
Public Hearing Summary
Discontinuance of Maintenance
Route T-628 (Middle Street), Town of Washington, Rappahannock County

Pursuant to section 33.2-908 of the *Code of Virginia*, an abutting landowner and the Town of Washington Council have requested that the Commonwealth Transportation Board discontinue a segment of Route 628 (Middle Street) that begins at the intersection of Route 211 Business (Main Street) and proceeds 0.01 of a mile west of the intersection.

A public hearing was held on Thursday, October 8, 2015, at 6 p.m. at the VDOT Rappahannock Area Headquarters, 12 Flatwood Road, Washington, VA 22747.

A total of 56 people, including five Town of Washington officials, signed the meeting sign-in sheet. A total of 18 oral comments were received at the hearing, and 13 written comments were handed in at the hearing or emailed to VDOT staff. Of these 13, six were the written statements of people who spoke at the hearing.

Of the total 25 comments received (not counting duplicates), 15 indicated that support of the discontinuance and 10 indicated opposition to it.

Two petitions were also received. The first had 135 signatures in favor of the discontinuance, and the second included 37 signatures opposing it.

The following is a summary of the comments received:

From those who favor discontinuance

- The roadway segment is a literal “road to nowhere”; it does not serve the public convenience because it does not, itself, provide access to anything.
- A number of motorists currently use the road segment for parking, but it is posted with No Parking signs due to its width.
- Incorporating the road segment into the existing private parking lot beyond its terminus will further a streetscape project that includes public parking and pedestrian facilities.
- VDOT repairs to the road segment have been minimal since its state acceptance in 1994.

From those who oppose discontinuance

- The town should have conducted a traffic count and study of the public impact of discontinuance, but did not, so there is no objective measure of its effects.
- There is already a shortage of parking, and if this road segment is discontinued and then privatized, there will be fewer public parking spaces than at present.
- The post office facility serves 400 customers, so the traffic volume is relatively high in a county of low population. The road segment now serves more commercial businesses than it did at the time of its 1994 acceptance into the state system.
- The road has been a public street since first surveyed in 1749 and should remain such.



Sign-in sheet

Public Hearing: Discontinuance of maintenance on Route 628 (Middle Street), Town of Washington

Thursday, October 8, 2015

Culpeper District

Name	Affiliation	Address / Email
1 CONNIE WATERS		C.WATERS102@AOL.COM
2 GARY SCHWARTZ	TOWN OF WASHINGTON	WASHINGTON, VA, FOV. @GMAIL.COM
3 Mary Lou Pagano	Rapp County	lash_laru@yahoo.com
4 Timothy Pagano	Rapp County	_____
5 Christine Smith	" "	chrsmith11@hotmail.com
6 Marian Brass	Rapp County	freestatellamas@gmail.com
7 BETH GYORGY	" "	betngyorgy@gmail.com
8 DAN FISKE	Smalltown Va	Dfiske@fiskelawcenter.com
9 Steve Lambert	Inn at Little Washington	
10 Judith DeSarno	Citizen Town of Wash.	judydesarno@gmail.com



Sign-in sheet

Public Hearing: Discontinuance of maintenance on Route 628 (Middle Street), Town of Washington

Thursday, October 8, 2015

Culpeper District

Name	Affiliation	Address / Email
1 Mrs Mrs Fred Hafnagel		
2 Beverly Smith		
3 Yoko BARSKY JOCK NASH		jocknash@yahoo.com
4 BEN JONES		onevoter@aol.com
5 John Bennett		
6 Cynthia Price		
7 David L. Kovich		They have it.
8 John Sullivan		
9 Alessia Deoyu Jureggi		
10 Phil Irwin		



Sign-in sheet

Public Hearing: Discontinuance of maintenance on Route 628 (Middle Street), Town of Washington

Thursday, October 8, 2015

Culpeper District

	Name	Affiliation	Address / Email
1	Ray Koosh	Town resident	Box 4 Wash VA 22747
2	+Tom Andy List	Town resident	PO BOX 402 Washington, VA
3	Laura Doad	Town Clerk County Resident	P.O. Box 233 Washington, VA 22747
4	Brian Schneider Wendy Mordak	Town Resident	PO Box 488 WVA VA 22742
5	Roger Piantadosi	CAPP. NEWS	
6	Gary Archele	Town Council	160 Gay Street PO Box 370 22747
7	Raym Crow	Town resident	195 Piedmont Ave Wash VA 22747
8	Karen Crow	Town resident	" "
9	Teri Sullivan	Town Resident	28 Harris Hollow Rd.
10	JERRY GOEBEL	TOWN RESIDENT	28 HARRIS HOLLOW RD. WASH. VA 22747



Sign-in sheet

Public Hearing: Discontinuance of maintenance on Route 628 (Middle Street), Town of Washington

Thursday, October 8, 2015

Culpeper District

Name	Affiliation	Address / Email
1 Ruthie Windsor - Man		ruthiewindsor@gmail.com
2 George Eatman		gheatman@hotmail.com
3 Fawn Evenson		fawnevenson@yahoo.com
4 Louise Goddard		louisecg@mac.com
5 BEN Goddard		ben@goddardglobal.com
6 JOHN BOURGEOIS		JR Bourgeois@GARTHLINK.NET
7 Robert H. Ballard		Robert@RHBallard.com
8 FRED CATLIN		fredcatlin@hotmail.com
9 MATHEW GRIES		mat@goddardgunster.com
10 Kae Gries		PryingOpenmythirdeye@iCloud.com



Sign-in sheet

Public Hearing: Discontinuance of maintenance on Route 628 (Middle Street), Town of Washington

Thursday, October 8, 2015

Culpeper District

Name	Affiliation	Address / Email
1 Peggy Spillenkotzen peggy.spillenkotzen@gmail.com	Citizen-Resident	77 Christmas Tree Lane Washington, VA 22747
2 HANCV E. BUNTIN	Washington town resident	191 Main St. Washington, VA 22747
3 John + Diane MacPherson	189 Main St Washington	→
4 JOHN LESINSKI	210 GRAND VIEW WASHINGTON, VA	→
5 TILSON PELL-KAAN	187 Red Oak Ln Tid	
6 GAIL SWIFT RES	577 Main St Washington 22747	swiftswept@gmail.com
7 DAVID KEAR	55 South 45th Ln CASTLETON VA 22716	Kodaii@yahoo.com
8 Evelyn Kear	" " " "	Kodaii 1776@com.com
9 Mary Ann Kuhn	176 main ST Washington, VA	resident mknkeper@middletown.com
10 Aail Rer	Huntly	



Sign-in sheet

Public Hearing: Discontinuance of maintenance on Route 628 (Middle Street), Town of Washington

Thursday, October 8, 2015

Culpeper District

Name

Affiliation

Address / Email

(17)

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Katharin W. Layton

558 Jay St Wash VA

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VIRGINIA DEPARTMENT OF TRANSPORTATION

Public Hearing - Discontinuance of Maintenance

Route 628 (Middle Street)

Town of Washington, Rappahannock County

October 8, 2015

Rappahannock Area Headquarters

12 Flatwood Road

Washington, Virginia

Job No. 28477

Reported By: Kurt D. Hruneni, CVR, CCR-VA

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C O N T E N T S

BOARD MEMBERS:

ALISON DETUNCQ, CTB, Culpeper District

JOHN D. LYNCH, PE, Culpeper District Administrator

D. MARK NESBITT, Residency Administrator

* * * * *

SPEAKERS:

1. GARY SCWARTZ.....7
2. MARY LOU PAGANO.....8
3. TIMOTHY PAGANO.....8
4. CHRISTINE SMITH.....11
5. MARIAN BRAGG.....13
6. BETH GYORGY.....14
7. DAVID FISKE, ESQUIRE.....17
8. BEN JONES.....19
9. DAVID KONICK.....22
10. MAYOR JOHN SULLIVAN.....25
11. JOHN C. BENNETT, ESQUIRE.....27
12. LOUISE GODDARD.....30
13. ROBERT H. BALLARD.....31
14. FRED CATLIN.....31
15. GARY AICHELE.....33
16. JUDITH DESARNO.....36
17. KATHERINE LEGGETT.....36
18. WENDY MURDOCH.....37

1 (6:06 p.m., October 8, 2015)

2 P R O C E E D I N G S

3

4 MR. LYNCH: I'm John Lynch, the Culpeper
5 District Administrator. And I have with me Alison
6 DeTuncq, who's our Commonwealth Transportation
7 Board Member, as well as Mark Nesbitt, who's the
8 Residency Administrator for the Warrenton area,
9 which includes Rappahannock County.

10 We're here to -- the Town of Washington
11 submitted a request that the State discontinue
12 maintenance on a segment of Rt. 628, known as
13 Middle Street, located west of the intersection
14 with Main Street. The segment's about 170 feet
15 long.

16 Discontinuance procedures are outlined in
17 Section 33.2-908 of the Code of Virginia. And
18 they require that the Commonwealth Transportation
19 Board provide at least 30 days notice before
20 taking action by publishing newspaper ad, which
21 ran September 3rd in the Rappahannock News, and
22 notifying the locality and each property --
23 adjacent property owner by registered letter,
24 which occurred on September 2nd.

25 I don't know if we had enough handouts. But

1 we had a handout that included these procedures
2 and includes a map of the Middle Street. If you
3 didn't get a copy and you'd like to receive one
4 after the meeting, Stacy does have -- still has
5 some copies if you need them.

6 For this meeting we've got -- if you didn't
7 fill out a card to talk, please see Stacy back
8 there to do so. We're taking oral comments
9 tonight, as well as written comments. And we've
10 gotten some comments prior to the meeting through
11 email and letter.

12 And each speaker will be called. If you're
13 up front there, you can stay where you are if
14 you're comfortable, or come up to the front stand
15 so the court reporter can hear you clearly.

16 Each speaker will be given three minutes to
17 share comments that address the issue at hand,
18 which is whether the section of Middle Street is
19 required for public convenience.

20 This is the criteria spelled out by state
21 law for whether a secondary road should be
22 discontinued.

23 And Mark will be the timekeeper. So he'll
24 either wave to you or let you know in some
25 fashion. But he hasn't told me yet as to what the

1 signal will be when your three minutes are up.

2 We are in a crowded room obviously. And
3 we'd ask for a level of decorum at the hearing.
4 And please, no inappropriate language or behavior.
5 And if you choose not to speak tonight, you may
6 instead submit written comments to us.

7 VDOT staff will produce a summary of all
8 relevant oral and written comments received
9 tonight and provide it to the Commonwealth
10 Transportation Board for its review.

11 You know, you will have an opportunity, if
12 you like, the CTB, the Commonwealth Transportation
13 Board, does receive public comments prior to its
14 formal meeting each month.

15 The next CTB meeting is October 28th.
16 However, that's in Virginia Beach. That's why we
17 wanted to have a local meeting. Because last
18 month was in Bristol, Virginia. This month
19 they're traveling to Virginia Beach. But you're
20 all welcome to Virginia Beach as well to express
21 your comments. But we certainly will be providing
22 all those -- the comments that we receive tonight.

23 And I'll turn it over to Alison, and she'll
24 go through the next steps after the hearing
25 tonight.

1 MS. DETUNCQ: Okay, great. Thank you,
2 John.

3 Welcome. Thank you all for being here this
4 evening. Just to add to what John said. As he
5 mentioned, our next Board meeting will be on
6 October 28th in Virginia Beach.

7 At that point the Commonwealth
8 Transportation will consider this request and
9 either vote or deny the request at that time. So
10 again, if you feel as though you would like to
11 address the Board directly, please feel free to
12 attend the public hearing portion of that meeting.

13 And again, just to reiterate what John said.
14 That as the CTB Board considers whether or not to
15 approve this, we will only be looking specifically
16 at comments that are relevant to whether the road
17 is required for public convenience or not.

18 So it's important to keep in mind that your
19 comments tonight are public information and will
20 be posted to the CTB website. If you provide your
21 email address on the sign-up sheet, you will
22 receive a link when the documents are available
23 for your viewing.

24 So with that said, I think we're ready to
25 get started, unless anybody has any questions

1 about the proceeding.

2 Okay, great. Thank you.

3 MR. LYNCH: Thank you, Alison.

4 And our first speaker will be Gary Schwartz,
5 followed by Mary Lou Pagano.

6 MR. SCHWARTZ: Thank you Board members. My
7 name's Gary Schwartz. I'm a resident of the Town
8 of Washington. I'm here to request that the
9 Commonwealth Transportation Board discontinue the
10 0.01 mile section of roadway from the state
11 secondary system, as it does not inconvenience the
12 public.

13 I firmly believe this is in the best
14 interest of the citizens, as well as the
15 Commonwealth Transportation Board. I believe I
16 represent the citizens of the Town of Washington,
17 who also urge you to discontinue the small area
18 for the following reasons.

19 As a representative, I have been on the town
20 council since 2009, and am currently the Vice
21 Mayor. I am chair of the Planning Commission
22 since 2004.

23 I am very familiar with VDOT, as I am also
24 the construction manager for Fauquier County, and
25 I'm currently project manager of two very

1 important streetscape projects in Fauquier
2 Marshall Main Street and Winchester Road sidewalk
3 currently under construction. They have been
4 given \$5 million grants and quarter million dollar
5 grants from the CTB, and we've asked for more.

6 The town here is only asking for
7 discontinuance of a small portion of a roadway
8 that is not an inconvenience to the public.
9 Please honor our request.

10 MR. LYNCH: Next, Mary Lou Pagano, followed
11 by Timothy Pagano.

12 MS. PAGANO: I'm Mary Lou Pagano, a longtime
13 resident of Rappahannock County, whose county seat
14 is Washington, Virginia.

15 I support maintaining the stub of Middle
16 Street, Rt. T628, as part of the state secondary
17 road system. It's used by and for the convenience
18 of the public as necessary, and hasn't changed
19 since the road was first platted and since the
20 Commonwealth took over maintenance. On one side
21 of this road, in fact, is the U.S. Post Office.

22 MR. LYNCH: Thank you.
23 Timothy.

24 MR. PAGANO: I'm addressing the following
25 to the VDOT hosts and the Commonwealth

1 Transportation Board, who's authorized this public
2 hearing. And I want to thank them for the
3 opportunity.

4 My name is Mr. Pagano. And my residence for
5 more than four decades has been in Rappahannock
6 County. The Town of Washington here is my county
7 seat and the focal point of all official legal
8 business matters between myself and the various
9 levels of government of the Commonwealth.

10 It's the same for ever resident and
11 landowner of the county. It has been stated that
12 the decision to follow through or not on this
13 notice of intent to discontinue state
14 responsibility is predicated on a finding that the
15 street no longer serves a public convenience.
16 That's the statutory requirement.

17 This public hearing is to ascertain that the
18 assertion by the Town is true and accurate, and to
19 allow the public in general an opportunity to
20 comment, plain and simple.

21 The Middle Street stub, know to the state
22 highway system as part of Rt. T628, is the same
23 street now that it has been since it was platted
24 in the 1700s.

25 It was at the Town's request that it no

1 longer be, like most of the other roads in the
2 Town, taken care of entirely by the Town. It's
3 public use and relative importance to the public,
4 which was the basis for its inclusion as a state
5 maintained roadway, has not changed.

6 What has changed is that now the properties
7 on both sides of that piece of state secondary
8 highway, T628, are owned by one of the town
9 councilmen. Nothing else has changed. The public
10 still uses it as they have for more than 200
11 years.

12 Any pretty'ing it up, which is deemed
13 desirable, can and should be accomplished through
14 the normal permit processes administered by the
15 Commonwealth's agency, VDOT. The roadway is as
16 important now to the public as it was when the
17 Town requested the Commonwealth assume
18 responsibility.

19 If your criteria for denying the release of
20 this roadway back to the Town is as you say it is,
21 based on whether the road is required for public
22 convenience, the statutory requirement, then it's
23 required as much so now as it was when you took
24 over responsibility at the Town's earlier request.

25 The level of public use now is the same, if

1 not greater, than it was. Please deny the request
2 to discontinue it. Thank you.

3 MR. LYNCH: Thank you.

4 Christine Smith, followed by Marian Bragg.

5 MS. SMITH: Thank you, Mr. Lynch, and all
6 of those at VDOT for setting up this public
7 hearing on the importance of retaining the Middle
8 Street stub in the state's secondary system.

9 Under your management, the Middle Street
10 stub has been an attractive and well-used public
11 road that allowed clearly marked and convenient
12 access to the properties surrounding it.

13 My name is Christine Smith. I reside
14 currently in Sperryville. But when my family
15 first moved to Rappahannock in the 1980s, one of
16 the first things we did was rent a P.O. Box in the
17 Town of Washington. We continue to receive mail
18 there, as we have now for over 30 years.

19 This spring I attended a Washington Town
20 Council meeting where Council discussed the use of
21 the street and gifting of it to Mr. O'Connell and
22 his inn.

23 At the same meeting, despite numerous vocal
24 requests, and a petition signed by many, the town
25 council flatly refused to do a study of the

1 street's usage, and instead just voted to abandon
2 it.

3 Now some will say the street no longer
4 serves a public convenience. Since no study has
5 been done, that is a biased complete fabrication.
6 The appearance of the street has been dramatically
7 and prematurely altered since this vote; blacktop
8 has been torn up; double line, road signs, have
9 all been torn down.

10 The changes discourage public use and are a
11 thinly veiled attempt to legitimize the actions of
12 the inn and the Town. Now, as part of an
13 ambitious proposed remodel, the inn plans to move
14 the entrance of the post office to the back of the
15 building.

16 With the 400-plus post office boxes in
17 Washington, that alone should make the Middle
18 Street stub the most traveled road in the Town.

19 One parting thought. Since I have lived
20 here the post office, the neighboring tavern, and
21 the beauty shop building in the back, have all
22 been under separate ownership.

23 Now one person owns them all. But what is
24 to say that in the future they might not be
25 separately owned again. Keeping the Middle Street

1 stub public will avoid a potential nightmare of
2 property access for future owners.

3 Please keep safe easy access to my mail
4 delivery, and make a prudent decision for the
5 future. Keep the Middle Street stub in the state
6 secondary system. Thank you.

7 MR. LYNCH: Thank you.

8 Marian Bragg, followed by Beth Gyorgy.

9 MS. BRAGG: My name's Marian Bragg, and I'm
10 a resident of Rappahannock County, with a
11 Washington, Virginia, address.

12 I use the post office in Washington on the
13 corner of Middle and Main Street. It's my
14 servicing postal service.

15 I drive only big trucks. And as it is, I'm
16 having a lot of trouble finding anywhere to park
17 my truck while I do business at the post office.

18 I've always parked on that stub street until
19 recently when now it's blocked by planters, and it
20 does not appear to be a place that anybody's
21 allowed to go anymore.

22 This past spring I signed a petition
23 requesting the town council of Washington,
24 Virginia, study the public impact of removing the
25 stub street. I was present at the town council

1 meeting when the petition was presented to the
2 town council, and witnessed it basically summarily
3 dismissed. To my knowledge, no study has been
4 performed.

5 I can tell you that, in my opinion, it would
6 be a huge public inconvenience by discontinuing
7 the maintenance on the street. But that's just my
8 opinion. I don't really know how anybody can say
9 definitively that there is no impact to the
10 public, because it hasn't been measured.

11 And I'm really suspicious about why it has
12 not been measured. And quite frankly, at this
13 late date, I think any study that would be
14 performed would be skewed. The inn's already
15 begun the effort of subsuming that property into
16 its real estate portfolio. It's made every effort
17 to make the still public road appear to be private
18 property.

19 And I'd like to go on record as being
20 against this request by the Town. Please don't
21 discard my opinion.

22 MR. LYNCH: Thank you.

23 Beth Gyorgy, followed by David Fisher.

24 MS. GYORGY: Thank you. My name's Beth
25 Gyorgy. I'm a resident of Rappahannock County.

1 And I'm speaking in opposition to the request from
2 the Town of Washington for discontinuance of the
3 stub portion of Middle Street from the state
4 secondary highway system.

5 I appreciate the Commonwealth Transportation
6 Board's holding this hearing, both because I
7 welcome the chance to be heard as a member of the
8 concerned public, and I appreciate your
9 willingness to hold it here in Rappahannock
10 County.

11 As I understand it, the question to be
12 addressed tonight is whether the Middle Street
13 stub, "is required for public convenience," which
14 is the requirement of Virginia Code for the
15 discontinuance of a road from the secondary
16 highway system.

17 I believe, as others have stated, that
18 indeed the stub street is required for public
19 convenience. Many have asserted already that this
20 is the case. It's unfortunate however that there
21 is no objective definitive measure of this by
22 either appointing viewers of the volume of traffic
23 using the street during a given time period, or by
24 use of a traffic counter.

25 Such a measurement could have been obtained

1 earlier this year by the town council accepting
2 the request by signed petition of some regular
3 users of the Washington post office. The request
4 was summarily rejected.

5 The road has now been substantially altered
6 with no permit from VDOT, making either of these
7 measures very difficult, if not impossible, given
8 current circumstances.

9 This is a street constantly and heavily used
10 by the public for parking, delivery drop-offs and
11 pick-ups and the like, and even the occasional
12 limousine.

13 I happen to believe that despite the Mayor's
14 assertions, "It's not as if the street is going to
15 be closed off," that if the current alternations
16 to the street by the inn are allowed to stand, and
17 any further alterations follow the landscaper's
18 drawing, the street will be altered in such a way
19 as to make it yet another part of the inn's campus
20 in town with parking eliminated and worsen the
21 already difficult, inconvenient, public parking
22 situation. Thank you.

23 MR. LYNCH: Thank you.

24 David Fisher, followed by Ben Jones.

25 MR. FISKE: Could that be Fiske?

1 MR. LYNCH: Fiske. I'm sorry.

2 MR. FISKE: I couldn't find my black hat,
3 so I'm here without it. But my name's David
4 Fiske. I'm an attorney. I represent Patrick
5 O'Connell and the Inn at Little Washington.
6 My views on this hearing are well known to VDOT,
7 so I'm not going to go into those at this point.

8 This whole issue seems to be clouded with no
9 facts. When I look at your handout, which you
10 were kind enough to do, which I think will be
11 helpful.

12 First, if I might note a couple of
13 corrections. In your text on page 1 you refer to
14 170 feet long. I believe that to be inaccurate.
15 It's 50 feet, 52, whatever the math is for 1/100th
16 or whatever of a mile.

17 But I think on the reverse side, your red
18 line does -- at least it seems to on this scale
19 map, reflect I think what we're all talking about.

20 I would just like to say in terms of public
21 convenience, let me clarify a couple of points
22 that were made earlier. In recent memory, the
23 last three decades, there's never been any private
24 ownership of this, other than the inn.

25 Okay. Someone was talking about The Beauty

1 Box and stuff, those were all tenants of the inn;
2 okay. Most of them are not there anymore. There'
3 a tenant in the back.

4 I think it's important to note in terms of
5 public convenience what is there. Now, it's said
6 that obviously the 50 feet has been in state
7 maintenance for -- since 1994, I believe.

8 I will say this, and I don't say it to be
9 ugly or anything, I'm not aware of anyone that
10 goes back in this town a number of years -- And I
11 filed a FOIA request asking for all of the state
12 maintenance records on that street, and I dare say
13 it's zero.

14 Now, that's only important because you talk
15 about convenience. There have been claims made on
16 that street to the Town because of people falling.
17 That street's safer today than it's been in 20
18 years.

19 But here's the point. When you look at your
20 chart, and to the south of that red line, which
21 would be the line running across the post office;
22 okay? I'm not telling you anything you don't
23 know, because they're your signs. It's no parking
24 the entire length from Main Street to the back of
25 the post office, clearly marked "No parking."

1 Okay?

2 The other side to the north of your red
3 line, where there looks to be some -- I don't
4 know, some dark-colored SUV there or something,
5 okay, that's not part of the street. That's
6 private property owned by the inn.

7 There is no parking on that street. And the
8 post office, we have a lease for the post office.
9 They have -- they require four spaces. They have
10 more than that.

11 Clearly we're negotiating -- I know my
12 time's up. We're negotiating with the post
13 office. I've heard no facts to suggest there's
14 any public inconvenience. It's a no parking
15 street. People park there because Patrick doesn't
16 care if they park there. But it's private
17 property.

18 MR. LYNCH: Thank you.

19 Ben Jones.

20 MR. JONES: Thank you all for being here.

21 And I'll be brief, which is unusual for me. We
22 lived here over 17 years. We live, not in the
23 Town of Washington, but on Harris Hollow Road,
24 which has a Washington, Virginia, mailing address.
25 So we're through the town every day.

1 And as business people we very -- we use
2 that post office constantly. I personally, two or
3 three times a week to mail things, and my wife
4 uses in even more.

5 And there are only a few spots in the front.
6 And I have a handicap spot -- I mean, a
7 handicapped sticker. So if there's somebody in
8 the handicapped spot, which is more often than
9 not, I park on the side there. Never had a
10 problem with that. I'm not parking in the inn's
11 spaces over there. And it's very convenient.

12 So over the years, if you add all that up,
13 we're talking about hundreds of times. I've never
14 gotten a ticket for parking where it said, "No
15 Parking." I never even noticed that.

16 I park there because it's convenient. And
17 if you add up three times a week, that's at least
18 150 times a year. And ten years, that's 1,500.
19 It's going on 20 years now. Thousands of times
20 that I've parked there, and it's been extremely
21 convenient.

22 I use that post office. My lawyer's office
23 is in the back of that building. I often cross
24 the street to shop in the inn's shop. So we're
25 talking -- you add that up by the hundreds of

1 people who use that post office everyday, or eat
2 at the café, or go to the lawyer's office, or to
3 other shops nearby, and you're talking about
4 thousands of people who use it daily.

5 So it's kind of to me a convenient canard
6 that that street is little used. It's not. It's
7 heavily used. And in fact, probably for that
8 stretch, that little stretch, more used than any
9 other stretch of similar size that I can imagine
10 in the Old Dominion.

11 So I thank you for taking the time to come
12 here and listen to us. It is badly needed and
13 very convenient to the public. And you know, I
14 have a lot of people I know who will be here
15 tonight who will speak in favor of this. But
16 that's a business deal. That's what that is.

17 PARTICIPANT: No.

18 MR. JONES: Well, it is a business deal.

19 MR. LYNCH: All right. Please. Please.

20 MR. JONES: Excuse me. It's a business
21 deal. Thank you. I've got thirty seconds so I
22 can it four more times. It's a business deal.
23 It's obvious to those of us in the county.

24 This would be a great inconvenience to
25 several hundred people who use it on a daily

1 basis. I thank you very much, and I appreciate
2 your time tonight.

3 MR. LYNCH: Thank you, Mr. Jones.

4 MR. JONES: Yes, sir.

5 MR. LYNCH: David Konick.

6 MR. KONICK: I want to thank everybody that
7 came, especially Ms. DeTuncq and Mr. Nesbitt for
8 agreeing to have this hearing.

9 I'm also going to be brief, because most of
10 the comments that I have to make are either --
11 have already been submitted or have been said by
12 other people.

13 As I look around this room I see -- I know
14 most of the people who are in here. And except
15 for Phil Irwin sitting next to me, I think I've
16 lived here and used that post office longer than
17 anybody else in the room. I've had a post office
18 box there since it opened. And I've had a post
19 office box at the Washington post office that used
20 to be down the street for 38 years.

21 During that time, and since the post office
22 moved up to its present location, it's never
23 really had adequate parking there. And I have
24 parked, I would say five days a week on average,
25 sometimes more, in that street.

1 It's not just whether the sign is there.
2 The sign says, "No Parking Here to Corner," and
3 points in the wrong direction, because there is no
4 corner in the back. It's a dead end street. The
5 corner's in front of where the arrow's pointing.

6 So nobody ever observed that sign. And
7 moreover, we don't have any traffic enforcement or
8 parking enforcement in this town, so nobody ever
9 got any tickets and whatever. The sign's, I don't
10 know, part of the folklore I suppose of
11 Rappahannock County.

12 It's never been observed. People park there.
13 Even the Mayor stated at the first public hearing
14 back in 2013 that he parks there everyday, and was
15 going to lose his parking place if this plan went
16 through.

17 It's not just the parking though, folks,
18 it's also the street being open to the public.
19 It's a place where you can turn around. And I
20 don't know if you know, but there -- I know
21 there's been at least two traffic accidents there
22 this -- in the last year.

23 One lady got hit by a car in that
24 intersection by somebody backing out of the
25 parking lot, and was not too seriously injured,

1 thank goodness.

2 But imagine what it's going to be like. Now
3 people can drive down that street, or drive into
4 the street at least, and turn around there and
5 come out, and it's not going to be a problem.

6 If they close off the street, which is a
7 part of this plan, there's going to be not only
8 nowhere to park, but there's going to be nowhere
9 to turn around.

10 So for all of those reasons -- I just want
11 to also reiterate what Mr. Pagano said, which is
12 that nothing has changed since this was taken in.

13 And implicit in your taking it in in 1994
14 there must have been some finding that it was
15 needed by the public convenience, otherwise you
16 wouldn't have accepted it, and nothing has changed
17 since that time. There's a restaurant. There's a
18 post office. There's a law office. There's a
19 beauty parlor.

20 And there's no changes, except the residence
21 on the other side -- used to be a residence, now
22 it's a business. So there's more traffic, not
23 less. I urge you to deny the request for all of
24 the reasons that the other people have said in
25 addition to what's in the comments. Thank you.

1 MR. LYNCH: Thank you.

2 John Sullivan, followed by John Bennett.

3 MAYOR SULLIVAN: Like others, let me thank
4 you very much for having us here. My name is John
5 Sullivan. I actually live in the Town of
6 Washington, and am the Mayor, and have been for
7 six or seven years. And have been on the town
8 council for ten years or so, and I represent a
9 town council that's actually been reelected almost
10 unanimously over the last several elections.

11 So we'd like to think that maybe we have
12 some sense of what the pulse of the town is and
13 what the people who live in the town believe.

14 I know there's a specific issue that we're
15 debating. But I am going to throw out just a bit
16 of context, because it's already come up several
17 times tonight.

18 Two years ago we embarked on a center of the
19 town beautification project, which most everybody
20 is familiar with. The council voted on it, and it
21 was advertised. There were public hearings.
22 There were unanimous votes. It was due process.

23 It has only been in the last year or so that
24 some people decided to take on the town on every
25 issue that they possibly can, and have already

1 been thrown out of court on several issues that
2 they've raised. So we're in a context here that
3 is relevant.

4 Now my friend, Mr. Jones, used the word
5 "canard." The canard here is as if somehow access
6 to the post office is going to disappear. It is
7 very simple. This street, 170 feet, is surrounded
8 by property owned by the Inn at Little Washington,
9 which everyone knows.

10 In what is known as the post office
11 building, as these folks have mentioned, there's a
12 post office, there's a café, there's a law office.
13 These are leased by people with the inn.

14 The post office, dare I state the obvious,
15 would like to public to be able to get into the
16 post office. The post office actually believes
17 people should get into the post office.

18 So when they sign their ten year lease with
19 the inn, and that lease requires parking spaces,
20 adequate parking spaces, indeed, probably more
21 than they're getting now, and access by the public
22 to in the Middle Street and in the side door, the
23 new side door, the public is going to have access.
24 And the public is going to be able to drive down
25 that street and park behind the building.

1 Now, if someday the inn says, "We're going
2 to get rid of all you people and we're going to
3 control this building," the inn would have the
4 right to say no one can go on the street. But
5 then the public actually wouldn't have the need to
6 have access if there's nothing to access.

7 If I may just do one thing. May I ask for a
8 sure thing, a show of hands in this room as to how
9 many people are in favor of the town's position on
10 this subject. Could I have a show of hands of
11 people who are in favor of the town's position on
12 this subject.

13 I guess I should put my hand up, too. Thank
14 you. And I appreciate it.

15 MR. LYNCH: All right. Thank you.

16 Mr. Bennett.

17 MR. BENNETT: Madam Commissioner,
18 gentlemen, I'm Town Attorney for the Town of
19 Washington speaking on behalf of the town tonight.

20 I would ask everyone to have a little
21 reality check. You've heard a lot of rhetoric
22 tonight. But let's just look at what we're really
23 talking about here.

24 I'll hand this up. I'll hand it to the
25 reporter, too, as an exhibit to be transmitted.

1 But this is what we're talking about, 30 feet by
2 53 feet. It doesn't reach the post office.

3 If you were here, you'd have to jump --
4 that's 30 feet across there. You'd have to jump
5 30 or 40 feet to get to the post office.

6 You've heard that there's already been work
7 begun, that part of the street has disappeared
8 there. Has one person said they can't get into
9 the post office yet? No.

10 I have a set of comments that emphasize all
11 of this. I'll hand it up and ask that it be part
12 of the record. I'll give you all one to take a
13 look at it.

14 But essentially this is 53 feet of something
15 or other that goes nowhere. It doesn't serve
16 anything. It only makes sense and only works if
17 the owner of all the property back here -- and you
18 see on Exhibit C there in what I've handed up that
19 the inn owns everything back here, including the
20 remainder of this street.

21 Unless the inn does something, this is of no
22 consequence whatsoever. And the inn is going to
23 be leasing all these spaces, is in negotiations
24 now. The lease is over, the existing lease with
25 the post office. And you know, it's not too much

1 to imagine that the post office is going to
2 require full access to that and some sort of
3 easement to get into the post office.

4 Whether this is there will have no bearing
5 on that whatsoever ensuring access to the post
6 office. Because if you see it, it can't get
7 anywhere. There's nothing to turn around.

8 There's nowhere to park there. There's nothing.

9 It's just a little thing. Nobody really
10 knows why the town council ask that it be taken
11 in. But we can say this, of all the people we've
12 talked to, we can't find anyone that says that
13 this has ever been touched by VDOT. In fact,
14 nobody even knew it was a VDOT -- any interest in
15 it whatsoever, part of the state secondary system
16 until this got started.

17 Mr. Konick asked the local person. It was
18 unclear from the map. They had to search the
19 archives in Richmond to find out that this was
20 even in the state system at all. Nobody knew it
21 all these years.

22 But now we're here in a big hubahu about
23 access to the post office, when that's the
24 farthest thing this right-of-way has anything to
25 do with. Thank you.

1 MR. LYNCH: Thank you.

2 John McPherson.

3 MAYOR SULLIVAN: He left. But he did leave
4 a letter, which I can give you afterwards or now.

5 MR. LYNCH: That's fine. You can give it
6 to us now, either way.

7 Louise Goddard.

8 MS. GODDARD: Here.

9 MR. LYNCH: Would you like to speak?

10 MS. GODDARD: Yes.

11 MR. LYNCH: Please.

12 MS. GODDARD: I'm a resident of Rappahannock
13 County, and have lived here since 2004, so that's
14 11 years. Thank you for coming here.

15 We are not residents of the Town of
16 Washington, but Washington is our address. The
17 post office is our post office.

18 In 11 years I have never not had a parking
19 space in front of the post office. I've never
20 needed to go park anywhere else to go to the café
21 or the post office. I've never used that street
22 for anything. But I did turn around in it once,
23 and it was very dangerous to do so, and I never
24 did it again.

25 I am in favor of the inn and the town's

1 proposal, and I think it's a good idea. And
2 that's all.

3 MR. LYNCH: Thank you.

4 Robert Ballard.

5 MR. BALLARD: I'm a resident of the town
6 and have lived here for 18 years. I go to the
7 post office maybe twice a day, sometimes three
8 times if I'm forgetful, and I usually walk. But
9 when I do drive it becomes a real challenge,
10 because if the parking spaces are full in front of
11 the café and the post office, I have to drive
12 across the street to the beautiful parking lot
13 that the inn has created for me. It's wonderful.
14 So I walk across the street to the post office.

15 I very seldom use that stub street. I have
16 turned around in there. But it's very simple to
17 make a righthand turn and turn around in the other
18 parking lot to get out of town or whatever reason
19 you want to turn around. And I'm safer that way.

20 I live here. I'm in favor of this project.

21 MR. LYNCH: Thank you.

22 Fred Catlin.

23 MR. CATLIN: Thank you very much. I'm a
24 resident of the town. I'm a recent move here, but
25 my money is still good in the taxes I pay.

1 I really had a couple things to say. One,
2 that stub street is incredibly ugly. So anything
3 that the inn can do to try to clean that up, I
4 appreciate it.

