

## STATEMENT OF JUSTIFICATION

Dudding Commercial Development LLC, a West Virginia limited liability company ("Dudding") has a contractual right to purchase a fifteen (15) acre tract or parcel located in Happy Creek Magisterial District, Warren County, Virginia, identified as part of Tax Map/Parcel 31 39, and being more particularly described as Tract A in that certain Deed from Paul O. Lanier and Zaida A. Lanier to Four-L Corporation, a Virginia corporation, dated February 8, 1982 and recorded in Book 291, Page 159 (the "Subject Property"). The Subject Property is currently zoned as Agricultural (A). Dudding seeks to have the Subject Property rezoned as Commercial (C) to facilitate the development of a convenience store.

Specifically, Dudding intends to lease a portion of the Subject Property to Sheetz, Inc., a Pennsylvania corporation ("Sheetz"), for the development and construction of a new Convenience Store with approximately forty-eight (48) parking spaces, and a Drive-Thru lane. In addition to the new Convenience Store, Sheetz has agreed to construct a paved cul-de-sac for use as a public school bus turnaround and a student shelter area serving school-aged children residing in the nearby Apple Mountain subdivision, along with approximately thirty (30) parking spaces for parent pick up / drop off. Ingress, egress and regress to and from the Subject Property will be provided via Apple Mountain Road.

The use of the Subject Property as a Convenience Store is consistent with the Warren County Comprehensive Plan and is an appropriate use given the proximity of the Subject Property to Interstate 66. Rezoning the Subject Property from Agricultural (A) to Commercial (C) is desirable to allow for commercial and retail development along the existing exit off of Interstate 66. A convenience store is a permitted use in a Commercial (c) zone under and pursuant to the Zoning Ordinance of Warren County, Virginia. The Convenience Store and school bus stop located on the Subject Property will be complimentary to the residential use of the adjacent properties located in Apple Mountain residential subdivision.

RECEIVED

SEP 22 2020

WARREN COUNTY  
PLANNING DEPARTMENT

W CREZ-000004-2020

**REZONING APPLICATION**

APPLICATION NO. R2020-10-01

DATE RECEIVED: 9/22/2020

FEE AMOUNT: \$ 2000.00 *Dudding* CK# 1021

DATE PAID: 9/22/2020

**Applicant:**

Name: Dudding Commercial Development LLC
Address: 101 Old Carriage Lane
Daniels, West Virginia 25832
Telephone: (304) 237-8574 Email: <a href="mailto:jerime@duddingcommercial.com">jerime@duddingcommercial.com</a>

**Owner of Record:** (if different than above; if more than one owner provide information for each on a separate page).

Name: Four-L Corporation
Address: 2801 Chapel Hill Road, Goochland, Virginia 23063
Telephone: (804) 240-9394

Respectfully (name above) request that a determination be made by the Warren County Planning Commission and Board of Supervisors on the following request for a rezoning for the property described below.

**Property Information:**

**A. Location of Property:**

Election District: Happy Creek Magisterial District
Tax Map No.: 31 39 (part of)
Section: Current Deed: Book 291, Page 160 (Tract A)
Block:
Lot(s):
Subdivision Name: Adjacent to Apple Mountain Subdivision
Area of Property (acres): 15 acres (approximately 4.0 acres to be immediately developed)

**B. Current land use and condition of site: Agricultural/Unimproved/Undeveloped**

**C. Zoning of surrounding land and property: R-1 (Residential - 1) to the North of the property  
Interstate 66 and Commercial (C) to the South**

**Zoning Classification and Request:**

A. Present Zoning of property: Agricultural (A)

B. Proposed Zoning requested: Commercial (C)

**Proposed Use of Property:**

A. Describe the proposed use of the property, including primary and secondary uses.  
2.35 acres - Convenience Store - Primary Use  
1.15 acres - Bus Stop/School Bus Pick Up/Drop Off - Secondary Use  
11 acres - Undeveloped/Unimproved

