

130003304

0025

Rezoning:

RZ # 01-13

Property:

**Area: 8.835 acres
Tax Parcel 33-(A)-124A**

Record Owner:

SilverWolfe, LLC

Project Name:

Woodside Commercial Center

Original Date of Approved Proffers:

March 15, 2007

Revised Date of Proffer:

January 28, 2013

Magisterial District:

Stonewall

Pursuant to Section 15.2-2296 Et. Seq. of the Code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned applicant hereby offer the following proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application #01-13 for rezoning of 8.835-acres from the B-3 zoning district with proffers to B-3 zoning district with revised proffers, development of the subject property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such are approved by the Board of Supervisors in accordance with the said Code and Zoning Ordinance. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon this applicant and their legal successors, heirs, or assigns.

The subject properties are more particularly described as the lands conveyed to SilverWolfe, LLC, from Douglas L. Brill & Bonnie R. Brill as recorded in the Frederick County Circuit Court Clerk's Office as instrument #060018520 dated September 29, 2006.

Proffers:

1. Transportation

a. Access

- i. Access to this property from Martinsburg Pike (US Route 11) shall be limited to one commercial entrance. The final location will be subject to VDOT review and approval once a site plan is submitted.
- ii. Access to this property from Woodside Road (Route 671) shall be limited to a maximum of two commercial entrances. The final locations will be subject to VDOT review and approval once site plans are submitted. Turn lanes and tapers for these entrances will be built as required by VDOT.

b. Additional Lanes

- i. The applicant hereby proffers to construct a 12' lane onto Martinsburg Pike, Route 11, along the site road frontage. This +/-650' long lane will be built to VDOT requirements. This will be built prior to receiving any final occupancy permits on site.
- ii. The applicant hereby proffers to dedicate an additional 10' strip of land to the Commonwealth of Virginia and to pave a 12' lane along the entire frontage of Woodside Road, Route 671, when the traffic count from this project reaches or exceeds 2,815 trips per day or upon request by Frederick County.

c. Interparcel connections

- i. Upon construction of a state approved entrance onto Martinsburg Pike, Route 11, the applicant hereby proffers to designate one inter-parcel connection along the southern boundary.

d. Right of Way and Easement Dedication

- i. The applicant hereby proffers to dedicate to the Commonwealth of Virginia a strip of land ten feet (10') in width along the entire frontage of the property on Martinsburg Pike (Route 11) Right of Way. The applicant also proffers to the Commonwealth of Virginia a strip of land twenty-five (25') in width from the centerline of Woodside Road (Route 671) along the entire frontage of the property. These dedications will take place prior to site plan approval.

- ii. The applicant hereby proffers a 20' drainage, pedestrian, and utility easement along the frontage of Martinsburg Pike, Route 11, to Frederick County. The applicant will retain the right to place the proffered split rail fence (see item 7-A) and monument sign (see item 7-D) within this easement.
- e. Contributions for Road Improvements in recognition of off-site transportation impacts.
 - i. \$75,000 to Frederick County to be paid prior to the first occupancy permit.
- 2. Fire & Rescue – Monetary Contributions
 - a. The applicant hereby voluntarily proffers a cash contribution to the Treasurer of Frederick County, Virginia, of \$0.10 per building square foot to be disbursed to the Frederick County Fire and Rescue Department, to be paid prior to each final site plan approval. The term “building square foot” shall be the combined floor area for each story.
- 3. The applicant hereby proffers that the combined building floor area for the following high-traffic uses of retail, restaurant, and indoor entertainment shall not exceed a combined total of 75,000 square feet. All other uses allowed in B-3 such as general office and storage will not be limited.
- 4. The applicant hereby proffers that the following uses shall be prohibited on the property:
 - a. “Truck Stops-Retail” as defined in SIC 5541. Excluding Truck Stops, all other uses within SIC Code 5541 are included and acceptable.
 - b. SIC 45 – “Transportation by Air”
 - c. SIC 4741 – “Rental of Railroad Cars”
 - d. SIC 5271 – “Mobile Home Dealers”
 - e. SIC 7833 – “Drive-In Motion Pictures”
- 5. The applicant hereby proffers the following conditions to “Automobile Service Stations-, Retail” as defined in SIC 5541-“Gasoline Service Stations”.
 - a. Only one business will be allowed to have retail fuel pumps.
 - b. The total number of pumps will be limited to twelve or fewer.
 - c. Diesel fuel will be restricted to two pumps or fewer and must be located with other pumps. Diesel fuel sales to “over-the-road trucks” will be prohibited.
- 6. The applicant hereby proffers to install an additional row of evergreen trees for a total of four rows in all areas required to have a “full screen zoning buffer” per the Frederick County Zoning Ordinance at the time of site plan approvals.
- 7. Corridor Enhancements to be completed by prior to the first occupancy permit.

