



PICTURES AT 5:45PM

REGULAR TOWN COUNCIL MEETING

Monday, February 11, 2019 @ 7:00pm
Warren County Government Center

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call
4. Approval of the Regular Council Meeting minutes of January 28, 2019
5. Receipt of Petitions and/or Correspondence from the Public
6. Reports:
 - a. Report of special committees or Town officials and Town Manager
*** Report from the County of Warren – Brandy Rosser**
 - b. Requests and inquiries of Council members.
 - c. Report of the Mayor
 - d. Proposals for addition/deletion of items to the Agenda.
7. **CONSENT AGENDA ITEMS** – (ROLL CALL VOTE REQUIRED) - NONE
8. **COUNCIL APPROVAL** – Request to Revise Proffers for Vacant Lot on John Marshall Highway
– BMW Real Estate LLC (*2nd Reading*)
9. **COUNCIL APPOINTMENT** – Urban Forestry Advisory Commission (UFAC)
10. **CLOSED MEETING** – Consultation with Legal Counsel

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Town of Front Royal, Virginia Council Agenda Statement

Page 1
Item No. 8

Meeting Date: February 11, 2019

Agenda Item: COUNCIL APPROVAL – Request to Revise Proffers for Vacant Lot on John Marshall Highway – BMW Real Estate LLC (*2ND Reading*)

Summary: Council has received a request from BMW Real Estate LLC to revise the proffers for their vacant commercial property located west of 986 John Marshall Highway to assist with the selling and development of the land. The request is to amend the proffers for the property that were approved as part of a rezoning application in 2000. The Planning Commission approved the revisions in 2018. On December 3, 2018, Council requested the applicant revise the proffers to restrict evening hours for retail uses. The applicant revised the proffers and a new proffer statement includes the new language that restricts retail stores that are open between the hours of 9:00pm and 6:00am. On January 7, 2019 Council requested that at the time the property is developed, the existing evergreen trees along the rear of the property shall be removed and replanted with new trees that comply with the specifications of Town Code 156-5 and in addition, an opaque vinyl fence will be placed along the entire rear property line eight (8) feet in height. Council is requested to affirm on its first reading a revised proffer statement submitted by BMW Real Estate L.L.C., owner of 1.68 acres, which is a vacant lot located to the west of 986 John Marshall Highway, to include the last two conditions made on January 7, 2019.

Budget/Funding: None

Attachments: Staff Report, Proffer Statement, Work Session Minutes of 1/7/19

Meetings: Work Sessions held December 3, 2018 and January 7, 2019. Public Hearing held January 28, 2019

Staff

Recommendation: Approval ✓ Denial _____

Proposed Motion: I move that Council adopt on its second and final reading a revised proffer statement submitted by BMW Real Estate L.L.C., owner of 1.68 acres, a vacant commercial lot located to the west of 986 John Marshall Highway, to include the following two conditions: 1) that at the time the property is developed, the existing evergreen trees along the rear of the property shall be removed and replanted with new trees that comply with the specifications of Town Code 156-5 and 2) an eight (8) foot opaque vinyl fence be placed along the entire rear property line.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW

TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING



STAFF REPORT FOR THE SEPTEMBER 19, 2018 PLANNING COMMISSION MEETING
Updated for Town Council's January 7, 2019 Work Session

APPLICATION #:

FRREZON-000869-2018
(Revision of RZ05-10-57)

APPLICANT:

BMW Real Estate LLC

SUMMARY OF REQUEST:

The applicant has requested to revise the proffers associated with approximately 1.68 acres of C-1 District property to assist with the selling and development of the land.

