

**Board of Supervisors**

Robert "Bob" Thomas, Jr., Chairman  
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Meg Bohmke  
Jack R. Cavalier  
Wendy Maurer  
Paul V. Milde, III  
Gary F. Snellings

Anthony J. Romanello, ICMA-CM  
County Administrator

Infrastructure Committee  
AGENDA

February 2, 2016 @ 1:30 p.m.  
ABC Conference Room, Second Floor

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Agenda Item	
	Introduction ❖ Welcome
1.	Election of Chairman
2.	Exit 140
3.	Widewater CDA Dissolution
4.	HB2 Local Project Funding Update
5.	Abberly Proffer Funds
6.	Pump and Haul Loan Policy
7.	Transportation Authority Briefing
8.	Next Meeting – March 1, 2016
	Adjourn

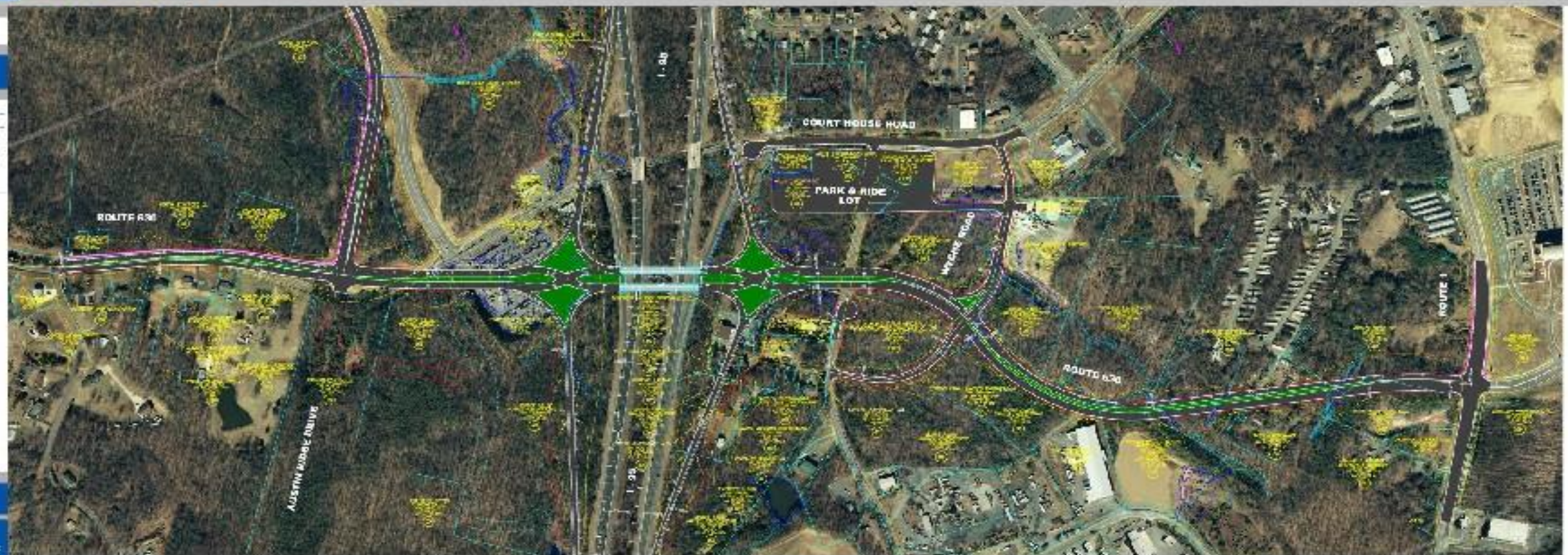
# Election of Chairman

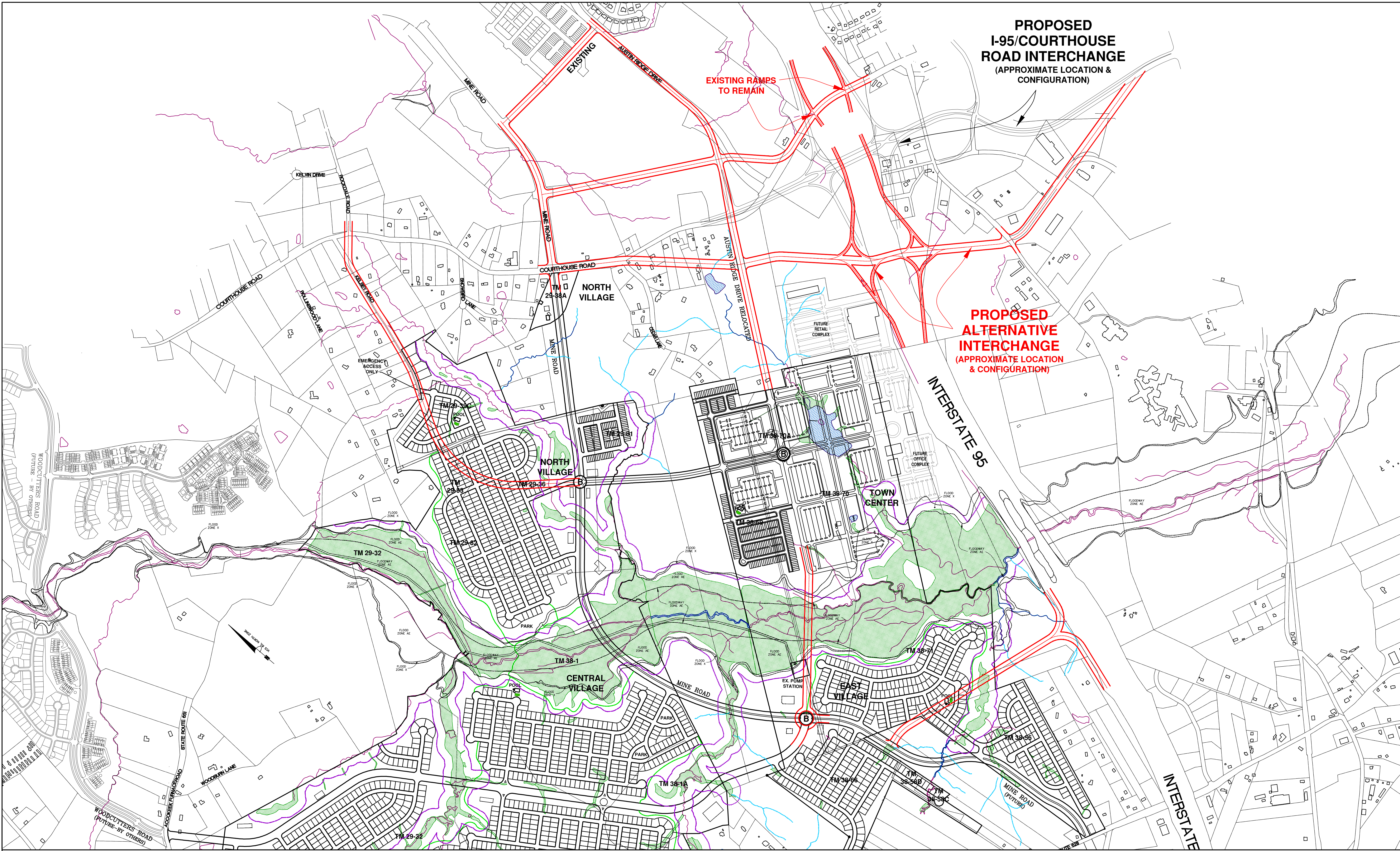
## **2 – EXIT 140**

- The Virginia Department of Transportation (VDOT) modified the original design for the Exit 140 Interchange from a modified cloverleaf configuration to a diverging diamond interchange (DDI).
- The change was made to reduce the project cost to align with reductions in funding.
- The DDI design, shown on the attached graphic, has completed the environmental review, subjected to updated traffic analysis and demonstrated to perform at least as well as the original design, approved by the FHWA, and offered to contractors interested in completing the DDI as a design-build project.
- VDOT is scheduled to complete evaluation of design-build proposals and award the contract this fall.
- The developer of the proposed George Washington Village project has prepared an alternative interchange configuration (attached) which offers connections to I-95 at the existing Exit 140 location, near the proposed DDI location, and another point further south that would serve the proposed GW Village.
- The developer maintains that this alternative would perform better than the DDI design, while also providing a road grid west of I-95, and has provided this alternative design to the state for consideration.
- The state considered this proposed design, and noted that in order to proceed in this manner, VDOT must take several additional steps, including:
  - Expand the boundaries of the environmental study
  - Analyze the design, and seek approval from various state agencies and the FHWA
  - Assess funding impacts, and potentially lose the funding allocated to the current DDI plan
- VDOT has advised that this course would slow down completion of a new interchange, and possibly jeopardize available funding. Whereas the Courthouse Road West project is included with the DDI design-build effort, it would affect completion of this project as well. They would initiate consideration of this change only after receiving notification of local government support
- The Board endorsed (by Resolution R15-320) at their September 15, 2015 meeting, the DDI design for Exit 140, and no further action is necessary if the Board desires VDOT to continue with construction of a DDI as currently planned.

