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June 15, 2021

Mr. John Bennett, Esq.
Zoning Administrator
567 Mt. Salem Avenue, Suite 3
P. O. Box 7
Washington, Virginia 22747

Re: Rush River Commons Comment Response Letter

Dear John:

Rush River Commons has received the comments that you have forwarded to us, listened carefully at the joint work session on June 12, 2021, and offers the following responses to them for the Town's consideration. We are always open to other inquiries.

1. VDOT and traffic issues. If we consider 20 new dwellings, additional commercial building business, and food pantry business (which has a lot of traffic twice weekly) plus trucks going into the Post Office and Post Office traffic, this amounts to potentially a great many cars, and trucks. I presume either two-way traffic on Leggett Lane will be needed or at a minimum one-way system. What provision is being made for this volume of traffic? Leggett Lane will be a private road - how will maintenance be assured? Furthermore, though Leggett Lane will be private, VDOT controls the entry and exit off Warren Avenue. What discussions have taken place to date with VDOT?

As the Planning Commission and Council know, Leggett Lane is not a private road. It is owned and maintained by the Town. It is, of course, the access to the Town's wastewater treatment plant.

The U.S. Post Office project is improving the intersection of Leggett Lane and Warren Avenue. Those improvements were reviewed and approved by VDOT.

Rush River Commons (hereinafter "RRC") will, of course, also use Leggett Lane as its primary means of access. The Town Subdivision Ordinance, § 5-6-1 limits paving of public roads in the Town to a maximum of 20 feet in width. That Ordinance also requires road improvements in new subdivisions to be

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| | <p>designed in accordance with VDOT Subdivision Street Standards. As Mr. Bennett has said, however, the Town has avoided a lock step adherence to VDOT design standards in order to maintain the character of the Town’s street network.</p> <p>While Rush River Commons is not a true subdivision, being a Planned Unit Development under the flexible provisions of subsection 1-4-1 L of the Zoning Ordinance, as shown on the RRC SUP Plan set submitted to the Town RRC will improve Leggett Lane by widening it to 18 feet and paving it with asphalt. The typical section has not been finally designed but it will be to a standard that will accommodate the anticipated traffic.</p> <p>To understand the likely traffic volume, RRC commissioned Bowman Consulting to do a Trip Generation Assessment that estimates the daily trips to be generated by the project will be 681.¹ A copy of that analysis is attached to this letter as Exhibit A.</p> <p>An 18 foot wide paved roadway will provide two lanes of traffic as other roads in the Town since a typical paved road lane on such a low-volume road is 8 to 10 feet wide. Leggett Lane is not particularly long and its configuration will not permit vehicular speed.</p> |
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¹ Bowman used “conservative” assumptions in that it assumed the food retail would be a fast food restaurant, which RRC does not intend to include, and a retail variety store, which may, or may not materialize in that form. Food service will be limited, as set out in the draft Special Use Permit Conditions forwarded with the SUP Application, to a “coffee shop” a store whose principal business is the sale of coffee of various types, e.g., espresso, latte, cappuccino, and food such as light snacks, sandwiches, muffins, fruit, or pastries. Thus, it is likely that the number of trips generated would be somewhat fewer than projected.