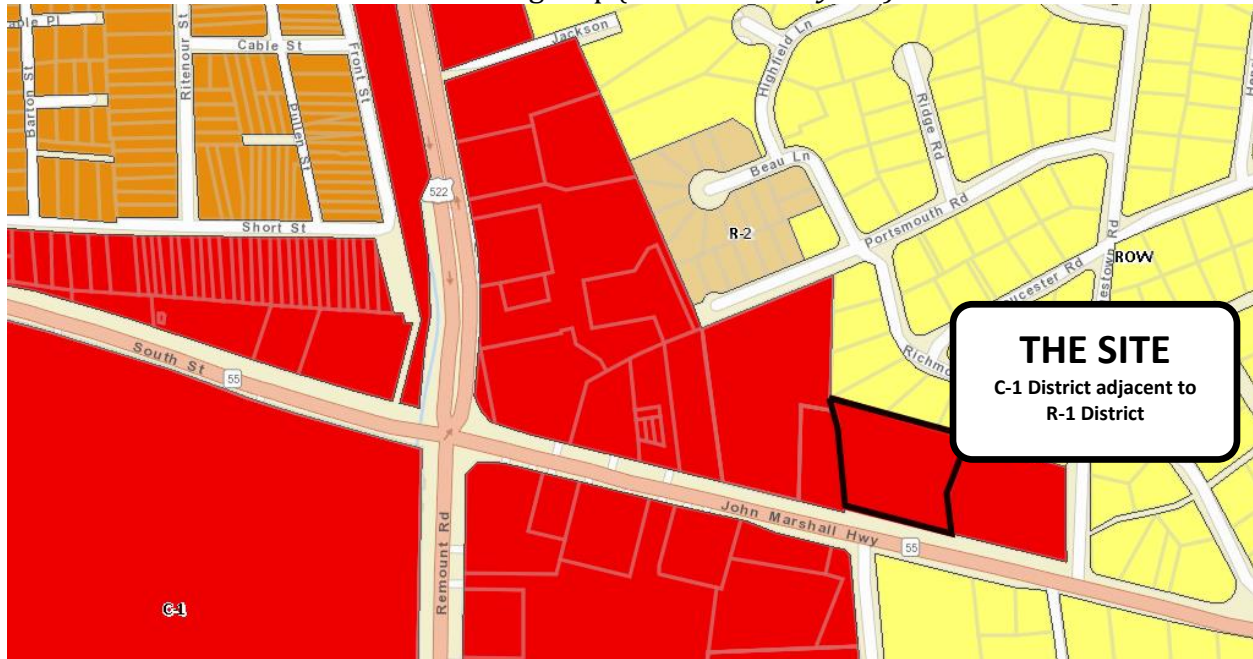
GENERAL INFORMATION:

<i>Site Addresses</i>	None (Vacant Land)
<i>Property Owner(s)</i>	BMW Real Estate LLC
<i>Zoning District</i>	C-1 (Community Business) District
<i>Tax Identification</i>	20A101 4A2
<i>Location</i>	The property is located on the north side of John Marshall Highway to the west of 986 John Marshall Highway and to the east of the UPS property.

Vicinity Map (Warren County GIS)



Town Zoning Map (Warren County GIS)



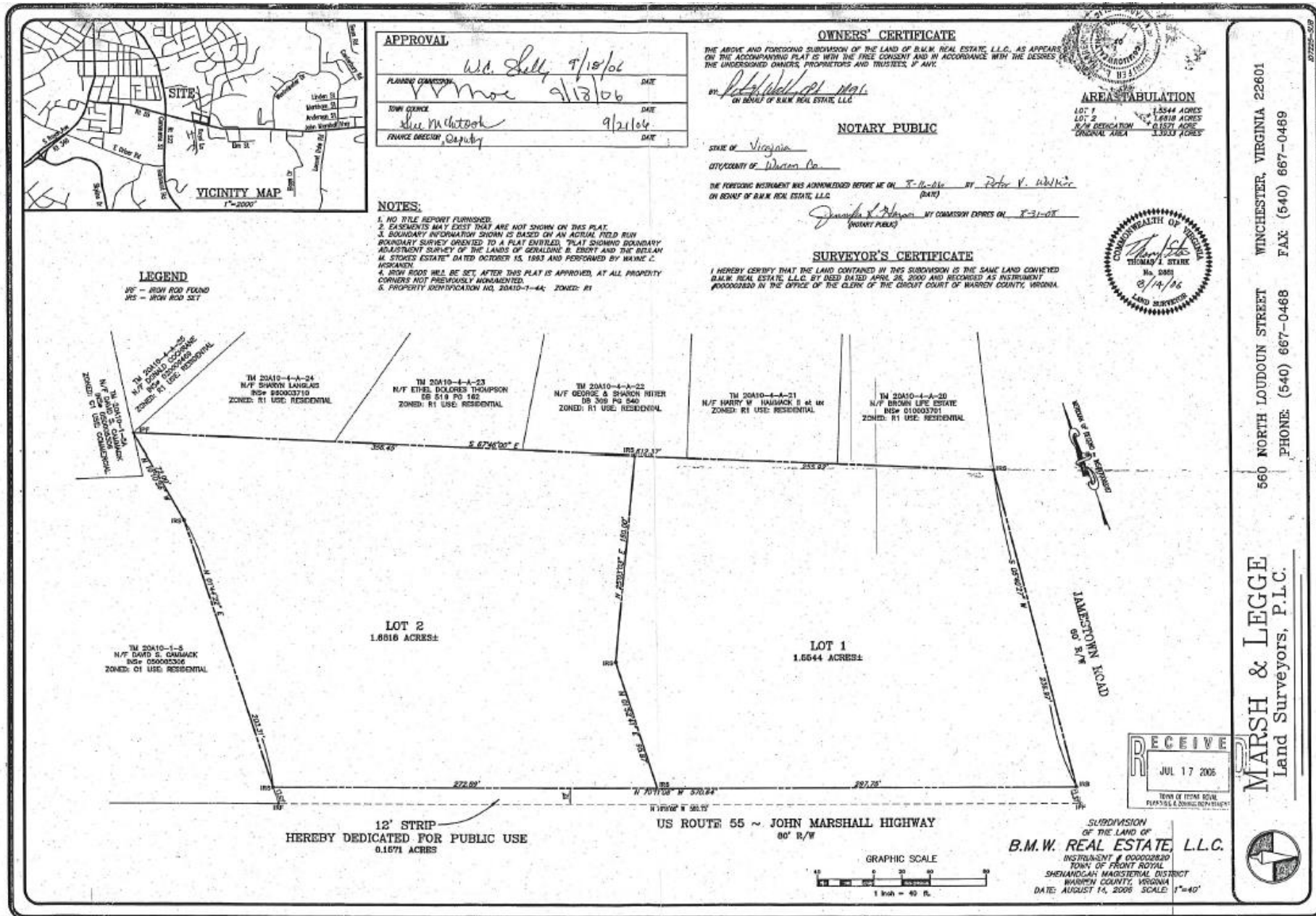
Streetviews (Google Maps)