### Public Hearing Project Location Display

I-95 / Route 630 Interchange





ALTERNATIVE I-95/COURTHOUSE INTERCHANGE CONCEPTUAL CONFIGURATION (MINE ROAD EXIT OPTION 1)

APRIL 5, 2015

# Interstate 95/Route 630 Reconstruction and Widening

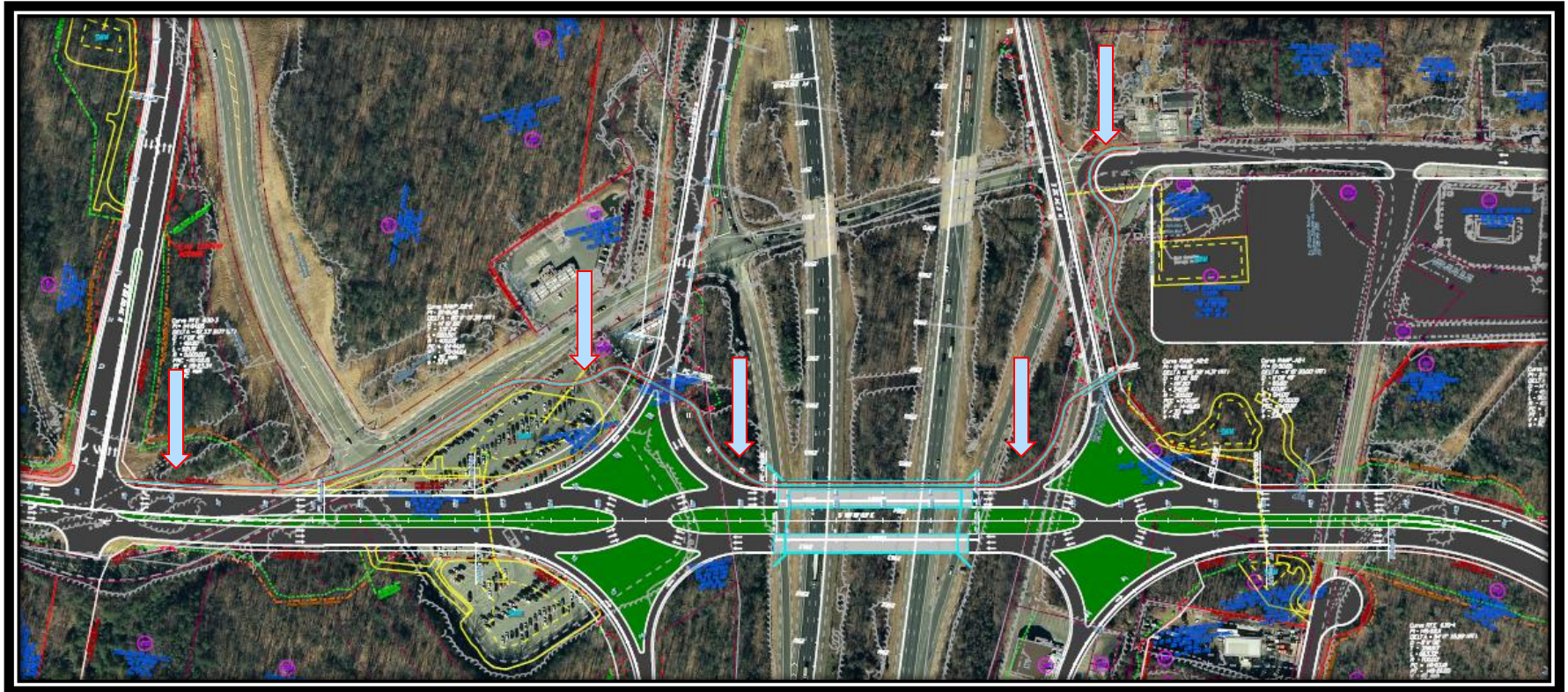
**February 2, 2016**

**Michelle A. Shropshire, P.E.  
Assistant District Administrator –  
Preliminary Engineering**

# Overview of Design



# Overview of Shared Use Path



# Overview of Commuter Lot Expansion – Bid Option



## Next Steps

- **Statement of Qualifications – February 2, 2016**
  - **Request for Proposals – Spring 2016**
  - **Award – Fall 2016**
  - **Construction – 2017**
  - **Project Completion – Summer 2020**
- 

**Thank You!**

### **3 Widewater Community Development Authority (WCDA)**

On May 24, 1994, the Board amended the Comprehensive Plan to create a Widewater Area Plan for the planning of the future development of the Widewater Area. The plan called for a future development potential of 5,650 dwelling units and substantial areas for neighborhood and urban commercial development potential. Planning for that amount of growth necessitated a new four lane parkway as well as safety and capacity improvements for the existing roadways in the area. The WCDA was established to obtain bond financing and oversee engineering and construction the parkway. Funding to pay off the bond debt was to be accomplished through a Widewater Special Service District (WSSD). The WSSD collected a special tax levy from property owners in the area along with pro-rata payments from new residential subdivisions for the WCDA to fund the improvements.

In 1995, the Board established the Widewater Community Development Authority (WCDA) for the purposes of constructing a new four lane parkway from Jefferson Davis Highway extending eastward approximately five miles to Brent Point Road. The boundaries of the WCDA were established by two ordinances - 097-16 and 097-20 - in 1997.

On August 19, 2008, the Board adopted Resolution R08-389 which repealed the Widewater Area Plan removing it from the Comprehensive Plan and thus the need for constructing the parkway. The tax district funds were returned to property owners, while the pro-rata share road impact fees collected from developers of new subdivisions were retained for the purpose of completing transportation improvements benefitting the Widewater Peninsula. The remaining pro rata funds amount to \$1,260,267. Since the Widewater Parkway is no longer identified as a transportation improvement in the Comprehensive Plan, state law prohibits the County from expending funds towards that project. Furthermore, sufficient funds are not available for a project of that magnitude.

The Board has identified improvements in the vicinity of Telegraph Road intersection with Route 1 as a project with benefits to the Widewater Peninsula for which the remaining funds could be applied. This project (see attached graphic) was selected by the Board for HB2 funding, and the remaining pro rata funds included in the application as the County's share of the total cost for these improvements. The County has been advised that the improvements at Route 1 near Telegraph Road have passed the first stage of the HB2 selection process, and should receive full funding as the process advances. The timing for receipt of these funds is not known at this time.

While the selected project will have benefits to the Widewater Peninsula, it is not currently located within the established boundaries of the WSSD and were not identified as improvements to be constructed by the WCDA. The Board must take certain actions to allow dedication of the remaining funds to the selected project. Once the funds are properly dedicated to the

intersection project, the Authority could be disbanded following a vote by the members of the WCDA.

Staff is still investigating the steps necessary to dedicate the pro rata funds to the intersection project and disband the WCDA. Possible measures are listed below.

1. The boundaries and purpose of the WCDA would be amended through public hearing(s) to adopt a new ordinance(s).
2. The specific improvements targeted for the use of the funding would be identified and specified in the new ordinance.
3. The WCDA would conduct an official meeting to authorize the application of these funds for the completion of these improvements.
4. The WCDA would then vote to disband.

It is possible that the Board may be able to simply pass a resolution declaring the proposed Telegraph Road and Route 1 intersection improvement as a project benefitting the Widewater Peninsula, and dedicating the remaining funds to that project. Following that action, the WCDA could then meet to officially disband.

Staff expects to complete the investigation into the necessary steps and present the Board with the appropriate action item at the February 16 meeting.





## DRAFT - HB2 PROJECT - INTERSECTION #2

### ROUTE 1 AND WOODSTOCK LANE (RTE 639)

REALIGN INTERSECTION, INSTALL SOUTHBOUND LEFT-TURN-LANE  
INSTALL MEDIAN (SLOTTED-LEFT) TO PREVENT LEFTS-OUT FROM  
CONNECTING ROADWAYS, IMPROVE NORTHBOUND RIGHT-TURN-LANE,  
GUINNS LANE CONNECTION/ENTRANCE (RI/RO) TO BE DETERMINED

NOTE: FUTURE SIGNAL OPTIONAL

## 4 – HB2 Funding Update

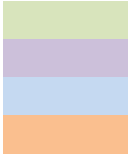
- The Board passed Resolution R15-321 identifying area projects for application for HB2 funding. This resolution was provided to FAMPO for consideration when the MPO voted on candidate projects.
- Following deliberation by FAMPO, the southbound and northbound fourth lanes on I-95 between mile marker 140 and 143 were not submitted to the state for consideration. The remaining 8 of the 10 Board priorities were submitted and determined to be qualifying projects under HB2 guidelines.
- These projects and the HB2 funding amounts requested are listed below. We have received initial word that our requested projects in bold were approved and included within a recommendation for HB2 funding from VDOT to the CTB.
  - Fredericksburg District Funding
    - **Route 1 & Courthouse Area Corridor Improvements** **\$4,646,300**
    - **Route 1 & Woodstock Lane Intersection Safety Improvements** **\$7,524,800**
    - **Route 1 & Potomac Creek Drive Intersection Improvements** **\$1,285,617**
  - Statewide High Priority Projects (FAMPO)
    - **Rappahannock River Crossing (SB Segment)** **\$115,500,000**
    - Rappahannock River Crossing (NB Segment) \$152,000,000
  - Statewide High Priority Projects (GWRC)
    - **Commuter Lot Expansion East of Exit 140** **\$16,600,000**
    - Brooke VRE Platform Extension \$12,631,100\*
    - Leeland VRE Platform Extension

\* These two projects were combined for evaluation purposes
- The projects in **bold** above are believed to be fully funded for the requested amounts.
- Total HB2 available funding has been increased from \$1.25 billion to \$1.7 billion statewide, while available Fredericksburg District Grant funds increased from \$39 million to \$60 million. The additional district grant funding has allowed almost all the projects submitted in the Fredericksburg District to be fully funded. The funding levels are for the FY2017-FY2022 period.
- The attached schedule lists all the projects in the Fredericksburg District reportedly receiving HB2 funding, along with their overall score.
- These recommendations will now go to the Commonwealth Transportation Board for consideration and approval. They are scheduled to hold a public hearing in May and vote on the matter in June.
- Funding is expected to be available the next fiscal year, although funding schedules for individual projects will not be known until after CTB action.