- a. The applicant will construct a split rail fence along the road frontage.
- b. The applicant will not allow any parking spaces or outdoor storage to be constructed within 50' of Route 11. Any required fire lanes within this area will be grass paved.
- c. The applicant will erect a single monument style sign, not to exceed twelve (12') in height, with the park's name and list of tenants. This monument sign will not exceed twelve (12') in height or one hundred (100 sf) square in area. The applicant will not install any freestanding signs between the buildings and Route 11 other than this one monument sign.
- d. The applicant will restrict each business facing Route 11 to a sign not to exceed eight square feet mounted on the building. This applies to individual businesses and not the entire building.
- e. The applicant will require each building façade along Route 11 to be constructed of wood, vinyl, glass, masonry, or stucco. However, metal siding will be allowed within the business park and on all sides not facing Route 11.

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

Respectfully Submitted:

By: Gary R. Oates 2-1-13
 Gary Rodney Oates Date
Gary K. Oates 2-1-13
 Gary Kenzel Oates Date

Commonwealth of Virginia,

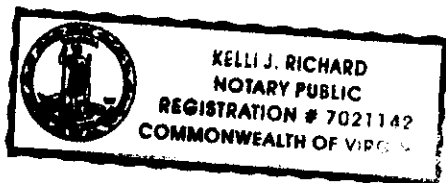
City/County of Frederick To Wit:

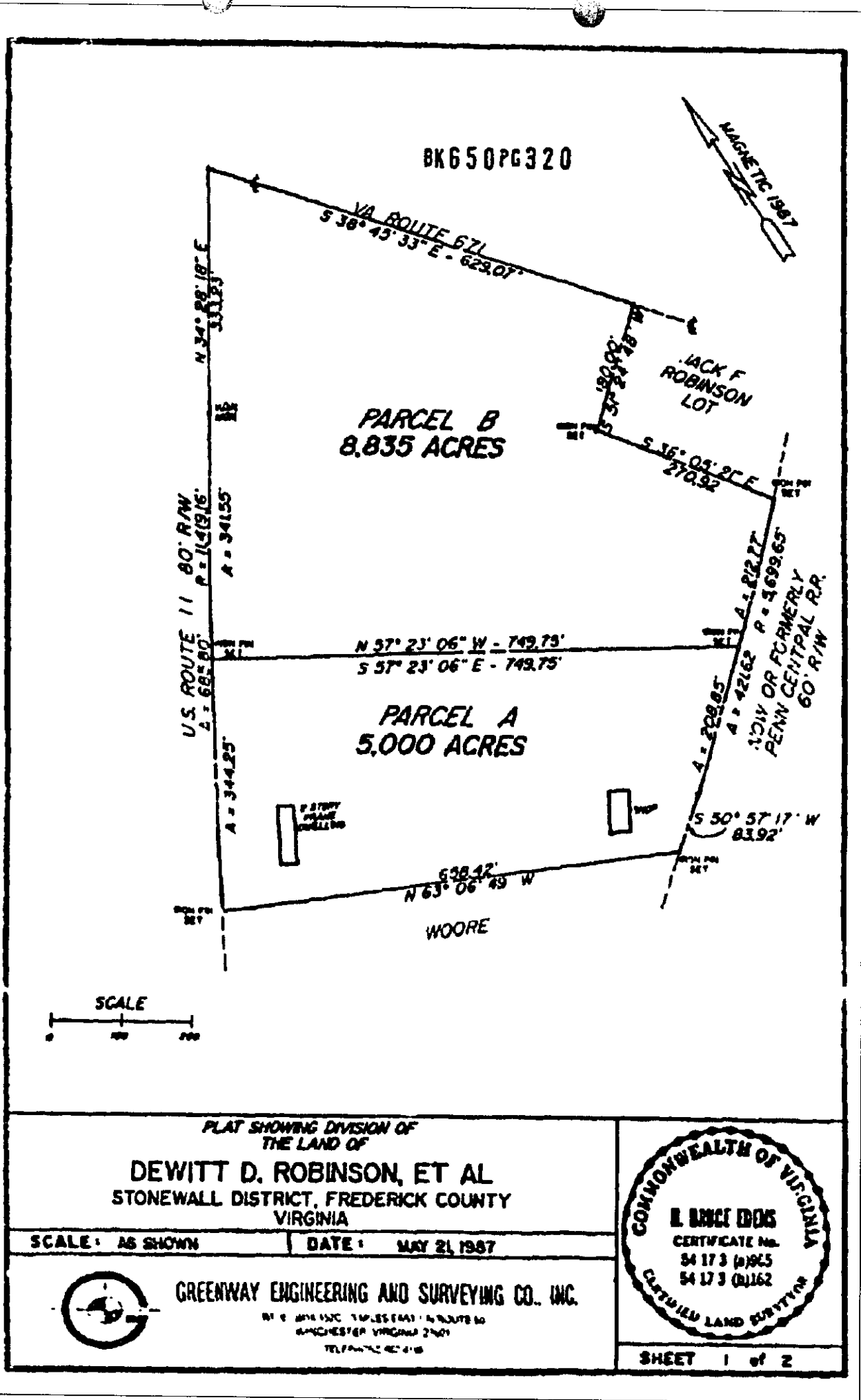
The foregoing instrument was acknowledged before me this 1 day of February, 2013