Aerial Map (WC Online GIS)



Aerial Map (*WC Online GIS*)



SUPPLEMENTAL INFORMATION:

What are Proffers?

Virginia Code § 15.2-2296 through § 15.2-2303.4 address the legislative intent and rules associated with the practice of “conditional rezoning.” Conditional rezoning, typically just referred to as “proffers”, is a process where a zoning reclassification (rezoning) may be allowed subject to certain conditions that are proffered by the applicant. This process gives local governing bodies the ability to better protect their communities from negative impacts associated with new development. Proffers also give developers more flexibility to address negative impacts to obtain approval of rezoning applications that may not otherwise be possible. Once accepted by the governing body, proffers are the same as an ordinance and run with the land.

Proffers can either be cash proffers or non-cash proffers. However, not all localities are authorized to accept cash proffers. Pursuant to Virginia Code § 15.2-2298, the Town of Front Royal has the ability to accept either type. This is because the Town is classified as a high-growth locality (due to Warren County’s growth rate) in the State of Virginia.

Cash proffers may be collected by localities if the funds are for a capital improvement project that is on the community’s Capital Improvement Program (CIP). The funds must be used within 12 years and may only be used for the project listed in the proffer statement, unless alternative use of the funds are specified within the proffers. Proffers must also be reasonably related to the rezoning; the rezoning must give rise for the need of such proffers; they must be in writing; signed by all parties; and may not obligate a locality to do something they would not otherwise have to do. In addition, proffers are intended to impose additional requirements and restrictions, not alternative or lesser requirements or restrictions. The alteration or lessening of requirements or restrictions is considered “contract zoning”. Contract zoning, much like spot zoning, is illegal. [Pima Gro Systems, Inc. v. Board of Supervisors of King George County, 52 Va. Cir. 241 (2000)].

Perhaps the most important thing to remember about proffers is that they cannot be required, they must be made voluntarily by the applicant for the purpose of mitigating impacts of the proposed rezoning application.

[Chapter 11, Conditional Zoning: Proffers, The Albemarle County Land Use Law Handbook, Kampthner (June 2017).

What Does It Mean That Proffers Must Be “Voluntary”?

- The locality must identify all of the impacts that could result from the rezoning so that the owner may decide which impacts it will address through proffers.
- It is up to the owner to decide whether to address the impacts that could result from the rezoning through proffers.
- If the locality denies the rezoning and the owner did not volunteer proffers to address all of the identified impacts, the decision must be based on sound zoning principles (including unmitigated impacts), and not simply on the fact that the owner did not proffer something.
- It does not mean that the locality is powerless to engage the applicant and its representatives in a meaningful dialogue to ensure that the applicant either addresses the identified adverse impacts through proffers or makes a conscious decision to not address those impacts through proffers.