Reported Funded Projects

App ID	Area Type	District	Organization Name	Project Title	Project Benefit Score	PROJECT_HB2_C OST	Score Divided by HB2 Cost	Scenario
617	A	Fredericksburg	City of Fredericksburg	Virginia Central Railway Trail Bridge	0.863	\$ 160,000	53.960	FR
496	D	Fredericksburg	Essex County	Route 17 Corridor Improvements	2.403	\$ 1,000,000	24.028	FR
635	D	Fredericksburg	County of Gloucester	Intersection Improvements - Routes 17B/14/3	2.924	\$ 1,500,000	19.491	FR
552	D	Fredericksburg	County of King George	Turn Lane Extension North Bound Dahlgren Naval Base	1.020	\$ 555,000	18.383	FR
602	D	Fredericksburg	Middle Peninsula PDC	Rappahannock Community College Site Access Improvements	1.129	\$ 625,000	18.059	HP
692	D	Fredericksburg	County of King & Queen	King and Queen County Business/Telework Center	0.393	\$ 299,350	13.127	HP
649	D	Fredericksburg	King William	Intersection Improvements - Rte 30/360	3.200	\$ 3,000,000	10.666	FR
689	D	Fredericksburg	County of Gloucester	Pedestrian Improvements - Northern Rte 17/17B Intersection	0.946	\$ 950,000	9.956	FR
669	D	Fredericksburg	County of Gloucester	Pedestrian Improvements on Route 17 SB at Gloucester Pt	0.313	\$ 800,000	3.912	FR
440	A	Fredericksburg	County of Spotsylvania	Rt 606 West	1.770	\$ 4,649,900	3.807	FR
480	A	Fredericksburg	Stafford	Stafford Route 1-Courthouse Area Corridor Road Improvements	1.383	\$ 4,646,300	2.977	FR
591	A	Fredericksburg	George Washington Regional Commission	New Commuter Parking Lot for Route 1 at Commonwealth Drive	4.756	\$ 16,600,000	2.865	HP
437	A	Fredericksburg	George Washington Regional Commission	Expansion of Commuter Parking Lot East of Exit 140 on I-95	2.427	\$ 9,719,246	2.497	HP
441	A	Fredericksburg	County of Spotsylvania	Rt 17, I95 Bridge to Hospital Blvd	2.255	\$ 10,200,000	2.211	FR
709	D	Fredericksburg	County of Caroline	UPC 106670-Widening of Route 639 Ladysmith Road	2.312	\$ 14,100,000	1.640	FR
576	A	Fredericksburg	Stafford	Stafford Route 1 at Potomac Creek Drive	0.187	\$ 1,285,617	1.452	FR
589	A	Fredericksburg	Fredericksburg Area MPO	UPC 101595 - Rappahannock River Crossing (Southbound)	12.040	\$ 115,500,000	1.042	HP
577	A	Fredericksburg	Stafford	Safety Improvements on Rte 1 @ Woodstock Ln and Telegraph Rd	0.764	\$ 7,524,800	1.015	FR
623	D	Fredericksburg	County of Westmoreland	Rte 3 Passing Lanes Between Potomac Mills and Flat Iron	0.543	\$ 11,504,960	0.472	FR HP co

\$ 204,620,173 -



Stafford District Grant Projects  
Stafford Statewide High Priority Projects  
Non-Stafford District Grant Projects  
Non-StaffordStatewide High Priority Projects

## BOARD OF SUPERVISORS Agenda Item


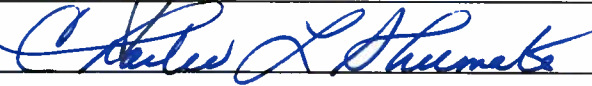

<b>Meeting Date:</b>	February 2, 2016
<b>Title:</b>	Authorize the Application of Abberly Proffer Funds to the Route 1/Courthouse Road Intersection Improvement Project
<b>Department:</b>	Public Works
<b>Staff Contact:</b>	Christopher K. Rapp, P.E., Director
<b>Board Committee/ Other BACC:</b>	Infrastructure Committee
<b>Staff Recommendation:</b>	Approval
<b>Budget Impact:</b>	See Background Report
<b>Time Sensitivity:</b>	See Background Report

### ATTACHMENTS:

1.	Background Report	2.	Proposed Resolution R16-53
		3.	Abberly at Stafford Courthouse - Proffer Amendment Statement

	<b>Consent Agenda</b>		<b>Other Business</b>		<b>Unfinished Business</b>
	<b>Discussion</b>		<b>Presentation</b>		<b>Work Session</b>
X	<b>New Business</b>		<b>Public Hearing</b>		<b>Add-On</b>

### REVIEW:

X	County Administrator	
X	County Attorney	
X	Finance and Budget	 FOR MARTHA PERROTTÉ

<b>DISTRICTS:</b>	Aquia and Hartwood
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## **BACKGROUND REPORT**

Abberly at Stafford Courthouse (Abberly) is a proposed development by the HHHunt Corporation with 288 multi-family units located between Jefferson Davis Highway (Route 1) and Old Potomac Church Road. The site plan has been approved by the Department of Planning and Zoning, and HHHunt has submitted building permit applications for the residential complex to begin construction on the buildings.

Per County Ordinance O15-21, dated August 18, 2015, the Board approved the Abberly reclassification request with proffers. Included in the proffer statement under "Transportation" was a monetary contribution requirement stating that "The Applicant will make a monetary contribution to the Stafford County Board of Supervisors in the amount of \$6,499 per multi-family unit constructed on the Property to be used for transportation purposes." (Attachment 3)

At \$6,499 per unit, the total amount of the monetary contribution for the transportation proffer would be \$1,871,712. This contribution is required to be paid by the Applicant prior to the issuance of the occupancy permit for each multi-family unit. Staff is requesting these proffer funds be applied to the Route 1/Courthouse Road Intersection Improvement Project (Project), which is currently under design. Funding through construction of this project has not been identified, although the County must provide approximately half of the estimated Phase 1 cost of \$8.6 million, with the balance coming from the State in the form of revenue sharing. The Phase 2 improvements at the Route 1 intersection with Hope Road are planned to be fully funded from HB 2. The Project would relieve much of the congestion at this high volume intersection near the Abberly development and will serve its future residents.

The proffer statement allows for the allocation of the transportation proffer funds to be used toward student capacity improvements at Brooke Point High School also, if high school improvements are deemed to be a higher priority. Currently there is a Capital Improvements Program (CIP) project under construction at Brooke Point High School. However, this Project is well underway and was previously funded from other sources to allow for more timely completion. Applying the transportation proffer funds to improvements at the Project will benefit several nearby schools along Courthouse Road whose students, parents, and teachers pass through the intersection on their way to and from the schools.

Staff recommends approval of proposed Resolution R16-53, which authorizes the application of Abberly transportation proffer funds to the Route 1/Courthouse Road Intersection Improvement Project.

R16-53

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the 2<sup>nd</sup> day of February, 2016:

MEMBERS:

Robert “Bob” Thomas, Jr., Chairman  
Laura A. Sellers, Vice Chairman  
Meg Bohmke  
Jack R. Cavalier  
Wendy E. Maurer  
Paul V. Milde, III  
Gary F. Snellings

VOTE:

On motion of , seconded by , which carried by a vote of to , the following was adopted:

A RESOLUTION AUTHORIZING THE APPLICATION OF ABBERLY  
TRANSPORTATION PROFFER FUNDS TO THE ROUTE ONE AND  
COURTHOUSE ROAD (SR-630) INTERSECTION IMPROVEMENT  
PROJECT, IN THE AQUIA AND HARTWOOD MAGISTERIAL  
DISTRICTS

WHEREAS, the Board approved Ordinance O15-21 on August 18, 2015, granting the Abberly at Stafford Courthouse (Property) reclassification request with a proffer statement dated July 7, 2015; and

WHEREAS, the proffer statement requires HHHunt Corporation (Applicant) to make a monetary contribution to the Board in the amount of \$6,499 per multi-family unit constructed on the Property to be used for transportation purposes; and

WHEREAS, the Board identified the completion of road improvements at the intersection of Route 1 and Courthouse Road (SR-630) (Project) as a critical part of the County’s road improvement plan; and

WHEREAS, funds were appropriated toward design of the Project and the design of the Project is in progress, but funds to fully construct the Project have yet to be identified; and

WHEREAS, the Project would expand the capacity of the intersection of Route 1 and Courthouse Road and help offset the negative transportation impacts of the Abberly project; and

WHEREAS, applying the transportation proffer funds from the Abberly at Stafford Courthouse development to the Project improvements would benefit the residents of Abberly at Stafford Courthouse, as well as several nearby schools, and the public in general;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 2<sup>nd</sup> day of February, 2016, that the transportation proffer funds from Abberly at Stafford Courthouse be and they hereby are applied toward the Route 1 and Courthouse Road (SR-630) Intersection Improvement Project.

AJR:ckr:tbn

## **PROFFER AMENDMENT STATEMENT**

Applicant: HHHunt Corporation  
Owner: Old Potomac Church, LLC  
Project Name: **Abberly at Stafford Courthouse**  
Property: Tax Map 39, Parcel 16L, Portions of 16, 16B, 16H and 16J  
22.02+/- Acres, B-3, Office to UD, Urban Development,  
Subdistrict UD-4, Aquia District  
Zoning Reclassification Number: RC120009  
Date: July 7, 2015

The undersigned hereby proffer that the use and development of the subject Property shall be in conformance with the following conditions. In the event the above-referenced rezoning, including the requested waivers and modifications, is not granted as applied for by the Applicant, these proffers shall be withdrawn and be null and void. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meanings or be taken as an interpretation of any provision of the proffers. Any improvements proffered herein below shall be provided at the time of development of the portion of the site adjacent to the improvement, unless otherwise specified. The terms "Applicant" and "Developer" shall include all future owners and successors in interest.

References in this Proffer Statement to plans and exhibits shall include the following:

- Abberly at Stafford Courthouse Master Plan, prepared by Fairbanks & Franklin and dated April 12, 2013
- Abberly at Stafford Courthouse, Design Manual, prepared by Cite Design, Inc. and dated April 2013

### **1. LAND USE**

A. The Property, consisting of approximately 22.02 ± acres, shall be developed as UD, Urban Development, Subdistrict UD-4, Mixed Use Village Center, having a density of approximately 13 dwellings per acre and will not utilize the transfer of development right program.

(1) The following uses normally permitted by-right in the UD-4 subdistrict shall be prohibited:

- a. Townhouses
- b. Hospital
- c. School
- d. Auction Establishment
- e. Night Club

- f. Contractor's Office and Shop
- g. Industrial Flex
- h. Laboratory Research and Testing
- i. Wholesale Trade Establishment
- j. Vehicle Service
- k. Vehicle Sales, Rentals

(2) The following uses normally permitted with a conditional use permit shall be prohibited:

- a. College or University, Vocational School
- b. Conference, Convention Center
- c. Cultural Center, Library, Museum
- d. Warehouse
- e. Fuel Sales
- f. Helistop
- g. Repair Service
- h. Service Station
- i. Vehicle Repair

B. The maximum number of dwelling units shall be 288. The planned mix of dwelling unit types shall include 102 one bedroom dwelling units, 180 two bedroom dwelling units and a maximum of 6 dwelling units that have three bedrooms. The mixture of two bedroom units to one bedroom units can vary by up to 3% (4 dwelling units) due to building construction considerations if necessary, or the number of one bedroom units can be increased above 140, but in no case will the total number of units exceed 288, nor shall the number of three bedroom units exceed 6.

