REGULAR TOWN COUNCIL MEETING

Monday, November 25, 2019 @ 7:00pm
Warren County Government Center

1. Pledge of Allegiance
2. Moment of Silence
3. Recognize Temporary Mayor-Elect as Temporary Mayor

I move that Town Council appoint and recognize Mayor-Elect Eugene R. Tewalt as Mayor pro tempore of the Front Royal Town Council for the Regular Meeting of Front Royal Town Council on November 25, 2019, and for such additional and further Meetings and times that as his services as such Mayor pro tempore may be needed.

4. Roll Call
5. Approval of the Regular Council Meeting minutes of November 12, 2019
6. Receipt of Petitions and/or Correspondence from the Public
7. Reports:
   a. Report of special committees or Town Officials and Interim Town Manager
      *** Report from Northern Shenandoah Valley Regional Comm. Ex Director Brandon Davis**
   b. Requests and inquiries of Council members.
   c. Report of the Mayor
   d. Proposals for addition/deletion of items to the Agenda.

8. **CONSENT AGENDA ITEMS** – (**ROLL CALL VOTE REQUIRED)**
   A. COUNCIL APPROVAL – Request to Waive Christmas Tree License Tax – Rivermont Church
   B. COUNCIL APPROVAL – HEPTAD Request for One-Year Extension for Development Plan
   C. COUNCIL RE-APPOINTMENT – Urban Forestry Advisory Commission - Hulse

9. **PUBLIC HEARING** – To Receive Public Comment/Concerns and Approve an Ordinance to Vacation an Alley Between 303 and 311 Brown Avenue – Donnie Atkins *(1st Reading)*

10. **CONCIIL APPROVAL** – An Ordinance to Amend and Re-enact Town Code Section 180-185 to Renew a Franchise Agreement for Public Passenger Bus Service. *(2nd Reading)*

11. **COUNCIL APPROVAL** – FY20 Budget Amendment for Energy Services Provided to Shentel

12. **COUNCIL APPROVAL** – FY20 Budget Amendment for EDA Civil Suit Attorney Fees and Auditing Services

13. **COUNCIL APPROVAL** – Auditing Services Related to Litigation

14. **COUNCIL APPROVAL** – Legal Fees for Litigation on EDA Civil Suit

15. **COUNCIL APPROVAL** – Payment to Vendors for Police Department Project

16. **COUNCIIL APPROVAL –** Request from Equus Capital Partners, LTD for Water and Sewer in the Route 340/522 Corridor on Winchester Road

17. **CLOSED MEETING** - Personnel

8A

Town of Front Royal, Virginia
Council Agenda Statement

Item No. 8(A)

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL – Request to Waive Christmas Tree License Tax – Rivermont Baptist Church

Summary: Council has received a request from Kerry Young of Rivermont Baptist Church, seeking a waiver of the $100.00 license tax associated with the selling of Christmas trees during the 2019 holiday season as required by Town Code Section 98-61(A)(1). Council is requested to approve the waiver of the $100.00 license tax as permitted by Town Code Section 98-61(A)(4).

Budget/Funding: None

Attachments: Email from Mr. Young and Town Code Section

Meetings: Work Session held November 18, 2019

Staff Recommendation: Approval_____ Denial_____

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: **I move that Council approve a waiver of the $100.00 license tax associated with the selling of Christmas trees during the 2019 holiday season to Rivermont Baptist Church as permitted by Town Code Section 98-61(A)(4).**

*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: MT

Tina,
The Rivermont Baptist Church would like a waiver of the license tax. Let me know if you need anything other than this email to make the request. I take it the Town Council will decide whether or not to grant this waiver or not at the November 25th meeting, is that correct?

Thanks again,
Kerry Young

Mr. Young,

The Town Code has a license tax of $100.00 for selling Christmas Trees; however, the Town Code also stipulates that Town Council can approve a waiver of this tax. Your request must state that you would like the waiver of the license tax.

Thank you,

Tina

From: RIVERMONT BAPTIST CHURCH <rivermontbaptist@outlook.com>
Sent: Tuesday, November 12, 2019 10:45 AM
To: Tina Presley <tpresley@frontroyalva.com>
Subject: Rivermont Baptist Church Fundraiser

Ms. Presley,
I'm writing you to request permission for Rivermont Baptist Church to do a fundraiser on the corner of Prospect Street and Royal Avenue in the vacant lot. The purpose of the fundraiser is to raise money for our Youth Group to go to camp by selling Christmas trees. The hours of operation will be Monday-Friday 4:00 p.m. thru 9:00 p.m., and on Saturday from 8:00 a.m. thru 9:00 p.m. This lot is owned by our Pastor Tim Dyke, and we'll be directing patrons to park in the parking lot behind Reflections Salon, which he also owns. Let me know if this will be okay and what other actions you need us to take. Thanks in advance for your help in this matter!

God Bless,
Kerry D. Young
Rivermont Baptist Church

98-61 LICENSING – PEDDLERS AND ITINERANT MERCHANTS

Any peddler or itinerant vendor as defined by Town Code Chapter 138 shall be subject to the following license taxes:

A. Itinerant Merchant License Tax

1. Christmas Tree and Fireworks Vendors - $100.00 per calendar year.

2. Fresh Farm Product Vendors – farm grown by merchant exempt per Va. Code § 58.1-3717; if product is purchased by merchant and resold, merchant is considered an Itinerant Merchant.

3. All Other Itinerant Merchants - $250.00 per calendar year. The tax shall be pro-rated based upon the date of issuance.

4. Any non-profit civic, charitable, or bona-fide educational organization may receive a waiver of license tax upon application to and approval of the Front Royal Town Council.

5. Merchants selling food and merchandise during a Special Event that has been issued a permit by the Town shall be exempt from the license tax.

8B

Town of Front Royal, Virginia
Council Agenda Statement

Item No. 8(B)

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL – HEPTAD Request for One-Year Extension to Submit Development Plan

Summary: Council is requested to consider approval of a request from HEPTAD, LLC to extend their deadline to submit a development plan. Town Code requires that a development plan be submitted within one (1) year of approval of the Master Land Use Plan. The Town Code also allows the deadline to be extended by Town Council. Council has approved a one-year extension every year since 2016.

HEPTAD, LLC is the owner of the proposed development referred to as Swan Estates. It was conditionally rezoned to the PND District in 2012.

Budget/Funding: None

Attachments: Letter from Lawson & Silek P.L.C., Draft Master Land Use, and Code Section for Extension

Meetings: Work Session held November 18, 2019

Staff Recommendation: Approval_____ Denial_____

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

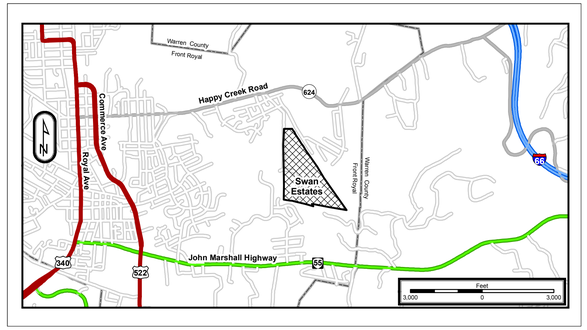
Proposed Motion: **I move that Council approve the request from HEPTAD, LLC for a one-year extension to submit their required development plan for property referred to as Swan Estates (HEPTAD) until December 3, 2020.**

*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: MT

Swan Estates
By
Heptad LLC

March 4,2011
Master Land Use Plan
A Planned Neighborhood Development



Vicinity Map

Project Information

General Information
Tax Map* 20-A21-2-1 and 20-A20-2-11, instrument 030007026
Total Area: 98+/- Acres
Current Zoning: (R-S) Suburban Residential

Open Space Information;
Total Area in Open Space: 43.74 Acres (44.6%)
Open Space comprised of Conservation Land: 34.84 Acres
Open Space comprised of Recreation Land: 8.9 Acres

Developable Area Information:
Total developable area: 54.26 Acres (55.4%)
Area in Single Family Dwelling Category: 11.87 Acres
Area in Townhouse Category: 12.59 Acres
Area in Multi-Family Category: 20.6 Acres
Area in Commercial Category: 9.2 Acres
Proposed Single Family Units: 37-54 +/- (minimum size lots of 3,000 sq. ft)
Proposed Townhouse Units:112 +/-
Proposed Multi Family Units: 252-336 +/-

Summary
Total Number of Units: 450*
Average Density: 4.09-5.12 units per acre +/-
Percentage of Land in open Space : 44.6%

* maximum allowable amount and will be result of any combination of unit types as determined by final design

Sheet Index

1. Cover Sheet
2.General Location Plan
3. Boundary Survey
4.Slope Analysis
5.Topography Map
6.Trip Distribution and Road Classification
7.Floodplan and Wetland Delineation
8.Leach Run Parkway Layout
9.Function Use Plan-Land Bay Layout

Swan Estates
Master Land Use Plan
Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm
J. Duggan & Associates
Landscape Architecture
151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

Consultant

Project Title
Master Land Use Plan

Drawing Title
Cover Sheet

Project Manager
J Duggan RLA

Drawn By
TM/JD

Scale
as shown

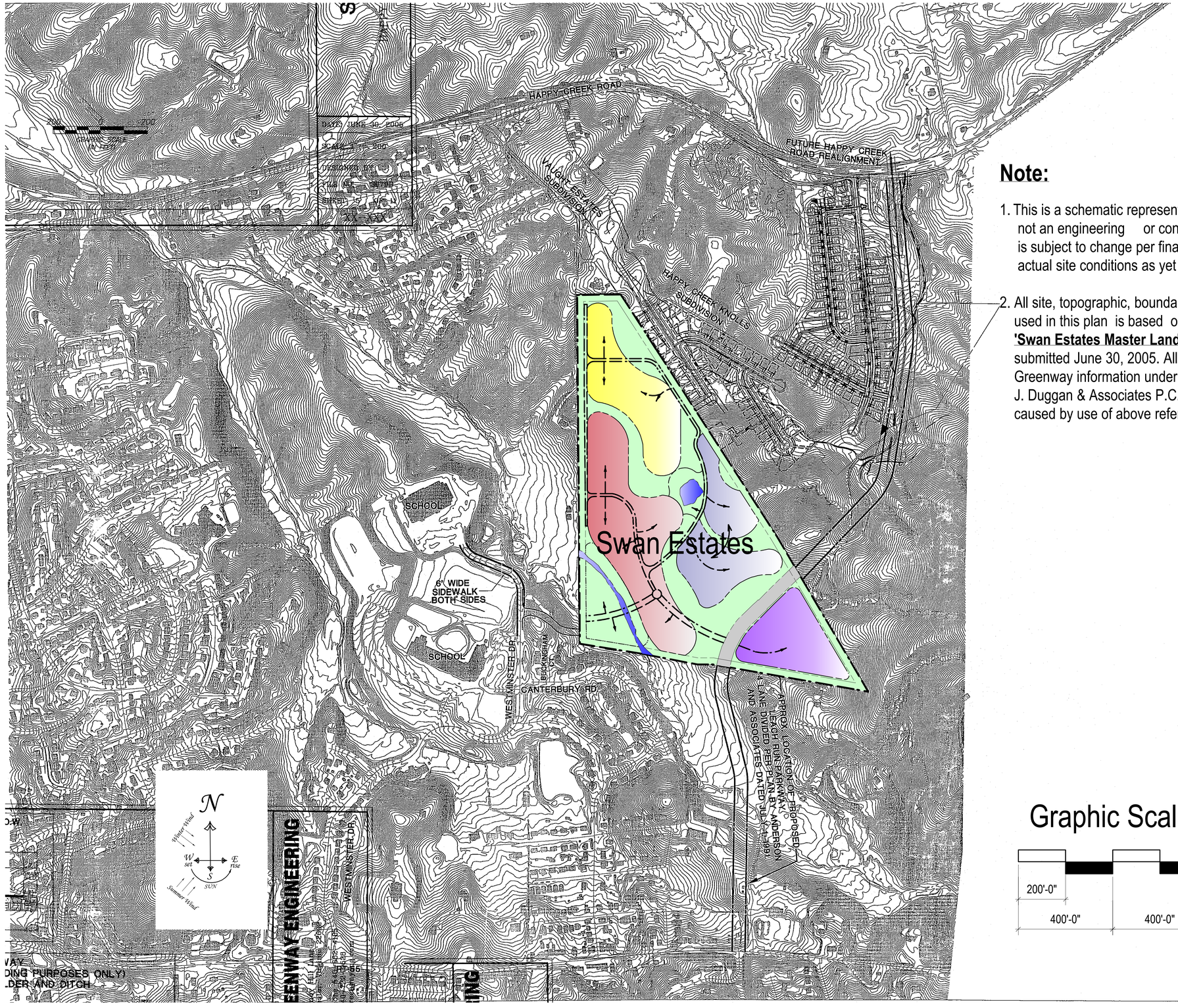
Reviewed By
JD

Drawing No.