5 Second, I've heard a lot of conspiracies
6 about the fact that there might be a loss of
7 access. And I can tell you, as I walk around town
8 with my wife and my two barking dogs, I have found
9 that the inn allows us to walk through their
10 gardens, allows us to walk through their parking
11 lots, allows us to walk through the properties
12 that they have to get to the other streets. So I
13 don't see them having shown in the past a
14 propensity to block off or deny access.

15 Third, I have personally seen almost two
16 accidents happen of people on that stub street
17 pulling out, almost running people over, because
18 it's dangerous. That stub street is not designed
19 to be a turnaround. That stub street is not
20 designed to be anything. It's now even allowed
21 for parking. So it's crazy that people are using
22 that. Because I have seen dangerous situations.
23 I almost lost one of my dogs.

24 Finally, let me just close with a couple of
25 things. One, Churchill said that "Democracy is

1 the worst form of governing, except for all
2 others."

3 I think what you have going on here is you
4 have in this democracy you see the best of
5 democracy in the fact that everybody can talk.
6 But you see the ugliness of democracy in that a
7 few people can try to bend the will of the state
8 to their own purpose. And it's sad to see that.

9 The last thing is, I don't have time, you
10 don't have time for this thing. I've got three
11 jobs to run. I've got two herniated discs and I'm
12 painful as can be in my back right now. And I
13 have one wish, and that is that you all would just
14 get this approval for the town done and let's move
15 on with it. Thank you.

16 MR. LYNCH: Thank you.

17 Gary Aichele.

18 MR. AICHELE: I'm a resident of the Town of
19 Washington, I'm also a member of the town council.
20 I was not a member of the town council however
21 when the actions were taken which are now being --
22 initially taken.

23 I joined the town council as the town
24 council did it a second time trying to make clear
25 that the will of the town was to proceed in this

1 direction.

2 So twice the town council, with the fullest
3 support you can imagine, the people that live in
4 the town, have tried to move forward to make the
5 town safer and more beautiful and more appealing.

6 And virtually everyone I know supports it
7 that lives in the town. And many people who live
8 in the county support it.

9 Now a couple things were said tonight. One
10 about turning and backing up there. Worst idea in
11 the world. I don't know if public safety is
12 subsumed under public convenience. But I would
13 feel very inconvenient if I got run over. So I
14 second what Fred just said.

15 The only safe way to do that street now is
16 to drive across private property, make a U-turn at
17 the back on the inn's property, and then come out
18 and appropriately watch both ways. It's a very
19 dangerous corner under the best of circumstances.

20 I too have seen multiple times that if
21 someone didn't yell we would have had an ambulance
22 at that corner. Because as you pull in the stub
23 to back up, you're at a four-way stop sign. You
24 can't see anything. It's incredibly dangerous.

25 So ideally in my view we close the whole

1 thing, put a planter across it, and no one would
2 use it for anything. But regrettably there are
3 properties that have to have access. They're
4 private properties. They're leased properties
5 from the inn. And the inn is trying to make their
6 tenants, one of which will be the post office we
7 all hope, unless this gets screwed up, as safe as
8 possible.

9 And I have every reason to believe that the
10 Inn at Little Washington, and Patrick personally,
11 has nothing but the best interest of its guests,
12 its neighbors, its townsfolk, and its tenants.

13 So to clean up that corner and make it safe,
14 convenient for everyone, and to provide all legal
15 access that anyone could possibly ever need, this
16 is the way to go, approve this plan.

17 If you don't, there's an opportunity to mess
18 up a lease with the federal post office. The post
19 office could leave the town. And then VDOT would
20 have another hearing I'm sure, or someone would be
21 killed there, and it will be a VDOT state highway
22 and a safety issue.

23 So I for one, who lives there, walks there,
24 and there every day, would really like to see it
25 improved, made more convenient and safer for

1 everyone. So I would really urge you to go ahead
2 and approve the vacation. Thank you.

3 MR. LYNCH: Thank you.

4 Judith DeSarno.

5 MS. DESARNO: Thank you. I live in the
6 Town of Washington, have for 13 years. And for 13
7 years that road continued to deteriorate. I never
8 saw VDOT do anything to it. And in fact, it was
9 in a very deteriorated condition when the inn
10 began to improve it. It now both looks better and
11 is safer than it ever was before, because it's no
12 longer crumbled asphalt that is impossible to walk
13 on.

14 I fully support the position of the town and
15 the inn and the citizens of Little Washington of
16 moving forward with abandoning this street. Thank
17 you.

18 MR. LYNCH: Thank you.

19 That concludes the signed up speakers.
20 Anyone else wish to speak? Yes, in the back.

21 MS. LEGGETT: I'm Katherine Leggett, and
22 I'm on the town council. I live on Gay Street in
23 town. And I've been coming out part-time since
24 the late 60s with my parents who owned property
25 out here, and they still own property out here in

1 town. And I have moved out here years ago.

2 So I've seen the street. I've seen the
3 changes. And I think that -- well, I go with what
4 Judy said about the crumbled asphalt. It was a
5 mess. My father fell on it twice, was
6 hospitalized. It just, you know, was a mess.

7 And I really don't feel threatened at all by
8 any of these changes. I think that the
9 beautification process, as it has been called, is
10 really going to be an improvement. And I'm sure
11 it's not going to change things drastically or
12 horribly, or in any sort of scary way for the
13 town. I'm all for it.

14 MR. LYNCH: Thank you.

15 MS. MURDOCH: I'm Wendy Murdoch. I'm a
16 town resident. I'm surrounded by the inn on three
17 sides property-wise. They've been my neighbor
18 since I lived there since 2004.

19 We walk through their property in the back
20 to go to the post office, because our backyard
21 connects to their backyard and we just walk
22 through.

23 But when you come into the post office
24 before they made the changes, there was a brick
25 planter type thing, and then a little gap that if

1 you came out of the post office there and took a
2 left, you'd walk through that gap into the stub
3 street. And when someone parked in the no parking
4 zone, and then someone parked on the other side of
5 that little gap on the other side of the no
6 parking zone, if you walked out and somebody was
7 coming, they didn't see you.

8 So when people parked illegally in those
9 spaces alongside of the post office and the
10 parking area, any pedestrian coming out was at
11 risk. You had to be really careful, because the
12 post office truck couldn't see you, nobody could
13 see you, because that side of the building was
14 blocked.

15 So I'm all in favor of abandoning the stub
16 street and letting it go forward. The other issue
17 that -- I don't know if it's brought up, but the
18 post office as it is now has steps in it. And for
19 the post office to continue to be there, as I
20 understand it, they have to make a change so it
21 meets the OSHA requirements, which means that it
22 has to be on one level. So having the access from
23 the back eliminates those steps and makes it safer
24 for the post office workers. And it just means
25 that we have to just walk around the corner where

1 it's going to be safe and convenient for everyone.

2 Thank you.

3 MR. LYNCH: Thank you. Anyone else?

4 (No response.)

5 All right. Well, I want to thank everybody
6 for attending tonight and for your input. Drive
7 safe.

8 (Hearing concluded, 6:49 p.m.)

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CERTIFICATE OF COURT REPORTER

I, KURT D. HRUNENI, a Certified Verbatim Reporter, do hereby certify that I took the notes of the foregoing proceedings and thereafter reduced the same to typewriting; that the foregoing is a true record of said proceedings to the best of my knowledge and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were held; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of October, 2015.

KURT D. HRUNENI, CVR, CCR-VA

<u>WORD</u> <u>INDEX</u>					
< \$ >	40 28:5	adequate	Area 1:8 3:8	begun 14:15	café 21:2
\$5 8:4	400-plus 12:16	22:23 26:20	7:17 38:10	28:7	26:12 30:20
< 0 >	< 5 >	adjacent 3:23	arrow's 23:5	behalf 27:19	31:11
0.01 7:10	5 2:12	administered	ascertain 9:17	behavior 5:4	called 4:12
< 1 >	50 17:15 18:6	10:14	asked 8:5	believe 7:13,	37:9
1 2:8 17:13,	52 17:15	Administrator	29:17	15 15:17	campus 16:19
15	53 28:2, 14	2:4, 5 3:5, 8	asking 8:6	16:13 17:14	canard 21:5
1,500 20:18	< 6 >	advertised	18:11	18:7 25:13	26:5, 5
10 2:17	6 2:13	25:21	asphalt 36:12	35:9	car 23:23
100th 17:15	6:06 3:1	agency 10:15	37:4	believes 26:16	card 4:7
11 2:18	6:49 39:8	ago 25:18	37:4	BEN 2:15	care 10:2
30:14, 18	60s 36:24	37:1	asserted 15:19	16:24 19:19	19:16
12 1:9 2:19	628 1:4 3:12	agreeing 22:8	assertion 9:18	16:24 19:19	careful 38:11
13 2:20 36:6,	< 7 >	ahead 36:1	assertions	bend 33:7	case 15:20
6	7 2:14	Aichele 33:17,	16:14	BENNETT	Catlin 31:22,
14 2:21	< 8 >	18	assume 10:17	2:18 25:2	23
15 2:22	8 1:7 2:15	AICHELE33	attempt 12:11	27:16, 17	CATLIN31
150 20:18	3:1	2:22	attend 6:12	best 7:13	2:21
15th 40:14	< 9 >	ALISON 2:3	attended 11:19	33:4 34:19	CCR-VA 1:25
16 2:23	9 2:16	3:5 5:23 7:3	attending 39:6	35:11 40:6	40:19
17 2:24 19:22	< A >	allow 9:19	attorney 17:4	BETH 2:13	center 25:18
170 3:14	abandon 12:1	allowed 11:11	27:18 40:10	13:8 14:23, 24	certainly 5:21
17:14 26:7	abandoning	13:21 16:16	attractive	better 36:10	CERTIFICAT
1700s 9:24	36:16 38:15	32:20	11:10	biased 12:5	E 40:1
18 2:25 31:6	ability 40:7	allows 32:9,	authorized 9:1	big 13:15	Certified 40:2
1980s 11:15	able 26:15, 24	10, 11	available 6:22	29:22	certify 40:3
1994 18:7	accepted 24:16	alongside 38:9	average 22:24	bit 25:15	chair 7:21
24:13	accepting 16:1	alterations	avoid 13:1	black 17:2	challenge 31:9
< 2 >	access 11:12	16:17	aware 18:9	blacktop 12:7	chance 15:7
2 2:9	13:2, 3 26:5,	altered 12:7	< B >	block 32:14	change 37:11
20 18:17	21, 23 27:6, 6	16:5, 18	back 4:7	blocked 13:19	38:20
20:19	29:2, 5, 23	alternations	10:20 12:14,	38:14	changed 8:18
200 10:10	32:7, 14 35:3,	16:15	21 18:3, 10, 24	BOARD 2:2	10:5, 6, 9
2004 7:22	15 38:22	ambitious	20:23 23:4,	3:7, 19 5:10,	24:12, 16
30:13 37:18	accidents	12:13	14 28:17, 19	13 6:5, 11, 14	changes 12:10
2009 7:20	23:21 32:16	ambulance	33:12 34:17,	7:6, 9, 15 9:1	24:20 37:3, 8,
2013 23:14	access 11:12	34:21	23 36:20	Board's 15:6	24
2015 1:7 3:1	13:2, 3 26:5,	anybody 6:25	37:19 38:23	Box 11:16	chart 18:20
40:14	21, 23 27:6, 6	14:8 22:17	backing 23:24	18:1 22:18, 19	check 27:21
28477 1:24	29:2, 5, 23	anybody's	34:10	boxes 12:16	choose 5:5
28th 5:15 6:6	32:7, 14 35:3,	13:20	backyard	Bragg 11:4	CHRISTINE
2nd 3:24	15 38:22	anymore	37:20, 21	13:8, 9, 9	2:11 11:4, 13
< 3 >	accomplished	13:21 18:2	badly 21:12	BRAGG13	Churchill
3 2:10	10:13	appealing 34:5	Ballard 31:4, 5	2:12	32:25
30 3:19	accurate 9:18	appear 13:20	BALLARD31	brick 37:24	circumstances
11:18 28:1, 4,	action 3:20	14:17	2:20	brief 19:21	16:8 34:19
5	40:8, 12	appearance	barking 32:8	22:9	citizens 7:14,
33.2-908 3:17	actions 12:11	12:6	based 10:21	Bristol 5:18	16 36:15
38 22:20	33:21	appointing	basically 14:2	brought 38:17	claims 18:15
3rd 3:21	ad 3:20	15:22	basis 10:4	building	clarify 17:21
< 4 >	add 6:4	appreciate	22:1	12:15, 21	clean 32:3
4 2:11	20:12, 17, 25	15:5, 8 22:1	Beach 5:16,	20:23 26:11,	35:13
	addition 24:25	27:14 32:4	19, 20 6:6	25 38:13	clear 33:24
	address 4:17	appropriately	bearing 29:4	building, 27:3	clearly 4:15
	6:11, 21	34:18	beautification	business 9:8	11:11 18:25
	13:11 19:24	approval	25:19 37:9	13:17 20:1	19:11
	30:16	33:14	beautiful	21:16, 18, 20,	close 24:6
	addressed	approve 6:15	31:12 34:5	22 24:22	32:24 34:25
	15:12	35:16 36:2	beauty 12:21	< C >	closed 16:15
	addressing	archives 29:19	17:25 24:19		clouded 17:8
	8:24		began 36:10		

<p>Code 3:17 15:14 come 4:14 21:11 24:5 25:16 34:17 37:23 comfortable 4:14 coming 30:14 36:23 38:7, 10 comment 9:20 comments 4:8, 9, 10, 17 5:6, 8, 13, 21, 22 6:16, 19 22:10 24:25 28:10 Commission 7:21 Commissioner 27:17</p> <p>Commonwealth 3:6, 18 5:9, 12 6:7 7:9, 15 8:20, 25 9:9 10:17 15:5 Commonwealth 's 10:15 complete 12:5 concerned 15:8 concluded 39:8 concludes 36:19 condition 36:9 connects 37:21 consequence 28:22 consider 6:8 considers 6:14 conspiracies 32:5 constantly 16:9 20:2 construction 7:24 8:3 context 25:16 26:2 continue 11:17 38:19 continued 36:7 control 27:3 convenience 4:19 6:17 8:17 9:15 10:22 12:4 15:19 17:21 18:5, 15 24:15 34:12</p>	<p>convenience, 15:13 convenient 11:11 20:11, 16, 21 21:5, 13 35:14, 25 39:1 copies 4:5 copy 4:3 corner 13:13 23:4 34:19, 22 35:13 38:25 Corner, 23:2 corner's 23:5 corrections 17:13 council 7:20 11:20, 20, 25 13:23, 25 14:2 16:1 25:8, 9, 20 29:10 33:19, 20, 23, 24 34:2 36:22 councilmen 10:9 counsel 40:7, 11 counter 15:24 County 1:5 3:9 7:24 8:13, 13 9:6, 6, 11 13:10 14:25 15:10 21:23 23:11 30:13 34:8 couple 17:12, 21 32:1, 24 34:9 court 4:15 26:1 40:1 crazy 32:21 created 31:13 criteria 4:20 10:19 cross 20:23 crowded 5:2 crumbled 36:12 37:4 CTB 2:3 5:12, 15 6:14, 20 8:5 Culpeper 2:3, 4 3:4 current 16:8, 15 currently 7:20, 25 8:3 11:14 CVR 1:25 40:19</p>	<p>< D > daily 21:4, 25 dangerous 30:23 32:18, 22 34:19, 24 dare 18:12 26:14 dark-colored 19:4 date 14:13 DAVID 2:14, 16 14:23 16:24 17:3 22:5 day 19:25 31:7 35:24 40:14 days 3:19 22:24 dead 23:4 deal 21:16, 18, 21, 22 debating 25:15 decades 9:5 17:23 decided 25:24 decision 9:12 13:4 decorum 5:3 deemed 10:12 definitive 15:21 definitively 14:9 delivery 13:4 16:10 Democracy 32:25 33:4, 5, 6 deny 6:9 11:1 24:23 32:14 denying 10:19 DEPARTMEN T 1:1 DeSarno 36:4, 5 DESARNO36 2:23 designed 32:18, 20 desirable 10:13 despite 11:23 16:13 deteriorate 36:7 deteriorated 36:9</p>	<p>DETUNCQ 2:3 3:6 6:1 22:7 difficult 16:7, 21 direction 23:3 34:1 directly 6:11 disappear 26:6 disappeared 28:7 discard 14:21</p> <p>Discontinuance 1:3 3:16 8:7 15:2, 15 discontinue 3:11 7:9, 17 9:13 11:2 discontinued 4:22 discontinuing 14:6 discourage 12:10 discs 33:11 discussed 11:20 dismissed 14:3 District 2:3, 4 3:5 documents 6:22 dogs 32:8, 23 dollar 8:4 Dominion 21:10 door 26:22, 23 double 12:8 dramatically 12:6 drastically 37:11 drawing 16:18 drive 13:15 24:3, 3 26:24 31:9, 11 34:16 39:6 drop-offs 16:10 due 25:22</p> <p>< E > earlier 10:24 16:1 17:22 easement 29:3 easy 13:3 eat 21:1 effort 14:15, 16</p>	<p>either 4:24 6:9 15:22 16:6 22:10 30:6 elections 25:10 eliminated 16:20 eliminates 38:23 email 4:11 6:21 embarked 25:18 emphasize 28:10 employed 40:8, 11 employee 40:10 enforcement 23:7, 8 ensuring 29:5 entire 18:24 entirely 10:2 entrance 12:14 especially 22:7 ESQUIRE17 2:14 ESQUIRE27 2:18 essentially 28:14 estate 14:16 evening 6:4 everybody 22:6 25:19 33:5 39:5 everyday 21:1 23:14 Excuse 21:20 exhibit 27:25 28:18 existing 28:24 express 5:20 extremely 20:20</p> <p>< F > fabrication 12:5 fact 8:21 21:7 29:13 32:6 33:5 36:8 facts 17:9 19:13 falling 18:16 familiar 7:23 25:20 family 11:14</p>	<p>farthest 29:24 fashion 4:25 father 37:5 Fauquier 7:24 8:1 favor 21:15 27:9, 11 30:25 31:20 38:15 federal 35:18 feel 6:10, 11 34:13 37:7 feet 3:14 17:14, 15 18:6 26:7 28:1, 2, 4, 5, 14 fell 37:5 filed 18:11 fill 4:7 Finally 32:24 financially 40:11 find 17:2 29:12, 19 finding 9:14 13:16 24:14 fine 30:5 firmly 7:13 first 7:4 8:19 11:15, 16 17:12 23:13 Fisher 14:23 16:24 FISKE 2:14 16:25, 25 17:1, 2, 4 five 22:24 flatly 11:25 Flatwood 1:9 focal 9:7 FOIA 18:11 folklore 23:10 folks 23:17 26:11 follow 9:12 16:17 followed 7:5 8:10 11:4 13:8 14:23 16:24 25:2 following 7:18 8:24 foregoing 40:4, 5 forgetful 31:8 form 33:1 formal 5:14 forward 34:4 36:16 38:16 found 32:8</p>
--	--	---	---	--	---

<p>four 9:5 19:9 21:22 four-way 34:23 frankly 14:12 FRED 2:21 31:22 34:14 free 6:11 friend 26:4 front 4:13, 14 20:5 23:5 30:19 31:10 full 29:2 31:10 fullest 34:2 fully 36:14 further 16:17 40:9 future 12:24 13:2, 5</p> <p>< G > gap 37:25 38:2, 5 gardens 32:10 GARY 2:8, 22 7:4, 7 33:17 Gay 36:22 general 9:19 gentlemen 27:18 getting 26:21 gifting 11:21 give 28:12 30:4, 5 given 4:16 8:4 15:23 16:7 go 5:24 13:21 14:19 17:7 21:2 27:4 30:20, 20 31:6 35:16 36:1 37:3, 20 38:16 Goddard 30:7, 8, 10, 12 GODDARD30 2:19 goes 18:10 28:15 going 16:14 17:7 20:19 22:9 23:15 24:2, 5, 7, 8 25:15 26:6, 23, 24 27:1, 2 28:22 29:1 33:3 37:10, 11 39:1</p>	<p>good 31:1, 25 goodness 24:1 gotten 4:10 20:14 governing 33:1 government 9:9 grants 8:4, 5 great 6:1 7:2 21:24 greater 11:1 guess 27:13 guests 35:11 Gyorgy 13:8 14:23, 24, 25 GYORGY14 2:13</p> <p>< H > hand 4:17 27:13, 24, 24 28:11 40:14 handed 28:18 handicap 20:6 handicapped 20:7, 8 handout 4:1 17:9 handouts 3:25 hands 27:8, 10 happen 16:13 32:16 Harris 19:23 hat 17:2 Headquarters 1:8 hear 4:15 heard 15:7 19:13 27:21 28:6 32:5 Hearing 1:3 5:3, 24 6:12 9:2, 17 11:7 15:6 17:6 22:8 23:13 35:20 39:8 hearings 25:21 heavily 16:9 21:7 held 40:9 he'll 4:23 helpful 17:11 hereto 40:11 hereunto 40:13 herniated 33:11 highway 9:22 10:8 15:4, 16</p>	<p>35:21 hit 23:23 hold 15:9 holding 15:6 Hollow 19:23 honor 8:9 hope 35:7 horribly 37:12 hospitalized 37:6 hosts 8:25 Hruneni 1:25 40:2, 19 hubahu 29:22 huge 14:6 hundred 21:25 hundreds 20:13, 25</p> <p>< I > idea 31:1 34:10 ideally 34:25 illegally 38:8 imagine 21:9 24:2 29:1 34:3 impact 13:24 14:9 implicit 24:13 importance 10:3 11:7 important 6:18 8:1 10:16 18:4, 14 impossible 16:7 36:12 improve 36:10 improved 35:25 improvement 37:10 inaccurate 17:14 inappropriate 5:4 included 4:1 includes 3:9 4:2 including 28:19 inclusion 10:4 inconvenience 7:11 8:8 14:6 19:14 21:24 inconvenient 16:21 34:13 incredibly 32:2 34:24</p>	<p>information 6:19 initially 33:22 injured 23:25 inn 11:22 12:12, 13 16:16 17:5, 24 18:1 19:6 26:8, 13, 19 27:1, 3 28:19, 21, 22 30:25 31:13 32:3, 9 35:5, 5, 10 36:9, 15 37:16 inn's 14:14 16:19 20:10, 24 34:17 input 39:6 intent 9:13 interest 7:14 29:14 35:11 interested 40:12 intersection 3:13 23:24 Irwin 22:15 issue 4:17 17:8 25:14, 25 35:22 38:16 issues 26:1 its 5:10, 13 10:4 14:16 22:22 35:11, 12, 12, 12</p> <p>< J > Job 1:24 jobs 33:11 JOHN 2:4, 17, 18 3:4 6:2, 4, 13 25:2, 2, 4 30:2 joined 33:23 Jones 16:24 19:19, 20 21:18, 20 22:3, 4 26:4 JONES19 2:15 JUDITH 2:23 36:4 Judy 37:4 jump 28:3, 4</p> <p>< K > KATHERINE 2:24 36:21 keep 6:18 13:3, 5 Keeping 12:25 killed 35:21</p>	<p>kind 17:10 21:5 knew 29:14, 20 know 3:25 4:24 5:11 9:21 14:8 18:23 19:4, 11 21:13, 14 22:13 23:10, 20, 20, 20 25:14 28:25 34:6, 11 37:6 38:17 knowledge 14:3 40:6 known 3:12 17:6 26:10 knows 26:9 29:10 Konick 22:5, 6 29:17 KONICK22 2:16 Kurt 1:25 40:2, 19</p> <p>< L > lady 23:23 landowner 9:11 landscaper's 16:17 language 5:4 late 14:13 36:24 law 4:21 24:18 26:12 lawyer's 20:22 21:2 lease 19:8 26:18, 19 28:24, 24 35:18 leased 26:13 35:4 leasing 28:23 leave 30:3 35:19 left 30:3 38:2 legal 9:7 35:14 LEGGETT 36:21, 21 LEGGETT36 2:24 legitimize 12:11 length 18:24 letter 3:23</p>	<p>4:11 30:4 letting 38:16 level 5:3 10:25 38:22 levels 9:9 limousine 16:12 line 12:8 17:18 18:20, 21 19:3 link 6:22 listen 21:12 Little 17:5 21:6, 8 26:8 27:20 29:9 35:10 36:15 37:25 38:5 live 19:22 25:5, 13 31:20 34:3, 7 36:5, 22 lived 12:19 19:22 22:16 30:13 31:6 37:18 lives 34:7 35:23 local 5:17 29:17 locality 3:22 located 3:13 location 22:22 long 3:15 17:14 longer 9:15 10:1 12:3 22:16 36:12 longtime 8:12 look 17:9 18:19 22:13 27:22 28:13 looking 6:15 looks 19:3 36:10 lose 23:15 loss 32:6 lost 32:23 lot 13:16 21:14 23:25 27:21 31:12, 18 32:5 lots 32:11 LOU 2:9 7:5 8:10, 12 LOUISE 2:19 30:7 LYNCH 2:4 3:4, 4 7:3 8:10, 22 11:3, 5 13:7 14:22 16:23 17:1</p>
---	---	---	--	---	---

<p>19:18 21:19 22:3, 5 25:1 27:15 30:1, 5, 9, 11 31:3, 21 33:16 36:3, 18 37:14 39:3</p> <p>< M > Madam 27:17 mail 11:17 13:3 20:3 mailing 19:24 Main 3:14 8:2 13:13 18:24 maintained 10:5 maintaining 8:15 Maintenance 1:3 3:12 8:20 14:7 18:7, 12 making 16:6 management 11:9 manager 7:24, 25 map 4:2 17:19 29:18 MARIAN 2:12 11:4 13:8, 9 MARK 2:5 3:7 4:23 marked 11:11 18:25 Marshall 8:2 MARY 2:9 7:5 8:10, 12 math 17:15 matters 9:8 MAYOR 2:17 7:21 23:13 25:3, 6 30:3 Mayor's 16:13 McPherson 30:2 mean 20:6 means 38:21, 24 measure 15:21 measured 14:10, 12 measurement 15:25 measures 16:7 meeting 4:4, 6, 10 5:14, 15, 17 6:5, 12 11:20,</p>	<p>23 14:1 meets 38:21 Member 3:7 15:7 33:19, 20 MEMBERS 2:2 7:6 memory 17:22 mentioned 6:5 26:11 mess 35:17 37:5, 6 Middle 1:4 3:13 4:2, 18 8:15 9:21 11:7, 9 12:17, 25 13:5, 13 15:3, 12 26:22 mile 7:10 17:16 million 8:4, 4 mind 6:18 minutes 4:16 5:1 money 31:25 month 5:14, 18, 18 move 12:13 31:24 33:14 34:4 moved 11:15 22:22 37:1 moving 36:16 multiple 34:20 Murdoch 37:15, 15 MURDOCH.37 2:25 < N > name 9:4 11:13 25:4 name's 7:7 13:9 14:24 17:3 nearby 21:3 necessary 8:18 need 4:5 27:5 35:15 needed 21:12 24:15 30:20 negotiating 19:11, 12 negotiations 28:23 neighbor 37:17 neighboring 12:20 neighbors</p>	<p>35:12 neither 40:7 NESBITT 2:5 3:7 22:7 never 17:23 20:9, 13, 15 22:22 23:12 30:18, 19, 21, 23 36:7 new 26:23 News 3:21 newspaper 3:20 nightmare 13:1 normal 10:14 north 19:2 note 17:12 18:4 notes 40:3 notice 3:19 9:13 noticed 20:15 notifying 3:22 number 18:10 numerous 11:23 < O > objective 15:21 observed 23:6, 12 obtained 15:25 obvious 21:23 26:14 obviously 5:2 18:6 occasional 16:11 occurred 3:24 O'Connell 11:21 17:5 October 1:7 3:1 5:15 6:6 40:14 off, 16:15 Office 8:21 12:14, 16, 20 13:12, 17 16:3 18:21, 25 19:8, 8, 13 20:2, 22, 22 21:1, 2 22:16, 17, 19, 19, 21 24:18, 18 26:6, 10, 12, 12, 14, 16, 16, 17 28:2, 5, 9, 25 29:1, 3, 6, 23 30:17, 17, 19,</p>	<p>21 31:7, 11, 14 35:6, 18, 19 37:20, 23 38:1, 9, 12, 18, 19, 24 official 9:7 Okay 6:1 7:2 17:25 18:2, 22 19:1, 5 Old 21:10 once 30:22 open 23:18 opened 22:18 opinion 14:5, 8, 21 opportunity 5:11 9:3, 19 35:17 opposition 15:1 oral 4:8 5:8 OSHA 38:21 outcome 40:12 outlined 3:16 owned 10:8 12:25 19:6 26:8 36:24 owner 3:23 28:17 owners 13:2 ownership 12:22 17:24 owns 12:23 28:19 < P > p.m 3:1 39:8 P.O 11:16 Pagano 7:5 8:10, 11, 12, 12, 24 9:4 24:11 PAGANO.8 2:10 PAGANO8 2:9 page 17:13 painful 33:12 parents 36:24 park 13:16 19:15, 16 20:9, 16 23:12 24:8 26:25 29:8 30:20 parked 13:18 20:20 22:24 38:3, 4, 8 parking 16:10, 20, 21 18:23, 25 19:7, 14 20:10, 14, 15</p>	<p>22:23 23:2, 8, 15, 17, 25 26:19, 20 30:18 31:10, 12, 18 32:10, 21 38:3, 6, 10 parks 23:14 parlor 24:19 part 8:16 9:22 12:12 16:19 19:5 23:10 24:7 28:7, 11 29:15 PARTICIPAN T 21:17 parties 40:8, 11 parting 12:19 part-time 36:23 Patrick 17:4 19:15 35:10 pay 31:25 PE 2:4 pedestrian 38:10 people 18:16 19:15 20:1 21:1, 4, 14, 25 22:12, 14 23:12 24:3, 24 25:13, 24 26:13, 17 27:2, 9, 11 29:11 32:16, 17, 21 33:7 34:3, 7 38:8 performed 14:4, 14 period 15:23 permit 10:14 16:6 person 12:23 28:8 29:17 personally 20:2 32:15 35:10 petition 11:24 13:22 14:1 16:2 Phil 22:15 pick-ups 16:11 piece 10:7 place 13:20 23:15, 19 plain 9:20 plan 23:15 24:7 35:16 Planning 7:21 plans 12:13</p>	<p>planter 35:1 37:25 planters 13:19 platted 8:19 9:23 please 4:7 5:4 6:11 8:9 11:1 13:3 14:20 21:19, 19 30:11 point 6:7 9:7 17:7 18:19 pointing 23:5 points 17:21 23:3 portfolio 14:16 portion 6:12 8:7 15:3 position 27:9, 11 36:14 possible 35:8 possibly 25:25 35:15 Post 8:21 12:14, 16, 20 13:12, 17 16:3 18:21, 25 19:8, 8, 12 20:2, 22 21:1 22:16, 17, 18, 19, 21 24:18 26:6, 10, 12, 14, 16, 16, 17 28:2, 5, 9, 25 29:1, 3, 5, 23 30:17, 17, 19, 21 31:7, 11, 14 35:6, 18, 18 37:20, 23 38:1, 9, 12, 18, 19, 24 postal 13:14 posted 6:20 potential 13:1 predicated 9:14 prematurely 12:7 present 13:25 22:22 presented 14:1 pretty'ing 10:12 prior 4:10 5:13 private 14:17 17:23 19:6, 16 34:16 35:4 probably 21:7 26:20 problem 20:10 24:5</p>
---	--	---	--	---	---

<p>procedures 3:16 4:1</p> <p>proceed 33:25</p> <p>proceeding 7:1</p> <p>proceedings 40:4, 6, 9</p> <p>process 25:22 37:9</p> <p>processes 10:14</p> <p>produce 5:7</p> <p>project 7:25 25:19 31:20</p> <p>projects 8:1</p> <p>propensity 32:14</p> <p>properties 10:6 11:12 32:11 35:3, 4, 4</p> <p>property 3:22, 23 13:2 14:15, 18 19:6, 17 26:8 28:17 34:16, 17 36:24, 25 37:19</p> <p>property-wise 37:17</p> <p>proposal 31:1</p> <p>proposed 12:13</p> <p>provide 3:19 5:9 6:20 35:14</p> <p>providing 5:21</p> <p>prudent 13:4</p> <p>Public 1:3 4:19 5:13 6:12, 17, 19 7:12 8:8, 18 9:1, 15, 17, 19 10:3, 3, 9, 16, 21, 25 11:6, 10 12:4, 10 13:1, 24 14:6, 10, 17 15:8, 13, 18 16:10, 21 17:20 18:5 19:14 21:13 23:13, 18 24:15 25:21 26:15, 21, 23, 24 27:5 34:11, 12</p> <p>publishing 3:20</p> <p>pull 34:22</p> <p>pulling 32:17</p> <p>pulse 25:12</p> <p>purpose 33:8</p>	<p>put 27:13 35:1</p> <p>< Q ></p> <p>quarter 8:4</p> <p>question 15:11</p> <p>questions 6:25</p> <p>quite 14:12</p> <p>< R ></p> <p>raised 26:2</p> <p>ran 3:21</p> <p>Rappahannock 1:5, 8 3:9, 21 8:13 9:5 11:15 13:10 14:25 15:9 23:11 30:12</p> <p>reach 28:2</p> <p>ready 6:24</p> <p>real 14:16 31:9</p> <p>reality 27:21</p> <p>really 14:8, 11 22:23 27:22 29:9 32:1 35:24 36:1 37:7, 10 38:11</p> <p>reason 31:18 35:9</p> <p>reasons 7:18 24:10, 24</p> <p>receive 4:3 5:13, 22 6:22 11:17</p> <p>received 5:8</p> <p>record 14:19 28:12 40:6</p> <p>records 18:12</p> <p>red 17:17 18:20 19:2</p> <p>reduced 40:4</p> <p>reelected 25:9</p> <p>refer 17:13</p> <p>reflect 17:19</p> <p>refused 11:25</p> <p>registered 3:23</p> <p>regrettably 35:2</p> <p>regular 16:2</p> <p>reiterate 6:13 24:11</p> <p>rejected 16:4</p> <p>related 40:7</p> <p>relative 10:3 40:10</p> <p>release 10:19</p> <p>relevant 5:8 6:16 26:3</p>	<p>remainder 28:20</p> <p>remodel 12:13</p> <p>removing 13:24</p> <p>rent 11:16</p> <p>Reported 1:25</p> <p>reporter 4:15 27:25 40:1, 3</p> <p>represent 7:16 17:4 25:8</p> <p>representative 7:19</p> <p>request 3:11 6:8, 9 7:8 8:9 9:25 10:24 11:1 14:20 15:1 16:2, 3 18:11 24:23</p> <p>requested 10:17</p> <p>requesting 13:23</p> <p>requests 11:24</p> <p>require 3:18 19:9 29:2</p> <p>required 4:19 6:17 10:21, 23 15:13, 18</p> <p>requirement 9:16 10:22 15:14</p> <p>requirements 38:21</p> <p>requires 26:19</p> <p>reside 11:13</p> <p>residence 9:4 24:20, 21</p> <p>Residency 2:5 3:8</p> <p>resident 7:7 8:13 9:10 13:10 14:25 30:12 31:5, 24 33:18 37:16</p> <p>residents 30:15</p> <p>response 39:4</p> <p>responsibility 9:14 10:18, 24</p> <p>restaurant 24:17</p> <p>retaining 11:7</p> <p>reverse 17:17</p> <p>review 5:10</p> <p>rhetoric 27:21</p> <p>Richmond</p>	<p>29:19</p> <p>rid 27:2</p> <p>right 21:19 27:4, 15 33:12 39:5</p> <p>righthand 31:17</p> <p>right-of-way 29:24</p> <p>risk 38:11</p> <p>Road 1:9 4:21 6:16 8:2, 17, 19, 21 10:21 11:11 12:8, 18 14:17 15:15 16:5 19:23 36:7</p> <p>roads 10:1</p> <p>roadway 7:10 8:7 10:5, 15, 20</p> <p>ROBERT 2:20 31:4</p> <p>room 5:2 22:13, 17 27:8</p> <p>Route 1:4</p> <p>Rt 3:12 8:16 9:22</p> <p>run 33:11 34:13</p> <p>running 18:21 32:17</p> <p>< S ></p> <p>sad 33:8</p> <p>safe 13:3 34:15 35:7, 13 39:1, 7</p> <p>safer 18:17 31:19 34:5 35:25 36:11 38:23</p> <p>safety 34:11 35:22</p> <p>saw 36:8</p> <p>says 23:2 27:1 29:12</p> <p>scale 17:18</p> <p>scary 37:12</p> <p>Schwartz 7:4, 6, 7</p> <p>screwed 35:7</p> <p>SCWARTZ7 2:8</p> <p>search 29:18</p> <p>seat 8:13 9:7</p> <p>Second 32:5 33:24 34:14</p> <p>secondary 4:21 7:11</p>	<p>8:16 10:7 11:8 13:6 15:4, 15 29:15</p> <p>seconds 21:21</p> <p>Section 3:17 4:18 7:10</p> <p>see 4:7 22:13 28:18 29:6 32:13 33:4, 6, 8 34:24 35:24 38:7, 12, 13</p> <p>seen 32:15, 22 34:20 37:2, 2</p> <p>segment 3:12</p> <p>segment's 3:14</p> <p>seldom 31:15</p> <p>sense 25:12 28:16</p> <p>separate 12:22</p> <p>separately 12:25</p> <p>September 3:21, 24</p> <p>seriously 23:25</p> <p>serve 28:15</p> <p>serves 9:15 12:4</p> <p>service 13:14</p> <p>servicing 13:14</p> <p>set 28:10 40:13</p> <p>setting 11:6</p> <p>seven 25:7</p> <p>share 4:17</p> <p>sheet 6:21</p> <p>she'll 5:23</p> <p>shop 12:21 20:24, 24</p> <p>shops 21:3</p> <p>show 27:8, 10</p> <p>shown 32:13</p> <p>side 8:20 17:17 19:2 20:9 24:21 26:22, 23 38:4, 5, 13</p> <p>sides 10:7 37:17</p> <p>sidewalk 8:2</p> <p>sign 23:1, 2, 6 26:18 34:23</p> <p>signal 5:1</p> <p>signed 11:24 13:22 16:2 36:19</p> <p>signs 12:8 18:23</p>	<p>sign's 23:9</p> <p>sign-up 6:21</p> <p>similar 21:9</p> <p>simple 9:20 26:7 31:16</p> <p>sir 22:4</p> <p>sitting 22:15</p> <p>situation 16:22</p> <p>situations 32:22</p> <p>six 25:7</p> <p>size 21:9</p> <p>skewed 14:14</p> <p>small 7:17 8:7</p> <p>Smith 11:4, 5, 13</p> <p>SMITH11 2:11</p> <p>somebody 20:7 23:24 38:6</p> <p>someday 27:1</p> <p>sorry 17:1</p> <p>sort 29:2 37:12</p> <p>south 18:20</p> <p>space 30:19</p> <p>spaces 19:9 20:11 26:19, 20 28:23 31:10 38:9</p> <p>speak 5:5 21:15 30:9 36:20</p> <p>speaker 4:12, 16 7:4</p> <p>SPEAKERS 2:7 36:19</p> <p>speaking 15:1 27:19</p> <p>specific 25:14</p> <p>specifically 6:15</p> <p>spelled 4:20</p> <p>Sperryville 11:14</p> <p>spot 20:6, 8</p> <p>spots 20:5</p> <p>spring 11:19 13:22</p> <p>Stacy 4:4, 7</p> <p>staff 5:7</p> <p>stand 4:14 16:16</p> <p>started 6:25 29:16</p> <p>State 3:11 4:20 7:10 8:16 9:13, 21 10:4, 7 13:5</p>
---	---	---	--	---	---