C. The proposed multi-family community shall be developed in one phase, including recreational amenities, which shall be available for use within 30 days of approval of the first residential occupancy permit.

## 2. TRANSPORTATION

A. **Right-of-Way and Improvements.** Abberly at Stafford Courthouse shall provide public street access by South Campus Boulevard and connection to Old Potomac Church Road as shown in the Master Plan, but in the event that South Campus Boulevard is not permitted by the County or VDOT, Old Potomac Church Road or other access shall be permitted. It is the intent of the following proffered conditions to dedicate right-of-way as necessary for the improvements described and to construct such improvements. Right-of-way shall be provided from Tax Map Parcels 39-16, 16B, 16E, 16H, 16J, 16K and 71A, which are owned and/or controlled by Old Potomac Church, LLC. The final design of road improvements shall be determined at the time of site plan and/or road construction plan review, as applicable.

- (1) The proposed right-of-way alignment(s) and existing Route 1 widening shown on the Master Plan across property owned or controlled by Old Potomac Church, LLC are committed to dedication to accommodate these alignments.
- (2) Turn Lane(s) and taper shall be constructed on Jefferson Davis Highway at South Campus Boulevard in accordance with the recommendation of the Traffic Impact Analysis titled "Abberly at Stafford Courthouse", prepared by Kimley-Horn and dated January 4, 2012, revised through May 15, 2013, and shall include:
  - a. Southbound left-turn lane with 200 feet of storage and 200 feet of taper
  - b. Northbound right-turn taper 200 feet of taper
  - c. If not constructed by others, the developer of Abberly shall pay its fair share for the extension of said southbound left-turn lane to 300 feet and the conversion of said northbound right-turn to a full turn lane with 200 feet of storage and 200 feet of taper when South Campus Boulevard is built out. The Developer of Abberly shall assure its fair contribution of said extensions of the Northbound and Southbound turn lanes for a period of (5) years from occupancy of the first unit in Abberly, and provided the balance of the turn lane extensions are funded and installed by others. The Applicant's share of the cost shall be calculated based on the Traffic Impact Statement traffic volumes titled Abberly at Stafford Courthouse, prepared by Kimley-Horn and dated January 4, 2012, revised through May 15, 2013. The Applicant's share shall be bonded or escrowed at the time of site construction plan approval. At the end of five (5) years from the date of issuance of the first occupancy permit, if the turn lanes have not been extended, the obligation shall terminate and the bond shall be released or the escrow returned to the developer.
- (3) Notwithstanding any provisions to the contrary, but subject to the South Campus Boulevard contingencies below, proffered road improvements, including, but not limited to, improvements for Old Potomac Church Road, Jefferson Davis Highway and South Campus Boulevard, shall be contingent upon the Applicant's receipt of all necessary permits and approvals and the availability of all necessary right-of-way and easements. Should right-of-way or easements not be available for purchase and the Applicant is not able to obtain the needed right-of-way and easements through its own means first, or through County or State condemnation second, then road improvements shall be constructed in accordance with the proffered conditions but may be modified to road improvements which can be accommodated within existing right-of-way or property owned or controlled by the Applicant. Such road improvements shall be determined at the time of site plan and/or road construction plan review and subject to County approval in accordance with applicable standards.
- (4) In the event that any right-of-way dedicated pursuant to these proffers is not used for public streets and accepted into the State Highway System, such right-of-way shall be deeded back to the Applicant or its successor(s) in interest within one year of the

County determining that right-of-way is not needed or within one year of issuance of the final occupancy permit for Abberly at Stafford Courthouse.

- (5) Provided that a traffic signal at the intersection of South Campus Boulevard and Jefferson Davis Highway is not installed or fully funded through proffered conditions, highway projects, or development obligations, the Developer of Abberly shall provide a prorata share (as described below) contribution toward the provision of a traffic signal provided such traffic signal is deemed to be warranted by VDOT prior to the issuance of the final occupancy permit for residential uses within Abberly. The Applicant's share of the cost shall be proportional to the traffic volumes that will pass through the signalized intersection as attributed to Abberly in the traffic study titled Abberly at Stafford Courthouse and prepared by Kimley-Horn dated January 4, 2012, revised through May 15, 2013.

#### **B. South Campus Boulevard Reservation, Dedication and Improvements**

- (1) Initial Reservation of Right-of-Way. Upon approval of this rezoning as applied for by the Applicant, and contingent upon the approval by Stafford County and/or VDOT, as applicable, of South Campus Boulevard substantially as shown on the Master Plan, the Applicant shall reserve 95 feet, total nominal width, of its property for South Campus Boulevard, with additional width where necessary for turn lanes as may be required. In the event there is reservation of right-of-way in excess of that necessary for the improvements, the reservation shall terminate upon completion of construction of the approved improvements.
- (2) Dedication. In order to accommodate the improvements, the Applicant shall dedicate up to 50 feet, total width, of its property identified for right-of-way from Old Potomac Church Road to Jefferson Davis Highway, as shown on the Master Plan. At a minimum, the Applicant shall dedicate right-of-way sufficient for construction of a half section of a four-lane divided road with a sidewalk. Such dedication shall occur with the approval of the road construction plan(s) for the South Campus Boulevard improvements.
- (3) Improvements. **By the issuance of the occupancy permit for the first building at Abberly at Stafford Courthouse,** and if South Campus Boulevard is approved by VDOT and/or the County, as applicable, South Campus Boulevard shall be constructed and completed to the point of being usable by the public (but not necessarily off bond) as a 2-lane half-section of a 4-lane divided roadway, including a sidewalk but not including a raised median, from a point east of Old Potomac Church Road as shown on the Master Plan to Jefferson Davis Highway, as generally shown on the Master Plan.

#### **C. Old Potomac Church Road Reservation, Dedication and Improvements**

- (1) Reservation. **By the issuance of the occupancy permit for the first building at Abberly at Stafford Courthouse,** the Applicant shall reserve up to 50 feet of its

Property from the existing centerline of Old Potomac Church Road along the Parcel 16, 16H and 16L Old Potomac Church Road frontage of the property for public right-of-way from the Old Potomac Church Road Entrance on Parcel 16, generally as shown on the Master Plan.

- (2) Dedication. To the extent not dedicated by others, the Applicant shall dedicate up to 50 feet of its property from the existing centerline of Old Potomac Church Road along the frontage of Parcels 16, 16H and 16L for public right-of-way from the Old Potomac Church Road Entrance, generally as shown on the Master Plan. Said right-of-way shall be dedicated to the Board of Supervisors of Stafford County with the approval of the road construction plan(s) for the applicable Old Potomac Church Road improvements.
- (3) Improvements. **By the issuance of the occupancy permit for the building including 50% of the total dwellings proposed at Abberly at Stafford Courthouse,** Old Potomac Church Road shall be constructed as a 2-lane road from Shad Landing Drive to the entrance to Abberly at Stafford Courthouse. Transitioning and intersection improvements shall be provided within the area of Old Potomac Church Road and Shad Landing Drive as generally shown on the Master Plan.

#### **D. Community Development Authority**

- (1) Subject to the terms herein and recognizing the existing and future needs for road improvements beyond the impacts of the development of the Property associated with this application, the Applicant agrees to participate in cooperative construction efforts with Stafford County, the Commonwealth of Virginia and/or surrounding property owners to facilitate public road and/or intersection improvements on Old Potomac Church Road and/or proposed South Campus Boulevard, all as described in the preceding proffered conditions, and only if a Community Development Authority ("CDA") is approved by the Stafford County Board of Supervisors to provide for public road and/or intersection improvements which may include, as determined by the CDA, Old Potomac Church Road between Hospital Center Boulevard and the southerly boundary line of Parcel 16L and South Campus Boulevard from the east side of Jefferson Davis Highway to the easterly boundary line of Parcel 16.
- (2) Notwithstanding anything to the contrary herein, should a CDA be created that includes the Applicant as a member and/or the Applicant enters into a cooperative construction agreement (all being agreeable to the Applicant) that results in the construction, in whole or in part, of any of the above-proffered improvements under Section 2 A. through C., as applicable, the Applicant shall not be required to construct or reimburse the cost of construction of such improvement(s) except to the extent that participation in the CDA or cooperative agreement obligation will require the Applicant to bear its prorata share cost of the said improvements through such agreement(s). Notwithstanding the foregoing, the Applicant shall be permitted to construct (and have applicable permits issued) said improvement(s) in accordance with the phasing of the road improvements proffered herein. Should the Applicant elect to construct the said transportation improvements before CDA funding for

construction or actual construction is provided, performed or to be performed by the CDA or others, the CDA or others, as applicable, shall reimburse the Applicant those costs less the Applicant's prorata share as described under the CDA or cooperative construction agreement associated with the dedication and construction of such right-of-way and road/intersection improvements. The Applicant shall be given the prior opportunity to review, comment on and approve the plans and studies for road and/or intersection improvements to be constructed by the CDA and/or Stafford County and/or others to avoid potential conflicts with the proposed development of Applicant's properties.