Date
3-4-2011

CAD File

1 of 9
Total Sheets



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Graphic Scale

200'-0" 400'-0" 400'-0"

Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

J. Duggan & Associates
Landscape Architecture

151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jduggananda ssociates.com

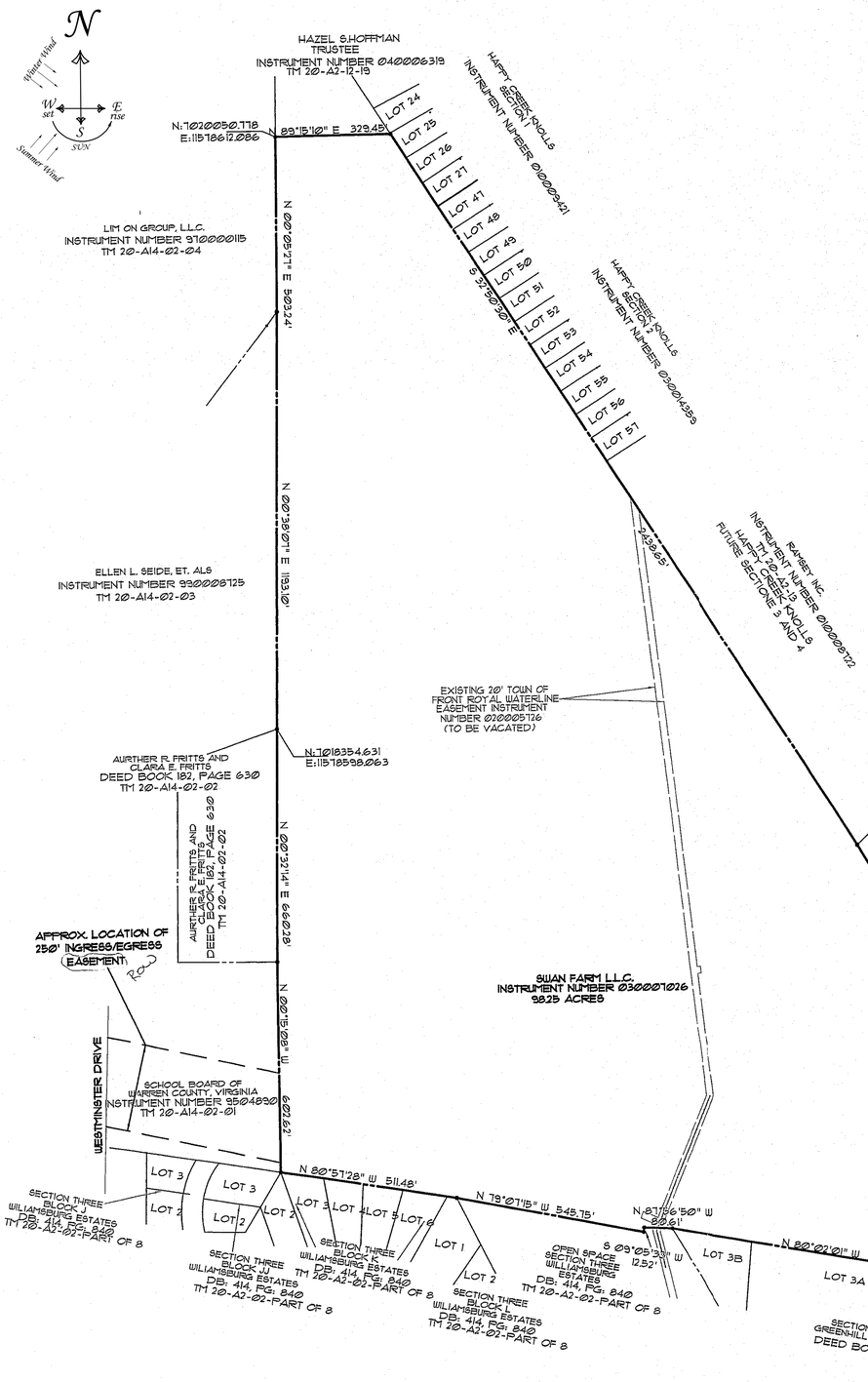
Consultant

Project Title
Master Land Use Plan

Drawing Title
Generalized Location Plan

Project Manager
J Duggan RLA

Drawn By TM/JD	**Scale** as shown
Reviewed By JD	**Drawing No.**
Date 3-4-2011	
CAD File	2 of 9 Total Sheets



NOTE : PARCEL ONE 97.73 ACRES SHOWN ON THIS DRAWING.
PARCEL TWO .52ACRES IS NOT SHOWN ON THIS DRAWING.

SOURCE OF SURVEY : BOWMAN CONSULTING GROUP DATED MARCH 28, 2005.

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Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

J. Duggan & Associates
Landscape Architecture

151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

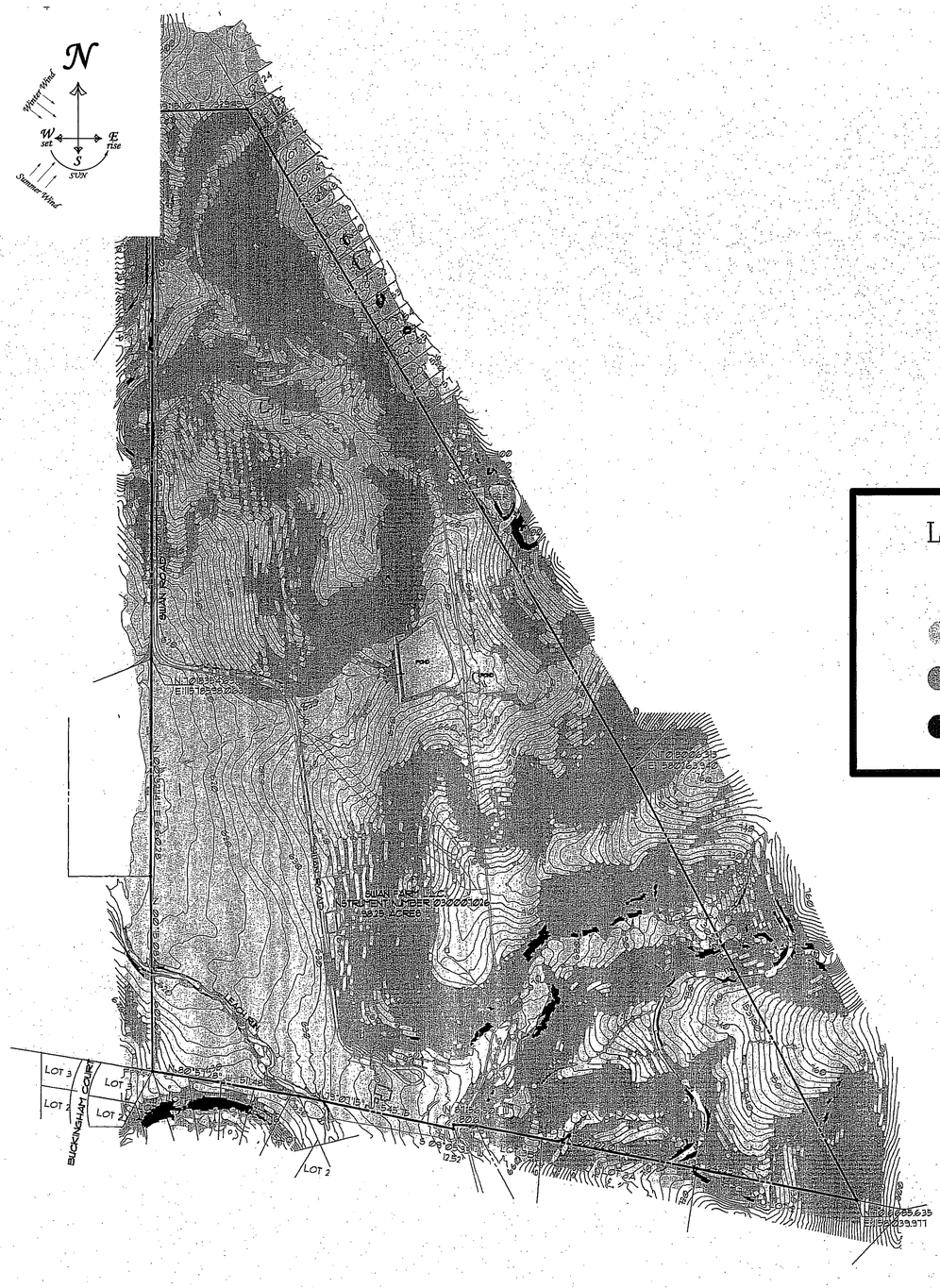
Consultant

Project Title
Master Land Use Plan

Drawing Title
Boundary Survey

Project Manager
J Duggan RLA

Drawn By JD	**Scale** as shown
Reviewed By JD	**Drawing No.**
Date 3-4-2011	
CAD File	3 of 9 Total Sheets



