

**Report on the  
Town of Timberville - County of Rockingham  
Agreement Defining Town  
Annexation Rights**



**Commission on Local Government  
Commonwealth of Virginia**

**November 2000**

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**REPORT ON THE  
TOWN OF TIMBERVILLE - COUNTY OF ROCKINGHAM  
AGREEMENT DEFINING ANNEXATION RIGHTS**

**PROCEEDINGS OF THE COMMISSION**

On June 6, 2000 the Town of Timberville, with the concurrence of Rockingham County, submitted to this Commission for review a proposed agreement defining the Town's future annexation rights which had been negotiated under the authority of Article 2, Chapter 32 of Title 15.2 of the Code of Virginia. Consistent with the Commission's Rules of Procedure, the Town's notice was accompanied by data and materials to assist this body in its review of the proposed agreement.<sup>1</sup> Further, and also in accordance with the Commission's rules, the Town concurrently gave notice of the filing to 12 local governments with which it shares functions, revenue, or tax sources.<sup>2</sup>

Following its receipt of the proposed agreement, the Commission met in Timberville on September 25 to tour the Town and relevant areas in Rockingham County, to receive oral testimony from local officials regarding the agreement, and to conduct a public hearing for the purpose of receiving citizen comment. The public hearing, which was advertised in accordance with Section 15.2-2905.7(B) of the Code of Virginia, was attended by 17 individuals and produced testimony from 1 person. In order to permit receipt of additional public comment, the Commission agreed to keep open its record for written submissions through October 9, 2000.

**SCOPE OF REVIEW**

In 1979 the General Assembly amended the annexation laws of the Commonwealth to authorize towns to negotiate agreements with their

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<sup>1</sup>Town of Timberville, **Town of Timberville Annexation Study** (hereinafter cited as **Town Submission**), June 2000.

<sup>2</sup>Commission on Local Government, **Rules of Procedure**, Rule 3.8.

counties by which a municipality is permitted to annex, in accordance with conditions specified in such agreements, merely by the adoption of a town ordinance.<sup>3</sup> Thus, where town annexations are pursued under such agreements, the State's general annexation procedure whereby proposed boundary changes are decided by the courts subsequent to Commission review is supplanted by the simple and direct process of annexation by municipal ordinance. The formal and final adoption of such an agreement by a town and county, however, divests the town permanently of its authority to seek city status.

While the Code of Virginia grants broad authority to towns and counties to fashion such annexation agreements to meet their peculiar needs and circumstances, there are certain statutorily prescribed conditions which must be met in their development. Based upon such statutory conditions, this Commission is directed to determine in its review:

. . . whether the proposed agreement provides for the orderly and regular growth of the town and county together, for an equitable sharing of resources and liabilities of the town and county, and whether the agreement is in the best interest of the community at large, . . .<sup>4</sup>

It should be noted here that whatever the findings and recommendations of the Commission regarding an agreement negotiated under the previously referenced statutory authority, the local governing bodies are free to adopt or reject the proposed agreement as they see fit. If, however, the Commission's review of an agreement of this nature is "unfavorable," the local governing bodies may not adopt the agreement until

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<sup>3</sup>Article 2, Chapter 32, Title 15.2, Code of Va.

<sup>4</sup>Sec. 15.2-3232, Code of Va.

after they have jointly held an advertised public hearing on the issue.<sup>5</sup>

### EVALUATION OF THE AGREEMENT

In brief, the principal provisions of the proposed agreement negotiated by the Town of Timberville and Rockingham County would:

1. require the Town to renounce permanently its authority to become a city;
2. authorize the Town to annex by municipal ordinance specified areas of the County, designated collectively as the Timberville Annexation Zone (TAZ), at any time after the execution of the agreement by the parties;
3. require the Town to take measures to protect agricultural properties which might be annexed under the agreement;
4. require the Town, simultaneously with the first annexation effected under the agreement, to equalize water and sewer rates charged customers located in the TAZ with those charged customers within Timberville's current boundaries; and
5. commit the Town not to seek to annex any other areas of the County until the entire Timberville Annexation Zone is annexed.<sup>6</sup>

As indicated previously, the Commission is required to determine in its review whether a proposed agreement defining town annexation rights (1) provides for the orderly and regular growth of Timberville and Rockingham County together, (2) permits an equitable sharing of the area's

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<sup>5</sup>Sec. 15.2-3233, Code of Va. It should be observed that State law authorizes a town to proceed unilaterally to obtain an order defining its future annexation rights in instances where it is unable to conclude an agreement with its county on the issue. (See Sec. 15.2-3234, Code of Va.)

<sup>6</sup>See **Appendix A** for the complete text of the proposed Agreement Defining Annexation Rights between the Town of Timberville and Rockingham County and the Annexation Agreement Addendum.

resources and liabilities, and (3) is in the best interest of the community at large. In the following sections of this report the Commission endeavors to analyze the proposed Town of Timberville - County of Rockingham agreement on the basis of these general criteria.

### **ORDERLY AND REGULAR GROWTH OF THE TOWN AND COUNTY**

In terms of population, the data reveal that during the decade of the 1980s the rate of growth in the Town of Timberville exceeded that in Rockingham County generally. Between 1980 and 1990, the population of the Town increased from 1,510 to 1,596 persons, or by 5.7%.<sup>7</sup> During that same period, the total population of the County only increased from 57,038 to 57,482, or by only 0.8%.<sup>8</sup> It should be noted, however, that a significant portion of the County's population loss was due to the annexation by the City of Harrisonburg on December 31, 1982 of 4,702 persons. Recent population estimates reveal both the Town and County experienced population growth. According to those estimates, between 1990 and 1999 Timberville's populace increased by 10.1%, while that of the County grew by 12.0%.<sup>9</sup>

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<sup>7</sup>U. S. Department of Commerce, Bureau of the Census, **1980 Census of Population, Number of Inhabitants, Virginia**, Table 4; and U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 1. Less than one-third of Virginia's 189 towns experienced an increase in population during the decade of the 1980s. See **Appendix B** for a statistical profile of the Town, County, and the area covered by the agreement. See **Appendix C** for a map of that area.

<sup>8</sup>U. S. Department of Commerce, Bureau of the Census, **1980 Census of Population, Number of Inhabitants, Virginia**, Table 4; and **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2. Population statistics for Rockingham County include persons residing in the Towns of Dayton, Bridgewater, Broadway, Elkton, Mt. Crawford, and Timberville, and that portion of the Town of Grottoes which lies within the County.

<sup>9</sup>U. S. Department of Commerce, Bureau of the Census, Population Estimates for States, Counties, Places, and Minor Civil Divisions: Annual Time Series, July 1, 1990 to July 1, 1999 (includes April 1, 1990 Population

With respect to fiscal resources, recent property assessment data reveal that the growth in the County generally has been somewhat in excess of that experienced within the Town. Between FY1995/96 and FY1998/99 the value of locally assessed real estate in Rockingham County increased from \$2.6 billion to \$3.2 billion, or by 20.3%, while such values in Timberville grew from \$46.3 million to \$52.8 million, or by 14.0%<sup>10</sup> While both the Town and County have a variety of sources of revenue to support their governmental functions, real property taxes are by far the largest component of revenue available to support their operations. In terms of Timberville's prospects for future fiscal development, it should be noted that the Town contains only 49.7 acres of vacant property on tracts of five acres or more.<sup>11</sup> That vacant property, however, is currently zoned for residential usage, and while that is not an absolute barrier to commercial or industrial uses, it does make those parcels less attractive to potential developers. Additional evidence of the limited potential for development within the Town is provided by the fact that there have been only four new subdivision lots recorded within Timberville in the last five years.<sup>12</sup>

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Estimates Base). (Online) Available [http://www.census.gov/population/estimates/metro-city/scful/SC99F\\_VA.txt](http://www.census.gov/population/estimates/metro-city/scful/SC99F_VA.txt), Oct. 20, 2000.

<sup>10</sup>Andrew J. Conlon, Jr., Town Manager, Town of Timberville, letter to staff of Commission on Local Government, Sep. 11, 2000; and County of Rockingham, **Comprehensive Annual Financial Report**, June 30, 1998. The assessed property values for Rockingham County include those within Timberville, five other incorporated towns, and that portion of the Town of Grottoes located within the County.

<sup>11</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000. One of the vacant parcels, which consists of 8.5 acres, is located in the northern portion of the Town. The other vacant properties include two adjacent parcels, which collectively contain 41.2 acres, that are located along the southern boundary of Timberville between U. S. Highway 211 and State Route 800.

<sup>12</sup>**Ibid.** Information with respect to subdivision activity within Timberville covers the period 1995 through 1999.

Under the terms of the proposed agreement the Town would be permitted to annex by ordinance property within an area, specified as the Timberville Annexation Zone (TAZ), comprising 356 acres of territory and currently containing an estimated 172 persons and approximately \$9.3 million in assessed real property values.<sup>13</sup> Although not explicitly stated in the proposed agreement, representatives for Timberville have indicated that the Town proposes to incorporate a portion of the TAZ, identified by the parties as the Immediate Annexation Area (IAA), as soon as practicable following the adoption of the accord.<sup>14</sup> That area comprises 63.9 acres and currently contains approximately 74 persons and \$5.3 million in estimated real estate assessed values subject to local taxation.<sup>15</sup> The addition of the IAA to the Town will increase Timberville's population by 4.1% and its assessed real property values by 10.0%. The annexation of the IAA will also bring within the Town commercial development which has occurred adjacent to Timberville's current boundary, and, in addition, offer a limited amount of vacant land suitable for future development.<sup>16</sup> Town officials have also indicated that Timberville intends to annex periodically additional

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<sup>13</sup>Ibid.; and Town Submission, Attachment 5.

<sup>14</sup>Conlon, communication with staff of Commission on Local Government, Sep. 15, 2000; and Mark B. Callahan, Town Attorney, Town of Timberville, presentation to Commission on Local Government, Sep. 25, 2000.

<sup>15</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000; and Town Submission, Attachment 5.

<sup>16</sup>Commercial properties in the IAA include the Jamesway Plaza Shopping Center, which contains a grocery store, two restaurants, and approximately seven other businesses; a printing company; a bank; and a drug store. In addition, that area also includes a vacant industrial operation. According to data submitted by the Town, the IAA contains approximately 30 acres (46.0% of total land area) of vacant land that is also suitable for future development. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.) The development potential of the IAA is enhanced by the presence of Town utility lines.



portions of the TAZ, identified as the Growth Area (GA), at any time after the incorporation of the IAA into the municipality. That area contains approximately 292 acres, and, as of 2000, 98 persons and \$4.0 million in estimated real estate assessed values.<sup>17</sup> The GA also offers Timberville substantial amounts of vacant land suitable for future development.<sup>18</sup>

It is the Commission's judgment that the proposed agreement does facilitate the orderly and regular growth of the Town and County together. The agreement will permit the Town to benefit from an immediate increase in population and fiscal resources, and it will provide Timberville, particularly in the GA, with significant land for future development which will help ensure its continued viability. Moreover, the viability of the Town and its expanded fiscal resources will enable Timberville to continue to contribute to the social and economic health of its area and Rockingham County generally. Finally, the proposed agreement contains a provision permitting the Town and County to modify the annexation accord by joint consent, if such is subsequently deemed appropriate.<sup>19</sup> This provision constitutes recognition by both the Town and the County that the agreement may require future modification to meet needs and circumstances which cannot now be foreseen.

### **EQUITABLE SHARING OF RESOURCES AND LIABILITIES**

An equitable sharing of resources and liabilities within the context of

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<sup>17</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000; and **Town Submission**, Attachment 5.

<sup>18</sup>Data submitted by Timberville reveal that almost all of the undeveloped property in the Growth Area is actively used for agricultural purposes. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

<sup>19</sup>**The County of Rockingham and the Town of Timberville Annexation Agreement** (hereinafter cited as **Annexation Agreement**), Sec. 13.

an agreement defining annexation rights requires, in our judgment, an opportunity for both the Town and County to benefit from the growth in the general area sufficient to meet the needs of their respective residents and commensurate with the contribution each makes to the social and economic viability of the general area. The following sections consider these concerns.

### **Resources**

Statistics cited earlier in this report indicate that, unlike some other Virginia municipalities, the Town of Timberville did not experience a decline in its population during the decade of the 1980s. Further, on both demographic and real property tax bases the data disclose that in recent years the Town has experienced growth commensurate with that of the County generally. In brief, the evidence suggests that Timberville has been and remains an important service center in northern Rockingham County. While Timberville has supported with its utility services development outside its present boundaries, the limited amount of vacant land in the municipality appropriate for future development is not sufficient for the Town to continue to share in the growth of its general area for the near future.

Consistent with the terms of the proposed agreement, and as previously noted, Timberville has indicated its intentions to annex immediately the Immediate Annexation Area, which contains 63.9 acres, 74 persons, and substantial amounts of developed commercial property. With respect to fiscal resources, the annexation of that area will initially provide the Town with approximately \$9,000 in real property tax revenue based on current assessed values and tax rates.<sup>20</sup> Additionally, the IAA will initially provide approximately \$59,000 annually in other local-source revenues and intergovernmental transfers (e.g., bank stock taxes, business, professional

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<sup>20</sup>**Town Submission**, Table 2, p. 5.

and occupational licenses and ABC profits distributions).<sup>21</sup> These fiscal benefits to the Town will increase with the future growth and development of the area annexed. Further, the proposed agreement will permit Timberville to annex additional territory, designated as the Growth Area, after adoption of the agreement and when the Town determines such to be appropriate.

It is important to note here that town annexations in Virginia, unlike those initiated by cities, do not remove property from a county's tax rolls. Thus, the major tax sources of Rockingham County will be unaffected by annexations by the Town of Timberville. While town annexations do constrict, however, some of a county's more modest revenue sources (e.g., automobile license taxes, consumer utility taxes, sales taxes, etc.), no significant loss of revenue to Rockingham County is anticipated as a result of the annexations effected by Timberville under the terms of the proposed agreement. Further, any development facilitated by the extension of Timberville's services to annexed areas will benefit not only the Town, but the County as well. On the basis of these considerations, the Commission concludes that the proposed agreement should provide the Town of Timberville and Rockingham County with an equitable share of the area's resources.

### **Liabilities for Services**

As with the other towns located in Rockingham County, Timberville

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<sup>21</sup>**Ibid.** Under the terms of the proposed agreement, the Town will be required, simultaneously with its first annexation, to reduce water and sewer rates for all its customers located within the TAZ so that the rates are the same as those charged to the residents of Timberville. (See **The County of Rockingham and the Town of Timberville Annexation Agreement Addendum**, Sec. 1.) A Town official has stated, however, that the loss of utility revenue as a result of the rate equalization is anticipated to be minimal. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

plays an important role in the provision of public services to its general area. In terms of utilities, the Town serves not only the needs within its corporate limits, but also a number of residential and commercial connections beyond its present boundaries. The availability of Town utilities has been instrumental in the development of areas adjacent to Timberville. With respect to the future growth in the general area, the Commission notes that the current Rockingham County comprehensive plan, which was based upon an in-depth analysis of the County's needs and anticipated growth, calls for continued development of the areas immediately adjacent to Timberville and within the territory subject to annexation by the Town under the terms of the proposed agreement.<sup>22</sup> If such development occurs, Timberville would be, in our view, the appropriate entity to provide urban services to those areas.

Annexations by Timberville under the terms of the proposed agreement will, therefore, place additional service responsibilities upon the Town. While this expanded responsibility for public services constitutes a liability to be borne by the Town, the extension of such services to areas of need represents, at the same time, a consequence of the agreement which is in the general interest of the community at large. The sections which follow address those public service concerns.

**Water.** The Town of Timberville owns and operates a public water system which serves the Town and significant portions of the TAZ.<sup>23</sup> The Town's water treatment plant utilizes a spring as its raw water source and,

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<sup>22</sup>County of Rockingham, **Comprehensive Plan for Rockingham County**, Dec. 8, 1993, pp. 4-8 -- 4-9.

<sup>23</sup>The Jamesway Plaza Shopping Center, which is located in the IAA, is served by the Food Processors Cooperative water system. That private concern is principally responsible for meeting the potable water needs of the two poultry processing facilities which are located adjacent to Timberville's current western boundaries, but not in the area subject to annexation under the terms of the proposed agreement.

according to its rated capacity, can receive and treat 0.49 million gallons per day (MGD).<sup>24</sup> Timberville's water distribution system, which serves 686 connections within its current borders and 75 in the TAZ, required in 1999 approximately 0.23 MGD, leaving the system with an unused reserve of 0.26 MGD.<sup>25</sup> In terms of storage, Timberville has two storage tanks which collectively hold 0.70 million gallons of water, or an amount in excess of three days' demand.<sup>26</sup>

In view of the water service already provided by the Town the areas covered by the proposed agreement and the excess capacity in the municipal system, we find that Timberville is capable of meeting both the current and prospective needs of those areas.<sup>27</sup> Further, in terms of immediate benefit to residents and businesses in the TAZ, since the Town places a surcharge on its connection fees and water rates for nonresident

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<sup>24</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000; and Conlon, communication with staff of Commission on Local Government, Nov. 3, 2000. Timberville also has two wells that are utilized as sources of potable water, but water from those wells is only chlorinated before enter the municipal distribution system. The aggregate yield from Timberville's three raw water sources is 0.59 MGD. The Town's water filtration plant, which is located at the site of the municipal spring, has been in operation for approximately three months and is currently undergoing a year-long testing and monitoring period before final certification as a public water source by the Virginia Department of Health.

<sup>25</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000. There are 34 Town water connections in the IAA, and an additional 41 municipal connections in the GA. Further, Town water lines also serve 167 connections in other portions of Rockingham County not subject to annexation by Timberville.

<sup>26</sup>**Ibid.** One of the Town's storage tanks was constructed in 2000 at the municipal spring concurrently with the installation of the new water filtration plant. (Conlon, communication with staff of Commission on Local Government, Nov. 2, 2000.)

<sup>27</sup>The Food Processors Water Cooperative will continue to serve the Jamesway Shopping Center following the annexation of the IAA.

customers, the annexation of the Immediate Annexation Area will result in substantially reduced charges for water service to customers in that area.<sup>28</sup>

**Sewerage.** The Town of Timberville operates a sewage collection system which presently serves 771 connections, with 43 being located in the IAA.<sup>29</sup> Sewage collected by the Town's system is treated by the Modular Wastewater Reclamation and Reuse System (MWRRS), a privately-owned treatment plant located east of Timberville.<sup>30</sup> Although the Town does not have an allocated capacity in that facility, Timberville has agreed to transmit a minimum of 0.14 MGD of effluent to that plant for treatment.<sup>31</sup> Further, Timberville's contract with the commercial concern that operates the

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<sup>28</sup>**Town Submission**, pp. 7-8. The water user fees the Town charges nonresidents are approximately 24% greater than those paid by current municipal residents. In addition, connection fees paid by out-of-town customers are 50% higher than those for in-town customers. The proposed agreement also calls for Timberville, simultaneously with its first annexation, to reduce water rates for all its customers located within the TAZ so that the rates are the same as those charged to current Town residents. (See **The County of Rockingham and the Town of Timberville Annexation Agreement Addendum**, Sec. 1.)

<sup>29</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000. While there are only 2 Town sewer customers located in the Growth Area, Timberville's sewerage serves another 46 connections located in other portions of Rockingham County.

<sup>30</sup>The private sewage treatment facility, which is owned by S. I. L. Clearwater, began operation in 2000 and has a rated capacity of 1.9 MGD. (**Ibid.**) When Timberville began directing its sewage flows to the S. I. L. Clearwater facility, the Town's municipal treatment plant ceased operation. The S. I. L. Clearwater plant was also designed to accept effluent from the two poultry processing operations that are located immediately adjacent to Timberville as well as from the Town of Broadway.

<sup>31</sup>**Ibid.** During 1999 average daily flows treated by the Town's sewage treatment plant was 0.146 MGD.

MWRRS provides that the Town can send up to 0.25 MGD to the sewage treatment plant by 2023.<sup>32</sup>

As is the case of water service, the Town places a surcharge on sewage connection and user charges for customers located beyond its present boundaries.<sup>33</sup> Thus, annexation will substantially reduce the cost of sewerage service to all residents and businesses who are brought within Timberville's boundaries, as well as to others subsequently connected to the system in annexed areas.<sup>34</sup>

In the Commission's judgment, the areas annexed by Timberville under the terms of the proposed agreement will benefit from the future extension of Town collection lines and from the reduction in the cost of sewerage services. The Town has both the capability and the willingness to meet the prospective sewerage needs in the areas annexed.

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<sup>32</sup>**Ibid.** Under the terms of the contract between Timberville and S. I. L. Clearwater, the private concern installed and maintains the principal interceptor lines to the treatment facility, while the Town is responsible for the maintenance of its sewage collection lines. Further, because Timberville is required by contract with S. I. L. Clearwater to pay by volume for the wastewater treated at the private facility, the Town has begun a program to reduce the infiltration of groundwater and inflow of stormwater into its municipal collection lines. (**Ibid.**; and Conlon, presentation to Commission on Local Government, Sep. 25, 2000.)

<sup>33</sup>Municipal sewer customers located beyond the Timberville corporate limits pay user fees 221% greater than those paid by in-town users. In addition, sewer connection fees charged by the Town are 40% higher for out-of-town customers. (**Town Submission**, p. 8.)

<sup>34</sup>The proposed agreement requires Timberville, upon initiation of its first annexation, to reduce sewer rates for its customers located in the TAZ so that the rates are the same as charged to the residents of the Town. (**The County of Rockingham and the Town of Timberville Annexation Agreement Addendum**, Sec. 1.)

**Solid Waste.** The Town of Timberville provides to its residents and commercial establishments, on a fee base, solid waste collection services through contract with a private collector.<sup>35</sup> While the Town subsidizes this activity with an appropriation from its general fund, Timberville residents are charged \$10.00 per quarter for weekly collection services.<sup>36</sup> Residents in the areas subject to annexation under the terms of the proposed agreement can dispose of their waste in containers located at various sites in the County or contract with private concerns for the collection and disposal of their refuse.<sup>37</sup> Areas adjacent to Timberville, both developed and those to be developed, will benefit, in our judgment, from the solid waste collection services provided by the Town. The extension of the Town's services to the areas annexed will not only reduce the cost of refuse collection services for the annexed residents and businesses, it should also promote increased utilization of regular refuse collection services within those areas. Clearly, the Town can and should bear responsibility for the provision of this public service in the areas covered by the agreement.

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<sup>35</sup>**Town Submission**, p. 9. In terms of the disposal of refuse, the Town's contractor utilizes the County's landfill, which is located southeast of the City of Harrisonburg.

<sup>36</sup>**Ibid.** Businesses in the Town are charged \$20.00 per quarter for refuse disposal services. During FY1998/99, the Town's subsidy of its solid waste collection and disposal services was approximately \$25,000. (YNBP and Company, **Town of Timberville, Virginia, Financial and Compliance Reports, June 30, 1999**, pp. 21, 23.) Twice-monthly collection of recyclables, as well as seasonal collection of leaves and brush, are provided using Town personnel and equipment. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

<sup>37</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000. There are no County-owned solid waste containers in the Timberville Annexation Zone. The closest County solid waste container site to Timberville is located approximately five and one-half miles southeast of the Town.



**Law Enforcement.** Law enforcement services in Timberville are provided by the Town's police department, which is staffed by two full-time officers, a police chief, and one additional part-time officer.<sup>38</sup> Each of those officers is assigned patrol responsibility, with the duty shifts structured so that the Town is regularly patrolled during most hours of the day.<sup>39</sup>

The Rockingham County Sheriff's Department, which maintains its headquarters in the City of Harrisonburg, assists the Town in meeting its law enforcement needs. Sheriff deputies regularly respond to calls for service from Town residents and businesses during periods when Timberville's police officers are not on duty.<sup>40</sup> Further, the County provides dispatch services for the Town as needed.

The Commission has no knowledge of any extraordinary law enforcement problems in the TAZ, and the incorporation of those areas into the Town is not expected to add substantially to the law enforcement burden of Timberville's police department.<sup>41</sup>

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<sup>38</sup>**Ibid.**

<sup>39</sup>**Ibid.** The police chief usually patrols during weekday hours, while the full-time law enforcement officers work alternating weekdays from 4:00 p.m. to 4:00 a.m. The part-time officer is assigned to work during the daytime hours on weekends.

<sup>40</sup>**Ibid.** Town police officers are not on duty between 4:00 a.m. and 8:00 a.m. during weekdays and from 4:00 a.m. through 4:00 p.m. on weekends.

<sup>41</sup>Although the Town does not have plans to employ immediately additional police officers to assist in providing law enforcement services to the IAA following annexation, Timberville representatives have indicated that such may not be required since Town officers respond to calls for service from that area on an informal basis. The Town's position on this issue appears reasonable to this Commission. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

**Street Lighting.** The Town of Timberville has a policy of operating and maintaining, at public expense, street lights where such are deemed appropriate for the public welfare. There are currently 179 publicly-funded street lights within the Town's corporate limits, while none are in the TAZ.<sup>42</sup> Although Town regulations require that such facilities be provided in some new developments, it currently has no official policy regarding the installation of other lights at citizen request.<sup>43</sup> Street lighting can be a factor in crime prevention, the reduction of traffic related accidents, and the enhancement of public areas. The extension of Timberville's policy of providing this service at municipal expense to areas annexed constitutes a service liability, but one which should and can be borne by the municipality.

**Other Service Considerations.** Other urban service needs in the areas annexed under the terms of the proposed agreement will be met principally through intergovernmental service arrangements, by Rockingham County, or by State resources. In terms of fire prevention and protection, the Town and Rockingham County jointly support the Timberville Volunteer Fire Department, which serves the municipality and adjacent areas outside the corporate limits, including the TAZ.<sup>44</sup> Other services provided to the residents of the Town and surrounding County areas, such as public

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<sup>42</sup>**Ibid.** The street lights at Jamesway Plaza Shopping Center in the IAA are provided by the property owner.

<sup>43</sup>**Ibid.** The Town land development control regulations require the installation of street lights in the Planned Unit Development R-5 zoning district and within new manufactured home developments. (Town of Timberville, **Land Development Regulations**, Sep. 10, 1999, Secs. 606.06-7, 706.06-3.)

<sup>44</sup>Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.

recreation and libraries, are the sole responsibility of Rockingham County.<sup>45</sup> Moreover, since all of the public roads in Timberville, in the TAZ, and in Rockingham County generally are maintained by the Virginia Department of Transportation, the level of street maintenance and related services (e.g., snow removal) will be unaffected by Town annexations.<sup>46</sup> In sum, the residents of areas annexed under the terms of the proposed agreement will not experience any immediate change in the level of fire suppression, public recreation, library, street maintenance, and snow removal services as a result of their incorporation into Timberville.

### **Summary**

The Town of Timberville will benefit from an immediate infusion of additional revenues as a result of the annexation of the Immediate Annexation Area. Moreover, that area and the territory in the Growth Area which might subsequently be annexed under the proposed agreement will provide the Town with an opportunity for future economic growth. Such future annexations will permit Timberville to share appropriately in the growth of its general area and will provide it with the resources to extend its services to areas of need. From our perspective, the proposed agreement does allow an equitable sharing of both the area's resources and liabilities.

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<sup>45</sup>The Commission notes, however, that Timberville operates and maintains the Plains District Memorial Park, a 12-acre facility which contains a swimming pool, two softball diamonds, two tennis courts, a basketball court, picnic shelters, and a playground. That significant community resource is available for use by both residents and nonresidents. (**Town Submission**, p. 11; and Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

<sup>46</sup>Currently, the Town maintains approximately one-half mile of roadway within Timberville that has not been taken into the State secondary road system for maintenance purposes. Officials for the Virginia Department of Transportation indicate, however, that all public streets in the TAZ qualify for State maintenance. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

### **INTEREST OF THE COMMUNITY AT LARGE**

In reviewing a proposed agreement defining a town's annexation rights, the Commission is also directed by the Code of Virginia to consider whether such an agreement in "the best interest of the community at large."<sup>47</sup> In the preceding sections of this report the Commission has found that the proposed Timberville-Rockingham County agreement provides for the orderly and regular growth of the Town and County and facilitates an equitable sharing of the area's public resources and liabilities. These attributes are clearly promotive of the best interest of the community at large. There are, however, other attributes of the proposed agreement which are relevant to this criterion and which merit comment in this report.

### **Enhancement of Development of the Timberville Environs**

The proposed agreement can facilitate the growth of the Town of Timberville and provide that municipality with additional fiscal resources which can be used to extend and improve its public services. Timberville's increased capability for the provision of public services can be a positive factor in the attraction of desirable development in the area. Any such development which does occur will redound to the benefit of both the Town and Rockingham County. This aspect of the proposed agreement is clearly in the best interest of the community at large.

### **Relinquishment of Authority to Seek City Status**

A principal element of the proposed agreement calls for the Town of Timberville to relinquish in perpetuity its authority to seek city status. To

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<sup>47</sup>Sec. 15.2-3232, Code of Va.

be sure, the Town does not at the present time have the requisite population (5,000) to be eligible for the transition to independent city status, nor will any annexation contemplated under the terms of the proposed agreement result in Timberville reaching that population threshold. However, growth and development in and around Timberville could make such a population level for the Town a reality at some point in the future. If Timberville were to exercise its present statutory prerogative to seek city status at some future date, such an event would remove totally the Town's population and tax resources from County authority, with the consequence that the remaining residents of Rockingham County would be confronted with bearing a greater local tax burden for the provision of public services. With the adoption of this agreement, Timberville commits itself to remaining permanently a part of Rockingham County and supporting with its residents and resources the needs of the County generally. Unless a variance in political values or service needs creates irreconcilable differences, the best interest of the community at large is served, from our perspective, by the Town of Timberville remaining a part of Rockingham County.

### **Simplification of the Annexation Process**

The proposed Town of Timberville - Rockingham County agreement permits the growth of the Town by a simple process (i. e., annexation by municipal ordinance) which avoids extended, and often costly, adversarial annexation proceedings. Although the State's traditional annexation process has many commendable features, experience has shown that such proceedings can be costly in terms of legal fees, consultants' charges, administrative time, and other expenses incidental to litigation. Moreover, contested annexation cases have often resulted in strained interlocal relations which can inhibit cooperative efforts, collaboration on mutual problems, and long-range planning. The proposed agreement will permit

the growth of Timberville in a nonadversarial manner with a minimum of attendant cost. This provision in the proposed agreement can serve the best interest of the community at large.

### **Protection of Agricultural Properties**

The proposed Timberville - Rockingham County agreement includes three provisions which commit the Town to the protection of agricultural operations.<sup>48</sup> First, the agreement states:

The Town has no desire to annex acreage which is devoted principally and actively to agricultural production unless such acreage largely is embraced by property appropriate for annexation and cannot, in the judgment of the Town, be reasonably excluded therefrom.

While this provision would allow the incidental annexation of agricultural properties which might be encompassed by developed areas, it is intended to prevent any large and indiscriminate incorporation of such properties into Timberville. Further, the proposed agreement commits the Town to protecting agricultural operations in areas annexed "through the use of zoning and land use ordinances, including the land use assessment system."<sup>49</sup> The Commission recognizes and fully supports the State's strong concern for the preservation of agricultural properties, and we are cognizant of the fact that Rockingham County is the premier agricultural resource of

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<sup>48</sup>**Annexation Agreement**, Sec. 7.

<sup>49</sup>**Ibid.** The Commission observes that Timberville has not adopted use value assessment for all properties within its present borders qualifying for such from the County. (Conlon, letter to staff of Commission on Local Government, Sep. 11, 2000.)

the Commonwealth.<sup>50</sup> We consider the provisions of the agreement concerning the protection of agricultural lands to be fully consistent with the best interest of the community at large.

### **Cooperative Planning Efforts**

The proposed agreement contains provisions which commit the Town and County to a coordinated and cooperative planning and land use regulatory program for managing future growth in the areas adjacent to Timberville. The agreement calls for the County to consult with the Town on land use decisions relative to the TAZ.<sup>51</sup> In addition, the Town, in consultation with the County, is required to develop a comprehensive plan for the TAZ within two years following the effective date of the proposed agreement. These efforts on the part of the Town of Timberville and Rockingham County to plan in a collaborative manner for managing future development of the TAZ are clearly in the best interest of the community at large.

## **FINDINGS**

As this Commission has noted previously, agreements defining annexation rights are significant documents containing major grants and

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<sup>50</sup>Of the total market value of agricultural products sold by farming operations in the Commonwealth in 1997 (\$2.34 billion), 18.7% was as a result of agricultural operations in Rockingham County. (U. S. Department of Agriculture, National Agricultural Statistics Service, **1997 Census of Agriculture, State and County Profiles**.) In addition, in 1997 Rockingham County was the second leading county in the nation in terms of the value of poultry and poultry products sold. (U. S. Department of Agriculture, National Agricultural Statistics Service, **1997 Census of Agriculture, Ranking of States and Counties**, Table 26.)

<sup>51</sup>Under the terms of the land development review process established by the proposed agreement, Timberville will be afforded an opportunity to comment on all applications for rezoning and requests for the subdivision of property in the TAZ. (See **Annexation Agreement**, Sec. 8.)

concessions of legal authority by the two jurisdictions which are parties to them. Accordingly, the proposed Town of Timberville and Rockingham County agreement has merited and received careful review by this body.

As a result of that review, this Commission finds that the proposed agreement appropriately provides concurrently for the orderly and regular growth of the Town of Timberville and Rockingham County, that it facilitates an equitable sharing of the area's public resources and liabilities, and that it is in the best interest of the community at large. Based on such findings, we report the proposed agreement "favorably."

Respectfully submitted,



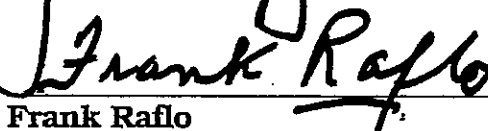
Peter T. Way, Chairman



James E. Kickler, Vice Chairman



James J. Heston



Frank Raflo



Gene B. Williams



THE COUNTY OF ROCKINGHAM  
AND THE TOWN OF TIMBERVILLE

ANNEXATION AGREEMENT

THIS AGREEMENT is made and entered into this 14<sup>th</sup> day of <sup>April</sup> ~~March~~, 1999, by and between Rockingham County, Virginia, a political subdivision of the Commonwealth of Virginia, (County) and the Town of Timberville, Virginia, a municipal corporation of the Commonwealth of Virginia (Town).

RECITALS:

- A. The Town and County wish to enter into an Agreement defining annexation rights pursuant to Title 15.2, Article 2 § 15.2-3231, et. seq. of the Code of Virginia, 1950 as amended.
- B. The Town has completed feasibility studies concerning annexation and has reviewed the Comprehensive Land Use Plan for Rockingham County which promotes growth in and around the incorporated towns of the County and encourages the development of an Annexation Agreement between the Town and County for the annexation into the Town of those areas shown on Exhibit A and designated by this agreement as the Timberville Annexation Zone (TAZ) which includes both the Immediate Annexation Area and the Growth Area.
- C. The Town and County have agreed to allow the Town to annex as much of the TAZ by ordinance as the Town deems necessary, subject to this Agreement.
- D. The Town is willing to renounce permanently its right to become a city and to enter into an agreement with the County providing for the regular and orderly growth of the Town and the County in order to effectuate and carry out the goals and purposes stated in the Town's and County's Comprehensive Land Use Plans.

E. The Town and County have negotiated this Agreement regarding annexation which will be in the best interests of all the citizens of the County, including the citizens of the Town and the TAZ.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and pursuant to § 15.2-3231, et. seq. of the Code of Virginia, 1950, as amended, the Town and County agree to perform the following acts and to be bound by the following statements and principles in settlement of all annexation issues.

1. Renunciation of City Status. The Town permanently renounces its right to become a city, as provided by § 15.2-3231, et. seq. of the Code of Virginia, 1950, as amended, such renunciation to become effective simultaneously with the execution of this Agreement.

2. Annexation of All or Portion of Land. The Town shall have the right to annex all or any portion of the TAZ by ordinance(s) enacted any time after the effective date of this agreement; provided, however, that any area annexed shall be contiguous with the then corporate Town limits. Any annexation ordinance adopted shall meet all requirements of law and, whether required by law or not, the Town shall first hold a public hearing on such ordinance and advertise the hearing for two consecutive weeks in a newspaper of general circulation in the Town and County. The Town shall give written notice of the hearing to the County. Any annexation ordinance(s) adopted shall provide for an effective date of December 31 or June 30 of the year of final adoption. Certified copies of any and all annexation ordinances shall be filed where required by law, including with the Clerk of the Circuit Court of Rockingham County, Virginia, the Secretary of the Commonwealth of Virginia, and all other appropriate local, state and federal agencies that require notice of annexation, but the failure to file with any such local, state or federal agency shall not affect the validity of any such ordinance.

3. The Annexation Ordinance. Any annexation ordinance adopted by the Town shall include, but not be limited to:

- a. A metes and bounds description of the property to be annexed.
- b. A map showing all parcels to be annexed.
- c. An accurate census of the area to be annexed.

4. No Reimbursement of Revenues. Each party shall be entitled to keep whatever revenues flow to it by reason of any annexations, without any reimbursement of revenues by the Town to the County.

5. Equalization of Utility Charges. The Town agrees that simultaneously with the execution of this Agreement, it will equalize the rates it charges for water and sewer customers outside of its boundaries but within the TAZ so that the rates are the same as those charged within its corporate boundaries.

6. Water, Sewer and Other Municipal Services in Annexed Areas. The Town commits itself to extend water and sewer services into any annexed area to the property lines of all property owners, including residential, commercial and industrial, in accordance with the existing policies of the Town; such extension of utility services to be operational within five (5) years from the effective date of each annexation if the same are needed or if they are requested by the property owners. Other municipal services, exclusive of water and sewer, will be extended by the Town into annexed areas on the effective date of each annexation. All such services will be at the same level and quality as are available generally within the entire Town.

7. Agriculture. The Town has no desire to annex acreage which is principally and actively devoted to agricultural production unless such acreage is largely embraced by property appropriate for annexation and cannot, in the judgment of the Town, be reasonably excluded therefrom. The Town commits that it will continue to protect existing farm lands within any annexed

area through the use of zoning and land use ordinances, including the land use assessment system. The Town states its intention to allow the continued agricultural use of any farm land which it annexes by way of favorable ordinances, subject to best management practices.

8. Development of Area. Although the Town does not commit itself to annex any of the land within the TAZ it does intend to consider seriously requests for annexation and the needs therefor and the feasibility thereof within these areas from time to time. The goal of both the Town and County is to provide for orderly development of the land and to serve the needs of the area as and when they arise. The County pledges that as to any lands within the TAZ that it will consult with the Town before approving subdivisions and rezoning. The County's obligation to consult shall be complied with if the Town is given twenty (20) days to comment on any final subdivision plat. As to zoning, the County shall give thirty (30) days written notice of each public hearing date to the Town and the Town shall give its written comments to the County at least seven days prior to such public hearing. The right to make such changes prior to annexation is reserved by the County but the Town shall be consulted in each instance. No public hearing concerning the unannexed portion of the TAZ, either *de jure* or *de facto*, shall be held by either body without at least twenty days notice to the other.

9. Planning. A comprehensive plan for the use and development of the entire TAZ shall be developed no later than two years from this date by the Town. Before adopting the plan the Town shall refer it to the Planning Commission of Rockingham County who shall study and comment on it to the Board of Supervisors of the County. The County, through the Board of Supervisors, shall then make whatever comments it desires to the Town. The County and Town agree to promptly notify each other of any requested or planned changes in land use, zoning, special use, or development regulations which would affect the TAZ. The County and the Town further agree to solicit, welcome, and carefully consider the views of each other in this regard.

10. No Annexation Outside Agreed Area. The Town agrees that until the entire TAZ is annexed it will not voluntarily seek to annex any other areas. Citizen petitions for annexation shall be processed in accordance with the applicable provisions of the Code of Virginia in effect at the time of the petitions.

11. Sections are Severable. In the event any section of this Agreement is found to be illegal or unconstitutional by a court of competent jurisdiction, such finding shall apply only to that section and all other provisions shall remain in full force and effect, except that if the Town's renunciation of city status is held illegal or unenforceable, County shall have the right to withdraw its consent to annexation and Town shall have the right to rescind its agreement under paragraph five (5) to equalize utility charges.

12. Costs and Attorney's Fees. Each party to this Agreement shall pay its own attorney's fees; all other costs of annexation shall be paid by Town.

13. Right to Modify or Amend. The Town and County reserve the right to modify this Agreement by joint consent and in writing whenever the needs of the Town and County and of the citizens of each require such modification or amendment.

14. Entire Agreement. This written Agreement constitutes the entire agreement between the County and Town on the issue of annexation of the TAZ.

[ SIGNATURE PAGE TO FOLLOW ]

WITNESS the following signatures and seals.

COUNTY OF ROCKINGHAM

By: Charles W. Chrend  
Chairman, Board of Supervisors

ATTEST:

Tom J. O'Neil  
County Administrator

TOWN OF TIMBERVILLE

By: Bob Carney  
Mayor

ATTEST:

Wilda D. White  
Clerk

THE COUNTY OF ROCKINGHAM  
AND THE TOWN OF TIMBERVILLE

ANNEXATION AGREEMENT  
ADDENDUM

THIS ANNEXATION AGREEMENT ADDENDUM is made and entered into this 13<sup>th</sup>  
day of ~~September~~ October, 1999, by and between Rockingham County, Virginia, a political subdivision of  
the Commonwealth of Virginia (County), and the Town of Timberville, Virginia, a municipal  
corporation of the Commonwealth of Virginia (Town).

RECITALS:

A. The Town and County have entered into an Agreement dated April 14, 1999, defining  
annexation rights pursuant to Title 15.2, Article 2 § 15.2-3231, et seq. of the Code of Virginia, 1950  
as amended.

B. The Town and County have agreed to amend Paragraph 5 of the Agreement regarding  
equalization of utility charges.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained  
herein, and pursuant to § 15.2-3231, et seq. of the Code of Virginia, 1950, as amended, the Town  
and County agree to perform the following acts and to be bound by the following amendments.

1. Paragraph 5 "Equalization of Utility Charges" as found in the original Agreement  
of April 14, 1999, shall hereby be amended as follows:

5. Equalization of Utility Charges: The Town agrees that simultaneously with  
its first annexation, it will equalize the rates it charges for water and sewer customers  
outside of its boundaries but within the TAZ so that the rates are the same as those  
charged within its corporate boundaries.

2. All other paragraphs of the original Annexation Agreement dated April 14, 1999, shall remain in full force and effect with no further amendment.

WITNESS the following signatures and seals.

COUNTY OF ROCKINGHAM

By: Charles W. Ahrend  
Chairman, Board of Supervisors

ATTEST:

[Signature]  
County Administrator

TOWN OF TIMBERVILLE

By: [Signature]  
Mayor

ATTEST:

[Signature]  
Clerk



**STATISTICAL PROFILE OF THE TOWN OF TIMBERVILLE, COUNTY OF ROCKINGHAM  
AND THE AREAS COVERED UNDER THE AGREEMENT DEFINING ANNEXATION RIGHTS**

	<u>Timberville Annexation Zone</u>			
	<u>Town of Timberville</u>	<u>County of Rockingham</u>	<u>Immediate Annexation Area</u>	<u>Growth Area</u>
Population (1999)	1,757	64,400	74	98
Land Area	456 ac.	851.2 sq. mi.	63.9 ac.	292 ac.
<b>Assessed Property Values</b>				
Real Estate Values	\$52,801,200	\$3,172,194,684	\$5,251,030	\$3,958,050
Personal Property Values	\$5,552,700	\$341,038,643	\$750,000	N/A
Mobile Homes Values	N/A	\$34,683,088	N/A	N/A
Machinery and Tool Values	N/A	\$149,954,510	N/A	N/A
Merchants Capital Values	N/A	\$66,168,621	N/A	N/A
Public Service Corporation Values	\$1,252,302	\$151,387,500	\$40,364	\$29,502
Farm Equipment Values	N/A	\$55,772,045	N/A	N/A

## NOTES:

N/A = Not Available

Statistics for Rockingham County include data for the Town of Timberville.

Population statistics for the Timberville Annexation Zone are for 1995.

Assessed values for the Town and County are for FY1998/99, while such values and for the Timberville Annexation Zone are for FY1999/00.

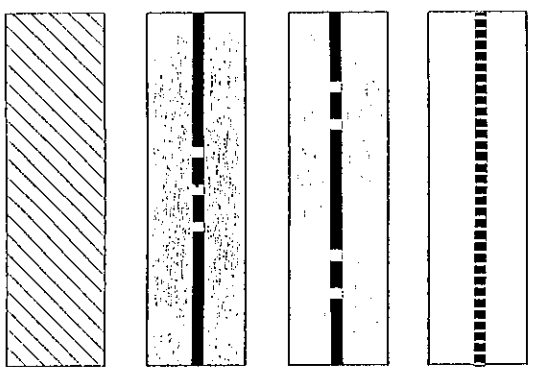
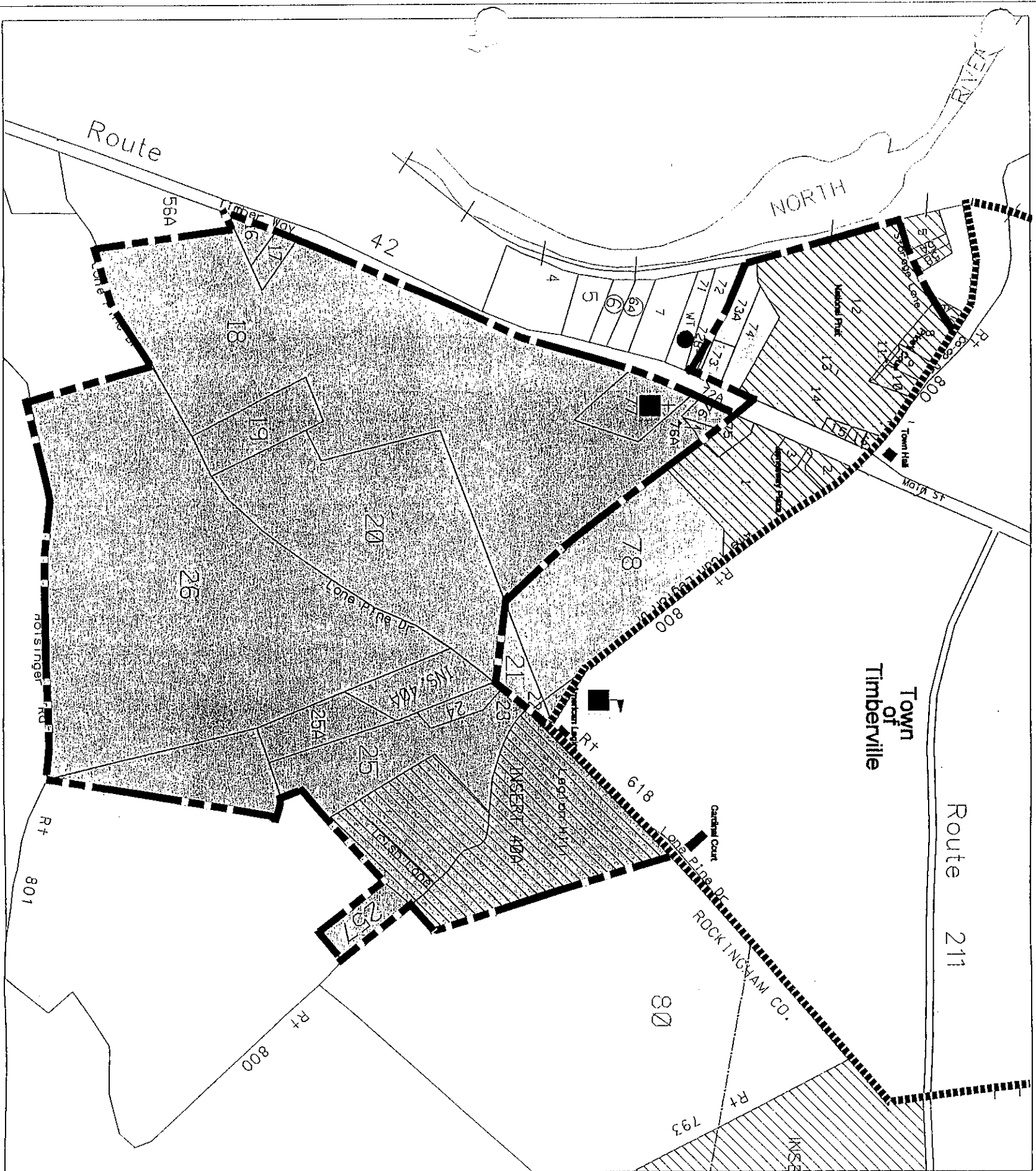
## SOURCES:

Town of Timberville, Town of Timberville Annexation Study.

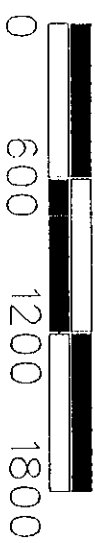
Andrew J. Conlon, Jr., letter to staff of Commission on Local Government, Sep. 11, 2000.

**APPENDIX C**

**Town of Timberville, Virginia  
Annexation Project**



F E E T



Central Shenandoah Planning District Commission, 2000  
Source: Rockingham County, Town of Timberville

*Corporate Limits*

*Immediate Annexation*

*Growth Areas*

*Tax Parcel Inserts*