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| | <p>It is anticipated that the road will be striped.</p> <p>Since RRC is not accessing a VDOT road, RRC has not engaged with VDOT on this project. No full-scale Traffic Impact Analysis (TIA) is required for the project. What are known as the VDOT Chapter 527 Guidelines require a TIA only once a new development generates over 5,000 daily trips.</p> <p>Bowman also computed the peak hour traffic conditions for RRC to see if a westbound left turn lane or an eastbound right turn lane from Leggett Lane were warranted by VDOT standards. None were according to those standards. A Preliminary Turn Lane Warrant Assessment from Bowman Consulting is attached to this letter as Exhibit B.</p> |
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| <p>2.Drainage and wetlands. I appreciate that work has gone into hydraulic engineering studies. My understanding is that with the Post Office there was an initial building approval subsequently reevaluated by the Army Corps of Engineers and then considerable additional expense required to handle underground drainage. Are there lessons here for the RRC proposal?</p> | <p>RRC has already mapped and located the jurisdictional wetlands and streams on the project site. These have been reviewed and a Jurisdictional Determination confirming their locations has been issued by the U.S. Army Corps of Engineers (COE).</p> <p>RRC has prepared the land plan for the project in a manner that minimizes impacts on regulated streams and wetlands on the site. It has made a request to the COE for a permitting pre-application meeting where the parties will discuss the project conditions and impacts and obtain COE input and guidance prior to the permit package submission.</p> |
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| | <p>Stormwater management is not regulated by the COE but rather by the Virginia Department of Environmental Quality. All SWM plans must be reviewed and approved by the Town and DEQ, and facility installation inspected.</p> <p>It was mentioned at the joint work session that Mr. Tedrick had sought to avoid a costly underground drainage facility, but it was not approved, and that it took the COE many months to issue a final approval for what has now been installed. If there is a lesson to be taken from this it has been taken with request for a pre-application meeting, and with the services of experienced environmental engineers.</p> |
| <p>3. Wastewater capacity. Can we get clarity re the total usage envisaged by the project? Also, assurance that full hookup fees will be covered, and no subsidy will be sought.</p> | <p>RRC has prepared and submitted an estimate of the estimated sewer usage for the project that was sent to Mr. Bennett, Mr. Schneider, and Ms. Batson on May 29, 2021, as a direct follow up to the joint work session held on May 23, 2021.</p> <p>According to the Town Water and Wastewater Utilities Evaluation report dated June 1, 2020, sewer connections are allocated on an equivalent residential unit (ERU) assignment of 6,500 gallons per month.</p> <p>RRC estimated the residential component of the project as well as the food pantry building and the office building, which has a retail/food service component.</p> <p>The following is the estimated total ERU for the project as submitted:</p> <p>Residential = 24 ERUs (the maximum in current SUP request) Food Pantry = 2.2 ERUs</p> |

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| | <p>Office Building = 8.0 ERUs (office and retail/restaurant total)</p> <p>Total: 34.2 ERUs</p> <p>The June 1, 2020, Evaluation Report, says that the Town has about 130 ERU's available for future connections. If this figure remains accurate, there is ample capacity for Phase One of Rush River Commons, with approximately 100 ERUs still available.</p> <p>RRC will pay for the required ERUs and expects no subsidy.</p> |
| <p>4. Frontage on Warren Avenue for the 120 ft back of the commercial building very close to the road. I remain concerned that this is the entryway to the Town and such a large expanse of building may not be in keeping with the existing Town appearance. A 120 ft building by the road as you come into Town risks being very stark. Some have raised with me similar comments about the 3 stories of the residential building, namely that there are few other 3 story buildings in Town. Could we get clarity on plans regarding both, including any remediation plans?</p> | <p>RRC has been made sensitive to this concern as to the appearance of this building as you enter the Town, and Gensler's Jordan Goldstein, the chief architect on the project, was present at the joint work session to hear those concerns personally.</p> <p><u>RRC first notes that the length of the building is actually 110 feet.</u></p> <p>Among other things, it was suggested that the building might be broken into two structures; however, doing so would create several challenges:</p> <ol style="list-style-type: none"> 1) Making the single building into two separate structures would make each building larger because of the need for code compliant ADA vertical circulation to the second level, fire egress stairs and restrooms serving each building. 2) Two buildings would create smaller floorplates in each that would not meet the programmatic need of the potential users. |

- 3) If two buildings instead of one, the distance necessary between buildings for exterior circulation and natural light would create a total footprint that is bigger than the site can handle and encroach on the wetlands.
- 4) Construction costs would increase significantly since there would be separate heating and air conditioning systems for each building, additional façade materials, two elevators (one for each building), and additional stairs.
- 5) Energy usage would be increased for the site since there would be additional systems for two buildings instead of one, resulting in a project that is less sustainable than currently proposed.

Rather, RRC will explore articulating the design of the Warren Avenue façade in a manner that breaks down the scale of the building. This can study the groupings of windows at the midway point of the building along Warren Avenue and/or stepping a portion of the building back slightly to create an offset in the surfaces along Warren Avenue.

While there may be few existing buildings in Town that are three stories, the Town Zoning Ordinance, Chapter 5, allows for a maximum building height of 35 feet, which would allow for a three-story structure. Currently, RRC does not plan to have 3 story structures on the site. Basements are not presently planned for the residential units, but it does not wish to forego that possibility.