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LEGEND

- < 15.00 % SLOPES
- 15.00 to 40.00 % SLOPES
- > 40.00 % SLOPES

Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

J. Duggan & Associates
Landscape Architecture

151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

Consultant

Project Title

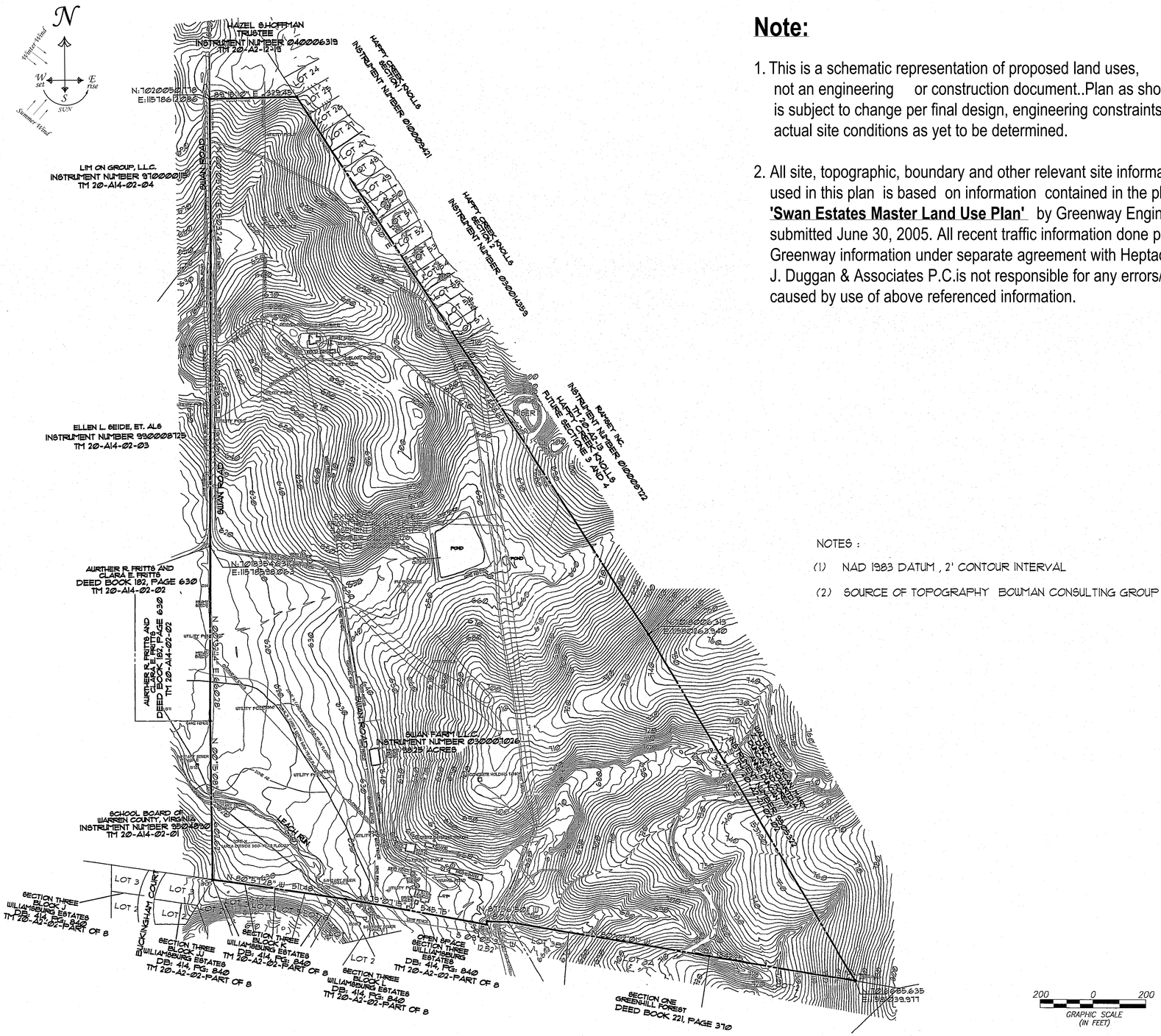
Master Land Use Plan

Drawing Title

Slope Analysis

Project Manager
J Duggan RLA

Drawn By JD	**Scale** as shown
Reviewed By JD	**Drawing No.**
Date 3-4-2011	
CAD File	4 of 9 **Total Sheets**



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NOTES :

(1) NAD 1983 DATUM , 2' CONTOUR INTERVAL

(2) SOURCE OF TOPOGRAPHY BOWMAN CONSULTING GROUP DATED DEC. 21, 2004.

Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

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Landscape Architecture

151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

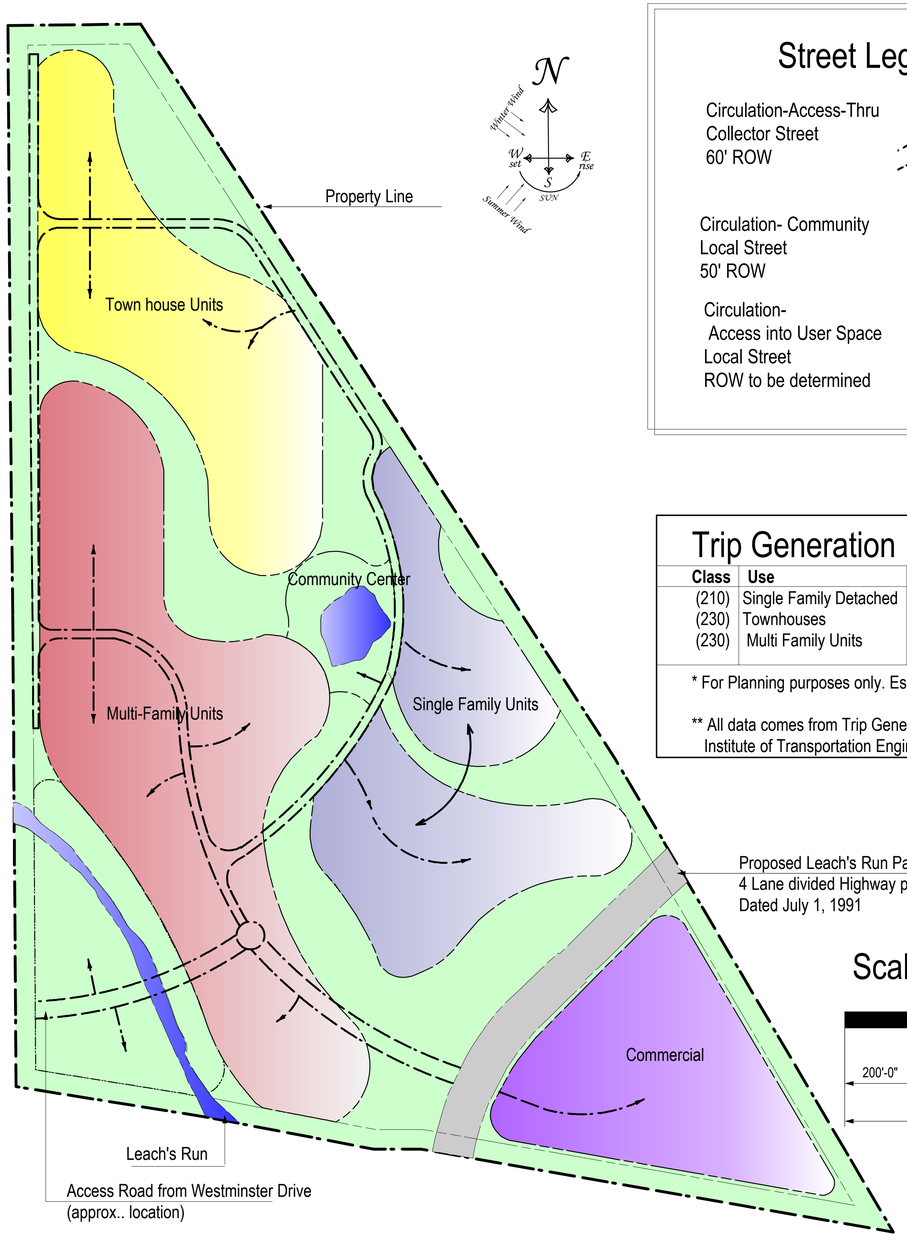
Consultant

Project Title
Master Land Use Plan

Drawing Title
Topography Map

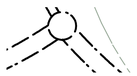
Project Manager
J Duggan RLA

Drawn By JD	**Scale** as shown
Reviewed By JD	**Drawing No.**
Date 3-4-2011	
CAD File	5 of 9 Total Sheets



Street Legend

Circulation-Access-Thru
Collector Street
60' ROW



Circulation- Community
Local Street
50' ROW

Circulation-
Access into User Space
Local Street
ROW to be determined

Trip Generation Data

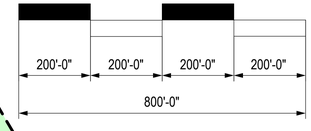
Class	Use	Units*	Trip Rate**	VPD
(210)	Single Family Detached	54	9.57 Trips per day	516.78 VPD
(230)	Townhouses	112	5.86 Trips per day	656.32 VPD
(230)	Multi Family Units	284	5.86 Trips per day	1664.24 VPD

* For Planning purposes only. Estimate number subject to change.

** All data comes from Trip Generation Manual (7th Edition) published by:
Institute of Transportation Engineers, publication date 2003

Proposed Leach's Run Parkway (approx location)
4 Lane divided Highway per plans by Anderson and Associates
Dated July 1, 1991

Scale



Circulation Plan

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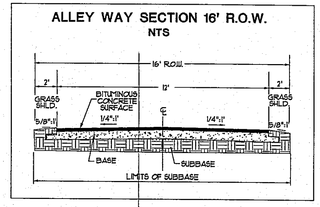
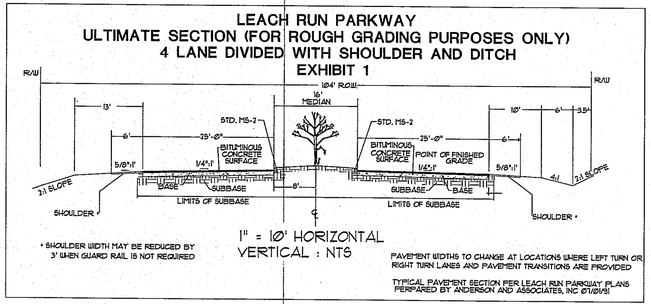
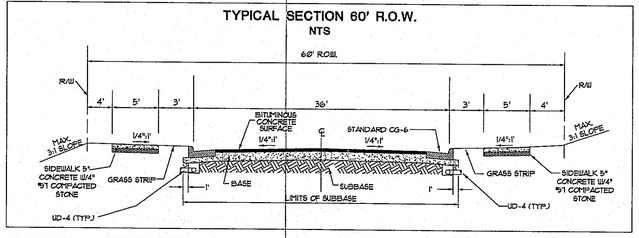
ALLEY WAY SECTION 16' R.O.W.
NTS



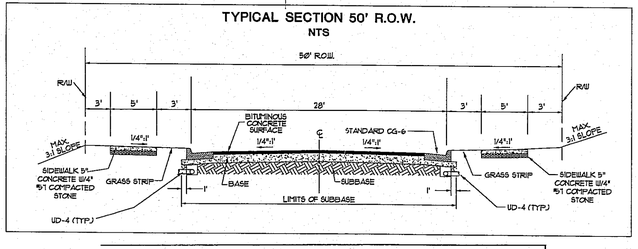
LEACH RUN PARKWAY
ULTIMATE SECTION (FOR ROUGH GRADING PURPOSES ONLY)
4 LANE DIVIDED WITH SHOULDER AND DITCH
EXHIBIT 1

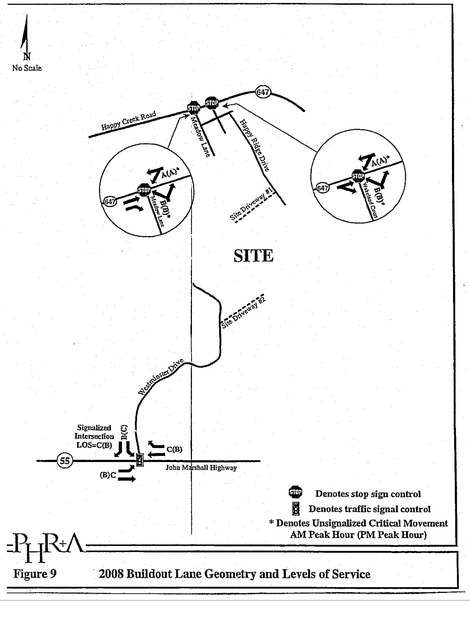


TYPICAL SECTION 60' R.O.W.
NTS



TYPICAL SECTION 50' R.O.W.
NTS





PHR+A

Figure 9 2008 Buildout Lane Geometry and Levels of Service

Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm
J. Duggan & Associates
Landscape Architecture
151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