#### **E. Condemnation**

In the event Applicant is unable to purchase or obtain right-of-way or easements necessary to construct proffered public improvements from the owners (other than Applicant or entities related to Applicant), the Applicant shall request the County and/or VDOT to acquire the right-of-way and easements by means of its condemnation powers at Applicant's expense. Said request shall be made to the appropriate County agency and shall be accompanied by the following:

- The names of the record owners, the property addresses, tax map parcel numbers for each landowner from whom such right-of-way and/or easements are sought.
- Plats, plans and profiles showing the necessary right-of-way and/or easements to be acquired and showing the details of the proposed transportation improvements to be located on each such property.
- An independent appraisal of the value of the right-of-way and easements to be acquired, and any and all damages to the residue of the involved property, said appraisal to be performed by an appraiser licensed in Virginia and approved by the County.
- A 60-year title search of each involved property.
- Documentation demonstrating to the County's satisfaction Applicant's good faith, best efforts to acquire the right-of-way and/or easements, at a cost of at least the appraised value of the involved property interests.
- A letter of credit acceptable to the County, cash or equivalent (from a financial institution acceptable to the County) in an amount equal to the appraised value of the property to be acquired, and all damages to the residue, together with an amount representing the County's estimate of its cost of condemnation proceedings, in a form permitting the County to draw upon the same as necessary to effectuate the purposes hereof.
- An Agreement signed by Applicant's representative and approved by the County Attorney whereby Applicant agrees to pay all costs of the condemnation,

including expert witness fees, court costs, exhibit costs, court reporter fees, attorneys' fees for the Office of the County Attorney or attorney retained by the County, and all other costs associated with the litigation, including appeals. The Agreement shall specifically provide that in the event the property owner is awarded in the condemnation suit more than the appraised value estimated by Applicant's appraiser, Applicant shall pay to the County the amount of the award in excess of the amount represented by the letter of credit or cash deposit within fifteen (15) days of the award.

- **In the event that Stafford** County and/or the Commonwealth of Virginia do **not** secure access to the right-of-way necessary for the proffered road improvements within ten (10) months of the Applicant providing the preceding information, an alternative road design that does not require the right-of-way condemnation shall be permitted under this proffer.

#### **F. Transportation Demand Management**

- (1) The applicant shall facilitate trip reductions through maintaining and promoting a ride sharing program of potential commuters residing at Abberly and employment and/or commuting destinations of Abberly at Stafford Courthouse residents who wish to participate in a ride sharing program. The ride sharing program shall be implemented by Abberly staff, in coordination with the normal management duties of the community.
- (2) In addition to the ride sharing program, during the first two years from occupancy of the first unit in Abberly, if at least eight residents in Abberly desire a daily shuttle service to the Virginia Railway Express located at Brooke Station at 1721 Brooke Road, the management of Abberly shall provide a suitable vehicle for such service (such as a passenger van).
- (3) In the event that the Fredericksburg Regional Transit feeder bus service is expanded to serve Abberly at Stafford Courthouse prior to establishment of an independent shuttle service by Abberly, the applicant shall provide a bus shelter in lieu of a shuttle service. The bus shelter shall meet the architectural review and location requirements of the management of Abberly and shall be located along on South Campus Blvd., or shall be centrally located within Abberly, or as otherwise determined by the developer to best meet the requirements of the community that will be using the service.

### **3. ARCHITECTURAL AND SITE DESIGN**

#### **A. Façade Treatments**

The facades of the buildings on the Property shall be consistent with the concepts provided by the examples included in the Design Manual prepared by Cite Design, Inc. and dated January 2012 and the Courthouse Area Plan goals, to the extent that the

Courthouse design goals can be incorporated into the proffered designs. Building materials shall consist of primarily of brick, stucco, fiber cement lap siding, stone, precast and cast-in-place masonry wall systems and/or other equivalent materials to achieve the intended design quality as determined by the Applicant during the final construction design and based on the availability of materials.

**B. Fire/Safety**

- (1) Automatic fire suppression sprinklers shall be provided in accordance with the Virginia Uniform Statewide Building Code for buildings exceeding 3,000 square feet.
- (2) One Automatic External Defibrillator (AED) or comparable device shall be provided in the club house in the location recommended by the Stafford County Fire Marshal's office. This proffer shall not preclude replacement, removal or upgrade of such AED or other device based on future requirements and/or technology.

**C. Pedestrian Connectivity**

Subject to the receipt of all necessary approvals, permits, rights-of-way and easements, the Applicant shall provide pedestrian connections throughout the Property and between the Property and the adjoining properties along South Campus Boulevard and Old Potomac Church Road. The on-site pedestrian network shall include painted and/or alternative pavement crosswalks, and the pedestrian network shall be shown on the final site plan for the portion of the Property on which said pedestrian connections are located. Pedestrian walkways shall be provided adjacent to public roads within the public right-of-way and shall consist of sidewalks or paved trails having a width of 5 to 8 feet, as allowed by VDOT. In particular, a paved trail shall be located in the dedicated right-of-way parallel to Old Potomac Church Road and extending to the southernmost property boundary of Abberly at Stafford Courthouse. Sidewalks and trails shall be located internal to the site to provide pedestrian connectivity between housing and on-site amenities and services, between the subject property and the surrounding businesses and to walkways within the public right-of-way.

**D. Landscaping**

Landscaping provided along public rights-of-way on the Property shall be consistent with urban design strategies applicable to a mixed use area.

**E. Uniform Sign Plan**

Compatible signage shall be required and shall include entrance and directional signs of similar style and scale throughout Abberly at Stafford Courthouse. Freestanding signs located on the property frontages of Old Potomac Church Road and the proposed South Campus Boulevard shall be separated by a minimum of 100 feet. All sign lighting shall be fully shielded to prevent glare onto adjoining properties. The sign plans for individual sites shall be submitted for review and approval to the Office of Planning and Zoning.

**F. Outdoor Refuse Collection**

Refuse/recycling collection enclosures shall be constructed of materials that are compatible with building materials used in the principal buildings on the same property, and shall have gates that remain closed except when the collection area is in use.

**G. Freestanding Parking Lot Lighting**

Freestanding parking lot lighting shall consist of fixtures that are compatible with the architectural theme of buildings on the Property as established by the Design Manual and shall have a maximum height of 16 feet. Such fixtures shall be shielded to direct light downward and minimize glare on adjoining residential properties.

**H. Outdoor Lighting, Generally**

All lighting installations shall be designed and installed to be fully shielded (full cutoff) and shall provide minimum lighting levels of 2-foot candles. All lighting shall be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter.

**4. RECREATIONAL AMENITIES**

Abberly at Stafford Courthouse shall include indoor and outdoor recreational amenities. Recreational amenities shall include a designated community area with a 5,000 square foot club house, an outdoor pool as described below under Section 8 B. and an on-site dog park. The club house will include a fitness center with equipment for aerobic and resistance training and a multi-purpose room that can be used for exercise classes, yoga and/or community activities.

**5. ENVIRONMENT**

A. The Applicant shall establish open space areas on the Property in substantial conformance with the Master Plan, subject to minor modifications required by preliminary or final site engineering. Said open space shall be shown on the final site plan and shall consist of the preservation area, buffers and like areas generally as shown on the Master Plan and defined as open space in the Stafford County Zoning Ordinance.

- B. The Applicant shall employ infiltration Low Impact Development (LID) technologies, including, but not limited to, a combination of porous pavement, infiltration trenches, grassed swales, extended detention dry ponds, porous pavers and/or bioretention facilities, where underlying soils make such practices practical to further complement the groundwater recharge. At least two percent (2%) of the developed site shall consist of infiltration LID measures. To maximize the groundwater recharge in open space areas, the Applicant shall minimize construction traffic through and around such areas by adding tree protection fencing around open space areas immediately adjacent to construction.
- C. At least sixty (60) days prior to commencement of site grading activities on the Development Parcel within two hundred feet (200') from the boundary line of the Property, the Applicant shall engage a qualified and independent environmental professional ("Professional") to perform a well yield test and a limited water quality test on any lawfully operating household water supply well that is currently operating ("Qualified Well") on the adjoining residential property. The purpose of these tests is to establish a "Baseline Condition" for each well. Establishing the baseline requires the cooperation of the property owner where the well is located. The scope of such testing will require the Professional to obtain copies of well construction logs, if any, from the owner, the Health Department or the well driller, and visual inspection of well construction and components. In the event that the owner does not cooperate with the Professional with respect to the scope of work or refuses to allow the Professional to perform such testing, the Applicant shall be released from any further requirement under this proffer with respect to the Property. The well yield test will be a short term (one to two hour) test of the capacity of the well. The water quality test shall consist only of measuring the water supply to determine unacceptable levels of turbidity or suspended solids, in the reasonable judgment of the Professional. The well yield test shall require the owner to refrain from using the well for at least one hour prior to the test in order to establish a static water level. The test shall involve running the well pump for one to two hours during which time water may not be available to the household, measuring water level draw-downs, and shall involve shutting off the pump and measuring water level recovery for a period of one hour. The results of the foregoing water quality and water yield tests shall be referred to hereafter as the "Base Line Condition" and shall be set forth in a written report prepared by the Professional which shall be delivered by the Applicant to the owner and to the appropriate officials of Stafford County.

Thereafter, in the event that the owner of the property where the well is located believes that the Qualified Well has experienced a material adverse degradation in water quality and/or water yield ("Adverse Impact") from the Base Line Condition established by the testing referred to above, said owner shall have the right to submit a written claim to the Applicant which must include documentation substantiating such material adverse degradation from the Base Line Condition, or Applicant shall have no further responsibility under this Proffer. Within thirty (30) days from receipt of the documentation referred to in the foregoing sentence, such owner shall have the right to request in writing and receive, at such owner's option (a) payment by Applicant of a sum

of money, in an amount determined by the Professional in his sole reasonable judgment sufficient to pay for any remedial work on the well in question necessary to mitigate the Adverse Impact so as to restore the well in question to the Base Line Condition, or (b) the drilling of a new well which provides water of quality and yield equivalent to the Base Line Condition, or (c) prompt connection, at Applicant's expense, to the public water system if public water is reasonably accessible. "Reasonably accessible" shall mean the cost of extending the water line to the property is equal to or less than 150% of the cost of providing a new well. Applicant shall reimburse the owner of the property where the well is located for the cost of providing the documentation requested. Upon receipt of such request, Applicant shall promptly proceed to comply with the owner's request.