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| <p>5.Re the Affordable Housing categorization, the project explained that this could either be aligned with federal or state guidelines and therefore income/means tested with thresholds depending on household size, or could be done through a private association. My question is whether the elderly component of the housing, where we know there are also needs in the County, would also be treated in a similar fashion. This would seem challenging. More explanation would be appreciated.</p> | <p>RRC has requested up to 24 residential units in the general configuration shown on the submitted plans, although at present site constraints may accommodate only 20 such units, with the possibility at least of 24.</p> <p>RRC is still working on the precise mix of unit size and bedroom count.</p> <p>If a unit or group of units are to be designated for age-restricted housing for persons 55 and older, RRC must meet the requirements of the Housing for Older Persons Act (“HOPA”), a part of the federal Fair Housing Act (Virginia has a similar statute that corresponds).</p> <p>It is possible to restrict housing to residents of the Rappahannock / Washington community so long as the application process is non-discriminatory.</p> <p>Although no locality has truly solved the problem of providing affordable, workforce, or “opportunity” housing, the most common programs for affordable housing employ a locality’s Average Median Income at the 50%, 80% and 100% levels, and for workforce housing rental rates that do not exceed 30% of annual family income. As was mentioned at the joint work session on June 12th, RRC has commissioned a study to be made of the housing economy in Rappahannock to obtain data that does not presently exist.</p> <p>All of the units constructed will be rental, and controlled by the owner of those units. There is no possibility that they will become weekend properties since</p> |
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| | <p>the leases will require tenant occupancy and no subletting.</p> <p>Final details and programming of the units will be presented with the submission of architectural plans to the Town ARB.</p> <p>Please see draft SUP Condition #6:</p> <p>“Residential development of the Property may consist of not more than 24 dwelling structures in the location depicted on the Development Plan. The dwelling units therein will be made available for rent and not for sale. The dwelling structures may be single-family detached, single-family semi-detached, single-family attached, clustered, multi-family, or stacked townhouses (known as 2 over 2s), any number of which may be Housing for Older Persons (so long as qualified therefor under federal and state law). The Applicant may construct these dwellings such that they contain differing numbers of individual types of dwelling units, so as to increase the diversity and affordability of unit types available.”</p> |
| <p>6.Draft SUP Condition #2 not sure what constitutes a “minor adjustment” especially in the realm of regulatory requirements. Clarification please.</p> | <p>A detailed definition of “minor adjustments” has been suggested in draft SUP Condition #2:</p> <p>“Minor adjustments to the Development Plan may be made with the approval of the Zoning Administrator, in connection with the review and approval of a Plan of Development for any residential or nonresidential structure as required by § 2-1-2 of the Zoning Ordinance, or upon final engineering, subdivision of the Property, or any associated construction documents that may be required. These minor adjustments may include, but are not limited to, modifications to road</p> |

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| | <p>locations; open space boundaries; utility lines as necessary to accommodate topography, drainage, vehicular or pedestrian circulation; aesthetic considerations; or regulatory requirements, subject to approvals as provided in Article 6-1-2 L (4). Any change other than a minor adjustment as set out in this condition will require amendment to the Development Plan as required by § 2-1-5 (a) of the Zoning Ordinance.”</p> <p>To the extent that there is a question whether an adjustment is minor or major, the decision rests with the Zoning Administrator.</p> |
| <p>7.Draft SUP Condition #4 what are the pros/cons of master meter vs individual connections? Do we want to memorialize something regarding the meter set up?</p> | <p>The selection of a meter type will be a part of the final engineering design, and during final design RRC must work with the Town Utility Staff to evaluate the optimal meter arrangement that provides economy, reliability, and ease of maintenance for both parties.</p> <p>Whatever metering system is directed will be what RRC employs, and it will capture the usage of water and wastewater.</p> |
| <p>8.Draft SUP Condition #6 calls for max of 24 units while plans show 20 units. At the last joint meeting there was mention of increasing this number. Without any evidence of need/ demand other than several articles in local paper, the opinions of a few and some anecdotal reporting, I believe that a maximum of 20 as shown on the current plan is the best option. This seems especially so in light of comments by developer that it is already a tight site. This and the fact that there is a proposed phase 2 in the plans lead me to think that slow and steady is the best course of action. Build this out as proposed</p> | <p>As noted, RRC has requested a maximum of 24 units for the site and the site plan submitted shows the layout of the buildings and at least the possibility to accommodate 24 units.</p> <p>If there were interest in more than the potential for 24 units requested by RRC, it would only be possible if all residential buildings were three stories and some of the unit sizes smaller than contemplated.</p> <p>RRC looked to the Town Comprehensive Plan when considering a housing</p> |