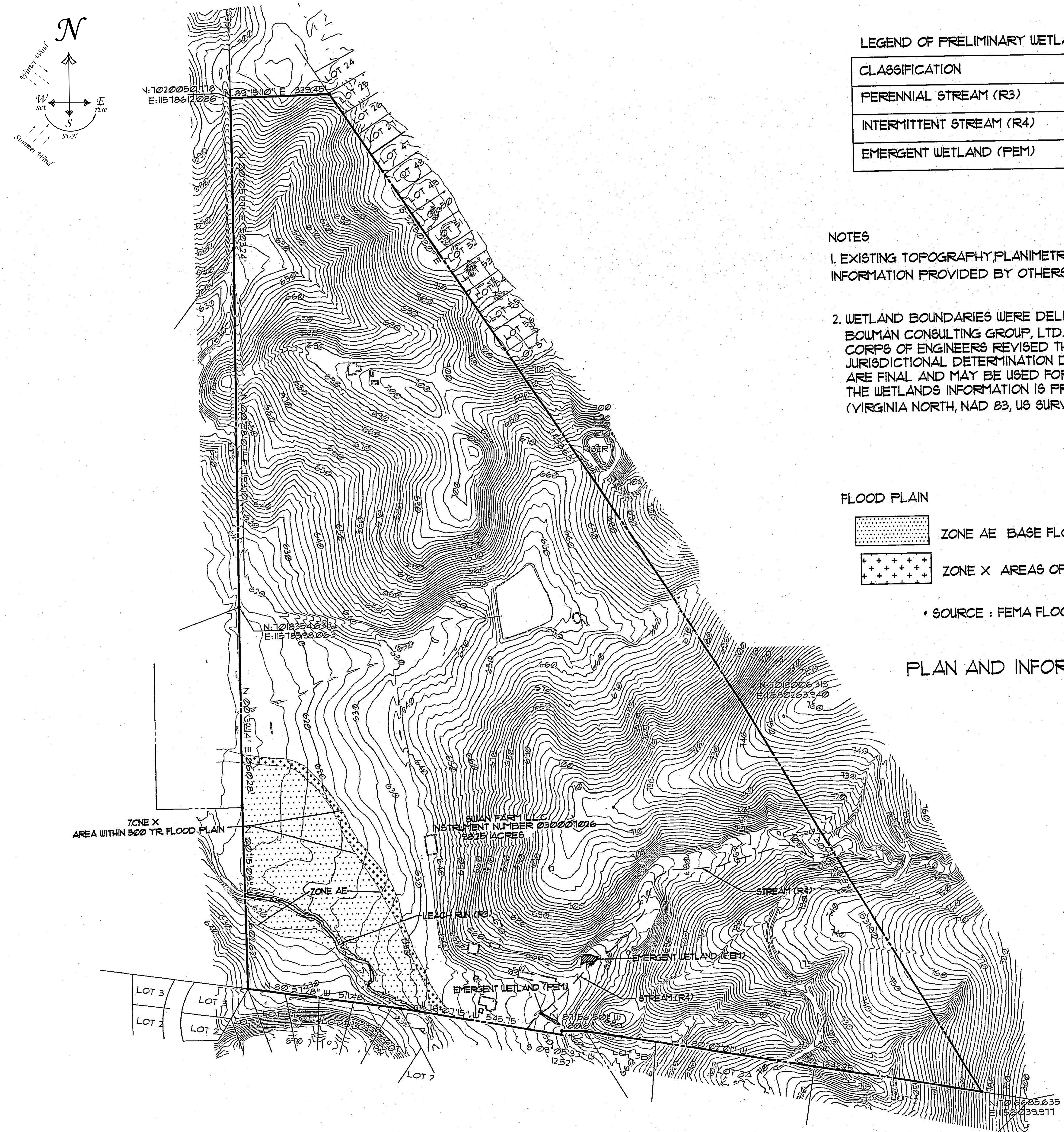
Consultant

Project Title
Master Land Use Plan

Drawing Title
Trip Distribution and
Road Classification Plan

Project Manager
J Duggan RLA

Drawn By JD	**Scale** as shown
Reviewed By JD	**Drawing No.**
Date 3-4-2011	6 of 9 Total Sheets
CAD File	



LEGEND OF PRELIMINARY WETLANDS

CLASSIFICATION
PERENNIAL STREAM (R3)
INTERMITTENT STREAM (R4)
EMERGENT WETLAND (PEM)

NOTES

1. EXISTING TOPOGRAPHY,PLANIMETRIC AND BOUNDARY INFORMATION PROVIDED BY OTHERS.

2. WETLAND BOUNDARIES WERE DELINEATED AND GPS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. IN APRIL 2005. THE U.S. ARMY CORPS OF ENGINEERS REVISED THE WETLAND BOUNDARIES DURING A JURISDICTIONAL DETERMINATION DATED JUNE 15, 2005. THESE BOUNDARIES ARE FINAL AND MAY BE USED FOR PLANNING OR ENGINEERING PURPOSES. THE WETLANDS INFORMATION IS PROVIDED AT STATE PLANE COORDINATES (VIRGINIA NORTH, NAD 83, US SURVEY FEET).

FLOOD PLAIN

ZONE AE BASE FLOOD ELEVATION DETERMINED

ZONE X AREAS OF 500 YEAR FLOOD

* SOURCE : FEMA FLOOD MAP # 510167-0003-B TOWN OF FRONT ROYAL DATED JULY 15,1988.

PLAN AND INFORMATION SHOWN PER BOWMAN CONSULTING GROUP.

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200 0 200
GRAPHIC SCALE
(IN FEET)

Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

J. Duggan & Associates
Landscape Architecture
151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

Consultant

Project Title
Master Land Use Plan

Drawing Title
Floodplain and Wetland Delineation

Project Manager
J Duggan RLA

Drawn By JD

Scale as shown

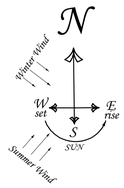
Reviewed By JD

Drawing No.

Date 3-4-2011

CAD File

7 of 9
Total Sheets



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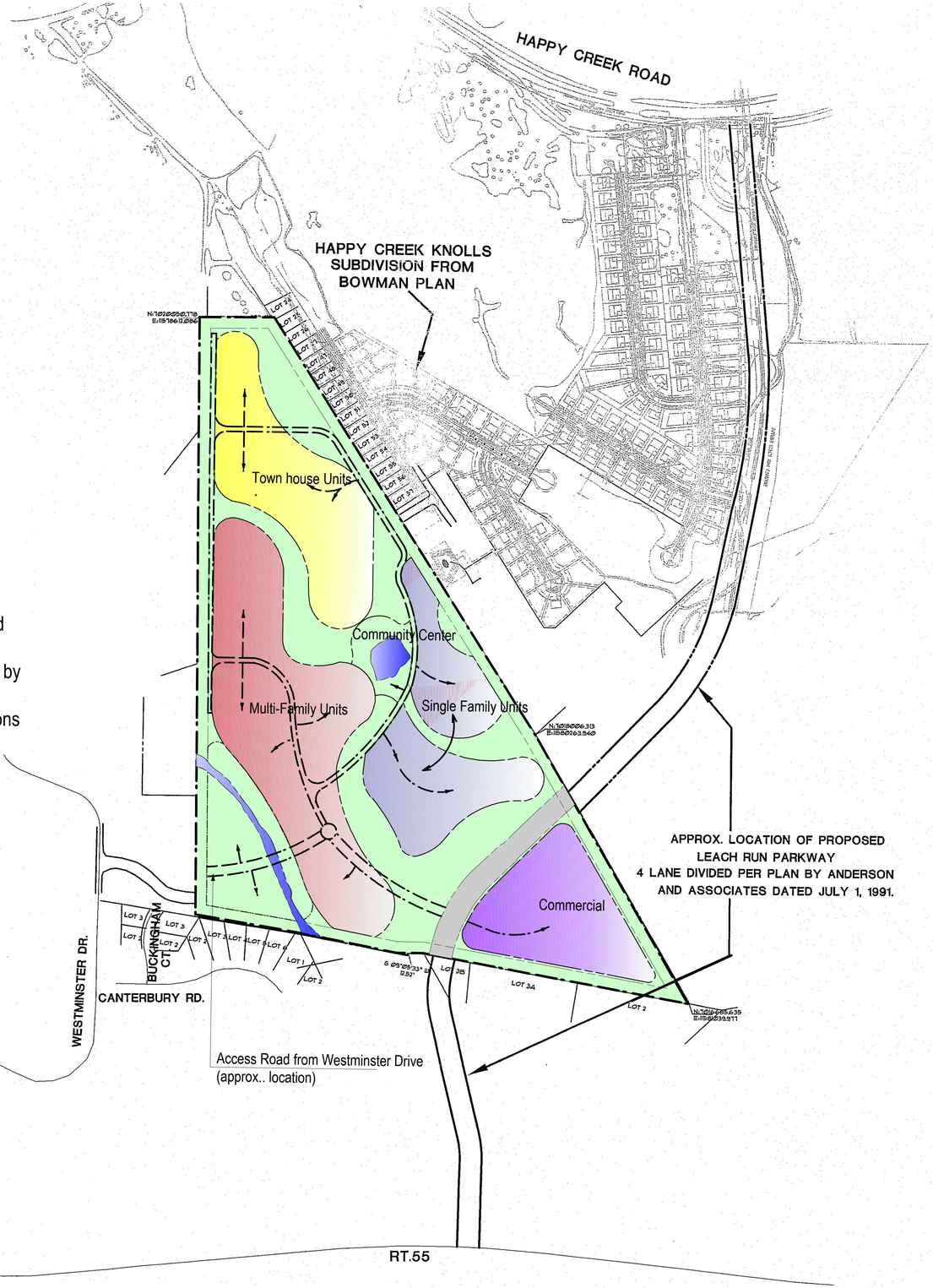


Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E. DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

J. Duggan & Associates
Landscape Architecture

151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

Consultant

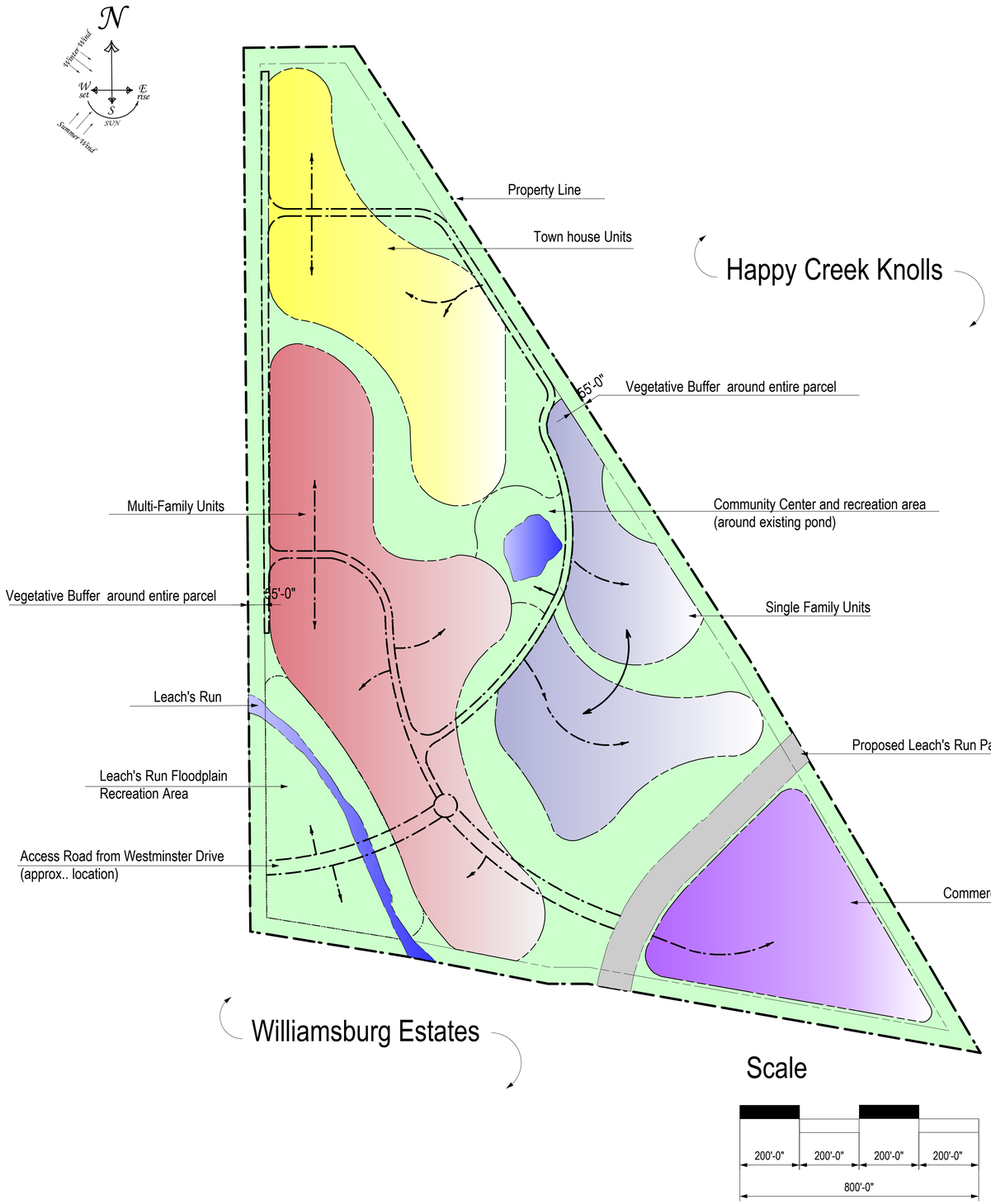
Project Title
Master Land Use Plan

Drawing Title
Leach Run Parkway Layout

Project Manager
J Duggan RLA

Drawn By JD
Scale as shown
Reviewed By JD
Drawing No.
Date 3-4-2011
CAD File

8 of 9
Total Sheets



Legend

- Open Space
- Residential Use Single-Family
- Residential Use Town Houses
- Residential Use Multi-Family
- Commercial Use
- Open Space-Water
- Circulation-Access-Thru
- Circulation- Community
- Circulation- Access into User Space