By Gary R. Oates / Gary K. Oates

Kelli J. Richard
 Notary Public

My Commission Expires 1-31-15







RESOLUTION

0031

Action:

PLANNING COMMISSION: February 20, 2013 - Recommended Approval

BOARD OF SUPERVISORS: March 13, 2013 ☒ APPROVED ☐ DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #01-13 PROFFER REVISION OF WOODSIDE COMMERCIAL CENTER

WHEREAS, Rezoning #01-13 Proffer Revision of Woodside Commercial Center, submitted by SilverWolfe, LLC, to revise the proffers associated with Rezoning #18-06 relating to the "Transportation" section of the proffers, specifically Proffer 1.e., was considered. The proffer revision, originally dated March 15, 2007, with final revision dated January 28, 2013, is replacing the previously proffered design and photography service prior to the first site plan with a monetary contribution in the amount of \$75,000 for road improvements, prior to issuance of an occupancy permit. The property is located on the east side of Route 11 and 3,000+/- feet north of Hopewell Road (Route 672), also known as Exit 321 of Interstate 81, in the Stonewall Magisterial District, and is identified by Property Identification Number 33-A-124A.

WHEREAS, the Planning Commission held a public meeting on this rezoning on February 20, 2013 and forwarded a recommendation of approval; and

WHEREAS, the Board of Supervisors held a public meeting on this rezoning on March 13, 2013, and

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

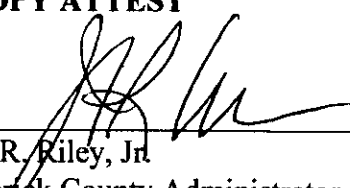
NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the proffers associated with Rezoning #18-06 relating to the "Transportation" section of the proffers, specifically Proffer 1.e. The proffer revision, originally dated March 15, 2007, with final revision dated January 28, 2013, is replacing the previously proffered design and photography service prior to the first site plan with a monetary contribution in the amount of \$75,000 for road improvements, prior to issuance of an occupancy permit.

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

Passed this 13th day of March, 2013 by the following recorded vote:

Richard C. Shickle, Chairman	<u>Aye</u>	Gary A. Lofton	<u>Aye</u>
Robert A. Hess	<u>Aye</u>	Bill M. Ewing	<u>Nay</u>
Gene E. Fisher	<u>Aye</u>	Charles S. DeHaven, Jr.	<u>Aye</u>
Christopher E. Collins	<u>Aye</u>		

A COPY ATTEST


 John R. Riley, Jr.
 Frederick County Administrator

VIRGINIA: FREDERICK COUNTY SCT.

This instrument of writing was produced to me on

3-21-13 at 10:01 A.M.
 and with certificate acknowledgement thereto annexed
 was admitted to record. Tax imposed by Sec. 58.1-802 of
 \$ N/A, and 58.1-801 have been paid, if assessable.

, Clerk