15:3 18:6, 11
26:14 29:15,
20 33:7 35:21
stated 9:11
15:17 23:13
state's 11:8
statutory 9:16
10:22
stay 4:13
steps 5:24
38:18, 23
sticker 20:7
stop 34:23
Street 1:4
3:13, 14 4:2,
18 8:2, 16
9:15, 21, 23
11:8, 9, 21
12:3, 6, 18, 25
13:5, 13, 18, 25
14:7 15:3, 12,
18, 23 16:9, 14,
16, 18 18:12,
16, 24 19:5, 7,
15 20:24
21:6 22:20,
25 23:4, 18
24:3, 4, 6
26:7, 22, 25
27:4 28:7, 20
30:21 31:12,
14, 15 32:2, 16,
18, 19 34:15
36:16, 22
37:2 38:3, 16
streets 32:12
street's 12:1
18:17
streetscape 8:1
stretch 21:8, 8,
9
stub 8:15
9:21 11:8, 10
12:18 13:1, 5,
18, 25 15:3, 13,
18 31:15
32:2, 16, 18, 19
34:22 38:2, 15
study 11:25
12:4 13:24
14:3, 13
stuff 18:1
subject 27:10,
12
submit 5:6
submitted
3:11 22:11
substantially
16:5
subsumed
34:12

subsuming
14:15
suggest 19:13
Sullivan 25:2,
3, 5 30:3
SULLIVAN.25
2:17
summarily
14:2 16:4
summary 5:7
support 8:15
34:3, 8 36:14
supports 34:6
suppose 23:10
sure 27:8
35:20 37:10
surrounded
26:7 37:16
surrounding
11:12
suspicious
14:11
SUV 19:4
system 7:11
8:17 9:22
11:8 13:6
15:4, 16
29:15, 20

< T >
T628 8:16
9:22 10:8
take 25:24
28:12
taken 10:2
24:12 29:10
33:21, 22
talk 4:7
18:14 33:5
talked 29:12
talking 17:19,
25 20:13, 25
21:3 27:23
28:1
tavern 12:20
taxes 31:25
tell 14:5 32:7
telling 18:22
ten 20:18
25:8 26:18
tenant 18:3
tenants 18:1
35:6, 12
terms 17:20
18:4
text 17:13
Thank 6:1, 3
7:2, 3, 6 8:22
9:2 11:2, 3, 5
13:6, 7 14:22,
24 16:22, 23

19:18, 20
21:11, 21
22:1, 3, 6
24:1, 25 25:1,
3 27:13, 15
29:25 30:1,
14 31:3, 21, 23
33:15, 16
36:2, 3, 5, 16,
18 37:14
39:2, 3, 5
thing 27:7, 8
29:9, 24 33:9,
10 35:1 37:25
things 11:16
20:3 32:1, 25
34:9 37:11
think 6:24
14:13 17:10,
17, 19 18:4
22:15 25:11
31:1 33:3
37:3, 8
thinly 12:11
Third 32:15
thirty 21:21
thought 12:19
Thousands
20:19 21:4
threatened
37:7
three 4:16
5:1 17:23
20:3, 17 31:7
33:10 37:16
throw 25:15
thrown 26:1
ticket 20:14
tickets 23:9
time 6:9
15:23 21:11
22:2, 21
24:17 33:9,
10, 24
timekeeper
4:23
times 20:3, 13,
17, 18, 19
21:22 25:17
31:8 34:20
time's 19:12
TIMOTHY
2:10 8:11, 23
today 18:17
told 4:25
tonight 4:9
5:5, 9, 22, 25
6:19 15:12
21:15 22:2
25:17 27:19,

22 34:9 39:6
tor 12:8, 9
touched 29:13
Town 1:5
3:10 7:7, 16,
19 8:6 9:6,
18 10:2, 2, 8,
17, 20 11:17,
19, 24 12:12,
18 13:23, 25
14:2, 20 15:2
16:1, 20
18:10, 16
19:23, 25
23:8 25:5, 7,
9, 12, 13, 19, 24
27:18, 18, 19
29:10 30:15
31:5, 18, 24
32:7 33:14,
18, 19, 20, 23,
23, 25 34:2, 4,
5, 7 35:19
36:6, 14, 22, 23
37:1, 13, 16
Town's 9:25
10:24 27:9,
11 30:25
townsfolk
35:12
traffic 15:22,
24 23:7, 21
24:22
transmitted
27:25
TRANSPORT
ATION 1:1
3:6, 18 5:10,
12 6:8 7:9,
15 9:1 15:5
traveled 12:18
traveling 5:19
tried 34:4
trouble 13:16
truck 13:17
38:12
trucks 13:15
true 9:18
40:5
try 32:3 33:7
trying 33:24
35:5
turn 5:23
23:19 24:4, 9
29:7 30:22
31:17, 17, 19
turnaround
32:19
turned 31:16
turning 34:10

twice 31:7
34:2 37:5
two 7:25
20:2 23:21
25:18 32:8,
15 33:11
type 37:25
typewriting
40:5

< U >
U.S 8:21
ugliness 33:6
ugly 18:9
32:2
unanimous
25:22
unanimously
25:10
unclear 29:18
understand
15:11 38:20
unfortunate
15:20
unusual 19:21
urge 7:17
24:23 36:1
usage 12:1
use 10:3, 25
11:20 12:10
13:12 15:24
20:1, 22 21:1,
4, 25 31:15
35:2
users 16:3
uses 10:10
20:4
usually 31:8
U-turn 34:16

< V >
vacation 36:2
various 9:8
VDOT 5:7
7:23 8:25
10:15 11:6
16:6 17:6
29:13, 14
35:19, 21 36:8
veiled 12:11
Verbatim 40:2
Vice 7:20
view 34:25
viewers 15:22
viewing 6:23
views 17:6
VIRGINIA
1:1, 10 3:17
5:16, 18, 19, 20
6:6 8:14

13:11, 24
15:14 19:24
virtually 34:6
vocal 11:23
volume 15:22
vote 6:9 12:7
voted 12:1
25:20
votes 25:22

< W >
walk 31:8, 14
32:7, 9, 10, 11
36:12 37:19,
21 38:2, 25
walked 38:6
walks 35:23
want 9:2
22:6 24:10
31:19 39:5
wanted 5:17
Warrenton
3:8
Washington
1:5, 10 3:10
7:8, 16 8:14
9:6 11:17, 19
12:17 13:11,
12, 23 15:2
16:3 17:5
19:23, 24
22:19 25:6
26:8 27:19
30:16, 16
33:19 35:10
36:6, 15
watch 34:18
wave 4:24
way 16:18
30:6 31:19
34:15 35:16
37:12
ways 34:18
website 6:20
week 20:3, 17
22:24
welcome 5:20
6:3 15:7
well 3:7 4:9
5:20 7:14
17:6 21:18
37:3 39:5
well-used
11:10
WENDY 2:25
37:15
went 23:15
We're 3:10
4:8 6:24
17:19 19:11,
12, 25 20:13,

24 25:14
26:2 27:1, 2,
22 28:1 29:22
west 3:13
we've 4:6, 9
8:5 29:11
whatsoever
28:22 29:5, 15
WHEREOF
40:13
wife 20:3
32:8
willingness
15:9
Winchester
8:2
wish 33:13
36:20
WITNESS
40:13
witnessed 14:2
wonderful
31:13
word 26:4
work 28:6
workers 38:24
works 28:16
world 34:11
worsen 16:20
worst 33:1
34:10
written 4:9
5:6, 8
wrong 23:3

< Y >

year 16:1
20:18 23:22
25:23 26:18
years 10:11
11:18 18:10,
18 19:22
20:12, 18, 19
22:20 25:7, 8,
18 29:21
30:14, 18
31:6 36:6, 7
37:1
yell 34:21

< Z >

zero 18:13
zone 38:4, 6

JOHN C. BENNETT

Attorney at Law
The Hill House
306 N. West Street
Culpeper, VA 22701
(540) 825-3838

October 8, 2015

Commonwealth Transportation Board
c/o The Hon. Alison DeTuncq
Culpeper District
(Delivered at public hearing in Rappahannock
County on October 8, 2015)

Ladies and Gentlemen:

I serve as town attorney for the Town of Washington. The Town respectfully submits the presence of this 30 foot x 52.8 foot area (0.01 miles per the report dated December 8, 1993, Exhibit "A", and letter to the Town dated February 18, 1994, Exhibit "B"), referred to below as "Section", is not required for the "public convenience" and should be removed from the State Secondary System.

The Town believes the facts of this case are unique, clear and compelling. This Section of 30 feet x 52.8 feet can go to no place, structure, business or residence to which the public has the right to travel **WITHOUT THE CONSENT OR LICENSE OF THE ADJOINING PROPERTY OWNER**. The Inn at Little Washington, LLC owns all the property within the Town limits that can possibly be served by this Section. Please see Exhibit "C", the areas lined are owned by the Inn and the Section is identified. The consent of the Inn would be required for the public to access any business or residence.

The Town would wish to note that no one even knew this Section was in the State Secondary System until Mr. David L. Konick inquired this past spring. It was necessary for VDOT to search its records as no local person had any recollection of it being in the State Secondary System and the local records did not show it in the system. See letter from John A. Orr, P.E. at VDOT to David L. Konick, Exhibit "D". VDOT has never, to anyone's memory, undertaken any repairs, improvements or maintenance to this section of roadway.

It is said that this Section is necessary for PUBLIC access to the post office. The post office lease is up and is being re-negotiated. As part of that negotiation, access to the post office will be insured and is not in any way dependent on the existence of this Section within the State Secondary System. Conversely, even if this Section were in the State Secondary System and the property owner, the Inn, does not grant access over its property **TO THE POST OFFICE OR ANY OTHER STRUCTURE THAT COULD POSSIBLY BE SERVED BY THIS SECTION, THERE WOULD BE NO ACCESS BY THE PUBLIC. THIS 52.8 FOOT LONG**

Commonwealth Transportation Board
c/o The Hon. Alison DeTuncq
Culpeper District
Page 2

SECTION LITERALLY GOES NO WHERE. IT CAN NOT SERVE ANY PUBLIC CONVENIENCE AS IT DOES NOT, IN AND OF ITSELF, ACCESS ANYTHING.

Also please note, the Town has vacated portions of a stub street in the past without question or controversy.

Of note is the fact no public sidewalks adjoin this Section, nor is the Section wide enough to permit both a roadway and parking. Some have claimed to use it for parking, which not only is prohibited by posted signs on the private property, but also is not physically possible unless encroaching upon the adjoining private property, in violation of the posting.

The Town respectfully submits that access to the post office or any other facility or structure which could be served by this Section can only occur if access is granted by the private property owner, since this Section does not adjoin, touch upon or serve any structure and therefore is not necessary for "public convenience".

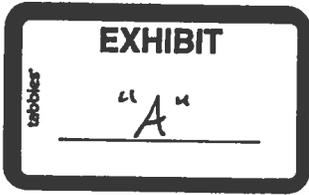
The Town having held two public hearings and adopted the Ordinance, attached as Exhibit "E" and specifically finding that "public convenience" is not served by this Section, the Town respectfully requests the Commonwealth Transportation Board to discontinue this 0.01 mile Section from the State Secondary System. This will permit significant enhancement to the Town, both visually and to its economic and tax base through the efforts of the Inn, now in progress, to substantially upgrade this entire area, including the existing post office and what has always been private access thereto.

Respectfully submitted,

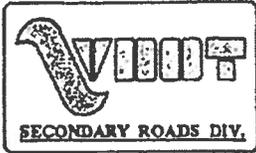


John C. Bennett
Town Attorney

JCB:fes
enclosures



Form SR-5 (Rev. 2/1/93)



Date: December 8, 1993

County: Rappahannock

Mag Distr: Hampton

Secondary Roads Div. Use Only
Route No: T-628
Effective Date: 2-18-94

Report/Recommendation for Change in Secondary System of State Highways

Type and Authority for This Proposed Change

- Project Addition (Sec. 33.1-229)
Discontinuance (Sec. 33.1-150)
Abandonment (Sec. 33.1-151)
Abandonment (Project relocation, Sec. 33.1-155)
New Subdivision Street (Sec. 33.1-229)
Rural Addition (Sec. 33.1-72.1)
Town Addition (Sec. 33.1-79 or Sec. 33.1-82)

Subdivision/Project No :
Street or Road Name : Middle Street Route 628 Length .01 (miles)
Terminal From: Intersection of Business 211
To: .01 North West of Intersection
Right of Way Width 30' Ft. Date Recorded: Deed Book Page See Attached
Public Service Provided: 3 (Number of occupied units of varied ownership / explanation of qualifying service)

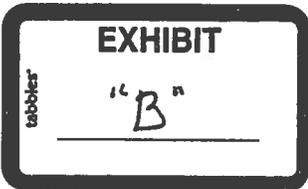
Description of present section & condition: Poor condition, Gravel and Dirt

Describe work proposed & resulting section: Improve traffic flow and drainage

Table with 2 columns: Description of funding source and Amount. Total Funding (must equal estimated cost of proposed improvement) \$ 5,000.00

Remarks:

Recommendation [] Accept [] Abandon [] Discontinue
R. E. Moore 12/5/93 Resident Engineer Date
James S. Givens 2-18-94 Secondary Roads Engineer Date
Approved: Ray D. Pethel 2-18-94 Commissioner Date



2nd HIST 10/25/94

February 18, 1994

Secondary System
Addition
Rappahannock County
Town of Washington

Dean F. Morehouse, Mayor
Town of Washington
P. O. Box 7
Washington, VA 22747-0007

COPY REVER

Dear Mayor Morehouse:

As requested in your Town Council's resolution dated November 10, 1993, the following addition to the Secondary System of Rappahannock County, within the Town of Washington, is hereby approved, effective February 18, 1994.

This will be charged to your 1993-94 mileage.

<u>ADDITION</u>	<u>LENGTH</u>
Route T-628 (Middle Street) - From Route 211/522 to 0.01 mile West Route 211/522	0.01 MI

Sincerely,

Ray D. Pethtel
Commissioner

MLL/ml1

- cy: Mr. J. S. Givens
- Mr. D. R. Askew
- Mr. R. E. Moore
- Mr. J. L. Butner
- Attn: Mr. B. L. Dunnavant
- Mr. G. A. Venable
- Mr. J. B. Robinson
- Ms. L. J. South
- Attn: Mrs. J. B. Hall
- Mr. G. A. Whirley, Sr.

CHECKED BY DP 5.10.95
 RECORDED

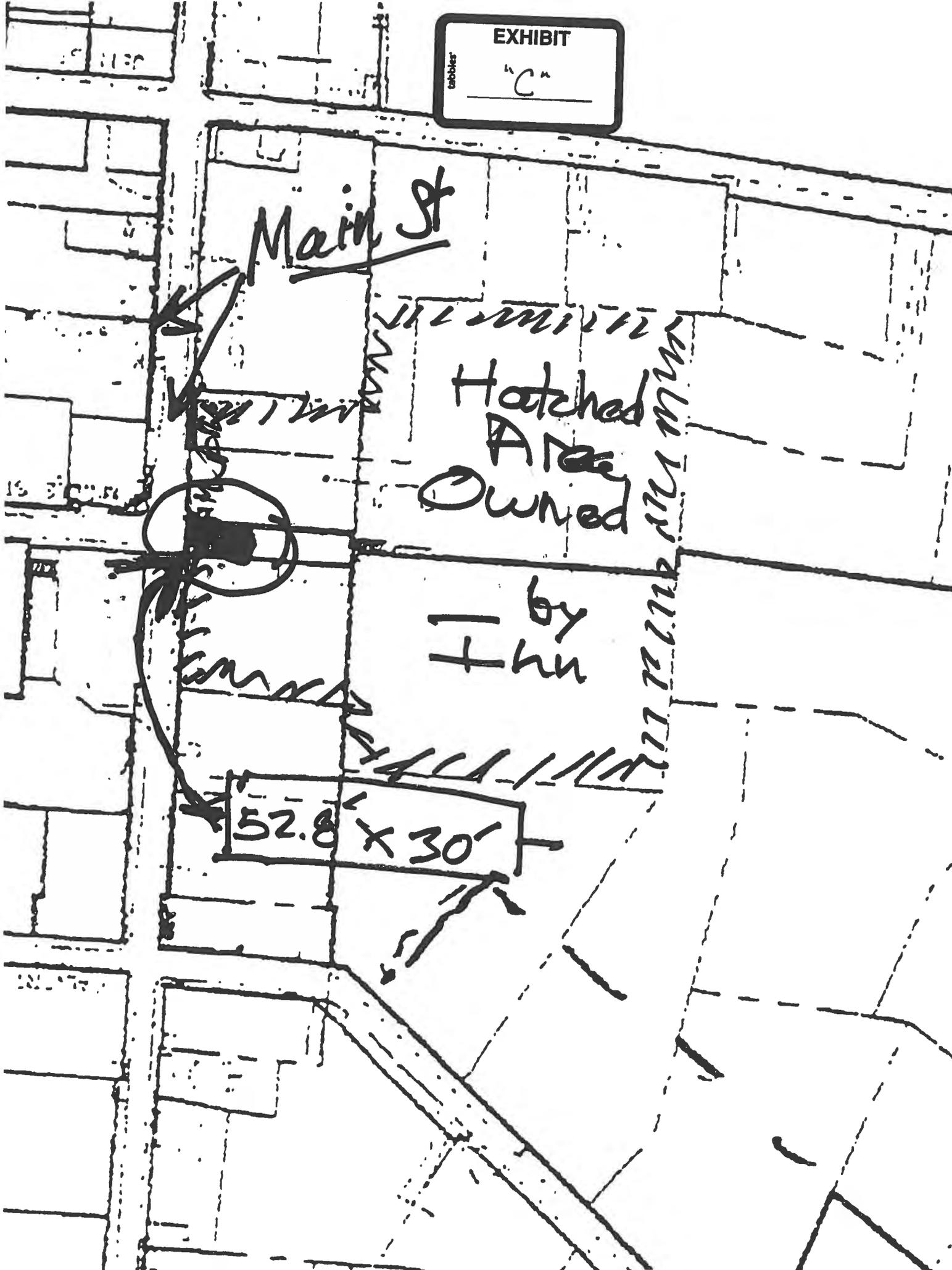
EXHIBIT
"C"

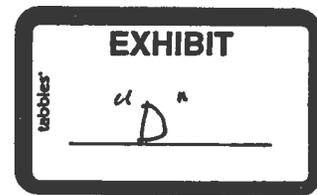
Main St

Hatched Area Owned

by
Fhu

52.8' x 30'





Date: March 17, 2015

To: David L. Konick, P.O. Box 57, Washington, Va.

cc: Marshall Barron, VDOT; Mark Nesbit, VDOT; Randy Norris, VDOT

Re: **Middle Street, Town of Washington** – Status of Middle Street in regards to VDOT acceptance as a Public Road

Mr. Konick,

After your receipt of copies of the requested communications on March 10, 2015, between VDOT and the Town of Washington regarding recent actions with Middle Street in the town, you requested the following: “What determination has been made as to whether or not Middle Street is or isn’t in the State system?”

As of March 10th, the maps here in our office were not clear, or rather were conflicting, about whether the subject stub street section was part of the public street system. The detailed map of the town, updated through 1993, did not show the short section of Middle Street as part of the system. Having no reason to believe otherwise, and considering the as-built condition and dimensions of the street, we accepted the detailed Town map as being the most accurate, that is, that the short section of Middle Street was not part of the public road system.

However, your inquiry of March 10th prompted us to ask our Central Office if they had further information on the subject. Attached is a .pdf file of their file search, conducted by Martin Law, in the Highway Systems Change Management Section of VDOT.

In summary, a short section of Middle Street was accepted into the State System in February 1994 with a length of 0.01 mile, which equates to approximately 53 linear feet, in a right of way 30 feet wide. As noted in the enclosed December 16, 1993, letter, a 40-foot wide right of way is the minimum acceptable width, but this 30-foot R/W was accepted due to the proximity of “historic buildings”. Also note from an undated, blue and red highlighted drawing in the enclosure that the 53-foot long, public-maintained road section is the first part of a 170-foot long parcel, established by previous recorded plat(s).

At this time we are not aware of any actions that have removed this section of street from the State system of maintenance of public streets, and we are communicating this information to the Town.

If there are any questions, please contact Martin Law in the VDOT Central Office at (804-786-0795) or Martin.Law@VDOT.Virginia.gov .

Sincerely,

John A. Orr, P.E.
Area Land Use Engineer
540-829-7603



AN ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET
OF THE TOWN OF WASHINGTON

THIS ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET OF THE TOWN OF WASHINGTON, the Town of Washington acting through its Town Council, herein referred to as "Town" and to be indexed as a "Grantor" for recording purposes, and The INN AT LITTLE WASHINGTON, L.L.C., herein referred to as "Inn" and to be indexed as a "Grantee" for recording purposes;

WHEREAS, the Inn did make application with the Town to vacate portions of Middle Street as public rights-of-way, as such areas are more fully described in a plat of survey by Clark Land Surveying, dated May 11, 2015, and attached hereto as Exhibit "A" and incorporated herein (the "Plat"); and

WHEREAS, in conformity with the provisions of Section 15.2-2006 of the 1950 Code of Virginia, as amended, a notice of public hearing specifying the time and place of such hearing was published in the Rappahannock News, a paper of general circulation within the Town, on April 23, 2015 and April 30, 2015 ; and

WHEREAS, such public hearing was conducted by a lawful quorum of the Town Council on the 11th day of May, 2015, and on motion duly made and seconded, this Ordinance was duly adopted by an affirmative roll call vote by the Town Council;

NOW, THEREFORE, BE IT ORDAINED, upon consideration of this matter, the Town, acting through its Town Council, finds the portions of the public rights-of-way of the street known as Middle Street as set forth on the Plat (the "Stub Street") serve only property now owned by the Inn, and no others, and therefore no longer serve a public purpose and are not required for the public convenience. The easements and matters reserved below do not relate in any way to its use as a public right-of-way; that no public interest is advanced by retaining the Stub Street as a public right-of-way; and that retaining the Stub Street and being required to maintain the same would be a burden upon the Town as no public access is now served or reasonably likely to be served in the future, except the side walk for pedestrian foot traffic, which is reserved below;

ACCORDINGLY, the Town of Washington in accordance with the provisions of and authority granted in Section 15.2-2006 doth hereby vacate to the adjoining property owners, namely, The Inn at Little Washington, L.L.C., Grantee,

FIRST: that portion of Middle Street shown on the Plat, briefly described as a 15 foot wide strip running northwest from its boundary with Main Street between parallel lines of approximately 170.64 feet to the northwest as is more fully and accurately shown and also described on said Plat, to be added to and become part of Tax Map 20A-1-37A; and SECOND: that portion of Middle Street shown on the Plat, briefly described as a 15 foot wide strip running northwest from its boundary with Main Street between parallel lines of approximately 169.01 feet to the northwest as is more fully and accurately shown and also described on said Plat, to be added to and become part of Tax Map 20A-1-18,

BUT UPON THE FOLLOWING EXPRESS RESERVATIONS:

1. The Town hereby reserves unto itself and its assigns, including, among others, any public service authority hereafter created, all existing utility easements, including, among others, the existing water line and main, and the existing sewer line and main, located below, but within the Stub Street area, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair.

2. The Town further reserves unto itself or its assigns, including, among others, any public service authority hereafter created, the right to grant utility easements above, on or below the property hereby vacated, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair, without the necessity for any consent or joinder of the Inn or its assigns or successors in title.

3. The Town further reserves unto itself or its assigns an easement within the area running parallel to Main Street and extending seven feet (7') back from the line of Main Street, together with the right to enter upon the areas immediately adjoining such easement during periods of actual construction, maintenance or repair, for the installation, maintenance, repair and replacement of side walks and associated uses and structures by the Town or its assigns together with pedestrian use of the area and any side walk or other feature installed therein. There is no obligation created hereby for the Town to construct or maintain any side walks within the easement area.

4. The portions of Middle Street hereby vacated shall become a part and parcel of Tax Map 20A-1-37A and 20A-1-18, respectively, and shall not be

separate lots for purposes of zoning and subdivision or any rights accruing in relation thereto.

5. The Inn by acceptance of this vacation hereby agrees for itself and its successors in title that should any parcel formerly served by this public right of way be conveyed to a person or persons or entity other than the Inn or its successor in title, then in that event the Inn covenants for itself and its successors in title that it shall grant the use of an area at least fifteen feet (15') wide for purposes of ingress/egress to such parcel, so as to allow convenient and usable access to Main Street, or in lieu thereof, to establish access from such parcel to another public street or public way in a fashion which may be hereafter approved by the Town Council of the Town of Washington. Such acceptance shall be in writing and given within 30 days of adoption of this Ordinance, in a form to be approved by the Town Attorney, otherwise, this Ordinance to have no effect and to be void without further action by the Town.

6. This Ordinance acts to confirm the vacation of the Stub Street as set forth in Resolution dated July 15, 2013; however, the provisions of this Ordinance shall supersede such Resolution.

Done this 11th day of May, 2015.

This Ordinance shall become effective upon approval as to form only of the acceptance by the Inn set forth in number 5 above.

Consideration for recording purposes: \$0.00

TOWN OF WASHINGTON, VIRGINIA

BY: 
Mayor

ATTEST:


Clerk

Motion: Aichele

Second: Schwartz

Voting aye: Sullivan, Schwartz, Goebel, Leggett and Aichele

Voting nay: Kuhn

Absent: none

Abstaining: none

DISQUALIFIED: O'Connell

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

The foregoing instrument was acknowledged before me this 3rd
day of June, 2015 by John Fox Sullivan, Mayor and Laura J. Dodd, Clerk of
the Town of Washington.

Candace W. Wrote

Notary Public

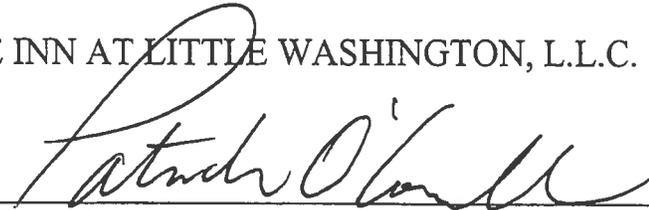
My commission expires: _____



THE PROVISIONS, COVENANTS AND CONDITIONS IN THE FOREGOING ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET OF THE TOWN OF WASHINGTON ADOPTED MAY 11, 2015 ARE HEREBY ACCEPTED BY THE INN AT LITTLE WASHINGTON, L.L.C. IN CONFORMITY WITH THE PROVISIONS OF SAID ORDINANCE.

This acceptance is executed on behalf of The Inn at Little Washington, L.L.C. by Patrick O'Connell, its managing member, this 3rd day of June, 2015, said official being duly authorized therefor.

THE INN AT LITTLE WASHINGTON, L.L.C.

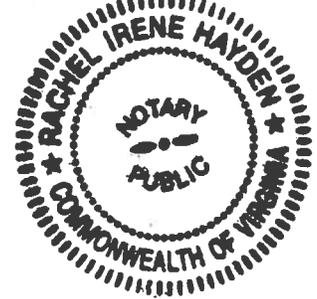
By: 
Patrick O'Connell, Managing Member

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

The foregoing instrument was acknowledged before me this 3rd day of June, 2015 by Patrick O'Connell, Managing Member of The Inn at Little Washington, L.L.C.


Notary Public #285209

My commission expires: March 31 2016



APPROVED AS TO FORM ONLY OF THE
ACCEPTANCE BY THE INN AT LITTLE
WASHINGTON, L.L.C.

DONE THIS 4th DAY OF June, 2015.

John C. Bennett

John C. Bennett, Town Attorney

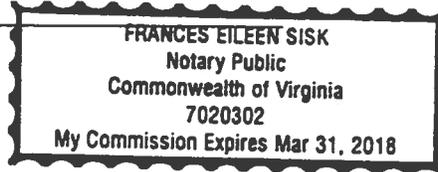
COMMONWEALTH OF VIRGINIA
COUNTY OF CULPEPER, to-wit:

The foregoing instrument was acknowledged before me this 4th day
of June, 2015 by John C. Bennett, Town Attorney.

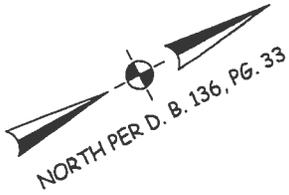
Frances Eileen Sisk

Notary Public

My commission expires:



PLAT SHOWING PROPOSED STREET VAC. ON
TOWN OF WASHINGTON ~ MIDDLE STREET EXTENSION
TOWN OF WASHINGTON, RAPPAHANNOCK COUNTY, VIRGINIA



INN AT LW, LLC
TM 20A-1-20
INST. # 07-155

N 29°39'17" E
15.00'

N 29°40'08" E
15.00'

PARCEL 1
0.0587 ACRES

SOUTHERN PORTION OF MIDDLE
STREET EXTENDED

INN AT LW, LLC
TM 20A-1-37A
INST. # 07-155



PARCEL 1
0.0586 ACRES

NORTHERN PORTION OF MIDDLE
STREET EXTENDED

INN AT LW, LLC
TM 20A-1-18
INST. # 07-155

N 61°09'16" W
170.64'

S 61°09'17" E
170.28'

S 61°09'18" E
169.91'

S 28°16'03" W
15.00'

S 28°16'03" W
15.00'

MAIN STREET

Approved by Town Council

APPROVED

ZONING ADMINISTRATOR
TOWN OF WASHINGTON

DATE 5-3-15

NOTES:

- MIDDLE STREET EXTENSION IS PURPORTED TO BE A PORTION OF THE TOWN OF WASHINGTON STREET SYSTEM PER INST. # 98-1880.
- THE BOUNDARY SHOWN HEREON IS A COMPOSITE OF A SURVEY PLAT FOUND IN INSTRUMENT NUMBER 13-836, PREPARED BY AARON MOUNTAIN SURVEYS, ROBERT L. BOYKIN, JR., L.S., DATED JULY 10, 2013 AND TITLED: PLAT SHOWING VACATION OF A PORTION OF PRESENT/FORMER PUBLIC STREET-TOWN OF WASHINGTON, VA.
- NO FIELD WORK PERFORMED BY THIS FIRM.
- UPON VACATION BY THE GOVERNING BODY, PARCEL 1 WILL REVERT TO THE ADJOINING PARCEL OF THE INN AT LW, LLC, TAX MAP PARCEL 20A-1-37A AND PARCEL 2 WILL REVERT TO THE ADJOINING PARCEL OF THE INN AT LW, LLC, TAX MAP PARCEL 20A-1-18.