Note:

1. This is a schematic representation of proposed land uses, not an engineering or construction document..Plan as shown is subject to change per final design, engineering constraints and actual site conditions as yet to be determined.

2. All site, topographic, boundary and other relevant site information used in this plan is based on information contained in the plan titled **'Swan Estates Master Land Use Plan'** by Greenway Engineering submitted June 30, 2005. All recent traffic information done provided by Greenway information under separate agreement with Heptad LLC. J. Duggan & Associates P.C.is not responsible for any errors/omissions caused by use of above referenced information.

Swan Estates

Master Land Use Plan

Happy Creek Magisterial District
Front Royal, Virginia

COMMONWEALTH OF VIRGINIA
JOSEPH E.DUGGAN
No. 000531
CERTIFIED LANDSCAPE ARCHITECT

No.	Date	Revisions

Design Firm

J. Duggan & Associates
Landscape Architecture

151 Windy Hill Lane, Winchester, VA 22602
(540)974-2475 www.jdugganandassociates.com

Consultant

Project Title
Master Land Use Plan

Drawing Title
Functional Use Plan-
Land Bay Layout

Project Manager
J Duggan RLA

Drawn By JD

Scale as shown

Reviewed By JD

Drawing No.

Date 3-4-2011

CAD File

9 of 9
Total Sheets

175-37.18 DEVELOPMENT REVIEW (PND)

Within one year of approval of a Master Land Use Plan for development of a Planned Neighborhood, prior to the approval of building permits, the applicant shall prepare and submit for review and approval an engineered Development Plan, along with the fee as established in the approved schedule of fees. The applicant may petition the Town Council for an extension of time for submission of a development plan, provided such extension is requested at least 20 days prior to the expiration of the one-year period. The Town Council may grant an extension upon demonstration of good cause for up to one year.

8C

Meeting Date: November 25, 2019

Agenda Item: COUNCIL RE-APPOINTMENT – Urban Forestry Advisory Committee - Hulse

Summary: Council is requested to re-appoint a member to the Urban Forestry Advisory Committee (UFAC), said term to expire December 20, 2023.

Budget/Funding: None

Attachments: None

Meetings: November 4, 2019

Staff Recommendation: Approval____ Denial_____

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council re-appoint Cary Hulse to the Urban Forestry Advisory Committee (UFAC), said term to expire 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: MT

9

Town of Front Royal, Virginia
Council Agenda Statement

Item No. 9

Meeting Date: November 25, 2019

Agenda Item: PUBLIC HERING – Receive Public Comments/Concerns and Approve an Ordinance to Vacate an Alley Between 303 and 311 Brown Avenue – Donnie Atkins *(1st Reading)*

Summary: Council is requested to receive comments and concerns from the public and approve an Ordinance pertaining to a request from Donnie Atkins, 303 Brown Avenue for a proposed vacation of approximately a 12.5' x 107' alley located between 303 and 311 Brown Avenue. The approval is contingent upon utility easements and a Hold Harmless Agreement if a proposed fence is installed.

Budget/Funding: None

Attachments: Ordinance. Application, Plat

Meetings: Work Session held October 28, 2019

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Town Council affirm on its first reading an ordinance to conditionally vacate an unimproved alley that is 12.5' x 107' located between 303 and 311 Brown Avenue, contingent upon required utility easements and a signed Hold Harmless Agreement if a fence is installed.**

*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: MT

APPLICATION FOR VACATION OF STREETS AND ALLEYS

(Please see the attached Procedures before submitting the Application)

NAME Donnie Atkins

ADDRESS 303 Brown Ave. Front Royal, VA. PHONE 540-635-6866

Reason for vacation request: To have a professionally installed 6 foot PVC/VINYL panel privacy fence. Please see attached letter.

Please specify the portion of the street or alley to be vacated * The entire 12' 5 " alley between Lot 8 and Lot 9 W.E. Burke subdivision.

The alley between 303 and 311 Brown Ave.

List all names and addresses of adjacent property owners:

Marcus L. Lewis and Annie E. Lewis

311 Brown Ave. Front Royal, Va. 22630

*This application must be accompanied by a copy of a plat showing the dedicated street/alley to be vacated.

I have read, understand and will comply with all the specified regulations set forth in Vacation of Streets and Alley Procedures.

Signed

Date 8/12/19

Return to: Town Manager
P.O. Box 1560
Front Royal, Virginia 22630

August 10, 2019

Mr. Waltz,

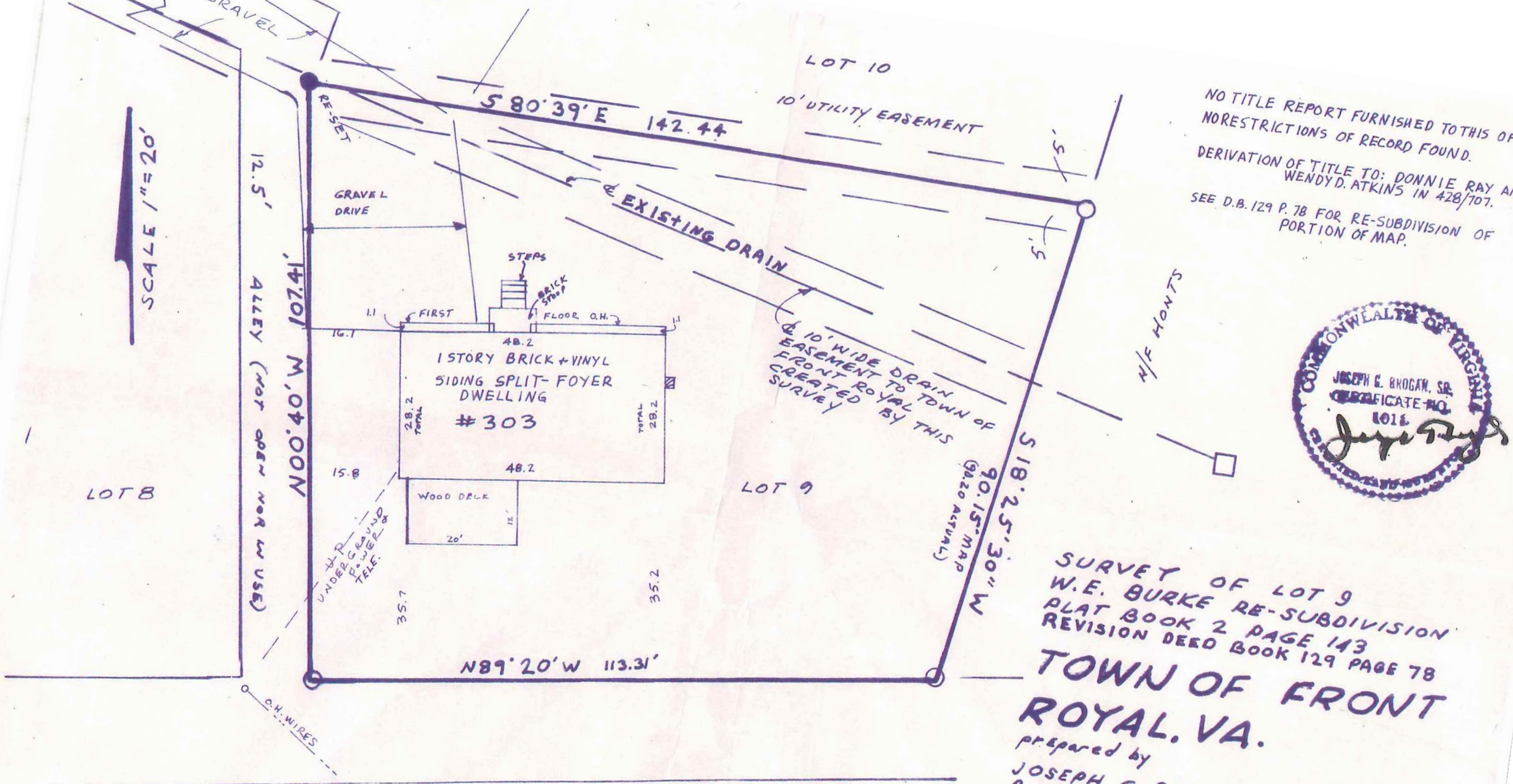
We would like to purchase the 12' 5" alley between lot 8 and lot 9 of the W.E. Burke subdivision. It's the alley between 303 and 311 Brown Ave. We have maintained and mowed the grass on the alley for the past 29 years. When we built our home in 1990 we gave the town an easement for an existing drain that was, according to the town, installed in the wrong place in 1963. At that time, the town said the drain should have been put in the easement between lot 9 and lot 10. When we granted the town the easement for free, the town manager at the time granted me permission to do whatever I wanted with it. We were told the town would never open the alley because it was too steep. The town approved for me to use the alley as part of my driveway and put up a mailbox. At this time we would like to purchase the alley so we can have a professionally installed 6' pvc/vinyl panel privacy fence in an effort to save the property value of our home.

In the past 6 years the property owner of lot 8 has let his property decline rapidly. He has installed a wooden fence in the front of his home that is in code violation such that it is a lot taller than the code of 4 feet. It also has a 6' gate. Two years ago he also installed a chain link fence along with a cattle gate that looks really bad. The 12 foot tall deck on the house is also not up to code.

The property was abandoned about three months ago and the owner has left the property a big mess. The grass has not been cut in three months. The property continues to decline and has become a huge eyesore to the neighborhood, especially us. I have included some photos of the property.

Thank You!

Donnie R. Atkins
Resident of 303 Brown Ave.
540-635-6866



NO TITLE REPORT FURNISHED TO THIS OFFICE
NO RESTRICTIONS OF RECORD FOUND.

DERIVATION OF TITLE TO: DONNIE RAY AND WENDY D. ATKINS IN 428/107.

SEE D.B. 129 P. 78 FOR RE-SUBDIVISION OF PORTION OF MAP.

COMMONWEALTH OF VIRGINIA
JOSEPH G. BROGAN, SR.
CERTIFICATE NO. 1016

SURVEY OF LOT 9
W.E. BURKE RE-SUBDIVISION
PLAT BOOK 2 PAGE 113
REVISION DEED BOOK 129 PAGE 78

TOWN OF FRONT ROYAL, VA.

prepared by

JOSEPH G. BROGAN, SR. C.L.S.
P.O. Box 1578 FRONT ROYAL, VA.