## **6. WATER AND SEWER**

- A. The Property shall be served by public sanitary water and sewer, and the Applicant shall be responsible for the costs and construction of those on-site improvements, as well as off-site improvements necessary to provide connection to the existing water and sewer lines serving the area. The Applicant shall plan, design and construct said on-site and off-site water and sanitary sewer utility improvements necessary to accommodate the demand generated by the development proposed in accordance with applicable County and State requirements, standards and regulations.
- (1) The Applicant shall provide a conceptual layout for the water and sewer systems, a hydraulic model for the water system and preliminary engineering for the proposed wastewater pumping station for County review and approval prior to submission of a site plan requiring and warranting such analysis.

## **7. MISCELLANEOUS**

### **A. Archaeology**

- (1) The Applicant shall comply with applicable requirements of the Virginia Department of Historic Resources regarding investigation, data recovery and disposition of significant archaeological and historic resources.
- (2) The graves within the boundary of the subject property and identified as Site #089-5424 shall be relocated in accordance with the applicable State and local regulations. The applicant shall advise the Historical Commission of the location of re-interment. The existing fieldstone markers shall be used in the new re-interment location, subject to the requirements of the cemetery or property where the remains are re-interred.
- (3) The Applicant shall provide interpretative signage to describe the location of the original grave sites identified in the cultural resource studies for the Property. The location and content of such signs shall be determined in consultation with the Stafford County Historic Commission. The cost of such signage, including installation, shall not exceed \$2,500 each.

## **8. MONETARY CONTRIBUTIONS**

### **A. Transportation**

The Applicant shall make a monetary contribution to the Stafford County Board of Supervisors in the amount of \$6,499.00 per multi-family unit constructed on the Property to be used for transportation purposes. Said contribution shall be paid after the final inspection and before the issuance of any certificate of occupancy for each residential building containing such units and based on the number of dwelling units contained within such residential building for transportation purposes, or may be allocated toward student capacity improvements at Brooke Point High School, if high school improvements are deemed to be a higher priority.

### **B. Parks and Recreation**

The Applicant shall provide the following on-site and off-site recreational amenities and contributions:

- (1) On-site designated community areas for passive and active recreation. At a minimum the following shall be provided:
  - an outdoor pool area that measures approximately 3,500 square feet, and includes the pool, bathhouse and associated components with a minimum value of \$200,000.
  - an on-site dog park
  - passive open space uses overlooking pond
- (2) A club house that will include a fitness room, media room, coffee bar, executive business center, game room, conference room and lounge area.
- (3) Monetary contributions to be provided to the Stafford County Board of Supervisors for purposes of the following in the vicinity of Abberly at Stafford Courthouse:
  - \$800,000 to be used for providing artificial turf and/or field lighting for the playing fields at Brooke Point High School to be paid by the Applicant upon the issuance of the final site plan; and
  - \$50,000 to be used for the acquisition of cannons at the Stafford County Civil War Park to be paid by the Applicant upon the issuance of the first land disturbance permit.

### **C. Libraries**

The Applicant shall make a monetary contribution to the Stafford County Board of Supervisors in the amount of \$613.00 per multi-family unit constructed on the Property to be used for the purpose of improving the library serving the Stafford Courthouse area. Said contribution shall be paid after the final inspection and before the issuance of any certificate of occupancy for each residential building containing such units and based on the number of dwelling units contained within such residential building.

### **D. Fire and Rescue**

The Applicant shall make a monetary contribution to the Stafford County Board of Supervisors in the amount of \$790.00 per multi-family unit constructed on the Property to be used for purchasing fire and rescue apparatus serving the Stafford Courthouse area. Said contribution shall be paid after the final inspection and before the issuance of any certificate of occupancy for each residential building containing such multi-family units, and the amount paid shall be based on the number of units in such building.

### **E. General Government**

The Applicant shall make a monetary contribution to the Stafford County Board of Supervisors in the amount of \$532.00 per multi-family unit constructed on the Property to be used for purpose of economic development and planning efforts supporting and promoting the Stafford Courthouse area. Said contribution shall be paid after the final inspection and before the issuance of any certificate of occupancy for each residential building containing such multi-family units, and the amount paid shall be based on the number of units in such building.

### **F. Education**

The Applicant shall dedicate to the Stafford County Board of Supervisors 25+/- acres currently under contract by HHHunt Corporation. The property is known as the Smith property, and according to county assessment records is located at 143 Jumping Branch Rd. (Parcel ID 39-18). Said parcel shall be used principally for the establishment of a Stafford Campus/Center of Germanna Community College and/or related uses. The dedication shall be provided upon the approval of the final site plan for Abberly at Stafford Courthouse, or as early thereafter as possible. Related uses may include, but shall not be limited to, Career Technical Education, Early College/Alternative High School, collaboration with other colleges and universities, other public programs and services, and ancillary uses such as bookstore, library, services to the public as an extension of an educational program and food services. If the college has not established permanent use of the property after five (5) years from the date of dedication of the property, the Board of Supervisors may evaluate the progress that has been made toward funding and construction of the Stafford Campus/Center for Germanna Community College and determine if an alternative public use is more appropriate. If the property has been deeded to the State or a foundation for community college use, the property shall be conveyed back to the County and may be used for

compatible alternative public purposes. The deed for the property shall contain a restrictive covenant that will run with the title providing that said property may be used as described herein.

In addition to the property dedication above, the Applicant shall make a monetary contribution to the Stafford County Board of Supervisors in the amount of \$555.55 per multi-family unit constructed on the Property (for a total of \$160,000) to be used for schools. Said contribution shall be paid after the final inspection and before the issuance of any certificate of occupancy for each residential building containing such multi-family units, and the amount paid shall be based on the number of units in such building.

### **G. Credits**

The Applicant shall be entitled to a credit against the above-proffered monetary contributions for the cost of off-site improvements described in preceding proffered conditions including, but not limited to: the cost of all studies, legal expenses, the sizing and extension of roads to the community college property, the provision of grading, stormwater management and pump station capacity above that necessary for Abberly, as well as all additional infrastructure costs undertaken by the applicant to support the future construction of the community college and public road improvements, including, but not limited to, improvements to Rte. 1, Old Potomac Church Road, South Campus Blvd., Peake Lane and Jumping Branch Rd., bicycle or pedestrian trails shown on the Master Plan, utility relocations, grading for future construction of additional travel lanes not required to support the proposed development, right-of-way acquisition associated with off-site improvements and utility oversizing, whether the improvements are off-site, meaning not within the boundaries of Abberly, or on-site, but are being required to serve other properties or development not within the boundaries of Abberly. Credits do not apply against Parks and Recreation amenity contributions identified in paragraph 8.B. In addition, credits shall not be applied to the proffered monetary contributions for Libraries, Fire and Rescue and General Government, except the County Board of Supervisors may allocate these contributions toward student capacity improvements at Brooke Point High School, if high school improvements are deemed to be higher priority.

(1) The cost of the off-site construction to be used in calculating credits, to include all costs of design and construction, shall be determined by either using the Stafford County unit price list for bonding public improvements in effect at the time of the subdivision plan or public improvements plan showing any of said improvements or using the costs actually incurred by the Applicant.

(2) The cost of off-site right-of-way and easements in calculating credits shall be the actual costs to include, but not limited to, all fees, commissions and relocation expenses.

- The Applicant may value monetary contribution credits with respect to any dedication of property, including right-of-way, by the average of two then current appraisals of such dedication submitted by separate appraisers approved by the Board or its agent.

- Monetary contributions shall accrue to the Applicant's benefit for dedication of land at the time of dedication of right-of-way or for construction at the bonding of final site plans for construction of improvements.
- Monetary contribution credits shall be available for the full amount of the transportation monetary proffers due for each residential occupancy permit issued subsequent to the accrual of such credit, until such credit is fully taken. The credit shall be granted on a per unit basis until the entire credit is used, starting with the issuance of the first residential certificate of occupancy on the Property.

[SIGNATURES ON FOLLOWING PAGES]

This Proffer Statement supersedes any proffer statement and proffers previously made or submitted in connection with this application and with this Property.

Respectfully Submitted:

**OWNER:**

OLD POTOMAC CHURCH, LLC, a Virginia  
limited liability company

By: Donn C. Hart  
Donn C. Hart  
Managing Member

By: Thomas T. Medsker  
Thomas T. Medsker, M.D.  
Managing Member

By: Robert T. Bishop  
Robert T. Bishop  
Managing Member

STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Donn C. Hart, whose name as Managing Member of Old Potomac Church, LLC, is signed to the foregoing Proffer Statement, has personally acknowledged the same before me in my aforesaid jurisdiction.

GIVEN under my hand and seal this 8<sup>th</sup> day of July, 2015.

My commission expires:

May 31, 2016  
My Registration No. is: 293201

Anita J. Thorpe  
Notary Public



STATE OF Virginia  
COUNTY OF Spotsylvania, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thomas T. Medsker, M.D., whose name as Managing Member of Old Potomac Church, LLC, is signed to the foregoing Proffer Statement, has personally acknowledged the same before me in my aforesaid jurisdiction.

GIVEN under my hand and seal this 8<sup>th</sup> day of July, 2015.

My commission expires:

May 31, 2015

My Registration No. is: 293201

Anita J. Thorpe  
Notary Public



STATE OF Virginia  
COUNTY OF Mednicksburg, to wit:  
City

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Robert T. Bishop, whose name as Managing Member of Old Potomac Church, LLC, is signed to the foregoing Proffer Statement, has personally acknowledged the same before me in my aforesaid jurisdiction.

GIVEN under my hand and seal this 8<sup>th</sup> day of July, 2015.

My commission expires:

6/30/17

My Registration No. is: \_\_\_\_\_

Krista L. Taylor  
Notary Public



**APPLICANT:**

HHHUNT CORPORATION

By: James M. Nicholson  
Name: James M. Nicholson  
Title: Vice President

STATE OF North Carolina  
COUNTY OF Wake, to wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that James M. Nicholson, whose name as Vice President of HHHunt Corporation is signed to the foregoing Proffer Statement, has personally acknowledged the same before me in my aforesaid jurisdiction.

GIVEN under my hand and seal this 20<sup>th</sup> day of July, 2015.