Review Procedure

Adoption or revision of proffers requires the same procedures as a rezoning or ordinance amendment. The submission must first be reviewed by the Planning Commission, and the Planning Commission must forward recommendations to Town Council. Town Code 175-146.D. specifies that the Planning Commission must take action within 90 days after the date of the first regular meeting of the Commission. It is important to note that when the submission changes, such as when a property owner revises the proffers during the review process, the 90-day time period resets.

Before approving and adopting any rezoning, or modification of a previously approved rezoning (proffers), a public hearing is required, pursuant to Virginia Code § 15.2-2204.

Attachment A is the proposed new proffers submitted by the Applicant. This draft was revised a few times during the Planning Commission review process and most recently on 12/17/18 following the Town Council's initial work session.

Below is a table that compares the proposed proffers with the current proffers:

CATEGORY	USE	CURRENT PROFFERS	PROPOSED PROFFERS (after revisions)
RESIDENTIAL:			
	Up to three (3) dwelling units of any type, but not on the ground floor	Y, but only up to 2	Y
	Caretaker quarters	Y	Y
	<i>Apartments or dwelling units, with four (4) or more units or where located on the ground floor</i>	N	Y
COMMERCIAL:			
	Appliance stores and repair services	N	Y
	Assembly Halls	N	N
	Automobile and truck sales lots and leasing agencies	N	N
	Automobile service stations (Gas Stations)	N	N
	Bakeries, when products are sold as retail on the premises.	Y	Y
	Banks, branch banks, and financial institutions.	Y	Y
	Barber and beauty shops	N	Y
	Car washing	N	N
	Catering Services	Y	Y
	Contractor's offices, display rooms and storage	Y	Y
	Commuter parking facilities.	N	N
	Department Stores	N	N
	Drugstores	Y	Y
	Florist shops/floral designers	Y	Y
	Funeral homes	N	N
	Furniture stores	N	N
	Grocery stores	N	N
	Hardware stores	N	Y

	Laundries, Laundromats and dry cleaners	N	Y
	Lumber and building supply	N	N
	Machinery sales and service	Y	N
	Motels, hotels, and tourist homes.	N	N
	Newspaper and other printing establishments	Y	Y
	Personal Services	Y	Y
	Retail Stores	Y, but not between 9PM and 6AM	Y, but not between 9PM and 6AM
	Pharmaceutical Center	Y	Y
	Professional and Business Offices	Y	Y
	Radio and television broadcasting stations, studios or offices.	N	Y
	Recreational Facility, Commercial	Y, but Excluding billiard parlors, poolrooms, and bowling alleys	Y, but Excluding billiard parlors and poolrooms, and bowling alleys
	Restaurants, including drive-in restaurants	Y, but not between 9PM and 6AM, nor drive-throughs or when over 2K SF	Y, excluding drive-through and excluding restaurants that are open late between the hours of 9PM and 6AM.
	Special childcare services.	Y	Y
	Technology business, as defined in Section 175-3, provided that such use does not involve broadcast or communications towers or manufacturing operations.	Y	Y
	Theatres, Indoor	N	N
	Veterinary hospitals	Y	Y
	Wearing-apparel stores	Y	Y
	<i>Automobile garages</i>	N	N
	<i>Automobile Parking Lots, commercial.</i>	Y	N
	<i>Bed & Breakfasts</i>	Y	Y
	<i>Day Care Facilities</i>	Y	Y
	<i>Farmers' markets, and flea markets</i>	Y	Y
	<i>Kennels</i>	Y	Y
	<i>Shopping centers</i>	Y	Y
INDUSTRIAL:			
	Distribution facilities	Y	N
	Wholesale establishments	Y	N
ORGANIZATIONAL:			
	Art galleries and museums.	Y	Y
	Churches.	N	Y
	Public libraries.	Y	Y
	<i>Schools</i>	Y	Y
MISCELLANEOUS:			
	Accessory uses, structures and buildings.	Y	Y
	Home occupations.	Y	Y
	Open Space	Y	Y
	Public facilities.	Y, excluding fire,	Y, but excluding fire, rescue

		rescue and transportation facilities.	and transportation facilities.
	Public parks and playgrounds.	Y	Y
	Public utilities.	N	Y
	Signs, as set forth in Section 175-106	Y	Y
	Special childcare services.	Y	Y
	Such other uses as determined similar to one or more enumerated uses by the Zoning Administrator.	Y	Y
	Heights above maximum for permitted uses	Y	Y
	Conservation areas.	Y	Y
	<i>Communication towers, in accordance with Section 175-110.4</i>	N	N
	<i>Boarding Houses, Clubs & Lodging Houses</i>	N	Y
	<i>Mini-warehouses, subject to the standards of Section 107-44.G.</i>	Y	Y
	<i>Nursing homes, as set forth in Section 175-107.</i>	Y	Y
	<i>Parking Structures.</i>	Y	Y
	<i>Structures with a height between 45 feet and 70 feet, and any residential structure not in conformance with the height limitation of Section 175-41.</i>	Y	Y
	<i>Structures with a gross floor area of 50,000 square feet or more.</i>	Y	Y
	<i>Townhouse-style commercial</i>	Y	Y
	Outdoor amplified sound	N/A	N
	Outdoor storage	N/A	N, except C-G of 175-44.A.