**Plans Prepared by:**

Name: Bohler Engineering VA, LLC  
Address: 28 Blackwell Park Lane, Suite 201  
Warrenton, VA 20186  
Telephone :(540) 349-4500

I/we the undersigned, do hereby respectfully agree to comply with any conditions required by the Board of Supervisors of the County of Warren, Virginia, and authorize the County personnel to go upon the property for the purpose of making site inspections. Expenses incurred in securing professional assistance in connection with the review of this application for Rezoning, shall be charged to the applicant. **If the set of required documents is incomplete, your application will not be placed on the Planning Commission's agenda.**

Signature of Owner:	Date:
Signature of Applicant: 	Date: 9-16-20
Signature of Co-Applicant(s):	Date:

### Direction – Front Royal to Apple Mountain property.

1. Start out going **west** on E 6th St/VA-647 toward Belair Ave. Continue to follow E 6th St.

Then 0.34 miles

2. Turn **left** onto N Commerce Ave/US-522 S.
  1. Angel's Korner is on the corner

Then 1.19 miles

3. Turn **left** onto John Marshall Hwy/VA-55.
  1. John Marshall Hwy is 0.1 miles past Partsmouth Rd
  2. BB&T is on the corner

Then 4.71 miles

4. Turn **left** onto Apple Mountain Rd.
  1. Apple Mountain Rd is 0.1 miles past Dismal Hollow Rd

Then 0.16 miles

Cross under I-66, Property is on Left



THIS DEED, made this 8th day of February, 1982, by and between PAUL O. LANIER and ZAIDA A. LANIER, his wife, parties of the first part; and FOUR-L CORPORATION, a Virginia corporation, party of the second part;

W I T N E S S E T H:

That for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties of the first part do hereby grant and convey with General Warranty and English Covenants of Title, with the exceptions hereinafter stated, unto the party of the second part, all of the right, title and interest of Paul O. Lanier in and to the real estate described on Schedule A attached hereto.

This conveyance is made subject to all existing easements, conditions and agreements of record applicable thereto. Mrs. Zaida A. Lanier joins in this deed to release her dower interest.

WITNESS the following signatories and seals:

*Paul O. Lanier* [SEAL]  
Paul O. Lanier

*Zaida A. Lanier* [SEAL]  
Zaida A. Lanier

STATE OF VIRGINIA )  
County of *Xhocland* ) to-wit:

The foregoing Deed was acknowledged before me this *12<sup>th</sup>* day of February, 1982, by Paul O. Lanier and Zaida A. Lanier, his wife.

*Judith S. Hedney*  
Notary Public

[SEAL]  
My Commission expires:  
*Feb 17, 1984*

ALL of that certain real estate with all improvements thereon and all rights, easements and appurtenances thereunto belonging, lying and being situate north of Virginia Route #55, approximately one mile west of Linden, in Shenandoah Magisterial District of Warren County, Virginia, and bounded and described according to the surveys and plats made by R. M. Bartenstein, C.L.S., attached to the hereinafter mentioned deed, as follows, to-wit:

(1) TRACT A: "BEGINNING at (F), a point corner to the residue of Prieto and in the northern right of way line of the proposed I-Rt. 66, thence with the said proposed I-Rt. 66 as follows: S. 14° 03' 13" W. 167.89 feet to (A), a point, thence N. 86° 43' 18" W. 583.71 feet to (B), a point, thence with a curve to the right having a radius of 2768.79 feet, a delta angle of 09° 20' 30", and an arc length of 451.44 feet to (C), an iron pipe to be set corner to the Apple Mountain Subdivision, thence leaving the said proposed I-Rt. 66 and with the Apple Mountain Subdivision as follows: N. 16° 57' 42" E. 769.08 feet to (D), an iron pipe to be set, thence S. 73° 02' 18" E. 977.10 feet to (E), an iron pipe to be set, thence first with the Apple Mountain Subdivision then the residue of Prieto (Tract C), S. 13° 33' 47" W. 366.00 feet to (F), the point of beginning, the said tract of land containing 15.0000 Acres; and