MAR. 25, 1987 RCV. PROP. DWELL. 6/14/90
RE-SURVEY NOV. 7, 1990 UPDATE 1/14/92

● denotes pin set

To: Front Royal Town Council
From: Viewing Committee
RE: Vacation of an Alley – Donnie Atkins
Date: October 15, 2019

The Town of Front Royal has received an "Application for Vacation of Streets and Alleys and Other Town Rights-of-Ways", dated 8/12/19 from Donnie Atkins, 303 Brown Avenue, Front Royal, Virginia 22630, seeking the vacation of a 12.5' x 107' alley located between 303 Brown Avenue (Lot 9) and 311 Brown Avenue (Lot 8) W.E Burke Subdivision for private use.

The alley contains the following:

1) sewer main
2) underground drain that touches the alley as it intersects with a 14' wide alley that connects with Pence Street that would need to be maintained
3) underground electric service crossing the alley located near Brown Avenue

In our opinion, vacation of this alley would pose no harm to the adjacent property owners. However, it is our recommendation that approval of this request shall be contingent upon utility easements to maintain and/or repair all utilities mentioned above. We further recommend that if the property is sold to Mr. Atkins and he installs a fence as indicated in his application, that he signs a Hold Harmless Agreement where he would not hold the Town responsible for damages that may be caused during necessary maintenance of the utility lines.

Ronald W. Crawford 10-15-19
Mr. Ronald W. "Jay" Crawford

Staige Miller 10/15/2019
Mr. Staige Miller

Robert R North
Mr. Robert R. North

AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF THE TOWN OF FRONT ROYAL'S RIGHT-OF-WAY BEING AN APPROXIMATELY 12.5' x 107' ALLEY LOCATED BETWEEN 303 (LOT 9) BROWN AVENUE AND 311 BROWN AVENUE (LOT 8) IN THE TOWN OF FRONT ROYAL, VIRGINIA.

WHEREAS, the Town Council of the Town of Front Royal, Virginia (the Town), has received a request from Donnie R. Atkins (Atkins), whose mailing address is 303 Brown Avenue, Front Royal, VA 22630, to conditionally vacate a portion of the Town's approximately 12.7 foot by 107 foot alley and public right of way located between 303 Brown Avenue (Lot 9) and 311 Brown Avenue (Lot 8), W.E. Burke Subdivision (the "Alley"), for his, and his successors, heirs and assigns private use, as shown on that certain survey plat titled "SURVEY OF LOT 9 W.E. BURKE RE-SUBDIVISION PLAT BOOK 2 PAGE 143 REVISION DEED BOOK 129 PAGE 78 TOWN OF FRONT ROYAL, VA.", prepared by Joseph G. Brogan, Sr. C.L.S., dated Mar. 25, 1987, Rev. prop. DNell, 6/14/90, Re-Survey Nov.7, 1990, Update 1/16/92 (the "Plat"), incorporated by reference herewith, said Alley to become incorporated into and become an integral part of Lot 9 (the "Property"), and not a separate building lot.

WHEREAS, Atkins has further requested that the Town to convey the Alley to him.

WHEREAS, the Town's Viewing Committee and Town Council and its Staff have all investigated said requests and have found that the Alley requested for vacation and conveyance is not used by the Town or its citizens for public rights-of-way other than the Alley contains a Town sewer main; a Town underground drain that touches the Alley as it intersects with a 14 foot wide alley that connects with Pence Street that will continue to need to be maintained by the Town; and an underground Town electric service crossing the Alley near Brown Avenue (collectively, the "Utilities"), all of which Utilities require a reservation by the Town by means of deed of permanent public Town utility easements with permanent access easement in favor to the Town in form acceptable to the Town Engineer and the Town Attorney from Atkins to the Town across, through and under the Alley as shown on the Plat which will sufficiently protect the rights of the Town and of the public; and

WHEREAS, the Viewing Committee further recommends to Town Council that should Atkins install a fence in or on the Alley, Atkins should sign a Hold Harmless Agreement where he, his successors, heirs and assigns will not hold the Town, its official, employees or agents liable or responsible for damages that may be caused during necessary or appropriate maintenance or repair of the Town's Utilities located in or under the Alley.

WHEREAS, pursuant to the Town's ordinance and standard procedures for said requests, and as required by Sections 15.2-2006, *et seq.,* and 15.2-2100, *et seq.,*

of the Code of Virginia, 1950, a required $100.00 application fee has been collected and paid into the Town's General Fund; letters of this proposed vacation have heretofore been sent to property owners who are effected by the proposed vacation and conveyance, if any; the Town Manager or Town Council and the aforesaid applicant have reached a price for the Alley to be conveyed; and the Town has appointed a Viewer's Committee who have personally reviewed the area to be vacated and conveyed and who have filed a written Report with the Town recommending the vacation and conveyance; and, after conducting a duly advertised Public Hearing on the said vacation and conveyance, Town Council now finds it appropriate and in the best interests of the Town to adopt this Ordinance and to hereby vacate and convey the Alley to the said Atkins, upon the terms and conditions hereinafter specified.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Front Royal, Virginia, that the aforesaid Alley as shown on the Plat aforesaid, is hereby conditionally vacated, on conditions and terms hereinafter described, and when said terms and conditions are satisfied, said Alley will be unconditionally conveyed to the said Atkins.

AND BE IT FURTHER, ORDAINED AND ENACTED that this vacation is conditioned upon the Town Attorney preparing a good and sufficient Special Warranty Deed for the Alley (the "Deed of Special Warranty"), to be signed on behalf of the Town Council by the Mayor, with the Town's Official Seal to be thereunto affixed and attested to by the Clerk of Town Council, and an attested copy of this Ordinance to be made a part of said Deed of Special Warranty, and that the said Town Attorney shall further, upon receipt of payment in the amount of _____ Dollars ($_____), plus the costs to advertise the Public Hearing, deliver the deed for the Alley;

Upon vacation and conveyance of the Alley, the Alley so vacated and conveyed hereby will become an integral part of Lot 9, 303 Brown Avenue 9 (the "Property") as shown on the Plat for all purposes and shall not be conveyed separately from the Property and shall not be a separate building lot.

AND BE IT FURTHER ORDAINED AND ENACTED that this vacation is further conditioned upon the condition that should Atkins install a fence in or on the Alley, that Atkins sign a Hold Harmless Agreement where he, his successors, heirs and assigns will not hold the Town, its officials, employees or agents liable or responsible for damages that may be caused during necessary or appropriate maintenance or repair of the Town's Utilities located in or under the Alley.

AND BE IT FURTHER ORDAINED AND ENACTED that this vacation is conditioned upon the Town retaining, and the Town shall retain, the following permanent utility and access easements in and under the Alley consisting of Town sewer main; a Town underground drain that touches the Alley as it intersects with a 14 foot wide alley that connects with Pence Street that will continue to need to be

maintained by the Town; and an underground Town electric service crossing the Alley near Brown Avenue (the "Utilities"), said Atkins signing a good and sufficient deed of permanent utility and access easements to said Utilities ("Deed of Easements") thereto in favor of the Town in form and substance approved by the Town Engineer and Town Attorney, said Deed of Easements and said Deed of Special Warranty to be recorded as aforesaid at the expense of Atkins and proof thereof furnished by Atkins to the Town Attorney before said vacation become effective, and if same shall not be done within one (1) year from the date of the adoption of this Conditional Ordinance by the said Atkins, the Town Attorney shall report same to this Council, and this Conditional Ordinance shall be void.

AND BE IT FURTHER ORDAINED AND ENACTED that, if the aforesaid proof of recordation and said sums are not delivered to the Town Attorney within one (1) year from the date of the adoption of this Conditional Ordinance by the said Atkins, the Town Attorney shall report same to this Council, and this Conditional Ordinance shall be void.

Upon payment of said sum and recordation of said Deeds according to this Conditional Ordinance, the conditions to this Ordinance shall expire, and this Ordinance and conveyance shall thereupon become Unconditional.

This Ordinance shall be effective upon passage.

****

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia, Town Council conducted on _____, 20___, upon the following recorded vote:

APPROVED:

_____
Eugene R. Tewalt, Mayor

Town Council Members:

Attest:

Gary L. Gillespie	_____	William A. Sealock	_____
Chris W. Holloway	_____		
Jacob L. Meza	_____	Letasha T. Thompson	_____

Attest:

_____
Jennifer E. Berry, MMC, Clerk of Council
Approved as to form:

_____

Douglas W. Napier, Date
Town Attorney

A public hearing on the above was held on _____, 2019, having been advertised in the Northern Virginia Daily on _____ and _____, 2019. The Ordinance was enacted at the regular meeting of the Town Council held _____, 2019.

10

Town of Front Royal, Virginia
Council Agenda Statement

Item No. 10

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL – An Ordinance to Amend and Re-enact Town Code Section 180-185 to Renew a Franchise Agreement for Public Passenger Bus Service *(2nd Reading)*

Summary: Council is requested to adopt on its second and final reading an ordinance to amend and re-enact Town Code Section 180-185 to renew a Franchise Agreement for Public Passenger Bus Service (aka Front Royal Trolley Service), as presented. Upon final approval the Franchise will be for a five (5) year term.

Budget/Funding: 1205-47012 – Tourism – Bus System

Attachments: Ordinance

Meetings: Work Session held October 21, 2019. Public Hearing held November 12, 2019

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Town Council adopt on its second and final reading an ordinance to amend and re-enact Town Code Section 180-185 to renew a Franchise Agreement for Public Passenger Bus Service, as presented.**

*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: MT

PUBLIC PASSENGER BUS SERVICE

180-185.1 FRANCHISE GRANTED

The Virginia Regional Transit, hereinafter known as "VRT", its lessees, successors and assigns, for the term and subject to the conditions and limitations hereinafter stated, is hereby granted a Franchise to occupy and use the streets, roads, avenues, alleys and other public places of the Town of Front Royal, Virginia, and to designate, maintain and use adjacent sidewalks for the operation of public passenger bus transportation services to the people of Front Royal utilizing the FTA 5311 Rural Transit Program (Section 5311 of the Federal Surface Transportation Efficiency Act).

180-185.2 PURPOSE OF THE FRANCHISE

The purpose of the Franchise is to permit VRT the right and privilege of operating a public passenger bus transportation service consisting of one or more passenger buses or mini-buses, wheelchair lift equipped and ADA compliant, driven by VRT-employed drivers with commercial driver's licenses, within the Town of Front Royal, and such portions of Warren County as the Town, the County, and VRT shall mutually agree, subject to the conditions and agreements as hereafter set forth.

180-185.3 TERM OF FRANCHISE

The term of the Franchise shall be for a period of five (5) years and ~~three (3)~~ from the effective date of this Ordinance.

180-185.4 BUSES

For the purpose of providing public passenger bus service, VRT is authorized to operate buses capable of seating a minimum of thirteen (13) and a maximum of thirty-five (35) passengers along one or more routes to be determined by the Town following route surveys made by VRT. The buses shall be equipped with wheelchair lifts and shall be compliant with the Americans with Disabilities Act. The buses may bear such decorations, logos or insignias as shall be prescribed by Town Council. VRT shall perform such routine and appropriate maintenance of its bus(es) as shall be necessary to ensure uninterrupted, safe and effective service of this Franchise. VRT shall further employ drivers who have been appropriately trained and licensed for the operation of public passenger-buses, who have been familiar with the Town of Front Royal and the route(s) established therein, who have been submitted to a criminal background investigation, initial drug screening, and who are subject to periodic random drug testing pursuant to Federal regulations.