PROJ. NO.: 15-029

DATE: MAY 11, 2015

SHEET 1 OF 1

REV 1:

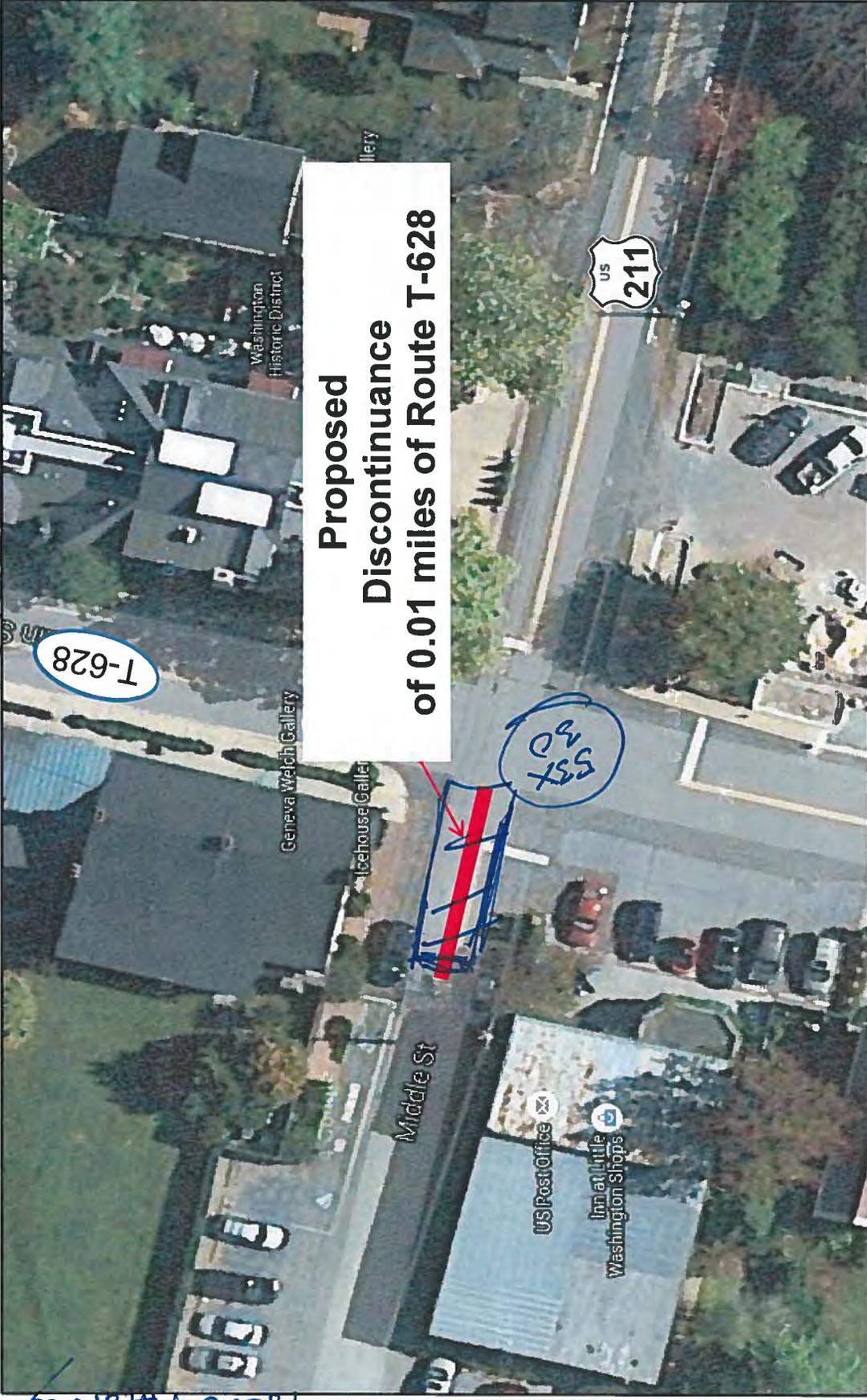
REV 2:

REV 3:

REV 4:

SCALE: 1" = 30'

CLARK LAND SURVEYING
LAND PLANNERS AND SURVEYORS P.C.
P.O. BOX 478; FLINT HILL, VA 22627
(540)635-2328



*File X - John Berner
Town Attorney*



Town of Washington,
Rappahannock County



From: [Marian](#)
To: [Info, CulpeperInfo \(VDOT\)](#)
Subject: Comments for Oct 8 Hearing
Date: Tuesday, October 06, 2015 1:54:46 PM

To Whom It May Concern:

My name is Marian Bragg and I live in Washington, VA. I use the US Post Office there on the corner of Middle and Main Streets. I drive only big trucks and as it is, I have a lot of trouble finding anywhere to park my truck while doing business at the Post Office.

Several months ago, I signed a petition requesting the Town Council of Washington, VA study the public impact of removing this stub street from the responsibility of the state highway system. I was present at the Town Council meeting when the petition was presented to the Town Council and witnessed the Town Council summarily dismiss that petition as unworthy of further attention. To my knowledge, no study has been performed.

I can tell you that in my opinion, there would be a huge public inconvenience by removing this stub street from the state highway system. But that is my opinion. Honestly, how can anyone say with any certainty that there is no impact on the public if it hasn't been measured?

I have to be suspicious of any reasons not to measure the impact – what is the Town Council afraid of discovering? That everyone using the Post Office also uses that stub street? Or is the Town Council as a whole simply afraid of displeasing its most powerful and influential member, the owner of the Inn?

Unfortunately, the Inn has already begun the effort of subsuming that property into its substantial Town real estate portfolio, erecting planter pots where people formerly parked, and has since made every effort to make the still public road appear to be private property. The results of any study performed now would be skewed.

I'd like to go on record as being against the Town's request to remove this portion of Middle Street from the state highway system. Please don't discard my opinion as did the Town Council.

Thank You.

Marian Bragg

George Hackney Eatman

"Rabbit Gum"

P.O. Box 203

Washington, VA 22747

540-675-3751

September 26, 2015

VDOT Warrenton Residency Administrator
Commonwealth of Virginia
Department of Transportation

Subject : Public Meeting on Middle Street Stub

Dear ~~sir~~:

I am a resident of Washington, VA, and while I cannot attend the October 8 hearing as I will be in North Carolina, I would like to voice my strong support for the mayor and town council in vacating the Middle Street stub. This will benefit both residents and visitors to Washington, VA providing a pedestrian-friendly area that will be well-maintained. Maintenance discontinuance should be approved by VDOT and I do urge.
Thank you.

Very truly yours,
George H. Eatman



DAVID G. FISKE, ESQ.
dfiske@fiskelawgroup.com
703-518-9910

August 24, 2015

Charles A. Kilpatrick, P.E.
Vice-Chairman, Department of Transportation
Charlie.kilpatrick@vdot.virginia.gov

Brack Dunn
Brack.dunn@vdot.virginia.gov

John D. Lynch, P.E.
District Administrator, Culpeper District
John.lynch@vdot.virginia.gov

D. Mark Nesbit
Residency Administrator, Warrenton Office
Daniel.nesbit@vdot.virginia.gov

Re: Middle Street Stub
Town of Washington, Virginia

Gentlemen,

We represent The Inn at Little Washington (“The Inn”) and its Managing Member, Patrick O’Connell. The Inn is the owner of the so-called “stub” portion of Middle Street (the “stub”) by virtue of the vacation of that stub by the Town of Washington (the “Town”). See Ordinance attached hereto as Exhibit 1. A 50-foot portion of Middle Street had been included in the state highway system for maintenance. Because the Town no longer owns the stub, state maintenance is no longer needed or appropriate. Accordingly, the Town filed the proper documents to have such maintenance discontinued. We understood the request had been scheduled on the September Docket of the Commonwealth Transportation Board.

Recently, we learned that the Transportation Board has cancelled the hearing and, instead, VDOT has decided to hold a hearing on the stub. There is no authority for VDOT to intervene in the Town’s affairs and hold such a hearing. The Inn is troubled by VDOT’s attempt to impede the Town’s authority.

It is our understanding that this course has been taken to placate David Konick and his disciples, who have been inundating VDOT with a barrage of complaints. Although VDOT has failed to advise us of the precise allegations being leveled against The Inn and the Town, we have a reasonable idea of the motives driving Mr. Konick’s most recent attempt to obstruct The Inn’s ability to improve the stub street.

This is Mr. Konick’s third bid to undermine the Town’s vacation of the stub. He initiated two separate suits in the Circuit Court of Rappahannock County

demanding the Court void the vacation of the stub street. Both suits have been dismissed and Mr. Konick has been sanctioned twice by the same Court for improperly recording *lis pendens* against the property.

Mr. Konick's recent activities are par for the course. He harbors a long-standing hatred of homosexuals and vehemently resents their presence in Rappahannock County. Mr. Konick has made no secret of his opinions, declaring them publicly. See, e.g., dlkonick@earthlink.net, [RappNet] LOC: REPENT BEFORE IT IS TOO LATE, June 30, 2014, 17:59:17 EDT and email from David L. Konick to Richard Thiel, *et al.*, (Nov. 2, 2013, 09:35:31 PM EDT) attached hereto as Exhibits 2 and 3.

Mr. Konick's animosity knows no bounds. He approached both the Commonwealth's Attorney and the Attorney General's office in an attempt to have Mr. O'Connell arrested. See Affidavit of John Sullivan, attached hereto as Exhibit 4. Indeed, Mr. Konick instituted his second lawsuit in this matter when he became frustrated that the Commonwealth's Attorney was not moving fast enough to arrest Mr. O'Connell. Equally shocking, Mr. Konick attempted to demand money from the Town, threatening to continue with his nonsense unless money was paid to him via a third-party, so that the funds could not be traced back to him. See Affidavit of John Bennett, attached hereto as Exhibit 5.

Now, VDOT is allowing itself to be manipulated and drawn into Mr. Konick's scheme. There is no authority for VDOT to hold a hearing or to question the Town's decision-making, and no valid reason to interfere in The Inn's affairs and property rights.

For these reasons, we request that any scheduled hearing be cancelled and the matter be placed back on the September Docket of the Commonwealth Transportation Board. Alternatively, we would be amenable to meeting with you to discuss the issue. Such a meeting would need to occur within the next several days.

Sincerely,



David G. Fiske
*Counsel for The Inn at Little Washington and
Patrick J. O'Connell*

DGF/mb

cc: John Bennett, Esq.,
Town Attorney, Town of Washington, VA

Instrument Correlation Number

[Empty box for Instrument Correlation Number]

Commonwealth of Virginia
Land Record Instruments
Cover Sheet - Form A

[ILS VLR Cover Sheet Agent 1.0.66]

T
A
X

E
X
E
M
P
T

C
O
R
P

Date of Instrument: [6/2/2015]

Instrument Type: [AG-PL]

Number of Parcels [1]

Number of Pages [7]

City County [Rappahannock County] (Box for Deed Stamp Only)

First and Second Grantors

Last Name	First Name	Middle Name or Initial	Suffix
[TOWN OF WASHING]	[]	[]	[]
[]	[]	[]	[]

First and Second Grantees

Last Name	First Name	Middle Name or Initial	Suffix
[INN AT LITTLE WASHI]	[]	[]	[]
[]	[]	[]	[]

Grantee Address (Name) [INN AT LITTLE WASHINGTON, L.L.C.]

(Address 1) [MIDDLE and MAIN STREETS]

(Address 2) []

(City, State, Zip) [WASHINGTON] [VA] [22747]

Consideration [0.00] Existing Debt [0.00] Assumption Balance [0.00]

Prior Instr. Recorded at: City County [] Percent. in this Juris. [100]

Book [] Page [] Instr. No []

Parcel Identification No (PIN) [20A-1-37A and 20A-1-18]

Tax Map Num. (If different than PIN) [20A-1-37A and 20A-1-18]

Short Property Description [0.0587 AC. PARCEL 1]

[0.0586 AC. PARCEL 2]

Current Property Address (Address 1) [MIDDLE and MAIN STREETS]

(Address 2) []

(City, State, Zip) [WASHINGTON] [VA] [22747]

Instrument Prepared by [JOHN C. BENNETT]

Recording Paid for by [JOHN C. BENNETT]

Return Recording to (Name) [JOHN C. BENNETT]

(Address 1) [306 N. WEST ST.]

(Address 2) []

(City, State, Zip) [CULPEPER] [VA] [22701]

Customer Case ID [] []



EXHIBIT

1

8-24-2015 letter

AN ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET
OF THE TOWN OF WASHINGTON

THIS ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET OF THE TOWN OF WASHINGTON, the Town of Washington acting through its Town Council, herein referred to as “Town” and to be indexed as a “Grantor” for recording purposes, and The INN AT LITTLE WASHINGTON, L.L.C., herein referred to as “Inn” and to be indexed as a “Grantee” for recording purposes;

WHEREAS, the Inn did make application with the Town to vacate portions of Middle Street as public rights-of-way, as such areas are more fully described in a plat of survey by Clark Land Surveying, dated May 11, 2015, and attached hereto as Exhibit “A” and incorporated herein (the “Plat”); and

WHEREAS, in conformity with the provisions of Section 15.2-2006 of the 1950 Code of Virginia, as amended, a notice of public hearing specifying the time and place of such hearing was published in the Rappahannock News, a paper of general circulation within the Town, on April 23, 2015 and April 30, 2015 ; and

WHEREAS, such public hearing was conducted by a lawful quorum of the Town Council on the 11th day of May, 2015, and on motion duly made and seconded, this Ordinance was duly adopted by an affirmative roll call vote by the Town Council;

NOW, THEREFORE, BE IT ORDAINED, upon consideration of this matter, the Town, acting through its Town Council, finds the portions of the public rights-of-way of the street known as Middle Street as set forth on the Plat (the “Stub Street”) serve only property now owned by the Inn, and no others, and therefore no longer serve a public purpose and are not required for the public convenience. The easements and matters reserved below do not relate in any way to its use as a public right-of-way; that no public interest is advanced by retaining the Stub Street as a public right-of-way; and that retaining the Stub Street and being required to maintain the same would be a burden upon the Town as no public access is now served or reasonably likely to be served in the future, except the side walk for pedestrian foot traffic, which is reserved below;

ACCORDINGLY, the Town of Washington in accordance with the provisions of and authority granted in Section 15.2-2006 doth hereby vacate to the adjoining property owners, namely, The Inn at Little Washington, L.L.C., Grantee,

FIRST: that portion of Middle Street shown on the Plat, briefly described as a 15 foot wide strip running northwest from its boundary with Main Street between parallel lines of approximately 170.64 feet to the northwest as is more fully and accurately shown and also described on said Plat, to be added to and become part of Tax Map 20A-1-37A; and SECOND: that portion of Middle Street shown on the Plat, briefly described as a 15 foot wide strip running northwest from its boundary with Main Street between parallel lines of approximately 169.01 feet to the northwest as is more fully and accurately shown and also described on said Plat, to be added to and become part of Tax Map 20A-1-18,

BUT UPON THE FOLLOWING EXPRESS RESERVATIONS:

1. The Town hereby reserves unto itself and its assigns, including, among others, any public service authority hereafter created, all existing utility easements, including, among others, the existing water line and main, and the existing sewer line and main, located below, but within the Stub Street area, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair.

2. The Town further reserves unto itself or its assigns, including, among others, any public service authority hereafter created, the right to grant utility easements above, on or below the property hereby vacated, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair, without the necessity for any consent or joinder of the Inn or its assigns or successors in title.

3. The Town further reserves unto itself or its assigns an easement within the area running parallel to Main Street and extending seven feet (7') back from the line of Main Street, together with the right to enter upon the areas immediately adjoining such easement during periods of actual construction, maintenance or repair, for the installation, maintenance, repair and replacement of side walks and associated uses and structures by the Town or its assigns together with pedestrian use of the area and any side walk or other feature installed therein. There is no obligation created hereby for the Town to construct or maintain any side walks within the easement area.

4. The portions of Middle Street hereby vacated shall become a part and parcel of Tax Map 20A-1-37A and 20A-1-18, respectively, and shall not be

separate lots for purposes of zoning and subdivision or any rights accruing in relation thereto.

5. The Inn by acceptance of this vacation hereby agrees for itself and its successors in title that should any parcel formerly served by this public right of way be conveyed to a person or persons or entity other than the Inn or its successor in title, then in that event the Inn covenants for itself and its successors in title that it shall grant the use of an area at least fifteen feet (15') wide for purposes of ingress/egress to such parcel, so as to allow convenient and usable access to Main Street, or in lieu thereof, to establish access from such parcel to another public street or public way in a fashion which may be hereafter approved by the Town Council of the Town of Washington. Such acceptance shall be in writing and given within 30 days of adoption of this Ordinance, in a form to be approved by the Town Attorney, otherwise, this Ordinance to have no effect and to be void without further action by the Town.

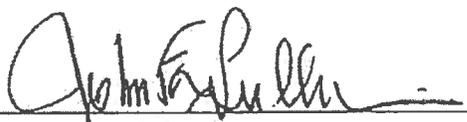
6. This Ordinance acts to confirm the vacation of the Stub Street as set forth in Resolution dated July 15, 2013; however, the provisions of this Ordinance shall supersede such Resolution.

Done this 11th day of May, 2015.

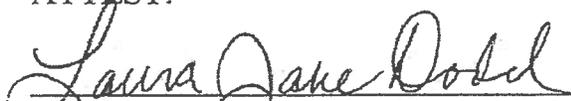
This Ordinance shall become effective upon approval as to form only of the acceptance by the Inn set forth in number 5 above.

Consideration for recording purposes: \$0.00

TOWN OF WASHINGTON, VIRGINIA

BY: 
Mayor

ATTEST:


Clerk

Motion: Aichele

Second: Schwartz

Voting aye: Sullivan, Schwartz, Goebel, Leggett and Aichele

Voting nay: Kuhn

Absent: none

Abstaining: none

DISQUALIFIED: O'Connell

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

The foregoing instrument was acknowledged before me this 3rd
day of June, 2015 by John Fox Sullivan, Mayor and Laura J. Dodd, Clerk of
the Town of Washington.

Candace W Wroth

Notary Public

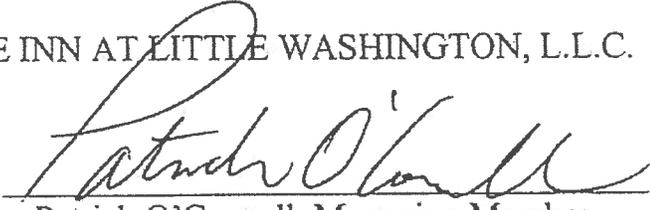
My commission expires: _____



THE PROVISIONS, COVENANTS AND CONDITIONS IN THE FOREGOING ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET OF THE TOWN OF WASHINGTON ADOPTED MAY 11, 2015 ARE HEREBY ACCEPTED BY THE INN AT LITTLE WASHINGTON, L.L.C. IN CONFORMITY WITH THE PROVISIONS OF SAID ORDINANCE.

This acceptance is executed on behalf of The Inn at Little Washington, L.L.C. by Patrick O'Connell, its managing member, this 3rd day of June, 2015, said official being duly authorized therefor.

THE INN AT LITTLE WASHINGTON, L.L.C.

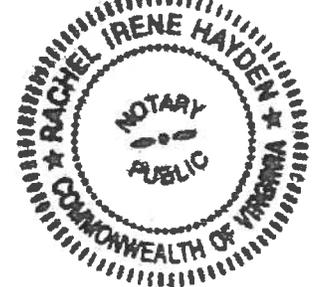
By: 
Patrick O'Connell, Managing Member

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

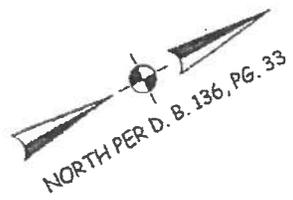
The foregoing instrument was acknowledged before me this 3rd day of June, 2015 by Patrick O'Connell, Managing Member of The Inn at Little Washington, L.L.C.


Notary Public #285209

My commission expires: March 31 2016



PLAT SHOWING PROPOSED STREET VACATION
TOWN OF WASHINGTON ~ MIDDLE STREET EXTENSION
TOWN OF WASHINGTON, RAPPAHANNOCK COUNTY, VIRGINIA



INN AT LW, LLC
TM 20A-1-20
INST. # 07-155

N 29°39'17" E
15.00'

N 29°40'08" E
15.00'

PARCEL 1
0.0587 ACRES

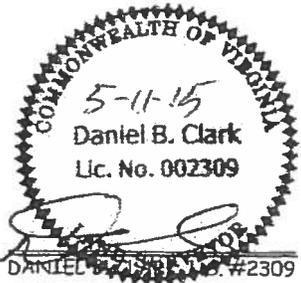
SOUTHERN PORTION OF MIDDLE
STREET EXTENDED

INN AT LW, LLC
TM 20A-1-37A
INST. # 07-155

PARCEL 1
0.0586 ACRES

NORTHERN PORTION OF MIDDLE
STREET EXTENDED

INN AT LW, LLC
TM 20A-1-18
INST. # 07-155



N 61°09'16" W
170.64'

S 61°09'17" E
170.28'

S 61°09'18" E
169.91'

S 28°16'03" W
15.00'

S 28°16'03" W
15.00'

MAIN STREET

Approved by Town Council
APPROVED
ZONING ADMINISTRATOR
TOWN OF WASHINGTON
DATE *6-3-15*
[Signature]

NOTES:

- MIDDLE STREET EXTENSION IS PURPORTED TO BE A PORTION OF THE TOWN OF WASHINGTON STREET SYSTEM PER INST. # 98-1880.
- THE BOUNDARY SHOWN HEREON IS A COMPOSITE OF A SURVEY PLAT FOUND IN INSTRUMENT NUMBER 13-836, PREPARED BY AARON MOUNTAIN SURVEYS, ROBERT L. BOYKIN, JR., L.S., DATED JULY 10, 2013 AND TITLED: PLAT SHOWING VACATION OF A PORTION OF PRESENT/FORMER PUBLIC STREET-TOWN OF WASHINGTON, VA.
- NO FIELD WORK PERFORMED BY THIS FIRM.
- UPON VACATION BY THE GOVERNING BODY, PARCEL 1 WILL REVERT TO THE ADJOINING PARCEL OF THE INN AT LW, LLC, TAX MAP PARCEL 20A-1-37A AND PARCEL 2 WILL REVERT TO THE ADJOINING PARCEL OF THE INN AT LW, LLC, TAX MAP PARCEL 20A-1-18.

PROJ. NO.: 15-029
SHEET 1 OF 1
SCALE: 1" = 30'

DATE: MAY 11, 2015
REV 1:
REV 2:
REV 3:
REV 4:

CLARK LAND SURVEYING
LAND PLANNERS AND SURVEYORS P.C.
P.O. BOX 478; FLINT HILL, VA 22627
(540)635-2328

APPROVED AS TO FORM ONLY OF THE
ACCEPTANCE BY THE INN AT LITTLE
WASHINGTON, L.L.C.

DONE THIS 4th DAY OF June, 2015.

John C. Bennett

John C. Bennett, Town Attorney

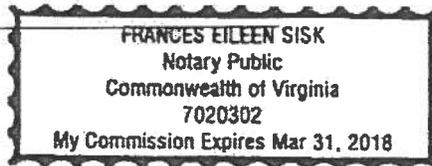
COMMONWEALTH OF VIRGINIA
COUNTY OF CULPEPER, to-wit:

The foregoing instrument was acknowledged before me this 4th day
of June, 2015 by John C. Bennett, Town Attorney.

Frances Eileen Sisk

Notary Public

My commission expires:



[Rappnet] LOC: REPENT BEFORE IT IS TOO LATE.

[dlkonick at earthlink.net](mailto:dlkonick@earthlink.net) [dlkonick at earthlink.net](mailto:dlkonick@earthlink.net)

Mon Jun 30 17:59:17 EDT 2014

- Previous message: [\[Rappnet\] LOC: REPENT BEFORE IT IS TOO LATE.](#)
- Next message: [\[Rappnet\] LOC: REPENT BEFORE IT IS TOO LATE.](#)
- **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)

Hey Venerable Professor Mike,

I was only pointing out the complete and utter hypocrisy of your Church (and/or local

Parish) that has its origin in Henry the VIII who just found something "inconvenient" (the

Pope wouldn't bless his proposed divorce/annulment as I seem to recall) and so he just

broke off from the Roman Catholic Church and started the Anglican Church. Then he

had to have St. Thomas Moore killed to show everyone he was serious and not as big of

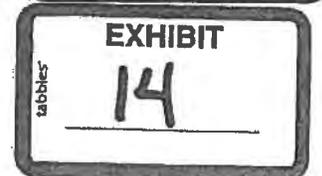
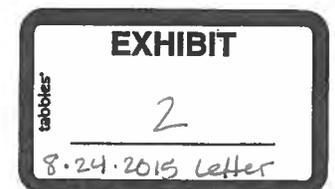
a hypocrite as you are. So I guess you are just following your ecumenical tradition of not

letting principles or the Gospel get in the way of whatever it is you all want to do at the moment.

So I repeat, who in the hell do you think you are kidding with this crap? You and your

pastor, priest, minister, whatever -- are totally full of it. Luckily we have LustDad so you are

not the biggest bull\$#it artist on Wrap-Nutz.



Say, Mike, why didn't they invite a Rabbi to the "Forum"? I'll tell you why -- because any Rabbi

worth two shekels would have said, "Tanks, but no tanks! All I could do is get in trouble -- Oy veh!"

But then again, Rabbi's don't bless hounds trained to run down and rip little innocent foxes to shreds

either. Even Reform Rabbis won't do that! Ask Franklin and Esther!

Well, who knows - maybe there is something in that Parking Lot Agreement that requires your local

spiritual leader to prostrate himself before whores, Sodomites and dogs. You should have spent a few extra

dollars on a decent lawyer before the Vestry (of which you were a part back then, yes?) blessed any

agreement with any kind of condition like that in there.

Again -- WHO DO YOU THINK YOU ARE KIDDING? So far, not one Wrap-Nut has bought your

schtick. So save it for some other even bigger brain dead collection of nitwits. Your comments on

Moses the Lawgiver are beneath contempt.

Regards, Dave

p.s. A point of clarification. The Good Book says what it says. I didn't write it.

Your Lord and Saviour was "one of our boys." He agreed with both Leviticus and

Deuteronomy and so sayeth the Gospel, as I know and understand it.

I'm not saying everyone MUST believe in it, or adhere to its teachings or even any of them.

That is their own personal decision and right. Everyone can believe what they want to believe!

That's the primary tenant of "Freedom of Religion" as guaranteed by the First Amendment. And

it includes the right to believe nothing, or be an atheist. So save that condescending "Kansas" crap

for some ignorant jerk to whom it properly pertains.

All I am (was) saying is that anyone who professes to be a Hebrew or a Disciple of J.C. and

rejects those quoted teachings (nevermind Mohamed, who taught his lovely followers to kill

anyone who violated these precepts) is nothing but a hypocrite, period. So to each his own!

Do me a favor -- don't cram your "enlightened" views down my throat (literally or figuratively)

and I will gladly show you or anyone else the same respect. Each individual is responsible

to accept the possible consequences of their own actions. It is not for me (or you) to

judge. Like it says "Judge not, lest ye be judged!" All I was pointing out is that to the

best of my knowledge, all what I quoted from Scripture is still in the King James Bible

and not limited or disclaimed in some "Footnotes for fudgepackers."

And speaking of which, the other thing I want to note is Ben Jones' remark about "excrement"

getting on people as a result of this disgraceful "behind the scenes" deal and the ensuing debate.

Whew, that sounds nasty, doesn't it? Excrement getting on people! Yuck! Well what about people

who are dedicated to the proposition that nevermind the Holy Scriptures' prohibition, they stick their

schmeckels in each other's butts and afterwards into each other's mouths? I can't tell which are the

more brain dead morons -- the ones who engage in such conduct, the ones (like apparently you

and your Pastor) who look the other way or condone it, or the ones who make such perverted

deviants the "G-DFATHER" of their male child. "Uncle" (or even "Aunt") I could understand --

but "G-D-FATHER" -- that is really just too much!

And publicly to brag about it on top of that? Oyl That takes some real "chutzpah"!

Or ignorant stupidity!

You have to be a very sick and misguided puppy to do a thing like that, so everyone please pray

for that poor misguided slut who walks amongst us! And yet, that is the kind of sick, perverted filth

that is being invited into Rappahannock County and by some even welcomed. They will be the

ones that buy the Condos from the low \$800,000's that are coming to Main Street.

To such deviants I say, please don't come to Rappahannock County! Go to Hell where the

Holy Scriptures say you belong! And don't let the screen door hit you in the a\$\$ on the way back.

DLKster

-----Original Message-----

From:

Sent: Jun 30, 2014 12:29 PM

To: Rappnet group

Subject: Re: [Rappnet] LOC: REPENT BEFORE IT IS TOO LATE.

On Sun, Jun 29, 2014 at 8:17 PM, dlkonick@earthlink.net (mailto:dlkonick@earthlink.net) > wrote:

It says what it says -- not the words of DLKster, but of the Big Guy upstairs.

From: "David L. Konick" <dlkonick@earthlink.net>
Subject: Life, Liberty, Justice, and Privacy LOC:
Date: November 2, 2013 9:35:31 PM EDT
To: "Richard Thiel" <rjthiel@gmail.com>, "Jay and Kevin" <jay.with.kevin@gmail.com>

Hey "Jay.with.Kevin@ gmail.com" -- Is that just too cute or what? I hope I don't wet my little panties.

I second what Rich has said: your vile attack on Demaris Miller was inappropriate! I would only add to Rich's observations these passages from *Leviticus*, Chapter 18, verses 22 through 28:

22 Thou shalt not lie with mankind, as with womankind; it is abomination.

23 And thou shalt not lie with any beast to defile thyself therewith; neither shall any woman stand before a beast, to lie down thereto; it is perversion.

24 Defile not ye yourselves in any of these things; for in all these the nations are defiled, which I cast out from before you.

25 And the land was defiled, therefore I did visit the iniquity thereof upon it, and the land vomited out her inhabitants.

26 Ye therefore shall keep My statutes and Mine ordinances, and shall not do any of these abominations; neither the home-born, nor the stranger that sojourneth among you --

27 for all these abominations have the men of the land done, that were before you, and the land is defiled--

28 that the land vomit not you out also, when ye defile it, as it vomited out the nation that was before you.



The Bible doesn't speak of trans-vaginal whatever it was you mentioned in your obnoxious post. I don't know why you two gay boys give a good G-d damn about them, unless one of you is planning to have a sex-change operation or already has had one. I don't know that either, and don't want to know about that.

It seems to me that we have a lot more important issues in the Commonwealth and the Nation than worrying about your sissy-ass LGBT agenda crap. Do us all a favor and go sojourneth somewhere else before the land vomits us out as the Bible teaches it shall even for *tolerating* perverse kind of abominable filth like the two of you among us. In other words, as they say in Russia, poshol na xui!

... AND WHY IS THIS ON LOCAL? Where are Beth Georgie-Girl and the usual Wrap-Nut Jello-Sheriffs?

DLKster

AFFIDAVIT OF JOHN SULLIVAN

1. I, John Sullivan, am a resident of The Town of Washington, Virginia ("the Town"). I am over 18 years of age. I am competent to testify to the matters below.
2. I am the Mayor of the Town, which is located in Rappahannock County.
3. On Sunday, March 15, 2015, I had a conversation with Chris Parrish, member of the Rappahannock County Board of Supervisors. Mr. Parrish told me that David Konick had stated to him that he (Konick) was going to have the State Police arrest Mr. O'Connell the following day, or words to that effect. I went to see Mr. O'Connell that evening and informed him of the conversation.



JOHN SULLIVAN

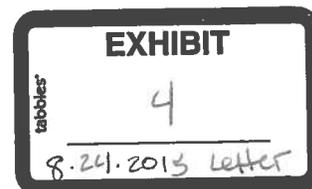
COMMONWEALTH OF VIRGINIA:

CITY/COUNTY OF Rappahannock, to-wit:

On this 19th day of June, 2015, the person known or proven to me to be, John Sullivan, appeared before me, the undersigned notary public in and for the jurisdiction aforesaid, and after being duly sworn, stated that the statement contained in his above Affidavit are true to the best of his knowledge.



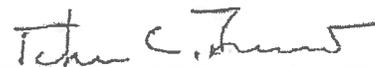
Laura Jane Dodd
Notary Public
Printed Name: Laura Jane Dodd
My Commission Expires: 6/31/2016
Notary Certification Number: 7209615



COMMONWEALTH OF VIRGINIA
COUNTY OF CULPEPER, to-wit:

AFFIDAVIT OF JOHN C. BENNETT

1. I, John C. Bennett, am a resident of Culpeper, Virginia. I am over 18 years of age. I am competent to testify to the matters below.
2. I am the town attorney for the Town of Washington, Virginia ("the Town") in Rappahannock County.
3. On or about March 20, 2015, David L. Konick ("Konick") filed a Complaint against the Town, Patrick O'Connell ("O'Connell"), and The Inn at LW, LLC ("The Inn"). Konick filed a second lawsuit sometime later against O'Connell and The Inn. The lawsuit against the Town did not seek monetary relief.
4. Following the filing of these lawsuits, I had discussions with Konick. In one, on or about April 9, 2015, he indicated to me that he would only withdraw his Complaint if the Town would "pay me some money" and that any payment to him could be through a third party, such that the payment of funds to him (Konick) would not need to be disclosed as paid directly to him.
5. Konick also told me that unless the Town acceded to his "settlement proposal", he would continue to file additional suits against the parties involved and appeal to the Supreme Court all adverse decisions, such that the Town could not stand the money and energy involved in continuous litigation.



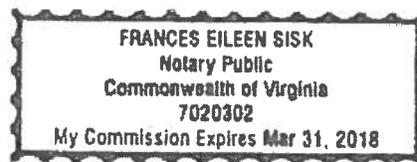
JOHN C. BENNETT

EXHIBIT
tabbles
5
8.24.2015 letter

EXHIBIT
tabbles
4

On this 24th day of June, 2015, the person known or proven to me to be, John C. Bennett, appeared before me, the undersigned notary public in and for the jurisdiction aforesaid, and after being duly sworn, stated that the statements contained in his above Affidavit are true to the best of his knowledge and belief.

Frances Eileen Sisk
Notary Public
Printed Name: Frances Eileen Sisk
My Commission Expires: 3/31/18
Notary Certification Number: 7020302



From: onecooter@aol.com
To: [Info, CulpeperInfo \(VDOT\)](#); onecooter@aol.com
Subject: For the attention of Mr. Mark Nesbit
Date: Tuesday, October 06, 2015 10:07:28 PM

Mr. Mark Nesbit
VDOT Warrenton Residency Administrator
457 East Shirley Ave.
Warrenton, VA 20186

Dear Mr. Nesbit,

My name is Ben Jones and I am a resident of Rappahannock County. I wish to register my strong opposition to the privatizing of a portion of Middle Street in the Town of Washington to The Inn at Little Washington, LLC.

As a former member of the United States House of Representatives, I have a special awareness of the responsibility of elected officials "to avoid even the appearance of impropriety." In this case, a look at the results of a FOIA request regarding this project and a knowledge of the Conflicts of Interest statutes in Commonwealth law have raised serious questions as to the legality of this transaction. The recipient of this street is the town's largest landowner and a long-time member of the Town Council. In my personal opinion, this very idea is in conflict with ethical public business.

To my knowledge, there has been no VDOT traffic count on this street, and the Town and the Inn have insisted that the "stub street" is little used. Nothing could be further from the truth. Because of the presence of the Washington Post Office and several other businesses in that area, that short street may be the busiest in the village. I have used it several times a week for over 17 years, or a rough sum total of 2000 uses. Multiply this by perhaps hundreds of other daily visits and you can get a clearer evaluation of its public value. It has been a busy public street since before the American Revolution, and it should remain one.

Thank you for your attention to this most serious matter.

Yours truly,
Ben L. Jones
507 Harris Hollow Rd.
Washington, VA 22747

DAVID L. KONICK

Attorney at Law

P.O. Box 57

Washington, Virginia 22747-0057

Telephone and Facsimile (540) 937-5067

internet: dlkonick@earthlink.net

October 8, 2015

VIA ELECTRONIC MAIL AND FACSIMILE (540) 347-6457

Commonwealth Transportation Board
c/o Mr. D. Mark Nesbit
Warrenton Residency Administrator
Virginia Department of Transportation
457 East Shirley Avenue
Warrenton, Virginia 20186

Re: Middle Street, Town of Washington (Rt. 628)
Proposed Discontinuance from Maintenance

Dear Ms. DeTuncq and Members of the Board,

I want to commend the Board, Mr. Lynch and Mr. Nesbit for their decision to hold a public hearing on this important issue, especially in the face of rather vociferous opposition from the Town of Washington and the private interest that claims ownership of Middle Street. I also wish to express my appreciation to those who have steadfastly endeavored to keep the focus on the merits of the issues regarding the street that are properly before you, and not to allow the consideration of the applicable standards to be confused by personal attacks on members of the public, myself included, who requested a hearing or by baseless allegations about their motives for doing so, all of which are categorically denied and will not be dignified with any response in this forum.

Since 1977, I have lived and worked in the Town of Washington, which as you know is the County Seat of Rappahannock County. For many years, I had a law office there. I am still an officer of the Circuit Court there, a member of the Board of Zoning Appeals, and go to Town on a daily basis for business and personal reasons in connection therewith. Since 1977, I have maintained a post office box at the United States Post Office, which as you know, is located immediately adjacent to the street that is proposed to be discontinued from State maintenance and taken out of the State Secondary Highway system where parking is already at a premium. Middle Street provides additional parking space as well as a convenient place for me and other postal patrons to turn around, all which will be eliminated if the street is discontinued from maintenance and abandoned.

The proponents of this discontinuance claim that the street, which was platted by the Town's namesake and our first president, George Washington, in 1749 and has been a public thoroughfare continuously since that time, is no longer required for the public convenience.

As you know, in 1994, VDOT -- at the Town's request -- accepted the designated portion of Middle Street into the State Secondary Highway System. In doing so, there were implicit or express findings by VDOT that the street served an important public use and its upkeep and maintenance was required by the public convenience and necessity.