(2) TRACT B: BEGINNING at (J), a point in the right of way line of the proposed I-Rt. 66 and corner to the residue of Prieto (Tract C), thence leaving the proposed I-Rt. 66 and first with the residue of Prieto and then Apple Mountain Subdivision N. 13° 33' 47" E. 352.94 feet to (K), an iron pipe to be set corner to Apple Mountain Subdivision, thence with said subdivision as follows: S. 73° 02' 18" E. 1123.23 feet to (L), an iron pipe to be set, thence S. 16° 57' 42" N. 659.75 feet to (M), an iron pipe to be set, in the northern right of way line of the proposed I-Rt. 66, thence with the said right of way line with a curve to the right having a radius of 1833.86 feet, a delta angle

of  $25^{\circ} 24' 45''$ , and an arc length of 749.36 feet to (N), a point, thence N.  $52^{\circ} 46' 44''$  W. 41.61 feet to (O), a point, thence N.  $63^{\circ} 03' 56''$  W. 319.45 feet to (P), a point, thence N.  $11^{\circ} 13' 29''$  E. 127.67 feet to (J), the point of beginning, the said tract of land containing 15.0000 Acres; and

(3) TRACT D: BEGINNING at (A), an iron pipe set in the southern right of way line of the proposed Interstate Route 66 and corner to White, thence leaving the proposed Interstate Route 66 and with White S.  $42^{\circ} 32' 45''$  W. 75.75 feet to (B), an iron pipe set on the north side of an old abandoned road corner to Heflin, thence with Heflin N.  $69^{\circ} 15' 58''$  W. 231.00 feet to (C), an iron pipe set, thence S  $87^{\circ} 44' 05''$  W. 206.51 feet to (D), an iron pipe set in the center of said road and corner to Martin, thence first with Martin, then an unknown tract, and the center of the said old road as follows: S.  $85^{\circ} 04' 49''$  W. 234.50 feet to (E), an iron pipe set, thence S.  $88^{\circ} 29' 51''$  W. 220.48 feet to (F), an iron pipe set in the northern right of way line of Virginia Route 55, thence with the said right of way line as follows: With a curve to the left having a radius of 5779.58 feet, a delta angle of  $01^{\circ} 12' 00''$  and an arc length of 121.05 feet to (G), an iron pipe set, thence N.  $79^{\circ} 03' 25''$  W. 101.29 feet to (H), a point located S.  $60^{\circ} 54' 07''$  E. 0.97 feet from a Virginia Department of Highways monument, thence with a curve to the left having a radius of 5769.58 feet, a delta angle of  $03^{\circ} 29' 02''$ , and an arc length of 350.82 feet to (I), an iron pipe set, thence N.  $77^{\circ} 22' 31''$  W. 551.60 feet to (J), a point located N.  $44^{\circ} 13' 23''$  W. 1.46 feet from a Virginia Department of Highways monument, thence N.  $68^{\circ} 50' 40''$  W. 101.12 feet to (K), an iron pipe set, thence N.  $77^{\circ} 22' 31''$  W. 150.00 feet to (L), a point located N.  $09^{\circ} 04' 39''$  W. 0.53 feet from a Virginia Department of Highways monument, thence N.  $85^{\circ} 54' 22''$  W. 101.12 feet to (M), a point located N.  $83^{\circ} 14' 24''$  W. 1.03 feet from a Virginia Department of Highways monument, thence N.  $77^{\circ} 22' 31''$  W. 369.67 feet to (N), an iron pipe set in the right of way line of the proposed Interstate Route 66, thence with the said right of way line as follows: N.  $45^{\circ} 01' 42''$  W. 108.78 feet to (O), an iron pipe set, thence N.  $13^{\circ} 33' 47''$  E. 159.51 feet to (P), an iron pipe set, thence N.  $48^{\circ} 07' 19''$  E. 141.88 feet to (Q), an iron pipe set, thence N.  $84^{\circ} 00' 01''$  E. 670.46 feet to (R), an iron pipe set, the beginning of

