

VIRGINIA:

BEFORE THE COMMISSION ON LOCAL GOVERNMENT

In the matter of the Notice by the TOWN OF LEESBURG, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, of its intention to petition for the annexation of territory within THE COUNTY OF LOUDON, a political subdivision of the Commonwealth of Virginia, pursuant to Chapter 32 of Title 15.2 of the Code of Virginia (1950), as amended.

**REPLY OF THE TOWN OF LEESBURG
IN SUPPORT OF ITS INTENTION TO PETITION FOR ANNEXATION OF
TERRITORY IN THE COUNTY OF LOUDON AND SUPPORTING DATA**

Town Manager

Kaj H. Dentler

Town Council of Leesburg

Kelly Burk, Mayor
Neil Steinberg, Vice Mayor
Ara Bagdasarian
Zach Cummings
Kari Nancy
Patrick Wilt

Dated: October 13, 2023

Gregory J. Haley (VSB No. 23971)
Kathleen L. Wright (VSB No. 48942)
Andrew M. Bowman (VSB No. 86754)
GENTRY LOCKE
10 Franklin Road S.E., Suite 900
P.O. Box 40013
Roanoke, Virginia 24022
Telephone: 540.983.9300
Mobile: 540.353.5041
Facsimile: 540.983.9400
Email: haley@gentrylocke.com
wright@gentrylocke.com
bowman@gentrylocke.com

Christopher P. Spera (VSB No. 27904)
Jessica J. Arena (VSB No. 87642)
Town Attorney
Town of Leesburg
25 West Market Street
Leesburg, Virginia 20176
Telephone: 703.737.7000
Facsimile: 703.771.2727
Email: cspera@leesburgva.gov
jarena@leesburgva.gov

Counsel for the Town of Leesburg

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Section I: Introductory Statement

The Town of Leesburg replies to the July 7, 2023 Responsive Pleading of the County of Loudoun and Supporting Narrative, Information, Citations, and Materials (the “Response”), as set forth below. With this Reply, the Town¹ has submitted a “Town of Leesburg Resource Notebook” that includes important documents for easy reference by the Commission.²

A. Overview of Town’s Reply to arguments raised by the County.

The arguments raised in the County’s Response fail for five basic reasons.

First, the County’s arguments lack context. This is a **town** annexation, not a city annexation. After annexation, the Annexation Area will continue to be a part of the County. The County will “lose” nothing. This annexation will not have a material adverse effect on Loudoun County.

Second, the County Response seeks to avoid the undisputed fact that Leesburg already provides urban services to Compass Creek and the Annexation Area. The Town currently provides, or has approved, water and sewer service to all properties in Compass Creek, including the Annexation Area. Town streets provide the required access. And given its location in the JLMA, Leesburg has participated in joint planning and land use decisions for decades. Simply put, there would be no development in Compass Creek today without the availability of Town services, when needed. The Commission has previously noted that a county’s reliance on a town to provide utility services to the annexation area is a critical factor supporting annexation.³

¹ Defined terms in the Town’s Reply are assigned the same meaning as in the Town’s Notice.

² Citations to these documents are cross-referenced in the footnotes.

³ CLG Report on Christiansburg, at 85-86.

The Town developed the capability to serve Compass Creek, including the Annexation Area, through years of planning, investment, management, and implementation—all of which was consistent with the provisions of both the Town Plans and the County General Plans in effect at the time. The County has benefited because the availability of Town services attracted significant new development, particularly Microsoft data centers, Walmart, and At Home. The property owners and developers of Compass Creek, including the Annexation Area, have similarly relied on—and benefitted from—these Town services for this development. No property owner in the Annexation Area has objected to this annexation. Recognizing these facts and policies, the Town and the County implemented a boundary adjustment for a portion of Compass Creek in April 2020,⁴ and the County Board of Supervisors approved a second boundary adjustment for a portion of the Annexation Area in April 2022 that was not completed.⁵

Third, Leesburg has not shared in the growth of local tax resources flowing from the Annexation Area, despite providing services essential for its development. This reflects a broader trend. The County had experienced extraordinary growth in its local tax base over the past decade. Leesburg has not experienced similar growth. This disparity is due to the explosive growth of the data centers in the unincorporated County. Loudoun has leveraged these new local tax sources to shift its tax burden away from its residents. By contrast, Leesburg has become increasingly reliant on its residential real estate tax base.

The County attempts to ignore these differences, and instead focus on Leesburg’s financial health. But that is not an impediment to annexation; indeed, it is a prerequisite. The Supreme Court

⁴ April 28, 2020 Final Order Approving Boundary Line Adjustment, *In re: Change of Boundary Between Town of Leesburg, Virginia and Loudoun County, Virginia*, Case No. CL20-2343; Town Resources Notebook, Tab C(3).

⁵ April 13, 2022 County Board of Supervisors Resolution, *In re: Boundary Line Agreement Between the Town of Leesburg and Loudoun County*; Town Resources Notebook, Tab C(4).

of Virginia *requires* a locality to be financially healthy before assuming the responsibility for additional territory through annexation. *See Cnty. of Rockingham v. City of Harrisonburg*, 224 Va. 62, 78-79 (1982).

Contrary to the County’s suggestion, the Town is not required to point to specific, identifiable expenditures to justify the need for additional tax resources. Leesburg’s need to diversify its tax base is enough.⁶ But even if such a showing was required, the proof is in Leesburg’s Capital Improvement Plan, which contains \$81.1 million of unfunded projects over the next six years. These projects will provide improvements to streets and as well as water and sewer service for Leesburg residents, as well as the Annexation Area, County residents, and County employees who live and work in the Town.

Fourth, the County’s vacant land analysis is incorrect. The County includes developed parcels in its calculation of allegedly “vacant” land, and fails to consider factors, such as small size and configuration, that render parcels unsuitable for meaningful commercial and industrial development. The County’s future land “absorption” projections ignore the realities of commercial and industrial development—it does not occur in 2.9 acre per year segments. The Commission has previously rejected such abstract calculations.⁷

Analyzed under the Commissions established analytical framework, Leesburg has limited parcels of vacant commercial and industrial land. This has caused development to spill over into the Leesburg JLMA, particularly Compass Creek. The Town has planned for and enabled this development over decades, including by providing the necessary water, sewer, and street infrastructure. Leesburg’s substantial role in the development of Compass Creek, as well as the

⁶ CLG Report on Abingdon, at 17-18.

⁷ *Id.* at 15.

County's own actions and policies, are grounds for annexation under the County's longstanding annexation policies.

Additionally, part of Compass Creek is in the Town, and part of Compass Creek is in the County (*i.e.*, the Annexation Area). Compass Creek should be subject to a unified government structure, rather than divided between various localities for different governmental functions. Given that the Town serves *all* of Compass Creek, all of Compass Creek should be in the Town's corporate limits.

Finally, the County's own actions and policies establish that this annexation is necessary and expedient. These actions include decades of comprehensive planning by the County encouraging the Town's expansion into the Annexation Area, joint land use decisions by the County and the Town for the Annexation Area, the County's reliance on the Town to develop the infrastructure to serve the Annexation Area, and two County-approved boundary adjustments in Compass Creek, reflecting the application of longstanding County policy.

For these reasons, as discussed and expanded below, this annexation is necessary and expedient. It will allow the Town to share in the benefit from the development at Compass Creek that it planned for and enabled over decades. It will allow Leesburg to expand and diversify its tax base. Most importantly, this annexation serves the best interests of the people in the Town, the County, and the Commonwealth.

B. This annexation seeks to hold the County accountable to its JLMA policies and promises of annexation of Compass Creek.

A central theme of the County’s Response is that this “annexation is really all about one thing: money.”⁸ That is incorrect.

This annexation seeks to hold the County to its JLMA policies and annexation guidelines that were in place for nearly 30 years. As stated in the County’s 1991 Comprehensive Plan: “As water and sewer service is extended into the Town Urban Growth Area, annexation of the area by the towns will be encouraged by the County.”⁹

In reliance on these policies, the Town spent years planning—and invested over \$20 million—to construct the water, sewer, and street infrastructure required for commercial and industrial development at Compass Creek. The County even marketed Compass Creek as the preeminent available data center site, particularly due to the availability of Town water.¹⁰ The availability of Town infrastructure brought significant commercial and industrial development to Compass Creek, including Walmart (2014), ION International Training Center (2016), At Home (2018), Microsoft data centers (2018), and soon-to-be-constructed data centers on the Leesburg Commercial parcel. All of these properties in Compass Creek, including the Annexation Area, are served by Town water and sewer service, and accessed through the Town’s streets.

But after the Town’s water and sewer pipes were in the ground, and with this development well under way, the County abruptly attempted to change these policies in June 2019.¹¹ These changes specifically targeted water, sewer, and annexation policies for Leesburg and its JLMA.

⁸ County Response, at 254.

⁹ 1991 County Plan, at 127; Town Resource Notebook, Tab B(1).

¹⁰ https://biz.loudoun.gov/wp-content/uploads/2016/09/Loudoun_Data_5.27.2016_FNL_201605271538100232.pdf

¹¹ See Transcript of June 5, 2019 Board of Supervisors Meeting; Town Resource Notebook, Tab B(4).

The County Board of Supervisors made these changes with no meaningful study on their impact, without public notice or review, and without even notifying Leesburg.

Leesburg has nevertheless continued to work with Loudoun on these issues. Despite the 2019 changes, the Town and the County have continued to apply preexisting JLMA and annexation policies. In April 2020, the Town and the County implemented a boundary adjustment for the ION Center and Compass Creek commercial properties.¹² In April 2022, the County Board of Supervisors approved a second boundary adjustment for the Walmart, At Home, and outparcel properties at Compass Creek.¹³

This annexation is another application of those policies, yet it is opposed by the County. This begs the question: why? There is no principled distinction between the previously approved boundary adjustments at Compass Creek and the Microsoft and Leesburg Commercial properties. All of these properties were developed at the same time. All of these properties are served by Town water and sewer service, and accessed via Town streets. Upon annexation, all of these properties will remain part of the County. The only discernible difference is that the Microsoft and Leesburg Commercial properties are being developed for data center uses.

Leesburg has been transparent with these data center developers about the Town's expectation that these properties will be incorporated into its corporate limits. This has been explicit, not just in discussions with Microsoft and Leesburg Commercial concerning their water and sewer extension requests, but also in Town Council resolutions approving that service.¹⁴ Both

¹² April 28, 2020 Final Order Approving Boundary Line Adjustment, *In re: Change of Boundary Between Town of Leesburg, Virginia and Loudoun County, Virginia*, Case No. CL20-2343; Town Resources Notebook, Tab C(3).

¹³ April 13, 2022 County Board of Supervisors Resolution, *In re: Boundary Line Agreement Between the Town of Leesburg and Loudoun County*; Town Resources Notebook, Tab C(4).

¹⁴ Town Council Resolution Nos. 2019-180, 2020-066, 2020-089, 2023-046. Town Resource Notebook, Tabs E(14, 16, 18, 21).

Microsoft and Leesburg Commercial are sophisticated developers. Both understand the implications of annexation. Microsoft has not objected. Leesburg Commercial has consented to this annexation.¹⁵ Both are rapidly moving forward with their data center projects.

But Loudoun wants to make this about money. A discussion of the financial implications of annexation is appropriate given the requirements of Virginia law and this Commission’s regulations. *See* 1 Va. Admin. Code § 50-20-540(14) (requiring Leesburg to demonstrate its need “to expand its tax resources, including its real estate and personal property tax base”); *Cnty. of Rockingham v. Harrisonburg*, 224 Va. 62, 79 (1982) (holding that a “finding that the [locality] will soon need a larger tax base” supports annexation).

To be clear, this is not a “money grab.” This is the logical application of longstanding policy and years of intensive planning by the Town to develop Compass Creek for emerging technology and other compatible uses. The purpose was to expand and diversify the Town’s tax base, and reduce the Town’s overreliance on its residential real estate tax base. This annexation will do just that—increase the Town’s non-residential tax base, and bring the overall composition of the Town’s tax base into line with that of the County.

The Town needs these funds. Leesburg has over \$81.1 million in unfunded capital improvement projects planned over the next six years (2024-2029).¹⁶ While annexation will not eliminate this shortfall, it will allow the Town to fund needed capital projects and continue to provide high-quality services—particularly, Parks & Recreation, Water & Sewer Service, Streets, and Airport—to Leesburg, Loudoun, and regional residents.

¹⁵ March 13, 2023 Leesburg Commercial consent letter; Town Resource Notebook, Tab D(3).

¹⁶ *See infra* Section V(C).

Loudoun’s opposition to this annexation serves no purpose other than stymie Leesburg’s natural growth and preclude it from receiving much-needed tax revenues. Now that development is under way, the County is attempting to monopolize the tax revenue stream from data centers on the Microsoft and Leesburg Commercial parcels, notwithstanding the Town’s critical role in making that development possible. Leesburg’s efforts will benefit the County handsomely— Loudoun stands to collect over **\$50 million** each year in business personal property taxes from data centers in the Annexation Area, at buildout.¹⁷ Simply put, it is the County that is acting based on inappropriate financial motives, not the Town.

C. This annexation will not “chill” the data center industry.

The County engages in pure speculation concerning “the chilling effect that supporting the proposed annexation **might** have on the broader data center industry, as well as future innovative and technology-centered industries that **might** locate in Loudoun County, or the Commonwealth generally.”¹⁸ Loudoun provides no evidence to support this conjecture. The Commission should reject this speculative argument because it is inconsistent with the facts, as established by ongoing data center development in Compass Creek, new data center applications and initiatives in the Town, and industry experts.

The best evidence that this annexation will not adversely impact Loudoun’s (or the Commonwealth’s) data center market is the ongoing data center development at Compass Creek.

¹⁷ See *infra* Section V(I). Upon annexation, the Annexation Area will remain a part of the County, and it will also become part of the Town. Therefore, Loudoun will continue to receive these tax revenues—which, alone, are more than **double the Town’s entire property tax revenues for fiscal year 2022**. See Town 2022 ACFR, at 113 (Table 6); Town Resource Notebook, Tab F(3).

¹⁸ County Response, at 248 (emphasis added). Certain members of the Board of Supervisors made these same arguments on June 5, 2019 when unilaterally changing its policy on the Leesburg JLMA, suggesting: “I’m talking major, major, fortune Top 20 corporations [*i.e.*, Microsoft] that are about to pull out of here.” See Transcript of June 5, 2019 Board of Supervisors Meeting; Town Resource Notebook, Tab B(4). This rhetoric has proven wrong, as Microsoft has rapidly continued to develop its data center campus at Compass Creek.

In November 2019, May 2020, and August 2020, Town Council publicly stated that it expected that Microsoft's data center campus would come into the Town's limits.¹⁹ Microsoft did not terminate its development efforts and walk away; instead, it commenced construction. After this annexation proceeding began, Microsoft filed site plans to build a sixth data center in the Annexation Area.²⁰

Similarly, after the filing of the Town's Notice, Leesburg Commercial submitted a request for water and sewer service to the Town, as well as data center development plans.²¹ Leesburg Commercial has expressly consented to being brought into the Town's limits through boundary adjustment or annexation.²² Therefore, this annexation has not deterred data center development, even in the very area subject to annexation.

This annexation has not deterred new data center development in the Town. Leesburg worked with the data center industry to promote the responsible development of data centers in the Town in a manner that is compatible with its urban setting. This culminated in Town Council adopting, with significant industry involvement and support, specific use and design standards for data centers in the Town.²³ Since filing the Notice, the Town has received zoning applications or pre-application statements concerning the possible development of four new data center sites within Leesburg's corporate limits, at the Village at Leesburg Land Bays D and E, the Leesburg

¹⁹ See, e.g., Leesburg Town Council Resolution Nos. 2019-180, 2020-066, 2020-089; Town Resource Notebook, Tab E(14, 16, 18).

²⁰ Loudoun County Zoning Application, STMP-2023-0004 (filed March 8, 2023).

²¹ January 30, 2023 Leesburg Commercial request for Town water service; Town Resource Notebook, Tab E(20).

²² March 13, 2023 Leesburg Commercial consent letter; Town Resource Notebook, Tab D(3).

²³ Leesburg Ordinance No. 2023-O-017; Town Resource Notebook, Tab G(2).

Innovation Village, Oaklawn Land Bay A, and Westpark Tech.²⁴ Thus, the Town has experienced increased data center development activity after the filing of its Notice.

Data center development activity has continued at a rapid pace in the County following the commencement of this annexation proceeding. Since September 28, 2022, Loudoun received twenty-one (21) site plan applications to construct data centers.²⁵ Loudoun received the exact same number of site plan applications (21) in the twelve months preceding the filing of the Town’s Notice.²⁶ Therefore, this annexation has not detrimentally impacted data center development in the County.

This annexation will not impact future development in the County. The Annexation Area contains the only two data center sites in the JLMA that will be served by Town utilities and, thus, subject to annexation. The Town and the County have agreed that other potential data center sites in the JLMA (Tuscarora Crossing and Twin Creek) will be served by Loudoun Water; therefore, the Town does not anticipate annexing these properties. Any future decline in data center development in the County will be due to Loudoun’s own actions—such as creating a new zoning district “that precludes data centers in Suburban Mixed Use” Place Types, including in the famed “Data Center Alley” along Route 7 in Ashburn.²⁷

²⁴ See *infra* Section III(A)(4)(c).

²⁵ Loudoun County Application Numbers: STMP-2022-0020; STMP-2022-0021; STMP-2022-0023; STPL-2022-0051; STPL-2022-0052; STPL-2022-0053; STMP-2022-0024; STMP-2022-0026; STPL-2023-0001; STMP-2023-0001; STPL-2023-0004; STMP-2023-0002; STPL-2023-0007; STPL-2023-0008; STPL-2023-0015; STMP-2023-0004; STMP-2023-0005; STPL-2023-0025; STPL-2023-0028; STPL-2023-0029; STPL-2023-0041.

²⁶ Loudoun County Application Numbers: STMP-2021-0014; STMP-2021-0015; STMP-2021-0016; STMP-2021-0018; STPL-2021-0051; STMP-2021-0020; STMP-2022-0002; STMP-2022-0003; STMP-2022-0005; STMP-2022-0006; STMP-2022-0007; STMP-2022-0009; STMP-2022-0011; STMP-2022-0012; STMP-2022-0013; STMP-2022-0015; STPL-2022-0030; STMP-2022-0017; STPL-2022-0032; STPL-2022-0034; STMP-2022-0018.

²⁷ County Board of Supervisors Resolution, *In re: Transportation and Land Use Committee Report: Data Center Discussion Series (Countywide)*, available at <https://lfportal.loudoun.gov/LFPortalinternet/0/edoc/569759/Item%2013a%20TLUC%20Data%20Center%20Discussion%20Series.pdf>

The analysis prepared by BAE Urban Economics further illustrates these points.²⁸ Northern Virginia, including the County, continues to experience strong demand from the data center industry that is outpacing supply.²⁹ The driving factors for data center location decisions are: (1) adequately-sized land; (2) internet (fiber-optic) connectivity; (3) water and sewer availability; (4) adequate power supply; and (5) zoning entitlements.³⁰ Taxation by local governments (including, counties and towns) is not a primary factor in these decisions³¹—as evidenced by the increasing interest and ongoing development efforts at four data center sites in Leesburg.

The continuing development of the Annexation Area for data center uses, the strong industry demand in the County and Town, and data center market factors reflect that this annexation has not—and will not—have a chilling effect on the data center market in Leesburg, Loudoun, or the Commonwealth.

D. City status is speculative and irrelevant.

Loudoun even suggests that this annexation may be motivated “**perhaps** [by] prospective ambitions of seeking city status.”³² This argument is entirely speculative. More importantly, the General Assembly has enacted a prohibition on Virginia towns seeking city status. *See* Va. Code Ann. § 15.2-3201. Leesburg could not seek city status, even if it wanted to.

²⁸ A copy of the Leesburg Data Center Markey Study prepared by BAE Urban Economics is attached as **Appendix A**.

²⁹ **Appx. A**, at 9, 17-21, 23.

³⁰ *Id.* at 24

³¹ *Id.*

³² County Response, at 254 (emphasis added).

The Commission’s inquiry focuses on the necessity and expediency of annexation, as reflected in the statutory factors. City status is not relevant to any of those factors. The Commission has been previously rejected attempts to inject city status considerations into this analysis:

[W]e fail to see any legal or practical basis for the inclusion of such considerations in the resolution of this annexation issue. As we have noted in other reports, the prospect of such transitions are speculative, and if such options are eventually pursued by any eligible municipality, they must be addressed within the context of the circumstances and conditions which prevail at that time. Towns should not be denied the opportunity to grow, if such is otherwise justified, merely because of their eligibility for city status. Such arbitrary denial might well encourage consideration if city status where towns would otherwise consider such action undesirable.³³

In accordance with this Commission’s prior reports, the Commission should not consider such speculative assertions when analyzing the merits of this annexation.

E. Statement of Undisputed Facts

The County’s Response does not contest important facts in the Town Notice which establish the necessity and expediency of annexation. These undisputed facts are as follows:

1. Compass Creek, including the Annexation Area, is located in the Leesburg JLMA and has been the designated area for the Town’s expansion since 1991.³⁴
2. The Town has participated in the land use review and approval process involving Compass Creek for decades, pursuant to Town and County joint planning policies and practices for the Leesburg JLMA.³⁵
3. Since at least 1997, the Town has planned for the development of Compass Creek and the Annexation area for new commercial and industrial uses, including “emerging technology facilities.”³⁶
4. The Town planned, implemented, managed, and financed infrastructure improvements to meet the service needs of Compass Creek landowners,

³³ CLG Report on Christiansburg, at 23.

³⁴ 1991 County General Plan, at 131-32; 2005 Town Plan, at 45-46; Town Resource Notebook, Tab B(1-2).

³⁵ *Id.* at 126.

³⁶ 1997 Town Plan, Map 6.3; Town Resource Notebook, Tab A(1).

particularly their timeline. Town infrastructure was in place and serving Compass Creek by 2015.³⁷

5. Compass Creek and the Annexation Area has developed rapidly since 2015, including the ION International Training Center, the Compass Creek commercial area, Walmart, At Home, and the Microsoft properties. The Leesburg Commercial property is currently under development.³⁸
6. Leesburg is the sole provider of water and sewer service to Compass Creek, including the Annexation Area.³⁹
7. Leesburg's street system provides the primary access to Compass Creek via Battlefield Parkway and Compass Creek Parkway.⁴⁰
8. In April 2020, the County and the Town implemented a boundary adjustment that brought the ION International Training Center the Compass Creek commercial area into Leesburg's corporate limits.⁴¹
9. In April 2022, the County Board of Supervisors approved a second boundary adjustment to incorporate Walmart, At Home, and an outparcel property into Leesburg's corporate limits, but the County failed to complete this process.⁴²
10. The foregoing boundary adjustments and this annexation are consistent with the County and the Town's longstanding JLMA and annexation policies, including that properties served by Leesburg water and sewer service will be annexed into the Town.⁴³
11. Property owners in the Annexation Area will benefit from lower "in-town" water and sewer rates.⁴⁴

³⁷ See *infra* Section III(A)(1).

³⁸ See Town Notice, at 6-8.

³⁹ See *id.* at 96-100; see also *infra* Section III(A)(1).

⁴⁰ See Town Notice, at 5.

⁴¹ See April 28, 2020 Final Order Approving Boundary Line Adjustment, *In re: Change of Boundary Between Town of Leesburg, Virginia and Loudoun County, Virginia*, Case No. CL20-2343; Town Resources Notebook, Tab C(3); see also Town Notice, at 8-9.

⁴² See April 13, 2022 County Board of Supervisors Resolution, *In re: Boundary Line Agreement Between the Town of Leesburg and Loudoun County*; Town Resources Notebook, Tab C(4); see also Town Notice, at 8-9.

⁴³ 1991 County General Plan, at 129; 1997 Town Plan, at 1-6; Town Resource Notebook, Tab A(1), B(1).

⁴⁴ See Town Notice, at 139-144.

12. Property owners in the Annexation Area have consented, or do not object, to this annexation.⁴⁵
13. This annexation will facilitate the Town’s efforts to expand its tax resources, diversify its tax base, and provide funding for currently unfunded capital improvements.⁴⁶
14. This annexation will have no material impact on the County, and the Annexation Area will continue to remain a part of the County after annexation.⁴⁷

These undisputed facts, along with those in the Town’s Notice and stated herein, establish the necessity and expediency of this annexation.

F. Standard of Review

1. City versus Town Annexations.

It is important to clarify—and correct—the standard of review suggested in the County’s Response. Loudoun repeatedly refers to *City of Hopewell v. County of Prince George*, 240 Va. 306 (1990), concerning the import of certain factors. This case has little relevance to the Commission’s present task.

As the title of the case indicates, the *City of Hopewell* involved a **city-initiated** annexation. When a city annexes land from a county, there is a significant, adverse effect on the county. The annexed area is literally removed from the county, along with the population, and the all associated tax revenues.

This is **not** a city-initiated annexation. The adverse effects of a city-initiated annexation will not occur in this case. Loudoun will not “lose” the Annexation Area. Properties in the

⁴⁵ May 7, 2021 Walmart consent letter; November 3, 2020 At Home consent letter; March 13, 2023 Leesburg Commercial consent letter; Town Resource Notebook, Tabs D(1-3).

⁴⁶ See *infra* Section V(B).

⁴⁷ See Town Notice, at 160-161.

Annexation Area will remain part of the County, and Loudoun will continue to receive the associated tax revenue.⁴⁸

Additionally, the *Hopewell* case is based on entirely different—and distinguishable—facts. There, the potential annexation at issue included 7.17 square miles of county territory which was “sparsely populated” and had “limited” need for urban services. 240 Va. at 311, 315-16. There was little community of interest between the city and the area subject to annexation. *Id.* at 316-17. And the court found the city’s need for additional tax revenue was due to its own fiscal mismanagement. *Id.* at 318. The court also focused on the “substantial adverse effect” of the proposed annexation on the county—that it “would have divested the county of 22.77 square miles, or 8% of its territory, removed 3,410 persons, or 13.1% of its population, and extracted 11.95% of its assessed values.” *Id.* at 322. The court found that all of the statutory factors were either neutral or weighed against annexation. *Id.* These facts are demonstrably different than Leesburg’s annexation, as discussed further below.

The Supreme Court of Virginia has emphasized the difference between a city-initiated and a town-initiated annexation: “there is a substantial difference in the powers granted in town annexation cases in contrast with city-sought annexations. The difference is logical, considering that a city annexation removes taxable values from a county while a town annexation does not.” *Christiansburg v. Montgomery Cnty.*, 216 Va. 654, 657 (1976).

⁴⁸ The Commission’s prior reports have noted that a town annexation has only a minimal financial effect on the county. *See, e.g.*, CLG Report on Abingdon, at 43 (noting the annexation “would have minimal adverse impact on Washington County. While the proposed annexation would reduce initially some minor County revenue sources, all properties annexed by the Town would remain subject to taxation by Washington County.”).