Since that time, nothing has changed in terms of lessening the need for the street as a public thoroughfare -- in fact such use may have intensified. On the northwest corner of the intersection, what was in 1994 a private residence has now been converted to commercial property, thus arguably generating more traffic, not less. At the west end of the street, what was partly a private residential building has likewise been converted, in whole or in part, to commercial use open to the general public, thus arguably generating more traffic, not less. On the south side of the street, the use has not changed -- a restaurant open to the public and the United States Post Office, 22747 and a law office. Additional post office boxes have been installed there since 1994, and the population of Rappahannock County has grown since that time, thus arguably generating more traffic, not less.

The only thing that has changed since 1994 is the ownership of the adjoining properties, but all continue to be used for commercial uses that are open to the general public and have not affected the traffic pattern on the street one whit. My own observation, as a daily user of the street since 1977, is that public use of this street has increased, not decreased over the years, and it remains a vital artery for Town and County residents who use it for access to the post office and numerous businesses that occupy the surrounding properties.

Discontinuance from the State Secondary Highway System, followed by vacation and abandonment as proposed will exacerbate already existing parking problems and congestion, especially for post office patrons. The argument that the street no longer serves an important public use is utterly without merit and not supported by any objective facts.

I attach to these comments a petition signed by Town and County residents opposing the vacation of the street in May 2015 that were submitted to the Town of Washington. The Town received the petitions, but refused to appoint viewers as provided by the applicable statute. Hence, there are no findings from the viewers that might have had some evidentiary value to guide the Board in its findings and decision.

To my knowledge, VDOT has not performed any kind of engineering or other study since this request for discontinuance was received in May or June 2015, including a traffic count, to determine what are the actual facts on the ground. Without such objective factual evidence, any decision to discontinue the street as part of the State Secondary Highway System might be subject to challenge as arbitrary and capricious. Certainly, the Board cannot make a decision in a contested matter such as this one based merely on the subjective opinions and written comments of those who chose to weigh in on the matter -- whether for or against. The decision should be based only on objective factual evidence. Other than what I have pointed out in the this letter, to the best of my knowledge, none has been submitted by any of the proponents of discontinuance.

Discontinuing Middle Street out of the State Secondary Highway System would not serve the public interest -- it would only serve a private interest -- and is the predicate to the

abandonment and vacation of the street as a thoroughfare altogether. The Town and the adjoining landowner make no secret of this, and it is evidenced by their July 15, 2013 and May 11, 2015 Resolutions/Ordinances.

As you are aware, the purported ownership of the street, (and, since the Town purported to convey fee ownership to the street to one or both of the adjoining properties via merger) possibly the entirety of one or both of the adjoining properties is the subject of an ongoing lawsuit pending in the Circuit Court of Rappahannock County (CL15-43) in which a final and nonappealable order has not yet been entered, and in which there has been no review of the case on the merits -- only on procedural issues. Hence, there is the possibility that a Court of competent jurisdiction ultimately will decide that either the purported conveyance was void *ab initio*, as claimed in the lawsuit, or that the property, including Middle Street, is subject to forfeiture due to alleged violations of the Virginia *State and Local Governments Conflicts of Interest Act*.

Accordingly, the Board in the exercise of sound discretion, should defer any decision on this matter until the Circuit Court decision in the pending litigation becomes final and non-appealable. To do otherwise would not only be imprudent, but might be extremely awkward for the Board if, as requested in the pending action, the street itself or portions of the adjoining properties are forfeited to the Commonwealth. I urge you to consult with legal counsel in the Transportation Section of the Office of the Attorney General before making a final decision on this petition.

For informational purposes, I attach a copy of the Amended Complaint filed in the Circuit Court so that the Board and its counsel may review it. The portions directly relevant to Middle Street and its abandonment and vacation are ¶¶22-26, ¶¶28-31, ¶¶40-42, ¶¶49-62 (Count Two), and ¶¶63-73 (Count Three) and Prayer for Relief, ¶¶ (B) (C) and (E).

I urge the Board to adopt a cautious approach to this request, and to commission a study to determine the traffic count and traffic patterns before coming to any decision. I also urge the Board to defer formal action until the pending litigation in CL15-43 is resolved by a final and non-appealable decision.

Thanking you in advance for your consideration of my views on this matter, I am

Very truly yours,

/s/ *David L. Konick* * 
David L. Konick

Attachments (stated)

* THIS IS AN ELECTRONIC SIGNATURE AS DEFINED IN VA CODE § 59.1-480(8) GOOD FOR ALL PURPOSES UNDER VA. CODE § 59.1-485 *et seq.*

VIRGINIA:
IN THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY

-----X
DAVID L. KONICK, :
Complainant, :
vs. :
TOWN OF WASHINGTON, VIRGINIA : Case No. 15-0043
PATRICK J. O'CONNELL : Filed in Clerk's Office
THE INN AT LW, LLC : Rappahannock Circuit Court
Respondents : On 6/18/15
At 1:00 (am) (pm)
By: Margaret R. Ralph, Clerk
Teste: [Signature] M.R.C.
-----X

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW David L. Konick, *pro se* and *pro bono publico*, and files this Amended Complaint pursuant to, *inter alia*, The Constitution of the United States of America, the Constitution of Virginia, Virginia Code §§8.01-184, *et seq.*, and Virginia Code §2.2-3126(B) and seeks declaratory judgment, injunctive and other relief concerning the project approved by the Town Council known as the "Trinity Church Parking Lot Beautification Project," whereby after a series of unlawful discussions between public officials of the Town of Washington in violation of the *Virginia State and Local Government Conflicts of Interest Act* ("COIA"), the Town appropriated \$20,000 for improvement of a church parking lot in violation of the Establishment Clause of the First Amendment of the Constitution of the United States of America, the Virginia Statute on Religious Freedom (1786) incorporated into the Constitution of Virginia, and other applicable State law, the Town unlawfully vacated a street and gifted it to a for-profit legal entity owned or controlled by a member of the Town Council, all as herein more specifically alleged. To that end Complainant respectfully states as follows:

THE PARTIES

1. Complainant David L. Konick is a citizen of the Commonwealth of Virginia and a resident and taxpayer of Rappahannock County, Virginia. Complainant is also a taxpayer of the Town of Washington, Virginia via payment of the Town's meals and lodging tax,

imposed under Virginia Code § 58.1-3840, the Town's largest source of revenue. The Town has no local real estate tax or other assessments, deriving approximately ninety-one percent (91%) of its annual revenue (in 2014-15) from the meals and lodging tax.¹ At all relevant times during 2013 to the present, Complainant regularly frequented a number of restaurants in the Town of Washington for lunch and dinner and is forced to pay this tax.

2. Respondent Town of Washington, Virginia (hereinafter "the Town") is chartered by the General Assembly of Virginia as a Town under Virginia law and is a "government agency" as that term is defined in Virginia Code §2.2-3101. The Town is also a "public body" as that term is defined in Virginia Code §2.2-3701, as well as in Virginia Code §2.2-4301.

3. Respondent Patrick J. O'Connell is a member of the Town Council of the Town of Washington, Virginia and as such is an "officer" of a "government agency" as those terms are defined in Virginia Code §2.2-3101. On information and belief, Respondent O'Connell also has a personal interest in co-Respondent, The Inn at LW, LLC, as more fully set forth, *infra*.

4. Respondent The Inn at LW, LLC (d/b/a "The Inn at Little Washington") operates an expensive restaurant and luxury hotel operation in the Town of Washington, Virginia, and is also a major landowner of approximately 24 lots and parcels of land in the Town, including but not limited to those depicted in the plat attached as "**Exhibit A.**" The Inn at LW, LLC is a for-profit business and, on information and belief, the Town's largest business and owns more lots in the Town than any other property owner. The Inn at LW, LLC, is made a party only because it was the recipient of property and funds that should be returned to the Town or, in the alternative, forfeited due to violation of the COIA.

5. On information and belief, Petitioner alleges that currently and at all times relevant hereto Respondent O'Connell: (i) owns, directly or indirectly through The Inn at

¹ According to the Town's most recently released budget statistics -- its FY 2015-16 Draft Budget dated May 11, 2015 -- total actual Town general revenue (2014/15) is \$342,096 of which \$311,200 (91 percent) is derived from the meals and lodging tax.

LW Investments, LLC, an ownership interest exceeding three percent (3%) of the total equity of Respondent, The Inn at LW, LLC; (ii) derives annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real property owned by Respondent, The Inn at LW, LLC and/or the restaurant and lodging business operated by the Respondent, The Inn at LW, LLC; and/or (iii) derives salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by Respondent, The Inn at LW, LLC that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually.² Respondent O'Connell is also listed in the records of the State Corporation Commission as the owner-manager of said limited liability company. Accordingly, Respondent O'Connell has a "personal interest," as that term is defined in Virginia Code Section 2.2-3101, in the limited liability company known as "The Inn at LW, LLC," and Respondent herein.

FACTUAL BACKGROUND

6. On information and belief, commencing in approximately December 2012, Respondent O'Connell, on behalf of himself and "The Inn at LW, LLC," and the Mayor of the Town of Washington, John Fox Sullivan, entered into discussions regarding what ultimately came to be known as the "Trinity Church Parking Lot Beautification Project." Said project had three components: (a) what the Mayor repeatedly described as the "lynchpin" of the Project (*see* paragraphs 17 and 19, *supra.*) was for the Town to vacate a portion of a public street owned by the Town within its jurisdiction and known as "Middle Street," and gift the vacated portion of Middle Street to Councilman O'Connell d/b/a "The Inn at LW, LLC," in fee simple, without any consideration paid to the Town for such conveyance, but rather in consideration for the improvements The Inn at LW, LLC agreed to make to a parking lot located at the southeast corner of Main and Middle

² A 2014 amendment to Virginia Code §2.2-3101 reduced this limitation to \$5,000.

Streets and owned by the Bromfield Parish of the Virginia Diocese of the Episcopal Church known as "Trinity Episcopal Church"; (b) the Town would appropriate the sum of \$20,000 to be used by Councilman O'Connell d/b/a The Inn at LW, LLC, partially to offset the cost of the improvements to the Trinity Episcopal Church parking lot; and (c) Councilman O'Connell d/b/a The Inn at LW, LLC would also make landscaping and other "improvements" on real property that the LLC owned on the south side of the proposed to be abandoned portion of Middle Street, occupied for many years by the Country Cafe and the Washington, Virginia Post Office.

7. In furtherance of this plan, in late March 2013, David G. Fiske, Counsel for Councilman O'Connell d/b/a The Inn at LW, LLC, contacted the Town Attorney, John C. Bennett (hereafter "Town Attorney Bennett") with the initial proposition for "the lynchpin" of the Project: the vacation of Middle Street and its conveyance to Councilman O'Connell, d/b/a The Inn at LW, LLC, *viz*:

<p>From : <u>David Fiske</u> To: John Bennett <jcbe@msn.com> Sent: Wednesday, March 27 2013 4:17 PM Subject: stub street material</p>
<p>John. . .see attachment per our conversation about the stub street. -- some of the relevant authority. -- sample resolution and ordinance vacating a public right of way -- copy of DC 136, p. 034 showing location of property -- copy of DB 133, p. 607 showing location of easements -- current plat showing Inn's ownership of all abutting parcels Let's talk about this when you get a chance. Of course VDOT is still an issue. Procedurally I guess we should file an application pursuant to Va. Code 15.2-2006 to vacate the Right of way. Let's talk when you get a chance.....David</p>

8. On March 27, 2013, Town Attorney Bennett forwarded the foregoing correspondence to Mayor Sullivan, with a suggestion designed to ameliorate possible citizen concerns about the give-away of Town property to a Town Council member, *viz*:

From: John Bennett <jcbe@msn.com>
Sent: Wednesday, March 27, 2013
Subject: ATTY CLIENT COMM EXEMPT -- STREETS
To: John Fox Sullivan <jsullivan@nationaljournal.com>

Mr. Mayor,

David Fiske and I spoke about vacating the stub street near to post office yesterday.

Here is some material he just sent.

I said I will get back to him by the end of next week, unless he says this is time sensitive.

I said to him yesterday, there is usually an issue of "if the Town give [sic] this, what does it receive"?

So I suggested that to the extent there is an enhancement to the facilities in that area, a concrete plan that was in effect proffered might mitigate some of those questions. He said he didn't know how far along Patrick was on all the details. But there will be the inevitable questions of "why" and "what is going to happen with it and as a result of it."

Based on what I have seen in the past, this is one of those things where a solid overall plan, before anything comes out of the box, will do wonders if the citizens perceive the giving up of public property to further the Town's prospects.

Please advise of any considerations I should observe or be aware of.

John

9. As part of the so-called Trinity Church Parking Lot Beautification Project, Trinity Episcopal Church agreed to act as "co-sponsor" of a fundraising effort centered on an open house and tour of the Inn's facilities, whereby Respondent O'Connell d/b/a The Inn at LW, LLC, would "donate" the proceeds of the fundraiser to the Church in consideration of the Church entering into a formal written agreement to allow patrons of the Inn to use its parking lot at the corner of Main and Middle Streets, and on further condition that the Church would kick back eighty percent (80%) of the "donation" to The Inn at LW, LLC for "its share" of the costs of repaving, landscaping, installation of lighting and other "improvements" made by The Inn to the Church's own parking lot.

10. In June and July 2013, in knowing violation of Virginia Code §2.2-3112(A)(1) which specifically provides that "[t]he officer or employee [who is disqualified as the result of a personal interest in any matter] shall be prohibited from * * * (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time," Councilman O'Connell engaged in numerous private electronic

and face-to-face discussions about the transaction with Mayor Sullivan and other government officials of the Town of Washington -- involving the Trinity Church Parking Lot Beautification Project in which he had a personal interest -- before and after public meetings of the Town Council at which this Project was formally considered.

11. On June 7-8, 2013, just ten days prior to the June 17, 2013 Town Council meeting at which the Trinity Church Parking Lot Beautification Project, including the abandonment-vacation-conveyance of the designated portion of Middle Street, was to be discussed, Councilman O'Connell engaged in the following electronic mail discussion with Mayor Sullivan in knowing violation of Virginia Code §2.2-3112(A)(1):

On Jun 7, 2013, at 6:67 PM, Patrick O'Connell <patrickattheinn@yahoo.com> wrote:

Hello John,

I trust your meeting with the vestry yesterday went well? I hope we have good news about moving forward and that perhaps Jenks has a survey tucked away somewhere.

All the best,

Patrick

From: John Fox Sullivan <jsullivan@nationaljournal.com>
Date: Saturday, June 8, 2013 12:36 PM
Subject: Trinity Parking Lot
To: Patrick O'Connell <patrickattheinn@yahoo.com>

Hi. On way to beach with entire family.

Good mtg. w Jenks bill [SIC] Walton jay [SIC] Monroe and head of vestry and Helen Williams. All very high on idea, very supportive. Will be discussed at vestry mtg. tomorrow. I would like to bring up at next council mtg o [sic] the 17th. Jenks prepared to make presentation.

Any thoughts?

John

John Fox Sullivan
Publisher At Large
Atlantic Media
(o) 202-266-7201 (c) 202-215-5995

continued on next page

From: Patrick O'Connell <patrickattheinn@yahoo.com>
Date: Saturday, June 8, 2013
Subject: Trinity Parking Lot
To: John Fox Sullivan <jsullivan@nationaljournal.com>

Excellent. I will try to come to the meeting if even for a short while. We have an important function going on here that night which requires my presence. They built me into their contract. **We should probably speak before the meeting to strategize if the stub street is going to be discussed.** I'm very pleased that it's all moving forward rapidly.

Thanks,

Patrick

[*N.B.* references to "Jenks" are to Jennings Hobson, Minister of the Trinity Episcopal Church]

12. On June 8, 2013, just nine days prior to the Town Council meeting at which Respondent O'Connell already knew the Trinity Parking Lot Beautification Project, including the abandonment-vacation-conveyance of the designated portion of Middle Street, was to be discussed, Councilman O'Connell wrote the following private letter to Mayor Sullivan, and dispatched it via electronic mail to the Mayor, a government official, in knowing violation of Virginia Code §2.2-3112(A)(1):

From: Patrick O'Connell <patrickattheinn@yahoo.com>
Date: Saturday, June 8, 2013
Subject: Re: Trinity Church parking lot and County Cafe/post office lot....attorney client privilege
To: John Fox Sullivan <jsullivan@nationaljournal.com>

Could [Town Attorney] John [Bennett] prepare a 1 or 2 paragraph explanation/statement offering his view that the situation has been studied and that the Town has the legal right to transfer ownership and that they really ought not to be burdened with the maintenance and liability risk of an alley which benefits, only one property owner, therefore such a transaction makes sense particularly if there is also some benefit to the community (*i.e. the proffer*)?

Patrick

(*emphasis added*)

13. On June 12, 2013, just five days prior to the Town Council meeting at which the Trinity Church Parking Lot Beautification Project, including the abandonment-vacation-conveyance of the designated portion of Middle Street, was to be discussed, Respondent **KONICK vs. TOWN OF WASHINGTON, et al. CL15-43** page 7 of 36
AMENDED COMPLAINT FOR DECLARATORY JUDGMENT
(JUNE 18, 2015)

O'Connell engaged in the following discussion via electronic mail with Mayor Sullivan, a government official, in knowing violation of Virginia Code §2.2-3112(A)(1):

From: John Fox Sullivan <jsullivan@nationaljournal.com>
To: Patrick O'Connell <patrickattheinn@yahoo.com>; John Bennett <jcbe@msn.com>
Sent: Wednesday, June 12, 2013 4:34 PM
Subject: **Trinity Church parking lot** and County Cafe/post office lot....attorney client privilege

Patrick and John,
The Church vestry has been presented with our plan and is totally supportive. And Jenks is prepared to make a presentation to the Town Council on Monday evening. I am planning to talk to Council members before the meeting about the project. John, I know you can not be there and Patrick can for only a short period.

Patrick, do you have the landscape plan for the post office parking lot? Should we present that as well? **No doubt the RAPP News will cover this and we should coordinate what we say to them.**

Also we need to decide how to deal with the sub street issue. I am on vacation in south [SIC] Carolina , back Saturday . **Wondering if we should have a thre e [SIC] way phone conversation on Friday?**

Thoughts?

John

On Jun 12, 2013, at 10:59 PM, Patrick O'Connell <patrickattheinn@yahoo.com> wrote:

Hi John,

Good News. I will have a drawing of the Post Office parking lot plan. I have also asked Guy Williams to provide us with a conceptual sketch of the stub street alley so the council can get an idea of what we envision for its future. **It would be excellent if we could have a telephone meeting beforehand.** Because of my needing to be in and out of the meeting I will ask David Fiske to be present to deal with any questions which might arise in my absence. He can also discuss the transaction from a legal perspective as he's done considerable research on it. I am around all weekend. Anytime Friday is good for me if it works for others. Thanks for your help.

Soon,
Patrick

14. On information and belief, on June 17, 2013 a meeting occurred between government officials in the Respondent's office at The Inn to discuss the Trinity Church Parking Lot Beautification Project immediately prior to the Town Council meeting at which the transaction was to be discussed as evidenced by the following electronic mail exchange among Mayor Sullivan, Town Attorney Bennett, Councilman O'Connell, and his counsel, David G. Fiske:

From: John Fox Sullivan <jsullivan@nationaljournal.com>
To: Patrick O'Connell <patrickattheinn@yahoo.com>; John Bennett <jcbe@msn.com>
cc: Town of Washington <washingtonva@earthlink.com>
Sent: Thursday, June 13, 2013 9:42 AM
Subject: Re: Trinity Church parking lot and County Cafe/post office lot....attorney client privilege

I can do anytime Friday...John??

I am somewhat concerned as to what we say about stub street and without John present.

John Fox Sullivan
Publisher At Large
Atlantic Media
(o) 202-266-7201 (c) 202-215-5995

On Friday, June 14, 2013, David Fiske wrote:

Patrick, John, John....I have spoken with John Bennett and believe we are on track relative to the stub street. We discussed meeting at 5:00 or so on Monday to review the issues prior to the meeting. I know Patrick is tied up but we could meet and have Patrick available if something comes up. I will be at the Inn by late afternoon in any event so just let me know if the time is convenient.

Thanks.....David

David G. Fiske

On Jun 17, 2013, at 2:58 PM, "John Fox Sullivan" <jsullivan@nationaljournal.com> wrote:
Looking forward to meeting at 5...may I suggest we meet a Town Hall?

John

On Jun 17, 2013, at 4:08 PM, David Fiske <DFiske@fiskeharvey.com> wrote:

I am in the living room at the Inn. Patrick's office is available so he can stop by but happy to meet at town hall.

continued on next page

From: John Fox Sullivan <jsullivan@nationaljournal.com>
Date: Monday, June 17, 2013
Subject: Church parking lot.etc
To: David Fiske <DFiske@fiskeharvey.com>
Cc: Patrick OConnell <patrickattheinn@yahoo.com>, JOHN BENNETT <jbce@msn.com>
Yes. We will Meet in Patrick office. 5 pm
JohnFoxSullivan
Publisher At Large
Atlantic Media
(o) 202-266-7201 (c) 202-215-5995

15. On information and belief, Petitioner alleges that Respondent O'Connell did, in fact, participate in part or in all of the hereinabove described June 17, 2013 private meeting and discussed the Trinity Church Parking Lot Beautification Project, a transaction in which he had a personal interest, with Mayor Sullivan and Town Attorney Bennett, both government officials, in knowing violation of Virginia Code §2.2-3112(A)(1).

16. On June 17, 2013, the Town Council held its first meeting at which the Trinity Church Parking Lot Beautification Project was raised in public before the Town Council. The matter was listed on the agenda for the meeting and in the subsequent Official Minutes of the June 17, 2013 meeting under "New Business" as "**Trinity Church Parking Lot Beautification.**" At the meeting, Mayor Sullivan represented to the public that "all these things fit together and are tied together," referring to the proposed landscaping, repaving, and other improvements to the Trinity Church parking lot, the Post Office building, and the abandonment-vacation and conveyance "to Patrick" (Councilman O'Connell) of the designated portion of Middle Street shown in **Exhibit A.**

17. Mayor Sullivan described the vacation and gift of the designated portion of Middle Street "to Patrick" as the "lynch pin" [sic] of the project. The primary presentation in support of the Trinity Church Parking Lot Beautification Project was made by the minister of Trinity Episcopal Church, Jennings Hobson. The Mayor admitted there would be a loss of parking spaces adjacent to the Washington, Virginia Post Office. An excerpt of the relevant portion of the official minutes of the June 17, 2013 meeting of the

Town Council is attached as **Exhibit B**. Exhibit B-2 is an artist's conception of what the "beautified" portion of Middle Street would supposedly look like after completion of the work, and shows that the area now used for public parking on both sides of the street would be eliminated and occupied by permanent enclosures, trees and other landscaping.

18. At the June 17, 2013 meeting, the Town Council also voted to postpone the date of its regular July 2013 meeting in order to allow the required legal advertisement of a public hearing to be held at its July 2013 meeting specifically for the purpose of approving the abandonment of Middle Street depicted in Exhibit A and the conveyance of said real property to Councilman O'Connell d/b/a The Inn at LW, LLC. Despite his "personal interest" in the matter Councilman O'Connell did not disqualify himself from participation in the matter as required by Virginia Code §2.2-3112(A)(1) and took part in the June 17, 2013 vote to change the July Town Council regular meeting date, the specific and only purpose of which was to accommodate The Inn at LW, LLC's plans, as stated by Councilman O'Connell at the meeting, for proceeding with the "beautification" which would be "approached as a unified task" and "a rare opportunity to bring in the contractor design team and do all three pretty much at the same time" so as to complete all the required work before the Fall 2013 season. Councilman O'Connell made the following representations to the Town Council:

[EXCERPT OF UNOFFICIAL TRANSCRIPT OF TOWN COUNCIL MEETING, JUNE 17, 2013
STARTING AT @32:50 OF THE DIGITAL RECORDING SUPPLIED BY THE TOWN]

O'Connell: Well, the interesting crossroads that we're at here is that with the Council's involvement it can all be approached as one unified task. Obviously, if we just wanted to just pave the Post Office, if we could do that immediately. If we just wanted to do the Trinity Church to take care of that [parking lot], we could do that even without coming to Council. So **this is a rare opportunity to bring in the contractor design team and do all three pretty much at the same time.** So, the current contractor needs two weeks' notice before he begins; however **if we move forward on the stub street idea, we would have to bring it forward at the next meeting to a public hearing.** So, most probably nothing would be done. **In other words, if that [Middle Street] is not a piece of the puzzle that changes the approach to just simply paving the front of the post office.** But it is worth mentioning that if you make a beautiful new parking area at the Trinity Church, you do beautiful paving with brick inlay in front of the Post Office, this street -- which is the first thing you see as you come up the hill into town -- is going to look even more unsightly. . . ."

* * *

continued on next page

Goebel: [@34:45]: And what is the overall scope of time? Are they gonna be tearing up . . .

O'Connell: That is an excellent question . . . He's estimated he needs two weeks to do the complete job in front of the Post Office. He needs, ideally, because of the staging process [at the Trinity Church Parking lot] he needs a full four weeks. [@36:00] Which in terms of construction is not that long. He will remove all the asphalt that's there. He will address the sinkhole to ensure that it never returns, and then replace it all, and then this collar of entryway and walkway will be put in. There's a lot of detail work, it is not just pulling up and spreading blacktop.

Goebel: Sure.

Sullivan: **As to timing, if we move quickly, this could be worked on in August and early September, which obviously is rather down time for the commercial and the excitement at the Inn.**

O'Connell: **Better that it be done in summer months, than trying to schedule it in January when you run into weather conditions . . .**

* * *

[0037:14] We wouldn't want to do it in the peak of the Fall.

Goebel: **But you'd like to get it finished . . . have it done by then.**

O'Connell: **Exactly, exactly.** [@0037:18] (emphasis added)

19. Councilman O'Connell took an active part in the June 17, 2013 meeting of the Town Council, but then recused himself only from the actual vote [but never formally "disqualified himself as required by and pursuant to Code § 2.2-3112(A)(1) and § 2.2-3115(F)] on approval of the \$20,000 appropriation for "the Trinity Church Parking Lot Beautification Project."

20. At the June 17, 2013 meeting, The Town Council voted, *inter alia*, to appropriate \$20,000 toward the Trinity Church Parking Lot Beautification Project with said appropriation specifically designated for the improvements to the Trinity Episcopal Church parking lot. (*See*, Exhibit B-2, Ms. Kuhn's motion: "for the parking lot.")

21. On June 17-18, 2013, immediately following the Town Council meeting, and while the final approval of the transaction (the vacation-conveyance of Middle Street) was still pending before the Town Council, Respondent engaged in the following electronic mail exchange with Mayor Sullivan in violation of Virginia Code §2.2-3112(A)(1): [*N.B.*, references to "Mary Ann" are to Council Member Mary Ann Kuhn]

From: John Fox Sullivan <jsullivan@nationaljournal.com>
Date: Monday, June 17, 2013 9:59 PM
Subject: Celebrate
To: Patrick O'Connell <patrickattheinn@yahoo.com>

Hope you are as pleased as I am about tonight. . . went very well, total support. **And the 20k was where I hoped to end up....**Mary Ann always pushed hard for it. And everyone positive. Can't wait to see work begin!!!!

John

John Fox Sullivan
Publisher At Large
Atlantic Media
(o) 202-266-7201 (c) 202-215-5995

From: Patrick O'Connell <patrickattheinn@yahoo.com>
Date: Tuesday, June 18, 2013
Subject: Celebrate
To: John Fox Sullivan <jsullivan@nationaljournal.com>

John,

Thank you. Your presentation was masterful. It's very exciting. Mary Ann was great.
Give our best to Beverly,

Patrick

22. On June 27, 2013 and July 4, 2013, the Town caused a legal advertisement to be published in the *Rappahannock News* regarding the proposed abandonment and vacation of the designated portion of Middle Street and the conveyance thereof to Respondent The Inn at LW, LLC. The legal advertisement stated clearly and concisely that the conveyance of the Town's real property to The Inn at LW, LLC was "*in consideration for the contribution to be made by the Inn to the Trinity Episcopal Church parking lot repaving and improvements.*" (emphasis added). The advertisement is hereunto attached as Exhibit C.

23. At the July 15, 2013 Public Hearing before the Town Council, Mayor Sullivan again described the vacation of Middle Street and the conveyance thereof to The Inn as "the lynchpin" [sic] of the entire three-part Trinity Church Parking Lot Beautification Project. Although approved in the course of two consecutive Town Council meetings,

the entire project was, in fact, one unified step-transaction.

24. On July 15, 2013, the Town Council adopted a Resolution abandoning and vacating the designated portion of Middle Street and conveying it to The Inn at LW, LLC ("the July 15th Resolution"). An excerpt of the minutes of the Town Council's July 15, 2013 meeting is hereunto attached as **Exhibit D**. The July 15th Resolution, which is hereunto attached as **Exhibit E**, was subsequently recorded among the land records in the Clerk's Office of the Circuit Court of Rappahannock County as Instrument No. 13-836 thereby purporting to merge Middle Street with Tax Map Reference No. 20A-1-18 owned by The Inn at LW, LLC.

25. The effect of the July 15th Resolution was not only to abandon and vacate the designated portion of Middle Street as a public thoroughfare, but also purportedly to convey the underlying real property, in fee simple absolute, from the Town of Washington to The Inn at LW, LLC, (subject to the stated public utility easements) and, as shown on Exhibit A, to merge the former public street with the adjoining tract or parcel of land owned by The Inn at LW, LLC by vacating the parcel line of Tax Map Ref. No. 20A-1-18, all as depicted on said plat.

26. Respondent O'Connell actively participated in the Town Council's Public Hearing on July 15, 2013, but he "recused" himself from the vote when the Resolution vacating the street and conveying Middle Street to The Inn at LW, LLC was adopted. However, Respondent O'Connell never formally "disqualified" himself, as required by Code §2.2-3112(A)(1) and §2.2-3115(F), in writing or orally at the meeting.

27. The Town's June 17, 2013 appropriation of \$20,000 -- specifically designated for the improvements to the Trinity Church Parking Lot, which was a transaction as that term is defined in Virginia Code Section 2.2-3101 -- was subsequently paid to The Inn at Little Washington, LLC, on October 31, 2013 via two checks hereunto attached as **Exhibit F** together with the cover or transmittal letter from the Town. The cover letter specifically states that the funds are for Trinity Church parking lot improvements. On information

and belief, all or substantially all of the appropriated funds were, in fact, spent on the improvements to the Trinity Church parking lot, which is the only portion of the three-part “beautification” or “street scape” project that was actually constructed and/or performed.

28. Subsequent to the initial filing of this Complaint herein on March 20, 2015, the Town Attorney wrote a letter to the Council dated March 6, 2015 (**Exhibit G**) in which he admitted a number of legal deficiencies in the June-July 2013 decisions that are the subject of this proceeding. Thereafter, the Town Council voted to reauthorize the vacation of Middle Street pursuant to Virginia Code §15.2-2006 at a public hearing on May 11, 2015, but never rescinded the original July 15, 2013 Resolution, nor did The Inn at LW, LLC convey the portion of Middle Street granted to it by said Resolution back to the Town. The May 11, 2015 Ordinance is attached as **Exhibit H**.

29. At that meeting, after a public hearing at which numerous persons appeared to oppose the vacation and abandonment and petitions containing the names of approximately 45 persons -- including Town residents -- were presented opposing the abandonment and requesting the appointment of viewers as provided by law, the Town arbitrarily and capriciously refused to adopt viewers and approved the adoption of an Ordinance which again purported to convey the fee simple of the vacated portion of Middle Street to The Inn at LW, LLC.

30. Although a portion of the street was and had been a part of the State Secondary Highway System since 1994 (**Exhibit I**), there was no abandonment of the street from the State Secondary Highway System by the Commonwealth Transportation Board as provided in Virginia Code §33.2-908 prior to the purported vacation or abandonment by the Town.

31. There was no consideration recited or paid by The Inn at LW LLC for the conveyance, nor any compliance with Virginia Code §15.2-2008. In addition, the area of Middle Street that was purportedly vacated or abandoned and merged with Tax Map Ref.

No. 20A-1-18 in July 2013 was instead split down the center of Middle Street with half the vacated area being merged with Tax Map Ref No. 20A-1-17 and the other half with Tax Map Ref No. 20A-1-18, even though by virtue of the recordation of the plat attached to the July 15, 2013 Resolution (Exhibit A), the street had already been merged into Tax Map Ref No. 20A-1-18 and was never conveyed back to the Town by the Grantee, Respondent The Inn at LW, LLC.

32. On April 13, 2015, Councilman O'Connell finally filed a formal, written disqualification regarding his conflict of interest concerning the abandonment and vacation of Middle Street in conformity with State law, a copy of which is attached as **Exhibit J**.

COMPLAINANT'S STANDING

33. Complainant is a taxpayer of the Town of Washington, Virginia via payment of the Town's meals and lodging tax, the Town's primary source of revenue. The Town has no local real estate tax or other assessments on personal property or real property. Hence, Town residents pay no taxes to the Town related to their residency or ownership of real property in the Town. Instead, the Town derives approximately ninety-one percent (91%) of its annual revenue (in 2014-15) from the meals and lodging tax. Complainant frequents a number of restaurants located in the Town on a regular basis, including *Tula's Off Main* and *The Country Cafe*, and is forced to pay this meals and lodging tax that is added on to each check or bill for meals. As a taxpayer of the Town, Complainant has standing to bring this action on his own behalf and on behalf of other similarly situated taxpayers because their tax dollars -- enforced assessments -- were misspent in violation of the Establishment Clause of the First Amendment of the Constitution of the United States of America, the Virginia Statute on Religious Freedom (1786) and incorporated into the Constitution of Virginia in Article I, Section 16 and in Article IV, Section 16 (hereinafter collectively referred to as "the U.S. and Virginia Establishment Clauses") and in violation of Virginia Code §15.2-953. Complainant asserts standing not

KONICK vs. TOWN OF WASHINGTON, et al. CL15-43
AMENDED COMPLAINT FOR DECLARATORY JUDGMENT
(JUNE 18, 2015)

on the basis that his status as a non-resident taxpayer gives him the right to say how the Town ***shall*** spend its tax revenues, but where, as here, when the U.S. and Virginia Establishment Clauses prohibitions are implicated, Complainant has the right to say how his tax dollars ***shall not*** be spent.³

34. This Complaint presents questions of important and substantial public interest, including ethical matters, that would otherwise go unaddressed or unreviewed by a court of competent jurisdiction because of the cost of litigation and because of the small size of the Town and its domination -- economically, politically and otherwise -- by Respondents The Inn at LW, LLC and O'Connell, as a result of which many of its residents are either economically dependent on The Inn and O'Connell or intimidated into inaction by actual or perceived fears of retaliation by said Respondents with regard to challenging the violations of law more fully described in this Complaint. In order to obtain a Charter under present law, Virginia Code §15.2-3602(A)(4) requires a minimum of 1,000 inhabitants -- but on information and belief, Washington, Virginia has a current population of only approximately 134 inhabitants.⁴ This low population exacerbates the problem of actual or perceived retaliation and explains the reluctance of Town residents to seek relief of the blatant violations of Constitutional law and the Conflicts of Interest Act complained of herein. Only approximately 30 of the Town's residents voted in the last Town election. The Town's *de minimis* population presents a special circumstance that the Court should take into consideration in deciding the question of whether or not Complainant -- a County resident who is technically a "non-resident" of the Town but who lives within five (5) miles of the Town and, who works in the Town, who pays the Town's meals and lodging tax, and who has very substantial and long-standing contacts with it -- has standing to challenge unlawful conduct by Town officials that flagrantly

³ *Flast v. Cohen*, 392 U.S. 83, 114, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968); *Memorial and Remonstrance against Religious Assessments*, II *Writings of James Madison* 183, 187)

⁴ http://www.virginia-demographics.com/search?search_terms=Washington%2C+Virginia

violates the U.S. and Virginia Establishment Clauses and other applicable law.

35. The Town of Washington, Virginia is and has been the County Seat of the County of Rappahannock since 1833. This special status alone is sufficient to confer standing on County residents and taxpayers, including Complainant, whose tax dollars subsidize important aspects of the Town government and administration. The Town has no police force, has only one full-time employee (Town Clerk), and depends on Rappahannock County for certain essential governmental services that are paid for and cross-subsidized by Complainant and other Rappahannock County taxpayers, such as the Rappahannock County Registrar, the Rappahannock County Sheriff's Department, and, in particular, the Rappahannock County Commonwealth's Attorney who is the County official charged with enforcement of the Virginia *State and Local Governments Conflicts of Interest Act* (hereinafter "COIA"). This subsidization is another factor that vests every Rappahannock County taxpayer, including Complainant, with standing to challenge unlawful and unethical conduct by local officials within the Rappahannock County Attorney for the Commonwealth's jurisdiction, including Town officials, under Virginia Code §2.2-3126(B).