My commission expires:

November 28, 2019

My Registration No. is: N/A

William R. Cook, Jr.  
Notary Public



6773146-1 001473.03379

## **6 Loans for Septic System Repairs for Pump and Haul Customers**

### **Background**

- The pump and haul policy was revised in June 2015 to limit the number of Subsidized pump and haul customers by instituting a need based policy with a prorated system for new customers, and by limiting the time for existing (“grandfathered”) subsidized customers.
- The policy also directed the Department of Utilities to hire a licensed Authorized On-Site Soil Evaluator (AOSE) within two years to re-evaluate each Grandfathered Customer’s subsidized pump and haul property with the goal of determining if new technology or revised regulations can make a repair or replacement feasible.
- If a repair or replacement is deemed feasible, the County will inform the Grandfathered Customer and discontinue subsidized pump and haul services after a suitable period, not to exceed six months, for the owner to construct the needed repair or replacement.
- The policy also states the Department of Utilities will provide an opportunity for the owner to enter into an agreement for a loan in the amount required for construction of an alternative system.
- State code requires a local ordinance in order for a locality to provide a loan for this purpose – attached is a draft ordinance amendment

### **Loan Policy and Ordinance**

- Many of the provisions required in the ordinance are also in our draft policy
  - Loan Terms: Recommend a Five year term and a 5% interest rate.
  - A lien will be required on the loan
  - State code requires a minimum and maximum. Recommend we keep the amount as low as possible, the resolution states “the amount required for construction”. I recommend a maximum of \$40,000 and a minimum of \$5,000.
  - Identifies the payment due date and a one-time administrative fee.
  - The code also requires a priority system in the event the requests are greater than the authorized funding. Recommendation is that

property owner's that can demonstrate they are eligible as a prorated customer under the pump and haul policy would be a priority and first come first serve after that.

- The County Administrator, or his designee, is authorized to enter into these contracts on behalf of the Board of Supervisors

### Next Steps

- In order to move this forward we will need a public hearing at both the Utilities Commission and the full Board for the ordinance amendment.
- We have adjusted our recommended budget to include \$200,000 for alternative system loans, which will allow us to assist 5 or more citizens.

### Notes:

Average cost for pump and haul without subsidy is approximately \$425/month, assuming an average 5,000 gallons usage per month. Currently our customers range from 1,200 to 7,000 gallons per month usage.

Average costs for a loan:

Loan Amount	Loan Duration/hrs	Percent interest	Monthly Payment	Total Interest pd
\$40,000	5	5%	\$754.85	\$5,290.96
\$40,000	5	3%	\$718.75	\$3,124.86
\$40,000	5	1%	\$683.75	\$1,024.99
\$40,000	10	5%	\$424.26	\$10,911.45
\$40,000	10	3%	\$386.24	\$6,349.16
\$40,000	10	1%	\$350.42	\$2,049.98



## STAFFORD COUNTY Pump and Haul Loan Policy

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Draft

February 2, 2016



## **PUMP AND HAUL SEWER SERVICE POLICY**

### **I. Purpose:**

Stafford County Utilities (the Utilities) currently provides subsidized and non-subsidized Pump and Haul services to homes with failing or failed septic system. The subsidy portion of the service is ending. Aware that some homeowners are unable to afford the program without subsidy, the Board of Supervisors requested a solution. As such, the Utilities will provide loans to homeowners who are unable to obtain private funding to cover the costs of installing alternative septic systems.

### **II. Eligibility:**

A homeowner that is currently a grandfathered subsidized pump and haul customer where an alternative system has been identified is eligible to seek this loan. No new subsidies will be offered for the Pump and Haul program. Proof of ownership is required in the form of a recorded deed for the property.

### **III. Process:**

An eligible homeowner may request a loan from the Stafford County Department of Utilities by following the steps outlined in Appendix A of this document.

Staff will review the application to ensure it is complete in accordance with Appendix B.

### **IV. Loan Terms and Policies**

1. Loans are not available for measures installed before the Promissory Note is signed.
2. Current terms:
  - a. 5-year term
  - b. 5% interest
  - c. No penalty for early payoff
3. Minimum loan amount \$5,000; maximum amount \$40,000
4. A Virginia Department of Health (VDH) permit for installation of an Alternative Sewage Disposal System is required prior to loan processing
5. The customer chooses his or her installing contractor. The County does not recommend, endorse or certify contractors, or warrant or otherwise guarantee their work.
6. Loan payments are billed monthly.
7. The minimum monthly loan payment is \$25/ month.
8. The loan is recorded and secured with a property lien.
9. Applicant must provide a copy of the recorded Deed showing real property ownership.
10. All owners named on the Deed must be on (or added to) the Account, and all owners must sign both the loan Application and the Loan Promissory Note.

## *Pump and Haul Loan Policy*

11. All past due amounts on all of the Applicants' account(s) must be paid before loan approval.
12. No income eligibility requirements.
13. Loan applications will be approved or disapproved on the basis of established program criteria, and availability of funds.
14. Loans are not approved for Applicants with bankruptcy declaration, bankruptcy discharge, or foreclosure proceedings, within the past 7 years.
15. Loan payments are billed to the property owner's home address.
16. Loan is due upon sale of the property or account name change.
17. Loans are not transferable. Likewise, liens are not transferable.
18. Loans are approved for specific dollar amounts, for alternative sewage disposal systems in order to remove customer from the County's subsidized pump and haul list.
19. The County will be held harmless from any liability in connection with its approval or disapproval of any loan application or the manufacture, supply or installation of any alternative system.
20. If the customer defaults on loan repayments and the County is required to take any action to enforce the terms of the note, the customer shall pay all costs incurred by the County for such enforcement, including reasonable attorney's fees, including the costs and attorney's fees incurred as a result of any appellate proceedings.
21. The County reserves the right to revise these policies and to approve or disapprove loans in the best interest of the County.
22. The County's loan checks are made out to installing contractors and mailed to contractors on completion of work and a passed VDH and County final inspections, unless the customer requests a different check release procedure that is satisfactory to his or her contractor as well as the County.

### **V. Fee Structure:**

All applicable fees include:

Administrative/Application fee (includes recording, filing and release.....\$125.00

### **VI. Required Documents:**

1. Alternative Septic System Installation Program Application
2. Current copy of Property Deed
3. Confession of Judgment
4. Proposal bid(s) from contractor(s)

## **Appendix A**

### **Steps for Eligible Customers to Obtain a Loan:**

1. Once an Alternative Sewage Disposal system has been identified, and the homeowner has obtained a permit from the Virginia Department of Health, the homeowner may call Stafford County Utilities Customer Service 540-658-8616 to begin the process. Utilities staff will schedule an appointment to begin a loan file. Information to have ready:
  - i. Name on utility account, and your account number
  - ii. Phone and fax numbers, and email address
2. The loan officer will send the customer a preliminary Loan Terms- and-Policies document to be signed and returned.
3. The homeowner is responsible to obtain contractor proposals for alternative system installations. Competing bids are not required; however, it is advised, but not a loan program requirement.
4. Send copies of the following documents to the Loan officer.
  - i. Current property deed (A copy of you deed can be obtained from the office of the Stafford County Clerk of the Courts)
    - a. Additional documentation such as a Marriage License to document a name change, or a Divorce Decree; or a Death Certificate for deceased persons named on your current Deed may also be required.
  - ii. Installing contractor's proposal(s) or any vendor price proposals.
5. Submission Alternatives
  - i. Fax number: 540-658-4082 (Attention: Pump and Haul Loan Officer)
  - ii. Email address: [Utilcustervice@staffordcountyva.gov](mailto:Utilcustervice@staffordcountyva.gov)
  - iii. Mailing address (this is not the physical location of our office):  
Stafford County Utilities  
Attn: P&H Loan Officer  
P.O. Box 339  
Stafford VA., 22555-0339
5. Our loan officer is available to assist in preparing the loan application if needed.
6. Next, our loan officer prepares your Loan Promissory Note and contacts you when it's ready for notarized signing.
7. To sign and notarize the final loan documents including the Loan Promissory Note, the customer will be required to visit the Utilities Customer Service office at 2128 Jefferson Davis Hwy, Suite 203; Stafford, Virginia 22555-0339. Please be sure to bring a government issued photo identification card to the signing (ex. Driver's License Card).
8. Once the note is signed, the loan officer will fax, email or mail a Loan Approval confirmation to the customer .
9. Before installation may begin, the homeowner, or their contractor will be required to obtain the appropriate installation permits through the Virginia Department of Health

### *Pump and Haul Loan Policy*

(VDH) and the Stafford County Department of Public Works. VDH and the County will inspect the completed work.

10. Upon completion of the work and proof of acceptance by VDH and the County inspectors, a check will be sent to the approved vendor for the installation.

## **Appendix B**

### **Application Review Process:**

1. All persons listed on the recorded deed of the property must complete the Alternative Septic System Installation Program application form.
2. A current copy of the recorded deed must accompany the application.
3. Determine whether all payments are received including the application fee and administrative fee.
4. The Confession of Judgment must be signed and attached.
5. Examination of the application is to ascertain whether the persons listed on the deed and application match. Financial capability of the applicant is not required. All required signatures must appear on the application.
6. Review bid(s) from contractors to determine loan amount.
7. Notary stamp is required for filing.
8. Approval signatures required from the Utility Financial Analyst and Director once review is complete.
9. Update customer account information in Utilities customer account system.
10. Send request to Finance for check issuance.