2. Prior Reports by the Commission on Local Government.

The Commission should refer to its reports in prior town annexation cases for the applicable analytical framework and factor-based analysis. Reports of particular relevance to this Commission's analysis include:

- 1) Report on the Town of Abingdon-County of Washington Annexation Action (November 1985); and⁴⁹
- 2) Report on the Town of Christiansburg-County of Montgomery Annexation Action (February 1987).⁵⁰

With respect to urban services, the Commission has placed emphasis on the provision of water and sewer service,⁵¹ particularly where a town provides water and sewer service to the annexation area prior to annexation.⁵² In that circumstance, the Commission has recognized that towns charge a higher “out-of-town” rate for customers outside a town’s corporate limits, and that annexation will benefit those customers by reducing their utility rates.⁵³

With respect to a town’s need for vacant land, the Commission’s prior reports establish that it examines the amount of vacant land that is “suitable for development.”⁵⁴ The Commission excludes land that is small in size (2 acres for commercial land;⁵⁵ 10 acres for industrial land⁵⁶),

⁴⁹ <https://www.dhcd.virginia.gov/sites/default/files/Docx/clg/municipal-annexation/town-of-abingdon-county-of-washington-annexation-action-november-1985.pdf> (“CLG Report on Abingdon”).

⁵⁰ <https://www.dhcd.virginia.gov/sites/default/files/Docx/clg/municipal-annexation/town-of-christiansburg-county-of-montgomery-annexation-action-february-1987.pdf> (“CLG Report on Christiansburg”).

⁵¹ CLG Report on Abingdon, at 18-23; CLG Report on Christiansburg, at 23-34.

⁵² CLG Report on Christiansburg, at 32.

⁵³ *Id.* at 34.

⁵⁴ CLG Report on Abingdon, at 9; CLG Report on Christiansburg, at 16.

⁵⁵ CLG Report on Abingdon, at 9.

⁵⁶ CLG Report on Christiansburg, at 17.

located in the floodplain,⁵⁷ has steep slopes,⁵⁸ poor road access,⁵⁹ and with incompatible uses on adjacent land.⁶⁰ The Commission recognized that these factors “render sites less attractive to potential commercial, industrial and residential development and may, indeed, constitute major impediments to development.”⁶¹ Additionally, the Commission does not look at gross developable acreage in the abstract; rather, it examines the developable commercial and industrial *parcels*, and examines whether these hindrances render the tracts undevelopable.⁶² The Commission has found that a town demonstrated a need for vacant land where it has as much as 10.7% of its total area vacant.⁶³

With respect to a town’s need to expand tax resources, the Commission’s prior reports establish that town residents have a greater tax burden than county residents.⁶⁴ This is because towns are part of the county and, therefore, pay both county taxes and town taxes.⁶⁵ Even where a town and county have experienced similar financial growth, the enhanced tax burden on town residents alone can demonstrate a town’s need to expand its tax resources.⁶⁶

⁵⁷ CLG Report on Abingdon, at 9; CLG Report on Christiansburg, at 16.

⁵⁸ CLG Report on Abingdon, at 9; CLG Report on Christiansburg, at 16.

⁵⁹ CLG Report on Abingdon, at 9; CLG Report on Christiansburg, at 17.

⁶⁰ CLG Report on Christiansburg, at 17.

⁶¹ CLG Report on Abingdon, at 10; CLG Report on Christiansburg, at 17.

⁶² CLG Report on Abingdon, at 10 (examining the number of developable “tracts” in the town); CLG Report on Christiansburg, at 17-18 (same).

⁶³ CLG Report on Abingdon, at 9; CLG Report on Christiansburg, at 16 (finding need for vacant land where town had 6.3% of its total land acre).

⁶⁴ CLG Report on Abingdon, at 16-18; CLG Report on Christiansburg, at 14-15.

⁶⁵ CLG Report on Christiansburg, at 14.

⁶⁶ CLG Report on Abingdon, at 17-18

G. This annexation is necessary and expedient.

The question presented to the Commission is the necessity and expediency of annexation. This requires the Commission to examine the best interests of the people in the County and Town, the service needs of Annexation Area, and the best interests of the Commonwealth in promoting strong and viable units of government.

The Commission must look at nine statutory factors, set forth below. *See* Va. Code Ann. § 15.2-3209. The necessity and expedience of annexation is established by the totality of the statutory factors; no one factor is dispositive. *See Rockingham*, 224 Va. at 74-75, 85.

1. **Urban Services.** The Town currently provides water and sewer service to the Annexation Area.⁶⁷ The Town has participated in joint planning and zoning decisions for the Annexation Area for over 30 years, and it is fully capable of doing so in the future.⁶⁸ The Town street system provides access to the Annexation Area. Leesburg currently provides law enforcement, street maintenance, and snow removal services to a portion of Compass Creek that is already in the Town, and it is readily able to service the remaining Annexation Area.⁶⁹ This factor weighs in favor of annexation.
2. **Service Level.** Both the Town and the County have engaged in joint planning for the Leesburg JLMA, including the Annexation Area, for over 30 years. As discussed above, Leesburg, however, provides more services to the Annexation Area. This factor weighs in favor of annexation.

⁶⁷ *See infra* Section III(A)(1); Town Notice, at 96-100.

⁶⁸ 1991 County Plan, at 126; Town Resource Notebook, Tab B(1).

⁶⁹ Town Notice, at 104-108.

3. **Compliance with State Policies.** Both Leesburg and Loudoun are compliant with state policies concerning environmental protection, public planning, education, public transportation, housing, or other state service policies. This factor is neutral.
4. **Community of Interest.** There is a strong community of interest between Leesburg and the Annexation Area.⁷⁰ Geographically, the Annexation Area is part of Compass Creek. Compass Creek is set apart from the County via the Dulles Greenway toll road, and it is immediately adjacent to the Town and accessed through the Town streets. A portion of Compass Creek is already in the Town’s corporate limits, and the Town provides water and sewer service to the Annexation Area (comprising the remainder of Compass Creek). The property owners in the Annexation Area associate themselves with Leesburg, including the Walmart “Leesburg Superstore,”⁷¹ and the At Home’s “Leesburg, VA” store.⁷² The general public—including the County’s own Loudoun Times-Mirror newspaper—associates Compass Creek, with Leesburg.⁷³ This factor weighs in favor of annexation.
5. **Prior Refusal.** The County Board of Supervisors previously approved a boundary adjustment involving three parcels in the Annexation Area, but the County has not carried through with this adjustment. The County has given **no** explanation for its

⁷⁰ See *infra* Section VI; Town Notice, at 162.

⁷¹ <https://www.walmart.com/store/1904-leesburg-va>

⁷² <https://www.athome.com/store-detail/?StoreID=Virginia-Leesburg>

⁷³ <https://www.datacenterdynamics.com/en/news/microsoft-planning-two-more-data-centers-in-leesburg-virginia/>;
<https://www.bizjournals.com/washington/news/2022/12/08/microsoft-data-center-leesburg.html>;
https://www.loudountimes.com/news/four-restaurants-coming-to-compass-creek-in-leesburg/article_6b4ca162-37c1-11ea-8906-6f41885e2fc7.html

refusal. The County's arbitrary refusal to work with the Town on these issues weighs in favor of annexation.

6. **Need to Expand its Tax Resources.** The Town has a demonstrated need to expand and diversify its tax base, reduce its reliance on its residential real estate tax base, and provide for unfunded capital improvement projects.⁷⁴ The Town's population is increasing,⁷⁵ and the costs of providing the associated services and facilities to citizens, property owners, and the region is increasing.⁷⁶ By almost every relevant measure, the County has experienced extraordinary growth in local tax resources, but the Town has not shared in that same growth.⁷⁷ The County stands to benefit even further from the development of Compass Creek.⁷⁸ Given the Town's essential role in facilitating that development, it should share in that benefit. These facts, along with the Town's overall financial health, weigh in favor of annexation.
7. **Need for Vacant Land.** The Town has a limited supply of vacant land for commercial and industrial development.⁷⁹ The Town has developed at a rapid pace since the 1984 annexation. The remaining parcels in the Town are under significant development pressure.⁸⁰ This has caused new development to occur at the Town's periphery in the Leesburg JLMA, including Compass Creek and the Annexation

⁷⁴ See *infra* Section V(B).

⁷⁵ Town Notice, at 61.

⁷⁶ Town Notice, at 119-120.

⁷⁷ Town Notice, at 120-127.

⁷⁸ See *infra* Section V(I)(3).

⁷⁹ See *infra* Section IV(C-D).

⁸⁰ *Id.*

Area. The Town has planned and invested millions for infrastructure improvements to facilitate this expansion.⁸¹ This factor weighs in favor of annexation.

8. **Adverse Impact on County.** There is no material adverse impact on the County.⁸² The Annexation Area will remain a part of the County, and Loudoun will continue to receive real property and business personal property taxes from the Annexation Area. The County will not receive in excess of \$210,000 of future business license (BPOL) tax revenue, but this represents an insignificant loss of approximately 0.026% of Loudoun's total annual revenue. This factor supports annexation.
9. **Adverse Impact on Agricultural Operations.** This factor is not at issue, as the Annexation Area does not contain any agricultural land.

For these reasons, as set forth below and in the Town's Notice, the Commission should approve Leesburg's annexation of the remaining land in Compass Creek.

⁸¹ See *infra* Section III(A)(1).

⁸² See Town Notice, at 160-161.

Section II: Reply by the Town of Leesburg

Pursuant to Virginia Code Ann. § 15.2-2907(A) and 1 Va. Admin. Code § 50-20-390(H), Leesburg files this Reply in support of the September 28, 2022 Notice by the Town of Leesburg of its Intention to Petition for Annexation of Territory in the County of Loudoun and Supporting Data (the “Notice”).

VIRGINIA:

BEFORE THE COMMISSION ON LOCAL GOVERNMENT

In the matter of the Notice by the TOWN OF LEESBURG, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, of its intention to petition for the annexation of territory within THE COUNTY OF LOUDON, a political subdivision of the Commonwealth of Virginia, pursuant to Chapter 32 of Title 15.2 of the Code of Virginia (1950), as amended.

**REPLY OF THE TOWN OF LEESBURG
IN SUPPORT OF PETITION FOR ANNEXATION
OF TERRITORY IN THE COUNTY OF LOUDON**

Pursuant to Virginia Code Ann. § 15.2-2907 and 1 Va. Admin. Code § 50-20-390(H), the Town of Leesburg, Virginia (“Leesburg”) hereby files this Reply in support of its September 28, 2022 Notice of Intent to Petition for Annexation.

1. On July 7, 2023, Loudoun County (the “County” or “Loudoun”) filed its Responsive Pleading of the County of Loudoun and Supporting Narrative, Information, Citations and Materials.

2. The Commission directed the Town of Leesburg (the “Town” or “Leesburg”) to submit its Reply filing by October 13, 2023.

3. Leesburg is providing a copy of this Reply to Loudoun County pursuant to 1 Va. Admin. Code § 50-20-390(H).

4. Pursuant to 1 Va. Admin. Code § 50-20-390(H), the Town submits supplemental data, exhibits, documents, and other supporting materials in reply to the County’s Responsive Pleadings, as attached hereto.

5. With this Reply, the Town has submitted a “Resource Notebook,” containing the relevant documents for easy reference by the Commission.

6. Leesburg certifies that all data, exhibits, and other materials submitted to the Commission and the identified sources for all such materials are true, accurate, and correct to the best knowledge of Leesburg officials.

7. The proposed annexation is necessary and expedient considering the best interest of the people of Leesburg, the property owners in the Annexation Area, and the people in the remaining portion of Loudoun, and considering the best interests of the Commonwealth in promoting strong and viable units of local government.

WHEREFORE the Town of Leesburg requests the Commission on Local Government undertake all necessary proceedings to review the proposed annexation and favorably recommend the annexation.

Respectfully submitted this 13th day of October, 2023.

TOWN OF LEESBURG, VIRGINIA

By: _____

Gregory J. Haley (VSB No. 23971)
Kathleen L. Wright (VSB No. 48942)
Andrew M. Bowman (VSB No. 86754)
GENTRY LOCKE
10 Franklin Road S.E., Suite 900
P.O. Box 40013
Roanoke, Virginia 24022
Telephone: 540.983.9300
Facsimile: 540.983.9400
Email: haley@gentrylocke.com
wright@gentrylocke.com
bowman@gentrylocke.com

Christopher P. Spera (VSB No. 27904)
Jessica J. Arena (VSB No. 87642)
Town Attorney
Town of Leesburg
25 West Market Street
Leesburg, Virginia 20176
Telephone: 703.737.7000
Facsimile: 703.771.2727
Email: cspera@leesburgva.gov
jarena@leesburgva.gov

Counsel for the Town of Leesburg

Section III: Urban Services

The discussion below replies to the arguments in Section 8 of the County's Response concerning the Town's provision of urban services.

A. Town Utilities – Water and Sewer Service.

The County's Response asserts four arguments with respect the Town's ability to provide water and sewer service to Compass Creek and the Annexation Area. *First*, the County asserts that it (and not the Town) is responsible for infrastructure in the JLMA. *Second*, the County asserts several policy arguments which it argues weigh against annexation. *Third*, the County asserts that Loudoun Water will, in the future, be able to provide water and sewer service to some of the Annexation Area. *Fourth*, the County asserts that Leesburg is unable to provide adequate water and sewer service to the Annexation Area. As discussed below, each of these arguments are incorrect.

1. The Town is responsible for providing the water and sewer infrastructure serving the Annexation Area.

It is important for the Commission to examine the water and sewer service needs of the Annexation Area and place those needs into historical context. The Annexation Area does not currently need any appreciable municipal investment in water and sewer infrastructure. The County attempts to attribute this “to the County's provision of this infrastructure through Loudoun's zoning and subdivision ordinances and development management process.”⁸³ This is wrong.

The County did not provide the infrastructure required to develop the Annexation Area. The Town did. The Town developed the capability to serve Compass Creek, including the

⁸³ County Response, at 78.

Annexation Area, as a result of years of planning, investment, management, and implementation—all consistent with the provisions of both the Town Plan and County General Plan documents in effect at the time. The Town’s water and sewer infrastructure efforts are reviewed in Section X(C)(4) of the Town’s Notice as well as the Stantec Report attached as **Appendix B**. The critical timeline is as follows:

- **1987**: Construction completed of water line and pump station, extending Town’s water service along Sycolin Road (Route 643) to Town boundary with the JLMA.⁸⁴
- **2006**: Construction began of water tank along Sycolin Road to serve JLMA.⁸⁵
- **June 3, 2008**: County Board of Supervisors adopts Resolution stating that the Town is willing to provide central utilities to the Crosstrail (now Compass Creek) property.⁸⁶
- **June 27, 2008**: Construction of Battlefield Parkway improvements to serve Compass Creek area.⁸⁷
- **July 1, 2011**: Town adopts Capital Improvement Program with Project # 07404, Lower Sycolin Creek Sewage Conveyance System, for the purpose of serving properties in the JLMA, including the Annexation Area.⁸⁸

⁸⁴ Town Notice, at 97.

⁸⁵ *Id.*

⁸⁶ June 3, 2008 County Board of Supervisors Resolution initiating rezoning of Crosstrail (Compass Creek) property; Town Resource Notebook, Tab E(4).

⁸⁷ Town Notice, at 5.

⁸⁸ Town FY2011-2015 Capital Improvements Program, at 8-55 (Project # 07404), available at <https://www.leesburgva.gov/home/showpublisheddocument/5514/635477178326200000>

- **September 2013-April 2014**: Developer of Compass Creek approaches Town to expedite construction of Phase II of Lower Sycolin Creek Sewage Conveyance System.⁸⁹
- **June 2014**: Town completes construction Phase I (the Airport Branch Sewer) of Lower Sycolin Creek Sewage Conveyance System, at a cost of \$5.3 million.
- **August 22, 2014**: Developer requests extension of Town water and sewer service to Compass Creek.⁹⁰
- **October 21, 2014**: Walmart requests extension of Town water and sewer service to Store #1904-05.⁹¹
- **March 24, 2015**: Town agreement with the Peterson Companies for the construction of Phase II of the Lower Sycolin Creek Sewage Conveyance System providing sewer service to Compass Creek, at a cost of \$4.0 million.⁹²
- **June 23, 2015**: Town approves extension of water and sewer service to Compass Creek, including the ION Center, At Home parcel, and commercial area.⁹³
- **September 22, 2015**: Town approved extension of water and sewer service to Walmart Store #1904-05.⁹⁴

⁸⁹ April 7, 2014 Memo from Department of Utilities concerning Lower Sycolin Sanitary Sewer Phase II Update; Town Resource Notebook, Tab E(6).

⁹⁰ Amy Wyks, Director of Utilities.

⁹¹ Amy Wyks, Director of Utilities.

⁹² March 24, 2015 Agreement for the Construction of Phase II Lower Sycolin Gravity Main; Town Resource Notebook, Tab E(9).

⁹³ Town Council Resolution No. 2015-072; Town Resource Notebook, Tab E(10).

⁹⁴ Town Council Resolution No. 2015-100; Town Resource Notebook, Tab E(11).

- **2015**: Construction completed of Phase I Lower Sycolin Creek Sanitary Sewer system in JLMA.⁹⁵
- **2017**: Construction completed of Phase II Lower Sycolin Creek Sanitary Sewer system in JLMA, pursuant to the March 24, 2015 Town/Peterson Agreement, providing sewer service to Annexation Area.
- **September 13, 2017**: Microsoft requests extension of Town water and sewer service for Phase I of data center campus.⁹⁶
- **June 5, 2019**: County Board of Supervisors changes Leesburg JLMA policy and annexation guidelines.
- **November 7, 2019**: Microsoft requests extension of Town water and sewer service for Phase II of data center campus.⁹⁷
- **November 26, 2019**: Town approves extension of Town water and sewer service to Phase I of Microsoft data center campus⁹⁸.
- **May 26, 2020; August 11, 2020**: Town approves extension of Town water and sewer service to remaining portion of Microsoft parcel, including Phase II of Microsoft data center campus.⁹⁹

⁹⁵ March 24, 2015 Agreement for the Construction of Phase II Lower Sycolin Gravity Main; Town Resource Notebook, Tab E(9).

⁹⁶ Amy Wyks, Director of Utilities.

⁹⁷ Amy Wyks, Director of Utilities.

⁹⁸ Town Council Resolution No. 2019-180; Town Resource Notebook, Tab E(14).

⁹⁹ Town Council Resolutions 2020-066 and 2020-089; Town Resource Notebook, Tabs E(16, 18).

- **July 14, 2020**: Town executes Water and Wastewater Service Agreement with Microsoft containing performance provisions for water and sewer service.¹⁰⁰
- **January 30, 2023**: Leesburg Commercial request for water and sewer service from Town.¹⁰¹
- **March 14, 2023**: Town approves extension of Town water and sewer system service to data centers on Leesburg Commercial parcel.¹⁰²

Thus, the Town's efforts to provide water and sewer service in the Annexation Area, and the JLMA, date back decades. The Town undertook these projects to implement its Town Plan and Capital Improvement Plans over years. The Town spent at least \$26 million to do so, including: \$3.5 million for the Route 643 Water Tank; \$1.8 million for the Route 643 booster project; over \$5.3 million for the Lower Sycolin Phase I sewer project; \$4 million for the Lower Sycolin Phase II sewer project; and \$12 million for Battlefield Parkway improvements. The Town also undertook these infrastructure investments in reliance on the County JLMA policies in effect at the time. As a result, the Town is the sole provider of water and sewer service in the Annexation Area, and the Annexation Area is accessed using the Town street system.

The availability of Town water and sewer service Compass Creek and the Annexation Area has benefitted both the landowners and the County. These benefits were first realized by the original Compass Creek landowner, who purchased this vacant land in June 2004 for \$6.8 million.¹⁰³ After the Town's extension of water and sewer infrastructure (and Battlefield Parkway)

¹⁰⁰ July 14, 2020 Water and Wastewater Service Agreement; Town Resource Notebook, Tab E(17).

¹⁰¹ January 30, 2023 Leesburg Commercial request for Town water service; Town Resource Notebook, Tab E(20).

¹⁰² Town Council Resolution No. 2023-046; Town Resource Notebook, Tab E(21).

¹⁰³ June 30, 2004 Special Warranty Deed from TR Road Loudoun Corp. to Leesburg Commercial, L.C.

to serve this property, the landowner resold a 333.4992 acre parcel of this property to Microsoft in 2018 for \$71 million—a net benefit of over \$64 million.¹⁰⁴

The Compass Creek landowners further benefited from Town utilities through their ability to develop this land on their desired timetable. Since the installation of Town infrastructure, the landowners have developed this vacant land into the ION Center, Walmart Store #1904-05, an At Home store, and a Microsoft data center campus. All of these properties are served by Town utilities and accessed by the Town street system. If the landowners were forced to wait for Loudoun Water, none of this development could even begin until late 2025, at the earliest. Instead, the Town’s provision of water and sewer service to Compass Creek and the Annexation Area made this development possible years ahead of Loudoun Water, and on the timeline needed by the landowners.

The County has also benefitted from the availability of Town services to Compass Creek. This area has undergone intense commercial and industrial development. Once the Microsoft data centers are completely outfitted, the County will collect approximately ***\$50 million per year*** in personal property tax revenue.¹⁰⁵ Had Microsoft waited for Loudoun Water to reach the Annexation Area in late 2025 (at the earliest), it would have delayed construction of this data center campus by at least four years—a net cost to the County of over ***\$129 million*** in personal property tax revenue. The County will, therefore, reap the greatest benefit from the Town’s provision of services to the Annexation Area; yet, it opposes the Town sharing in the benefit that the Town planned for decades, and invested millions, to enable.

¹⁰⁴ September 20, 2018 Special Warranty Deed from Leesburg Commercial, L.C. to Microsoft Corp; Town Resource Notebook, Tab E(12).

¹⁰⁵ See *infra* Section V(I)(3).

2. The County’s JLMA policies establish the necessity and expediency of this annexation.

The County’s Response presents two policy arguments: (1) “Loudoun Water is designated by policy as the presumed utility provider for new service in the JLMA, including the entirety of the [Annexation Area];”¹⁰⁶ and (2) “the provision of utility service is patently not itself justification for annexation.”¹⁰⁷ These arguments are inconsistent with the County’s own JLMA policies and annexation guidelines that were in effect at the time Compass Creek and the Annexation Area were developed.

a. Leesburg was designated the water and sewer provider for the Annexation Area at the time of development.

The County designated Leesburg as the provider of water and sewer services when it established the JLMA (then the UGA) in 1991.¹⁰⁸ The County’s 1991 General Plan established “General Public Utilities and Facilities” policies, including “Sewer and Water Policies,” for the Leesburg JLMA. Utility Policy 2(a) states: “All development in the Town Urban Growth Areas [now, the JLMA] will be serviced by public sewer and water.”¹⁰⁹ Utility Policy 2(b) states: “The towns will be the providers of public sewer and water in the Town Urban Growth Area unless a different provider is agreed upon by the County and the towns.”¹¹⁰

The County’s 2001 Revised Plan set forth “Public Utilities Policies,” which restated those utility policies in the County’s 1991 General Plan. For example, the County’s 2001 Public Utility Policy 1 stated: “The Towns will be the providers of public sewer and water in their town JLMAs

¹⁰⁶ County Response, at 116.

¹⁰⁷ *Id.* at 133.

¹⁰⁸ Town Notice, at 3.

¹⁰⁹ 1991 County Plan, at 129; Town Resource Notebook, Tab B(1)

¹¹⁰ *Id.*

unless a different provider is agreed upon by the County and the Town.”¹¹¹ This is nearly identical to the County’s 1991 Utility Policy 2(b). The County’s 2001 Public Utility Policy 7 stated: “All development in the Joint Land Management Areas is planned to be served by public sewer and water . . .”¹¹² This policy is the same as the County’s 1991 Utility Policy 2(a). The County’s 2001 Revised Plan was last amended on September 12, 2018, and it remained in effect through June 20, 2019.¹¹³

For nearly 30 years, Leesburg was the designated provider of water and sewer service in its JLMA, including the Annexation Area. The Town relied on the County’s established JLMA policies when it invested millions of dollars to develop the infrastructure and capability to serve the JLMA, including the Annexation Area. The County unilaterally changed its JLMA policies on June 5, 2019—without notice or discussion with the Town, as reviewed below.¹¹⁴ The County abruptly adopted this change in June 2019, after the Town had initiated the process for this annexation (or a boundary adjustment).¹¹⁵ Stated differently, the County changed its policies in June 2019; literally, after the Town already had pipes in the ground and was serving properties in Compass Creek.

The County’s change to its comprehensive plan was after the fact. Such a change has no retroactive effect.¹¹⁶ The proper frame of reference for the Commission is the JLMA policies in

¹¹¹ 2001 County Plan, at 204; Town Resource Notebook, Tab B(2).

¹¹² *Id.*

¹¹³ *Id.* at 1-2.

¹¹⁴ *See infra* Section IV(A)(4).

¹¹⁵ Town Council Resolution No. 2018-117; Town Resource Notebook, Tab C(1).

¹¹⁶ “Virginia law does not favor retroactive application of statutes. For this reason, [the Supreme Court of Virginia] interpret[s] statutes to apply prospectively unless a contrary legislative intent is manifest. New legislation will ordinarily not be construed to interfere with existing contracts, rights of action, suits or vested property rights” *Bailey v. Spangler*, 289 Va. 353 358-59 (2015) (internal citations, alterations, and quotations omitted).

effect at the time the Annexation Area was developed. The JLMA policies in effect at the time establish that the Town is the designated provider of water and sewer service in the Annexation Area.

b. The County’s JLMA policies support this annexation.

As an initial matter, it is important to correct a misstatement in the County’s Response. The County accuses the Town of improperly “enact[ing] tax policy by agreement” in exchange “for utility service and consent to annexation.”¹¹⁷ This argument is inaccurate.

The County (not the Town) was the architect of utility and annexation policies it now attacks. Annexation Guidelines 2 in both the County’s 1991 General Plan and 2001 Revised Plan states, as discussed above:

The Town and the County should only honor requests for the extension of sewer and/or water services outside the Town’s corporate limits, within the designated Joint Land Management Area **provided that the beneficiaries of such service prepare written acknowledgement of the right of the Town Council to annex the subject properties.** If the Town should desire, this written acknowledgement shall include the beneficiaries’ written agreement to join with the Town in a joint annexation petition.¹¹⁸

The County’s statements that this is an “inequitable policy” dreamt up by the Town are demonstrably false.¹¹⁹

This is further borne out in the County’s 2001 Revised Plan, which establishes Town Growth Management Policy 8: “**As water and sewer service are extended into a Town JLMA,**

¹¹⁷ County Response, at 138-39.