a curve to the right having a radius of 1833.86 feet, a delta angle of  $19^{\circ} 00' 36''$ , and an arc length of 608.45 feet to (S), an iron pipe set, thence S.  $62^{\circ} 26' 23''$  E. 812.64 feet to (T), an iron pipe set, thence S.  $57^{\circ} 00' 25''$  E. 440.20 feet to (U), an iron pipe set, thence S.  $62^{\circ} 03' 21''$  E. 334.73 feet to (A), the point of beginning, the said tract of land containing 28.2397 Acres; and

(4) TRACT E: BEGINNING at (A), a point in the center of Virginia Route 647 and corner to the parcel previously acquired by the Virginia Department of Highways referred to in Deed Book 149, Page 496, thence leaving the said road and with the above mentioned parcel N.  $13^{\circ} 33' 47''$  E. passing through an iron pipe to be set at 25.00 feet, 290.14 feet in all to (B), an iron pipe to be set in the southern right of way line of the proposed Interstate Route 66, thence with the said right of way line as follows: S.  $76^{\circ} 26' 13''$  E. 510.00 feet to (C), a point, thence S.  $67^{\circ} 24' 19''$  E. 817.44 feet to (D), a point, thence S.  $68^{\circ} 14' 09''$  E. 561.67 feet to (E), a point, thence S.  $27^{\circ} 10' 40''$  E. 71.67 feet to (F), a point, thence S.  $13^{\circ} 33' 47''$  W. 350.00 feet to (G), a point, thence S.  $78^{\circ} 47' 12''$  W. 65.81 feet to (H), an iron pipe or spike to be set in the center of Virginia Route 647, thence with the center of the said route N.  $56^{\circ} 58' 43''$  W. 716.33 feet to (J), a point in the eastern right of way line of the proposed relocated Virginia Route 647, thence with the said right of way line with a curve to the left having a radius of 411.97 feet, a delta angle of  $19^{\circ} 36' 46''$ , and an arc length of 141.02 feet to (K), a point, thence S.  $35^{\circ} 32' 48''$  W. 30.00 feet to (L), a point in the center of Virginia Route 647, thence with the center of the said route N.  $56^{\circ} 11' 35''$  W. 25.93 feet to (M), a point, thence leaving the center of Virginia Route 647 and with the center of an old abandoned road N.  $21^{\circ} 06' 22''$  W. 26.10 feet to (N), a point 15.00 feet from the center of Virginia Route 647, thence with a line 15.00 feet from the said center of Virginia Route 647 and parallel to same, the general courses of which are as follows: N.  $56^{\circ} 11' 35''$  W. 245.25 feet to (O), a point, thence N.  $60^{\circ} 58' 03''$  W. 99.19 feet to (P), a point, thence N.  $72^{\circ} 51' 02''$  W. 95.92 feet to (Q), a point, thence N.  $83^{\circ} 02' 05''$  W. 58.04 feet to (R), a point in the center of the aforementioned abandoned road, thence with the center of the said road S.  $84^{\circ} 56' 52''$  W. 72.04 feet to (S), a point in the center of Virginia

Route 647, thence with the center of the said route, the general courses of which are as follows: N. 89° 51' 34" W. 137.20 feet to (T), a point, thence N. 85° 29' 32" W. 87.01 feet to (U), a point, thence N. 79° 34' 05" W. 137.96 feet to (V), a point, thence N. 76° 12' 26" W. 110.65 feet to (A), the point of beginning, the said tract of land containing 12.7861 Acres," and being a part of the real estate which was conveyed to Serafin G. Prieto by C. W. Keyser and Mary H. Keyser, his wife, by deed dated January 20, 1948, and recorded in the Clerk's Office of Warren County, Virginia, in Deed Book #68, at Page 471, to which said deed reference is hereby made for a further description of the real estate herein and hereby conveyed.