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the \_ day of \_\_, 2016:

MEMBERS:

VOTE:

Robert "Bob" Thomas, Jr., Chairman  
Laura A. Sellers, Vice Chairman  
Meg Bohmke  
Jack R. Cavalier  
Wendy E. Maurer  
Paul V. Milde, III  
Gary F. Snellings

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AUTHORIZE FINANCING THE REPAIR OF  
FAILED SEPTIC SYSTEMS WHICH ARE PART OF THE  
SUBSIDIZED PUMP AND HAUL PROGRAM

WHEREAS, the Board desires to authorize the County to finance the repair of failed septic systems which are part of the subsidized pump and haul program; and

WHEREAS, in 2015, the Board adopted Resolution R15-106, which amended the County's pump and haul policy and provided an opportunity for property owners that are currently part of the grandfathered subsidized pump and haul system to obtain a loan for the construction of an alternative system, if feasible; and

WHEREAS, it is in the best interest of the County for property owners to have well-functioning on-site sewer disposal septic systems; and

WHEREAS, the County desires to reduce the amount of property owners who are dependent on the grandfathered subsidized pump and haul system by offering a failed septic system repair loan; and

WHEREAS, the Virginia Code, 15.2-958.6 (A), requires a local ordinance to provide loans for the repair of septic systems, and

WHEREAS, the Utilities Commission held a public hearing on this Ordinance and recommended \_\_\_\_\_ by a vote of \_\_\_\_ to \_\_\_\_; and

WHEREAS, the Board carefully considered the recommendations of the Utilities Commission and staff, and the public testimony, if any, at the public hearing; and

WHEREAS, the Board finds that the adoption of this Ordinance secures and promotes the public health, safety, and general welfare of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the day of, 2016, that the Stafford County Code be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

**Financing the repair of failed septic systems which are part of the subsidized pump and haul program.**

A grandfathered subsidized pump and haul customer, as defined in the Pump and Haul program, may contract with the Department of Utilities, for a loan in the amount required for the repair of a failed septic or construction of an approved alternative system. The loan program will include the following:

- (a) Loans will be provided for a septic system repair, or an alternative system that will restore on-site sewage disposal. The system must have been designed by an Authorized On-Site Sewer System professional and approved and permitted by the Virginia Department of Health (VDH)
- (b) Property owners must currently own a septic tank for the storage of wastewater on the Property that is part of the Subsidized Utility Pump and Haul program as a “grandfathered” customer, as defined in the Pump and Haul Policy.
- (c) Loans are not available for measures installed before the Promissory Note is signed.
- (d) The loan will be for a term of 5-years with a 5% interest, and no penalty for early payoff. Minimum loan amount is \$5,000; maximum amount is \$40,000
- (e) All payments will be due on the 5<sup>th</sup> of each month and will incur a ten percent (10%) late payment penalty if not paid on time.
- (f) There will be a one-time administrative fee of one hundred twenty-five (\$125.00) dollars due at the time the agreement is signed.
- (g) Loans will be disbursed as funding is available. If insufficient funds are available for all interested parties, those property owners that can demonstrate they are eligible as a Prorated Customer under the Pump and Haul Policy will be given priority, all others will be on a first come first serve basis.

- (h) The County Administrator, or his designee, will be the authorized person to enter into these contracts on behalf of the Board of Supervisors.
- (i) The contract shall specify the following terms and conditions:

## DRAFT SEPTIC SYSTEM REPAIR AGREEMENT

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### IMPORTANT NOTICE

THIS INSTRUMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS YOU MAY HAVE AS A DEBTOR AND ALLOWS THE CREDITOR TO OBTAIN A JUDGMENT AGAINST YOU WITHOUT ANY FURTHER NOTICE.

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THIS AGREEMENT for the repair of failed septic systems or purchase and installation of an alternative sewer system to the following property: \_\_\_\_\_ Stafford, VA 22\_\_\_\_ (hereinafter referred to as Property), is entered into this \_\_\_\_\_ day of 2015, by and between Property Owner 1, current owners of the Property, Tax Map \_\_\_\_\_ (hereinafter referred to as Purchaser), and STAFFORD COUNTY, VIRGINIA (hereinafter referred to as Seller).

### W I T N E S S E T H:

WHEREAS, Purchaser currently owns a septic tank for the storage of wastewater on the Property that is part of the Subsidized Utility Pump and Haul program as a “grandfathered” customer, as defined in the Pump and Haul Policy; and

WHEREAS, the Purchaser owns the Property on which they are seeking to have an alternative sewer system built on the Property named above and desires to obtain a loan from Stafford County Utilities to install said system. Only those systems which have been designed by an Authorized On-Site Sewer System professional and approved and permitted by the Virginia Department of Health are eligible for a loan through this program; and

WHEREAS, the Board of Supervisors of Stafford County has authorized the lending of said loan to be paid by installments during a sixty (60) month term at an interest rate of 5%.

NOW, THEREFORE, for and in consideration of the sum of one hundred twenty-five (\$125.00) dollars paid herewith by the Purchaser, and in further consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. Purchaser shall pay the sum of \$ 40,000 as full payment for the installment of an alternative septic system on the Property, said sum to be paid by making sixty (60) monthly installments of \$751.72 per month. Payments are to be paid by the 5th day of each month beginning with the month of \_\_\_\_\_, 2016, and continuing each month until paid in full, not later than the month of \_\_\_\_\_, 2020. Any payment not received by the 5th of the month will incur a ten percent (10%) late payment penalty.
2. Purchaser shall pay monthly loan installments as billed.
3. In the event that the Purchaser or his successors at any time is required or wishes to pay \_\_\_\_\_ the balance due under this Agreement, he or she may do so without penalty.
4. Upon the execution of this Agreement and the beginning of installment of the alternative septic system to the Property, this Agreement cannot be terminated by the Purchaser except by full payment of all monies due hereunder.
5. Seller will no longer provide Pump and Haul service to the Property upon completion of septic system repair, or installation of an alternative septic system.
6. IN THE EVENT PURCHASER TRANSFERS OWNERSHIP OF THIS PROPERTY BY SALE OR OTHERWISE, ALL REMAINING DEBT UNDER THIS AGREEMENT SHALL BECOME DUE AND PAYABLE ON THE EFFECTIVE DATE OF SUCH TRANSFER. IT IS INTENDED THAT THIS INSTRUMENT BE RECORDED IN THE CIRCUIT COURT CLERK'S OFFICE OF STAFFORD COUNTY.
7. IN THE EVENT THAT PURCHASER FAILS TO MAKE ANY MONTHLY INSTALLMENTS UNDER THIS AGREEMENT, THE ENTIRE REMAINING DEBT UNDER THIS AGREEMENT SHALL BECOME IMMEDIATELY DUE AND PAYABLE, AND THE PURCHASER CONFESSES JUDGMENT AGAINST HIM IN THE SUM REMAINING UNDER THE AGREEMENT, IN CASE OF LAWSUIT TO COLLECT UPON THIS FEE. The attached Confession of Judgment is an integral part of the alternative septic system agreement, and will be applied only if and when the purchaser shall default on the terms of this agreement.
8. This agreement shall be governed by and construed in accordance with the laws of Virginia.
9. This agreement is further subject to such rules, regulations, and laws as may be applicable to similar agreements in this state and the Purchaser will obtain any such permits, verifications, or the like, as may be required to comply therewith.

10. The obligations of this Agreement shall also become a lien against the real estate served pursuant to this Agreement.
11. Purchaser hereby expressly waives the benefit of any homestead exemption as to this debt and waives demand, protest, notice of presentment, notice of protest, and notice of non-payment and dishonor of this note.
12. Purchaser expressly agrees to submit to personal jurisdiction in Virginia and agrees that the forum for any litigation pursuant to this Agreement or any other contract between Seller and Debtor, whether suit is brought by Seller or Debtor, shall be the General District or Circuit Court of Stafford County, Virginia.
13. Purchaser hereby constitutes and appoints [name who will be taking this to the Clerk for Utilities], his true and lawful attorney-in-fact, with full power and authority hereby given him to appear and present this note before the Clerk of the Circuit Court of Stafford County, Virginia, at any time after maturity or default on any of the installments hereof and to waive the issuance and service of process and to confess judgment against him in favor of the payee or holder hereof for the amount of money due plus interest and costs, plus attorney's fees in an amount equal to 33% of the amount of money due, less credit for payments made.

AJR:MTS:cdg

## **7 Transportation Tax Authority Brief**

- The state has granted two regions the authority to form transportation organizations. Furthermore, the state granted them a variety of taxing mechanisms to raise funds for transportation improvements.
- Northern Virginia Transportation Authority (NVTa) is formed in Planning District 8 and was created by the Virginia General Assembly (GA) on April 17, 2002.
- The Hampton Roads Transportation Planning Organization (HRTPO) is formed in Planning District 23 and was authorized in 2007.
- Along with transportation planning responsibilities, both agencies are charged with identifying road projects for construction, and funding construction of approved projects.
- NVTa includes the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.
- HRTPO includes the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, and the Counties of Gloucester, Isle of Wight, James City, and York
- The NVTa enabling legislation was straightforward in establishing the authority in the localities listed above, while that for HRTPO required a majority of localities comprising 51% of the population to agree to establish a regional transportation organization.
- The Boards for both organizations includes representatives from participating jurisdictions, state elected officials, and members of regional and state transportation planning organizations.
- The GA approved and the Governor signed House Bill 2313, which became effective on July 1, 2013 designating both agencies certain funding sources, and dictating how those funds are to be used.
- HB 2313 established the Northern Virginia Transportation Authority Fund and the Hampton Roads Transportation Fund, and authorized additional tax and fee revenue in Planning Districts meeting certain minimum population, motor vehicle registration, and transit ridership criteria as noted below.
  - Population 1.5 or 2 million
  - Motor Vehicles 1.2 or 1.7 million
  - Transit Ridership 15 or 50 million riders/year

- In comparison, Planning District 16 (Stafford, Spotsylvania, King George and Caroline Counties, and the City of Fredericksburg) has a population of around 350,000, far short of the minimum population threshold.
- Localities meeting the minimum criteria above are able to receive additional funds for transportation uses. The estimated revenue generation expected in Stafford is shown below in **bold**.
  - 0.70% additional retail sales tax (requires 1.5 million population; 1.2 million vehicles; 15 million transit riders) **\$8.4 million annually**
  - 2.1% tax on wholesale distributors of motor fuels (between 1.5 and 2 million population; 1.2 and 1.7 million vehicles; and 15 and 50 million transit riders) **\$3 million annually**
  - 2.0% state transient occupancy tax (requires 2 million population; 1.7 million vehicles; 50 million transit riders) **\$620,000 annually**
  - \$0.15 fee per \$100 recorded value of (less any lien or encumbrance) real property (requires 2 million population; 1.7 million vehicles; 50 million transit riders) **Value TBD**
- Establishing a funded transportation authority for Planning District 16 would first require the GA to pass authorizing legislation to establish the authority, and then amending HB2313 such that our area would meet minimum thresholds to allow implementation of the revenue sources listed above.