¹¹⁸ 1991 County Plan, at 228 (emphasis added); 2001 County Plan, at 225; Town Resource Notebook, Tabs B(1-2).

¹¹⁹ County Response, at 138-39.

annexation of the area by the Town will be encouraged by the County.”¹²⁰ The County’s Annexation Guideline 1 states:

It should be the intent of the County and of the Town that any property located within the Joint Land Management Area (as defined in the policies of this Plan) **which is presently or would be served by Town sewer and/or water in accordance with the utility policies included in this Plan, should, in the future, be annexed by the Town.**¹²¹

The County’s JLMA annexation policies, therefore, establish that the Town’s provision of water and sewer service outside its corporate limits support annexation.

The County’s 2001 Revised Plan also defines the process by which Leesburg would provide water and sewer service to areas within its JLMA, and then, those areas served would be brought into the Town. A developer initiates this process by requesting Leesburg to extend water and sewer service. The County’s Response attempts to fault Leesburg for “condition[ing] utility service . . . on such properties being brought into the Town’s boundaries.”¹²² But, as discussed above, the County’s Annexation Guidelines 2 expressly anticipates this process.

The County’s approval of rezoning or development proposals that require Town utilities also supports this annexation. Annexation Guideline 5 states: “At such time as the County approves the rezoning and/or development proposal of a property in the Joint Land Management Area, which would require Town sewer and/or water service, **such approval should constitute the County’s approval of such annexation.**”¹²³ Therefore, once the County approved a rezoning or

¹²⁰ 2001 County Plan, at 201 (emphasis added); Town Resource Notebook, Tab B(2).

¹²¹ *Id.* at 224-25 (emphasis added)

¹²² County Response, at 137.

¹²³ 2001 County Plan, at 225 (emphasis added); Town Resource Notebook, Tab B(2).

development proposal for a property in the JLMA that required Town water and/or sewer service, such approval constituted the County’s approval of the annexation of that property.

The final step was the Town’s initiation of annexation proceedings for those properties served by Town water and/or sewer service. The County’s 2001 Revised Plan acknowledged that the timing of annexation proceedings depended on whether the property was contiguous to the Town’s boundary. Where a property served by Town water and/or sewer service was “within the designated Joint Land Management Area and contiguous to the corporate boundaries of the Town,” JLMA Annexation Guideline 3 states that property should be: “immediately annexed by the Town upon County approval of the rezoning and/or development proposal that requires water and/or sewer service.”¹²⁴

The County’s JLMA annexation policies, set out above, contradict the arguments it makes in its Response. Simply put, the County’s policies establish that Leesburg’s provision of water and/or sewer service **is** justification for annexation. Leesburg reasonably relied on the commitments stated in the County’s JLMA annexation policies when, over the course of 30 years, it extended Town water and sewer infrastructure into the JLMA and the Annexation Area.

c. The Town adopted parallel JLMA policies in its Town Plan documents.

Following the establishment of the UGA and JLMA, the Town adopted its own land use and utility policies for the JLMA that paralleled those of the County. For example, the Town’s 2005 Town Plan set forth Community Facilities and Services Objective 7, which provided: “If development occurs within Leesburg’s Urban Growth Area (UGA) . . . the Town retains the option whether to serve such development with Town-provided water and sewer.”¹²⁵ Like the County’s

¹²⁴ *Id.* at 225.

¹²⁵ 2005 Town Plan at 83; Town Resource Notebook, Tab A(2).

JLMA annexation guidelines 2 and 5, Town Objective 7(b) provided that: the “[e]xtension of sewer and water service by the Town to areas outside the Town limits will be considered as a ground for annexation of those areas.”¹²⁶

Leesburg restated these JLMA policies in the 2012 Town Plan to further parallel the County’s JLMA policies. Consistent with the County’s JLMA Annexation Guideline 1, the Town adopted Land Use Objective 10, which stated:

The Leesburg Joint Land Management Area will serve as an area for town growth and it will gradually and ultimately be annexed into the corporate limits. **As property owners request central utility service, and the Town agrees to extend central utilities to such properties in the JLMA, the Town will anticipate that these properties will be incorporated into the Town.**¹²⁷

Additionally, the Town restated Community Facilities and Services Objective 7, which provided that the Town’s provision of water and sewer service to properties in the JLMA “will be considered as a ground for annexation of those areas.”¹²⁸

Like the County’s JLMA Policies and Annexation Guidelines, Leesburg adopted policy objectives in its Town Plan documents that provided the JLMA was the designated area for Town growth, that the Town would provide water and sewer service to properties in the JLMA, and that the provision of such utilities would be grounds for annexation of that property.

¹²⁶ *Id.* at 84.

¹²⁷ 2012 Town Plan at 6-8 (emphasis added); Town Resource Notebook, Tab A(3).

¹²⁸ *Id.* at 10-4.

d. The County and the Town applied these annexation policies to Compass Creek.

The County and the Town have applied the JLMA annexation policies to properties in Compass Creek to adjust the Town's corporate boundaries consistent with Leesburg's provision of water and sewer service.

The County Board of Supervisors applied these policies on June 3, 2008 when it initiated the rezoning of the Annexation Area to industrial uses (Planned Development-Industrial Park). The County Board of Supervisors resolution stated:

WHEREAS, the County's comprehensive plan provided that the Town would be the eventual utility provider for the Crosstrail [now, Compass Creek] property;

...

WHEREAS, the Town of Leesburg is willing to provide central utility to the Crosstrail [now, Compass Creek] property for appropriate commercial development and to negotiate an agreement **to annex that property into its corporate limits.**¹²⁹

Thus, the County rezoned the Annexation Area for industrial uses with the expectation that the Leesburg would provide water and sewer service to this area, and annex it into the Town.

Consistent with its JLMA annexation policies, the County agreed to a boundary adjustment for a portion of Compass Creek including the ION Center and commercial area. This process began when the developer requested the Town extend water and sewer service to these parcels. The Town approved this extension on June 23, 2015.¹³⁰ On April 10, 2018, the County approved development plants for the ION Center.¹³¹ The approval was based on the Town's provision of water and sewer

¹²⁹ June 3, 2008 Board of Supervisors Resolution initiating rezoning of the Crosstrail (Compass Creek) property (emphasis added); Town Resource Notebook, Tab E(4).

¹³⁰ Town Council Resolution No. 2015-072; Town Resource Notebook, Tab E(10).

¹³¹ Loudoun County Application Number: STPL-2016-0048.

service.¹³² As these properties were contiguous to the Town, on October 1, 2019, the Town requested a boundary adjustment with the County involving the ION Center property and Compass Creek commercial parcels.¹³³ The County Board of Supervisors approved the boundary adjustment and the parties executed a Boundary Line Agreement dated April 13, 2020. This boundary adjustment was approved by the Loudoun County Circuit Court on April 28, 2020.¹³⁴ The incorporation of the ION Center and Compass Creek commercial parcels into the Town boundaries is a specific application of the JLMA annexation policies, wherein the properties would be brought into Town’s boundaries upon the provision of water and sewer service.

The County has also applied these JLMA and annexation policies to the Walmart and At Home parcels. During the development of the Walmart parcel, the County stated it would enforce a proffer requiring that the “Property shall be developed using public municipal water supply and municipal sanitary sewer facilities.”¹³⁵ Walmart stated: “Acknowledged. The site is developed using public (Town of Leesburg) water and sanitary sewer.”¹³⁶ The County approved the Walmart development plans on March 11, 2016.¹³⁷

On December 31, 2019, the County approved development plans for the At Home parcel.¹³⁸ The County, again, enforced a proffer requiring At Home to develop its store “using public (Town

¹³² *Id.*

¹³³ Town Council Resolution No. 2019-182.

¹³⁴ April 28, 2020 Final Order Approving Boundary Line Adjustment, *In re: Change of Boundary Between Town of Leesburg, Virginia and Loudoun County, Virginia*, Case No. CL20-2343; Town Resources Notebook, Tab C(3).

¹³⁵ Loudoun County Application Number: STPL-2014-0049 (1st Eng. Comments).

¹³⁶ Loudoun County Application Number: STPL-2014-0049 (Proffer Narrative 03102015).

¹³⁷ Loudoun County Application Number: STPL-2015-0049 (Approval Letter)

¹³⁸ Loudoun County Application Number: STPL-2018-0055.

of Leesburg) water and sanitary sewer.”¹³⁹ This development approval was, therefore, dependent on the Town providing water and sewer service to the At Home parcel.¹⁴⁰

Following these approvals, on October 12, 2021, Leesburg Town Council approved a second boundary adjustment to bring the Walmart, At Home, and a third property (CC Outparcel) into the Town.¹⁴¹ The property owners have consented to this boundary adjustment. The Loudoun County Board of Supervisors approved this boundary adjustment on April 13, 2022.¹⁴² The foregoing approvals are, again, consistent with the County’s JLMA annexation policies—namely, that the Town’s provision of water and/or sewer service would be the basis for annexation.

The County’s Response also inaccurately attempts to minimize Leesburg’s role in serving the Microsoft parcel in the Annexation Area, claiming the “Town’s current utility service within the APA is mostly focused on . . . properties containing a Walmart, At-Home, and undeveloped parcel approved for a Wendy’s restaurant.”¹⁴³ The County is aware of the critical role the Town played in enabling the development of the Microsoft parcel; the County approved development plans for both phases of Microsoft construction phases that were dependent on Leesburg’s water and sewer supply. The County-approved site plan for the first phase (IAD01) of Microsoft data centers incorporated Leesburg’s water and sewer infrastructure,¹⁴⁴ and acknowledged that Leesburg had reviewed and approved the water and sewer components.¹⁴⁵ Similarly, the County-

¹³⁹ Loudoun County Application Number: STPL-2018-0055 (Proffer Release).

¹⁴⁰ *Id.*

¹⁴¹ Town Council Resolution No. 2021-156 (adopted October 12, 2021).

¹⁴² April 13, 2022 County Board of Supervisors Resolution, *In re: Boundary Line Agreement Between the Town of Leesburg and Loudoun County*; Town Resources Notebook, Tab C(4).

¹⁴³ County Response, at 133.

¹⁴⁴ Loudoun County Application Number: STPL-2019-0010 (Approved Planset, at 54-79).

¹⁴⁵ Loudoun County Application Number: STPL-2019-0010 (Approved Planset, at 4).

approved site plan for the second phase (IAD02) of Microsoft data centers states: “The portion of this project lies solely within Loudoun County **with water and sanitary sewer provided by the Town of Leesburg.**”¹⁴⁶ As noted, the Town has approved providing water and sewer services to the entire Microsoft project.¹⁴⁷ Construction of Microsoft Phase I is complete, and is served by Town water and sewer. Construction of Phase II is under way. None of this development would have occurred on Microsoft’s timeline without Town utilities. The County acknowledges that future Loudoun Water service to the Microsoft property is still several years away, at best.

Loudoun’s Response now argues that the Town’s provision of water and sewer service “is patently not itself justification for annexation.” The County’s JLMA policies, in effect at the time, state otherwise.¹⁴⁸ These policies include: (i) the Town would be the designated provider of water and sewer service in the JLMA; (ii) a landowner’s receipt of Town utilities would be conditioned on consent to annexation; and (iii) Loudoun’s approval of development plans would “constitute the County’s approval of such annexation.” Accordingly, the County’s JLMA policy in place at the time of development establishes that this annexation is both necessary and expedient.

3. Loudoun Water could not provide water and service to the Annexation Area in accordance with the landowners’ development timelines—and will not be able to serve the Annexation Area until late 2025, at the earliest.

The County discusses plans by Loudoun Water to expand its infrastructure into the Annexation Area. The County now argues that the purpose of this extension is to “provide water service to the Microsoft parcel that is proposed to be annexed into the Town.”¹⁴⁹ The County’s

¹⁴⁶ Loudoun County Application Number: STMP-2020-0018 (ENG-Approved Planset, at 6) (emphasis added).

¹⁴⁷ Town Council Resolution Nos. 2019-180, 2020-066, 2020-089; Town Resource Notebook, Tabs E(14, 16, 18).

¹⁴⁸ The County unilaterally changed these policies to exempt out the Leesburg JLMA only *after* the Town provided the necessary water and sewer infrastructure to enable development. *See infra* Section IV(A)(4).

¹⁴⁹ County Response, at 127.

discussion misses the point. Loudoun Water could not provide water and sewer service to the Annexation Area in accordance with the development needs and timeline of the landowners. As discussed above, the Town was able to—and did—provide such services.

Additionally, the County’s Response omits the fact that the design of its water and sewer infrastructure did not begin until **after** the Town has already approved and started providing water and sewer service to the Annexation Area. The County states that Loudoun Water project W2 West and W7 West “will provide water service to the Microsoft parcel that is proposed to be annexed into the Town.”¹⁵⁰ Similarly, the County states that Loudoun Water project S2-West and S3A-West will provide sewer service to the Annexation Area.¹⁵¹ However, Loudoun Water did not even begin the design of these projects until late 2021—over a year after the Town began providing water and sewer service to the Annexation Area, including the Microsoft property¹⁵²

Additionally, Loudoun Water lists “TOL utilities”—*i.e.*, Town of Leesburg utilities—as a project complexity.¹⁵³ This reflects that Loudoun Water is seeking to construct a water and sewer system that overlaps with the Town’s system, as shown in Figure 1 below. It seems unnecessary for Loudoun Water, at the direction of the County Board of Supervisors, to construct a duplicative water and sewer system in the Annexation Area.

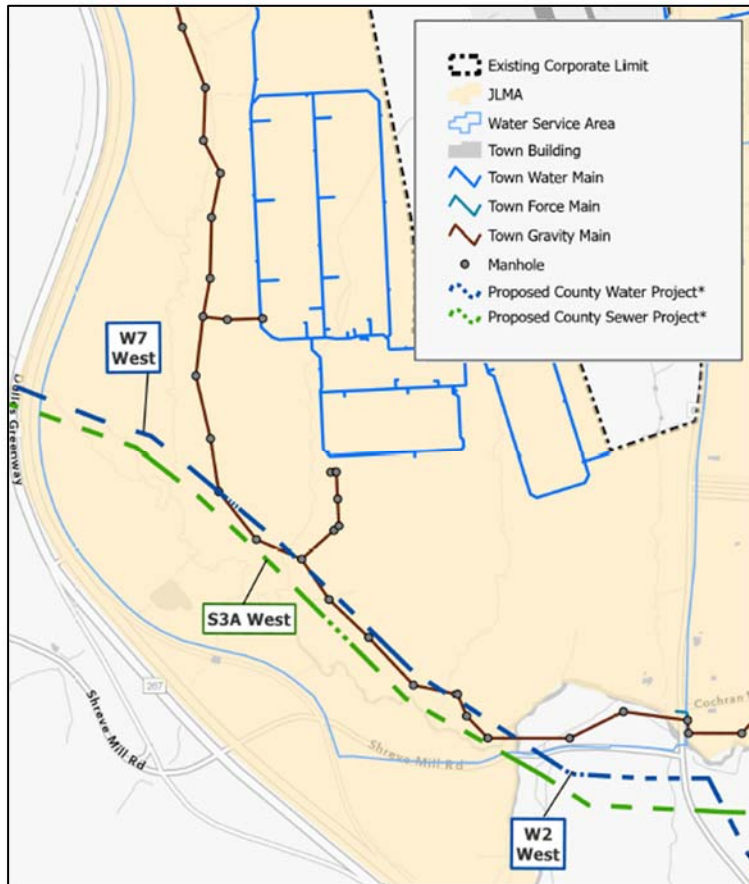
¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 132-133.

¹⁵² <https://www.loudounwater.org/current-projects/leesburg-joint-land-management-area-jlma>

¹⁵³ <https://www.loudounwater.org/current-projects/leesburg-joint-land-management-area-jlma>

Figure 1: Overlap between Loudoun Water proposed projects and Town utility infrastructure in Annexation Area



None of Loudoun Water’s planned water and sewer projects for the Annexation Area are under construction. Loudoun Water plans to begin construction in 2024 and hopes it will be completed by late 2025. Simply put, Loudoun Water cannot serve Compass Creek now, and it was not able to provide water and sewer service to the property owners in Compass Creek—ION Center, Walmart, At Home, the commercial area, Microsoft and Leesburg Commercial parcels—when needed for their development projects.

The Town was able to provide water and sewer service to the Annexation Area on the timeline required for its development. Phase I of Compass Creek (the ION Center, At Home store,

and other retail uses) requested Town water and sewer service on August 22, 2014.¹⁵⁴ Town Council approved such service on June 23, 2015,¹⁵⁵ and the Town delivered water and sewer service to the ION Center beginning in April 2019. Walmart requested Town water and sewer service on October 21, 2014.¹⁵⁶ Town Council approved such service on September 22, 2015,¹⁵⁷ and the Town delivered water and sewer service beginning in January 2019. Microsoft requested Town water and sewer service on September 13, 2017 and November 7, 2019.¹⁵⁸ Town Council approved such service beginning on November 26, 2019,¹⁵⁹ and the Town delivered water and sewer service beginning in July 2020.

When the Annexation Area needed water and sewer service, the Town provided it. Loudoun Water was unable to provide the utility service needed on the timeline required for development, and Loudoun Water's ability to serve the Annexation Area still lags behind by the Town by years.

The Commission's prior reports in town annexation cases,¹⁶⁰ as well as applicable Supreme Court of Virginia case law, establish that a critical factor supporting annexation has been the annexing town providing utility services to the annexation area. *See Rockingham*, 224 Va. at 70 (approving annexation where served by city utilities); *see also Cnty. of Montgomery v. Blacksburg*, 212 Va. 528, 5229 (1972); *Cnty. of York v. Williamsburg*, 204 Va. 732, 737, 740 (1963). Leesburg

¹⁵⁴ Amy Wyks, Director of Utilities.

¹⁵⁵ Town Council Resolution No. 2015-072; Town Resource Notebook, Tab E(10).

¹⁵⁶ Amy Wyks, Director of Utilities.

¹⁵⁷ Town Council Resolution No. 2015-100; Town Resource Notebook, Tab E(11).

¹⁵⁸ Amy Wyks, Director of Utilities.

¹⁵⁹ Town Council Resolution No. 2019-180; Town Resource Notebook, Tab E(14).

¹⁶⁰ CLG Report on Christiansburg, at 25, 32, 34 (town's provision of water and sewer service to annexation area).

has extended these services beyond its corporate limits, and the Town is the sole provider of water and sewer service to the Compass Creek, including all properties in the Annexation Area. These facts weigh in favor of this annexation.

4. The Town has the water and sewer capacity to serve the entire Annexation Area and all future development in the Town.

The County also argues that the Town does not have sufficient water and sewer capacity to serve the Annexation Area.¹⁶¹ This argument is incorrect for two reasons: (i) the County's Response is based on outdated information; and (ii) the Town has sufficient water and sewer capacity to serve the entirety of Compass Creek, including the Annexation Area, as well as expected future development in the Town.

a. The County relies on incorrect assumptions regarding the Town's water and sewer capacity.

The County's argument is based on a December 2019 chart prepared by the Town Department of Utilities.¹⁶² The County's Response ignores the Town's subsequent water capacity analyses, which are made publicly available through Town Council meetings.¹⁶³ These subsequent analyses comprehensively examine the Town's water treatment capacity—which is sufficient to meet all existing water customers, approved projects, and possible future projects based on anticipated development under the Town Plan.¹⁶⁴

The County's selective reliance on the December 2019 chart is incorrect for several reasons. *First*, the December 2019 chart had a limited purpose. It was an attempt to project the

¹⁶¹ County Response, at 134-38.

¹⁶² County Response, at 135-35; *see also* December 9, 2019 Town staff memorandum concerning potential water and sewer treatment plant capacities; Town Resource Notebook, Tab E(15).

¹⁶³ *See, e.g.*, September 12, 2022 Town Department of Utilities Memorandum concerning Capacity of Utility Plants; Town Resource Notebook, Tab E(19).

¹⁶⁴ *Id.*

Town's water treatment capacity based on future estimates of water consumption by Phase II of the Microsoft data center development, as well as two possible future data centers in the JLMA (Tuscarora Crossing and Twin Creek).¹⁶⁵ Unlike the Town's subsequent analyses, the December 2019 chart was not a comprehensive analysis of the Town's water treatment capacity.

Second, this chart was based on inaccurate assumptions regarding Microsoft's water usage. For example, the December 2019 chart estimates that the Town's maximum day water demand, including both phases of the Microsoft development, would be 13.02 million gallons per day ("mgd").¹⁶⁶ This is inaccurate. The July 2020 Water and Wastewater Service Agreement between Microsoft and the Town established maximum day usage caps that are less than the December 2019 estimates.¹⁶⁷ As discussed below, the current maximum day usage of all approved water customers in the Town, including all phases of the Microsoft development, is 10.603 mgd—well below the Town's permitted capacity of 12.884 mgd.

Third, the December 2019 chart relied on Loudoun Water's estimate that all future data center development will require 1.0 gallons per day per square foot of data center space.¹⁶⁸ This estimate is based on a data center using evaporative cooling technology.¹⁶⁹ Evaporative cooling is an older data center cooling technology that consumes and discharges significant amounts of water

¹⁶⁵ December 9, 2019 Town staff memorandum concerning potential water and sewer treatment plant capacities; Town Resource Notebook, Tab E(15).

¹⁶⁶ *Id.*

¹⁶⁷ Stantec, An Analysis of Land Markets and Utility Capacity in Leesburg and Compass Creek (the "Stantec Report"), attached as **Appendix B**; *see also* Town Resource Notebook, Tab E(17).

¹⁶⁸ December 9, 2019 Town staff memorandum concerning potential water and sewer treatment plant capacities; Town Resource Notebook, Tab E(15) (stating "Water Assumptions" included "Other data center water demand is based on 1.0 gpd/sq ft per Loudoun Water's value.").

¹⁶⁹ *Id.* (stating an "Overall Assumption" as "Water demand and sewer flows for data centers are evaporative cooling technology and not water cooling").

during standard operations.¹⁷⁰ This technology is generally reserved for large, hyperscale data centers, such as Microsoft.

Current advances in data center cooling technology—particularly, air-cooled chiller plant (“ACCP”), also known as a “closed-loop system”—require substantially less water consumption.¹⁷¹ ACCP technology utilizes a coolant liquid that is recirculated through piping loops in the data center. While water is used during the initial commissioning process and subsequent filling and mixing of the coolant, the closed-loop nature of ACCP technology means that no water is consumed or discharged during standard cooling operations.

Data center developers of projects in Leesburg are trending towards low-water technology, as reflected in the January 30, 2023 request for Town water and sewer service submitted by the developer of the Leesburg Commercial, L.C. parcel in the Annexation Area.¹⁷² This request states that the data centers will utilize ACCP/closed-loop system technology.¹⁷³ Once constructed, the ACCP system will undergo an initial cleaning phase where water will be mixed with “detergent” and “chemical cleaning agents,”¹⁷⁴ After cleaning, these chemicals will be removed via a clean water flush. The ACCP system will then be filled with “liquid,” “comprising of 96% water and 4% chemicals (inhibitor and biocide).”¹⁷⁵ After the initial cleaning and filling phases, no additional water will be required for cooling purposes; instead, “domestic water and sewer demands” will be approximately 1,600 gallons per day of water, and 1,500 gallons per day of sewer for non-cooling

¹⁷⁰ Stantec Report (**Appx. B**) at ¶ 76-80.

¹⁷¹ *Id.*

¹⁷² January 30, 2023 Leesburg Commercial request for Town water service; Town Resource Notebook, Tab E(20).

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

purposes, such as “humidification, drinking, showers, hand washing, flushing toilets, etc.”¹⁷⁶ This is a fraction of the 600,000 gallons of water per day that Loudoun Water assumed this data center would need.

After correcting the incorrect assumptions, and taking into consideration Microsoft’s actual water usage and the actual consumption of modern data center cooling technologies, Leesburg has more than sufficient water capacity to serve the Annexation Area and all projected needs of the Town. But this conclusion is not new—it is reflected in each of the Town’s subsequent water capacity analyses.¹⁷⁷

b. Leesburg has sufficient water and sewer capacity to serve the Annexation Area and additional development in the Town.

The Town’s most recent water and sewer capacity analysis by an outside consultant, Stantec, shows Leesburg has sufficient capacity to serve all approved, projected, and anticipated development in the Town, its JLMA, and the Annexation Area.¹⁷⁸ This analysis reflects that the future demands for Town water service fall into four categories: (1) base water demand; (2) approved development; (3) anticipated development; and (4) future development under the Town Plan.¹⁷⁹ Table 1, below, summarizes this future demand for Leesburg’s water service. The cumulative demand of these projects is 10.603 million gallons per day (“mgd”), which is less than the Town’s permitted capacity of 12.844 mgd.¹⁸⁰

¹⁷⁶ *Id.*

¹⁷⁷ See September 12, 2022 Town Department of Utilities Memorandum concerning Capacity of Utility Plants; Town Resource Notebook, Tab E(19).

¹⁷⁸ Stantec Report (**Appx. B**) at ¶ 103.

¹⁷⁹ *Id.* at ¶ 103 (Table 7).

¹⁸⁰ *Id.*

1. Town’s existing demand for water service.

For the entire 2022 calendar year and the first half of 2023, the Town’s water treatment plant experienced average flow demand of 4,117,000 gallons per day (4.117 mgd).¹⁸¹ During that same period, the Town’s maximum demand, or “max day” demand, was 5,741,000 gallons per day (5.741 mgd).¹⁸² This is reported in Table 1, below, as the Town’s “Base Water Demand.”

2. Approved Development.

Town Council has approved various requests for Town water service—such as Phase II of the data center development on the Microsoft parcel—which have not yet begun to draw water from the Town’s system. These approved requests have an average daily demand of 1,276,510 gallons per day (1.277 mgd).¹⁸³

Per Article 2-122.2 of the Town’s Design and Construction Standards Manual (“DCSM”), the Town determines estimated future max day demand by applying a max day factor of 1.75 to its average day demand.¹⁸⁴ The Town notes that the max day factor of 1.75 is a conservative overestimate of the Town’s max day demand; historically, the Town’s actual max day factor is 1.39 (about 25% lower than its DCSM estimate). Nevertheless, the DCSM projected max day demand for Town-approved water extension requests is 2.234 mgd.

3. Anticipated Development.

Leesburg anticipates that it will receive requests for water service for future residential and some commercial development within the Town’s corporate limits and the JLMA.¹⁸⁵ For purposes

¹⁸¹ *Id.* at ¶ 85.

¹⁸² *Id.*

¹⁸³ *Id.* at ¶ 97.