Notes:

1. Uses shown in *italics* require a Special Use Permit (SUP).
2. “Y” means yes, the use is permitted. However, some special restrictions are noted.
3. “N” means no, the use is not permitted, but is normally permitted by-right or by SUP in the Town Code for the C-1 Zoning District.

In addition to the use changes, the applicant is proposing the following other changes:

- Removal of the proffer that limits the lot coverage to 75%.

[Staff Note: This is already a Town Code requirement and not needed in the proffers].

- Removal of the down-directed lighting proffer.

[Staff Note: The current Town Code requires dark sky compliant lighting making this proffer obsolete]

- Removal of the proffer that requires existing healthy trees with a caliper of 10" or greater to be maintained and preservation of existing pine trees.

[Staff Note: The Town has new landscaping requirements that were not in effect when the current proffers were drafted. A transitional yard of 15 feet is required between the property and adjoining residential properties by Town Code. In addition, there are perimeter and interior parking lot requirements, canopy coverage requirement, and street tree requirement]

- Removal of the proffer that requires parking to be in the rear of the property unless a 3-foot tall landscaping screen is provided along the front.

[Staff Note: The proposed proffers include language that the applicant will provide a 20' wide landscaping screen along the frontage of the property regardless of where the parking is.]

- Rewording of the proffer regarding the building design, that requires compatibility with the existing commercial structure on the adjacent property to the east.

[Staff Note: The new language proposes brick, masonry, stone or stucco, and allows alternative surface types upon approval by the Planning Commission.]

- Removal of the proffer that requires dedication of a strip of land to the Town for a trail. The dedication plat is shown on page 4.

[Staff Note: This has already been completed]

- Removal of a proffer that requires utility and driveway locations to conform with the Town and VDOT standards.

[Staff Note: This is already required by Town Code]

- Removal of the proffer for a bond for the installation of curb and gutter and sidewalk along John Marshall Highway.

[Staff Note: curb and gutter and a sidewalk have already been added]

CONCLUSIONS:

The Planning Commission recommended approval of the revised proffers during their October Planning Commission Meeting. Review with Town Council was postponed until December at the request of the Applicant.

The Planning Commission's recommendation of approval was contingent on the applicant revising the proffers to restrict restaurants that are open between 9PM and 6AM, and a wording change to section 3 of the proffers regarding the building exterior. The current draft was submitted by the Applicant after the Planning Commission meeting and addresses the Planning Commission's concerns.

Overall, the proposed proffers allow a few more uses that currently allowed but was still true to the intent of the original rezoning in the opinion of the Planning Commission.

Citizens spoke at the Planning Commission meeting primarily regarding the existing dead row of trees between the property and the adjacent residential houses. When the Applicant's property is developed, the Town Code requires a buffer be installed at this location. That will require removal of the existing and dead trees and replanting of a new buffer that complies with the Town Code specifications.

Town Council requested that the applicant restrict evening hours for retail uses during their initial review of the Application in December. The applicant revised the proffers to include this requested change (Section 1, item *bb*). A public hearing with Town Council is required prior to action on the application. Furthermore, two readings are required.

Attachments to Staff Report (updated 1/2/18):

- 1) Attachment A – Revised Proffers dated 12/17, 2018

PROFFER STATEMENT

REZONING: FRREZON-000869-2018 (Revision of RZ05-10-57)

CURRENT ZONING: C-1 (Community Business) District
[Town Code, Sections 175-38 through 175-45, as the same from time to time may be amended, or their successor ordinances.]

PROPOSED ZONING: C-1 (Community Business) District
[Town code, Sections 175-38 through 175-45, as the same from time to time may be amended, or their successor ordinances.]

PROPERTY: 1.6818 acres, Tax Map #20A101 4A2, Lr00-2820,
Sub Lr06-10214 From Tax Map #20A101 4a.

APPLICANT/OWNER: BMW Real Estate LLC

PROJECT NAME: Vacant Land Along John Marshall Highway

DATE OF PROFFERS: Dec. 10, 2018

Preliminary Matters

Pursuant to Section 15.2-2296 et. seq. of the Code of Virginia, 1950, as amended, and the provisions of the Town of Front Royal Zoning Ordinance with respect to conditional zoning, the undersigned Applicant hereby voluntarily agrees to the terms and conditions set forth herein, provided that the Town of Front Royal approves Rezoning Application FRREZON-000869-2018¹ for the rezoning of the subject property, as referenced above, consisting of approximately 1.6818, to the C-1 (Community Business) District. The terms and conditions set forth herein may be subsequently amended, revised, or withdrawn by the Applicant if approved by the Town of Front Royal, in accordance with the Virginia Code and Town Code. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever.

Terms & Conditions (Proffers)

I. Restricted Uses.

The use of the property shall comply with the C-1 District regulations of the Town Code. In addition to the Town Code requirements, the property shall NOT be used for any of the following principal uses:

- a. *Assembly halls.*
- b. *Automobile and truck sales lots and leasing agencies.*
- c. *Automobile service stations (including gas stations and fuel sales).*
- d. *Automobile garages.*
- e. *Billiard parlors and poolrooms.*

¹ FRREZON-000869-2018 is a requested amendment to the existing proffers that were recorded on May 15, 2000 under instrument number 000002819 in the Clerk's Office of Warren County, and revised in 2006.

- f. *Bowling alleys.*
- g. *Car washes.*
- h. *Commuter Parking Facilities.*
- i. *Department Stores.*
- j. *Fire, Rescue and Transportation Facilities.*
- k. *Funeral Homes.*
- l. *Furniture Stores.*
- m. *Gasoline or other fuel sales.*
- n. *Lumber and building supply.*
- o. *Public transportation facilities.*
- p. *Outdoor amplified sound.*
- q. *Outdoor storage, excluding the following if such activities are in compliance with Town Code 175-44.A.*
 - i. *Plants and other landscaping products typically sold with plants.*
 - ii. *Temporary or seasonal activities, such as but not limited to, peddlers, yard sales, and itinerant merchants that have obtained approval from the Town.*
 - iii. *Vending machines.*
 - iv. *General products, goods, merchandise, and/or materials, provided that (i) no more than 200 square feet of area is used, and (ii) outdoor display and/or sales are restricted from the evening and night hours from 8PM to 5AM, except that general products, goods, merchandise, and/or materials may be kept outdoors if located under a roofed structure.*
- r. *Grocery stores.*
- s. *Machinery Sales and Service.*
- t. *Motels, hotels, and tourist homes, except by special use permit.*
- u. *Telecommunication (Communication) towers.*
- v. *Drive-thru restaurants.*
- w. *Restaurants that are open between the hours of 9 PM and 6 AM.*
- x. *Theatres.*
- y. *Automobile Parking Lots, commercial.*
- z. *Distribution facilities.*
- aa. *Wholesale establishments.*
- bb. *Retail stores, as defined in section 175-39.C. that are open between the hours of 9 PM and 6 AM.*

II. Front Landscaping Screen.

The site development plan shall include a twenty (20) foot wide landscaping screen along the entire frontage of John Marshall Highway; provided that, the Planning Commission may waive screening in areas where it is either undesirable, impractical or unsafe to include a screen, such as, but not limited to, areas where it is necessary to have an entrance and adequate site distance.

III. Building Exterior.

Future buildings and other structures shall be designed with an exterior material that is masonry, brick, or stone. A simulated stucco exterior insulating finish system may also be used if the material and architectural style is similar to the adjacent building at 986 John Marshall Highway. 

IV. Signatures.

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns, and successors in the interest of the Applicant and owner. In the event the Front Royal Town Council grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Front Royal Town Code, as the same from time to time may be amended, or their successor ordinances. This Proffer Statement supersedes any proffer statements previously submitted in connection with this application and this Property, if any.

OWNER'S SIGNATURE
PRINT SIGNATURE
TITLE:
ADDRESS:
WITNESS:

 jcamp

1/23/2019 12:19:31 PM

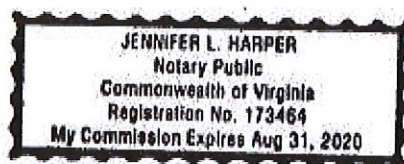
Add the following:

At the time that the property is developed, the existing evergreen trees along the rear property line shall be removed and replanted with new trees that comply with the specifications of Town Code 156-5. In addition, an opaque vinyl fence will be placed along the entire rear property line. Such fence will be eight (8) feet in height.

COMMONWEALTH OF VIRGINIA
COUNTY OF WARREN, TO- WIT:

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10th DAY OF December, 2018, BY Peter V. Wilker,
WHOSE SIGNATURE IS EXECUTED ABOVE TO THE FOREGOING INSTRUMENT AND
WHO HAS APPEARED THIS DAY BEFORE ME, Jennifer L. Harper
A NOTARY PUBLIC IN AND FOR THE COMMONWEALTH OF VIRGINIA AT LARGE.

MY COMMISSION EXPIRES ON THE 31st DAY OF August, 2018.



Jennifer L. Harper
NOTARY PUBLIC

OWNER'S SIGNATURE: [Signature]

PRINT SIGNATURE: Joseph P. Briggs

TITLE: member

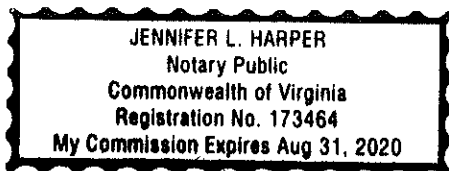
ADDRESS: 115 Chester St, Suite E Front Royal VA 22630

WITNESS: [Signature]

COMMONWEALTH OF VIRGINIA
COUNTY OF WARREN, TO- WIT:

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10th DAY OF
December, 2018, BY Joseph P. Briggs,
WHOSE SIGNATURE IS EXECUTED ABOVE TO THE FOREGOING INSTRUMENT AND
WHO HAS APPEARED THIS DAY BEFORE ME, Jennifer L. Harper,
A NOTARY PUBLIC IN AND FOR THE COMMONWEALTH OF VIRGINIA AT LARGE.

MY COMMISSION EXPIRES ON THE 31st DAY OF August, 2020.



[Signature]
NOTARY PUBLIC

OWNER'S SIGNATURE: [Signature]

PRINT SIGNATURE: J. FRANKLIN BROUGH

TITLE: Member

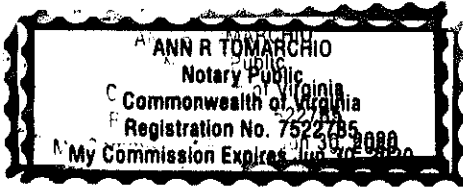
ADDRESS: 60 SCARLET OAK CT Front Royal, VA.

WITNESS: [Signature]

COMMONWEALTH OF VIRGINIA
COUNTY OF WARREN, TO- WIT:

SUBSCRIBED AND SWORN TO BEFORE ME THIS 11th DAY OF
December, 2018, BY J. Franklin Brough,
WHOSE SIGNATURE IS EXECUTED ABOVE TO THE FOREGOING INSTRUMENT AND
WHO HAS APPEARED THIS DAY BEFORE ME, Ann B. Tomarchio,
A NOTARY PUBLIC IN AND FOR THE COMMONWEALTH OF VIRGINIA AT LARGE.

MY COMMISSION EXPIRES ON THE 30th DAY OF June, 2020.



Ann R. Tomarchio
NOTARY PUBLIC

OWNER'S SIGNATURE: _____

PRINT SIGNATURE: Joseph N. McGreevy

TITLE: Member

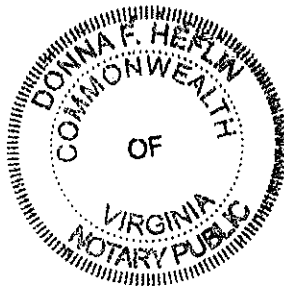
ADDRESS: 811 Happy Creek Rd Front Royal VA 22630

WITNESS: Julie Harney

COMMONWEALTH OF VIRGINIA
COUNTY OF WARREN, TO- WIT:

SUBSCRIBED AND SWORN TO BEFORE ME THIS 17th DAY OF December, 2018, BY Joseph N. McGreevy,
WHOSE SIGNATURE IS EXECUTED ABOVE TO THE FOREGOING INSTRUMENT AND
WHO HAS APPEARED THIS DAY BEFORE ME, Donna F. Hefflin,
A NOTARY PUBLIC IN AND FOR THE COMMONWEALTH OF VIRGINIA AT LARGE.

MY COMMISSION EXPIRES ON THE 31th DAY OF July, 2020.