36. In addition to the foregoing, Complainant is a duly licensed attorney at law on active status and conducts about ninety percent (90%) of his professional activities in the Circuit Court of Rappahannock County, Virginia that sits in the Town where the County Courthouse and Clerk's Office is located. Complainant is also a Commissioner in Chancery of the Circuit Court of Rappahannock County, and a member of the Board of Zoning Appeals for Rappahannock County, both of which sit in the Town of Washington. Complainant works in the Town of Washington on title examinations, court cases and other court matters in connection with his trade or profession and official duties on a regular, if not daily basis.

37. Complainant is also a former Town Official, having served as Town Zoning Administrator and Subdivision Agent from 1981-1984.

38. The Rappahannock County Courthouse and its appurtenances ("Courthouse Complex"), including the Confederate War Monument, Treasurer's Office, Commissioner of Revenue's Office, Courthouse Building, and Circuit Court Clerk's Office on Gay Street are the central focal point and genuine center of the Town and were officially recognized in the National Register of Historic Places as the central focal point and cultural, historical and geographic center and the "heart of the town."⁵ Complainant, as a frequent user of the Courthouse Complex for the discharge of his professional and civic responsibilities, was directly and substantially harmed and caused to suffer in a manner different and distinct from that of general public when the Town misappropriated beautification funds for the Trinity Church Parking Lot improvements and the improvements of private property owned by Respondent, The Inn at LW, LLC in connection with the Trinity Church Parking Lot Beautification Project -- funds that could have been used to the benefit of regular users of the Courthouse Complex, including Complainant.

39. Complainant is also a member of the Washington Masonic Lodge, Lodge No. 78 A.F.&A.M., which was chartered in 1841 by the Grand Lodge of Virginia and has had its lodge hall in the Town at the Corner of Gay and Porter Streets since 1873 on real property jointly owned by the Lodge and the Washington Baptist Church. Complainant

⁵ See e.g., U.S. Department of Interior, National Register of Historic Places (1975) "*Washington Historic District, Rappahannock County, Virginia, Inventory and Final Nomination Form*," at 2, §7. [***The heart of the town is the courthouse complex on Gay Street. Because the town predates the county, the courthouse is not located on a central square, but rather on lot 45 near the highest point on the ridge. * * * Adjacent to the courthouse on the north are the clerk's office and the treasurer's office. Both are three-bay, one-story, mid-nineteenth-century buildings with interior end chimneys and parapet gable ends. The clerk's office brickwork is laid in Flemish bond, and the treasurer's office in staggered Flemish bond. Also noteworthy are the handsome marble Confederate monument and an attractive cast-iron water fountain on the front lawn. The courthouse forms the nucleus of a small business district along Gay Street which includes (from south to north) the brick Baptist Church and Masonic Hall (1873), the fire station, the county jail (mid-nineteenth century), an Edwardian brick bank building, an unused movie theater, a small one-story, shingled Gothic cottage which now serves as the county extension office, and the Washington Methodist Church (1889).*** (*emphasis added*)]

<http://www.dhr.virginia.gov/registers/Counties/Rappahannock/322-0011_Washington_Historic_District_1975_Final_Nomination.pdf>

has been a member of the Washington Masonic Lodge since 1978 and served as Master of the Lodge for longer than any other person in the Lodge's history. The Lodge and its members, including Complainant, were the victims of unconstitutional discrimination when, as part of the Trinity Church Parking Lot Beautification Project, the Town -- in violation of the U.S. and Virginia Establishment Clauses and Virginia Code §15.2-953 -- misappropriated \$20,000 to or for the benefit or improvement of real property owned by another of the Town's sectarian organizations, Trinity Episcopal Church, and conveyed valuable Town real property in consideration for a contribution by the donee of that property -- Respondent The Inn at LW, LLC -- to said Church.

40. Complainant leases for personal and professional use, and at all times relevant hereto, has leased since December 1977, a post office box at the United States Post Office at Washington, Virginia, which post office currently is located in a building that is owned by Respondent, The Inn at LW, LLC, and which building is an integral part of the Trinity Church Parking Lot Beautification Project, the propriety and legal validity of which is the primary subject matter of this Complaint, and a component of which was the vacation/abandonment and conveyance of a portion of Middle Street in the Town, even though a portion of the proposed-to-be-abandoned segment of the street is a part of the Virginia Secondary Highway System and has been a public thoroughfare since 1749 when George Washington surveyed the Town. Complainant utilizes the proposed-to-be-abandoned portion of Middle Street on a daily basis for parking while at the United States Post Office in the course of his professional and civic duties. In addition to the violation of the U.S. and Virginia Establishment Clauses, the purported abandonment of, and conveyance to Respondent, The Inn at LW, LLC, of a portion of Middle Street without any reservation for continued public access and use by Post Office patrons, will exacerbate the existing problem of lack of public parking in Town in and around the Post Office area by reducing the already insufficient number of off-street parking spaces, thereby having a direct and negative impact on Complainant including annoyance, delays

and inconvenience to Complainant that are not shared by the general public, but are shared by a significant number of other Washington, Virginia Post Office patrons.

41. If the purported abandonment and conveyance of Middle Street to Respondent The Inn at LW, LLC in connection with the Trinity Church Parking Lot Beautification Project, is allowed to stand and not nullified or declared to be void *ab initio* for the reasons set forth in this Complaint, Respondent The Inn at LW, LLC purportedly will have the right to deny access to Complainant of the use of the purportedly abandoned portion of Middle Street where he almost always parks when retrieving his mail, causing delays and loss of Complainant's valuable time that would otherwise be billable at \$250 per hour, and forcing Complainant to walk longer distances to and from the Post Office and other inconvenience and damage, as a result of which there exists an actual controversy between the Complainant and the Respondents, such that Complainant's right to use that street for access to his post office box at the Washington, Virginia Post Office will be directly affected by the outcome of the case.

42. With regard to the allegations of violation of the *Virginia State and Local Government Conflicts of Interest Law*, Complainant is specifically empowered by statute to bring this action by virtue of the last paragraph of Virginia Code §§2.2-3126(B).⁶ On information and belief, at the instigation of the Commonwealth's Attorney for Rappahannock County, the Virginia State Police ("VSP") investigated the alleged COIA violations described in this Complaint, and the office of the Attorney General of Virginia reviewed the preliminary evidence (including review of the e-mail

⁶ Virginia Code §2.2-3126(B) provides, in pertinent part, as follows:

"B. The provisions of this chapter relating to an officer or employee serving at the local level of government shall be enforced by the attorney for the Commonwealth within the political subdivision for which he is elected. * * * Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law." (emphasis added)

correspondence detailed in paragraphs (10) through (15) and paragraph (21) of this Complaint) to determine whether or not there was probable cause to authorize the VSP to pursue the investigation further. On further information and belief, on or about April 6, 2015 the Attorney General's office did, in fact, "green light" further investigation of the alleged COIA violations described herein and found sufficient probable cause to authorize the VSP to proceed, but after the completing the investigation, including an interview with Councilman O'Connell, his attorney, the Mayor and other Town Officials on or about April 7, 2015, the Rappahannock County Attorney for the Commonwealth chose not to pursue criminal charges pending the outcome of this civil action.

43. Just as the enforcement provisions of COIA authorize the local Commonwealth's Attorney for the County to issue advisory opinions and undertake enforcement action for COIA violations at the local level, the General Assembly by empowering "private attorneys general" (in the words of the statute: "any person") to seek declaratory judgment or other judicial relief, impliedly empowered citizens of that same jurisdiction - - the County -- so to do where the Rappahannock County Commonwealth's Attorney has failed, for whatever reason, to act to enforce COIA or prosecute COIA violations. The special circumstances described in this and the preceding paragraph of this Complaint give Complainant standing under COIA to pursue the remedies provided by that statute.

**COUNT ONE -- VIOLATION OF THE ESTABLISHMENT CLAUSE OF THE
U.S CONSTITUTION, THE CONSTITUTION OF VIRGINIA and
VIRGINIA CODE SECTION 15.2-953**

44. All of the allegations of paragraphs (1) through (43) are incorporated herein by reference, as if repeated *verbatim*.

45. As Justice Stewart noted in his concurring opinion in *Flast v. Cohen*, 392 U.S. 83, 114, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968), "[o]ne of the specific evils feared by those who drafted the Establishment Clause and fought for its adoption was that the taxing and spending power would be used to favor one religion over another or to support religion in

general.' . . . [A]ppellants have a clear stake as taxpayers in assuring that they not be compelled to contribute even 'three pence * * * of (their) property for the support of any one establishment.'" [392 U.S. at 114, *emphasis added*].

46. The appropriation of \$20,000 of public funds -- over ninety-one percent (91%) of which are derived from revenue from a tax that Complainant was and is forced to pay via the Town's meals and lodging tax -- specifically designated for improvement of the Trinity Episcopal Church parking lot where the Church was the ultimate beneficiary of the appropriation, was approved by the Town in disregard for and in violation of the U.S. and Virginia Establishment Clauses,⁷ and Virginia Code §15.2-953, all of which prohibit appropriations or donations of public funds or property to any churches or sectarian societies, and the latter of which permits gifts and donations *to nonprofit foundations* only. Trinity Episcopal Church is a "church" or "sectarian society." Complainant submits that the equivalent of "three pence" (\$0.03) or more of his meals and lodging tax dollars paid to the Town were used for this improper purpose.

47. Despite the fact that the \$20,000 for the procurement and construction at the Trinity Church Parking lot were paid to Respondent, The Inn at LW, LLC (Exhibit F) the Church was the ultimate beneficiary of such appropriation and the funds were expended, in whole or in part, on paving and installation of other permanent fixtures to improve the Trinity Church's real property. This was a violation of the U.S. and Virginia Establishment Clauses by the Town Council.

48. In addition, the advertised "consideration" for the vacation, abandonment, and conveyance to The Inn at LW, LLC of the designated portion of Middle Street was "*the contribution to be made by the Inn to the Trinity Episcopal Church parking lot*"

⁷ See, e.g., *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756, 7-793, 93 S.Ct. 2955, 37 L.Ed.2d 948 (1973) [direct "maintenance and repair" subsidies for sectarian schools and tuition reimbursement grants, despite the fact that the latter are delivered to the parents rather than directly to the schools themselves is unmistakably to provide financial support for nonpublic, sectarian institutions and violates the establishment clause."]

repaving and improvements." (Exhibit C, emphasis added) The gifting of the Town's real estate to a private entity in consideration for a contribution to be made by that entity to a Church was likewise a separate and distinct violation of the U.S. and Virginia Establishment Clauses as well as a violation of Virginia Code §15.2-953.

COUNT TWO -- INVALIDITY OF MIDDLE STREET VACATION AND CONVEYANCE

49. All of the allegations of paragraphs (1) through (48) are incorporated herein by reference, as if repeated *verbatim*.

50. The July 15th Resolution purports on its face to vacate and abandon the portion of Middle Street shown on Exhibit A in accordance with Virginia Code §15.2-2006, but for reasons set forth in greater detail below, the Town failed to comply with a variety of statutory requirements, any one of which would render the purported act of abandonment and vacation, and conveyance to The Inn at LW, LLC void *ab initio*, and collectively produce the same result, based upon which the Court should declare the purported conveyance a legal nullity.

51. As noted in paragraph (30) hereof, a portion of the purportedly vacated portion of Middle Street that was the subject of the July 15, 2013 Resolution and subsequent May 11, 2015 Ordinance has been part of the State Secondary Highway system since 1994 (*see*, Exhibit I), and as such, it could not be abandoned or vacated without first giving proper notice to the public as required by statute and the Commonwealth Transportation Board formally deciding to discontinue that portion of the roadway from state maintenance and withdrawing it from the State Secondary Highway System pursuant to Virginia Code §33.1-150 (effective October 14, 2014, now Code §33.2-908.) Such failure, in addition to a violation of law rendering it invalid, was a violation of Complainant's procedural and substantive due process rights guaranteed by the Fourteenth Amendment to the Constitution of the United States of America.

52. Although Virginia Code §15.2-1800(B) appears generally to permit localities to dispose of their property by gift, Virginia Code §15.2-953 is very specific that any gifts have to be to other state agencies or to non-profit organizations. The Inn at LW, LLC is neither -- it is a privately owned, for-profit business. Under elementary principles of statutory construction the specific provisions of Virginia Code §15.2-1800(B) must be read in the context of Virginia Code §15.2-953. *See, e.g., Com. v. Brown*, 529 S.E.2d 96, 259 Va. 697 (2000) and cases cited therein. There is no provision of the Constitution of Virginia, the Code of Virginia or the Charter of the Town of Washington that authorizes the gift of municipal property to a private individual or private business under any circumstances whatsoever. Accordingly, the Court should declare the Town's July 15th Resolution and May 11, 2015 Ordinance void *ab initio* as arbitrary, capricious, unreasonable, and *ultra vires* in violation of the Dillon Rule.

53. Virginia Code §15.2-2006 authorizes the Town to vacate or abandon the street as a public thoroughfare, but there is nothing in the statute about transferring or conveying the vacated or abandoned street to any adjoining landowner in the enabling statute cited in the July 15th Resolution and subsequent May 11, 2015 Ordinance as the basis for the Town Council's action, which, contrary to law, purported to "vacate and abandon *to the adjoining property owner*, The Inn at LW, LLC, Grantee, that portion of Middle Street shown on the Plat. . . ." (emphasis added) Nowhere in Virginia Code §15.2-2006 does the statute authorize conveyance or "abandonment to" an adjoining landowner.⁸ The only provision for such conveyance is Virginia Code §15.2-2008, which, as hereafter alleged, was not complied with by the Town. Accordingly, the Court should declare the Town's July 15th Resolution void *ab initio* as arbitrary, capricious, unreasonable, and *ultra vires*.

54. The Town failed to comply with the notice requirements of Virginia Code §33.1-

⁸ *See, e.g., Black's Law Dictionary*, (Revised 4th Edition) at 9:

"ABANDONMENT. * * * The voluntary relinquishment of possession of [a] thing by owner with intention of terminating his ownership, *but without vesting it in any other person*. [citation omitted] * * *".

158 as to the adoption of the July 15, 2013 Resolution of Vacation or with Virginia Code § 33.2-916 with respect to the adoption of the May 11, 2015 Ordinance. In neither instance were the required notices posted thirty (30) days before the hearing at the County Courthouse or along the section of roadway in question that was proposed to be vacated or abandoned. Accordingly, the July 15th "Resolution of Vacation" and the May 11, 2015 Ordinance should be declared null and void, arbitrary and capricious, unlawful, unreasonable, and *ultra vires* in violation of the Dillon Rule.

55. The 2013 vacation or abandonment and conveyance of Middle Street was conditioned on the express or implied proffer by Respondent, The Inn at LW, LLC, to accommodate the expansion or development of its existing restaurant and hotel businesses through the repaving, landscaping and other improvements on the "stub" of Middle Street that was purportedly abandoned and vacated by the July 15th Resolution as well as the proffered improvements to the front of the Post Office and Country Cafe building adjacent to the Middle Street stub, all which were proffered to be completed "before the height of the Fall (2013) season." (See statement of Respondent O'Connell at the June 17, 2013 Town Council meeting in Exhibit B and quoted *verbatim* in paragraph 18, *supra*. and reference to "the proffer" in Respondent O'Connell's June 8, 2013 e-mail to Mayor Sullivan, paragraph 12, *supra*.)

56. Respondent The Inn at LW, LLC failed to fulfill any of the proffered conditions by commencing -- much less completing -- any of the repaving, landscaping and other so-called "beautification" improvements to its Post Office building or to the purportedly abandoned or vacated portion of Middle Street by the Fall of 2013 or even the Fall of 2014. As of the date of the filing of this Amended Complaint in June 2015, said "beautification" efforts at the Post Office building or vacated portion of Middle Street still have not been started, much less completed. The only part of the proffered work that was done was the Trinity Episcopal Church parking lot.

57. The failure of Respondent, The Inn at LW, LLC, timely to perform all of the

proffered conditions on which the \$20,000 appropriation and the July 15th Resolution were based some twenty-two months after the designated portion of Middle Street was purportedly conveyed to it by the Town, represents a failure of consideration that renders the purported conveyance null and void.

58. Virginia Code §15.2-2008 permits the Town to require, upon vacation or abandonment, that the fractional portion of its public rights-of-way and easements be purchased by any abutting property owner at a price no greater than the property's fair market value or its contributory value to the abutting property, whichever is greater, or the amount agreed to by the parties and that no such vacation or abandonment shall be concluded until the agreed price has been paid. The Town's July 15th Resolution and subsequent May 11, 2015 Ordinance were legal nullities insofar as they purported to abandon and convey to Respondent, The Inn at LW, LLC, any portion of the purportedly "vacated" portion of Middle Street because said Resolution and the subsequent May 2015 Ordinance failed to comply with any of the requirements of Virginia Code §15.2-2008, including but not limited to, establishing a price as provided by law based on the property's fair market value or its contributory value to the abutting property, a prerequisite to purchase by an abutting property owner.

59. On information and belief, none of the Respondents ever commissioned an appraisal to determine (a) the fair market value of the real estate underlying Middle Street or (b) its contributory value to the abutting property into which it was merged. Moreover, no "other amount" was "agreed to by the parties" or otherwise established as required by law, and no "other time period" was made a condition of the vacation or abandonment or was established by the Town Council, all of which renders the purported act of abandonment and vacation, and conveyance to Respondent, The Inn at LW, LLC, void *ab initio* and a legal nullity because there was no "purchase," no "price," and correspondingly, because there was no payment "within one year . . . of the local government action to vacate or abandon," the vacation or abandonment is void as to said

Respondent by operation of law, *to-wit*: Virginia Code §15.2-2008.

60. Virginia Code §15.2-2100(A) provides a specific procedure for sale of municipal property. To the extent the July 15th Resolution or the subsequent May 11, 2015 Ordinance purported to convey any real property to Respondent, The Inn at LW, LLC, without payment of any consideration, it was void *ab initio* and a legal nullity because there was no bidding, no sale, no "purchase," no "price" and no "payment."

61. Virginia Code §15.2-2100(A) also provides that a sale of public property, in addition to all other conditions and requirements of law, must be effected by passage of an ordinance that is approved by a recorded affirmative vote of three-quarters ($\frac{3}{4}$ ths) of all members elected to the Town Council. On information and belief, it was with this statutory provision in mind that the July 15th Resolution states on its face that it was passed by a three-quarters ($\frac{3}{4}$ ths) majority *of the quorum present*, (*see* the recitation of premises in Exhibit E, third "whereas" clause). But the Resolution was not adopted by affirmative vote of three-quarters ($\frac{3}{4}$ ths) *of all members elected to the Council*. The Resolution shows that of the seven-person Town Council, two members did not vote: one was absent and one (Respondent O'Connell) recused himself, and that the resolution received only five affirmative votes which is less than the required three-quarters ($\frac{3}{4}$ ths) of the elected Town Council.⁹ Accordingly, to the extent the July 15th Resolution purported to convey any real property to Respondent, The Inn at LW, LLC, without the required three-quarters ($\frac{3}{4}$ ths) affirmative vote, it was void *ab initio* and a legal nullity.

⁹ See, *Virginia Acts of Assembly, Washington Town Charter*, [H-1078] approved March 14, 1985, Chapter 3, §3.1, which provides as follows:

CHAPTER 3
TREASURER, MAYOR AND COUNCIL

§ 3.1. Election, Qualification and Term of Office for the Treasurer, Mayor and other members of Council—The town shall be governed by a seven-member town council composed of five council members, the treasurer, and the mayor, all of whom shall be qualified voters in the town and shall be elected by the qualified voters of the town in the

62. Similarly, the May 11, 2015 Resolution, in which a revised Ordinance purporting to abandon the designated portion of Middle Street was approved, received only five affirmative votes (one abstention and one "No" vote), less than the three-quarters (³/₄ths) majority required by Virginia Code §15.2-2100(A).

COUNT THREE: VIOLATION OF VIRGINIA CONFLICTS OF INTEREST ACT

63. All of the allegations of paragraphs (1) through (62) are incorporated herein by reference, as if repeated *verbatim*.

64. In enacting Title 2.2, Chapter 31 of the Code of Virginia, the *Virginia State and Local Government Conflicts of Interest Act*, the General Assembly recognized that our system of representative government is dependent in part upon citizens maintaining the highest trust in their public officers and employees, and declared "that the citizens are entitled to be assured that the judgment of public officers and employees will be guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests." It also specifically provided that "*This chapter shall be liberally construed to accomplish its purpose.*" (Virginia Code § 2.2-3100, *emphasis added*)

65. Respondent O'Connell's repeated failures commencing in December 2012 to make proper and timely disclosures of his personal interest in the transaction, and his repeated electronic, telephonic and in-person discussions with Mayor Sullivan and other public officials in connection with the Trinity Church Parking Lot Beautification Project were in knowing and willful disregard for the provisions of COIA.

66. The three-part Trinity Church Parking Lot Beautification Project, including the \$20,000 appropriation for improvements to the Trinity Church parking lot in violation of the U.S. and Virginia Establishment Clauses, the vacation and abandonment of Middle Street, and the conveyance of said real property to The Inn at LW, LLC "in consideration for the improvements to be made to the Trinity Church parking lot" was a "transaction" in which Respondent O'Connell had a "personal interest" as those terms are defined for purposes of COIA in Virginia Code §2.2-3101 because said Respondent has a personal

interest in the recipient of the appropriation and of the valuable real property.

67. On information and belief, at no time prior to the June 17, 2013 or July 15, 2013 meetings of the Town Council did Respondent formally disqualify himself in the manner specified in Virginia Code §2.2-3112(A)(1) and Virginia Code §2.2-3115(F) from participating in the Trinity Church Parking Lot Beautification Project, either with respect to the receipt of the public appropriation of \$20,000 in public funds for the project, the change in the July 2013 Town Council meeting date, or the conveyance of valuable real estate in the Town to an entity controlled and beneficially owned by him (directly or by application of the rule on "affiliated business entity relationships") via the July 15th Resolution.

68. On information and belief, Respondent knowingly failed to make the required disclosures of his personal interest in the matters regarding the \$20,000 appropriation or abandonment and conveyance of Middle Street in the manner prescribed by Virginia Code §2.2-3112(A)(1) and Virginia Code §2.2-3115(F) prior to the June 17, 2013 or July 15, 2013 meetings of the Town Council.

69. In willful and knowing disregard for his legal obligation to disqualify himself from participating in the Trinity Church Parking Lot Beautification Project in which he had a personal interest, Respondent engaged in numerous discussions with other government officials of the Town of Washington about the transaction in violation of Virginia Code §2.2-3112(A)(1) which specifically provides that "[t]he officer or employee shall be prohibited from * * * (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time." These are detailed in paragraphs (10) through (15) and paragraph (21), *supra*, which are incorporated herein as if repeated, *verbatim*.

70. On information and belief, Petitioner alleges that Respondent O'Connell had other prohibited meetings and discussions, including but not limited to electronic mail

discussions, with Town government officials in willful, knowing and wanton disregard for the requirements and prohibitions of the Virginia Conflicts of Interest Act.

71. On April 13, 2015, approximately two years after full and formal disclosure under COIA should have been made, Respondent O'Connell belatedly filed a formal, written disqualification regarding his conflict of interest concerning the abandonment and vacation of Middle Street, a copy of which is attached as **Exhibit J**.

72. Subsequent to the initiation of this proceeding, on April 13, 2015 the Town Council held a closed meeting or executive session pursuant to Virginia Code §2.2-3711 to discuss the pending litigation. The items on the agenda for that meeting included legal matters related to the original Complaint filed in this proceeding, including discussion of pending litigation involving the \$20,000 appropriation for the Trinity Church Parking Lot Beautification Project approved June 17, 2013 and the abandonment of the portion of Middle Street at the July 15, 2013 Town Council meeting, with respect to which Respondent O'Connell had already "recused" himself from voting.

73. Despite having recused himself from the vote on the \$20,000 appropriation for the Trinity Church Parking Lot Beautification Project at the June 17, 2013 Town Council meeting, having recused himself from the vote on the abandonment of the portion of Middle Street at the July 15, 2013 Town Council meeting, and having filed the disqualification/disclosure (**Exhibit J**), on information and belief Respondent O'Connell participated in a portion of the April 13, 2015 closed session at which matters as to which he was disqualified were discussed in willful, knowing and wanton disregard for and in violation of Virginia Code §2.2-3112(A)(1).

**COUNT FOUR: VIOLATION OF THE
ETHICS IN PUBLIC CONTRACTING PROVISIONS OF COIA**

74. All of the allegations of paragraphs (1) through (73) are incorporated herein by reference, as if repeated *verbatim*.

75. Virginia Code §2.2-3105 specifically provides that the COIA prohibitions on contracting by public officials shall be supplemented but not superseded by the provisions in the Virginia Public Procurement Act ("VPPA") on ethics in public contracting in Title 2.2, Article 6 (§ 2.2-4367 *et seq.*) of Chapter 43.

76. The three-part "Trinity Church Parking Lot Beautification Project" was "a procurement transaction" as defined in VPPA, Virginia Code §2.2-4368.

77. Respondent O'Connell is a "public employee" and had a "pecuniary interest arising from the procurement" of goods and services with respect to the three-part Trinity Church Parking Lot Beautification Project as those terms are defined in VPPA, Virginia Code §2.2-4368 as an employee of Respondent, The Inn at LW, LLC, which was the *de facto* contractor in the so-called "Trinity Church Parking Lot Beautification Project" and the primary beneficiary of the Project by virtue of having its private property improved, in part, at the partial expense of the Town and its taxpayers by virtue of the \$20,000 public appropriation for said Project.

78. Although not reflected in any written "contract" or "agreement," Mayor Sullivan described the Trinity Church Parking Lot Beautification Project as a three-way "partnership" between The Inn, Trinity Episcopal Church and the Town. It became an enforceable contract (and thus a "public contract" under Virginia Code §2.2-4301) once the Town performed its part of the agreement, by transferring the \$20,000 appropriation on October 31, 2013 for the agreed upon improvements to the Trinity Church parking lot by the Inn and by adopting the July 15th Resolution, and once Trinity Episcopal Church executed its agreement with The Inn formalizing the agreement for use of its parking lot at Main and Middle Streets in the Town of Washington by The Inn's patrons, which, on information and belief, was signed in or about September 2013.

79. At no time did the Town engage in any competitive bidding for the paving, landscaping and other so-called improvements that were part of the Trinity Church Parking Lot Beautification Project. Instead, the Town delegated all responsibility for the administration and performance of a "public contract," and *de facto* made Respondent, The Inn at LW, LLC, and Respondent O'Connell its contractors in the "procurement transaction" for the "construction" as defined in VPPA, by delegating all procurement functions to said Respondents, including "the obtaining of all goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration." Respondents' scheme unlawfully circumvented VPPA entirely in willful and wanton violation of, and disregard for, the prohibitions set forth in Virginia Code §2.2-4369 arising from Respondent O'Connell's "pecuniary interest arising from the procurement."

80. The transaction known as the "Trinity Church Parking Lot Beautification Project" including the appropriation of \$20,000 of public funds, and the adoption of the July 15th Resolution based on a proffer by Respondents O'Connell and The Inn at LW, LLC to pay for the repaving, landscaping and other "beautification" work, was an enforceable, legal and binding "contract" as defined in COIA, Virginia Code §2.2-3101 and a "prohibited contract" as defined in Virginia Code §2.2-3107, due to, *inter alia*, the personal interest of Respondent O'Connell in the entity that acquired the real property as a result of the transaction, the Respondent, The Inn at LW, LLC. The actions of the Town in approving the contract were arbitrary, capricious, unreasonable and void as a matter of law and Respondent O'Connell and The Inn at LW, LLC engaged in prohibited conduct under the Ethics in Public Contracting Subchapter of VPPA (Article 6, §2.2-4367 *et seq.* of Chapter 43 of Title 2.2), and COIA, including, without limitation, Virginia Code §2.2-3107.

WHEREFORE, for all the foregoing reasons, Complainant respectfully requests that the Court, acting in accordance with and under the authority granted by the United States Constitution, the Constitution of Virginia, Virginia Code §§8.01-184 *et seq.*, Virginia Code §§2.2-3100, *et seq.* as supplemented by Virginia Code §§2.2-4368 through 4377, and Virginia Code §15.2-2008, grant the following declaratory, injunctive and other relief:

(A) issue a declaratory judgment finding the June 17, 2013 appropriation of \$20,000 for improvements to the Trinity Episcopal Church parking lot was approved in violation of the U.S. and Virginia Establishment Clauses, and was unconstitutional, unlawful and *ultra vires*, and, by injunctive order direct Respondent, The Inn at LW, LLC, to refund said sum to the Town, with interest from October 31, 2013 until repaid in full;

(B) issue a declaratory judgment declaring the July 15, 2013 Resolution and May 11, 2015 Ordinance purporting to vacate and convey the designated portion of Middle Street to Respondent, The Inn at LW, LLC, to be unlawful, *ultra vires*, null and void for all the reasons set forth in Count Two of this Complaint;

(C) issue declaratory judgment finding that Respondent O'Connell's failure to make full and timely disclosure of his conflict of interest as required by Virginia Code §2.2-3112(A)(1) and in the manner proscribed in Virginia Code §2.2-3115(F) and that Respondent's O'Connell's discussions with other public officials of a matter with respect to which he had a personal interest as detailed in Count Three of this Complaint was a knowing violation of the *Virginia State and Local Government Conflicts of Interest Act*;

(D) issue a declaratory judgment finding that the Town's *de facto* or *de jure* delegation of authority to act as general contractor to Respondent O'Connell was unlawful and in violation of the *Virginia State and Local Government Conflicts of Interest Act* §2.2-3100 *et seq.*, as supplemented by the *Ethics in Public Procurement* law, Virginia Code §§2.2-4368 through 4377;

(E) pursuant to Virginia Code §2.2-3124, impose such civil penalties as the Court deems appropriate on Respondent O'Connell, including but not limited to forfeiture of Respondent's unlawful benefit from the illegal public contract (or "public procurement") and, by injunction or other appropriate decretal order, direct that Respondent The Inn at LW, LLC, refund the unlawful appropriation received by it in the amount of \$20,000 with interest at the statutory rate from October 31, 2013, and convey the portion of Middle Street depicted on Exhibit A back to the Town of Washington, Virginia; and

(F) award Complainant his costs in this behalf expended and grant to Complainant all such other and further relief as to which he may be entitled and the nature of his cause may require to achieve the ends of justice.

Dated: June 18, 2015

DAVID L. KONICK
pro bono publico and pro se



David L. Konick VSB No. 17495
P.O. Box 57
Washington, Virginia 22747-0057
Telephone (540) 937-5067

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing pleading were served upon counsel for Respondents via first class mail or facsimile this 18th day of June 2015 in accordance with Rule 1:12 of the Rules of the Supreme Court of Virginia:

Robert T. Mitchell, Esquire [rmitchell@hallmonahan.com]
Hall, Monahan, Engle, Mahan & Mitchell [(540) 662-4304]
9 East Boscawen Street
Winchester, Virginia 22604-8482

Counsel for Town of Washington, Virginia

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100 North Pitt Street, Suite 206
Alexandria, Virginia 22314

Counsel for Respondents O'Connell and The Inn at LW, LLC

David L. Konick

David L. Konick VSB No 17495

Complainant pro se

EXHIBIT B

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

June 17, 2013 7:00 p.m.

Town Council Meeting

Approved Minutes

* * *

NEW BUSINESS: a). Trinity Church Parking Lot Beautification:

Rev. Jenks Hobson presented plans for renovating the Trinity Church parking lot in partnership with the Inn. Patrick O'Connell discussed plans for landscaping the Middle Street Stub Street and asked The Town to consider the vacating of the stub street to the Inn. Rev. Jenks asked the Council to consider contributing to the project.

NEW BUSINESS CONTINUED: a). Trinity Church Parking Lot Beautification:

After a short discussion, Ms. Kuhn made a motion to expend the sum of \$15,000 from this year's budget and \$5,000 from the FY 2013-2014 Budget both from Category 4010, Town Promotions and Beautification, and to authorize the Mayor to expend such sums in one or more payments, not to exceed collectively \$20,000, to parties performing the work, or other parties responsible for the enhancement of the Trinity Church Parking lot. Mr. Schwartz seconded the motion. Mr. O'Connell recused himself.

A roll call vote was taken:

Ms. Butler voted "yes" Ms. Kuhn voted "yes"

Mr. Goebel voted "yes" Mr. Schwartz "yes"

Mayor Sullivan voted "yes"

And the motion passed 5-0.

Mayor Sullivan moved that the July Council meeting date be moved from July 8, 2013 to July 15, 2013 and Mr. Goebel seconded and a roll call vote was taken:

Ms. Butler voted "yes" Ms. Kuhn voted "yes"

Mr. Goebel voted "yes" Mr. Schwartz "yes"

Mayor Sullivan voted "yes" **Mr. O'Connell voted "yes"**

And the motion passed 6-0.

Mayor Sullivan made a motion that the Council authorize and publicize a public hearing for July 15, 2013 to vacate the Middle Street stub street to the Inn and Ms. Kuhn seconded and a roll call vote was taken:

Ms. Butler voted "yes" Ms. Kuhn voted "yes"

Mr. Goebel voted "yes" Mr. Schwartz "yes"

Mayor Sullivan voted "yes"

And the motion passed 5-0.

Mr. O'Connell recused himself.

Mr. O'Connell left the meeting.

Exhibit B-1

[EXCERPT OF UNOFFICIAL TRANSCRIPT OF TOWN COUNCIL MEETING, JUNE 17, 2013
STARTING AT @ ~50:30 OF THE DIGITAL RECORDING SUPPLIED BY THE TOWN]

John C. Bennett (Town Attorney) : I think you could vote on the fifteen [\$15,000] now but on the five [\$5,000] you would have to adopt next year's budget first and then you could vote on that.

* * *

@0050:42 **Councilman Schwartz**: Why don't we approve that and then come back and approve this [proposed beautification appropriation]?

Sullivan: Good idea. We're sort of jumping . . . do I hear a motion to approve the budget for this year . . . to approve the 2013/14 budget?

Councilwoman Kuhn: I'll make that motion. @ 51:08

Sullivan: Do I hear a second?

Councilman: Second.

Sullivan: Roll call. Let's start with Alice [Butler].

Councilwoman Butler: Yes.

Council Members: Yes, yes, yes, yes.

O'Connell: I'll recuse myself since it could be interpreted that part of the budget could be used for this project.

Sullivan: Well, there really is no conflict since this budget was already discussed before this project came up, so there is no conflict.

O'Connell: All right, then, Yes.

Sullivan So the Town Budget is approved. [@0052:00] Now, um, Mary Ann, I think you're the one who hit twenty [thousand for proposed beautification appropriation] . . .

Kuhn: I'd like to make a motion that we take fifteen from this past year's budget, and five from the 2013/2104 budget for the beautification of the town. [continued on next page]

Schwartz: And I'll second that. Do you have to put it for that more specific purpose? [@0052:26]

Bennett: . . . for the beautification process to be distributed . . . to give the authority to the mayor to distribute the funds as appropriate . . .

Kuhn: . . . *for the parking lot.*

Bennett: . . . as is appropriate.

Sullivan: um, vote?

O'Connell: Recuse.

Council Members: Yes, yes, yes, yes. yes.