¹⁸⁴ <https://www.leesburgva.gov/home/showpublisheddocument/5553/636082492508100000>

¹⁸⁵ Stantec Report (Appx. B) at ¶ 98.

of this analysis, these anticipated water requests do not include water service requests for data centers. The Town anticipates the average day demand for these projected service requests is 736,655 gallons per day (0.737 mgd).¹⁸⁶

4. Future Development under Town Plan.

The Town anticipates that it will receive requests for water service from future development that is consistent with the 2022 Legacy Leesburg Plan.¹⁸⁷ There are, again, no data centers in this category. The Town anticipates the average day demand for these future Town Plan development requests at 764,997 gallons per day (0.765 mgd).¹⁸⁸

5. Conclusion.

At full buildout of all of the projected development, the Town projects its cumulative maximum day water demand to be 10.603 mgd.¹⁸⁹ The Town's water treatment plan has a permitted capacity of 12.844 mgd.¹⁹⁰ Much of this development is speculative, but the Town has analyzed it under a "worst-case scenario." The important point—established by both the Town's Department of Utilities analyses and Stantec, its independent utilities consultant—is that **Leesburg has sufficient water capacity to serve the Town and Compass Creek, including the Annexation Area.**

¹⁸⁶ *Id.* at ¶ 99.

¹⁸⁷ *Id.* at ¶ 100.

¹⁸⁸ *Id.* at ¶ 101.

¹⁸⁹ *Id.* at ¶ 102 (Table 7).

¹⁹⁰ *Id.* at ¶ 84.

Table 1: Summary of Future Demand for Leesburg Water Treatment Plant								
Flow Projection Scenario	Marginal Additional Average Demand		Marginal Additional Max Day Demand		Cumulative Average Day Demand		Cumulative Max Day Demand	
	GPD	MGD	GPD	MGD	GPD	MGD	GPD	MGD
Base Water Demand	N/A	N/A	N/A	N/A	4,117,000	4.117	5,741,000	5.741
Approved Development	1,276,510	1.277	2,233,893	2.234	5,393,510	5.393	7,974,893	7.975
Anticipated Development	736,655	0.737	1,289,146	1.289	6,130,166	6.130	9,264,040	9.264
Future Town Plan Development	764,997	0.765	1,338,745	1.339	6,895,163	6.895	10,602,784	10.603

c. Leesburg has sufficient water and sewer capacity to serve data center projects.

Stantec’s analysis reflects that the Leesburg’s water treatment plant has 2.241 mgd of available capacity to serve data center projects reliant on Town water service. Leesburg has received several inquiries from existing data center customers and potential data center development in the Town, including: (1) Microsoft; (2) the Village at Leesburg; and (3) the Leesburg Innovation Village. The Town will evaluate these requests, if and when made. As with all requests for water service, the Leesburg Department of Utilities will work with future data center developers in the Town to accommodate future water requests, if able, and ensure that Leesburg continues to meet the water service needs of its residents and current customers—including those in the Annexation Area.

1. Microsoft.

On Wednesday, October 4, 2023, Microsoft informed the Town that it was projecting a possible increase in its maximum day water consumption by 638,500 gallons per day (0.639 mgd). This request was only just received; it is currently under review by Town staff, and has not been acted on by Town Council. As discussed further below, the Town’s utility consultant, Stantec, has

nevertheless analyzed this request, and the Town has sufficient water capacity to fulfill this demand, in the event approved by Town Council.¹⁹¹

2. Village at Leesburg, Land Bays D & E.

Springfield, L.C. (“Springfield”) filed an application to develop two parcels in the Village at Leesburg for data center uses.¹⁹² Preliminary discussions among the Town, Springfield, and the possible data center operator indicate that the data center at the Village at Leesburg will use a ACCP/closed-loop system similar in design to that used for the Leesburg Commercial parcel. Assuming the Village at Leesburg is developed as data centers—and, to be clear, Town Council has not approved the necessary zoning changes to allow such use—the data center developer informed Town staff that it would use ACCP technology. Therefore, the Town anticipates zero water demand for cooling purposes, and a minor demand for domestic (bathroom, humidification, etc.) use.¹⁹³ Accordingly, the Town does not project this development to have any significant impact on its water capacity.

3. Leesburg Innovation Village.

On August 11, 2023, the Town received a pre-application statement concerning a potential rezoning application for 120 acres bounded by Route 7, Battlefield Parkway, Potomac Station Drive, and the Leesburg Outlet Mall. This assemblage of parcels is currently undeveloped land zoned for residential uses. The statement proposes to rezone this land for commercial uses and develop it as the Leesburg Innovation Village, containing data centers, research/flex, and office uses.

¹⁹¹ *Id.* at ¶ 113.

¹⁹² Town of Leesburg Application Number: TLZM-2022-0010 (Statement of Justification); Town Resource Notebook, Tab G(3).

¹⁹³ Stantec Report (**Appx. B**) at ¶ 105.

Preliminary discussions between the Town and the developer indicate that these data centers could consist of 470,000 square feet of data centers in four buildings. The developer indicates the data centers may use a water-intensive cooling technology known as direct evaporative cooling, which on a maximum day, will require a total of 624,304 gallons per day (0.624 mgd) of water service.¹⁹⁴

4. Other data center sites.

Leesburg has received at least two other zoning applications that suggest future data center development in the Town. On November 17, 2022, Clubhouse Dr, LLC (“Clubhouse”) filed with the Town an application to rezone a 7.58 acre parcel that was the site of the former Westpark Golf Club, and develop it under the new name “Westpark Tech.”¹⁹⁵ The application seeks to rezone the parcel from the B-3 District to the Planned Employment Community District “for the purpose of constructing one flex industrial or data center building.”¹⁹⁶ On May 22, 2023, Oaklawn LLC (“Oaklawn”) filed with the Town a request for proffer amendment for Oaklawn Land Bay A to expand permitted uses to include 700,000 square feet of flex industrial and data center uses.¹⁹⁷

The developers of the Oaklawn and Westpark Tech sites have not informed the Town what type of data center cooling technology these proposed data centers may use, and the related water demands. As noted above, Leesburg will evaluate water service request from these data center sites once made in accordance with the circumstances that exist at that time.

¹⁹⁴ *Id.* at 109.

¹⁹⁵ Town of Leesburg Application Number: TLSE-2022-0009; Town Resource Notebook, Tab G(6).

¹⁹⁶ *Id.*

¹⁹⁷ Town of Leesburg Application Number: TLREZN-2023-0001 (Statement of Justification). Town Resource Notebook, Tab G(5).

5. Conclusion.

Based on existing information, Leesburg has sufficient water capacity to serve each of these data center developments.¹⁹⁸ Table 2, below, summarizes the potential impact of a future water requests by developers of these possible data center sites on the Town’s remaining capacity. To be clear, these are not formal requests for water service. The Leesburg Department of Utilities will work with developers to responsibly meet future service ensure the continuity of water service to all Town residents and customers, including the entirety of the Annexation Area.

Table 2: Summary of Possible Data Center Water Requests				
Flow Projection Scenario	Marginal Additional Max Day Demand		Remaining Max Day Capacity	
	GPD	MGD	GPD	MGD
Remaining Capacity	N/A	N/A	2,241,216	2.241
Microsoft	638,500	0.639	1,602,716	1.603
Village at Leesburg	1,600	0.002	1,601,116	1.601
Leesburg Innovation Village	624,304	0.624	976,8112	0.977

5. The conditions on the Town’s extension of water and sewer service to the Leesburg Commercial parcel are appropriate.

The County’s Response attempts to fault the Town for implementing conditions on its extension of water and sewer service to data centers on the Leesburg Commercial property. The County’s statements are inaccurate, and suggest a lack of understanding of the ACCP/closed-loop system cooling technology to be used in those data centers. The commissioning water from data centers on the Leesburg Commercial parcel cannot be discharged into the Town sewer system because it will include chemicals that would damage the wastewater treatment plant or the environment.

¹⁹⁸ Stantec Report (Appx. B) at ¶¶ 112-113.

As stated in the January 30, 2023 water request for the Leesburg Commercial property, these data centers will be cooled by an ACCP/closed-loop system.¹⁹⁹ Once the system is constructed, it “will be flushed with water **and chemical cleaning agents**” Once the system has been cleaned, it will be filled with a “liquid” “comprising of 96% water and **4% chemicals (inhibitor and biocide)**.”²⁰⁰ These chemicals include: ChemTreat FlexPro CN5600 (cooling system cleaner), CL6034 (cooling system corrosion inhibitor), BL1240 (inorganic oxygen scavenger), CL2250 (microbiocide), and CL241 (defoamer). The manufacturer cautions that all of these chemicals should not allowed to enter into the sewer system.²⁰¹

Two of these chemicals carry enhanced warnings. ChemTreat CL6034 is a cooling system corrosion inhibitor containing sodium tetraborate pentahydrate, potassium hydroxide, and aromatic azole.²⁰² It is classified by the EPA as a D002 corrosivity characteristic hazardous waste, and, therefore, federal law governs its disposal.²⁰³ ChemTreat 2250 is a cooling water microbiocide and paper slimicide containing 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one.²⁰⁴ The manufacturer cautions that ChemTreat 2250 is “acutely hazardous” and “toxic to fish and wildlife.”²⁰⁵ Therefore, the manufacturer instructs: “Do not discharge effluent containing this product to sewer systems” and that improper disposal is a violation of federal law.²⁰⁶

¹⁹⁹ Town Resource Notebook, Tab E(20).

²⁰⁰ *Id.* (emphasis added).

²⁰¹ Stantec Report (**Appx. B**) at ¶ 92.

²⁰² Product Information and Material Safety Data Sheet for ChemTreat CL6034.

²⁰³ *Id.*

²⁰⁴ Product Information and Material Safety Data Sheet for ChemTreat 2250.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

Thus, the County’s statements that discharges from the Leesburg Commercial data center commissioning process will be “water” are not accurate. These discharges contain toxic chemicals whose disposal is regulated by the EPA and federal law. While the County faults the Town for requiring that these cleaning chemicals be stored in tanks and hauled for appropriate disposal, it would be inappropriate—if not illegal—to allow such toxic chemicals to be discharged into the Town sewer system. Accordingly, Leesburg appropriately imposed conditions on the Leesburg Commercial data centers prohibiting the discharge of the commissioning water including chemicals into the Town sewer system.

6. Conclusion.

The County has encouraged the Town to develop the ability to provide water and sewer service to Compass Creek. In reliance on the County’s statements and policies, Leesburg invested millions on these utility infrastructure improvements. The Town followed through on the County’s expectations, and Town services were available and there when needed for the development of Compass Creek. These facts alone establish the necessity and expediency of this annexation, according to the County’s JLMA and annexation policies in effect at the time of development.

B. Land Use Regulation.

The County’s Response argues that it is responsible for the land use regulation process for Compass Creek, and that the Town may not be able to effectively regulate land uses in the Annexation Area.²⁰⁷ These arguments are incorrect.

The County *and* the Town have jointly participated in land use review process since the Leesburg JLMA was established in 1991.²⁰⁸ The Compass Creek property was purchased by a

²⁰⁷ County Response, at 161-167.

²⁰⁸ 1991 County Plan, at 126; Town Resource Notebook, Tab B(1).

developer in 2004. Thereafter, Leesburg provided detailed comments on all land use applications affecting Compass Creek—including rejecting the 2005 residential rezoning; approving the 2008 industrial rezoning; the 2012 commercial rezoning; and the 2022 industrial rezoning.²⁰⁹ Leesburg even made specific commitments to provide water and sewer service—**and subsequently annex**—the entirety of Compass Creek.²¹⁰ While the County’s Response attempts to attribute all of the “major legislative actions” solely to its Board of Supervisors,²¹¹ these arguments are incorrect. Leesburg was substantively involved in every major land use decision in Compass Creek, including the Annexation Area.

Leesburg is equally capable of providing future land use services to the Annexation Area. The proof is in the Town’s deep involvement in that process since 2005. In recent years, Leesburg has continued to develop and improve its ability to provide these services to Town residents. For example, the Town’s Director of Community Development is James David. Prior to joining the Town in 2022, Mr. David was the Acting Director of Planning for Loudoun County. Mr. David has extensive experience with land use regulation issues involving data centers.

Additionally, on August 8, 2023, the Town adopted amendments to its Zoning Ordinance establishing specific design and development standards for data centers.²¹² Leesburg collaborated closely with data center developers and industry participants to develop standards that responsibly promoted data center development in a manner consistent with the Town’s urban setting. Thus,

²⁰⁹ See *supra* Section III(A)(1)(B).

²¹⁰ *Id.*

²¹¹ County Response, at 161.

²¹² Town of Leesburg Ordinance No. 2023-O-017; Town Resource Notebook, Tabs G(1, 2).

the Town is experienced, capable, and uniquely qualified to provide land use regulation services to urban development in the Annexation Area.

Sources: John Bachmann, Stantec
 Amy Wyks, Director of Utilities
 James David, Director of Community Development

Section IV: Town’s Need for Vacant Commercial and Industrial Land

The discussion below replies to the arguments in Section 7 of the County’s Response concerning the Town’s need to annex the remaining portion of Compass Creek to obtain additional land for industrial and commercial development.

The County’s Response asserts two principle arguments. *First*, the County asserts that the annexation will not provide the Town with any additional vacant land.²¹³ *Second*, the County asserts the Town does not need to obtain land for industrial or commercial development.²¹⁴ The County’s arguments are incorrect.

The Town’s need for obtain land for industrial or commercial development is not a static question, devoid of historical or practical context. This analysis must consider the policies giving rise to this annexation action: the County designated the Leesburg JLMA, including Compass Creek and the Annexation Area, for the Town’s expansion, to be served by the Town, and, once developed, annexed into the Town’s corporate limits. Additionally, this analysis must not ignore on-the-ground realities of industrial and commercial development in the Town and the JLMA. The mere fact land is zoned for a type of use does not, alone, make it suitable for development for that use. Many of the parcels identified by the County as “vacant” are already developed, subject to approved development plans, or do not have the appropriate size, configuration, road access, and other characteristics required for meaningful industrial or commercial development.

When viewed as a whole, and in context, the Town needs additional land for industrial and commercial development, particularly of the requisite size and characteristics. The best evidence of this need is the development of Compass Creek and the Annexation Area—given the inadequate

²¹³ County Response, at 96-97, 113.

²¹⁴ *Id.* at 99-100, 113.

vacant land in the Town, industrial and commercial development occurred immediately adjacent to its boundary and relying on Town infrastructure and services.

A. The Annexation Area was vacant land designated for Leesburg’s future expansion and subject to annexation upon the provision of Town services.

The Town is pursuing this annexation in furtherance of promises made by the County during long-term joint planning efforts concerning the Leesburg JLMA. At the outset of those efforts, Compass Creek was vacant land. The Town fostered the commercial and industrial development of Compass Creek by implementing these joint planning efforts—specifically, that this land would be annexed into the Town upon its provision of water and sewer service. The Town provided water and sewer infrastructure essential to the development of Compass Creek on the timeline needed by the landowners. Only then did the County unilaterally attempt to revise some of the policy provisions in its 2019 General Plan relating to the Leesburg JLMA and the annexation of areas in the JLMA served by Town utilities. The fact remains, however, that the Town was essential to the development of the Compass Creek, and under the parties’ longstanding policies, this area should be annexed into the Town.

1. Historic Leesburg JLMA Policies.

In its Response, the County now asserts that the present annexation is “contrary to public policy goals” and is “inconsistent with County policy.”²¹⁵ In doing so the County focuses on **current** policies. But those were not the policies in effect at the time Compass Creek, including the Annexation Area, was developed.

As discussed above, the relevant JLMA and annexation policies are set forth in the County’s 1991 General Plan and its 2001 Revised General Plan (as amended through September

²¹⁵ County Response, at 8, 14.

12, 2018). These policies were in place for nearly 30 years and gave rise to the development of Compass Creek and the Annexation Area.²¹⁶ These points can be distilled into three principles:

- (1) The County would encourage towns, including Leesburg, to expand into their respective Urban Growth Areas.
- (2) The County designated towns, including Leesburg, to provide water and sewer service to their respective Urban Growth Areas.
- (3) The County would “encourage” annexation by towns, including Leesburg, upon the provision of water and sewer service to the Urban Growth Areas.

The County continued to amend its 2001 General Plan through September 12, 2018. However, the County did not amend or change the fundamental policies surrounding the Leesburg JLMA, including the water and sewer service and annexation provisions.²¹⁷ During these same years, Leesburg’s Town Plans included parallel provisions addressing the Leesburg JLMA and the annexation of areas in the JLMA served by Town utilities.²¹⁸

2. Leesburg enabled the development of Compass Creek and the Annexation Area.²¹⁹

In reliance on the County’s stated policies, the Town fostered the development of Compass Creek, including the Annexation Area. As early as 2005, the Town’s comprehensive plan documents designated this area for development as regional office uses, including “emerging

²¹⁶ In prior town annexation cases, the Commission has examined how comprehensive plan policies have informed the development in areas subject to annexation. *See, e.g.*, CLG Report on Christiansburg, at 78-79 (“Indeed, Montgomery County’s comprehensive plan identifies the northern portion of Parcel A as an area in which high density development should be encouraged.”).

²¹⁷ 2001 County General Plan Amendments, available at <https://www.loudoun.gov/DocumentCenter/View/1017/Revised-General-Plan-Amended-through-09-12-2018?bidId=>

²¹⁸ *See supra* Section III(A)(2)(c).

²¹⁹ The facts and timeline relating to the development of Compass Creek, including water, sewer, and street infrastructure, are reviewed in the Stantec Report (**Appx. B**), at 23.

technology facilities.”²²⁰ The Town implemented that plan over subsequent years by extending water, sewer, and street infrastructure improvements to Compass Creek.

Compass Creek was historically agricultural or vacant land. The County publishes an “Aerial Archive” of aerial imagery dating back to 1937.²²¹ This imagery graphically shows the development timeline of Compass Creek and the Annexation Area.

In 1957, the Annexation Area consisted entirely of farmland. The next available aerial imagery from 2002 shows the beginnings of development in the surrounding area—by this point, the Dulles Toll Road and the Leesburg Executive Airport were both constructed. However, the Annexation Area was vacant land. There was no development.

Figure 2: 1957 Aerial Imagery



Figure 3: 2002 Aerial Imagery



²²⁰ 2005 Town Plan, at 45; Town Resource Notebook, Tab A(2).

²²¹ Loudoun County, *Aerial Archive*, available at <https://logis.loudoun.gov/archive/>; Town Resource Notebook, Tab H(2).

The Annexation Area was purchased by a developer in 2004.²²² The developer initially sought to rezone the property for residential uses in 2005.²²³ Per the policies set forth in the County’s General Plan, Loudoun referred this rezoning application to Leesburg for comment.

On June 13, 2006, Town Council adopted a Resolution stating “its dissatisfaction with the proposed rezoning.”²²⁴ Specifically, Town Council noted “deficiencies in the [rezoning] applications as it relates to the 2005 Town Plan and other applicable Town policies.”²²⁵ These deficiencies included that the Town’s 2005 Town Plan designated Compass Creek for commercial or industrial development. Town Council further stated it “has indicated by two previous resolutions its intent to pursue a boundary line adjustment of this [Compass Creek] property.”²²⁶

In response, the County posed several questions to the Town, including: “What is the Town Council’s official position regarding the annexation of properties that comprise the JLMA? **Is the Town committed to the intent of the JLMA and is there a genuine desire to annex this area?**”

On July 11, 2006, Mayor Umstatt (who now sits on the County Board of Supervisors) responded: “**Yes.**”²²⁷ In subsequent letters, Town Council suggested that the County deny the rezoning application,²²⁸ which the County did on July 11, 2007.

On June 3, 2008, the County Board of Supervisors adopted a Resolution to unilaterally initiate the rezoning of Compass Creek, including the Annexation Area, to the Planned

²²² Special Warranty Deed, dated June 30, 2004, conveying property to Leesburg Commercial, L.C. for \$6,880,000.

²²³ Loudoun County Application Number: ZMAP-2005-0011.

²²⁴ Town Council Resolution No. 2006-105 (June 13, 2006).

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ Loudoun County Application Number: ZMAP-2005-0011 (July 11, 2006 Letter from Town Mayor Umstatt); Town Resource Notebook, Tab E(3).

²²⁸ *See, e.g.*, Loudoun County Application Number: ZMAP-2005-0011 (April 16, 2007 Letter from Town Mayor Umstatt).

Development-Industrial Park (“PD-IP”) district for industrial uses.²²⁹ In that initiating resolution, the Board of Supervisors expressly recognized that “the Town would be the eventual utility provider for the [Compass Creek] property,” and the parties would “negotiate an agreement to annex that property into its corporate limits.”²³⁰ The “Town support[ed] the Board initiated rezoning to PD-IP,”²³¹ and the County approved the rezoning on October 21, 2008.

In 2012, the Peterson Companies applied to rezone approximately 58.2 acres of the Annexation Area from PD-IP to Planned Development – Commercial Center – Small Regional Center (“PD-CC-SC”).²³² As part of that rezoning, the Peterson Companies stated: “The Applicant plans to serve Crosstrail [now Compass Creek] with Town of Leesburg utilities via a looped water line connecting to a water main along Sycolin Road.”²³³ On December 4, 2013, the County approved this rezoning, conditioned on the development receiving water and sewer service from the Town.²³⁴ During this years-long process, the Annexation Area remained vacant.

The developer sought an extension of Town water and sewer infrastructure to Compass Creek, as discussed further in Section III(A)(1). On March 24, 2015, the Town and the developer entered into an agreement for the construction of the Phase II Lower Sycolin Sewer system, at a cost of \$4 million to the Town.²³⁵ Thereafter, the Town approved the extension of water and sewer

²²⁹ Loudoun County Application Number: ZMAP-2008-0009 (June 3, 2008 Board of Supervisors Resolution); Town Resource Notebook, Tab E(4).

²³⁰ *Id.*

²³¹ Loudoun County Application Number: ZMAP-2008-0009 (July 8, 2008 Letter from Town).

²³² Loudoun County Application Number: ZMAP-2012-0021, Statement of Justification, at 3.

²³³ *Id.*, at 3.

²³⁴ Loudoun County Application Number: ZMAP-2012-0021, Conditions of Approval, ¶ 2.

²³⁵ March 24, 2015 Agreement for the Construction of Phase II Lower Sycolin Gravity Main; Town Resource Notebook, Tab E(9).

service to the future Compass Creek development in June 2015.²³⁶ The Annexation Area continued to remain vacant during this process, as confirmed by the County’s 2015 aerial imagery.

With the requisite utilities and zoning approvals in hand, the pace of development in Compass Creek accelerated. This appears in the County’s 2016 aerial imagery, shown below, with the preparation of the sites for the ION Center and Walmart Supercenter store, as well as the construction of the Dulles Greenway toll road offramp. The County’s 2016 aerial imagery even shows vehicles and pipes involved in the extension of Town water and sewer service to the Annexation Area. By March 2019, the ION Center and Walmart buildings were under construction.

Figure 4: 2015 Aerial Imagery



Figure 5: 2016 Aerial Imagery



²³⁶ June 23, 2015 Town Council Resolution No. 2015-072 approving Town water and sewer service for Compass Creek commercial area Phase 1; Town Resource Notebook, Tab E(10).

3. This annexation is consistent with contemporaneous County policy.

The foregoing development timeline establishes that this annexation is consistent with the County's policies in effect at the time of development. The County's Annexation Guidelines stated:

1. It should be the intent of the County and of the Town that any property located within the Joint Land Management Area (as defined in the policies of this Plan) which is presently or would be served by Town sewer and/or water in accordance with the utility policies included in this Plan, **should, in the future, be annexed by the Town.**
- ...
5. At such time as the County approves the rezoning and/or development proposal of a property in the Joint Land Management Area, which would require Town sewer and/or water service, **such approval should constitute the County's approval of such annexation.**²³⁷

This annexation is "the future" annexation contemplated in the County's JLMA Annexation Guideline 1. Additionally, pursuant to the County's JLMA Annexation Guideline 5, the County's December 2013 rezoning approval,²³⁸ requiring Town water and sewer service, "constitute[d] the County's approval of such annexation." Accordingly, this annexation is consistent with the County JLMA policy stated in its comprehensive plan in effect at that time.

The Town appropriately relied on the policies set forth in the County's 1991 and 2001 General Plans when extending water and sewer service to the Annexation Area. The General Assembly stated the "comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory." Va. Code

²³⁷ 1991 County Plan, at 228; 2001 County Plan, at 224-25; Town Resource Notebook, Tabs B(1, 2).

²³⁸ Loudoun County Application Number: ZMAP-2012-0021, Conditions of Approval, ¶ 2.

Ann. § 15.2-2223; *Town of Jonesville v. Powell Valley Vill. Ltd. P'ship*, 254 Va. 70, 76 (1997) (“A comprehensive plan provides a guideline for future development and systematic change, reached after consultation with experts and the public.”).

4. The County unilaterally changed its Leesburg JLMA policy.

After construction at Compass Creek had begun, the County attempted to change its position regarding Leesburg JLMA policy. This manifested in changes to its 2019 General Plan that specifically targeted the Leesburg JLMA and excepted it from the historical provisions concerning water and sewer service and annexation.

This occurred during a County Board of Supervisors 2019 Comprehensive Plan Work Session on June 5, 2019. At this meeting, Supervisor Buona proposed the following amendment to County JLMA Policy 2.1:

Due to the proximity of central system water and wastewater systems to the Leesburg JLMA, and in order to avoid out-of-town utility rates for County residents and businesses, **the central system shall be the presumed utility service provider in the Leesburg JLMA for new service put in place after adoption of the Loudoun County 2019 Comprehensive Plan.** If the property owner is not able to come to an agreement with the central system provider or the central system provider declines or is unable to provide utility service to the Leesburg JLMA or any portion thereof, utility service may be provided by the municipal system.²³⁹

This amendment was directed at the Leesburg JLMA only, and proposed to reverse nearly 30 years of existing policy, whereby by the Town would provide water and sewer service to its JLMA, and substitute the County’s central water and sewer system as the presumptive provider of these utilities.

²³⁹ Transcript of June 5, 2019 Board of Supervisors Meeting, available at https://loudoun.granicus.com/player/clip/5921?view_id=77&redirect=true&h=cac864c1457506a0d76988733d22e36e; Town Resource Notebook, Tab B(4).

Supervisor—and former Town Mayor—Umstatt responded:

I really strongly object to this. There has been no consultation with the Town of Leesburg on this. Over the last 20 years, the Town of Leesburg has relied on the Revised General Plan language, and has made millions of dollars of investment in utility infrastructure based on that language. This is deemed an agreement between the County and the Town, and this language, if not softened or modified, would be a breach of that agreement. Most recently, the Town invested \$9 million in serving the Compass Creek development, most of which is outside the Town. So this is a huge blow to the Town's utility financial stability, and I think it would be a huge mistake to go forward.²⁴⁰

Despite these concerns, the County Board of Supervisors approved the changes to JLMA Policy 2.1.

This was not the only change the County made that targeted Leesburg. The County also changed its JLMA annexation policy, and excepted Leesburg from the historical annexation provisions. These changes were made at the last minute, and without notice, public hearing, motion, or discussion by the County Board of Supervisors. These changes were not even reflected in the redline purporting to show the revisions the Board was approving. These changes include:

2. **With the exception of the Leesburg JLMA**, the Town and the County should only honor requests for the extension of municipal sewer and/or water services outside the Town's corporate limits, within the designated JLMA when the beneficiaries of such service provide written acknowledgement of the right of the Town Council to annex the subject properties.
- ...
5. **With the exception of the Leesburg JLMA**, when the County approves the rezoning and/or development proposal of a property in the JLMA, which would require municipal sewer and/or water service, such approval should constitute the County's approval of annexation. At the time of such

²⁴⁰ *Id.*; Town Resource Notebook, Tab B(4).

approval, the County should also provide the Town with written consent of annexation.²⁴¹

As noted by Supervisor Umstattd, the County did not consult with the Town on these significant changes to Leesburg JLMA policy. These changes were made without County staff review; without review and consultation with Loudoun Water; and without review by the County Planning Commission. The County failed to even follow the provisions of its own Zoning Ordinance in adopting these changes. *See* Loudoun Zoning Ordinance § 6-601. It violated well-settled Virginia policy on comprehensive plans: the “Virginia statutes assure . . . that such a change will not be made suddenly, arbitrarily, or capriciously but only after a period of investigation and community planning.” *Town of Jonesville*, 254 Va. at 76 (internal quotation omitted).

The singular purpose of these changes to the County comprehensive plan was to target the Leesburg JLMA—and attempt to lay the groundwork for the arguments they now make: that the present annexation is “contrary to policy goals.” The Commission should not condone this. Instead, it should look at the purpose of the Leesburg JLMA, including at the time that Compass Creek, the Annexation Area, and the supporting infrastructure were developed.

5. The County approved two boundary adjustments for Compass Creek consistent with historical JLMA annexation policy.

Despite enacting these changes, the County has continued to follow the longstanding Leesburg JLMA annexation policies. The County’s application of these historic annexation policies is demonstrated by two agreed boundary adjustments in Compass Creek.²⁴² In April 2020, the County and the Town agreed to a boundary adjustment to incorporate several Compass Creek

²⁴¹ <https://www.loudoun.gov/DocumentCenter/View/152285/General-Plan---Combined-with-small-maps-bookmarked> (emphasis added).

²⁴² *See* Town Notice, Section I(B)(3).

parcels, including a portion of the ION International Training Center property; the commercial area being developed with restaurants, a hotel, and office space; as well as several parcels owned by the Town surrounding the Leesburg Airport, into the Town.²⁴³ In April 2022, the County Board of Supervisors approved a second boundary adjustment for the Walmart, At Home, and CC Outparcel properties in Compass Creek.²⁴⁴ All of these properties are approved for or receive Town water and sewer service, which is the touchstone for boundary adjustment or annexation under the historic JLMA policies. All of these properties are served by the same Town infrastructure, including its street system.

The County does not state any principled basis why it would approve these boundary adjustments for some properties in Compass Creek but refuse to allow the remaining properties to be annexed into the Town. The only discernable difference is that the Microsoft and Leesburg Commercial parcels are being developed for data center uses. This evidences an attempt by the County to control the data center market—to use Leesburg as the provider of services to enable the development of these data centers, to place all of that risk on Leesburg, and have all of the benefit flow to the County. Not only is this contrary to the County’s own policies, but it is not a valid basis under the Commission’s regulations or Virginia statutes and caselaw to oppose annexation.

6. Conclusion.

The County’s arguments that this annexation is “contrary to policy goals” and “provides essentially no additional commercial or industrial development capacity to the Town” are

²⁴³ April 2020 Final Order Approving Boundary Line Adjustment, *In re Change of Boundary Between the Town of Leesburg, Virginia and Loudoun County, Virginia*, Case No. CL20-2343; Town Resource Notebook, Tab C(3).

²⁴⁴ April 13, 2022 Board of Supervisors Resolution, *In re Boundary Line Agreement Between the Town of Leesburg and Loudoun County*; Town Resource Notebook, Tab C(4).

shortsighted and incorrect.²⁴⁵ The County unilaterally changed its Leesburg JLMA policy, and broke its annexation promise.

This annexation is consistent with 30 years of the County and Town JLMA policies and annexation guidelines—particularly that areas within the Leesburg JLMA would be annexed into the Town upon the provision of Town water and sewer service. At the time those policies were put in place, Compass Creek and the Annexation Area were vacant. The County and the Town’s joint planning efforts designated the Annexation Area for the Town’s expansion, particularly for commercial and industrial development. In reliance on the County’s policies, the Town enabled such development by providing water and sewer service to the Annexation Area. Based on the County and Town policies in place at the time of development, this land should be annexed into the Town.

B. The County’s vacant land analysis is not accurate.

The County argues that “the town has approximately 220 acres of net developable non-residential vacant land.”²⁴⁶ This argument is based on an analysis performed by RKG Associates, Inc. (“RKG”). RKG claimed to have first identified “all vacant land zoned for non-residential development.”²⁴⁷ This resulted in 33 parcels of land, with a claimed gross land area of 253 acres. RKG then removed acreage associated with the portions of these parcels which are wetlands or have an “unfavorable slope gradient, particularly in excess of 15%.”²⁴⁸ This resulted in the County’s claimed “non-residential net-vacant land” figure of “approximately 220 acres.”²⁴⁹

²⁴⁵ County Response, at 113-114.

²⁴⁶ *Id.* at 100.

²⁴⁷ RKG Report, at 14.

²⁴⁸ *Id.* at 14-15.

²⁴⁹ *Id.*

This analysis is flawed for two reasons. *First*, the County’s analysis includes four (4) parcels which are currently developed or under construction. *Second*, the County’s analysis does not consider whether the physical characteristics, such as size, configuration or road access, render the parcels suitable for commercial or industrial development.

1. Developed parcels.

The County’s vacant land analysis includes four parcels which are currently developed or under construction, totaling 9.1 acres. These parcels are identified in Table 3 and discussed further below.

Table 3: Developed Parcels			
ID	PIN	Acreage	Zoning
18	191460526	3.92	I1
23	190158432	2.2	PEC
26	190357919	1.68	B3
	233299325	1.3	PEC
Total		9.1 acres	

a. Sonic Restaurant: PIN 233299325.

A notable example of the County including developed land in its vacant land analysis is the parcel with PIN 233299325. A Sonic restaurant is under construction on this parcel. This is shown in 2023 aerial imagery from the County’s GIS, below. The County’s analysis incorrectly identified this parcel as vacant.



b. Church Parking Lot: PIN 190158432.

The County's vacant land analysis included a 2.2 acre parcel owned by Cornerstone Chapel Real Estate with PIN 190158432. The property owner is a church located on the adjacent property to the north. The subject parcel contains a parking lot, as shown in 2023 aerial imagery from the County's GIS, below. The County's analysis incorrectly identified this parcel as vacant.



c. Parking Lot and Stormwater Impoundment: PIN 190357919.

Aerial imagery of this parcel shows it is developed as a parking lot and stormwater impoundment for the neighboring retail stores, including a Walgreens store, located to the south, and the Sycolin Corner shopping mall, to the north. The County's analysis incorrectly identified this parcel as vacant.



d. VEPCO: PIN 191460526.

The Virginia Electric & Power Company (“VEPCO”) owns the 3.92 acre parcel with PIN 191460526. VEPCO also owns the adjacent parcel to the north. The subject parcel contains a parking lot for the landowner’s facility as well as stormwater structures. The County’s analysis incorrectly identified this parcel as vacant.



2. Size, configuration, or road access issues.

The County’s vacant land analysis includes twelve parcels, totaling 31.69 acres, which have undesirable property characteristics, such as small size, irregular configuration or no road access. The Commission has previously recognized these physical characteristics are “less attractive to potential commercial, industrial, and residential developers and may, indeed, constitute major impediments to development.”²⁵⁰ Under the Commission’s analysis, parcels with these physical characteristics are not considered as part of the vacant land analysis.²⁵¹ These parcels are identified in Table 4 and discussed further below.

Table 4: Commercially Unsuitable Parcels			
ID	PIN	Acreage	Zoning
15	147156270	15.32	B-3
20	189378431	2.84	B-3
24	148475479	2.02	B-3
25	232404981	1.84	CDD
64	149453326	1.95	B-3
65	149459235	1.79	B-3
73	188165193	1.28	CDD
74	189451369	0.31	CDD
83	233296822	1.52	PEC
84	231278080	0.74	B-1
87	231102364	0.56	CDD
89	188177578	1.52	CDD
Total		31.69 acres	

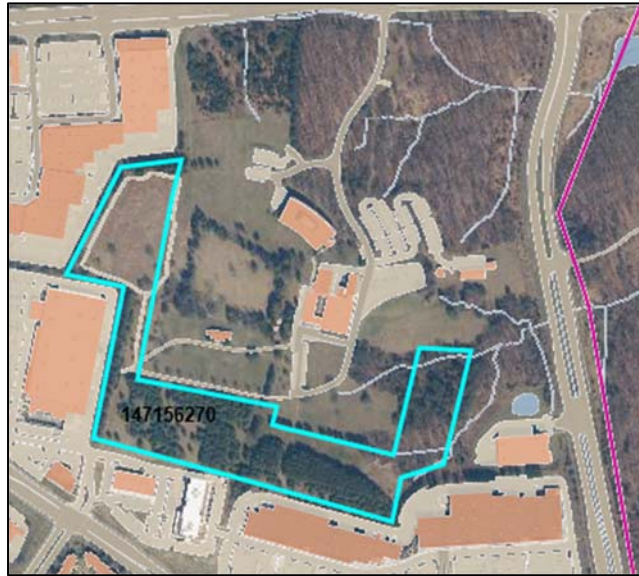
a. PIN 147156270.

This is a 15.32 acre parcel zoned for commercial uses. The layout of the subject parcel is shown below. The “U” shaped configuration of the makes it difficult to develop and, therefore,

²⁵⁰ CLG Report on Abingdon, at 10; CLG Report on Christiansburg, at 16-17.

²⁵¹ CLG Report on Abingdon, at 10; CLG Report on Christiansburg, at 16-17.

undesirable. Additionally, this parcel does not have public road frontage or access. Accordingly, this property is not suitable for commercial or industrial development.



b. PIN 148475479.

PIN 148475479 is a 2.02 acre parcel located near the intersection of Battlefield Parkway and Fort Evans Road. Aerial imagery shows the southern portion of this parcel contains stormwater structures. The maximum width of the remaining portion is approximately 170 feet, which is insufficient to allow for commercial or industrial development.²⁵²



²⁵² See Town Zoning Ordinance, § 6.5.3 (requiring minimum lot width of 200 feet).

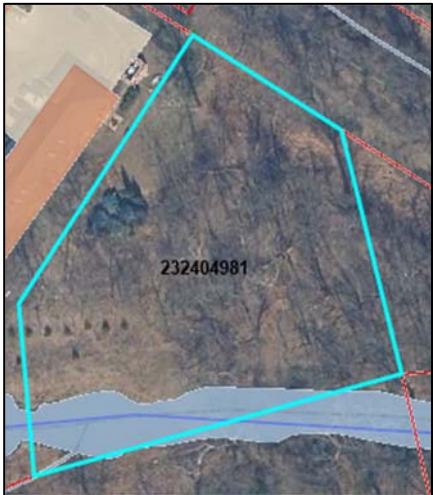
c. PIN 189378431.

The County’s vacant land analysis also included a 2.84 acre parcel having PIN 189378431, shown below. This parcel is located between the Route 15 exit ramp for Market Street and two commercial retail businesses. This parcel does not have any public road access and, therefore, is not suitable for commercial or industrial development.



d. PIN 232404981.

Similarly, the County’s vacant land analysis includes a 1.84 acre parcel (PIN 232404981) located within the Town’s Crescent Design District. This parcel is also landlocked, and does not have public road access. Therefore, it is not suitable for commercial or industrial development.



e. Small, commercially-zoned parcels.

The remaining parcels identified in Table 4 are small in size—2.0 acres or less—and, therefore, only potentially suitable for small scale uses. Given the limited development potential (if any at all) of these small parcels, the Commission excludes them from the vacant land analysis.²⁵³

C. The Town has limited vacant land for commercial development.

Several of the remaining parcels of vacant commercial land in the Town are under development. The County argues that these properties have “remain[ed] undeveloped many years later without any existing development plans.”²⁵⁴ This, again, is inaccurate. As discussed below, these (and other) parcels are **currently** undergoing significant development, primarily for data center, flex industrial, and other commercial uses.

1. Oaklawn

The Oaklawn development is situated north of the Annexation Area across Battlefield Parkway. It currently has four parcels (totaling 50.69 acres) of vacant commercial land: Land Bay A (PIN 233-38-8942); Land Bay C (PIN 233-29-6254); Land Bay D (PIN 233-20-1036); and Land Bay G (PIN 233-29-0512). The Town’s Notice also identified a fifth parcel, Land Bay B, as vacant commercial land in the early stages of development. In the intervening year, however, Land Bay B has been developed as two industrial flex buildings.

The development of Oaklawn is ongoing. Oaklawn is subject to proffered conditions that limit some aspects of development in order to mitigate the effects of incompatible uses on a residential development immediately to the north. The landowner recently applied to rezone

²⁵³ CLG Report on Christiansburg, at 18.

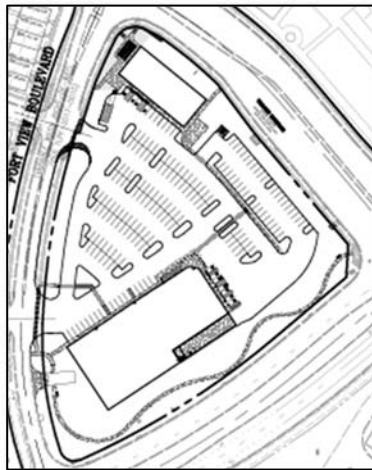
²⁵⁴ County Response, at 99.

Oaklawn Land Bay A to modify these proffers to allow a “Flex Industrial/Business Park,” consisting of up to 700,000 square feet of data centers and flex industrial uses.²⁵⁵ The applicant noted the potential significance of these uses to the Town, including “diversifying the Town’s economy” and reducing “the Town’s reliance on real property taxes.”²⁵⁶ Therefore, Oaklawn Land Bay A is under application to allow development for industrial uses.

2. Other specific commercial developments.

a. Lidl Grocery at Leegate: PIN 148151619

On September 12, 2023, Town Council approved zoning changes for a Lidl grocery store on a 5.28 acre portion of Parcel ID 79 (PIN 148151619).²⁵⁷ The County’s analysis incorrectly classifies this parcel as vacant.



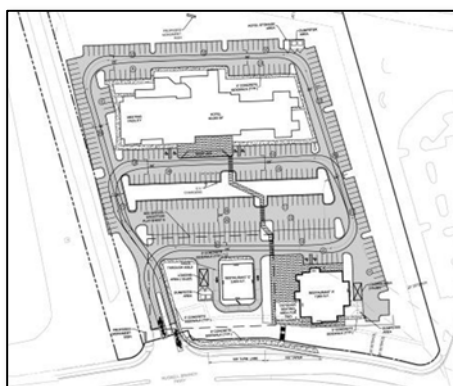
²⁵⁵ Town of Leesburg Application Number: TLREZN-2023-0001, Statement of Justification, at 2; Town Resource Notebook, Tab G(5).

²⁵⁶ *Id.*, at 3.

²⁵⁷ Town of Leesburg Application Number: TLZM-2022-0005.

b. Liberty Hotel: PIN 149368055

Parcel 33 (7.73 acres) is currently under application to allow development as the Liberty Hotel complex, which will include a 140-room hotel and two restaurants.²⁵⁸ While this application is pending, there are detailed plans for the development of this property, as shown below.



c. Shops at Russell Branch: PIN 149459235

Parcel ID 66 (1.79 acres) is the subject of an application to allow development as a drive through restaurant.²⁵⁹ While this application is pending, this parcel is already partially developed with roads and parking as part of the Shops at Russell Branch.



²⁵⁸ Town of Leesburg Application Number: TLZM-2022-0004.

²⁵⁹ Town of Leesburg Application Number: TLZM-2021-0012.

3. Remaining commercial parcels.

Contrary to the County’s assertion that the Town has 153.7 acres of vacant commercial land, there are only eleven parcels—totaling 89.96 acres—of vacant land that is both suitable and available for commercial development. Each of these parcels is identified in Table 5, below.

Table 5: Vacant Commercial Land			
ID	PIN	Acreage	Zoning
34	147271333	5.27	B-3
57	273492205	3.68	B-1
59	232375627	7.53	CDD
60	232377166	19.69	CDD
63	189378431	2.86	B-3
76	233290512	18.11	PEC
77	189103080	9.85	PRC
78	189106250	7.7	PRC
79	148151619	9.11	B-4
82	233296254	3.75	PEC
94	233201036	2.41	PEC
Total		89.96 acres	

There are only six (6) parcels—totaling 71.99 acres—of “vacant” land that are suitable for any appreciable commercial development—PIN 232-37-7166 (19.69 acres); PIN 233-20-1036 (18.11 acres); PIN 189103080 (9.85 acres); PIN 148151619 (9.11 acres); PIN 189106250 (7.7 acres); and PIN 232-37-5627 (7.53 acres).

Given the limited availability of commercial land, development has spilled over into the Leesburg JLMA. An example of this process is the Leesburg Walmart store. Prior to 2019, Walmart operated a 97,372 square foot store on a 11.67 acre commercial parcel located within the Town’s corporate limits.²⁶⁰ When Walmart sought to expand, it constructed a new 194,328 square

²⁶⁰

<https://reparcelasmt.loudoun.gov/pt/datalets/datalet.aspx?mode=commercial&UseSearch=no&pin=188492132000&jur=107&taxyr=2023&LMparent=20>

foot Superstore on 20.55 acres in the Leesburg JLMA at Compass Creek.²⁶¹ There is no vacant, commercially-zoned land in the Town to accommodate this type of new development. Additional examples are the ION Center and At Home stores, also at Compass Creek.

The actual pattern of development demonstrates the limited land available for commercial development in the Town, the strong demand for commercial land, and the development of land in the Town and the Leesburg JLMA (specifically, Compass Creek) to meet this demand.

D. The Town has limited vacant land for industrial development.

There are six parcels of land, totaling 67.89 acres, within the Town limits that are “vacant” and available for industrial development, as shown in Table 6 below.

Table 6: Vacant Industrial Land			
ID	PIN	Acreage	Zoning
35	147368209	13.24	I-1
37	189184259	8.23	I-1
38	150490155	24.71	I-1
39	149192542	12.01	I-1
40	190155301	11.71	I-1
80	234486117	1.19	I-1
Total		67.89 acres	

The County also argues that the Town “absorbs” industrial land at 2.9 acres per year and, therefore, the Town will not experience build out of industrial land for 22.8 years.²⁶² This argument is based on an analysis performed by RKG. However, neither the County, nor RKG, explain the factual basis for this analysis.²⁶³

²⁶¹

<https://reparcelasmt.loudoun.gov/pt/datalets/datalet.aspx?mode=commercial&UseSearch=no&pin=234392601000&jur=107&taxyr=2023&LMparent=20>

²⁶² County Response, at 107.

²⁶³ *Id.*; RKG Report, at 12.

Even without ascertaining that basis, this analysis is wrong for three reasons. *First*, industrial development does not occur in 2.9 acre increments. *Second*, the industrial parcels within the Town have limited development potential due to size and other constraints. *Third*, given these factors, the market for industrial development in the Town has expanded to include the Leesburg JLMA.

1. Industrial land cannot—and does not—take place 2.9 acres at a time.

Industrial development, such as data centers, cannot occur on 2.9 acres of land. The County acknowledges that data centers generally require a minimum of 30 acres.²⁶⁴ While development pressures have forced data center operators and developers to explore smaller parcels, data centers still generally require a minimum of 10 acres of land.²⁶⁵ Other types of industrial development have similar size constraints.²⁶⁶ The only types of projects amendable to these smaller parcels are uses that, while permitted in the industrial zoning district, overlap with permitted uses in the commercial district.²⁶⁷

Additionally, industrial development does not occur piecemeal in 2.9 acre segments. Industrial development generally occurs on the whole of a parcel. An example is the 30 acre Leesburg Commercial parcel at Compass Creek. This data center project will not develop in 2.9 acres increments over a 10 year period. Rather, data centers and related infrastructure will occupy the entire parcel, and will be developed all at once.

²⁶⁴ County Response, at 101, 104.

²⁶⁵ Stantec Report (**Appx. B**), at ¶ 44; *see also* County Response, at 104 (stating minimum data center parcel size is 30 acres).

²⁶⁶ The Commission has previously recognized that in “the minimum parcel size generally sought for major industrial activity” is 10 acres. *See* CLG Report on Christiansburg, at 17.

²⁶⁷ *Compare* Town Zoning Ordinance, § 6.7.2 (listing I-1 industrial uses), *with* Town Zoning Ordinance, §§ 6.3.2, 6.4.2, 6.5.2, 6.6.2 (listing B-1, B-2, B-3, and B-4 commercial uses).

This demonstrates the fallacy of the County’s vacant land projections. The County’s “average annual consumption” rates do not reflect the reality of industrial development; it cannot, and does not, occur at a linear pace of 2.9 acres per year. The proper measure of the Town’s need for vacant land is the number of vacant industrial parcels within its corporate limits—of which there are only six parcels.

2. Industrial parcels in the Town have size, easement, steep slopes, and other development constraints.

The Town’s vacant, industrially-zoned parcels have remained vacant for a reason. These parcels have limited development potential due to their small size, configuration, utility easement, or environmental factors (steep slopes and floodplain). As reflected in the Commission’s prior reports, it excludes the entire *parcel* affected by these development constraints (not just the affected acreage).²⁶⁸ This reflects the reality that parcels with these constraints are generally not suitable for industrial development.²⁶⁹

One parcel (Parcel ID 80, PIN 234486117) is only 1.19 acres in size. Notably, this parcel is located in Compass Creek, and was incorporated into the Town as part of the April 2020 boundary line adjustment. As discussed above, parcels of this size are generally not suitable for appreciable development. Accordingly, this parcel has limited industrial development potential.

Another 8.23 acre parcel (Parcel ID 37, PIN 189184259) has steep slopes that limit its development potential. As depicted below, 0.29 acres are wetlands (shown in green), 1.81 acres have steep slopes with a 15-25% grade (shown in yellow), and 1.45 acres have very steep slopes with a 25% or greater grade (shown in red).

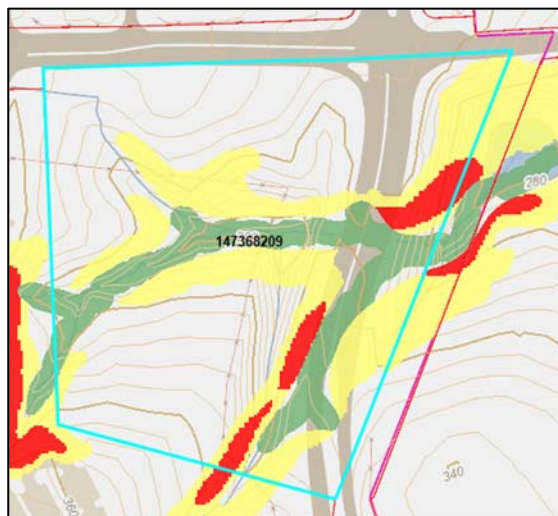
²⁶⁸ CLG Report on Abingdon, at 9-10; CLG Report on Christiansburg, at 16-17.

²⁶⁹ CLG Report on Abingdon, at 9-10; CLG Report on Christiansburg, at 16-17.



Therefore, of this parcel's 8.23 acres of gross land area, at most, only 4.68 acres of developable land, which is not suitable for any material industrial development.

Similar issues exist for 13.24 acre parcel (Parcel ID 35, PIN 147368209). The Battlefield Parkway and the Edwards Ferry Road interchange occupy the eastern portion of this parcel. Wetlands and steep slopes bisect the remaining land into two roughly 3.63 acre and 2.56 acre tracts, as shown below. This configuration substantially limits this parcel's industrial development potential. Additionally, this parcel is owned by the adjoining landowner to the south, and this land is incorporated into the gated fencing for the Dewberry and REHAU Americas office complex.



Two of the remaining parcels (Parcel IDs 39 and 38, PIN 149192542 and 150490155) are part of the Village at Leesburg project. This development was conceived in 2004 as a 150 acre mixed-use development, including residential, commercial, and industrial uses.²⁷⁰ Over 100 acres has developed in a variety of residential and commercial uses, including a Wegmans store, restaurant, and retail uses. The Village at Leesburg project has been fully developed except for these two parcels.

These two parcels consisting of roughly 33 acre portion zoned for industrial uses, have remained vacant.²⁷¹ The landowner noted this “land has proven a challenge for development.” The factors limiting its development potential include: (i) the property is bisected by Russell Branch Parkway; (ii) the property consists of “irregularly shaped parcels;” (iii) the property is “encumbered with significant environmental and easement constraints,” including a powerline easement (outlined in yellow below) and floodplain issues.²⁷² These factors “massively reduc[e] the developable area . . . to just 11 acres.”²⁷³ Moreover, as shown below, “the developable portion of the Property is too small and oddly shaped to be viable for most industrial development.”²⁷⁴

²⁷⁰ Town of Leesburg Application Number: TLZM-2022-0010, Statement of Justification, at 1; Town Resource Notebook, Tab G(3).

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.* at 2.

²⁷⁴ *Id.* at 1.



Given these development hurdles, the landowner recently applied to expand the industrial uses for this property to include data center uses.²⁷⁵ Some factors limiting prior development may be a *benefit* to data center uses. For example, “the power line easement may deter many types of development, [but] it is seen as an asset for Data Centers, which rely on proximate power.”²⁷⁶ Additionally, data center uses are compatible with adjacent heavy industrial uses, namely the Luck Stone quarry to the south. Accordingly, while the County’s GIS system indicates these parcels are vacant, they are under application to allow additional industrial uses.

There is only one industrial site—an 11.71 acre parcel—within the Town’s corporate limits that is vacant, available for future development, and does not have substantial development hurdles. This represents an extremely limited supply of vacant, developable industrial land.

Given this dearth of vacant land in the Town, it is a competitive disadvantage, as compared to the County, in its ability to attract significant industrial development. As a result, industrial

²⁷⁵ *Id.* at 4.

²⁷⁶ *Id.* at 2.

development has spread to the Leesburg JLMA, specifically Compass Creek. The Annexation Area contains two large, industrially-zoned tracts—the Microsoft and Leesburg Commercial parcels—suitable for development, particularly data centers. As discussed in the Town’s Notice, these parcels are being developed for industrial (data center) uses, and which rely on Town water and sewer service.

The actual pattern of development, again, demonstrates the limited land available for industrial development in the Town, the strong demand for industrial land, and the development of land in the Town and the Leesburg JLMA (specifically, Compass Creek) to meet this demand.