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| <p>and see the actual results before calling for more and more.</p> <p>Also, the funding source for this will control the usage to a degree especially if federal funds are used. If privately funded do we want some covenant(s) as to usage going forward?</p> | <p>component and observed that it documents the dramatic decline in Town population and speaks to the need for additional, diverse, housing options. The Town Plan has a stated Goal to <i>“Create a Town with a strong sense of community built on diverse housing costs, mixed income levels and a welcoming residential population.”</i></p> <p>As was mentioned at the joint work session, RRC is exploring the possibility of using Virginia Housing Development Authority funding for at least some of the housing proposed.</p> |
| <p>9. Draft SUP Condition #19. How will the property association be funded? Provisions for continued solvency</p> | <p>This is addressed in draft SUP Condition #19.</p> <p>“The Applicant, or one or more property owners’ association(s) hereafter created for the purpose, and for other purposes customarily assigned to such association(s), will be responsible for the continuing maintenance of Leggett Lane and any commonly held property that may be created. <u>The Applicant will ensure that the documents creating such association(s) contain provisions for the adequate funding of the functions assigned thereto. Such documents will be subject to the review and approval of the Town Attorney.</u>”</p> |
| <p>10. Draft SUP Condition #20.1 adds language defining height. Is this language standard industry practice?</p> | <p>The current Town Ordinances do not include a detailed definition on how to measure building height. RRC has proposed a clear definition for building height based on industry practice.</p> |
| <p>11. My understanding is that currently the wastewater plant is at approximately 23,000 gallons per day with allowed capacity of 65,000 a day. In the letter from the developer’s attorney, they request an</p> | <p>Yes, this was supplied to the Town on May 29, 20210. Please see Response Number 3, above.</p> |

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| <p>amendment to the current sewer service area so that RRC can be a user. At the last joint meeting we asked for projected figures on usage by RRC and was told those numbers would be supplied. Have we received them?</p> | |
| <p>12. It is also my understanding that the cost of all hookups and improvements necessary to accommodate RRC will be the responsibility of the developer. The issue of who pays for what was raised at the joint meeting and basically tabled. I do not believe there is room for negotiation on this in light of the towns current balance sheet and depleted reserve fund.</p> | <p>The cost of a sewer connection is the responsibility of RRC or whatever private entity requests the connection.</p> <p>The Town currently charges \$15,000 for a sewer connection, and RRC is not asking to negotiate this amount.</p> |
| <p>13. Will the traffic patterns in and out of Phase 1 off Warren Ave necessitate a turning lane or some other modification to existing roadway (Warren Ave)?</p> | <p>No. The incremental traffic burden is small.</p> |
| <p>14. Could we get a better idea of exactly what road improvements are contemplated including the intersection improvements with Warren Avenue, then through the last entrance off Leggett Lane for the RRC project?</p> | <p>Improvements to Leggett Lane are shown on the SUP Development Plan and described in the draft SUP Conditions, #15. As noted above, Leggett Lane is a Town owned street.</p> <p>“The Applicant will access the site from Leggett Lane, which will remain a Town-owned street constructed to standards depicted on the Development Plan and which will be not less than 20 feet in width. Improvements will be made to Leggett Lane to pave its surface to a width of not less than twenty feet. The road cross section will have gravel shoulders and an open ditch section for drainage. Internal streets within the Property shall be private streets not less than 20 feet in width. There will no road improvements made to Warren Avenue.”</p> |
| <p>15. How is maintenance, snow removal and eventually resurfacing to be handled,</p> | <p>The Homeowners’ Association, and the Property Owners’ Association, will have</p> |

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| <p>financed and reserves set up and maintained?</p> | <p>principal responsibility for maintenance of the internal roads including snow removal and repair. As noted above the documents that establish these new Associations will be structured to generate sufficient revenues to accomplish all duties assigned to them.</p> <p>As is typically the case, a professional property manager would likely be engaged to manage the residential and commercial properties.</p> <p>The Town presently keeps Leggett Lane clear to provide access to the wastewater treatment plant.</p> |
| <p>16. Have there been any substantive discussions with Tim Tedrick at Mid Atlantic as to the interface between the PO and RRC and possible solutions?</p> | <p>There has not yet been, but RRC intends to consult with Mr. Tedrick.</p> |
| <p>17. Another significant question posed: on a long-term basis why wouldn't it be in everyone's best interests for the road to be built to a standard VDOT would accept into the state system and thereby eliminate many of these ongoing questions and issues?</p> | <p>As was mentioned at the joint work session on June 12th, the Town has had a complex relationship with VDOT and has been disinclined to construct roads to VDOT standards because they are inconsistent with the character of a historic community. Moreover, given the limited trip generation from Rush River Commons, there is no need to construct a road to VDOT standards, which assume an ultimate acceptance into the State System of Secondary Highways. Leggett Lane will not become a part of that System.</p> |
| <p>18. My question: since the PUD ordinance requires an approved Development Plan--- the level of detail required by the Town ordinances makes it sort of a hybrid final site plan -- isn't it necessary for everyone to roll up their sleeves, and in the famous words of Judge Early, pronounced from the</p> | <p>What has been provided to the Town is a significantly detailed Development Plan, and is neither required to be nor intended to be a final site plan. Sufficient detail is provided to permit the fundamental determination whether the development plan is feasible, and whether the use has proposed undesirable.</p> |