(emphasis added)

Exhibit B-2

<http://www.rappnews.com/2013/06/20/inn-church-council-take-on-town-square/122075/>

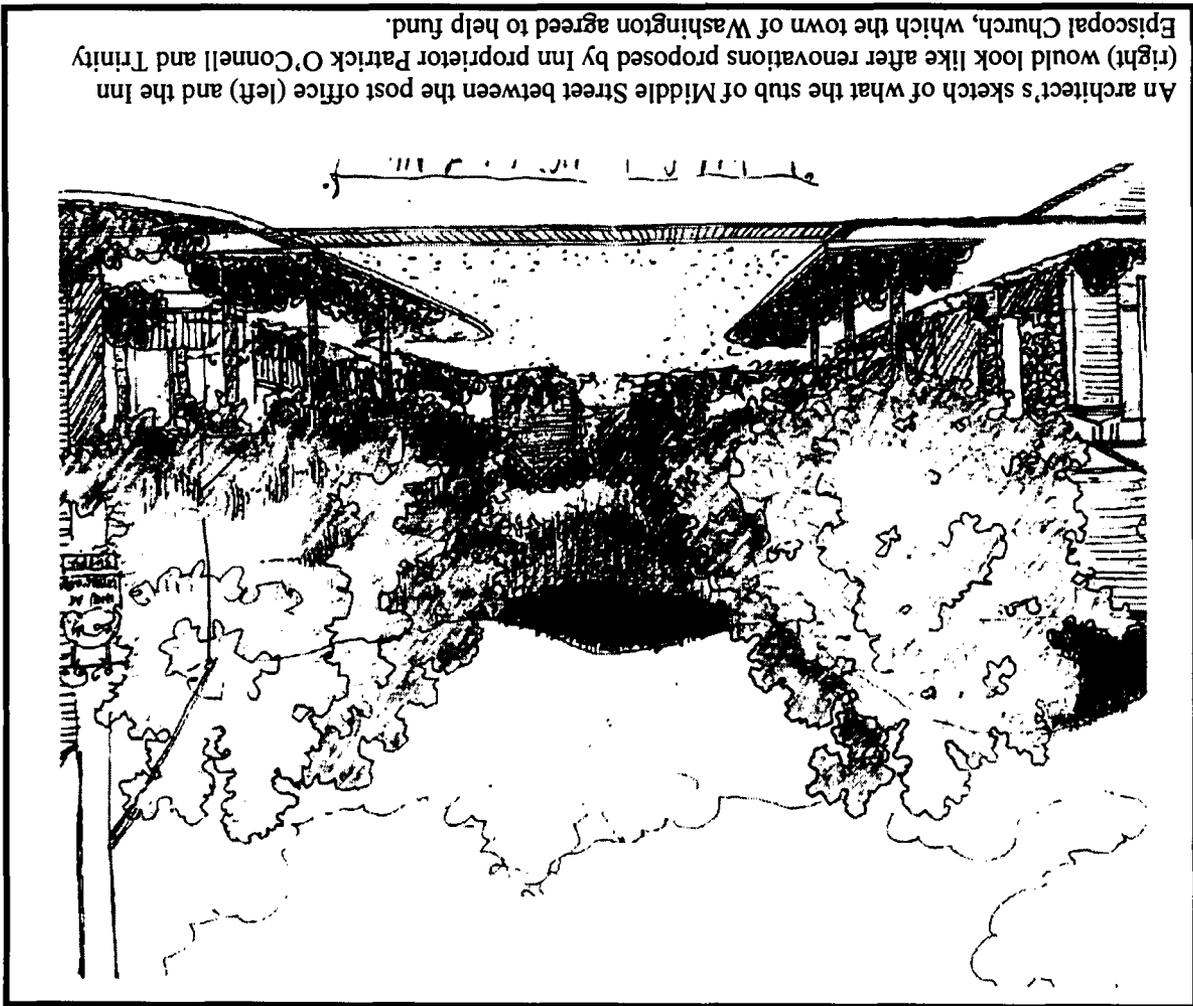


EXHIBIT C

**NOTICE OF PUBLIC HEARING
FOR CONSIDERATION AND
ADOPTION OF ORDINANCES AND
RESOLUTIONS TO VACATE AND/
OR CONVEY THE PORTION OF
MIDDLE STREET STUB STREET
WEST OF MAIN STREET IN THE
TOWN OF WASHINGTON, VIRGINIA**

KINDLY TAKE NOTICE that the Town Council of the Town of Washington, Virginia will hold a public hearing on the 15th day of July, 2013, beginning at 7:00 p.m. at the Town Hall of Washington, Virginia or as soon thereafter as the matter may be heard or such other dates and times as such public hearing may be continued to, for the purpose of considering and thereafter adopting all necessary ordinances and resolutions so as to permit and accomplish the vacation and/or conveyance to the Inn at Little Washington, LLC, or assigns, of the Middle Street stub street lying west of Main Street, commonly known as the "Middle Street stub street", consisting of an area approximately 30' wide x approximately 170' long, more or less, as may be more accurately determined by survey. The consideration for the vacation and/or conveyance is the contribution by the Inn to the Trinity Episcopal Church parking lot repaving and landscaping, located across the intersection of this stub street and also on such terms, conditions and proffers as may be adopted by the Town Council.

All supporting documents, including existing surveys of the area, are available at the town offices during normal business hours for inspection and copying.

All are invited to attend the public hearing at the time and place aforesaid and present their views. The hearing is being held in a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility to the facility should contact the Town Clerk by telephone at 540-675-3128.

TOWN COUNCIL
TOWN OF WASHINGTON, VIRGINIA
John C. Bennett
Town Attorney

Ms. Nancy Buntin discussed that she wished that the improvements could continue down Main St. to Ballard's as it was a difficult walk and people often had to walk in the street. Mayor Sullivan discussed that Ms. Buntin had a good point but that was part of a larger issue for another day. Ms. Butler asked if the public would still be able to have access as they did now to the Beauty Shop and offices off of the stub street. Mr. O'Connell said that the street would continue to be open to serve those tenants. Mayor Sullivan closed the public hearing. He discussed that Mr. Bennett had provided a draft resolution. Mr. Bennett discussed that the effect of the resolution was the vacation of that portion of the stub street that led to private property all owned by the same property owner. He discussed that the resolution would allow the Town to retain all existing easements, along with water and sewer easements, and the right to future utility easements. He proposed that paragraph 3 be changed to reserve an easement for a sidewalk of seven feet instead of fifteen feet and that in paragraph 5 that the twenty foot easement be changed to fifteen feet if the parcel was sold to a different entity. Mr. Goebel asked about paragraph 4 where the stub street being vacated would convey to Tax map 20a-1-18, the Inn Gift Shop, instead of the Post Office building, since the Post Office had offices in the back. Mr. Bennett discussed that in the case of one building being sold a fifteen foot easement would have to be granted to the Town so there would be access to those offices. Mayor Sullivan made a motion to approve the Resolution with the changes proposed by Mr. Bennett (Attached) to paragraph 3, change fifteen feet to seven feet, and paragraph 5, change twenty feet to fifteen feet. Mr. Schwartz seconded the motion and a roll call vote was taken: Ms. Butler voted "yes" Ms. Kuhn voted "yes" Mr. Goebel voted "yes" Mr. O'Connell recused himself. Mayor Sullivan voted "yes" Mr. Schwartz voted "yes" And the motion passed 5-0. Mayor Sullivan discussed that the Town had made a significant change and he was looking forward to seeing the project commencing in the fall. Mr. Goebel asked if a survey would have to be done. Mr. Bennett discussed that a survey had been done and that it would be attached to the resolution.

* * *

Respectfully submitted,
Laura Dodd
Town Clerk

Attachments:

Bank Summary Report
List of Bills-To-Be-Paid
Additional Bills Paid
Draft Ordinance Amendments
Approved Resolution Vacating the Middle St. Stub Sty.
Approved Trinity Church Parking Lot Development Plan

Exhibit E.

**RESOLUTION OF TOWN COUNCIL
OF THE TOWN OF WASHINGTON**

THIS RESOLUTION OF THE TOWN OF WASHINGTON, herein referred to "Grantor" and as the "Town" and to be indexed as a grantor, and The INN AT LW, LLC, herein referred to as "Grantee" and to be indexed as a grantor and grantee;

WHEREAS, the Grantee did make application with the Grantor to vacate a portion of Middle Street as such area is more fully described in a plat of survey by Robert L. Boykin, Jr., Land Surveyor, dated July 10, 2013 and attached hereto as Exhibit "A" and incorporated herein (the "Plat"); and

WHEREAS, in conformity with the provisions of Section 15.2-2006 of the 1950 Code of Virginia, as amended, a notice of public hearing specifying the time and place of such hearing was published in the Rappahannock News, a paper of general circulation within the Town, on June 27, 2013 and July 4, 2013 ; and

WHEREAS, such public hearing was conducted by a lawful quorum of the Town Council on the 15th day of July, 2013, and on motion duly made and seconded, this Resolution was duly adopted by an affirmative roll call vote by more than three-fourths of such quorum;

NOW, THEREFORE, BE IT RESOLVED, upon consideration of this matter, the Town, acting through its Town Council, finds the portion of the public right of way of the street known as Middle Street as set forth on the Plat (the "Stub Street") serves only property now owned by the Grantee, and no others, and therefore no longer serves a public purpose, excepting the side walk and utility easements retained below; that no public interest is advanced by retaining the Stub Street as a public right of way; and that retaining the Stub Street and being required to maintain the same would be a burden upon the Town as no public access is now served;

ACCORDINGLY, the Town of Washington in accordance with the provisions of and authority granted in Section 15.2-2006 doth hereby vacate and abandon to the adjoining property owner, namely, The Inn at LW, LLC, Grantee, that portion of Middle Street shown on the Plat, briefly described as a 30 foot wide strip running northwest from its boundary with Main Street between parallel line of 169.91 feet to the north and 170.64 feet to the south as is more fully and accurately described on said Plat,

BUT UPON THE FOLLOWING EXPRESS RESERVATIONS:

1. The Town hereby reserves unto itself and its assigns, including, among others, any public service authority hereafter created, all existing utility easements, including, among others, the existing water line and main, and the existing sewer line and main, now affecting the Stub Street, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair.

TM = 7-1-13

2. The Town further reserves unto itself or its assigns, including, among others, any public service authority hereafter created, the right to grant utility easements above, on or below the property hereby vacated, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair, without the necessity for any consent or joinder of the Grantee or its assigns or successors in title.

3. The Town further reserves unto itself or its assigns an easement within the area running parallel to Main Street and extending 7' back from the line of Main Street, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair, for the installation, maintenance, repair and replacement of side walks and associated uses and structures by the Town or its assigns together with a public right of way for pedestrian use of the area and any side walk or other feature installed therein.

4. The portion of Middle Street hereby vacated shall become a part and parcel of Tax. Map 20a-1-18 and shall not be a separate lot for purposes of zoning and subdivision or any rights accruing in relation thereto.

5. The Grantee by acceptance of this vacation hereby agrees for itself and its successors in title that should any parcel formerly served by this public right of way be conveyed to a person or persons or entity other than the Grantee or its successor in title, then in that event the Grantee covenants for itself and its successors in title that it shall grant the use of an area at least 15' wide for purposes of ingress/egress to such parcel, so as to allow convenient and usable access to Main Street, or in lieu thereof, to establish access from such parcel to another public street or public way in a fashion which may be hereafter approved by the Town Council of the Town of Washington.

Voting Aye: Schwartz, Kuhn, Sullivan, Goebel, Butler
Voting Nay: None
Absent: Spethman
Recused: O'Connell

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

13-836-4

Done this 15th day of July, 2013.

TOWN OF WASHINGTON, VIRGINIA

BY: *John Fox Sullivan*
Mayor

ATTEST:
Laura J. Dodd
Clerk

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

The foregoing instrument was acknowledged before me this 15th day of July, 2013 by John Fox Sullivan, Mayor and Laura J. Dodd, Clerk of the Town of Washington.

Candace W. Wroth
Notary Public



INSTRUMENT #13000836
RECORDED IN THE CLERK'S OFFICE OF
COUNTY OF RAPPAHANNOCK ON
JULY 23, 2013 AT 10:39AM

MARGARET R. RALPH, CLERK
RECORDED BY: MRR *MRR*

EXHIBIT F

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

POST OFFICE BOX 7, WASHINGTON, VIRGINIA 22747

<http://www.town.washington.va.us>
540/675-3128

GARY SCHWARTZ, VICE MAYOR
JEROME R. GOEBEL, TREASURER
PATRICK O'CONNELL

JOHN FOX SULLIVAN, MAYOR

ALICE BUTLER
MARY ANN KUHN
DANIEL SPETHMANN

October 31, 2013

Ellen McCrum
Director of Finance
The Inn at Little Washington
443 Main Street, P.O. Box 300
Washington, VA 22747

Dear Ms. McCrum,

Enclosed are two checks totaling \$20,000 from the Town of Washington to be used towards the Town Center beautification project and the Trinity Church parking lot improvements as approved by the Town Council at the June 17, 2013 Town Council meeting.

Please contact me if you have any questions or concerns.

Sincerely,



Laura Dodd
Town Clerk

SURVEYED AND PLATTED BY
GEORGE WASHINGTON
AUGUST 4, 1749

ORGANIZED AS A TOWN
GENERAL ASSEMBLY OF VIRGINIA
DECEMBER 14, 1796

INCORPORATED AS A MUNICIPALITY
GENERAL ASSEMBLY OF VIRGINIA
FEBRUARY 12, 1894

UNION

Union First Market Bank

A

MEMO
TOWN CENTER STREET SCAPE PROJECT

FOR DEPOSIT ONLY
MEMO TO THE CREDIT OF
UNION FIRST MARKET BANK
109990

TOWN OF WASHINGTON
"THE FIRST WASHINGTON OF ALL"
P.O. BOX 7
WASHINGTON, VA 22747-0007

RNB **Roanoke National Bank**
Washington, VA 22707
68-297-514

7505

02/28/2013

The Inn at Little Washington \$ 15,000.00

Thousand and 00/100 DOLLARS

The Inn at Little Washington

James R. Hinkle
James R. Hinkle

⑆007505⑆ ⑆051402974⑆ 1010638⑆

11/06/2013 7505 \$15,000.00

MEMO
TOWN CENTER STREET SCAPE PROJECT

FOR DEPOSIT ONLY
MEMO TO THE CREDIT OF
UNION FIRST MARKET BANK
109990

TOWN OF WASHINGTON
"THE FIRST WASHINGTON OF ALL"
P.O. BOX 7
WASHINGTON, VA 22747-0007

RNB **Roanoke National Bank**
Washington, VA 22707
68-297-514

7612

10/31/2013

The Inn at Little Washington \$ 5,000.00

Thousand and 00/100 DOLLARS

The Inn at Little Washington

James R. Hinkle
James R. Hinkle

⑆007612⑆ ⑆051402974⑆ 1010638⑆

11/06/2013 7612 \$5,000.00

EXHIBIT G – BENNETT LETTER

JOHN C. BENNETT

Attorney at Law
The Hill House
306 N. West Street
Culpeper, VA 22701
(540) 825-3838

March 6, 2015

Town Council
Town of Washington

Mr. Mayor and Members of Council:

Please recall I asked at the February 9th Council meeting to be excused from the March 9th Council meeting due to travel plans with my children. I will not be available by phone or email.

Subsequent to the February 9th meeting, I became aware of questions raised as to the legality of Council's appropriation of \$20,000 to the Inn at Little Washington for enhancements to the area adjacent to the intersection at the Inn's main place of business.

I have reviewed in an initial and non-conclusive manner, the question whether this appropriation violates the prohibition of governmental contributions to religious organizations.

The information before Council and the basis upon which the appropriation was made was that improvements would be made to the church parking lot and also to adjacent areas which are likely within public easements or land, and also improvements to the area across the intersection in areas likely within public easements or for public improvements such as sidewalks, and also improvements on property wholly owned by the Inn on what is commonly referred to as the Post Office property. The information then available was about \$160,000 to \$180,000 was to be spent by the Inn on the total project including each side of Main Street.

In subsequent discussions, various terms were applied to the overall project including the description, the "church parking lot" project. The resolution by which the appropriation was made referred to the church parking lot. Members of Council were aware, what was intended was an appropriation to the Inn that would fund overall project improvements of which significantly more than \$20,000 were not related in any fashion to church property.

It was my responsibility as Town Attorney to avoid this type of ambiguity. It is my current view, subject to discussion with Council and members of Council as set forth below, and the obtaining of any additional relevant information, the motion for the appropriation to the Inn should have included specific language excluding expenditures in any way related to church property. For any oversight, I apologize and accept full responsibility.

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As I will not be attendance at the March 9th meeting, and am in fact leaving my office today. Each member of Council and Council as a whole have a right to confer with me as Town Attorney as to any questions they may have or their disagreement with any of the statements I have made above. They also have a right to receive legal advice as to any matters they may deem relevant. Finally, any conclusions or advice I many give is given in the presence of Council as a whole, so every member hears the same thing, at the same time.

I believe it necessary to put this matter on the agenda for the April 13th meeting for the following:

1. "To receive the advice of legal council in matters related to the resolution authorizing appropriation of \$20,000 for improvements at the intersection adjacent to the Inn.

2. "To consider and adopt a new resolution or resolutions relating to the above appropriation and the re-appropriation or new appropriation of such sums or new sums not to exceed [a figure which should be announced by Council at the March 9th meeting] as Council may deem necessary and advisable to further the enhancements to this intersection, but specifically excluding any expenditure for property related to church owned property."

I understand questions have also been raised as to the vacation of the stub street and the conveyance to the Inn of the underlying property. I became aware yesterday morning for the first time that it is alleged the notice for the public hearing may have been defective. If there are others reasons or grounds for questioning these actions, I am not presently aware of them. I will be unable to investigate this matter further before leaving today and would request Council to set this entire matter over to the April 13th meeting for the following:

"Consideration by Council of the vacation of the portion of the stub street and the conveyance of property to the Inn and to receive the advice of legal council in all matters related thereto, and the consideration and adoption of all resolutions necessary or appropriate as to such matters or the initiation of new ordinances pertaining thereto."

Respectfully submitted,



John C Bennett
Town Attorney

**AN ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET
OF THE TOWN OF WASHINGTON**

THIS ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET OF THE TOWN OF WASHINGTON, the Town of Washington acting through its Town Council, herein referred to as "Town" and to be indexed as a "Grantor" for recording purposes, and The INN AT LITTLE WASHINGTON, L.L.C., herein referred to as "Inn" and to be indexed as a "Grantee" for recording purposes;

WHEREAS, the Inn did make application with the Town to vacate portions of Middle Street as public rights-of-way, as such areas are more fully described in a plat of survey by Clark Land Surveying, dated May 11, 2015, and attached hereto as Exhibit "A" and incorporated herein (the "Plat"); and

WHEREAS, in conformity with the provisions of Section 15.2-2006 of the 1950 Code of Virginia, as amended, a notice of public hearing specifying the time and place of such hearing was published in the Rappahannock News, a paper of general circulation within the Town, on April 23, 2015 and April 30, 2015 ; and

WHEREAS, such public hearing was conducted by a lawful quorum of the Town Council on the 11th day of May, 2015, and on motion duly made and seconded, this Ordinance was duly adopted by an affirmative roll call vote by the Town Council;

NOW, THEREFORE, BE IT ORDAINED, upon consideration of this matter, the Town, acting through its Town Council, finds the portions of the public rights-of-way of the street known as Middle Street as set forth on the Plat (the "Stub Street") serve only property now owned by the Inn, and no others, and therefore no longer serve a public purpose and are not required for the public convenience. The easements and matters reserved below do not relate in any way to its use as a public right-of-way; that no public interest is advanced by retaining the Stub Street as a public right-of-way; and that retaining the Stub Street and being required to maintain the same would be a burden upon the Town as no public access is now served or reasonably likely to be served in the future, except the side walk for pedestrian foot traffic, which is reserved below;

ACCORDINGLY, the Town of Washington in accordance with the provisions of and authority granted in Section 15.2-2006 doth hereby vacate to the adjoining property owners, namely, The Inn at Little Washington, L.L.C., Grantee,

NO CONSIDERATION

FIRST: that portion of Middle Street shown on the Plat, briefly described as a 15 foot wide strip running northwest from its boundary with Main Street between parallel lines of approximately 170.64 feet to the northwest as is more fully and accurately shown and also described on said Plat, to be added to and become part of Tax Map 20A-1-37A; and **SECOND:** that portion of Middle Street shown on the Plat, briefly described as a 15 foot wide strip running northwest from its boundary with Main Street between parallel lines of approximately 169.01 feet to the northwest as is more fully and accurately shown and also described on said Plat, to be added to and become part of Tax Map 20A-1-18,

BUT UPON THE FOLLOWING EXPRESS RESERVATIONS:

1. The Town hereby reserves unto itself and its assigns, including, among others, any public service authority hereafter created, all existing utility easements, including, among others, the existing water line and main, and the existing sewer line and main, located below, but within the Stub Street area, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair.

2. The Town further reserves unto itself or its assigns, including, among others, any public service authority hereafter created, the right to grant utility easements above, on or below the property hereby vacated, together with the right to enter upon the areas immediately adjoining such easements during periods of actual construction, maintenance or repair, without the necessity for any consent or joinder of the Inn or its assigns or successors in title.

3. The Town further reserves unto itself or its assigns an easement within the area running parallel to Main Street and extending seven feet (7') back from the line of Main Street, together with the right to enter upon the areas immediately adjoining such easement during periods of actual construction, maintenance or repair, for the installation, maintenance, repair and replacement of side walks and associated uses and structures by the Town or its assigns together with pedestrian use of the area and any side walk or other feature installed therein. There is no obligation created hereby for the Town to construct or maintain any side walks within the easement area.

4. The portions of Middle Street hereby vacated shall become a part and parcel of Tax Map 20A-1-37A and 20A-1-18, respectively, and shall not be

separate lots for purposes of zoning and subdivision or any rights accruing in relation thereto.

5. The Inn by acceptance of this vacation hereby agrees for itself and its successors in title that should any parcel formerly served by this public right of way be conveyed to a person or persons or entity other than the Inn or its successor in title, then in that event the Inn covenants for itself and its successors in title that it shall grant the use of an area at least fifteen feet (15') wide for purposes of ingress/egress to such parcel, so as to allow convenient and usable access to Main Street, or in lieu thereof, to establish access from such parcel to another public street or public way in a fashion which may be hereafter approved by the Town Council of the Town of Washington. Such acceptance shall be in writing and given within 30 days of adoption of this Ordinance, in a form to be approved by the Town Attorney, otherwise, this Ordinance to have no effect and to be void without further action by the Town.

6. This Ordinance acts to confirm the vacation of the Stub Street as set forth in Resolution dated July 15, 2013; however, the provisions of this Ordinance shall supersede such Resolution.

Done this 11th day of May, 2015.

This Ordinance shall become effective upon approval as to form only of the acceptance by the Inn set forth in number 5 above.

Consideration for recording purposes: \$0.00

TOWN OF WASHINGTON, VIRGINIA

BY: _____



Mayor

ATTEST:


Clerk

Motion: Aichele

Second: Schwartz

Voting aye: Sullivan, Schwartz, Goebel, Leggett and Aichele

Voting nay: Kuhn

Absent: none

Abstaining: none

DISQUALIFIED: O'Connell

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

The foregoing instrument was acknowledged before me this 3rd
day of June, 2015 by John Fox Sullivan, Mayor and Laura J. Dodd, Clerk of
the Town of Washington.

Candace W. Wrote

Notary Public

My commission expires: _____

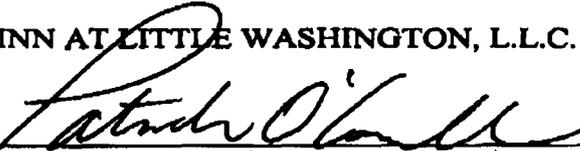


THE PROVISIONS, COVENANTS AND CONDITIONS IN THE FOREGOING ORDINANCE TO VACATE PORTIONS OF MIDDLE STREET OF THE TOWN OF WASHINGTON ADOPTED MAY 11, 2015 ARE HEREBY ACCEPTED BY THE INN AT LITTLE WASHINGTON, L.L.C. IN CONFORMITY WITH THE PROVISIONS OF SAID ORDINANCE.

This acceptance is executed on behalf of The Inn at Little Washington, L.L.C. by Patrick O'Connell, its managing member, this 3rd day of June, 2015, said official being duly authorized therefor.

THE INN AT LITTLE WASHINGTON, L.L.C.

By:

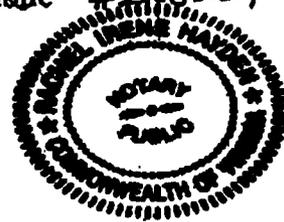

Patrick O'Connell, Managing Member

COMMONWEALTH OF VIRGINIA
COUNTY OF RAPPAHANNOCK, to-wit:

The foregoing instrument was acknowledged before me this 3rd day of June, 2015 by Patrick O'Connell, Managing Member of The Inn at Little Washington, L.L.C.


Notary Public #285209

My commission expires: March 31 2016



APPROVED AS TO FORM ONLY OF THE
ACCEPTANCE BY THE INN AT LITTLE
WASHINGTON, L.L.C.

DONE THIS 4th DAY OF June, 2015.

John C. Bennett
John C. Bennett, Town Attorney

COMMONWEALTH OF VIRGINIA
COUNTY OF CULPEPER, to-wit:

The foregoing instrument was acknowledged before me this 4th day
of June, 2015 by John C. Bennett, Town Attorney.

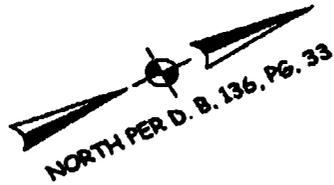
Frances Eileen Sisk
Notary Public

My commission expires:



Exhibit "A"

PLAT SHOWING PROPOSED STREET VACATION
TOWN OF WASHINGTON ~ MIDDLE STREET EXTENSION
 TOWN OF WASHINGTON, RAPPAHANNOCK COUNTY, VIRGINIA



INN AT LW, LLC
 TM 20A-1-20
 INST. # 07-155

N 29°39'17" E
 15.00'

N 29°40'08" E
 15.00'

PARCEL 1
0.0587 ACRES

SOUTHERN PORTION OF MIDDLE
 STREET EXTENDED

INN AT LW, LLC
 TM 20A-1-37A
 INST. # 07-155

PARCEL 1
0.0586 ACRES

NORTHERN PORTION OF MIDDLE
 STREET EXTENDED

INN AT LW, LLC
 TM 20A-1-18
 INST. # 07-155



N 61°09'16" W

170.64'

S 61°09'17" E

170.28'

S 61°09'18" E

169.91'

S 28°16'03" W
 15.00'

S 28°16'03" W
 15.00'

MAIN STREET

Approved by Town Council
APPROVED
ZONING ADMINISTRATOR
TOWN OF WASHINGTON
 DATE 5-3-15

NOTES:

- MIDDLE STREET EXTENSION IS PURPORTED TO BE A PORTION OF THE TOWN OF WASHINGTON STREET SYSTEM PER INST. # 98-1880.
- THE BOUNDARY SHOWN HEREON IS A COMPOSITE OF A SURVEY PLAT FOUND IN INSTRUMENT NUMBER 13-836, PREPARED BY AARON MOUNTAIN SURVEYS, ROBERT L. BOYKIN, JR., L.S., DATED JULY 10, 2013 AND TITLED: PLAT SHOWING VACATION OF A PORTION OF PRESENT/FORMER PUBLIC STREET-TOWN OF WASHINGTON, VA.
- NO FIELD WORK PERFORMED BY THIS FIRM.
- UPON VACATION BY THE GOVERNING BODY, PARCEL 1 WILL REVERT TO THE ADJOINING PARCEL OF THE INN AT LW, LLC, TAX MAP PARCEL 20A-1-37A AND PARCEL 2 WILL REVERT TO THE ADJOINING PARCEL OF THE INN AT LW, LLC, TAX MAP PARCEL 20A-1-18.

PROJ. NO.: 15-029	DATE: MAY 11, 2015
SHEET 1 OF 1	REV 1:
SCALE: 1" = 30'	REV 2:
	REV 3:
	REV 4:

CLARK LAND SURVEYING
 LAND PLANNERS AND SURVEYORS P.C.
 P.O. BOX 478; FLINT HILL, VA 22627
 (540)635-2328

2nd HIST 10/25/94

Exhibit I - VDOT Acceptance of Middle Street into State Secondary System

February 18, 1994

Secondary System
Addition
Rappahannock County
Town of Washington

C. L. PETER

Dean F. Morehouse, Mayor
Town of Washington
P. O. Box 7
Washington, VA 22747-0007

Dear Mayor Morehouse:

As requested in your Town Council's resolution dated November 10, 1993, the following addition to the Secondary System of Rappahannock County, within the Town of Washington, is hereby approved, effective February 18, 1994.

This will be charged to your 1993-94 mileage.

<u>ADDITION</u>	<u>LENGTH</u>
Route T-628 (Middle Street) - From Route 211/522 to 0.01 mile West Route 211/522	0.01 MI

Sincerely,

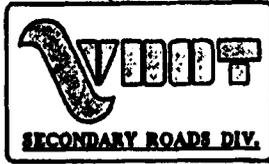
Ray D. Pethel

Ray D. Pethel
Commissioner

MLL/ml

- cy: Mr. J. S. Givens
- Mr. D. R. Askew
- Mr. R. E. Moore
- Mr. J. L. Butner
- Attn: Mr. B. L. Dunnavant
- Mr. G. A. Venable
- Mr. J. B. Robinson
- Ms. L. J. South
- Attn: Mrs. J. B. Hall
- Mr. G. A. Whirley, Sr.


 CHECKED BY DP
 RECORDED 5.10.95



Date: December 8, 1993

County: Rappahannock

Mag Distr: Hampton

Secondary Roads Div. Use Only

Route No: T-628

Effective Date: 2-18-94

Report/Recommendation for Change in Secondary System of State Highways

Type and Authority for This Proposed Change

New Subdivision Street (Sec. 33.1-229)

Rural Addition (Sec. 33.1-72.1)

Rural Addition (Sec. 33.1-72.1)

Town Addition (Sec. 33.1-79 or Sec. 33.1-82)

Project Addition (Sec. 33.1-229)

Discontinuance (Sec. 33.1-150)

Abandonment (Sec. 33.1-151)

Abandonment (Project relocation, Sec. 33.1-155)

Subdivision/Project No : _____

Street or Road Name : Middle Street Route 628 Length .01 (miles)

Terminl From: Intersection of Business 211

To: .01 North West of Intersection

Right of Way Width 30' Ft. Date Recorded: _____ Deed Book _____ Page See Attached

Public Service Provided: 3 (Number of occupied units of varied ownership / explanation of qualifying service)

Description of present section & condition: Poor condition. Gravel and Dirt

Describe work proposed & resulting section: Improve traffic flow and drainage

Estimated Cost of Proposed Improvement \$ 5,000.00 and Source of Funding

~~50% VDOT Rural Addition & 50% County General Funds~~ \$ ~~5,000.00~~

50% VDOT Rural Addition & 50% County General Funds 2(\$ _____) = \$ _____

Cost Borne by Speculative Interests and Secured by County \$ _____

Assessment or Contribution from Abutting Property Owners \$ _____

County Revenue Sharing Funds \$ _____

State Revenue Sharing Match (Fiscal Year _____) \$ _____

Other (_____) \$ _____

Total Funding (must equal estimated cost of proposed improvement) \$ 5,000.00

Remarks: _____

Recommendation Accept Abandon Discontinues

R. E. Moore 12/5/93
Resident Engineer Date

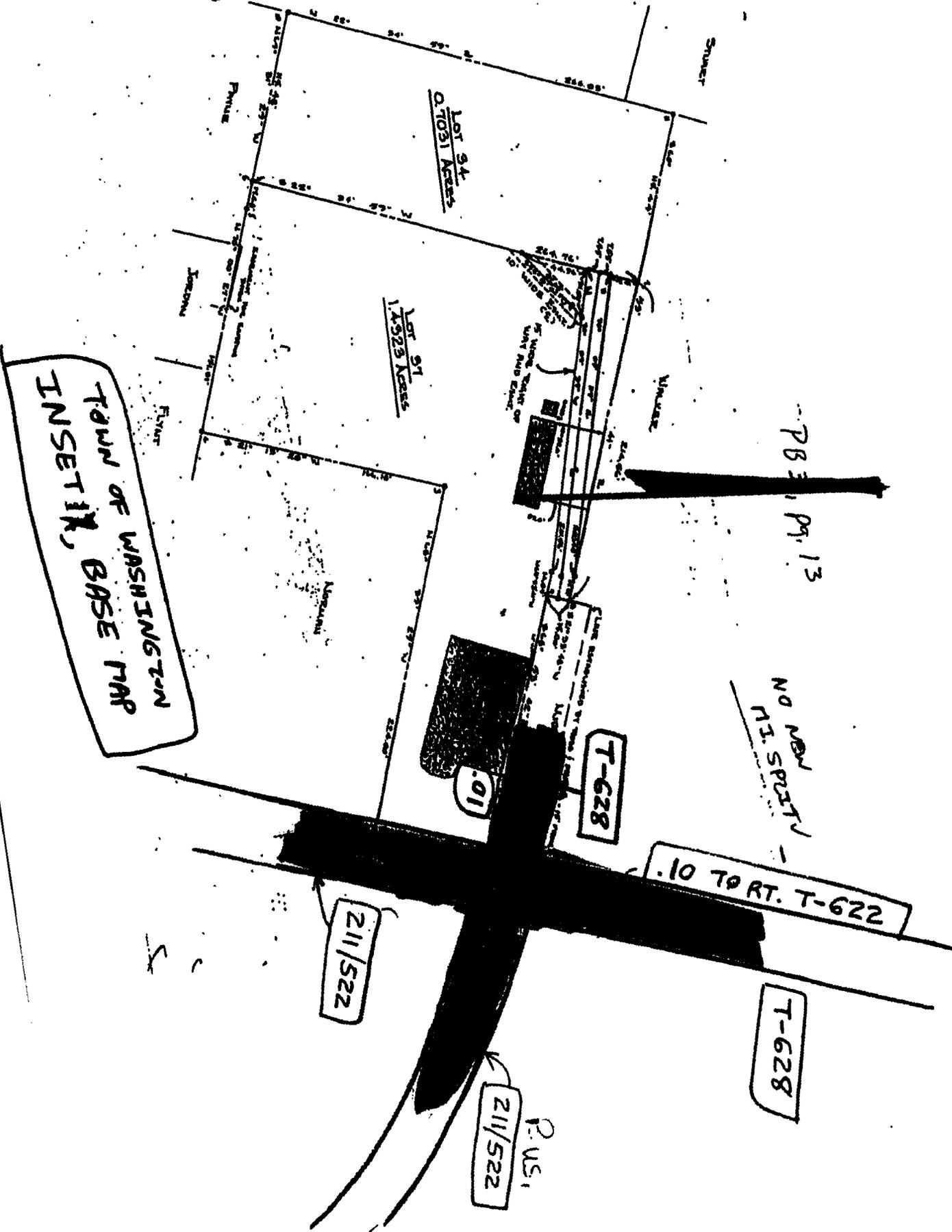
James S. Givens ML 2-18-94
Secondary Roads Engineer Date

District Administrator Date

Approved: Ray D. Bethel 2-18-94
Commissioner Date

3

UPON



PB 3, Pg. 13

NO NEW HI. SPLIT

.10 TO RT. T-622

TOWN OF WASHINGTON
INSET IN, BASE MAP

T-628

T-628

211/522

211/522

P. US 1

01



RESOLUTION OF THE TOWN COUNCIL OF WASHINGTON, VIRGINIA

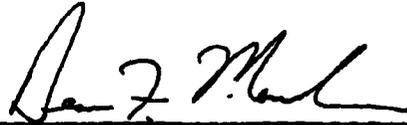
BE IT RESOLVED that the Town Council of the Town of Washington, Virginia does hereby request that The Virginia Department of Transportation, The Commonwealth Transportation Commissioner of Virginia, and The Commonwealth Transportation Board of Virginia, pursuant to Section 33.1-79 of the Code of Virginia, provide secondary road funds for the maintenance, improvement, construction, and reconstruction of the following additional area within the Town of Washington:

That land lying to the west of the intersection of Route #522/#211 (Business) and Route #628, shown as Middle Street on Tax Map 20A of Rappahannock County, Virginia, and also described as that portion of land lying between Tax Map 20A, Parcel 37, and Tax Map 20A, Parcel 19, and extending from the aforesaid intersection westward to a line drawn from the western boundary of Tax Map 20A, Parcel 37, to the western boundary of Tax Map 20A, Parcel 19.