E. The County’s Response contains additional inaccurate analyses concerning the Town’s need for vacant land.

The County’s Response has other inaccurate arguments and analyses. These flaws range from obvious inaccuracies—such as claiming the Town contains only 6,836 acres of land,²⁷⁷ whereas the County’s own 2019 Comprehensive Plan acknowledges the Town is approximately 8,000 acres—to more fundamental analytical errors discussed below.

1. What Loudoun calls a “logical inconsistency” is factually and legally incorrect.

The County argues that “[e]ssentially none of the acreage within the APA would be ‘vacant’ by the Town’s own definition; therefore, the Town’s desired annexation would have little or no impact on the Town’s available supply of ‘vacant’ land.”²⁷⁸ This argument ignores important context, and is inconsistent with Virginia law.

Leesburg and Loudoun have participated in discussions concerning boundary line and annexation issues relating to Compass Creek for years—since at least 2018. At that time, Compass

²⁷⁷ County Response, at 63 (Table 8).

²⁷⁸ County Response, at 97.

Creek was largely vacant, but under rapid development.²⁷⁹ Based on prevailing policies, Leesburg expected that the entirety of Compass Creek would come into its corporate limits, and Leesburg delayed initiating an annexation proceeding as it worked with Loudoun to effectuate this through a series of voluntary boundary adjustments. This first boundary adjustment was completed in April 2020.²⁸⁰ The County Board of Supervisors agreed to the second boundary adjustment in April 2022, but the County has failed to complete this process.²⁸¹ During this process, development at Compass Creek continued unabated.

Now that discussions have stalled, resulting in this annexation proceeding, the County cannot claim annexation is improper because the land is no longer vacant. This ignores important context: Compass Creek, including the Annexation Area, was vacant land at the outset of the boundary line discussions between the County and the Town, and it rapidly developed, in reliance on Town services, over the course of those discussions.

Additionally, while the County calls this a “logical inconsistency,” the Town’s annexation of the remaining portions of Compass Creek follows Virginia law. In *County of Rockingham v. Harrisonburg*, the City of Harrisonburg sought to annex surrounding land, including “the County’s only shopping mall, the County’s only large supermarket, all the County’s major motels . . . [m]ore than 200 commercial and industrial firms, many of which migrated from the City, . . . [and] five major residential subdivisions.” 224 Va. at 71. The Supreme Court of Virginia did not hold that the developed nature of this land was a bar to annexation. Rather, the Supreme Court noted that

²⁷⁹ See *supra* Section IV(A)(2).

²⁸⁰ April 28, 2020 Final Order Approving Boundary Line Adjustment, *In re: Change of Boundary Between Town of Leesburg, Virginia and Loudoun County, Virginia*, Case No. CL20-2343; Town Resources Notebook, Tab C(3).

²⁸¹ April 13, 2022 County Board of Supervisors Resolution, *In re: Boundary Line Agreement Between the Town of Leesburg and Loudoun County*; Town Resources Notebook, Tab C(4).

the development was due to a migration of commercial and industrial development out of the city and into the annexation area. *Id.* at 79. When considering the propriety of annexation, the Supreme Court focused on the manner in which this land developed, the needs of the annexation area (including the city’s ongoing provision of water service to the area), the needs of the city to expand and diversify its tax base, and the adverse impact to the county. *See id.* at 76-84.

The Commission has also found that annexation is necessary and expedient when the town has facilitated development outside its boundaries through the construction of facilities serving those areas.²⁸² For example, in its Report on the Town of Christiansburg-County of Montgomery Annexation Action, the Commission concluded that annexation was warranted, even though the annexation area was partially developed, because the Town of Christiansburg “facilitated a considerable portion of the development on its periphery through the construction of facilities serving the areas beyond its corporate boundaries.”²⁸³ The Commission noted that this development would be a focal point of future development, and that Christiansburg was fully able to provide needed utility service to the area.²⁸⁴

This Commission’s prior reports and applicable case law, therefore, establish that this annexation is necessary and expedient *because* of the Town’s substantial efforts that have resulted in the development of the Annexation Area. For decades, the County and the Town have designated the Leesburg JLMA (including Compass Creek and the Annexation Area) as the area for the Town’s expansion; the JLMA is the only area where the Town has appreciable urban growth potential. Over that period, the Town has invested millions of dollars in infrastructure

²⁸² CLG Report on Christiansburg, at 78-79.

²⁸³ *Id.*

²⁸⁴ *Id.*

improvements—water, sewer, and streets—to facilitate this development. The Town provides the entire Annexation Area with water and sewer service, which is the touchstone for annexation under the County’s own policies. There is no material adverse impact to the County, aside from a small loss of BPOL revenue. The County will not “lose” Compass Creek; the Annexation Area will remain in the County, and also be part of the Town. These factors are not a “logical inconsistency;” these factors warrant annexation under Virginia law.

2. Loudoun should not—and cannot—attempt to dictate Leesburg’s economic development strategy.

Another overarching theme of the vacant land section of the County’s Response is an attempt to impose upon the Town an economic development strategy and land use profile. It is not the province of the County to dictate that Leesburg be limited to a residential bedroom community that should focus on retail uses.²⁸⁵ The County is not the arbiter of Town policy.

As early as 1997, the Town stated its policy “[t]o encourage efficient growth that positively affects employment and the taxbase.”²⁸⁶ In the 2005 Town Plan, the Town restated its goals and objectives to “[d]iversify the economy”²⁸⁷ and limit the growth of retail in the Town.²⁸⁸ The Town specifically sought to encourage the growth of “emerging technologies facilities” in Compass Creek (the area “between the Leesburg Executive Airport and Dulles Greenway”).²⁸⁹ The 2012 Town Plan further stated the “Town has a strong residential market and stock but desires additional

²⁸⁵ The County’s current position in opposition to annexation is yet another change from its historical policy of respecting Leesburg’s desire to develop Compass Creek for commercial business uses. See 2001 Loudoun General Plan, at 207 (Leesburg JLMA Policy 8); Loudoun 2001 Planned Land Use Map, available at <https://va-loudouncounty.civicplus.com/DocumentCenter/View/992/Planned-Land-Use?bidId=>

²⁸⁶ 1997 Town Plan, at 6-1; Town Resource Notebook, Tab A(1).

²⁸⁷ 2005 Town Plan, at 34; Town Resource Notebook, Tab A(2).

²⁸⁸ *Id.* at 38 (Objective 8).

²⁸⁹ *Id.* at 45-46.

local jobs to balance its economic base beyond the predominant retail/service and government jobs.”²⁹⁰ The Town stated that Compass Creek was “critical” “for the Town’s economic development goal to diversify its tax base.”²⁹¹

The Town achieved these goals for Compass Creek through long term planning and infrastructure investments that enabled significant commercial and industrial (data center) development.

3. Building square footage is an inaccurate measure of development.

An example of flawed reasoning in the County’s Response is Figure 10, titled “Percent Building [Square Footage] of Total Non-Exempt Building [Square Footage] by Type.” The County claims that this graph shows that Leesburg and Loudoun have roughly the same percentage mixture of residential and non-residential development.²⁹² Building square footage is not an accurate indicator of the localities’ development profile, particularly when comparing residential and non-residential development. With respect to residential development, this analysis treats a 3,000 square foot house situated on 100 acres (as in rural Loudoun) the same as a 3,000 square foot duplex on a half-acre (as in urban Leesburg). Similarly with respect to non-residential development, this analysis equates a 500 square foot building situated on a 135 acre stone quarry in the County with a 500 square foot retail establishment on 0.15 acres in downtown Leesburg.

This is an inaccurate comparison within residential and non-residential development profiles, which is exacerbated by attempting to compare residential and non-residential development. Simply put, the size of a building does not accurately quantify the amount of

²⁹⁰ 2012 Town Plan, at 6-6; Town Resource Notebook, Tab A(3).

²⁹¹ *Id.* at 1-6; *see also id.* at 6-3.

²⁹² County Response, at 98.

development in a locality. The County even acknowledges the misleading nature of building square footage comparisons, later noting “the data may present different pictures depending on an evaluation of acreage or building square footage.”²⁹³ The Commission should not accept Loudoun’s comparisons of residential versus non-residential building square footage.

4. Working agricultural land is not “residential” land.

The County presents Figure 11 in attempt to argue that the Town has a greater percentage of commercial and industrial development than the County.²⁹⁴ Figure 11 suggests that of the 224,918 acres of developed land in the County, 87.2% (*i.e.*, 196,128.50 acres) is residential development and the remaining 12.8% (*i.e.*, 28,789.50 acres) is non-residential development.²⁹⁵

Figure 11 is confusing. Table 8 of the County’s Response states there are only 49,361 acres of residentially-zoned land in Loudoun (versus nearly 200,000 acres in Figure 11). This suggests that the County is increasing its “residential” land figure with over 150,000 acres of agricultural land. For example, Cattail, LC owns over 600 acres spread over several parcels of agriculturally-zoned land in the County. The County’s GIS classifies these parcels as either residential or vacant. However, the “residential” parcels contain a dairy barn, stables, and other farm outbuildings. A large agricultural area, containing numerous stables and dairy barns, is not “residential” development merely because a house is also on the property. It appears that Loudoun is artificially inflating its claimed “residential” development with non-residential, agricultural land.

The County applies this same agricultural land error to Figure 12. The County suggests that it has 46,608 acres of vacant land, 87.2% of which is vacant residential land. That equates to

²⁹³ *Id.* at 101.

²⁹⁴ *Id.* at 99-100.

²⁹⁵ *Id.* at 99.

40,642.18 acres of vacant residential land. But, as noted above, the County’s Table 8 states it has a total of 49,361 acres of residentially-zoned land. This, again, suggests that Loudoun is treating vacant agricultural land as vacant “residential” land. This is inaccurate, as exemplified by the Cattail L.C. properties, discussed above. Aerial imagery shows the “vacant” parcels contain fields for crop production. It appears that Loudoun is, again, artificially inflating its claimed “vacant” land with non-vacant, agricultural land used for farming purposes, such as crop production and grazing.

The County’s arguments are confusing and inaccurate. The County applies unsuitable units of measure and comparison, and treats agricultural land as residential land. The County then argues that the area of vacant land in the County is comparable to that in the Town. In reality, the County has thousands of acres of vacant land.

5. The actual acreage of developed versus vacant commercial and industrial land is an important consideration.

The County also focuses on percentages of residential, non-residential, developed, and vacant land to “[a]ccount[] for necessary differences in scale.”²⁹⁶ This misses the point. On a per-acre basis, the Town has a limited supply of vacant land for commercial and industrial development. Even accepting the County’s faulty vacant land calculation, Loudoun reports it has 6,000 acres of vacant commercial and industrial land.²⁹⁷ The amount of vacant commercial and industrial land in the County is nearly the same size as the Town as a whole. The County has approximately **70 times** more vacant commercial and industrial land than the Town.

²⁹⁶ *Id.* at 97.

²⁹⁷ *Id.* at 65 (Table 11).

6. Leesburg is better suited for industrial development than other incorporated towns.

The County uses percentages in Figure 13 to argue that Leesburg “has a disproportionately large percentage of net-vacant industrial land” as compared to other incorporated towns in the County.²⁹⁸ However, industrial development is not relocating to these other towns, such as Hillsboro (population 98), Hamilton (population 448), Round Hill (population 570), or Middleburg (population 656).²⁹⁹ These towns are located in the County’s Rural Policy Area,³⁰⁰ which has the stated policy: “Foster land use and development patterns that incorporate natural, cultural, heritage, and agricultural resources to preserve character-defining features of the rural landscape while providing opportunities for rural living and businesses.”³⁰¹ Industrial development is generally not compatible with rural and agricultural uses. It is inaccurate to compare Leesburg to these communities.

Leesburg is different than the other incorporated towns in the County. Leesburg is over twice the combined size of these towns, both in terms of population and land area.³⁰² It has the utility, street, and other infrastructure needed to support industrial development. Commercial and industrial development want to locate to Leesburg, as evidenced by significant ongoing development in the Town and development in its JLMA (specifically, Compass Creek and the Annexation Area) that relies on Town water and sewer service and streets.

²⁹⁸ *Id.* at 100-101.

²⁹⁹ 2019 County Comprehensive Plan at 2-115; Town Resource Notebook, Tab B(3).

³⁰⁰ *Id.* at 2-107.

³⁰¹ *Id.* at 2-98.

³⁰² *Id.* at 2-115.

These factors—the continuing high demand for commercial and industrial land in the Town, its limited supply, and the Town’s provision of services to facilitate this development—are the proper bases for annexation that the Commission must consider. These factors weigh strongly in favor of annexation.

7. The County inappropriately compares Leesburg with other jurisdictions.

The County proceeds to compare Leesburg with towns in Fairfax County as well as the City of Manassas.³⁰³ The Commission’s prior reports in town-annexation cases have not used this type of comparison. Such a comparison has little relevance to this annexation because Fairfax County and the City of Manassas have materially different land use and development patterns. For example, Fairfax County, particularly Vienna, primarily consists of established residential communities and high-density residential development.³⁰⁴

The Commission’s prior reports establish the proper analysis is a comparison of the existing conditions in the town seeking annexation with the affected county.³⁰⁵ Leesburg has 101.67 acres of vacant land that is suitable for commercial or industrial development. This represents just 1.25% of Leesburg’s total land area. By contrast, Loudoun has 5,962 acres of vacant commercial and industrial land, which represents 1.9% of its total land area. Accordingly, Leesburg has comparatively less vacant land than the County.

8. The remainder of Loudoun’s arguments are inaccurate.

The Commission should consider the remainder of the County’s figures and statements with caution; these figures, tables, and statements contain similar inaccuracies. For example, in

³⁰³ County Response, at 108.

³⁰⁴ 2017 Fairfax County Comprehensive Plan, Area II, available at <https://www.fairfaxcounty.gov/planning-development/comprehensive-plan/historic/2017>

³⁰⁵ CLG Report on Christiansburg, at 15-16, 21; CLG Report on Abingdon, at 14.

Figure 14, the County touts its “commercial services” market, which it claims accounts for “nearly 40% of the developed commercial acreage in the unincorporated portions of the County” but “4.4% of the existing commercial building square footage.”³⁰⁶ The disparity between acreage and building square footage reflects the nature of that land use. While “commercial services” suggests important physical development, what the County calls “commercial services” actually include “golf courses.”³⁰⁷ Therefore, 39.9%—over 9,000 acres (greater than the total size of Leesburg)—of the County’s commercial development consists of country clubs and the like.

F. Conclusion.

Leesburg has a demonstrated need for vacant land suitable for commercial and industrial development. Loudoun’s arguments to the contrary are factually inaccurate, and fail to take into consideration existing development as well as size, configuration, and environmental factors that the Commission has recognized present impediments to development. Taking into consideration of these factors, Leesburg has only 101.67 acres of vacant land suitable for commercial and industrial development. This represents only 1.26% of Leesburg’s total land area—far below the threshold the Commission has previously found to demonstrate a need for vacant land.³⁰⁸

Sources: John Bachmann, Stantec
 Amy Wyks, Leesburg Director of Utilities
 James David, Director of Community Development

³⁰⁶ County Response, at 102.

³⁰⁷ *Id.* at 101 (noting “service uses” include “golf courses”).

³⁰⁸ CLG Report on Abingdon, at 9 (finding a need for vacant land where 10.7% of town’s total land area was vacant and suitable for commercial and industrial development); CLG Report on Christiansburg, at 16 (finding need where 26% town’s total land area was vacant).

Section V: The Town’s need to expand its tax resources.

The discussion below replies to the arguments in Section 6 of the County’s Response concerning the Town’s need to annex the remaining portion of Compass Creek to expand its tax resources.

A. The Town’s financial condition *favors* annexation.

The County argues that the Town does not need additional tax resources because Leesburg is financially healthy.³⁰⁹ The Supreme Court of Virginia has rejected this argument.

In *County of Rockingham v. City of Harrisonburg*, the Supreme Court of Virginia considered the impact of a locality’s financial condition on the necessity and expediency standard, specifically the need to expand tax resources. 224 Va. at 78-79. There, Harrisonburg sought to annex 11.64 square miles of land in Rockingham County. The County argued that Harrisonburg’s “prosperity conclusively demonstrates that [Harrisonburg] has no need to expand its tax resources.” *Id.* at 78. Rejecting this argument, the Supreme Court of Virginia held:

But a [locality]’s **economic well-being has never been a bar to annexation**. Quite to the contrary, annexation has been denied where a [locality] is financially weak; a [locality] may be unable to bear the burden of providing urban services to an increased area if it is having problems meeting its present needs.

Id. (emphasis added). The Court has “denied annexation at a time when [a locality] was economically weak,” and endorsed annexation “where the evidence showed a strong, viable [locality] which could afford to serve the proposed annexation area.” *Id.* at 78-79.

³⁰⁹ County Response, at 79-82.

There is no dispute that Leesburg is financially healthy. Contrary to the County’s argument, this is not a bar to annexation. *See id.* Instead, this fact favors annexation because Leesburg can afford to serve the Annexation Area—as it already has been doing for years.

B. Leesburg needs to expand and diversify its tax base, and reduce its reliance on its residential tax base.

A relevant question is whether Leesburg “will soon need a larger tax base.” *Rockingham*, 224 Va. at 79. This includes not just the size of Leesburg’s tax base, but its characteristics and composition.

One indicia of Leesburg’s need to expand its tax resources is a shift in the composition of its tax base, as shown in Figure 6 below.³¹⁰ In 2010, Leesburg’s real estate tax revenues consisted of 72% residential taxes and 28% commercial and industrial taxes.³¹¹ In 2023, Leesburg real estate tax revenues are derived from 82% residential properties and 18% commercial and industrial properties.³¹² This dynamic reflects Leesburg has become increasingly reliant on its residential tax base,³¹³ despite its diligent efforts to reduce the local tax burden on residential property owners.

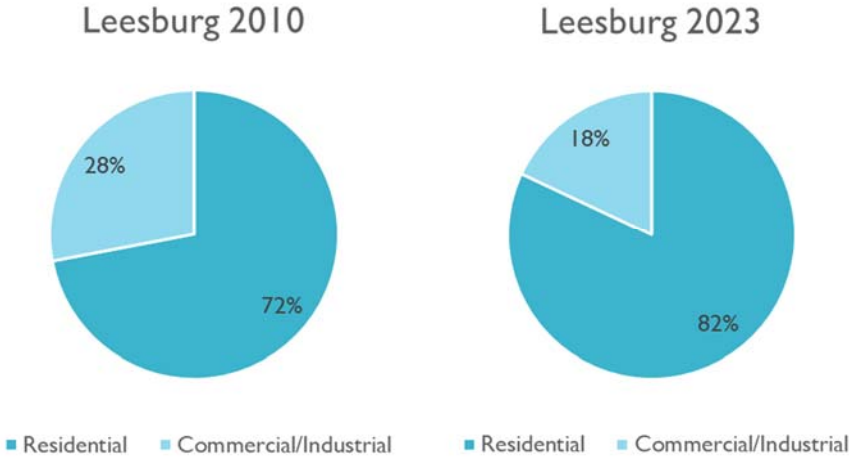
³¹⁰ These financial analysis were prepared by Ann Harranty Shawver, CPA, PLLC (“Shawver Report”), and are attached as **Appendix C**.

³¹¹ Shawver Report (**App. C**), at 4.

³¹² *Id.*

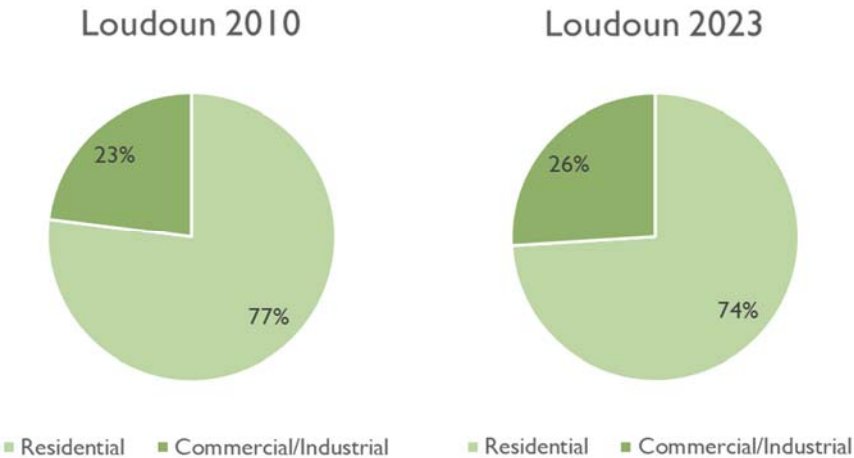
³¹³ One contributing factor is that Loudoun’s governmental offices limit Leesburg’s tax base. Leesburg has served as the County seat since 1757. With this honor come development and tax disadvantages. Loudoun has developed over 50 acres of land as County offices within the Town’s corporate limits. All of this property is tax exempt and does not contribute to the Town’s tax base. If this property was taxable, it would result in over \$650,000 in additional real estate tax revenue to the Town per year.

Figure 6: Leesburg’s Increasing Reliance on Residential Real Estate Taxes



Over this same period, Loudoun has experienced an increase in its commercial and industrial tax base, and, therefore, it is less reliant on residential real estate taxes.³¹⁴

Figure 7: Loudoun’s Decreasing Reliance on Residential Real Estate Taxes

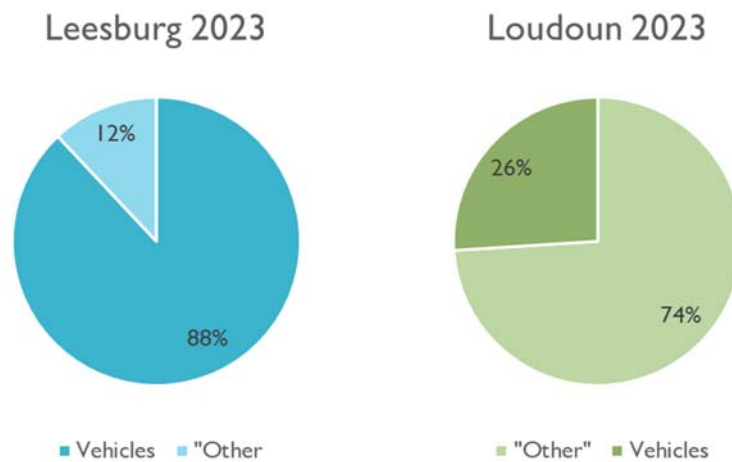


The disparity between Loudoun’s and Leesburg’s tax base is borne out in the tax revenues resulting from commercial and industrial property. From 2010 to 2023, Leesburg’s real estate tax revenues from commercial and industrial property have increased from \$2,841,642 in 2010 to

³¹⁴ Shawver Report (App. C), at 5.

\$3,225,864 in 2023—an increase of 14%.³¹⁵ Meanwhile, Loudoun’s commercial and industrial real estate tax revenues have increased from \$142,843,799 in 2010 to \$277,811,986 in 2023—and increase of 94%.³¹⁶ Concomitant with Loudoun’s massive increase in commercial and industrial real estate tax revenue, it has reduced its tax rate by 33%.³¹⁷ In comparison, Leesburg has only reduced its tax rate by 9% during this period.³¹⁸

Figure 8: Composition of Leesburg’s and Loudoun’s Personal Property Tax Base



Loudoun’s decreasing reliance on residential tax revenues is further demonstrated by the change in composition of its personal property tax base. In 2010, motor vehicles comprised 55% of the assessed value of personal property in Loudoun.³¹⁹ By 2023, this proportion has fallen to 26%.³²⁰ The balance of these revenues are derived from “other” personal property taxes. This tax

³¹⁵ *Id.* at 10.

³¹⁶ *Id.*

³¹⁷ *Id.* at 11

³¹⁸ *Id.*

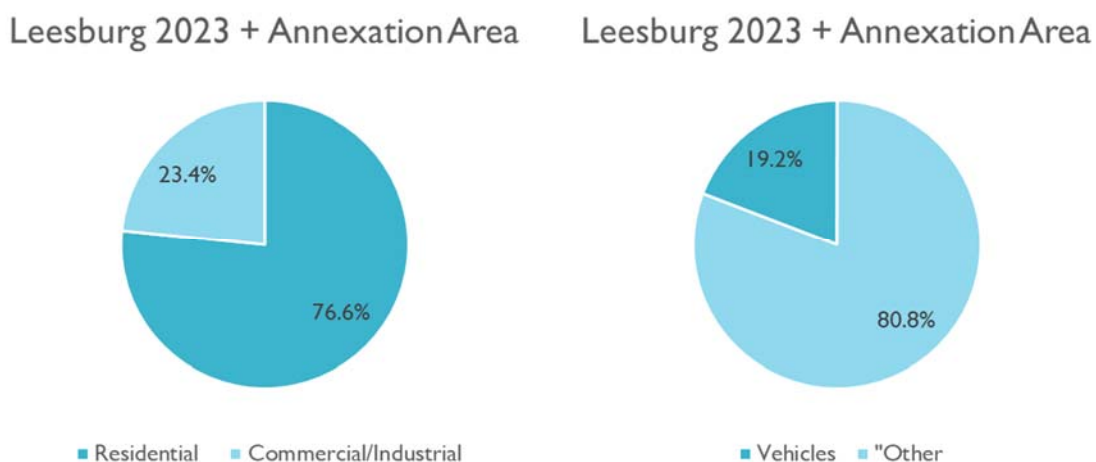
³¹⁹ *Id.* at 15.

³²⁰ *Id.*

revenue from computer equipment in data centers has risen 606% since 2010.³²¹ Loudoun collected over half a **billion** dollars in “other” personal property tax revenue in 2022.³²²

By contrast, vehicles have historically comprised nearly 90% of the assessed value of personal property in the Town.³²³ As vehicles are largely attributable to residential uses, this illustrates the Town’s marked reliance its residential tax base.

Figure 9: Effect of Annexation Area on composition of Leesburg’s real estate taxes and personal property



This annexation will further Leesburg’s efforts to expand and diversify its tax base. At buildout, the Town estimates the Annexation Area will result in approximately \$1.25 million in new commercial and industrial real estate tax revenues. This will shift the composition of Leesburg’s real estate tax base to 23.4% commercial and industrial taxes and 76.6% residential taxes. Similarly, the Town estimates the Annexation Area will increase the assessed value of personal property in the Town by \$1.8 billion. This will shift the composition of Leesburg’s

³²¹ *Id.* at 14.

³²² *Id.* at 18.

³²³ *Id.* at 16.

personal property tax base to 19.2% vehicles and 80.8% “other.” Therefore, this annexation not only helps Leesburg become less reliant on its residential tax base, but it also brings Leesburg in line with the composition of Loudoun’s tax base.

C. Town’s need for additional tax revenue.

The County argues that Leesburg has not identified “specific services, operational costs, capital costs, or planned long-term debt that validate a need for expanded tax resources.”³²⁴ However, these specific-identifiable needs are evident in the Town’s Capital Improvement Plan (“CIP”), as discussed in the Town’s Notice.³²⁵

Since the original Notice, Town Council adopted its fiscal year 2024 budget and updated CIP.³²⁶ The Town’s six-year CIP (2024-2029) includes total project costs of \$707,623,673. The Town has appropriated \$200,352,163 through the end of fiscal year 2023 (June 30, 2023). Leesburg receives only a limited amount of financial support (\$11,800,000) from the County to address its CIP needs. The Town anticipates appropriating \$414,357,510 over the next six years. However, this will result in a CIP shortfall of \$81,114,000.

Leesburg’s CIP projects will continue to allow the Town to provide high-quality services not only to its residents, but also to residents of the County and surrounding area.

³²⁴ County Response, at 78.

³²⁵ See Town Notice, at 119-20, 165.

³²⁶ Town Budget and Capital Improvement Program for Fiscal Year 2024-2029; Town Resource Notebook, Tab F(1).

Table 7: Unfunded Capital Improvement Plan Projects			
Dept.	Project Number	Description	Future Funding Needed
Parks & Rec.	24201	Adding and replacing playground equipment and surfaces	\$223,000
Streets & Highways	20004	Construction of new interchange between Route 15 (Leesburg Bypass) and Battlefield Parkway	\$57,230,000
	22302	Construction of right turn lane on East Market Street	\$15,000
	28301	Improvements to North Street	\$1,461,000
	27303	Improvements to South King Street	\$1,170,000
	29301	Construct new traffic signal at intersection of Fieldstone Drive and Battlefield Parkway	\$1,033,000
Airport	29001	Rehabilitate paving around airport hangars	\$5,120,000
	22001	Purchase airport FBO hangar	\$3,400,000
	23002	Relocate parallel taxiway	\$20,000
	24001	Prepare south end site for hangar land lease	\$3,160,000
	25001	Study to examine development of west side of airport	\$20,000
Utilities	29503	Water Pollution Control Facility aeration improvements	\$1,510,000
	25502	Water Pollution Control Facility solids processing improvements	\$4,000,000
	29504	Water Treatment Plant gravity thickener replacement	\$750,000
Total Unfunded CIP Projects			\$81,114,000

The Town estimates that the Annexation Area will generate \$35,200,764 in new tax revenue over the next six years (2024-2029). While this annexation will not cure the CIP shortfall, it provides meaningful, much needed funding for the Town’s future CIP needs.

D. Loudoun inappropriately attempts to compare Leesburg with other towns.

The County attempts to compare Leesburg to other Virginia towns, and argue that the Town’s financial condition is favorable, by some measures, to these towns. Some of these towns were identified in Leesburg’s Notice, but the points of comparison are very different. Leesburg

identified several towns to show its government operates efficiently and effectively.³²⁷ It does not follow that every metric of these towns must or should be compared. Given the significant differences between Leesburg and virtually every other town in Virginia (population, land use, economy, etc.), these are not appropriate—or even relevant—comparisons.

The most meaningful comparison is between the Town and the unincorporated County. This is the comparison that the Commission has applied in its prior reports.³²⁸ When evaluating the evidence on a town’s need to expand its tax revenues, the Commission looks primarily at: (i) whether the town has shared fully in the growth and development of its general area, namely the county; and (ii) whether the town residents bear a higher tax burden residents in the unincorporated county.³²⁹

Here, the County is experiencing much higher growth in local tax resources, and accompanying expenditures, than the Town.³³⁰ An example is Compass Creek. Leesburg has enabled the development at Compass Creek, including the Annexation Area, but it has not shared—and, absent annexation, will not share—in the resulting growth of local tax resources. Leesburg residents have a higher tax burden than Loudoun residents, as discussed below. These comparisons, along with Leesburg’s increasing reliance on residential real estate tax revenues, demonstrate Leesburg’s need to expand its tax resources.

³²⁷ Town Notice, at 118.

³²⁸ CLG Report on Abingdon, at 15-18.

³²⁹ *Id.*

³³⁰ Town Notice, at 120.

E. Leesburg has a higher tax burden than Loudoun.

Loudoun argues that Leesburg does not need additional tax resources because “Leesburg’s average residential real property tax per capita – including the County tax rate – was \$1,837, 4.2 percent lower than the average residential real property tax per capita in the unincorporated areas of Loudoun County, which is \$1,918.”³³¹ This argument is misleading. The reason Loudoun residents pay more real estate taxes is because they have more expensive houses than Leesburg residents.

Loudoun is the wealthiest county in the United States. Loudoun’s median household income of \$156,821 is the highest of any county in the United States³³²—more than double that of the United States (\$69,021), nearly double that of Virginia (\$80,615), and 18.7% higher than the median household income in Northern Virginia (\$132,128). By contrast, Leesburg’s median household income is \$116,350³³³—which is 11.9% lower than that of Northern Virginia, and 34.6% lower than that of Loudoun.

Loudoun residents own more expensive houses than Leesburg residents. The average assessed value of a house in Loudoun was \$863,266 in 2023.³³⁴ By contrast, the assessed value of a house in Leesburg was \$739,327.³³⁵ These data reflect that the average assessed value of a house in Loudoun is 16.75% higher than in Leesburg. It makes perfect sense that Loudoun residents pay more residential real estate taxes—**their houses are worth more**. This is simply a misleading statistic put forth by Loudoun to suggest that Leesburg is under-taxing its residents.

³³¹ County Response, at 91

³³² <https://www.census.gov/quickfacts/loudouncountyvirginia>

³³³ <https://www.census.gov/quickfacts/fact/table/leesburgtownvirginia/PST045222>

³³⁴ 2022-2023 County Assessment Summary, at 1.

³³⁵ *Id.* at 7.

Accounting for the disparity in wealth between Leesburg and Loudoun, Leesburg has a higher tax burden than Loudoun. A Leesburg homeowner with a home assessed at \$563,000 and vehicle assessed at \$50,000 pays \$8,607 per year in property taxes.³³⁶ If that same homeowner lived in Loudoun, the homeowner would only pay \$7,111 per year in property taxes.³³⁷ This reflects that the Leesburg homeowner pays 21% **more** in property taxes than the Loudoun homeowner.

It is also inaccurate for Loudoun to suggest that Leesburg residents only pay real property taxes at a rate \$0.1774 per \$100 in assessed value. That is the Town tax rate. However, Town residents pay real property taxes to both Leesburg *and* Loudoun. This results in a combined real property tax rate of \$1.0524 for Leesburg residents. Simply put, Town residents have a higher real property tax burden than County residents.

F. The demand for Town services has not decreased.

The County argues that Leesburg does not have a need for additional tax revenue because the Town’s Annual Comprehensive Financial Report (“ACFR”) indicates a decrease in the demand for some municipal services.³³⁸

The County’s argument is inaccurate for several reasons. *First*, the demand for Town services—across the full range of Town governmental activities—is increasing after a temporary decline during the COVID-19 pandemic. The County experienced that same dip. Due in part to inflation, the cost to provide those services and operations is also increasing; these increasing costs include employee compensation, contractual services, materials, and equipment. The Town expects to continue to provide high quality services to its residents, and the demand for those

³³⁶ Shawver Report (**App. C**), at 50.

³³⁷ *Id.*

³³⁸ County Response, at 85.

services will continue to increase in future years. *Second*, changes to the Town’s counting methodology affect how these statistics were reported in the Town ACFR. To the extent the Town experienced decreases in certain categories (arrests and traffic citations), the County has experienced similar decreases.

1. The COVID-19 pandemic temporarily reduced the demand for Town services.

The COVID-19 pandemic impacted the demand for services in the Town—and every other local government, including the County. Stay-at-home orders, social distancing, and a general avoidance of public interaction resulted in, for example, a decrease in law enforcement interactions due to less travel and dramatically reduced Parks and Recreation program attendance. As the pandemic has begun not subside, the demand for these Town services has steadily recovered.

2. Changes in methodology.

Some Town departments—Parks & Recreation, and Trash & Recycling Services—have changed software and/or counting methodology over the ten year period from 2012 to 2022. For example, the Town’s ACFR only reports partial-year counts for Parks and Recreation activities. Similarly, the garbage and recycling counts only reflect nine month periods, and the Town’s garbage and recycling contractor omitted some collections in its reports to the Town. Table 8, below, contains corrected numbers for the Police Department, Parks & Recreation, and Garbage services. These corrected figures show that demand for these Town services is not decreasing.

Additionally, state legislative changes have reduced the number of traffic citations and arrests across Virginia.³³⁹ Senate Bill 5029 (2020) restricted the authority of police to initiate traffic

³³⁹ Virginia Department of Criminal Justice Services’ “Report on Analysis of Traffic Stop Data Collected Under Virginia’s Community Policing Act,” p. 6 (Sept. 2022) [report-analysis-traffic-stop-data-fiscal-year-2022.pdf \(virginia.gov\)](#) (identifying the traffic offense legislation and lingering pandemic effects as “two major external factors” explaining a data shift from the previous report).

stops for certain types of equipment violations (tail lights, brake lights, exhaust systems, and recently expired registration) and from making stops, searches, or seizures based on the odor of marijuana.³⁴⁰ This bill went into effect on March 1, 2021, compounding the reduced law enforcement interactions due to the COVID-19 pandemic. This has resulted in decreased arrests statewide since 2020.

Table 8: Law Enforcement Arrests, 2018-2022					
Jurisdiction	2018	2019	2020	2021	2022
Leesburg Police	1,012	912	570	408	487
Loudoun County Sheriff's Office	5,140	5,196	4,154	3,452	3,897
Statewide ³⁴¹	280,040	276,415	209,131	189,884	198,465

Arrests, however, are not the best indicator of the services provided by the Leesburg Police Department. This merely reflects that Leesburg is a safer jurisdiction—less crime results in fewer arrests. It also demonstrates the effectiveness of programs by the Leesburg Police Department to target specific types of crimes, implement traffic safety practices, increase community involvement, and enhance patrol operations.³⁴²

In addition to these programs, the Commission has recognized that a more appropriate measure of the services provided by the Leesburg Police Department are its response to calls for service³⁴³—which have increased 5.5% since 2020. In comparison, Loudoun County Sheriff's Office responses have decreased 5.8% over that same period.

³⁴⁰ <https://lis.virginia.gov/cgi-bin/legp604.exe?202+ful+CHAP0051+pdf>

³⁴¹ https://va.beyond2020.com/va_public/View/disview.aspx

³⁴² Town Adopted FY24 Budget, at 89-95; Town Resource Notebook, Tab F(1).

³⁴³ CLG Report on Abingdon, at 25-26.

Table 9: Law Enforcement Calls for Service, 2020-2022						
Jurisdiction	Year			Percent Change		
	2020	2021	2022	2020-2021	2021-2022	2020-2022
Leesburg	35,585	34,599	37,530	-2.8%	8.5%	5.5%
Loudoun	152,357	145,119	143,506	-4.8%	-1.1%	-5.8%

The foregoing reflects that, contrary to the County’s arguments, the demand for Town services is increasing from pandemic-induced lows.

**TABLE 10: OPERATING INDICATORS BY FUNCTION/PROGRAM
LAST TEN CALENDAR YEARS
(Unaudited) ³⁴⁴**

Department	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Police ³⁴⁵										
Calls for Service	49,764	51,028	54,261	44,110 ³⁴⁶	45,831	49,695	48,262	35,585	34,599	37,530
Adult Arrest	1,063	1,189	710	635	1,156	941	876	548	393	450
Juvenile Arrest	121	165	83	58	227	71	36	22	15	37
Speeding Citations only	1,764	1,260	1,542	887	854	-	-	-	347	443
Traffic citations	5,580	7,064	4,827	4,115	5,572	6,385	6,962	2,899	3,568	2,123
Parks and recreation										
Recreation program attendance (paid classes)	11,160	11,174	12,374	10,363	11,691	11,031	11,206	4,247	7,770	9,281
Aquatics program attendance (paid classes)	5,835	8,008	7,996	8,094	8,256	7,843	7,978	2,941	4,758	6,636
Ida Lee Recreation Center (day and general passes) ³⁴⁸	269,212	266,360	270,853	262,177	269,482	274,197	277,085	142,670	179,330	203,427
Public Service										
Garbage collection (ton)	13,639	13,183	15,489	16,309	15,541	15,842	16,276	16,222	15,370 ³⁴⁹	17,547
Recycle collection (ton)	7,766	5,226	7,529	7,288	7,604	6,016	5,286	5,529	4,901	4,642

³⁴⁴ Bold, italicized numbers have been changed or added, compared to Table 20 of the Leesburg 2022 ACFR.

³⁴⁵ Major Vanessa Grigsby, Deputy Chief of Police, July 24, 2023 and September 11, 2023.

³⁴⁶ Due to a decrease in shoplifting cases during 2015 and 2016, the Police Department stopped dedicating Police personnel to the Leesburg Premium Outlet Malls. Town Police developed a partnership with Outlet Security to call for in-progress cases. The new partnership program was effective and a dedicated Town Police team for the Outlets was not necessary. Recently cases are increasing, and this may change. During the same time period, an increase in complaints about downtown parking led the Police Department to add downtown foot patrols. The additional downtown foot patrols allowed a decrease in the Core Business Officer program, which dedicated personnel to policing commercial business areas. (Maj. Grigsby, Email 8/2/2023).

³⁴⁷ The Police Department changed systems for speeding ticket management; corrected data for 2018 to 2021 is not available. (Maj. Grigsby, Email 7/24/23).

³⁴⁸ Richard Williams, Leesburg Parks & Recreation Director, July 27, 2023.

³⁴⁹ Renee LaFollette, Leesburg Director of Public Works and Capital Projects, September 10, 2023, based on updated reports from service provider Patriot, who reported that the company failed to include the last truck(s) of each day in the tonnage numbers for recycling since beginning their contract in mid-2018. The last trucks of the day report to a different location.

G. Loudoun focuses on irrelevant data.

The County proceeds to argue that “localities, and the Commission, must ultimately be concerned with revenue.”³⁵⁰ This is a red herring. The Supreme Court of Virginia has rejected this argument, holding: “Revenue considerations, however, are not determinative either for or against annexation.” *Roanoke v. Cnty. of Roanoke*, 214 Va. 216, 233 (1973).

As discussed above, the relevant consideration is the “need for [Leesburg] to expand its tax resources, including its real estate and personal property tax base.” 1 Va. Admin. Code § 50-20-540(14). The Town’s analyses in its Notice and stated above that Leesburg both needs to expand and diversify its tax base. These analyses weigh in favor of the necessity and expediency of this annexation.

H. The County’s General Fund balance analyses are inaccurate.

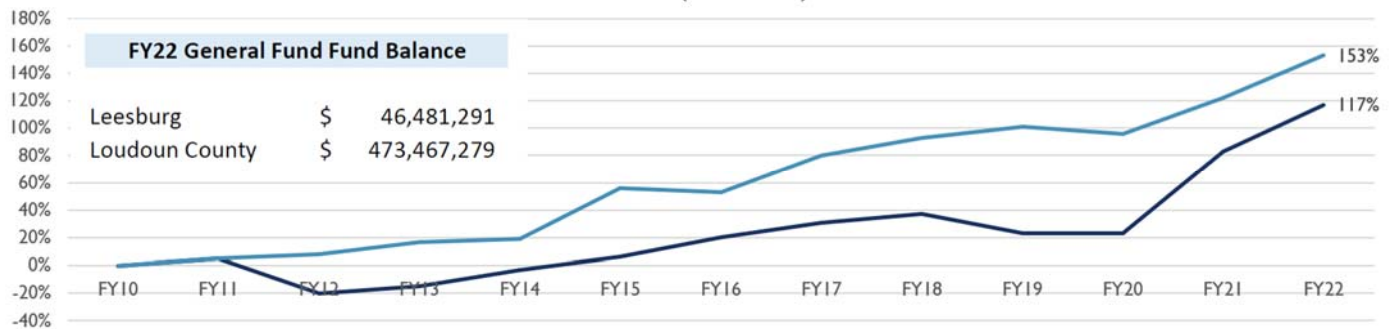
The County argues that the Town has a comparatively larger General Fund balance, as a percentage of General Fund expenditures, than does the County.³⁵¹ This argument is inaccurate because it omits the County’s higher General Fund balance growth rate, minimizes the actual differences in fund balances, and does not account for differences in accounting methodology between the County and Town.

Loudoun’s arguments ignore that its General Fund balance has grown at a significantly higher rate than that of Leesburg. As shown in Figure 10 below, Loudoun’s General Fund balance has grown by 153% since 2010. As of fiscal year 2022, the balance of Loudoun’s General Fund was \$473,467,279. During that same period, Leesburg’s General Fund balance has grown only 117%. As of fiscal year 2022, Leesburg’s General Fund balance was \$46,481,291.

³⁵⁰ County Response, at 84.

³⁵¹ *Id.* at 85-86.

Figure 10: Comparison of Percent Change in General Fund Balance³⁵²



This reflects the disparity between Loudoun and Leesburg’s General Funds. The County’s General Fund balance, revenues, and expenditures dwarf those of the Town.

The County’s Response suggests that apparent growth in the Town’s General Fund balance in 2021 and 2022 will continue in future years. That is incorrect. Figure 10 above shows that fiscal years 2021 and 2022 are outliers—the result of COVID-19 impacts and other one-time, external factors.³⁵³ These events will not continue in future years.

The County’s focus on reserved versus unreserved and assigned versus unassigned—particularly in its Figure 6—fails to account for differences in accounting methodology. For example, the County has created a “committed” Fund Balance classification which it treats akin to “restricted” funds, and differently from “assigned” or “unassigned” funds. The County’s “committed” funds consist almost entirely of its Fiscal Reserve. For fiscal year 2022, the County’s Fiscal Reserve exceeded \$255 million³⁵⁴—**more than half its entire General Fund balance**, and more than five times the Town’s entire General Fund balance. The County’s Response

³⁵² Shawver Report (App. C), at 33.

³⁵³ Leesburg 2022 ACFR, at Exhibit A-2; Town Resource Notebook, Tab F(3).

³⁵⁴ Loudoun 2022 ACFR, at 101; Town Resource Notebook, Tab F(4).

nevertheless attempts to fault Leesburg for establishing a similar (albeit much smaller) \$7 million reserve.³⁵⁵

The County's methodology in classifying this Fiscal Reserve has a significant impact on Figure 6 and accompanying argument. By treating its Fiscal Reserve as "committed," the County classifies this \$255 million as "restricted" funds and excludes these reserves from its analysis in Figure 6. However, the County applies a different methodology with respect to the Town's (much smaller) \$7 million reserve. Loudoun treats the Town's reserves as unrestricted "assigned" (not restricted "committed") and, therefore, includes these amounts in Figure 6.

The County's application of different accounting methodologies has a significant impact on its "comparison" presented in Figure 6 of its Response. Loudoun underreports its unrestricted fund balance by 25% while overreporting the Town's unrestricted fund balance by 20%. This results in the inaccurate graph presented in Figure 6.

I. Revised revenue estimates from Annexation Area.

Following the Town's filing of its Notice, the County updated its model for estimating business tangible personal property ("BPP") tax revenue resulting from data center computer equipment. This new model builds in several new variables, including: (i) the delay between the completion of construction and the outfitting of computer equipment; (ii) the County's assessment factor, depending on the age and original cost;³⁵⁶ and (iii) the purchase of new equipment as existing computer equipment breaks or reaches the end of its useful life.

The Town has updated its estimates of tax revenues from the development of data centers on the Microsoft and Leesburg Commercial parcels based on the County's new model as well as

³⁵⁵ County Response, at 86.

³⁵⁶ <https://www.loudoun.gov/1559/Calculating-BPPT-Tax>

updated factual information concerning the development plans for these parcels—namely, approximately an additional 700,000 square feet of data center space. The County’s new model indicates that Loudoun is estimated to receive between \$50 million to \$78 million in BPP tax revenue, and Leesburg will receive between \$10 to \$18 million in BPP taxes.

1. Development updates for Microsoft parcel.

The Town understands that Microsoft will construct six data center buildings in the Annexation Area. In 2022, Microsoft completed construction of its first two data center buildings (collectively, referred to as IAD01) consisting of 273,624 square feet of gross land area. Two data center buildings are currently under construction. The Town anticipates that the third building (known as IAD02), consisting of 244,713 square feet, will be completed in 2024, and the fourth building (IAD03), consisting of 230,918 square feet, will be completed in 2025. Microsoft has not yet begun construction on the fifth building (IAD04), consisting of 282,050 square feet, but the Town anticipates it will be constructed by the end of 2026.

On March 28, 2023, Microsoft filed a request for approval of a modified site plan for the construction of a sixth data center building (IAD05).³⁵⁷ This data center will have a gross land area of 282,050 square feet. This request is pending, but, if approved, the Town anticipates it will be constructed by the end of 2027.

2. Development updates for Leesburg Commercial parcel.

Leesburg Commercial is working with STACK Infrastructure (“Stack”) for the construction of two data center buildings (400,000 and 200,000 square feet, respectively). The Town has approved the extension of water and sewer service to serve this parcel.³⁵⁸ While the site

³⁵⁷ Loudoun County Application Number: STMP-2023-0004.

³⁵⁸ Town Council Resolution No. 2023-046; Town Resource Notebook, Tab E(21).

plan is pending, the Town anticipates that these data centers may be constructed in 2025 and 2026, respectively.

3. Updated estimate of BPP tax revenue.

Applying the County’s new model for estimated data center BPP tax revenue, the Town’s estimated BPP tax revenues for computer equipment in data centers on the Microsoft and Leesburg Commercial parcels over the next ten years is set forth in Table 11, below. The Town notes that it will not receive BPP tax revenue for fiscal year 2024. The Town’s BPP taxes are assessed on January 1 of each year.³⁵⁹ Therefore, fiscal year 2025 would be the first potential year that the Town would receive BPP tax revenue from the Annexation Area.

Table 11: Updated Estimated BPP Tax Revenue from Microsoft and Leesburg Commercial Data Centers			
Fiscal Year	Total Assessed Value Computer Equipment	County BPP Taxes (\$4.15 per \$100)	Town BPP Taxes (\$1 per \$100)
2022	\$0.00	\$0.00	\$0.00
2023	\$0.00	\$0.00	\$0.00
2024	\$88,091,504.64	\$3,655,797.44	\$0.00
2025	\$217,903,145.87	\$9,042,980.55	\$2,179,031.46
2026	\$391,932,718.72	\$16,265,207.83	\$3,919,327.19
2027	\$680,602,386.65	\$28,244,999.05	\$6,806,023.87
2028	\$1,238,664,251.90	\$51,404,566.45	\$12,386,642.52
2029	\$1,764,521,657.36	\$73,227,648.78	\$17,645,216.57
2030	\$1,881,173,907.03	\$78,068,717.14	\$18,811,739.07
2031	\$1,688,105,868.66	\$70,056,393.55	\$16,881,058.69
2032	\$1,424,565,188.05	\$59,119,455.30	\$14,245,651.88
2033	\$1,331,955,238.46	\$55,276,142.40	\$13,319,552.38

Three variables cause a year-to-year fluctuation in the potential BPP tax revenue. The increase in BPP taxes is caused by the incremental construction of data center buildings on the Microsoft and Leesburg Commercial parcels, as well as the subsequent gradual outfitting of those

³⁵⁹ See Va. Code Ann. § 58.1-3010; Town Code § 20-22.

buildings with computer equipment. The total assessed value of computer equipment on these parcels peaks in 2030 at over \$1.8 billion.

The County applies an “assessment factor” to reduce the assessed value of computer equipment as it ages.³⁶⁰ In the year of purchase, the County applies a 50% assessment factor, and assesses computer equipment at 50% of its original cost. In each subsequent year, the County reduces the assessment factor by 10% per year, until reaching a minimum assessment of 10% of the original cost for computer equipment that is five or more years old.

At the same time, the County projects that data center operators will begin to replace older equipment as it malfunctions or reaches the end of its useful life. This new computer equipment is expected to cost more in future years. Additionally, the purchase of new equipment resets the assessment factor back to 50% of the new original cost.

The County’s model indicates that the total assessed value of computer equipment on the Microsoft and Leesburg Commercial parcels will stabilize at approximately \$1.4 billion by 2035, and increase at an annual rate at approximately 2% per year thereafter.

4. Updated total estimated tax revenue to the Town.

Based on the foregoing updates to the development plants for the Microsoft and Leesburg Commercial parcels, as well as the County’s new BPP model for data center computer equipment, the Town estimates the Annexation Area will result in additional tax revenue of over \$800,000 each year beginning in fiscal year 2024, as summarized in Table 12, below. As discussed above, annual revenue will increase as the Microsoft and Leesburg Commercial parcels are developed.

³⁶⁰ <https://www.loudoun.gov/1559/Calculating-BPPT-Tax>

Table 12: Ten Year Estimated Revenue from Annexation Area					
Year	Real Property	Personal Property	BPOL	Meals	Total
2024	\$434,104	\$4,840	\$247,782	\$131,036	\$817,762
2025	\$736,362	\$885,876	\$366,543	\$131,036	\$2,119,817
2026	\$979,163	\$2,184,115	\$457,282	\$131,036	\$3,751,596
2027	\$1,133,554	\$3,924,539	\$510,374	\$131,036	\$5,699,503
2028	\$1,152,977	\$6,811,372	\$510,374	\$131,036	\$8,605,759
2029	\$1,172,789	\$12,392,129	\$510,374	\$131,036	\$14,206,327
2030	\$1,192,999	\$17,650,846	\$510,374	\$131,036	\$19,485,254
2031	\$1,213,611	\$18,817,508	\$510,374	\$131,036	\$20,672,529
2032	\$1,234,637	\$16,886,973	\$510,374	\$131,036	\$18,763,019
2033	\$1,256,083	\$14,251,463	\$510,374	\$131,036	\$16,148,956

J. Conclusion.

This annexation will significantly expand the Town’s tax resources, broaden the Town’s commercial and industrial tax base, and allow the Town to improve the services and facilities it provides in the Town and region and reduce its reliance on residential real estate tax base (as the County has been able to do).

- Sources:
- Ann Harrity Shawver, CPA, PLLC
 - Cole Fazenbaker, Management and Budget Officer
 - Major Vanessa Grigsby, Deputy Chief of Police
 - Richard Williams, Director of Parks & Recreation
 - Renee Lafollette, Director of Public Works & Capital Projects

Section VI: Community of Interest

The County argues that the County has a “community of interest” with the Annexation Area based solely on the data centers uses of Microsoft and Leesburg Commercial parcels.³⁶¹ The Commission has not applied the “community of interest” factor based on a single land use on some (but not all) of the properties in the Annexation Area. Moreover, the County’s argument disregards the statutory meaning of “community of interest,” as well as the Commission’s own “community of interest” analysis.

In the context of annexation, the term “community of interest” is statutorily-defined to include “the consideration of natural neighborhoods, natural and man-made boundaries, and the similarity of needs of the people of the annexing area and the area sought to be annexed.” Va. Code Ann. § 15.2-3209(4). When analyzing the “community of interest” factor, the Commission examines the ties between the town and the annexation area, as well those between the county and the annexation area.³⁶² This analysis “involves many elements.”³⁶³ The Commission has identified “the most relevant considerations” as “the public services, employment, and commercial bonds which create interdependency.”³⁶⁴ The Commission also follows the statutory mandate and evaluates whether the annexation area is a logical extension of the town’s boundaries.³⁶⁵

³⁶¹ County Response, at 245-246.

³⁶² CLG Report on Christiansburg, at 68.

³⁶³ *Id.*

³⁶⁴ *Id.*

³⁶⁵ Commission on Local Government, Report on the Caruso Odin, LLC – Town of Culpeper – County of Culpeper Citizen-Initiated Annexation Action, at 28-29 (July 2019), available at <https://www.dhcd.virginia.gov/sites/default/files/Docx/clg/report-on-the-caruso-odin-llc-town-of-culpeper-county-of-culpeper-citizen-initiated-annexation-action-july-2019.pdf>

There is a strong community of interest between Leesburg and the Annexation Area.³⁶⁶ The Annexation Area is part of broader Compass Creek area, which is immediately adjacent to Leesburg. Compass Creek is bounded by the Leesburg to the north and east, the Dulles Greenway toll road to the west, and Shreve Mill Road to the south. Therefore, the Annexation Area is a logical extension of the Town to these man-made boundaries.

Part of Compass Creek is currently in the Town, and part of Compass Creek is in the County. The Annexation Area comprises the remainder of Compass Creek that is in the County. There is no visual or logical distinction that separate the parts of Compass Creek in the Town from those in the County. This is further illustrated by the fact that the Town-County boundary runs through the middle of two of the parcels. Compass Creek is all part of one development, and it should be governed by one municipality.

The Commission's community of interest analysis places great importance on "strong public service ties between the area proposed for annexation" and the town.³⁶⁷ Here, Leesburg is the sole water and sewer service provider to all properties in Compass Creek, including all properties in the Annexation Area. This further demonstrates the strong ties between Leesburg and the Annexation Area.

The property owners in the Annexation Area associate themselves with Leesburg, including the Walmart "Leesburg Superstore,"³⁶⁸ At Home's "Leesburg, VA" store.³⁶⁹ The general

³⁶⁶ See Town Notice, at 162.

³⁶⁷ CLG Report on Christiansburg, at 68.

³⁶⁸ <https://www.walmart.com/store/1904-leesburg-va>

³⁶⁹ <https://www.athome.com/store-detail/?StoreID=Virginia-Leesburg>

public—including the County’s own Loudoun Times-Mirror newspaper—associates the entirety of Compass Creek, with Leesburg.³⁷⁰

Every community of interest benchmark in the statute and the Commission’s analyses establish that the Annexation Area has a strong community of interest with Leesburg, and that bringing the remaining portions of Compass Creek into the Town will be a natural extension of the existing Town boundaries. This factor weighs in favor of annexation.

Sources: Kaj H. Dentler, Town Manager
 Russell Seymour, Director of Economic Development

³⁷⁰ <https://www.datacenterdynamics.com/en/news/microsoft-planning-two-more-data-centers-in-leesburg-virginia/>;
<https://www.bizjournals.com/washington/news/2022/12/08/microsoft-data-center-leesburg.html>;
https://www.loudountimes.com/news/four-restaurants-coming-to-compass-creek-in-leesburg/article_6b4ca162-37c1-11ea-8906-6f41885e2fc7.html

Section VII: Conclusion

As set forth above, and in the Town's Notice, Leesburg's annexation of the remaining parcels in Compass Creek (the Annexation Area) is necessary and expedient considering the best interest of the people of Leesburg, the property owners in the Annexation Area, and the people in the remaining portion of Loudoun, and considering the best interests of the Commonwealth in promoting strong and viable units of local government. For these reasons, the Commission should approve Leesburg's annexation of the remaining land in Compass Creek.

Section VIII: Financial Data

Pursuant to 1 Va. Admin. Code § 50-20-540(6-9), Leesburg has updated data presented in its Notice based on the 2022 Annual Comprehensive Financial Reports (“ACFR”) issued by Leesburg and Loudoun since the filing of the Town’s Notice.

A. Revenue

Table 13: Updated Summary of Town Revenues			
Fiscal Year	Local Revenue	Intergovernmental Aid	Total Revenue
2010	\$38,523,053	\$9,170,344	\$47,693,397
2011	\$37,521,723	\$8,715,734	\$46,237,457
2012	\$37,202,347	\$12,354,864	\$49,557,211
2013	\$40,648,198	\$17,460,860	\$58,109,058
2014	\$42,417,567	\$12,815,853	\$55,233,420
2015	\$41,832,002	\$12,249,130	\$54,081,132
2016	\$43,223,666	\$15,380,716	\$58,604,382
2017	\$40,675,622	\$24,919,385	\$65,595,007
2018	\$44,304,061	\$32,456,282	\$76,760,343
2019	\$44,618,258	\$23,620,180	\$68,238,438
2020	\$41,426,333	\$27,976,350	\$69,402,683
2021	\$43,720,044	\$29,035,495	\$72,755,539
2022	\$47,729,824	\$78,215,432	\$125,945,256

Table 14: Update Summary of County Revenues				
Fiscal Year	Local Revenue	Intergovernmental Aid	Payment from Component Unit	Total Revenue
2010	\$981,035,779	\$116,364,870	\$0	\$1,097,400,649
2011	\$1,022,279,471	\$109,388,972	\$0	\$1,131,668,443
2012	\$1,066,242,817	\$108,622,063	\$0	\$1,174,864,880
2013	\$1,116,147,262	\$104,211,241	\$28,174,303	\$1,248,532,806
2014	\$1,191,972,942	\$118,456,335	\$0	\$1,310,429,277
2015	\$1,263,910,339	\$111,621,822	\$1,336,176	\$1,376,868,337
2016	\$1,352,562,008	\$118,362,771	\$0	\$1,470,924,779
2017	\$1,475,200,679	\$134,828,028	\$28,417,114	\$1,638,445,821
2018	\$1,565,792,640	\$129,523,994	\$21,253,042	\$1,716,569,676
2019	\$1,659,438,579	\$131,031,557	\$6,881,758	\$1,797,351,894
2020	\$1,767,843,132	\$147,604,369	\$12,537,377	\$1,927,984,878
2021	\$1,930,606,684	\$213,071,892	\$17,886,572	\$2,161,565,148
2022	\$2,110,904,389	\$156,626,993	\$8,999,369	\$2,276,530,751

Table 15: Updated Town Local Revenue

Fiscal Year	Real Property	Personal Property	Business and Professional License	Consumer Utility	Meals	Other	Total Local Revenue
2010	\$10,557,560	\$1,470,604	\$2,708,180	\$1,489,727	\$3,326,332	\$18,970,650	\$38,523,053
2011	\$10,580,666	\$1,593,043	\$2,880,044	\$1,542,597	\$3,672,760	\$17,252,613	\$37,521,723
2012	\$10,823,585	\$1,707,237	\$2,860,659	\$1,495,345	\$4,418,067	\$15,897,454	\$37,202,347
2013	\$11,261,634	\$2,008,330	\$3,072,266	\$1,546,528	\$4,695,048	\$18,064,392	\$40,648,198
2014	\$11,527,870	\$1,933,465	\$3,292,385	\$1,564,500	\$4,827,853	\$19,271,494	\$42,417,567
2015	\$11,512,316	\$1,789,660	\$3,326,739	\$1,559,559	\$5,021,455	\$18,622,273	\$41,832,002
2016	\$12,164,395	\$1,902,108	\$3,152,175	\$1,525,755	\$5,247,114	\$19,232,119	\$43,223,666
2017	\$12,504,302	\$1,954,979	\$3,482,857	\$1,521,738	\$5,275,413	\$15,936,333	\$40,675,622
2018	\$13,562,348	\$1,774,637	\$3,620,884	\$1,544,206	\$5,841,127	\$17,960,859	\$44,304,061
2019	\$14,131,617	\$2,263,221	\$3,727,985	\$1,530,840	\$5,939,892	\$17,024,703	\$44,618,258
2020	\$14,636,754	\$1,399,099	\$3,793,027	\$1,494,085	\$5,175,671	\$14,927,697	\$41,426,333
2021	\$15,515,700	\$2,818,734	\$4,031,292	\$1,488,711	\$5,540,382	\$14,325,225	\$43,720,044
2022	\$16,435,580	\$3,280,617	\$4,361,698	\$1,495,254	\$7,545,383	\$14,611,292	\$47,729,824

Table 16: Updated County Local Revenue

Fiscal Year	Real Property	Personal Property	Machinery and Tools	Business and Professional License	Consumer Utility	Sales and Use Tax	Other	Total Local Revenue
2010	\$651,760,593	\$91,382,900	\$1,095,497	\$23,076,923	\$20,087,509	\$49,729,614	\$143,902,743	\$981,035,779
2011	\$663,226,629	\$107,109,666	\$1,099,851	\$25,355,444	\$20,236,914	\$53,832,926	\$151,418,041	\$1,022,279,471
2012	\$666,593,026	\$120,157,801	\$1,036,651	\$25,995,888	\$19,864,904	\$58,365,310	\$174,229,237	\$1,066,242,817
2013	\$672,593,092	\$141,417,162	\$974,946	\$28,400,538	\$21,504,030	\$58,036,536	\$193,220,958	\$1,116,147,262
2014	\$696,433,109	\$171,779,583	\$1,101,942	\$29,209,497	\$21,415,296	\$54,667,986	\$217,365,529	\$1,191,972,942
2015	\$730,906,813	\$194,439,448	\$1,182,264	\$31,558,942	\$22,548,783	\$61,411,195	\$221,862,894	\$1,263,910,339
2016	\$763,644,540	\$236,216,594	\$1,242,313	\$31,785,671	\$21,555,702	\$68,976,067	\$229,141,121	\$1,352,562,008
2017	\$797,045,007	\$278,583,432	\$1,627,470	\$35,210,681	\$21,807,354	\$72,469,150	\$268,457,585	\$1,475,200,679
2018	\$831,560,026	\$332,760,858	\$1,967,965	\$36,760,291	\$22,094,646	\$74,095,287	\$266,553,567	\$1,565,792,640
2019	\$846,491,162	\$406,148,443	\$2,336,432	\$40,070,878	\$22,173,117	\$77,782,399	\$264,436,148	\$1,659,438,579
2020	\$884,906,480	\$482,851,634	\$2,325,220	\$43,405,100	\$22,452,354	\$80,478,625	\$251,423,719	\$1,767,843,132
2021	\$921,428,762	\$563,206,076	\$2,107,824	\$42,426,730	\$21,939,876	\$90,053,162	\$289,444,254	\$1,930,606,684
2022	\$963,952,216	\$679,399,768	\$2,054,955	\$47,427,543	\$22,757,789	\$104,544,712	\$290,767,406	\$2,110,904,389

Notes: The Town does not collect machinery and tools and merchants' capital taxes, and the County does not collect merchants' capital tax.

Sources: Town of Leesburg Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022

Loudoun County Comprehensive Annual Financial Report, Years Ending in June
30, 2010 through 2022

B. Expenditures

Table 17: Updated Town Expenditures, 2010 to present

Fiscal Year	Legislative	Executive	Legal	Finance and Administrative	Public Safety	Public Works	Parks and Recreation	Library	Planning and Zoning	Plan Review	Capital Projects	Debt Service	Other	Total
2010	\$1,103,242	\$3,395,350	\$411,839	\$2,360,863	\$11,140,380	\$11,456,058	\$7,418,434	\$457,606	\$1,720,029	\$1,679,684	\$8,458,203	\$5,413,044	\$0	\$55,014,732
2011	\$919,953	\$3,431,910	\$401,794	\$2,252,013	\$10,883,307	\$11,385,261	\$7,321,436	\$449,682	\$1,938,591	\$1,566,111	\$11,072,955	\$5,710,435	\$0	\$57,333,448
2012	\$960,836	\$3,127,240	\$412,454	\$2,073,242	\$11,262,769	\$11,590,650	\$6,916,341	\$454,610	\$1,382,400	\$1,248,341	\$9,673,741	\$10,728,869	\$2,444	\$59,833,937
2013	\$949,680	\$3,345,634	\$517,214	\$2,196,207	\$12,551,566	\$11,851,505	\$7,462,632	\$440,057	\$1,489,006	\$1,295,785	\$15,175,508	\$5,724,783	\$706,939	\$63,706,516
2014	\$1,645,525	\$4,065,619	\$470,940	\$1,985,483	\$12,507,687	\$11,494,248	\$7,833,710	\$457,866	\$1,562,694	\$1,384,016	\$12,144,131	\$4,411,059	\$688,604	\$60,651,582
2015	\$395,084	\$1,919,530	\$854,433	\$4,459,503	\$13,488,315	\$11,332,942	\$8,060,847	\$459,214	\$1,591,679	\$1,314,564	\$8,317,589	\$5,830,190	\$660,000	\$58,683,890
2016	\$249,418	\$2,251,468	\$738,157	\$4,921,814	\$13,242,169	\$12,878,286	\$7,845,039	\$488,583	\$1,663,251	\$1,388,654	\$8,880,704	\$5,502,383	\$716,544	\$60,766,470
2017	\$247,809	\$1,887,672	\$761,453	\$4,795,874	\$12,467,978	\$14,391,996	\$7,640,573	\$490,644	\$1,650,178	\$1,333,740	\$10,341,003	\$8,250,841	\$771,312	\$65,031,073
2018	\$280,712	\$1,689,964	\$835,408	\$5,417,654	\$13,325,521	\$14,173,810	\$7,627,827	\$505,607	\$2,021,595	\$1,334,333	\$15,936,356	\$7,961,952	\$743,773	\$71,854,512
2019	\$255,452	\$1,886,653	\$1,449,337	\$5,540,062	\$14,069,073	\$14,360,321	\$7,701,535	\$536,704	\$1,881,100	\$1,464,977	\$13,470,015	\$8,066,276	\$750,389	\$71,431,894
2020	\$280,031	\$2,368,301	\$1,283,155	\$5,806,893	\$13,813,223	\$14,455,259	\$6,597,044	\$500,019	\$2,128,753	\$1,426,408	\$18,205,678	\$8,685,955	\$789,588	\$76,340,307
2021	\$266,202	\$3,087,773	\$1,073,543	\$6,158,087	\$13,243,794	\$14,255,891	\$5,939,831	\$465,980	\$1,942,018	\$1,490,510	\$9,427,928	\$4,858,767	\$6,222,532	\$68,432,856
2022	\$347,356	\$2,323,690	\$1,597,631	\$6,865,230	\$13,459,096	\$69,542,898	\$7,218,136	\$560,785	\$2,132,944	\$1,526,324	\$17,044,248	\$8,822,377	\$851,403	\$132,292,118

Table 18: Updated County Expenditures, 2010 to present

Fiscal Year	Administration	Judiciary	Public Safety	Public Works	Health and Welfare	Parks and Recreation	Community Development	Education	Capital Outlay	Debt Service	Total
2010	\$58,971,603	\$12,010,979	\$134,915,733	\$65,313,594	\$83,739,002	\$42,229,577	\$40,414,055	\$558,233,336	\$58,053,186	\$127,224,409	\$1,181,105,474
2011	\$57,425,608	\$11,906,191	\$139,766,826	\$47,410,592	\$81,217,371	\$42,865,541	\$37,561,438	\$523,831,880	\$50,947,973	\$154,430,283	\$1,147,363,703
2012	\$68,187,026	\$12,438,251	\$146,717,960	\$46,330,697	\$80,280,556	\$42,601,230	\$45,934,636	\$528,356,150	\$35,427,284	\$170,779,698	\$1,177,053,488
2013	\$59,857,783	\$12,634,767	\$151,361,628	\$48,249,790	\$79,541,256	\$45,351,862	\$48,960,308	\$694,497,052	\$64,776,387	\$144,726,879	\$1,349,957,712
2014	\$71,290,404	\$12,393,266	\$156,508,109	\$81,737,077	\$80,335,173	\$47,051,221	\$53,813,487	\$702,281,760	\$32,545,249	\$143,039,372	\$1,380,995,118
2015	\$73,713,453	\$12,991,779	\$167,742,292	\$34,636,706	\$84,716,353	\$51,768,132	\$114,009,274	\$754,055,349	\$30,975,698	\$157,171,345	\$1,481,780,381
2016	\$75,818,203	\$14,218,844	\$173,299,516	\$35,498,009	\$88,519,474	\$54,094,185	\$173,225,017	\$755,004,406	\$83,531,166	\$170,534,604	\$1,623,743,424
2017	\$92,085,756	\$14,504,305	\$183,158,722	\$38,888,809	\$91,856,980	\$58,537,526	\$193,719,087	\$833,513,916	\$69,538,716	\$165,787,720	\$1,741,591,537
2018	\$95,154,924	\$14,894,819	\$192,189,776	\$44,746,346	\$96,230,920	\$57,121,531	\$223,710,725	\$947,494,077	\$79,802,989	\$169,403,624	\$1,920,749,731
2019	\$114,907,985	\$16,230,700	\$203,845,828	\$46,600,826	\$103,303,144	\$72,156,643	\$164,586,419	\$1,001,725,169	\$82,625,436	\$184,252,622	\$1,990,234,772
2020	\$133,416,586	\$17,219,393	\$218,890,576	\$59,150,512	\$112,655,778	\$79,674,769	\$165,917,980	\$1,058,765,309	\$108,666,425	\$404,497,363	\$2,358,854,691
2021	\$145,953,675	\$19,036,057	\$240,952,929	\$60,330,821	\$119,215,640	\$79,006,197	\$170,098,568	\$1,122,391,854	\$134,050,749	\$317,279,368	\$2,408,315,858
2022	\$162,502,747	\$20,949,449	\$251,996,212	\$62,098,000	\$108,933,006	\$81,717,196	\$164,652,863	\$1,196,955,765	\$149,617,123	\$250,327,090	\$2,449,749,451

Sources: Town of Leesburg Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022
Loudoun County Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022

C. **General Fund Balance**

Table 19: Updated General Fund Balances				
Fiscal Year	Town		County	
	General Fund Balance	Increase over Prior year	General Fund Balance	Increase over Prior year
2010	\$21,456,672	\$5,679,497	\$187,087,498	\$26,194,487
2011	\$22,438,541	\$981,869	\$196,260,757	\$9,173,259
2012	\$17,149,544	(\$5,288,997)	\$202,046,786	\$5,947,798
2013	\$18,170,111	\$1,020,567	\$219,651,174	\$17,604,388
2014	\$20,835,286	\$2,665,175	\$222,870,506	\$3,219,332
2015	\$22,781,149	\$1,945,863	\$292,336,927	\$69,466,421
2016	\$25,704,617	\$2,923,468	\$286,330,668	(\$25,048,996)
2017	\$28,115,835	\$2,411,218	\$337,659,593	\$51,328,925
2018	\$29,498,536	\$1,382,701	\$361,269,101	\$23,609,508
2019	\$26,468,342	(\$3,030,194)	\$376,484,692	\$15,215,591
2020	\$26,435,920	(\$32,422)	\$365,759,879	(\$10,724,813)
2021	\$39,354,972	\$12,919,052	\$415,355,314	\$49,595,435
2022	\$46,481,291	\$7,126,319	\$473,467,279	\$58,111,965

Sources: Town of Leesburg Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022

Loudoun County Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022

D. Assessed Property Values

Table 20: Updated Assessed Value of Property in the Town, 2010 to present					
Tax Year	Real Property	Personal Property	Public Service Corporation		Total
			Real Property	Personal Property	
2010	\$5,557,189,300	\$425,625,374	\$106,373,774	\$1,762,446	\$6,090,950,894
2011	\$5,675,717,100	\$498,450,685	\$108,083,816	\$1,613,618	\$6,283,865,219
2012	\$5,802,517,900	\$528,113,712	\$108,553,642	\$891,242	\$6,440,076,496
2013	\$6,085,462,040	\$481,548,404	\$105,809,512	\$737,446	\$6,673,557,402
2014	\$6,438,888,020	\$447,867,148	\$111,057,100	\$695,117	\$6,998,507,385
2015	\$6,643,105,870	\$388,770,026	\$108,441,453	\$653,035	\$7,140,970,384
2016	\$6,718,865,180	\$428,519,647	\$117,080,280	\$549,045	\$7,265,014,152
2017	\$7,081,200,240	\$412,219,300	\$116,315,393	\$426,223	\$7,610,161,156
2018	\$7,529,930,110	\$385,548,796	\$117,980,215	\$514,888	\$8,033,974,009
2019	\$7,889,996,600	\$409,437,516	\$120,153,718	\$549,604	\$8,420,137,438
2020	\$8,316,479,500	\$409,404,929	\$133,146,343	\$217,917	\$8,859,248,689
2021	\$8,766,130,579	\$417,083,220	\$142,329,848	\$183,069	\$9,325,726,716
2022	\$9,946,385,010	\$526,527,939	\$147,413,050	\$156,589	\$10,620,482,588

Table 21: Updated Assessed Value of Property in the County, 2010 to present							
Tax Year	Real Property			Personal Property		Less: Tax Exempt Real Property	Total
	Residential	Commercial	Agricultural	Motor Vehicles	Other		
2010	39,017,317,800	\$17,059,031,027	\$3,195,328,500	\$2,235,611,828	\$1,962,529,466	\$4,830,803,300	\$58,639,015,321
2011	\$40,803,550,100	\$16,925,004,000	\$3,074,079,800	\$2,374,460,302	\$2,079,399,563	\$4,975,969,800	\$60,280,523,965
2012	\$42,339,146,700	\$17,195,936,300	\$2,968,638,600	\$2,587,376,111	\$2,121,835,958	\$5,148,056,700	\$62,064,876,969
2013	\$44,774,937,934	\$17,688,305,039	\$2,862,747,040	\$2,728,476,540	\$2,617,701,019	\$5,289,844,810	\$65,382,322,762
2014	\$49,375,732,710	\$18,798,029,977	\$2,982,086,580	\$2,875,108,689	\$2,598,818,757	\$5,433,975,660	\$71,195,801,053
2015	\$52,975,768,941	\$20,323,832,864	\$2,940,245,016	\$3,033,345,780	\$3,326,341,970	\$6,012,249,930	\$76,587,284,641
2016	\$54,917,990,742	\$21,568,714,666	\$2,995,288,600	\$3,278,370,552	\$3,998,584,450	\$6,257,253,650	\$80,501,695,360
2017	\$58,148,493,590	\$23,366,400,909	\$2,803,499,312	\$3,388,052,579	\$4,929,481,053	\$6,632,399,610	\$86,003,527,833
2018	\$61,936,669,110	\$25,119,655,647	\$2,726,561,540	\$3,556,701,543	\$6,535,465,563	\$6,768,969,400	\$93,106,084,003
2019	\$66,114,768,110	\$27,421,211,797	\$2,655,783,620	\$3,788,924,757	\$8,354,607,836	\$7,211,216,910	\$101,124,079,210
2020	\$70,046,842,520	\$30,147,886,325	\$2,533,941,680	\$3,919,437,324	\$9,711,240,906	\$7,507,472,430	\$108,851,876,325
2021	\$75,069,877,480	\$29,653,799,612	\$2,588,965,060	\$4,159,755,150	\$11,983,805,279	\$7,548,108,630	\$116,218,496,711
2022	\$87,579,373,040	\$35,648,183,331	\$2,774,984,530	\$4,764,748,846	\$13,861,874,874	\$8,394,869,980	\$136,234,294,641

Sources: Town of Leesburg Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2013 (Table 7);

Town of Leesburg Comprehensive Annual Financial Report, Years Ending in June 30, 2014 through 2022 (Table 8)

Loudoun County Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022 (Table F)

E. Ratio of Assessed to True Property Values

Table 22: Ratio of Assessed to True Value of Property in the County, 2010 to present	
Tax Year	Median Ratio
2010	90.95%
2011	93.54%
2012	92.57%
2013	88.52%
2014	91.62%
2015	94.79%
2016	93.04%
2017	91.37%
2018	91.36%
2019	91.66%
2020	89.48%
2021	84.67%

Notes: The assessment ratio is the same for the Town and the County because the County performs property tax assessments for the Town.

Sources: Virginia Department of Taxation, The Virginia Assessment/Sales Ratio Study for Tax Years 2010 through 2021

F. Tax Rates

Table 23: Historical Tax Rates in Town and County						
Tax Year	Town Only		County Only		Combined	
	Real Property	Personal Property	Real Property	Personal Property	Real Property	Personal Property
2010	\$0.195	\$1.00	\$1.300	\$4.20	\$1.495	\$5.20
2011	\$0.195	\$1.00	\$1.285	\$4.20	\$1.480	\$5.20
2012	\$0.195	\$1.00	\$1.235	\$4.20	\$1.430	\$5.20
2013	\$0.192	\$1.00	\$1.205	\$4.20	\$1.397	\$5.20
2014	\$0.183	\$1.00	\$1.155	\$4.20	\$1.338	\$5.20
2015	\$0.183	\$1.00	\$1.135	\$4.20	\$1.318	\$5.20
2016	\$0.186	\$1.00	\$1.145	\$4.20	\$1.331	\$5.20
2017	\$0.184	\$1.00	\$1.125	\$4.20	\$1.309	\$5.20
2018	\$0.184	\$1.00	\$1.085	\$4.20	\$1.269	\$5.20
2019	\$0.184	\$1.00	\$1.045	\$4.20	\$1.229	\$5.20
2020	\$0.184	\$1.00	\$1.035	\$4.20	\$1.219	\$5.20
2021	\$0.184	\$1.00	\$0.980	\$4.20	\$1.164	\$5.20
2022	\$0.1774	\$1.00	\$0.890	\$4.20	\$1.067	\$5.20
2023	\$0.1774	\$1.00	\$0.875	\$4.15	\$1.052	\$5.15

Notes: All tax rates are per \$100 of assessed value. Residents of the Town of Leesburg are subject to taxes levied by both the Town and the County.

Sources: Town of Leesburg Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022

Loudoun County Comprehensive Annual Financial Report, Years Ending in June 30, 2010 through 2022

Town of Leesburg 2023 Tax Rates, available at <https://www.leesburgva.gov/departments/finance/taxes-fees/tax-rates-and-fees>

Loudoun County 2023 Tax Rates, available at <https://www.loudoun.gov/1922/Property-Tax-Rates>

G. Town's Long-Term Indebtedness

The Town has approximately \$115,825,977 in outstanding long-term debt. Since the filing of the Notice, the Town has not issued new bonds. The Town took out a note in the amount of \$1,725,373 for capital asset replacement. Payments are due in semi-annual installments of \$345,075, ending in January 2027, with interest at 3.387%. As of June 30, 2022, the outstanding balance on the note was \$1,725,373.

Sources: Town of Leesburg Comprehensive Annual Financial Report, Year Ending in June 30, 2022