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| <p>bench in Greene County, to "get down to shootin' rats"?</p> | <p>A significant cost has been incurred on the engineering required to develop the plans that have been submitted. RRC has obtained detailed geotechnical data, a full wetland and Water of the United States delineation, a completed survey of the site, and has on the basis of that level of engineering depicted a development program that can be reviewed by the Town or outside consultants to confirm that it is feasible.</p> <p>RRC must further obtain ARB approvals for each structure, which will require detailed architectural plans from Gensler, and further landscaping detail from the landscape architect. The actual site plan, which is the basis for actual land disturbance permits and the construction of the site work upon which the buildings will be raised, is a complex and costly undertaking by itself.</p> <p>It would not be economically prudent for RRC to obtain final engineered and designed plans without knowing that it has obtained the critical Special Use Permit for a Planned Unit Development that is the first of numerous approvals that must follow.</p> |
| <p>19. The more I delve into the application, the more I see a need for more specific particulars. It has been expressed to me, and now I am coming around to the proposition, kicking too many issues down the road is not in any of the parties' ultimate best interests? I have mentioned to the Town parties, let's take the time, the effort and the extra special meetings to better figure all this out expeditiously.</p> | <p>RRC respectfully submits that the information in the materials provided with the application for the Special Use Permit is quite detailed. It can be easily studied by the Town and its consultants. Please see the Response to the previous Comment.</p> |
| <p>20. Is the current plan for the depth of the water line to the post office sufficiently</p> | <p><u>Mr. Schneider's response:</u></p> |

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| <p>deep enough if Leggett Lane needs to be widened for the Rush River Commons project? I figured you'd know.</p> <p>This appears to have been a question posed to Councilmember</p> | <p>In a word yes. Let me explain. If Leggett Lane is to be widened my guess is it would be widened on the post office side. The other side is where the water main runs and you would not want to have it under the roadway.</p> <p>If the road is widened it would reduce the size of the ditch on the post office side by filling a portion of it, provided the widening begins right after the first post office entrance. There are phone and cable lines that run through the ditch, so burying them under the road would be a consideration.</p> <p>Installing the water line as I have proposed will require going under the ditch. By doing so the line will be sufficiently deep so as no damage to the water line installed by horizontal boring would be encountered by the road widening.</p> <p><u>Rush River's additional response:</u></p> <p>The widening of Leggett Lane is shown on the SUP Development Plan. The road widening will shift the centerline of Leggett Lane slightly to the west of its current location. (This is as Mr. Schneider suggests).</p> <p>This will allow RRC to provide a small shoulder and drainage swales on both sides of the road.</p> <p>This will be detailed on the future final engineering site plan submission.</p> |
| <p>21. The project is isolated from the Town and not adequately integrated into it.</p> | <p>The same could have been said of the Black Kettle Motel when it was alive and well, and yet RRC has heard no such complaint of it. The site today is unattractive and deserted, and when the</p> |

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| | <p>landscape architects went searching for champion trees, they found only a handful worth preserving. The entrance into the Town can only be enhanced by the development of a site-sensitive approach that, among other things, includes the prospect of one or more pathways into the existing Town that were mentioned in the joint work session.</p> <p>The RRC design team has produced a drawing that looks at the Development Plan for the Rush River project in relationship to the Town. This drawing shows how the orientation of buildings and circulation plan relates to the Town street grid. Future connection points for pathways are also shown.</p> |
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As always, we appreciate the Town's courteous treatment of these matters.

Very sincerely yours,

WALSH, COLUCCI,
LUBELEY & WALSH, P.C.

John H. Foote

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