The Town of Washington certifies, pursuant to Section 33.1-79 of the Code of Virginia, that the Town of Washington contains less than 3,500 inhabitants according to the last United States Census, and that this request does not exceed one-fourth (1/4) mile in distance, nor will the inclusion of this parcel increase the mileage of streets and roads in the Town of Washington more than one-fourth mile (1/4) in one year.

The Clerk of the Town Council is directed to forward this Resolution to Robert Moore, Resident Engineer, Virginia Department of Transportation, P.O. Box #33, Warrenton, Virginia, 22186, forthwith.

PASSED by the Town Council of the Town of Washington, Virginia on the ¹⁰ 15th day of October, 1993.



Dean F. Morehouse
Mayor, Town of Washington



Susan Parrish
Clerk, Town Council
Town of Washington, Virginia

The Virginia State and Local Government Conflict of Interests Act requires that I make disclosure, to be recorded in the Town records in any case in which I am forbidden, or choose not, to participate. Therefore, I make the following disclosure:

1. The transaction involved is:

The vacation of the Middle Street Stub Street

2. My personal interest affected by this transaction is:

I am the sole proprietor of The Inn at LW LLC, owner of both adjoining properties, The Post Office building and The Tavern Gift Shops

3. I affirmatively state that I will not vote or in any manner act on behalf of the board in this matter.

DATE:

April 13, 2015

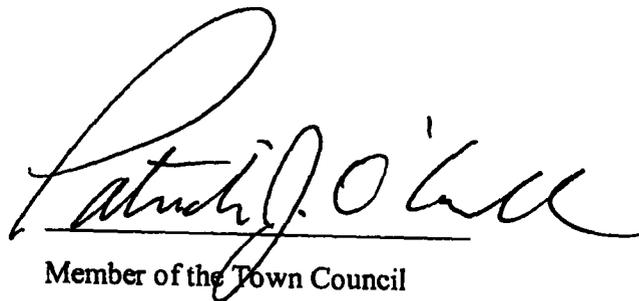

Member of the Town Council

EXHIBIT J - April 13, 2015 COIA Disclosure



1850-1851 True Diamond Shovel



*Mary Ann Kuhn
Proprietor*

October 5, 2015

Dear Sir or Madam,

I am a resident of the Town of Washington and have lived here for 21 years ever since I purchased a property on Main Street and turned it into Middleton Inn bed and breakfast. I am a member of the Washington Town Council.

I respectfully urge VDOT to relinquish maintenance responsibility of the Middle Street stub street thereby allowing plans for the upgrade of our U.S. post office to continue in a beautiful streetscape maintained by the Inn at Little Washington that owns everything on both sides of the stub street. The Inn at Little Washington has an excellent track record for maintenance and beautification.

Your support will also ensure that our post office will remain in our town for both pedestrian and vehicular traffic.

I regret that I cannot attend the public hearing as I will be out of town.

Kind regards,

Mary Ann Kuhn

Mary Ann Kuhn

The Middleton Inn
(540) 675-2020 • Fax: (540) 675-1050
Post Office Box 254 • 176 Main Street • Washington, Virginia 22747
Web: www.middletoninn.com • E-mail: innkeeper@middletoninn.com

foster harris house

LODGING  DINNER

VDOT
1601 Orange Road
Culpeper, VA 22701

October 8, 2015

Dear VDOT,

John and I have lived and worked in the town of Washington for 11 years and wanted to express our support for the transfer of ownership of the "stub" street adjacent to the post office to *The Inn at Little Washington, LLC*. In the time we have lived here (and, according to our neighbors, for the many years before we arrived), *The Inn at Little Washington* has continually improved the appearance of our small town while demonstrating respect for both the community and the town's history.

Setting aside historical evidence, it's in the best interest of any landowner and especially a business to maintain its property. Since *The Inn* owns all buildings surround the stub street, we expect – and have already seen – maintenance take place which hasn't occurred in years.

As for the post office, we're delighted to have one in our town, however, the *Postal Service* has elected to lease (rather than buy) space for its operations. The terms of that agreement are between landlord and tenant, but a quick internet search reveals that contracts between the *Postal Service* and landlords contain lengthy requirements concerning maintenance, accessibility, etc... So we have no doubt that while the *Postal Service* remains a tenant, everyone will continue to have access.

Thank you for your consideration.

Respectfully,


Diane MacPherson Date 08OCT2015


John MacPherson Date 08OCT2015

From: [glenshiel](#)
To: [Info, CulpeperInfo \(VDOT\)](#); [Nesbit, D. Mark \(VDOT\)](#); [Lynch, John D., P.E. \(VDOT\)](#)
Subject: Comment on discontinuance of maintenance by VDOT on Middle Street, Town of Washington, Rappahannock County
Date: Thursday, October 08, 2015 2:46:57 PM

Dear Mr. Nesbit:

I am emailing concerning:

Notice of Intent to

Discontinue Maintenance

Route 628 (Middle Street)

Town of Washington

Rappahannock County

for which VDOT was petitioned. I am opposed to the discontinuance of maintenance of this street since a lawsuit was brought against this indicating irregularities, favoritism, and law breaking as to the transfer of this street. I trust David Konick's knowledge of the law and his problem with this transfer, and do feel the whole decision was an insider decision, only later attempting to convince the public. There is too much that gets decided in this way. I am asking for VDOT to continue maintenance/ownership of this street for the public good, since it is the public who needs and uses it.

Thank you.

Cynthia Price
Woodville, VA
Rappahannock County

From: [Nesbit, D. Mark \(VDOT\)](#)
To: [gail reardon](#)
Subject: RE: Stub street in Washington, VA
Date: Friday, October 09, 2015 3:40:28 PM

Dear Ms. Reardon,

Thank you for sending me your e-mail regarding the Town of Washington's request for discontinuance of a section of Rt. 628 in the Town. I will make sure this e-mail gets included in the public hearing package that goes to the Commonwealth Transportation Board for their October 28th meeting.

Sincerely,

D. Mark Nesbit

*VDOT-Warrenton Residency Administrator
457 East Shirley Avenue
Warrenton, Va 20186
Phone: 540-347-6443
Daniel.Nesbit@vdot.virginia.gov*

From: gail reardon [mailto:merrymoomarket860@gmail.com]
Sent: Friday, October 09, 2015 1:41 PM
To: Nesbit, D. Mark (VDOT)
Subject: Stub street in Washington, VA

Dear Mr. Nesbit: Thank you for having an open meeting yesterday in Sperryville, VA concerning the stub street in Washington, VA. As a county resident and attendee at the meeting I feel I must express a few thoughts.

Many of the people who spoke up at the meeting, at least the last 20 minutes, were business owners of the town and members of the Town Council. I have to say that their businesses are absolutely dependent on the operations of The Inn at Little Washington. The Town Council members would not object to the Inn's view, as Patrick O'Connel is a member of the Town Council. The Inn is the only business that brings visitors to the town. The speakers could not be objective if they wanted to be as they are depended on the Inn's referrals.

I have used the stub street for parking many times because it is the only parking available when the small area in front of the post office is filled. The stub street is indispensable for public use. "Dangerous" it is not. With clear views of the business 211 and little if no traffic, leaving the stub street is no more dangerous than parking anywhere else in the town.

Finally, the stub street provides parking in an area that has so little parking for the residents of the town and county.

Thank you,
Gail Reardon

Thank you, Mr Lynch, and all those involved at VDOT for setting up this public hearing on the importance of retaining the Middle Street stub in the state's secondary system. Under your management the Middle street stub has been an attractive and well-used public road that allowed clearly-marked and convenient access to the properties surrounding it.

My name is Christine Smith, and currently I reside in Sperryville. When my family moved to Rappahannock in the 80's, one of the first things we did was rent a PO box in the town of Washington. We continue to receive mail there, as we have now for about 30 years.

This spring I attended a Washington Town Council meeting where Council discussed the use of the street and gifting it to Mr. O'Connell and his Inn. In that same meeting, despite numerous vocal requests, including a petition signed by many, the Town Council flatly refused to do a study of the street's usage and instead just voted to abandon it.

Now some people will say, "This street no longer serves a public convenience." Since no study was ever done that is a biased, complete fabrication.

ing...

The appearance of the street has been dramatically and prematurely altered since this vote. Blacktop torn up, double lines, road signs, have all been torn down. These changes discourage public use and are a thinly-veiled attempt to legitimize to the actions of the Inn and the Town.

Now, as part of an ambitious proposed remodel, the Inn plans to move the entrance of the Post Office to the back of the building. With the ~~40~~ plus post office boxes in Washington that alone should make the Middle Street stub the most traveled road in the town of Washington.

One parting thought, since I have lived here, the post office building, the neighboring tavern, and the beauty-shop building out back have been under separate ownership. Now one person owns them all, but who is to say that one day they all might not be separate again? Keeping the Middle Street stub public will avoid a potential nightmare of property access for future owners.

Please keep safe, easy public access to my mail delivery and make a prudent decision for the future. Keep the Middle Street stub in the state secondary system.

From: Susan Stoltzman <smstoltzman@gmail.com>
Date: October 5, 2015 at 1:34:27 PM EDT
To: "Sullivan, John Fox" <jsullivan@nationaljournal.com>
Subject: Letter of Support

October 5, 2015

Susan M. Stoltzman
Dan Spethmann
481 Mount Salem Ave
Washington, VA 22747

John Fox Sullivan
Mayor, Washington, VA

Dear Mr. Mayor,

Dan and I are, unfortunately, unable to attend the meeting between town/county residents and VDOT scheduled for early evening October 8, 2015.

We enthusiastically support the town center beautification project, including the transfer of the stub street to the Inn. Dan and I have lived in Washington for 5 years now and we visit the post office at least three times per week. We are QUITE SURE that no one using the newly proposed entrance on the side will be inconvenienced in any way. On the contrary, patrons of the post office will enjoy a beautifully maintained, pedestrian friendly entrance. This is a perfect example of a true "win-win" proposal: visitors to the post office will get to enjoy a wonderful new entrance and VDOT will have one less road to worry about! Sincerely,

Susan and Dan

From: [Eric Tollefson](#)
To: [Nesbit, D. Mark \(VDOT\)](#); [Info, CulpeperInfo \(VDOT\)](#)
Subject: Notice of Intent to Discontinue Maintenance - Route 628 (Middle Street)
Date: Saturday, October 03, 2015 7:31:15 AM
Attachments: [VDOT_MiddleStreet_Tollefson.pdf](#)

Dear Mr. Nesbit:

Please retain Route 628 (Middle Street) in the VDOT Secondary System – the 0.01 mile length of road west of the intersection of Route 522/211 (Business) and Route 628 (Middle Street) with a right away width of 30 feet.

I am opposing the release of the Street from VDOT's care. As a permanent resident of Rappahannock County who commutes to nearby towns for business, I frequently travel through the intersection of Business Route 522/211. VDOT has been doing excellent work in keeping this section of road maintained since before the street was platted (1700s). This section of road is a well-used public thoroughfare.

My expressed concerns are based on the Middle Street Stub and the properties involved on the west side of Maine Street intersect with the State Primary Highway US 211 Business. Allowing a private business to interfere with a very public thoroughfare is very risky; especially with dynamic ownership of private Limited Liability Corporations (LLCs). The town might claim to be able to step in and the reduce risk of maintaining this section of Middle Street; however, the town budget is already stressed and with a declining population budgets will continue to be further stressed.

If a private business wanted to make "improvements" as proposed for Middle Street (as in this particular case), actions can be taken through proper permitting provided the private business follows the requirements that are standard for the Commonwealth as administered by VDOT and are supposed to apply to everyone who works in or directly adjacent to right of way that is VDOTs responsibility to maintain.

In my opinion, the town has over stepped their legislative responsibility to "give away" this section of road to a private LLC; a road which is a well-used public thoroughfare used by many residents in Rappahannock County and the State of Virginia.

I can be reached during normal working hours at (703) 919-0516 or by email at etollefson@hughes.net.

Sincerely,
//s//
Eric Tollefson

cc: VDOT Warrenton Residency Administrator, CulpeperInfo@vdot.virginia.gov

Eric Tollefson
Sperryville, VA

PETITION AND APPLICATION FOR THE APPOINTMENT OF VIEWERS

WE THE UNDERSIGNED RESIDENTS OF THE TOWN OF WASHINGTON, VIRGINIA AND/OR RESIDENTS OF RAPPAHANNOCK COUNTY, VIRGINIA WHO ARE PATRONS OF THE WASHINGTON, VIRGINIA POST OFFICE (22747) HEREBY PETITION THE TOWN COUNCIL NOT TO VACATE MIDDLE STREET AND BEFORE DOING SO TO APPOINT THREE TO FIVE PEOPLE TO VIEW SUCH PUBLIC RIGHT-OF-WAY AND REPORT IN WRITING ANY INCONVENIENCE THAT WOULD RESULT FROM DISCONTINUING THE RIGHT-OF-WAY IN ACCORDANCE WITH VIRGINIA CODE §15.2-2006 BEFORE ABANDONING OR VACATING ANY PORTION OF MIDDLE STREET:

	SIGNATURE	PRINT NAME	STREET ADDRESS	TOWN
1.	<i>Sherry Cillo</i>	Sherry Cillo	PO Box 12	Washington
2.	<i>R. W. Kelley</i>	R. W. Kelley		Castleton
3.	<i>Autumn King</i>	Autumn King		Washington VA.
4.	<i>Cindy Robinson</i>	Cindy Robinson	92 A. Lee Rd 7 Linnet H. LLC, VA	
5.	<i>Charles J. Hunter</i>	Charles J. Hunter	218 Main St. VA	22747
6.	<i>Christa Neeks</i>	Christa Neeks	525 Main St.	Washington, VA 22747
7.	<i>Patricia B. Hawkins</i>	Patricia B. Hawkins	309 Wheeler	Washington
8.	<i>Liba Luftwisch</i>	Liba Luftwisch	317 Wheeler St.	Washington, VA
9.	<i>Patricia A. Giles</i>	Patricia A. Giles	532 Gay St	Washington VA 22747
10.	<i>Clarence E. Giles</i>	Clarence E. Giles Jr	532 GAY ST.	WASHINGTON, VA 22747
11.	<i>Jeremiah J. Atkins</i>	Jeremiah J. Atkins	14177 Cecily	Amisville, VA
12.	<i>Beverly S. Atkins</i>	Beverly Atkins	151 Bear Hill Rd	Flint Hill 22627
13.	<i>Sharon Dodson</i>	Sharon Dodson	2471 Jericho Road	Flint Hill, VA 22627
14.	<i>Catherine M. Lane</i>	Catherine M. Lane	527 Aar. mt. Rd	Castleton, VA 22716
15.	<i>Mary F. Dodson</i>	MARY F. Dodson	P.O. Box 334	Sperryville VA 22744

§ 15.2-2006. Alteration and vacation of public rights-of-way; appeal from decision. In addition to (i) the powers contained in the charter of any locality, (ii) any powers now had by such governing bodies under the common law or (iii) powers by other provisions of law, public rights-of-way in localities may be altered or vacated on motion of such governing bodies or on application of any person after notice of intention to do so has been published at least twice * * * **At the conclusion of the hearing and on application of any person, the governing body may appoint three to five people to view such public right-of-way and report in writing any inconvenience that would result from discontinuing the right-of-way.** The governing body may allow the viewers up to fifty dollars each for their services. The sum allowed shall be paid by the person making the application to alter or vacate the public right-of-way. * * *

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	SIGNATURE	PRINT NAME	STREET ADDRESS	TOWN
1.		David T. Kere	55 Javernays Fwd	CASTLETON
2.		Evelyn Kere	55 Javernays Fwd	CASTLETON
3.		Mary Dixon	11 Palmer Lane	CASTLETON
4.		Jacklyn Dixon	11 Palmer Lane	CASTLETON
5.		Jerry Dixon	11 Palmer Lane	CASTLETON
6.		Kim Dixon	333 SCRABBLE RD	CASTLETON VA
7.		Demarist Miller	333 hyle lane	Washington 22747
8.		Ronald Prorom	446 VINEY TOWN Rd	Amers ²²⁷⁴⁷ _{VA}
9.				
10.				
11.				
12.				
13.				
14.				
15.				

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	SIGNATURE	PRINT NAME	STREET ADDRESS	TOWN
1.	<i>Ella Miller</i>	Ella Miller	13038 Lee Hwy	Washington
2.	<i>Henry Miller</i>	Henry Miller	13038 Lee Hwy	Washington
3.	<i>Ann Miller</i>	Ann Miller	13038 Lee Hwy	Washington VA
4.	<i>Brooke Miller</i>	Brooke Miller	13038 Lee Hwy	Washington, VA
5.	<i>Marilyn R. Bailey</i>	Marilyn R. Bailey	50 Gingers Hill	Washington, VA
6.	<i>Carol Miller</i>	CAROL MILLER	97 Main	Washington Va
7.	<i>David Konick</i>	DAVID KONICK	PO Box 57	WASHINGTON VA
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

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	SIGNATURE	PRINT NAME	STREET ADDRESS	TOWN
1.		Christine Smith	11891 Lee Hwy.	Sperryville VA
2.		Margaret A. Culver	11909 Lee Hwy	Sperryville VA
3.		Ryan Allred	11891 Lee Hwy	Sperryville VA
4.		Rebecca Smith	11895 Lee Hwy	Sperryville VA
5.		John J. New Jr.	149 CLARK LAKE	WASHINGTON, VA
6.		MARIAN BRAGG	951 Old Brown Hollow Rd	Wash, VA
		BETH GEORGY	3584 Grace Mills Rd.	Sperryville, VA
8.				
9.				
10.				
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135

Petition to Proceed with the Town Square Beautification

We, the undersigned, support our local government's efforts to beautify Washington, Virginia's town center. While objections to the project have been raised based largely on incorrect procedure, we believe the town council has the best interest of its citizens in mind on this issue and the completed project will benefit the entire community. We therefore urge the council to:

- Reaffirm its actions on the Town Square Beautification Project
- Correct procedural errors (to the extent practical)
- Avoid legal entanglement designed to intimidate the council into inaction and empty our town's savings account to pay unnecessary legal fees.

Town Residents: 31

Town Business Owners: 5

Employed in Town: 17+

(The Number of Inn employees that signed online unknown)

County Residents: 31+

(The Number of county residents that signed online unknown)

Petition to Proceed with the Town Square Beautification

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				Check all that apply:			
Printed Name	Address, phone or email (optional)	Signature	Date	I live and vote in town	I own a business in town	I work in town	I live in the county
1. Justin Corobry	330 Porter St	<i>Justin Corobry</i>	3/18/15			X	
2. Ray Gooch	132 64th St.	<i>Raymond R. Gooch</i>	3/19/15	X			
3. John Ballard	307 Main St.	<i>John Ballard</i>	3-18-15			X	X
4. Beverly Sullivan	250 Porter	<i>Beverly Sullivan</i>	3-18-15	X			
5. SUSAN ACHENBACH	275 E. MAIN ST.	<i>Susan Achenbach</i>	3-18-15				X
6. WK ACHENBACH	275 E. MAIN ST.	<i>WK Achenbach</i>	3-18-15				X
7. VINCENT DELLISE	540 675-1827	<i>Vincent Dellise</i>	3-18-15				X
8. RICHARD SHERMAN	540-987-8049	<i>Richard Sherman</i>	3-18-15				X
9. Mark A. Melville	540-675-1111	<i>Mark A. Melville</i>	3-18-15			X	
10. LAURA SKAUGE	PO Box 64 22747	<i>Laura Skauge</i>	3/18/15			X	X
11. DAY SMITH	1482 Zalweg Ln. Hopkinton	<i>Day Smith</i>	3-18-15				X
12. Steve Lambert	232 Middle St. 22747	<i>Steve Lambert</i>	3/18/15			X	X

Petition to Proceed with the Town Square Beautification

Printed Name	Address, phone or email (optional)	Signature	Date	Check all that apply:			
				I live and vote in town	I own a business in town	I work in town	I live in the county
13. Rachel Hayden		<i>Rachel Hayden</i>					
14. John MacPherson	189 Main St	<i>John MacPherson</i>	3/18/15			X	
15. George Scott	180 five corners rd woodville	<i>George Scott</i>	3/18/15	X	X	X	
16. George Scott							
17. Sandra Burke	540-671-5665	<i>Sandra Burke</i>	3/18/15				X
18. Tobetha F. Swain	540-631-1203	<i>Tobetha Swain</i>	3/19/15			X	
19. Fulmer Burks	105 Greenwood Ln	<i>Fulmer Burks</i>	3/19/15			X	X
20. Wanda E. Burton	191 MAIN STREET	<i>Wanda E. Burton</i>	3/19/15			X	X
21. Katharine J. Burton	558 Gay St	<i>Katharine J. Burton</i>	3/19/15	X			
22. Wanda E. Burton	Dustin Pennington@gmail.com	<i>Dustin Pennington</i>	3/19/15	X		X	
23. BS Knobloch	bnailsbybj@yahoo.com	<i>BS Knobloch</i>	3-19-15			X	
24. Ciera Backe	cbacke@gmail.com	<i>Ciera Backe</i>	3-19-15			X	
25. Wanda E. Burton	307 Main St Va	<i>Wanda E. Burton</i>	3.19.15			X	
26. MICHAEL JENNIS	616 ZACH. TAY. HWY.	<i>Michael Jennis</i>	3.19.15	X	X	X	
27. Alfred Reguery	30 SEPT. SONG WASH VA	<i>Alfred Reguery</i>	3.19.15				X
28. Audrey Reguery	30 September Song WASH VA	<i>Audrey Reguery</i>	3.20.15				X
29. SARAH WALTON	133 RUSH RIVER L.	<i>Sarah Walton</i>	3-20-15				X
30. William L. Walton	" "	<i>William L. Walton</i>	3-20-15			X	
31. Victoria Fortuna	31 Bessie Bell Mtn Rd Woodville VA 22749	<i>Victoria Fortuna</i>	3/20/15				X
32. Charles Fortuna	31 Bessie Bell Mtn Rd Woodville VA 22749	<i>Charles Fortuna</i>	3/21/15				X
33. Raym Crow	195 Piedmont Ave Washington, VA 22747	<i>Raym Crow</i>	3/21/15				X
34. Karen Crow	195 Piedmont Ave Washington, VA 22747	<i>Karen Crow</i>	3/21/15	X			
35. Denise Chandler	219 Fodder street Washington, VA 22747	<i>Denise Chandler</i>	3/23/15	X	X	X	X
36. WILLIAM F. MOFFETT III	537 GAY STREET Washington, VA 22747	<i>William F. Moffett III</i>	3/23/15	X			X
37. Cynthia List	106 PIEDMONT AVE Washington, VA 22747	<i>Cynthia List</i>	3/23/15	X			X
38. Titos. Poul. KAPAS	187 Red O. mtn Washington, VA 22747	<i>Titos. Poul. KAPAS</i>	3/23/15	X			X
39. Nina McKee	16 Harris Hollow Rd Washington, VA 22747	<i>Nina McKee</i>	4/8/15	X	X	X	

Petition to Proceed with the Town Square Beautification

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	Printed Name	Address, phone or email (optional)	Signature	Date	Check all that apply:			
					I live and vote in town	I own a business in town	I work in town	I live in the county
1.	Michelle DeSarno		Michelle DeSarno	3/18/15	✓			
2.	Jane Bowling-Wilson	Jane Bowling-Wilson	Jane Bowling-Wilson	3/18/15				✓
3.	Kat Hobbs		Kat Hobbs	3/18/15				✓
4.	Steph Ridder		Steph Ridder	3/19/15				✓
5.	Sarah Moore		Sarah Moore	3/19/15				✓
6.	Jean Perout		Jean Perout	3/19/15				✓
7.	Betsy Dietel		Betsy Dietel	3/19/15				✓
8.	Selma Traves		Selma Traves	3/21/15	✓			
9.	T Allan Corp	P.O. Box 267	T Allan Corp	2/14/15	✓			✓
10.	Donald LAFERT	107 Oak Mills	Donald LAFERT	4/2/15				✓
11.	Denise Masi	P.O. Box 512	Denise Masi	4/11/15	✓			
12.	Ralph Masi	P.O. Box 512	R Masi	4/11/15	✓			

Town Beautification Project Myths vs. Facts

Myth: The town gave \$20,000 to the church to beautify its parking lot.

Fact: The town contributed \$20,000 to a \$180,000 Inn at Little Washington project to beautify the center of town. The town funds were not paid to the church.

Myth: County tax dollars are being used to beautify Washington, Virginia.

Fact: Town taxes, collected from meals and lodging tax, (the Inn at Little Washington being the largest taxpayer), were used. No county taxes were spent on the project.

Myth: The areas being beautified won't really benefit the community.

Fact: The parking lot, sidewalks and better lighting can be used and enjoyed by all town and county residents and visitors.

Myth: Patrick O'Connell can vote on Inn at Little Washington projects because he is on the town council.

Fact: Every council member must recuse him or herself from council votes if the topic at hand has anything to do with his or her business.

Myth: Towns should not make deals with local businesses.

Fact: Towns, especially small towns, struggle to attract new businesses and to keep established ones from leaving. Towns will often offer incentives to new businesses to locate in the community or contribute to improvement and expansion plans for existing businesses in an effort to keep them there. These could include property tax breaks, micro-loans and discounted fees and permits. This is how towns survive and grow.

Myth: Town residents do not pay county taxes.

Town residents pay property taxes that go directly to the county. The 130 or so residents paid \$353,908 to Rappahannock county last year.

Petition to Proceed with the Town Square Beautification

About this petition

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- **Avoid legal entanglement** designed to intimidate the council into inaction and empty our town's savings account to pay unnecessary legal fees.

Signatures

1. Name: John MacPherson on 2015-03-19 22:24:38
Comments:

2. Name: Robert H Ballard on 2015-03-19 22:43:11
Comments: Washington

3. Name: Joan Platt on 2015-03-19 22:50:33
Comments:

4. Name: gail swift on 2015-03-19 23:01:25
Comments:

5. Name: Ralph Bates on 2015-03-20 00:07:41
Comments:

6. Name: Kevin Adams on 2015-03-20 00:15:29
Comments: i strongly support the Town of Washington's local government in its beautification efforts!

7. Name: Bette Mahoney on 2015-03-20 00:16:14
Comments: Washington

8. Name: Jay Brown on 2015-03-20 00:17:32
Comments:

9. Name: Christine Grey on 2015-03-20 00:17:33
Comments:

10. Name: Margaret W Brown on 2015-03-20 01:06:48
Comments:

11. Name: Clare and Nevill Turner on 2015-03-20 01:29:32
Comments: Having been residents in Washington, VA for 7 years we recently moved to Flint Hill but applaud the beautification project and strongly support the proposed petition.

12. Name: Emily Lape on 2015-03-20 01:50:53
Comments:

13. Name: Alan Zuschlag on 2015-03-20 02:19:00
Comments:

-
14. Name: ScottDillon on 2015-03-20 02:21:45
Comments:
-
15. Name: Fran Krebsler on 2015-03-20 10:03:45
Comments:
-
16. Name: Amy Hitt on 2015-03-20 11:05:01
Comments:
-
17. Name: Susie Dobson on 2015-03-20 11:51:31
Comments:
-
18. Name: Tom List on 2015-03-20 12:27:49
Comments: Thank you!
-
19. Name: Donna Henrickson on 2015-03-20 13:47:29
Comments: Washington
-
20. Name: Deb Wiles on 2015-03-20 14:07:02
Comments:
-
21. Name: Jill Gardner on 2015-03-20 14:27:51
Comments:
-
22. Name: christopher maloney on 2015-03-20 15:07:16
Comments:
-
23. Name: Andrew wright on 2015-03-20 15:36:07
Comments:
-
24. Name: Julian Eckhardt on 2015-03-20 15:50:46
Comments:
-
25. Name: Jason Waterlow on 2015-03-20 16:06:25
Comments:
-
26. Name: Anthony & Brenda Lavato on 2015-03-20 17:02:02
Comments:
-
27. Name: Dorie Peters on 2015-03-20 17:23:34
Comments: every other town would welcome a beautification effort

-
28. Name: Louise Goddard on 2015-03-20 20:26:28
Comments:
-
29. Name: Karen Crow on 2015-03-20 20:52:41
Comments: Washington
-
30. Name: Ruthie Windsor-Mann on 2015-03-20 21:01:37
Comments:
-
31. Name: Mathew Gries on 2015-03-20 21:06:12
Comments:
-
32. Name: Kendra Hendren on 2015-03-20 22:34:38
Comments:
-
33. Name: Ben Goddard on 2015-03-20 22:40:03
Comments:
-
34. Name: Lyle Stover on 2015-03-20 22:47:55
Comments:
-
35. Name: Sheila Gresinger Gresinger on 2015-03-20 22:53:13
Comments:
-
36. Name: Joan Herrema on 2015-03-20 23:20:03
Comments: thank you for initiating this.
-
37. Name: Alan Zuschlag on 2015-03-20 23:25:07
Comments: Amissville
-
38. Name: Veronika Benson on 2015-03-20 23:32:55
Comments: Jeff and I love this town, and support this plan. How could beautifying a town ever be viewed as a bad idea?
-
39. Name: Philip Rosemond on 2015-03-21 00:07:07
Comments: Fact: Many Rappahannock residents dislike improvements of any sort because they fear it will destroy the idyllic nature of our county. They decry on differing levels, business, financial incentive, tourism, events and even the arts if means "the evils of growth." Fact: it is just that kind of ignorance that could easily have our comprehensive plan scuttled in Richmond with just one challenge to our comprehensive plan with a class action law suit. Imagine: a county hunkering down unprepared for changes that could easily turn route 211 into a gasoline alley like Manassas' Sudley

Road. If we do not work -with- controlled growth with business owners, Rappco will wind up just like Gatlinburg TN: Fast food joints, strip malls, bars, crime and road side attractions, like sideshows honoring ancient TEEVEE shows glorifying ignorant hillbillies.

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40. Name: Cooper Wright on 2015-03-21 00:09:07
Comments: Thank you for giving us the ability to respond and support the town and businesses of Washington, VA.
-
41. Name: Atieno Williams on 2015-03-21 00:15:42
Comments: Washington
-
42. Name: Wendy Murdoch on 2015-03-21 07:14:31
Comments:
-
43. Name: chris doxzen on 2015-03-21 10:46:08
Comments: Reva
-
44. Name: Anne Kerr on 2015-03-21 11:14:24
Comments: Castleton
-
45. Name: Diane MacPherson on 2015-03-21 12:58:42
Comments: We love our town and feel so fortunate to have a supportive business environment, fine neighbors and a beautiful place to raise our son. He'll grow up with fond memories of our regular walks on the perimeter walking path (owned by The Inn at Little Washington, but open to the public), our expeditions to the library and the county park, ping pong at Tula's, ice cream at the Country Café and visits to the great friends we've made in this community. No town is perfect, but we can all work together to shape our future here. The council has made some missteps in the Town Square Beautification Project and those need to be corrected. This petition is simply a way of showing that we believe the council didn't intend to break any laws and that, once those issues are resolved, we'd like to see the project completed so we can enjoy an even more vibrant town.
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46. Name: Stephen Lyons on 2015-03-21 13:15:03
Comments: Sunderland
-
47. Name: Peter Daub, Amissville on 2015-03-21 14:31:43
Comments: Thank you for telling the truth in a respectful way.
-
48. Name: Syed ALi on 2015-03-21 14:49:18
Comments:
-
49. Name: Lt. Pete Mitchell on 2015-03-21 14:57:49
Comments:

-
50. Name: Margaret W Brown on 2015-03-21 23:03:49
Comments: Washington
-
51. Name: Paul Hagstrom on 2015-03-22 00:37:41
Comments: Thank you for all you are doing. God bless you!
-
52. Name: Ed Olmstead on 2015-03-22 01:03:23
Comments: Thank you!
-
53. Name: Daniel Lanigan on 2015-03-22 01:31:32
Comments:
-
54. Name: Kathryn Goldfarb on 2015-03-22 02:00:56
Comments:
-
55. Name: Trish Gardner McClain on 2015-03-22 02:02:52
Comments: I fully support our local governments efforts to beautify the town square in our county seat, Washington, VA
-
56. Name: Evan Parker on 2015-03-22 04:43:14
Comments:
-
57. Name: Sean Ryan Sinclair on 2015-03-22 04:52:20
Comments:
-
58. Name: Chelsea Ross on 2015-03-22 05:07:36
Comments:
-
59. Name: Joseph Walker on 2015-03-22 05:08:00
Comments:
-
60. Name: Chris Connolly on 2015-03-22 05:10:20
Comments:
-
61. Name: Christopher Fasce on 2015-03-22 06:41:38
Comments:
-
62. Name: Holly Glenn on 2015-03-22 15:52:14
Comments: I wholeheartedly agree with this petition and the desire to not squander precious resources on a legal proceeding which will not beautify anything. I believe the uproar over this matter is remarkably overblown and disproportionate to the asserted

infraction.

63. Name: Emerald Brown on 2015-03-22 16:40:31
Comments:

64. Name: Frances Lester on 2015-03-22 19:02:42
Comments:

65. Name: Kevin Rodwell-Simon on 2015-03-22 21:27:54
Comments:

66. Name: Leslie Dilley on 2015-03-23 06:27:43
Comments:

67. Name: Jamie Fox on 2015-03-23 16:31:10
Comments:

68. Name: Patrick J Rogala on 2015-03-24 19:49:40
Comments:

69. Name: Susan M Stoltzman on 2015-03-25 13:19:16
Comments:

70. Name: Ernesto M. Flores on 2015-03-26 13:01:53
Comments:

71. Name: Nick and Deborah Smith on 2015-03-26 15:24:57
Comments: We recently moved to Washington Virginia and eagerly support the effort to beautify the town. Even though, honestly, we have been taken aback by some of the pettiness and spitefulness in this community, we are here to stay and invest in this wonderful town. We hope that the actions of few to not tarnish the image of this beautiful place. When we were looking for a home we stayed at the Foster Harris a few times, and we thank Diane and John for their efforts.

72. Name: Joanie Ballard on 2015-03-27 02:07:02
Comments:

73. Name: Ellen Berg on 2015-03-27 14:58:34
Comments: I used to travel the East Coast of the United States for business. In every place I visited, I always sought out the "old" towns" mostly because I love the history of people and the architecture of mixing old with new and the preservation efforts of buildings that were salvageable. It amazed me what creative ideas the community came up with to create the sense of community, have a common place for all to participate in with the intention of involving the entire community in the process. I think the Town of

Washington needs to do something to keep it from going into non-existence. Rather than spending so much time and energy on criticizing the efforts of a few, wouldn't it be lovely now if, having recognized that an error occurred and is being remedied, a core group of citizens, from around the county, worked together to design/plan a place for all to enjoy. I have my own personal ideas of what that could be but boy wouldn't that just start a shouting match that would far exceed this current upset. Suffice it to say, I recognize the need for growth & I applaud the efforts to make the town a lovely viable place for all people to enjoy. Don't give up. Change causes upset, as we have clearly seen, but all things must grow/change- even us as people.

74. Name: Patricia Snyder on 2015-03-28 03:21:36
Comments: Sperryville

75. Name: Veronika Benson on 2015-03-28 16:49:43
Comments: I strongly support keeping our extraordinary town beautiful! My husband and I have owned an old home (circa 1885) in town for 15+ years, and though it requires constant upkeep and beautification, our love for this Town, its people, and the natural beauty of Rappahannock have made it all worthwhile. Let's do the same for this sanctuary in the mountains of Virginia! We must preserve that which is valuable, and can do so by keeping our town and its historic structures from slipping into further disrepair.

76. Name: Nicholas Becklund on 2015-03-28 19:53:34
Comments:

77. Name: James Feighny on 2015-04-09 17:28:18
Comments: Rockville

78. Name: Kevin Kraditor on 2015-04-10 04:02:44
Comments:

79. Name: Twila Neeld-Bracken on 2015-04-13 03:20:42
Comments:

80. Name: John O'Malley BURNS on 2015-04-13 11:23:49
Comments: Washington

81. Name: Holly Glenn on 2015-04-13 13:22:46
Comments: Woodville

82. Name: Marcus Malik on 2015-04-13 15:32:28
Comments: Washington

83. Name: Shannon Ennis on 2015-04-13 19:14:01
Comments: Washington

84. Name: Peter E. Bracken on 2015-04-15 12:48:06
Comments:
