in lieu of a master development plan. The Planning Commission discussed this item at their April 2, 2014 meeting and agreed with the proposed ordinance amendment. She concluded by saying staff was seeking Board direction regarding this proposal.

Vice-Chairman DeHaven stated the benefit of the master development plan was to further opportunities to let the public know what was going on and it helped to firm up when something would happen. He concluded by saying he did not have an issue with the proposed waiver.

Upon a motion by Supervisor Fisher, seconded by Vice-Chairman DeHaven, the Board sent the proposed amendment forward for public hearing.

**WHEREAS**, the Board of Supervisors formed the Frederick County Business Climate Assessment Committee to evaluate the current processes and procedures being utilized by the County. The Committee's final report was adopted by the Board of Supervisors in July 2013. One recommendation contained in the report was to eliminate the Master Development Plan (MDP) requirement contained in the Zoning Ordinance.

**WHEREAS**, the Development Review and Regulations Committee (DRRC) reviewed the MDP requirements at their October 2013 and January 2014 meetings and disagreed that the MDP should be eliminated. The DRRC did recommend that the MDP ordinance be modified to allow for a MDP waiver if an applicant chooses to process a detailed site plan in lieu of a MDP and forwarded that recommendation to the Planning Commission and Board of Supervisors; and

**WHEREAS**, the Planning Commission discussed the proposed changes at their regularly scheduled meeting on April 2, 2014 and agreed with the inclusion of the additional MDP waiver opportunity; and

**WHEREAS**, the Board of Supervisors discussed the proposed changes at their regularly scheduled meeting on April 23, 2014; and

**WHEREAS**, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice, directs the Frederick County Planning Commission hold a public hearing regarding an amendment to Chapter 165 to include a MDP waiver option that allows an applicant to process a detailed site plan in lieu of a MDP.

**NOW, THEREFORE, BE IT REQUESTED** by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing regarding an amendment to Chapter 165 to provide the applicant with the option to decide if they want to request a waiver of the MDP or not.

Passed this 23<sup>rd</sup> day of April, 2014 by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

#### **BOARD LIAISON REPORTS**

Supervisor Lofton thanked the Board for adding to the agenda and approving the resolution regarding the centennial of the Smith-Lever Act. He stated the Extension Service not only helps the farming community, but provides a number of services for others in the community.

#### **CITIZEN COMMENTS**

There were no citizen comments.

#### **BOARD OF SUPERVISORS COMMENTS**

Supervisor Fisher advised there had been another change in March to state's stormwater program. He noted the ordinance was being revised to accommodate this change. He went on to say the Board should see this item at its May 28, 2014 meeting. He stated a number of localities were choosing not to enforce the program themselves, but rather pay the Department of

Environmental Quality to do the enforcement.

Supervisor Wells stated Frederick County was blessed to have the staff we have and we were way ahead of other counties in the area because of staffs' commitment to this program. He concluded by saying he would rather the county enforce the program versus the Department of Environmental Quality.

Vice-Chairman DeHaven stated he did not think anyone was in a better position to serve the citizens than the locality.

Chairman Shickle advised that he forgot to note a correction to the minutes during the Board's consideration of the April 9, 2014 meeting minutes. He advised that he had voted nay on the pump and haul permit request, but the minutes reflected an aye vote.

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board reconsidered the April 9, 2014 meeting minutes.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

Chairman Shickle noted he had a correction to the minutes regarding the vote on the pump and haul permit. His vote should have been recorded as nay.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board approved the minutes as corrected.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye

Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

**ADJOURN**

**UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY SUPERVISOR FISHER, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (8:20 P.M.)**

**FREDERICK COUNTY BOARD OF  
SUPERVISORS' MINUTES**

**WORK SESSION WITH  
DEPARTMENT OF SOCIAL SERVICES**

**April 29, 2014**

A work session of Frederick County Board of Supervisors and the Frederick County Social Services Board was held on Tuesday, April 29, 2014, at 12:00 P.M., in the Board of Supervisors' Meeting Room, County Administration Building, 107 North Kent Street, Winchester, Virginia.

**PRESENT**

Richard C. Shickle; Christopher E. Collins; Charles S. DeHaven, Jr.; Gene E. Fisher; Gary A. Lofton; Robert A. Hess; Robert W. Wells.

**OTHERS PRESENT**

John R. Riley, Jr., County Administrator; Kris C. Tierney, Assistant County Administrator; Roderick Williams, County Attorney; Cheryl B. Shiffler, Director of Finance, Jennifer Place, Risk Manager/Budget Analyst of Finance; Paula A. Nofsinger, Director of Human Resources; Tamara L. Green, Director of the Department of Social Services; Linda Gibson; Assistant Director of Department of Social Services; Delsie Butts, Administrative Manager of Department of Social Services; Social Services Board members: Joanne Leonardis, Red Bud District, Vice Chairman; Linda Martenson, Board Member At-Large; Frank Heisey, Gainesboro District; Karen L. Kimble, Shawnee District; Kathleen H. Pitcock, Back Creek District; Susan W. Marsh, Stonewall District.

**CALL TO ORDER**

Chairman Shickle called the work session to order. He turned the work session over to County Administrator Riley.

Administrator Riley asked Director Green to introduce the Department of Social Services board members and staff.



Director Green began with introductions of the board members for the Department of Social Services and staff and stated Chairman James L. Stephens was not able to attend today.

Vice-Chairman Leonardis stated serving the system and educating the families in the county is their number one priority. She went on to say she believes their second priority is administering federal and state mandated programs and funds in a timely manner without penalty or error to insure that their number one priority is met and today's presentation is a snapshot of what it takes to do that.

Director Green thanked the Board for the opportunity and went on to review a brief presentation on the local Department of Social Services to include:

- Structure of Department of Social Services
- Financial impact of benefits programs in the community
- Discuss Current benefits programs challenges
- Explanation of how Social Services have maintained thus far
- Justification for new staff request
- Closing remarks and questions

County Administrator Riley stated it might be helpful to see a total budget for the State and Federal funds.

Administrator Manager Butts circulated a copy of the spreadsheet with those numbers.

County Administrator Riley thanked Director Green on her presentation and stated this was the second time Director Green has presented this information.

Supervisor Collins asked about staffs' ability to catch fraud due to the volume of cases.

Director Green responded fraud cases were very low. She went on to say they have a part-time employee who is dedicated to fraud cases.

Back Creek Supervisor Lofton commented that he was amazed at how well the department works to maintain State standards and commended the staff and the Department of Social Services board members given the county's population.

Director Green stated there has been a 5% increase in families needing assistance, including a wide group of middle class families qualifying for short term eligibility. She went on to say the Hornsby Zeller assessment was completed in 2008 and it was determined additional staffing was needed but nothing resulted from it. She went on to say the Department of Social Services is in need of a total of 7 additional employees to handle all the calls, intake and eligibility, as well as handle the increase in long term care and aged, blind and disabled cases, and a worker to ease pressure off of the current team.

Director Green stated they are meeting the 97% compliance rate on Supplemental Nutrition Assistance Program (SNAP); however, they are only at a 92% compliance rate for Medicaid, which means they are not meeting deadlines. She went on to say if mandated processing deadlines are not met financial penalties could be assessed.

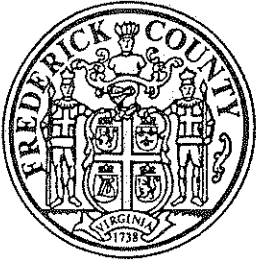
Chairman Shickle commented that it is distressing to see the increase in case loads. He went on to say it was unclear of whose responsibility it was to address these concerns.

Director Green stated the Department of Social Services employees are employees of the County whose job is to administer Federal Programs that are supervised by the State. However, the County is responsible for staffing.

Chairman Shickle asked if there were any other questions or comments. He thanked the Department of Social Services for their presentation and was highly surprised. He went on to say the County supports them and will do their part.

There being no further business the work session was adjourned at 1:03 P.M.

B

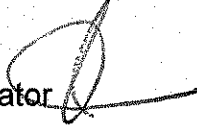


John R. Riley, Jr.  
County Administrator

540/665-5666  
Fax 540/667-0370

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

**MEMORANDUM**

**TO:** Board of Supervisors  
**FROM:** John R. Riley, Jr., County Administrator   
**DATE:** May 7, 2014  
**RE:** Committee Appointments

Listed below are the vacancies/appointments due through July, 2014. As a reminder, in order for everyone to have ample time to review applications, and so they can be included in the agenda, please remember to submit applications prior to Friday agenda preparation. Your assistance is greatly appreciated.

**VACANCIES/OTHER**

Agricultural District Advisory Committee

Mr. Walter Baker, Mr. James Douglas and Mr. Jack Jenkins have resigned per notice to Planning Department.

*(Two vacancies remain. The Agricultural District Advisory Committee meets as needed and members serve an indefinite term.*

**FEBRUARY 2014**

Historic Resources Advisory Board

Claus Bader – Red Bud District Representative  
102 Whipp Drive  
Winchester, VA 22602  
Home: (540)722-6578  
Term Expires: 02/22/14  
Four year term

**APRIL 2014**

Parks and Recreation Commission

Martin J. Cybulski – Red Bud District Representative  
134 Likens Way  
Winchester, VA 22602  
Home: (540)667-6035  
Term Expires: 04/28/14  
Four year term

**MAY 2014**

Historic Resources Advisory Board

Clint Jones – Shawnee District Representative  
3108 Middle Road  
Winchester, VA 22602  
Home: (540)667-6350  
Term Expires: 05/22/14  
Four year term

**JUNE 2014**

Extension Leadership Council

William H. Cline – Stonewall District Representative  
781 Hopewell Road  
Clearbrook, VA 22624  
Home: (540)667-4122  
Term Expires: 06/23/14  
Four year term

Historic Resources Advisory Board

Denny Perry – Member-At-Large  
435 Woodchuck Lane  
Winchester, VA 22602  
Home: (540)667-9658  
Term Expires: 06/23/14  
Four year term

Parks and Recreation Commission

Randy Carter – Stonewall District Representative  
264 Glendobbin Road  
Winchester, VA 22603

Home: (540)535-0074  
Term Expires: 06/23/14  
Four year term

Board of Building Appeals

Kevin W. Kenney – County Representative  
292 Thwaite Lane  
Winchester, VA 22603  
Home: (540)662-5390  
Term Expires: 06/26/14  
Five year term

*(There are seven members on the Board of Building Appeals. One member serves as an alternate. Members serve a five year term. **Members should, to the extent possible, represent different occupational or professional fields of the building industry. At least one member should be an experienced builder and one other member should be a licensed professional engineer or architect.**)*

Development Impact Model Committee

The Development Impact Model Committee was established at the June 28, 2006 Board of Supervisors Meeting. Appointments are for a one year term. The following will expire June 28, 2014:

Kris C. Tierney – County Administration Representative

Gary A. Lofton – Board of Supervisors Representative  
Robert A. Hess – Board of Supervisors Representative

H. Paige Manuel – Planning Commission Representative  
Roger L. Thomas – Planning Commission Representative  
**(Per Planning Department, will continue to serve.)**

Dr. John Lamanna – School Board Rep.  
**(Received correspondence in early 2014 from School Board Office that Dr. Lamanna would continue to serve for 2014.)**

Brian Madagan – EDC Representative – **Resigned - Vacancy**

Stephen Pettler – Top of Virginia Building Association Representative  
J. P. Carr – Top of Virginia Building Association Representative

**(Staff is waiting on recommendation from Top of Virginia Building Association.)**

Community Policy and Management Team (CPMT)

Dana Bowman – Private Provider Representative  
Chief Operating Officer  
Children's Services of Virginia, Inc.  
P. O. Box 2867  
Winchester, VA 22604  
Term Expires: 06/30/14  
Two year term

**(See Attached Correspondence from CPMT Chair and Social Services Director Recommending Reappointment.)**

Economic Development Authority (EDA)

Beverly B. Shoemaker – Opequon District Representative  
P. O. Box 480  
Stephens City, VA 22655  
Home: (540)869-4828  
Term Expires: 06/30/14  
Four Year Term

Lord Fairfax Emergency Medical Services Council (EMS)

Pamela K. Keeler – Frederick County Volunteer Representative  
138 Underwood Lane  
Winchester, VA 22602  
Home: (540)667-3922  
Term Expires: 06/30/14  
Three year term

***(Mrs. Keeler is eligible for reappointment if it is the desire of the Board. Members serve a three year term and are limited to three consecutive terms.)***

Social Services Board

Kathleen H. Pitcock – Back Creek District Representative  
384 Zepp Road  
Star Tannery, VA 22654  
Home: (540)436-9128

Term Expires: 06/30/14  
Four year term

Karen L. Kimble – Shawnee District Representative  
118 Keswick Court  
Winchester, VA 22602  
Home: (540)665-2023  
Term Expires: 06/30/14  
Four year term

*(Ms. Pitcock is not eligible for reappointment. Members serve a four year term and are limited to two consecutive terms.)*

Winchester-Frederick County Tourism Board

John Marker – Private Business Rep  
3035 Cedar Creek Grade  
Winchester, VA 22602  
Term Expires: 06/30/14  
Three year term

Dan Martin – Lodging Rep  
Courtyard by Marriott  
300 Marriott Drive  
Winchester, VA 22603  
Term Expires: 06/30/14  
Three year term

Sue Robinson – Public Non Profit Business Rep  
Shenandoah University Summer Music Theatre  
1460 University Drive  
Winchester, VA 22601  
Term Expires: 06/30/14  
Three year term

*(Mr. Marker, Mr. Martin and Ms. Robinson are not eligible for reappointment. Executive Tourism Director advised that a recommendation from the Tourism Board will be forthcoming after their meeting in May. The Tourism Board was formed by Joint Resolution of the Board of Supervisors and the City Council in April, 2001. Any recommendation for appointment/reappointment is contingent upon like approval by the City of Winchester.)*

Winchester Regional Airport Authority



Gene E. Fisher – County Board of Supervisors Representative  
Term Expires: 06/30/14  
Four year term

Rich Largent – County Representative  
107 Wakeland Drive  
Stephens City, VA 22655  
Home: (540)868-2698  
Term Expires: 06/30/14  
Four year term

**JULY 2014**

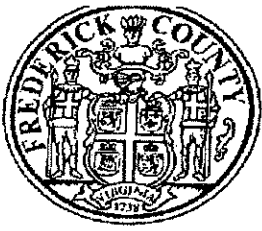
Shawneeland Sanitary District Advisory Committee

Charity N. Thomas  
221 Beaver Trail  
Winchester, VA 22602  
Home: (540)303-1279  
Term Expires: 07/23/14  
Two year term

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

JRR/tjp

Attachment



## Frederick County, Virginia

Comprehensive Services Act  
107 North Kent Street, 3<sup>rd</sup> Floor  
Winchester, VA 22601  
Office: (540) 665-5688  
FAX: (540) 535-2146



May 6, 2014

Mr. John R. Riley, Jr.,  
Frederick County Administrator  
107 N. Kent Street  
Winchester, Virginia 22601

Mr. Riley,

As Chairman of the Frederick County Community Planning and Management Team (CPMT), I am pleased to inform you that at our meeting of April 28, 2014 the CPMT re-nominated Ms. Dana Bowman, Children's Services of Virginia, Executive Director of Administration, by majority vote, to continue in the position of Private Provider Representative.

The Private Provider Representative is a mandated position on the CPMT. The State Code provides for both the private provider representative and the parent representative to be appointed by the Board of Supervisors. Appointments are for a two year term with members being eligible for reappointment. Traditionally, the Board of Supervisors has considered input on new appointments to the CPMT from the seated members.

Ms. Bowman has been a Private Provider Representative since approximately February 2011. Her participation on the CPMT has been valuable and influential. She comes to us with high regard from those individuals who have worked with her.

The CPMT appreciates your consideration to reappoint Ms. Dana Bowman to continue as the Private Provider Representative on the Frederick County CPMT.

Sincerely,

Tamara Green  
CPMT Chair  
Frederick County Department of Social Services  
Director



C



## RESOLUTION RECOGNIZING HP HOOD, INC.'S SELECTION AS 2013 DAIRY PROCESSOR OF THE YEAR

**WHEREAS**, HP Hood, Inc. is one of the primary dairy producers in the United States, with nearly \$2 billion in sales and 15 plants across the county; and

**WHEREAS**, HP Hood, Inc.'s products are throughout the United States to chain and independent food retailers, convenience stores, and foodservice purveyors; and

**WHEREAS**, HP Hood, Inc. located a facility in Frederick County in 1999; and

**WHEREAS**, this facility has seen expansions in 2001, 2004, 2010, and 2013 and now employs over 400 people; and

**WHEREAS**, the Frederick County facility is the flagship in HP Hood, Inc.'s production network; and

**WHEREAS**, HP Hood, Inc. has been instrumental in developing and expanding its product lines, continues to invest in new equipment and technologies, and is working toward achieving zero-waste-to-landfill in all plants; and

**WHEREAS**, HP Hood, Inc. was selected by *Dairy Foods* as 2013 Processor of the Year.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Frederick, Virginia, do hereby express its congratulations to HP Hood, Inc. on achieving this industry recognition; and

**BE IT FURTHER RESOLVED**, that the Board of Supervisors express their appreciation to HP Hood, Inc. for their continued investment and employment in Frederick County, Virginia; and

**BE IT FURTHER RESOLVED**, that this resolution be spread across the minutes of the Frederick County Board of Supervisors for all citizens to reflect upon the accomplishment of this community partner.

**ADOPTED** this 14<sup>th</sup> day of May, 2014.

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Richard C. Shickle  
Chairman

---

Gene E. Fisher  
Shawnee District Supervisor

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Robert A. Hess  
Gainesboro District Supervisor

---

Christopher E. Collins  
Red Bud District Supervisor

---

Robert W. Wells  
Opequon District Supervisor

---

Charles S. DeHaven, Jr.  
Stonewall District Supervisor

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Gary A. Lofton  
Back Creek District Supervisor

---

John R. Riley, Jr.  
Clerk

D

# MUNICAP, INC.

PUBLIC FINANCE

## MEMORANDUM

**DATE:** MARCH 13, 2013

**TO:** JOHN MARKER, CHAIRMAN  
RUSSELL 150 COMMUNITY DEVELOPMENT AUTHORITY

**FROM:** FAIZAN HABIB, MANAGER  
MUNICAP, INC.

**RE:** AMENDMENT TO THE SPECIAL ASSESSMENT ROLL

### I. BACKGROUND INFORMATION

The Russell 150 Community Development Authority (the "Authority") was created pursuant to an ordinance adopted by the Frederick County Board of Supervisors (the "BOS") on March 9, 2005. The BOS adopted an ordinance on May 25, 2006 authorizing the levy of special assessments within the boundaries of the CDA district. On May 1, 2007, the Authority issued \$5,470,000 in Series 2007A Special Assessment Bonds and \$15,685,000 in Series 2007B Special Assessments Bonds, collectively referred to herein as the Bonds, to finance public infrastructure improvements.

### II. HISTORICAL LEVY OF SPECIAL ASSESSMENTS (2009-2012)

Bond proceeds deposited in the Capitalized Interest Account were used to pay debt service in the 2008 Assessment Year and first-half of the 2009 Assessment Year. The Authority approved the levy of the special assessment, upon exhaustion of the Capitalized Interest Account, in the 2009, 2010, 2011, and 2012 Assessment Years. Table A shows the annual amount of special assessments approved by the Authority for each Assessment Year.

**Table A**  
**Approved Annual Special Assessments**

<b>Assessment Year</b>	<b>Special Assessment Levy</b>
2009	\$1,390,000
2010	\$1,732,936
2011	\$1,732,123
2012	\$524,223
<b>Total</b>	<b>\$5,379,282</b>

The approved special assessments were due in two installments in June and December of each Assessment Year. Russell 150 LC (the "Developer") failed to pay the annual installment of special assessments. As a result of non-payment of the special assessments, payments on the Bonds were paid from bond proceeds deposited in the Debt Service Reserve Fund, deposits made in the Supplemental Debt Service Reserve Fund by MMA Realty Capital, LLC (the "Bondholder") pursuant to the Debt Service Reserve Fund Deficiency Agreement (the "SDSRF Agreement"), and deposits made by the Bondholder in the Revenue Fund. As of the date of this memorandum, the annual special assessments approved by the Authority remain delinquent.

On October 18, 2011, the Authority authorized redemption of the Bonds using remaining proceeds in the Project Fund at the request of the Bondholder. Accordingly, Regions Bank (the “Trustee”) transferred \$14,570,000 from the Project Fund to the Bond Fund Principal Account to reduce the total amount of Bonds outstanding. Table B shows the Series A and Series B Bonds prior to and after redemption.

**Table B**  
**Bonds Redeemed**

	<b>Series A Bonds</b>	<b>Series B Bonds</b>	<b>Total</b>
Bonds outstanding prior to redemption	\$5,305,000	\$15,220,000	\$20,525,000
Bonds redeemed	(\$3,766,000)	(\$10,804,000)	(\$14,570,000)
<b>Principal amount outstanding after redemption</b>	<b>\$1,539,000</b>	<b>\$4,416,000</b>	<b>\$5,955,000</b>

Note, the bonds outstanding prior to redemption reflect \$630,000 of principal paid on the Bonds when due in 2010 and 2011 from the funds mentioned above, resulting in the Bonds outstanding in the amount of \$20,525,000.

Table C shows the principal payments, Bonds redeemed, and principal amount currently outstanding as of March 2, 2013. This table includes an additional \$206,000 of principal paid on the Bonds when due in 2012 and 2013 from the funds mentioned above, resulting in Bonds outstanding in the amount of \$5,749,000.

**Table C**  
**Principal Outstanding**

<b>Bonds Outstanding</b>	<b>Series 2007 Bonds</b>
Total Bonds issued	\$21,155,000
Sinking fund payment 3/1/10	(\$305,000)
Sinking fund payment 3/1/11	(\$325,000)
Bonds redeemed	(\$14,570,000)
Sinking fund payment 3/1/12	(\$100,000)
Sinking fund payment 3/1/13	(\$106,000)
<b>Total Bonds outstanding</b>	<b>\$5,749,000</b>

### III. PROPOSED TERM SHEET AND AMENDMENT TO THE SPECIAL ASSESSMENT ROLL

The proposed Series 2007 Bonds Revision to the Special Assessments Term Sheet (the “Term Sheet”), attached hereto as Exhibit A, includes a request by the Bondholder to the Authority and Frederick County to approve and authorize the forgiveness of a portion of the past due annual special assessments and the rescheduling of the year the remaining portion of the past due annual special assessment are to be collected. The request to reschedule the past due annual special assessments is to reimburse the Bondholder for the deposits made by it to the Supplemental Debt Service Reserve Fund pursuant to SDSRF Agreement and the Revenue Fund as a result of non-payment of special assessments. The annual special assessment to be rescheduled are equal to \$500,000 per year starting in the 2022 Assessment Year until \$2,062,053 in advances previously made by the Bondholder have been collected. The Bondholder requests the Authority and Frederick County to forgive the remaining delinquent special assessments, along with related penalties and interest. The total past due annual special assessments are equal to \$5,379,282. Of this amount, \$2,062,053 is to be rescheduled and collected from 2022 through 2026, with the balance of \$3,317,229 to be forgiven.

Table D shows summary of the advances made by the Bondholder to pay debt service and outstanding administrative expenses related to the district.

**Table D**  
**Summary of Deposits made by the Bondholder**

<b>Description of the Deposits made by the Bondholder</b>	<b>Amount</b>
August 2009 deposit in the supplemental reserve fund to pay interest on Sept. 1, 2009	\$285,404
February 2010 deposit in the supplemental reserve fund to pay interest on Mar. 1, 2010	\$697,956
August 2010 deposit in the supplemental reserve fund to pay interest on Sept. 1, 2010	\$413,690
February 2012 deposit in the Revenue Fund to pay interest on Mar. 1, 2012	\$196,515
August 2012 deposit in the Revenue Fund to pay interest on Sept. 1, 2012	\$192,173
Payment of outstanding administrative expenses in Nov. 2012	\$83,100
February 2013 deposit in the Revenue Fund to pay interest on Mar. 1, 2013	\$193,215
<b>Total reimbursement requested by the Bondholder</b>	<b>\$2,062,053</b>

The total request of reimbursement by the Bondholder shown in Table D excludes the principal payments made on March 1, 2010, March 1, 2012, and March 1, 2013 from proceeds deposited by the Bondholder. Exhibit B, attached herein, includes the revised debt service repayment schedule, which includes the additional annual special assessment requested by the Bondholder.

Mr. Marker, please do not hesitate to contact me with questions regarding this memorandum and the attached documents.

Yours truly,

Faizan Habib  
MuniCap, Inc. – CDA Administrator



**Exhibit A Term  
Sheet**

The following is intended to set forth the general terms under which the remaining outstanding principal balance of the Russell 150 Community Development Authority Special Assessment Bonds Series 2007A and Series 2008B (the “Bonds”) will be repaid. The parties will use reasonable efforts to accommodate the terms set forth below without the need to refund the Bonds, and if possible, within the confines of the existing bond documents without the need to have a reissuance for tax purposes.

Outstanding Principal Balance:	\$5,749,000
Guarantor Advances:	\$2,062,053
Delinquent Assessments:	\$5,379,282
Payment of Delinquent Assessments:	Delinquent assessments will be repealed.
Bondholder Advance Reimbursement:	Beginning in 2022, Russell 150 Community Development Authority (the “Authority”) will request and Frederick County (the “County”) will issue additional assessments of \$500,000 per year for four years and \$62,053 for one year to be applied by the Authority to the repayment in full of the Guarantor Advances.
Interest Rate:	6.60% (unchanged)
Amortization:	The Authority shall request and the County will issue assessments sufficient to amortize the outstanding principal balance of the Bonds, as of the date of the restructuring, over the remaining term of the Bonds, in accordance with the amortization schedule attached as Exhibit B to the MuniCap, Inc. memorandum of March 13, 2013, all in accordance with the existing Bond documents to the maximum extent possible.
Accrued but Unpaid Interest:	Going forward, any accrued but unpaid interest on the bonds from and after the date of the restructuring shall bear interest as provided in the existing Bond documents. Such interest on interest shall be paid from

interest on delinquent special assessments, to the extent available.

Acceleration and Foreclosure:

For as long as all of the property in the Russell 150 District has only one owner, the Authority shall have, in addition to the right to foreclose on the property to collect overdue assessments, the right to accelerate the entire unpaid principal amount of the Bonds, but only to the extent permitted under the Bond documents (including any Supplemental Indentures) and only at the direction of a majority in interest of the bondholders, and to apply the proceeds of foreclosure in satisfaction of all accrued but unpaid interest and, if accelerated, the entire outstanding principal amount of the Bonds.

(Signatures appear on following page)

R150 SPE LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

RUSSELL 150 COMMUNITY DEVELOPMENT  
AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FREDERICK COUNTY, VIRGINIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

REGIONS BANK, AS BOND TRUSTEE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*(Signature Page to Russell 150 Bond Restructuring Term Sheet)*

**Exhibit B**  
**Revised Special Assessment Roll**

<b>Bond Year Ending</b>	<b>Revised Principal Payment</b>	<b>Revised Interest</b>	<b>Reimbursement to the Bondholder</b>	<b>Estimated Administrative Expenses <sup>1</sup></b>	<b>Estimated Annual Installment</b>
1-Mar-14	\$113,000	\$379,434		\$65,784	\$558,218
1-Mar-15	\$122,000	\$371,976		\$44,460	\$538,436
1-Mar-16	\$129,000	\$363,924		\$45,149	\$538,073
1-Mar-17	\$137,000	\$355,410		\$45,852	\$538,262
1-Mar-18	\$147,000	\$346,368		\$46,569	\$539,937
1-Mar-19	\$157,000	\$336,666		\$47,300	\$540,966
1-Mar-20	\$167,000	\$326,304		\$48,046	\$541,350
1-Mar-21	\$177,000	\$315,282		\$48,807	\$541,089
1-Mar-22	\$188,000	\$303,600		\$49,583	\$541,183
1-Mar-23	\$201,000	\$291,192	\$500,000	\$50,375	\$1,042,567
1-Mar-24	\$215,000	\$277,926	\$500,000	\$51,183	\$1,044,109
1-Mar-25	\$229,000	\$263,736	\$500,000	\$52,006	\$1,044,742
1-Mar-26	\$243,000	\$248,622	\$500,000	\$52,846	\$1,044,468
1-Mar-27	\$260,000	\$232,584	\$62,053	\$53,703	\$608,340
1-Mar-28	\$277,000	\$215,424		\$54,577	\$547,001
1-Mar-29	\$296,000	\$197,142		\$55,469	\$548,611
1-Mar-30	\$315,000	\$177,606		\$56,378	\$548,984
1-Mar-31	\$337,000	\$156,816		\$57,306	\$551,122
1-Mar-32	\$358,000	\$134,574		\$58,252	\$550,826
1-Mar-33	\$382,000	\$110,946		\$59,217	\$552,163
1-Mar-34	\$406,000	\$85,734		\$60,201	\$551,935
1-Mar-35	\$434,000	\$58,938		\$61,205	\$554,143
1-Mar-36	\$459,000	\$30,294		\$62,229	\$551,523
<b>Total</b>	<b>\$5,749,000</b>	<b>\$5,580,498</b>	<b>\$2,062,053</b>	<b>\$1,226,499</b>	<b>\$14,618,050</b>

<sup>1</sup> Administrative expense for bond year ending March 1, 2014 include estimated cost to do the audit (\$25,000 for 2008 through 2012), arbitrage rebate report (\$1,250), and estimated annual CDA expenses. The administrative expense budget for subsequent years is based on the original estimate of the annual administrative expenses of the CDA. A contingency of \$10,000 is also included as part of the annual CDA expense fund budget in the event of delinquencies and unexpected expenses.

Supervisor Hess advised there were a lot of worthy organizations on this list, but we need to re-examine them in light of today's conditions. He concluded by saying it would behoove us to ensure we give them enough notice.

Supervisor Lofton stated we are not taking anyone's lifeline away by removing funding. He went on to say not all agencies were being cut.

Supervisor Fisher stated he would like to know how the funds are being used and what services would be cut if the funding was not there.

Supervisor Collins stated he did not see any commentary regarding why the agencies were proposed to be cut. He went on to say the lack of information concerned him.

There being no further discussion, the amendment to the motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Bill M. Ewing	Aye
Christopher E. Collins	Aye
Charles S. DeHaven, Jr.	Aye
Robert A. Hess	Aye
Gene E. Fisher	Aye
Gary A. Lofton	Aye

The amended motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Bill M. Ewing	Aye
Christopher E. Collins	Aye
Charles S. DeHaven, Jr.	Aye
Robert A. Hess	Aye
Gene E. Fisher	Aye
Gary A. Lofton	Aye

10. The County Administrator provides the 2011 Frederick County Fire & Rescue Companies Audit Findings and Recommendations and requests discussion and recommendations. See attached information, p. 24. The committee recommends that each company submit a corrective action plan prior to the next scheduled donation disbursement in August 2013.

11. The County Attorney presented information on the amendment to the special assessment roll approved by the Russell 150 Community Development Authority. See attached information, p. 25-31. No action required. – **Approved**

Upon a motion by Vice-Chairman Ewing, seconded by Supervisor Lofton, the Board accepted the Term Sheet, identified as Exhibit "A" of the Municap, Inc. memorandum dated March 13, 2013 and authorized the County Administrator to sign same, on behalf of Frederick County.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Bill M. Ewing	Aye



Christopher E. Collins	Aye
Charles S. DeHaven, Jr.	Aye
Robert A. Hess	Aye
Gene E. Fisher	Aye
Gary A. Lofton	Aye

**\*\*\*Information Only\*\*\***

1. The Finance Director provides a Fund 10 Transfer report for April 2013. See attached, p. 32.
2. The Finance Director provides 4/30/13 financial statements. See attached, p. 33-43.
3. The Finance Director provides 5/19/13 General Fund fund balance report. See attached, p. 44.

**TRANSPORTATION COMMITTEE REPORT – APPROVED UNDER CONSENT AGENDA**

The Transportation Committee met on April 22, 2013 at 8:30 a.m.

<u>Members Present</u>	<u>Members Absent</u>
Chuck DeHaven (voting)	Mark Davis (liaison Middletown)
Gene Fisher (voting)	
Christopher Collins (voting)	
James Racey (voting)	
Bryon Grigsby (voting)	
Gary Oates (liaison PC)	
Lewis Boyer (liaison Stephens City)	

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

None

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

**1. Interstate, Primary, and Secondary Road Plan Updates**

The Committee reviewed this item and has recommended approval to the Board of Supervisors. This will appear as an independent item on the Board agenda because it is a public hearing item.