BEING the same real estate conveyed to Paul O. Lanier by two Deeds, one Deed dated May 29, 1975, from William P. Clarke and Emma C. Clarke, recorded in the Circuit Court of Warren County, Virginia, on June 17, 1976, in Deed Book 233, page 163, and another Deed dated May 29, 1976, from J. Goodwin Moore and Barbara H. Moore, recorded in the above-mentioned Clerk's Office on June 17, 1976, in Deed Book 233, page 155.

Sec 58-59 Tax 440.30  
 Sec 58-54.1 160.50

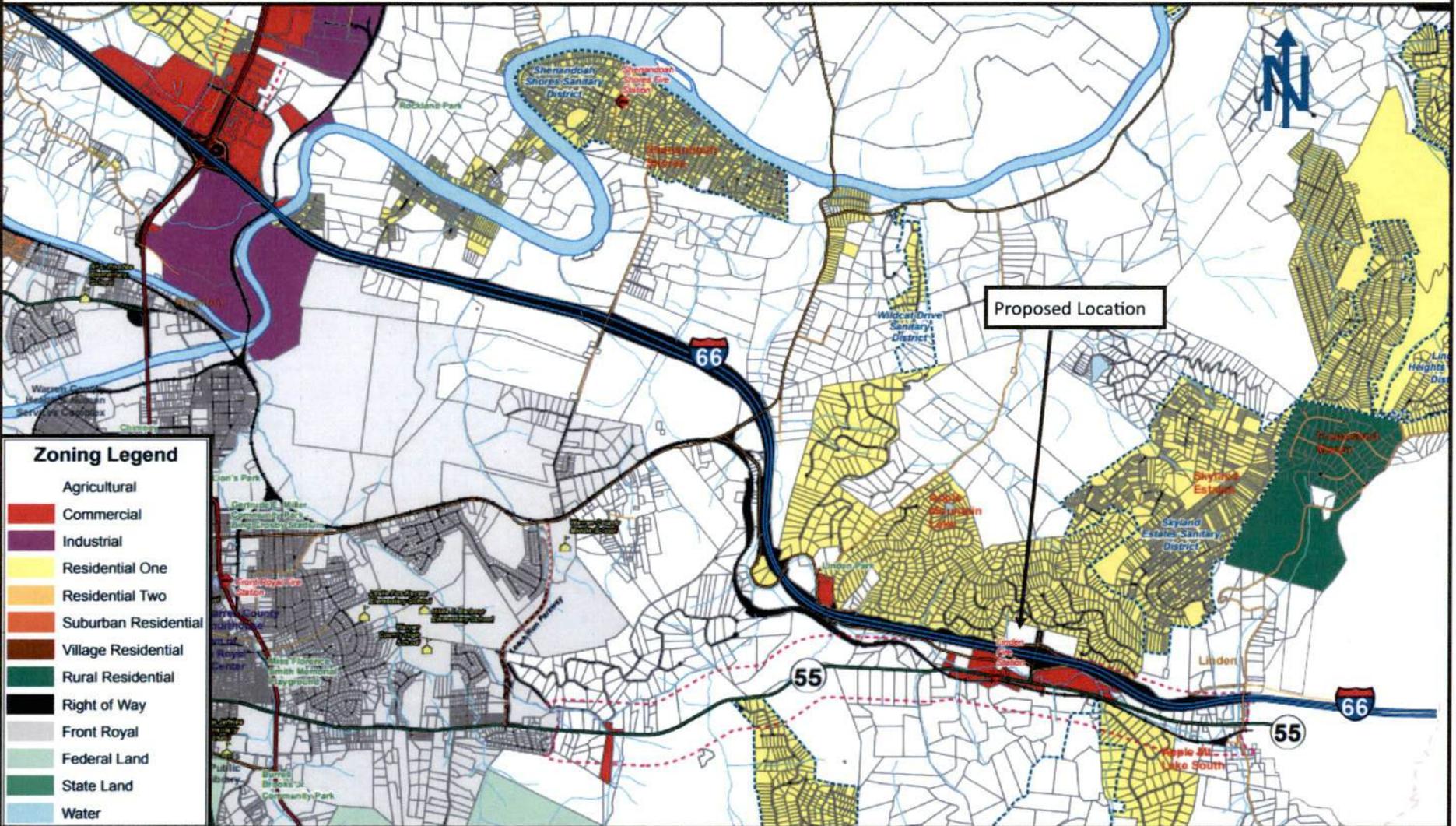
In the Clerk's Office of the Circuit Court of Warren County, Virginia, 7/12/76 1976/1976. This instrument was received and, with the certificate annexed, admitted to record.

Witness William A. Hall Clerk  
William A. Hall

Warren County, Virginia

Proposed Rezone Map

I-66 and Apple Mountain Rd. (Northwest Quadrant)



Deed—Book 291:Page 160 Tract A

15 Acres



## REZONING REQUEST PROFFERS

September 18, 2020

Rezoning: Agricultural to Commercial ("C")

Property: 15 Acres, more or less, in Happy Creek Magisterial District , being part of Tax Map No. 31 39, and being identified as Tract A in Deed Book 291, Page 160 (the "Property")

Record Owner: Four-L Corporation

Applicant: Dudding Commercial Development, LLC

### I. General Statement

Dudding Commercial Development LLC, a West Virginia limited liability company ("Dudding"), on behalf of itself and Sheetz, Inc., and their respective successors and assigns, proffers and agrees to develop the subject property, and to build and construct certain improvement thereon including, without limitation, a convenience store and school bus stop, in accordance with (a) the final plans and specifications prepared by the project engineer and approved by all required Federal, State, County and Municipal government agencies or quasi-governmental agencies having jurisdiction over the subject property, which plans and specifications shall be consistent with the site plan submitted with this application in all material respects, (b) all applicable Federal, State, County and Municipal government or quasi-governmental laws, statutes, ordinances and/or codes, together with any rules and/or regulations promulgated thereunder or adopted in connection therewith, and (c) any permits, consents or approvals issued in connection with Dudding's proposed project on the subject property

### II. Explanation of Applicability

A. The undersigned hereby proffer that the use and development of the Property shall be in strict conformance with the following conditions, which shall supersede all other proffers that may have been made prior hereto. In the event the above referenced rezoning is not granted as applied for by the Applicant, these proffers shall be withdrawn and shall be null and void. If this application is denied by the Warren County Board of Supervisors (the "Board"), but in the event an appeal is for any reason thereafter remanded to the Board for reconsideration by a court of competent jurisdiction, then these proffers shall be deemed withdrawn unless the Applicant shall affirmatively readopt all or any portion hereof, in a writing specifically for that purpose.

B. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Property to be served by the improvement or other proffered requirement, unless otherwise specified herein.

C. All land use plans, surveys, reports and similar documents submitted as part of the application by Applicant are for demonstrative purposes only and do not constitute any type of proffer by or on behalf of the Applicant or the owner of the Property.

D. The proffers set forth in these Amended Proffers shall supersede any other proffers made prior to these Amended Proffers.

### III. Proffers

#### A. Land Use

1. Development of the Property shall be developed in accordance with the regulations of the Commercial ("C") zoning district as are set forth in the Warren County Code or as may otherwise be approved by the Warren County Board of Supervisors in conformance therewith.

2. The following uses shall be prohibited in the above-referenced Property:

- A. Auction houses
- B. Bulk gasoline and petroleum storage
- C. Fairgrounds or racetrack
- D. Amusement Park
- E. Commercial Campground
- F. Auto Sales
- G. Commercial (repair) garage or wrecking service

3. Applicant shall comply with all local, state, and federal regulations applicable to the development of the Property, including those laws, statutes, and regulations pertaining to environmental quality and wetlands.