180-185.5 REPAIRS

VRT shall promptly repair or replace any sidewalk, street, or other property of the Town which may be damaged or displaced by VRT in the operation of its public bus system. In the event that VRT fails or refuses to repair any damage to the property of the Town of Front Royal upon ten (10) days written notice to VRT, the Town may then undertake to repair or replace any damaged or displaced Town property, and the expense of such repairs or replacement shall be paid to the

Town by VRT, and may be recovered in any manner prescribed by law, including application of the performance bond imposed hereunder.

180-185.6 INDEMNIFICATION

VRT agrees and bonds itself, by the acceptance of this Ordinance, to indemnify, keep and hold the Town of Front Royal free and harmless from liability on account of injury to persons or property growing out of the negligence of VRT, or its employees, or agents in the operation of its public bus service. Nothing herein, however, shall be construed to render VRT liable for the negligence of the Town of Front Royal, its agents or employees, or the negligence of other persons or entities.

180-185.7 MAINTENANCE

The rights and privileges set forth herein are granted to VRT upon the expressed condition and understanding that VRT will maintain its vehicles located within the Town of Front Royal in good and safe repair and order at all times during the terms of this Franchise Agreement.

180-185.8 INSPECTIONS

The Town of Front Royal, its employees or agents, shall have the right at any time to make inspections, upon reasonable notice, of VRT's buses or any part thereof.

180-185.9 ANNUAL PAYMENT AND OPERATION

VRT's operation under this Franchise Agreement shall be subject to an annual payment to the Town of Front Royal of ONE DOLLAR ($1.00). The cost of operation of the Franchise shall be borne as follows:

A. Beginning on or about (October 1, 2014 and ending September 30, 2019), sixty-eight percent (68%) of the hourly costs of the operation, as invoiced from VRT to the Town, shall be paid to VRT by Federal and State contributions under the FTA 5311 Program. Thirty-two percent (32%) of the hourly costs shall be paid to the VRT by the Town of Front Royal from such general funds as may be required to total the thirty-two percent (32%) local match.

~~B. VRT shall purchase one or more buses for the operation of the Franchise. VRT shall bear eighty-five percent (85%) of the cost to purchase, equip and decorate the bus(es) and the Town shall contribute to VRT fifteen percent (15%) of the cost. VRT shall purchase a vehicle or vehicles for the operation of the Franchise.~~ VRT shall apply for capital asset grant assistance from the Virginia Department of Rail and Public Transportation to purchase an appropriate vehicle or vehicles for revenue service. The Town shall contribute the local match amount required to draw down such funding which traditionally has been and presently is 4%. The Town will be made aware of any such requirements or changes to the local match percentage prior to vehicle purchase commitment.

C. ~~VRT shall replace its bus(es) used under this Franchise upon the later of three (3) years of service or 150,000 miles traveled. Each party shall bear the same proportion of the cost of replacement as is prescribed for the initial bus purchase in Subsection (B) above.~~ VRT shall replace

revenue vehicles used under this Franchise in accordance with the Federal Transit Administration Useful Life Criteria as described in FTA Circular 5010.1D; and as approved through VRT's capital replacement grant requests through the Commonwealth of Virginia Department of Rail and Public Transportation.

D. In the event that VRT fails to receive funds for the cost operation of the Franchise in accordance with the payment schedule set forth above, and then VRT shall have the right to terminate the operation of the Franchise upon thirty (30) days prior written notice to the Town.

180-185.10 PASSENGER FARES

VRT drivers shall collect from each passenger a fare to be set and determined by the Town Council by resolution. In setting fares, the Town Council may establish separate rates for adults, senior citizens, persons with physical disabilities, students and children. Town Council may provide for the advance purchase of tickets or tokens to be used for the payment of fares by passengers.

180-185.11 SCHEDULES

VRT's bus(es) shall operate on such schedules(s) as shall be established and adopted by the Town Manager or his designee, pursuant to route surveys completed by VRT or by demand or both. Buses shall not operate on the following holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

180-185.12 ROUTES AND STOPS

VRT's bus(es) shall operate on such route(s) and regularly make such scheduled stops at locations established by the Town Manager or his designee, pursuant to route surveys completed by VRT or by demand or both. VRT shall be responsible for the marking of regular bus stops by appropriate signage containing route name or number and schedule for stop, as shall be appropriate.

180-185.13 COMPLIANCE WITH LAWS

VRT and its drivers shall comply with all state and local traffic, registration, licensing and inspection laws, including, but not limited to, Sections 46.2-107, 46.2-694 and 46.2-695 of the Code of Virginia (1950), as amended.

180-185.14 INSURANCE

VRT, as a condition of Franchise approval, shall obtain and maintain throughout the term of the Franchise a General Liability insurance policy in the amount of not less than TEN MILLION DOLLARS ($10,000,000.00) from an insurance provider approved to do business within the Commonwealth of Virginia, and shall name the Town of Front Royal as an additional insured party.

180-185.15 BOND

VRT, as a condition of Franchise approval, shall execute a bond in the amount of ONE THOUSAND DOLLARS ($1,000.00) with security acceptable to the Town of Front Royal to ensure VRT's satisfactory performance of its obligation under this Franchise.

180-185.16 GOVERNING LAW

In any controversy or dispute concerning the terms of the Franchise, the laws of the State of Virginia shall apply.

180-185.17 SEVERABILITY

In the event that any section, subsection, sentence, clause, phrase or a portion of the Franchise Ordinance is for any reasons held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and will be severed from all other portions without affecting the validity of the remainder.

180-185.18 EQUAL OPPORTUNITY REQUIRED

VRT shall not refuse to hire, or employ, nor bar, nor discharge from employment, nor discriminate against any person, because of sex, race, creed, religion, age or national origin.

180-185.19 SUCCESSORS OR ASSIGNEES

The rights, privileges and obligations hereby granted to VRT may not be assigned without express written consent of the Town Council.

All rights and privileges hereby granted to VRT may be exercised by any successor or assignee of VRT, but said successor or assignee shall be subject to the provisions, obligations, stipulations and requirements hereby prescribed. The Town reserves the right to increase the required performance bond imposed hereunder for any successor or assignee.

180-185.20 FRANCHISE RIGHTS

The Town of Front Royal grants to VRT an exclusive Franchise for the operation of a public passenger bus service and for no other purpose.

180-185.21 REMEDIES

A. The sole remedy for any violation of this Franchise shall be limited to the following. Upon the occurrence of any uncured default in the obligations of the Franchise, Town shall have the right:

1. To compel the Franchisee by mandamus or injunction to cure and correct any violation or default of the terms and obligations of the Franchise;

2. To suspend or revoke the Franchise. Upon such revocation, the Franchise shall be automatically deemed null and void and have no force or effect, and Franchisee shall remove its equipment from Town as and when requested by Town.

B. In the event that the Town believes that grounds for suspension or revocation exist or have existed the Town may notify the Franchisee in writing set forth the nature and facts of such non-compliance. If within thirty (30) days following such written notification that the Franchisee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violations did not occur, or that the alleged violations were beyond the Franchisee's control, the Town shall publish a notice setting forth the time, place, and general purpose of a public hearing to consider suspension or revocation of the Franchise notice of such hearing at least ten (10) days prior to such public hearing. The Franchisee and any interested person shall be entitled to be heard at such hearing. Upon a finding by the Town Council of uncorrected defaults in the terms and obligations under this Franchise, the Council shall have the option to suspend or revoke the Franchise.

This ordinance shall become effective upon passage.

APPROVED:

_____
Eugene R. Tewalt, Mayor

ATTEST:

_____
Jennifer E. Berry, MMC, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia on its second reading, conducted _____2019, upon the following recorded vote:

Jacob L. Meza	Yes/No	Chris W. Holloway	Yes/No
William A. Sealock	Yes/No	Gary Gillispie	Yes/No
Letasha Thompson	Yes/No		

A public hearing on the above was held on _____, 2019, having been advertised in the Northern Virginia Daily on _____, 2019, and _____, 2019. The Ordinance was enacted at the Regular Meeting of the Town Council held _____2019, to become effective immediately.

Approved as to form and legality:

_____
Douglas W. Napier, Town Attorney Date: ____/____/_____

11

Town of Front Royal, Virginia
Council Agenda Statement

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL – Budget Amendment for Energy Services Department provided to Shentel

Summary: Council is requested to approve a FY20 Budget Amendment in the amount of $150,000 for funds that will be reimbursed to the Town by Shentel for materials and work performed by the Energy Services Department.

Budget/Funding:

Revenue		
9401 – 3410209	Electric Connection Charges	$150,000
Expenses		
9401 – 41002	Electric – Salaries Overtime	$ 15,000
9401 – 47522	Electric - Shentel Materials	$135,000

Attachments: Memorandum from Director of Energy Services

Meetings: None

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Council approve a FY20 Budget Amendment in the amount of $150,000 for funds that will be reimbursed to the Town by Shentel for materials and work performed by the Energy Services Department.**

*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: MT

Town of Front Royal
Department of Energy Services
P.O. Box 1560
Front Royal, Virginia 22630-1560
(540) 635-3027 Fax: (540) 631-3620

Memo

To: Matt Tederick

From: David W. Jenkins

Date: November 21, 2019

Re: SHENTEL Project

The Town of Front Royal has developed a Pole Attachment Agreement with SHENTEL that includes 31 Phases of work to be completed over the next several years. Each phase consists of various types of pole changes and make-ready work. The first completed phase (Phase 5) was invoiced to SHENTEL for a total of $53,463.01, which includes the cost of labor, overtime, equipment and materials used by the Town. The Energy Services Department is requesting a budget amendment in the amount of $150,000.00 for the current fiscal year to cover the funds already spent on Phase 5, along with the anticipated cost of completing Phases 1-4.

Thank you,

David W. Jenkins

Director of Energy Services
Town of Front Royal
PO Box 1560
Front Royal VA 22630
540-635-3027 (office)
540-631-3620 (fax)

12

Town of Front Royal, Virginia
Council Agenda Statement

Item # 12

Meeting Date: November 25, 2019

Agenda Item: Budget Amendment – EDA Civil Suit Attorney Fees & Auditing Services

Summary: Council is requested to approve a budget amendment in the amount of $282,800 to allocate funds to be used for attorney fees and auditing services related to the Town's civil suit against the Front Royal-Warren County Economic Development Authority (EDA).

The funds are requested to be transferred from FY19 & FY20 budgeted debt service payments to the EDA for Success Farm, Baugh Drive Extension, Happy Creek Technology Park, Stephens Industrial Park, & Leach Run Parkway.

Budget/Funding:

1800-45602	Debt Service Economic Development Success Farm -	<$10,370>
1800-45603	Debt Service Economic Development Baugh Drive Extension -	<$6,535>
1800-45604	Debt Service Economic Development Happy Creek -	<$6,845>
1800-45630	Debt Service Economic Development Stephens Industrial Park -	<$11,725>
1800-47957	Debt Service Economic Development Leach Run Parkway -	<$105,925>
1800-3510110	Debt Service Economic Development Fund Appropriated Funds Forward	<$141,400>
2201-43002	Town Attorney Professional Services	$282,800

Meetings: November 12, 2019

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Council approve a budget amendment in the amount of $282,800 for attorney fees and auditing services related to the Town's civil suit against the Front Royal-Warren County Economic Development Authority (EDA). I further move that Council approve the transfer of funds from FY19 & FY20 budgeted debt service payments to the EDA for Success Farm ($10,370) Baugh Drive Extension ($6,535), Happy Creek Technology Park ($6,845), Stephens Industrial Park ($11,725), & Leach Run Parkway ($105,925).**

*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: MT

13

Town of Front Royal, Virginia
Council Agenda Statement

Item # 13

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL - Auditing Services Related to Litigation

Summary: Council is requested to approve payment to Mitchell & Company PC for auditing services to support litigation in the Town's civil lawsuit against the Front Royal-Warren County Economic Development Authority (EDA) for an amount up to $45,000.

This request for payment is in compliance with the Town's procurement policy as a contract modification. The original contract for auditing services was competitively bid and awarded to Mitchell & Company during Council's April 25, 2016 Regular Meeting.

Per the Virginia Public Procurement Act (V.P.P.S) § 2.2-4344 Exemptions from competition for certain transactions, "The purchase of legal services, provided that the pertinent provisions of Chapter 5 (§ 2.2-500 et seq.) remain applicable, or expert witnesses or other service associated with litigation or regulatory proceedings."

Budget/Funding: 2201-43002 Town Attorney Professional Services $45,000

Meetings: November 12, 2019

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Council approve payment of an amount up to $45,000 to Mitchell & Company PC for auditing services to support litigation in the Town's civil suit against the Front Royal-Warren County Economic Development Authority (EDA).**

*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: MT

14

Town of Front Royal, Virginia
Council Agenda Statement

Item # 14

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL Legal Fees for Litigation on EDA Civil Suit

Summary: Council is requested to approve payment to Damiani & Damiani for legal services related to the Town's civil suit against the Front Royal-Warren County Economic Development Authority (EDA) not to exceed $200,000.

Per the Virginia Public Procurement Act (V.P.P.S) § 2.2-4344 Exemptions from competition for certain transactions, "The purchase of legal services, provided that the pertinent provisions of Chapter 5 (§ 2.2-500 et seq.) remain applicable, or expert witnesses or other service associated with litigation or regulatory proceedings."

Budget/Funding: 2201-43002 Town Attorney Professional Services $200,000

Meetings: November 12, 2019

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Council approve payment not to exceed $200,000 to Damiani & Damiani for legal services related to the Town's civil suit against the Front Royal-Warren County Economic Development Authority (EDA).**

*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: MT

15

Town of Front Royal, Virginia
Council Agenda Statement

Item # 15

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL - Payment to Vendors for Police Department Project

Summary: The Front Royal Town Council was informed by the Front Royal-Warren County Economic Development Authority (EDA) that Front Royal qualified for the New Market Tax Credit Program. Based upon this information, the Front Royal Town Council authorized and proceeded with the construction of the Front Royal Police Department (FRPD); furthermore, the EDA would facilitate the New Market Tax Credit Program on behalf of the Town of Front Royal in order to construct the FRPD.

After the fact, the Town of Front Royal was notified that the Town of Front Royal did not qualify for the New Market Tax Credit Program for the construction of the FRPD; therefore, the EDA funded construction using conventional financing. On November 15, 2019, the Town of Front Royal was provided a letter from the EDA that the EDA will hold payment requisitions related to the Police Department Project until the Town of Front Royal pays the disputed principal and interest due on the project.

In order to complete the FRPD and not further penalize contractors and vendors, Council is requested to approve payments to Dustin Construction, Moseley Architects, & JTS LLC totaling $492,284.34 using Town of Front Royal funds previously budgeted for the Police Department Project.

Staff shall obtain signed waiver of lien from Dustin Construction prior to release of payment. Waiver of lien shall document original contract amount including change orders less previous net billings and amount of current payment due.

Budget/Funding: 9130-47013 Community Development Fund – Police Department $492,284.34

Meetings: November 12, 2019

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Council approve the payment of $492, 284.34 to vendors Dustin Construction, Moseley Architects and JTS LLC for construction of the Police Department Project. I further move that Council approve using funds previously budgeted for the Police Department Project and release payment to Dustin Construction after signed waiver of lien is obtained.**

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

Approved By: MT

November 15, 2019

B.J. Wilson, Director of Finance
Town of Front Royal
16 North Royal Avenue
Front Royal, VA 22630

Re: Police Department Project

Dear Mr. Wilson:

The Front Royal/Warren County Economic Development Authority (WCEDA) received Requisition #45 for the Front Royal Police Department project on October 22, 2019 for processing.

After speaking with our Board of Directors, I write to advise the Town that we will hold this pay requisition without paying until the Town of Front Royal pays the principal and interest due on this project.

The principal, legal fees and draw fees paid by the EDA for the Town to date is $8,440,797.17. The interest amount is $291,856.21 which covers interest on the previous 44 pay requisitions, up to October 31, 2019.[1] Attached is history of the payments and accrued interest.

Once we receive the past amount due for this project, we will process pay requisition #45 accordingly.

Thank you.

Ed Daley

Ed Daley
Chair of the Board

cc: Mayor and Town Council
Interim Town Manager
Doug Parsons, WCEDA Executive Director
WCEDA Board of Directors
Sharon E. Pandak, EDA Counsel

[1] As previously indicated to the Town, the interest rate on the Police Department project loan was initially 3.7525% in March 2018 but the loan was refinanced in July 2018 at 3% interest. Reconciliation needs to occur with the final invoice to the Town.

PO Box 445 . 400 D Kendrick Lane . Front Royal . Virginia . 22630-4937
T 540.635.2182 . F 540.635.1853 . info@wceda.com . www.wceda.com

16

Town of Front Royal, Virginia
Council Agenda Statement

Meeting Date: November 25, 2019

Agenda Item: COUNCIL APPROVAL – Request for Water and Sewer from Equus Capital Partners, LTD in Route 340/522 Corridor on Winchester Road.

Summary: Council is requested to approve the request for water and sewer from Equus Capital Partners LTD in Route 340/522 Corridor on Winchester Road. The Warren County Board of Supervisors approved a resolution requesting the Town provide water and sewer service to the property on November 6, 2019.

Budget/Funding: None

Attachments: Letter/Resolution from BOS; Memorandums from Director of Public Works and Assistant Town Attorney

Meetings: None

Staff Recommendation: Approval____ Denial_____

Proposed Motion: **I move that Council approve the request for water and sewer from Equus Capital Partners LTD in Route 340/522 Corridor on Winchester Road.**

*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: MT

COUNTY OF WARREN

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

Douglas P. Stanley
County Administrator

November 7, 2019

BOARD OF SUPERVISORS

*****

CHAIRMAN
Daniel J. Murray, Jr.
North River District

VICE CHAIRMAN
Thomas H. Sayre
Shenandoah District

Tony F. Carter
Happy Creek District

Archie A. Fox
Fork District

Linda P. Glavis
South River District

*****

Douglas P. Stanley
County Administrator

Joe Waltz, Town Manager
P.O. Box 1560
Front Royal, Virginia 22630

RE: Resolution Requesting Water and Sewer Service

Dear Mr. Waltz:

At its regular meeting of November 6, 2019, the Warren County Board of Supervisors adopted the enclosed resolution requesting that the Town of Front Royal provide water and sewer service to the property identified on Tax Map 4 as Parcel 45.

Should you have any questions regarding this request by the Board, please do not hesitate to contact me at (540) 636-4600 or by email at dstanley@warrencountyva.net.

Sincerely,

Douglas P. Stanley, AICP ICMA-CM
County Administrator

RECEIVED
NOV 12 2019
Town of Front Royal
Town Manager's Office

RESOLUTION

of the Board of Supervisors of Warren County Requesting the Town of Front Royal to Provide Water and Sewer Service for an Industrial Use Located in the Route 340/522 North Voluntary Settlement Agreement Area

WHEREAS, the County has received a request for a rezoning and conditional use permit for a proposed 324,000 square foot industrial warehouse in the Route 340/522 North Corridor on Winchester Road, identified on tax map 4, as parcel 45; and

WHEREAS, the applicant, Equus Capital Partners, LTD, has requested a will serve letter from the Town of Front Royal for water and sewer service to the property; and

WHEREAS, this property lies within the limits as defined as the "Corridor" in the Voluntary Settlement Agreement between the Town of Front Royal and the County of Warren; and

WHEREAS, the latest Amendment to the Voluntary Settlement Agreement was entered into on the 11th day of April 2018 by and between the County of Warren, Virginia and the Town of Front Royal, Virginia and states that commercial and industrial development of the North US Route 340/522 Corridor enabled the County to develop the tax base necessary to fund school capital improvements; and

WHEREAS, the Agreement also states that the Town was authorized by legislation in the Virginia Code to provide public water and sewer utility services to industrial and commercial users outside of the Town's boundaries and collect such compensation therefor as may be contracted for between the Town and such users; and

WHEREAS, the Agreement states that the out-of-town utility rate, which is currently twice the in-town rate, will continue to apply to industrial customers, unless negotiated otherwise by the Town with such customers.

NOW, THEREFORE, BE IT RESOLVED that the Warren County Board of Supervisors does hereby request that the Town of Front Royal provide water and sewer service to the property identified on tax map 4, as parcel 45, located in the Route 340/522 North Corridor.

ADOPTED: **November 6, 2019**

Daniel J. Murray, Jr., Chairman
Warren County Board of Supervisors

ATTEST:

Douglas P. Stanley, Clerk
Warren County Board of Supervisors

Memo

Town of Front Royal Public Works

TO: **Matt Tederick, Town Manager**

FROM: **Robert Boyer, Public Works Director**

CC:

DATE: **November 20, 2019**

RE: **Water & Sewer request by Equus for 6475 Winchester Rd**

The Town received a request to provide water to a new warehouse storage facility located at 6475 Winchester Rd from Equus. Their estimated water & sewer usage for this facility is 2,000 gallons a day. We feel this wouldn't cause any negative issues to the current water and sewer systems in this area.

I would recommend that the Town approve the request for water and sewer service from Equus for their new warehouse facility at 6475 Winchester Rd.

If you have any questions or need any further information you can contact me at 540-635-7819.

Department of Legal Services

MEMORANDUM

TO: **Matt Tederick, Interim Town Manager**

FROM: **George Sonnett, Asst. Town Attorney**

DATE: **Wednesday, November 20, 2019**

SUBJECT: **Sufficiency of County Resolution Adopted November 6, 2019 for Town to Consider Supplying Water to Out-of-Town Industrial User Located within the 522 Corridor**

You ask whether the attached *Resolution of the Board of Supervisors of Warren County Requesting the Town of Front Royal to Provide Water and Sewer Service for an Industrial Use Located in the Route 340/522 North Voluntary Settlement Agreement Area*, adopted November 6, 2019, ("Resolution") is sufficient for the Town Council to take up and consider the application from Equus Capital Partners, Ltd. ("Equus") to supply water outside of Town limits for a proposed industrial use.

As I previously opined, while the "Voluntary Settlement Agreement", as amended, requires the Town to supply water to commercial users, the agreement contains no standing express blanket grant of authority from the County to the Town allowing the Town to supply water to industrial users located within the "Corridor" service area. In other words, the agreement neither requires nor allows the Town to supply water to an industrial user in the County. As I also previously opined, Virginia Code §15.2-2143 (and §15.2-2119(F)) applies to the Town of Front Royal in requiring a "locality" to obtain the "concurrence of the affected county" before providing "water supplies to industrial ... users outside its boundaries".

I have reviewed the Resolution, which provides a specific location for the proposed industrial use, and I am satisfied it provides the Town with the requisite permission required under state law to consider the Equus application. I advise that the Town and County continue to formally address industrial users on a case-by-case basis to avoid any misunderstandings. That said, Town Council must consider the Equus application within the framework of the Town's out-of-town water policy which is found in §134-1(C) of Town Code.

17

Town of Front Royal, Virginia
Council Agenda Statement

Meeting Date: November 25, 2019

Agenda Item: CLOSED MEETING – Personnel

Summary: Council is to go into Closed Meeting for Discussion and consideration of performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of Town Council, pursuant to Section 2.2-3711. A. 1. of the Code of Virginia

Budget/Funding: None

Attachments: None

Meetings: None

Staff Recommendation: Approval____ Denial_____

CLOSED MEETING

Motion to Go Into Closed Meeting - I move that Town Council convene and go into Closed Meeting for Discussion and consideration of performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of Town Council, pursuant to Section 2.2-3711. A. 1. 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 Town 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: MT