**2. Wakeland Manor Sign Request**

The County Administrator's office has forwarded a request from the Wakeland Manor Home Owners' Association for Children at Play signs in their neighborhood. A total of ten signs are requested. Under VDOT's new policy, these signs would be installed and maintained by Frederick County. Cost is expected to be \$300-\$400 per sign.

As the Committee considers this request, staff would note that Children at Play signs in residential areas are most appropriate around recreation areas, as opposed to more general coverage.

The Committee reviewed this item and had concerns regarding placement and volume of signs. In addition, due to the fact that the County would be responsible for installation and maintenance, they have asked staff to come up with a review process and fee structure for dealing with these requests and their associated costs.

**3. No Parking Request in Redbud Run**

Mr. Robert Pageant of the Red Bud Run Subdivision has contacted VDOT and staff to

E



MEMORANDUM

TO: Board of Supervisors

FROM: Harvey E. Strawsnyder, Jr., P.E., Director of Public Works *HEJ*

SUBJECT: Public Works and Green Advisory Committees Report for Meeting of April 29, 2014

DATE: May 1, 2014

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The Public Works and Green Advisory Committees met on Tuesday, April 29, 2014, at 8:00 a.m. All members were present. The following items were discussed:

\*\*\*Item Requiring Action\*\*\*

1. **Final Draft Stormwater/Erosion and Sediment Control Ordinance – Chapter 143 – Frederick County Code**

Mr. Joe Wilder, deputy director of public works, presented a final draft of the new stormwater/erosion and sediment control ordinance, Chapter 143, which included revisions dictated by the Virginia Department of Environmental Quality. After discussing the minor revisions, the committee unanimously endorsed the new ordinance and recommended that it be submitted to the board of supervisors for their review and approval. At the same time, the committee recommended that the current erosion and sediment control ordinance, Chapter 79, be repealed. **(Attachment 1)**

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

1. **Building Inspections Issues**

- a) **Proposed Fee Increases:** The Building Official, Mr. John Trenary, presented a brief overview of proposed changes to the current building inspection fee schedule. He indicated that a meeting has been scheduled with the Top of Virginia Building Association to discuss the proposed changes. After this meeting, staff will finalize the proposed changes and submit same to the public works committee at their next scheduled meeting. **(Attachment 2)**
- b) **Property Maintenance Inspections in Stephens City:** The town of Stephens City has requested that Frederick County assume the responsibility for property maintenance inspections. To this end, they have drafted a resolution to be approved by the town council prior to formal submittal to Frederick County. The county attorney has reviewed the request and determined that Frederick County is required to honor their request. **(Attachment 3)**

2. **Update on New Round Hill Fire Station and Event Center**

Staff indicated that the project for the new Roundhill Fire Station and Event Center has been



# Public Works and Green Advisory Committees Report

Page 2

May 1, 2014

advertised with a bid due date of May 15, 2014. A subsequent pre-bid meeting was held at 1:00 p.m. at the existing fire station. The attendance at the mandatory pre-bid meeting included 16 general contractors.

Mr. Gene Fisher, committee chairman, expanded the discussion of the proposed Roundhill Fire Station to include a brief evaluation of a future prototype station. He indicated that a layout of a station previously referenced as a prototype was actually a plan that had been included in a PPEA submittal. This plan had not been reviewed by staff for compliance with current fire and rescue requirements or accepted gross space allocations. He further stated that he had evaluated these space requirements with the architectural members of the committee and determined that the previously referenced plan was deficient in required space allocations. He concluded that the proposed Roundhill Station was actually more in keeping with current design standards for fire and rescue stations.

### 3. Miscellaneous Reports

- a) Tonnage Report  
**(Attachment 4)**
- b) Recycling Report  
**(Attachment 5)**
- c) Animal Shelter Dog Report  
**(Attachment 6)**
- d) Animal Shelter Cat Report  
**(Attachment 7)**

### 4. Green Advisory Committee Energy Management Update **(Attachment 8)**

Respectfully submitted,

Public Works Committee

Gene E. Fisher, Chairman

David W. Ganse

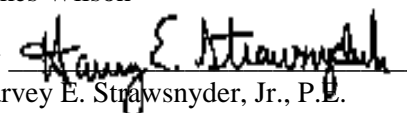
Gary Lofton

Whit L. Wagner

Robert W. Wells

James Wilson

By

  
Harvey E. Strawsnyder, Jr., P.E.  
Public Works Director

HES/rls

Attachments: as stated

cc: file

1 **Draft Stormwater/Erosion and Sediment Control Ordinance**  
2 **Frederick County, Virginia. – Proposed County Code Chapter 143**  
3 **May 7, 2014 DRAFT**

4  
5 **§ 143-100 Purpose**  
6

7 The Frederick County Board of Supervisors desires to protect the health, safety,  
8 welfare, and property of Frederick County residents and businesses, and the quality of  
9 waters within the County. The Frederick County Board of Supervisors recognizes that  
10 development tends to degrade these waters through erosion and sedimentation,  
11 increased flooding, stream channel erosion, and the transport and deposition of  
12 waterborne pollutants. This degradation is due, in part, to increased stormwater runoff  
13 as property is developed. Hence, as required by § 62.1-44.15:27 Code of Virginia and in  
14 compliance with the Virginia State Water Control Board requirements, the Frederick  
15 County Board of Supervisors has determined that it is in the public interest to establish  
16 requirements which regulate the discharge of stormwater runoff from developments by  
17 integrating hydrologic and water quality functions into all aspects of a development's  
18 design, landscape and infrastructure.

19 A. The purpose of this ordinance is to establish minimum stormwater management  
20 and erosion and sediment control requirements which:

- 21 1. Reduce flood damage to property; minimize the impacts of increased  
22 stormwater runoff from new land development;
- 23 2. Maintain the hydraulic adequacy of existing and proposed culverts,  
24 bridges, dams, and other structures;
- 25 3. Prevent, to the greatest extent feasible, an increase in nonpoint source  
26 pollution;
- 27 4. Maintain the integrity of stream channels for their biological functions and  
28 drainage;
- 29 5. Maintain natural drainage patterns to the extent practicable in order to  
30 promote existing hydrologic processes;
- 31 6. Promote infiltration of stormwater to recharge groundwater resources;
- 32 7. Minimize the impact of development upon stream erosion;
- 33 8. Preserve and protect water supply facilities from increased flood  
34 discharges, stream erosion, and nonpoint source pollution;
- 35 9. Establish provisions for long-term responsibility for and maintenance of  
36 stormwater management control devices and techniques to manage the  
37 quality and quantity of stormwater runoff; and
- 38 10. Provide effective control of soil erosion and sediment deposition and to  
39 prevent the unreasonable degradation of properties, stream channels,  
40 waters and other natural resources.

41 B. This chapter supplements and is to be applied in conjunction with Frederick  
42 County building code, subdivision, and zoning ordinances as they apply to the  
43 development or subdivision of land within the county.  
44  
45  
46

47 **§ 143-105 Authority**  
48

- 49 A. This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article  
50 2.4 (§ 62.1-44.15.51 et seq.), known as the Virginia Erosion and Sediment  
51 Control Law; and Title 62.1, Chapter 3.1, Article 2.3 (§62.1-44.15.24 et seq.),  
52 known as the Virginia Stormwater Management Act.  
53 B. Pursuant to the Code of Virginia § 62.1-44.15:54, the Frederick County Public  
54 Works Department is designated as a Virginia Erosion and Sediment Control  
55 Program (VESCP) Authority to operate a Virginia Erosion and Sediment Control  
56 Program.  
57 C. Pursuant to the Code of Virginia § 62.1-44.15:27, the Frederick County Public  
58 Works Department is designated as a Virginia Stormwater Management Program  
59 (VSMP) authority to operate a Virginia Stormwater Management Program in  
60 compliance with all required elements hereto.  
61 D. The Frederick County Public Works Department shall issue V.S.M.P. and  
62 Erosion and Sediment Control land disturbance permits and operate stormwater  
63 programs for the Towns of Middletown and Stephens City.  
64

65 **Reference: Va. Code § 62.1-44.15:27; 62.1-44.15.54**  
66

67 **§ 143-110 Definitions**  
68

69 In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater  
70 Management Program Permit (VSMP) Regulations, 9VAC25-840-10 of the Virginia  
71 Erosion and Sediment Control (VESC) Regulations, and 9VAC25-850-10 of the Virginia  
72 Erosion and Sediment Control and Stormwater Management Certification (VSMC)  
73 Regulations, which are expressly adopted and incorporated herein by reference, the  
74 following words and terms used in this chapter have the following meanings unless the  
75 context clearly indicates otherwise.  
76

77 “Administrator” or “VSMP Administrator” means the Virginia Stormwater Management  
78 Program (VSMP) authority including the Frederick County Public Works Department  
79 responsible for administering the VSMP on behalf of Frederick County, Virginia.  
80

81 “Agreement in lieu of plan” means a contract between the plan-approving authority and  
82 the owner that specifies conservation measures that must be implemented in the  
83 construction of a single-family residence. This contract may be executed by the plan-  
84 approving authority in lieu of a formal site plan for the residence  
85

86 “Agreement in lieu of a stormwater management plan” means a contract between the  
87 VSMP authority and the owner or permittee that specifies methods that shall be  
88 implemented to comply with the requirements of a VSMP for the construction of a single  
89 family residence; such contract may be executed by the VSMP authority in lieu of a  
90 stormwater plan.  
91

92 "Applicant" means any person submitting an application for a permit or requesting  
93 issuance of a permit under this chapter.  
94

95 "Best management practice" or "BMP" means schedules of activities, prohibitions of  
96 practices, including both structural and nonstructural practices, maintenance  
97 procedures, and other management practices to prevent or reduce the pollution of  
98 surface waters and groundwater systems from the impacts of land-disturbing activities.  
99

100 "Best management practice implementation plan" or "BMP Implementation Plan" is a  
101 site specific design plan for the implementation of BMP facilities on an individual single  
102 family lot or other parcel with less than one acre of land disturbance within a larger  
103 common plan of development. The BMP Implementation Plan provides detailed  
104 information on the implementation of the SWM pollutant load and volume reduction  
105 BMP and other requirements for the individual lot or parcel as detailed in the SWPPP  
106 and SWM plans of the VSMP Permit for the larger common plan of development.  
107

108 "Board" means the Virginia State Water Control Board.  
109

110 "Channel" means a natural or manmade waterway.  
111

112 "Certificate of Competence" means a certificate of competence, issued to an individual  
113 from the Board, or successful completion, within one year after enrollment, of the  
114 Board's training program for

- 115 i) project inspection for ESC;
- 116 ii) project inspection for SWM;
- 117 iii) plan review for ESC, or is licensed as a professional engineer, architect,  
118 certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et  
119 seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;
- 120 iv) plan review for SWM;
- 121 v) program administration for ESC;
- 122 vi) program administration for SWM; or
- 123 vii) responsible land disturber, or is licensed as a professional engineer,  
124 architect, certified landscape architect or land surveyor pursuant to Article 1 (§  
125 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.  
126

127 "Clean Water Act" means " or "CWA" means the federal Clean Water Act (33 USC  
128 §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or  
129 Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as  
130 amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law  
131 97-117, or any subsequent revisions thereto.  
132

133 "Commencement of land disturbance" means the initial disturbance of soils associated  
134 with clearing, grading, or excavating activities or other construction activities (e.g.  
135 stockpiling of soil fill material).  
136

137 "Common plan of development" means the contiguous area of a proposed residential,  
138 commercial, or industrial subdivision where the timing of the development of any one or  
139 multiple lots or parcels may result in separate and distinct construction activities taking  
140 place at different times on different schedules.

141  
142 "Control measure" means any best management practice or stormwater facility other  
143 method used to prevent or reduce the discharge of pollutants to surface waters.

144  
145 "Department" means the Department of Environmental Quality.

146  
147 "Design Storm" for purposes of addressing quantity control provisions of § 143-165(E)  
148 means the one-year, two-year, 10-year, 24 hour design storms as defined in § 143-145.  
149 The design storm for purposes of complying with the water quality provisions of § 143-  
150 165(C) is the one-inch rainfall depth as applied with the "Virginia Runoff Reduction  
151 Method" as identified by 9VAC25-870-65.

152  
153 "Development" means land disturbance and the resulting landform associated with the  
154 construction of residential, commercial, industrial, institutional, recreation, transportation  
155 or utility facilities or structures or the clearing of land for non-agricultural or non-  
156 silvicultural purposes.

157  
158 "Director" means the Director of the Department of Environmental Quality or assigned  
159 designee.

160  
161 "Drainage area" means a land area, water area, or both from which runoff flows to a  
162 common point.

163  
164 "Erosion and Sediment Control (ESC) Plan" or "plan", means a document containing  
165 material for the conservation of soil and water resources of a unit or group of units of  
166 land. It may include appropriate maps, an appropriate soil and water plan inventory and  
167 management information with needed interpretations, and a record of decisions  
168 contributing to conservation treatment. The plan shall contain all major conservation  
169 decisions and all information deemed necessary by the plan-approving authority to  
170 assure that the entire unit or units of land will be so treated to achieve the conservation  
171 objectives.

172  
173 "Erosion control handbook" means the Virginia Erosion and Sediment Control handbook  
174 and/ or a locally adopted erosion and sediment control handbook with such  
175 amendments, modifications and supplements as may, from time to time, be properly  
176 adopted.

177  
178 "Erosion impact area" means an area of land not associated with current land-disturbing  
179 activity but subject to persistent soil erosion resulting in the delivery of sediment onto  
180 neighboring properties or into state waters. This definition shall not apply to any lot or  
181 parcel of land of 10,000 square feet or less used for residential purposes or to  
182 shorelines where the erosion results from wave action or other coastal processes.

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“Excavating” means any digging, scooping or other methods of removing earth materials.

“Filling” means any depositing or stockpiling of earth materials.

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.
2. For individual lots in residential construction, final stabilization can occur by either:
  - a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
  - b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes, but is not limited to, the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include,

228 but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian  
229 buffers, or other areas adjacent to the main channel.

230  
231 "Floodway" means the channel of a river or other watercourse and the adjacent land  
232 areas, usually associated with flowing water, that must be reserved in order to  
233 discharge the 100-year flood or storm event without cumulatively increasing the water  
234 surface elevation more than one foot. This includes, but is not limited to, the floodway  
235 designated by the Federal Emergency Management Agency.

236  
237 "General permit" means a state permit authorizing a category of discharges under the  
238 CWA and the Act within a geographical area

239  
240 "Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent  
241 version of Virginia's 6th Order National Watershed Boundary Dataset.

242  
243 "Immediately" means as soon as practicable, but no later than that end of the next work  
244 day, following the day when the land-disturbing activities have temporarily or  
245 permanently ceased. In the context of this permit, "immediately" is used to define the  
246 deadline for initiating stabilization measures.

247  
248 "Impaired waters" means surface waters identified as impaired on the 2010 §  
249 305(b)/303(d) Water Quality Assessment Integrated Report.

250  
251 "Impervious cover" means a surface composed of material that significantly impedes or  
252 prevents natural infiltration of water into soil.

253  
254 "Infeasible" means not technologically possible or not economically practicable and  
255 achievable in light of best industry practices.

256  
257 "Initiation of stabilization activities" means:

- 258 1. Prepping the soil for vegetative or non-vegetative stabilization;
- 259 2. Applying mulch or other non-vegetative product to the exposed area;
- 260 3. Seeding or planting the exposed area;
- 261 4. Starting any of the above activities on a portion of the area to be stabilized, but  
262 not on the entire area; or
- 263 5. Finalizing arrangements to have the stabilization product fully installed in  
264 compliance with the applicable deadline for completing stabilization.

265  
266 "Inspection" means an on-site review of the project's compliance with the VSMP  
267 Authority Land-Disturbing Permit or VSMP Authority permit, and any applicable design  
268 criteria, or an on-site review to obtain information or conduct surveys or investigations  
269 necessary in the implementation or enforcement of this ordinance.

270

271 "Karst area" means any land area predominantly underlain at the surface or shallow  
272 subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious  
273 surface karst features.  
274  
275 "Karst features" means sinkholes, sinking and losing streams, caves, large flow springs,  
276 and other such landscape features found in karst areas.  
277  
278 "Land disturbance" or "Land-disturbing activity" means any man-made change to the  
279 land surface that potentially changes its runoff characteristics, including, but not limited  
280 to clearing, grading, or excavation, except that the term shall not include those  
281 exemptions specified in § 62.1-44.15:34 and § 62.1-44.15:51, Code of Virginia and in  
282 this ordinance.  
283  
284 "Layout" means a conceptual drawing sufficient to provide for the specified stormwater  
285 management facilities required at the time of approval.  
286  
287 "Localized flooding" means smaller scale flooding that may occur outside of a  
288 stormwater conveyance system. This may include high water, ponding, or standing  
289 water from stormwater runoff, which is likely to cause property damage or unsafe  
290 conditions.  
291  
292 "Main channel" means the portion of the stormwater conveyance system that contains  
293 the base flow and small frequent storm events.  
294  
295 "Major modification" means, for the purposes of this chapter, the modification or  
296 amendment of an existing state permit before its expiration that is not a minor  
297 modification as defined in this regulation.  
298  
299 "Manmade" means constructed by man.  
300  
301 "Measurable storm event" means a storm event resulting in an actual discharge from  
302 the construction site.  
303  
304 "Minor modification" means, for the purposes of this chapter, minor modification or  
305 amendment of an existing state permit before its expiration for the reasons listed at 40  
306 CFR 122.63 and as specified in 9VAC25-870-640. Minor modification for the purposes  
307 of this chapter also means other modifications and amendments not requiring extensive  
308 review and evaluation including, but not limited to, changes in EPA promulgated test  
309 protocols, increasing monitoring frequency requirements, changes in sampling  
310 locations, and changes to compliance dates within the overall compliance schedules. A  
311 minor state permit modification or amendment does not substantially alter state permit  
312 conditions, substantially increase or decrease the amount of surface water impacts,  
313 increase the size of the operation, or reduce the capacity of the facility to protect human  
314 health or the environment.  
315



316 "Natural channel design concepts" means the utilization of engineering analysis based  
317 on fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open  
318 conveyance system for the purpose of creating or recreating a stream that conveys its  
319 bank full storm event within its banks and allows larger flows to access its floodplain.  
320  
321 "Natural stream" means a tidal or non-tidal watercourse that is part of the natural  
322 topography. It usually maintains a continuous or seasonal flow during the year and is  
323 characterized as being irregular in cross-section with a meandering course. Constructed  
324 channels such as drainage ditches or swales shall not be considered natural streams;  
325 however, channels designed utilizing natural channel design concepts may be  
326 considered natural streams.  
327  
328 "Operator" means the owner or operator of any facility or activity subject to regulation  
329 under this Ordinance.  
330  
331 "Peak flow rate" means the maximum instantaneous flow from a prescribed design  
332 storm at a particular location.  
333  
334 "Percent impervious" means the impervious area within the site divided by the area of  
335 the site multiplied by 100.  
336  
337 "Permit" or "VSMP authority permit" means an approval to conduct a land-disturbing  
338 activity issued by the Frederick County Public Works Department, the permit-issuing  
339 VSMP authority, for the initiation of a land-disturbing activity after evidence of coverage  
340 under the General Permit for Discharges of Stormwater from Construction Activities  
341 found in (9VAC25-880 et seq.) of the Virginia Stormwater Management Program  
342 Regulations has been provided. A person shall not conduct any land disturbing activity  
343 until he has submitted a permit application to the VSMP authority that includes a state  
344 VSMP permit registration statement, if such statement is required, a stormwater  
345 management plan or an executed agreement in lieu of a stormwater plan, and has  
346 obtained VSMP authority approval to begin land disturbance.  
347  
348 "Permittee" means the person to whom the Permit is issued.  
349  
350 "Person" means any individual, corporation, partnership, association, state, municipality,  
351 commission, or political subdivision of a state, governmental body, including federal,  
352 state, or local entity as applicable, any interstate body or any other legal entity.  
353  
354 "Point of discharge" means a location at which concentrated stormwater runoff is  
355 released.  
356  
357 "Post development" refers to conditions that reasonably may be expected or anticipated  
358 to exist after completion of the land development activity on a specific site.  
359  
360 "Predevelopment" refers to the conditions that exist at the time that plans for the land  
361 development of a tract of land are submitted to the plan approval VSMP authority.

362 Where phased development or plan approval occurs (preliminary grading, demolition of  
363 existing structures, roads and utilities, etc.), the existing conditions at the time prior to  
364 the first item being submitted shall establish predevelopment conditions.  
365

366 "Prior developed lands" means land that has been previously utilized for residential,  
367 commercial, industrial, institutional, recreation, transportation or utility facilities or  
368 structures, and that will have the impervious areas associated with those uses altered  
369 during a land-disturbing activity.  
370

371 "Qualified personnel" means a person knowledgeable in the principles and practices of  
372 erosion and sediment and stormwater management controls who possesses the skills to  
373 assess conditions at the construction site for the operator that could impact stormwater  
374 quality and quantity and to assess the effectiveness of any sediment and erosion control  
375 measures or stormwater management facilities selected to control the quality and  
376 quantity of stormwater discharges from the construction activity.  
377

378 "Regulations" means the Virginia Stormwater Management Program (VSMP) Permit  
379 Regulations, 9VAC25-870-10, et seq, as amended, and/or the Virginia Erosion and  
380 Sediment Control Regulations 9VAC25-840-10, et seq, as amended.  
381

382 "Responsible land disturber" means an individual from the project or development team,  
383 who will be in charge and responsible for carrying out a land-disturbing activity covered  
384 by an agreement in lieu of a plan, when applicable, or an approved erosion and  
385 sediment control plan , who (i) holds a certificate of competence as a responsible land  
386 disturber, or (ii) holds a current certificate of competence from the Board in the area of  
387 inspection, or (iii) holds a current contractor certificate of competence for erosion and  
388 sediment control, or (iv) is licensed in Virginia as a professional engineer, architect,  
389 certified landscape architect or land surveyor pursuant to Section 54.1-400 et seq. of  
390 Chapter 4 of Title 54.1 of the Code of Virginia.  
391

392 "Runoff" or "stormwater runoff" means that portion of precipitation that is discharged  
393 across the land surface or through conveyances to one or more waterways.  
394

395 "Runoff characteristics" include maximum velocity, peak flow rate, volume, and flow  
396 duration.  
397

398 "Runoff volume" means the volume of water that runs off the site from a prescribed  
399 design storm.  
400

401 "Single-family residence" means a non-commercial dwelling that is occupied exclusively  
402 by one family.  
403

404 "Site" means the land or water area where any facility or activity is physically located or  
405 conducted, a parcel of land being developed, or a designated area of a parcel in which  
406 the land development project is located. Also, means the land or water area where any

407 facility or land-disturbing activity is physically located or conducted, including adjacent  
408 land used or preserved in connection with the facility or land-disturbing activity.

409  
410 "Site hydrology" means the movement of water on, across, through and off the site as  
411 determined by parameters including, but not limited to, soil types, soil permeability,  
412 vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

413  
414 "State" means the Commonwealth of Virginia.

415  
416 State permit" means an approval to conduct a land-disturbing activity issued by the  
417 board in the form of a state stormwater individual permit or coverage issued under a  
418 state general permit or an approval issued by the board for stormwater discharges from  
419 an MS4. Under these state permits, the Commonwealth imposes and enforces  
420 requirements pursuant to the federal Clean Water Act and regulations, the Act and this  
421 chapter. As the mechanism that imposes and enforces requirements pursuant to the  
422 federal Clean Water Act and regulations, a state permit for stormwater discharges from  
423 an MS4 and, after June 30, 2014, a state permit for conducting a land-disturbing activity  
424 issued pursuant to the Act, are also types of Virginia Pollutant Discharge Elimination  
425 System (VPDES) Permits. State permit does not include any state permit that has not  
426 yet been the subject of final board action, such as a draft state permit. Approvals issued  
427 pursuant to this chapter, 9VAC25-880, and 9VAC25-890 are not issuances of a permit  
428 under § 62.1-44.15.01 of the Code of Virginia.

429  
430 "State waters" means all water, on the surface and under the ground, wholly or partially  
431 within or bordering the Commonwealth or within its jurisdiction, including wetlands.

432  
433 "Stormwater" means precipitation that is discharged across the land surface or through  
434 conveyances to one or more waterways and that may include stormwater runoff, snow  
435 melt runoff, and surface runoff and drainage.

436  
437 "Stormwater conveyance system" means a combination of drainage components that  
438 are used to convey stormwater discharge, either within or downstream of the land-  
439 disturbing activity. This includes:

- 440 1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated  
441 swale, or other stormwater conveyance system constructed by man except for  
442 restored stormwater conveyance systems;  
443 2. "Natural stormwater conveyance system" means the main channel of a natural  
444 stream and the flood-prone area adjacent to the main channel; or  
445 3. "Restored stormwater conveyance system" means a stormwater conveyance  
446 system that has been designed and constructed using natural channel design  
447 concepts. Restored stormwater conveyance systems include the main channel  
448 and the flood-prone area adjacent to the main channel.

449  
450 "Stormwater discharge associated with construction activity" means a discharge of  
451 stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or  
452 excavation), construction materials or equipment storage or maintenance (e.g., fill piles,

453 borrow area, concrete truck washout, fueling), or other industrial stormwater directly  
454 related to the construction process (e.g., concrete or asphalt batch plants) are located.  
455

456 "Stormwater management facility" means a control measure that controls stormwater  
457 runoff and changes the characteristics of that runoff including, but not limited to, the  
458 quantity and quality, the period of release or the velocity of flow.  
459

460 "Stormwater management plan" means a document(s) containing material for  
461 describing methods for complying with the requirements of this ordinance and the  
462 VSMP Permit regulations.  
463

464 "Stormwater management concept plan" means a document(s) developed at the  
465 preliminary plan, zoning, or other stage of the development process that establishes the  
466 initial layout of the development along with sufficient information to ensure that the final  
467 development stormwater management plan will comply with this ordinance.  
468

469 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is  
470 prepared in accordance with good engineering practices and that identifies potential  
471 sources of pollutants that may reasonably be expected to affect the quality of  
472 stormwater discharges from the construction site. In addition the document shall identify  
473 and require the implementation of control measures, and shall include, but not be  
474 limited to the inclusion of, and/ or the incorporation by reference of an approved erosion  
475 and sediment control plan, an approved stormwater management plan, and a pollution  
476 prevention plan.  
477

478 "Stormwater Pollution Prevention Plan Template" or "SWPPP Template" means a  
479 document intended to be used for single family residential construction land-disturbing  
480 activity that disturbs less than one acre of land and is part of a larger common plan of  
481 development to identify all applicable requirements of the SWPPP that was developed  
482 for the larger common plan of development.  
483

484 "Subdivision" means the same as defined in the Frederick County Subdivision  
485 Ordinance (Chapter 144 of Frederick County, Virginia Code).  
486

487 "Surface waters" means:

- 488 1. All waters that are currently used, were used in the past, or may be  
489 susceptible to use in interstate or foreign commerce, including all waters that are  
490 subject to the ebb and flow of the tide;
- 491 2. All interstate waters, including interstate wetlands;
- 492 3. All other waters such as intrastate lakes, rivers, streams (including intermittent  
493 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows,  
494 playa lakes, or natural ponds the use, degradation, or destruction of which would  
495 affect or could affect interstate or foreign commerce including any such waters:
  - 496 a. That is used or could be used by interstate or foreign travelers for  
497 recreational or other purposes;

- 498                   b. From which fish or shellfish are or could be taken and sold in interstate  
499                   or foreign commerce; or  
500                   c. That is used or could be used for industrial purposes by industries in  
501                   interstate commerce.
- 502           4. All impoundments of waters otherwise defined as surface waters under this  
503           definition;  
504           5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;  
505           6. The territorial sea; and  
506           7. Wetlands adjacent to waters (other than waters that are themselves wetlands)  
507           identified in subdivisions 1 through 6 of this definition.  
508

509 "Total maximum daily load" or "TMDL" means the sum of the individual wasteload  
510 allocations for point sources, load allocations for nonpoint sources, natural background  
511 loading and a margin of safety. TMDLs can be expressed in terms of either mass per  
512 time, toxicity, or other appropriate measure. The TMDL process provides for point  
513 versus nonpoint source trade-offs.  
514

515 Virginia Erosion and Sediment Control Program (VESCP) land disturbance or VESCP  
516 land-disturbing activity means any man-made change to the land surface that may result  
517 in soil erosion from water or wind and the movement of sediments into state waters or  
518 onto lands in the Commonwealth, including, but not limited to, clearing, grading,  
519 excavating, transporting and filling of land, except that the term shall not include:

- 520           1. Minor land-disturbing activities such as home gardens and individual home  
521           landscaping, repairs and maintenance work;
- 522           2. Individual service connections;
- 523           3. Installation, maintenance, or repair of any underground public utility lines when  
524           such activity occurs on an existing hard surfaced road, street or sidewalk  
525           provided the land-disturbing activity is confined to the area of the road, street or  
526           sidewalk that is hard surfaced;
- 527           4. Septic tank lines or drainage fields unless included in an overall plan for land-  
528           disturbing activity relating to construction of the building to be served by the  
529           septic tank system;
- 530           5. Permitted surface or deep mining operations and projects, or oil and gas  
531           operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
- 532           6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops,  
533           livestock feedlot operations, or as additionally set forth by the Board in regulation,  
534           including engineering operations as follows: construction of terraces, terrace  
535           outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister  
536           furrowing, contour cultivating, contour furrowing, land drainage and land  
537           irrigation; however, this exception shall not apply to harvesting of forest crops  
538           unless the area on which harvesting occurs is reforested artificially or naturally in  
539           accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1  
540           of the Code of Virginia or is converted to bona fide agricultural or improved  
541           pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia;
- 542           7. Repair or rebuilding of the tracks, right-of-way, bridges, communication  
543           facilities and other related structures and facilities of a railroad company;

- 544 8. Agricultural engineering operations, including but not limited to the  
545 construction of terraces, terrace outlets, check dams, desilting basins, dikes,  
546 ponds not required to comply with the provisions of the Dam Safety Act, Article 2  
547 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia, ditches,  
548 strip cropping, lister furrowing, contour cultivating, contour furrowing, land  
549 drainage and land irrigation;
- 550 9. Disturbed land areas of less than 10,000 square feet in size; however, the  
551 governing body of the program authority may reduce this exception to a smaller  
552 area of disturbed land or qualify the conditions under which this exception shall  
553 apply;
- 554 10. Installation of fence and sign posts or telephone and electric poles and other  
555 kinds of posts or poles;
- 556 11. Shoreline erosion control projects on tidal waters when all of the land-  
557 disturbing activities are within the regulatory authority of and approved by local  
558 wetlands boards, the Marine Resources Commission or the United States Army  
559 Corps of Engineers; however, any associated land that is disturbed outside of  
560 this exempted area shall remain subject to this chapter and the regulations  
561 adopted pursuant thereto; and
- 562 12. Emergency work to protect life, limb or property, and emergency repairs;  
563 however, if the land-disturbing activity would have required an approved erosion  
564 and sediment control plan, if the activity were not an emergency, then the land  
565 area disturbed shall be shaped and stabilized in accordance with the  
566 requirements of the *VESCP* authority.

567  
568 “Virginia Stormwater Management Act” or “Act” means Article 2.3 (§62.1-44.15:24 et  
569 seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

570  
571 “Virginia Stormwater BMP Clearinghouse website” means a website that contains  
572 detailed design standards and specifications for control measures that may be used in  
573 Virginia to comply with the requirements of the Virginia Stormwater Management Act  
574 and associated regulations.

575  
576 “Virginia Stormwater Management Handbook” means a collection of pertinent  
577 information that provides general guidance for compliance with the Act and associated  
578 regulations and is developed by the Department with advice from a stakeholder  
579 advisory committee.

580  
581 “Virginia Stormwater Management Program” or “VSMP” means the program established  
582 by Frederick County and approved by the Board to manage the quality and quantity of  
583 runoff resulting from land-disturbing activities and includes Frederick County’s local  
584 ordinance and requirements for plan review, inspection, enforcement, permit  
585 requirements, policies and guidelines, and technical materials.

586  
587 “Virginia Stormwater Management Program authority” or “VSMP authority means a  
588 program approved by the board after September 13, 2011, that has been established by  
589 a VSMP authority to manage the quality and quantity of runoff resulting from land-

590 disturbing activities and shall include such items as local ordinances, rules, permit  
591 requirements, annual standards and specifications, policies and guidelines, technical  
592 materials, and requirements for plan review, inspection, enforcement, where authorized  
593 in the Act and associated regulations, and evaluation consistent with the requirements  
594 of the SWM Act and associated regulations.  
595

596 “Virginia Stormwater Management Program (VSMP) land disturbance” or “VSMP land-  
597 disturbing activity” means a manmade change to the land surface that potentially  
598 changes its runoff characteristics including clearing, grading, or excavation, except that  
599 the term shall not include:

- 600 1. Permitted surface or deep mining operations and projects, or oil and gas  
601 operations and projects conducted under the provisions of Title 45.1 of the Code  
602 of Virginia;
- 603 2. Clearing of lands specifically for agricultural purposes and the management,  
604 tilling, planting, or harvesting of agricultural, horticultural, or forest crops,  
605 livestock feedlot operations, or as additionally set forth by the Board in  
606 regulations, including engineering operations as follows: construction of terraces,  
607 terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip  
608 cropping, lister furrowing, contour cultivating, contour furrowing, land drainage,  
609 and land irrigation; however, this exception shall not apply to harvesting of forest  
610 crops unless the area on which harvesting occurs is reforested artificially or  
611 naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of  
612 Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or  
613 improved pasture use as described in subsection B of § 10.1-1163 of the Code of  
614 Virginia;
- 615 3. Single-family residences separately built and disturbing less than one acre and  
616 not part of a larger common plan of development or sale, including additions or  
617 modifications to existing single-family detached residential structures;
- 618 4. Land-disturbing activities that disturb less than one acre of land area except  
619 for activities that are part of a larger common plan of development or sale that is  
620 one acre or greater of disturbance; however, the governing body of any locality  
621 that administers a VSMP may reduce this exception to a smaller area of  
622 disturbed land or qualify the conditions under which this exception shall apply;
- 623 5. Discharges to a sanitary sewer or a combined sewer system;
- 624 6. Activities under a State of federal reclamation program to return an abandoned  
625 property to an agricultural or open land use;
- 626 7. Routine maintenance that is performed to maintain the original line and grade,  
627 hydraulic capacity, or original construction of the project. The paving of an  
628 existing road with a compacted or impervious surface and reestablishment of  
629 existing associated ditches and shoulders shall be deemed routine maintenance  
630 if performed in accordance with this subsection;
- 631 8. Conducting land-disturbing activities in response to a public emergency where  
632 the related work requires immediate authorization to avoid imminent  
633 endangerment to human health or the environment. In such situations, the VSMP  
634 authority shall be advised of the disturbance within seven days of commencing  
635 the land-disturbing activity and compliance with the administrative requirements

636 of subsection A, including a registration statement that substantiates the  
637 occurrence of an emergency, is required within 30 days of commencing the land-  
638 disturbing activity.

639  
640 "VSMP Construction General Permit" or "Construction General Permit" means the  
641 General Permit for Discharges of Stormwater from Construction Activities found in  
642 9VAC25-880 of the Virginia Stormwater Management Program Regulations.

643  
644 "Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface  
645 water's loading or assimilative capacity allocated to one of its existing or future point  
646 sources of pollution. WLAs are a type of water quality-based effluent limitation.

647  
648 "Watershed" means a defined land area drained by a river or stream, karst system, or  
649 system of connecting rivers or streams such that all surface water within the area flows  
650 through a single outlet. In karst areas, the karst feature to which the water drains may  
651 be considered the single outlet for the watershed.

652  
653 "Wetlands" means those areas that are inundated or saturated by surface or  
654 groundwater at a frequency and duration sufficient to support, and that under normal  
655 circumstances do support, a prevalence of vegetation typically adapted for life in  
656 saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and  
657 similar areas.

658  
659 **§ 143-125 Permits Required and Exemptions**

660  
661 A. No person shall conduct a VESCP land-disturbing activity as defined in the §  
662 143-110 until a Frederick County land disturbing permit has been obtained from  
663 the Administrator.

664  
665 Reference: § 62.1-44.15:55

666  
667 B. No person shall conduct a VSMP land disturbing activity as defined in the § 143-  
668 110 until a Frederick County land disturbing-permit as required in item A and a  
669 VSMP authority permit has been obtained from the Administrator.

670  
671 Reference: § 62.1-44.15:34(A)

672  
673 **§ 143-130 Permit Application**

674  
675 A. Prior to issuance of a Frederick County land disturbing permit for a VESCP land  
676 disturbing activity, the following items must be submitted in accordance with the  
677 provisions of this chapter and approved:

- 678 1. Frederick County land disturbing permit application;  
679 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required  
680 elements applicable to a VESCP land disturbing activity;



- 681 3. An erosion and sediment control plan and narrative to comply with Virginia  
682 erosion and sediment control requirements and Frederick County erosion and  
683 sediment control requirements as outlined in this regulation.  
684 4. The performance bond(s) in compliance with § 143-240 and  
685 5. The applicable permit fee.  
686

687 B. Prior to issuance of a Frederick County VSMP permit for a VSMP land disturbing  
688 activity the following items must be submitted in accordance with the provisions  
689 of this chapter and approved:

- 690 1. The requirements of land disturbing permit application of subsection A,  
691 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required  
692 elements applicable to a VSMP land disturbing activity,  
693 3. A stormwater management plan or an executed agreement in lieu of a plan  
694 that complies with Virginia stormwater requirements and Frederick County  
695 stormwater requirements as outlined in this regulation.  
696 4. A VSMP Authority permit application / registration statement, if such statement is  
697 required. A person shall not conduct any land-disturbing activity until he has  
698 submitted a permit application to the VSMP authority that includes a state VSMP  
699 permit statement, if such statement is required. A registration statement is not  
700 required for detached single-family home construction within or outside of  
701 common plan of development or sale, but such projects must adhere to the  
702 requirements of the general permit. §62.1-44.15:28.8  
703 5. All appropriate fees and  
704 6. Evidence of coverage under the state general permit for discharges from  
705 construction activities through the Virginia electronic database.  
706

707 Reference: 9VAC25-870-59; 9VAC25-870-108; 9VAC25-870-750; 62.1-44.15:34  
708

709 C. Prior to issuing coverage under an existing VSMP Authority permit for a land-  
710 disturbing activity within a common plan of development, the following items must  
711 be addressed:

- 712 1. The requirements of a Frederick County land disturbing permit application;  
713 and  
714 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required  
715 elements applicable to a VSMP land disturbing activity, or when the area of  
716 disturbance is less than one acre, a SWPPP Template and a BMP  
717 Implementation Plan consistent with the BMP performance goals of the  
718 common plan of development.  
719 3. A stormwater management plan that complies with Virginia stormwater  
720 requirements and Frederick County stormwater requirements as outlined in  
721 this regulation.  
722

723 D. Whenever a land-disturbing activity is proposed to be conducted by a contractor  
724 performing construction work pursuant to a construction contract, the preparation  
725 and submission of plans, obtaining approval of the required plans, and obtaining  
726 all required permits shall be the responsibility of the owner of the land.

727  
728 Reference: **Va. Code** § 62.1-44.15:34; 9VAC25-870-54; 9VAC25-870-108; 9VAC25-  
729 870-1170.

730  
731

732 **§ 143-145 Applicable Design Standards, Specifications and Methods**

733

734 A. The standards contained within the Virginia Erosion and Sediment Control  
735 Regulations (VESCR), the Virginia Erosion and Sediment Control Handbook  
736 (VESCH) (latest edition), the Virginia Stormwater Management Handbook  
737 (VSMH) (latest edition), and any additional guidance provided by the VSMP  
738 Authority are to be used by the applicant in the preparation and submission of an  
739 erosion and sediment control plan, and by the VSMP Authority in considering the  
740 adequacy of a plan submittal. When the standards vary between the publications,  
741 the state regulations shall take precedence.

742

743 B. The latest approved version of BMPs found on the Virginia Stormwater BMP  
744 Clearinghouse Website shall be utilized to effectively reduce the pollutant load  
745 and runoff volume as required in this chapter in accordance with the Virginia  
746 Runoff Reduction Method.

747

748 Reference: 9VAC25-870-65

749

750 C. The erosion and sediment control plan and stormwater management plan shall  
751 consider all sources of surface runoff and all sources of subsurface and  
752 groundwater flows converted to surface run-off.

753

754 Reference: 9VAC25-870-55 (A)

755

756 D. Proposed residential, commercial, or industrial subdivisions shall apply these  
757 stormwater management criteria to the development project as a whole.  
758 Individual lots or parcels shall not be considered separate development projects,  
759 but rather the entire subdivision shall be considered a single development  
760 project. Hydrologic parameters shall reflect the ultimate development and shall  
761 be used in all engineering calculations. Implementation of the plan may be  
762 phased or carried out by individual or separate applicants as referenced in  
763 § 143-130(C).

764

765 E. Unless otherwise specified, the following shall apply to the hydrologic  
766 computations of this section:

767

768 1. The prescribed design storms are the one-year, two-year, and 10-year 24-  
769 hour storms using the site-specific rainfall precipitation frequency data  
770 recommended by the U.S. National Oceanic and Atmospheric Administration  
(NOAA) Atlas 14 and provided in the VA SWM Handbook.

- 771 2. All hydrologic analyses shall be based on the existing watershed  
772 characteristics and how the ultimate development condition of the subject  
773 project will be addressed.
- 774 3. The U.S. Department of Agriculture's Natural Resources Conservation  
775 Service (NRCS) synthetic 24-hour rainfall distribution and models, including,  
776 but not limited to TR-55 and TR-20, hydrologic and hydraulic methods  
777 developed by the U.S. Army Corps of Engineers, or other NRCS standard  
778 hydrologic and hydraulic methods, shall be used to conduct the analyses  
779 described in this part.
- 780 4. For purposes of computing predevelopment runoff, all pervious lands on the  
781 site shall be assumed to be in good hydrologic condition in accordance with  
782 the U.S. Department of Agriculture's Natural Resources Conservation Service  
783 (NRCS) standards, regardless of conditions existing at the time of  
784 computation.
- 785 5. Predevelopment and post development runoff characteristics and site  
786 hydrology shall be verified by site inspections, topographic surveys, available  
787 soil mapping or studies, and calculations consistent with good engineering  
788 practices. Guidance provided in the Virginia Stormwater Management  
789 Handbook and by the Virginia Stormwater BMP Clearinghouse shall be  
790 considered appropriate practices.  
791 Reference: 9VAC25-870-72
- 792 6. All proposed sediment control or stormwater impounding structures shall be  
793 designed in accordance with State standards.  
794  
795 Reference: 9VAC25-870-85

796  
797 **§ 143-148 Grandfathering provisions**  
798

799 A. Any land-disturbing activity shall be considered grandfathered by the VSMP authority  
800 and shall be subject to the Part II C (9VAC25-870-93 et seq.) technical criteria of this  
801 chapter provided:

- 802
- 803 1. A proffered or conditional zoning plan, zoning with a plan of development, preliminary  
804 or final subdivision plat, preliminary or final site plan, or any document determined by  
805 the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012,  
806 (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C  
807 technical criteria of this chapter, and (iv) has not been subsequently modified or  
808 amended in a manner resulting in an increase in the amount of phosphorus leaving  
809 each point of discharge, and such that there is no increase in the volume or rate of  
810 runoff;
- 811
- 812 2. A state permit has not been issued prior to July 1, 2014; and
- 813
- 814 3. Land disturbance did not commence prior to July 1, 2014.  
815

816 B. Locality, state, and federal projects shall be considered grandfathered by the VSMP  
817 authority and shall be subject to the Part II C technical criteria of this chapter provided:  
818

819 1. There has been an obligation of locality, state, or federal funding, in whole or in part,  
820 prior to July 1, 2012, or the department has approved a stormwater management plan  
821 prior to July 1, 2012;  
822

823 2. A state permit has not been issued prior to July 1, 2014; and  
824

825 3. Land disturbance did not commence prior to July 1, 2014.  
826

827 C. Land disturbing activities grandfathered under subsections A and B of this section  
828 shall remain subject to the Part II C technical criteria of this chapter for one additional  
829 state permit cycle. After such time, portions of the project not under construction shall  
830 become subject to any new technical criteria adopted by the board.  
831

832 D. In cases where governmental bonding or public debt financing has been issued for a  
833 project prior to July 1, 2012, such project shall be subject to the technical criteria of Part  
834 II C.  
835

836 E. Nothing in this section shall preclude an operator from constructing to a more  
837 stringent standard at his discretion.  
838

839 References: 9VAC25-870-48, § 62.1-44.15:25,62.1-44.15:28  
840

## 841 **§ 143-150 Stormwater Pollution Prevention Plan Components and Applicability** 842

843 For each of the following activities as may be relevant, a Stormwater Pollution  
844 Prevention Plan (SWPPP) shall contain the indicated components:

845 A. VESCP Land-Disturbing Activities:

- 846 1. General SWPPP requirements as described in **§ 143-155; and**  
847 2. An erosion and sediment control (ESC) plan or if single family residential  
848 construction an agreement in lieu of an ESC plan as described in **§ 143-160;**  
849

850 B. VSMP Land-Disturbing Activities:

- 851 1. General SWPPP requirements as described in **§ 143-155;**  
852 2. An ESC plan or if single family residential construction an agreement in lieu of  
853 an ESC plan as described in **§ 143-160;**  
854 3. A SWM plan as described in § 143-165; and  
855 4. A SWPPP plan as described in § 143-175.

856 C. VSMP Land-Disturbing Activities part of a larger Common Plan of Development  
857 shall include:

- 858 1. General SWPPP requirements as described in **§ 143-155;**  
859 2. An ESC plan or if single family residential construction an agreement in lieu of  
860 an ESC plan as described in **§ 143-160;** and  
861 3. A SWM Plan as described in § 143-165, or if less than 1 acre, a *BMP  
Implementation Plan* or a completed SWPPP Template demonstrating

862 compliance with all applicable elements of the approved SWPPP developed  
863 for the larger common plan of development.  
864 D. The requirements for a SWPPP as outlined in §9VAC25-870-54 shall be included  
865 with each plan submitted for review.  
866

867 Reference: Va. Code § 62.1-44.15:34; 9VAC25-870-53; 9VAC25-870-54; 9VAC25-870-  
868 30.; 9VAC-880-70 Section II.  
869

## 870 § 143-155 General Stormwater Pollution Prevention Plan (SWPPP) Requirements

871  
872 A. In addition to the applicable components as provided in § 143-150, a Stormwater  
873 Pollution Prevention Plan (SWPPP) shall include the following general  
874 requirements:

- 875 1. Contact information.
- 876 2. The SWPPP Certification.
- 877 3. The Operator Certification
- 878 4. Certification of Compliance with all other applicable permits necessary for  
879 activities in state waters and wetlands or appropriate waivers of jurisdiction  
880 have been obtained.

881 B. Prior to engaging in the land-disturbing activities shown on the approved plan,  
882 the person responsible for carrying out the plan shall provide the name of a  
883 Qualified Personnel to the Administrator. Failure to provide the name of an  
884 individual holding a certificate of competence prior to engaging in land-disturbing  
885 activities may result in revocation of the approval of the plan and the person  
886 responsible for carrying out the plan shall be subject to the penalties provided in  
887 § 143-225.

888 **Reference: Va. Code § 62.1-44.15.55 (B)**

889 C. The SWPPP must be maintained at a central location onsite. If an onsite location  
890 is unavailable, notice of the SWPPP's location must be posted near the main  
891 entrance at the construction site. The operator shall make SWPPP's and all  
892 updates available upon request to County personnel.

893 Reference: 9VAC25-870-54 (G)  
894

## 895 § 143-160. Erosion and Sediment Control (ESC) Plan Requirements

896  
897 A. As required in § 143-150, an erosion and sediment control plan shall be  
898 developed and referenced into the SWPPP.

899 B. The erosion and sediment control plan shall be designed to control stormwater  
900 volume and velocity within the site to minimize soil erosion and to minimize  
901 sediment discharges from the site by incorporating the following performance  
902 goals to the maximum extent practicable:

- 903 1. The area of land disturbance at any one time shall be the minimum necessary  
904 to install and/or construct the proposed site improvements.
- 905 2. The installation and/or construction of the proposed site improvements shall  
906 be phased to limit the duration of exposed soils to the minimum time needed

- 907 to construct and/or install the improvements in the immediate vicinity of the  
908 disturbance.
- 909 3. The disturbance and/or compaction of the existing native soils shall be  
910 minimized by directing construction traffic, material stockpiling, and other  
911 activities to only those areas of the site that are designated for proposed  
912 infrastructure (buildings, roads, parking areas, etc.).
  - 913 4. Disturbance of slopes 15% or steeper shall be avoided to the maximum  
914 extent practicable given the proposed site improvements. When disturbance  
915 of steep slopes is unavoidable, or the resulting grade of exposed soil is 15%  
916 or greater, the area shall be stabilized immediately with an approved soil  
917 stabilization matting.
  - 918 5. Existing topsoil shall be preserved to the maximum extent practical.
  - 919 6. The selection and design of erosion and sediment controls shall be based on  
920 the expected frequency, intensity, and duration of precipitation, and the  
921 corresponding expected volume of runoff and sediment erosion,  
922 sedimentation, and transport during the land-disturbing activity.
    - 923 a. The volume and peak flow rate of runoff from the construction site should  
924 be estimated for the 2-year and/or 10-year design storms as required for  
925 the particular controls being considered using accepted NRCS hydrologic  
926 methods as described in the VESCH and the VSWMH, latest editions; and
    - 927 b. The expected volume of sediment erosion, sedimentation, and transport  
928 during land-disturbing activities should be estimated considering the  
929 surface area, length, and slope of exposed soil, the soil horizons exposed  
930 by grading activities, and the range of soil particle sizes expected to be  
931 present.
  - 932 7. Provide 50-foot natural vegetated buffers around surface waters, and direct  
933 stormwater to vegetated areas where feasible. Where infeasible, alternate  
934 practices that remove or filter sediment and maximize stormwater infiltration  
935 may be approved by Frederick County in accordance with state standards;
  - 936 8. Sediment basins, when used in accordance with the requirements of the  
937 VESCH shall incorporate an outlet structure that discharges from the surface.

938  
939 Reference: 9VAC25-870 Section IIA.2. b (4); 9VAC25-870-54.F

- 940  
941 C. When the land-disturbing activity is part of a larger common plan of development,  
942 the ESC plan shall demonstrate compliance with the approved SWPPP for the  
943 larger common plan of development , and shall contain the following:  
944 Information and/or statements demonstrating compliance with the minimum  
945 standards of the erosion and sediment control regulations of the Board (9VAC25-  
946 840).
- 947 1. Compliance with the water quantity requirements of §§ 62.1-44.2 et seq. of  
948 the Code of Virginia shall be deemed to satisfy the requirements of 9VAC25-  
949 840-40(19) (Minimum Standard 19 of the Virginia Erosion and Sediment  
950 Control Regulations).
  - 951 2. A statement by the permittee that all erosion and sediment control measures  
952 shall be maintained and that the permittee will inspect the erosion and

- 953 sediment control measures at least once in every two-week period and within  
954 48 hours following rainstorm events of 0.25 inches or greater during  
955 construction to ensure continued compliance with the approved plan. Records  
956 of self-inspection shall be maintained on the site and available for review by  
957 county inspectors.
- 958 3. The location, dimensions, and other information as required ensuring the  
959 proper construction and maintenance of all temporary erosion and sediment  
960 controls necessary to comply with the provisions of this chapter.
  - 961 4. Calculations for sediment traps, basins, outlet protection, etc. as applicable.
  - 962 5. A sequence of construction and clear delineation of the initial areas of land  
963 disturbance necessary for installation of the initial erosion and sediment  
964 control measures such as earthen dams, dikes, and diversions. The areas of  
965 initial land disturbance shall be the minimum necessary for installation of the  
966 initial erosion and sediment control measures and the delineation should  
967 include all areas necessary for such installation, including stockpiles, borrow  
968 areas, and staging areas. The sequence should also include the stabilization  
969 of these areas *immediately* upon reaching final grade.
  - 970 6. Clear delineation of the proposed areas of land disturbance and those areas  
971 to be protected from construction activity and traffic, including the following:
    - 972 a. Minimize the disturbance of slopes 15% or greater; and
    - 973 b. Minimize soil compaction and, unless infeasible, preserve topsoil.
  - 974 7. Requirement that final stabilization of disturbed areas shall be initiated  
975 immediately upon reaching final grade on any portion of the site, and that  
976 temporary stabilization shall be initiated immediately upon areas that may not  
977 be at final grade but will remain dormant for longer than 14 days. Stabilization  
978 shall be applied within 7 days of initiating stabilization activities.
  - 979 8. A comprehensive drainage plan including:
    - 980 a. The existing and proposed drainage patterns on the site;
    - 981 b. All contributing drainage areas to permanent stormwater practices and  
982 temporary sediment controls;
    - 983 c. Existing streams, ponds, culverts, ditches, wetlands, other water bodies,  
984 and floodplains ;
    - 985 d. Land cover such as forest meadow, and other vegetative areas;
    - 986 e. Current land use including existing structures, roads, and locations of  
987 known utilities and easements;
    - 988 f. Sufficient information on adjoining parcels to assess the impacts of  
989 stormwater from the site on these parcels;
    - 990 g. Proposed buildings, roads, parking areas, utilities, and stormwater  
991 management facilities; and
    - 992 h. Proposed land use with tabulation of the percentage of surface area to be  
993 adapted to various uses, including but not limited to forest or reforestation,  
994 buffers, impervious cover, managed turf (lawns), and easements.
  - 995 10. The location of any stormwater management practices and sequence of  
996 construction.
  - 997 11. Temporary natural vegetated buffers in accordance with the requirements of  
998 the VSMP Construction General Permit. These buffers shall be delineated on

- 999 the ESC Plan and protected with accepted signage, safety fence, or other  
1000 barrier.
- 1001 D. In lieu of the plan described in subsections A and B of this section, single family  
1002 residential construction that is not part of a larger common plan of development,  
1003 including additions or modifications to an existing single-family detached  
1004 residential structures, may execute an ESC Agreement in Lieu of an Erosion and  
1005 Sediment Control Plan with the Administrator.
- 1006 E. In lieu of the plan described in subsections A and B of this section, single family  
1007 residential construction that disturbs less than 1 acre and is part of a larger  
1008 common plan of development, may execute a SWPPP Template with the  
1009 Administrator that demonstrates compliance with the practices and strategies  
1010 identified for the lot or parcel in the larger common plan of development SWPPP.
- 1011 F. In regard to the erosion and sediment control minimum standards, the following  
1012 changes are effective within Frederick County (references are to 9VAC25-840-  
1013 40):
- 1014 1. Subsection 6.b. Surface run-off from disturbed areas that are comprised of  
1015 flow from drainage areas greater than or equal to three acres shall be  
1016 controlled by a sediment basin. The minimum storage capacity of a sediment  
1017 basin shall be 134 cubic yards per acre of drainage area. The outfall system  
1018 shall, at a minimum, maintain the structural integrity of the basin during a 100-  
1019 year-storm of twenty-four hour duration. Runoff coefficients used in runoff  
1020 calculations shall correspond to a bare earth condition or those expected to  
1021 exist while the sediment basin is utilized.
  - 1022 2. Subsection 14 - Regulation of Watercourse Crossing - All applicable federal,  
1023 state and local regulations pertaining to working in or crossing live  
1024 watercourses shall be met. Prior to obtaining a land disturbance permit,  
1025 copies of all applicable environmental permits, including but not limited to  
1026 wetland disturbance, stream crossing, stormwater discharge permits, shall be  
1027 submitted with the application.
  - 1028 3. Subsection 17 - Vehicular Sediment Tracking - Where construction vehicle  
1029 access routes intersect paved or public roads, provisions shall be made to  
1030 minimize the transport of sediment by vehicular tracking onto paved or public  
1031 road surface; the road surface shall be cleaned thoroughly at the end of each  
1032 day. Sediment shall be removed from roads by shoveling or sweeping and  
1033 transported to a sediment disposal area. Street washing shall be allowed only  
1034 after sediment is removed in this manner. This provision shall apply to  
1035 individual development lots as well as to larger land-disturbing activities.
  - 1036 4. In subdivisions, the owner/developer of the subdivision shall be responsible  
1037 for compliance with the standard set forth in section 3 until the streets are  
1038 taken into the Virginia Department of Transportation's Secondary Road  
1039 System for maintenance, and the plan submitted for approval shall include a  
1040 detailed plan or narrative to ensure transport of sediment onto subdivision  
1041 streets does not occur during any phase of construction, including but not  
1042 limited to construction of all infrastructure, utilities, and building construction.  
1043 In addition, if individual lots or sections in a subdivision are being developed  
1044 by a different owner, such owner shall be jointly and severally responsible



1045 with the owner/developer of the subdivision for achieving compliance with this  
1046 minimum standard, and the erosion and sediment control plan, or "agreement  
1047 in lieu of a plan," submitted for approval shall include a detailed plan or  
1048 narrative to ensure transport of sediment onto the applicable roads does not  
1049 occur during any phase of construction, including but not limited to  
1050 construction of all infrastructure, utilities, and building construction.

- 1051 5. The provision found in Subsection 19b (1) is deleted.
- 1052 6. In order to assure proper stormwater drainage and site stabilization, the  
1053 following policies are hereby adopted concerning all development. Prior to  
1054 release of building permits, the following infrastructure shall be completed and  
1055 stabilized within the subdivision, subsection or phase as shown on the  
1056 approved plan:
  - 1057 a. Stormwater conveyance systems, including but not limited to culverts,  
1058 road surface, curb and gutter, stormwater structures, drainage swales and  
1059 ditches, channel linings and all cleared areas shall be stabilized, etc.
  - 1060 b. Submittal of a certified as-built plan of the subdivision, subsection or  
1061 phase, which includes but is not limited to stormwater conveyance  
1062 systems, curb and gutter, drainage swales and ditches,  
1063 stormwater/sediment ponds, graded areas, etc. A letter from the engineer-  
1064 of-record shall be included with the as-built plan which states that the  
1065 subdivision has been constructed in accordance with the approved plan.
  - 1066 c. A proposed overall lot grading plan is required by Frederick County prior  
1067 to the release of building permit(s) for subdivisions. This plan shall meet  
1068 the intent of the original site plan submitted by the developer. It is required  
1069 that the developer provide the builder/owner a copy of the original  
1070 engineered site grading plan for the particular subdivision.
  - 1071 d. It will be necessary to submit a certified as-built plan for all lots on which  
1072 proposed lot grading plans were required. This certified as-built plan shall  
1073 indicate the following: properly annotated boundary lines; setback lines;  
1074 proposed house footprint; offsets to house; existing grading; spot shots as  
1075 necessary to show positive drainage; proposed driveway; proposed floor  
1076 elevation to include basement, first floor and garage; and erosion and  
1077 sediment controls, if required. The as-built plan shall be accompanied by a  
1078 document prepared by a professional engineer or a certified land surveyor  
1079 certifying that the as-built conditions meet the intent of the approved site  
1080 grading plan. The proposed lot grading plan and the as-built survey shall  
1081 be submitted to the Public Works Department prior to release of the final  
1082 certificate of occupancy.
- 1083 7. Before adopting or revising regulations, the County shall give due notice and  
1084 conduct a public hearing on the proposed or revised regulations, except that a  
1085 public hearing shall not be required when the County is amending its program  
1086 to conform to revisions in the state program. However, a public hearing shall  
1087 be held if the County proposes or revises regulations that are more stringent  
1088 than the state program.
- 1089 8. Pursuant to § 62.1-44.15:53 of the Code of Virginia, an erosion control plan  
1090 shall not be approved until it is reviewed by a certified plan reviewer.

- 1091 Inspections of land-disturbing activities shall be conducted by a certified  
1092 inspector. The erosion control program of the County shall contain a certified  
1093 program administrator, a certified plan reviewer, and a certified inspector, who  
1094 may be the same person.
- 1095 9. The County hereby designates the Department of Public Works as the plan-  
1096 approving authority.
- 1097 10. The program and regulations provided for in this chapter shall be made  
1098 available for public inspection at the office of the Department of Public Works.  
1099

## 1100 § 143-165 Stormwater Management (SWM) Plan Requirements 1101

- 1102 A. As required in § 143-150, a stormwater management plan shall be developed  
1103 and referenced into the SWPPP.
- 1104 B. In addition to the plan requirements outlined in § 143-155 and § 143-160, the  
1105 stormwater management plan shall include the following:
- 1106 1. A general description of the proposed stormwater management facilities,  
1107 including:
- 1108 a. Contact information including name, address, telephone number and  
1109 parcel number of the property or properties affected;
- 1110 b. Narrative that includes a description of current site conditions and final site  
1111 conditions or if allowed by the VSMP authority, the information provided  
1112 and documented during the review process that addresses the current and  
1113 final site conditions;
- 1114 c. General description of the proposed stormwater management facilities  
1115 and mechanism through which the facilities will be operated/ maintained  
1116 after construction is complete; Information on type of stormwater facilities;
- 1117 d. The location of stormwater facilities, including geographic coordinates;
- 1118 e. The named surface waters to which the facility eventually drains;
- 1119 f. Information on proposed stormwater management facilities, including (i)  
1120 type of facilities; (ii) location, including geographic coordinates; (iii) acres  
1121 treated; and (iv) surface waters or karst features into which facility will  
1122 discharge;
- 1123 g. Hydrologic/hydraulic computations, including runoff characteristics;
- 1124 h. Documentation/calculations verifying compliance with water quality and  
1125 quantity requirements of the regulations;
- 1126 i. Map or maps of site that depicts topography of the site and includes:  
1127 1. Contributing drainage areas;  
1128 2. Existing streams, ponds, culverts, ditches, wetlands, other water  
1129 bodies, floodplains;
- 1130 j. Soil types, geologic formations if karst features are present in the area,  
1131 forest cover, other vegetative areas;
- 1132 k. Current land use including existing structures, roads, locations of known  
1133 utilities and easements;
- 1134 l. Sufficient information on adjoining parcels to assess impacts of  
1135 stormwater from the site on these parcels;
- 1136 m. Limits of clearing and grading, proposed drainage patterns on the site;

- 1137 n. Proposed buildings, roads, parking areas, utilities, stormwater  
1138 management facilities;
- 1139 o. Proposed land use with tabulation of percentage of surface area to be  
1140 adapted to various uses, including but not limited to planned locations of  
1141 utilities, roads and easements.
- 1142 p. A stormwater management plan for a land disturbing activity shall apply  
1143 the stormwater management technical criteria set for the in the part to the  
1144 entire land disturbing activity. Individual lots in new residential,  
1145 commercial, or industrial developments shall not be considered separate  
1146 land-disturbing activities.
- 1147 q. A stormwater management plan shall consider all sources of surface  
1148 runoff and all sources of subsurface and groundwater flows converted to  
1149 surface runoff.
- 1150 r. Information on type/ location of stormwater discharges, information on  
1151 features to which stormwater is discharged, including surface waters or  
1152 karst features if present, and predevelopment/ post development drainage  
1153 areas.
- 1154 2. All necessary documentation and calculations supporting the design and  
1155 construction of the proposed stormwater management structures, including  
1156 sufficient details such as cross sections, profiles, dimensions, grades, and  
1157 other information as needed to ensure that the BMP facilities are built in  
1158 accordance with the approved plans and BMP Design Standards and  
1159 Specifications;
- 1160 3. Runoff Reduction Method Compliance Spreadsheet Summary Sheet.
- 1161 4. A landscaping plan prepared by an individual familiar with the selection of  
1162 appropriate vegetation for the particular BMP (emergent and upland  
1163 vegetation for wetlands, woody and/or herbaceous vegetative stabilization  
1164 and management techniques to be used within and adjacent to the  
1165 stormwater management facilities, etc.). The landscaping plan must also  
1166 describe the maintenance of vegetation at the site and what practices should  
1167 be employed to ensure that adequate vegetative cover is preserved.
- 1168 5. Identification of all easements provided for inspection and maintenance of  
1169 stormwater management facilities in accordance with specifications in the  
1170 Stormwater Management Design Manuals and Frederick County  
1171 requirements.
- 1172 6. When Applicable, a copy of the Frederick County *SWM BMP Operation and*  
1173 *Maintenance Agreement* to be recorded in the local land records prior to plan  
1174 approval. This may be submitted prior to plan approval.
- 1175 7. When stormwater facilities are proposed on individual residential lots, a copy  
1176 of the proposed *Residential Lot BMP Inspection and Maintenance Agreement*  
1177 to be signed by the property owner upon settlement. This must be submitted  
1178 prior to plan approval.
- 1179 8. If an applicant intends to meet the water quality requirements of subsection C  
1180 of this section through the use of off-site compliance options, the a letter of  
1181 availability from the off-site provider must be included, and the use of the off-

- 1182 site options shall be in accordance with the VSMP Regulations Offsite  
1183 Compliance Options (9VAC25-870-69).
- 1184 C. Stormwater management (SWM) plans shall demonstrate compliance with the  
1185 following:
- 1186 1. Stormwater runoff quality and runoff volume reduction criteria for new  
1187 development. Reference: 9VAC25-870-63.
  - 1188 2. Stormwater runoff quality criteria for development on prior developed lands.  
1189 Reference: 9VAC25-870-63.
  - 1190 3. Channel protection criteria. Reference: 9VAC25-870-66.
  - 1191 4. Flood protection criteria. Reference: 9VAC25-870-66.
  - 1192 5. Requirements for identifying, evaluating, and addressing increased volumes  
1193 of sheet flow resulting from pervious or disconnected impervious areas or  
1194 from physical spreading of concentrated flow through level spreaders.  
1195 Reference: 9VAC25-870-66.
- 1196 D. Prior to release of the stormwater plan surety bond, two (2) sets of the  
1197 construction record drawing or as-built of permanent stormwater management  
1198 facilities, also referred to as "as-built plans," in accordance with county  
1199 requirements shall be submitted to the Administrator. The construction as-built  
1200 shall be appropriately sealed and signed by a professional registered in the  
1201 Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4  
1202 of Title 54.1. of the Code of Virginia, certifying that the stormwater management  
1203 facilities have been constructed in accordance with the approved plan.  
1204 Reference: 9VAC25-870-108, 9VAC25-870-55 (D).
- 1205 E. Single family residential construction that is less than one acre of disturbance  
1206 and part of a larger common plan of development may execute and implement a  
1207 BMP Implementation Plan as part of the SWPPP Template in order to  
1208 demonstrate compliance with the practices and strategies identified in the larger  
1209 common plan of development SWPPP.
- 1210 F. Stormwater Management Facility Maintenance Agreements: Maintenance of all  
1211 stormwater management facilities shall be ensured through the creation of a  
1212 formal maintenance agreement that must be approved by the Administrator and  
1213 recorded in the land records prior to issuance of a land-disturbing permit and  
1214 contain the following provisions:
- 1215 1. A copy of the County Frederick County BMP Operation and Maintenance  
1216 Agreement proposed for recordation in the local land records prior to plan  
1217 approval to be signed by the property owner upon settlement shall be  
1218 submitted with the plans. Reference: 9VAC25-870-112.
  - 1219 2. Responsibility for the operation and maintenance of stormwater management  
1220 facilities shall remain with the property owner or an owner's association and  
1221 shall pass to any successor or owner. If portions of the land are to be sold,  
1222 legally binding arrangements shall be made to pass the responsibility to  
1223 successors in title. Reference: 9VAC25-870-112.
  - 1224 3. Maintenance agreements shall be in accordance with the Frederick County  
1225 requirements (BMP Inspection & Maintenance Program) and provide for all  
1226 necessary access for inspections. Reference: Va. Code § 62.1-44.15:39;  
1227 9VAC25-870-112.

- 1228 4. Except as provided in item 5 below, maintenance agreements shall be  
1229 enforceable (by the Administrator). Reference: 9VAC25-870-112.  
1230 5. Individual on-lot stormwater facilities that are designed to primarily manage  
1231 the runoff from the individual residential lot on which they are located require  
1232 a County Residential Lot BMP Inspection & Maintenance Agreement  
1233 acknowledging the presence, purpose, location, and basic maintenance  
1234 requirements for the particular BMP facilities in accordance with County  
1235 requirements. Reference: 9VAC25-870-112.  
1236 6. Elements of the stormwater management plans that include activities  
1237 regulated under Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of  
1238 Virginia shall be appropriately sealed and signed by a professional registered  
1239 in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of  
1240 Chapter 4 of Title 54.1 of the Code of Virginia.  
1241 7. Stormwater management plans for residential, commercial or industrial  
1242 subdivisions are approved and which govern the development of individual  
1243 parcels within that plan, throughout the development life even if ownership  
1244 changes. §62.1-44.15:28.7  
1245

1246 **§ 143-175 Pollution Prevention (PP) Plan**  
1247

- 1248 A. A Pollution Prevention (PP) plan is required for all VSMP Land-Disturbing  
1249 Activities as required in § 143-125, and shall be developed for incorporation into  
1250 the SWPPP.  
1251 B. The pollution prevention plan shall be developed in accordance with the  
1252 Frederick County VSMP Manual to minimize the discharge of pollutants and the  
1253 exposure of materials to stormwater, and prohibit illicit discharges from  
1254 construction activities.  
1255 C. The PP plan shall be implemented and updated as outlined in § 143-205 (C) and  
1256 the Frederick County VSMP Manual (if adopted) as necessary throughout all  
1257 phases of the land-disturbing activity to implement appropriate pollution  
1258 prevention measures applicable to construction activities.

1259 **Reference:** 9VAC25 870-56. Pollution prevention plans.  
1260

1261 **§ 143-185 Review and Approval of Plans**  
1262

- 1263 A. Upon receipt of a plan for a land-disturbing permit and accompanying plans as  
1264 required by § 143-150, the Administrator shall determine the completeness of the  
1265 application and notify the applicant within **15** calendar days if the submittal is  
1266 considered incomplete.  
1267 B. Once the applicant has been notified of a complete submittal, the Administrator  
1268 shall have an additional **60** calendar days from the date of the communication for  
1269 the review of the plans to determine compliance with the requirements of this  
1270 ordinance, and to communicate to the applicant the approval or disapproval of  
1271 the plans.  
1272 C. If a determination of completeness is not made and communicated to the  
1273 applicant within the **15** calendar days, the plans shall be deemed complete as of

- 1274 the date of submission and a total of **60** calendar days from the date of  
1275 submission shall be allowed for the review of the plans.  
1276 D. If the plans are not approved, the reasons for not approving the plans shall be  
1277 provided in writing to the applicant.  
1278 E. The Administrator shall review within **45** calendar days of the date of  
1279 resubmission any plans that have been previously disapproved.  
1280 F. Unless otherwise indicated in the application, electronic communication shall be  
1281 considered communication in writing.

1282 **Reference:** Va. Code §62.1-44.15:55(B); §62.1-44.15:34(A); 9VAC25-870-55 (B);  
1283 9VAC25-870-108.

1284  
1285 **§ 143-190 Pre-Construction Meeting Required**  
1286

1287 No land-disturbing activities shall commence until a Pre-Construction Meeting between  
1288 the Administrator and the applicant, and the individual responsible for carrying out the  
1289 plan, has been conducted. The applicant shall notify the Administrator in advance to  
1290 schedule the meeting on-site.

1291  
1292 **§ 143-195 Issuance, Time Limit, Modification, Maintenance, Transfer and/or**  
1293 **Termination of the Frederick County Land-Disturbing Permit and the VSMP**  
1294 **Authority Permit**  
1295

- 1296 A. Permit Issuance: Once the requirements for obtaining a Frederick County Land-  
1297 Disturbing Permit and coverage under the state general permit for discharges  
1298 from construction activity (if applicable) have been met, including the receipt or  
1299 verification of payment of all required permit fees in accordance with the fee  
1300 schedule of **§ 143-235**, the Administrator will issue a Frederick County Land-  
1301 Disturbing Permit and a VSMP Authority permit.  
1302 B. No transfer, assignment, or sale of the rights granted by virtue of a Frederick  
1303 County Land-Disturbing Permit shall be made unless a written notice of transfer  
1304 and corresponding permit modification fee is filed with the Administrator and the  
1305 transferee certifies agreement to comply with all obligations and conditions of the  
1306 permit. The Administrator may require modification or revocation and reissuance  
1307 of the VSMP Authority Permit to change the name of the permittee and  
1308 incorporate such other requirements as may be necessary for the transfer.  
1309 C. If land-disturbing activity has not commenced within 180 days of land-disturbing  
1310 or VSMP Authority permit issuance or cease for more than 180 days, the  
1311 Administrator may evaluate the existing approved ESC plan to determine  
1312 whether the plan still satisfies local and state erosion and sediment control  
1313 criteria and to verify that all design factors are still valid. If the previously filed  
1314 ESC plan is determined to be inadequate a modified plan shall be submitted and  
1315 approved prior to the resumption of land-disturbing activity.

1316 **Reference:** 9VAC25-840-80(B).

- 1317 D. VSMP Authority Permits are effective for a fixed permit cycle of 5 years. Activities  
1318 requiring a VSMP permit may obtain coverage at any time during the 5-year  
1319 permit cycle and must be renewed if the permit has not been terminated prior to

- 1320 the end of the cycle. The annual permit maintenance fees in § 143-235 apply  
1321 until the permit coverage is terminated or renewed.
- 1322 E. Land-disturbing activities for which VSMP Permit coverage was issued between  
1323 July 1, 2009 and June 30, 2014 for that permit cycle may remain subject to the  
1324 technical criteria of Part II C of the Virginia Stormwater Regulations for two  
1325 additional permit cycles provided coverage under the original VSMP Permit is  
1326 maintained. After two permit cycles have passed, or should the original VSMP  
1327 Permit coverage not be maintained, portions of the project not under construction  
1328 shall become subject to any new technical criteria adopted by the VSMP  
1329 Authority after the original VSMP Permit coverage was issued.
- 1330 F. Land-disturbing activities for which VSMP Permit coverage was issued between  
1331 July 1, 2009 and June 30, 2014 for that permit cycle may elect to modify the  
1332 permit by paying the appropriate permit modification fee and request approval for  
1333 compliance with the technical criteria of Part II B for any remaining portions of the  
1334 project.
- 1335 **Reference:** Va. Code §62.1-44.15:24; 9VAC25-870-47.
- 1336

### 1337 § 143-200 Variances/Exceptions

1338

- 1339 A. Frederick County may grant exceptions or modify the ESC requirements of land-  
1340 disturbing activities if the requirements are deemed inappropriate or too  
1341 restrictive for site conditions by granting a variance. A variance may be granted  
1342 under the following conditions:
- 1343 1. At the time of plan submission, an applicant may request a variance from the  
1344 requirements of an erosion and sediment control plan. The applicant shall  
1345 explain the reasons for requesting variances in writing. Specific variances  
1346 which are allowed shall be documented in the plan.
  - 1347 2. During construction, the person responsible for implementing the approved  
1348 plan may request a variance in writing from the Administrator. The  
1349 Administrator shall respond in writing either approving or disapproving such a  
1350 request. If the Administrator does not approve a variance within 10 days of  
1351 receipt of the request, the request shall be considered to be disapproved.  
1352 Following disapproval, the applicant may resubmit a variance request with  
1353 additional documentation.
  - 1354 3. The Administrator shall consider variance requests judiciously, keeping in  
1355 mind both the need of the applicant to maximize cost effectiveness and the  
1356 need to protect off-site properties and resources from damage.
- 1357 B. The Administrator may grant exceptions to the Technical Criteria of § 143-165:  
1358 **SWM Plan Requirements**. An exception may be granted provided that:
- 1359 1. the exception is the minimum necessary to afford relief,
  - 1360 2. reasonable and appropriate conditions shall be imposed as necessary upon  
1361 any exception granted so that the intent of this chapter is preserved,
  - 1362 3. granting the exception will not confer any special privileges that are denied in  
1363 other similar circumstances,
  - 1364 4. exception requests are not based upon conditions or circumstances that are  
1365 self-imposed or self-created, and

- 1366 5. economic hardship alone is not sufficient reason to grant an exception from  
1367 these requirements.  
1368 C. Under no circumstance shall an exception to the requirement that the land-  
1369 disturbing activity obtain required VSMP permits be granted, nor shall the use of  
1370 a BMP not found on the Virginia Stormwater BMP Clearinghouse Website be  
1371 approved.  
1372 D. Exceptions to requirements for phosphorus reductions shall not be allowed  
1373 unless offsite options available as described in **§ 143-165 (B)(9)** have been  
1374 considered and found not available.

1375 **Reference:** 9VAC25-840; 9VAC25-870-122

1376  
1377 **§ 143-205 Amendments to Approved Plans**

- 1378  
1379 A. Amendments to an approved ESC plan may be made once the proposed change  
1380 has been agreed to by the Administrator and the person responsible for carrying  
1381 out the plan in the following cases:  
1382 1. Where inspection has revealed that the plan is inadequate to satisfy  
1383 applicable regulations; or  
1384 2. Where the person responsible for carrying out the approved plan  
1385 demonstrates that because of changed circumstances or for other reasons  
1386 the approved plan cannot effectively be carried out, and proposed  
1387 amendments to the plan are consistent with the requirements of this article.

1388 **Reference:** Va. Code § 62.1-44.15:55 (C).

- 1389 B. Amendments to an approved SWM Plan may be made only after review and  
1390 written approval by the Administrator. An approved plan may be modified in  
1391 accordance with the following:  
1392 1. The person responsible for carrying out the approved plan demonstrates in  
1393 writing to the Administrator that because of changed circumstances or for  
1394 other reasons the approved plan cannot effectively be carried out, and has  
1395 proposed amendments to the plan with all necessary calculations and  
1396 documents consistent with the requirements of this chapter (refer to **§ 143-**  
1397 **165**).  
1398 2. The Administrator shall have 60 calendar days to respond in writing either  
1399 approving or disapproving such requests.  
1400 3. Based on an inspection, the Administrator may require amendments to the  
1401 approved stormwater management plan to address any deficiencies within a  
1402 time frame set by the Administrator.

1403 **Reference:** 9VAC25-870-108

- 1404 C. Amendments to an approved SWPPP Plan may be required in order to reflect  
1405 changes in the implementation of an approved ESC or SWM Plan. In addition to  
1406 the requirements of subsection A and B of this section, the site operator shall  
1407 document the implementation of the provisions of the SWPPP as follows:  
1408 1. The operator shall amend the SWPPP whenever there is a change in design,  
1409 construction, operation, or maintenance that may have a significant effect on  
1410 the discharge of pollutants from the construction activity and that has not  
1411 been previously addressed in the SWPPP.



- 1412 2. The SWPPP must be amended if during inspections or investigations by the  
1413 operator's qualified personnel, or by the Administrator, state or federal  
1414 officials, it is determined that the existing control measures are ineffective in  
1415 minimizing pollutants in stormwater discharges from the construction site.
- 1416 3. Where revisions to the SWPPP include additional or modified control  
1417 measures designed to correct problems identified, and where such revisions  
1418 to the SWPPP require the Administrator's approval, the additional control  
1419 measures shall be completed within seven calendar days of approval or prior  
1420 to the next anticipated storm event. If implementation before the next  
1421 anticipated storm event is impracticable, the situation shall be documented in  
1422 the SWPPP and alternative control measures shall be implemented as soon  
1423 as practicable.
- 1424 4. Revisions to the SWPPP must be dated and signed in accordance with  
1425 Section III of the VSMP permit. Changes to any component of an approved  
1426 SWPPP with VSMP Permit coverage that result in changes to stormwater  
1427 management plans or that require additional review by the Administrator shall  
1428 be subject to permit modification fees set out in **§ 143-235**.
- 1429

### 1430 **§ 143-210 Monitoring and Inspections during Land-Disturbing Activities**

1431

1432 All erosion and sediment control measures must be periodically inspected by the  
1433 individual responsible for carrying out the plan and/or the operator and properly  
1434 maintained in effective operating condition in accordance with the approved plans and  
1435 the VESCH. If site inspections identify control measures that are not operating  
1436 effectively, maintenance shall be performed as soon as practicable to maintain the  
1437 continued effectiveness of stormwater controls.

1438 **Reference: Va. Code** §62.1-44.15:58(A); 9VAC25-840-60.

- 1439 A. The VSMP Authority will inspect all regulated land-disturbing activities to ensure  
1440 compliance with the approved ESC Plan in accordance with the County and state  
1441 requirements. The owner, permittee or person responsible for carrying out the  
1442 plan or agreement may be given notice of the inspection.

1443 **Reference: Va. Code** § 62.1-44.15:58.

- 1444 B. The County requires that stormwater management facilities are inspected and  
1445 the construction of such facilities are certified in accordance with sub-section D of  
1446 § 143-210. The VSMP Authority may also inspect the construction of permanent  
1447 stormwater management facilities at critical stages of construction and in  
1448 accordance with the Virginia BMP Design Specifications to ensure compliance  
1449 with the approved plans.

1450 **Reference: Va. Code** § 62.1-44.15:37.

- 1451 C. The right-of-entry for the VSMP Authority to conduct such inspections shall be  
1452 expressly reserved in the permit. The permit holder, or his duly designated  
1453 representative, shall be afforded the opportunity to accompany the inspectors.

1454 **Reference:** § 62.1-44.15:39 Right of entry.

- 1455 D. The County will accept the submittal of inspection reports certifying that the  
1456 stormwater management facilities are being constructed in accordance with the  
1457 approved plan conducted by:

- 1458 1. a person who is licensed as a professional engineer, architect, landscape  
1459 architect, or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter  
1460 4 of Title 54.1 of the Code of Virginia;  
1461 2. a person who works under the direction and oversight of the licensed  
1462 professional engineer, architect, landscape architect, or land surveyor; or  
1463 3. a person who holds a certificate of competence in Stormwater Inspection from  
1464 the Board.

1465 **Reference: Va. Code § 62.1-44.15:37.**

- 1466 E. The VSMP Authority will inspect all regulated land-disturbing activities covered  
1467 by a VSMP Authority Permit to ensure the operator is conducting and  
1468 documenting the operator inspections as required by the County and is  
1469 appropriately updating the PP plan as required by the County. The owner,  
1470 permittee or person responsible for carrying out the plan or agreement may be  
1471 given notice of the inspection.

1472 **Reference: A, B, & C above; 9VAC25-870-114(A)**

- 1473 F. All land-disturbing activities covered by a VSMP Permit shall be inspected by the  
1474 operator in accordance with the requirements of the County. The operator shall  
1475 maintain records of inspections and maintenance in order to determine whether  
1476 the measures required in the ESC plan are effective in controlling erosion and  
1477 sedimentation and to ensure compliance with the approved plan. Records shall  
1478 be made available to the Administrator or the VSMP Authority inspector upon  
1479 request.

- 1480 G. Prior to the release of any performance bonds or termination of the VSMP  
1481 Authority Permit, the applicant shall submit the required as-built drawings for the  
1482 stormwater management facilities as described in **§ 143-165**;

1483 **Reference: 9VAC25-870-108.**

- 1484 H. A. On a fiscal year basis (July 1 to June 30), a VSMP authority shall report to the  
1485 department by October 1 of each year in a format provided by the department.

1486 The information to be provided shall include the following:

- 1487 1. Information on each permanent stormwater management facility completed  
1488 during the fiscal year to include type of stormwater management facility,  
1489 geographic coordinates, acres treated, and the surface waters or karst features  
1490 into which the stormwater management facility will discharge;  
1491 2. Number and type of enforcement actions during the fiscal year; and  
1492 3. Number of exceptions granted during the fiscal year.  
1493 4. A VSMP authority shall keep records in accordance with the following:  
1494 5. Project records, including approved stormwater management plans, shall be  
1495 kept for three years after state permit termination or project completion.  
1496 6. Stormwater management facility inspection records shall be documented and  
1497 retained for at least five years from the date of inspection.  
1498 7. Construction record drawings shall be maintained in perpetuity or until a  
1499 stormwater management facility is removed.  
1500 8. All registration statements submitted in accordance with 9VAC25-870-59 shall  
1501 be documented and retained for at least three years from the date of project  
1502 completion or state permit termination.  
1503

1504 **§ 143-215 Monitoring and Inspections of Permanent Stormwater Management**  
1505 **Facilities**

- 1506
- 1507 A. Owners of stormwater management facilities shall be responsible for conducting  
1508 inspections and performing maintenance in accordance with the recorded  
1509 Stormwater BMP Maintenance Agreement as described in **§ 143-165** and in  
1510 accordance with county requirements. In regards to individual residential lots,  
1511 such recorded instruments need not be required for stormwater management  
1512 facilities designed to treat stormwater runoff primarily from an individual  
1513 residential lot on which they are located, provided it is demonstrated to the  
1514 satisfaction of the Administrator that future maintenance of such facilities will be  
1515 addressed through an enforceable mechanism at the discretion of the  
1516 Administrator. Provisions for this are addresses in Frederick County's SWP BMP  
1517 Inspection and Maintenance Program manual.
- 1518 B. If a recorded instrument is not required pursuant to section 143-215.A, the  
1519 Administrator shall develop a strategy for addressing maintenance of stormwater  
1520 management facilities designed to treat stormwater runoff primarily from an  
1521 individual residential lot on which they are located. Such a strategy may include  
1522 periodic inspections, homeowner outreach and education, or other method  
1523 targeted at promoting the long-term maintenance of such facilities. Such facilities  
1524 shall not be subject to the requirement for an inspection to be conducted by the  
1525 Administrator.

1526  
1527 **Reference:** 9VAC25-870-112.

- 1528 C. The Administrator will ensure that all stormwater management facilities are being  
1529 inspected and maintained according to the following:
- 1530 1. The Administrator shall track the 5-year frequency comprehensive inspection  
1531 report submittals as required by the recorded maintenance agreement and in  
1532 accordance with County requirements. The Administrator shall conduct  
1533 maintenance inspections at a minimum of once every 5 years for certain  
1534 BMPs as defined by County requirements.
  - 1535 2. The right-of-entry for the Administrator to conduct such inspections shall be  
1536 expressly reserved in the Maintenance Agreements. The owner, or his duly  
1537 designated representative, shall be afforded the opportunity to accompany  
1538 the inspectors.
- 1539 D. The Administrator shall notify the property owner or owner's association in writing  
1540 in accordance with **§ 143-225(A)(1)** to the address as identified in the SWM BMP  
1541 Inspection and Maintenance Agreement when a determination has been made  
1542 that the stormwater management facility is in disrepair or is not functioning as  
1543 intended. The notice shall specify the measures needed to comply with the  
1544 approved maintenance plan and shall specify the time within which such  
1545 measures shall be completed. If the responsible party fails to perform such  
1546 maintenance and repair, the county shall have the authority to initiate  
1547 enforcement action in accordance with **§ 143-225 (D)**, and perform the work and  
1548 recover the costs from the responsible party.
- 1549

1550 § 143-225 Enforcement

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- A. If, during inspections at any stage of the land-disturbing activity, the Administrator determines that the operator has failed to comply with the approved plan, including but not limited to failure to install or properly install stormwater BMP facilities or erosion and sediment controls, the Administrator shall serve notice upon the permittee or person responsible for carrying out the permit conditions as follows:
  - 1. A Notice to Comply shall be sent as follows:
    - a. Certified mail, return receipt requested, sent to the address specified by the owner or permittee in his application or plan certification; or
    - b. Delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
  - 2. The notice shall specify the measures necessary to comply with the plan or agreement in lieu of a plan and shall specify the time within which such measures shall be completed.
  - 3. Stop Work Order:
    - a. If a permittee fails to comply with a notice to comply issued in accordance with paragraph 1 within the time specified, the Administrator may issue an order requiring the owner, permittee, or person responsible for carrying out the approved plan, to cease all land-disturbing activities until the violation of the permit has ceased or the specified corrective actions have been taken. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the registration statement, or by personal delivery by an agent of the VSMP authority or Department.
    - b. In addition to the cessation of all land-disturbing activities as described in item a above, the permittee may also be subject having the VSMP Authority permit revoked; and furthermore, he shall be deemed to be in violation of this ordinance and, upon conviction or adjudication of violation, shall be subject to the penalties as provided in the Code of Virginia or by this ordinance.  
**Reference:** Va. Code §62.1-44.15:63; §62.1-44.15:48.
    - c. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in surface waters within the watersheds of the state, or where the land-disturbing activities have commenced without an approved plan, agreement in lieu of a plan or any required permits, such an order may be issued without regard to whether or not the owner or permittee has been issued a notice to comply.
- B. If, at any stage of the land-disturbing activity, the VSMP Authority determines that the physical conditions on the site are not as stated or shown on the approved erosion and sediment control plan or stormwater management plan, or the county determines that the storm drainage system or stormwater management facility is inadequate or not constructed as shown on the approved stormwater management final plan, the VSMP Authority may refuse to approve further work

- 1595 and the county may revoke existing permits or approvals until a revised  
1596 stormwater management final plan has been submitted and approved.
- 1597 C. Commencing Land-Disturbing Activities without an Approved Plan or a Permit
- 1598 1. If land-disturbing activities have commenced without an approved plan,  
1599 agreement in lieu of a plan, or a VSMP Authority Permit where required, a  
1600 stop work order may be issued requiring that all land-disturbing activities be  
1601 stopped until an approved plan, an agreement in lieu of a plan or any required  
1602 permits are obtained.
- 1603 2. The stop work order shall remain in effect for a period of seven calendar days  
1604 from the date of service pending application by the Administrator or alleged  
1605 violator for appropriate relief to the circuit court of the jurisdiction wherein the  
1606 violation is alleged to have occurred. If the alleged violator has not obtained  
1607 an approved plan, agreement in lieu of a plan or any required permits within  
1608 seven days from the date of service of the order, the director may issue an  
1609 order to the owner requiring that all construction and other work on the site,  
1610 other than corrective measures, be stopped until an approved plan,  
1611 agreement in lieu of a plan or any required permits have been obtained. The  
1612 order shall be served upon the owner by registered or certified mail to the  
1613 address specified in the permit application or the land records of the county.
- 1614 3. The owner may appeal the issuance of an order to the circuit court.
- 1615 D. Maintenance of permanent stormwater facilities
- 1616 1. If during periodic inspections to ensure that stormwater management facilities  
1617 are being adequately maintained as designed, the VSMP Authority identifies  
1618 operational deficiencies and/or determines that the owner of the stormwater  
1619 management facility has failed to perform maintenance or conduct  
1620 maintenance inspections in accordance with the recorded SWM BMP  
1621 Maintenance and Inspection agreement, the VSMP Authority shall notify the  
1622 person or organization responsible for carrying out the requirements of the  
1623 agreement. The notice shall specify the deficiencies, the corrective actions  
1624 required to restore the facility, and the time frame within which the corrective  
1625 actions shall be completed.
- 1626 2. If the individual or organization fails to comply with the notice within the time  
1627 specified, the VSMP Authority may initiate informal and/or formal  
1628 administrative enforcement procedures including but not limited to directives  
1629 issued by the Board in accordance with Va. Code § 62.1-44.15:25, or civil or  
1630 criminal penalties in accordance with this ordinance and Va. Code §§ 62.1-  
1631 44.15:48 and 62.1-44.15:63.
- 1632 E. Any person violating or failing, neglecting, or refusing to obey any rule,  
1633 regulation, ordinance, order, approved standard or specification, or any permit  
1634 condition issued by the VSMP Authority or any provisions of this chapter may be  
1635 compelled in a proceeding instituted in any appropriate court by the VSMP  
1636 Authority to obey same and to comply therewith by injunction, mandamus or  
1637 other appropriate remedy. Nothing in this section shall prevent the VSMP  
1638 Authority from taking additional enforcement action permitted by state law.
- 1639 F. Any person who violates any provision of this chapter or of any regulations or  
1640 ordinances, or standards and specifications adopted or approved hereunder,

1641 including those adopted pursuant to the a VSMP permit, or who fails, neglects or  
1642 refuses to comply with any order of the VSMP Authority, the Department, the  
1643 Board, or court, other than any violation that relates solely to the erosion and  
1644 sediment control requirements of any of the foregoing, shall be subject to a civil  
1645 penalty not to exceed \$32,500 for each violation within the discretion of the court.  
1646 Each day of violation of each requirement shall constitute a separate offense.

1647 **Reference:** § 62.1-44.15:48 of the Code of Virginia.

- 1648 1. Violations for which a penalty may be imposed under this subsection shall  
1649 include but not be limited to the following:
  - 1650 a. no permit registration,
  - 1651 b. no SWPPP,
  - 1652 c. incomplete SWPPP;
  - 1653 d. SWPPP not available for review;
  - 1654 e. failure to install stormwater BMP or Erosion and Sediment Controls;
  - 1655 f. stormwater BMP facilities improperly installed or maintained;
  - 1656 g. operational deficiencies;
  - 1657 h. failure to conduct required inspections;
  - 1658 i. incomplete, improper, or missed inspections; and
  - 1659 j. discharges not in compliance with the requirements of the VSMP  
1660 Construction General Permit.
  - 1661 k. no approved Erosion and Sediment Control Plan
- 1662 2. The Administrator may issue a summons for collection of the civil penalty and  
1663 the action may be prosecuted in the appropriate court.
- 1664 3. In imposing a civil penalty pursuant to this subsection, the court may consider  
1665 the degree of harm caused by the violation and also the economic benefit to  
1666 the violator from noncompliance.
- 1667 4. Any civil penalties assessed by a court as a result of a summons issued by  
1668 Frederick County shall be paid into the treasury of the Frederick County to be  
1669 used for the purpose of minimizing, preventing, managing, or mitigating  
1670 pollution of the waters of Frederick County and abating environmental  
1671 pollution therein in such manner as the court may, by order, direct.

1672 G. Notwithstanding any other civil or equitable remedy provided by this section, any  
1673 person who willfully or negligently violates any provision of this chapter, any  
1674 order of Frederick County or the Department, any condition of a permit, or any  
1675 order of a court, other than any violation that relates solely to the erosion and  
1676 sediment control requirements of any of the foregoing, shall be guilty of a  
1677 misdemeanor punishable by confinement in jail for not more than 12 months and  
1678 a fine of not less than \$2,500 nor more than \$32,500, either or both.

1679 H. Notwithstanding any other civil or equitable remedy provided by this section, any  
1680 person who violates any provision of this chapter, any order of Frederick County  
1681 or the Department, any condition of a permit, or any order of a court relating to  
1682 the erosion and sediment control requirements of any of the foregoing shall be  
1683 guilty of a misdemeanor punishable by confinement in jail for not more than 12  
1684 months and a fine of not more than \$2,500, either or both.

1685 **Reference:** Va. Code § 62.1-44.15:63. § 62.1-44.15;48.

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**§ 143-230 Hearings**

Any permit applicant, permittee, or person subject to the Frederick County Land-Disturbing Permit, VSMP Authority Permit, or state permit requirements under this article aggrieved by any action of the Department of Public Works taken without a formal hearing, or by inaction of the Department of Public Works may demand in writing a formal hearing by the County Board of Supervisors, provided a petition requesting such hearing is filed with the Board of Supervisors within 30 days after notice of such action. Any hearings conducted by the Board of Supervisors shall be in accordance with § 62.1-44.15:45 of the Code of Virginia .Hearings must be conducted by the Board of Supervisors at a regular or special meeting. In reviewing the agent’s actions, the County Board of Supervisors shall consider evidence and opinions, and the County Board of Supervisors may affirm, reverse or modify the action. Verbatim record of proceedings must be taken and filed with the County Board of Supervisors. The County Board of Supervisors decision shall be final, subject only to review by the Circuit Court of the County.

**Reference:** § 62.1-44.15:44, Right to hearing § 62.1-44.15:45. Hearings

**§ 143-232 Appeals**

Any permittee or party aggrieved by a state permit or enforcement decision of the Frederick County Public Works under this article, or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final decision of the Department of Public Works or Board of Supervisors under this article, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the Constitution of the United States. Final decisions shall be subject to review and appeal to the Circuit Court of the County, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in the land disturbance activity occurs or is proposed to occur. Unless otherwise provided by law, the circuit court shall conduct such review in accordance with the standards established in § 2.2-4027, and the decisions of the circuit court shall be subject to review by the Court of Appeals. A person shall be deemed to meet such standard if (i) such person has suffered an actual or imminent injury that is an invasion of a legally protected interest and that is concrete and particularized; (ii) such injury is fairly traceable to the decision of the Department or the Board and not the result of the independent action of some third party not before the court; and (iii) such injury will likely be redressed by a favorable decision by the court.

1733 **§ 143-235 Fees**

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- 1735 A. The fee for the Frederick County Land-Disturbing Permit and fees for coverage  
1736 under the VSMP Authority Permit shall be imposed in accordance with Table 1.  
1737 When a site or sites have been purchased for development within a previously  
1738 permitted common plan of development or sale, the applicant shall be subject to  
1739 fees in accordance with the disturbed acreage of their site or sites according to  
1740 Table 1.

1741 **Reference:** Part XIII of the VSMP Regulations

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*Table 1: Fees for coverage under the VSMP Construction General Permit*

Type of Permit	Total Fee Paid by Applicant	Portion to be Paid to DEQ
VESCP permit fee if VSMP permit not required or VSMP General/ Stormwater Management – Small construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance less than 1 acre.)	\$209	\$0
VSMP General / Stormwater Management - (Single Family Home that disturbs less than 5 acres)	\$209	\$0
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$2,700	\$756
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500	\$1,260
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688

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B. Fees for the modification or transfer of coverage under the VSMP Construction General Permit issued by the Administrator shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require additional review by the Administrator, such reviews shall be subject to the fees set out in Table 2 based on the total disturbed acreage of the site. Modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in Table 1.

1757 Table 2: Fees for the modification or transfer of registration statements for the VSMP  
 1758 Authority Permit for Discharges of Stormwater from Construction Activities  
 1759

Type of Permit	Fee Amount
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, not to include single family homes.)	\$20
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$200
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

- 1760  
 1761 C. Permit maintenance fees. (9VAC25-870-830):  
 1762 1. The following annual permit maintenance shall be imposed in accordance  
 1763 with Table 3, including fees imposed on expired permits that have been  
 1764 administratively continued. With respect to the VSMP Authority Permit, these  
 1765 fees shall apply until the permit coverage is terminated.  
 1766 2. VSMP Authority Permit coverage maintenance fees shall be paid annually to  
 1767 the VSMP Authority, by the anniversary date of VSMP Authority General  
 1768 Permit coverage, in accordance with Table 3. No VSMP Authority permit will  
 1769 be reissued or automatically continued without payment of the required fee.  
 1770 VSMP Authority permit coverage maintenance fees shall be applied until a  
 1771 Notice of Termination is effective.  
 1772  
 1773

1774 *Table 3: VSMP Authority Permit Maintenance Fees*  
 1775

Type of Permit	Fee Amount
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, not to include single family homes.)	\$50
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$400
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$1,400

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- D. The fees set forth in subsections A-C, above, shall apply to:
    1. All persons seeking coverage under the VSMP Authority Permit.
    2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a VSMP Authority Permit.
    3. Persons whose coverage under the VSMP Authority Permit has been revoked shall reapply for an Individual Permit for Discharges of Stormwater from Construction Activities.
    4. Permit and permit coverage maintenance fees outlined under Section may apply to each VSMP Authority Permit holder.
  - E. No VSMP Authority Permit application fees will be assessed to Permittees whose permits are modified or amended at the initiative of the VSMP Authority, excluding errors in the registration statement identified by the Director or errors related to the acreage of the site.
  - F. All incomplete VSMP permit fee payments will be deemed as nonpayment's, and the applicant shall be notified of any incomplete permit fee payments. Interest may be charged for late permit fee payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The Administrator shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

1801 **§ 143-240 Performance Bonds**

1802

1803 A. Prior to the issuance of any land-disturbing permit, the owner or permittee shall  
1804 execute and file with the Administrator a Frederick County Erosion and Sediment  
1805 Control and Stormwater Management Performance Agreement and cash escrow  
1806 or irrevocable letter of credit (or other form of a performance bond as approved  
1807 by the Frederick County Attorney) in an amount determined in accordance with  
1808 the Frederick County Bond Estimate Worksheet which shall be equal to the  
1809 approximate total cost of providing erosion and sediment control and stormwater  
1810 quality and quantity improvements as required by this ordinance and shown on  
1811 the approved plans in addition to a 25% contingency of the total bond amount.

1812 B. The Frederick County Erosion and Sediment Control and Stormwater  
1813 Management Performance Agreement and performance bond is to ensure that  
1814 measures could be taken by Frederick County at the applicant's expense should  
1815 he fail, after proper notice as outlined in **§ 143-225**, within the time specified to  
1816 initiate or maintain appropriate actions which may be required of him by the  
1817 permit conditions as a result of his land-disturbing activity. If Frederick County  
1818 takes such action upon such failure by the applicant, Frederick County may  
1819 collect from the applicant for the difference should the amount of the reasonable  
1820 cost of such action exceed the amount of the security held.

1821 C. Upon successful completion of the land-disturbing activity, to include submittal of  
1822 the construction as-built drawings of permanent stormwater management  
1823 facilities described in **§ 143-165** and prior to termination of the VSMP Permit, the  
1824 owner or permittee must provide written notification to Frederick County. Upon  
1825 verification of adequate stabilization of land disturbing activity in the project or  
1826 any section thereof, the director shall reduce, return, or terminate the required  
1827 bond, cash escrow or irrevocable letter of credit to the owner, as the case may  
1828 be, within 60 days.

1829 D. If the applicant/owner fails to comply with the approved SWPPP as documented  
1830 through the site inspections described in **§ 143-210**, and after proper notification,  
1831 the Administrator may determine that the performance bond or escrow may be  
1832 used to execute the plan.

1833 **Reference:** §62.1-44.15:34; 9VAC25-870-104 (D).




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 COUNTY of FREDERICK
 

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Inspections Department

John S. Trenary, Building Official  
 540/665-5650  
 Fax 540/678-0682

**Public Work Committee, April, 28,2014**

**Discussion of Building Inspection Department 's Fee Schedule Change 2014**

**Previous change to fee schedule was in March of 2006**

**May 8<sup>th</sup>, 2014 meeting with Top of VA committee for comment on changes**

**Evaluation included several localities permit fees, the activities and expenses not related to building permits and the revenue and expenditure comparison to Building Departments to maintain services.**

**Expenditures for Property Maintenance and complaint inspections estimated to be \$65,000 over the previous year.**

**Major changes : (Square footage fees generate 41% of revenue collected. )**

Residential- \$.38 to \$.40 sq. ft. ( average from evaluation comparison of other localities)  
 Res. Accessory Buildings from \$.05 to \$.10 Sq. Ft. over 600 Sq. Ft.

Industrialized Buildings and Manufactured Housing form \$.25 to \$.30 Sq. Ft.  
 (changing MH to as equal charge as Industrialized from previous set fee)

**Restructure of Commercial fees with increase to cover Plans/Design Review  
 (separate IBC use classifications for permit fees charged)**

Storage and utility increase from \$.15 Sq. Ft. to \$.18 Sq. Ft. w/reduction to \$.15Sq.Ft. Over 250,000 Sq. Ft. from the previous \$.10 Sq. Ft.

Churches and Schools increase from \$.08 Sq. Ft. to \$.15 Sq. Ft.

Other IBC uses classification from \$.15 to \$.22 Sq. Ft.

Renovation / Alterations from \$.15 to \$.18 Sq. Ft. (except for E and A3 uses)

Sprinkler systems from \$.75 per head with reduction to \$.50 to \$1.00 per device

**Fee for Inspection of Work started prior to permit issuance. Currently \$50.00 to ?**

**Estimate \$90,000 plus annually with increase changes**





## COUNTY of FREDERICK

Inspections Department

John S. Trenary, Building Official  
540/665-5650  
Fax 540/678-0682

April 28, 2014

**Frederick County Public Works Committee**

**Property Maintenance Town of Stephen City**

The Town of Stephen City has a proposed ordinance to the Town Code to implement Property Maintenance. The ordinance proposed is set to go to Public Hearing on May 6<sup>th</sup> and Mike Kehoe the Town Manager is seeking comments prior to the hearing.

The wording of the ordinance, that amends Chapter 9 Code of the Town of Stephen City, mirrors the language within Chapter 54: Building Maintenance of the Frederick County Code. Enforcement of Virginia Maintenance Code is an option, however under the Virginia Construction Code when a tenant complains about an unsafe condition in a dwelling the Building Inspections Department has to respond and the Building Official has to enforce the provisions of the VMC on any unsafe condition. Frederick County currently enforces the Virginia Construction Code and the Virginia Rehabilitation Code within Stephen City.

**Enforcement-** The VUSBC and State Code under section 36-105 requires enforcement by the County for Towns under the population of 3,500. ( Rod Williams has reviewed and confirmed requirement for the County to enforce the VMC) Stephen City enforcement is identified to be conducted by FC Building Inspections Department and appoints The Building Official as the VMC Code Official. (Stephen City 2012 census indicated 1,874 people) Frederick County currently has four certified Property Maintenance Inspectors on staff.

**Effect -** FC Inspections conducted 368 PM and Complaint inspections from Feb.2013 to Feb.2014 at an estimated cost of approximately \$50,000 to \$60,000 annually. Records indicate that we received approximately 2-3 complaints per year within Stephen City town limits.

Without the VMC ordinance being adopted and the appointment of the Code Official, enforcement cannot occur on structures built before the adoption of the VUSBC and on structures if they are two years beyond the date of occupancy. With the approval of this proposed ordinance greater uniformity of the VMC enforcement throughout the County will occur.


**COUNTY of FREDERICK**

Department of Public Works

540/665-5643

FAX: 540/678-0682

**MEMORANDUM**

**TO:** Public Works Committee  
**FROM:** Harvey E. Strawsnyder, Jr., P.E., Director of Public Works  
**SUBJECT:** Monthly Tonnage Report - Fiscal Year 13/14  
**DATE:** April 23, 2014

*HES  
ALD*

The following is the tonnage for the months of July 2013, through June 2014, and the average monthly tonnage for fiscal years 03/04 through 12/13.

<b>FY 03-04:</b>	<b>AVERAGE PER MONTH:</b>	16,348 TONS (UP 1,164 TONS)
<b>FY 04-05:</b>	<b>AVERAGE PER MONTH:</b>	17,029 TONS (UP 681 TONS)
<b>FY 05-06:</b>	<b>AVERAGE PER MONTH:</b>	17,785 TONS (UP 756 TONS)
<b>FY 06-07:</b>	<b>AVERAGE PER MONTH:</b>	16,705 TONS (DOWN 1,080 TONS)
<b>FY 07-08:</b>	<b>AVERAGE PER MONTH:</b>	13,904 TONS (DOWN 2,801 TONS)
<b>FY 08-09:</b>	<b>AVERAGE PER MONTH:</b>	13,316 TONS (DOWN 588 TONS)
<b>FY 09-10:</b>	<b>AVERAGE PER MONTH:</b>	12,219 TONS (DOWN 1,097 TONS)
<b>FY 10-11:</b>	<b>AVERAGE PER MONTH:</b>	12,184 TONS (DOWN 35 TONS)
<b>FY 11-12:</b>	<b>AVERAGE PER MONTH:</b>	12,013 TONS (DOWN 171 TONS)
<b>FY 12-13:</b>	<b>AVERAGE PER MONTH:</b>	12,065 TONS (UP 52 TONS)
<b>FY 13-14:</b>	<b>AVERAGE PER MONTH:</b>	11,988 TONS (DOWN 77 TONS)

<b>MONTH</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>JULY</b>	12,596	13,514
<b>AUGUST</b>	13,934	13,343
<b>SEPTEMBER</b>	11,621	12,345
<b>OCTOBER</b>	12,863	13,266
<b>NOVEMBER</b>	12,598	10,857
<b>DECEMBER</b>	10,728	11,614
<b>JANUARY</b>	11,054	11,411
<b>FEBRUARY</b>	9,776	10,021
<b>MARCH</b>	10,636	11,518
<b>APRIL</b>	13,074	
<b>MAY</b>	13,396	
<b>JUNE</b>	12,508	

RECYCLING REPORT - FY 13/14

<u>MONTH</u>	<u>GLASS</u>	<u>PLAST</u>	<u>AL CANS</u>	<u>STEEL CANS</u>	<u>PAPER</u>	<u>OCC</u>	<u>SHOES</u>	<u>TEXTILE</u>	<u>ELEC</u>	<u>SCRAP</u>	<u>TOTAL</u>
JUL	86,440	37,440	3,980	7,760	104,840	79,810	1,260	3,300	43,380	185,385	553,595
AUG	75,380	38,140	3,154	6,706	104,392	81,880	130	1,090	43,500	147,580	501,952
SEP	65,700	33,640	2,805	5,955	93,049	70,630	1,140	3,800	68,880	148,940	494,539
OCT	87,180	36,760	3,595	10,585	163,586	68,660	1,580	1,520	46,580	143,540	563,586
NOV	72,280	31,200	2,915	8,465	99,826	60,820	600	1,080	43,040	106,280	426,506
DEC	83,840	37,640	3,480	10,871	153,074	88,621	1,620	1,520	21,680	76,520	478,866
JAN	71,020	31,520	3,005	7,755	74,539	67,320	2,180	320	45,660	61,240	364,559
FEB	75,480	29,080	3,630	10,010	124,793	61,820	980	1,100	50,100	61,240	418,233
MAR	60,280	34,100	2,785	7,275	51,052	76,860	1,760	3,040	49,460	124,800	411,412
APR											0
MAY											0
JUN											0
<b>TOTAL</b>	677,600	309,520	29,349	75,382	969,151	656,421	11,250	16,770	412,280	1,055,525	4,213,248
<b>FY 12-13</b>	913,530	410,338	45,086	102,875	1,508,029	878,450	15,020	24,680	502,680	1,321,938	5,722,626
<b>FY 11-12</b>	865,380	398,320	43,884	99,846	1,492,826	840,717	8,200	29,720	484,600	1,432,678	5,696,171
<b>FY 10-11</b>	949,185	378,452	42,120	98,474	1,404,806	824,873	18,420	23,280	467,920	1,220,107	5,427,637
<b>FY 09-10</b>	1,123,671	370,386	42,844	96,666	1,235,624	671,669	21,160		435,680	1,348,398	5,346,098
<b>FY 08-09</b>	762,810	322,928	23,473	55,246	1,708,302	564,957	28,780		404,760	1,097,151	4,968,407
<b>FY 07-08</b>	794,932	284,220	15,783	40,544	1,971,883	545,692	0		498,110	1,172,880	5,324,044
<b>FY 06-07</b>	600,464	200,720	11,834	29,285	1,684,711	441,321	0		382,574	550,070	3,900,979
<b>FY 05-06</b>	558,367	190,611	12,478	28,526	1,523,162				381,469	204,220	2,898,833
<b>FY 04-05</b>	549,527	193,224	11,415	27,525	1,552,111				273,707	25,080	2,632,589
<b>FY 03-04</b>	541,896	174,256	11,437	31,112	1,443,461				156,870	336,230	2,695,262
<b>FY 02-03</b>	413,627	146,770	9,840	23,148	1,381,195				62,840	171,680	2,209,100
<b>FY 01-02</b>	450,280	181,040	10,565	25,553	1,401,206				54,061	58,140	2,180,845
<b>FY 00-01</b>	436,615	198,519	10,367	24,988	1,759,731					9,620	2,439,840
<b>FY 99-00</b>	422,447	177,260	10,177	22,847	1,686,587					44,180	2,363,498
<b>FY 98-99</b>	402,192	184,405	9,564	22,905	1,411,950					48,810	2,079,826
<b>FY 97-98</b>	485,294	136,110	13,307	29,775	1,830,000						2,494,486
<b>FY 96-97</b>	373,106	211,105	23,584	46,625	1,690,000						2,344,420
<b>FY 95-96</b>	511,978	167,486	28,441	44,995	1,553,060						2,305,960
<b>TO DATE</b>	10,241,771	3,915,812	331,113	748,060	26,730,615	3,889,229	76,560	53,000	3,602,591	7,719,244	57,307,995

add ONP



FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2013-2014

DOG REPORT

MONTH	ON HAND AT FIRST OF MONTH	RECEIVED AT KENNEL	BROUGHT IN BY ACO	BITE CASES	BORN AT KENNEL	ADOPTED	RECLAIMED	DISPOSED	DIED AT KENNEL	ESCAPED/ STOLEN	CARRIED OVER NEXT MONTH
JULY	70	55	56	1	3	62	33	25	0	0	65
AUG	65	38	42	1	0	37	39	15	0	0	55
SEP	55	36	51	4	0	47	39	2	0	0	58
OCT	58	59	42	1	0	49	35	17	0	0	59
NOV	59	39	34	2	0	39	27	6	0	0	62
DEC											
JAN											
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	307	227	225	9	3	234	173	65	0	0	299

In the month of November - 134 dogs in and out of kennel.  
 1 dog transferred to rescue, 2 dogs to Clarke County Animal Shelter.

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2013-2014

CAT REPORT

MONTH	ON HAND AT FIRST OF MONTH	RECEIVED AT KENNEL	BROUGHT IN BY ACO	BITE CASES	BORN AT KENNEL	ADOPTED	RECLAIMED	DISPOSED	DIED AT KENNEL	ESCAPED/ STOLEN	CARRIED TO NEXT MONTH
JULY	147	197	74	1	8	16	4	210	50	0	147
AUG	147	226	27	6	17	26	1	216	29	0	151
SEP	151	173	38	0	7	18	2	166	31	0	152
OCT	152	222	25	0	0	14	1	219	35	0	130
NOV	130	112	8	1	9	32	3	122	16	0	87
DEC											
JAN											
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	727	930	172	8	41	106	11	933	161	0	667

In the month of November - 260 cats in and out of shelter.

## MEMORANDUM

**TO:** Green Advisory Committee  
**FROM:** Jonathan M. Turkel, Park & Stewardship Planner, *JMT*  
**SUBJECT:** Meeting of April 29, 2014  
**DATE:** April 23, 2014

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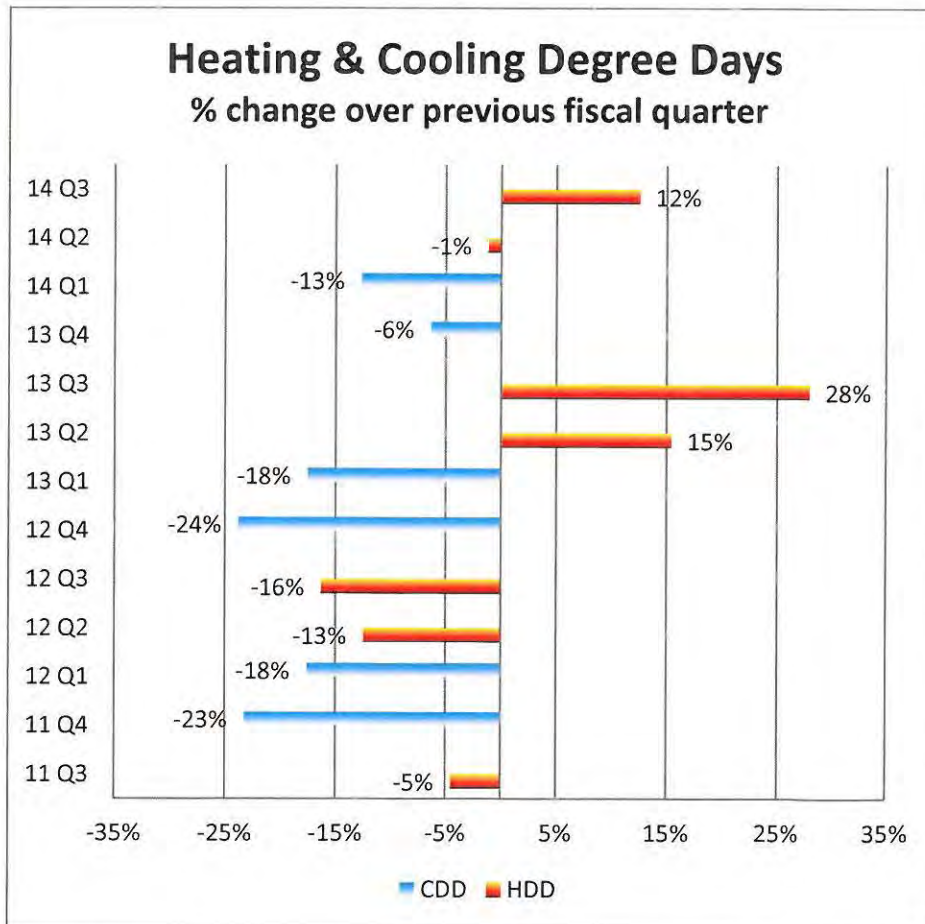
There will be a meeting of the Green Advisory Committee on Tuesday, April 29, 2014, at 8 a.m. in the conference room located on the on the **second floor of the north end of the County Administration Building at 107 North Kent Street, Suite 200**. The agenda thus far is as follows:

### Items for discussion:

1. Energy Management Update
  - a. Planet Footprint data collection & monitoring. Using the Planet Footprint service staff is monitoring electricity and natural gas consumption across all accounts. Heating and cooling degree day data is being monitored to determine if temperature is driving changes in consumption. Using Planet Footprint database of Frederick County accounts, staff is able to monitor current and historical consumption for trend evaluation.

Improvements to the Planet Footprint service are now live. Better graphical representation of use and trends are now a feature, and the ability to 'push' reports to responsibility center heads should lead to greater awareness of consumption trends. See **(Attachment 1)** for new data presentation format.




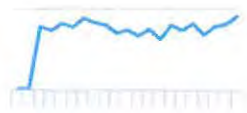


This dashboard shows data from Jul - Mar 2014 (upto and including Quarter 3) compared the same period last year. [Learn about dashboards](#)



# Analyse Assets

Home > Analyse Assets

Search:

Name	Year to date Jul - Mar 2014	Compared to Same Period Last Year	Trend (last 5 years)
Main Jail	 17K	↑ \$3k (1.7%)	
Administration Building	 \$101K	↑ \$6k (6.4%)	
Public Safety Building	 \$93K	↑ \$7k (8.2%)	

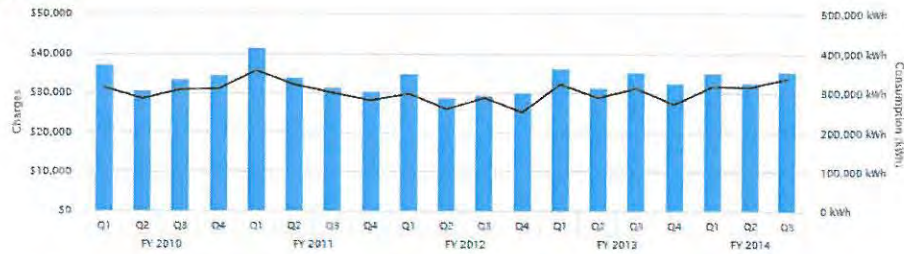
## Administration Building

Administration Building

Dashboard Details Performance Accounts

Jump to Electricity Gas

Electricity



Gas





F





## COUNTY of FREDERICK, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY COMMUNICATIONS

1080 Coverstone Drive, Winchester, VA 22602

### MEMORANDUM

LeeAnna Pyles  
Director,  
Public Safety  
Communications

**TO:** Board of Supervisors

**FROM:** LeeAnna Pyles,  
Director Public Safety Communications

**SUBJECT:** Public Safety Committee Meeting.  
Report for May 5, 2014

**DATE:** May 7, 2014

A meeting of the Public Safety Committee was held on Monday May 5, 2014 at 8:30 a.m. at the Frederick County Public Safety Building, 1080 Coverstone Drive, Winchester, VA. Committee members present were: Committee Chairman Gary Lofton, Ron Wilkins, Michael Lindsay, Chris Collins, and Gene Fisher. Member Chuck Torpy was absent. Also in attendance were County Administrator John R. Riley, Jr., Fire & Rescue Chief Denny Linaburg, Deputy Fire Chief Larry Oliver, Communications Director LeeAnna Pyles, County Attorney Rod Williams, Human Resources Director Paula Nofsinger, Major Lou VanMeter, Deputy Fire Chief Bill Bowmaster, and Fire & Rescue President Dan Cunningham. The following items were discussed:

#### **\*\*\*Items Not Requiring Action\*\*\***

##### **1. Revenue Recovery program update (Attachment A):**

Deputy Chief Oliver discussed the automatic fee schedule increase provided by the Center for Medicare and Medicaid Services, which updates the payments for ambulance services annually. Only one of the five services – ALS level 2- will increase this year (from \$720 to \$755) and the mileage rate will not be affected. The fee schedule automatically changes rates every January, with our adapted rate schedule from June 2013 being the County's minimum charge for service.

*The PSC made a unanimous motion to send the implemented increases, including present and future automatic increases in the Center for Medicare and Medicaid Services fee schedule, to the Finance Committee for approval.*

## **2. Star Tannery request for staffing update (Attachment B):**

At the Committee's December 17, 2013 meeting, the Committee's consensus was for Mr. Riley to set up a meeting with Shenandoah County officials to discuss the staffing needs at Star Tannery in an effort to reach an agreement regarding funding assistance for needed full-time positions. Since that time, Chief Linaburg and Mr. Riley did meet with their counterparts in Shenandoah County with an offer to split the cost of staffing. At that time, Shenandoah County declined to assist with such costs as it was not financially feasible. Frederick County had requested \$150,000.

Mr. Lofton noted that it appeared they were looking to Frederick County to fund the entire staffing cost even though both localities split the calls. He went on to say this was not financially feasible for Frederick County.

It was noted that Star Tannery is currently running at 40% failure rate due to the lack of staffing. It was further noted if Frederick County provided 100% funding in order to take care of this issue, with no expectations of assistance from Shenandoah County then there would be no long term benefit since the calls are equally divided between the two counties.

Mr. Fisher agreed that the lack of cooperation from Shenandoah County in this matter was disheartening.

Mr. Riley offered to go back to Shenandoah County to again request funding assistance for Star Tannery.

Mr. Fisher suggested that other board members attend the meeting in an effort to try resolve this matter.

*The Committee's consensus was for Mr. Riley, and any other committee members who wish to accompany him, to again meet with Shenandoah County's representatives in an effort to reach an agreement to fund these positions.*

## **3. Fee Schedule for Fire Marshals**

Chief Linaburg discussed the need to update the Fire Marshal's fee schedule which is over 20 years old. It needs to be reflective of the current and surrounding jurisdictions and state rates. Chief Linaburg would like to address this issue at the next Public Safety Meeting.

## **4. New Fire & Rescue President**

Dan Cunningham introduced himself as the new president of the Fire & Rescue Association, succeeding Mr. Price. He is looking forward to working with the Committee on the issues and topics that arise within the community.



**Next Meeting:** TBA

**Adjourn:**

The meeting was adjourned at 9:15 a.m.

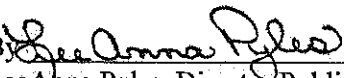
Respectfully submitted,

Public Safety Committee

Gary Lofton  
John Riley  
Sheriff Robert Williamson  
Denny Linaburg  
Chris Collins

Gene Fisher  
Brenda Vance  
Ann B. Lloyd  
Rod Williams  
Michael Lindsay

Chuck Torpy  
Ronald Wilkins  
Glen Williamson  
Dan Cunningham

B:   
\_\_\_\_\_  
LeeAnna Pyles, Director Public Safety Communications  
LP/sds




COUNTY OF FREDERICK, VIRGINIA

FIRE AND RESCUE DEPARTMENT

1080 Coverstone Drive  
Winchester, VA 22602

Larry A. Oliver  
Deputy Chief  
Training Division

**MEMORANDUM**

**DATE:** April 30, 2014  
**TO:** Public Safety Committee  
**FROM:** Larry A. Oliver, Deputy Chief – Training Division   
Fire and Rescue Department  
**SUBJECT:** Automatic Fee Increase For E.M.S. Expense Recovery Program

At the June 2013 Public Safety Committee and Board of Supervisors meetings, the Fee Schedule for the E.M.S. Expense Recovery Program was adopted unanimously. During this meeting, it was discussed that the Center for Medicare and Medicaid Services (C.M.S.) updates the payment limits for ambulance transportation annually, that localities can adopt for their local fee schedules. These rate increases are designed for increasing healthcare costs as well as economy inflation to continue to allow adequate reimbursement to the localities. No action was taken on these annual rate increases during either of these two (2) meetings.

Premier Accounts Receivable Management has advised the Fire and Rescue Department that this increase took place January 1, 2014, we would like to implement the increase accordingly. After speaking with the County Attorney concerning this rate increase, he stated that it would need to be addressed during the Public Safety Committee and then ultimately the Board of Supervisors since no action was taken during either of the two (2) meetings in June 2013.

We recommend that the Frederick County Fire and Rescue Department fee schedule be evaluated annually and established at a rate twenty-five percent (25%) greater than the current C.M.S. Ambulance Fee Schedule allowable amounts, rounded up to the nearest whole dollar for the following service levels:

Basic Life Support (B.L.S.) Emergency Rate (A0429)  
Basic Life Support (B.L.S.) Non-Emergency Rate (A0428)  
Advanced Life Support (A.L.S.) Level 1 Emergency Rate (A0427)  
Advanced Life Support (A.L.S.) Non-Emergency Rate (A0426)  
Advanced Life Support (A.L.S.) Level 2 Emergency Rate (A0433)

We recommend that the adopted fee schedule be the minimum fee schedule in the event that C.M.S. reduces their Ambulance Fee Schedule. We also recommend this to be an automatic process as long as it is positive for the E.M.S. Expense Recovery Program. Premier Accounts Receivable Management will present new recommended rate amounts (25% greater than current Medicare allowed fees) to Frederick County Fire and Rescue Department within thirty (30) days of C.M.S.'s published list, for approval.

**From June 3, 2014 Public Safety Committee Minutes:**

“Deputy Chief Oliver addressed the current fee schedule which was developed last year by the Public Safety Committee. One of the outstanding issues is the automatic fee increase that Medicare/Medicad/Tricare have in place and how this automatic fee increase could be incorporated into the current fee schedule. Deputy Chief Oliver also noted that ALS1 and BLS1 non emergency fees are not current on the proposed schedule. The current fees should be \$512.00 for ALS1 non emergency and \$431.00 for BLS1 non emergency calls. *The Public Safety Committee unanimously recommended the Board of Supervisors adopt the rates for the Fee for Service fee schedule.*”

LAO

cc: File Copy



COUNTY OF FREDERICK, VIRGINIA


FIRE AND RESCUE DEPARTMENT

1080 Coverstone Drive  
Winchester, VA 22602

Dennis D. Linaburg  
Fire Chief

MEMORANDUM

**TO:** Public Safety Committee

**FROM:** Dennis D. Linaburg, Chief  
Fire & Rescue 

**SUBJECT:** Career Staffing Request – Star Tannery

**DATE:** April 28, 2014

A meeting with Shenandoah County Fire and Rescue as well as the Shenandoah County Board of Supervisors was held to discuss assistance with financing career staff at Star Tannery Fire and Rescue. Unfortunately, Shenandoah County's budget does not allow them to assist us at this time. The only funding option they were able to offer was re-allocating their annual company contribution of \$30,000 to the County. This option however would take away from Star Tannery's annual operating budget and would thus negatively affect the company.


After a review of several county companies including Star Tannery, it was realized that Star Tannery is failing to respond to approximately 30-40% of their first due calls. The company is still in dire need of career staffing in order to adequately respond to emergencies in their district.

At this time, we again are requesting the Committee's support in moving forward with staffing Star Tannery Fire and Rescue with career personnel to better serve the residents living in this community.

G



**MEMORANDUM**

**TO:** Board of Supervisors  
**FROM:** John A. Bishop, AICP, Deputy Director - Transportation   
**RE:** Transportation Committee Report for Meeting of April 28, 2014  
**DATE:** May 7, 2014

---

The Transportation Committee met on April 28, 2014 at 8:30 a.m.

Members Present

Chuck DeHaven (voting)  
James Racey (voting)  
Gene Fisher (voting)  
Lewis Boyer (liaison Stephens City)  
Gary Oates (liaison PC)

Members Absent

Mark Davis (liaison Middletown)  
Christopher Collins (voting)

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

**1. Welcoming Signage**

One of the recommendations of the recent business friendly committee work was to recommend that welcoming signage be placed at key entrances to Frederick County.

For signage along primary routes such as Route 522, Route 50, or Route 11, the process is fairly simple. The County would need to design the signage and place it in accordance with VDOT standards and practices and with a VDOT permit. Attached please find the VDOT guidelines as well as a memorandum of support from Mr. Riley which includes example signage.

For signage along I-81, the process is somewhat more complicated. VDOT does not allow location of such signage within the limited access right-of-way so alternative methods must be evaluated. To utilize an existing billboard, the cost would be approximately \$600 per month in addition to what the cost would be to create and install the signage itself. Staff would recommend that the agency doing the signage cooperate with property owners neighboring the I-81 right-of-way to purchase or occupy enough land to place and maintain a sign. This can be accomplished with a conditional use permit and would allow for greater variability and likely a more attractive signage design. Actual cost of this option would be highly variable depending upon agreements reached with property owners and final signage design.

In addition to this material staff and VDOT noted that signage cannot be placed in the median.

**Motion** was made by Mr. Racey and Seconded by Mr. Fisher to recommend that the Board direct the EDA to proceed with signage on the primary routes and to further investigate the options (rented billboard vs. county owned sign) and to include consideration of the water tower. Motion passed unanimously.

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

**2. Interstate, Primary, and Secondary Road Plan (appearing as separate agenda item)**

The Interstate and Primary Plans are unchanged while the Secondary Plan has been updated to reflect projects that have been or are in the process of being completed on the scheduled hardsurfacing list as well as add new projects to the unscheduled list for hardsurfacing. Additional funding is not available that would allow any projects to be promoted from the unscheduled to the scheduled list.

Motion to recommend approval was made by Mr. Racey and seconded by Mr. Fisher.

**3. Intersection of Tasker Road and Crosskeys Blvd.**

Staff has received a request from Mrs. Jorie Martin who serves as the property manager for the Musket Ridge subdivision. The residents of Musket Ridge have requested that a left turn lane be installed from Tasker Road onto Crosskeys Boulevard. Staff has attached graphics of the intersection for reference. Staff contacted Captain Heflin of the Sheriff's office and he indicated that there are regular issues caused in this location by the lack of a turn lane and that the installation would be a positive improvement. Accident data has also been requested from VDOT.

Staff would recommend that the Committee request an evaluation from VDOT's traffic engineering division that analyze the issue, develop a cost estimate for the improvement, and evaluate the competitiveness of the project for a safety grant.

The committee directed staff to continue on the course that they had recommended.

**4. Private Streets in the R5 Zoning District (appearing under separate agenda item)**

Staff provided the minutes of the DRRC as well as a letter from Mr. Lawson and noted that no other new materials had been received. Staff further noted that the concerns raised by DRRC were very similar to those raised at Transportation.

Supervisor Wells, several residents of the Shenandoah Development, and the applicant were present and requested that even if the Transportation Committee did not have a recommendation that they forward this item to the Board of Supervisors without one.

Motion by Mr. Racey and seconded by Mr. Fisher to forward the request to the Board without a transportation committee recommendation.



5. **6 Year Improvement Program Public Hearing**

Staff noted to the Committee that on April 29, 2014 the Commonwealth Transportation Board would be holding a public hearing on the Draft 6 Year Improvement Program. Staff outlined concerns with the draft which had been previously covered with Mr. Shickle and Mr. Riley. The committee concurred with the concerns and the resulting comments that were made are below.

Frederick County would like to note our appreciation of the expansion of the revenue sharing program and note our success in that area. I would particularly like to emphasize how Frederick County's use of the public private partnership within the scope of the revenue sharing program has been very successful.

Noted the positive progress on exit 310 and Route 277.

Regarding project funding we would like to note that we waited a long time for significant funding of those projects and that pattern of funding reminds us in Frederick County how important it is that the next significant spending item is carefully chosen.

In the draft plan there is 9M on the exit 313 interchange. \$3-3.5M is for the interchange study. Remainder seems to be seed money for the next project.

If that seed money is for the redecking then we are fully supportive of that project which is much needed for the safety of the traveling public.

Frederick County does not believe that this is the best project to be the next major project in our region. However, if something more is envisioned by VDOT I would caution them and the CTB that region. I would note that extending Route 37 from exit 310 to Route 522 would be a much more regionally significant project. This facility will offer much needed relief to exit 307, exit 313, and offer significantly improved access to vehicles accessing the Virginia Inland Port. Port expansion has been a key planning item in Virginia for some time now and cannot afford to be overlooked here.

As I noted earlier, major projects do not often come to our part of the state. HB 2313 certainly helps that and gives us cause to be optimistic. However it remains critical that when major projects are up for funding that they are very carefully chosen and that local planning and priorities are considered and local officials are involved.

6. **Other**

JB/pd

- b. No signs shall be erected that would restrict sight distance, or are close to highway warning and directional signs;
- c. Signs regarding forest fires should be placed by fire wardens; and
- d. Signs shall be maintained by the Department of Forestry.

In all cases, the forest warden is to coordinate the desired location of these signs with the district administrator's designee prior to placement.

2. Garden week. These signs are erected and removed by employees of VDOT. The appropriate committee of the Garden Club of Virginia will designate the gardens and places that are to be officially opened during Garden Week and notify the district administrator's designee accordingly, who will ensure the appropriate placement of these signs.

3. Roadside acknowledgement. These signs acknowledge the name and logo of businesses, organizations, communities, or individuals participating in the landscape of a segment of the right-of-way in accordance with the Comprehensive Roadside Management Program (see 24VAC30-151-760). As the landscaping is accomplished under a land use permit, the signs are considered to be covered by that permit.

4. Rescue squad. These signs are fabricated, erected, and maintained by VDOT. The signs may be used on the approaches to the rescue squad headquarters as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760).

5. Fire station. These signs are fabricated, erected, and maintained by VDOT. The signs may be used on the approaches to fire station headquarters as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760).

6. Bird sanctuary. Upon receipt of a request from a town or city, VDOT will fabricate and erect these signs, at the expense of the municipality, at the corporate limits of the town or city under the municipality name sign as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760). In order for a municipality to be designated as a bird sanctuary, the municipality must pass a resolution to that effect. The municipality shall be responsible for maintenance of bird sanctuary signs.

7. Historical highway markers. Information regarding the historical highway marker program may be obtained from the Virginia Department of Historic Resources. Applications for historical highway markers shall be obtained from and submitted to the Virginia Department of Historic Resources.

**B. The district administrator's designee may authorize the placement of the following miscellaneous signs within right-of-way under the auspices of a single use permit:**

**1. Locality identification or "welcome to" signs. Requests for locality identification or "welcome to" signs to be located within nonlimited access right-of-way. These signs shall not be placed on limited access right-of-way. Locality identification or "welcome to" signs that interfere with roadway safety, traffic capacity, or maintenance shall not be permitted. A permit application requesting placement of a locality identification or "welcome to" sign within the right-of-way must be accompanied by a formal resolution from the local governing body or a letter from the chief executive officer of the local government. Such signs shall meet all VDOT breakaway requirements (see Road Design Manual, 24VAC30-151-760) or be erected outside of the clear zone. No advertising shall be placed on these**

signs. The local governing body shall be responsible for maintenance of the locality's identification or "welcome to" signs in perpetuity.

2. VDOT may authorize any individual, group, local government, and other entities to place storm drain pollution prevention markers or stenciling on VDOT storm drain inlet structures accessible by pedestrian facilities. A local government, through coordination with the district administrator's designee, may apply for a countywide permit to enable this type of activity of behalf of clubs, citizens groups, and other entities. The permit application must include, at a minimum, a graphic sample or samples of the proposed markers, structure locations and a comprehensive list of streets, if a wide distribution of marker placement is anticipated. Stencil measurements shall not exceed 15" L x 20" W.

3. VDOT may authorize a local government to install "no loitering" signs within the right-of-way. The district administrator's designee shall determine the appropriate location for these signs.

**24VAC30-151-580. Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation-related elements.**

Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation elements such as pedestrian oriented trash cans, or any combination of these, that do not interfere with roadway safety, traffic capacity or maintenance may be authorized under the auspices of a single use permit. These nontransportation related elements shall not be placed on limited access rights-of-way. Requests for the placement of ornamental posts, walls, residential and commercial development identification signs, or other nontransportation related elements, or any combination of these, may be permitted as authorized by the district administrator's designee. Permit applications requesting placement of ornamental posts, walls, residential and commercial development identification signs, other nontransportation related elements, or any combination of these, within the right-of-way must be accompanied by documentation indicating the issuance of all required approvals and permissions from the local jurisdictional authority. Such ornamental posts, walls, residential and commercial development identification signs, and other nontransportation related elements shall meet all VDOT breakaway requirements (see Road Design Manual, 24VAC30-151-760) or be erected outside of the clear zone. No advertising shall be placed on these nontransportation related elements permitted within the right-of-way. The permittee shall be responsible for maintenance of these nontransportation related elements in perpetuity.

**24VAC30-151-590. Outdoor advertising adjacent to the right-of-way.**

Permits for outdoor advertising located off the right-of-way are obtained through the roadside management section at any VDOT district office or the Maintenance Division in accordance with Chapter 7 (§ 33.1-351 et seq.) of Title 33.1 of the Code of Virginia. Selective pruning permits for outdoor advertising shall be issued in accordance with § 33.1-371.1 of the Code of Virginia.

**24VAC30-151-600. Pedestrian and bicycle facilities.**

The installation of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses and overpasses within right-of-way may be authorized under the auspices of a single use permit. VDOT shall maintain those facilities that meet the requirements of the Commonwealth Transportation Board's Policy for Integrating Bicycle and Pedestrian Accommodations (see 24VAC30-151-760). The maintenance of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses and overpasses not meeting these





John R. Riley, Jr.  
County Administrator


540/665-5666

Fax 540/667-0370

E-mail:

[jriley@co.frederick.va.us](mailto:jriley@co.frederick.va.us)

**MEMORANDUM**

<b>TO:</b>	Transportation Committee
<b>FROM:</b>	John R. Riley, Jr., County Administrator 
<b>SUBJECT:</b>	Signage Placement Along Major Routes Entering Frederick County
<b>DATE:</b>	April 8, 2014

The Frederick County Economic Development Authority would like to install signage along the major routes entering Frederick County (i.e. Routes 7, 11, 50, and 522) as a way of establishing Frederick County's identity and promoting the county as a business destination. This initiative was one of the phase I recommendations taken from the County's business friendly initiative. The Authority would like to see this signage placed within the median of the divided highways rather than on the shoulder, as this placement would draw attention to the signage.

At the Authority's March 20, 2014 meeting, the members voted to forward this item to the Transportation Committee for guidance on the structure of the signs, placement, and how VDOT might work with the County to accomplish this objective.

The Authority continues to work on the design and messaging for these signs, but would like to have the Transportation Committee begin looking at this proposal. Following the Transportation Committee's consideration of this item, the Authority would like to receive a recommendation so it can be incorporated into the final report that will be considered by the Board of Supervisors.

You will find attached some sample signage showing metal signs, medium density overlay panel, and high density urethane foam.

If you have any questions, please do not hesitate to contact me.

JRR/jet

Attachment

EXAMPLES

- 1. Metal



- 2. Medium density overlay panel (MDO)



- 3. High Density Urethane foam (HDU)











## **DRRC Meeting – 03/27/2014**

**Members present:** Greg Unger, Tim Stowe, Gary Oates, June Wilmot, Jay Banks

**Absent:** Larry Ambrogi, Kevin Kenney, Eric Lowman, Dwight Shenk, Whit Wagner, Roger Thomas

**Staff:** Candice Perkins

**Applicants:** Rick Lanham, Josh Hummer - Attorney

**Item 1: Private Streets in the R5 Zoning District.** Discussion on revisions to the Frederick County Zoning Ordinance to remove the requirement that R-5 communities must be “age restricted communities” to qualify for private streets.

The Applicant’s Attorney summarized the Transportation Committee meeting. The TC wanted the roads built to state standards and cbr's to be provided to the county. They also wanted to have the PE requirement to monitor the instillation and certify the construction. Mr. Unger asked about the construction and the PE certification. The applicant stated that the same standards would apply to them; paving design would be provided to the county and bonded. They would be inspected and then fixed at the end and off bond.

The committee was concerned because private streets don’t have the same requirements as the public streets. Private streets go bad eventually; the committee questioned how this could be avoided. The applicant stated that the ordinance includes a provision for a reserve fund and a reserve balance analysis to make sure there are adequate funds for repairs. He further stated that Shenandoah is a large community and the residents are asking for private streets. Every two years a capital reserve study is completed that ensures there are adequate funds for repairs.

Mr. Unger expressed concern about busses not being able to go into the community. Ms. Wilmot wanted to know if this community would draw more residents with or without kids. The applicant stated that he believes that it will draw fewer children, but can't be sure. The DRRC also had questions about liability for accidents on the private streets.

The committee questioned how the reserve is started? The Applicant stated that it is created at day one and as more improvements get underway more gets added to the fund.

The committee expressed concern about the guarantee that the HOA would never fold and then the residents come back to the county for help. The applicant stated that there is no way to provide a complete guarantee but they are trying to put ordinances in place to help that from happening. The applicant further stated that Shenandoah is proposed to be a nice development and the residents are going to want to keep it up but how do you make sure the maintenance is kept up. If the HOA doesn't do the reserve study then the county would have to enforce the ordinance and make them do it.

**Item 2: (Other) Setbacks for Midrise apartments.**

The committee expressed concern with the proposal to reduce the front setback from 35 feet to 15 feet. They felt that it seemed to close to a public street.



TND or high density developments should have commercial elements that include eating establishments which would be between the street and the building and 15 feet seems close. The committee expressed comfort with reducing the setback from 35 feet to 20 feet because it would provide more distance to the public road.

The committee also stated the possibility of going off the speed limit. Roads with a 25 mph should be 20 feet and anything over that should be 35 feet.

Line Item Search Results (16 line items found)

Total Line Item Estimate: \$133,711 (K)

UPC	Description	Route	District	Road System	Jurisdiction	Estimate	Previous	FY15	FY16-20	Balance	
						(Values in Thousands of Dollars)					
75881	RTE 81 - INTERCHANGE MODIFICATION, EXIT 310 PE FOR I-81 EXIT 307 INTER	81	Staunton	Interstate	Frederick County	\$49,121	\$37,614	\$3,121	\$8,386	\$0	
88659	RELOCATION\IMPROVEMENT	81	Staunton	Interstate	Frederick County	\$1,300	\$1,300	\$0	\$0	\$0	
88820	I-81 INTERCHANGE STUDY FOR EXIT 313	81	Staunton	Interstate	Frederick County	\$9,000	\$2,028	\$1,357	\$5,614	\$0	
104562	I-81 PAVEMENT REHABILITATION - SITE 3 VIEW SHED PROTECTION OF CEDAR CREEK VERMONT	81	Staunton	Interstate	Frederick County	\$4,444	\$100	\$750	\$3,594	\$0	
91123	MONUMENT		Staunton	Miscellaneous	Frederick County	\$1,797	\$2,254	\$0	\$0	(\$457)	
90218	RTE 11 SAFETY STUDY (PE ONLY)	11	Staunton	Primary	Frederick County	\$50	\$50	\$0	\$0	\$0	
104020	BRIDGE (FED ID 8055) RTE 17 MILLWOOD PIKE OVER I	81	Staunton	Primary	Frederick County	\$12,629	\$2,429	\$0	\$0	\$10,201	
85972	RTE 37 EASTERN BYPASS (PE ONLY)	37	Staunton	Primary	Frederick County	\$5,800	\$1,563	\$0	\$0	\$4,237	
105586	RTE 37 EASTERN BYPASS (PHASE II)	37	Staunton	Primary	Frederick County	\$4,237	\$940	\$2,000	\$1,296	\$0	
18003	RTE 277 - WIDEN TO 5 LANES	277	Staunton	Primary	Frederick County	\$33,068	\$9,698	\$0	\$17,370	\$6,000	
98361	INSTAL OBJECT MARKERS, WIDEN PAVE ROUTE 522, FREDERICK CO., STR. ID 08156 BRIDGE	277	Staunton	Primary	Frederick County	\$28	\$36	\$0	\$0	(\$8)	
78825	REPL.	522	Staunton	Primary	Frederick County	\$1,553	\$771	\$0	\$0	\$783	
104262	AIRPORT ROAD AND WARRIOR DRIVE EXTENSION RTE 623 - REPLACE BRIDGE OVER CEDAR CREEK VA	0	Staunton	Secondary	Frederick County	\$5,600	\$5,600	\$0	\$0	\$0	
90173	STR. 6908	623	Staunton	Secondary	Frederick County	\$2,206	\$295	\$0	\$1,911	\$0	
100547	ADDING RIGHT TURN LANE TO RT 661 TO SOUTH RTE	11	661	Staunton	Secondary	Frederick County	\$1,160	\$203	\$594	\$1,160	(\$797)
86316	ROUTE 723 OVER OPEQUON CREEK VA STRUC 6904	723	Staunton	Secondary	Frederick County	\$1,719	\$374	\$189	\$1,156	\$0	

H



**APPLICATION FOR OUTDOOR FESTIVAL PERMIT  
COUNTY OF FREDERICK, VIRGINIA**



**APPLICANT INFORMATION**

Name of Applicant: TEENS, Inc.

Telephone Number(s): 540.324.8965  home  office  cell      540.550.6449  home  office  cell

Address: 2122 N. Frederick Pike, Winchester, VA 22603

**FESTIVAL EVENT ORGANIZATIONAL INFORMATION**

<b>Festival Event</b>	Name of Festival: Boots & Bluegrass (It's a fundraising dinner)			
Cost of Admission to Festival: \$30pp/\$50couple		Business License Obtained: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<b>Date(s)</b>	<b>Start Time</b>	<b>End Time</b>	<b>Maximum No. of Tickets Offered For Sale Per Day</b>	<b>Estimated No. of Attendees Per Day</b>
Friday June 20th	6:00pm	9:30pm	150	150

**Location**      Address: 2122 N. Frederick Pike, Winchester, VA 22603

**Owner of Property**      Name(s): Gas City owns the property. Always Green has a long term lease on the property. Always Green is sponsoring the event and provides space for TEENS, Inc. on the property in their greenhouse.  
 Address: Gas City's Address: 17768 James Marlboro Hwy, Leesburg, VA 20176. Always Green's address is the 2122 N. Frederick Pike address where the event will be held.  
 (\*NOTE: Applicant may be required to provide a statement or other documentation indicating consent by the owner(s) for use of the property and related parking for the festival.)

**Promoter**      Name(s): This is a non-profit  
 Address: \_\_\_\_\_  
 (\*NOTE: For festivals other than not-for-profit, promoter may need to check with the Frederick County Commissioner of Revenue to determine compliance with County business license requirements; in addition, promoters who have repeat or ongoing business in Virginia may be required to register with the VA State Corporation Commission for legal authority to conduct business in Virginia.)

**Financial Backer**      Name(s): TEENS, Inc.  
 Address: 2122 N. Frederick Pike, Winchester, VA 22603

**Performer**      Name of Person(s) or Group(s): Jake and the Burtones (a bluegrass band from Loudoun County)  
 \_\_\_\_\_  
 \_\_\_\_\_



(\*NOTE: Applicant may need to update information as performers are booked for festival event.)

### FESTIVAL EVENT LOGISTICS INFORMATION AND DOCUMENTATION

1. Attach a copy of the printed ticket or badge of admission to the festival, containing the date(s) and time(s) of such festival (may be marked as "sample").  copy attached OR  copy to be provided as soon as available
2. Provide a plan for adequate sanitation facilities as well as garbage, trash, and sewage disposal for persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the VA Department of Health (Lord Fairfax Health District).

3 waste receptacles, 2 Johnny Blues, trash will be removed to the landfill station about 1 mile from site behind Virginia Farm Market, the food is being cooked by the caterer at their restaurant but may be re-heated on a grill at the dinner site. A permit has been submitted with the health department regarding all of these items as well. A property temporary event sanitation set up will also be provided as required by VDH.

3. Provide a plan for providing food, water, and lodging for the persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the VA Department of Health (Lord Fairfax Health District).

Food is being provided by a VDH approved caterer Neighborhood Italian Kitchen. Bottled water and soda will be provided. Wine and beer provided by Sante Wine and Beer. We have submitted the permit to ABC for a "banquet special event license" which allows the wine and beer sales. There will be no lodging. This is only a 3 hour dinner.

4. Provide a plan for adequate medical facilities for persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the County Fire Chief or Fire Marshal and the local fire and rescue company.

I spoke with Mark McDonald, the president of the Gainesboro Fire Department which serves the district for the fundraiser location. There are no medical facilities requirements for this event.

5. Provide a plan for adequate fire protection. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the County Fire Chief or Fire Marshal and the local fire and rescue company.

Mark McDonald, president of Gainesboro F.D. does not require any fire prevention measures because this is an outdoor/open event. His only requirement is that we contact the F.D. 2 weeks prior to the event as a reminder that we will be holding this dinner.

6. Provide a plan for adequate parking facilities and traffic control in and around the festival area. (A diagram may be submitted.)

The current facility has 16 parking spaces. All cars above the first 16 will park two businesses down in the Winchester Church of God parking lot. The Church as agreed to allow overflow parking in their lot for this dinner. Guests will be shuttled from the Church to the dinner.

7. State whether any outdoor lights or lighting will be utilized:  YES  NO

If yes, provide a plan or submit a diagram showing the location of such lights and the proximity relative to the property boundaries and neighboring properties. In addition, show the location of shielding devices or other equipment to be used to prevent unreasonable glow beyond the property on which the festival is located.

We will only be using a few low voltage lighting. This property is zoned B2 and next door to a gas station with a lot of bright lights. There are no other neighboring properties that would be disturbed by the event.

8. State whether alcoholic beverages will be served:  YES  NO

If yes, provide details on how it will be controlled.

A qualified bartender will be distributing any wine or beer. Alcohol provided by Sante Wine & Beer of Winchester and sold by the glass. Our ABC permit for "banquet special event license" will be posted at the permit.

(NOTE: Evidence of any applicable VA ABC permit must also be provided and posted at the festival as required. Applicant may need to confirm with

the VA ABC that a license is not required from that agency in order for festival attendees to bring their own alcoholic beverages to any event that is open to the general public upon payment of the applicable admission fee.)

### FESTIVAL EVENT LOGISTICS INFORMATION AND DOCUMENTATION

9. State whether any temporary structures, as defined within the Virginia Construction Code, will be placed on the property during the event (e.g. tents or air supported structures that exceed 900 square feet, stages, grandstand seating, or amusement rides):  YES  NO

If yes, please list the type of temporary structure and its dimensions. Also indicate the location of the structure on the submitted site plan.

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### FESTIVAL PROVISIONS

Applicant makes the following statements:

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

### CERTIFICATION

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

*Sarah Fomine*

\_\_\_\_\_  
Signature of Applicant

Date: April 7<sup>th</sup>, 2014

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



2122 N. Frederick Pike  
Winchester, VA 22603  
540.324.8965  
info@teensincva.org  
www.teensincva.org

Dear Frederick County Permit Office and Administrator,

Please find the attached sample invitation (the final invitation has not yet been printed). We will be mailing out the enclosed invitations to potential guests and adding the link to eventbrite.com for ticket sales. Tickets will be purchased on-line through eventbrite.com and a master list provided to the TEENS fundraising committee for guest check-in. Guests will not be issued a paper ticket for the event.

I've also provided a copy of the receipt for the ABC License as requested. This receipt only shows that we have applied for the permit and not that it has been approved. As soon as it has been approved and the license issued, a copy will be provided to you. I would anticipate that the license will be issued prior to the public hearing for the board of supervisors on May 14<sup>th</sup>. Everyone on the invitation list is over the age of 21. However there is always a possibility that someone may bring a family member or friend under the age of 21. To ensure that there is no chance of having an underage person being served alcohol, a wrist band will be issued. If there is anything further that you need from us, please let us know.

Regards,

Sarah Fromme  
TEENS, Inc.  
(540) 324-8965  
info@teensincva.org  
www.teensincva.org  
www.facebook.com/TEENSINCVA  
twitter.com/teens\_inc  
linkedin.com/company/teens-inc-?trk=top\_nav\_home



You're Invited to Attend the 2014

**Boots and Bluegrass**

A Benefit for TEENS, Inc.  
Featuring Jake and the Burtones



**Signature Sponsor:  
Name & Logo Here**



TEENS, Inc.  
2122 N. Frederick Pike  
Winchester, VA 22603  
540.324.8965

[www.teensincva.org](http://www.teensincva.org)

[info@teensincva.org](mailto:info@teensincva.org)

Like us on Facebook: [teensincva](https://www.facebook.com/teensincva)  
Follow us on Twitter: [teens\\_inc](https://twitter.com/teens_inc)  
Follow us on LinkedIn: [Teens, Inc.](https://www.linkedin.com/company/teens-inc)



Teaching  
Employment  
Enhancement  
Necessary for  
Survival

*Committee Members*

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**Friday, June 20, 2014, 6 - 9 PM**

2122 N. Frederick Pike, Winchester, VA 22603

Tickets: \$30 per person / \$50 per couple

Seating is Limited -  
Please RSVP by June 5th to reserve your seats.

For tickets contact: 540.324.8965  
or e-mail [info@teensincva.org](mailto:info@teensincva.org)

Tickets include Live Music, Dinner, Silent Auction,  
& Tours of the Greenhouse

**Pull on those boots and join us in supporting TEENS!**



Your application has been successfully submitted to ABC and we have received your payment



VIRGINIA DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL

**Transaction Complete.** A copy of this receipt is being sent to your email address on file.

#### Payment Details

Transaction Date: 04/30/2014  
 Amount Charged: US \$55.00  
 Last four digits of card used: 8473  
 Approval Code: 552009  
 Email: sfromme@teensincva.org

#### Licenses Ordered

License #	Event Type	Regional Office	Date(s)	Event Tax
438315	Banquet Special Event (Per Day)	Staunton - Region 3 (540) 332-7800	06/20/2014	\$40.00
<b>Event Total</b>				\$40.00
<b>Application Fee</b>				\$15.00
<b>Total Amount Charged</b>				\$55.00

Your application will be reviewed by a VA ABC Special Agent or an Administrative Technician. If additional information is needed during the investigation, you will be contacted by phone or e-mail.

If you have any further questions or comments, please contact the VA ABC Regional Office listed above.

I



# BOARD OF SUPERVISORS

## ORDINANCE

### SALARIES OF BOARD OF SUPERVISORS FISCAL YEAR 2014-2015

**BE IT ORDAINED**, the annual salary for each member of the Frederick County Board of Supervisors, for the fiscal year beginning July 1, 2014, shall be as follows: Chairman, \$10,800; Vice Chairman, \$10,200; and each other member of the Board of Supervisors at \$9,000.

Upon motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_ the above was \_\_\_\_\_ by the Board of Supervisors of the County of Frederick, Virginia, at a regular meeting and public hearing held on May 14, 2014, by the following recorded vote:

Richard C. Shickle	_____	Robert A. Hess	_____
Charles S. DeHaven, Jr.	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Christopher E. Collins	_____
Gary A. Lofton	_____		

#### A COPY TESTE:


\_\_\_\_\_  
John R. Riley, Jr.  
Clerk, Board of Supervisors

cc: Cheryl B. Shiffler, Finance Director  
C. William Orndoff, Jr., Treasurer  
Paula A. Nofsinger, Human Resources Director

J



**MEMORANDUM**

**TO:** Frederick County Board of Supervisors  
**FROM:** John A. Bishop, AICP, Deputy Director - Transportation   
**RE:** Update of the Interstate, Primary, and Secondary Road Plans  
**DATE:** May 8, 2014

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This is a public hearing item to consider the update of the 2014 – 2015 Interstate, Primary, and Secondary Road Improvement Plans. The Interstate and Primary plans remain unchanged from the 2013-2014 adoption.

In the Secondary Road Improvement plan, new projects have been added to the unscheduled list, but the projects ranking have not been updated due to a lack of funding for promoting projects. On the scheduled list, Laurel Grove Road has been broken into two project segments.

The Transportation Committee reviewed this item on April 28, 2014 and the Planning Commission reviewed this item on May 14, 2014. Both have recommended approval. Staff is seeking approval from the Board of Supervisors on the plan.

Attachments

JAB/pd

**2014-2015**

**INTERSTATE ROAD IMPROVEMENT PLAN**

**for**

**FREDERICK COUNTY, VIRGINIA**



*Frederick County Transportation Committee: 04/28/2014*

*Frederick County Planning Commission: 05/07/2014*

*Frederick County Board of Supervisors: 05/14/2014*



## **I-81 Improvements:**





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

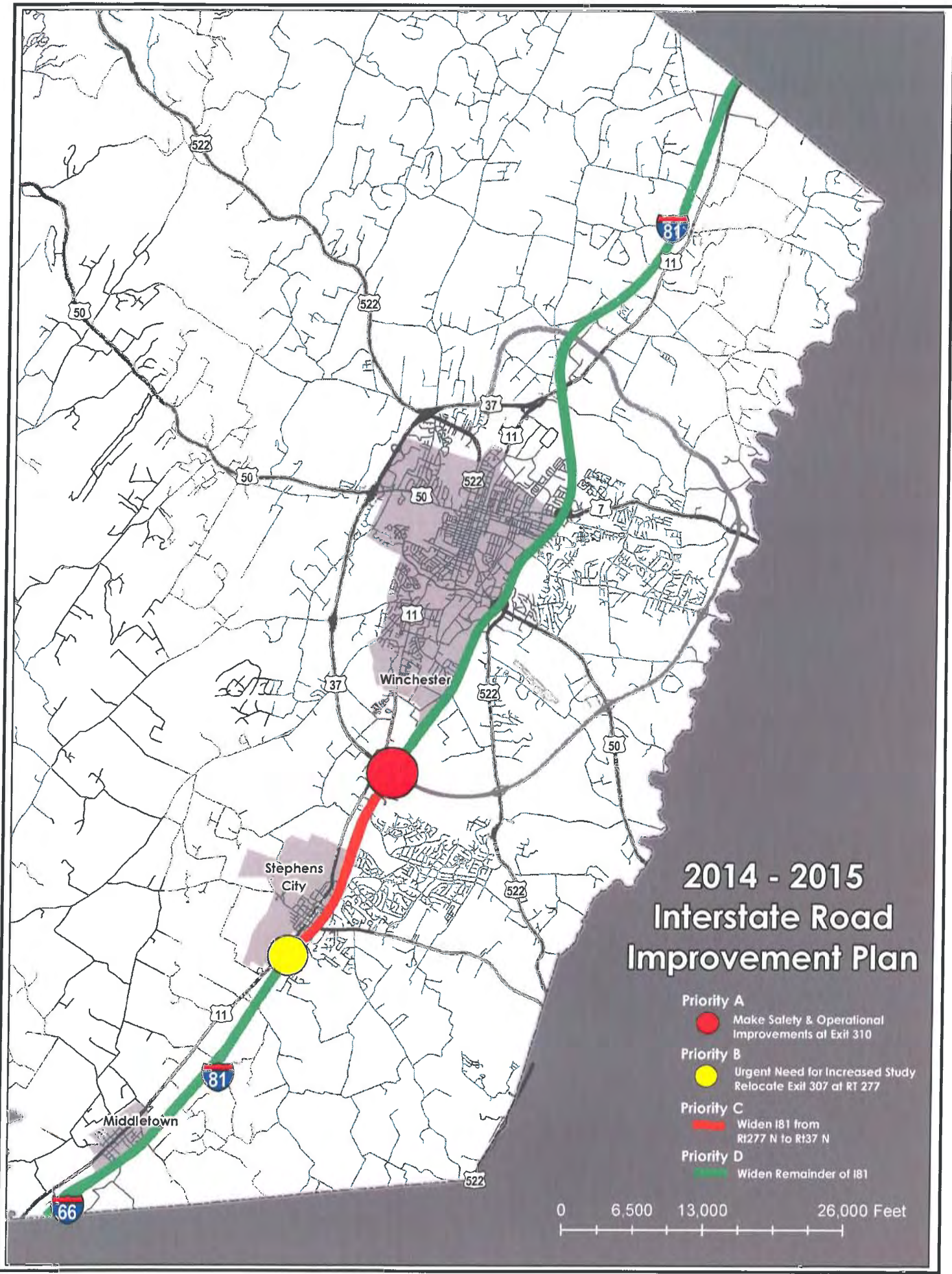
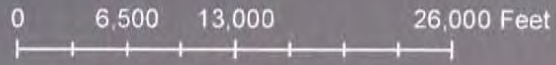
In addition, as the State continues to work toward an ultimate plan for the I-81 widening, the County of Frederick continues to support the study of Eastern Route 37 as a potential corridor on new location as an alternative for that effort.

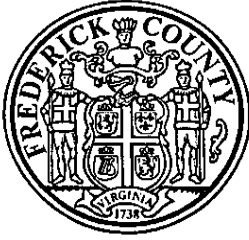
Moreover, the County of Frederick supports exploration of the potential for rail transportation as a component of the Interstate 81 Corridor improvements.

- A) Progress to Phase 1 of the FHWA approved interchange modification to Exit 310  
*(as illustrated on map as priority A)*
  
- B) Relocate Exit 307 further south to alleviate existing and future congestion on Route 277. There is an urgent need to begin increased study of this project.  
*(as illustrated on map as priority B)*
  
- C) Widen I-81 from Fairfax Pike to Route 37 North. This should include the relocation of the 277 Interchange.  
  
From: Route 277, Exit 307  
To: Route 37 North, Exit 310  
*(as illustrated on map as priority C)*
  
- D) Widen Remainder of I-81 in Frederick County  
From: West Virginia line  
To: Warren County line  
*(as illustrated on map as priority D)*
  
- E) Spot Improvements on I-81 in Frederick County. Provide spot improvements at various interchanges to increase capacity and/or enhance safety for the motoring public.

# 2014 - 2015 Interstate Road Improvement Plan

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





## **RESOLUTION 2014-2015 INTERSTATE ROAD IMPROVEMENT PLAN**

**WHEREAS**, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Six-Year Road Plan; and,

**WHEREAS**, the Frederick County Transportation Committee recommended approval of this plan on April 28, 2014; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on May 7, 2014; and,

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

**WHEREAS**, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2014 – 2015 Interstate Road Improvement Plan and the Construction Priority List; and,

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

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

The 2014-2015 Interstate Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Interstate Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2014-2015 Interstate Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on May 14, 2014.

This resolution was approved by the following recorded vote:

Richard C. Shickle, Chairman      \_\_\_\_\_

Gary A. Lofton      \_\_\_\_\_

Robert A. Hess      \_\_\_\_\_

Robert W. Wells      \_\_\_\_\_

Gene E. Fisher      \_\_\_\_\_

Charles S. DeHaven, Jr.      \_\_\_\_\_

Christopher E. Collins      \_\_\_\_\_

**A COPY ATTEST**

\_\_\_\_\_  
John R. Riley, Jr.  
Frederick County Administrator

**2014-2015**

**PRIMARY ROAD IMPROVEMENT PLAN**

**for**

**FREDERICK COUNTY, VIRGINIA**



*Frederick County Transportation Committee: 04/28/2014*

*Frederick County Planning Commission: 05/07/2014*

*Frederick County Board of Supervisors: 05/14/2014*

**1) Route 37 Bypass**

**A. Route 37 - Phase 1**

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the southern segment of the Route 37 Eastern Bypass from Interstate 1-81 to Front Royal Pike (Route 522 South).

*(As illustrated on map as priority 1A)*

**B. Route 37 - Phase 2**

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

*(As illustrated on map as priority 1B)*

**C. Route 37 - Phase 3**

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

*(As illustrated on map as priority 1C)*

**2) Route 277 (East of Stephens City)**

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

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

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

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

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

**3) Route 11 (North and South of Winchester)**

**A) Establish an Urban Divided Four Lane System**

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

**B) Establish an Urban Divided Six Lane System**

From: Northern limits of the City of Winchester  
To: Intersection of Merchant Street  
*(As illustrated on map as priority 3B)*

**C) Establish an Urban Divided Four Lane System**

From: Intersection of Merchant Street  
To: West Virginia line  
*(As illustrated on map as priority 3C)*

**4) South Frederick County Parkway**

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

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

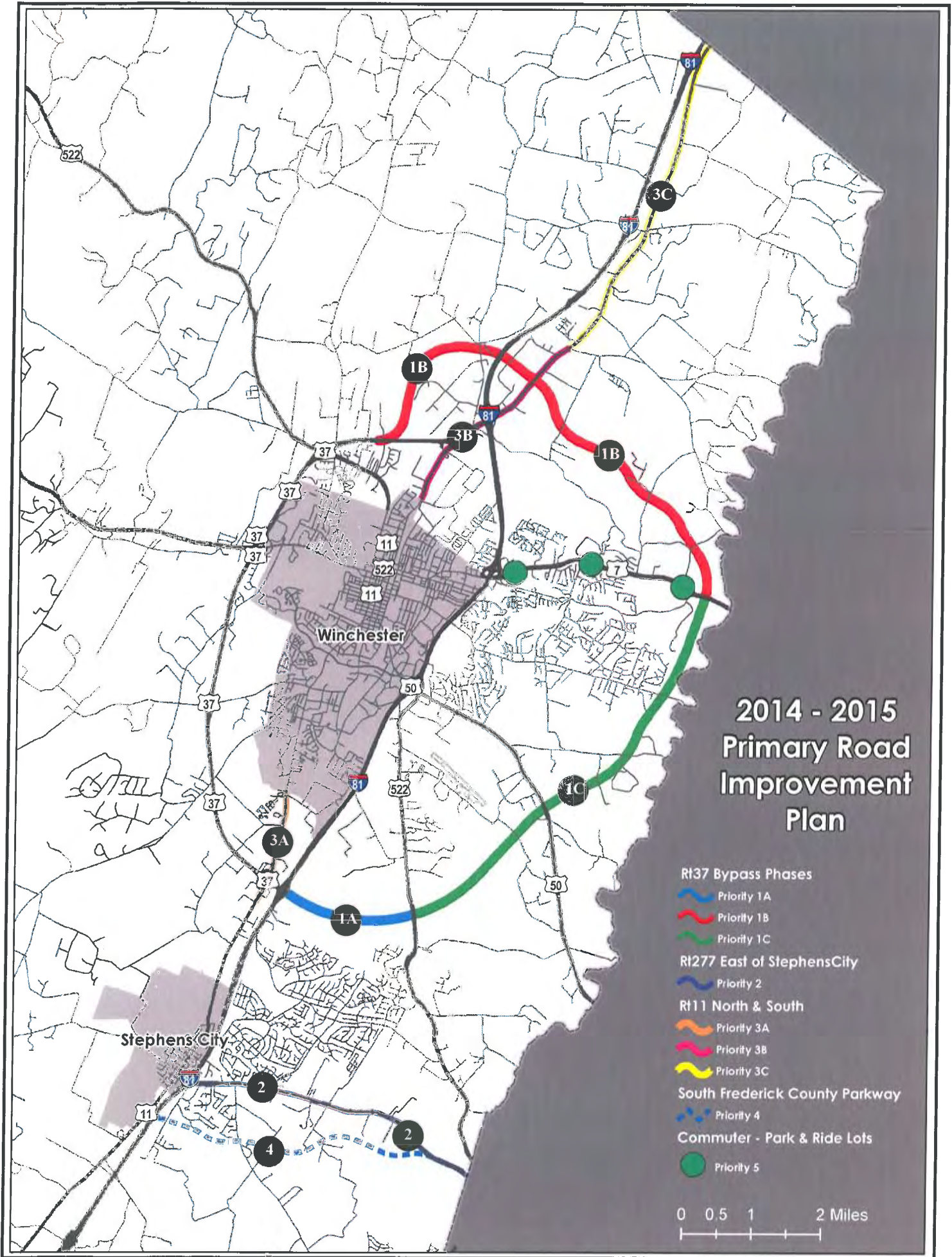
There is need to study this project in conjunction with the Exit 307 relocation and planning for Route 277 improvements noted in item 3.

Phasing of this project is not yet clearly defined, however general phasing would be from West to East with the clear first phase being from relocated Exit 307 to Warrior Dr.  
*(As illustrated on map as priority 4)*

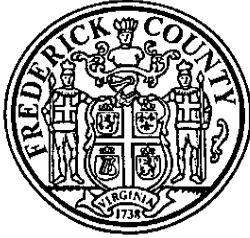
**5) Commuter Park and Ride Lots**

Establish a new park and ride facility along the Berryville Pike (Route 7) corridor. Work with the Northern Shenandoah Valley Regional Commission to determine appropriate locations for park and ride facilities at other strategic locations within the County's Urban Development Area. For Park and Ride locations in Frederick County the primary goal should be that they are situated in such a manner that they reduce traffic in Frederick County in addition to adjacent localities.  
*(As illustrated on map as priority 5)*









## **RESOLUTION 2014-2015 PRIMARY ROAD IMPROVEMENT PLAN**

**WHEREAS**, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Six-Year Road Plan, and;

**WHEREAS**, the Frederick County Transportation Committee recommended approval of this plan on April 28, 2014; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on May 7, 2014; and,

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

**WHEREAS**, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2014 – 2015 Primary Road Improvement Plan and the Construction Priority List; and,

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

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

The 2014-2015 Primary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Primary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2014-2015 Primary Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on May 14, 2014.

This resolution was approved by the following recorded vote:

Richard C. Shickle, Chairman	_____	Gary A. Lofton	_____
Robert A. Hess	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Charles S. DeHaven, Jr.	_____
Christopher E. Collins	_____		

**A COPY ATTEST**

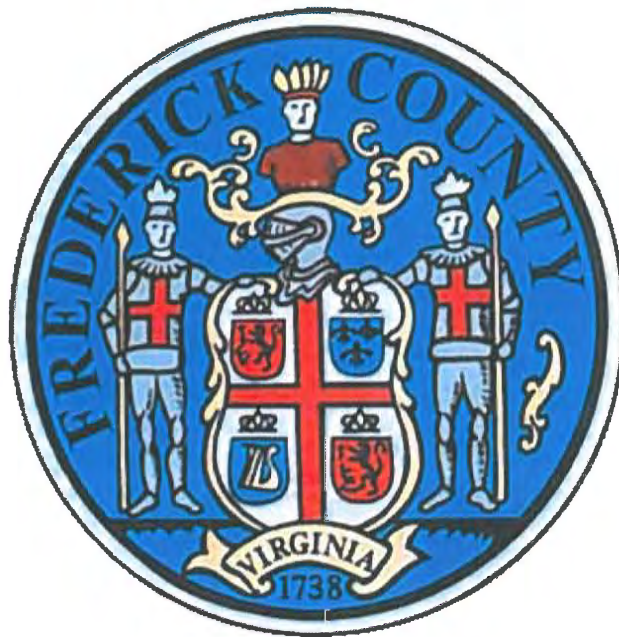
\_\_\_\_\_  
John R. Riley, Jr.  
Frederick County Administrator

**2014/15-2019/20**

**SECONDARY ROAD IMPROVEMENT PLAN**

**for**

**FREDERICK COUNTY, VIRGINIA**



*Frederick County Transportation Committee: 04/28/2014*

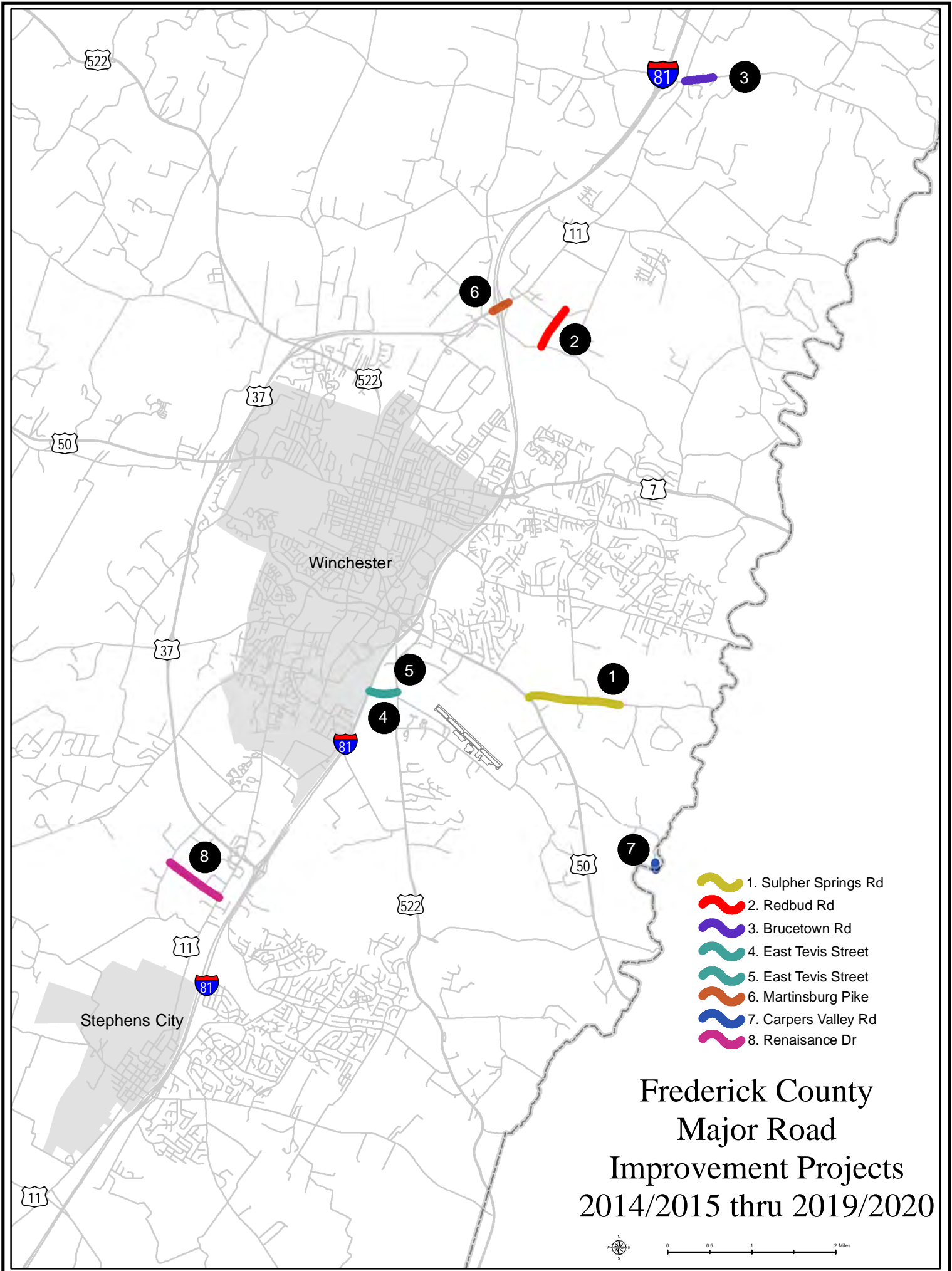
*Frederick County Planning Commission: 05/05/2014*

*Frederick County Board of Supervisors: 05/14/2014*

## FREDERICK COUNTY MAJOR ROAD IMPROVEMENT PROJECTS 2014/2015 through 2019/2020

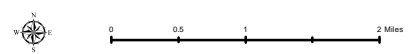
*Major road improvement projects command the reconstruction of hardsurfaced roads to enhance public safety. Improvements required for road width, road alignment, road strength, and road gradient are considered major road improvements projects.*

RANK	ROUTE	ROAD NAME	FROM	TO	AVERAGE DAILY TRAFFIC COUNT	DISTANCE	MAGISTERIAL DISTRICT	ESTIMATED COST	ADVERTISEMENT DATE	COMMENTS
1)	655	Sulphur Springs Road	Route 50	.30 Mi East Rt. 656	6000	1.1 miles	SH	\$7,505,445	2013	\$5,798,052 Allocated
2)	661	Red Bud Road	.47 Mi South Route 11	Int. Snowden Bridge Blvd.	1300	0.5 miles	ST	\$2,000,000	UN/SH	Partial Funded Relocation
3)	672	Brucetown Road	Route 11	.35 Mi East	3200	0.35 miles	ST	\$1,500,000 Significantly Variable	UN/SH	Partial Funded \$100,000 Thru Plan
4)	788	East Tevis Street	Route 522	Winchester City Limit	N/A	0.44 miles	SH	\$10,414,000 Revenue Sharing	UN/SH	Appited for R/S Funds
5)	788	East Tevis Street	Route 522	I-81	N/A	0.40 miles	SH	\$1,400,000 Revenue Sharing	UN/SH	Cover Overall Project Needs
6)	11	Martinsburg Pike	Under 81 Overpass Exit 317		16000	0.20 miles	ST	\$3,346,924 Revenue Sharing	UN/SH	LF Turn Lns SBound @ I-81 Overpass \$1.9 Mil Short on Funding
7)	723	Carpers Valley Road	At Clarke County line		1100	N/A	SH	\$1,262,327	Beyond 2014	Federal Bridge Replacement Funding
8)	788	Renaissance	.24 Mi West Route 11	Int. Shady Elm Road	N/A	.18 miles	BC	\$1,635,658	2015	R/S Funds



-  1. Sulpher Springs Rd
-  2. Redbud Rd
-  3. Brucetown Rd
-  4. East Tevis Street
-  5. East Tevis Street
-  6. Martinsburg Pike
-  7. Carpers Valley Rd
-  8. Renaissance Dr

**Frederick County**  
**Major Road**  
**Improvement Projects**  
**2014/2015 thru 2019/2020**



## FREDERICK COUNTY HARDSURFACE ROAD IMPROVEMENT PROJECTS 2014/2015 through 2019/2020

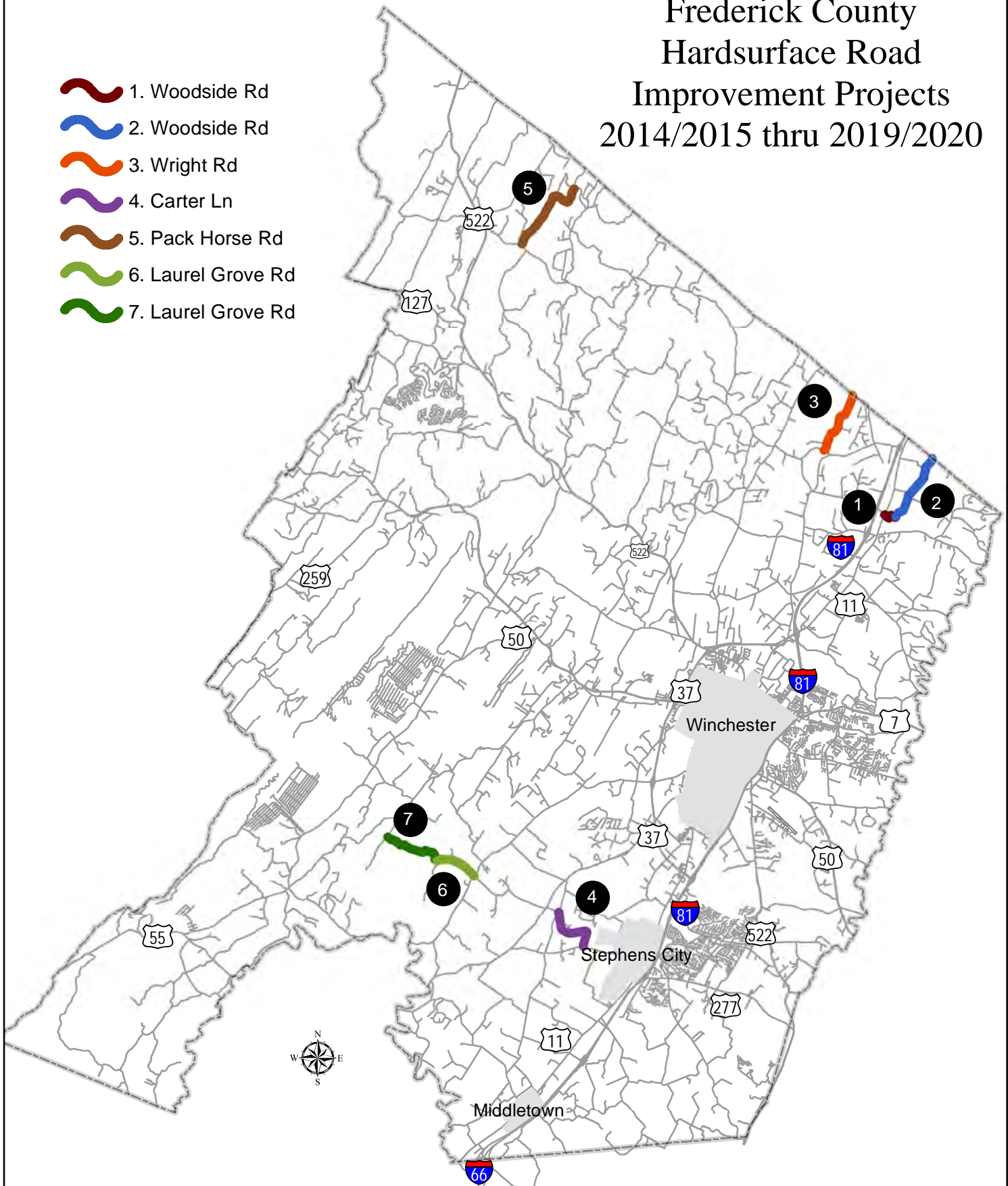
*Hardsurface road improvement projects provide impervious resurfacing and reconstruction of non-hardsurfaced secondary roads. Hardsurface improvement projects are prioritized by an objective rating system, which considers average daily traffic volumes; occupied structures; physical road conditions including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

RANK	ROUTE	ROAD NAME	FROM	TO	AVERAGE DAILY TRAFFIC COUNT	DISTANCE	MAGISTERIAL DISTRICT	ESTIMATED COST	ADVERTISEMENT DATE	COMMENTS
	671	Woodside Road	Route 11	0.4 East of Route 11	50	0.4 miles	ST	\$144,000	UN/SH	\$20,000 Allocated Potential Rural Rustic/Funding by Others
	671	Woodside Road	Route 669	WV Line	270	0.30 miles	ST	\$91,500	04/28/2017	CTB Unpaved Roads Funding
	661	Wright Road	Route 669	WV Line	240	1.84 miles	ST	\$561,200	04/30/2018	CTB Unpaved Roads Funding
	629	Carter Lane	Route 631	Route 625	220	1.8 miles	BC	\$549,000	04/30/2019	CTB Unpaved Roads Funding
	692	Pack Horse Road	1.2 Mi NE of Rt. 600	Route 671	210	1.4 miles	GA	\$427,000	04/30/2020	CTB Unpaved Roads Funding
	629	Laurel Grove Road	Route 622	1.25 Mi W of Rt. 622	200	1.25 miles	BC	376,000	04/30/2021	CTB Unpaved Roads Funding
	629	Laurel Grove Road	1.25 Mi W of Rt. 622	2.5 Mi W of Rt. 622	200	1.25 miles	BC	376,000	04/30/2021	CTB Unpaved Roads Funding



# Frederick County Hardsurface Road Improvement Projects 2014/2015 thru 2019/2020

- 1. Woodside Rd
- 2. Woodside Rd
- 3. Wright Rd
- 4. Carter Ln
- 5. Pack Horse Rd
- 6. Laurel Grove Rd
- 7. Laurel Grove Rd



0 2 4 8 Miles

**FREDERICK COUNTY  
UNSCHEDULED  
HARDSURFACE ROAD IMPROVEMENT PROJECTS  
RATINGS NOT UPDATED  
2014/2015 through 2019/2020**

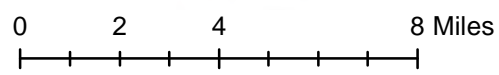
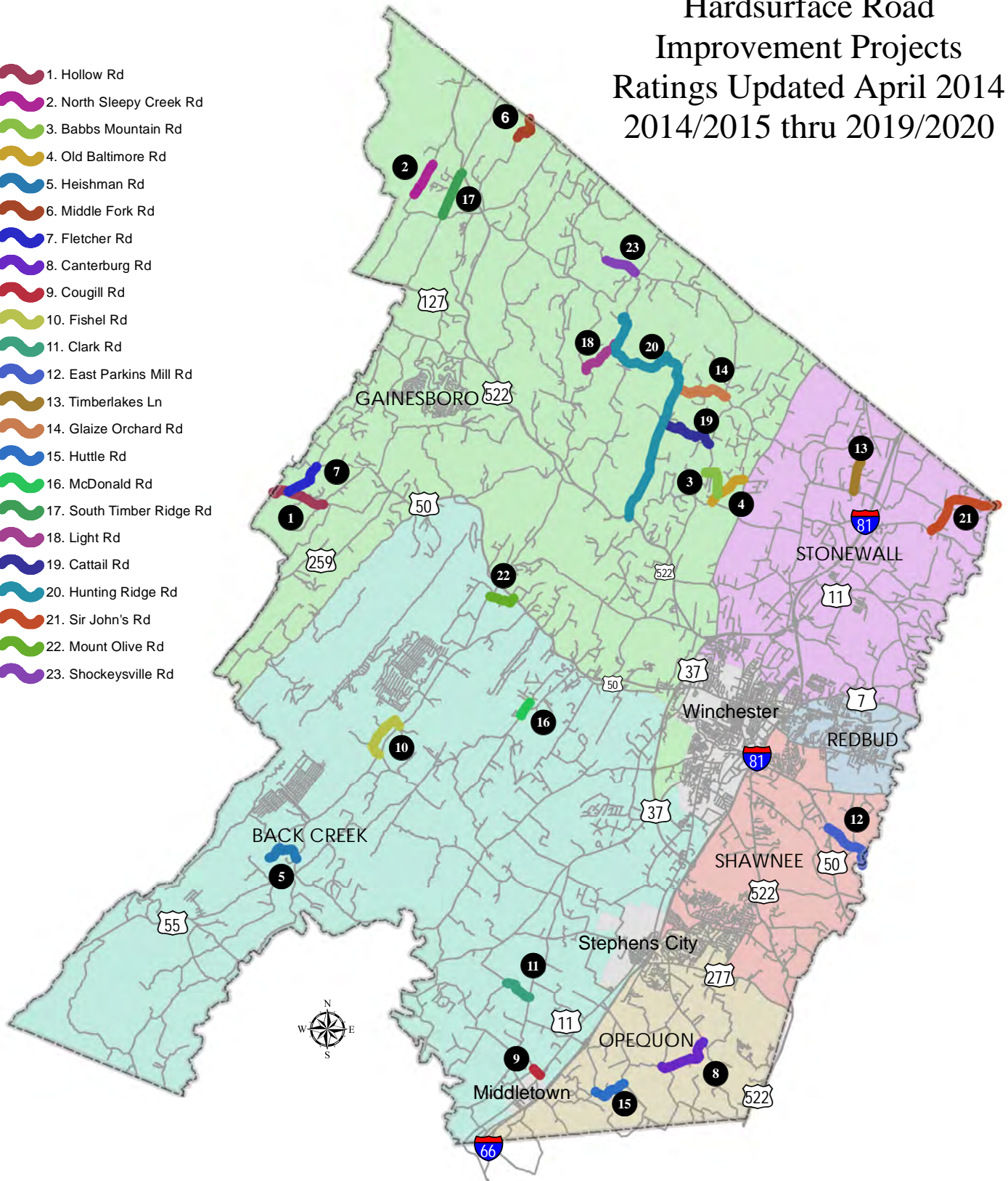
<b>RANK</b>	<b>ROUTE</b>	<b>ROAD NAME</b>	<b>FROM</b>	<b>TO</b>	<b>AVERAGE DAILY TRAFFIC COUNT</b>	<b>DISTANCE</b>	<b>MAGISTERIAL DISTRICT</b>	<b>RATING</b>	<b>COMMENTS</b>
1)	707	Hollow Road	WV Line	Route 610	190	1.6 Miles	GA	74	
2)	734	North Sleepy Creek Road	1.27 Mi S W of Route 522	2.27 Mi S W of Route 522	150	1.0 Mile	GA	73	
3)	730	Babbs Mountain Road	Route 654	Route 677	130	0.9 Miles	GA	72	
4)	677	Old Baltimore Road	Route 676	Route 672	170	1.2 Miles	GA	70	
5)	607	Heishman Road	Route 600	End of State Maintenance	150	0.78 Miles	BC	68	
6)	695	Middle Fork Road	2.3 Mi N of Route 522	WV Line	30	0.9 Miles	GA	68	
7)	733	Fletcher Road	Route 50	Route 707	150	1.3 Miles	GA	67	
8)	636	Canterburg Road	Route 640	Route 641	170	1.5 Miles	OP	66	
9)	634	Cougill Road	Route 635	Route 11	200	0.25 Miles	BC	64	
10)	612	Fishel Road	Route 600	Route 600	40	1.6 Miles	BC	64	
11)	638	Clark Road	Route 625	Route 759	90	0.8 Miles	BC	63	
12)	644	East Parkins Mill Road	Route 50	End of State Maintenance	140	0.81 Miles	SH	61	
13)	811	Timberlakes Lane	Route 671	End of State Maintenance	290	0.25 Miles	ST	61	
14)	682	Glaize Orchard Road	Route 608	Route 671	240	1.54 Miles	GA	57	
15)	636	Huttle Road	Route 709	Route 735	140	1.1 Miles	OP	53	
16)	616	McDonald Road	Route 608 Mid-Int.	0.44 Mile N Route 608	150	0.45 Miles	BC	53	
17)	696	South Timber Ridge Road	Route 522	Route 694	120	1.3 Miles	GA	53	
18)	685	Light Road	Route 600	Route 681	130	1.3 Miles	GA	47	
19)	731	Cattail Road	Route 608	Route 654	130	1.7 Miles	GA	46	
20)	608	Hunting Ridge Road	Route 682	2.41 Miles West Of 682	100	2.41 Miles	GA	46	
21)	667	Sir John's Road	Route 672	Last residence	180	2.37 Miles	ST		Not Ranked
22)	615	Mount Olive Road	Route 50	Route 600	110	.77 Miles	GA		Not Ranked
23)	671	Shockeysville Rd	690	.90 Miles West of 690	140	.90 Miles	BC		Not Ranked

**Note:** Project ratings are updated only when funding is available to promote projects to the scheduled list. No new funding was available this year so ratings are not updated and new projects have been placed at the end of the list. In the future when ratings are updated they will likely move up on the list.



# Frederick County Unscheduled Hardsurface Road Improvement Projects Ratings Updated April 2014 2014/2015 thru 2019/2020

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





## **RESOLUTION 2014-2015 SECONDARY ROAD IMPROVEMENT PLAN**

**WHEREAS**, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Six-Year Road Plan; and,

**WHEREAS**, the Frederick County Transportation Committee recommended approval of this plan on April 28, 2014; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on May 7, 2014; and,

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

**WHEREAS**, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2014 – 2015 Secondary Road Improvement Plan and the Construction Priority List; and,

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

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

The 2014-2015 Secondary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Secondary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2014-2015 Secondary Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on May 14, 2014.

This resolution was approved by the following recorded vote:

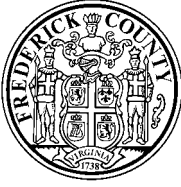
Richard C. Shickle, Chairman	_____	Gary A. Lofton	_____
Robert A. Hess	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Charles S. DeHaven, Jr.	_____
Christopher E. Collins	_____		

**A COPY ATTEST**

---

John R. Riley, Jr.  
Frederick County Administrator

К



## CONDITIONAL USE PERMIT #02-14

JESSICA M. NEFF

Staff Report for the Board of Supervisors

Prepared: May 1, 2014

Staff Contact: Mark Cheran, Zoning Administrator

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*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 request. It may also be useful to others interested in this zoning matter.*

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	04/02/14	Recommended Approval
Board of Supervisors:	04/23/14	Public Hearing Held- Action Postponed until 5/14/14
Board of Supervisors:	05/14/14	Pending

**EXECUTIVE SUMMARY:** This is a request for a Residential Kennel - Dog Boarding.

The Board of Supervisors held a public hearing on April 23, 2014, for this proposed Conditional Use Permit (CUP). The Board of Supervisors postponed the action until May 14, 2014.

The applicant has met with staff to modify the conditions of this CUP, to address the adjoining property owners concerns. The modified conditions are below in bold print:

1. All review agency comments shall be complied with at all times.
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.
3. This conditional use permit (CUP) is solely to enable the boarding of dogs on this property.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. **The Applicant will construct a 20 x 30 enclosed kennel in the rear of the property, with a 6 foot fenced outdoor play area.**
7. **The enclosed kennel house shall be built with noise-abatement construction material to reduce any dog barking so as to not exceed 50 dba. A professional engineer licensed in the state of Virginia shall seal the plans of the kennel house indicating it has met the 50 dba threshold.**
8. **The plans of the kennel house shall be reviewed by the County prior to any**

**construction activity or operation of kennel.**

9. **The kennel shall have an appointment only drop-off and pick up of dogs.**
10. **The Applicant shall maintain a contract with a waste removal company.**
11. **All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m. No more than three (3) dogs may be outdoors at any given time.**
12. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
13. Any expansion or modification of this use will require the approval of a new CUP.

*It would be appropriate for Board action concerning this application.*

**LOCATION:** The property is located at 461 Laurel Grove Road.

**MAGISTERIAL DISTRICT:** Back Creek

**PROPERTY ID NUMBER:** 73-9-3

**PROPERTY ZONING & PRESENT USE:**

Zoned: RA (Rural Areas)                      Land Use: Residential

**ADJOINING PROPERTY ZONING & USE:**

North: RA (Rural Areas)	Land Use: Residential
South: RA (Rural Areas)	Land Use: Vacant
East: RA (Rural Areas)	Land Use: Vacant
West: RA (Rural Areas)	Land Use: VPI Agricultural Research and Extension Center

**PROPOSED USE:** Residential Kennel - Dog Boarding.

**REVIEW EVALUATIONS:**

**Virginia Department of Transportation:** The application for a Conditional Use Permit for this

property appears to have little measurable impact on Route 629, the VDOT facility which would provide access to the property. Present entrance is adequate for proposed improvements. Should business ever expand in the future, entrance may need to be upgraded.

**Frederick County Fire and Rescue:** Plans approved.

**Frederick County Fire Marshall:** Plans approved as long as there is at least one working smoke detector and 1-5lb 2A/10BC fire extinguisher within 75 feet of the areas being occupied by the dogs.

**Frederick County Inspections:** The building shall comply with The Virginia Uniform Statewide Building Code, The International Existing Building Code 2009 and section 304 - B, Business Use Group of the International Building Code/2009. Other Code that applies is ICC/ANSI A117.1-03 Accessible and Usable Buildings and Facilities and 2009 International Energy Code. If new kennel construction exceeds 200 square feet, a building permit would be required.

**Frederick-Winchester Health Department:** The Health Department has no objection to the request as stated. This does not grant approval for additional employees. Applicant may not dispose of canine waste via the septic tank drainfield on site.

**Winchester Regional Airport:** We have reviewed the referenced conditional use permit request proposal. While the site does lie within the airspace operations of the Winchester Regional Airport, it is outside of the close in part 77 surfaces and should not impact airport operations.

**Frederick County Sanitation Authority:** No comments.

**City of Winchester:** No comments.

**Planning and Zoning:** Kennels are a permitted use in the RA (Rural Areas) Zoning District with an approved Conditional Use Permit (CUP) [Code of Frederick County §165-401.03.K]. This proposed use will take place on a 7+/- acre parcel; surrounded by properties that are zoned RA. The 2030 Comprehensive Policy Plan of Frederick County (Comprehensive Plan) identifies this area of the County to remain rural in nature and is not part of any land use study.

The Zoning Ordinance defines a Kennel: “**As a place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.**” The Zoning Ordinance requires that kennels be subject to additional performance standards in order to mitigate negative impacts to adjoining residential properties to include, **all dogs to be confined within a secure structure and a Category C Buffer.** There will be no employees with this proposed kennel per the Frederick County Health Department. The properties immediately

adjacent to this proposed CUP are currently zoned RA Zoning District, with the nearest residential dwelling being approximately 600 feet from this proposed dog kennel. Therefore, the intent of the Category C Buffer can be met, as 400 feet is required for a no screen Category C Buffer.

The applicant will be constructing a 20 x 30 square foot enclosed kennel with a fenced area for the dogs, at the rear of the property. The applicant has indicated that no more than twenty-eight (28) dogs will be on the property at any given time. All dogs must be confined indoors with the exception of when they are walked or exercised, and will not to be let outdoors prior to 8:00 a.m. Dogs must be confined indoors by 9:00 p.m.

In reviewing this application, the following conditions are considered appropriate reflective of the applicant's request, review agency comments, and/or in an effort to mitigate any potential impacts as noted.

All review agency comments shall be complied with at all times.

No more than twenty-eight (28) dogs on the property at any given time. **(The applicant has requested the number of dogs with this kennel)**

This CUP is solely to enable the boarding of dogs on this property. **(The applicant does not want to breed dogs)**

No employees other than those residing on the property shall be allowed. **(This condition is per the Frederick County Health Department)**

All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.

All dogs must be confined indoors by 9:00 p.m. and not be let outdoors prior to 8:00 a.m. **(This condition is to help mitigate any impacts to adjoining properties)**

Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.

Any expansion or modification of this use will require an approval of a new CUP.

**STAFF CONCLUSIONS FOR THE 04/02/14 PLANNING COMMISSION MEETING:**

The request complies with applicable policies and ordinances. The Planning staff recommends approval of the CUP, with the following eight (8) conditions:



1. All review agency comments shall be complied with at all times.
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.
3. This CUP is solely to enable the boarding of dogs on this property.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. All dogs must be confined indoors by 9:00 p.m. and are not to be let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require the approval of a new CUP.

**PLANNING COMMISSION SUMMARY & ACTION OF THE 4/02/14 MEETING:**

The applicant said there will be no dog breeding, solely boarding; the dogs will be inside at all times, except when walked or exercised; and the kennel building will be a free-standing garage constructed with wider than normal walls to provide noise insulation and the walls and attic will be insulated for better heating and air conditioning.

Two neighboring residents spoke in opposition to the proposed kennel. Both residents were concerned about the devaluation of their property; they were concerned about noise from barking dogs disrupting the quiet of their neighborhood; they were concerned about odors and how dog waste would be disposed; and they were concerned about water runoff. They did not believe their residential neighborhood was a practical location for the operation of this business.

Commission members were concerned about noise from dog barking. They advised the applicant there were a number of different construction techniques for sound abatement in a building. Those construction techniques involved a benefit/cost ratio standpoint that needed to be considered by the applicant. They also pointed out that when dogs are outside, they will bark and there was no way to muzzle them. They encouraged the applicant to be mindful about the conditions of the permit and the possibility the permit could be revoked, if the operation becomes a public nuisance. Other Commissioners pointed out this location is a somewhat remote

agricultural area buffered by cornfields and large stands of trees. They mentioned the adjoining State agricultural research center where there is spraying taking place, noise from tractors, and the various types of farm animals being raised in this area. The applicant stated that the kennel building will be constructed with wider walls to provide for better noise insulation.

By a unanimous vote, the Planning Commission recommended approval of the conditional use permit with the conditions as recommended by the staff, as follows:

1. All review agency comments shall be complied with at all times.
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.
3. This conditional use permit (CUP) is solely to enable the boarding of dogs on this property.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to cottage occupation sign requirements and shall not exceed four (4) square-feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require approval of a new conditional use permit.

(Note: Commissioner Crockett was absent from the meeting.)

Two citizens spoke in opposition to this use at the April 2, 2014, Planning Commission Meeting. One of the concerns was the devaluation of properties located near kennels. Staff contacted the Commissioner of Revenue Office with the concern of devaluation of properties located near kennels. The Commissioners Office had no issues of devaluation of properties near kennels or with approved Conditional Use Permits in general. The noise and control of the dogs is addressed by Condition #5 of the Conditional Use Permit. Furthermore, the kennel building will be a free-standing garage constructed with wider than normal walls to provide noise insulation and the walls and attic will be insulated for better heating and air conditioning. The applicant has contacted a company for the disposal of dog waste.

**BOARD OF SUPERVISORS SUMMARY & ACTION OF THE 04/23/14 MEETING:**

The Board of Supervisors held a public hearing on this proposed Conditional Use Permit (CUP) for a kennel. Several adjoining property owners spoke in opposition to this kennel, and two (2) letters of opposition were received. The Board of Supervisors voted to postpone any action on this CUP until their May 14, 2014, meeting. This action was to allow the applicant to address some of the concerns voiced by the adjoining property owners.

**ACTIONS SINCE THE BOARD OF SUPERVISORS 4/23/14 MEETING:**

The applicant has met with staff to modify the conditions of this CUP, to address the adjoining property owners concerns. The modified conditions are located below in bold print:

1. All review agency comments shall be complied with at all times.
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.
3. This conditional use permit (CUP) is solely to enable the boarding of dogs on this property.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. **The Applicant will construct a 20 x 30 enclosed kennel in the rear of the property with a 6 foot fenced outdoor play area.**
7. **The enclosed kennel house shall be built with a noise-abatement construction material to reduce any dog barking so as to not exceed 50 dba. A professional engineer licensed in the state of Virginia shall seal the plans of the kennel house indicating it has met the 50 dba threshold.**
8. **The plans of the kennel house shall be reviewed by the County prior to any construction activity or operation of the kennel.**
9. **The kennel shall have an appointment only drop-off and pick-up of dogs.**

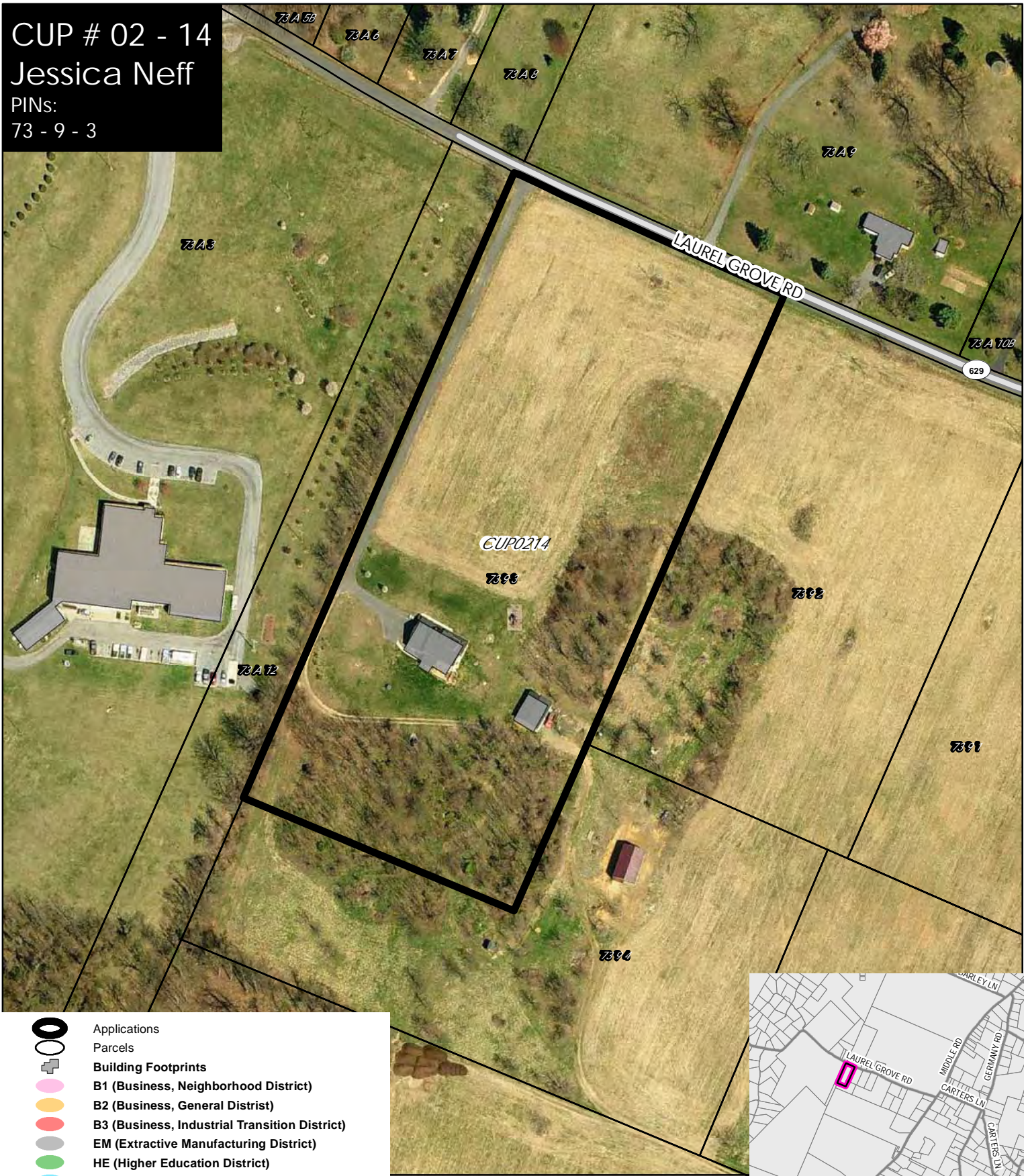
10. **The Applicant shall maintain a contract with a waste removal company.**
11. **All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m. No more than three (3) dogs outdoors at any given time.**
12. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
13. Any expansion or modification of this use will require a new CUP.



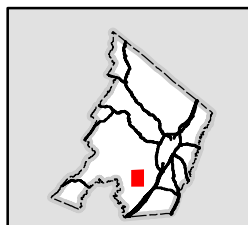
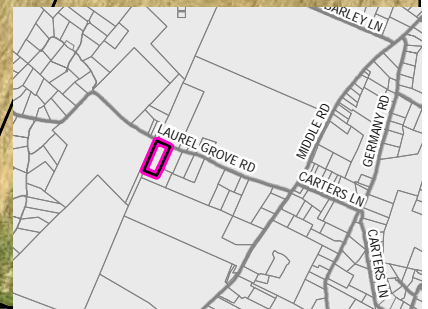
# CUP # 02 - 14

## Jessica Neff

PINs:  
73 - 9 - 3

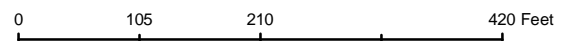


-  Applications
-  Parcels
-  Building Footprints
-  B1 (Business, Neighborhood District)
-  B2 (Business, General District)
-  B3 (Business, Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  M1 (Industrial, Light District)
-  M2 (Industrial, General District)
-  MH1 (Mobile Home Community District)
-  MS (Medical Support District)
-  OM (Office - Manufacturing Park)
-  R4 (Residential Planned Community District)
-  R5 (Residential Recreational Community District)
-  RA (Rural Area District)
-  RP (Residential Performance District)



CUP # 02 - 14  
Jessica Neff  
PINs:  
73 - 9 - 3

Note:  
Frederick County Dept of  
Planning & Development  
107 N Kent St  
Suite 202  
Winchester, VA 22601  
540 - 665 - 5651  
Map Created: March 11, 2014  
Staff: macheran





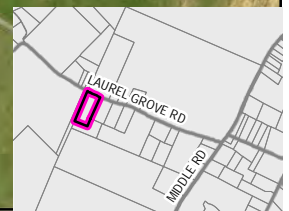
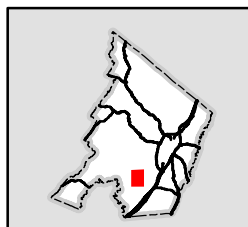
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## Jessica Neff

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73 - 9 - 3

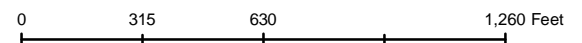


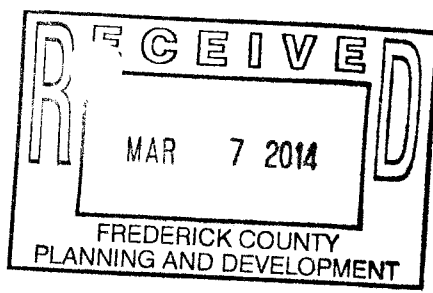
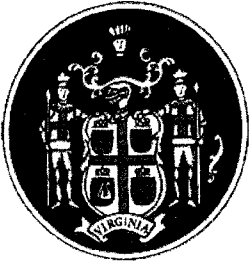
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-  RP (Residential Performance District)



CUP # 02 - 14  
Jessica Neff  
PINs:  
73 - 9 - 3

Note:  
Frederick County Dept of  
Planning & Development  
107 N Kent St  
Suite 202  
Winchester, VA 22601  
540 - 665 - 5651  
Map Created: March 11, 2014  
Staff: macheran





Submittal Deadline	3/7/14
P/C Meeting	4/2/14
BOS Meeting	4/23/14

**APPLICATION FOR CONDITIONAL USE PERMIT  
FREDERICK COUNTY, VIRGINIA**

1. Applicant (check one): Property Owner  Other

NAME: Jessica M. Neff

ADDRESS: 461 Laurel Grove Rd. Winchester VA 22602

TELEPHONE: 540 664-5628

2. Please list all owners, occupants, or parties in interest of the property:

Jessica Neff

Jason Neff

3. The property is located at: (please give exact directions and include the route number of your road or street)

461 Laurel Grove Rd. Winchester VA 22602

Route 629 - Apple Hill Subdivision

4. The property has a road frontage of 379.62 feet and a depth of 867.29 feet and consists of 7.645 acres. (Please be exact)

5. The property is owned by Jason + Jessica Neff as evidenced by deed from Walter + Margaret Miller (previous owner) recorded in deed book no. 754 on page 432, as recorded in the records of the Clerk of the Circuit Court, County of Frederick.

6. Property Identification Number (P.I.N.) 73-9-3-4  
Magisterial District Rock Creek Magisterial District  
Current Zoning A9



CWP # 02-14  
 Jessica Neff  
 PIN 73-9-3.

7. Adjoining Property:

	USE	ZONING
North	RESIDENTIAL	RA
East	VACANT	RA
South	VACANT	RA
West	<del>RESIDENTIAL</del> VACANT	RA

8. The type of use proposed is (consult with the Planning Dept. before completing):

Dog Boarding Kennel

9. It is proposed that the following buildings will be constructed:

1 or 2 Kennel houses along w/ fenced in yard.

10. The following are all of the individuals, firms, or corporations owning property adjacent to both sides and rear and in front of (across street from) the property where the requested use will be conducted. (Continue on back if necessary.)

These people will be notified by mail of this application:

Name and Property Identification Number	Address	Mailing Address
Dogwood Knoll LC 73-A-9	444 Laurel Grove Road Winchester, VA 22602	678 Laurel Grove Road Winchester, VA 22602

Name	Address	Mailing Address
Alison H. Smith Agricultural Research	595 Laurel Grove Rd. Winchester VA 22602	
KSS LC 73-A-12	448 Laurel Grove Road Winchester, VA 22602	P.O. Box 2368 Winchester, VA 22604

Name	Bowers, Gareeta Loy
Property #	Bowers, Ray 496 Laurel Grove Rd
Name	
Property #	
Name	
Property #	
Name	
Property #	

Please verify  
 MNC



12. Additional comments, if any: would like to run kennels for those going on vacation and need a temporary name for their dogs while away.  
Dogs will be inside and in fenced yard during supervised play time. Required all dogs to be current on vaccinations.  
NO BLEEDING COTTAGE OCCUPANCY SIGN - PER APPLICANT

I (we), the undersigned, do hereby respectfully make application and petition the governing body of Frederick County, Virginia to allow the use described in this application. I understand that the sign issued to me when this application is submitted must be placed at the front property line at least seven (7) days prior to the first public hearing and maintained so as to be visible until after the Board of Supervisors' public hearing. Your application for a Conditional Use Permit authorizes any member of the Frederick County Planning Commission, Board of Supervisors or Planning and Development Department to inspect your property where the proposed use will be conducted.

Signature of Applicant Jessie M. Huff  
Signature of Owner Jessie M. Huff  
Owners' Mailing Address 441 Laurel Grove Rd. Winchester VA 22602  
Owners' Telephone No. 540-664-5628

<p><b>TO BE COMPLETED BY THE ZONING ADMINISTRATOR:</b></p> <p><b>USE CODE:</b> _____</p> <p><b>RENEWAL DATE:</b> _____</p>
--



A

Driveway to building and handicap drop off Parking

Handicap P-Spot

PROPOSED BUILDING AREA

Fenced Yard



461

**CONDITIONAL USE PERMIT  
PUBLIC HEARING**

CUP #02-14

FREDERICK COUNTY PLANNING DEPARTMENT  
[WWW.FCVA.US](http://WWW.FCVA.US)

**540-665-5651**

03.27.2014

April 2, 2014

Thank you for the opportunity to address the Planning Commission- My name is Sheila Pinner and I am here tonight with my husband Jack Pinner. We are residents of Laurel Grove Rd. We are very close (across the street and within sight) of the proposed indoor boarding kennel. We are also here tonight to express our concerns and opposition to the proposed kennel.

Since receiving Ms. Neff's letter of March 10, 2014 regarding her proposed indoor boarding kennel, I have been researching the effects the proposed kennel would have on us as property owners.

I have been focused on a debate going on in neighboring Clarke County involving the proposed approval of a dog kennel. In an article written in the Winchester Star, former supervisor and realtor A. R. Dunning "Pete" Dunning read a letter from the county Commissioner of Revenue, Donna M. Peake, who said homeowners there would lose 15 to 20 percent of the value of their homes if the kennel is built next to their properties. I do understand that this involves a different property.

I immediately began contacting local realtors and county offices for information. I would note in addition there are thousands of sites on the internet from every state which address devaluing of property by having a kennel near your property. I was speechless when I read over and over again that a kennel could have a negative effect of anywhere from 15 to 50 percent on property values. The realtors I surveyed did support the point of view that my property would be devalued. No one can guarantee that my property value will not be affected.

Two questions which I would like to have an answer to:

Will the property owner's conditional permit transfer if the property is sold? I have been told VA (Frederick County) would require a new permit. Is this correct? Could a new property owner expand the business on a renewal of the same permit?

I understand from realtors I asked that VA (Frederick and surrounding counties) does not have a nuisance disclosure requirement if you sell your property. Is this correct? My understanding is that VA has a disclosure form which states on it that you do not have to disclose a neighboring nuisance if you sell your home.

**But, word of mouth would travel.** Realtors know what is located in a community. Most buyers would speak to neighbors to find out about the area. One realtor made the comment "who could sell a home next door to a kennel? Common sense tells me most folks would look elsewhere".

My other concerns are obvious:

**Noise (you can easily hear more than one dog as far as ½ mile – what about 28 dogs?)**

**Traffic – Rt. 629 has been close to completely paved in the last few years – this has added more traffic traveling all hours of the day and night (neighbors have had mail and paper boxes constantly destroyed due to traffic increase). This will only increase with an operating business on the road. What hours would the kennel have for drop off and pick up? It is proposed as a 24 hour operation. 28 dogs and 28 owners in 28 vehicles that could travel on our residentially zoned road in one morning and a new group of 28 owners in 28 vehicles with 28 dogs dropped off that afternoon would be 56 additional vehicles on the road in a day, extreme but possible.**

**What arrangements have been made for parking? Would this face the front of the property?**

**What about the odor of taking care of this number of animals? Are there proposals for adequate disposal of waste? Will there be a septic system? Will there be runoff? What are the county requirements if any?**

**Will the entire facility be fenced or just the walking and exercise areas? What is required?**

**Has there been a noise impact study? I have read much on the proper authorities coming out to investigate a barking dog and measuring the noise levels? What recourse is open to property owners once the permit is issued?**

**Is this just the first phase of a proposed kennel? What are the restrictions as far as expansion?**

**Are their required site visits from county or state? Who regulates the conditions of the permit?**

**What kind of precedent would this set for other proposed money making businesses in a rural, residential area? Fourteen (14) kennels for 28 dogs. Is this just the start?**

My husband and I feel that this is not a local need. There are other kennels in the area offering the same service. No amount of convenience is worth the detrimental effect to surrounding homes.

Ms. Neff states in her letter that this is a dream of hers to work with and help animals.

My husband and I have had a dream since we built on family property over 42 years ago. Most of our neighbors have been on Laurel Grove as long as we have or longer. We dreamed of having a wonderful retirement and being able to enjoy the serenity and the beauty of nature surrounding our home. I do not believe looking out from any front facing window in my home to a dog boarding kennel would add to this serene environment.

Sheila Pinner  
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Subject: BOS 4/23/14 Public Hearing on CUP 02-14 -- **Opposition of Scott and Bethanne Berman to Conditional Use Permit #02-14 (“CUP”)/Jessica M. Neff**

To: Members of the Frederick County Board of Supervisors (“BOS”) and the Frederick County Planning Staff

From: Scott and Bethanne Berman

Our home is located at 247 Laurel Grove Road, TM # 7383 as shown on the **attached** Planning Department Map created March 11, 2014. We have resided in our home for 15 years. Based on the scale of the attached Map, our home is approximately 1,890 feet from the proposed site of Jessica Neff’s Kennel. The proposed Kennel site and our home are both located on a ridge of essentially equivalent elevation, meaning that noise from the proposed Kennel will readily travel to our home.

Consistent with comments presented at the April 2 Planning Commission Hearing, **we oppose the approval of a CUP for the Kennel** based on the following concerns:

1. The Kennel, clearly a commercial use increasing vehicle traffic on Laurel Grove Road, will be a use inconsistent with the residential nature of the neighborhood.
2. The presence of the Kennel will reduce the value of our property and of our neighbors’ properties.
3. The Kennel, as presently planned consistent with the Planning Commission’s “Conditions,” will constitute a nuisance to the neighborhood.

We respectfully submit that no CUP, regardless of the “Conditions” imposed, should be granted for the establishment of the Kennel. **If**, however, a CUP is to be granted, then, as set forth on Page 3 of the Staff Report to the BOS, the Zoning Ordinance **requires** that this proposed Kennel be subject to “performance standards” to assure the mitigation of the **negative impacts** which will result to us and our neighbors.

Further, Page 6 of the Staff Report suggests that the Commissioner of Revenue apparently has “no issues” concerning devaluation of properties located near kennels with approved CUPs. This establishes that protection against devaluation of our and our neighbors’ properties is dependent upon this Board adopting specific, enforceable Conditions to mitigate the damaging effects of the proposed Kennel.

We understand that the Planning Commission has recommended only the following eight (8) Conditions, which we respectfully suggest must be substantially strengthened and made more specific:

1. All review agency comments shall be complied with at all times.

**We believe the only significant agency comment to be the Health Department’s statement that “Applicant may not dispose of canine waste via the septic tank drainfield on site.” Page 6 of the Staff Report states merely that “The Applicant has contacted a company for the disposal of dog waste.”**

**We understand that while there may not be established regulations for average waste produced per dog per day, nevertheless we understand there to be a “low” estimate of 5 gallons per day per dog and a “high” estimate of 10 gallons per day per dog, which would produce a range of 140-280 gallons**



per day of wastewater assuming the Kennel operates at the Planning Commission's maximum of twenty-eight (28) dogs.

**We request that the Board, as a Condition of any CUP, require the Applicant to provide a written plan confirming:**

- a. **projected wastewater usage for the Kennel under maximum capacity;**
  - b. **projected system for containing and storing both wastewater and solid waste; and**
  - c. **the frequency of waste pumping/waste removal, with confirmation of a contract with a waste hauler.**
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.

**Given the waste containment and disposal issues of Condition 1 above and the control and noise issues of Condition 5 below, we submit that the maximum number of dogs not be permitted to exceed \_\_\_\_\_ at any given time.**

3. This CUP is solely to enable the boarding of dogs on this property.

**The Applicant's Application notes the desire to operate the Kennel "for those going on vacation and need a temporary home for their dogs while away." Therefore, we request that this Condition be expanded to provide that no dogs shall be maintained in the Kennel for a time period exceeding 28 consecutive days.**

4. No employees other than those residing on the property shall be allowed.

**In order to assure the performance of Conditions 5 and 6 below, we request that there be a Requirement that at least one person residing on the property shall remain on site at all times that any dogs are housed in the Kennel.**

5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.

**As we understand it, Section 48-23 "Unreasonable noise unlawful" of the Frederick County Code provides merely that it shall be unlawful, after written notice by the Sheriff to the custodian of a dog for such custodian to allow such dog to make unreasonably loud noises as are plainly audible to adjoining residents for property owners so as to unreasonably annoy or disturb such residents or property owners. Since Section 48-23 requires prior written notice from the Sheriff, and since this Section contains no specific criteria assisting its enforcement, the Board must set specific Conditions on the proposed Kennel.**

Pages 3 and 6 of the Staff Report note that the proposed 20 x 30 square foot free-standing garage that is to serve as the Kennel will be constructed with wider than normal walls to provide noise insulation. However, while the Planning Commission noted concerns for noise abatement, Condition 5 provides no standards.

Obviously, noise mitigation of dog barking (both inside and outside of the kennel structure) must be achieved, in order to make Condition 5 meaningful and enforceable. To assure performance, we suggest:

- a. specific noise-abatement construction standards, with the use of specific sound absorbing materials, must be imposed upon the proposed kennel garage structure, since the facility apparently will not consist of concrete walls or a standard wood type roof construction.

The type of construction should provide at least a nominal 50-55 STC performance which equates to a nominal 45-50 dBA noise reduction at the typical dog bark frequency range.

Further, the building requirements should address the “composite performance” provided by walls, roof, doors, windows and any ventilation openings, as typically windows and doors represent the “weakest path” to abating noise. Noise emanation from the facility should be addressed by reducing openings represented by windows, doors and/or ventilation systems.

- b. a specific size/dimension should be imposed on the “exercise yard,” and a fencing Requirement of a minimum of six (6) feet in height, with all fencing to be maintained throughout the life of the CUP.
- c. general experience establishes that individual dogs under control of a person generally do not bark. Generally, one dog or a few dogs under the control of individuals during outdoor activities may not bark, and if barking occurs, the dogs could be brought indoors.

Therefore, we suggest a Limitation as to the number of dogs that will be permitted to be outside of the kennel structure at any one time should be established, along with a Requirement that the dogs be supervised/controlled while outside. We suggest that no more than 5 supervised dogs be permitted to be outside at any one time, and that no more than 2 unsupervised dogs be permitted to be outside at any one time.

6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.

Without strengthening Condition 5 as suggested above, this Condition literally permits the Applicant to maintain 100% of the dogs outdoors,

**everyday, during the 13 hour period of 8:00 a.m. to 9:00 p.m. The Board must impose specific Requirements to avoid the creation of a nuisance.**

7. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.

**No comment, other than the Zoning Ordinance defines a “Cottage Occupation” as “an occupation or profession customarily carried on in a dwelling unit or an accessory building which ‘...is clearly incidental and secondary to the use of the dwelling unit for residential purposes.’” The presence of twenty-eight (28) dogs (each generating a fee on a daily basis), 24 hours per day and 7 days per week, “stretches” the logical definition of a “Cottage Occupation,” and makes the residential use of Ms. Neff’s property (and the residential use of our and our neighbors’ properties) incidental and secondary to the Kennel itself.**

8. Any expansion or modification of this use will require the approval of a new CUP.

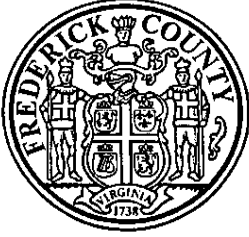
**In addition, we suggest that any CUP be restricted solely to the Applicant (Jessica M. Neff), and that the operation of the Kennel under the CUP not be transferable to any other person or entity without the prior approval of the Board as an amendment to the CUP Conditions.**

**Page 3 of the Staff Report references a 400 foot distance as being required for a “no screen Category C Buffer.” Page 5 of the Staff Report notes comments of Planning Commissioners that the Kennel location is buffered by corn fields and large stands of trees. Given, however, that there is no guarantee of the continued existence of the corn fields or the trees, and given the siting of the Kennel on the ridge, we suggest that supplemental screening through Applicant’s planting of Evergreen trees along the southeastern boundary of Applicant’s property be required.**

Thank you for your consideration of our concerns, which we look forward to discussing further during the April 23 Public Hearing.

Respectfully submitted,

Scott and Bethanne Berman



# RESOLUTION

**Action:**

PLANNING COMMISSION: April 2, 2014 - Recommended Approval  
BOARD OF SUPERVISORS: April 23, 2014 - Public Hearing Held  
May 14, 2014  APPROVED  DENIED

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## RESOLUTION

### CONDITIONAL USE PERMIT #02-14 JESSICA M. NEFF

**WHEREAS**, Conditional Use Permit #02-14 of Jessica M. Neff, submitted by Jessica M. Neff, for a Residential Kennel – Dog Boarding was considered. The property is located at 461 Laurel Grove Road. The property is further identified with Property Identification Number 73-9-3 in the Back Creek Magisterial District. The conditional use is permissible as a kennel; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing on the conditional use permit on April 2, 2014, and recommended approval of the Conditional Use Permit with conditions; and,

**WHEREAS**, the Frederick County Board of Supervisors held a public hearing on this Conditional Use Permit during their regular meeting on April 23, 2014; and,

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

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #02-14 – Jessica M. Neff for a Residential Kennel – Dog Boarding is permitted on the parcel identified by Property Identification Number (PIN) 73-9-3 with the following conditions:

1. All review agency comments shall be complied with at all times.
2. No more than twenty-eight (28) dogs shall be permitted on the property at any given time.
3. This Conditional Use Permit (CUP) is solely to enable the boarding of dogs on this property.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. The Applicant will construct a 20 x 30 enclosed kennel in the rear of the property, with a 6 foot board on board fenced outdoor play area.
7. The enclosed kennel house shall be built with noise-abatement construction material to reduce any dog barking so as to not exceed 50 dba. A professional engineering licensed in the state of Virginia shall seal the plans of the kennel house indicating it has met the 50 dba threshold.
8. The plans of the kennel house shall be reviewed by the County prior to any construction activity or operation of kennel.
9. The kennel shall have an appointment only drop-off and pick up of dogs.
10. The Applicant shall maintain a contract with a waste removal company.
11. All dogs must be confined indoors by 9:00 p.m. and no let outdoors prior to 8:00 a.m. No more than three (3) dogs may be outdoors at any given time.
12. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
13. Any expansion or modification of this use will require the approval of a new Conditional Use Permit.

Passed this 14th day of May, 2014 by the following recorded vote:

Richard C. Shickle, Chairman	_____	Gary A. Lofton	_____
Robert Hess	_____	Charles S. DeHaven, Jr.	_____
Gene E. Fisher	_____	Christopher E. Collins	_____
Robert W. Wells	_____		

**A COPY ATTEST**

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John R. Riley  
Frederick County Administrator