4. Applicant proffers that a central water and sewer system will be designed and constructed to minimum standards and specifications of the Commonwealth of Virginia and Warren County. The system will be owned and maintained by the property owners.

5. In terms of Stormwater/Flooding, Best Management Practices will be used as required by the Virginia Stormwater Management Handbook ("The Blue Book")

6. Water quality will comply with 40 CFR 112 for Spill Prevention, Control and Countermeasures (SPCC).

7. Vehicular access to the treatment plant and supply wells will be provided onsite via one (1) or more service aisles rather than directly from Apple Mountain Road.

#### B. Architectural/Building Materials

1. Materials used for the facades of the buildings may include but not be limited to concrete masonry units (CMU), brick, architectural block, wood siding, metal, fluted block, tile, concrete tile, dryvit or other simulated stucco (EFIS), real or simulated wood and/or glass.

2. Applicant proffers that all building facades on the Property shall be compatible in architectural style, materials, colors, and details.

3. Applicant proffers that in the event there is a gasoline service station developed onsite, then the fuel storage tanks and appurtenances shall be installed in accordance with the standards of the National Fire Protection Association and the Virginia Uniform Statewide Building Code; further, such development and operation thereof will be performed under strict observation and compliance with 40 CFR 112 for Spill Prevention Control and Countermeasures.

C. Landscaping, Grading, and Erosion and Siltation Control

1. The Applicant shall comply with the landscaping, grading, and erosion and siltation control requirements of the Warren County Code and Virginia erosion and sediment control law.

D. Business Identification Signs

2. The Applicant hereby proffers that, for that portion of the Property to be rezoned to the Commercial C District, all business identification signs will conform to a comprehensive signage program to be approved by the Applicant and shall be in compliance with the applicable provisions of the Warren County Code, as amended.

E. Public Use Dedication

1. In connection with its intended project, Applicant shall build and construct a school bus turnaround with a designated parking, and pick up / drop area on and about a portion of land within the Property mutually agreeable to the County of Warren and the Applicant and shall dedicate and/or transfer such portion of the land to Warren County Public Schools. Provided, however, that such dedication of public park land shall take place only upon (i) the final approval of Applicant's subdivision application by the County of Warren, (ii) recordation of such finally approved subdivision plat among the land records of the Warren County Circuit Court Clerk's Office, and (iii) acceptance by the Warren County Public Schools.

F. Transportation

1. Applicant proffers that the highway improvements shall be accomplished in conjunction with a revised Traffic Impact Assessment to VDOT and with all necessary and reasonable exceptions and/or waivers from minimum front and rear yard building and parking setback requirements in the Highway Corridor Overlay District for all lots created hereunder in the C District at the time of initial site development and formal subdivision.

2. Applicant proffers that Applicant will cause to be prepared, at its sole expense, a revised Traffic Impact Study (TIA) for the Property based upon the final site plans. The Study shall include the off-ramps from I-66 and Apple Mountain Road. The revised TIA described in this Paragraph shall be submitted along with Applicant's initial site plan for commercial retail development on the Property.

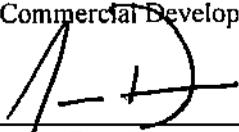
3. In addition to any other conditions imposed upon Applicant's proffers set forth in this Section F, Applicant's duties, obligations, and responsibilities set forth in this Section F are expressly conditioned upon written confirmation by VDOT that neither the Property nor any of the improvements proffered by Applicant herein are subject to the jurisdiction of the Federal Highway Administration.

G. Compliance with Laws

1. The Applicant hereby agrees that these proffers submitted with this Application shall comply with all applicable local, state, and federal laws and regulations.

Respectfully Submitted,  
Dudding Commercial Development, LLC

By:

  
\_\_\_\_\_  
Jerime Dudding, its Member