Donna F. Hefflin
NOTARY PUBLIC
Reg# 173604

EXCERPT FROM WORK SESSION MINUTES OF JANUARY 7, 2019

Continued Discussion of BMW Real Estate LLC Proffer Revision Request – Dir of P&Z

SUMMARY: BMW Real Estate LLC submitted a request to revise the proffers for their vacant piece of commercial property located on John Marshall Highway. The Planning Commission recommended approval of the proffers. Town Council previously met on December 3, 2018 and reviewed the submission. Town Council requested the applicant to revise the proffers to restrict evening hours for retail uses. Attached is a revised proffer statement that was submitted voluntarily by the applicant on December 17, 2018. Section I, item *bb*, includes the new language that restricts retail stores that are open between the hours of 9PM and 6AM. The staff report previously provided is also attached for reference.

Revision of proffers require a public hearing and two readings in a regular Town Council meeting.

Staff Report Conclusions-

The Planning Commission recommended approval of the revised proffers during their October Planning Commission Meeting. Review with Town Council was postponed until December at the request of the Applicant. The Planning Commission's recommendation of approval was contingent on the applicant revising the proffers to restrict restaurants that are open between 9PM and 6AM, and a wording change to section 3 of the proffers regarding the building exterior. The current draft was submitted by the Applicant after the Planning Commission meeting and addresses the Planning Commission's concerns.

Overall, the proposed proffers allow a few more uses that currently allowed but was still true to the intent of the original rezoning in the opinion of the Planning Commission.

Citizens spoke at the Planning Commission meeting primarily regarding the existing dead row of trees between the property and the adjacent residential houses. When the Applicant's property is developed, the Town Code requires a buffer be installed at this location. That will require removal of the existing and dead trees and replanting of a new buffer that complies with the Town Code specifications.

Town Council requested that the applicant restrict evening hours for retail uses during their initial review of the Application in December. The applicant revised the proffers to include this requested change (Section 1, item *bb*). A public hearing with Town Council is required prior to action on the application. Furthermore, two readings are required.

Council Discussion: Mr. Camp noted that the applicant had agreed to the restrictions on night hours for future potential retail uses as requested by Town Council at the first worksession.

The applicant noted that they have agreed to the changes as described by Mr. Camp and have no issue as presented. Vice Mayor Tewalt stated that he would not want to have laundromats and retail establishments during the hours 9 pm-6 am. Mr. Meza noted that every business could not be restricted as it was commercial property. Mr. Camp stated that the list in the proffers is additional changes. Mr. Meza stated that if Council was going to be consistent the should say that all businesses – not just laundromats.

Mayor Tharpe noted that a white vinyl fence is being requested by the residents in the rear of the property, as the trees at the rear were in very poor shape. Mr. Camp stated that a fence is not required; Mayor Tharpe stated that a fence would be helpful if the applicant would be agreeable. Mr. Tewalt noted that a laundromat that is open 24/7 backing up to residents would not be desirable and hopefully the applicant would keep that in mind. Mayor Tharpe stated it seemed ready to go forward with public hearing.

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 9

Meeting Date: February 11, 2019

Agenda Item: COUNCIL APPOINTMENT – Urban Forestry Advisory Commission (UFAC)

Summary: Council is requested to appoint a new member to the Urban Forestry Advisory Commission (UFAC). Council adopted the ordinance amendment on January 28, 2019 to add a sixth member to UFAC. The new term will be a four-year term ending December 20, 2023.

Budget/Funding: None

Attachments: None

Meetings: Interviews were held December 3, 2018

**Staff
Recommendation:** Approval ✓ Denial

Proposed Motion: I move that Council appoint to the Urban Forestry Advisory Commission (UFAC) to a four-year term ending December 20, 2023.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: JW

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Town of Front Royal, Virginia Council Agenda Statement

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Item No. 10

Meeting Date: February 11, 2019

Agenda Item: CLOSED MEETING – Consultation with Legal Counsel

Summary: Council is to go into a Closed Meeting for the purpose of 1) Consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms related to handling potential future debt service related to current and future budget years with respect to the former Afton Inn building, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8 of the Code of Virginia; AND 2) Consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms relating to handling potential debt service related to prior and current budget years with respect to the Economic Development Authority, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

Budget/Funding: None

Attachments: None

Meetings: None

Staff Recommendation: Approval ☒ Denial ☐

Motion to Go Into Closed Meeting

I move that Council convene and go into Closed Meeting for the following purposes:

- 1)** Consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms related to handling potential future debt service related to current and future budget years with respect to the former Afton Inn building, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8 of the Code of Virginia; AND **2)** Consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms relating to handling potential debt service related to prior and current budget years with respect to the Economic Development Authority, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW