

**Report on the  
Town of Bowling Green - County of Caroline  
Voluntary Settlement Agreement**



**Commission on Local Government  
Commonwealth of Virginia**

**September 1996**

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**REPORT ON THE  
TOWN OF BOWLING GREEN - COUNTY OF CAROLINE  
VOLUNTARY SETTLEMENT AGREEMENT**

**PROCEEDINGS OF THE COMMISSION**

On March 1, 1996 the Town of Bowling Green and Caroline County formally submitted to the Commission on Local Government for review a proposed voluntary settlement agreement which had been negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia. Consistent with the Commission's Rules of Procedure, the joint notice was accompanied by data and materials supporting the proposed agreement.<sup>1</sup> Further, in accordance with statutory requirements, the Town and County concurrently gave notice of the proposed agreement to ten other political subdivisions with which they were contiguous or with which they shared functions, revenues, or tax sources.<sup>2</sup> The proposed agreement contains provisions which would (1) grant the Town an annexation of 1.02 square miles of territory in Caroline County, (2) establish a moratorium on further Town-initiated annexations for a period of 12 years subsequent to the effective date of the annexation, (3) require the Town to share with the County certain local tax revenues it derives from portions of the area proposed for annexation, and (4) establish a Town-County collaborative effort to oversee development in the U. S. Route 301 North corridor.<sup>3</sup>

The Commission convened in Bowling Green on June 3, 1996 to tour the Town and relevant areas in Caroline County, to receive oral testimony from local officials regarding the agreement, and to conduct a public hearing

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<sup>1</sup>Town of Bowling Green and County of Caroline, **Submission to the Commission on Local Government** (hereinafter cited as **Joint Notice**), Feb. 29, 1996.

<sup>2</sup>Sec. 15.1-945.7(A), Code of Va.

<sup>3</sup>**Agreement in Principle for Settling Annexation Issues Between the Town of Bowling Green and the County of Caroline** (hereinafter cited as **Annexation Agreement**). See **Appendix A** for the complete text of the **Annexation Agreement**.

for the purpose of receiving citizen comment.<sup>4</sup> The public hearing, which was advertised in accordance with Section 15.1-945.7(B) of the Code of Virginia, was attended by approximately 29 persons and produced testimony from 7 individuals. In order to permit receipt of additional public comment, the Commission agreed to keep open its record for written submissions through June 17, 1996.

### **SCOPE OF REVIEW**

The Commission on Local Government is directed by law to review proposed annexations, petitions for partial county immunity, and other local boundary change and transition issues, as well as negotiated agreements settling such matters, prior to their presentation to the courts for ultimate disposition. Upon receipt of notice of such proposed action or agreement, the Commission is directed "to hold hearings, make investigations, analyze local needs" and to submit a report containing findings of fact and recommendations regarding the issue to the affected local governments.<sup>5</sup> With respect to a proposed agreement negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia, the Commission is required to determine in its review "whether the proposed settlement is in the best interest of the Commonwealth."

As we have noted in previous reports, it is evident that the General Assembly encourages local governments to attempt to negotiate settlements of their interlocal concerns. Indeed, one of the statutory responsibilities of this Commission is to assist local governments in such efforts. In view of

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<sup>4</sup>Due to illness, Commissioner Harold S. Atkinson did not take part in the June 3, 1996 proceedings and, accordingly, was not a participant in the discussions, deliberations, drafting, or approval of the Commission's report on this settlement agreement.

<sup>5</sup>Sec. 15.1-945.7(A), Code of Va.

this legislative intent, the Commission believes that proposed interlocal agreements, such as that negotiated by the Town of Bowling Green and Caroline County, should be approached with respect and a presumption of their compatibility with applicable statutory standards. The Commission notes, however, that the General Assembly has decreed that interlocal agreements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia shall be reviewed by this body prior to their final adoption by the local governing bodies. We are obliged to conclude, therefore, that while interlocal agreements are due respect and should be approached with a presumption of their consistency with statutory standards, such respect and presumption cannot be permitted to render our review a **pro forma** endorsement of any proposed settlement. Our responsibility to the Commonwealth and to the affected localities requires more.

## **GENERAL CHARACTERISTICS OF THE TOWN, THE COUNTY, AND THE AREAS SUBJECT TO ANNEXATION**

### **TOWN OF BOWLING GREEN**

The Town of Bowling Green, which was incorporated by the General Assembly in 1837, and the community which preceded it have constituted the seat of government for Caroline County since 1732.<sup>6</sup> Unlike most other towns in the Commonwealth, the resident population of Bowling Green grew during the preceding decade, with its populace increasing between 1980 and 1990 from 665 to 727 persons, or by 9.3%.<sup>7</sup> Further, a population

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<sup>6</sup>J. Devereux Weeks, **Dates of Origin of Virginia Counties and Municipalities** (Charlottesville: Institute of Government, University of Virginia, 1967); and Town of Bowling Green, **Comprehensive Plan, Town of Bowling Green** (hereinafter cited as **Town Comprehensive Plan**), Apr. 1987, p. 3.

<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 2. Bowling

estimate for 1994 placed the Town's populace at 752 persons, an increase of an additional 3.4% since the preceding decennial census.<sup>8</sup> Based on its land area of 0.65 square miles and the 1994 population estimate, the Town has a population density of 1,157 persons per square mile.<sup>9</sup>

With respect to the nature of its population, the evidence reveals that on average the Town's populace is considerably older and with lower income than that of the State as a whole. As of 1990 (the most recent year for which data are available) the median age of Bowling Green residents was 37.4 years, a statistic markedly greater than that for the State overall (32.6 years).<sup>10</sup> Further, the percentage of Bowling Green's 1990 population which was age 65 years or over was 25.2%, or more than double the comparable figure for the State generally (10.7%).<sup>11</sup> In terms of personal earnings, data reveal that as of 1989 (the latest year for which such data are available) the median household income in Bowling Green was \$26,023, or only 78.1% of

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Green's 1990 population represented only 3.8% of Caroline County's total population as of that date. Less than one-third of Virginia's 189 towns experienced an increase in population during the decade of the 1980s.

<sup>8</sup> Unpublished data from the U. S. Department of Commerce, Bureau of the Census, May 1995.

<sup>9</sup>**Joint Notice**, Tab "Land Use." See **Appendix B** for a statistical profile of the Town, the County, and the area proposed for annexation under the terms of the settlement agreement. See **Appendix C** for a map of the Town and those areas.

<sup>10</sup>U. S. Department of Commerce, Bureau of the Census, unpublished data from the 1990 Census of Population and Housing, Summary Tape File 1A, Virginia; and **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2.

<sup>11</sup>**Ibid.**

the statistic for the Commonwealth as a whole (\$33,328).<sup>12</sup> In regard to the Town's present physical development, 1996 land use data reveal that 33.3% of Bowling Green's total area is devoted to residential development, 9.1% to commercial enterprise, 6.3% to public or semi-public uses, 7.7% to transportation purposes, with 43.6% (182 acres) remaining undeveloped.<sup>13</sup> Data presented by Bowling Green reveal, however, that more than one-third of the vacant property within the Town is situated on slopes greater than 15% or located within tracts which have been designated by the Town as Chesapeake Bay Preservation Areas pursuant to Sec. 10.-2109 of the Code of Virginia.<sup>14</sup> Further, Bowling Green officials have indicated that much of the remaining undeveloped acreage within the Town has development limitations imposed by locational concerns, parcel size, access to utilities or public arterials, or other legitimate land use considerations.<sup>15</sup>

Data are not available which would provide a profile of employment in the Town and, thereby, indicate the nature of the commercial activity within the municipality. Bowling Green is, however, the seat of the County government and contains most of the County's administrative and judicial

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<sup>12</sup>U. S. Department of Commerce, Bureau of the Census, unpublished data from the 1990 Census of Population and Housing, Summary Tape File 1A, Virginia; and U. S. Department of Commerce, Bureau of the Census, **1990 Census of Population and Housing, Summary Social, Economic, and Housing Characteristics, Virginia**, Table 9.

<sup>13</sup>**Joint Notice**, Tab "Land Use." It is significant to note that the recent survey of land usage in Bowling Green disclosed that none of the territory within the Town is devoted to industrial operations.

<sup>14</sup>Frank L. Benser, Mayor, Town of Bowling Green, letter to staff of Commission on Local Government, May 3, 1996. With respect to the latter areas, the Commission observes that while the natural resource protection requirements of the Chesapeake Bay Preservation Act do not bar the development of affected properties, in some instances, they do constrain its utility and availability.

<sup>15</sup>**Ibid.**

offices, as well as commercial establishments which support the workforce employed by those public entities.

### **COUNTY OF CAROLINE**

Caroline County was established in 1727 from territory that was formerly a part of Essex, King and Queen, and King William Counties.<sup>16</sup> As in the case of the Town, Caroline County experienced growth in its population during the decade of the 1980s, with its populace increasing from 17,904 to 19,217 persons, or by 7.3%.<sup>17</sup> The official population estimate for 1994 placed the County's population at 20,500 persons, an increase of 6.7% since the preceding decennial census.<sup>18</sup> On the basis of its 1994 population and an area of 533 square miles, Caroline County has an overall population density of 38 persons per square mile.<sup>19</sup>

With respect to the nature of its population, statistical indices disclose that the age profile of the County's populace is comparable to that of the State generally but that the income level of its residents is less than that of the Commonwealth overall. Data indicate that, as of 1990 (the most recent

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<sup>16</sup>**Dates of Origin of Virginia Counties and Municipalities.**

<sup>17</sup>**1980 Census of Population, General Population Characteristics, Virginia**, Table 14; and **1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 2. In addition to Bowling Green, there is one other incorporated town, Port Royal, located within Caroline County. Between 1980 and 1990 the population of the unincorporated portion of Caroline County increased by 7.9%.

<sup>18</sup>Julia H. Martin and Donna J. Tolson, **Virginia's Population, 1995 Estimates** (Charlottesville: Weldon Cooper Center for Public Service, June 1996).

<sup>19</sup>**1990 Census of Population and Housing, Summary Population and Housing Characteristics, Virginia**, Table 15.



year for which data are available), the median age of residents of Caroline County was 33.2 years, a statistic less than that of the Town (37.4 years) but virtually the same as that for the State as a whole (32.6 years).<sup>20</sup> Further, the data indicate that, as of 1990, 11.8% of the County's population was age 65 or over, a figure less than half that of the Town (25.2%) but only slightly in excess of that of the State overall (10.7%).<sup>21</sup> In terms of earnings, the median household income for Caroline County residents in 1989 was \$28,934, a figure in excess of that for the Town (\$26,023), but only 86.8% of the comparable statistic for the Commonwealth overall (\$33,328).<sup>22</sup>

In regard to the nature of its physical development, the data indicate that Caroline County has experienced growth in commercial and industrial activity in recent years. Statistics reveal that between 1984 and 1994 the number of nonagricultural wage and salary positions in the County increased from 3,156 to 4,099, or by 29.9%.<sup>23</sup> As of 1994, however, nearly two-thirds of the County's total civilian labor force (10,314 persons) continued to be engaged in agricultural activity, was required to seek employment outside Caroline County, or was unemployed.<sup>24</sup> Indeed, the evidence suggests that

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<sup>20</sup>**1990 Census of Population and Housing. Summary Population and Housing Characteristics, Virginia**, Table 1. The data for Caroline County include that for the residents of the County's two incorporated towns.

<sup>21</sup>**Ibid.**

<sup>22</sup>**1990 Census of Population and Housing. Summary Social, Economic, and Housing Characteristics, Virginia**, Table 10.

<sup>23</sup>Virginia Employment Commission, Economic Information Services Division, "**ES-202 Covered Employment and Wages File, Annual Average Employment**"; and Virginia Employment Commission, Economic Information Services Division, "**Estimated Labor Force.**"

<sup>24</sup>**"Estimated Labor Force."** Statistics for Caroline County include those for the residents of its two incorporated towns. The term "civilian labor force" is defined to include all individuals 16 years of age or over (exclusive of persons serving in the armed forces) within a specified

agricultural and forestal activities remain significant components of the County's economy. According to 1992 U. S. Bureau of the Census data, there were 181 farms in the County occupying a total of 51,604 acres, or approximately 81 square miles.<sup>25</sup> Further, 1991 data disclose that there were 261,702 acres (approximately 409 square miles) in Caroline County classified as "timberland."<sup>26</sup> In sum, while Caroline County has experienced growth in its nonagricultural wage and salary employment in recent years, the County remains predominantly rural.

### **AREA PROPOSED FOR ANNEXATION**

The area proposed for annexation in the agreement negotiated by the Town of Bowling Green and Caroline County contains 1.02 square miles of territory, 229 persons, and, based on FY1994/95 data, \$14.7 million in

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geographic area who are either employed or unemployed and actively seeking employment. In 1990, 5,936 County residents traveled to jobs located outside the boundaries of Caroline County. (Virginia Employment Commission, Economic Information Services Division, **Commuting Patterns of Virginia Workers: County and City Level for 1990**, Mar. 1993.)

<sup>25</sup>U. S. Department of Commerce, Bureau of the Census, **1992 Census of Agriculture, Virginia**, Table 1, p. 164. In 1992 the average market value of agricultural products sold by farms in Caroline County was \$45,791, while the comparable figure for the State collectively was \$48,694. (**Ibid.**, Table 2, p. 180.)

<sup>26</sup>U. S. Department of Agriculture, Forest Service, **Forest Statistics for the Coastal Plains of Virginia, 1992**, Table 1. The Forest Service defines "timberland" as property being at least 16.7% stocked by forest trees of any size, or formerly having had such tree cover and not currently developed for nonforest use, capable of producing 20 cubic feet of industrial wood per acre per year, and not withdrawn from timber utilization by legislative action. Such property may also be included in the Census Bureau's definition of "farm land."

assessed property values subject to local taxation.<sup>27</sup> Thus, the area contains 0.2% of the County's total land area, 1.1% of its population, and 1.7% of its FY1994/95 assessed property values subject to local taxation.<sup>28</sup> Based on its area and the 1994 population estimate, the area proposed for annexation has a population density of 225 persons per square mile, or nearly six times that of Caroline County in general (38 persons per square mile).

In terms of current development, the area contains several residential areas, a shopping center, other commercial establishments, and the Town's sewage treatment plant.<sup>29</sup> According to the most recent land use data, 11.3% of the area proposed for annexation is devoted to residential development, 4.2% to commercial enterprise, 1.0% to public and semi-public uses, 16.9% to transportation purposes, with 66.9% of the area (437 acres) remaining vacant or engaged in agricultural production.<sup>30</sup> Exclusive of land restricted in its development potential due to environmental constraints (i.e., situated on slopes greater than 15%) or appropriate land use considerations, the area proposed for annexation contains 217 acres of

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<sup>27</sup>**Joint Notice**, Tab "Land Use," Tab "Property Values"; and Benser, letter to staff of Commission on Local Government, May 3, 1996. Assessed values for the area proposed for annexation include those for real estate, personal property, and machinery and tools.

<sup>28</sup>**Ibid.** Although Caroline County has adopted use value assessment for qualifying properties, data on total assessed values are based on fair market value of its real estate. In addition, the assessed value of the County's public service corporation property is not included.

<sup>29</sup>Commercial facilities in the area proposed for annexation include the Bowling Green Plaza shopping center adjacent to the southwestern boundary of the current Town and several businesses located along the U. S. Route 301 North corridor between the present municipal boundaries and Fort A. P. Hill.

<sup>30</sup>**Joint Notice**, Tab "Land Use."

vacant land generally suitable for development.<sup>31</sup> In sum, although the area proposed for annexation is predominantly vacant, it does contain several focal points of development.

### **STANDARDS FOR REVIEW**

As a previous section of this report has noted, the Commission on Local Government is charged with reviewing proposed interlocal settlements negotiated under the authority of Section 15.1-1167.1 of the Code of Virginia to determine whether such settlements are "in the best interest of the Commonwealth." In our judgment, the State's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general viability of the affected localities. In this instance, the Commission is required to review an interlocal agreement which provides for (1) the annexation by the Town of Bowling Green of 1.02 square miles of territory in Caroline County, (2) the establishment of a moratorium on further Town-initiated annexations through November 2007, (3) the payment to the County of certain local tax revenues to be collected by Bowling Green from specified commercial entities in the area proposed for annexation, and (4) the establishment of a joint advisory committee to assist with the planning and economic development of the U. S. Route 301 North corridor. A proper analysis of the proposed Town of Bowling Green - Caroline County settlement agreement, as mandated by statute, requires consideration of the ramifications of these provisions with respect to the current and future viability of the two jurisdictions.

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<sup>31</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996. Among the acreage located in the area proposed for annexation which are unavailable for development is a 128-acre tract subject to a perpetual historic easement. Also included in the vacant land with restricted development potential are parcels which the Town contemplates being subject to the provisions of the Chesapeake Bay Preservation Act.

## **INTERESTS OF THE TOWN OF BOWLING GREEN**

### **Land for Development**

As indicated previously, the Town of Bowling Green currently has within its boundaries approximately 182 acres of undeveloped land, with that acreage constituting 43.6% of the Town's total land area.<sup>32</sup> Excluding from that total acreage, however, property situated on slopes exceeding 15% or subject to the provisions of the Chesapeake Bay Preservation Act, Bowling Green has 118 acres, or 28.4% of its total land area, vacant and generally amenable to development.<sup>33</sup> Town officials have advised, however, that much of that vacant land is limited in its development potential by parcel size, poor access to transportation facilities, land ownership patterns, or by appropriate land use considerations (e. g., the nature of adjacent development, accessibility to utilities). While adverse environmental factors and locational concerns are not absolute barriers to the development of land, they do render sites less attractive to developers and can constitute major impediments affecting their utilization. Some evidence of the limited opportunity for development within the Town is provided by the fact that between FY1990/91 and FY1994/95 no new residential subdivision lots were recorded within the current boundaries of Bowling Green, while during the same period 186 subdivision lots were platted in other portions of the County.<sup>34</sup>

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<sup>32</sup>**Joint Notice**, Tab "Land Use."

<sup>33</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996.

<sup>34</sup>**Ibid.**; and Jean M. Kelly, Attorney, County of Caroline, letter to staff of Commission on Local Government, May 3, 1996. Statistics for the County include only subdivisions containing three or more lots requiring a new street or the extension of public water or sewerage or any other public improvements.

The proposed annexation would bring within the Town approximately 217 acres of vacant land with access to major thoroughfares and Town water and sewage services.<sup>35</sup> The development potential of the area proposed for annexation is suggested by the growth currently occurring contiguous to the Town's northeastern and southwestern boundaries. The proposed annexation will provide the Town of Bowling Green with additional vacant land with a potential for future development.

### **Fiscal Assets and Public Service Liabilities**

**Fiscal Assets.** The Town of Bowling Green, which has historically constituted a focal point of development in the central portion of Caroline County, in recent years has not experienced growth in its fiscal base commensurate with that of the County generally. Between FY1990/91 and FY1994/95 the assessed value of real estate in the Town grew from \$28.5 million to \$32.1 million, or by 12.7%. During the same span of years, such values in Caroline County overall grew twice as rapidly, increasing from \$640.0 million to \$793.7 million, or by 24.0%.<sup>36</sup> Moreover, with respect to total revenue derived from all local sources, the data indicate that during the same period of time such revenue in the Town increased by 31.0%, while that of the County grew by 49.5%.<sup>37</sup> Thus, both the Town's principal tax base (i. e., real property assessables) and its total revenue extracted from all

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<sup>35</sup>The Commission notes that U. S. Route 301 transits portions of the area proposed for annexation.

<sup>36</sup>**Joint Notice**, Tab "Property Values." Assessed real property values for the County include property located within the towns of Bowling Green and Port Royal.

<sup>37</sup>Town of Bowling Green, **Financial Statements, June 30, 1991**, p. 3; Town of Bowling Green, **Financial Report, June 30, 1995** (hereinafter cited as **Town Financial Report, FY1994/95**) p. 4.; County of Caroline, **Financial Report, June 30, 1991**, Exh. F-1; and County of Caroline, **Financial Report, June 30, 1995** (hereinafter cited as **County Financial Report, FY1994/95**), Schedule 1.

local sources grew in recent years at rates substantially less than that of the County overall.<sup>38</sup>

In terms of the comparative fiscal burden borne by Bowling Green residents, an examination of the real estate tax rates in Virginia towns of comparable size is of relevance. Based upon the ratio between assessed property values and recorded sale prices, as calculated by the Virginia Department of Taxation, the true real property tax rate in Bowling Green in 1994 (the latest year for which the calculation has been made) was \$0.16 per \$100, an amount slightly less than the average of such tax rates in the 48 other towns in Virginia with populations of similar size (400 - 1,000).<sup>39</sup> However, as a consequence of the overlay of Town and County levies, the residents of the Town of Bowling Green carried an aggregate true real property tax burden in 1994 more than 25% greater than that borne by residents of the unincorporated areas of Caroline County (\$0.59).<sup>40</sup> With respect to total real property taxes paid, in FY1994/95 Bowling Green residents contributed an estimated \$72.51 per capita to the Town and, in conjunction with residents in Caroline County generally, \$244.18 per capita

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<sup>38</sup>It should be noted, however, a portion of the growth in the County's local-source revenues between FY1990/91 and FY1994/95 was the result of recently enacted meal and transient occupancy taxes by the County. The County did not receive a full year's revenue from its meals tax until FY1990/91 and did not impose its transient occupancy tax until FY1991/92.

<sup>39</sup>Virginia Department of Taxation, **1994 Virginia Assessment/Sales Ratio Study**, Feb. 1996; and Virginia Department of Taxation, **Virginia Local Tax Rates, Tax Year - 1994**. The set of towns for this analysis was selected on the basis of their 1990 populations. In order to calculate a true tax rate for the jurisdictions under study, the nominal real property tax rate of each town was multiplied by the median assessment - sales ratio of the respective county. The average true real estate tax rate for the 48 towns in 1994 was \$0.17 per \$100 of true value, and the range of such rates was between a low of \$0.00 and a high of \$1.04.

<sup>40</sup>**1994 Virginia Assessment/Sales Ratio Study**; and **Virginia Local Tax Rates, Tax Year - 1994**.

to the County.<sup>41</sup> Thus, Bowling Green residents bore a per capita local real property tax burden in FY1994/95 nearly 30% greater than that of residents in unincorporated portions of the County.

The proposed agreement will permit the Town to annex an area containing approximately \$14.7 million in total FY1994/95 assessed real estate, tangible personal property, and machinery and tool values, resulting in an increase of 43.5% in the Town's total of such values.<sup>42</sup> Based on current assessment data, tax rates, and fee structure, the area proposed for annexation is expected to generate initially approximately \$121,300 annually in additional local-source revenue for the Town, an increase of 35.1% above Bowling Green's total local-source revenue collections in FY 1994/95.<sup>43</sup> However, this amount would be reduced by \$26,000, or by more than 21%, under the terms of the revenue-sharing provisions contained in the proposed agreement.<sup>44</sup> With respect to intergovernmental aid, Bowling

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<sup>41</sup>**Joint Notice**, Tab "Property Values," Tab "Tax Rates"; and **County Financial Report, FY1994/95**. Towns in Virginia may tax all classes of property eligible for taxation by a county. In such instances, town property taxes do not supplant county property taxes. Because discrete data concerning real property tax revenues for FY1994/95 is not available for the Town, the per capita contribution of Bowling Green residents was calculated using the reported 1995 assessed property values of land and buildings (\$32,076,100), the municipality's 1995 nominal real estate tax rate (\$0.17 per \$100 of assessed value), and its 1994 population estimate.

<sup>42</sup>**Joint Notice**, Tab "Property Values."

<sup>43</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996. The estimate does not include recovered costs or receipts from the Town's water or sewer enterprise activities.

<sup>44</sup>**Ibid**. The proposed agreement requires Bowling Green to pay the County (1) the meals and business, professional, and occupational license tax receipts the Town will collect from the Bowling Green Plaza shopping center until January 1, 1997 and (2) the meals tax receipts from three restaurants located in the U. S. Route 301 North corridor through June 30, 2011 or until the County's current school construction indebtedness is retired, whichever comes first. Since the revenue-sharing provision



Green has estimated that the proposed annexation will result in a modest increase of approximately \$700 in State aid for the municipality.<sup>45</sup>

**Public Service Liabilities.** While the extension of Bowling Green's boundaries as authorized by the agreement will provide the Town with additional revenues and the potential for future economic growth, it will concurrently present the municipality with increased public service responsibilities. In terms of these additional public service responsibilities, the Town estimates that it will be required to expend initially \$13,500 for capital improvements and \$43,249 annually for operational purposes from its general fund.<sup>46</sup> Thus, the limited capital improvements proposed by the Town immediately following the annexation and the operating cost for the extension of services to the area proposed for annexation can be met from the estimated increase in general fund revenue resulting from the extension of the Town's boundaries.

The proposed annexation will, however, impose initially a loss on the Town's enterprise accounts. Following the effective date of annexation, the surcharge imposed on residents in the area annexed receiving water and sewer service from the Town will be terminated.<sup>47</sup> As a consequence,

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affecting the Bowling Green Plaza Shopping Center will expire prior to the effective date of the proposed agreement, its impact on the estimated local-source receipts which the Town will receive from the area proposed for annexation is not a consideration.

<sup>45</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996.

<sup>46</sup>**Ibid.**; and Benser, letter to staff of Commission on Local Government, June 24, 1996. The additional capital expenditure the first year following the proposed annexation are for the installation of streetlights in the area incorporated into the Town.

<sup>47</sup>Residents and businesses that are located beyond the Bowling Green's corporate limits and connected to the Town's water lines pay a monthly surcharge of 100%, while the monthly surcharge for out-of-town

Bowling Green officials estimate that annual receipts by the Town's enterprise funds will be reduced by approximately \$19,500 during the first year after the annexation.<sup>48</sup> That reduction in revenues will contribute to a projected initial annual deficit in the municipality's water and sewer enterprise accounts of approximately \$19,100.<sup>49</sup> Town officials have indicated that general fund revenues will be transferred to the water and sewer accounts to address the projected annual deficit.<sup>50</sup>

The need and demand for an extension of utility services in the area proposed for annexation will increase the fiscal pressure on the Town. Although Bowling Green's water and sewer lines currently serve most of the developed portions of the area proposed for annexation, the Town has identified a need for public utilities in the U. S. Route 301 North corridor.<sup>51</sup> Despite that recognized need, the proposed agreement does not commit the Town to extending water and sewer to serve that area following the effective date of annexation. A Bowling Green official has indicated that the Town will not undertake the utility projects needed to serve U. S. Route 301 North

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municipal sewage collection services is between 13% and 20%. (**Joint Notice**, Tab "Services.")

<sup>48</sup>Benser, letter to staff of Commission on Local Government, June 24, 1996. Bowling Green's adopted FY1996-97 Budget indicates that the total operating revenues for its water and sewer enterprise funds will be approximately \$387,700. For the first year following the effective date of the proposed annexation, the Town estimates that enterprise fund operating revenues will decline to \$368,200.

<sup>49</sup>**Ibid.**

<sup>50</sup>**Joint Notice**, Tab "Terms and Conditions of Annexation"; and Benser, letter to staff of Commission on Local Government, May 3, 1996.

<sup>51</sup>**Ibid.**

corridor without financial assistance from affected property owners and the receipt of loans or grants.<sup>52</sup>

In terms of Bowling Green's capacity to address the utility needs of the U. S. Route 301 North corridor, the Town estimates that approximately \$796,000 would be required for the construction of the water and sewerage facilities needed to serve that area.<sup>53</sup> The Town's ability to undertake the needed capital improvements is clearly in doubt based on the projected deficit in its enterprise fund. Although the Town currently has a capital reserve in its water and sewer accounts, those funds are being used to pay the debt service costs for the recent expansion of the municipal treatment facility.<sup>54</sup> Further, there are data to indicate that the Town will be constrained regarding future increases in user fees to defray deficits in its utility accounts and to fund capital projects. Based on a 1995 survey of local water and sewer charges in 53 of Virginia's towns, the combined monthly water and sewer rate for residential customers in the Town of Bowling Green (\$42.50) was significantly above the average of such rates reported by

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<sup>52</sup>**Ibid.**; and Benser, letter to staff of Commission on Local Government, June 24, 1996. According to a Town official, property owners in the U. S. Route 301 North corridor have agreed to pay in advance of receiving utility service a portion of the cost of installing municipal water and sewerage to serve that area. (Benser, letter to staff of Commission on Local Government, June 24, 1996.) Those commitments by the affected land owners, the Commission has been advised, will be future credits against the connection fees which will be levied by the Town once that utility project is completed. In addition, the Town is currently seeking loans from local banks or intergovernmental aid to acquire the additional funds necessary to extend water and sewerage to the U. S. 301 North corridor.

<sup>53</sup>Benser, letter to staff of Commission on Local Government, June 24, 1996.

<sup>54</sup>Town officials have indicated that in early 1996 Bowling Green's water and sewer enterprise account had an accumulated reserve balance of approximately \$269,000. Those funds, however, have been used by the Town to pay the approximately \$154,000 annual debt service on the recent improvements to the municipal sewage treatment plant. (Benser, letter to staff of Commission on Local Government, May 6, 1996.)

those jurisdictions.<sup>55</sup> Furthermore, Bowling Green's proposal to use reserve balances to address the projected annual shortfall in utility will have the effect of reducing the Town's capacity to meet its various future capital requirements. Moreover, reliance on transfers from the Town's general fund reserves to supplement its enterprise activities, which should be supported by user fees and charges, offers only an interim solution to the locality's fiscal concerns. In sum, while the proposed agreement will provide Bowling Green with fiscal assets which will enable the Town to extend its general governmental services to the residents and business in the annexed area, it will not provide the Town with sufficient local-source revenues to address in a prompt manner the utility needs of the additional territory incorporated into the municipality.

## **INTERESTS OF THE AREA PROPOSED FOR ANNEXATION**

### **Community of Interest**

One of the factors appropriate for consideration in the analysis of proposed voluntary settlements of this nature is the strength of the community of interest which joins the area proposed for annexation to the adjacent municipality. In this instance, the evidence suggests that there exists a significant degree of interdependence between the Town of Bowling Green, the area proposed for annexation, and, as well as other areas adjacent to the municipality. In terms of the area proposed for annexation, the data reveal that the Town is the source of certain fundamental public services to

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<sup>55</sup>Draper Aden Associates, Virginia Association of Counties, and Virginia Municipal League, "1995 Virginia Water and Sewer Rate Survey." The utility rates cited are the aggregate cost for 5,000 gallons per month of water and sewer service to residential customers located within the subject jurisdictions. The average aggregate utility rate charged by the 53 towns used for this analysis was \$27.47, and the range of such rates was between a low of \$7.92 per month and a high of \$50.70 per month. While not all towns responded to the recent survey, the sample size is sufficient for comparative purposes.

its residents and businesses. The Town presently provides water, sewerage, and solid waste collection service to a substantial number of residences and business establishments located in the proposed annexation area. In addition, the Town's police department routinely responds to emergency calls within that area.<sup>56</sup> Thus, the areas adjacent to Bowling Green presently benefit from several major public services provided by the Town. Further, the presence in the Town of numerous public, semi-public, and other facilities serving the populace of the general area increases the relationship between Bowling Green and the property on its periphery. Such facilities include government offices, churches, and various offices for professional services, health care, and community organizations serving central Caroline County.<sup>57</sup>

With respect to the strength and general nature of the community of interest between the Town of Bowling Green and its adjacent areas, four additional points should be cited. First, U. S. Route 301 and State Routes 2 and 207 constitute the principal "gateways" to Bowling Green. The quality and nature of development along those thoroughfares is of considerable significance to that municipality and will affect its future viability. Second, the business establishments located in the area proposed for annexation are sustained, in part, by the patronage of Town residents.<sup>58</sup> Third, the Town houses the volunteer fire department and rescue squad, which serve both

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<sup>56</sup>There are 126 water connections and 80 sewer connections to Town utility lines in the area proposed for annexation. In addition, Bowling Green furnishes solid waste collection services to 1 commercial and 21 residential customers located in the area proposed for annexation. (Benser, letter to staff of Commission on Local Government, May 3, 1996.)

<sup>57</sup>**Joint Notice**, Tab "Community of Interest." The Bowling Green Health Care Center, which is located in the Town, is an important medical facility serving the residents of the general area.

<sup>58</sup>The Commission observes that the shopping center in the area proposed for annexation contains a grocery store which serves the residents of the Town as well as those of the surrounding area.

Bowling Green, the proposed annexation area, and other territory in Caroline County. Finally, the nature of development in the territory adjacent to Bowling Green gives those areas, in general, an added community of interest with the Town. The area proposed for annexation has a population density of approximately 225 persons per square mile, considerably in excess of the 1994 population density of Caroline County overall (38 persons per square mile). This density of population gives the area proposed for annexation an urban nature and service needs which more closely parallel those of the Town than those of the outlying portion of the County. A number of developments radiating from the Town along the primary and secondary highways are, in our judgment, essentially extensions of development originating within Bowling Green. Indeed, the principal access to several residential neighborhoods in that area is through the Town of Bowling Green. On the basis of these various considerations, we have no difficulty concluding that there exists a strong relationship between the Town of Bowling Green and its adjacent areas, constituting, in the aggregate, a significant community of interest.<sup>59</sup>

### **Need for Urban Services**

The 1.02 square miles of territory which is the subject of this annexation agreement is estimated to contain a population of 229 persons, giving the area, as noted previously, a population density of 225 persons per square mile. While approximately 67% of the area proposed for annexation is currently vacant or in agricultural use, the area does contain several

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<sup>59</sup>Section 15.1-1167.1 of the Code of Virginia, the statute under which the current agreement has been negotiated, requires a municipality annexing under its provisions to redraw election districts and to hold elections if the annexation increases the population of the affected jurisdiction by more than five percent. Since the initial annexation authorized by the proposed agreement will increase the Town's population by approximately 31%, the residents of the areas annexed will become engaged quickly in the electoral affairs of the municipality.

residential concentrations and a number of commercial entities. With respect to its prospective future development in that area, the current Caroline County comprehensive plan, which was based upon an extensive analysis of the County's needs and anticipated growth, calls for development to occur within that territory and in other areas adjacent to Bowling Green.<sup>60</sup> Thus, the evidence indicates that the area subject to annexation by the Town will experience continued development and will increasingly need the urban services which can be provided by the municipality.

**Sewerage.** The Town's sewage treatment plant, which was constructed in 1992, has a rated capacity of 0.25 million gallons per day (MGD) and presently receives an average daily flow of 0.08 MGD, leaving the facility an excess capacity of 0.17 MGD, or 68.0% of its rated capacity.<sup>61</sup> The municipal sewage collection system serves 416 connections, including 80 in the area proposed for annexation and 29 in other areas adjacent to the Town.<sup>62</sup> It is important to note that the Town's sewerage system, which has served central Caroline County for more than 50 years, is presently the only

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<sup>60</sup>County of Caroline, Virginia, **1994-2004 Comprehensive Plan** (hereinafter cited as **County Comprehensive Plan**), pp. 8-19 - 8-20; and Figure 8-1. The County's comprehensive plan designated Bowling Green and its environs as one of three primary growth areas where future development is to be serve by public utilities. (**Ibid.**, p. 8-9.) The Commission notes that the County's first comprehensive plan, which was adopted in 1977, also designated the Town's environs as a primary growth area. (**Ibid.**, p. 1-1.)

<sup>61</sup>**Joint Notice**, Tab "Services." Due to the age of the Town's collection lines, however, a portion of the flow through the Bowling Green facility is the result of the infiltration of groundwater and the inflow of stormwater. The Town is in the process of testing those lines to identify the source of the problems. (Benser, letter to the staff of the Commission on Local Government, May 3, 1996.)

<sup>62</sup>**Joint Notice**, Tab "Services"; and Benser, letter to the staff of the Commission on Local Government, May 3, 1996. Municipal sewage lines serve 75 residential connections and 5 commercial customers in the area proposed for annexation.

source of central sewage treatment available to serve the area proposed for annexation. The residents of that area and its environs not served by the municipality are dependent on individual septic tanks.<sup>63</sup>

In terms of the impact of the proposed agreement on sewage service in the annexed area, the incorporation of that area into Bowling Green will have the effect of terminating surcharges on connection fees and user charges and will, thereby, substantially reduce the cost of service to the residents and commercial entities located therein.<sup>64</sup> While the proposed agreement does not commit the Town to extend its collection lines in the area to be annexed, Bowling Green has, however, indicated its intention to install sewerage to serve the U. S. Route 301 North corridor, if funding is available.<sup>65</sup> In terms of the need for such in the U. S. Route 301 North corridor, records of the Caroline County Health Department disclose that lot sizes and soil conditions have prevented reliance on septic tanks and have

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<sup>63</sup>Caroline County established in 1989 a sewage collection and treatment system which serves principally the western portion of its territory. The Commission notes, however, that a County collection line serves its school complex located approximately four miles southwest of Bowling Green. (**County Comprehensive Plan**, pp. 6-11 - 6-12, Figure 6-6.)

<sup>64</sup>**Joint Notice**, Tab "Services." Sewer connection fees imposed by Bowling Green are 100% greater for residential and commercial users located beyond its corporate limits. In addition, user fees charged by the Town are between 13% and 20% higher for out-of-town residential and commercial customers. (**Ibid.**)

<sup>65</sup>**Ibid.**, Tab "Terms and Conditions of Annexation." A preliminary study has estimated that of the extension of Town sewerage to the U. S. Route 301 North corridor will cost approximately \$607,000. (Benser, letter to staff of Commission on Local Government, June 24, 1996.) Although Bowling Green proposes to finance the extension of its sewerage to that area using commercial loans or intergovernmental aid, some property owners in the U. S. Route 301 North corridor have expressed interest in providing the Town approximately \$125,000 as a future credit for municipal connection fees in order to assist in the extension of water and sewer service to that area. (**Ibid.**)



limited the construction of new businesses as well as the utilization of vacant commercial structures in a portion of that property.<sup>66</sup> Moreover, a privately-operated sewage treatment facility which serves a business along U. S. Route 301 North is currently operating under a consent agreement with the Virginia Department of Environmental Quality because it cannot meet the effluent discharge limits imposed by its State operating permit.<sup>67</sup> These conditions point to the current need for an extension of Town sewerage into that area. Notwithstanding these conditions, the Town has acknowledged that its ability to address the sewage concerns in the U. S. Route 301 North corridor is contingent upon the availability of loans or intergovernmental aid.<sup>68</sup>

**Water Supply and Distribution.** Bowling Green obtains all of its water from four wells which are authorized by State permit to provide the Town collectively 0.28 MGD.<sup>69</sup> As of 1995, the Town's distribution system required 0.13 MGD, leaving the municipal system an unused reserve of

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<sup>66</sup>Thomas T. Thompson, Environmental Health Supervisor, Rappahannock Area Health District, Virginia Department of Health, communication with staff of Commission on Local Government, July 15, 1996.

<sup>67</sup>James A. Olson, Environmental Engineer, Northern Virginia Regional Office, Virginia Department of Environmental Quality, communication with staff of Commission on Local Government, Aug. 13, 1996. That facility also serves the Hill Mobile Home Park which is located in the U. S. 301 North corridor but not within the area proposed for annexation. The Department of Environmental Quality consent agreement requires the owner of the private facility to upgrade the wastewater treatment process in order to meet the discharge limits and provides for the continued operation of that facility as long as specified interim discharge limits are met. A State official has reported, however, that the facility has experienced some problems in meeting those interim standards. (*Ibid.*)

<sup>68</sup>**Joint Notice**, Tab "Terms and Conditions"; and Benser, letter to staff of Commission on Local Government, May 3, 1966.

<sup>69</sup>**Joint Notice**, Tab "Services."

approximately 0.15 MGD, or 53.6% of its permitted capacity.<sup>70</sup> The Town's distribution system currently serves 638 connections, with 126 of that number being located in the area proposed for annexation and another 179 outside but adjacent to the municipality.<sup>71</sup> The Town's water system has served central Caroline County for 60 years and constitutes the only source of public water presently available to serve the areas immediately adjacent to the municipality.<sup>72</sup>

Annexation into the Town will have the effect of terminating the nonresident surcharge on connection fees and water rates, thereby substantially reducing the cost for water service to the residents and businesses in the area annexed.<sup>73</sup> Further, although the evidence indicates that there are currently no portions of the area proposed for annexation which require an immediate extension of public water service, the further development of that area will ultimately require such. To that end, Bowling

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<sup>70</sup>**Ibid.**

<sup>71</sup>**Ibid.** With the exception of the U. S. Route 301 North corridor, Town water lines serve almost all of the developed portions of the area proposed for annexation. In terms of storage facilities, the Town owns three storage tanks which collectively hold 0.36 million gallons (MG) of treated water. (**Ibid.**)

<sup>72</sup>Public water service to County residents is provided either by the Town directly or by Caroline County. The County owns two separate water supply and distribution systems, with one of those systems serving the school complex which is located approximately four miles southwest of Bowling Green. In addition, the County operates and maintains the Milford Sanitary District, which serves an unincorporated community located approximately one mile southwest of Bowling Green and property south of the U. S. Route 301 Bypass within approximately one-half mile of the area proposed for annexation. (**County Comprehensive Plan**, pp. 6-12 - 6-13, Figure 6-10.)

<sup>73</sup>**Code of the Town of Bowling Green**, Sec. 120-68; and **Joint Notice**, Tab "Urban Services." Non-resident customers of the Town's water system pay a monthly surcharge of 100%.

Green has developed a plan to extend its distribution lines in the U. S. 301 North corridor, contingent upon the availability of funding.<sup>74</sup> In view of the excess capacity in the municipal system, we believe that Bowling Green has the capacity of producing sufficient water to meet the needs of the area proposed for annexation in the years immediately ahead.

**Solid Waste Collection and Disposal.** The Town of Bowling Green, utilizing the services of a private collector, provides solid waste collection services on a fee basis to its residents and small commercial concerns.<sup>75</sup> Similarly, a limited number of residences and one business in the area proposed for annexation currently receive solid waste collection services from the Town.<sup>76</sup> While the Town subsidizes this activity with an appropriation from its general fund, Bowling Green residents are charged \$4.00 per month for twice-weekly collection service, with the fee for nonresidents being 50% greater.<sup>77</sup> In terms of the disposal of refuse, the

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<sup>74</sup>Benser, letter to staff of the Commission on Local Government, May 6, 1996; and Benser, letter to staff of the Commission on Local Government, June 24, 1996. A preliminary study indicates that the U. S. Route 301 North water project will cost approximately \$189,000. The extension of Town water lines to that area, however, is contingent on Bowling Green's receipt of either commercial or intergovernmental loans, as well as financial assistance from affected property owners.

<sup>75</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996. Businesses within Bowling Green which generate large volumes of refuse, such as grocery stores, are required to contract with commercial concerns for solid waste collection and disposal.

<sup>76</sup>The Town provides refuse collection services to 21 residential customers in the area proposed for annexation.

<sup>77</sup>**Joint Notice**, Tab "Services." Businesses in the Town are charged \$11.00 per month for refuse disposal services, with the fee for out-of-town commercial customers being \$26.00. Weekly curbside collection of recyclables is also provided by the Town's solid waste contractor. Seasonal collection of leaves and brush, however, is provided in residential areas through general fund expenditures using Town personnel and equipment. (Benser, letter to staff of Commission on Local Government, May 6, 1996.)

Town's contractor utilizes the County's landfill, which is located northwest of the Town.<sup>78</sup>

Caroline County does not provide any on site solid waste collection services to individual residences or business firms. County residents can dispose of their household wastes at the County landfill or through the use of trash compactors located at eight sites throughout its territory.<sup>79</sup> Furthermore, County residents, including those in the area proposed for annexation, have the option of contracting directly with private entities for collection services, with the cost of such services determined by the frequency of collection.

Following the effective date of the annexation, Bowling Green proposes to extend its solid waste collection services to the annexed area. The Town has indicated that it will renegotiate its solid waste collection contract with the private disposal firm to include the residences and businesses located in the area proposed for annexation.<sup>80</sup> Since the Town places a surcharge on refuse collection for its customers located beyond its corporate limits, the

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During FY1995/96 the municipality reserved approximately \$14,000 in general fund monies to subsidize its solid waste services. (Benser, letter to staff of Commission on Local Government, May 3, 1996; and Benser, communication with staff of Commission on Local Government, July 15, 1996.)

<sup>78</sup>**Ibid.**; and **Joint Notice**, Tab "Services." The Town is charged a tipping fee of \$37.00 for its private contractor to dispose of the municipal refuse at the County's landfill.

<sup>79</sup>**County Comprehensive Plan**, p. 6-3, Figure 6-2. In addition to a trash compactor, each County bulk collection site also contains containers for recyclables. The bulk container sites closest to the area proposed for annexation are located at the County's landfill northeast of Bowling Green and adjacent to the County's educational complex approximately four miles southwest of the Town.

<sup>80</sup>Benser, letter to staff of Commission on Local Government, May 6, 1996. The added cost to the Town is expected to be modest.

annexation will substantially reduce the cost of solid waste collection to those residents and businesses.<sup>81</sup> In our judgment, the general availability of publicly-financed solid waste collection services promotes the use of the services, reduces the incidence of illegal disposal, and has a salutary effect on the overall community.

**Planning, Zoning, and Subdivision Regulation.** The Town of Bowling Green conducts its public planning efforts with the assistance of a planning commission and guided by a comprehensive plan which was adopted in 1987.<sup>82</sup> In terms of development control instruments, Bowling Green utilizes a zoning ordinance which was adopted in 1980 and subjected to its last major revision during the current year.<sup>83</sup> The Town's ordinance contains provisions authorizing the use of conditional zoning, which enables the municipality to mitigate the impact of development on public resources and concerns.<sup>84</sup> Bowling Green also administers a subdivision ordinance which was last amended in 1995. Those regulations require developers to meet the standards of the Virginia Department of Transportation with respect to the construction of new roads, prohibit the development of

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<sup>81</sup>**Ibid.** Bowling Green estimates that there are approximately 59 residences and small commercial firms located in the area proposed for annexation, with 22 (37%) of those currently receiving solid waste collection services from the Town.

<sup>82</sup>**Joint Notice**, Tab "Compliance With State Policies." Bowling Green's comprehensive plan was prepared with the assistance of the Rappahannock Area Development Commission (RADCO). The Commission notes that although Section 15.1-454 of the Code of Virginia requires comprehensive plans to be reviewed at least once every five years by the local planning commission, there is no evidence that Bowling Green has reviewed its 1987 comprehensive plan since its initial adoption.

<sup>83</sup>Town of Bowling Green, **Code of the Town of Bowling Green, Virginia**, Chapter 126, Zoning (hereinafter cited as **Town Zoning Ordinance**).

<sup>84</sup>**Town Zoning Ordinance**, Sec. 126-98.

private streets, mandate connection to Town utilities where such are available, and establish criteria for the installation of curbs, gutters, and sidewalks.<sup>85</sup> The Town is without, however, a formal capital improvements plan which would strengthen and integrate its overall fiscal and development control efforts.<sup>86</sup> At the present time, the Town has no staff assigned on a full-time basis to the administration and application of its planning and development control instruments, primarily due to the paucity of development within the municipality in recent years. The Town Manager serves as Bowling Green's principal planner and land development control administrator.<sup>87</sup>

Caroline County also has, consistent with statutory requirements, a planning commission and a recently revised comprehensive plan to guide its development.<sup>88</sup> The County also utilizes a zoning ordinance, which was adopted initially in 1980 and revised in 1995.<sup>89</sup> In addition, the County administers a subdivision ordinance, which was last revised in 1993. Although the Caroline County subdivision ordinance contains elements

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<sup>85</sup>Town of Bowling Green, **Code of the Town of Bowling Green, Virginia**, Chapter 101, Subdivision of Land. See, for example, Sec. 101-21 (I).

<sup>86</sup>Although Bowling Green's annual budget contains a capital improvements component, there is no evidence that the expenditure program was prepared with the assistance of the Town's planning commission or that it is based on the municipality's comprehensive plan.

<sup>87</sup>Benser, communication with staff of Commission on Local Government, July 15, 1996.

<sup>88</sup>**County Comprehensive Plan**, p. 1-1. The County's first comprehensive plan was adopted in 1977 and that document was revised in 1987, 1992, and 1994.

<sup>89</sup>**Ibid.**, p. 9-1; and County of Caroline, **Caroline County Zoning Ordinance** (hereinafter cited as **County Zoning Ordinance**).

similar to those of the Town, they are less restrictive in the establishment of private streets.<sup>90</sup> Unlike the Town, the County has adopted a formal capital improvements plan to coordinate its fiscal planning and land development control processes.<sup>91</sup> Caroline County currently maintains a staff of four persons for the administration and implementation of its various planning and development control instruments.<sup>92</sup>

Following the effective date of annexation, the Town will extend its comprehensive planning and its other regulatory instruments to the annexed area. While the Commission sees the need for revisions to the Town's planning and development control instruments, the application of the municipal policies, which are designed to address the needs of urban and urbanizing areas, should result in a more consistent and comprehensive approach to managing future growth and in protecting the distinctive features of the Bowling Green area.

The Town's current planning and development control instruments do, however, have two deficiencies which reduce their appropriateness for the area proposed for annexation. First, since the proposed agreement will authorize the annexation of agricultural properties, the Town should have a zoning district which will appropriately protect such properties from the incursion incompatible uses. Second, the Town's comprehensive plan is

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<sup>90</sup>County of Caroline, **Caroline County Subdivision Regulations**. Private streets are permitted in subdivision encompassing 750 acres or more, if such are requested by the subdivider. Any private streets constructed in the County, however, are required to be built to the standards of the Virginia Department of Transportation. (**Ibid.**, Sec. 5-25.)

<sup>91</sup>Michael Finchum, Planning Director, County of Caroline, communication with staff of Commission on Local Government, Aug. 8, 1996.

<sup>92</sup>**Ibid.** In addition, the County's planning director oversees the operations of the Building Inspection Department which has a staff of four persons.

obsolete and should be revised to reflect current conditions.<sup>93</sup>

**Crime Prevention and Detection.** Since law enforcement activities by towns augment those provided by a county's sheriff's department, the proposed annexation by the Town of Bowling Green will have the effect of providing additional and intensified law enforcement services to the residents and commercial entities in the annexed area.<sup>94</sup> In terms of this municipal service, Bowling Green's police department has a sworn personnel complement of two full-time, one part-time, and three auxiliary officers.<sup>95</sup> The Town's law enforcement efforts are assisted, and will continue to be assisted throughout the enlarged municipality, by Caroline County's provision of dispatch services, as well as by County deputies who respond to calls for service from within the municipality when such assistance is needed.<sup>96</sup> Although Bowling Green police responded to approximately 80 calls for service beyond municipal boundaries in 1995, the Commission is unaware of any major crime problems in the area proposed

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<sup>93</sup>The Commission has been advised that the Rappahannock Area Development Commission is currently assisting the Town in preparing a revision of its comprehensive plan. (**Joint Notice**, Tab "Compliance With State Policies.")

<sup>94</sup>Law enforcement services in the area proposed for annexation and in Caroline County generally are provided by the County Sheriff's Department, which maintains its headquarters in Bowling Green. The personnel complement of the Sheriff's Department includes 28 full-time sworn law enforcement officers, 15 of whom are assigned patrol responsibility. (**County Comprehensive Plan**, p. 6-9.)

<sup>95</sup>**Town Notice**, Tab "Urban Services," p. 30.

<sup>96</sup>**Ibid.**; and Benser, communication with staff of Commission on Local Government, July 15, 1996. The Town also utilizes the jail facilities provided by Caroline County.



for annexation.<sup>97</sup> While the area proposed for annexation will benefit by the overlay of law enforcement protection afforded by Town police, the incorporation of those areas into the Town should not add substantially to the law enforcement burden of Bowling Green's police department.

**Streetlighting.** The Town of Bowling Green adheres to a policy by which it arranges for the installation and operation of streetlights at public expense.<sup>98</sup> At the present time, there are 124 publicly funded streetlights within the Town's corporate limits.<sup>99</sup> Bowling Green considers requests from its citizens for additional streetlights, and where such are deemed appropriate and necessary for public safety and welfare, new lights are installed and operated at public expense.<sup>100</sup> In order to extend this public service to the annexed area, the Town has developed an initial plan for the installation of streetlights at appropriate locations throughout that area during the five years following its annexation.<sup>101</sup> In our judgment, the area proposed for annexation will benefit from the application of the Town's policies regarding the installation and operation of these facilities.

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<sup>97</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996.

<sup>98</sup>**Joint Notice**, Tab "Services."

<sup>99</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996.

<sup>100</sup>**Ibid.**; and **Joint Notice**, Tab "Services."

<sup>101</sup>**Joint Notice**, Tab "Terms." The Town estimates that approximately \$53,000 will be required over a three-year period following the effective date of the annexation for the installation and operation of new streetlights in the annexed area. (Benser, letter to staff of Commission on Local Government, May 6, 1996.)

### **Other Service Considerations**

The Commission notes that with respect to two other basic public concerns, fire protection and street maintenance, residents of the area proposed for annexation will not experience any immediate change in the level of service as a result of their incorporation into the Town of Bowling Green. With respect to fire protection services, the Town and Caroline County jointly support the Bowling Green Volunteer Fire Department (VFD). That department, which has a complement of 26 volunteers, serves the Town and its environs, including the area proposed for annexation.<sup>102</sup> The fire suppression capabilities of the Bowling Green VFD and the Town's water distribution system are such that properties within the municipality, as well as those portions of the area proposed for annexation which are located within 1,000 feet of a Town fire hydrant, are classified "8" by the Insurance Services Office (ISO) of Virginia in terms of their exposure to fire loss.<sup>103</sup>

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<sup>102</sup>**County Comprehensive Plan**, p. 6-7. Between FY1990/91 and FY1994/95, the Town contributed \$6,500 to the operation of the Bowling Green VFD. (Benser, letter to staff of Commission on Local Government, May 3, 1996.) During that same period, Caroline County contributed \$96,000 to support the operation of the VFD. (Kelly, letter to staff of Commission on Local Government, May 3, 1996.) In addition, both the Town and County designate all or a portion of the annual grant each receives from the Virginia Department of Fire Programs for the operation of the VFD. Further, the County contributes funds for the purchase of fire fighting apparatus for the six volunteer fire companies within its jurisdiction, as well as paying the insurance costs for each.

<sup>103</sup>Benser, letter to staff of Commission on Local Government, May 3, 1996. There are 12 fire hydrants in the area proposed for annexation that are connected to the Town's water lines. The ISO classification is based on a scale of "1" to "10" for comparison with other municipal fire protection systems and represents an indication of a system's ability to defend against the major fire which may be expected in any given community. Where protection class "10" is assigned, there is no or minimal protection. Protection class "1" represents a fire protection system of extreme capability. The principal features used by ISO in grading a community's fire system are water supply, fire department, fire communications, and fire safety control. [John L. Bryan and Raymond C. Picard, **Managing Fire**

Other properties in the area proposed for annexation more distant from a fire hydrant have a higher ISO classification. Thus, through its support of the VFD and the presence of municipal water lines, the Town already contributes to the fire protection services available to residents of the area proposed for annexation and, in some cases, to reduced fire insurance premiums.

In terms of street maintenance, all of the public roads in the Town, the area proposed for annexation, and in the County generally are maintained by the Virginia Department of Transportation in accordance with State-prescribed policies. While the Commonwealth bears total financial responsibility for the maintenance of the qualifying public roadway in the Town, Bowling Green has invested in recent years a modest amount of local funds to improve and maintain other roadway within its corporate limits. The data reveal that between FY1990/91 and FY1994/95 the Town expended a total of approximately \$5,600 in local revenue to improve and maintain the small segment of roadway within its corporate boundaries which is not part of the State system.<sup>104</sup> In summary, while annexation by Bowling Green will not immediately affect the level of fire suppression and street maintenance services in the area annexed, the Town's commitment to such services will increasingly benefit that area as it develops.

### **Summary of Service Needs**

In the preceding sections of this report the Commission has endeavored to analyze the existing and prospective urban service needs of

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**Services** (Washington, DC: International City Management Association, 1979), p. 102.]

<sup>104</sup>Town of Bowling Green, **Financial Statements**, for the fiscal years indicated. The Town's expenditures for street maintenance also includes the cost for the installation and repair of sidewalks within its jurisdiction.

the area proposed for annexation and the ability of the Town of Bowling Green to meet those needs. On the basis of the data cited above, the Commission finds that the areas adjacent to the Bowling Green area have been nurtured and sustained, in large part, by public utilities and other services provided by the Town and that the incorporation of such areas into the municipality will be of further benefit to their residents and commercial concerns located therein.

### **INTERESTS OF THE COUNTY OF CAROLINE**

The annexation proposed in the agreement negotiated by the Town of Bowling Green and Caroline County will result initially in a minimal reduction in County revenue. Although the proposed annexation will not affect the County's receipts from any of its property taxes, it will constrict initially its collections from some of its secondary revenue sources. Estimates developed by Bowling Green, with which the County concurs, indicate that the proposed annexation will result in a reduction in the County's receipts during the first year after annexation of approximately \$54,700 in general fund revenue, an amount representing less than one-half of one per cent of the County's total general fund receipts during FY1994/95.<sup>105</sup> Moreover, a provision in the proposed agreement which calls for Bowling Green to compensate the County for its loss of certain revenues resulting from the Town's annexation of the U. S. Route 301 North Corridor would diminish even that modest reduction in County revenues.<sup>106</sup>

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<sup>105</sup>**Joint Notice**, Tab "Impact on County"; and **County Financial Report, FY1994/95**.

<sup>106</sup>**Annexation Agreement**. A provision in the proposed agreement requires Bowling Green to pay the County an amount equivalent to the meals tax receipts from three restaurants located in the U. S. Route 301 North corridor. This latter provision expires on June 30, 2011 or until the County's school construction bonded indebtedness as of November 21, 1995 is retired, whichever comes first. Another component of the accord calls for Bowling Green to pay the County all the meals and Business, Professional,

Bowling Green estimates that the proposed reimbursement provision would provide Caroline County with approximately \$26,000 annually and thereby reduce the County's initial annual net loss to less than \$29,000.<sup>107</sup>

Moreover, since the Town will assume responsibility for providing certain municipal services to the annexed area (such as law enforcement, planning, and zoning regulation) and, consequently, reduce to some degree County expenditures, the net revenue loss experienced by Caroline County should be diminished further.

In terms of the overall and long-term impact on the County, the annexation called for in the agreement will permit the Town to benefit from an immediate infusion of fiscal resources, will provide the municipality land for future development, and will, accordingly, increase the Town's ability to serve the general area. Bowling Green's enhanced capability for the provision of public services can be a positive factor in supporting desirable development in its environs and in strengthening the economy of the County generally.

#### **INTERESTS OF THE COMMONWEALTH**

The principal interest of the State in the resolution of this and all other interlocal issues subject to the Commission's review is, in our judgment, the preservation and promotion of the viability of the affected local governments. This proposed agreement contains a number of provisions which are promotive of the viability of the two affected jurisdictions. As previous sections of this report have indicated, the

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and Occupational License taxes the Town will receive from the Bowling Green Plaza shopping center following the effective date of the annexation. However, since that provision will expire on January 1, 1997, is not a relevant consideration.

<sup>107</sup>**Joint Notice**, Tab "Impact on County."

annexation provision in the proposed settlement agreement will provide the Town of Bowling Green with an opportunity to extend its boundaries and to increase its demographic and fiscal resources. The increased viability of the Town of Bowling Green, which has historically sustained the seat of government in Caroline County with its utilities and other urban services, will enhance its capacity to serve the general area.<sup>108</sup> Moreover, the inclusion of provisions in the agreement which call for cooperation between the parties in planning and development is founded upon recognition of the social and economic interdependence of the Town and County. While the above-cited provisions of the proposed agreement are promotive of the viability of the two jurisdictions, the interest of the Commonwealth requires, in our view, certain modifications of that instrument.

### **FINDINGS AND RECOMMENDATIONS**

While this Commission recognizes the positive elements of the proposed agreement, we are unable to recommend the court's approval of the proposed settlement in its present form. In our judgment, the following amendments are essential for a determination that the proposed agreement is "in the best interest of the Commonwealth."

### **ANNEXATION PROVISIONS**

This Commission concurs with the proposal that the Town of Bowling Green be authorized to annex the area specified in the proposed agreement. The data reviewed by the Commission clearly justify the extension of the boundaries of Bowling Green to encompass that area. However, there are

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<sup>108</sup>Bowling Green established its central water system in 1936 and began providing sewage collection and treatment in 1942. (**Town Comprehensive Plan**, p. 36.) Thus, the Town has served the County's seat of government with respect to these basic and essential services for over a half-century.

other communities adjacent to Bowling Green and beyond the area presently proposed for annexation which are currently dependent upon municipal water (e. g., Maury Heights, White Meadows, the Tinder subdivision, and the State Route 2 Corridor northwest of the Town) or on both municipal water and sewerage (e. g., Heritage Pines and Caroline Manor).<sup>109</sup> In addition to those communities, there are other properties which will be adjacent to the enlarged municipality and which, at this time, have a need for public utilities (e. g., Hill Mobile Home Park), as well as others which currently rely on wells and septic tanks (e. g., Mill Stone, Northview, and Lake Shore Mobile Home Park) and which likely will require public utilities in the future. All of these communities share a degree of interdependence with the Town of Bowling Green and manifest characteristics which make them appropriate for inclusion within the municipality. It is not in the best interest of the Commonwealth for the Town of Bowling Green to be barred for a decade or more, as the proposed agreement would require, from annexing and serving those communities. Accordingly, the Commission recommends that the provision in the proposed agreement by which the Town of Bowling Green would be required to relinquish its authority to initiate any succeeding annexation action through November 2007 be eliminated.

As an alternative to the elimination of the bar on succeeding annexation, the currently proposed agreement might be modified to include a "Phase II annexation area" embracing, at a minimum, all of the communities specified above, with all property within that area being subject to annexation by Town ordinance on condition that the municipality is currently providing the needed water or sewerage or committed to providing such utility service within five years of annexation. A modification of the currently proposed agreement in this manner would render reasonable the retention of the annexation moratorium applicable to other

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<sup>109</sup>Benser, communication with staff of Commission on Local Government, July 15, 1996.

properties beyond the proposed "Phase II annexation area." The interest of the Commonwealth, in our view, mandates either the elimination of the annexation moratorium or its application solely beyond the proposed Phase II area.

#### **TOWN PAYMENT TO COUNTY OF MEALS TAX REVENUE**

This Commission recommends that the provision in the proposed agreement by which the Town of Bowling Green has agreed to pay the County for a period up to 16 years all the meals tax revenue which it collects from several establishments in the area proposed for annexation be eliminated. While the impact on the County's finances from this provision in the proposed agreement is virtually nil, the significance of those funds to the Town and the annexed area is more significant. The availability of those funds to Bowling Green will assist the municipality in extending needed utility service to the annexed area and, as a consequence, will facilitate additional commercial development in that area which will doubtless yield fiscal benefits surpassing the modest payment which the County would forego. The interests of the property owners in the area proposed for annexation, as well as the interests of residents of the Town and the County generally, would be better served by the elimination of the Town's payment to the County as prescribed in the agreement and by the utilization of those funds for the extension of municipal services.

#### **SUMMARY OF PROPOSED AMENDMENTS**

The Commission recommends that the Town of Bowling Green and Caroline County amend the proposed settlement in accordance with the modifications prescribed above. The adoption of the specified amendments would enable this Commission to find the proposed agreement "in the best interest of the Commonwealth" and to recommend the court's approval of the instrument.



## **ADDITIONAL PROPOSALS**

While the adoption of the several amendments specified above would enable this Commission to recommend the court's approval of the agreement, there are several additional proposals which we wish to suggest to the parties. The following sections of this report review those proposals.

### **Protection of Agricultural Properties**

The General Assembly has declared that it is the policy of the Commonwealth of Virginia to preserve the State's agricultural properties.<sup>110</sup> Consistent with that policy, the Commission recommends that the Town of Bowling Green establish by ordinance a use value assessment program for the protection of the agricultural, forestry, horticultural, and open space property which may be annexed immediately or in the future pursuant to the Commission's previous recommendation. The protection of such properties not only is of benefit to the owners of those parcels, but it serves the general community by enhancing its diversity and physical attractiveness. Since Caroline County presently operates a use value assessment program, the adoption and application of such a program within the municipality should not pose any administrative difficulty. In addition to the establishment of a use value assessment program, the Commission recommends that the Town of Bowling Green amend its zoning ordinance to establish an agricultural zoning district which would prohibit incompatible uses within that district even on a conditional basis.

### **Fiscal Management**

The Town has indicated that it intends to address, in part, a projected deficit in its enterprise accounts following the proposed annexation by

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<sup>110</sup>Sec. 15.1-1507, Code of Va.

transfers from its general fund. We recommend that the Town not adhere to this practice on a continuing basis, but that it take appropriate steps to have its enterprise activities be self-supporting. To that end, Bowling Green might consider increasing its connection fees for both water and sewer, with an accompanying increase in the surcharge for nonresidents. This Commission also recommends that the Town consider the formal adoption of a capital improvements plan, subject to annual revision, as an integral component of its fiscal management. The physical enlargement of the municipality and the extension of its services into annexed areas underscore the need for the adoption and utilization of such a planning instrument.

### **Collaborative Planning**

Under the terms of the proposed agreement, the two jurisdictions commit to establish a joint "advisory committee" to provide assistance with respect to economic development and land use decisions affecting the U. S. Route 301 corridor north of Bowling Green. We recommend that the responsibilities of the advisory committee be extended to all of the other road transportation corridors radiating from the municipality and to other parcels included in the proposed Phase II area. Careful and collaborative planning regarding the future development of those areas adjacent to the Town of Bowling Green will be beneficial to both jurisdictions and their residents.

### **Rezoning Of Annexed Areas**

The Town of Bowling Green's zoning ordinance, consistent with that of many other municipalities in Virginia, specifies that all annexed property will be zoned initially after annexation for its least intensive usage. This arrangement is designed to afford the Town an opportunity to make appropriate land use decisions compatible with the general needs of the area. The Bowling Green zoning ordinance requires that the Town's

planning commission complete and present to the Town Council a zoning plan for any annexed area within six months following the incorporation of such property into the municipality. This Commission encourages the Town of Bowling Green to move expeditiously with the development and adoption of its new zoning plan in order to minimize the uncertainty for affected property owners.

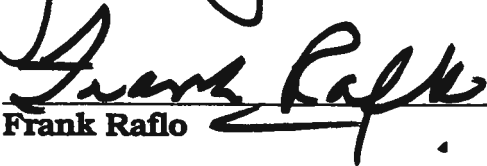
### **CONCLUDING COMMENT**

The Commission on Local Government acknowledges the efforts made by officials of the Town of Bowling Green and Caroline County to reach the agreement in principle which has been reviewed in this report. The Town of Bowling Green has been instrumental in maintaining the seat of government for Caroline County for over 150 years and has supported development in its general area by its utility services and by the other community and commercial entities sustained within the municipality. The general viability of the Town of Bowling Green is an issue of concern to both jurisdictions, and this agreement, with the amendments we have proposed, will serve to promote that viability.

Respectfully submitted,

  
William S. Hubbard, Chairman

  
James J. Heston, Vice Chairman

  
Frank Raflo

  
Geline B. Williams

## Agreement in Principle for Settling Annexation Issues

Between the Town of Bowling Green and the County of Caroline

THIS AGREEMENT, made this 28th day of November, 1995, by and between the Town of Bowling Green, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the "Town" and the County of Caroline, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "County," both of whom understand as follows:

## WITNESSETH:

WHEREAS, the Town and County desire to settle the territorial dispute regarding the expansion of the municipal boundaries of the Town into surrounding areas of the County; and

WHEREAS, the respective governing bodies of the Town and County have by affirmative vote declared their intent to abide by the provisions detailed in a Memorandum from Mayor Frank L. Benser to County Attorney Jean M. Kelly, the subject of which was "Annexation Settlement Proposal," and which was dated October 13, 1995;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

The County agrees to permit the Town to expand its municipal boundaries as generally defined in the map which is attached to and hereby made a part of this Agreement and which shall be more specifically described by a metes and bounds survey prepared at the Town's expense.

The Town Council agrees to refrain from initiating any annexation within the 12 years following execution of this Agreement and ending on November 30, 2007.

The Town agrees to pay the County all meals tax and Business, Professional and Occupation License (BPOL) tax revenue received from the Bowling Green Plaza until January 1, 1997.

The Town agrees to pay the County all meals tax revenue from H & B Food Shoppe, Gerber's New Yorker Restaurant, and Pizza Hut through June 30, 2011, or for the life of the school construction bond as it exists on November 21, 1995, whichever time is shorter.


A joint economic development/land use planning advisory committee will be formed for the Route 301 corridor.

The terms of this Agreement shall form the basis of a joint filing for a voluntary settlement before the Commission on Local Government which shall be pursued with all deliberate speed. Each party shall pay its own attorney's fees, and the County shall pay all other costs of the proceedings.

Town of Bowling Green

  
Frank L. Benser, Mayor

County of Caroline

  
Philip Atkins, Chairman  
Board of Supervisors

## APPENDIX B

### STATISTICAL PROFILE OF THE TOWN OF BOWLING GREEN, COUNTY OF CAROLINE, AND THE AREA PROPOSED FOR ANNEXATION

	<u>Town of Bowling Green</u>	<u>County of Caroline</u>	<u>Area Proposed for Annexation</u>
Population (1994)	752	20,500	229
Land Area (Square Miles)	0.65	533.00	1.02
Real Estate Assessed Values (1995)	\$32,076,100	\$793,747,902	\$13,941,700
Existing Land Use (Acres)			
Residential	138.5	N/A	73.6
Commercial	37.7	N/A	27.7
Industrial	0.0	N/A	0.0
Public and Semi-Public	26.3	N/A	4.7
Streets or Rights-of-Way	32.0	N/A	110.2
Agricultural, Wooded or Vacant	181.5	N/A	437.4

#### NOTES:

N/A=Not Available

County population, land area, and property value statistics include the Town of Bowling Green.

#### SOURCE:

Town of Bowling Green and County of Caroline, Submission to the  
Commission on Local Government, Feb. 29, 1996.

