

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
SEPTEMBER 28, 2010**

AGENDA

| | | |
|-------|-------------|---|
| 9:30 | Done | Presentations |
| 10:30 | Done | Presentation of the Environmental Excellence Awards |
| 10:45 | Done | Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups |
| 10:45 | Done | Items Presented by the County Executive |

**ADMINISTRATIVE
ITEMS**

| | | |
|---|-----------------|---|
| 1 | Approved | Authorization to Advertise a Public Hearing on the Proposed Amendments to the Human Rights Ordinance, Chapter 11 of the Fairfax County Code |
| 2 | Approved | Approval of Supplemental Appropriation Resolution AS 11050 for the Fairfax County Juvenile and Domestic Relations District Court to Accept Grant Funding from the Northern Virginia Regional Gang Task Force Through Loudoun County, Virginia |
| 3 | Approved | Streets into the Secondary System (Dranesville, Hunter Mill, Lee, Mason, Mount Vernon, Providence, and Sully Districts) |
| 4 | Approved | Authorization to Advertise a Public Hearing on Proposed Amendments to Chapter 67.1 of the Fairfax County Code Relating to Sanitary Sewers and Sewage Disposal |
| 5 | Approved | Approval of Supplemental Appropriation Resolution AS 11054 for the Fire and Rescue Department to Accept a Department of Homeland Security Urban Area Security Initiative Sub-Grant Award from the Northern Virginia Regional Commission Through the State Administrative Agency for the National Capital Region |
| 6 | Approved | Authorization for the Fairfax County Police Department to Apply for and Accept Grant Funding from the Office of Justice Programs Edward Byrne Memorial Justice Assistance Grants |
| 7 | Approved | Discontinuance of Portions of Route 3454 (Hospital Loop Road) from the Secondary System of State Highways (Providence District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
SEPTEMBER 28, 2010**

ADMINISTRATIVE ITEMS

(continued)

- | | | |
|----|-----------------------------|---|
| 8 | Approved | Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason and Sully District) |
| 9 | Approved | Extension of Review Periods for 2232 Review Applications (Braddock, Lee, and Mason Districts) |
| 10 | Approved w/amendment | Authorization to Advertise Amendment to Chapter 112 (Zoning Ordinance) Re: Zoning Appeal Fee |
| 11 | Approved | Authorization to Advertise a Public Hearing for the Creation of Small Sanitary Districts for Refuse Collection Service (Springfield District) |

ACTION ITEMS

- | | | |
|---|-----------------------------|---|
| 1 | Approved | Approval of Bond Underwriter Pool for Tax Increment Financing (TIF) and Community Development Authority (CDA) Financings |
| 2 | Approved | Assent to Defeasance of Metrorail Refunding Bonds Series 1998 A |
| 3 | Approved | Approval of Parking Reduction for Northern Virginia Chinese Christian Church (Providence District) |
| 4 | Approved | Approval of Parking Reduction for New Life Christian Church (Mount Vernon District) |
| 5 | Approved w/amendment | Approval of a Project Agreement Amendment and Funding Plan for the Mulligan Road Project (Lee and Mount Vernon Districts) |
| 6 | Approved w/amendment | Approval of Recommendations Regarding the Metrorail Stations for Phase 2 of the Dulles Corridor Metrorail Project |

CONSIDERATION ITEMS

- | | | |
|---|---|--|
| 1 | Hyland– Voting Delegate Bulova–Alternate Voting Delegate | 2010 Virginia Association of Counties Annual Meeting |
|---|---|--|

INFORMATION ITEMS

- | | | |
|---|--------------|---|
| 1 | Noted | Service Changes to FAIRFAX CONNECTOR Routes to be Implemented in October 2010 |
| 2 | Noted | Contract Award – Mason Neck Trail, Segment 2A (Mount Vernon District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
SEPTEMBER 28, 2010**

PUBLIC HEARINGS

(continued)

- | | | |
|------|---|--|
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-2FS, Located West of Loisdale Road and South of Franconia Road (Lee District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-21MV, Located South of Rolling Hills Avenue, East of Janna Lee Avenue and North of Richmond Highway (Lee District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-18MV, Located on the East Corner of Richmond Highway and Mohawk Lane (Mount Vernon District) |
| 4:30 | Public Hearing deferred to 10/19/10 at 4:30 p.m. | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-19MV, Located on the Southeast Side of Richmond Highway Generally Near the Forest Place Intersection (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-23MV, 09-IV-25MV, and 09-IV-26MV, Located East and Southeast of the Intersection of North Kings Highway and Richmond Highway (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-III-5P, Located Northeast of Ox Road, Across from the Intersection with Palmer Drive, and Southwest of the William Halley Elementary School (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-2LP, Located North of Interstate 95, and West of Furnace Road (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-5LP, Located East of Richmond Highway and West of the Noman M. Cole, Jr. Pollution Control Plant (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-6LP and Plan Amendment S10-IV-LP1, Located at the Intersection of Lorton Road and Richmond Highway (Mount Vernon District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
SEPTEMBER 28, 2010**

PUBLIC HEARINGS

(continued)

- | | | |
|------|-----------------|--|
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-7LP, Located in the Northwest Quadrant of the Intersection of Richmond Highway and Telegraph Road (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-8LP, Located East of Groom Cottage Drive, South of the Lorton Station Shopping Center, and North of Thomas Baxter Place (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-9LP, Located East of the CSX Railroad Tracks at the Southwest Corner of the Intersection at Lorton Road and Lorton Market Street (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-3MV, Located on the Southwest Corner of Huntington Avenue and Richmond Highway (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-4MV, Located East of Blaine Drive, North and South of Huntington Avenue (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-6MV, Located on Mount Vernon Memorial Highway, South of George Washington's Grist Mill (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Items 09-IV-9MV and 09-IV-10MV, Located West of Culpeper Road, East of Little Hunting Creek and South of Childs Lane (Mount Vernon District) |
| 4:30 | Deferred | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-13MV, for Property Generally Located in the Vicinity of Sherwood Hall Lane, Holland Road and Hinson Farm Road (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-16MV, Located East of North Kings Highway and South of the Huntington Metro Station (Mount Vernon District) |
| 4:30 | Approved | Public Hearing on Proposed Plan Amendment S09-IV-MV2, Located East of Richmond Highway, South of East Lee Avenue, North of Preston Avenue and West of Memorial Heights Drive (Mount Vernon District) |

THIS PAGE INTENTIONALLY LEFT BLANK



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Tuesday
September 28, 2010

9:30 a.m.

PRESENTATIONS:

1. CERTIFICATE – To commend Fairfax County firefighters for the 2010 Fill the Boot campaign. Requested by Chairman Bulova.
2. PROCLAMATION – To designate October 3-9, 2010, as Fire Prevention Week in Fairfax County. Requested by Chairman Bulova.
3. PROCLAMATION – To designate October 18-23, 2010, as Operation Medicine Cabinet Cleanout Week in Fairfax County. Requested by Chairman Bulova.
4. PROCLAMATION – To designate October 2010 as African American Adoption Awareness Month in Fairfax County. Requested by Supervisor Hudgins.
5. PROCLAMATION – To designate October 2010 as Disability Employment Awareness Month in Fairfax County. Requested by Chairman Bulova.
6. PROCLAMATION – To designate October 2-9, 2010, as Mental Illness Awareness Week in Fairfax County. Requested by Chairman Bulova.
7. CERTIFICATE – To recognize Mary Keeser, founder of America's Adopt a Soldier, for her dedication to our troops. Requested by Supervisor Cook.
8. PROCLAMATION – To designate October 2010 as Domestic Violence Awareness Month in Fairfax County. Requested by Chairman Bulova.

— more —

Board Agenda Item
September 28, 2010

9. PROCLAMATION – To designate October 2010 as Breast Cancer Awareness Month in Fairfax County. Requested by Supervisor Herrity.
10. PROCLAMATION – To designate October 2010 as Family History Month in Fairfax County. Requested by Supervisor Hyland.
11. PROCLAMATION – To designate September 2010 as Transit Month in Fairfax County. Requested by Chairman Bulova.

STAFF:

Merni Fitzgerald, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

Board Agenda Item
September 28, 2010

10:30 a.m.

Presentation of the Environmental Excellence Awards

ENCLOSED DOCUMENTS:

None.

PRESENTED BY:

Glen White, Mason District Representative, Environmental Quality Advisory Council
(EQAC)

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

10:45 a.m.

Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups

ENCLOSED DOCUMENTS:

Appointments to be heard September 28, 2010

STAFF:

Nancy Vehrs, Clerk to the Board of Supervisors

APPOINTMENTS TO BE HEARD SEPTEMBER 28, 2010
(ENCOMPASSING VACANCIES PROJECTED THROUGH SEPTEMBER 30, 2010)
 (Unless otherwise noted, members are eligible for reappointment)

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|---------------------------------------|-----------------------|--------------------------|------------------------|
| Mark S. Ingrao (Appointed 1/03 by Mendelsohn; 5/05 by DuBois) Term exp. 5/09 | Citizen Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 <i>Resigned</i> | Lending Institution Representative | | By Any Supervisor | At-Large |

AIRPORTS ADVISORY COMMITTEE (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-----------------------|--------------------------|------------------------|
| Belinda Rankin (Appointed 10/05-1/07 by McConnell) Term exp. 1/10 | Springfield District Representative | David Skiles | Herrity | Springfield |

ARCHITECTURAL REVIEW BOARD

(3 years)

[NOTE: Members shall be appointed by the Board of Supervisors as follows: at least two (2) members shall be certified architects; one (1) landscape architect authorized to practice in Virginia; one (1) lawyer with membership in the Virginia Bar; six (6) other members shall be drawn from the ranks of related professional groups such as archaeologists, historians, lawyers, and real estate brokers.]

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|----------------------------------|----------------------|-----------------|
| Charles R. Bierce (Appointed 11/86 by Egge; 8/89-9/07 by Hyland) Term exp. 9/10 | Architect #1 Representative | | By Any Supervisor | At-Large |
| John F. Boland (Appointed 2/91-9/95 by Dix; 7/01 by Mendelsohn; 9/04- 9/07 by DuBois) Term exp. 9/10 | Attorney Representative | John F. Boland (Foust) | By Any Supervisor | At-Large |
| Joseph Plumpe (Appointed 9/07 by Frey) Term exp. 9/10 | Landscape Architect Representative | Joseph Plumpe (Frey) | By Any Supervisor | At-Large |
| John Allen Burns (Appointed 6/95-7/01 by Hanley; 10/04- 9/07 by Hyland) Term exp. 9/10 | Related Professional Group #4 Representative | | By Any Supervisor | At-Large |

ATHLETIC COUNCIL (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|------------------------------------|----------------------|-----------------|
| Clarke Gray (Appointed 1/08&9/08 by Smyth) Term exp. 9/10 | Providence District Alternate Representative | Clarke Gray | Smyth | Providence |
| William J. Stephens (Appointed 9/05&2/07 by McConnell; 9/08 by Herrity) Term exp. 6/10 | Women's Sports Principal Representative | Jenni Cantwell (Herrity) | By Any Supervisor | At-Large |

CONFIRMATION NEEDED:

- Mr. Frank McDonough as the Volleyball Council Representative

**BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE
(1 year)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|---------------------------------|-------------------|-----------------|
| Kristin Cabral (Appointed 7/08 by Foust) Term exp. 6/09 | Dranesville District Representative | Judy Seiff | Foust | Dranesville |
| VACANT (Formerly held by Regina Jordan; appointed 6/04&6/09 by Hudgins) Term exp. 6/10 <i>Resigned</i> | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| VACANT (Formerly held by Diane McIntyre; appointed 6/04&6/07 by McConnell) Term exp. 6/08 <i>Resigned</i> | Springfield District Representative | Robert Kyle McDaniel | Herrity | Springfield |

**CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(1 year – limited to 6 consecutive terms)**

[NOTE: In January of 2002 terms were changed to run from October 1 until September 30. An asterisk (*) beside any of the following names denotes an individual who is NOT eligible for reappointment.]

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|---------------------------------|----------------------|-----------------|
| Steve Sherman (Appointed 9/08&9/09 by McKay) Term exp. 9/10 | At-Large #1 Representative | Steve Sherman (McKay) | By Any Supervisor | At-Large |
| VACANT (Formerly held by Kathy Hannon Cope; appointed 9/08&9/09 by Hudgins) Term exp. 9/10 <i>Resigned</i> | At-Large #2 Representative | | By Any Supervisor | At-Large |
| Jill Patrick (Appointed 9/09 by Gross) Term exp. 9/10 | At-Large #3 Representative | Jill Patrick (Gross) | By Any Supervisor | At-Large |
| Peter F. Murphy, Jr. (Appointed 6/06-9/08 by Connolly; 9/09 by Bulova) Term exp. 9/10 | At-Large #4 Representative | | By Any Supervisor | At-Large |

**CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE
(4 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------------|-----------------------|-------------------|-----------------|
| VACANT (Formerly held by George McLennan; appointed 4/08 by Gross) Term exp. 9/11 <i>Resigned</i> | Mason District Representative | Grant Sitta | Gross | Mason |
| VACANT (Formerly held by Thornton W. Field; appointed 2/05 & 9/07 by DuBois) Term exp. 9/11 <i>Resigned</i> | Dranesville District Representative | Frank Crandall | Foust | Dranesville |

CHILD CARE ADVISORY COUNCIL (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|----------------------|-------------------|-----------------|
| Monica Jackson (Appointed 4/10 by Cook) Term exp. 9/10 | Braddock District Representative | | Cook | Braddock |
| Buckley Kuhn Fricker (Appointed 7/09 by Foust) Term exp. 9/10 | Dranesville District Representative | | Foust | Dranesville |
| Courtney Park (Appointed 2/10 by Hudgins) Term exp. 9/10 | Hunter Mill District Representative | Courtney Park | Hudgins | Hunter Mill |

continued on next page

**CHILD CARE ADVISORY COUNCIL (2 years)
continued**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---|------------------------------|-------------------|-----------------|
| Judith Falkenrath (Appointed 12/04-9/08 by Gross) Term exp. 9/10 | Mason District Representative | Judith Falkenrath | Gross | Mason |
| Hugh Mac Cannon (Appointed 12/09 by Herrity) Term exp. 9/10 | Springfield District Representative | | Herrity | Springfield |

**CITIZEN CORPS COUNCIL, FAIRFAX COUNTY
(2 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|----------------------------------|------------------------------------|-------------------|-----------------|
| Irene J. McDonnell (Appointed 9/08 by Gross) Term exp. 5/10 | Mason District Representative | Charles Alan Sneiderman | Gross | Mason |
| VACANT (Formerly held by Ray Cammas; appointed 9/06&5/08 by Frey) Term exp. 5/10 <i>Resigned</i> | Sully District Representative | | Frey | Sully |

COMMISSION FOR WOMEN (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--------------------------------------|---------------------------|-------------------|-----------------|
| VACANT (Formerly held by Diana Shermeyer; appointed 11/06 and 10/07 by Hyland) Term exp. 10/2010 <i>Resigned</i> | Mount Vernon District Representative | Kari Wright Warren | Hyland | Mt. Vernon |

COMMISSION ON AGING (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Lin Wagener; appointed 8/08-5/10 by Hudgins) Term exp. 5/12 <i>Resigned</i> | Hunter Mill District Representative | | Hudgins | Hunter Mill |

COMMISSION ON ORGAN AND TISSUE DONATION AND TRANSPLANTATION (4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Rosalind Gold; appointed 12/05 by Gross) Term exp. 1/08 <i>Resigned</i> | Religious Community Representative | | By Any Supervisor | At-Large |

COMMUNITY ACTION ADVISORY BOARD (CAAB)
 (3 years – up to 5 consecutive years, 10 maximum for elected/confirmed members)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Jennifer Parker; appointed 9/07 by Hyland) Term exp. 2/10 <i>Resigned</i> | Mount Vernon District Representative | | Hyland | Mount Vernon |

CONFIRMATION NEEDED:

- Ms. Dianne Blais as the League of Women Voters Representative

CONSUMER PROTECTION COMMISSION
 (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|------------------------------------|-------------------|-----------------|
| VACANT (Formerly held by Bill Douskalis; appointed 10/04&7/06 by Connolly; 7/09 by Bulova) Term exp. 7/12 <i>Resigned</i> | Fairfax County Resident #13 Representative | Michael E. Stamp (Smyth) | By Any Supervisor | At-Large |

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|----------------|-------------------|-----------------|
| Dallas W. Shawkey (Appointed 9/98-7/07 by Hyland) Term exp. 8/10 | Mount Vernon District Representative | | Hyland | Mount Vernon |

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|------------------------------|---|----------------------|-----------------|
| VACANT (Formerly held by Seon Cho; appointed 9/06 by Smyth) Term exp. 3/09 <i>Resigned</i> | Citizen #2 Representative | James M. Dougherty (Frey) | By Any Supervisor | At-Large |

FAIRFAX AREA DISABILITY SERVICES BOARD
(3 years- limited to 2 full consecutive terms per MOU, after initial term)
[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.]

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|----------------------------------|----------------|-------------------|-----------------|
| Ann Pimley (Appointed 9/03&11/06 by Frey) Term exp. 11/09 <i>Not eligible for reappointment (need 3 year lapse)</i> | Sully District Representative | | Frey | Sully |

**FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL
(2 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--------------------------|--------------------|----------------|-------------------|-----------------|
|--------------------------|--------------------|----------------|-------------------|-----------------|

CONFIRMATIONS NEEDED:

- Ms. Nancy Dezan as the Long Term Care Providers Representative
- Ms. Donna A. Goldbranson as the Long Term Providers Representative
- Ms. Christine Hyland as the Advocacy Organizations Representative
- Mr. Benjamin Brown as the Hospitals Representative
- Ms. Elizabeth Major as the Hospitals Representative
- Ms. Dorothy Keenan as the Constituents/Consumer Representative
- Ms. Ann Long as the Educational Organizations Representative
- Mr. Mark. R. Meiners as the Educational Organizations Representative

**FAIRFAX COUNTY EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES
(4 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|----------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Frank Alston; appointed 7/98 & 7/02 by Hanley; 7/06 by Hudgins) Term exp. 7/10 <i>Resigned</i> | At-Large #4 Representative | | By Any Supervisor | At-Large |

HEALTH CARE ADVISORY BOARD
(4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|----------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by John R. Clark; appointed 3/91-7/08 by Bulova) Term exp. 6/12 <i>Deceased</i> | Braddock District Representative | | Cook | Braddock |

HEALTH SYSTEMS AGENCY BOARD
(3 years - limited to 2 full terms, may be reappointed after 1 year lapse)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|----------------------------|----------------|-------------------|-----------------|
| Sarah A. John (Appointed 6/04&6/07 by Smyth) Term exp. 6/10 <i>Not eligible for reappointment (need 1 year lapse)</i> | Consumer #4 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Sallie Eissler; appointed 7/02-6/09 by Hyland) Term exp. 6/12 <i>Resigned</i> | Provider #2 Representative | | By Any Supervisor | At-Large |

HISTORY COMMISSION (3 years)

[NOTE: The Commission shall include at least one member who is a resident from each supervisor district.] Current Membership:

| | | |
|-----------------|----------------|-----------------|
| Braddock - 3 | Lee - 2 | Providence - 1 |
| Dranesville - 2 | Mason - 2 | Springfield - 2 |
| Hunter Mill - 3 | Mt. Vernon - 3 | Sully - 2 |

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|------------------------------|----------------|----------------------|-----------------|
| Joseph Balicki (Appointed 2/05-9/07 by Gross) Term exp. 9/10 <i>Mason Dist. Resident</i> | Citizen #7 Representative | | By Any Supervisor | At-Large |

HUMAN RIGHTS COMMISSION (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|-----------------------------------|----------------------|-----------------|
| Henry Salinas (Appointed 4/08 by Connolly) Term exp. 9/10 | At-Large #4 Representative | | By Any Supervisor | At-Large |
| Emanuel Solon (Appointed 9/95-7/01 by Connolly; 9/04&9/07 by Smyth) Term exp. 9/10 | At-Large #5 Representative | Emanuel Solon (Smyth) | By Any Supervisor | At-Large |
| Ahmed Selim (Appointed 7/08 by Gross) Term exp. 9/10 | At-Large #6 Representative | Ahmed Selim (Smyth) | By Any Supervisor | At-Large |
| Michel Margosis (Appointed 7/03-1/08 by Kauffman) Term exp. 9/10 | At-Large #7 Representative | Michel Margosis (McKay) | By Any Supervisor | At-Large |

HUMAN SERVICES COUNCIL (4 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Henry B. Latimer; appointed 5/97 by Dix; 7/00-9/08 by Hudgins) Term exp. 7/12 <i>Resigned</i> | Hunter Mill District Representative | | Hudgins | Hunter Mill |

**JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL
(2 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Melissa Smarr; appointed 6/06&1/08 by Smyth) Term exp. 1/10 <i>Resigned</i> | Providence District Representative | | Smyth | Providence |

**LIBRARY BOARD
(4 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Doreen E. Jagodnik; appointed 9/09 by Hyland) Term exp. 7/13 <i>Resigned</i> | Mount Vernon District Representative | | Hyland | Mount Vernon |

**OVERSIGHT COMMITTEE ON DRINKING AND DRIVING
(3 years)**

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|------------------------------------|------------------------|-------------------|-----------------|
| VACANT (Formerly held by Lynne Schlaaff-Cramer; appointed 5/06 by Smyth) Term exp. 6/08 <i>Resigned</i> | Providence District Representative | Tina Montgomery | Smyth | Providence |

TREE COMMISSION (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|-----------------------|-------------------|-----------------|
| Patricia Strat (Appointed 1/10 by Frey) Term exp. 6/10 | Sully District Representative | Patricia Strat | Frey | Sully |

TRESPASS TOWING ADVISORY BOARD (3 years)

[Note: Advisory board created effective 7/1/06 to advise the Board of Supervisors with regard to the appropriate provisions of Va. Code Section 46.2-1233.2 and Fairfax County Code 82.5-32.]

Membership: Members shall be Fairfax County residents. A towing representative shall be defined as a person who, prior to the time of his or her appointment, and throughout his or her term, shall be an operator of a towing business in Fairfax County.

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-----------------------------|----------------|----------------------|-----------------|
| John Theodore Fee (Appointed 6/06&9/07 by Connolly) Term exp. 9/10 | Citizen Representative | | By Any Supervisor | At-Large |
| Alvin Leach, Jr. (Appointed 7/06&9/07 by DuBois) Term exp. 9/10 | Towing #2 Representative | | By Any Supervisor | At-Large |

WETLANDS BOARD (5 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--------------------------------|--------------------------|-------------------|-----------------|
| VACANT (Formerly held by Ann Gerstenberger; appointed 7/00&1/04 by Kauffman; 1/09 by McKay) Term exp. 12/13 <i>Deceased</i> | Lee District Representative | Julia L. E. Pfaff | McKay | Lee |

Board Agenda Item
September 28, 2010

10:45 a.m.

Items Presented by the County Executive

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

ADMINISTRATIVE - 1

Authorization to Advertise a Public Hearing on the Proposed Amendments to the Human Rights Ordinance, Chapter 11 of the Fairfax County Code

ISSUE:

Board authorization is requested to advertise a public hearing on the proposed amendments to the Human Rights Ordinance. The proposed amendments are necessary to expedite the appeals process, as well as, reflect the procedural changes due to the merging of the Office of Human Rights and the Office of Equity Programs.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing on the proposed amendments to the Human Rights Ordinance.

TIMING:

The Board's action is requested on September 28, 2010, to provide sufficient time to advertise the public hearing for the adoption of the changes to this ordinance on November 16, 2010, at 4:00 p.m.

BACKGROUND:

The Fairfax County Human Rights Ordinance (Ordinance) was adopted in 1974. The Ordinance has been updated and reaffirmed over the years and amended to reflect changing conditions in Fairfax County. In 1982 the Ordinance was amended to add disability as a protected basis. It was amended in 1986 to allow for the appointment of an additional Commissioner, increasing the number allowed from 11 to 12. A 2002 amendment added Article II (Fair Housing Act) to the Ordinance making it substantially equivalent to the Federal Fair Housing Act.

The agency became a Fair Employment Practice Agency (FEPA) and a Fair Housing Assistance Program (FHAP) in 1980 and 2006 respectively. As a FEPA and FHAP, the agency has work-sharing agreements with the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD). In addition to funding from the county, the Commission is paid for investigating complaints in Fairfax County that are also jurisdictional with EEOC and HUD under its work-sharing agreements.

In July 2008, the Office of Human Rights and the Office of Equity Programs merged, however, this merger did not change the mission of either office. Certain provisions of the Ordinance dealing with Commission powers and procedures that are proposed to be amended clarify and adequately state the distinctions in powers and procedures between the Commission and the Division as it applies to the Ordinance. These proposed amendments include changes to accomplish the distinction between the recently merged Office of Equity Programs and the Office of Human Rights. The proposed amendments would not change the substantive protections of the Ordinance. The proposed changes also include numerous minor alterations to clarify language and correct grammatical errors.

On September 1, 2010, the Human Rights Commission unanimously approved the proposed amendments to the Ordinance, with minor edits that have been incorporated into this final proposed text.

The following is a summary of the essential proposed changes:

Section 1-1-1

- “Education and Outreach” have been added to the Statement of Policy Section in Article I. Education and outreach is an important component of the work conducted by the Human Rights Division. The Division provides education and outreach services regarding compliance with the Ordinance to individuals, employers, organizations, community groups, businesses and the housing industry operating in Fairfax County, and manages the Fair Housing Plan.

Section 11-1-2

- The definition of a “disabled person” has been changed to reflect the changes enacted by the Americans With Disabilities Act (ADA) Amendment Act of 2008. The Act emphasizes that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA.

The new definition is consistent with 42 U.S.C. 12102.

- Throughout the document, the definition “Director” has been added or changed from Executive Director, to reflect the new structure of the merger between the Office of Human Rights and the Office of Equity Programs.
- The definition of “Division” has been added to distinguish between the Office of Human Rights Division as opposed to the Office of Equity Programs Division.

- “Educational Institutions” have been limited to “private” institutions to reflect the limited authority of the Ordinance.
- “Employment agency” has added “internet providers” to reflect new technologies.
- “Major Life Activities” have been changed to reflect the changes of those in the ADA Amendments Act of 2008. To have a disability under the ADA, an individual must have an impairment that substantially limits one or more of his or her major life activities. Before the amendments, a major life activity was understood to be an everyday activity an average person can perform with little or no difficulty. The original ADA did not offer a list of major life activities, but the EEOC issued enforcement guidance stating that life activities such as walking, seeing, speaking, hearing, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing lifting, reaching, thinking, concentrating, interacting with others and sleeping should be considered “major.”

The new definition is consistent with 42 U.S.C. 12102.

- “Physical Impairment” has similarly been updated to reflect the changes in the ADA Amendments Act. The new definition is consistent with 42 U.S.C. 12102.
- “Public accommodation” has been expanded to include non-governmental entities, which reflects the actual limitations of the Commission.

Section 11-1-13

- The proposal includes the addition of a “Reconsideration” of the Final Investigative Report issued by the Division Director. This additional step affords complainants an additional review of their case prior to going to an appeal.
- The proposal also includes the addition of a “Hearing Tribunal” consisting of three members of the Commission. The Hearing Tribunals will allow the Commissioners to expedite the processing of appeals by complainants. Currently, the Ordinance is silent on the number of Commissioners necessary to conduct an appeal. The proposed language forms the Hearing Tribunal allowing the Commissioners to consider the merits of an appeal. This is especially important in light of the fact that the Commissioners are comprised of voluntary, non-paid members, who can not always attend every Commission meeting.

Board Agenda Item
September 28, 2010

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I - Proposed amendments to the Human Rights Ordinance, Chapter 11 of the Fairfax County Code.

STAFF:

David J. Molchany, Deputy County Executive

Kenneth L. Saunders, Executive Director, Office of Human Rights and Equity Programs

Edward E. Rose, Senior Assistant County Attorney

[AMENDED AND RESTATED CHAPTER 11 OF THE CODE OF FAIRFAX COUNTY, VIRGINIA ADOPTED DECEMBER 9, 2002]

**CHAPTER 11.
Human Rights Ordinance.**

Article I. In General.

- § 11-1-1. Statement of policy.
- § 11-1-2. Definitions.
- § 11-1-3. Unlawful practices - Housing and real estate transactions.
- § 11-1-4. Unlawful practices - Discrimination in housing based upon marital status.
- § 11-1-5. Unlawful practices - Employment.
- § 11-1-6. Unlawful practices - Public accommodations.
- § 11-1-7. Unlawful practices - Credit.
- § 11-1-8. Unlawful practices — **Private** Education.
- § 11-1-9. Unlawful practices - Retaliation.
- § 11-1-10. Human Rights Commission.
- § 11-1-11. Functions and powers of the Commission.
- § 11-1-12. Conduct of the Commission.
- § 11-1-13. Enforcement proceedings initiated by the filing of a complaint alleging a violation of Article 1 of this Chapter.
- § 11-1-14. Hearing held by the Commission.
- § 11-1-15. Decisions by the Commission.
- § 11-1-16. Enforcement proceedings with respect to Article 1 of this Chapter initiated by the Commission.
- § 11-1-17. Enforcement of this Chapter by County agencies.
- § 11-1-18. Inspections, records and notices.
- § 11-1-19. Savings provisions and non-abatement of matters.
- § 11-1-20. Non-exclusive remedy.
- § 11-1-21. Notices; service.
- § 11-1-22. Time limitations.
- § 11-1-23. Severability.

Article 2. Fairfax County Fair Housing Act

- § 11-2-1. Declaration of policy.
- § 11-2-2. Definitions.
- § 11-2-3. Exemptions.
- § 11-2-4. Unlawful discriminatory housing practices.
- § 11-2-5. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

- § 11-2-6. Interference with enjoyment of rights of others under this Article.
- § 11-2-7. Certain restrictive covenants void; instruments containing such covenants.
- § 11-2-8. Familial status protection not applicable to housing for older persons.
- § 11-2-9. Powers of the Human Rights Commission.
- § 11-2-10. Procedures for receipt or initiation of complaint under Article 2 of this Chapter; notice to parties; filing of answer.
- § 11-2-11. Procedures for investigation.
- § 11-2-12. Reasonable cause determination and effect.
- § 11-2-13. No reasonable cause determination and effect.
- § 11-2-14. Conciliation.
- § 11-2-15. Issuance of a charge.
- § 11-2-16. Prompt judicial action.
- § 11-2-17. Civil action by County Attorney upon referral of charge by the Human Rights Commission.
- § 11-2-18. Civil action by County Attorney; matters involving the legality of any local zoning or other land use ordinance; pattern or practice cases; or referral of conciliation agreement for enforcement.
- § 11-2-19. Civil action; enforcement by private parties.
- § 11-2-20. Witness fees.
- § 11-2-21. Promulgating regulations.
- § 11-2-22. Application of Article.
- § 11-2-23. Construction of law.

ARTICLE I. In General.

Section 11-1-1. Statement of policy.

The continued harmonious relations among all people are hereby declared essential to the welfare, health, and safety of the residents of Fairfax County. It is contrary to the public policy of the County to permit those conditions to arise or continue unabated which impede the peaceful coexistence of all people in the County, threaten peace and good order and adversely affect the physical, economic and social well-being of the residents. It is the duty of this government to exercise all available means and every power at its command to prevent the same so as to protect its residents from such perils. To this end, it is essential that the government of this County assume the initiative for repairing the consequences of past denials of equal opportunities, preventing denials of these opportunities in the future, and eliminating the underlying causes of discrimination. It is the dual purpose of this Chapter to institute an affirmative human rights program of positive efforts to eliminate discrimination through education and outreach and to provide ~~the citizen~~ citizens recourse for discriminatory acts. Therefore, in order to secure and promote the health, safety and general welfare of the residents of this County, it is declared to be the policy

of the County to ensure that all persons be afforded equal opportunity to participate, on the basis of personal merit, in the social, cultural, economic, and other phases of community life free from any discrimination, and to that end the governing body adopts this Chapter of the Code of the County of Fairfax, Virginia; and it is further declared to be the policy of the County that any provision in a deed, mortgage, deed of trust or other instrument affecting title to or any interest in land or housing recorded in the land records of this County which purports to restrict or affect, on the basis of age, race, color, religion, sex, national origin, marital status, disability, or familial status or the holding, occupancy or transfer of any interest in land, shall, on and after the effective date of this Chapter be wholly invalid for any purpose.

Section 11-1-2. Definitions.

For the purposes of this Chapter:

Age means any individual who is at least forty (40) years of age.

Commission means the *Human Rights Commission*, as established herein.

Complainant means any person who files a complaint with the Division, alleging that a violation of this Chapter has been committed.

Deleted: Commission

Complaint means any written allegation on a form supplied by the Human Rights Division sufficient to indicate that a named respondent has committed a violation of this Chapter.

County means the County of Fairfax, Virginia.

Disability means any condition or characteristic that renders a person a disabled person.

A *disabled* person means any person who:

(1) ~~Has~~has a physical or mental impairment which substantially limits one (1) or more major life activities;

(2) ~~Has a history of, has been misclassified or has been perceived as having an impairment which substantially limits one (1) or more major life activities~~has a record of such impairment;

(3) has been regarded as having such impairment.;

(a) an individual meets the requirement of “has been regarded as having such impairment” if the individual establishes that he or she has been subjected to an action prohibited under this Ordinance

~~because of an actual or perceived~~ physical or mental impairment that does not ~~substantially whether or not the impairment limits or is perceived to~~ limit a major life activities but is treated by others as constituting such a limitation; activity.

(b) this paragraph shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

~~(4) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.~~

Director means the person appointed to the position of Director of the Office of Human Rights and Equity Programs or the Director's designated representative.

Discriminate or discrimination or discriminatory means or describes any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial or any other act or failure to act or any other differentiation or preference of or for any person or any other difference in treatment which adversely affects such person. because of their age, color, marital status (as limited by this Section), religion, national origin, race, disability or retaliated against because a person complained about discrimination under this Article.

Discrimination based on sex includes, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this Chapter shall be interpreted to permit otherwise. This Chapter shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion; provided, that nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

Division means the Office of Human Rights Division.

Educational institution means any private: nursery, kindergarten, elementary or secondary school, academy, college, university, extension course or nursing, secretarial, business, vocational, technical, trade or professional school, or joint apprenticeship program.

Employee means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in

any state or political subdivision of any state by the qualified voters, thereof.

Employer means any person who, within the County, in exchange for wages, salaries, commission or other benefits, employs four (4) or more persons who are not family members to the employer (if an individual) or to any partner or majority shareholder of the employer (if a partnership or a corporation) and who are not employed in domestic service in the employer's personal residence. For purpose of this Section, family member shall mean: spouse, brother, nephew, parent, half sister, first cousin, child, half brother, mother-in-law, stepparent, stepsister, father-in-law, stepchild, stepbrother, daughter-in-law, grandparent, aunt, son-in-law, grandchild, uncle, sister-in-law, in-law, sister, niece, and brother-in-law.

Employment agency means all persons, including newspapers, internet providers, publishing help-wanted advertisements who with or without compensation undertake to solicit or advertise in the County for potential employees or refer persons for potential employment in the County. ~~Executive director means the person appointed to the position of Executive Director of the Human Rights Commission or the Executive Director's designated representative.~~

Housing means any building, structure, mobile home site or facility, or portion thereof, located in the County that is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one (1) or more persons, groups or families, and any vacant land located in Fairfax County offered for sale or lease for the purpose of constructing or locating thereon such building, structure or facility, and includes any interest in land or housing as so defined, fee simple, leasehold or other.

Labor organization means any association organized for mutual benefit and operating as a labor union, association, committee or organization for the purpose of collective bargaining and other lawful functions of labor unions, or any employee representation committee, any of whose numbers are employed in the County whether or not having a duly authorized charter as a local labor union from either a state or national labor organization, and whether or not registered with the State Commonwealth of Virginia Department of Labor.

Lending institution means any bank, insurance company, savings and loan association, finance company, credit union, mortgage company, or any other person regularly engaged in the business of lending money or guaranteeing loans or furnishing consumer credit or other credit-related services.

Major life activities ~~means functions such as~~

(1) Include, but are not limited to, caring for one's self, oneself, performing manual tasks, ~~walking, seeing, hearing,~~ eating.

sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(2) A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Mental impairment means any mental or psychological disorder, such as mental retardation, organic brain syndrome, neurological, emotional or mental illness, and specific learning disabilities. This shall not include alcoholism or drug addiction.

Non-residential real estate means any real property used for other than residential purposes.

Notice of investigation means any formal statement issued by the Commission, on a form to be prepared by the ~~Commission~~ **Human Rights Division**, alleging that any person has committed a violation of this Chapter and thereby initiating an investigation of such alleged violation.

Party means any Complainant or Respondent.

Person means any individual or individuals, partnership, association, corporation, joint-stock company, **internet service providers**, labor union, mutual company, trustee in bankruptcy, receiver or other fiduciary, or the agent, legal representative or employee thereof.

Physical impairment means any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one (1) or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine.

Public accommodation means and ~~include~~ **includes** every business, professional or commercial enterprise, hospital or nursing home, refreshment, entertainment, sports, recreation or transportation facility located in the County, whether licensed or not, ~~public or private~~ **non-government entities**, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available in any manner to the public. " Public accommodation" does not include a bona fide private club or other ~~establishment~~ **establishments** not in fact open to the public.

Qualified disabled person means:

- (1) With respect to employment, a disabled person who, with or without reasonable accommodation can perform the essential functions of the job in question.
- (2) With respect to other goods or services, means any disabled person who meets the essential nondiscriminatory eligibility requirements for the receipt of such goods or services.

Real estate broker means a person doing business in the County of Fairfax who is the holder of a real estate broker's license issued pursuant to applicable laws of the Commonwealth of Virginia.

Real estate sales person means a person doing business in the County of Fairfax who is the holder of a real estate license issued pursuant to applicable laws of the Commonwealth of Virginia.

Real estate transaction means any sale, exchange, rental, lease, assignment, sublease or other transfer of housing, vacant land or commercial property.

Reasonable accommodation shall mean the efforts necessary to make suitable an environment for a disabled person without undue hardship or undue expense to a business or employer.

Religious organization means any organization, association or society organized or operated for exclusively religious purposes or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, unless membership in such organization, association or society is restricted on account of age, race, color, national origin, sex, disability or marital status for a non-religious reason.

Respondent means any person alleged in any complaint filed with the ~~Commission~~ Human Rights Division, or in any ~~Notice of Investigation~~ Letter of Notification issued by the ~~Commission~~ Human Rights Division, to have violated this Chapter.

Restrictive covenant means any specification purporting to restrict or affect the holding, occupancy, ownership, rental, lease, or transfer of any interest in land or housing on the basis of race, color, religion, sex, marital status, national origin, or disability.

Section 11-1-3. Unlawful practices - Non-residential real estate transactions.

(a) It shall be unlawful for any person, including but not limited to any real estate broker, real estate sales person, or rental agent acting on his or her own behalf or on behalf of any person, on the basis of age, race, color, religion, sex, national origin, disability, or marital status in matters relating only to non-residential real estate transactions:

(1) To refuse to sell, lease, sublease, rent, assign, transfer, refuse to negotiate for the sale of, or otherwise make unavailable or deny any vacant land or commercial property;

(2) To represent that vacant land or commercial property is not available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is so available;

(3) To knowingly represent that vacant land or commercial property is available for inspection, sale, lease, sublease, rental, assignment or other transfer at rates or on terms or conditions different from those at which it is in fact available to ~~the generality of persons~~ any person or to otherwise discriminate against any person in the terms, conditions or privileges of sale or rental;

(4) To fail to provide services, facilities or other amenities connected with one's ownership, lease, sublease, rental, possession or occupancy of vacant land or commercial property;

(5) To interfere with, interrupt, or terminate one's ownership, lease, sublease, rental, possession, or occupancy of vacant land or commercial property or other enjoyment of any interest therein;

(6) To ~~discriminate in~~ impede the investigation of complaints;

(7) To deny access to, membership or participation in, or other benefit of any multiple-listing service or other service, organization, or facility related to any ~~nonresidential~~ non-residential real estate transaction;

(8) To include in the terms or conditions of any sale, lease, sublease, rental, assignment, or other transfer of vacant land or commercial property any condition or provision that ~~purports to~~ forbids or discourages or attempts to discourage, the ownership, leasing, possession, occupancy or use of such vacant land or commercial property;

(9) To make, print or publish or cause to be made, printed or published any notice, statement or advertisement, in connection with, any non-residential real estate transaction that indicates discrimination or an intention to engage in discrimination;

(10) To make or use a written or oral inquiry or form of application or photograph in connection with any ~~non-residential~~ non-residential real estate transaction that elicits or attempts to elicit information concerning age, race, color, religion, sex, national origin, marital status, or disability. With respect to marital status, this does not preclude questions regarding income on a joint application;

(11) To solicit the sale, lease, sublease, rental, assignment or other transfer of vacant land or commercial property or discourage the purchase of, lease, sublease, rental, assignment or other transfer of vacant land or commercial property by representations regarding the existing or potential proximity of real property owned, used or occupied by a person or persons of a particular age, race, color, religion, sex, national origin, marital status, or disability; or

(12) To display a sign or otherwise represent that vacant land or commercial property is available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is not so available.

(b) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in vacant land or commercial property in the County on the basis of age, race, color, religion, sex, national origin, disability, or marital status, to knowingly:

(1) Include therein any restrictive covenant;

(2) Fail to include in any report or abstract of title pertaining to vacant land or commercial property located in Fairfax County, prepared or furnished by him/her, a notation that any restrictive covenant contained therein is invalid and unenforceable; or

(3) Fail to include in any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in vacant land or commercial property in the County, where any restrictive covenant is incorporated by reference to another document or instrument, a statement that such restrictive covenant is invalid and unenforceable.

(c) The Clerk of the Circuit Court shall:

(1) Not comply with any request to copy any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in vacant land or commercial property or declaration of covenants, filed or recorded in his/her office, unless he/she imprints on or affixes to such a copy of a clear and conspicuous statement that any provision contained therein which purports to restrict or affect the holding, occupancy, ownership, rental, lease or transfer of any interest in land or housing, vacant land or

commercial property on the basis of age, race, color, religion, sex, national origin, marital status, or disability is invalid and unenforceable; and

(2) Post in a conspicuous location in the main clerk's office and in the record room a notice that contains the following language printed in black on a light colored background, in not less than fourteen-point type:

"It is a violation of the Human Rights Ordinance of the County of Fairfax, Virginia, for any person to include any provision in any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in vacant land or commercial property which purports to restrict or affect, on the basis of age, race, color, religion, sex, national origin, marital status or disability, holding, occupancy, or transfer of any interest in land or vacant land or commercial property and any such provisions are invalid and unenforceable. Fairfax County Code, Section 11-1-3"

This language shall also be imprinted or affixed to every liber volume in the custody of the Clerk of the Court. The Clerk of the Court shall also exhibit in a conspicuous location in the main clerk's office and in the record room a copy of this Chapter.

(d) Exemptions:

(1) It is not a violation of this Section to:

(A) Require that a person have legal capacity to enter into an irrevocable contract;

(B) Fail to exercise a higher degree of care for a person with a disability than for a person without a disability by any person selling, renting or leasing property.

(2) It is not a violation of this Section for a religious organization to:

(A) Limit or give preference in non-residential real estate transactions to persons of the same religion or denomination or to make a selection of buyers, tenants, lessees, assignees, or sublessees where such preference is reasonably calculated to promote the religious principles for which said real estate is established or maintained;

(B) Limit admission to or give preference in its facilities or services to persons of the same religion or denomination or to make a selection of applicants or individuals where such preference is

reasonably calculated to promote the religious principles for which it is established or maintained.

Section 11-1-4. Unlawful practices - Discrimination in housing based upon marital status.

(a) It shall be unlawful for any person, including but not limited to any real estate broker, real estate sales person, or rental agent acting on his or her own behalf or on behalf of any person, on the basis of marital status:

(1) To refuse to sell, lease, sublease, rent, assign, transfer, refuse to negotiate for the sale of, or otherwise make unavailable or deny any housing;

(2) To represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is so available;

(3) To knowingly represent that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer at rates or on terms or conditions different from those at which it is in fact available to the ~~generality of persons~~ **general public** or to otherwise discriminate against any person in the terms, conditions or privileges of sale or rental of housing;

(4) To fail to provide services, facilities, or other amenities connected with one's ownership, lease, sublease, rental, possession, or occupancy of housing;

(5) To interfere with, interrupt or terminate one's ownership, lease, sublease, rental, possession, or occupancy of housing or other enjoyment of any interest therein;

(6) To discriminate in the investigation of complaints alleging discrimination in housing based upon marital status;

(7) To deny access to, membership or participation in, or other benefit of any multiple-listing service or other service, organization or facility related to housing;

(8) To include in the terms or conditions of any sale, lease, sublease, rental, assignment, or other transfer of housing any condition or provision that purports to forbid or discourage, or attempts to **forbid or** discourage, the ownership, leasing, possession, occupancy or use of such housing;

(9) To make, print or publish or cause to be made, printed or published any notice, statement or advertisement, in connection with, any housing transaction that indicates discrimination or an intention to engage in discrimination on the basis of marital status;

(10) To make or use a written or oral inquiry or form of application or photograph in connection with any real estate transaction that elicits or attempts to elicit information concerning marital status. However, this does not preclude questions regarding income on a joint application;

(11) To solicit the sale, lease, sublease, rental, assignment or other transfer of housing or discourage the purchase of, lease, sublease, rental, assignment or other transfer of housing by representations regarding the existing or potential proximity of real property owned, used or occupied by a person or persons of a particular marital status; or

(12) To display a sign or otherwise represent that housing is available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is not so available.

(b) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in housing, in the County on the basis of marital status to knowingly:

(1) Include therein any restrictive covenant;

(2) Fail to include in any report or abstract of title pertaining to housing, located in Fairfax County, prepared or furnished by him/her, a notation that any restrictive covenant contained therein is invalid and unenforceable; or

(3) Fail to include in any deed, mortgage, deed of trust or other instrument affecting title to or any interest in housing in the County, where any restrictive covenant is incorporated by reference to another document or instrument, a statement that such restrictive covenant is invalid and unenforceable.

(c) The Clerk of the Circuit Court shall:

(1) Not comply with any request to copy any deed, mortgage, deed of trust or other instrument affecting title to or any interest in housing or declaration of covenants, filed or recorded in his/her office, unless he/she imprints on or affixes to such a copy of a clear and conspicuous statement that any provision contained therein which purports to restrict or affect the holding, occupancy, ownership, rental, lease, or transfer of any interest in

land or housing on the basis of marital status is invalid and unenforceable; and

(2) Post in a conspicuous location in the main clerk's office and in the record room a notice that contains the following language printed in black on a light-colored background, in not less than fourteen-point type:

"It is a violation of the *Human Rights Ordinance* of the County of Fairfax, Virginia, for any person to include any provision in any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in housing which purports to restrict or affect, on the basis of marital status the holding, occupancy, or transfer of any interest in land or housing invalid and unenforceable. Fairfax County Code, Section 11-14"

This language shall also be imprinted or affixed to every liber volume in the custody of the Clerk of the Court. The Clerk of the Court shall also exhibit in a conspicuous location in the main clerk's office and in the record room a copy of this Chapter.

(d) *Exemptions:*

(1) It is not a violation of this Section to:

(A) Maintain an establishment which provides sleeping accommodations exclusively to persons of the same sex;

(B) Restrict the rental or leasing of a room or rooms in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence;

(C) Require that a person have legal capacity to enter into an irrevocable contract.

(2) It is not a violation of this Section for a religious organization to:

(A) Limit or give preference in real estate transactions to persons of the same religion or denomination or to make a selection of buyers, tenants, lessees, assignees, or sublessees where such preference is reasonably calculated to promote the religious principles for which said real estate is established or maintained;

(B) Limit admission to or give preference in its accommodations, facilities or services to persons of the same religion or

denomination or to make a selection of applicants or individuals where such preference is reasonably calculated to promote the religious principles for which it is established or maintained.

Section 11-1-5. Unlawful practices - Employment.

(With respect to provisions of this Section, actions on the basis of disability apply only to otherwise qualified disabled persons as defined in Section 11-1-2.)

(a) It shall be unlawful for any employer on the basis of age, race, color, religion, sex, national origin, marital status, or disability:

- (1) To refuse to hire an individual for employment;
- (2) To discharge an employee;
- (3) To deny an employee any opportunity with respect to hiring, promotion, tenure, apprenticeship, compensation, terms, upgrading, training programs, or other conditions or privileges of employment; or
- (4) To prevent an individual from taking a competitive examination or otherwise deny any benefits pertaining to the grading or processing of applications with respect to any aspect of employment;

(b) It shall be unlawful for any employment agency on the basis of age, race, color, religion, sex, national origin, marital status, or disability:

- (1) To refuse or fail to accept, register, properly classify, or refer for employment any person; or
- (2) To comply with any request by an employer for referral of applicants if the request indicates, directly or indirectly, that the employer desires any discriminatory limitation of applicants.

(c) It shall be unlawful for a labor organization on the basis of age, race, color, religion, sex, national origin, marital status, or disability:

- (1) To deny full and equal rights to membership to an applicant for membership;
- (2) To deny a member or an applicant an opportunity with respect to hiring, seniority, tenure, referral, apprenticeship, compensation, terms, upgrading, training programs, or other conditions or privileges of membership or employment; or

(3) To expel a member from membership.

(d) It shall be unlawful for any person to circulate or publish any notice or advertisement related to employment or membership in a labor organization which indicates, directly or indirectly, any preference, limitation, specifications, or discrimination based upon age, race, color, religion, sex, national origin, marital status, or disability.

(e) It shall be unlawful for any member of a joint labor-industry apprenticeship committee or board to participate in any act of discrimination on the basis of age, race, color, religion, sex, national origin, marital status, or disability notwithstanding the fact that the employer members of such committee or board are not in fact the employer of an apprentice against whom an act of discrimination has been committed.

(f) *Exemptions:*

(1) It is not a violation of this Chapter to:

(A) Terminate employment or otherwise take action concerning a person under terms of a bona fide retirement, pension or disability plan or group or employee insurance plan.

(B) Restrict employment to persons of a particular religion, sex, national origin, age, physical or emotional standard, where such religion, sex, national origin, age, physical or emotional standard is a bona fide occupational qualification.

(C) Take actions on the basis of a disability, pursuant to law or regulation governing any employment or training program, which is designed to benefit persons of a particular disabled group.

(D) Advertise and offer employment only to disabled persons when other employment compatible with their ability would not be available to disabled persons because of their disability.

(2) Nothing in this Section shall be construed to apply to educational institutions with respect to discrimination in the employment of teachers or administrators on the basis of emotional or mental illness or other mental or physiological disorder(s), such as a mental retardation disability, organic brain syndrome and specific learning disabilities, unless the teacher or administrator can establish that such disability does not affect, and does not present a reasonable risk of affecting, his or her ability to perform any of the essential duties of his or her job.

(3) To require that a person have legal capacity to enter into an irrevocable contract.

Section 11-1-6. Unlawful practices - Public accommodations.

(a) It shall be unlawful for any person or public accommodation to discriminate against any person on the basis of age, race, color, religion, sex, national origin, marital status, or disability with respect to the access, use of, benefit of, or enjoyment of goods, services, facilities, privileges, or any other advantages of any public accommodation, or to make or publish any statement evidencing an intent to do so.

(b) *Exemptions:*

(1) It is not a violation of this Section:

(A) For a religious organization to limit admission to or give preference in its accommodations, facilities, or services to persons of the same religion or denomination, or to make a selection of applicants or individuals where such selection is reasonably calculated to promote the religious principles for which it is established or maintained;

(B) For an organization to limit participation in contact sports on the basis of sex. For the purpose of this Section, contact sports shall include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact;

(C) To require that a person have legal capacity to enter into an irrevocable contract.

(2) Upon application and for good cause shown, the Commission may by written ruling permit any public accommodation facility to restrict access to such public accommodation facility to persons of a specified age or sex.

Section 11-1-7. Unlawful practices - Credit.

(a) It shall be unlawful for any lending institution on the basis of age, race, color, religion, sex, national origin, marital status, or disability to:

(1) Discriminate against any person in the furnishing of credit or other credit-related services, including but not limited to the lending of money, guaranteeing of loans, or accepting of mortgages;

(2) Deny or terminate credit or credit-related services or to affect adversely a person's credit rating or standing.

(b) Exemptions. It is not a violation of this Section:

(1) For a religious organization to limit or give credit or other credit related services to persons of the same religion or denomination or to give credit or services to individuals when such credit or services are reasonably calculated to promote the religious principles for which it is established and maintained.

(2) To require that a person have legal capacity to enter into an irrevocable contract.

Section 11-1-8. Unlawful practices -- Private Education.

(a) It shall be an unlawful act for any private educational institution or its agents, employees, or officers on the basis of age, race, religion, sex, national origin, color, marital status, or disability:

(1) To discriminate against any person with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges, or services of that institution.

(2) To require, or cause to be required, that a photograph of any applicant for admission to an educational institution, or information regarding age, race, color, religion, sex, national origin, marital status or disability of such applicants, be submitted with any form of application for admission, unless such information is sought solely for the purpose of implementing a bona fide affirmative action program.

(3) To comply with any request by a potential employer that indicates, directly or indirectly, that the employer desires any unlawful discriminatory limitation in its efforts to recruit students on the educational institution's premises or in the employer's use of placement facilities for referral of students for employment or in such employer's participation in any job-training or work-study program operated by or in conjunction with the educational institution.

(b) *Exemptions:*

(1) It is not a violation of this Section for any educational institution:

(A) To restrict admission to persons of the same sex.

(B) To limit admission or to give preference to persons of the same religion or denomination as the educational institution or to make a selection of applicants or individuals that is reasonably calculated to promote the religious principles for which it is established or maintained.

(C) To limit participation in contact sports on the basis of sex. For the purpose of this Section, contact sports shall include boxing, wrestling, rugby, ice hockey, football, basketball, or other sports the purpose or major activity of which includes bodily contact.

(D) To require that a person have legal capacity to enter into an irrevocable contract.

Section 11-1-9. Unlawful practices - Retaliation.

It shall be unlawful for any person:

(1) To direct or indirectly cause or coerce, or attempt to cause or coerce, any person to do any act declared to be an unlawful act under this Chapter;

(2) To directly or indirectly engage in economic reprisal, to do, threaten to do, or attempt to do harm to any person or property or to otherwise retaliate against any person because such person has opposed any practice based on a good faith belief that it is unlawful under this Chapter, or has complied with the terms of this Chapter, or has had a complaint filed in his or her behalf, or has filed a complaint or has testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this Chapter or exercised or attempted to exercise any right conferred herein.

Section 11-1-10. Human Rights Commission.

(a) There is hereby created in the County of Fairfax a Human Rights Commission, hereinafter referred to as the Commission. The Commission shall consist of twelve (12) members who shall be residents of the County and broadly representative of the racial, sexual, religious, ethnic, disabled, and age groups in the County. The members shall be appointed by the Board of Supervisors and shall be entitled to receive such compensation as the Board of Supervisors shall direct. ~~Of the members first appointed, four (4) shall be appointed for terms of three (3) years, four (4) shall be appointed for terms of two (2) years, and three (3) shall be appointed for terms of one (1) year. Thereafter, members shall be appointed for terms of three (3) years each.~~ Any vacancy shall be filled by the Board of Supervisors for the unexpired portion of a term.

(b) There shall be an ~~Executive~~ Director ~~of the Commission,~~ who shall be appointed by the Board of Supervisors upon the joint recommendation of the

Commission and the County Executive and who shall serve full time in that capacity. The Board of Supervisors shall authorize the Commission to employ such additional staff personnel as are deemed warranted to secure effective compliance with this Chapter.

(c) Legal counsel shall be provided to the Commission through the office of the County Attorney. The Office of the County Attorney may authorize retention of outside counsel where deemed appropriate. Unless otherwise directed the Office of the County Attorney shall, during actions consistent with this Chapter, adhere to the rules and regulations as prescribed by the Board of Supervisors.

Section 11-1-11. Functions and powers of the ~~commission~~ Commission.

(a) Functions: The function of the Commission shall be to eliminate discrimination in housing, public accommodations, employment, education, and credit facilities by:

- (1) Utilizing its full enforcement powers under this Chapter;
- (2) Conciliating individual complaints of any acts or practices prohibited under this Chapter;
- (3) Negotiating with wide sectors of business, unions, professions, official agencies, and private organizations for the taking of action by them to improve opportunities available to persons protected by this Chapter;
- (4) Rendering advice concerning the establishing of voluntary affirmative action programs; provided, however, that under no circumstances shall the Commission or its staff approve or ratify any such affirmative action program unless the affirmative action plan is implemented pursuant to a conciliation agreement entered into between the parties;
- (5) Making studies and issuing reports on the condition of human rights in the County; and
- (6) Advising the Board of Supervisors on matters relating to human rights issues as they pertain to the health, safety, and general welfare of persons protected by this Chapter.

(b) Powers: The Commission exercises jurisdiction within the geographical boundaries of Fairfax County, including the Townes of Clifton, Herndon and Vienna, except for allegations of discrimination against the Federal Government, Commonwealth of Virginia, Fairfax County Government and the boards, commissions, and authorities of such governments, including but not limited to the Fairfax County Public Schools, the Fairfax County Park Authority, and the Fairfax-Falls Church Community Services Board,

and their officers, employees and agents, against the County, its boards, commissions, departments, agencies, officers, or employees and shall have the power:

- (1) To receive complaints from any person alleging violations of this Chapter and to investigate such alleged violations; and to investigate, on its own initiative, suspected violations of this Chapter.
- (2) To request that any party produce for examination any books, records, papers or other documents or tangible evidence, or that any party answer written interrogatories or oral questions, relating to any matter under investigation by the Commission.
- (3) To use methods of persuasion, conciliation and mediation, or informal adjustment resolution of grievances, to hold public hearings as provided for by this Chapter, and, in the case of complaints of alleged unlawful discriminatory acts, to make findings of fact, issue recommendations and publish its findings of fact and recommendations in order to foster compliance with this Chapter.
- (4) To investigate by means of public hearings as provided for by this Chapter or otherwise any particular or general conditions having an adverse affect upon any rights protected by this Chapter including alleged violations of this Chapter.
- (5) To request the attendance of witnesses at public hearings, fact finding conferences, or other investigative forums conducted by the Commission and to take the testimony of such persons under oath or affirmation.
- (6) To use such voluntary and uncompensated services of private persons, institutions, civic organizations, officials, and advisory committees as may from time to time be offered and needed to perform advisory functions.
- (7) To gather and disseminate information about discrimination and other human rights problems affecting the social, economic, cultural, and other phases of community life within the County.
- (8) To establish a forum for discussing discrimination and other human rights problems within the County and to form committees with representatives from concerned groups within the County to study and propose solutions to discrimination and other human rights problems within the County.

(9) To encourage the establishment of advisory committees within County agencies and, when requested by the Board of Supervisors, to establish such an advisory committee or committees.

(10) To adopt, promulgate, amend, and rescind, subject to the approval of the Board of Supervisors, rules and regulations to effectuate the purposes and provisions of this Chapter. The Commission shall forward all proposed rules and regulations to the Board of Supervisors for their approval and such rules and regulations shall be deemed approved unless the Board of Supervisors within sixty (60) days of receipt specifically disapproves such rules and regulations.

(11) Whenever the Commission has a reasonable cause to believe that any person has engaged in or is engaging in any violation of Article 1 of this Chapter, and, after making a good faith effort to obtain the data, information and attendance of witnesses necessary to determine whether such violation has occurred, the Commission is unable to obtain such data, information, or attendance, it may request the County Attorney, with the approval of the Board of Supervisors, to petition a judge of the general district court for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and the judge of such court may, upon good cause shown, cause the subpoena to be issued. However, the Commission shall have no power itself to issue subpoenas under this Article 1. Any witness subpoena issued under this Section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney at law. Any person failing to comply with such subpoena issued under this Section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

~~When conducting an investigation of a complaint filed under Article 2 of this Chapter the Commission or its designated subordinates shall have the power to issue and serve a subpoena as provided for by Section 11-2-11(B).~~

(12) Whenever the Commission has a reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in a violation of this Article 1 of this Chapter, the Commission may seek through the County Attorney, with the approval of the Board of Supervisors, through appropriate enforcement authorities, prevention of or relief from a violation of this Article 1 of this Chapter prohibiting discrimination and to exercise such other powers and duties as provided for in this Chapter; however, the Commission in such event shall have no power itself to award damages or grant injunctive relief. If the Commission concludes at any time following the filing of a complaint and after consultation with the Office of the County Attorney, that prompt judicial

action is necessary to carry out the purposes of Article 2 of this Chapter, the Commission may authorize a civil action by the County Attorney for appropriate temporary or preliminary relief, as provided for by Section 11-216-~~2-16~~.

(13) To exercise all such other powers as are set forth in this Chapter.

Section 11-1-12. Conduct of the Commission.

The Commission shall elect a chairperson from its membership. A majority or one-half (1/2) of the currently serving members of the Commission, whichever is smaller, shall constitute a quorum. Decisions of the Commission shall be made by a majority vote of the members present. The Commission shall render to the Board of Supervisors on or before April 1 of each year a full written record of its activities under the provisions of this Chapter and its recommendations concerning measures to be taken to further the purposes of this Chapter.

Section 11-1-13. Enforcement proceedings initiated by the filing of a complaint alleging a violation of Article 1 of this Chapter.

(a) Complaints: A complaint may be filed with the Commission by any person alleging that a violation of ~~this~~ Article 1 of this Chapter has been committed. All complaints must be formalized on a form supplied by the Commission within a reasonable time. The ~~Executive~~ Director shall promptly serve a copy of the formal complaint upon each respondent named therein. The complaint shall state the name and address of the complainant and the person or persons against whom the complaint is made, and shall also state the alleged facts surrounding the alleged commission of a violation of ~~this~~ Article 1 of this Chapter, the date the violation was allegedly committed, and such other information as the Commission may require. A complaint filed under Article 1 of ~~this~~ Chapter may be withdrawn at any time by the complainant. Such withdrawal may terminate all action by the Commission with respect to that complaint. Failure of a complainant to formalize his or her complaint under this Article 1 of this Chapter within the time allowed may result in automatic dismissal of the complaint unless for good cause shown the Commission grants an extension of time for this purpose.

(b) Investigations and Determinations by the ~~Executive~~ Director:

(1) Upon the filing of a complaint as set forth in Subsection (a) of this Section, the ~~Executive~~ Director shall conduct such investigation as he or she deems appropriate to ascertain the facts, provided that the complaint may be dismissed by the ~~Executive~~ Director without

investigation if it fails to adequately allege a violation of ~~this Article 1~~ or is otherwise deficient on its face.

(2) ~~on its face~~. Except as set forth in Section 11-413**1-13**(b)(~~4~~**5**) below, upon completion of the investigation, the ~~Executive~~ Director shall render a determination in writing as to whether or not there are reasonable grounds to believe a violation of ~~this Article 1~~ has occurred, and the facts supporting such determination. This determination shall promptly be served on the parties.

(~~2~~**3**) If the ~~Executive~~ Director determines that there are reasonable grounds to believe a violation of this Article 1 has occurred, he or she shall then determine: (i) whether conciliation should be attempted; or (ii) whether the matter should be referred directly to the Commission for a determination as to whether or not to hold a public hearing. If the ~~Executive~~ Director attempts conciliation, and conciliation is successful and agreed to by the vote of the Commission, the complaint will be considered resolved. If conciliation is not successful, the matter shall be forwarded to the Commission for a determination as to whether or not to hold a public hearing.

(~~3~~**4**) If the ~~Executive~~ Director determines that the complaint lacks reasonable grounds to believe a violation of ~~this Article 1~~ has occurred, he or she shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) business days of date of notice of the dismissal, the complainant files with the Commission a request for ~~a review~~

(A) a Reconsideration of the determination ~~of~~by the ~~Executive~~ Director. Upon request for such a review, Director; and/or

(B) an Appeal to the Commission in which the Commission shall afford the complainant an opportunity to appear before the Commission in person or by representative, or by letter, as the complainant may desire. The Commission Chairperson may appoint a Hearing Tribunal consisting of a minimum of three (3) members of the Commission, sitting as the Commission.

After such review, the Commission may in its discretion dismiss such complaint. If the Commission determines that the complaint should not be dismissed, it shall direct the ~~Executive~~ Director to continue the investigation or proceed with conciliation efforts; or the Commission may determine to hold a public hearing on the allegations in the complaint.

(~~4~~**5**) If the ~~Executive~~ Director determines, after investigation, that the available evidence does not permit a determination as to whether or not

there are reasonable grounds to believe a violation of ~~this~~ Article 1 has occurred, he or she shall:

(A) Render a written notice to this effect to be served on the parties and include in such notice a statement of the reasons for such determination; and

(B) Refer the matter to the Commission for a determination as to whether or not to hold a public hearing and for other action consistent with the purposes of ~~this~~ Article 1.

(~~e~~C) Conciliation: Conciliation conferences shall be informal, and nothing said or done during such conferences shall be made public by the Commission or its members or any of its staff unless the parties agree thereto in writing. Conciliation shall not be attempted if the ~~Executive~~ Director determines that it would be futile or if enforcement of ~~this~~ Article 1 would best be served by referring the matter directly to the Commission for a determination as to whether or not to hold a public hearing. If conciliation is attempted and the ~~Executive~~ Director determines that it is successful, the terms of the conciliation agreed to by the parties may be reduced to writing and incorporated into a conciliation agreement to be signed by the parties, ~~which~~ and the Commission. The agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Conciliation agreements shall be signed on behalf of the Commission by the Chairperson or the Acting Chairperson. Nothing in this Section requires that the terms of the signed conciliation agreement be kept confidential. It shall be a violation of ~~this~~ Article 1 to violate or fail to adhere to any provision contained in any conciliation agreement, and the Commission shall have the right to pursue, through the County Attorney, with approval of the Board of Supervisors, appropriate legal remedies to enforce any such agreement, including, but not limited to, the right to institute an action for breach of contract in a court of competent jurisdiction.

(~~d~~D) Determinations by the Commission as to whether to hold a public hearing:

(1) The Commission shall determine by majority vote whether to hold a public hearing in all matters referred to it by the ~~Executive~~ Director in the following circumstances:

(A) When there is a determination by the ~~Executive~~ Director that there are reasonable grounds to believe that a violation of ~~this~~ Article 1 has occurred, and:

i. A determination by him or her that conciliation should not be attempted; or

ii. A determination by him or her that conciliation has been attempted and has been unsuccessful.

(B) When there is a determination by the ~~Executive~~ Director that there are no reasonable grounds to believe that a violation of ~~this~~ Article 1 has occurred, but:

i. The complainant has filed a proper request for ~~review~~ an appeal of such determination; and

ii. The Commission has concluded upon reviewing such determination, that the complaint should not be dismissed and that the complaint should not be referred to the ~~Executive~~ Director for further investigation;

(C) When there is a determination by the ~~Executive~~ Director that the available evidence does not permit a determination as to whether or not there are reasonable grounds to believe that a violation of ~~this~~ Article 1 has occurred.

(2) The Commission shall base its determination as to whether or not to hold a public hearing in any of the matters described in Subsection (1) on its judgment as to how enforcement of ~~this~~ Article 1 would be best served.

(3) If the Commission determines not to hold a public hearing, it shall either dismiss the complaint or take such action as it deems appropriate and consistent with the purposes of ~~this~~ Article 1 and the powers of the Commission hereunder.

Section 11-1-14. Hearing held by the Commission.

With respect to any public hearing held by the Commission pursuant to ~~this~~ Article 1:

(a) The chairperson or any Commissioner designated by the chairperson shall preside over the public hearing.

(b) If the Commission determines to hold a public hearing, it may consider all of the allegations and issues set forth in the complaint or, in its discretion, may limit the scope of the hearing to one (1) or more of the allegations or issues set forth in the complaint. If a hearing is to be held, the Commission shall promptly notify the parties of the time, date, and location of the hearing and serve upon them a statement of the charges against the respondent and the issues to be considered at the hearing. Such notice and statement shall be served no later than fourteen (14) days prior to the date of the hearing. The parties shall have the right to file written statements or arguments with the Commission prior to the hearing. The hearing shall be open to the public.

(c) Hearing of the Commission may be held before the entire Commission or before designated hearing panels, consisting of three (3) or more members of the Commission, as the Commission in its discretion may determine.

(d) The Commission may, upon proper motion, order the exclusion of witnesses while testimony is being given at any such hearing.

(e) At any public hearing held by the Commission, each party shall be entitled:

(1) To be represented by privately retained counsel of his or her choice;

(2) To present his or her case or defense by oral or documentary evidence, to be given under oath or by affirmation;

(3) To submit rebuttal evidence; and

(4) To conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the Commission as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. The Commission shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.

(f) The ~~Executive~~ Director shall be responsible for assuring the development of the evidentiary record before the Commission and may introduce evidence, examine or cross-examine witnesses, or make argument if he or she deems it advisable ~~in~~ order to fully apprise the Commission of the facts or the applicable law.

(g) The Commission shall keep a full record of the hearing, which record shall be public and open to inspection by any person. Any party may request that the ~~Commission~~ Commission furnish such party a copy of the hearing record and shall reimburse the Commission for the cost of producing a copy.

Deleted: ¶

(h) In matters where either party is represented by counsel, the Office of the County Attorney shall provide an attorney as counsel to the Commission.

Section 11-1-15. Decisions by the Commission.

(a) If, after a public hearing, conducted pursuant to Article 1, the Commission determines that the respondent has committed or is committing the alleged violation(s) of ~~this~~ Article 1, the Commission shall state its findings and may issue recommendations, to be served promptly on the parties, providing notice to the respondent to cease and desist from such violation(s) and to take such action as may be indicated to effectuate the purpose of ~~this~~ Article 1, including **1. The notification may include**, but not be limited to, the payment by respondent of ~~compensatory~~ damages to any person or persons found by the Commission to be so entitled by ~~reason of~~ the respondent(~~'s~~) violation(s) of ~~this~~ Article 1, or the placement or restoration of any person in or to such status in which the Commission finds he or she would be, but for respondent's violation(s) of ~~this~~ Article 1-1

(b) If, after a finding by the Commission of probable cause that a violation occurred, the respondent fails to adequately take such action as provided in Section 11-1-15(a), the Commission may, through the County Attorney, with approval of Board of Supervisors, seek, through appropriate enforcement authorities, prevention of the or relief from a violation of this Article 1.

(c) If, after receiving the evidence presented at the hearing, the Commission finds that the respondent has not engaged in the alleged violation(s) of ~~this~~ Article 1, the Commission shall state its findings and shall dismiss the complaint. Prompt notice of such action shall be given to the parties.

Section 11-1-16. Enforcement proceedings with respect to Article 1 of this Chapter initiated by the ~~commission~~ Commission.

(a) The Commission may institute proceedings to enforce ~~this~~ Article 1 upon its own initiative by filing a Notice of Investigation and promptly serving it on each respondent named therein. Upon institution of proceedings by the Commission in this manner, the Commission shall have the option either to refer the matter to the ~~Executive~~ Director to conduct an investigation to determine whether there are reasonable grounds to believe that a violation of ~~this~~ Article 1 has occurred, or to promptly hold a public hearing to determine whether a violation of ~~this~~ Article 1 has occurred.

(b) If the Commission decides to refer the matter to the ~~Executive~~ Director for investigation:

(1) The Commission shall promptly issue a ~~Notice~~**Letter** of **Notification of an** Investigation and serve it on the respondent(s), setting forth the name and address of the respondent(s), the alleged facts surrounding the alleged commission of a violation of ~~this~~ Article 1 and the date the violation was allegedly committed and the class of persons or the name and address of any person who was the subject or victim of the alleged violation, if known.

(2) Upon referral of the matter to the ~~Executive~~ Director, the procedures set forth in Sections 11-1-13 through ~~30~~ 11-1-14 shall be applicable ~~to any hearing conducted with respect~~ to any proceeding initiated by the Commission.

(c) If the Commission determines to promptly hold a public hearing, the procedures set forth in Section 11-1-13 through 11-1-14 shall be applicable ~~to any hearing conducted with respect~~ to any proceeding initiated by the Commission to enforce ~~this~~ Article 1.

Section 11-1-17. Enforcement of this Chapter by County agencies.

(a) Public contractors: Upon publication or receipt of the findings and recommendations of the Commission declaring the respondent to be in violation of this Chapter, the Purchasing Agent of Fairfax County may deem the respondent ineligible for award of a public contract until the Commission is satisfied that the respondent will comply with the recommendations of the Commission and the provisions of this Chapter.

(b) Labor organizations: Upon publication or receipt of a copy of the findings and recommendations of the Commission declaring the respondent to be in violation of this Chapter, the purchasing agent of Fairfax County may deem the respondent ineligible to negotiate with the County until the Commission is satisfied that the respondent will comply with the Recommendations of the Commission and the provisions of this Chapter.

(c) County financial assistance: Upon publication or receipt of a copy of the findings and recommendations of the Commission declaring the respondent to be in violation of this Chapter, the County of Fairfax may take appropriate action to terminate or refuse to grant or continue any public financial assistance to a program or activity of respondent until the Commission is satisfied that the respondent will comply with the recommendation of the Commission and the provisions of this Chapter

(d) Any respondent adversely affected by the provisions of this Section shall retain all rights of appeal provided for by ~~the rules, regulations or laws~~ **Chapter 11** of the ~~County of Fairfax~~ **County Code**.

Section 11-1-18. Inspections, records, and notices.

(a) Every person subject to this Chapter shall post such notices, make and keep such records relevant to the determination of whether discriminatory acts have been or are being committed, preserve such records ~~for such periods~~, and make such reports therefrom as the Commission shall prescribe in order to assure the enforcement of this Chapter.

(b) The Commission or any designated representative of the Commission may request access at any reasonable time to premises, records, and documents relevant to a complaint or notice of investigations and may request the opportunity to examine, photograph and copy evidence upon presenting written authorization of the Chairperson of the Commission or the ~~Executive~~ Director duly executed by the Commission in accordance with its rules or procedures.

(c) Any employment, private education, non-residential real estate transaction, loan or credit, or public accommodation record made or application taken in the normal course of business by any person subject to this Chapter shall be preserved by the person or transferee thereof for a period of one (1) year from the date of the making of the record. When a complaint or notice of investigation has been filed against a person under this Chapter, the respondent shall preserve all records relevant to the allegations until final disposition of the complaint or notice of investigation.

Section 11-1-19. Savings provisions and non-abatement of matters.

(a) The provisions of this Chapter, so far as they are the same as those of Chapters repealed by this Chapter, are intended as a continuation of such chapters and not as new enactments.

(b) The provisions of this Chapter, including any amendments hereto, shall take effect immediately upon their enactment and shall apply to all matters pending before the Commission on the date of their enactment and to all matters arising before the Commission thereafter.

(c) Nothing contained in this Chapter shall be construed to conflict with any applicable state or federal law, rule, or regulation; and insofar as this Chapter does so conflict, it shall be superseded thereby.

Section 11-1-20. Non-exclusive remedy.

Any person who is aggrieved by any act prohibited herein may bring an appropriate action in a court of competent jurisdiction to seek damages, redress of injury, or injunctive relief arising out of any act prohibited herein as provided for by any applicable law. Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled, nor shall any person be required to pursue any remedy set forth herein as a condition of seeking relief from any court or other agency, except as is otherwise provided by applicable state or federal laws.

Section 11-1-21. Notices; service.

All notices required under the provisions of this ~~Chapter~~ **Article** shall be served either in person or by mailing to the last-known address appearing in the Commission's records. Counsel of record shall be entitled to a copy of any notices served upon his or her client which shall be mailed to him or her at his or her last-known address as it appears in the records of the Commission.

Section 11-1-22. Time limitations.

A complaint filed under the provisions of this Chapter shall be dismissed by the ~~Executive~~ Director if the complainant knew or should have known that the alleged violation of this Chapter ceased more than one (1) year prior to the date of filing of the complaint.

Section 11-1-23. Severability.

The provisions of this Chapter are severable; and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Chapter, or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Chapter would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which the Chapter or any part thereof is inapplicable had been specifically exempted therefrom.

ARTICLE 2.

FAIRFAX COUNTY FAIR HOUSING ACT

Section 11-2-1. Declaration of policy.

(a) This Article shall be known and referred to as the Fairfax County Fair Housing Act.

(b) It is the policy of the County of Fairfax to provide for fair housing throughout the County, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the County may be protected and insured. This law shall be deemed an exercise of the police power of the County of Fairfax for the protection of the people of the County.

Section 11-2-2. Definitions.

For the purposes of this Article, unless the context clearly indicates otherwise:

Aggrieved person means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

Complainant means a person, including the Human Rights Commission, who files a complaint under Section 11-2-10.

Conciliation means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives, and the Human Rights Commission.

Conciliation agreement means a written agreement setting forth the resolution of the issues in conciliation.

Director means the person appointed to the position of Director of the Office of Human Rights and Equity Programs or the Director's designated representative.

Discriminatory housing practices means an act that is unlawful [under] Sections 11-2-4, 11-2-5, 11-2-6, or 11-2-7. Dwelling means any building, structure, or portion thereof, which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Division means the Office of Human Rights Division.

Elderliness means an individual who has attained his or her fifty-fifth birthday.

Familial status means one (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent

or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years. For purposes of this Section, " in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

Family includes a single individual, whether male or female.

Handicap means, with respect to a person, (i) a physical or mental impairment which substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of, or addiction to a controlled substance as defined in Virginia or federal law. Neither the term "individual with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

Lending institution includes any bank, savings institution, credit union, insurance company, or mortgage lender.

Person means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Prevailing Party has the same meaning as such term has in Section 1988 of Title 42 of the United States Code.

Respondent means any person or other entity alleged to have violated the provisions of this Article, as stated in a complaint filed under the provisions of this Chapter and any other person joined pursuant to the provisions of Section 11-2-10.

Restrictive covenant means any specification in any instrument affecting title to real property which purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, or handicap.

To rent means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

Section 11-2-3. Exemptions.

(a) Except as provided in Section 11-2-4(a)(3), this Article shall not apply to any single-family house sold or rented by an owner, provided that such private

individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any twenty-four-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this Article only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this Article. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.

(b) Except for Section 11-2-4(a)(3), this Article shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) Nothing in this Article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, or handicap. Nor shall anything in this Article apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this Article be construed to prohibit any private, state-owned, or state-supported educational institution, hospital, nursing home, religious, or correctional institution, from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

(d) Nothing in this Article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.

(e) It shall not be unlawful under this Article for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.

(f) A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this Article shall require an owner or managing agent to rent a dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.

(g) Nothing in this Article limits the applicability of any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. Nothing in this Article prohibits the rental application or similar document from requiring information concerning the number, ages, sex, and familial relationship of the applicants and the dwelling's intended occupants.

Section 11-2-4. Unlawful discriminatory housing practices.

(a) It shall be an unlawful discriminatory housing practice for any person:

(1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, or familial status;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, or familial status;

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or

an intention to make any such preference, limitation or discrimination based on race, color, religion, national origin, sex, elderliness, familial status, or handicap. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this Chapter which shall not be overcome by a general disclaimer. However, reference alone to places of worship including, but not limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement shall not be prima facie evidence of an illegal preference;

(4) To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, or handicap;

(6) To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, or handicap or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;

(7) To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, or handicap;

(8) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a handicap of (i) the buyer or renter, (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available, or (iii) any person associated with the buyer or renter;

(9) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a handicap of (i) that person, (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or made available, or (iii) any person associated with that buyer or renter.

(b) For the purposes of this Section, discrimination includes: (i) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

(1) The public use and common use areas of the dwellings are readily accessible to and usable by handicapped persons;

(2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(3) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision the term "covered multi-family dwellings" means buildings consisting of four (4) or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(c) Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people shall be deemed to satisfy the requirements of Section 11-2-4(b)(3).

(d) Nothing in this Chapter shall be construed to invalidate or limit any Virginia law or regulation which requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this Chapter.

Section 11-2-5. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

(a) It shall be unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions, to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, or handicap. It shall not be unlawful; however, for any person or other entity whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.

(b) As used in this Section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling, or (ii) secured by residential real estate; or

(2) The selling, brokering, insuring or appraising of residential real property. However, nothing in this Article shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, or handicap.

Section 11-2-6. Interference with enjoyment of rights of others under this Article.

It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on the account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Article.

Section 11-2-7. Certain restrictive covenants void; instruments containing such covenants.

(a) Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, or handicap, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of this County.

(b) Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this

reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

(c) No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection (a). Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three (3) times the compensation solicited or received, or five hundred dollars (\$500.00), plus reasonable attorneys' fees and costs incurred.

(d) A family care home, foster home, or group home in which physically handicapped, mentally ill, mentally retarded, or developmentally disabled persons reside, with one (1) or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single-family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single-family or to residential use or structure.

Section 11-2-8. Familial status protection not applicable to housing for older persons.

(a) Nothing in this Article regarding unlawful discrimination because of familial status shall apply to housing for older persons. As used in this Section, "housing for older persons" means housing: (i) provided under any federal, state, or local program that is lawfully determined to be specifically designed and operated to assist elderly persons, as defined in the federal, state or local program; or (ii) intended for, and solely occupied by, persons sixty-two (62) years of age or older; or (iii) intended for, and solely occupied by at least one person fifty-five (55) years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under subdivision (iii) of this Section:

(1) That at least eighty (80) percent of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

(2) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(b) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subdivisions (ii) and (iii) of subsection (a) of this Section, provided that new occupants of such housing meet the age requirements of those subdivisions; or

(2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the provisions of subdivisions (ii) and (iii) of subsection (a) of this Section.

Section 11-2-9. Powers of the Human Rights Commission.

The Human Rights Commission has the power for the purposes of this Article to initiate and receive complaints, conduct investigations of any violation of this Article, attempt resolution of complaints by conference and conciliation, and, upon failure of such efforts, issue a charge, and refer it to the County Attorney for action. When conducting an investigation of a complaint filed under Article 2 of this Chapter the Commission or its designated subordinates shall have the power to issue and serve a subpoena as provided for by Section 11-2-11(b).

Section 11-2-10. Procedures for receipt or initiation of complaint under Article 2 of this Chapter; notice to parties; filing of answer.

(a) A complaint under this Article 2 shall be filed with the Commission in writing within one (1) year after the alleged discriminatory housing practice occurred or terminated.

(b) Any person not named in such a complaint and who is identified as a respondent in the course of the investigation may be joined as an additional or substitute respondent upon written notice to such person by the ~~Executive~~ Director explaining the basis for the ~~Executive~~ Director's belief that such person is properly joined as a respondent.

(c) Any respondent may file an answer to such a complaint not later than 10 business days after receipt of the notice described in Section 11-2-10(d) below. Complaints and answers must be made in writing, ~~under oath or affirmation~~, and in such form as the ~~Executive~~ Director requires. Complaints and answers may be reasonably and fairly amended at any time.

(d) Upon the filing of a complaint under this Article 2 or initiation of such a complaint by the ~~Executive~~ Director or its designee, the Commission shall provide written notice to the parties as follows:

(1) To the aggrieved person acknowledging the filing and advising such person of the time limits and choice of forums under this Article; and

(2) To the respondent, not later than ten (10) business days after such filing or the identification of an additional respondent under subsection (b), identifying the alleged discriminatory housing practice and advising such

respondent of the procedural rights and obligations of respondents under this Article ~~2~~ with a copy of the original complaint and copies of any supporting documentation referenced in the complaint.

Section 11-2-11. Procedures for investigation.

(a) The ~~Executive~~ Director shall commence proceedings with respect to a complaint filed under this Article ~~2~~ within thirty (30) days after receipt of the complaint, and shall complete the investigation within one hundred (100) days thereof unless it is impracticable to do so. If the ~~Commission~~ Director is unable to complete the investigation within one hundred (100) days after the receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons for not doing so.

(b) When conducting an investigation of a complaint filed under this Article, the ~~Executive~~ Director shall have the right to interview any person who may have any information which may further its investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons ~~shall~~ may be interviewed under oath. The ~~Commission~~ Director or its designated subordinates shall have the power to issue and serve a subpoena to any such person to appear and testify and to produce any such records or documents for inspection and copying. Said subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served as part of a civil action in the Commonwealth of Virginia. In case of refusal or neglect to obey a subpoena, the Commission may petition for its enforcement in the Circuit Court for the County of Fairfax. The Circuit Court of Fairfax County will be requested to give these cases priority on the court docket.

(c) At the end of each investigation under this Section, the ~~Executive~~ Director shall prepare a final investigative report ~~containing~~ which may contain:

- (1) The names and dates of contacts with witnesses;
- (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- (3) A summary description of other pertinent records;
- (4) A summary of witness statements; and
- (5) Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

(d) The ~~Executive~~ Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the ~~Commission~~Director's investigation, information derived from an investigation and any final investigative report relating to that investigation.

Section 11-2-12. Reasonable cause determination and effect.

The Commission shall, within one hundred (100) days after the filing of a complaint under this Article ~~2,~~₂ determine, based on the facts and after consultation with the Office of the County Attorney, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so or unless the Commission has approved a conciliation agreement with respect to the complaint. If the Commission is unable to determine whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur within one hundred (100) days after receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons therefor.

Section 11-2-13. No reasonable cause determination and effect.

If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint notifying the parties within thirty (30) days of such determination. The Commission shall make public disclosure of each dismissal.

Section 11-2-14. Conciliation.

During the period beginning with the filing of such complaint under this Article 2 and ending with the filing of a charge or a dismissal by the ~~Executive~~ Director, the ~~Commission~~Director shall, to the extent feasible, engage in conciliation with respect to such complaint.

(1) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent, the complainant, and the Commission, and shall be subject to approval by the Commission.

(2) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(3) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this Chapter.

(4) Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission may refer the matter to the County Attorney with a recommendation that a civil action be filed under Section 11-2-18 for the enforcement of such agreement.

Section 11-2-15. Issuance of a charge.

Upon failure to resolve a complaint under this Article ~~2~~ by conciliation and after consultation with the Office of the County Attorney, the Commission shall issue a charge on behalf of the Commission and the aggrieved person or persons and shall immediately refer the charge to the County Attorney, who shall proceed with the charge as directed by Section 11-2-17. ~~The Commission may not issue a charge under this Section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with respect to that discriminatory housing practice.~~

(1) Such charge:

(A) Shall consist of a short and plain statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(B) Shall be based on the final investigative report; and

(C) Need not be limited to the acts or grounds alleged in the complaint filed under Section 11-2-10.

(2) Not later than ten (10) business days after the Commission issues a charge under this Section, the ~~Executive~~ Director shall cause a copy thereof to be served on each respondent named in such charge and on each aggrieved person on whose behalf the complaint was filed.

The Commission may not issue a charge under this Section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with respect to that discriminatory housing practice.

Section 11-2-16. Prompt judicial action.

If the ~~Commission~~Director concludes at any time following the filing of a complaint and after consultation with the Office of the County Attorney, that prompt judicial action is necessary to carry out the purposes of this Chapter, the

~~Commission~~ **Director** may authorize a civil action by the County Attorney for appropriate temporary or preliminary relief. Upon receipt of such authorization, the County Attorney shall promptly commence and maintain such action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Virginia Rules of Civil Procedure. The commencement of a civil action under this Section shall not affect the initiation or continuation of administrative proceedings by the Commission under Section 11-2-9.

Section 11-2-17. Civil action by County Attorney upon referral of charge by the Human Rights Commission.

(a) Not later than thirty (30) days after a charge is referred by the Commission to the County Attorney under Section 11-21-5, the County Attorney, at County expense, shall commence and maintain a civil action seeking relief on behalf of the Commission and the complainant in the circuit court for the city, county, or town in which the unlawful discriminatory housing practice has occurred or is about to occur.

(b) Any aggrieved person with respect to the issues to be determined in a civil action pursuant to subsection (a) may intervene as of right.

(c) In a civil action under this Section, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may grant, as relief, any relief which a court could grant with respect to such discriminatory housing practice in a civil action under Section 11-2-19. Any relief so granted that would accrue to an aggrieved person under Section 11-2-19 shall also accrue to the aggrieved person in a civil action under this Section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court in the course of the action brought under this Section.

(d) In any court proceeding arising under this Section, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

Section 11-2-18. Civil action by County Attorney; matters involving the legality of any local zoning or other land use ordinance; pattern or practice cases; or referral of conciliation agreement for enforcement.

(a) Whenever the County Attorney has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this Article, or that any group of persons has been denied any of the rights granted by this Article and such denial

raises an issue of general public importance, the County Attorney may commence a civil action in the appropriate circuit court for appropriate relief.

(b) In the event of a breach of a conciliation agreement by a respondent, the Commission may authorize a civil action by the County Attorney. The County Attorney may commence a civil action in any appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of ninety days after the referral of such alleged breach.

(c) The County Attorney, on behalf of the Commission, or other party at whose request a subpoena is issued, under this Article, may enforce such subpoena in appropriate proceedings in the appropriate circuit court.

(d) In a civil action under subsections (a) and (b), the court may:

(1) Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this Article as is necessary to assure the full enjoyment of the rights granted by this Article.

(2) Assess a civil penalty against the respondent (i) in an amount not exceeding fifty thousand dollars (\$50,000.00) for a first violation; and (ii) in an amount not exceeding one hundred thousand dollars (\$100,000.00) for any subsequent violation. The court or jury may award such other relief to the aggrieved person, as the court deems appropriate, including compensatory damages, and punitive damages without limitation otherwise imposed by state law.

(e) Upon timely application, any person may intervene in a civil action commenced by the County Attorney under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under Section 11-2-19.

Section 11-2-19. Civil action; enforcement by private parties.

(a) An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this Article, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(b) An aggrieved person may commence a civil action under Section 11-2-19(a) no later than one hundred eighty (180) days after the conclusion of the

administrative process with respect to a complaint or charge, or not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation agreement. An aggrieved person may commence a civil action under this Section whether or not a complaint has been filed under Section 11-2-10 and without regard to the status of any such complaint. If the Commission or a federal agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this Section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(c) In a civil action under subsection (a), if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the court may award reasonable attorney's fees and costs, and subject to subsection (d), may grant as relief, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or order such affirmative action as may be appropriate.

(d) Relief granted under subsection (c) shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving bona fide purchasers, encumbrancers, or tenant, without actual notice of the filing of a complaint with the Commission or civil action under this Article.

(e) Upon timely application, the County Attorney may intervene in such civil action, if the County Attorney certifies that the case is of general public importance. Upon intervention, the County Attorney may obtain such relief as would be available to the private party under subsection (c).

Section 11-2-20. Witness fees.

Witnesses summoned by a subpoena under this Chapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in the courts of the Commonwealth. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Commission.

Section 11-2-21. Promulgating regulations.

The Commission shall perform all acts necessary and proper to carry out the provisions of this Article and may promulgate and amend necessary regulations.

Section 11-2-22. Application of Article.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

Section 11-2-23. Construction of law.

Nothing in this Article shall abridge the federal Fair Housing Act of 1968, (42 U.S.C. § 3601 et seq.) as amended, or the Virginia Fair Housing Act (Va. Code Ann. § 36-96.1 et seq.) (Michie 1996) as amended.

Section 11-2-24 Time Limitations

(a) A complaint filed under the provisions of this Article shall be dismissed by the Director if the complainant knew or should have known that the alleged violation of this Article ceased more than one (1) year prior to the date of filing of the complaint.

(b) If the Commission is unable to make a final disposition within 100 days after receipt of the complaint, the parties shall be notified in writing of the reasons for not doing so.

ADMINISTRATIVE – 2

Approval of Supplemental Appropriation Resolution AS 11050 for the Fairfax County Juvenile and Domestic Relations District Court to Accept Grant Funding from the Northern Virginia Regional Gang Task Force Through Loudoun County, Virginia

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 11050 for the Fairfax County Juvenile and Domestic Relations District Court to accept funding from the Northern Virginia Regional Gang Task Force through Loudoun County, Virginia in the amount of \$592,916. Funding will be used to provide regional gang prevention and intervention services. The funding period for this award is September 1, 2010 through August 31, 2011. No Local Cash Match is required.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 11050 for the Fairfax County Juvenile and Domestic Relations District Court to accept funding from the Northern Virginia Regional Gang Task Force through Loudoun County, Virginia in the amount of \$592,916 to continue to provide regional gang prevention and intervention services.

TIMING:

Board approval is requested on September 28, 2010.

BACKGROUND:

The Northern Virginia Regional Gang Task Force has been in existence since 2004 as a result of a federal appropriation. The U.S. Congress appropriates this funding for the Northern Virginia Region Gang Task Force. The purpose of the grant is to provide assistance to jurisdictions within the congressional district in prosecuting and decreasing gang activity. The first award for the Intervention, Prevention and Education (IPE) Program was in October 2006.

Funding of \$485,970 will be used to continue the Intervention, Prevention and Education (IPE) Program, which allows counselors to provide direct services to gang at-risk youth in the region as well as conduct community outreach and coordination of services for youth and their families. Outreach takes place in the neighborhood where youth naturally congregate. Other services include providing individual intervention

Board Agenda Item
September 28, 2010

strategies, working with the family and youth to assess the environment and the opportunities available to address the needs, counseling, providing family education and volunteer mentoring, and assisting youth in finding employment as appropriate. The contractor meets monthly with Gang Response Intervention Team (GRIT) Coordinators to coordinate service delivery, address issues in implementation, make necessary adjustments to service, and ensure that services are appropriate.

The remaining amount of \$106,946 will be used to fund the GRIT Coordinator for Fairfax County. This position works with the four other GRIT Coordinators from Arlington County, Alexandria, Prince William County and Loudoun County to structure a regional prevention program. This position coordinates prevention and intervention strategies and programs for Fairfax County and works with various departments to establish a coordinated approach to gang and gang-related issues.

FISCAL IMPACT:

Grant funding in the amount of \$592,916 is available from the Northern Virginia Regional Gang Task Force through Loudoun County, Virginia for the Fairfax County Juvenile and Domestic Relations District Court to continue to provide regional gang prevention and intervention services. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2011. This grant does not allow the recovery of indirect costs. No Local Cash Match is required.

CREATION OF NEW POSITIONS:

These funds will support 1/1.0 SYE existing grant position. The County has no obligation to fund this position when the grant period ends.

ENCLOSED DOCUMENTS:

Attachment 1-Notice of Grant Funding for IPE, without attachments
Attachment 2-Supplemental Appropriation Resolution AS 11050

STAFF:

Pat Harrison, Deputy County Executive
Robert Bermingham, Director, Court Services
Kim McCarthy, Director, Administrative Services, Juvenile Court



Department of Justice
Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

August 30, 2010

Mr. Tim Hemstreet
Loudoun County
1 Harrison Street SE
Leesburg, VA 20175-3102

Dear Mr. Hemstreet:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 10 Congressionally Selected in the amount of \$3,000,000 for Loudoun County.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Dustin L. Koonce, Program Manager at (202) 616-7363; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Robinson".

Laurie Robinson
Assistant Attorney General

Enclosures

ADMINISTRATIVE – 3

Streets into the Secondary System (Dranesville, Hunter Mill, Lee, Mason, Mount Vernon, Providence, and Sully Districts)

ISSUE:

Board approval of streets to be accepted into the State Secondary System.

RECOMMENDATION:

The County Executive recommends that the street(s) listed below be added to the State Secondary System.

| <u>Subdivision</u> | <u>District</u> | <u>Street</u> |
|--|-----------------|---|
| Route 123 Widening | Dranesville | Dolly Madison Boulevard (Route 123) (Additional Right-of-Way (ROW) Only) |
| | | Scotts Crossing Road (Route 8102) (Additional ROW Only) |
| | | Old Meadow Road (Route 3543) (Additional ROW Only) |
| | | Colshire Drive (Route 6471) (Additional ROW Only) |
| | | Anderson Road (Route 3946) (Additional ROW Only) |
| Stony Point | Dranesville | Stony Point Court |
| | | Lewinsville Road (Route 694) (Additional ROW Only) |
| New Dominion Parkway Reston Section 931 | Hunter Mill | New Dominion Parkway (Route 6363) |

Board Agenda Item
September 28, 2010

| <u>Subdivision</u> | <u>District</u> | <u>Street</u> |
|--|------------------------|--|
| Metro Park – Walker Lane Re-Alignment | Lee | Walker Lane (Route 10026) |
| Madison Lane Section 1 | Mason | Madison Lane (Route 913) (Additional ROW Only) |
| Madison Lane Section 3 | Mason | Madison Lane (Route 913) Columbia Pike (Route 244) (Additional ROW Only) |
| Demetrios & George Nicholakos (Xpress Lube Alexandria) | Mt. Vernon | Richmond Highway (Route 1) (Additional ROW Only) |
| Lee Plaza Associates & Ley Plaza LLC (Coakley Building) | Providence | Lee Highway Service Drive (FR 915) |
| Tycon Tower Parcel A-1A1 | Providence | Capital Beltway (Interstate I-495) (Additional ROW Only) |
| Westfields Parcel 29E (Premium Distributors Expansion) | Sully | Old Lee Road (Route 661) (Additional ROW Only) |

TIMING:
Routine.

BACKGROUND:
Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:
None.

Board Agenda Item
September 28, 2010

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Forms

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Michelle Brickner, Acting Director, Land Development Services, DPWES

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system. | VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. PLAN NUMBER: Fairfax County Project# 009913 SUBDIVISION PLAT NAME: Route 123 Widening COUNTY MAGISTERIAL DISTRICT: Dranesville | | |
|--|--|------------------------------|----------------|
| ENGINEERING MANAGER: D.A. Purvis BY: <i>Nadia Alphonse</i> | FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: <u>08/06/2010</u> | | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Dolly Madison Boulevard (Route 123) (Additional Right-of-Way Only) | 55' SW CL Old Meadow Road (Route 3543) | 320' W to End of Dedication | 0.0 |
| Dolly Madison Boulevard (Route 123) (Additional Right-of-Way Only) + | 50' NE CL Old Meadow Road (Route 3543) | 320' W to End of Dedication | 0.0 |
| Dolly Madison Boulevard (Route 123) (Additional Right-of-Way Only) + | 40' SW CL Colshire Drive (Route 6471) | 430' SW to End of Dedication | 0.0 |
| Dolly Madison Boulevard (Route 123) (Additional Right-of-Way Only) + | 126' SW CL Anderson Road (Route 3946) | 136' SW to End of Dedication | 0.0 |
| Dolly Madison Boulevard (Route 123) (Additional Right-of-Way Only) + | 338' NE CL Anderson Road (Route 3946) | 46' NE to End of Dedication | 0.0 |
| Scotts Crossing Road (Route 8102) (Additional Right-of-Way Only) + | 88' NW CL Dolly Madison Boulevard (Route 123) | 144' NW to End of Dedication | 0.0 |
| NOTES: | | | TOTALS: |
| Dolly Madison Boulevard: Total of 4,350' of 5' Concrete Sidewalk on Both Sides to be maintained by VDOT. | | | 0.0 |
| Scotts Crossing Road: 140' of 5' Concrete Sidewalk on East Side to be maintained by VDOT. | | | |
| Page 1 of 2 | | | |

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| | |
|--|--|
| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> |
| <p>PLAN NUMBER: Fairfax County Project# 009913</p> | |
| <p>SUBDIVISION PLAT NAME: Route 123 Widening</p> | |
| <p>COUNTY MAGISTERIAL DISTRICT: Dranesville</p> | |
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <i>Nadia Alphonse</i></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <i>08/06/2010</i></p> |

| STREET NAME | LOCATION | | LENGTH MILE |
|--|---|--|----------------|
| | FROM | TO | |
| Old Meadow Road (Route 3543) (Additional Right-of-Way Only) | 83' SE CL Dolly Madison Boulevard (Route 123) | West Side: 35' SE to End of Dedication East Side: 224' SE to End of Dedication | 0.0 |
| Colshire Drive (Route 6471) (Additional Right-of-Way Only) | 75' SE CL Dolly Madison Boulevard (Route 123) | West Side: 550' SE to End of Dedication East Side: 362' SE to End of Dedication | 0.0 |
| Anderson Road (Route 3946) (Additional Right-of-Way Only) | 78' SE CL Dolly Madison Boulevard (Route 123) | West Side: 28' SE to End of Dedication East Side: 13' SE to End of Dedication | 0.0 |
| | | | |
| | | | |
| | | | |

| | |
|--|----------------|
| NOTES: | TOTALS: |
| Old Meadow Road: Total of 150' of 5' Concrete Sidewalk on Both Sides to be maintained by VDOT. | 0.0 |
| Colshire Drive: 750' of 5' Concrete Sidewalk on Both Sides to be maintained by VDOT. | |
| | |
| | |
| | |

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| | |
|--|--|
| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> <p>PLAN NUMBER: 6692-SD-01</p> <p>SUBDIVISION PLAT NAME: Stony Point</p> <p>COUNTY MAGISTERIAL DISTRICT: Dranesville</p> |
|--|--|

| | |
|---|---|
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <i>Nadia Al-Naney</i></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>07/15/2010</u></p> |
|---|---|

| STREET NAME | LOCATION | | LENGTH MILE |
|--|--|-----------------------------|----------------|
| | FROM | TO | |
| Stony Point Court | CL Lewinsville Road (Route 694) - 261' E CL Clover Leaf Drive (Route 6620) | 426' S to End of Cul-de-Sac | 0.08 |
| Lewinsville Road (Route 694) (Additional Right-of-Way Only) | 358' W CL Clover Leaf Drive (Route 6620) | 54' W to Section Line | 0.0 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

NOTES: **TOTALS:** 0.08

Stony Point Court: 400' of 4' Concrete Sidewalk on East Side to be maintained by VDOT.

Lewinsville Road: 100' of 4' Concrete Sidewalk on South Side to be maintained by VDOT.

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| | |
|--|--|
| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> |
| | <p>PLAN NUMBER: 6788-SP-04</p> |
| | <p>SUBDIVISION PLAT NAME: New Dominion Parkway Reston Section 931</p> |
| | <p>COUNTY MAGISTERIAL DISTRICT: Hunter Mill</p> |
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nadia Alphonse</u></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>06/25/2010</u></p> |

| STREET NAME | LOCATION | | LENGTH MILE |
|-----------------------------------|---|--|----------------|
| | FROM | TO | |
| New Dominion Parkway (Route 6363) | Existing New Dominion Parkway (Route 6363) - 740' W CL Town Center Parkway (Route 7414) | 731' W to CL Fairfax County Parkway (Route 7100) | 0.14 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| TOTALS: | | | 0.14 |

NOTES: Sidewalks on Both Sides are Privately Maintained.

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> <p>PLAN NUMBER: 6836-PI-01</p> <p>SUBDIVISION PLAT NAME: Metro Park - Walker Lane Re-Alignment ✓</p> <p>COUNTY MAGISTERIAL DISTRICT: Lee ✓</p> | | |
|--|--|---|-----------------------|
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nadia Alphonse</u></p> | <p style="text-align: center;">FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>06/24/2010</u></p> | | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Walker Lane (Route 10026) | CL Beulah Street (Route 613) - 645' NE CL Charles Arrington Drive (Route 8115) | 2,136' SW to Existing Walker Lane (Route 10026) | 0.41 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| NOTES: | | | TOTALS: 0.41 ✓ |
| 2,380' of 5' Concrete Sidewalk on Both Sides to be maintained by VDOT. | | | |
| | | | |
| | | | |
| | | | |

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| | | | |
|---|---|-------------------------|------------------------|
| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> <p>PLAN NUMBER: 8143-SP-01</p> <p>SUBDIVISION PLAT NAME: Madison Lane Section 1</p> <p>COUNTY MAGISTERIAL DISTRICT: Mason</p> | | |
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nadia Alphonse</u></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>07/23/2010</u></p> | | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Madison Lane (Route 913) (Additional Right-of-Way Only) | 470' SE CL Columbia Pike (Route 244) | 210' SE to Section Line | 0.0 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| NOTES: | | | TOTALS: |
| 180' of 4' Concrete Sidewalk on West Side to be maintained by VDOT. | | | 0 |
| | | | |
| | | | |
| | | | |
| | | | |

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| | |
|---|--|
| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> |
| | <p>PLAN NUMBER: 8143-SP-03</p> |
| | <p>SUBDIVISION PLAT NAME: Madison Lane Section 3</p> |
| | <p>COUNTY MAGISTERIAL DISTRICT: Mason</p> |
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nellie A. Phonsy</u></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>07/23/2010</u></p> |

| STREET NAME | LOCATION | | LENGTH MILE |
|---|---|--|----------------|
| | FROM | TO | |
| Madison Lane (Route 913) | CL Columbia Pike (Route 244) - 562' SW CL Gordon Street (Route 901) | 470' SE to Existing Madison Lane (Route 913) | 0.09 |
| Columbia Pike (Route 244) (Additional Right-of-Way Only) | 537' SW CL Gordon Street (Route 901) | 120' SW to Section Line | 0.0 |
| | | | |
| | | | |
| | | | |
| | | | |
| TOTALS: | | | 0.09 |

NOTES:

Madison Lane: Total 668' of 4' Concrete Sidewalk on Both Sides to be maintained by VDOT.

Columbia Pike: 50' of 8' Asphalt Trail on East Side to be maintained by Fairfax County.

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system. | VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. PLAN NUMBER: 9957-SP-01 SUBDIVISION PLAT NAME: Demetrios & George Nicholakos-Xpress Lube Alexandria COUNTY MAGISTERIAL DISTRICT: Mount Vernon | | |
|--|---|-------------------------|----------------|
| ENGINEERING MANAGER: D.A. Purvis BY: <u>Nadia Alphonse</u> | FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: <u>07/22/2010</u> | | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Richmond Highway (Route One) (Additional ROW Only) | 25' NE of CL Sky View Drive Route 946 | 170' NE to Section Line | 0.00 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| NOTES: | | | TOTALS: |
| 135' of 4' sidewalk on North side of Richmond Highway to be maintained by Fairfax County | | | 0 |
| | | | |
| | | | |
| | | | |
| | | | |

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| | |
|---|---|
| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> <p>PLAN NUMBER: 3758-SP-04</p> <p>SUBDIVISION PLAT NAME: Lee Plaza Associates & Ley Plaza LLC (Coakley Building) ✓</p> <p>COUNTY MAGISTERIAL DISTRICT: Providence ✓</p> |
|---|---|

| | |
|---|---|
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nadia Alphonse</u></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>07/06/2010</u></p> |
|---|---|

| STREET NAME | LOCATION | | LENGTH MILE |
|------------------------------------|--------------------------------------|--|----------------|
| | FROM | TO | |
| Lee Highway Service Drive (FR 915) | 130' SW CL Bisvey Drive (Route 2369) | 278' SW to Existing Service Drive (FR 915) | 0.05 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| TOTALS: | | | 0.05 ✓ |

NOTES:

240' of 4' Concrete Sidewalk on South Side to be maintained by VDOT.

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> | | |
|---|--|-------------------------|----------------|
| <p>PLAN NUMBER: 5055-SP-004</p> | | | |
| <p>SUBDIVISION PLAT NAME: Tycon Tower Parcel A-1A1</p> | | | |
| <p>COUNTY MAGISTERIAL DISTRICT: Providence</p> | | | |
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nadia Akhoun</u></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>08/12/2010</u></p> | | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Capital Beltway (Interstate I-495) (Additional Right-of-Way Only) | 495' NE CL Towers Crescent Drive (Route 926) | 201' NE to Section Line | 0.0 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| NOTES: | | | TOTALS: |
| | | | 0 |
| | | | |
| | | | |
| | | | |
| | | | |

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| <p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</p> | <p>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</p> <p>REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> | | |
|---|--|---------------------------|----------------|
| <p>PLAN NUMBER: 6178-SP-102</p> | | | |
| <p>SUBDIVISION PLAT NAME: Westfields Parcel 29E (Premium Distributors Expansion)</p> | | | |
| <p>COUNTY MAGISTERIAL DISTRICT: Sully</p> | | | |
| <p>ENGINEERING MANAGER: D.A. Purvis</p> <p>BY: <u>Nadia Alphonse</u></p> | <p>FOR OFFICIAL USE ONLY</p> <p>DATE OF VDOT INSPECTION APPROVAL: <u>07/07/2010</u></p> | | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Old Lee Road (Route 661) (Additional Right-Of-Way Only) | 1,595' SW CL Stonecroft Boulevard (Route 8460) | 1,004' SW to Section Line | 0.0 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| NOTES: | | | TOTALS: |
| 367' of 8' Asphalt Trail on South Side, to be maintained by Fairfax County. | | | 0 |
| | | | |
| | | | |
| | | | |

Board Agenda Item
September 28, 2010

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing on Proposed Amendments to Chapter 67.1 of the Fairfax County Code Relating to Sanitary Sewers and Sewage Disposal

ISSUE:

Board authorization to advertise a public hearing to consider proposed amendments to the County's Sanitary Sewer Use Ordinance, Fairfax County Code Chapter 67.1, to implement additional authority granted by the 2010 General Assembly, to make related changes to enhance the County's enforcement authority, and to make technical amendments.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement for a public hearing on October 19, 2010, to consider adoption of the proposed amendments to Chapter 67.1 of the Fairfax County Code.

TIMING:

Board action is requested on September 28, 2010, to allow sufficient time to advertise a public hearing on October 19, 2010, at 4:00 p.m., to consider adoption of the proposed amendments.

BACKGROUND:

The County's Sewer Use Ordinance, Chapter 67.1 of the Fairfax County Code, sets forth uniform requirements for all users of the County's sanitary sewer facilities, (known as "Publicly Owned Treatment Works") and enables the County to comply with applicable state and federal laws, including the Clean Water Act and General Pretreatment Regulations.

During the 2010 session of the Virginia General Assembly, the legislature amended and reenacted §15.2-2122 of the *Code of Virginia* to strengthen the ability of localities to establish sewer use standards, assess civil penalties, and assess monetary damages in the event of damage to their Publicly Owned Treatment Works, as well as to establish procedures for administrative hearings and appeals.

The proposed amendments incorporate these provisions of the new legislation. The proposed changes are primarily effected by the repeal of the existing Article 8, Enforcement, to be replaced by a new Article 8, Enforcement, consisting of three divisions numbered 8A, 8B, and 8C. Significant changes include: Section 67.1-8A-4 Consent Orders, which revises the current consent order section to include language concerning civil penalties, assessments for damages, attorney fees, and other expenses, the addition of a new

Board Agenda Item
September 28, 2010

section, Chapter 67.1-8B-4, *Administrative Review Procedures*, which adds language consistent with state law for administrative hearing procedures and appeals; Section 67.1-8C-1, *Civil Penalties*, which revises and expands the current civil penalties section to align with state law on hearings and assessment of monetary penalties, and Section 67.1-8C-2, *Appeal*, which establishes deadlines and procedures for judicial appeal of administrative orders.

In addition to changes proposed as a result of the 2010 legislation, the proposed amendments would revise most provisions in the enforcement section so that they apply to all users of the system, rather than to just Industrial Users. Minor changes were made to *Definitions* and to section numbering and headings. An outdated code reference on radioactivity was also updated. The attached Summary of Changes to Sewer Use Ordinance describes the amendments in greater detail.

All modifications to the County's pretreatment program must be approved by the Virginia Department of Environmental Quality (DEQ). Staff provided DEQ a draft of the proposed amendments and DEQ has approved the proposed amendments as a non-substantial program modification.

Benefits to County of Proposed Changes:

- Provides clearer notice that persons who cause damage to the sanitary sewer system are liable for the damages and related expenses that the County incurs to repair the damages.
- Strengthens the County's ability to assess monetary damages administratively, subject to a violator's right to appeal the assessment in court.
- Allows the County to assess civil penalties administratively, subject to a violator's right to appeal the assessment in court. Currently the County can only collect civil penalties by filing suit against violators.
- Increases the amount of civil penalties for which violators may be liable and establishes clear criteria that the County must consider in assessing such penalties.
- Enhances existing provisions on administrative hearings to establish full due process rights for alleged violators in administrative hearings; to establish that the Circuit Court has jurisdiction to hear such administrative appeals; to provide that appeals from administrative orders will be decided on the administrative record; to clarify that the appellant has the burden of proof; and to specify the standards applicable to the court's review.

Board Agenda Item
September 28, 2010

- Broadens penalty and damage provisions to apply to any user of the system. Currently, only Industrial Users are subject to those remedies.

FISCAL IMPACT:

The proposed amendments will increase the amount of civil penalties that can be assessed against a user that violates applicable requirements. However, the fiscal impact of such penalties will vary greatly depending on number of actual violations, their nature and duration. It is not anticipated that the proposed amendments will have a significant fiscal impact as the current number of violations is very small and most such violations are resolved quickly, thus avoiding penalties.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Changes to Sewer Use Ordinance

Attachment 2: Draft Proposed Amendments to Sewer Use Ordinance, Chapter 67.1

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Randy Bartlett, Deputy Director, DPWES

Chapter 67.1 Proposed Amendments– Summary of Changes to Sewer Use Ordinance

| Current § | Proposed § | Differences |
|-----------|------------|---|
| 67.1-1-3 | 67.1-1-3 | <i>Definitions</i> : Director definition replaces reference to authorized representative with: “such other persons he may designate to administer and enforce standards relating to sewer use”. |
| 67.1-1-4 | 67.1-1-4 | Adds clarifying phrase: “including the enforcement of sewer use standards.” |
| 67.1-1-10 | 67.1-1-10 | Section heading revised to specify: “expense, loss or damage.” Adds language to specifically provide that persons who violate the ordinance or a permit, or cause damage or interference to the system are liable for damages, costs, attorneys’ fees and expenses that result. |
| 67.1-2-1 | 67.1-2-1 | <i>Prohibited Discharge standards</i> : (11) replaces outdated code references on radioactivity with current citations. |
| 67.1-8-1 | 67.1-8A-1 | Renumbered. Previous article 8 is repealed, new Article 8 with 3 divisions. Language in 8A-1 is unchanged from previous version. |
| 67.1-8-2 | 67.1-8A-2 | Renumbered. <i>Notice of Violation</i> : Expands Notice of Violation provisions to make them applicable to all users, not just Industrial Users. |
| 67.1-8-3 | 67.1-8A-4 | Renumbered. <i>Consent Orders</i> : Revises language to include reference to civil penalties, assessments for damage, attorney fees and other expenses; adds procedural safeguards. Expands provisions to make them applicable to all users, not just Industrial Users. |
| 67.1-8-4 | 67.1-8B-1 | Renumbered. <i>Show Cause Hearing</i> : Expands provisions to make them applicable to all users, not just Industrial Users; makes technical changes to conform to other sections. |
| 67.1-8-5 | 67.1-8B-2 | Renumbered. <i>Compliance/Cease & Desist Orders</i> . Expands provisions to make them applicable to all users, not just Industrial Users; deletes as unnecessary language repeated elsewhere. |
| 67.1-8-6 | 67.1-8B-3 | Renumbered. <i>Emergency Suspensions</i> . Expands provisions to make them applicable to all users, not just Industrial Users; clarifies language and makes technical corrections; deletes reference to show cause hearing to provide more flexibility in establishing user's response time. |
| 67.1-8-7 | | <i>Show Cause Suspension</i> : deleted. Redundant language covered in 8B-3, <i>Emergency Suspensions</i> |
| 67.1-8-8 | 67.1-8A-3 | Renumbered. <i>Injunctive Relief</i> : Expands provisions to make them applicable to all users, not just Industrial Users; makes technical corrections. |
| 67.1-8-9 | 67.1-8A-5 | Renumbered. <i>Search Warrants</i> : renumbered, language unchanged. |
| 67.1-8-10 | 67.1-8C-1 | Renumbered. <i>Civil Penalties</i> . Revised to include provisions of new enabling legislation. Includes details on Users right to notice and an administrative hearing, and assessment of monetary penalties. Penalties up to \$32,500 per violation can be assessed and up to \$100,000 per administrative order. In addition to civil penalties, assessments can be made for actual damages to the sewer system and for costs, attorney fees and other expenses resulting from violations. |
| 67.1-8-11 | 67.1-8A-6 | Renumbered. <i>Criminal Violations</i> : Language unchanged. |
| 67.1-8-12 | 67.1-8A-7 | Renumbered. <i>Remedies Nonexclusive</i> : Adds clarifying language: “No individual remedy is either a bar against or a prerequisite to other enforcement action pursuant to this Ordinance.” |
| 67.1-8-13 | 67.1-8C-2 | Renumbered. <i>Appeal</i> : Revised to include provisions of new enabling legislation, including procedures for judicial appeal of administrative orders. |
| — | 67.1-8B-4 | New Section. <i>Administrative Review Procedures</i> : Revised to include provisions of new enabling legislation. Details Users right to administrative review of orders, to be conducted by the Director or hearing officer, procedures for conducting hearing, and appealing final orders. |

**AN ORDINANCE AMENDING THE FAIRFAX COUNTY CODE RELATING TO
SANITARY SEWERS AND SEWAGE DISPOSAL**

Draft of August 27, 2010

AN ORDINANCE to amend and readopt Sections 67.1-1-3, 67.1-1-4, 67.1-1-10, and 67.1-2-1; to repeal Article 8 of Chapter 67.1 (Enforcement), consisting of Sections 67.1-8-1 through 67.1-8-13; and to adopt a new Article 8 of Chapter 67.1 (Enforcement), consisting of three Divisions numbered 8A, 8B, and 8C, and including Sections numbered 67.1-8A-1 through 67.1-8A-7, 67.1-8B-1 through 67.1-8B-4, and 67.1-8C-1 through 67.1-8C-2, all relating to sanitary sewers and sewage disposal, prohibited discharge standards, administrative and judicial enforcement procedures and remedies, and the liability of users for penalties, damages, and costs.

1
2 **Be it ordained by the Board of Supervisors of Fairfax County:**

3
4 **1. That Sections 67.1-1-3, 67.1-1-4, 67.1-1-10, and 67.1-2-1 of the**
5 **Fairfax County Code are amended and readopted:**

6
7
8 **Section 67.1-1-3. Definitions.**

9
10 Unless specifically indicated otherwise, the following terms and phrases
11 shall have the indicated meanings when used in this ordinance ascribed to
12 them in this Section:

13
14 **Act:** The Federal Water Pollution Control Act, also known as the Clean
15 Water Act, as amended, 33 U.S.C. §§ 1251 et seq.

16 **Approval Authority:** *The Virginia Department of Environmental*
17 **Quality.**

18 **Authorized or Duly Authorized Representative (of the Industrial User):**

19 (a) If the Industrial User is a corporation:

20 (1) The president, secretary, treasurer, or a vice-president of the
21 corporation in charge of a principal business function, or any other person who
22 performs similar policy or decision-making functions for the corporation, or

23 (2) The manager of one or more manufacturing, production, or
24 operating facilities, provided the manager is authorized to make management
25 decisions which govern the operation of the regulated facility including having
26 the explicit or implicit duty of making major capital investment
27 recommendations, and initiate and direct other comprehensive measures to

1 assure long-term environmental compliance with environmental laws and
2 regulations; can ensure that the necessary systems are established or actions
3 taken to gather complete and accurate information for control mechanism
4 requirements; and where authority to ~~if authority to~~ sign documents has been
5 assigned or delegated to the manager in accordance with corporate
6 procedures.

7 (b) If the Industrial User is a partnership or sole proprietorship: a general
8 partner or the proprietor.

9 (c) If the Industrial User is a federal, state or local government: a director
10 or the highest official appointed or designated to oversee the operation and
11 performance of the activities of the government facility or other public agency.

12 (d) The individuals described in paragraphs (a)–(c) above may designate
13 another representative if the authorization is in writing, the authorization
14 specifies the individual or position responsible for the overall operation of the
15 facility from which the discharge originates or having overall responsibility for
16 environmental matters for the company, and the written authorization has been
17 submitted to and approved by the County.

18 **Best Management Practices (BMP):** Schedules of activities, prohibition of
19 practices, maintenance procedures, and other management practices to
20 implement the prohibitions listed in § 403.5 (a) (1) and (b) of the Code of Federal
21 Regulations. BMPs also include treatment requirements, operating procedures,
22 and practices to control plant site runoff, spillage or leaks, sludge or waste
23 disposal, or drainage from raw materials storage

24 **Biochemical Oxygen Demand (BOD):** The quantity of oxygen utilized in
25 the biochemical oxidation of organic matter under standard laboratory procedure,
26 for five (5) days at 20° centigrade, usually expressed as a concentration (e.g.,
27 mg/L).

28 **Building Sewer:** A sewer system which conveys wastewater from the
29 premises of a User to a POTW.

30 **Bypass:** The intentional diversion of wastestreams from any portion of an
31 Industrial User's pretreatment facility.

32 **Categorical Pretreatment Standard or Categorical Standard:** Any
33 regulation containing pollutant discharge limits promulgated by the EPA in
34 accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317) which
35 apply to a specific category of Industrial Users and which are technology
36 based for the purpose of limiting the discharge of pollutants, especially priority
37 pollutants, and which appear in 40 C.F.R. Chapter I, Subchapter N, Parts
38 405–471.

39 **Categorical Industrial User:** an Industrial User subject to national
40 categorical pretreatment standards

41 **Color:** The optical density at the visual wave length of maximum
42 absorption, relative to distilled water. One hundred percent transmittance is
43 equal to zero optical density.

44 **Compatible Pollutant:** Biochemical oxygen demand, suspended solids,
45 phosphorus, pH, fecal coliform bacteria and additional pollutants as identified
46 in the County's Virginia Pollutant Discharge Elimination System (VPDES)

1 permit, if the individual POTW was designed to treat such pollutants, and if, in
2 fact, such POTW does remove such pollutants to a substantial degree.

3 **Composite Sample:** The sample resulting from the combination of two or
4 more discrete wastewater samples taken at selected intervals, based on either
5 an increment of flow or time. The composite sample represents the average
6 wastewater quality covering the sampling period.

7 **County:** The County of Fairfax, Virginia, or the Board of Supervisors of
8 Fairfax County, Virginia.

9 **Daily Maximum Limit or Daily Maximum:** The maximum allowable
10 discharge of pollutant during a calendar day. Where daily maximum limitations
11 are expressed in units of mass, the daily discharge is the total mass
12 discharged over the course of the day. Where daily maximum limitations are
13 expressed in terms of a concentration, the daily discharge is the arithmetic
14 average measurement of the pollutant concentration derived from all
15 measurements taken that day

16 **Director:** The Director of the Fairfax County Department of Public Works
17 and Environmental Services and his authorized representatives such other
18 persons he may designate to administer and enforce standards relating to
19 sewer use.

20 **Domestic-Natured Wastes:** Human excrement and gray water (from
21 showers, washing machines, dishwashers and the like).

22 **Environmental Protection Agency or EPA:** The United States
23 Environmental Protection Agency or the Regional Water Management Division
24 Director or other duly authorized official of that agency.

25 **Existing Source:** Any source of discharge, the construction or operation
26 of which commenced prior to the publication by EPA of proposed Categorical
27 Pretreatment Standards, which will be applicable to such source if the
28 standard is thereafter promulgated in accordance with Section 307 of the Act
29 (33 U.S.C. § 1317).

30 **Facilities of the County:** Any POTW, treatment works, or portion thereof,
31 which is owned or operated by the County and which is located within Fairfax
32 County.

33 **Flashpoint:** The minimum temperature at which vapor combustion will
34 spread away from its source of ignition. Below this temperature, combustion
35 of the vapor immediately above the liquid will either not occur or will occur only
36 at the point of ignition.

37 **Grab Sample:** A sample which is taken from a waste stream without
38 regard to the flow of the waste stream and over a period of time not to exceed
39 ~~fifteen~~ (15) minutes.

40 **Indirect Discharge or Discharge:** The introduction of pollutants into a
41 POTW from any non domestic source regulated under §307 (b), (c) or (d) of
42 the Act

43 **Industrial User:** Any source of indirect discharge of industrial wastes into
44 a POTW.

1 **Industrial Wastes:** Pollutants, exclusive of Domestic-Natured Wastes,
2 which result from any industrial, manufacturing, business, trade, institutional,
3 service or similar process, including cooling water and process wastewater.

4 **Instantaneous Maximum Allowable Discharge Limit:** The maximum
5 concentration of a pollutant allowed to be discharged at any time, determined
6 from the analysis of any discrete or composite sample collected, independent
7 of the industrial flow rate and the duration of the sampling event.

8 **Interference:** A discharge, which alone or in conjunction with a discharge
9 or discharges from other sources, inhibits or disrupts the POTW, its treatment
10 processes or operations or its sludge processes, use or disposal; and
11 therefore, is a cause of a violation of the County's VPDES permit or an
12 NPDES permit or of the prevention of sewage sludge use or disposal in
13 compliance with any of the following statutory/regulatory provisions or permits
14 issued there under, or any more stringent State or local regulations: Section
15 405 of the Act; the Solid Waste Disposal Act [including RCRA]; any state
16 sludge management plan prepared pursuant to Subtitle D of the Solid Waste
17 Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the
18 Marine Protection, Research and Sanctuaries Act.

19 **Medical Wastes or Infectious Wastes:** Pollutants defined by the Virginia
20 Department of Waste Management's Infectious Waste Management
21 Regulations, 9 VAC 20-120-10 et seq ., including but not limited to, isolation
22 wastes, infectious agents, human blood and blood byproducts, pathological
23 wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding,
24 surgical wastes, potentially contaminated laboratory wastes and dialysis
25 wastes.

26 **Monthly Average Limit or Monthly Average:** The arithmetic mean of the
27 effluent samples collected during a calendar month or specified 30-day period.

28 **New Source:**

29 (a) Any building, structure, facility or installation from which there is or
30 may be a discharge of pollutants, the construction or operation of which
31 commenced after the publication of proposed Categorical Pretreatment
32 Standards under Section 307(c) [33 U.S.C. § 1317(c)] of the Act which will be
33 applicable to such source if the standard is thereafter promulgated in
34 accordance with Section 307(c), provided that:

35 (1) The building, structure, facility or installation is constructed at a
36 site at which no other source is located; or

37 (2) The building structure, facility or installation totally replaces the
38 process or production equipment that causes the discharge of pollutants at an
39 Existing Source; or

40 (3) The production or new wastewater generating processes of the
41 building, structure, facility, or installation are substantially independent of an
42 Existing Source at the same site. In determining whether these are
43 substantially independent, factors such as the extent to which the new facility
44 is integrated with the existing plant and the extent to which the new facility is
45 engaged in the same general type of activity as the Existing Source should be
46 considered.

1 (4) Construction on a site at which an Existing Source is located
2 results in a modification rather than a New Source if the construction does not
3 create a new building, structure, facility, or installation meeting the criteria of
4 Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing
5 process or production equipment.

6 (b) For purposes of this definition, construction or operation has
7 commenced if the owner or operator has:

8 (1) Begun, or caused to begin as part of a continuous on-site
9 construction program:

10 (A) Any placement, assembly, or installation of facilities or
11 equipment; or

12 (B) Significant site preparation work including clearing,
13 excavation, or removal of existing buildings, structures, or facilities which is
14 necessary for the placement, assembly, or installation of New Source facilities
15 or equipment; or

16 (2) Entered into a binding contractual obligation for the purchase of
17 facilities or equipment which are intended to be used in its operation within a
18 reasonable time. Options to purchase or contracts which can be terminated or
19 modified without substantial loss, and contracts for feasibility, engineering, and
20 design studies do not constitute a contractual obligation under this definition.

21 **Non-Contact Cooling Water:** Water used for cooling which does not
22 come into direct contact with any chemical addition, raw material, intermediate
23 product, waste product or finished product.

24 **Non-Industrial User:** Any source of the indirect discharge of solely
25 domestic-natured waste.

26 **Non-Significant Categorical Industrial User:** The Director may determine
27 that an Industrial User subject to categorical pretreatment standards is a Non-
28 Significant Categorical Industrial User rather than a Significant Industrial User on
29 a finding that the Industrial User never discharges more than 100 gallons per day
30 (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and
31 boiler blowdown wastewater, unless specifically included in the Pretreatment
32 Standard) and the following conditions are met:

33 (a) the Industrial User, prior to County's finding, has consistently complied
34 with all applicable categorical Pretreatment Standards and Requirements;

35 (b) the Industrial User annually submits the certification statement
36 | required in Section 67.1-4-8 [see 40GR CFR 403.12(q)], together with any
37 additional information necessary to support the certification statement; and

38 (c) the Industrial User never discharges any untreated concentrated
39 wastewater. Upon a finding that a user meeting the criteria in of this part has
40 no reasonable potential for adversely affecting the POTW's operation or for
41 violating any pretreatment standard or requirement, the Director may at any
42 time, on its own initiative or in response to a petition received from a user, and
43 in accordance with procedures in 40 CFR 403.8(f) (6), determine that such
44 | user should not be considered a ~~s~~Significant ~~l~~Industrial ~~U~~user.

45 **Ordinance:** Unless otherwise indicated, "this ordinance" refers to Chapter
46 67.1 of the Fairfax County Code.

1 **Pass Through:** A discharge which exits the POTW treatment plant into
2 receiving waters in quantities or concentrations which, alone or in conjunction
3 with discharge(s) from other sources, is a cause of a violation of any
4 requirement of the VPDES or NPDES permit, including an increase in the
5 magnitude or duration of a violation.

6 **Person:** Any individual, partnership, firm, company, corporation,
7 association, joint stock company, trust, estate, governmental entity or any
8 other legal entity, or their legal representatives, agents, or assigns. This
9 definition includes, without limitation, all federal, state or local governments
10 entities.

11 **pH:** A measure of the acidity or alkalinity of a substance, expressed in
12 standard units; logarithm (base 10) of the reciprocal of the concentration of
13 hydrogen ions expressed in moles per liter of solution.

14 **Pollutant:** Any substance, except water that is less than or equal to 150°F
15 (65.5°C), which either alone or in conjunction with water, is permitted to enter
16 a POTW. "Pollutant" includes, but is not necessarily limited to dredged spoil,
17 solid waste, incinerator residue, filter backwash, sewage, garbage, sewage
18 sludge, munitions, medical wastes, chemical wastes, biological materials,
19 radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt
20 and municipal, agricultural and industrial wastes.

21 **Premises Having Access to the Facilities of the County:** Any premises
22 which abuts a highway, street, alley, public space or private property on which
23 the Facilities of the County are located and which is not more than ~~three~~
24 ~~hundred~~ (300) feet from the Facilities of the County and which can be served
25 by the Facilities of the County.

26 **Pretreatment:** The reduction of the amount of pollutants, the elimination
27 of pollutants, or the alteration of the nature of pollutant properties in
28 wastewater prior to, or in lieu of discharging or otherwise, introducing such
29 pollutants into the POTW. This reduction, elimination or alteration can be
30 obtained by physical, chemical or biological processes, by process changes or
31 by other means, except by diluting the concentration of the pollutants unless
32 allowed by an applicable pretreatment standard.

33 **Pretreatment Requirement:** Any substantive or procedural requirement
34 related to pretreatment that is imposed on an Industrial User.

35 **Pretreatment Standards:** Prohibited discharge standards, Categorical
36 Pretreatment Standards and local limits, includes any regulation containing
37 pollutant discharge limits promulgated by the EPA in accordance with § 307(b)
38 and (c) of the Act, and 40 CFR § 403.5.

39 **Priority Pollutants:** The ~~sixty-five~~ (65) classes of pollutants listed in 40
40 C.F.R. § 401.15 pursuant to Section 307(a)(1) of the Act, and subsequently
41 defined by the EPA as 126 specific compounds.

42 **Prohibited Discharge:** A pollutant that shall not be introduced into a
43 POTW, as set forth in National Pretreatment Standards: Prohibited
44 Discharges, 40 C.F.R. § 403.5 and Section 67.1-2-1.

45 **Publicly Owned Treatment Works (POTW):** Any "treatment works," as
46 defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned by a

1 County or other municipality. This definition includes any devices or systems
2 used in the collection, storage, treatment, recycling and reclamation of sewage
3 or industrial wastes of a liquid nature and any conveyances which convey
4 wastewater to a treatment plant.

5 **Sewerage Facilities:** Any plumbing system, piping system, fixture or
6 other appurtenance which is designed to carry wastewater.

7 **Significant Industrial User:** The term "Significant Industrial User" shall
8 mean:

9 (a) Industrial Users subject to Categorical Pretreatment Standards; or

10 (b) Any other Industrial User that:

11 (1) Discharges an average of 25,000 gpd or more of process
12 wastewater, excluding sanitary, noncontact cooling and boiler blowdown
13 wastewater; or

14 (2) Contributes a process wastestream which makes up five~~5~~
15 percent or more of the average dry weather hydraulic or organic capacity of
16 the POTW treatment plant; or

17 (3) Is designated as significant by the County on the basis that the
18 Industrial User has a reasonable potential for violating any pretreatment
19 standard or requirement.

20 **Slug Discharge:** A slug discharge is any discharge of non-routine,
21 episodic nature, including but not limited to an accidental spill or a non-
22 customary batch discharge which has a reasonable potential to cause
23 Interference or Pass Through, or in any other way violate the POTW's
24 regulations, Local Limits or Permit conditions

25 **Standard Industrial Classification (SIC) Code:** A classification pursuant
26 to the Standard Industrial Classification Manual issued by the United States
27 Office of Management and Budget.

28 **Storm Water:** Any flow occurring during or following any form of natural
29 precipitation, and resulting from such precipitation, including snowmelt.

30 **Suspended Solids:** The total suspended matter that floats on the surface
31 of, or is suspended in, water, wastewater, or other liquid, and which is
32 removable by laboratory filtering.

33 **Toxic Substance:** One of the pollutants or any combination of those
34 pollutants listed as toxic in regulations promulgated by the EPA under the
35 provision of Section 307 (33 U.S.C. § 1317) of the Act and any other
36 substance deemed toxic by the Director.

37 **Upset:** An exceptional incident in which there is unintentional and
38 temporary noncompliance with pretreatment standards and requirements
39 because of factors beyond the reasonable control of the Industrial User.
40 Noncompliance caused by operational error, improperly designed pretreatment
41 facilities, inadequate treatment facilities, lack of preventive maintenance, or
42 careless or improper operation does not constitute an upset.

43 **User:** Any person who contributes, causes or permits any discharge into
44 the POTW and the owner and tenant of any premises which contributes any
45 discharge into the POTW.

1 **Wastewater or Sewage:** Liquid and water-carried pollutants from any
2 source which enters the POTW.

3 **Wastewater Constituents and Characteristics:** The individual chemical,
4 physical, bacteriological and radiological components, including volume and
5 flow rate and other such parameters that serve to define, classify or measure
6 the contents, quality, quantity and strength of wastewater; parameters include
7 any pollutant expected to be present which is listed under 40 C.F.R., Part 122,
8 Appendix D, Tables II-V.

9
10
11 **Section 67.1-1-4. Responsibility of Director for Facilities of the County.**

12
13 The Director shall have direct charge of the Facilities of the County,
14 including responsibility for the operation, maintenance and administration
15 thereof, including the enforcement of sewer use standards.

16
17
18 **Section 67.1-1-10. Damage to Facilities of the County to be Reported to**
19 **Director; Liability for ~~Payment~~ Expense, Loss or Damage.**

20
21 Any Person violating any of the provisions of this Ordinance or a
22 wastewater discharge permit, or causing damage to the POTW, or otherwise
23 interfering with the POTW, shall be liable to the County for any damages, costs,
24 attorney fees, and other expenses caused by such violations or discharge. In the
25 event of damage to any part of the Facilities of the County, it shall be the
26 responsibility of the ~~person~~ Person causing such damage to immediately notify
27 the Director. The necessary repairs or replacement shall be made by the County
28 or under supervision of the County at the expense of the ~~person~~ Person causing
29 such damage.

30
31
32 **Section 67.1-2-1. Prohibited Discharge Standards.**

33
34 (a) General Prohibitions:

35 (1) No User shall discharge or cause to be discharged into the
36 POTW any pollutant(s) which will cause an Interference or a Pass Through or
37 which is harmful to the health, safety or welfare of POTW personnel or the
38 general public.

39
40 (2) No User shall discharge industrial waste to the POTW except as
41 specifically approved in writing by the Director.

42
43 (b) Specific Prohibitions: No User shall discharge the following pollutants
44 into the POTW:

45 (1) Pollutants which may create a fire or explosive mixture in the
46 POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of
47 less than 140°F (60°C) using the test method specified in 40 C.F.R. § 261.21. At

1 no time shall either of two successive readings on an explosion hazard meter at
2 the point of discharge into the system or at any point in the system be more than
3 | five percent (5%) nor any single reading over ten percent (10%) of the lower
4 explosive limit (LEL) of the meter. Such pollutants include, but are not limited to,
5 gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols,
6 ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides,
7 hydrides and sulfides.

8 (2) Pollutants having a pH less than 5.0 or more than 12.0, or which
9 could otherwise cause corrosive structural damage to the POTW. Such pollutants
10 include, but are not limited to acids, sulfides, concentrated chloride and fluoride
11 compounds and substances which will react with wastewater in the POTW to
12 form acidic or alkaline products.

13 (3) Solid or viscous substances in amounts which may cause
14 obstruction of the flow in the POTW resulting in Interference, but in no case
15 solids greater than one half inch (1/2") in any dimension. Prohibited materials
16 include, but are not limited to, grease, animal guts or tissues, paunch manure,
17 bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders,
18 sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings,
19 grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar,
20 asphalt residues, residues from refining or processing of fuel or lubricating oil,
21 mud, or glass grinding or polishing wastes.

22 (4) Pollutants, including oxygen-demanding pollutants (BOD, COD,
23 etc.) released in a discharge at a flow rate and/or concentration which, either
24 singly or by interaction with other pollutants, will cause interference with or
25 damage to the POTW.

26 (5) Wastewater having a temperature greater than 150°F (65.5°C),
27 or which, due to its temperature, will inhibit biological activity in the treatment
28 plant, but in no case wastewater which will cause the temperature of the
29 wastewater entering the treatment plant to exceed 104°F (40°C).

30 (6) Petroleum oil, non-biodegradable cutting oil, or products of
31 mineral oil origin, in amounts that will cause an Interference or a Pass Through,
32 or wastewater that exceeds concentrations greater than 100 ppm of these oils.

33 (7) Pollutants which result in the presence of toxic gases, vapors or
34 fumes within the POTW in a quantity that may be injurious to the public health,
35 safety and welfare.

36 (8) Trucked or hauled pollutants, except at discharge points
37 designated by the Director in accordance with § 67.1-3-5.

38 (9) Wastewater containing any noxious or malodorous liquids,
39 gases, solids or other pollutant which, either alone or by interaction with other
40 pollutants, is sufficient to create a public nuisance or hazard to life or is sufficient
41 to prevent the safe entry of the POTW by maintenance and repair personnel.

42 (10) Wastewater having color characteristics which cannot be
43 removed by the treatment process, including but not limited to dye wastes and
44 vegetable tanning solutions, or wastewater which imparts sufficient color to the
45 POTW's effluent to violate the VPDES or NPDES permits.

46 (11) Wastewater containing any radioactive wastes or isotopes of

1 such half-life or concentration as to violate the limits established by applicable
2 County, State or Federal regulations, including but not limited to ~~9 VAC 25-31-50~~
3 12 Va. Admin. Code 5-481 and 10 C.F.R. § 20.303 10 C.F.R. § 20.2003.

4 (12) Storm water, surface water, ground water, roof runoff,
5 subsurface drainage, swimming pool drainage, non contact cooling water, and
6 unpolluted water except as specifically authorized by the Director.

7 (13) Medical wastes, except as specifically authorized by the
8 Director.

9 (14) Hazardous wastes, as defined by 40 C.F.R., Part 261, except
10 as may be specifically authorized by the Director.

11 (15) Pollutants discharged to the POTW other than by an approved
12 building sewer connection or discharge point.

13 (16) Wastes which are economically recyclable, including antifreeze
14 (ethylene glycol), as determined by the Director.

15 (17) Detergents, surface-active agents, or other substances that
16 might cause excessive foaming at the POTW.

17 (18) Sludges, screenings, or other residuals from pretreatment of
18 industrial wastes.

19 (19) Wastewater causing, alone or in conjunction with other sources,
20 the treatment plant's effluent to fail a toxicity test or other pollutant compliance
21 requirements.

22
23 (c) The pollutants prohibited by this Section shall not be processed or
24 stored in such a manner that they could be discharged to the POTW. All floor
25 drains located in process or materials storage areas must flow to the Industrial
26 User's pretreatment facility before connecting with the POTW, unless an
27 alternate system is approved by the Director.

28
29 **2. That Article 8 of Chapter 67.1, consisting of Sections 67-1-8-1**
30 **through 67.1-8-13 is repealed and a new Article 8, consisting of three**
31 **Divisions numbered 8A, 8B, and 8C, and including Sections numbered**
32 **67.1-8A-1 through 67.1-8A-7, 67.1-8B-1 through 67.1-8B-4, and 67.1-8C-1**
33 **through 67.1-8C-2 is adopted:**

34
35
36 **ARTICLE 8. ENFORCEMENT.**

37 **Division 8A**

38
39 **Section 67.1-8A-1. Publication of Industrial Users in Significant**
40 **Noncompliance.**

41
42 The County shall annually publish, in a newspaper of general circulation
43 that provides meaningful public notice within the jurisdictions served by the
44 POTW, a list of the Industrial Users which, during the previous 12 months, were
45 in significant noncompliance with applicable pretreatment standards and
46 requirements. The term significant noncompliance shall mean a violation which

1 meets one or more of the following criteria:

2 (a) Chronic violations of wastewater discharge limits, defined here as
3 those in which 66% or more of the wastewater pretreatment measurements
4 taken during a six-month period exceeded a numeric pretreatment standard or
5 requirement, including instantaneous limits as defined in Section 67.1-2-1 (40
6 CFR 403.3(l)):

7 (b) Technical Review Criteria violations, defined here as those in which
8 33% or more of the wastewater measurements taken during a six-month period
9 for each pollutant parameter equals or exceeds the product of the numeric
10 pretreatment standard or requirement including instantaneous limits, as defined
11 by Section 67.1-2-1 (40 CFR 403.3(l)) multiplied by the applicable criteria (1.4 for
12 BOD, TSS, oil and grease, and 1.2 for all other pollutants except pH);

13 (c) Any other violation of a pretreatment standard or requirement [as
14 defined by Section 2 (40 CFR 403.3(l)) (daily maximum, long-term average,
15 instantaneous limit, or narrative standard)] that the Director determines has
16 caused, alone or in combination with other discharges, interference or Ppass
17 through (including endangering the health of POTW personnel or the general
18 public);

19 (d) Any discharge that has caused imminent danger to the public or to
20 the environment, or has resulted in the Director's exercise of his emergency
21 authority to halt or prevent such a discharge;

22 (e) The failure to meet, within 90 days after the scheduled date, a
23 compliance schedule milestone contained in a permit or enforcement order for
24 starting construction, completing construction or attaining final compliance;

25 (f) The failure to provide, within 30 days after the due date, any report
26 required by this ordinance;

27 (g) The failure to accurately report noncompliance; or

28 (h) Any other violation(s) which may include a violation of Best
29 Management Practices which the Director determines will adversely affect the
30 operation or implementation of the POTW's pretreatment program.

31
32
33 **Section 67.1-8A-2. Notice of Violation.**

34
35 When the Director determines that any User has violated or is violating
36 any provision of this Ordinance, a permit or order issued hereunder, or any other
37 pretreatment requirement, the Director may serve upon such User a written
38 Notice of Violation. Within five days of the receipt of this notice, the User must,
39 unless such requirement is waived by the Director, submit to the Director, an
40 explanation of the violation and a plan for the satisfactory correction and
41 prevention thereof, to include specific required actions. Submission of this plan
42 shall not relieve the User of liability for any violations occurring before or after
43 receipt of the Notice of Violation. Nothing in this Section shall limit the authority of
44 the Director to take emergency action or other appropriate enforcement action
45 without first issuing a Notice of Violation.

1 **Section 67.1-8A-3. Injunctive Relief.**

2
3 When the Director determines that a User has violated or continues to
4 violate the provisions of this Ordinance, permits or orders issued hereunder, or
5 any other pretreatment requirement, the County may, in addition to, or instead of
6 any other remedies provided for herein, petition the Circuit Court for the issuance
7 of injunctive or other appropriate equitable relief, including a requirement for the
8 User to conduct environmental remediation.
9

10
11 **Section 67.1-8A-4. Consent Orders.**

12
13 The Director may enter into Consent Orders, assurances of voluntary
14 compliance, or other similar documents establishing an agreement with any User
15 that has violated or is in violation of a provision of this Ordinance. Such orders
16 may include specific action to be taken by the User to correct such violation
17 within a specified time period and civil penalties, and may include assessments
18 for actual damages to sewers, treatment works and appurtenances, and for
19 costs, attorney fees, and other expenses resulting from the violation, if any. Any
20 Consent Order shall inform the User of his right to seek reconsideration or review
21 within the County and of the User's right to judicial review by appeal to Circuit
22 Court on the record of proceedings before the County, and shall include a
23 statement that the User has knowingly and voluntarily waived those rights. Any
24 such Consent Orders, assurances of voluntary compliance, or other similar
25 documents establishing an agreement, shall have the same force and effect as
26 Compliance Orders issued pursuant to Section 67.1-8B-2 and shall be judicially
27 enforceable.
28
29

30 **Section 67.1-8A-5. Search Warrants.**

31
32 If the Director has been refused access to a building, structure or property,
33 or any part thereof, he may obtain a search warrant upon demonstrating, to the
34 satisfaction of any judge, magistrate or other person having authority to issue
35 criminal warrants, that reasonable and probable cause exists to believe that there
36 has been a violation of this Ordinance, or that there is a need to inspect and/or
37 sample pursuant to this Ordinance. Such search warrant shall be based upon a
38 complaint under oath supported by an affidavit.
39
40

41 **Section 67.1-8A-6. Criminal Violations.**

42
43 Any Person who willfully or negligently violates any provision of this
44 Ordinance, any order or permit issued hereunder, or any other pretreatment
45 requirement, shall, upon conviction, be guilty of a Class 1 misdemeanor and
46 punishable by the maximum fine or imprisonment, or both fine and imprisonment,

1 as provided by law. Each day for which a violation is proven shall constitute a
2 separate violation.

3
4
5 **Section 67.1-8A-7. Remedies Nonexclusive.**

6
7 The remedies provided in this Ordinance are not exclusive and may be
8 taken individually or in combination with each other or in addition to remedies
9 available under State and Federal law. No individual remedy is either a bar
10 against or a prerequisite to other enforcement action pursuant to this Ordinance.

11
12
13
14 **Division 8B**

15
16 **Section 67.1-8B-1. Show Cause Hearing.**

17
18 The Director may order any User that has violated, or is violating, any
19 provision of this Ordinance, permits or orders issued hereunder, or any other
20 pretreatment requirement, to appear before the Director and show cause why a
21 proposed enforcement action should not be taken. Notice shall be served on the
22 User specifying the time and place for the hearing, the proposed enforcement
23 action, the reasons for such action, and a request that the User show cause why
24 the proposed enforcement action should not be taken. The notice of the hearing
25 shall be served personally or by registered or certified mail, return receipt
26 requested, at least 10 days prior to the hearing, unless the Director proposes to
27 impose civil penalties, in which event the notice shall be served in accordance
28 with Section 67.1-8C-1. Such notice may be served on any Authorized
29 Representative of the User.

30
31
32 **Section 67.1-8B-2. Compliance/Cease and Desist Orders.**

33
34 (a) When the Director finds that a User has violated or is violating this
35 Ordinance, permits or orders issued hereunder, or any other pretreatment
36 requirement, the Director may issue an order directing the User to cease and
37 desist all such violations and to:

- 38
39 (1) Immediately, or within a specified time period, comply with all
40 ordinance requirements.
41
42 (2) Take such appropriate remedial or preventive action as may be
43 needed to properly address a continuing or threatened violation,
44 including halting operations and/or terminating the discharge.
45
46 (3) Take such action as might be reasonably necessary and

1 appropriate to address the noncompliance, including additional self-
2 monitoring and management practices designed to minimize the
3 amount of pollutants discharged to the sewer. The Director may
4 require such additional self-monitoring for up to 90 days after
5 consistent compliance has been achieved, after which time the self-
6 monitoring requirements of the permit shall recommence.

7
8 (b) Such orders may also provide that sewer service shall be
9 discontinued unless after a specified time period, adequate treatment facilities,
10 devices, or other related appurtenances are installed and properly operated.

11
12
13 **Section 67.1-8B-3. Emergency Suspensions.**

14
15 (a) The Director may suspend wastewater treatment service, may
16 suspend the permit of an Industrial User, and in coordination with Fairfax Water,
17 may suspend water service, whenever any such suspension is necessary to stop
18 an actual or threatened discharge which reasonably appears to present or cause
19 an imminent or substantial endangerment to the health, safety or welfare of
20 persons, which interferes with the operation of the POTW, or which presents an
21 endangerment to the environment.

22
23 (b) Any User notified of the suspension of its permit shall immediately
24 stop or eliminate its discharge. In the event of a User's failure to immediately
25 comply voluntarily with the suspension order, the Director shall take such
26 measures deemed necessary, including severance of the sewer connection, to
27 prevent or minimize damage to the system, its receiving stream, or
28 endangerment to individuals or the environment. The Director may allow the User
29 to recommence its discharge when such User has demonstrated to the
30 satisfaction of the Director that the period of endangerment has passed.

31
32 (c) A User that is responsible, in whole or in part, for any discharge
33 that presents an imminent endangerment to the health, safety or welfare of
34 persons, that interferes with the operation of the POTW, or that presents an
35 endangerment to the environment shall submit a detailed written statement to the
36 Director, within the timeframe mandated by the Director, describing the causes of
37 the harmful discharge and the measures taken to prevent any future occurrence.

38
39 (d) Nothing in this Section shall be interpreted as requiring a hearing
40 prior to any emergency suspension under this Section.

41
42
43 **Section 67.1-8B-4. Administrative Review Procedures**

44
45 (a) Any order issued pursuant to this Division B of Article 8 may be
46 reviewed by the Director or a hearing officer designated by the Director provided

1 that within 10 days of the date of such order, the User submits a written request
2 to the Director for a hearing. Any such order shall inform the User of its right to
3 administrative review, and of its right to judicial review of any final order after
4 administrative review by appeal to the Fairfax County Circuit Court on the record
5 of the administrative proceedings.

6
7 (b) The Director shall notify the User of the administrative review
8 hearing by serving notice either personally or by registered or certified mail,
9 return receipt requested, on any Authorized Representative of the User no less
10 than 30 days prior to the hearing. The notice shall specify the time and place for
11 the hearing and the facts and legal requirements related to the alleged violation.

12
13 (c) At the hearing, the User may present evidence including witnesses
14 regarding the occurrence of the alleged violation and the penalty, and the User
15 may examine any witnesses for the County. A verbatim record of the hearing
16 shall be made.

17
18 (d) Within 30 days after the conclusion of the hearing, the Director or a
19 hearing officer designated by the Director shall make findings of fact and
20 conclusions of law and issue a final order. Any final order shall be based upon
21 the severity of the violations, the extent of any potential or actual environmental
22 harm or facility damage, the compliance history of the User, any economic
23 benefit realized from the noncompliance, and the ability of the User to comply
24 with the final order.

25
26 (e) To commence an appeal of the final order, the User shall file a
27 petition in the Circuit Court of Fairfax County within 30 days of the date of the
28 final order as set forth in Section 67.1-8C-2. Failure to do so shall constitute a
29 waiver of the right to appeal.

30
31
32 **Division 8C**

33
34
35 **Section 67.1-8C-1. Civil Penalties.**

36
37 (a) Any Person who violates any provision of this Ordinance, any order
38 or permit issued hereunder, or any other pretreatment requirement may be liable
39 to the County for a civil penalty. Each day during which a violation is found to
40 have existed shall constitute a separate violation, and any civil penalties imposed
41 under this Section shall be applied to the purpose of abating, preventing or
42 mitigating environmental pollution.

43
44 (b) No administrative order assessing a civil penalty for a violation shall
45 be issued until after the User has been provided an opportunity for a hearing
46 before the Director, except with the consent of the User. The notice of the

1 hearing shall be served personally or by registered or certified mail, return receipt
2 requested, on any Authorized Representative of the User at least 30 days prior to
3 the hearing. The notice shall specify the time and place for the hearing, facts and
4 legal requirements related to the alleged violation, and the amount of any
5 proposed penalty. At the hearing the User may present evidence including
6 witnesses regarding the occurrence of the alleged violation and the amount of
7 the penalty, and the User may examine any witnesses for the County. A verbatim
8 record of the hearing shall be made. Within 30 days after the conclusion of the
9 hearing, the Director shall make findings of fact and conclusions of law and issue
10 a final order.

11
12 (c) No administrative order shall assess civil penalties in excess of
13 \$32,500 per violation, or \$100,000 per order, except with the consent of the User.
14 The actual amount of any penalty assessed shall be based upon the severity of
15 the violations, the extent of any potential or actual environmental harm or
16 damage to the Facilities of the County, the compliance history of the User, any
17 economic benefit realized from the noncompliance, and the ability of the User to
18 pay the penalty. In addition to civil penalties, the order may include a monetary
19 assessment for actual damages to sewers, treatment works and appurtenances
20 and for costs, attorney fees and other expenses resulting from the violation. Civil
21 penalties in excess of the maximum amounts established in this subsection may
22 be imposed only by a court in amounts determined in its discretion but not to
23 exceed \$32,500 for each violation.

24
25 (d) This Section shall neither preclude the County from proceeding
26 directly in Circuit Court to compel compliance with its sewer use standards or
27 seek civil penalties for violation of the same nor be interpreted as limiting any
28 otherwise applicable legal remedies or sanctions.

29
30 (e) Any Person whose acts result in the assessment of a civil penalty
31 against the County pursuant to Virginia Code § 62.1-44.32 shall be liable to the
32 County for such penalty.

33
34 (f) Any civil penalties imposed under this Section shall be applied to
35 the purpose of abating, preventing, or mitigating environmental pollution.

36
37
38
39 **Section 67.1-8C-2. Appeal.**

40
41 Any order issued by the Director or a hearing officer designated by the
42 Director, whether or not such order assesses a civil penalty, shall inform the User
43 of his right to seek reconsideration or review within the locality, if authorized, and
44 of the User's right to judicial review of any final order by appeal to circuit court on
45 the record of proceedings before the County. To commence an appeal, the User
46 shall file a petition in Fairfax County Circuit Court within 30 days of the date of

1 | the final order, and failure to do so shall constitute a waiver of the right to appeal.
2 | With respect to matters of law, the burden shall be on the party seeking review to
3 | designate and demonstrate an error of law subject to review by the court. With
4 | respect to issues of fact, the duty of the court shall be limited to ascertaining
5 | whether there was substantial evidence in the record to reasonably support such
6 | factual findings.

7
8
9 **3. That the repeal of Sections 67.1-8-10 and 67.1-8-13 shall not affect**
10 **any act or offense done or committed, or any penalty or right established,**
11 **accrued, or accruing on or before such date, or any administrative action**
12 **or suit pending on that date. Any act, offense or violation done or**
13 **committed prior to the effective date of this ordinance shall be subject to**
14 **civil penalties in the amount established by Section 67.1-8-10 prior to the**
15 **effective date of this ordinance and any decision rendered prior to the**
16 **effective date of this ordinance that was appealable under Section 67.1-8-13**
17 **shall continue to be appealable as set forth in that Section prior the**
18 **effective date of this ordinance.**

19
20 **4. That the provisions of this ordinance are severable, and if any**
21 **provision of this ordinance or any application thereof is held invalid, that**
22 **invalidity shall not affect the other provisions or applications of this**
23 **ordinance that can be given effect without the invalid provision or**
24 **application.**

25
26 **5. That this ordinance shall take effect upon adoption.**

27 GIVEN under my hand this day of _____ 2010.

28
29
30
31 _____
32 Nancy Vehrs
33 Clerk to the Board of Supervisors
34
35

\\S17prolaw01\Documents\107734\ECW\307414.Doc

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

ADMINISTRATIVE - 5

Approval of Supplemental Appropriation Resolution AS 11054 for the Fire and Rescue Department to Accept a Department of Homeland Security Urban Area Security Initiative Sub-Grant Award from the Northern Virginia Regional Commission Through the State Administrative Agency for the National Capital Region

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 11054 in the amount of \$152,344 for the Fire and Rescue Department to accept a Department of Homeland Security (DHS) FY 2008 Urban Area Security Initiative (UASI) Sub-Grant Award from the Northern Virginia Regional Commission (NVRC) through the State Administrative Agency (SAA). These funds are made available by DHS through the District of Columbia which is serving as the SAA. NVRC is responsible for distributing the UASI funds to the sub-grantees for the sustainment and expansion of the Metropolitan Medical Response System (MMRS). The MMRS model was developed as a means for local jurisdictions to prepare for the mass casualty consequences of a terrorist incident but has expanded to include an all-hazards approach. MMRS has been tasked with integrating multiple response disciplines and improving the ability to respond in an integrated way across jurisdictions. The grant period is September 1, 2008 to May 31, 2011. No Local Cash Match is required.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 11054 in the amount of \$152,344 for the Fire and Rescue Department to accept a DHS FY 2008 UASI Sub-Grant Award from the NVRC. These funds will be used to support the procurement of emergency preparedness supplies and continue local and regional emergency planning efforts.

TIMING:

Board approval is requested on September 28, 2010.

BACKGROUND:

The DHS UASI grant program provides financial assistance through grant funding to high-threat, high density urban areas in order to strengthen and expand local emergency preparedness and response efforts. The National Capital Region (NCR) is one such area and Fairfax County comprises a significant percentage of the NCR population and geographical area. These funds are used to enhance and sustain a continuum of care from incident scene, to transport, to hospitalization, as a result of acts of terrorism, natural disaster, or any other type of mass casualty catastrophe.

Board Agenda Item
September 28, 2010

This project reflects a continuing relationship between the Fire and Rescue Department (FRD) and the Northern Virginia Regional Commission, demonstrating a commitment to sustain the Northern Virginia Emergency Response System (NoVA ERS) Regional System (7UASI854). The Fire and Rescue Department has received previous UASI awards in the amount of \$693,780 through NVRC to sustain the NoVA ERS and to purchase regional H1N1 supplies.

The current grant award of \$152,344 for the 2008 UASI Sub-Grant Award will be used to procure emergency preparedness supplies and continue local and regional emergency planning efforts. With the Fairfax County Fire and Rescue Department administering the award, a portion of the funds will be used by Fairfax County Police Department to purchase weapons of mass destruction (WMD) detection and monitoring equipment. Fairfax County Health Department will also use a portion of the funds to purchase emergency communications and planning equipment.

FISCAL IMPACT:

Grant funding in the amount of \$152,344 is available from DHS through the NVRC for the UASI program. These funds will be used to support the procurement of emergency preparedness supplies and continue local and regional emergency planning efforts. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2011. This grant does not allow the recovery of indirect costs. No Local Cash Match is required.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1 - Award Document, Excerpt

Attachment 2 - Supplemental Appropriation Resolution AS 11054

STAFF:

Robert A. Stalzer, Deputy County Executive

Chief Ronald L. Mastin, Fire and Rescue Department

Assistant Chief John J. Caussin, Jr, Fire and Rescue Department

Lieutenant William D. Vannoy, Fire and Rescue Department

Cathi Schultz-Rinehart, Division Director, Fiscal Services, Fire and Rescue Department

APPENDIX A

STATEMENT OF WORK

Northern Virginia Emergency Response System (NoVA ERS) Sustainment

The Subgrantee shall perform the following work. Reimbursable expenditures associated with this Statement of Work are detailed in Appendix B: Budget Documents.

1. The Subgrantee shall maintain and staff a Sustainment Team in accordance with Section 2.1 of this Subgrant Agreement.
2. As directed by its Sustainment Team, the Subgrantee shall sustain the *planning process*, which is also known as "*operationalization of plans*." Activities may include the following:
 - a. updating existing plans
 - b. harmonizing plans within the Subgrantee's jurisdiction
 - c. writing new plans specific to Subgrantee's jurisdiction, e.g.,
 - d. coordinating planning activities with priorities of the National Capital Region
 - e. participating in other regional planning coordination activities
3. The Subgrantee shall perform additional work to operationalize plans at a more detailed level, which may include activities such as conducting a review of all plans at the micro level to ensure operationalization features (e.g., standard operating procedures, operations guides, etc.) are present to ensure that emergency responders can perform the actions required in the plans.
4. The Subgrantee shall procure and document – as required by NVRC , the SAA, and applicable laws and regulations – equipment and supplies that meet or exceed the regional standards established by the NoVA ERS Steering Committee, including

| For (Discipline) | Items | Explanation |
|---------------------|--------------------------------|---|
| PD | 2 Handheld Radiation Meters | Currently, Police Department has no Radiation Detection capability outside of hand-held detectors and relies on Fire Department HazMat Unit for meters. Unable to get equipment through other budget sources. |
| PD | 2 ChemBio Sampling Kits | For use with Police Department's WMD Section; Duplicate of Fire Department's Xkit Chem/Bio Sampling Kit. |
| PD | 5 Gear Bags | For use with Police Department's Xkit to carry |

| | | |
|----|---------------------------------------|---|
| | | items to and from scene. |
| HD | PortaCount Pro+ Respirator Fit Tester | The PortaCount Pro+ Respirator Fit Tester is a quantitative fit tester that provides a more accurate and complete test of N95 mask fitting than the agency's current qualitative methods. |
| HD | Battery, impres 1525 Mah NiCd | Impres batteries for XTS5000 radios to replace out-dated and degraded batteries in agency's existing inventory of radio equipment. |
| HD | Case, leather for XTS5000 | Durable carry cases with shoulder straps and mic loops for agency's XTS5000 radios used in the field. |
| HD | AutoCAD LT 2010 | Architectural/engineering software used to access and modify county building floorplans to plan and design dispensing sites and other public health response operations. |
| HD | Phone Triage System | Regionally Funded Project |

5. The Subgrantee shall provide for participation of appropriate staff as representatives to the NoVA ERS Steering Committee, and as needed in completing procurement, training, exercising, communications, or other NoVA ERS regional activities.

APPENDIX B

BUDGET Northern Virginia Emergency Response System (NoVA ERS) Sustainment

| 2008 Authorized Equipment List Codes | Amount Allocated to Subgrantee |
|--|--------------------------------|
| Equipment purchases | \$106,843.38 |
| 07.RD.01.HHCM (2 Handheld radiation meters) | \$3,920.00 |
| 07.BS.01.KBBA (2 ChemBio sampling kits) | \$4,246.00 |
| 19.GN.00.BGPK (5 gear bags) | \$655.00 |
| 01.AR.07.FTST (PortaCount Pro+ Respirator fit tester) | \$14,000.00 |
| 10.BC.00.BATT (Battery, impress 1525 Mah NiCd) | \$2,515.26 |
| 06.CP.03.PRAC (Case, leather for XTS5000) | \$2,360.00 |
| 04.AP.05.SVIS (AutoCAD LT 2010) | \$1,147.12 |
| <u>Phone Triage System:</u> | |
| 04.SW.04.NETW (30 user license software for call center) | \$20,000.00 |
| 21.GN.00.CNST (Set-up consulting) | \$55,000.00 |
| 120.TW.01.TWCO (System admin training) | \$3,000.00 |
| "Operationalization" | \$45,500.00 |
| 140.DP.01.DPEP Planning (salary) | \$38,000.00 |
| 140.DP.01.DPEP Planning (printing) | \$7,500.00 |
| Total | \$152,343.78 |

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 11054

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on September 28, 2010, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2011, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Agency: 92, Fire and Rescue Department \$152,344
Fund: 102, Federal/State Grant Fund

Grant: 02919G, Metropolitan Medical Response System (MMRS) Grant

Reduce Appropriation to:

Agency: 87, Unclassified Administrative Expenses \$152,344
Fund: 102, Federal/State Grant Fund

Grant: 87107G, Unclassified Administrative Expenses

Source of Funds: U.S. Department of Homeland Security, \$152,344

A Copy - Teste:

Nancy Vehrs
Clerk to the Board of Supervisors

ADMINISTRATIVE - 6

Authorization for the Fairfax County Police Department to Apply for and Accept Grant Funding from the Office of Justice Programs Edward Byrne Memorial Justice Assistance Grants

ISSUE:

Board approval for the Fairfax County Police Department to apply for and accept funding, if received, from the Office of Justice Programs (OJP) Edward Byrne Memorial Justice Assistance Grant. Funding in the amount of \$139,291 will be used for technology upgrades. The grant period for this award is October 1, 2010 through September 30, 2013. No Local Cash Match is required. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Fairfax County Police Department to apply for and accept funding, if received, from the OJP Edward Byrne Memorial Justice Assistance Grant. Funding in the amount of \$139,291 will be used by the Police Department for technology upgrades.

TIMING:

Because of a June 30, 2010 submission deadline, the application was submitted pending Board approval. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:

The projects to be funded by the grant will support several important strategic objectives of the Police Department: ensure emergency readiness; obtain and analyze information effectively; and enhance internal communication.

Funding in the amount of \$139,291 will be used by the Fairfax County Police Department for technology improvements in two areas. Funding of \$126,661 will be used to enhance the StingRay cell phone tracking system and funding of \$12,630 will be used for technology upgrades in the conversion and retention of electronic data pertaining to completed administrative and internal investigation case files.

The StingRay system is the only transportable active direction finding and signal information collection system available to locate and track cellular phone devices. It is capable of locating and tracking cellular service whether or not the phone is transmitting. As long as the cellular phone is powered on, the StingRay is capable of locating it. Current technology available to

Board Agenda Item
September 28, 2010

the Police Department allows locating cellular telephones within an area of several square miles, requiring dozens of personnel to search, often with minimal chances of a successful outcome. The cellular telephone tracking system is proven technology that allows two to four officers to locate crime victims, crime suspects, wanted persons, and those in need of emergency services within a range of several meters with a high degree of success. The upgrade will enable the device to detect and track the latest cell phone models, which it cannot do at this time.

Technological improvements are also required for the Internal Affairs Bureau to update the current practice of storing materials in printed format to an advanced method of data retention. Improvements will be achieved through the purchase of the Imagem Document Management System and scanner to convert existing paper documents into electronic files. Additionally, material from each forthcoming investigation will be scanned and retained, utilizing the same purchased hardware and software.

The availability of case files in an electronic format allows for the storage of multiple copies, thus increasing security through technological advancement by diminishing the possibility of destruction to any individual file. Additionally, the storage of files in electronic format will provide access to critical information from locations other than the primary storage facility for printed materials.

FISCAL IMPACT:

Grant funding in the amount of \$139,291 has been requested from the OJP Edward Byrne Memorial Justice Assistance Grant. These funds will be used for technology upgrades. This action does not increase the expenditure level in Fund 102, Federal/State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2011. No Local Cash Match is required. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

No positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Grant Application, Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Major Edwin C. Roessler, Jr., Commander, Internal Affairs Bureau
Major Shawn M. Barrett, Commander, Criminal Investigations Bureau
Karen Gibbons, Senior Assistant County Attorney

Department of Criminal Justice Services – Justice Assistance Grant
Byrne Memorial Justice Assistance Grant Program: Technology Improvement

PROGRAM NARRATIVE

Funding in the amount of \$139,291 will be used by the Police Department for technology improvement in the Electronic Surveillance Section (ESS) and Internal Affairs Bureau. For the ESS, enhancements to the StingRay cellular telephone tracking system will allow the Police Department to accurately locate crime victims and the suspects of crime with cellular telephones in an efficient manner. For the Internal Affairs Bureau, technology upgrades in conversion and storage of case file data will ensure better management of records and data. Total project cost, to include other funding, will be \$195,253. The additional funding amount of \$55,962 is anticipated to be covered by our Seized Asset account.

Technology Improvements

Harris Stingray Cellular Telephone Tracking Device **\$182,623**

Through this grant funding opportunity, the Fairfax County Police Department intends to utilize \$127,110 to purchase a Harris Stingray cellular telephone tracking system. This system implements traditional GPS autonomous mode for tracking cell phone applications, enabling continuous navigation in the toughest environments. The equipment is needed to legally and properly record and document criminal transactions for prosecution purposes. In addition, this equipment will enhance officer safety and allow the officers to stay in communication with each other during covert operations.

Current technology available to the Police Department allows locating cellular telephones within the coverage of one cellular telephone transmission tower, which may entail several square miles. Dozens of law enforcement officers and communications personnel are required to locate persons who are the target of a search, with minimal chances of a successful outcome. The Harris Stingray cellular telephone tracking system allows two to four officers to locate crime victims, suspects of crimes, wanted persons, and those in need of emergency services to within a range of several meters. The Stingray is used in conjunction with a court order, and the Fairfax County Police Department has been sponsored to use this tracking device through the U.S. Marshals Service. In addition to the device, there are travel training costs of \$18,513 for vendor sponsored training and an additional year of maintenance and warranty coverage at a cost of \$37,000.

Imagex Document Management System **\$ 12,630**

Funding in the amount of \$12,630.00 will be utilized by the Internal Affairs Bureau of the Fairfax County Police Department to update the means by which data from investigative case documents is retained. Improvement to critical data storage will assure document security and accessibility from remote locations. Grant funds will be applied to the purchase of an Imagex Document Management System and document scanner.

Department of Criminal Justice Services – Justice Assistance Grant
Byrne Memorial Justice Assistance Grant Program: Technology Improvement

With the purchase of hardware and software necessary to convert printed material from historical and future case files, employees of the Internal Affairs Bureau will have the ability to remain in compliance with requirements set forth by the Office of the County Attorney. As a standard of practice, the Office of the County Attorney mandates that records of specific complaints be retained. The preservation of the specified investigation files is paramount to any future legal case that may be brought against Fairfax County Police Department, the County of Fairfax or any County employee.

Furthermore, the secure retention of file information is pertinent in the Department's compliance with standards set by the Virginia Law Enforcement Professional Standards Commission. Specifically, Standard ADM.18.04b requires "*Maintaining the confidentiality and security of the internal affairs investigation and records.*"

Goals and Objectives

The overall goal of this request is to support improvements in the technological means of the department to provide emergency services to those in need, locate the victims of crime, and apprehend violators of the law in an expeditious and efficient manner.

Strategic Objective Statements:

- Improve Emergency Response – The cellular telephone tracker will improve the ability to locate victims of crime held against their will or other persons in need of emergency services.
- Increase Criminal Apprehensions – The cellular telephone tracker will allow law enforcement to apprehend criminals in an expeditious manner. Tracking records may also develop investigative leads to address criminal enterprises and locate evidence that would lead to greater success in prosecutions.
- Improve Personnel Operating Efficiency – Use of the cellular telephone tracker allows persons to be located with a minimal number of personnel; two to four officers can successfully locate a search target versus dozens of field and communications personnel currently required for an area search within a cellular tower zone.
- Improve Records Management - Utilization of technology to record and store administrative and internal case investigative files for faster retrieval and meet the Office of the County Attorney's records retention requirements.

Performance Measures

The number of cases in which the StingRay was used along with results will be one performance measure. The number of cases converted to digital storage will be another performance measure.

Implementation

Subsequent to acceptance of grant award, assigned Departmental staff will take appropriate action to establish appropriation in the County financial system.

Staff will then establish purchase orders/contracts for acquisition of equipment, supplies and training as approved under the grant award.

Approved equipment, supplies, and training will be acquired, and appropriate use subsequently implemented.

An evaluation as to the impact of the newly acquired equipment, supplies and training will be conducted in accordance with the performance measures for the annual program reports.

PROJECT BUDGET NARRATIVE

The Fairfax County Police Department is requesting \$139,291 in federal funding under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program for the StingRay cellular telephone tracking system and ImagEx Document Management System. Total cost of project will be \$195,253. Additional funding from our Seized Asset account will be used to complete the project.

Equipment

Harris Stingray Cellular Telephone Tracking Device \$127,110

Through this grant funding opportunity, the Fairfax County Police Department intends to utilize \$127,110 to purchase a Harris Stingray cellular telephone tracking system. Current technology available to the Police Department allows locating cellular telephones within the coverage of one cellular telephone transmission tower, which may entail several square miles. Dozens of law enforcement officers and communications personnel are required to locate persons who are the target of a search, with minimal chances of a successful outcome. The Harris Stingray cellular telephone tracking system allows two to four officers to locate crime victims, suspects of crimes, wanted persons, and those in need of emergency services to within a range of several meters. The Stingray is used in conjunction with a court order, and the Fairfax County Police Department has been sponsored to use this tracking device through the U.S. Marshals Service.

Imagex Document Management System and Scanner \$12,630

Through this grant funding opportunity, the Fairfax County Police Department, Internal Affairs Bureau intends to utilize \$12,630 towards improving the means by which material from historical and future investigations is retained. The current method of preserving this material is through retention of paper files. This method of maintaining custody of confidential, essential materials leaves the files susceptible to physical damage and deterioration. The existing physical storage space for the current method of retention has become limited. Conversion of printed material to electronic will allow an alternative method of storage for a majority of less critical files; thus increasing the amount of available storage space for the retention of key investigations. Additionally, multiple digital copies of pertinent cases may be produced to ensure their future availability.

Training \$18,513

Harris Stingray Cellular Telephone Tracking Device Training \$12,000

The Harris Corporation provides training in the set up, field use and maintenance of the Stingray cellular telephone tracking system. Completion of this training is required to properly utilize the tracking system. Training only done at vendor's premises in Melbourne, Florida

Travel Expenses

\$ 6,513

Expenses include lodging for five detectives for seven days (\$4,200) and per diem costs (meals, phone calls, etc. at \$2,313. Travel will be made with department vehicle, since the StingRay device must be brought to the training sessions. Travel costs are based on the Fairfax County Government Travel Policy.

Maintenance Contract

\$37,000

Additional one year contract for maintenance and upgrades for the StingRay Cellphone Tracking Device. First year is free with purchase of device.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

ADMINISTRATIVE - 7

Discontinuance of Portions of Route 3454 (Hospital Loop Road) from the Secondary System of State Highways (Providence District)

ISSUE:

Board adoption of the attached resolution requesting that the remaining portions of Route 3454 (Hospital Loop Road) be discontinued from the Secondary System of State Highways (Secondary System).

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) requesting that the remaining portions of subject roadway be discontinued from the Secondary System.

TIMING:

Routine.

BACKGROUND:

The Board approved the discontinuance of a 0.68 mile portion of Route 3454 (Hospital Loop Road) on February 23, 2010, as requested by Inova Fairfax Hospital. However, it was discovered that portions of roadway totaling 0.33 mile should also be discontinued.

The subject sections of roadway were constructed to serve the hospital site and included in the VDOT system for maintenance. Building programs on the Inova campus have incorporated the roadway to serve hospital uses exclusively resulting in roadway redesigns that no longer qualify for VDOT standards for maintenance. Formal release of VDOT responsibility for the roadway will allow additional flexibility in reconstructing the on-site roadway network and the building of new hospital facilities.

If approved, the request to discontinue the remaining segment of Route 3454 will remove 0.33 mile of roadway from VDOT maintenance responsibility. The action taken to discontinue the subject roadway assists VDOT in revising its maintenance mileage logs that are used to determine levels of State maintenance funding within Fairfax County.

Board Agenda Item
September 28, 2010

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Resolution

Attachment II: Map

STAFF:

Robert A. Stalzer, Deputy County Executive

Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)

Michael A. Davis, FCDOT

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, September 28, 2010, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, Route 3454 (Hospital Loop Road) was constructed to serve the Inova Fairfax Hospital campus; and,

WHEREAS, Inova Fairfax Hospital determined with expansions of facilities that the subject roadway segments no longer fit the access and circulation needs for the campus; and,

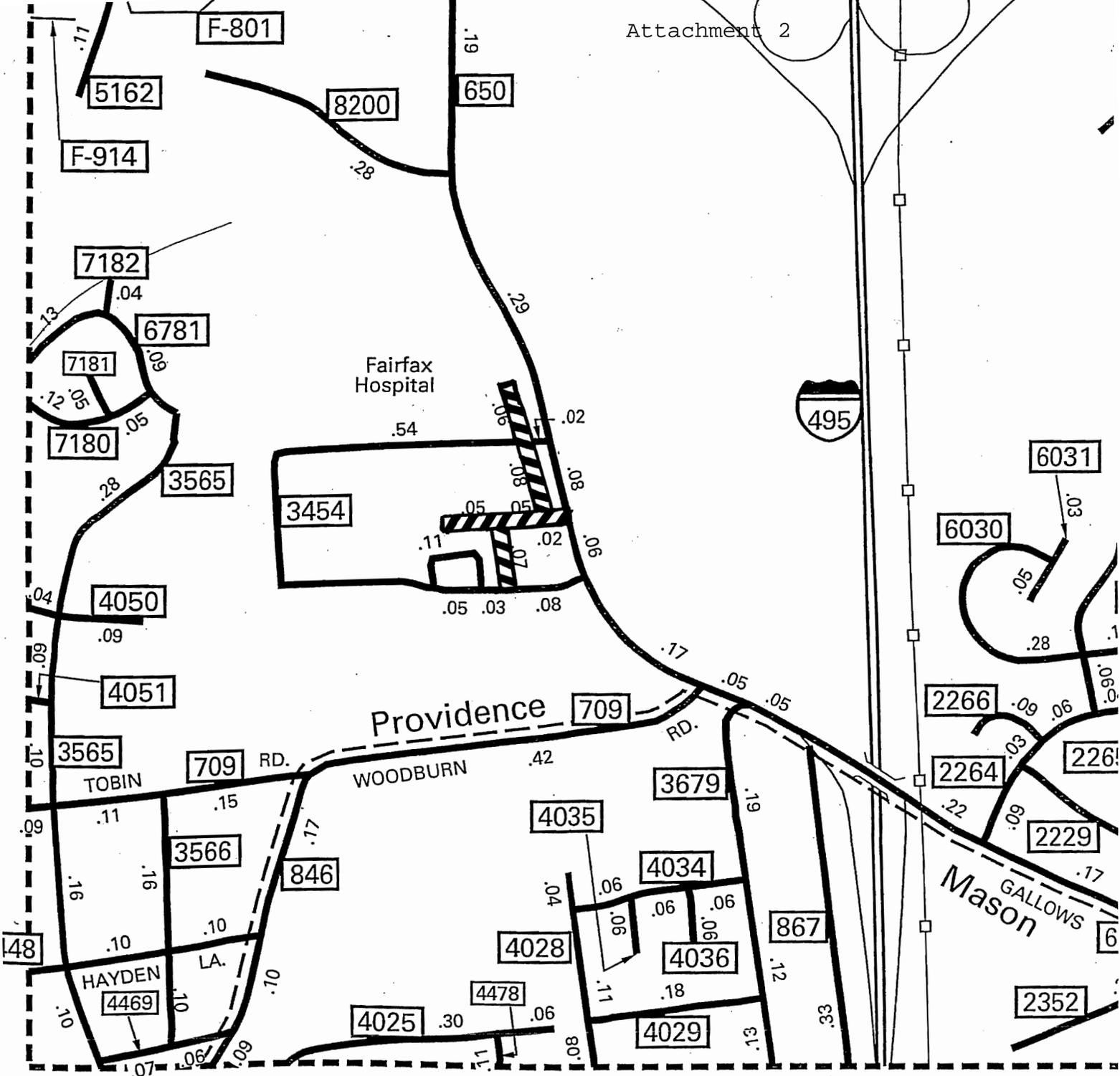
WHEREAS, subsequent actions by Inova Fairfax Hospital to construct facilities on the campus have resulted in incorporation of the road segments in building construction; and,

WHEREAS, the Inova Fairfax Hospital construction program effectively ended use of the roadway segments for traffic use,

NOW THEREFORE, BE IT RESOLVED that this Board hereby requests, pursuant to Virginia Code Section 33.1-150, that the Commonwealth Transportation Board, discontinue as part of the secondary system of state highways the centerline of segments of Route 3454 (Hospital Loop Road) within the Inova Fairfax Hospital campus, a total distance of 0.33 mile on centerline.

A Copy Teste:

Nancy Vehrs
Clerk to the Board



Providence District

Tax Map 59-2

Portion to be discontinued
is 0.33 mi of roadway



Board Agenda Item
September 28, 2010

ADMINISTRATIVE - 8

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason and Sully District)

ISSUE:

Board endorsement of traffic calming measures as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board endorse traffic calming measures for Lafayette Village Drive (Attachment I) and for Wood Rock Way (Attachment II), consisting of the following:

- One Speed Table on Lafayette Village Drive (Mason District)
- One 30'X8' Raised Median on Lafayette Village Drive (Mason District)
- One Raised Crosswalk on Lafayette Village Drive (Mason District)
- One Speed Hump on Wood Rock Way (Sully District)
- One Multi-Way Stop on Wood Rock Way (Sully District)

In addition, the County Executive recommends that Fairfax County Department of Transportation (FCDOT) be requested to install the approved measures as soon as possible.

TIMING:

Board action is requested on September 28, 2010.

BACKGROUND:

As part of the RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. Staff performed engineering studies documenting the attainment of qualifying criteria for Wood Rock Way, and also for Lafayette Village Drive. A task force was formed with each community to develop traffic calming plans to reduce the speed of traffic. Once plans for both roads were adopted and approved by staff, the plans were submitted for approval to residents of the ballot areas in the two communities. On

Board Agenda Item
September 28, 2010

August 3, 2010 (Wood Rock Way), and on August 24, 2010 (Lafayette Village Drive), the Department of Transportation received written verification from the local supervisor confirming community support for the referenced traffic calming plans.

FISCAL IMPACT:

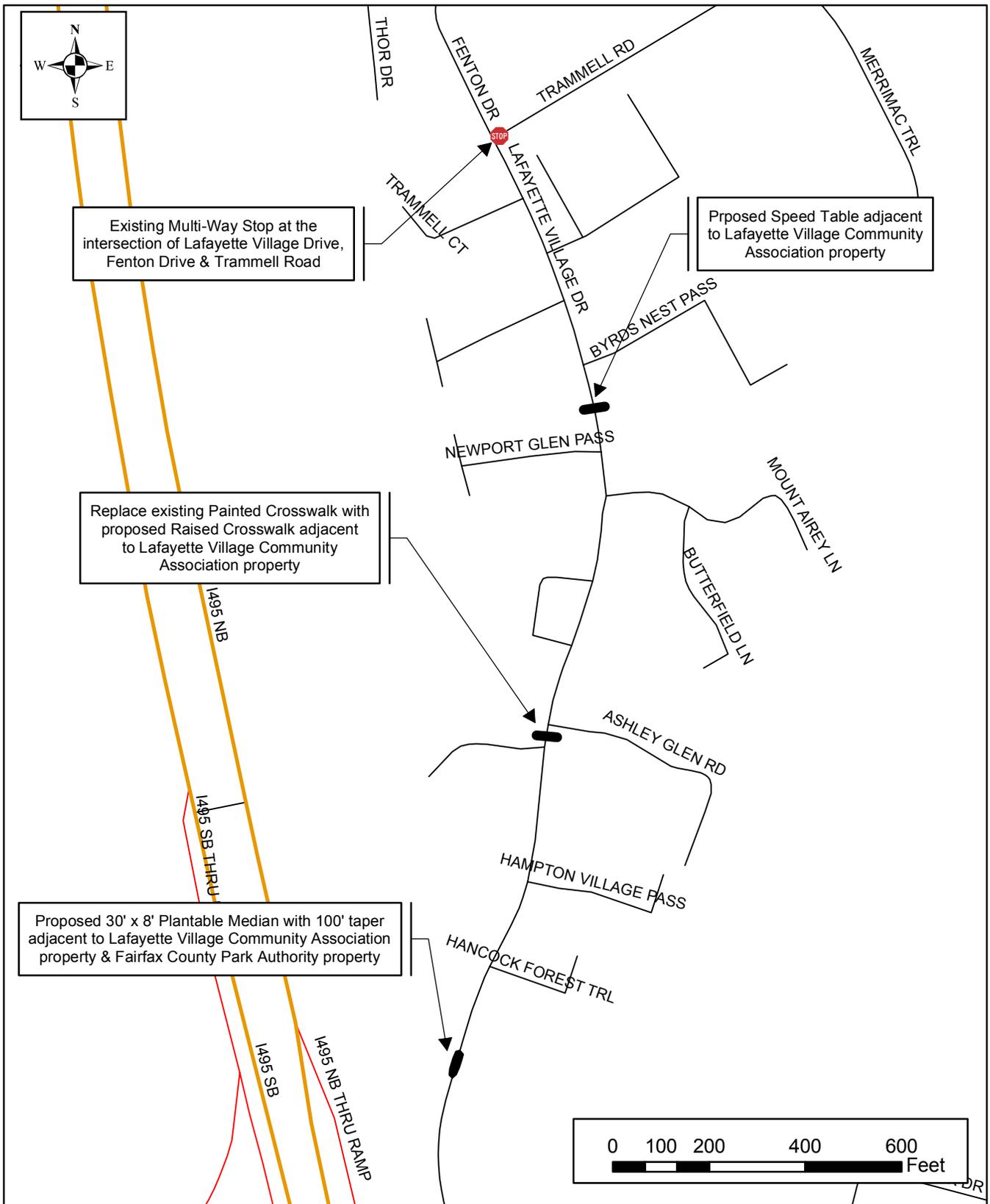
The estimated cost of \$35,000 for traffic calming measures is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Plan for Lafayette Village Drive
Attachment II: Traffic Calming Plan for Wood Rock Way

STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT
William P. Harrell, Transportation Planner, FCDOT
Guy M. Mullinax, Transportation Planner, FCDOT
Steven K. Knudsen, Transportation Planner, FCDOT

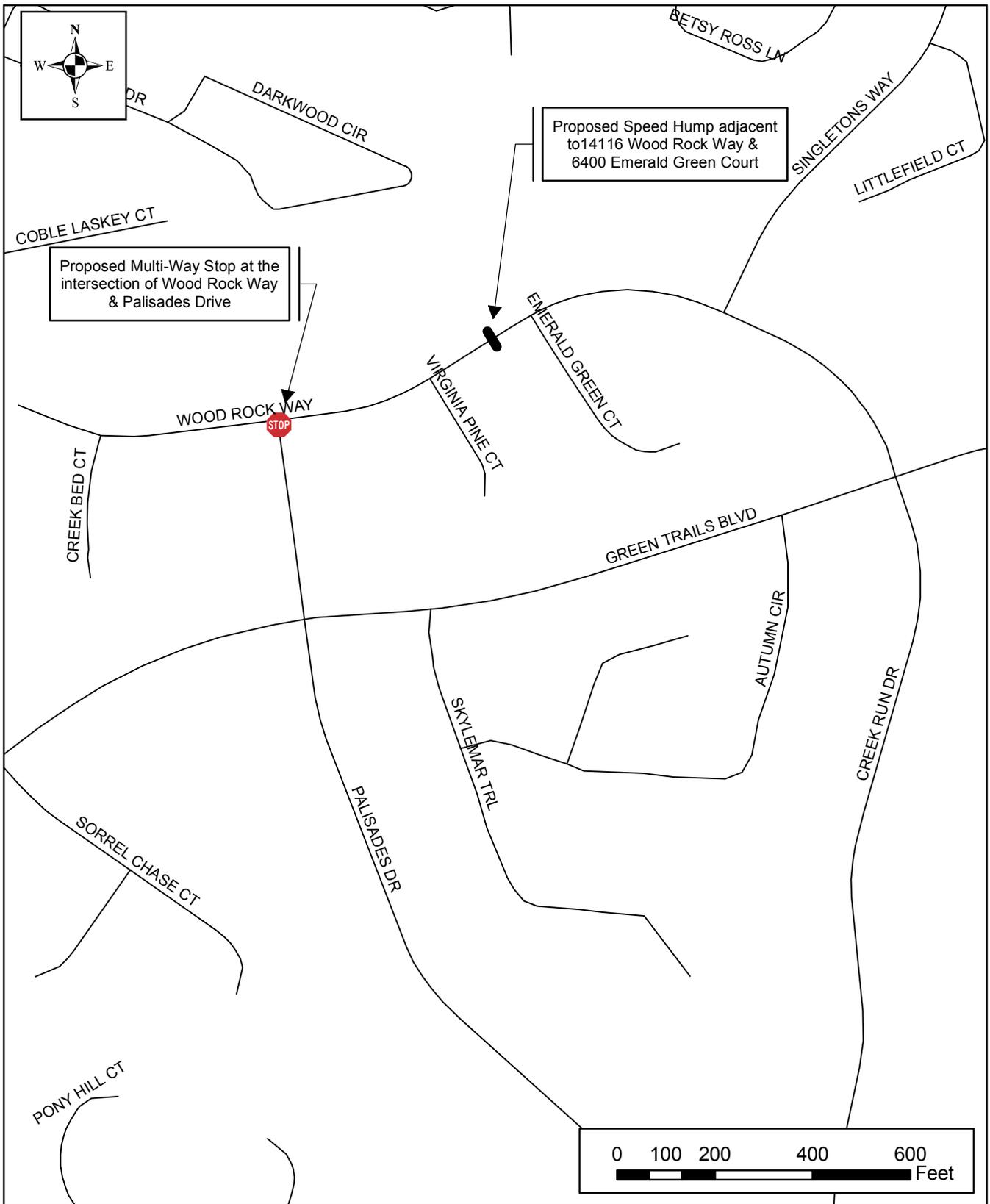


Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
LAFAYETTE VILLAGE DRIVE
Mason District



TAX MAP: 59-4

8/26/2010



**Fairfax County Department of Transportation
 Residential Traffic Administration Program (RTAP)
 TRAFFIC CALMING PLAN
 WOOD ROCK WAY
 Sully District**



Board Agenda Item
September 28, 2010

ADMINISTRATIVE – 9

Extension of Review Periods for 2232 Review Applications (Braddock, Lee, and Mason Districts)

ISSUE:

Extension of the review periods for specific 2232 Review applications to ensure compliance with the review requirements of *Section 15.2-2232* of the *Code of Virginia*.

RECOMMENDATION:

The County Executive recommends that the Board extend the review periods for the following applications: application FS-B09-134 to December 5, 2010; application FS-L10-40 to December 13, 2010; application FSA-M09-59-1 to December 17, 2010; and application 2232-B10-16 to March 31, 2011.

TIMING:

Board action is required on September 28, 2010, to extend the review periods of the applications noted above before their expirations.

BACKGROUND:

Subsection B of *Section 15.2-2232* of the *Code of Virginia* states: "Failure of the commission to act within sixty days of a submission, unless the time is extended by the governing body, shall be deemed approval." Subsection F of *Section 15.2-2232* of the *Code of Virginia* states: "Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within ninety days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than sixty additional days."

The Board should extend the review period for application 2232-B10-16, which was accepted for review by the Department of Planning and Zoning (DPZ) on August 9, 2010. This application is for a public facility, and thus is not subject to the State Code provision for extending the review period by no more than sixty additional days.

The Board also should extend the review periods for applications FS-B09-134, FS-L10-40, and FSA-M09-59-1, which were accepted for review by DPZ between

Board Agenda Item
September 28, 2010

July 8, 2010, and July 20, 2010. These applications are for telecommunications facilities, and thus are subject to the State Code provision that the Board may extend the time required for the Planning Commission to act on these applications by no more than sixty additional days.

The review periods for the following applications should be extended:

- | | |
|--------------|--|
| 2232-B10-16 | Fairfax County Public Schools School bus parking lot 9515 Main Street (Woodson High School) Braddock District |
| FS-B09-134 | Clearwire US, LLC Rooftop antennas 7617 Little River Turnpike Braddock District |
| FS-L10-40 | Clearwire US, LLC Antenna colocation on existing transmission tower 6209 Rose Hill Drive Lee District |
| FSA-M09-59-1 | Clearwire US, LLC Rooftop antennas 5501 Seminary Road Mason District |

The need for the full time of these extensions may not be necessary, and is not intended to set a date for final action.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive
James P. Zook, Director, Department of Planning and Zoning
David B. Marshall, Planning Division, DPZ
David S. Jillson, Planning Division, DPZ



ADMINISTRATIVE - 10

Authorization to Advertise Amendment to Chapter 112 (Zoning Ordinance) Re: Zoning Appeal Fee

ISSUE:

Board authorization to advertise public hearings on a proposed Zoning Ordinance amendment to revise the filing fee for an appeal of a determination of the Zoning Administrator or of a proffered condition from \$2,455 to an amount ranging from \$500 to the current filing fee of \$2,455.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed amendment to the Zoning Ordinance as set forth in the Staff Report dated September 28, 2010.

TIMING:

Board action is requested on September 28, 2010, to provided sufficient time to advertise public hearings on October 28, 2010, before the Planning Commission and on November 16, 2010, at 4:00 p.m., before the Board.

BACKGROUND:

The proposed amendment addresses the filing fee for a zoning appeal application and is on the 2010 Priority 1 Zoning Ordinance Amendment Work Program. The amendment is in response to concerns regarding the current fee amount, and is also prompted by the recent *Code of Virginia* change regarding appeal filing fees and associated advertising and staff costs. The current filing fee for an appeal of a determination of the Zoning Administrator or of a proffered condition under Sections 18-301 and 18-204, of the Zoning Ordinance is \$2,455.

Staff believes the current filing fee, which covers approximately 75% of the processing costs, complies with the recent 2010 amendment to Section 15.2-2311 of the *Code of Virginia*, which states that "(T)he fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs." Additionally, the current appeal filing fee is in conformance with Section 15.2-2286 (A) (6) of the *Code of Virginia* which provides "...for the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices, and other expenses incident to the administration of a zoning ordinance or to the filing and processing of an appeal or amendment

Board Agenda Item
September 28, 2010

thereto.” However, staff has reevaluated the appeal filing fee in order to address concerns raised by Board members and citizens that the current fee is too costly and for some a deterrent to filing an appeal. Furthermore, staff believes that a reduction in the appeal filing fee is in keeping with the spirit of the General Assembly’s 2010 amendment to the *Code of Virginia*.

In an effort to balance the staff costs involved with processing an appeal application while not making it cost prohibitive for an aggrieved party to file an appeal, staff is recommending a reduction in the appeal fee from \$2,455 to \$1,000. To provide the Board with flexibility, staff is recommending that the amendment be advertised with a fee range between \$500 up to the current fee of \$2,455.

REGULATORY IMPACT:

The proposed amendment does not revise the regulations or requirements for land development; however, the proposed amendment as recommended by staff would decrease the cost of filing an appeal.

FISCAL IMPACT:

Decreasing the appeal fee from \$2,455 to \$1,000 would reduce the cost recovery rate from 75% to 31%, generating less revenue as a result. The FY 2011 revenue projection based on the \$2,455 appeal fee is \$73,560 assuming the filing of 30 appeals. The revised revenue projection for FY 2011 based on a filing fee of \$1,000 and the same number of appeals is \$30,000, resulting in a projected revenue loss of \$43,560. There will be minimal administrative costs associated with the implementation of the proposed new fee.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution

Attachment 2 – Staff Report (Available online at:

<http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/zoningappealfee.pdf>)

STAFF:

Robert A. Stalzer, Deputy County Executive

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Eileen M. McLane, Zoning Administrator, DPZ

Leslie B. Johnson, Senior Deputy Zoning Administrator, DPZ

Mavis E. Stanfield, Deputy Zoning Administrator for Appeals, DPZ

Jill G. Cooper, Senior Assistant to the Zoning Administrator

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on September 28, 2010, at which meeting a quorum was present, the following resolution was adopted:

WHEREAS, § 15.2-2286(A)(6) of the Code of Virginia provides for the collection of fees to cover the cost of making inspections, issuing permits, advertising notices and other expenses incidental to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto; and

WHEREAS, the General Assembly of Virginia recently amended § 15.2-2311 of the *Code of Virginia* to provide that the fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs; and

WHEREAS, Staff believes that the current filing fee for an appeal of a determination of the Zoning Administrator or of a proffered condition of \$2,455, which includes the advertising cost and represents a cost recovery rate of 75%, is in conformance with the State Code; however, given some concern has been raised that the current fee may be too costly and for some a deterrent to filing an appeal application, a reduction in the filing fee for an appeal may be desirable; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revision to Chapter 112 (Zoning Ordinance) of the County Code.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, that the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

Nancy Vehrs
Clerk to the Board of Supervisors



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Zoning Appeal Fee

PUBLIC HEARING DATES

Planning Commission

October 28, 2010 at 8:15 p.m.

Board of Supervisors

November 16, 2010 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

September 28, 2010

JGC



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

The proposed amendment addresses the filing fee for a zoning appeal application and is on the 2010 Priority 1 Zoning Ordinance Amendment Work Program. The amendment is in response to concerns regarding the current fee amount and is also prompted by the recent amendment to the *Code of Virginia* regarding appeal filing fees and associated advertising and staff costs. The current filing fee for an appeal of a determination of the Zoning Administrator or of a proffered condition under Sections 18-301 and 18-204, of the Zoning Ordinance is \$2,455. This fee became effective on July 1, 2009 and was part of a zoning fee amendment (ZO 09-418) approved by the Board of Supervisors (“Board”) on April 27, 2009 in conjunction with the adoption of the FY 2010 Budget. This 2009 amendment consisted of a review of the entire zoning fee schedule in order to attain a 75% recovery rate of the costs incurred by the Department of Planning and Zoning (“DPZ”) in the processing of zoning applications and various zoning permits. Although the Board had increased the majority of the zoning fees several times prior to the 2009 amendment, the appeal fee had remained relatively constant since 1996, when it was increased to \$210. In 2003 it was increased from \$210 to \$242 and in 2004 from \$242 to \$375.

Prior to the 2009 amendment the appeal fee was \$375. In the three fiscal years preceding the 2009 amendment, an average of 70 appeals per year were filed. During this time, the number of staff hours devoted to processing appeals was equal to approximately 3.5 full time staff. The \$375 appeal fee, which included the average \$200 cost to advertise an appeal for public hearing, represented a cost recovery rate of only 11%. In FY 2010 under the increased fee of \$2,455, which is also inclusive of the \$200 advertising cost and represents a cost recovery rate of 75%, a total of 23 applications were filed.

Staff believes the current filing fee, which covers approximately 75% of processing costs, complies with the recent 2010 change to Section 15.2-2311 of the *Code of Virginia*, which states that “(t)he fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs.” Additionally, the current appeal filing fee is in conformance with Section 15.2-2286 (A) (6) of the *Code of Virginia* which provides “...for the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices, and other expenses incident to the administration of a zoning ordinance or to the filing and processing of an appeal or amendment thereto.” However, staff has reevaluated the appeal filing fee in order to address concerns expressed by some Board members and citizens that the current fee is too costly and for some a deterrent to filing an appeal. Furthermore, staff believes that a reduction in the appeal filing fee is in keeping with the spirit of the recent 2010 amendment to the *Code of Virginia*.

In an effort to balance the staff costs associated with processing an appeal application while not making it cost prohibitive for an aggrieved party to file an appeal, staff is recommending a reduction in the appeal fee from \$2,455 to \$1,000.

Staff notes that this amendment has been advertised to provide the Board flexibility to adopt an appeal fee ranging from \$500 to the current fee of \$2,455. The proposed \$1,000 fee represents a 31% cost recovery rate. As with the current fee of \$2,455, the proposed fee is inclusive of the cost to advertise the appeal for public hearing, which is on average \$200. The advertising cost includes the cost of running the advertisement for two consecutive weeks in the newspaper and the staff costs involved in the preparation and mailing of legal notices.

While staff recommends that the appeal fee be reduced, it is staff's position that the fee should remain higher than the \$885 filing fee for certain residential Group 9 special permits for modifications to the minimum required yard, fence height or location regulations for accessory structures. Approximately 90% of the appeals received by DPZ are generated by enforcement action, which in many cases could be remedied with the filing and approval of a Group 9 special permit or, in some limited circumstances, a variance. Maintaining an appeal fee that is at least slightly higher than the special permit and variance fees provides some incentive to pursue special permit or variance approval to obtain Zoning Ordinance compliance rather than to pursue an appeal and delay rectifying the violation.

Comparability with Appeal Fees of Adjacent Jurisdictions

The chart provided in Attachment A reflects the current appeal filing fees in Arlington, Chesterfield, Loudoun, Prince William, Spotsylvania and Stafford Counties. Of these jurisdictions, only Spotsylvania County is currently contemplating a decrease in its appeal filing fee, while Arlington and Loudoun Counties are contemplating increases in their appeal filing fees. Staff concludes that, given the wide variation in fees in the other jurisdictions, the proposed fee of \$1,000 is compatible with the range of fees imposed by surrounding jurisdictions. It is noted that these other jurisdictions on average handle less than 10 appeals per year.

Summary

Staff recommends adoption of the proposed amendment to reduce the filing fee for zoning appeal applications from \$2,455 to \$1000, with an effective date being the day of adoption and that the revised fee be applicable to any zoning appeal application filed on or subsequent to the effective date of the amendment.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of September 28, 2010 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1,**
 2 **Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising the**
 3 **fee for an Application for Appeal set forth in Par. 1 to read as follows:**
 4

5 All appeals and applications as provided for in this Ordinance and requests for zoning compliance
 6 letters shall be accompanied by a filing fee in the amount to be determined by the following
 7 paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be
 8 required where the applicant is the County of Fairfax or any agency, authority, commission or other
 9 body specifically created by the County, State or Federal Government. All fees shall be made
 10 payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of
 11 which receipt shall be maintained on file with the Department of Planning and Zoning.
 12

13 1. Application for a variance, appeal, special permit or special exception:

14 Application for a variance

15 Residential minimum yard variance; maximum fence height \$ 885

16 variance in residential districts; modification of location regulations

17 or use limitations for residential accessory structures or uses

18 All other variances \$ 7935

19 Appeal under Sect. 18-204 and 18-301 \$ ~~2455~~ 1000

[The advertised fee range is \$500 up to the current filing fee of \$2,455]

ATTACHMENT A

**APPEAL FEES
AREA JURISDICTIONS
AS OF JUNE 2010**

| JURISDICTION | CURRENT FEE | UNDER REVIEW? | COMMENTS |
|-----------------------|---|---|---|
| Arlington County | \$542 plus 10% automation fee = \$596.20 | No | Proposed slight increase to \$548 plus 10% automation fee = \$602.80 |
| Chesterfield County | \$1200 | Will review as part of overall fee review in FY 2010-2011 | N/A |
| Loudoun County | \$350 | Yes | Proposed increase to \$3070 |
| Prince William County | \$492 | No | N/A |
| Spotsylvania County | Commercial - \$1500 Residential - \$700 | Yes | Proposed commercial decrease to \$640; residential decrease to \$455. |
| Stafford County | Individual residential property - \$600 Other - \$1900 | No | N/A |

ADMINISTRATIVE - 11

Authorization to Advertise a Public Hearing for the Creation of Small Sanitary Districts for Refuse Collection Service (Springfield District)

ISSUE:

Board authorization to advertise a public hearing for the Creation of Small Sanitary Districts for refuse collection service.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing at 4:00 p.m. on Tuesday, October 19, 2010, to consider the following change to small sanitary districts for refuse collection service in accordance with the Board of Supervisor's adopted criteria for the Creation/ Enlargement/Withdrawal of Small or Local Sanitary Districts.

| <u>Sanitary District</u> | <u>Action</u> | <u>Service</u> | <u>Recommendation</u> |
|---|---------------|----------------|-----------------------|
| Small District 4 Within Springfield District (Swift Run Trails) | Create | Refuse | Approve |
| Small District 6 Within Springfield District (English Hills) | Create | Refuse | Approve |

TIMING:

Board authorization to advertise is required for a Public Hearing to be held on October 19, 2010, at 4:00 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' adopted criteria for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

Board Agenda Item
September 28, 2010

Both of these communities sought County refuse collection after the previous refuse collection company lost their Certificate to Operate.

The submitted petitions have been reviewed, and it has been determined that they meet the Board of Supervisors' Adopted Criteria. Staff recommends that the authorization to advertise a public hearing for the Creation of Small Sanitary Districts for refuse collection service be approved. If approved, Swift Run Trails petition will become permanent in January 2011. The English Hills petition will become effective retroactive from October 1, 2010.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Summary Sheet

Attachment 2: Data Sheets with Proposed Resolutions and Maps

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Jeffrey M. Smithberger, Director, Division of Solid Waste Collection & Recycling (DSWCR)

SUMMARY SHEET

Proposed alterations to the following small sanitary districts for refuse/recycling collection service:

1. Create Small District 4 within Springfield District for the purpose of providing County Refuse Collection Service to the Swift Run Trails area.
2. Create Small District 6 within Springfield District for the purpose of providing County Refuse Collection Service to the English Hills area.

DATA SHEET
Create
Small District 4
Within Springfield District

Purpose: To provide County Refuse and Recycling Collection Service to the Swift Run Trails area.

- Petition requesting service received on September 1, 2010.
- Petition Area: 24 Properties.
- 55% of properties in favor.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2011.

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION A
RESOLUTION AND A PUBLIC HEARING THEREON

TO CREATE SMALL DISTRICT 4 WITHIN
SPRINGFIELD DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 28th day of September, 2010, it was proposed by said Board to adopt a resolution to create a small district known as Small District 4 within Springfield District for the purpose of providing for refuse/recycling collection to the Swift Run Trails area to be effective January 1, 2011, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY OCTOBER 19, 2010
COMMENCING AT 4:00 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the creation by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by creating the small sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed creation of a small sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District 4 within Springfield District, Fairfax County, Virginia, which said creation of the small sanitary district shall be described as follows:

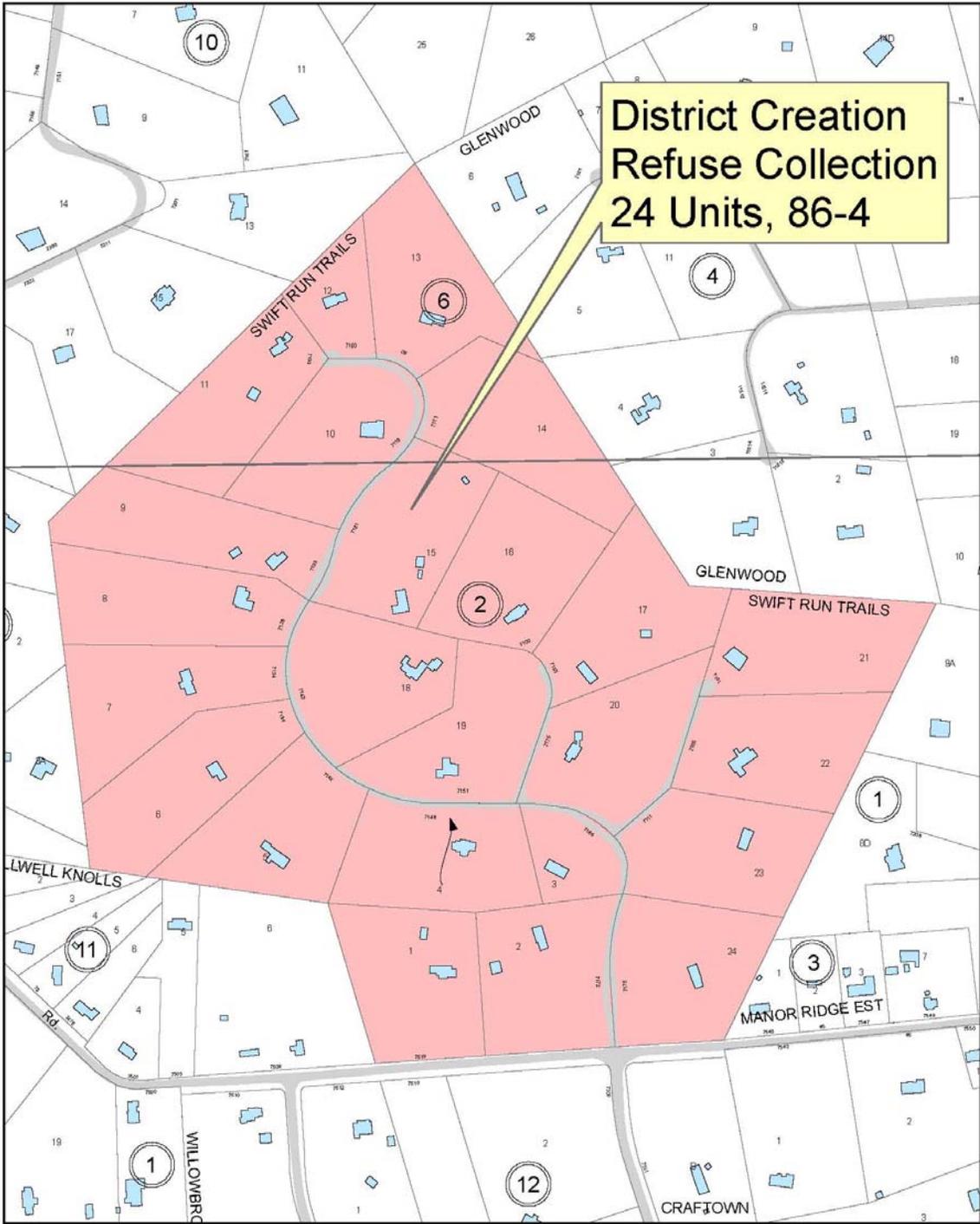
The Creation of Small District 4 within Springfield District for the purpose of providing County Refuse Collection Service to the Swift Run Trails area located in the County of Fairfax, Fairfax Station, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 4 within Springfield District is hereby created to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of October 2010.

Nancy Vehrs
Clerk to the Board



86-4

Swift Run Trails

DATA SHEET
Creation
Small District 6
Within Springfield District

Purpose: Create Small District 6 within Springfield District for the purpose of providing County Refuse Collection Service to the English Hills area.

- Petition requesting service received on September 1, 2010.
- Petition Area: 51 Properties.
- 38 Property Owners in favor.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved retroactive from October 1, 2010.

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION A
RESOLUTION AND A PUBLIC HEARING THEREON

TO CREATE SMALL DISTRICT 6 WITHIN
SPRINGFIELD DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 28th day of September, 2010, it was proposed by said Board to adopt a resolution to create a small district known as Small District 6 within Springfield District for the purpose of providing for refuse/recycling collection to the English Hills area to be effective retroactive from October 1, 2010, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY OCTOBER 19, 2010
COMMENCING AT 4:00 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the creation by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by creating the small sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed creation of a small sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District 6 within Springfield District, Fairfax County, Virginia, which said creation of the small sanitary district shall be described as follows:

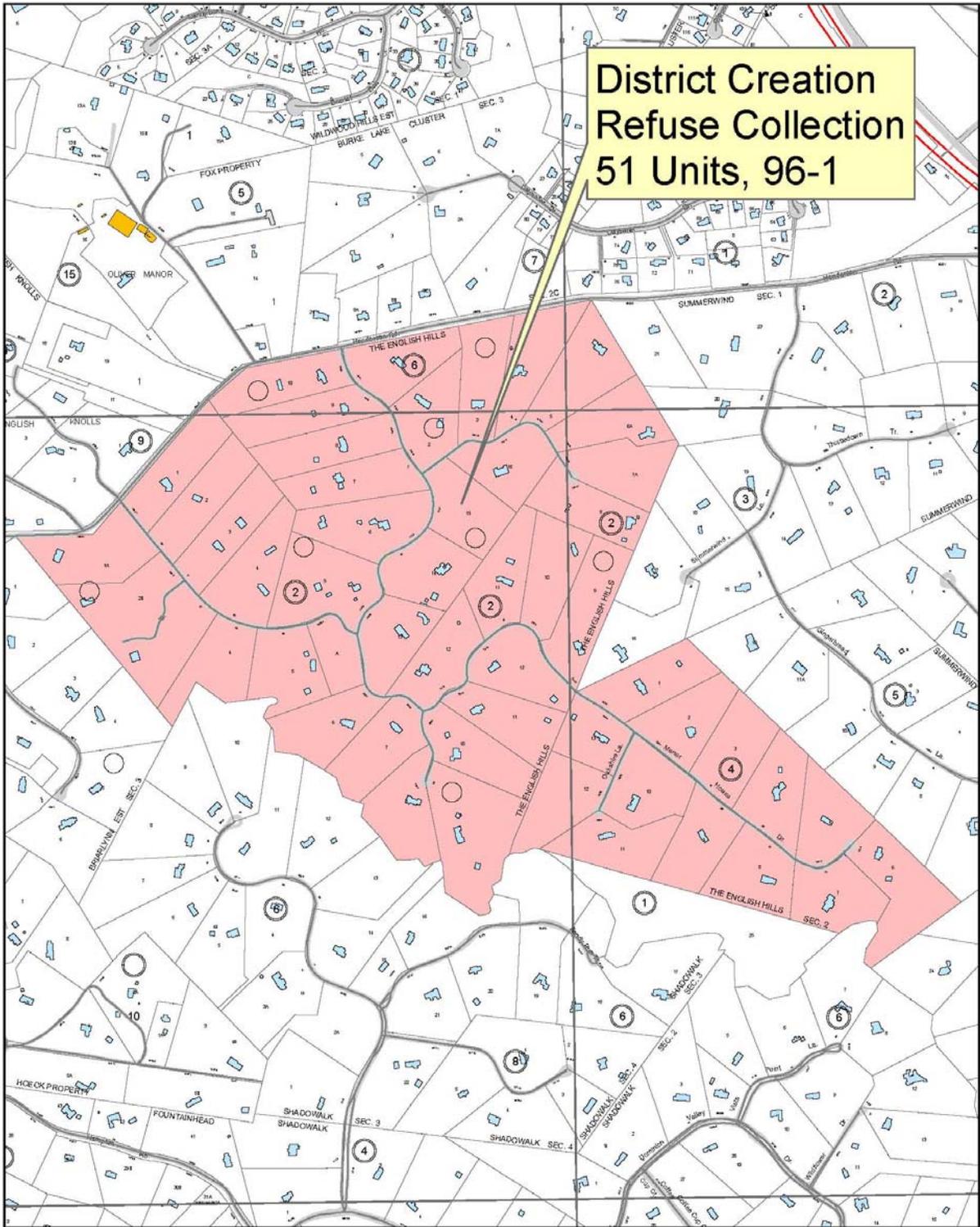
The Creation of Small District 6 within Springfield District for the purpose of providing County Refuse Collection Service to the English Hills area located in the County of Fairfax, Fairfax Station, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 6 within Springfield District is hereby created to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of October 2010.

Nancy Vehrs
Clerk to the Board



District Creation
 Refuse Collection
 51 Units, 96-1

English Hills

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

ACTION – 1

Approval of Bond Underwriter Pool for Tax Increment Financing (TIF) and Community Development Authority (CDA) Financings

ISSUE:

Board approval of Bond Underwriter Pool for TIF and CDA financings.

RECOMMENDATION:

The Board should approve Attachment 1 as the recommended Bond Underwriter Pool for TIF and CDA Financings.

TIMING:

Board action is requested on September 28, 2010.

BACKGROUND:

On May 5, 2010, Fairfax County issued a Request for Proposals (RFP) to underwriting firms for purposes of obtaining a pool of qualified firms to be considered for underwriting future bonds issued by the County and/or certain of its authorities, including Community Development Authorities, on financings through June 30, 2013, with two optional one-year renewal periods. In response to this RFP, the County received 24 proposals, of which, 6 firms proposed to serve as underwriter on any future TIF and CDA bonds within the County. The Selection Advisory Committee (SAC) evaluated the proposals in accordance with the criteria established in the RFP. On July 13, 2010, the Board of Supervisors approved a list of 13 firms to serve as possible underwriters for future bond sale transactions should the County choose to conduct a negotiated bond sale. At that time, it was identified that the SAC was still in the process of interviewing and selecting underwriters for TIF and CDA financings, in particular the Mosaic CDA bond sale.

Following the SAC evaluation of the CDA financing proposals and subsequent interviews, the SAC recommends that the County establish a pool of underwriters that are pre-qualified to undertake future special financings. Due to the unique nature of CDA financings, staff believes it is prudent to establish a separate underwriting pool (distinct from the previously established pool) with firms qualified to underwrite this particular type of financing. Attachment 1 provides the list of SAC recommended CDA financing underwriters. Should the County chose to conduct a negotiated sale for CDA prior to maturity bonds, the firms in the pool will be asked to submit proposals and

Board Agenda Item
September 28, 2010

formally compete to serve as the senior manager, and/or co-senior manager, and/or participating co-manager for a particular bond issue. Such selections will be based primarily upon price, understanding of the credit issues involved, and proposed structure of the financing. Combined with the fundamental qualifications County staff has already reviewed, staff could make a decision on the best qualified underwriter quickly. Each selection will be officially approved by the Board of Supervisors at the time of bond document approval for the project financing.

The establishment of an underwriting pool does not require the County to sell bonds on a negotiated basis, nor does it guarantee that any or all of the firms in the underwriter pool will serve as an underwriter on a future financing. Rather, the pool allows the County to use an expedited selection process for future bond issuances to provide the County with flexibility to meet bond issuance schedules.

It should be noted that the SAC recommended that Stone and Youngberg serve as the Senior Managing Underwriter and Citigroup Global Markets Inc. as the Co-Senior Underwriter for the Mosaic CDA bonds. This recommendation was approved by the Mosaic CDA Board on August 11, 2010. As the County is not a party to this financing, no action by the Board is necessary with respect to this particular financing.

FISCAL IMPACT:

There is no fiscal impact at this time. The actual fiscal impact of each bond issue will be assessed at the time of financing approval by the issuing authority.

ENCLOSED DOCUMENTS:

Attachment 1: List of Recommended Underwriter Firms for TIF and CDA Financings

STAFF:

Edward L. Long, Jr., Deputy County Executive
Victor L. Garcia, Director, Department of Finance
Leonard P. Wales, County Debt Manager

The Underwriter Request for Proposal Selection Advisory Committee, comprised of Leonard P. Wales, County Debt Manager, Joseph M. Mondoro, Deputy Director, Department of Management and Budget, Ronald Franks, Finance Division Chief, Department of Finance, Josephine Gilbert, County Investment Manager, Department of Finance recommends that the County establish an underwriting pool for Tax Increment Financing and Community Development Authority bonds that consists of the following firms:

Citigroup Global Markets Inc.
Prager, Sealy and Co., LLC
Stone and Youngberg LLC

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

ACTION – 2

Assent to Defeasance of Metrorail Refunding Bonds Series 1998 A

ISSUE:

Board of Supervisors assent to defeasance of Fairfax County Economic Development Authority Parking Revenue Bonds (Huntington and Vienna Metrorail Stations Projects) Refunding Series 1998 A.

RECOMMENDATION:

The County Executive recommends approval of the attached resolution, Attachment 1.

TIMING:

Board action is requested on September 28, 2010.

BACKGROUND:

Board “assent” is required for the use of parking surcharge revenues held by the Washington Metropolitan Area Transit Authority (WMATA) in the “Fairfax County Surcharge Reserve Account.” Investment income on funds to the credit of the Surcharge Reserve Account reflects today’s low interest rate environment while the average interest rate on the outstanding Fairfax County Economic Development Authority Parking Revenue Bonds (Huntington and Vienna Metrorail Stations Projects) Refunding Series 1998 A exceeds 4.5%. The fund balance of the Surcharge Reserve Account exceeds \$11.0 million and the Department of Transportation and the County Debt Manager recommend that the Board of Supervisors assent to the defeasance of the \$4.38 million of outstanding bonds in order to save future interest costs and improve the ability of the Surcharge Reserve Account to support future capital projects. WMATA staff will request the WMATA Board to give its required assent on September 30, 2010. Current plans call for the redemption of the bonds as soon as practicable thereafter. Bondholders will be notified of this action not less than 30 days and no more than 90 days prior to the redemption date. Attachment 2 is a draft schedule for the redemption.

FISCAL IMPACT:

There is no fiscal impact to the County. Neither the bonds nor the Surcharge Reserve Account is reflected on the County’s balance sheet. The County is liable, however, to replenish (on a subject to appropriation basis) any withdrawals from a debt service

Board Agenda Item
September 28, 2010

reserve that secures the bonds, and the redemption of the bonds will relieve the County of that contingent obligation. Using approximately \$1.46 million credited to the debt service reserve for the bonds and a withdrawal of approximately \$3.05 million from the Surcharge Reserve Account, the redemption will retire a total of \$4.38 million in bond principal prior to maturity plus accrued interest and fees. These bonds are eligible for redemption at 100 percent (i.e., there is no redemption premium).

Annual debt service savings to the Surcharge Account will be approximately \$1.2 million per year through FY 2015. Less the pre-payment defeasance of principal by this action, the early redemption of the bonds will save approximately \$439,000 in future interest costs. These savings will accrue to the balance of the Surcharge Account and will be available for future authorized WMATA parking projects in Fairfax County. The balance in the Surcharge Account after this action will be approximately \$8.9 million. After the redemption date, the parking garage facility leases and ground leases between the EDA and WMATA for the Huntington and first Vienna Metrorail Stations will be terminated and WMATA's title to the properties will be cleared of these encumbrances.

ENCLOSED DOCUMENTS:

Attachment 1: Board of Supervisors Resolution

Attachment 2: Draft Schedule for Defeasance

STAFF:

Edward L. Long, Jr., Deputy County Executive

Leonard P. Wales, County Debt Manager

Katharine Ichter, Director Department of Transportation

RESOLUTION APPROVING AND AUTHORIZING THE RELEASE OF CERTAIN FUNDS ON DEPOSIT IN THE SURCHARGE RESERVE ACCOUNT ESTABLISHED PURSUANT TO AN AMENDED AND RESTATED SURCHARGE IMPLEMENTATION AGREEMENT BETWEEN FAIRFAX COUNTY AND WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO EFFECT THE REDEMPTION OF THE REMAINING FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY PARKING REVENUE BONDS (HUNTINGTON AND VIENNA METRORAIL STATION PROJECTS) REFUNDING SERIES 1998 A; APPROVING AND REQUESTING THE AUTHORITY TO REDEEM SUCH BONDS AND TO TAKE ALL NECESSARY STEPS REQUIRED FOR SUCH PURPOSE; AND DELEGATING TO CERTAIN OFFICERS OF THE COUNTY THE POWER TO ASSIST IN THE TERMINATION OF THE LEASES RELATED TO SUCH BONDS

WHEREAS, the Fairfax Economic Development Authority (the “*EDA*”) issued \$12,930,000 Parking Revenue Bonds (Huntington and Vienna Metrorail Station Projects) Refunding Series 1998 A (the “*Series 1998A Bonds*”) pursuant to a Trust Agreement (the “*Trust Agreement*”) dated as of July 1, 1989 between the EDA and U.S. Bank National Association as successor trustee (the “*Trustee*”) and a Third Supplemental Trust Agreement (the “*Third Supplemental Trust Agreement*”) dated as of March 1, 1998 between the EDA and U.S. Bank National Association as successor Trustee for the purpose of advance refunding outstanding bonds issued to finance supplemental parking structures and related facilities at the Huntington and Vienna Metrorail Stations in Fairfax County (the “*County*”); and

WHEREAS, the County and Washington Metropolitan Area Transit Authority (“*WMATA*”) have entered into an Amended and Restated Surcharge Implementation Agreement, dated June 11, 1999 (the “*Surcharge Agreement*”) which provides for a surcharge fee on parking spaces at Metro-related parking structures in the County (the “*WMATA Parking Structures*”) to be deposited in a Surcharge Reserve Account (the “*Surcharge Account*”) and to be used for among other things (i) to pay principal and interest on bonds issued to finance or refinance the WMATA Parking Structures, including the Series 1998A Bonds, and (ii) to pay amounts necessary to defease such bonds issued to finance or refinance WMATA Parking Structures, including the Series 1998A Bonds; and

WHEREAS, under the Surcharge Agreement, in order to apply funds in the Surcharge Account for purposes of defeasing bonds, both the County and WMATA must give their written assent to use funds in the Surcharge Account for such purpose; and

WHEREAS, the Board of Supervisors of the County (the “*Board*”) wishes to provide its written assent to the use of funds in the Surcharge Account to defease the outstanding Series 1998A Bonds and to request EDA to redeem, and thereby defease, the outstanding Series 1998A Bonds; and

WHEREAS, the Board has determined that it is necessary and convenient to delegate to County staff, together with the Office of the County Attorney, authority to assist EDA to terminate ground leases and facility leases between EDA and WMATA relating to the Series 1998A Bonds as necessary; now, therefore

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, as follows:

SECTION 1. The Board hereby gives its written assent to the release and transfer of funds on deposit in the Surcharge Account in an amount, not to exceed the sum of \$4,500,000, sufficient, together with funds available for the purpose under the Trust Agreement, to the Trustee for the purpose of redeeming the remaining Series 1998A Bonds outstanding in the principal amount of \$4,380,000.

SECTION 2. The Board hereby requests EDA and the Trustee to redeem the outstanding Series 1998A Bonds on the earliest practicable date.

SECTION 3. County staff, including the Office of the County Attorney, are hereby directed to prepare any required documents or take any other actions, if necessary, to assist EDA to terminate existing ground leases and facility leases between EDA and WMATA relating to the Series 1998A Bonds after such bonds are redeemed.

SECTION 4. The members of the Board and County staff, the EDA and the Trustee are hereby authorized, requested and directed, as appropriate, to do all acts and things required of them by the provisions of the Trust Agreement, the Third Supplemental Agreement, the Surcharge Agreement and any related documents for purposes of redeeming, and thereby defeasing, the outstanding Series 1998A Bonds.

SECTION 5. All actions taken by the members of the Board and County staff in connection with the transactions authorized and approved hereby are hereby ratified and confirmed.

SECTION 6. Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict.

SECTION 7. This resolution shall take effect immediately upon its adoption.

Attachment 2
DRAFT Critical Path Events
Fairfax County, Virginia

**Defeasance of Parking Revenue Bonds (Huntington & Vienna Metrorail Stations Projects),
Refunding Series 1998A**

| Aug-10 | | | | | | | Sep-10 | | | | | | | Oct-10 | | | | | | | Nov-10 | | | | | | | |
|--------|----|----|----|----|----|----|--------|----|----|----|----|----|----|--------|----|----|----|----|----|----|--------|----|----|----|----|----|----|---|
| S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | | | | 1 | 2 | 3 | 4 | | | | | | 1 | 2 | | | 1 | 2 | 3 | 4 | 5 | 6 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | |
| 29 | 30 | 31 | 26 | 27 | 28 | 29 | 30 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 28 | 29 | 30 | | | | | | | | | | | |
| | | | | | | | | | | | | | | 31 | | | | | | | | | | | | | | |

| Week of | Activity & Event | Responsible Party |
|----------------------------|---|-------------------|
| August 30 th | First draft of Documents distributed | SA |
| September 6 th | <i>Monday, September 6th – Labor Day Holiday</i> | - |
| | Comments due on Documents <i>Friday, September 10th – Documents needed for the County Board</i> | All FX |
| September 13 th | Documents needed for WMATA Board | WMATA |
| September 20 th | Second draft of Documents distributed | SA |
| | <i>Tuesday, September 21st – EDA Board Meeting*</i> | EDA |
| September 27 th | <i>Tuesday, September 28th – County Board considers Defeasance Documents</i> | FX |
| | <i>Thursday, September 30th – WMATA Board considers Defeasance Documents</i> | WMATA |
| | <i>October 1st – Issue 30-day Redemption Notice</i> | US Bank |
| November 1 st | <i>Monday, November 1st – Redemption of Bonds</i> | US Bank |

Legend:
FX = Fairfax County
EDA = Fairfax County Economic Development Authority
WMATA = Washington Metropolitan Area Transit Authority
SA = Sidley Austin, Bond Counsel
PFM = Public Financial Management, Financial Advisor
US Bank = Trustee

**Informal briefing to the EDA Board regarding the Defeasance during this meeting.*

THIS PAGE INTENTIONALLY LEFT BLANK

ACTION – 3

Approval of Parking Reduction for Northern Virginia Chinese Christian Church (Providence District)

ISSUE:

Board approval of an amended 12.1 percent reduction in required parking for Northern Virginia Chinese Christian Church, which includes two use categories located at 2810 Old Lee Highway, Tax Map 049-1-001-0013, Providence District.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (the Board) approve a parking reduction of 12.1 percent for Northern Virginia Chinese Christian Church located at 2810 Old Lee Highway, pursuant to paragraph 4(B), Section 11-102 of Chapter 112 (Zoning Ordinance) of the *Code of the County of Fairfax, Virginia*, based on an analysis of the parking requirements for each use on the site and a parking reduction study, on condition that:

1. A minimum of 211 parking spaces must be maintained on site at all times.
2. The uses permitted per this parking reduction are shown on the proposed Parking Tabulation Revision #3942-PKS-001-1, dated and sealed May 26, 2010.
3. A maximum of 160 seats are permitted for the place of worship use on weekends and weekday activities that require more than 17 parking spaces shall not operate until after 6:00 pm.
4. The current owners, their successors or assigns of the parcels identified as Fairfax County Tax Map 049-1-001-0013, shall submit a parking space utilization study for review and approval by the Board at any time in the future that the Zoning Administrator so requests. Following review of that study, or if a study is not submitted within 90 days after being requested, the Board may rescind this parking reduction or require alternative measures to satisfy parking needs, which may include requiring all uses to comply with the full parking space requirements as specified in Article 11 of the Zoning Ordinance.
5. All parking utilization studies prepared in response to a request by the Zoning Administrator shall be based on applicable requirements of *The Code of the County of Fairfax, Virginia*, and the Zoning Ordinance in effect at the time of said parking utilization study submission.

Board Agenda Item
September 28, 2010

6. Shared parking with any additional use(s) shall not be permitted without the submission of a new parking study prepared in accordance with the applicable requirements of the Zoning Ordinance and shall be subject to the Board's approval.
7. All parking provided shall be in accordance with the applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act (ADA).
8. The conditions of approval of this parking reduction shall be binding on the successors of the current owner and/or other applicants and recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:

Board action is requested on September 28, 2010.

BACKGROUND:

A parking reduction request for 2810 and 2812 Old Lee Highway professional office buildings complex, which is zoned I-4, is proposed to expand the size of a church use within the facility. The Northern Virginia Chinese Christian Church is a place of worship use operating in this office complex by right with 17 parking spaces provided for this use. The code allows 68 seats with the provision of 17 parking spaces. The church expansion will increase the church use to 160 seats, which requires 23 additional parking spaces to serve the increased seating capacity. A parking study for the proposed expansion in use indicates that the hourly accumulations will permit the uses to share the 211 parking spaces provided, rather than providing 240 parking spaces to comply with the full code requirements.

The staff supports the applicant's request for a 12.1 percent parking reduction subject to the conditions listed above. It should be noted that the 12.1 percent reduction includes 6 parking spaces lost due to retrofitting to comply with accessibility requirements and reconfiguration of the site.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I – Letter of Request and parking study dated May 26, 2010, from Douglas R. Kennedy, P.E. Director of Transportation Planning, Patton, Harris, Rust & Associates (Excerpt)

Board Agenda Item
September 28, 2010

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Michelle Brickner, Acting Director, Land Development Services, DPWES

9942-PKS-001-1

May 26, 2010

Fairfax County Plan & Document Control, 5th Floor
c/o Office of Land Development Services
12055 Government Center Parkway
Fairfax, Virginia 22035-5503

ATTACHMENT I



Re: **Northern Virginia Chinese Christian Church
Church Time of Day Parking Reduction and Parking Tabulation
Revision
Original Site Plan #03942-SP-01
Tax Map 49-1-((1)) 13
Providence Magisterial District
PHR&A F-16561-1-0**

CORPORATE:
Chantilly

VIRGINIA OFFICES:
Chantilly
Charlottesville
Fredericksburg
Harrisonburg
Leesburg
Newport News
Norfolk
Winchester
Woodbridge

LABORATORIES:
Chantilly
Fredericksburg

MARYLAND OFFICES:
Baltimore
Columbia
Frederick
Germantown
Hollywood
Hunt Valley
Williamsport

PENNSYLVANIA OFFICE:
Allentown

T 800.550.PHRA
T 703.449.6700
F 703.449.6713

14532 Lee Road
Chantilly, VA
20151-1679

To Whom It May Concern:

Please accept the following submission of the shared use parking study for the inclusion of a religious facility, the Northern Virginia Chinese Christian Church, to operate in Suites 110A and 110B of the Old Lee Highway Office Complex at 2810 Old Lee Highway. The hours of operation for the proposed facility are outlined in the attached letter (**Attachment #1**) from the President corroborating that the hours of operation will not conflict with the weekday parking for the existing two-building office uses north of U.S. Route 29 and south of Hilltop Road. The following paragraphs summarize the uses, parking requirements, and justification for the parking associated with church uses, to recognize the different times of peak parking requirements.

The owners of suites 110A and 110B at 2810 Old Lee Highway, the Northern Virginia Chinese Christian Church, requests that the Director of DPW&ES recommend to the Board of Supervisors to approve the parking tabulations with parking for church uses with the I-4 Zoning District. The property manager for both buildings and the condominium manager is Cap Star Commercial Realty in Gaithersburg, Maryland, and they have confirmed the tenants for 2810 and 2812 Old Lee Highway. The sites are contiguous and have shared ingress/egress through the parking lots to two driveways on Old Lee Highway and one driveway on Hilltop Road. The proposed use would allow the church to establish a membership to grow up to 160 people. The condo size is 4,800 gross square feet.

Based on Article 11-102.4.B of the Zoning Ordinance, PHR+A requests that the Director recommend to the Board of Supervisors for a shared parking reduction due to the different times of peak hours of operation for a church in an Office/Employment Zoning District. The reduction of 23 spaces for the



proposed use reflects the parking required for 4,800 GSF space if parked as office uses (17 spaces). For the entire site, the parking reduction from code is **29 spaces**, or a **12.1 % reduction** in the Zoning Ordinance requirements, based on changes for ADA parking and office parking. The proposed tabulations for the change in use would require a minimum of 211 spaces, **or a 12.1 % reduction in the parking requirements associated with the Zoning Ordinance without a shared parking reduction**. As noted on the parking tabulation, the use and parking requirements have changed since the original construction in the mid-1980's. The original plan was approved with 170 spaces provided (165 required), but was amended with additional parking in the rear, which allowed the basement floors to be parked as office uses with 216 spaces. However, changes in ADA space locations and requirements have reduced the available parking to 213 spaces. Based on PHR+A recommendations to comply with Federal ADA Requirements, the parking is assumed to be grandfathered for office use with 211 spaces:

- Loss of three (3) spaces with relocation of six (6) handicapped spaces to the existing building entrances.
- Loss of one (1) space with the calculation of parking for each building (previous calculations at 60,000 GSF total).
- Loss of two (2) spaces with the addition of one van accessible space and restriping of access aiseways.

Upon review of visible conditions on-site, PHR+A concluded that no change (net increase) to curb and asphalt area have occurred since the approvals of the revised site plan in 1986.

For the use, the reduction is 57.5%, which is higher than the 50% reduction that may be approved for changes by the Director under Ordinance Section 11-106.3. The actual parking demand weekdays for the church use is expected at 5.8 usages max. The reduction of 57 percent reflects the equivalent office uses, since commercial parking is available on the site.

PHR+A has reviewed the County site plan records, owners' lease plans, existing field conditions, and uses and confirm that the parking provided on-site is adequate with the existing and proposed uses. The addition of the church is parked at office uses for the base condition, but the increase in seats requires a reduction in parking to satisfy County Zoning Ordinance requirements for the individual uses if the subject space were parked as office uses. The enclosed package includes the following:

- One original and four (4) copies of the Site Plan Use and Parking Tabulation Revision Form (3 sheets),
- Attachment 1: Description of hours of operation, from church, dated May 25, 2010,

- Attachment 2: Exhibit "D" with current conditions at 2810 and 2812 Old Lee Highway by Huntley, Nyce Associates, Ltd., dated 2005.
- Attachment 3: Weekday/Weekend Parking estimate with church,
- Attachments 4-6: Revised ADA Parking Recommendations,
- One check in the amount of \$ 770.00.

Changes shown on the tabulations include the following:

- Reduction from approved parking associated with ADA,
- Verification of existing ADA spaces and conformance of signing, update of van accessible spaces,
- Recalculation of parking for the current uses based on the highest of either:
 - County Zoning Ordinance parking,
 - Tenant lease requirements, and
 - Non-RUPS areas provided by the owners.
- Changes in the tenant mix to include the church in Suite 110 A-B of 2810 Old Lee Highway with up to 160 seats.
- Redesignation in parking associated with ADA recommendations in the front of 2810 and 2812 building.

The uses reflect non-RUPs and lease tabulations provided by the management company, County records with the total square footage of 60,000 GSF shown for both buildings. Some areas for the vacant spaces were increased by PHR+A to match the gross square footage of the approved site plan. The parking is based on office uses for each building with less than 50,000 square feet of office.

Attachment #2 reflects the current conditions, which shows the two buildings with parking spaces including nine motorcycle spaces and six handicapped spaces. In reviewing the field conditions, the parking provided on-site includes 213 spaces. The six handicapped spaces are marked and signed, but as noted below, do not satisfy the current requirements for ADA for van accessibility, total ADA parking quantity, and access aisleways. See below for the recommended striping changes to be implemented before County approvals.

Hours of Operation

The Northern Virginia Chinese Christian Church will operate with services at 10:00 a.m. on Sunday mornings. The church will also operate a Sunday School between 9:00 a.m. and 12:30 p.m. and have church meetings on Friday evening and weddings on Saturday. These activities would not overlap with the peak weekday parking for office uses.



PHR+A did account for a minimum parking for weekday peaks in the tabulations for miscellaneous office and visitors, with seventeen (17) spaces in the tabulations for an equivalent office use. The church has 1-2 part time employees and only *minor weekday activities requiring parking*. No church vehicle is anticipated.

The daily parking demand is shown graphically on **Attachment #3** as an estimate of weekday and weekend parking, based on the generalized parking requirements by use in the Zoning Ordinance, weekday and Saturday parking ranges for office uses in ULJ and estimates of church activities. The church parking is shown with 10-17 weekday spaces for site activities during typical office hours, to be conservative, and activities one night a week (optional), service on Sundays and weekday activities. The time ranges are generalized and abbreviated, but reflect:

- Day Morn: Weekday and weekend AM (6 AM– 12),
- Day Aft: Afternoon (12-6 PM),
- Day Eve: Evenings (6-11 PM)
- Day Night: Overnight period (11 PM – 6 AM)

The church uses are shown in purple while the total parking demand is shown in a dash blue line which ranges up to 210 spaces required. Weekend parking is projected at less than 100 vehicles with the Northern Virginia Chinese Christian Church. The parking provided is 211 spaces, as revised.

2810 and 2812 ADA Parking Revision

The site plan revisions 0394-SP-04 added parking spaces on the far west portion of the site to accommodate 216 spaces, or the parking equivalent of 60,000 GSF of office at 3.6 spaces per 1,000 GSF. Original parking tabs were at 4.5 spaces per 1,000 net square foot. The plan included six (6) handicapped spaces shown between the two buildings and nine (9) motorcycle spaces adjacent to the 2812 building. Subsequent to County approvals, the parking lot was restriped to move the handicapped parking (originally at five percent) to be immediately adjacent to the two building entrances.

The ADA Parking Plan changes to existing conditions are included as **Attachments #4-6** since the existing parking does not satisfy requirements. In reviewing the field conditions in relationship to Attachment 2, the ADA spaces were modified to designate one van accessible space. Additionally one space at each entrance shifted to accommodate the ADA parking aisleway. Seven ADA spaces are provided with the change in Attachments 4-6, consistent with the requirements for between 200 and 300 spaces.

The total parking of 211 spaces is shown on the plan, including ADA spaces and *existing motorcycle spaces*. With the church uses parked at 160 seats, the individual parking by use equates to 240 spaces.

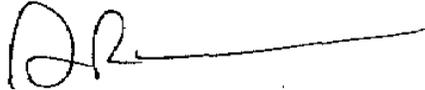


As the attached parking tabulations illustrates, adequate parking is available within the site with 211 spaces available, excluding the existing loading areas. With the existing and proposed uses, 211 spaces are required with up to 160 seats for the church. No additional change in parking is proposed. The reduction in parking for the place of worship is 29 spaces, or a 12.1 percent reduction from the Zoning Ordinance requirements. The recommended minimum parking of 211 spaces reflects the minimum parking for the existing buildings as all office uses, and incorporates the ADA changes.

If you should have any questions, please contact our office at 703-449-6700.

**P
H
R
A**

Respectfully Submitted,
PATTON HARRIS RUST & ASSOCIATES

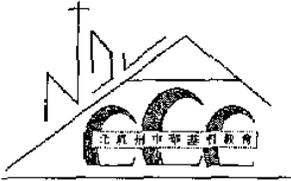


Douglas R. Kennedy, P.E.
Vice President
Director of Transportation Planning

Enclosures: as noted above

CC: Ms. Tina Cheng – Northern Virginia Chinese Christian Church

P:\PROJECT\16561\1-0\traffic\corrus\PHRA_NOVA Chinese Christian Church parking 05262010.doc



北維州中華基督教會
NORTHERN VIRGINIA CHINESE CHRISTIAN CHURCH
Address: 2810 Old Lee Highway, Suite 110, Fairfax, VA 22031

Email: nvccch@gmail.com or y.t.tung@yahoo.com Tel: (703)772-2507 Web site: <http://www.nvccch.org>

May 25, 2010

Ray Curd, Chief
Special Projects Branch
Division of Design Review
Department of Environmental Management
12055 Government Center Parkway
Fairfax, Virginia 22035-5502 .

SUBJECT: Parking Code Reduction for *Northern Virginia Chinese Christian Church*

REFERENCE: Providence Magisterial District; Tax Map #: 49_1_((1)) 13
PHR&A F-16561-1-0

Dear Mr. Curd:

Northern Virginia Chinese Christian Church has been serving the Northern Virginia Community for over 30 years. We have recently purchased two office condos for our Church activities, including Sunday services, small bible study groups, and prayer meetings. The newly purchased condos to be used as our Church site will require a parking lot expansion pursuant to Article 11 of the Fairfax County Zoning Ordinance. We are requesting a reduction in the number of parking spaces associated with the Church use. Thereby, eliminating the need to expand the parking lot. This request is based on the following:

- Different hours of operation
- Shared parking between/ two sites
- Mass transit (fixed rail) .

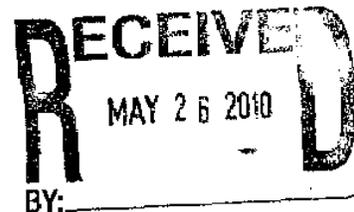
Thank you for your consideration of this matter.

Sincerely,

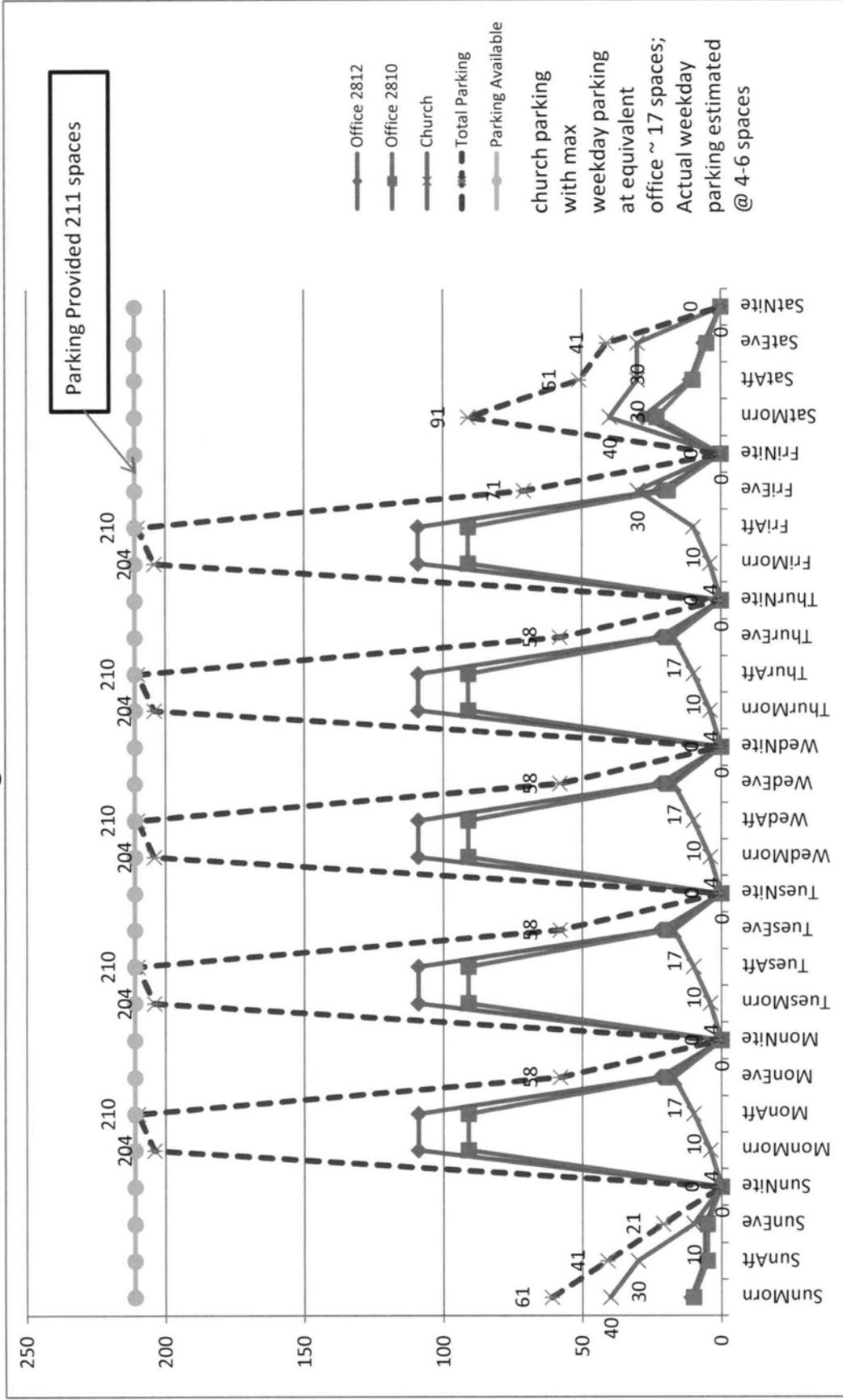
Kuo-Yao Tung
Pastor

RS/xxx

Enclosures



Attachment 3:
2810/2812 Old Lee Hwy
Weekday/Weekend Parking Estimate
with Northern Virginia Chinese Christian Church



THIS PAGE INTENTIONALLY LEFT BLANK

ACTION – 4

Approval of Parking Reduction for New Life Christian Church (Mount Vernon District)

ISSUE:

Board approval of an 18.2 percent reduction in required parking for New Life Christian Church located at 7701 Fullerton Road, Tax Map #098-2-05-0110.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (the Board) approve a parking reduction of 18.2 percent for New Life Christian Church located at 7701 Fullerton Road, pursuant to Paragraph 4B, Section 11-102 of Chapter 112 (Zoning Ordinance) of The Code of the County of Fairfax, Virginia, based on an analysis of the parking requirements for each use on the site and a parking reduction study, on condition that:

1. A minimum of 36 parking spaces must be maintained on the site at all times.
2. The uses permitted per this parking reduction are those uses shown on the Parking Study #1853-PKS-001-1, dated June 4, 2010.
3. A maximum of 136 seats are permitted for the place of worship use.
4. The current owners, their successors or assigns of the parcels identified as Fairfax County Tax Map #098-2-05-0110, shall submit a parking space utilization study for review and approval by the Board at any time in the future that the Zoning Administrator so requests. Following review of that study, or if a study is not submitted within 90 days after being requested, the Board may rescind this parking reduction or require alternative measures to satisfy parking needs, which may include requiring all uses to comply with the full parking space requirements as specified in Article 11 of the Zoning Ordinance.
5. All parking utilization studies prepared in response to a request by the Zoning Administrator shall be based on applicable requirements of The Code of the County of Fairfax County, Virginia, and the Zoning Ordinance in effect at the time of said parking utilization study submission.
6. Shared parking with any additional use(s) shall not be permitted without the submission of a new parking study prepared in accordance with the applicable requirements of the Zoning Ordinance and shall be subject to the Board's approval.

Board Agenda Item
September 28, 2010

7. All parking provided shall be in accordance with the applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act (ADA).
8. The conditions of approval of this parking reduction shall be binding on the successors of the current owner and/or other applicants and recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:

Board action is requested on September 28, 2010.

BACKGROUND:

The Fullerton Road Warehouse Complex located at 7701 Fullerton Road, and zoned I-5 is establishing a new use within their facility. New Life Christian Church will be a 136 seat place of worship use and the building has an existing automotive collision repair company, which is a major vehicle repair use with 3 bays and 4 employees. There will be no other uses on this site and there are 36 parking spaces existing on site for the proposed uses. The code requirement for the two uses is 44 parking spaces and the applicant is requesting an 18.2 percent parking reduction from the Board to accommodate these uses.

The parking study indicates that the peak parking accumulation on Sundays will be 34 cars on a site that has 36 parking spaces available. Therefore, the staff supports the applicant's request for an 18.2 percent parking reduction subject to the conditions listed above.

The recommended parking reduction reflects a coordinated review by the Department of Public Works and Environmental Services and the Office of the County Attorney.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 - Letter of Request dated August 12, 2010, from Patricia M. Snyder of Snyder Design Services.

Attachment 2 – Parking Study dated March 10, 2010, from Allen A. Snyder, Professional Engineer.

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Michelle Brickner, Acting Director, Land Development Services, DPWES



Pat Snyder
Snyder Design Services

12 August 2010

ATTACHMENT I

County of Fairfax
Land Development Services
Code Analysis
12055 Government Center Parkway
Suite #608
Fairfax, VA 22035-5500

Attn: Mr. Richard B. Hayes
Engineer III

Re: New Life International Church
7701 Fullerton Road
Suite #A
Springfield, VA 22153

Zoning: I-5

Original Site Plan: 1853-sp-001-3

Tax Map: 098 2 05 0110

Parking Study: 1853-PKS-001-1

The parking reduction submittal package as prepared on behalf of New Life International Church contains the following items

- 8-1/2x11 copy of the existing site plan
- Revised parking tabulation
- Parking use graphic analysis
- Parking reduction request letter

The existing site is an 18,155 square foot warehouse style building with 2 tenants. The Church will occupy the Fullerton street side front tenant space, 9,632 square feet. The rear of the building is occupied by an automotive collision repair company, 7,209 square feet. The parking is shared with both tenants having full access to the entire site.

The church is a limited congregation establishing themselves in the Northern Virginia area. They will not have any schools or daycare at this site.

The church has installed fully compliant Fairfax County standard accessible parking signage and has striped the front parking accordingly.

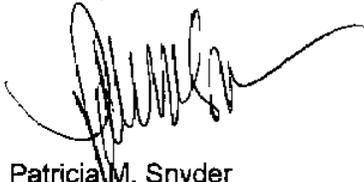
6700 Chestnut Ave
Falls Church, VA 22042

Snyder.Pat@verizon.net

703 536-4645 ofc
703 536-2637 fax

With a congregation of 136 the parking requirement per Fairfax County code is 1/4 occupants necessitating 34. We are requesting an 18% reduction which will satisfy the church's needs as well as the adjoining automotive repair facility. Please refer to attached graphic parking analysis.

If I can provide any additional information that will facilitate your review please call at any time.



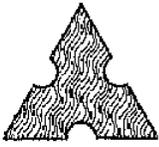
Patricia M. Snyder
Principal Designer

Cc: Pastor Stephen Agyeman, Sr. New Life International Church
Peter D. Jarvis, 7701 LLC

6700 Chestnut Ave
Falls Church, VA 22042

Snyder.Pat@verizon.net

703 536-4645 Ofc
703 536-2637 Fax



Pat Snyder
Snyder Design Services

1 May 2010

County of Fairfax
Land Development Services
12055 Government Center Parkway
Suite #608
Fairfax, VA 22035-5500

Attn: Mr. Richard B. Hayes
Engineer III

Re: New Life International Church
7701 Fullerton Road
Suite #A
Springfield, VA 22153

Zoning: I-5

Original Site Plan: 1853-sp-001-3

Tax Map: 098 2 05 0110

Parking Study: 1853-PKS-001-1

Dear Rich,

On behalf of Pastor Stephen Agyeman, Sr., New Life International Church and Peter D. Jarvis, building owner, please accept our application for a parking variance for the referenced church location. The tenant has the full endorsement of the building owner for this application. The church has one primary weekend service at 10:00 Sundays and a smaller weekday service at 7:00 Thursday night. Both services occur when the tenant, Fullerton Autobody is closed and all employees and customers have left the premises. Please note the church has full use of the entire parking lot and has key to the chain link gate serving the rear parking lot area.

Our request is for a 18% parking reduction. The church has no intention of operating any kind of school or daycare and does not anticipate any weekday parking needs that would be impactive to the building tenancy or owners.

Please call if I can address any issues you may have with this request or the parking tabulation that is being filed in conjunction with the change in use to a religious worship for suite #A.

Sincerely,

Patricia M. Snyder
Principal Designer

Cc: Pastor Stephen Agyeman, Sr., New Life International Church
Peter D. Jarvis, 7701 LLC

6700 Chestnut Ave
Falls Church, VA 22042

Snyder.Pat@verizon.net

703 536-4645 Ofc
703 536-2637 Fax



Pat Snyder
Snyder Design Services

1 November 2009

County of Fairfax
Land Development Services
12055 Government Center Parkway
Suite #608
Fairfax, VA 22035-5500

Attn: Mr. Richard B. Hayes
Engineer III

Re: New Life International Church
7701 Fullerton Road
Suite #A
Springfield, VA 22153

Zoning: I-5

Original Site Plan: 1853-sp-001-3

Tax Map: 098 2 05 0110

Dear Rich,

On behalf of Pastor Stephen Agyeman, Sr., New Life International Church and Peter D. Jarvis, building owner, please accept our application for a parking variance for the referenced church location. The tenant has the full endorsement of the building owner for this application. The church has one primary weekend service at 10:00 Sundays and a smaller weekday service at 7:00 Thursday night. Both services occur when the tenant, Fullerton Autobody is closed and all employees and customers have left the premises. Please note the church has full use of the entire parking lot and has key to the chain link gate serving the rear parking lot area.

Our request is for a 50% parking reduction

The church has no intention of operating any kind of school or daycare and does not anticipate any weekday parking needs that would be impactive to the building tenancy or owners.

Please call if I can address any issues you may have with this request or the parking tabulation that is being filed in conjunction with the change in use to a religious worship for suite #A.

Sincerely,

Patricia M. Snyder
Principal Designer

Cc: Pastor Stephen Agyeman, Sr., New Life International Church
Peter D. Jarvis, 7701 LLC

6700 Chestnut Ave
Falls Church, VA 22042

Snyder.Pat@verizon.net

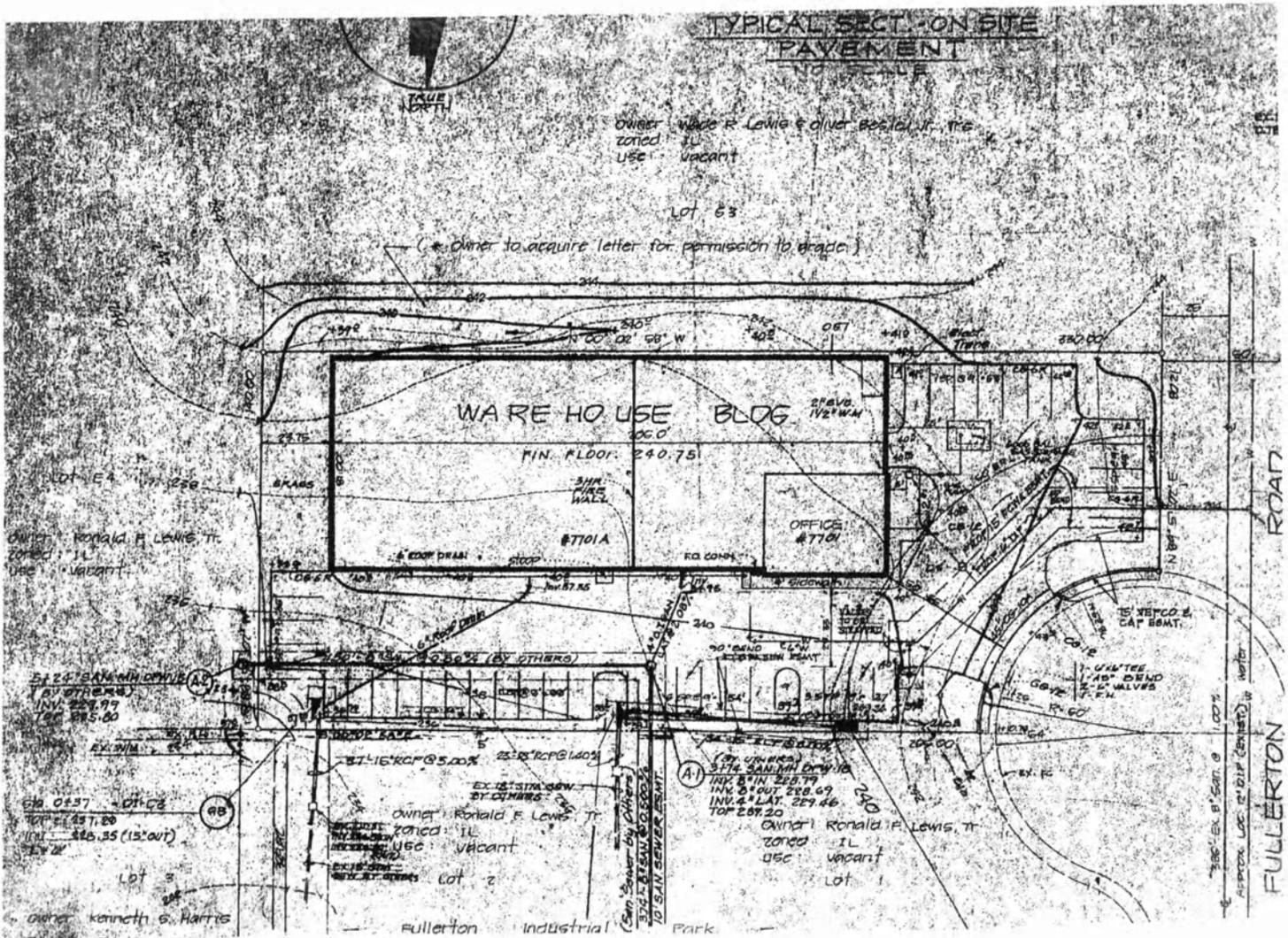
703 536-4045 Ofc
703 536-2657 Fax



Pat Snyder
Snyder Design Services

7701 Fullerton Road
Springfield, VA

Site Plan

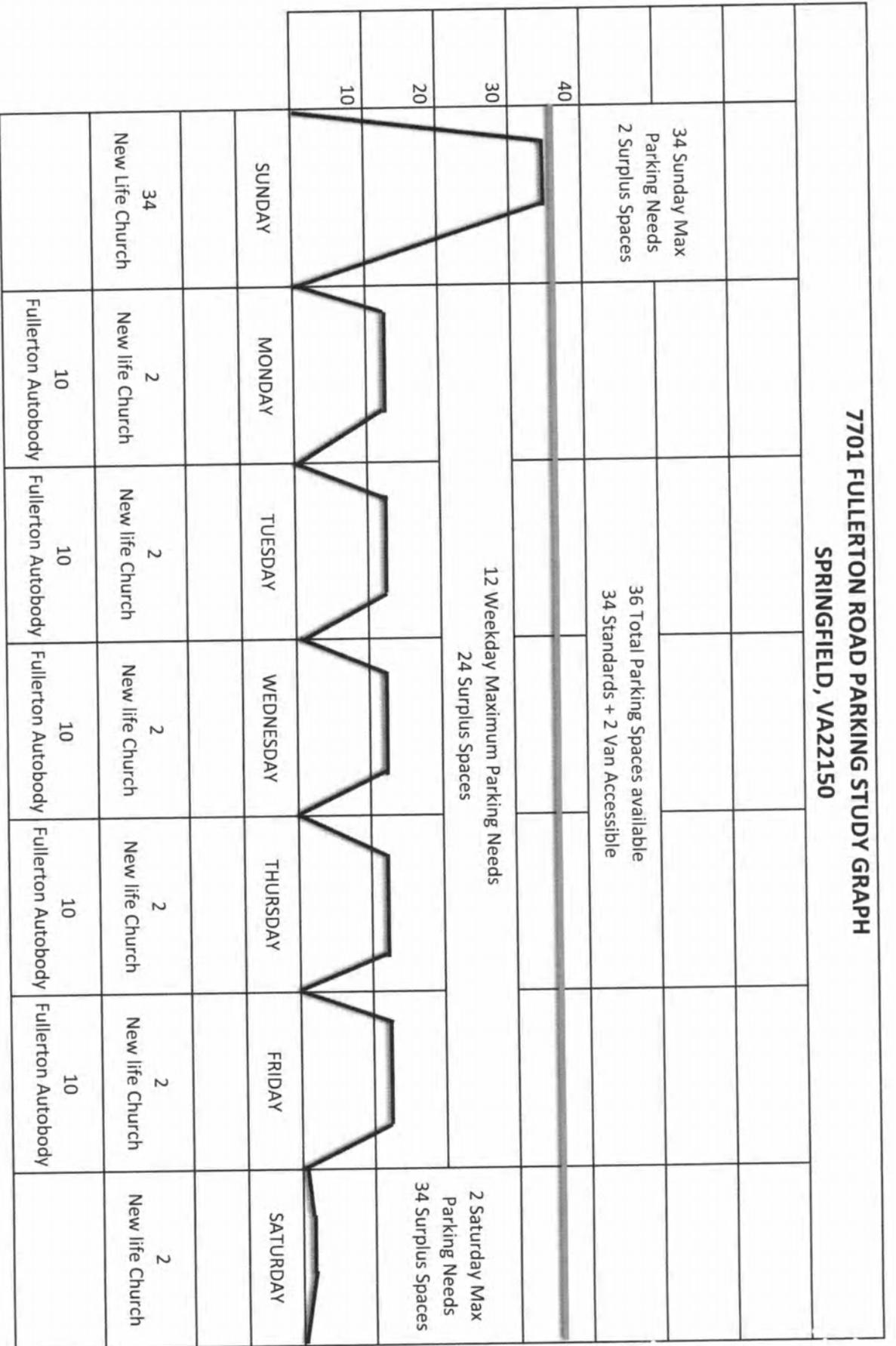


6700 Chestnut Ave
Falls Church, VA 22042

Snyder.Pat@verizon.net

703 536-4645 ofc
703 536-2637 fax

7701 FULLERTON ROAD PARKING STUDY GRAPH
SPRINGFIELD, VA22150



THIS PAGE INTENTIONALLY LEFT BLANK

ACTION - 5

Approval of a Project Agreement Amendment and Funding Plan for the Mulligan Road Project (Lee and Mount Vernon Districts)

ISSUE:

Board approval to execute a project agreement amendment (Attachment I) pertaining to the initial construction of four lanes on Mulligan Road through Fort Belvoir between U.S. Route 1 and Telegraph Road. The Agreement is with the Virginia Department of Transportation (VDOT), and the U.S. Department of Transportation, Federal Highway Administration, Eastern Federal Lands Highway Division (EFLHD), for construction of the new connector road. The original agreement reflected only County Commercial and Industrial (C&I) property tax for transportation funds that were previously approved by the Board and pledged to this project. The Board also previously approved and appropriated Virginia National Defense Industrial Authority (VNDIA) funds for the Telegraph Road widening project, which intersects and is being constructed concurrently with the Mulligan Road project. This amendment creates a unified project agreement incorporating both the Mulligan Road project and the Telegraph Road project.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the project agreement amendment in substantial form.

TIMING:

Board approval is requested on September 28, 2010, so that the project may move forward as expeditiously as possible.

BACKGROUND:

This project is for the construction of a new connector road between Richmond Highway (U.S. Route 1) and Telegraph Road (VA Route 611) through Fort Belvoir and the Humphrey's Engineer Center, as well as the widening of Telegraph Road from Beulah Street to Leaf Road. Following the events of September 11, 2001, the U.S. Department of Defense (DoD) eliminated through public access on Beulah Street (Route 613) and Woodlawn Road (Route 618) within Fort Belvoir. While the County's Transportation Plan called for four lanes on Woodlawn Road and Beulah Street at the time of their closure, and currently reflects the need for four lanes on Mulligan Road, DoD previously refused to fund more than two of the needed four lanes between Richmond Highway and Telegraph Road as its contribution to the replacement of the two closed roadways. Telegraph Road is being

Board Agenda Item
September 28, 2010

widened as a part of this project where the new connector road will intersect Telegraph Road.

On June 16, 2008, the Board approved an agreement with VDOT and EFLHD for construction of the new connector road. As part of this approval, the Board also approved the use of \$12.1 million in C&I funds for the project. Since that approval, staff has worked with VDOT and EFLHD to refine the implementation and funding for the project. The Mulligan Road project is being constructed concurrently with the widening of Telegraph Road from Beulah Street to Leaf Road. The County has received and appropriated grant funding from the Virginia National Defense Industrial Authority (VNDIA) in the amount of \$2.5 million for the construction of the Telegraph Road project. The VNDIA grant funds were approved by the Board on April 30, 2007, and July 23, 2007. These funds are being incorporated into the overall funding plan for the Mulligan Road/Telegraph Road project. In addition to the VNDIA grant funds, additional state and federal funds have been allocated to the project to fully fund the construction estimate. As such, the project agreement needs to be amended to reflect the VNDIA funds.

FISCAL IMPACT:

No new funding is being requested as part of this amendment. Funding has already been approved by the Board for this project. Funding for this project is available within Fund 124, County and Regional Transportation Projects, through C&I revenues. The total amount of C&I funds allocated to the project is up to \$12.1 million. Additionally, funding is available within Fund 304, Transportation Improvements, for \$2.5 million VNDIA grant expenditures and in Northern Virginia Transportation District (NVTD) bond funds held by the Virginia Department of Transportation for construction of the Telegraph Road widening project. Under this amended project agreement, these two sources of funding will be recognized as part of the same project.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to Agreement for Project Administration and Funding – County Funded Improvements to Mulligan Road

STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, Director, Department of Transportation (FCDOT)
Ellen F. M. Posner, Assistant County Attorney
Larry Ichter, Chief, Transportation Design Division, FCDOT
Tom Biesiadny, Chief, Coordination and Funding Division, FCDOT
Jay Guy, Coordination and Funding Division, FCDOT
Mark Canale, BRAC Coordinator, FCDOT

AMENDMENT TO AGREEMENT FOR PROJECT ADMINISTRATION AND FUNDING
FAIRFAX COUNTY
Project VA-A-AD 48(1)
County-funded Roadway Improvements to Mulligan Road

THIS AMENDMENT to the INTERAGENCY AGREEMENT among the Board of Supervisors of Fairfax County, Virginia and the Virginia Department of Transportation, and the U.S. Department of Transportation, Federal Highway Administration, Eastern Federal Lands Highway Division for joint participation in the Environmental Planning Design and Construction of Project VA-A-AD 48 (1), County-Funded Improvements to Mulligan Road in Fairfax County, Virginia, dated June 30, 2008, also referenced as FHWA Agreement Number DTFH71-08-X-50021, (hereinafter, the "Agreement", is made this ____ day of _____, 2010, by and between the Board of Supervisors of Fairfax County, Virginia, hereinafter referred to as the COUNTY, the Virginia Department of Transportation, hereinafter referred to as VDOT, and the United States Department of Transportation, Federal Highway Administration, Virginia Division (FHWA-VA) and the Eastern Federal Lands Highway Division ("EFLHD") (hereinafter referred to as the "Amendment");

WHEREAS, the COUNTY, VDOT and the EFLHD previously entered into the Agreement on June 30, 2008, to jointly participate in the environmental planning, design, and construction of Project VA-A-AD 48(1) an alternative corridor to replace roads closed to public traffic, Beulah Street (State Route 613) and Woodlawn Road (State Route 618), within Fort Belvoir, in Fairfax County, Virginia, (hereinafter referred to as the PROJECT); and

WHEREAS, subsequent to the execution of the Agreement, the COUNTY, VDOT, and EFLHD developed a financial plan to fund the Project ("MULLIGAN ROAD PROJECT (Fort Belvoir Connector Road) FINANCIAL PLAN-DECEMBER 2009--Appendix A), and wish to transfer funding according to the financial plan to the EFLHD; and

NOW, THEREFORE, Witness that for and in consideration of the promises and mutual covenants and agreements contained herein, the Agreement is modified as follows:

1. The financial plan to fund the PROJECT entitled: "MULLIGAN ROAD PROJECT (Fort Belvoir Connector Road) FINANCIAL PLAN - DECEMBER 2009", is annexed hereto as Appendix A, is incorporated herein by reference and made a part of the Agreement.
- 2 Paragraph B(4) is deleted and replaced with the following: "Present the County with proper certification of intent to award a contract and issue notice to proceed for Project construction; so that County funds allocated to the Project may be conveyed to EFLHD in accordance with Appendix A ("MULLIGAN ROAD PROJECT (Fort Belvoir Connector Road) FINANCIAL PLAN - DECEMBER 2009") .

:

3. Paragraph D. is deleted and replaced with the following: “This project agreement may be terminated by either party upon at least 90 days prior written notice. All eligible costs incurred up to the date of termination shall be considered a part of the Project costs. Should the agreement be terminated, the parties will review all available options for moving the project forward.”
4. In addition, the following paragraph is added to the Agreement:
 - I. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds specified and agreed to in this Agreement or that have been authorized in or by an annual or other lawful appropriation.

The Agreement is modified only to the extent described herein and all other provisions, terms and conditions of the Agreement, to the extent not modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto has caused this Amendment to the Agreement to be executed in triplicate in its name and on behalf of its duly authorized officer as of the day, month, and year first herein written.

BOARD OF SUPERVISORS
OF FAIRFAX COUNTY, VIRGINIA

ATTEST:

Clerk to the Board

BY: _____
Anthony H. Griffin, County Executive

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

ATTEST:

Title

BY: _____
Gregory A. Whirley, Commissioner

UNITED STATES DEPARTMENT OF
TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION – EASTERN FEDERAL
LANDS DIVISION (EFLHD)

ATTEST:

Title

BY: _____
Melisa L. Ridenour, Division Engineer

MULLIGAN ROAD PROJECT
(Fort Belvoir Connector Road)

FINANCIAL PLAN

DECEMBER 2009

FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS
HIGHWAY DIVISION

DEFENSE ACCESS ROADS PROGRAM

FAIRFAX COUNTY
DEPARTMENT OF TRANSPORTATION

And

VIRGINIA
DEPARTMENT OF TRANSPORTATION



Celebrating
25 years
of the
Federal Lands Highway Program

**FEDERAL HIGHWAY ADMINISTRATION,
DEFENSE ACCESS ROADS PROGRAM,
FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION,
And
VIRGINIA DEPARTMENT OF TRANSPORTATON**

**FINANCIAL PLAN
MULLIGAN ROAD PROJECT**

TABLE OF CONTENTS

Introduction 3

 Project Background..... 3

 Project Description 4

Chapter 1: Project Cost Estimate 5

Chapter 2: Implementation Plan 6

 Project Timeline..... 7

Chapter 3: Project Funding 8

 Funding Summary & Availability by FY 10

 Project Expenditures 11

Chapter 4: Cash Flow 12

Chapter 5: Other Factors 13

 Funding Limitations 13

 Uncommitted Funding Mitigation Strategy..... 13

INTRODUCTION

The Army is authorized to enter into an agreement with the Commonwealth of Virginia, Virginia Department of Transportation (VDOT); the County of Fairfax, Virginia; and the Department of Transportation, Federal Highway Administration, Virginia Division (FHWA-VA) and the Eastern Federal Lands Highway Division (EFLHD) pursuant to the authority contained in 10 U.S.C. 3001, et seq., and is the agency with administrative oversight, maintenance, and jurisdictional authority for Fort Belvoir (FB) and the Humphreys Engineer Center (HEC). These agencies have agreed to jointly participate in the environmental planning, design, and construction of an alternative corridor to replace roads closed to public traffic - Beulah Street (State Route 613) and Woodlawn Road (State Route 618), Projects A-AD 48(1) and (2), within Fort Belvoir, in Fairfax County, Virginia.

Fairfax County, pursuant to §33.1-229, Code of Virginia has the authority to establish new roads and relocate existing roads of the secondary system of state highways in consultation with the Commonwealth Transportation Commissioner;

The Commonwealth Transportation Commissioner acting pursuant to the decision of the Commonwealth Transportation Board is authorized to enter into an Agreement pursuant to the authority contained in §33.1-12 and §33.1-13 of the Code of Virginia 1950, as amended, and VDOT is the State agency with administrative oversight, maintenance, and jurisdictional authority for U.S. Route 1, Fairfax County Parkway, and Telegraph Road (State Route 611), Beulah Street (State Route 613), and Woodlawn Road (State Route 618) and will be for the replacement road connecting U.S. Route 1 and Telegraph Road once the roadway is accepted by the Commonwealth and transferred to it.

23 USC § 308(a) authorizes the EFLHD to perform engineering and other services in connection with the survey, design, construction, and improvements of highways for other Federal or State cooperating agencies.

Project Background

This project consists of the construction of a new connector road between Richmond Highway (U.S. Route 1) and Telegraph Road (VA Route 611) in the vicinity of Fort Belvoir in Fairfax County, Virginia. The project is located in Fairfax County, approximately 6 miles south of the Capital Beltway (I-495), 3 miles east of I-95, and 6 miles west of George Washington's Mount Vernon estate and the Potomac River. The U.S. Department of Defense (DoD) eliminated public access to Beulah Street (VA Route 613) and Woodlawn Road (VA Route 618) within Fort Belvoir following the events of September 11, 2001. This project restores access between U.S. Route 1, a north-south principal arterial, and Telegraph Road (VA Route 611), a north-south minor arterial. The two roads are otherwise connected about two miles to the south by the east-west cross-county Fairfax County Parkway (VA 7100), and about 7 miles north via South Kings Highway.

Fort Belvoir is a garrison of the U.S. Army, comprising approximately 7,682 acres with multiple missions to support the military. The Humphrey's Engineer Center (HEC) is a 583 Acre U.S. Army Corps of Engineers (USACE) facility located contiguous to the northeast portion of Fort Belvoir. The EFLHD is the lead federal agency for the proposed replacement project. EFLHD proposes to provide a replacement facility to the closed Woodlawn Road, in conjunction with Defense Access Road (DAR) Program, U.S. Army Fort Belvoir Garrison, HEC, USACE Baltimore District, VDOT, and the Fairfax County Department of Transportation (FCDOT).

Project Description

This ultimate project will include the construction of a four-lane divided roadway with a median on a new alignment, construction of new bridges and large culverts at stream crossings/wildlife passages, asphalt pavement removal and reconstruction through a portion of the project limits, construction of a new shared use path along the Connector Road, utility relocations, right-of-way acquisition/federal lands transfers, traffic signal installation, and other miscellaneous work. The proposed project is funded in part through the Defense Access Roads (DAR) Program, federal earmarks, and other federal, state and local sources. The U.S. Army has committed to fund two lanes of the facility, with the other two lanes to be funded from a combination of State and County funds. Because of the funding timeline, as well as the need for additional funds from local sources, the roadway will be built in phases.

The anticipated phases for this project are as follows:

- Phase 1: This Phase will include all of the clearing, grading, drainage, and base course for the full 4-lane section of Mulligan Road and the shared use path from Pole Road to Telegraph Road. The southbound bridge over Kingman Road, the abutments for the northbound bridge over Kingman Road and the Piney Run Bridge will also be included in this Phase. This phase is located entirely on Fort Belvoir and HEC property. This Phase will be funded by a combination of funding types. The DAR funds will only be used for constructing two of the four lanes on Mulligan Road. A combination of federal earmarks and Fairfax County funds will be used to fund the remaining two lanes.
- Phase 2A: This Phase will realign the intersection of Mount Vernon Memorial Highway, Old Mill Road, and Richmond Highway (US Route 1), widen Old Mill Road from Richmond Highway to Pole Road, paving and curb work on Mulligan Road from Pole Road to Telegraph Road, superstructure for the northbound bridge over Kingman Road, and intersection work at Mulligan Road and Telegraph Road. This phase will also include all work associated with improvements to the Woodlawn Plantation property (National Trust for Historic Preservation). This phase is located on a combination of Fort Belvoir, VDOT, National Trust and private property. This Phase will be funded by a combination of funding types. The DAR funds will only be used for constructing two of the four lanes on Mulligan Road and Old Mill Road, Route 1 intersection, and the work on Woodlawn Plantation. A combination of federal earmarks and Fairfax County funds will be used to fund the remaining two lanes.
- Phase 2B: This phase will widen Telegraph Road from 2-lanes to 4-lanes between Beulah Street and Leaf Road (near Hayfield Secondary School), construct the Telegraph Road bridges over Piney Run, and intersection work at Mulligan Road and Telegraph Road. This phase is located on a combination of Fort Belvoir (ADF-E), HEC, VDOT, and private property. This Phase will be funded by a combination of funding types. The DAR funds will only be used for widening the necessary portion of Telegraph Road at the Mulligan Road tie-in. This includes the new bridges on Telegraph Road over Piney Run. A combination of federal earmarks, VDOT 6-Year Transportation Improvement Plan (TIP) funds, and Fairfax County funds will be used to fund all of the widening of Telegraph Road beyond the Mulligan Road tie-in point to Beulah Street and Leaf Road.

CHAPTER 1: PROJECT COST ESTIMATE

In Table 1 below, the current program cost estimate for the Mulligan Road Project is broken down by phase, activity and fiscal year. All actual expenditures are included with each update, and those incurred prior to 2008 are included in 2007.

Table 1: Estimated Program Cost by Phase, Activity and Federal Fiscal Year

| | ≤ 2007* | 2008 | 2009 | 2010 | 2011 | 2012 | TOTAL |
|--|--------------------|---------------------|--------------------|---------------------|--------------------|--------------------|---------------------|
| PHASE 1 – Mulligan Road from Pole Road to Telegraph Road (grading, drainage & base) | | | | | | | |
| COE Study | \$5,000,000 | 0 | 0 | 0 | 0 | 0 | \$5,000,000 |
| EA | \$1,638,775 | \$87,330 | 0 | 0 | 0 | 0 | \$1,726,105 |
| PE | \$2,061,275 | \$1,896,740 | \$68,230 | 0 | 0 | 0 | \$4,026,245 |
| ROW | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| Utilities | 0 | \$576,610 | 0 | 0 | 0 | 0 | \$576,610 |
| Construction | 0 | \$11,917,490 | 0 | 0 | 0 | 0 | \$11,917,490 |
| Contingencies | 0 | 0 | \$1,517,407 | \$500,000 | 0 | 0 | \$2,017,407 |
| CE | 0 | 0 | \$588,717 | \$750,000 | 0 | 0 | \$1,338,717 |
| TOTAL | \$8,700,050 | \$14,478,170 | \$2,174,354 | \$1,250,000 | \$ 0 | \$ 0 | \$26,602,574 |
| PHASE 2A – Intersection improvements at Richmond Highway/Route 1, Old Mill Road, Woodlawn Plantation, NB bridges, and final paving of 4 lanes | | | | | | | |
| PE | 0 | \$1,000,000 | \$238,745 | 0 | 0 | 0 | \$1,238,745 |
| ROW | 0 | 0 | 0 | \$500,000 | 0 | 0 | \$500,000 |
| Utilities | 0 | 0 | 0 | \$2,500,000 | \$500,000 | 0 | \$3,000,000 |
| Construction | 0 | 0 | 0 | \$18,000,000 | 0 | 0 | \$18,000,000 |
| Contingencies | 0 | 0 | 0 | 0 | \$500,000 | \$500,000 | \$1,000,000 |
| CE | 0 | 0 | 0 | \$100,000 | \$1,500,000 | \$500,000 | \$2,100,000 |
| TOTAL | \$ 0 | \$1,000,000 | \$238,745 | \$21,100,000 | \$2,500,000 | \$1,000,000 | \$25,838,745 |
| PHASE 2B – Telegraph Road Widening to 4-lanes from Beulah Street to Leaf Road | | | | | | | |
| PE | 0 | \$659,410 | \$579,335 | \$119,936 | 0 | 0 | \$1,358,681 |
| ROW | 0 | 0 | 0 | \$3,000,000 | 0 | 0 | \$3,000,000 |
| Utilities | 0 | 0 | 0 | \$3,200,000 | 0 | 0 | \$3,200,000 |
| Construction | 0 | 0 | 0 | \$17,400,000 | 0 | 0 | \$17,400,000 |
| Contingencies | 0 | 0 | 0 | 0 | \$500,000 | \$500,000 | \$1,000,000 |
| CE | 0 | 0 | 0 | \$100,000 | \$1,000,000 | \$500,000 | \$1,600,000 |
| TOTAL | \$ 0 | \$659,410 | \$579,335 | \$23,819,936 | \$1,500,000 | \$1,000,000 | \$27,558,681 |
| TOTAL PROGRAM COST | \$8,700,050 | \$16,137,580 | \$2,992,434 | \$46,169,936 | \$4,000,000 | \$2,000,000 | \$80,000,000 |

*PE costs prior to and including FY 2007 included all of the phases, but is shown only under Phase 1

The current total estimated program cost to construct the Mulligan Road Project in year of expenditure dollars is \$80 million. All Program costs in each Phase include a combination of funding sources. See Tables 4 and 5 for the breakdown of the funding types required throughout the Project.

EFLHD provided an independent review and assessment of the program cost estimate prepared during the Environmental Assessment. This review was based on the approved alternative for the Mulligan Road alignment and included in its estimate all costs anticipated throughout the delivery of the project. At that time, the estimated total program cost was \$72 Million. Also, the Army Corps of Engineers performed a Feasibility Study (\$5 Million) prior to any involvement by EFLHD, and this has now been included to capture all funding information for the Project. This cost is an additional project cost that had not been included during the independent review. The total program cost for the project has risen by \$3 Million due to the preliminary estimates for utility relocations and right-of-way. Once these costs are refined, a more detailed program cost can be determined. This will be reflected in the next update of this Financial Plan.

CHAPTER 2: IMPLEMENTATION PLAN

EFLHD and the Army have completed the appropriate National Environmental Policy Act (NEPA) studies and documentation for the Mulligan Road Project. This process included the following:

- ✓ Preparation of the Preliminary Feasibility Study (Phase I) of the Richmond Highway-Telegraph Road Connector, Fairfax County, Virginia, by the U.S. Army Corps of Engineers, November, 2003.
- ✓ Preparation of an Environmental Assessment (EA) for the Richmond Highway-Telegraph Road Connector, by Eastern Federal Lands Highway Division, Federal Highway Administration. The EA was completed on July 18, 2006 and the issuance of the Finding of No Significant Impact (FONSI) on December 3, 2007.
- ✓ Preparation of a Section 106 Memorandum of Agreement (MOA) with the State Historic Preservation Office (SHPO), the Advisory Council for Historic Preservation (AHP), and other consulting parties for the Richmond Highway-Telegraph Road Connector, by Eastern Federal Lands Highway Division, Federal Highway Administration, September 2008.

The construction contract for Phase 1, Project VA A-AD-48(1), was awarded on September 22, 2008 to American Infrastructure, Inc. for \$11,917,490. Construction began in February 2009 with a planned completion in Summer 2010. The Phase 2 design work is scheduled for completion in March 2010, with award of the construction contract during Summer, 2010. Construction of Phase 2, Project VA A-AD-48(2), is scheduled to be completed in Summer 2012, at which time the 4-lanes of Mulligan Road will be opened to traffic. Exhibit 1 shows the project timeline.

Exhibit 1: Project Timeline

**Mulligan Road Project (Fort Belvoir Connector Road)
Design/Construction Timeline (Dec 2009)**

| Project/Description | FY 05 | | | | FY 06 | | | | FY 07 | | | | FY 08 | | | | FY 09 | | | | FY 10 | | | | FY 11 | | | | FY 12 | | | | | | | |
|----------------------------------|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|--|--|--|--|
| | 1st | 2nd | 3rd | 4th | | | | |
| Environmental Assessmen | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Design Phases 1 & 2a (partial) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Design Phase 2a (remainder) & 2b | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Construction Phase 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Right-of-Way (Land Swap) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Right-of-Way Phase 2b | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Construction Phase 2a & 2b | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Project Completion in 2012
Open to Traffic

Environmental ■ **Design** ■ **Advertise/Award** ■ **Construction** ■ **Right-of-Way**

PE=Preliminary Engineering

Assumptions

- 1 Phase 1-Connector Road from Pole Road to Telegraph Road. Grading and drainage of 4 lanes, base course, trail, SB bridges (no paving)
- 2 Phase 2a-Intersection improvements at Richmond Highway-Route 1, Old Mill Road, Woodlawn Plantation, NB bridges, curb and gutter & final paving of 4 lan
- 3 Phase 2b-Telegraph Road Widening to 4-lanes from Bellah Street to Leaf Road

CHAPTER 3: PROJECT FUNDING

The Mulligan Road Project will be financed through a combination of military planning and construction funds (Defense Access Road Program), federal earmarks, federal-aid transportation funds, and Fairfax County funds.

Funding Sources and Identified Uses

There is approximately \$29 Million in Defense Access Roads (DAR) funds available for use on this project. However, the DAR funds can only be used on two of the four lanes of Mulligan Road constructed under this project. The other two lanes must be funded from non-DAR sources. There was approximately \$8.0 Million available from the FY 2005 and 2006 transportation appropriations (P.L. 108-477 & SAFETEA-LU) that was identified for use on the Mulligan Road Project.

The first project, Phase 1, will be broken into two schedules in order to track the different funding sources.

- **Schedule A** consists of the grading, drainage and base for Mulligan Road from Pole Road to Telegraph Road, including the bridge over Piney Run. Funding for this schedule will be split evenly between DAR funds and non-DAR funding consisting of a combination of the FY 2005 and 2006 earmarks, and Fairfax County revenues.
- **Schedule B** consists of the construction of the southbound bridge over Kingman Road. Funding for this schedule will come entirely from DAR funds.

Phase 2A will be broken out in a similar fashion as Phase 1 to allow tracking of the various funding sources.

Phase 2B will be broken into multiple schedules as well, in order to track the different funding sources. The anticipated schedules are as follows:

- **Schedule A** would consist of the widening of Telegraph Road to the extent necessary for the turn lanes, accel/decel lanes, etc. to be constructed at the Mulligan Road intersection. These limits include the bridges over Piney Run. Funding for this schedule would be provided from DAR funds.
- **Schedule B** would consist of the widening of Telegraph Road from Beulah Street to Leaf Road, beyond the limits of the DAR funded work in Schedule A.

Funding Received

The EFLHD has received the \$1,000,000 FY 2005 appropriation identified in P.L 108-477 for “Mt. Vernon Highway/Old Mill Reconstruction, VA”, and the \$13,000,000 FY 2007 Army MILCON appropriation. The total amount transferred to EFLHD from these appropriations is \$13,638,026. EFLHD requested that VDOT initiate the transfer of \$5,000,000 in FY 2006 federal aid transportation funds to the Federal Lands Highway Office to cover the advertisement of the Phase 1 construction contract in FY 2008. This was received in June 2008.

Fairfax County has received revenues of \$12.1 million identified for use on Mulligan Road (Old Mill Road Connector Road) in FY 2009. EFLHD received an initial transfer of \$3,000,000 from Fairfax County in September 2008 for use on the Phase 1 construction contract. In addition, EFLHD has requested that Fairfax County initiate the transfer of the remaining \$9,100,000 to the Federal Lands Highway Office to cover the advertisement of the Phase 2 construction contract in FY 2010, and future design effort for the widening of Telegraph Road beyond the agreed upon DAR funding limits.

Currently, all Phases are fully funded. The funds required for the remainder of the Phase 2B project will be provided by a combination of Fairfax County bond revenues, NVTD bonds and VINDIA grants for Telegraph Road. These funds, as well as other funds from the VDOT Six Year Program will be transferred so that the entire widening of Telegraph Road between Beulah Street and Leaf Road can be completed. A Funding Agreement between EFLHD, VDOT, and Fairfax County will be required before the funds can be transferred to EFLHD for use on the second phase of Mulligan Road.

The current funding summary, with the funding availability broken out by fiscal year, is provided in Table 2.

Table 2: Funding Summary & Availability by Fiscal Year

| MULLIGAN ROAD PROJECT (FT BELVOIR CONNECTOR ROAD) - FUNDING AVAILABILITY TIMELINE | | | | | | | | | | | | | | | | | | | |
|---|--|--------------|----------------|-----------------------|----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Funding Type | Authority | Amount | Obl Expiration | FUNDS BY FISCAL YEAR* | | | | | | | | | | | | | | | |
| | | | | FY04 | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | FY12 | | | | | | | |
| Army O&M | FY04 Def Appropriations Act (PL 108-187) | \$1,200,000 | 9/30/2004 | \$1,176,470.59 | | | | | | | | | | | | | | | |
| Army Planning & Design (2-yr) | FY05 MILCON Appropriations Act (PL 108-324) | \$623,000 | 9/30/2006 | | \$610,784.31 | \$55 | | | | | | | | | | | | | |
| Army Planning & Design (3-yr) | FY05 MILCON Appropriations Act (PL 108-324) | \$1,267,000 | 9/30/2009 | | \$1,242,156.86 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | |
| Fed-Aid/Demo | FY05 Consolidated Appropriations Act (PL 108-447) | \$1,000,000 | N/A | | \$850,000.00 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | |
| Army MILCON | FY06 MILCON Appropriations Act (HR 2528) | \$4,950,000 | 9/30/2010 | | \$4,901,960.78 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | |
| Fed-Aid/HPP (Sec.1701) | FY06 Transportation Authorization Bill (PL 109-59) | \$4,080,000 | N/A | | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | \$693,600.00 | |
| Fed-Aid/TTI (Sec.1934) | FY06 Transportation Authorization Bill (PL 109-59) | \$3,000,000 | N/A | | \$255,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | \$510,000.00 | |
| Army MILCON | FY07 Army MILCON Program | \$13,000,000 | 9/30/2011 | | | \$12,745,098.04 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | |
| Army MILCON | FY08 Army MILCON Requirement | \$13,000,000 | 9/30/2012 | | | \$12,745,098.04 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | \$55 | |
| Fairfax County Revenues | Fairfax County Bond Revenues-Mulligan Rd | \$12,100,000 | N/A | | | \$3,000,000.00 | | | | | | | | | | | | | |
| Fairfax County Revenues | Fairfax County Bond Revenues-Telegraph Rd | \$2,000,000 | N/A | | | \$2,000,000.00 | | | | | | | | | | | | | |
| VDOT Grant | VNDIA Grant-Telegraph Rd | \$4,034,649 | N/A | | | \$4,034,649 | | | | | | | | | | | | | |
| VDOT Bonds | NVTD Bonds | \$911,074 | N/A | | | \$911,074 | | | | | | | | | | | | | |
| VDOT SYP | VDOT Six Year Plan - LRPC 11012 (Telegraph Rd) | \$15,030,000 | 2011 | | | \$15,030,000 | | | | | | | | | | | | | |
| Total FY Appropriations | | | | | \$1,176,470.59 | \$5,651,541.18 | \$6,105,560.78 | \$14,076,198.04 | \$17,076,198.04 | \$11,219,600.00 | \$16,059,723.00 | \$5,000,000.00 | \$5,000,000.00 | \$5,000,000.00 | \$5,000,000.00 | \$5,000,000.00 | \$5,000,000.00 | \$5,000,000.00 | |
| Cumulative Working Funds | | | | | \$1,176,470.59 | \$4,828,011.76 | \$10,933,572.55 | \$25,009,770.59 | \$42,085,968.63 | \$53,305,568.63 | \$69,365,291.63 | \$74,365,291.63 | \$74,365,291.63 | \$74,365,291.63 | \$74,365,291.63 | \$74,365,291.63 | \$74,365,291.63 | \$74,365,291.63 | \$74,365,291.63 |

\$\$\$

* - Means appropriation is available for obligation.

* - Amounts are Working Funds available to the project. They exclude all appropriate DAR Program administrative fees and Federal-aid obligation limitation take-downs

- FHWA Admin
- FY04 - 2%
- FY05 - 15%
- FY06 - 2%
- FY07 - 15%
- FY08 - 2%
- FY09 - 15%
- FY10 - 2%
- FY11 - 15%
- FY12 - 2%

E-A Take-down:

Sec.1701 % Dist

20-20-20-20-20

Sec.1934 % Dist

10-20-25-25-20

(12% Take-down,

3% Rescission)

Project Expenditures

Through FY 2009, \$28,092,930 in expenditures has been incurred on the Mulligan Road Project. Expenditures were incurred by EFLHD for environmental compliance, preliminary engineering, aerial survey, value engineering, utility relocation, and a construction contract. Table 3 below provides a breakdown of actual project expenditures as of September 30, 2009. All expenditures for the project phases prior to 2008 are being shown in Phase 1, since the majority of these costs were incurred prior to the current phasing plan.

Table 3: Project Expenditures

| | ≤ 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | TOTAL |
|--|--------------------|---------------------|--------------------|------------|------------|------------|---------------------|
| PHASE 1 – Mulligan Road from Pole Road to Telegraph Road (grading, drainage & base) | | | | | | | |
| COE Study* | \$5,000,000 | 0 | 0 | 0 | 0 | 0 | \$5,000,000 |
| NEPA | \$1,638,775 | \$87,330 | 0 | 0 | 0 | 0 | \$1,726,105 |
| Aerial Survey | \$54,470 | 0 | 0 | 0 | 0 | 0 | \$54,470 |
| PE | \$1,939,414 | \$1,394,606 | \$68,230 | 0 | 0 | 0 | \$3,402,250 |
| Construction | 0 | \$11,917,490 | \$1,517,407 | 0 | 0 | 0 | \$13,434,897 |
| CE | 0 | 0 | \$588,717 | 0 | 0 | 0 | \$588,717 |
| Utilities | 0 | \$576,610 | 0 | 0 | 0 | 0 | \$576,610 |
| VE Study | \$67,391 | | | | | | \$67,391 |
| TOTAL | \$8,700,050 | \$13,976,036 | \$2,174,354 | 0 | 0 | 0 | \$24,850,440 |
| PHASE 2A – Intersection improvements at Richmond Highway/Route 1, Old Mill Road, Woodlawn Plantation, NB bridges, and final paving of 4 lanes | | | | | | | |
| PE | 0 | \$1,000,000 | \$238,745 | 0 | 0 | 0 | \$1,238,745 |
| ROW | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| Construction | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| CE | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| TOTAL | \$0 | \$1,000,000 | \$238,745 | 0 | 0 | 0 | \$1,238,745 |
| PHASE 2B – Telegraph Road Widening to 4-lanes from Beulah Road to Leaf Road | | | | | | | |
| PE | \$765,000 | \$659,410 | \$579,335 | 0 | 0 | 0 | \$2,003,745 |
| ROW | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| Construction | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| CE | 0 | 0 | 0 | 0 | 0 | 0 | \$ 0 |
| TOTAL | \$765,000 | \$659,410 | \$579,335 | 0 | 0 | 0 | \$2,003,745 |
| TOTAL | \$9,465,050 | \$15,635,446 | \$2,992,434 | \$0 | \$0 | \$0 | \$28,092,930 |

*COE Study performed by Army prior to any involvement by EFLHD

CHAPTER 4: CASH FLOW

EFLHD expects to have sufficient revenues available for the Mulligan Road Project to meet project expenditures as they occur through fiscal year 2010. Additional funds may be required in order to administer the construction contract for Phase 2A. Tables 4 and 5 compare the availability of anticipated project revenues with the schedule of project obligations and expenditures for each funding type. This will help to demonstrate adequate cash flow for the project and identify the critical activities needing additional funding.

Table 4: Clearance Project Cash Flow Analysis-DAR Funds

| REVENUES | ≤ 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------------|--------------|--------------|--------------|--------------|---------------|---------------|
| DAR* | | | | | | |
| -Def Appropriations | \$1,200,000 | 0 | 0 | 0 | 0 | 0 |
| -MILCON Appropriations | \$19,890,000 | \$13,000,000 | 0 | 0 | 0 | 0 |
| TOTAL REVENUE | \$21,090,000 | \$13,000,000 | \$0 | \$0 | \$0 | \$0 |
| CARRYOVER | 0 | \$16,513,530 | \$20,852,079 | \$19,546,988 | (\$944,012) | (\$2,944,012) |
| TOTAL AVAILABLE | \$21,090,000 | \$29,513,530 | \$20,852,079 | \$19,546,988 | (\$944,012) | (\$2,944,012) |
| EXPENDITURE/OBLIGATION | | | | PLANNED | PLANNED | PLANNED |
| DAR | | | | | | 0 |
| -Def Appropriations | \$1,200,000 | 0 | 0 | 0 | 0 | 0 |
| -MILCON Appropriations | \$3,376,470 | \$8,661,451 | \$1,305,091 | \$20,491,000 | \$2,000,000 | \$1,000,000 |
| TOTAL PROJECT EXPENDITURES | \$4,576,470 | \$8,661,451 | \$1,305,091 | \$20,491,000 | \$2,000,000 | \$1,000,000 |
| CARRY FORWARD | \$16,513,530 | \$20,852,079 | \$19,546,988 | (\$944,012) | (\$2,944,012) | (\$3,944,012) |

*See Table 2 for breakdown of the DAR funding

Table 5: Clearance Project Cash Flow Analysis-Non-DAR Funds

| REVENUES | ≤ 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---------------------------------------|-------------|-------------|--------------|--------------|-------------|-------------|
| FHWA-VA | \$5,248,000 | \$1,416,000 | \$1,416,000 | 0 | 0 | 0 |
| Fairfax County/VDOT (NVTD,VNDIA, SYP) | 0 | \$3,000,000 | \$10,016,000 | \$16,059,723 | \$5,000,000 | 0 |
| TOTAL REVENUE | \$5,248,000 | \$4,416,000 | \$11,432,000 | \$16,059,723 | \$5,000,000 | 0 |
| CARRYOVER | 0 | \$4,174,938 | \$2,755,674 | \$12,652,901 | \$4,353,624 | \$7,353,624 |
| TOTAL AVAILABLE | \$5,248,000 | \$8,590,938 | \$14,187,674 | \$28,712,624 | \$9,353,624 | \$7,353,624 |
| EXPENDITURE/OBLIGATION | | | | PLANNED | PLANNED | PLANNED |
| FHWA-VA | \$308,062 | \$3,247,337 | \$1,166,418 | 0 | 0 | |
| Fairfax County/VDOT | \$765,000 | \$2,587,927 | \$368,355 | \$24,359,000 | \$2,000,000 | \$1,000,000 |
| TOTAL PROJECT EXPENDITURES | \$1,073,062 | \$5,835,264 | \$1,534,773 | \$24,359,000 | \$2,000,000 | \$1,000,000 |
| CARRY FORWARD | \$4,174,938 | \$2,755,674 | \$12,652,901 | \$4,353,624 | \$7,353,624 | \$6,353,624 |

CHAPTER 5: OTHER FACTORS

Funding Limitations

The requirement of the EFLHD to expend, pay, or reimburse any funds for this Project is subject to the availability of appropriated funds, and nothing in this Financial Plan shall be interpreted to require obligations or payments by the FHWA in violation of the Anti-Deficiency Act, 31 U.S.C. 1341.

VDOT's or Fairfax County's obligation to expend, pay, or reimburse any funds under this Financial Plan is subject to the availability of appropriations by the Virginia General Assembly and allocations by the Commonwealth Transportation Board.

Uncommitted Funding Mitigation Strategy

Currently, there is an estimated shortfall of approximately \$3.9 million in DAR funds for completion of the Phase 2A Mulligan Road Project. These numbers are related to construction oversight and may change depending on the budget numbers estimated for utility relocations and contingencies. These items, as well as the rest of the Program, will continue to be tracked and analyzed for opportunities to reduce the overall cost of the Project. The DAR Program has indicated that additional funds may be available depending on the amount of the shortfall.

Ideally, Phases 2A and 2B would be combined into one construction contract. This would allow all 4-lanes of Mulligan Road to be opened between Richmond Highway (Route 1) and Telegraph Road in Summer 2012, and the entire project would be complete. If the additional funding for Phase 2A is not made available, then the strategy would be to only open 2 lanes of Mulligan Road between Pole Road and Telegraph Road until the required funds could be secured to complete the widening of Telegraph Road and allow the opening of the ultimate 4-lane section.

ACTION – 6

Approval of Recommendations Regarding the Metrorail Stations for Phase 2 of the Dulles Corridor Metrorail Project

ISSUE:

Board approval of recommendations regarding the Metrorail Stations for Phase 2 of the Dulles Corridor Metrorail Project (DCMP).

RECOMMENDATION:

The County Executive recommends that the Board approve the following four recommendations for the Dulles Corridor Metrorail Project phase 2 stations:

1. Advance the design refinements identified for Reston Parkway, Herndon-Monroe, and Route 28 stations, along with other refinements that may be identified to improve accessibility and promote Transit Oriented Development (TOD).
2. Continue to advance the underground alignment and station at the Dulles International Airport station while examining alternative aerial alignments at the north parking garage and at the main terminal. The examination of any aerial alignment and station would be subject to completion of the NEPA and Section 106 reviews, and incorporate improved passenger amenities, such as shuttle bus service, baggage handling, etc, at the station.
3. Authorize the County Executive and staff to work with the Metropolitan Washington Airports Authority (MWAA) and the Washington Metropolitan Area Transit Authority (WMATA) to achieve significant cost savings on phase 2 of the DCMP by conducting Value Engineering on all aspects of phase 2 of the DCMP, requiring an independent cost estimate as a means of verifying the 100% Preliminary Engineering cost estimate, and utilizing competitive bidding for phase 2 design/build construction. Further, the Airports Authority should pursue federal and state funding for phase 2.
4. Authorize the Chairman to endorse and send a letter to the MWAA Board of Directors and the MWAA President and CEO informing them of the Board's position on phase 2 of the DCMP (Attachment 1).

TIMING:

The Airports Authority and its funding partners are on a schedule to complete Preliminary Engineering in the Spring of 2011, to obtain funding partner participation in phase 2 90 days after providing a Phase 2 100% PE cost estimate, to advertise and award a

competitively bid design/build contract in early 2012, and to initiate passenger service on Phase 2 by late 2016 or early 2017. Board Action is being taken now in order to provide the Airports Authority input to the decision they have to make on October 6, 2010 regarding the initiation of a Section 106 Cultural Resources review and a NEPA review for the aerial alignment and station. Without this decision, the Airports Authority would not be able to complete Preliminary Engineering by the Spring of 2011 and provide its funding partners with a cost estimate for Phase 2 in a timely manner.

BACKGROUND:

The Dulles Corridor Metrorail Project (DCMP) is a 23 mile extension of the Metrorail system from the Orange Line on I-66 through Tysons Corner, Reston, Herndon, Dulles International Airport, and on into Loudoun County (Attachment 2 – Figure 1). The DCMP has been segmented into two phases with the first phase providing 4 stations within Tysons Corner and an interim terminal station at Wiehle Avenue. This phase is under construction and expected to begin passenger service in December 2013. Its total cost is \$2.64 billion and it is financed through a combination of federal, state, local, and Dulles Toll Road (DTR) funds. Fairfax County's share of phase 1 costs is funded primarily through a Special Transportation Improvement Tax District created by landowners in an amount not to exceed \$400 million.

Phase 2 of the DCMP is composed of six stations, three of which are located in Fairfax County. The alignment continues westward from Wiehle Avenue in Reston to Route 772 in Loudoun County. Within the DIA property, a rail station is planned to service the main terminal of the airport, and a major maintenance and storage yard is being located in the airport to service Metrorail trains. The station planned for DIA was approved in the locally preferred alternative and in the Final Environmental Statement as an underground station included in an approximate 2 mile tunnel.

On September 15, 2010, the Metropolitan Washington Airports Authority (MWAA) released a preliminary cost estimate for phase 2 of \$3.83 billion or approximately \$1.2 billion greater than previously envisioned by MWAA. At the release of this information, MWAA indicated that an aerial alignment and station located in the vicinity of the north parking garage could reduce the estimated cost of phase 2 by approximately \$640 million, which would result in a preliminary cost estimate of about \$3.19 billion. Then, on September 17, 2010, MWAA staff informed the funding partners that the MWAA Board directed that a second aerial alignment, located adjacent to the main terminal, undergo an evaluation similar to that of the north garage alignment.

Phase 2 is currently funded without federal funds. Fairfax County, Loudoun County, and the Airports Authority provide local shares totaling 25% of the total cost of phase 2 and the DTR provides the remaining 75% of total cost. A major portion of Fairfax County's share of phase 2 total costs is being funded by a phase 2 Special Transportation

Improvement Tax District in an amount not to exceed \$330 million. Further reductions in the cost of phase 2 will be necessary to bring the total cost of phase 2 in-line with the financing capacity of the project's funding partners

Station Design Refinements:

As noted above, three phase 2 stations are proposed for Fairfax County. These stations are currently identified as Reston Parkway, Herndon-Monroe, and Route 28. Design refinements are proposed for these stations based on additional engineering, updated design standards and applicable regulations, a greater understanding of site locations, and the need to improve access and to accommodate future mixed use, transit oriented development. A discussion of the proposed design refinements for these stations and Dulles International Airport station is presented below.

Reston Parkway Station – This station is located on to the west of Reston Parkway in the median of the DTR/DIAAH. The north station area is adjacent to Sunset Hills Road and Town Center Parkway and the south entry pavilion is located on private property at the approximate intersection of Edmund Halley Drive and the DTR (Attachment 2 – Figure 2). There is no parking at this station. Accesses to the station are gained by bus, pedestrian and bikes, and kiss and ride.

Two refinements are planned to the south side of the station to 1) bring Edmund Halley Drive up to VDOT standards and have it accepted into the state system, and 2) install a traffic circle to manage the flow of traffic in and around the station area. The recommendation is to advance these refinements.

Herndon-Monroe Station – This station is located in the median of the DIAAH between the Fairfax County Parkway and Monroe Street. Entry to the station is from Sunrise Valley Drive on the south side and from Herndon Parkway to the north. The station provides bus, pedestrian and bike, kiss and ride, and park and ride (approximately 3,500 parking spaces) on the south, and pedestrian and bike access to the north (Attachment 2 – Figure 3).

The project plans to utilize the existing infrastructure of the Herndon-Monroe park and ride lot and the bus bay facilities as part of the station facilities. The initial plan called for two additional garages of approximately 1000 spaces each. However, as further analysis was conducted, it became apparent that there would be traffic conflicts between the existing garage and a proposed garage on the east side of the property and at the entry at Sunrise Valley Drive. Further, as participants in the Reston Master Planning Update became involved in assessing the station area, it was determined that the east side of the station area would be more appropriate for future mixed use or residential development. Based on these factors, a decision was made to combine the east and west garages into one facility directly to the west of the existing garage, and to provide direct access to the new garage from an additional entry from Sunrise Valley Drive. The existing surface

Board Agenda Item
September 28, 2010

parking lot to the east of the station would be used as a kiss and ride lot until future development occurs. Staff from DOT and DPZ have coordinated on the proposed design refinements to this station. The recommendation is to advance these design refinements.

Modifications to proposed facilities and the provision of additional access opportunities to the north entry location are being contemplated by the Town of Herndon which has the authority for land use and zoning.

Route 28 Station – This station is located in the median of the DIAAH east of Route 28 – Sully Road and adjacent to the Center for Innovative Technology to the north (Attachment 2 – Figure 4). The station will have pedestrian, bike, bus and kiss and ride access on the north side and pedestrian, bike, bus, park and ride, and kiss and ride access on the south side.

The Route 28 station has experienced more design refinements than the other two phase 2 stations. This has been the result of proposed mixed use development near the stations. On the north side of the station, the entry pavilion, bus bays and kiss and ride area has been moved westward from a vacant athletic field to the location shown in Figure 4. This will provide walk-able access to the CIT and its future development, as well as bring the station facilities closer to Loudoun County's proposed Dulles World Center development.

On the south side, the entry pavilion was to be located in the Dulles station development, but in an area with loading docks and adjacent to a parking garage entrance. Discussions were conducted with the landowner's representatives to find a more pedestrian-friendly location, but to no avail. As a result, the station entry was moved approximately 75 feet to the west. The location of the garage as shown on Figure 4 is currently under evaluation to determine if it can be shifted to the south in order to provide for TOD adjacent to the station entry area. Staff from DOT and DPZ have coordinated on the proposed design refinements to this station. The recommendation is to advance these design refinements.

Dulles International Airport Station - This station, in the proximity of the main terminal of Dulles International Airport, is currently planned as an underground station. The underground location of the station has been moved slightly to the north due to conflicts with station ventilation shafts and other tunnel equipment and to be aligned with the existing underground passageway (Attachment 2 - Figure 5).

While an underground alignment and station at the main terminal is preferred, when MWAA received a preliminary cost estimate for phase 2 it began to evaluate eight different alignments as an alternative design option for the airport station. An aerial alignment and station located near the north parking garage was deemed to be feasible alternative to the underground station. In addition, the aerial alignment would cost

Board Agenda Item
September 28, 2010

approximately \$640 million less than the tunnel alignment and the underground station. The design option for the aerial station is shown in Attachment 2 (Figure 6) as an aerial view. Attachment 2 (Figure 7) provides two additional views of how the aerial station would co-exist with airport facilities: the north garage and Saarinen Circle.

The proposed aerial station is 600 feet or one city block further away from the main terminal than the underground station as shown in Attachment 2 (Figure 8). The location of the aerial station does not disadvantage rail passengers in comparison to those who would use their private vehicle travel to the airport since the station is 400 feet closer to the main terminal than the north parking garage. In addition, MWAA has indicated that the aerial alignment would place the station closer to a location where additional commercial development is planned for the airport. In order to offset the relocation of the station away from the main terminal, MWAA should enhance the shuttle bus service it now provides from the garage to the terminal to accommodate off-peak train schedules and provide baggage handling facilities at the airport station to alleviate the need for passengers to carry baggage to the terminal.

While cost saving is one aspect of the decision to abandon the underground station in favor of an aerial station, there is another major factor MWAA must consider. Dulles International Airport is designated as a historic district and as such must undergo a thorough Section 106 Cultural Resources review, and it must also comply with NEPA requirements as identified in the approved FEIS. The Section 106 review will address such elements of the historic district as the view shed or viewpoints, above ground visual impacts, changes to physical features, introduction of a new visual element, effect on setting and design of the historic district, etc. Attachment 2 (Figure 9) shows a preliminary assessment of visual impacts of the aerial structure on the view shed of the main terminal and the view from the main terminal to the aerial rail line by the north garage.

The NEPA review will ensure continued compliance with the overall environmental objective of the project. These reviews are being addressed now and must be completed and public hearings have to be conducted before any final decision is made regarding the aerial alignment option. Fairfax County, as an affected party and signatory to the 2004 Section 106 Memorandum of Agreement, has the option of commenting on the Section 106 analysis conducted by MWAA for the design option aerial alignment. In addition, the WMATA Board of Directors has to approve the alignment changes and adopt the modification to the Adopted Regional System Plan as they must do with every extension to the Metrorail system.

Board Agenda Item
September 28, 2010

FISCAL IMPACT:

Fairfax County, based on the funding Agreement between the County, the Airports Authority, and Loudoun County, is responsible for 16.1 percent of the total cost of the DCMP. The Airports Authority's proposal to modify the alignment at Dulles International Airport from an underground alignment to aerial alignment is estimated to produce a cost savings of \$640 million. Based on the County's 16.1 percent share of the project, eliminating the tunnel and underground station in favor of an aerial alignment and station would result in a cost savings to the County of \$103 million.

ENCLOSED DOCUMENTS:

Attachment 1: Letter to Mr. Charles D. Snelling, Chairman, Metropolitan Washington Airports Authority from Chairman Bulova

Attachment 2: Photographs (Figures 1 through 9)

STAFF:

Robert A. Stalzer, Deputy County Executive

Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)

Richard F. Stevens, FCDOT

September 28, 2010

Mr. Charles D. Snelling, Chairman
Metropolitan Washington Airports Authority
1 Aviation Circle
Washington, D.C. 20001

Dear Mr. Snelling:

I am writing to inform you of Fairfax County Board of Supervisors' position regarding a proposed modification to the alignment of the Dulles Corridor Metrorail Project (DCMP) through Dulles International Airport, and to provide you with the County's position of the preliminary cost of the Phase 2 extension.

With regard to the alignment modification, the County understands that the Airports Authority Board of Directors requested staff to examine two possible aerial alignments to reduce the cost of Phase 2 from a projected \$3.83 billion. The County has been further informed that an aerial alignment close to the north parking garage could save about \$640 million and reduce the project cost to \$3.19 billion. It is also my understanding that similar information about an aerial alignment close to the main terminal is not yet available.

Fairfax County's preference is to continue to advance the underground alignment and station while examining an aerial alignment and station in an effort to contain the cost of Phase 2. However, before the County can endorse an aerial alignment, we expect the alignment will satisfactorily meet all NEPA and Section 106 requirements, public hearings will be conducted on the alignment change, and additional passenger amenities such as baggage handling and shuttle bus services will be provided at any aerial rail station.

While Fairfax County believes switching to the aerial alignment may be a first step in cost containment, it is still the first step. The total cost of Phase 2 must recognize the financing capacity of the funding partners and the impact on our citizens who use the Dulles Toll Road. Fairfax County expects the Airports Authority to pursue additional cost savings for Phase 2 by initiating a comprehensive value engineering program (a requirement for all Fairfax County projects over \$1million), by requiring an independent cost estimate to verify the 100% Preliminary Engineering cost estimate for Phase 2, and to obtain competitive bids for design/build construction of the project. Fairfax County and the DCMP funding partners had to find a significant number of cost reductions on Phase 1 in Tysons Corner in order to obtain federal approval of the project, and we view the Phase 2 cost containment effort in the same vein. We also believe that federal and state funding must be brought to Phase 2 to demonstrate

continued commitments to improve transportation in the Nation's Capital. The County Executive and staff will work together with Airports Authority staff to achieve these objectives.

Thank you for demonstrating the leadership to take on the Dulles Corridor Metrorail Project and to initiate steps to contain the cost of Phase 2. .

Sincerely,

Sharon Bulova
Chairman

cc:

Anthony Griffin, County Executive, Fairfax County Government

The Honorable Scott York, Chairman, Loudoun County Board of Supervisors

Mr. Richard Sarles, General Manager, Washington Metropolitan Area Transit Authority

Ms. Lynn Hampton, Interim President and CEO, Metropolitan Washington Airports Authority

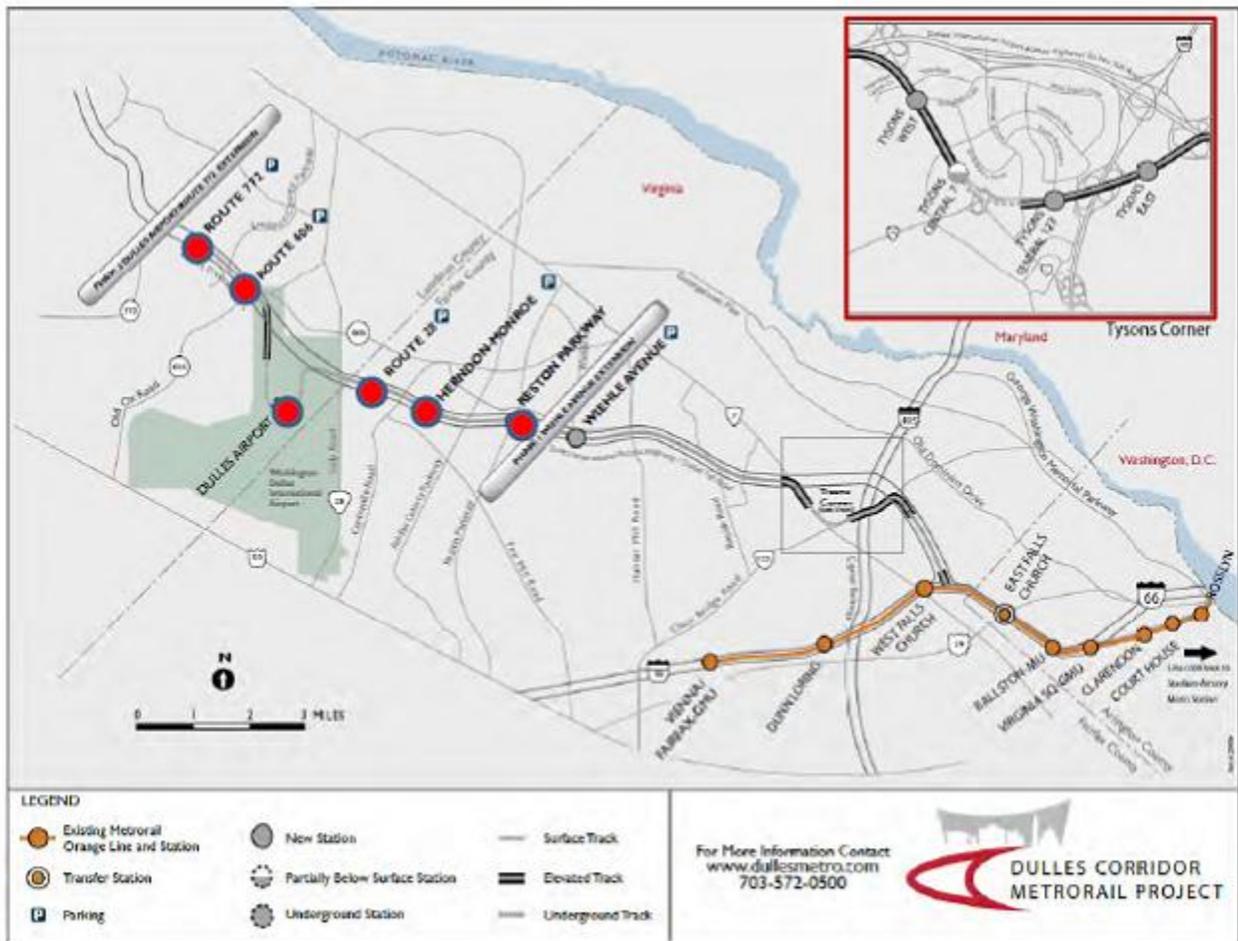


Figure 1 – Dulles Corridor Metrorail Project

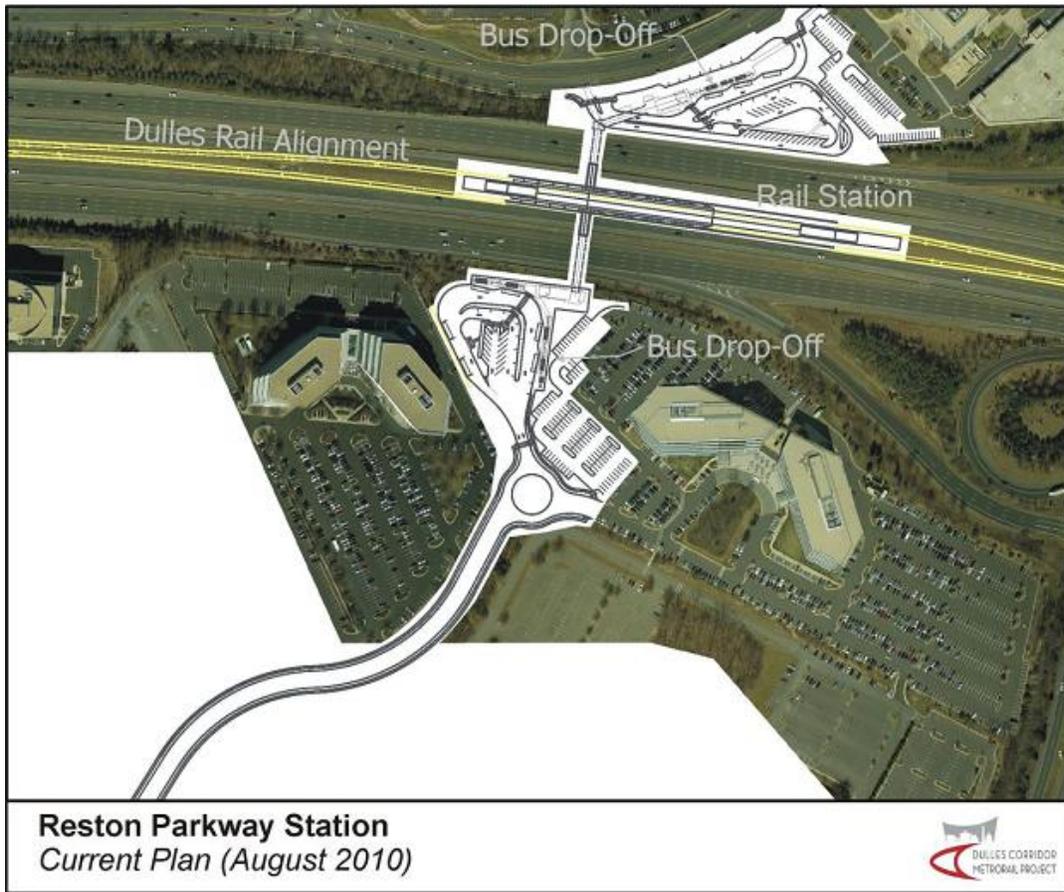


Figure 2 – Reston Parkway Station

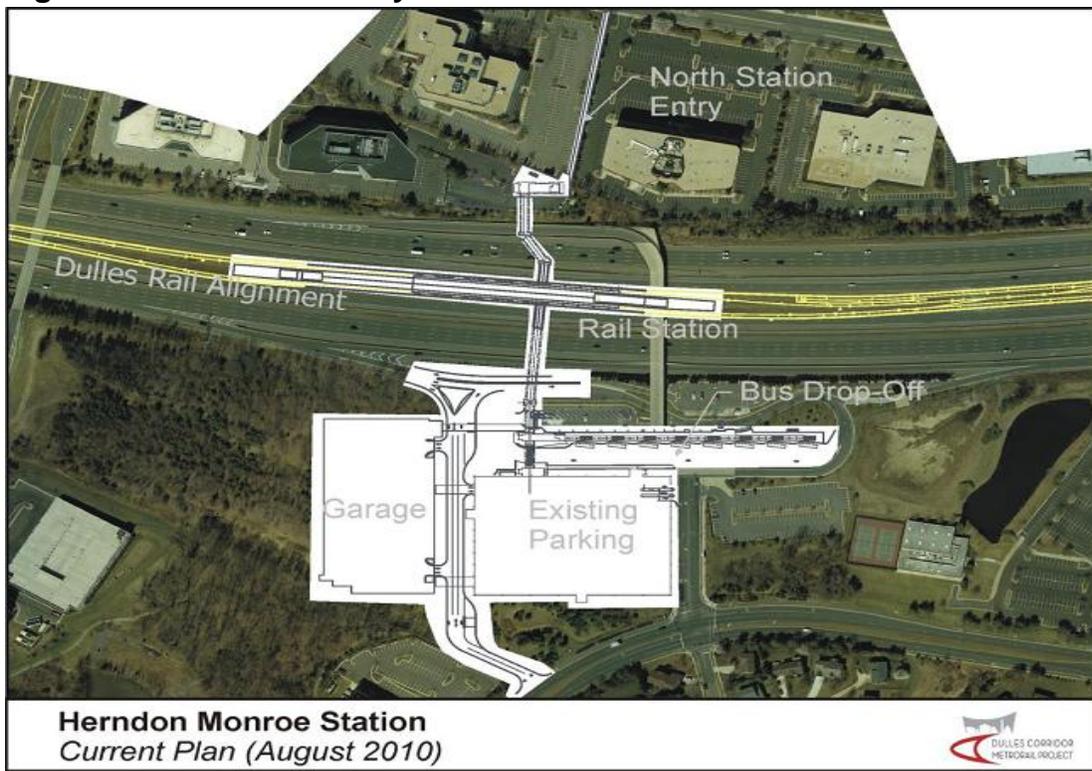


Figure 3 – Herndon Monroe Station

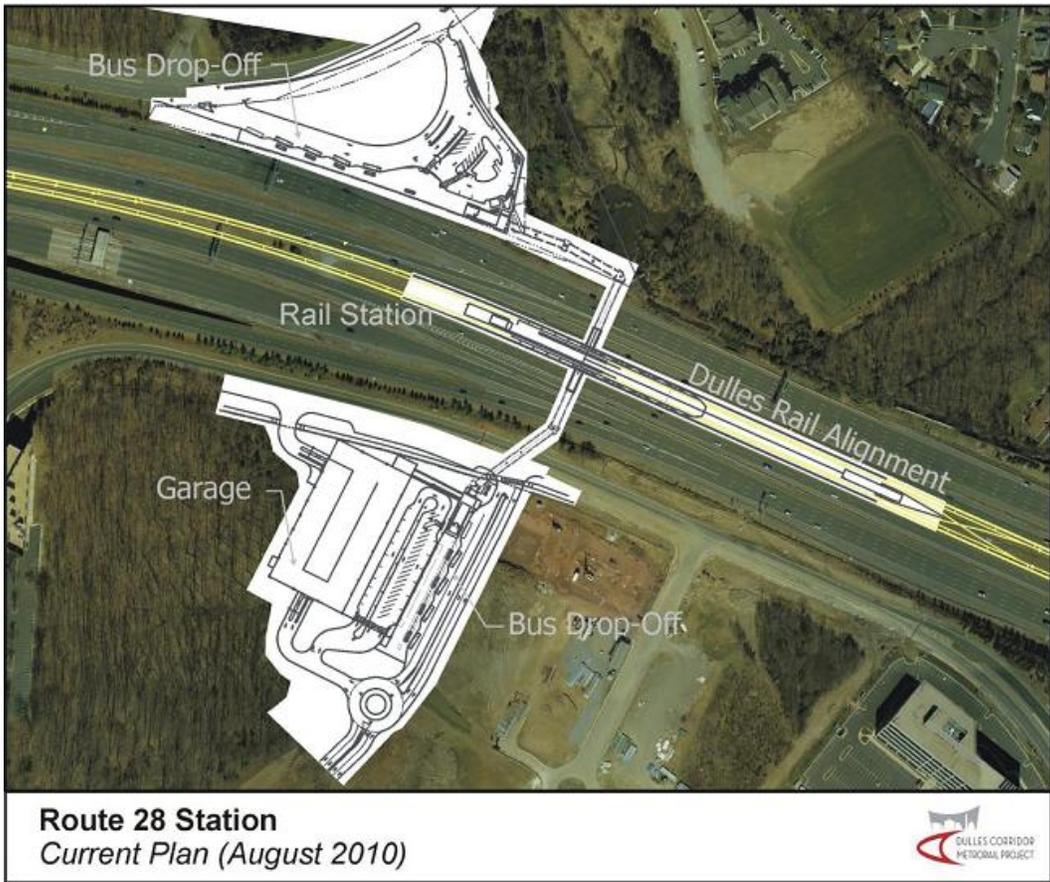


Figure 4 – Route 28 Station



Figure 5 – Dulles International Airport Underground Station and Tunnel Alignment



Airport Station Design Option

Phase 2: Extension to Dulles Airport/Route 772

Aerial Station on South Face of North Garage

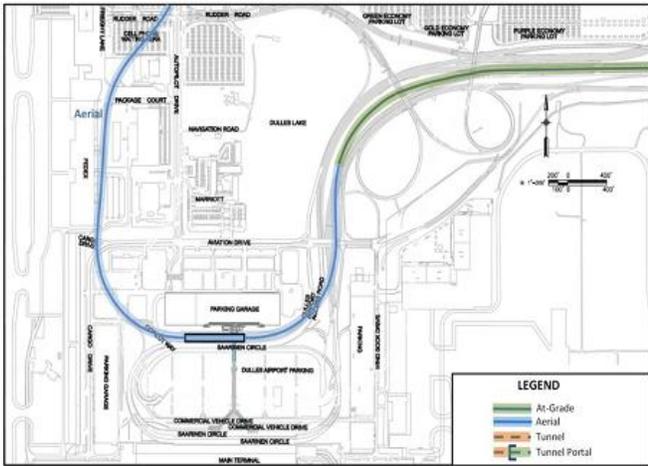


Figure 6 – Proposed Aerial Station and Alignment – Dulles International Airport Station



Airport Station Design Option

Phase 2: Extension to Dulles Airport/Route 772

Bird's Eye View (Looking East)



Airport Alignment Study – 106 Consultation Design Option Advanced for Further Study

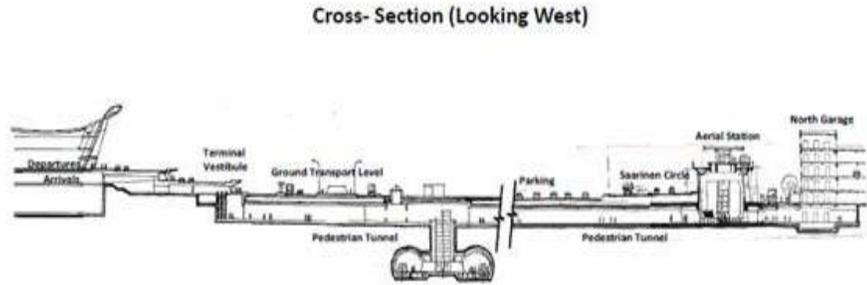
Phase 2: Extension to Dulles Airport/Route 772

View From Parking Bowl



Figure 7 – Aerial Alignment and Station Design Option at North Parking Garage

Figure 8 - Cross-section showing the underground station location in relation to the design option aerial Alignment



View from Vehicle Approaching Terminal on Saarinen Circle



Existing View



Illustrative View with Design Option

View From Main Terminal (Looking North)



Existing View



Illustrative View with Design Option

Figure 9 – Preliminary assessment of visual impact on Dulles International Airport Historic District

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

CONSIDERATION – 1

2010 Virginia Association of Counties Annual Meeting

ISSUE:

Board designation of a voting delegate and alternate voting delegate to represent the County at the Virginia Association of Counties (VACo) annual meeting.

TIMING:

VACo has requested notification of Board action by November 1, 2010.

BACKGROUND:

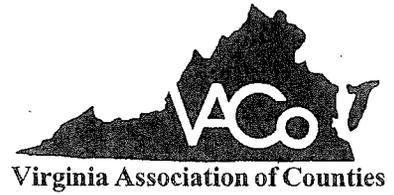
VACo's annual meeting will be held in Bath County, Virginia, on November 9, 2010. The VACo staff is preparing credentials for the Annual Business Meeting and the County has been requested to notify VACo of the names of the County's voting delegate and alternate voting delegate.

ENCLOSED DOCUMENTS:

Attachment 1: September 2, 2010 Memorandum to Chairs, County Board of Supervisors and County Chief Administrative Officers from James D. Campbell, Executive Director, VACo, with attachment

STAFF:

Catherine A. Chianese, Assistant County Executive



Virginia Association of Counties

Virginia Association of Counties

CONNECTING COUNTY GOVERNMENTS SINCE 1934

President
Phillip A. Bradshaw
Shelby County

President-Elect
Robert R. Adkins
Wise County

First Vice President
Barbara A. Favola
Arlington County

Second Vice President
Catherine M. Hudgins
Fairfax County

Secretary-Treasurer
John D. Miller
Middlesex County

Immediate Past President
Donald L. Hart, Jr.
Accomack County

Executive Director
James D. Campbell, CAE

General Counsel
Thyllis A. Errico, Esq., CAE

TO: Chairs, County Board of Supervisors
County Chief Administrative Officers

FROM: James D. Campbell, Executive Director 

RE: Voting Credentials for the Annual Business Meeting

DATE: September 2, 2010

The 2010 Annual Business Meeting of the Virginia Association of Counties will be held on Tuesday, November 9, from 10:15 a.m. to Noon at The Homestead in Bath County.

Article VI of the VACo ByLaws states that each county shall designate a representative of its board of supervisors to cast its vote(s) at the Annual Business Meeting. However, if a member of the board of supervisors cannot be present for this meeting, the Association's ByLaws allow a county to designate a non-elected official from your county or a member of a board of supervisors from another county to cast a proxy vote(s) for your county.

For your county to be certified to vote at the Annual Business Meeting, (1) your annual dues must be paid in full and (2) either a completed Voting Credentials Form or a Proxy Statement must be submitted to VACo by November 1, 2009. Alternatively, this information may be submitted to the Credentials Committee at its meeting on Monday, November 8, at 4:30 p.m. in the Monroe Room or to the conference registration desk before this meeting.

NOMINATING COMMITTEE

The Nominating Committee will meet at 4:45 p.m. in the Wilson Room on Monday, November 8th during VACo's Annual Conference at the Homestead. The committee is charged to nominate a candidate for President-Elect, First Vice President, Second Vice President, and Secretary-Treasurer to be elected at the Annual Business Meeting. Please send your expressions of interest and nominations to the Committee or to VACo's Executive Director.

REGIONAL DIRECTORS

Pursuant to VACo's By-Laws, "regional directors shall be selected at the Annual Meeting by the member counties located within the region which the director will represent." Regional caucuses will be scheduled during the Annual Meeting to select directors. Incumbent regional directors should chair the caucuses. Reports should be given to VACo's Executive Director by 6:00 p.m. on Monday, November 8th. The attached list shows the regional directors whom must be selected.

Attachments

cc: VACo Board of Directors
Nominations Committee

207 E. Main St., Suite 300
Richmond, VA 23219-3627

PHONE: 804-788-6652
FAX: 804-788-0083

E-mail: mail@vaco.org
Web site: www.vaco.org

**VACo 2010 Annual Meeting
Voting Credentials Form**

Voting Delegate:
(Supervisor)

Name _____

Title _____

Locality _____

Alternate Delegate:
(Supervisor)

Name _____

Title _____

Locality _____

Certified by:
(Clerk of the Board)

Name _____

Title _____

Locality _____

**VACo 2010 Annual Meeting
Proxy Statement**

_____ County authorizes the following person to cast its vote at the 2009 Annual Meeting of the Virginia Association of Counties on November 9, 2010.

_____, a non-elected official of this county.

-OR-

_____ a supervisor from _____ County.

This authorization is:

Uninstructed. The proxy may use his/her discretion to cast _____ County's votes on any issue to come before the annual meeting.

Instructed. The proxy is limited in how he/she may cast _____ County's votes. The issues on which he/she may cast those votes and how he/she should vote are:
(List issues and instructions on the back of this form)

Certified by: Name _____

Title _____

Locality _____

THIS PAGE INTENTIONALLY LEFT BLANK

INFORMATION – 1

Service Changes to FAIRFAX CONNECTOR Routes to be Implemented in October 2010

This is to notify the Board that the Fairfax County Department of Transportation (FCDOT) intends to change the schedules and/or routings of several FAIRFAX CONNECTOR bus routes in October 2010 as outlined below:

1. Route 151/152 (Lee and Mt. Vernon Districts): Modify the schedules and routing of Routes 151 and 152 to improve on-time performance; create new Route 159 to provide peak service to the Richmond Highway corridor.
 - Route 151: Schedule will be updated to more accurately reflect current running time and to improve schedule reliability. The route will be modified so that it operates primarily on the west side of Richmond Highway (Attachment I).
 - Route 152: Schedule will be updated to more accurately reflect current running time and to improve schedule reliability. The route will be modified so that it operates primarily on the east side of Richmond Highway (Attachment II).
 - New Route 159: Proposed new route to provide peak direction service between the Engleside neighborhood, Richmond Highway and the Huntington Metro Station. In Fall 2011, in conjunction with the Transit Development Plan (TDP) recommendations and the Fort Belvoir Base Realignment and Closure (BRAC) bus service changes, Route 159 will be converted to a limited-stop service on Richmond Highway, to provide a faster connection to Metrorail. (Attachment III). As a limited-stop service, Route 159 would serve all the stops in the Engleside neighborhood and would serve only REX stops on Richmond Highway, complementing the existing REX bus service.

Proposed changes to Routes 151, 152 and new Route 159 were presented to the public at a public hearing on August 14, 2010, at the South County Center. A summary of public comments are provided (Attachment IV).

2. Modify the schedule and routing of Route 574 (Dranesville, Hunter Mill, and Providence Districts):
 - Route 574: Due to schedule adherence problems associated with the construction and traffic in and around Tysons Corner, Route 574 will be truncated at the Tysons West*Park Transit Station and service will be eliminated between Tysons West*Park and Tysons Corner Center. Alternative

service between those two nodes is available on Fairfax Connector Routes 401, 402 as well as several Metrobus routes (Attachment V).

3. Modify the schedule of RIBS 5 to improve on-time performance (Dranesville, and Hunter Mill Districts):
 - RIBS 5: Weekday schedule will be adjusted and headways widened to 35-45 minutes to better reflect accurate running time.

Unless otherwise directed by the Board, the Department of Transportation will implement these service changes in October 2010.

FISCAL IMPACT:

All of the above service changes require no additional General Fund resources. Proposed Route 159 (Engleside neighborhood to Huntington Metro) has an FY2011 operating cost of \$542,811 based on a partial year implementation and an annual operating cost of \$748,200. Due to the staggered start date of other CONNECTOR route adjustments, sufficient funding is available to support Route 159. The route is supported by the existing transfer of commercial and industrial revenue for transportation (C&I) from Fund 124, County and Regional Transportation Projects. The remaining service changes described above can be executed with no additional costs.

ENCLOSED DOCUMENTS:

Attachment I – Proposed Changes to Fairfax Connector Route 151
Attachment II – Proposed Changes to Fairfax Connector Route 152
Attachment III – Proposed Fairfax Connector Route 159
Attachment IV – Routes 151, 152 and 159 - Summary of Public Comments
Attachment V – Proposed Changes to Fairfax Connector Route 574

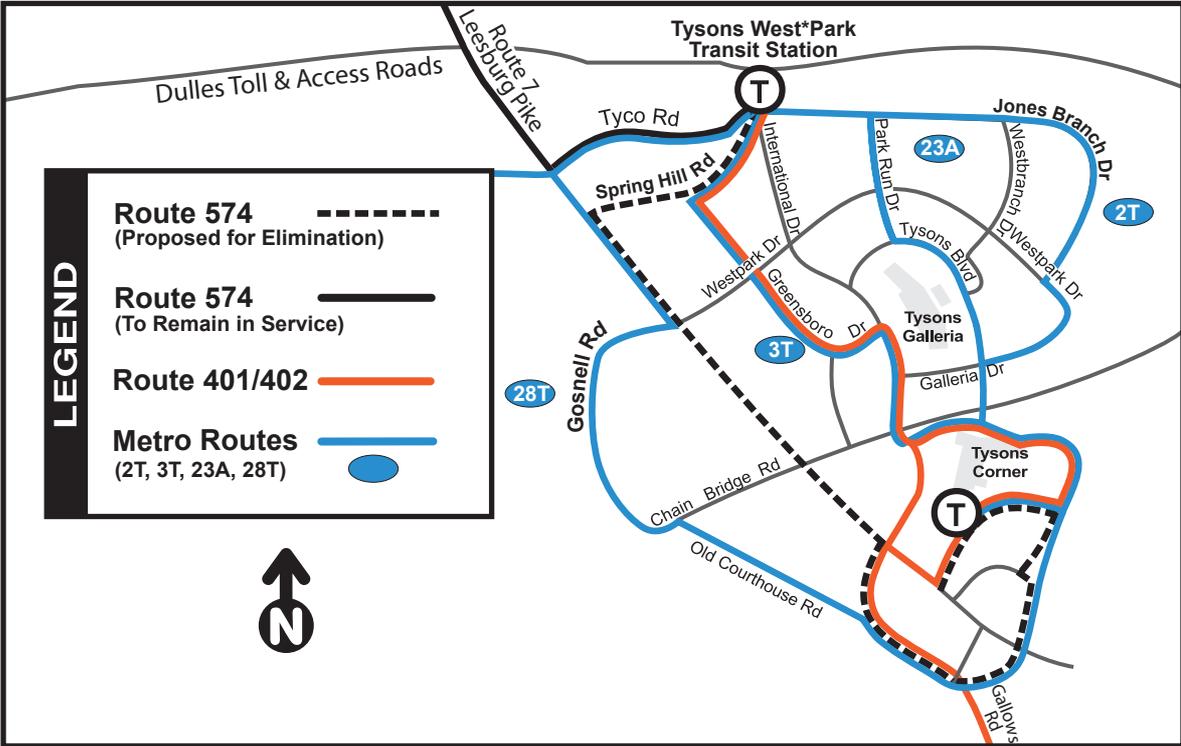
STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, P.E., Director, Fairfax County Department of Transportation (FCDOT)
Rollo Axton, Chief, Transit Services Division, FCDOT
Thomas Black, Chief, Fairfax Connector Section, FCDOT
Christin Wegener, Transit Services Division, FCDOT



**Summary of Public Comments
Proposed Changes to Routes 151, 152 and 159**

| Comment | Staff Response |
|---|--|
| 30 minutes or better frequency during the peak (2 comments) | With the new 159 service, passengers going to and from the Engleside neighborhood and the Huntington Metro Station will have 15 minute peak service. |
| Improve on-time performance (2 comments) | The new 151 and 152 schedules have been recreated to more accurately reflect actual running time. On-time performance is expected to greatly improve with the new schedules. |
| Maintain connections between Mt. Vernon Hospital and the west side of Richmond Highway (2 comments) | Connections between the West and East sides of Richmond Highway will be maintained via a route interline at Mt. Vernon Estate. Passengers will not have to make a transfer. |
| Maintain Northbound and Southbound service (4 comments) | Existing Northbound and Southbound route patterns will be maintained; however, the route numbers are changing. |
| Totally in agreement with the proposed service changes (5 comments) | No response needed. |



THIS PAGE INTENTIONALLY LEFT BLANK

INFORMATION - 2

Contract Award – Mason Neck Trail, Segment 2A (Mount Vernon District)

Four sealed bids were received and opened on September 9, 2010, for construction of Mason Neck Trail, Segment 2A, Project W00600, Mount Vernon District Walkways, in Fund 307, Pedestrian Walkway Improvements. The Mason Neck Trail, Segment 2A Walkway project provides for construction of approximately 1,500 L.F. of asphalt trail along Gunston Road. This project is included in the FY 2011 - FY 2015 Adopted Capital Improvement Program.

The lowest responsive and responsible bidder is E. E. Lyons Construction Co., Inc. The firm's bid of \$183,286.60 is \$240.90 or 0.1% lower than the Engineer's Estimate of \$183,527.50. The second lowest bid of \$198,046.50 is \$14,759.90 or 8.1% above the low bid. The highest bid of \$299,863.00 is \$116,576.40 or 63.60% above the low bid.

E. E. Lyons Construction Co., Inc. has satisfactorily completed several County projects and is considered a responsible bidder. The Department of Tax Administration has verified that E. E. Lyons Construction Co., Inc. has the appropriate Fairfax County Business, Professional and Occupational License.

This bid may be withdrawn after November 7, 2010.

Unless otherwise directed by the Board of Supervisors, the Department of Public Works and Environmental Services will proceed to award this contract to E. E. Lyons Construction Co., Inc. in the amount of \$183,286.60.

FISCAL IMPACT:

Funding in the amount of \$242,290 is necessary to award this contract and to fund the associated contingency and other project costs. Funding in the amount of \$818,857 is currently available in Project W00600 - Mount Vernon District Walkways, Subproject W6130 - Mason Neck Trail, Segment 2 in Fund 307. Remaining funds will be applied to future segments of the Mason Neck Trail.

ENCLOSED DOCUMENTS:

Attachment 1 - Order of Bidders
Attachment 2 - Vicinity Maps

Board Agenda Item
September 28, 2010

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services

DEPARTMENT OF PUBLIC WORKS
& ENVIRONMENTAL SERVICES
CONSTRUCTION MANAGEMENT DIVISION

COUNTY OF FAIRFAX
VIRGINIA

DATE OF BID OPENING: September 9, 2010
NO AWARD OF CONTRACT YET MADE

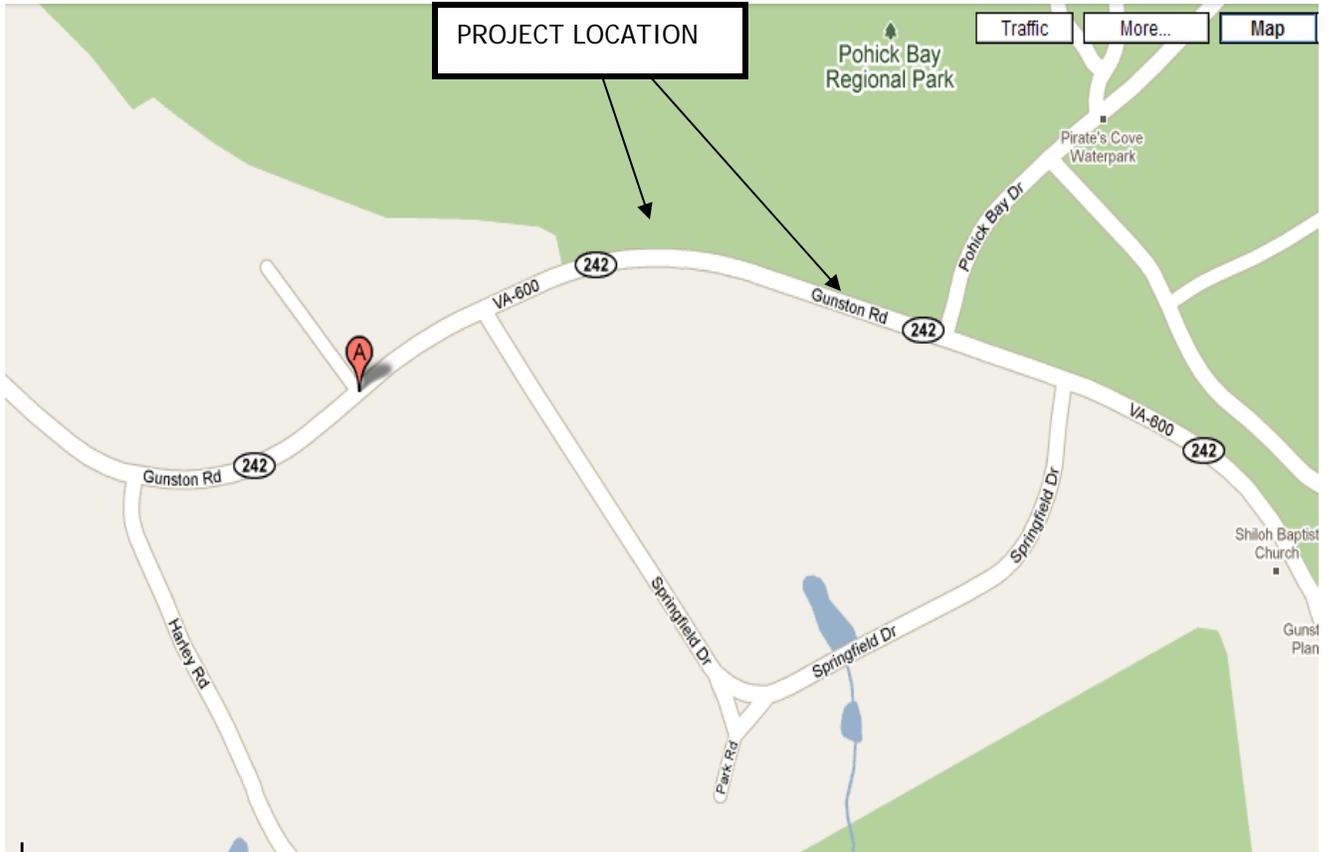
MASON NECK TRAIL, SEGEMENT 2A

CONTRACT NO. CN04307219
PROJECT NO. W00600 (W613)

ORDER OF BIDDERS

| | |
|--|--------------|
| 1. E. E. Lyons Construction Co., Inc. | \$183,286.60 |
| 9325 Leesburg Pike Vienna, VA 22182 | |
| 2. Ashburn Contracting Corporation..... | \$198,046.50 |
| 20666 Coppersmith Drive Ashburn, VA 20147 | |
| 3. Avon Corporation | \$267,553.17 |
| 5241-A Rolling Road Springfield, VA 22151 | |
| 4. Fort Myer Construction Corporation..... | \$299,863.00 |
| 2237 33 rd Street, N.E. Washington DC 20018-1594 | |
| ENGINEER'S ESTIMATE | \$183,527.50 |

Contract Time: 60 Calendar Days



MASON NECK TRAIL, SEGMENT 2A
CONTRACT NO. CN04307219, PROJECT NO. W00600 (W613)
VDOT PROJECT NO. EN98-029-145 (UPC 94683)
FEDERAL PROJECT NO. TEA-5A01 (082)
MOUNT VERNON DISTRICT TAX MAP NO. 114-4

Board Agenda Item
September 28, 2010

11:15 a.m.

Matters Presented by Board Members

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

12:05 p.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 - 1. Application of Columbia Gas of Virginia, Inc., PUE-2010-00017 (Va. State Corp. Comm'n) (Dranesville, Hunter Mill, and Sully Districts)
 - 2. *Kaveh Sari v. Detective T.W. Bacigalupi, Officer L.A. Robinson, Ayah Wali, and Miriam B. Alwarith*, Case No. CL-2010-9956 (Fx. Cir. Ct.)
 - 3. *Carolyn McKay Sydnor v. Fairfax County, Virginia*, Civil Action No. 1:10-cv-934 (E.D. Va.)
 - 4. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kevin M. Ferguson and C. Nicole Ferguson*, Case No. CL-2010-0012837 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 - 5. *The County of Fairfax, Virginia, and James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services v. Brian E. Bennett and Rebecca A. Crump*, Case No. CL-2010-0010469; *Brian E. Bennett and Rebecca A. Crump v. The County of Fairfax, Virginia*, Case No. CL-2010-0011121 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 - 6. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Mariano Lopez Perez*, Case No. CL-2008-0015613 (Fx. Co. Cir. Ct.) (Mason District)

Board Agenda Item
September 28, 2010

7. *Eileen M. McLane, Fairfax County Zoning Administrator v. Carol A. Davis*, Case No. CL-2008-0014958 (Fx. Co. Cir. Ct.) (Lee District)
8. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Vivian L. Schultz*, Case No. CL-2010-0006026 (Fx. Co. Cir. Ct.) (Mount Vernon District)
9. *Gary Pisner v. Board of Supervisors of Fairfax County*, Case No. CL-2010-0004772 (Fx. Co. Cir. Ct.) (Springfield District)
10. *Eileen M. McLane, Fairfax County Zoning Administrator v. SCI Virginia Funeral Services, Inc.*, Case No. CL-2010-0004119 (Fx. Co. Cir. Ct.) (Providence District)
11. *Eileen M. McLane, Fairfax County Zoning Administrator v. Elizabeth Case and Ray Case*, Case No. CL-2009-0000410 (Fx. Co. Cir. Ct.) (Providence District)
12. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kyong H. Ock*, Case No. CL-2010-0003378 (Fx. Co. Cir. Ct.) (Mason District)
13. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Nelson G. Lameles*, Case No. CL-2009-0017503 (Fx. Co. Cir. Ct.) (Braddock District)
14. *Eileen M. McLane, Fairfax County Zoning Administrator v. Brian Richard Bartunek and Sharon C. Bartunek*, Case No. CL-2010-0005678 (Fx. Co. Cir. Ct.) (Springfield District)
15. *Board of Supervisors of Fairfax County, Virginia v. Xicheng Qi and Xiao Cai*, Case No. CL-2009-0013426 (Fx. Co. Cir. Ct.) (Dranesville District)
16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Azhar Iqbal*, Case No. CL-2010-0001666 (Fx. Co. Cir. Ct.) (Sully District)
17. *Eileen M. McLane, Fairfax County Zoning Administrator v. Daniel E. Lopez, Berta Lopez, and Patricia N. Morales*, Case No. CL-2009-0016222 (Fx. Co. Cir. Ct.) (Mason District)
18. *Eileen M. McLane, Fairfax County Zoning Administrator v. Harvard Umeres and Bety Cepeda*, Case No. CL-2009-0014110 (Fx. Co. Cir. Ct.) (Mount Vernon District)

Board Agenda Item
September 28, 2010

19. *Eileen M. McLane, Fairfax County Zoning Administrator v. Juan Carlos Pinto*, Case No. CL-2010-0006269 (Fx. Co. Cir. Ct.) (Providence District)
20. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Catherine M. Norton*, Case No. CL-2010-0012438 (Fx. Co. Cir. Ct.) (Lee District)
21. *Eileen M. McLane, Fairfax County Zoning Administrator v. George Todd Keller and Lori A. Keller*, Case No. CL-2010-0012764 (Fx. Co. Cir. Ct.) (Springfield District)
22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Siles Alciviades Perez*, Case Nos. 10-0012677 and 10-0012678 (Fx. Co. Gen. Dist. Ct.) (Mason District)

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

3:30 p.m.

Public Hearing on PCA 2003-PR-009 (MTC Commercial LLC) to Amend the Proffers, and Conceptual Development Plan for RZ 2003-PR-009 Previously Approved for Mixed Use Development Including ADU and Bonus Density to Permit Site Modifications with an Overall Floor Area Ratio of 1.35, Located on Approx. 21,321 Square Feet Zoned PRM and HC, Providence District

The application property is located at on the south side of Lee Highway 400 feet west of Intersection with Gallows Road and north of Strawberry Lane, Tax Map 49-4 ((17)) (2) pt.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing will be held on Wednesday, September 22, 2010. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

Staff Report previously furnished and available online at
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4327973.PDF>

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William O'Donnell, Staff Coordinator, Zoning Evaluation Division, DPZ

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

3:30 p.m.

Public Hearing on SE 2010-PR-010 (Hilton Worldwide, Inc. & Tysons Park Place II LLC) to Permit a Waiver of Certain Sign Regulations, Located on Approximately 8.06 Acres Zoned C-4 and SC, Providence District

The application property is located at 7926 and 7930 Jones Branch Drive, Tax Map 29-4 ((7)) 5B and 5C.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, September 15, 2010, the Planning Commission voted unanimously (Commissioners Lawrence and Murphy absent from the meeting) to recommend that the Board of Supervisors approve SE 2010-PR-010, subject to the Development Conditions dated September 7, 2010.

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim
Staff Report previously furnished and available online at
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4327573.PDF>

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Brenda Cho, Staff Coordinator, Zoning Evaluation Division, DPZ

SE 2010-PR-010 – HILTON WORLDWIDE, INC. & TYSONS PARK PLACE II, LLC

After the Close of the Public Hearing

Secretary Harsel: I will then close the public hearing and recognize Mr. Alcorn, who's handling the case for Commissioner Lawrence.

Commissioner Alcorn: Thank you very much, Madam Chairman. This is a rather routine application, I think, for a refined, classy looking sign. And frankly, we're very happy to have Hilton, with their corporate headquarters in Tysons, as a very small price to pay to have them there and have the land use consistent with their usage. So with that, Madam Chairman, I would MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2010-PR-010, SUBJECT TO THE DEVELOPMENT CONDITIONS NOW DATED SEPTEMBER 7TH, 2010.

Commissioners Hall and Litzenberger: Second.

Secretary Harsel: Seconded by Ms. Hall and Mr. Litzenberger. Any discussion? All those in favor, signify by saying aye.

Commissioners: Aye.

Secretary Harsel: Opposed? Motion carries unanimously.

//

(The motion carried unanimously with Commissioners Lawrence and Murphy absent from the meeting.)

JN

Board Agenda Item
September 28, 2010

3:30 p.m.

Public Hearing on RZ 2006-LE-010 (Ramada Family, LLC) to Rezone from C-5, R-1 and HC to C-2 and HC to Permit Commercial Development with an Overall Floor Area Ratio of 0.22, Located on Approximately 43,554 Square Feet, Lee District

The application property is located on the west side of Grovedale Drive approximately 900 feet southwest of its intersection with Franconia Road, Tax Map 81-3 ((5)) 10.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, September 15, 2010, the Planning Commission voted unanimously (Commissioners Lawrence and Murphy absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2006-LE-010, subject to the execution of proffers consistent with those dated September 2, 2010;
- Modification of the transitional screening requirement along the northern property line to allow a 10-foot wide planting area and a 6-foot high brick architectural wall, as shown on the Generalized Development Plan (GDP);
- Modification of the transitional screening requirement and waiver of the barrier requirement along the eastern property line to that shown on the GDP; and
- Modification of the transitional screening and barrier requirements along the western property line to allow the existing vegetation and supplemental planting, as shown on the GDP.

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim
Staff Report previously furnished and available online at
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4328097.PDF>

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
St. Clair Williams, Staff Coordinator, Zoning Evaluation Division, DPZ

RZ 2006-LE-010 – RAMADA FAMILY, LLC

After the Close of the Public Hearing

Vice Chairman Alcorn: I'll close the public hearing; recognize Commissioner Migliaccio for action on the case.

Commissioner Migliaccio: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2006-LE-010, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED SEPTEMBER 2ND, 2010. I MOVE THAT THE PLANNING COMMISSION – Oh, I'm sorry.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Is there a second? Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of recommending the Board of Supervisors approve RZ 2006-LE-010, consistent with the proffers dated September 2nd, 2010, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All those opposed? That motion carries. Commissioner Migliaccio, please.

Commissioner Migliaccio: Yes, thank you, Mr. Chairman. I ALSO MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE NORTHERN PROPERTY LINE TO ALLOW A 10 FOOT WIDE PLANTING AREA AND A 6 FOOT HIGH BRICK/ARCHITECTURAL WALL, AS SHOWN ON THE GDP.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of recommending approval of a modification of the transitional screening requirement, as articulated by Commissioner Migliaccio, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Commissioner Migliaccio.

Commissioner Migliaccio: Yes, thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION ALSO RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT AND WAIVER OF THE BARRIER REQUIREMENT ALONG THE EASTERN PROPERTY LINE TO THAT SHOWN ON THE GDP.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of recommending a modification of the transitional screening requirement and barrier requirements, as articulated by Commissioner Migliaccio, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Migliaccio: And one more, I think.

Vice Chairman Alcorn: And one more, Commissioner Migliaccio, please.

Commissioner Migliaccio: Thank you, Mr. Chairman. Finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE WESTERN PROPERTY LINE TO ALLOW THE EXISTING VEGETATION AND SUPPLEMENTAL PLANTING, AS SHOWN ON THE GDP.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of recommending the Board of Supervisors approve a modification of the transitional screening and barrier requirements along the western property boundary, as articulated by Commissioner Migliaccio, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

//

(The motions carried unanimously with Commissioners Lawrence and Murphy absent from the meeting.)

JN

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

3:30 p.m.

Public Hearing on PRC 86-C-121-03 (Reston Excelsior LLC) to Approve the PRC Plan Associated with RZ 86-C-121 to Permit 457 Multi-Family Dwellings, Located on Approximately 5.0 Acres Zoned PRC, Hunter Mill District

Planning Commission Public Hearing was deferred to October 6, 2010; Board of Supervisor Public Hearing on PRC 86-121-03 is **TO BE DEFERRED** to October 19, 2010 at 3:30 p.m.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

3:30 p.m.

Public Hearing on RZ 2009-PR-002 (Square 1400, L.C.) to Rezone from I-4 to PRM to Permit Residential Development at a 1.62 FAR Including Bonus Density for the Provision of Affordable Housing and Approval of the Conceptual Plan, Located on Approximately 4.64 Acres, Providence District

Planning Commission Public Hearing was deferred to October 6, 2010; Board of Supervisor Public Hearing on RZ 2009-PR-002 is **TO BE DEFERRED** to October 19, 2010 at 3:30 p.m.

THIS PAGE INTENTIONALLY LEFT BLANK

3:30 p.m.

Public Hearing Regarding Proposed Conveyance of Real Property and Other Real Estate Transactions with Inova Health Care Services (Providence District)

ISSUE:

Public hearing in accordance with Va. Code Ann. § 15.2-1800 regarding proposed conveyance of real property and other real estate transactions with Inova Healthcare Services that includes the following:

- (i) The conveyance to Inova Health Care Services ("Inova") in fee simple of County-owned property identified as a portion of Tax Map Number 059-2-((1))-0001B (part) consisting of 5.41 acres of land (the "Woodburn Mental Health Center Land");
- (ii) The conveyance to Inova in fee simple of County-owned property identified as a portion of Tax Map Number 059-2-((1))-0001C (part) consisting of 1.15 acres of land ("Woodburn Place Land");
- (iii) The conveyance to Inova in fee simple of County-owned property constituting a 15.32 acre portion of the 44.91 acres of land currently leased by the County to Inova ("Inova Hospital Lease") comprising portions of three parcels identified as Tax Map Numbers 059-2-((1))-0001A (part), 059-2-((1))-0001B (part), and 059-2-((1))-0001C (part) (the "Released Inova Land");
- (iv) The extension until 2109 of the remaining portions of the Inova Hospital Lease consisting of 29.59 acres comprising portions of four parcels identified as Tax Map Numbers 059-2-((1))-0001A (part), 059-2-((1))-0001B (part), 059-2-((1))-0001D, and 059-2-((1))-0001E; and
- (v) The lease to Inova of approximately 40,000 square feet in a new proposed 200,000 square-foot facility to be constructed by the County as a replacement ("New Woodburn Replacement Center") for the existing Woodburn Mental Health Center at 3400 Woodburn Road, Annandale, Virginia, such replacement center to be constructed on land located on Williams Drive consisting of approximately 4.6 acres identified as a portion of Tax Map Number 049-3-((01))-0141 ("Willow Oaks Land").

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) authorize the execution of the attached Contract of Sale with Inova Health Care Services effectuating the proposed real estate transactions ("Contract of Sale").

TIMING:

On July 27, 2010, the Board authorized the advertisement of a public hearing to be held on September 28, 2010, commencing at 3:30 p.m.

BACKGROUND:

The goal of the proposed Contract of Sale with Inova is to achieve the most cost effective development option for design and construction of a facility that can replace the existing Woodburn Mental Health Center and consolidate other Fairfax-Falls Church Community Services Board ("CSB") programs from various leased spaces. By state mandate, the CSB must provide emergency mental health care to residents. The CSB's current facility for these services cannot meet current or future needs. This facility was built in 1975 and has never undergone any significant renovation or capital renewal work. Staff believes that it is in the best interest of the County to pursue a replacement facility for the Woodburn Mental Health Center. While the Contract of Sale does not include building a replacement to the mental health center, this is the ultimate purpose for entering into the agreement.

The principal terms of the Contract of Sale are as follows:

- The County would continue to own a 29.59 acre parcel on which several Inova buildings are located. The County currently has a ground lease with Inova for this land, and the adjacent 15.32 acre Released Inova Land, to Inova. The County would amend the ground lease to release the Released Inova Land from the ground lease and to extend the term of the ground lease for the remaining 29.59 acres for an additional 99 years;
- The County would then convey the Released Inova Land to Inova. The County would also convey to Inova the 1.15 acre Woodburn Place Land, where the CSB currently operates the Woodburn Place Facility, which Inova would immediately lease back to the County at nominal rent for a period of 99 years;
- Inova would build a number of common infrastructure improvements on the Willow Oaks Land and other land owned by Inova;
- Within approximately eighteen (18) months, with the exact date depending on the progress of the construction of the common infrastructure improvements, the County would convey to Inova the 5.41 acre Woodburn Mental Health Center Land, where the CSB presently operates the Woodburn Mental Health Facility ("Mental Health Facility"). Inova would simultaneously convey the Willow Oaks Land to the County and immediately lease back to the County a 0.53 portion of the Woodburn Mental Health Land, as improved with the Mental Health Facility, for the period of

time that the County will require to construct and relocate to the New Woodburn Replacement Center;

- The County would also lease one floor consisting of approximately 40,000 square feet within the New Woodburn Replacement Center to Inova for a 10-year term; and
- The County would receive a \$15 million dollar cash payment from Inova.

While not technically a part of the proposed Contract of Sale, the planned outcome of the real estate transactions is for the County to build the New Woodburn Replacement Center on the acquired 4.63-acre Willow Oaks Land at the Willow Oaks Corporate Business Center that would be acquired from Inova. The proposed New Woodburn Replacement Center would consist of an approximately 200,000 square-foot (SF) Class A office building and a 690 car above grade parking structure. A 40,000 gross SF portion of the building would be leased back to Inova for a period of 10 years. Inova's lease rate would be based on its proportionate share of the project cost amortized over 25 years plus its proportionate share of operation, maintenance, and utility costs for the building and parking garage. The 40,000 SF, 10-year lease agreement with Inova will allow the County to develop and own the full 200,000 SF building with future growth space, while using the Inova lease payments to significantly offset the County's cost of the building. The balance of 160,000 gross square feet of space will provide for replacement and the additional space required for meeting the demands of the existing Woodburn Mental Health Center, and consolidation of services from existing leased spaces in the central County area.

The following table summarizes the spaces to be included in the proposed New Woodburn Replacement Center:

| Woodburn Replacement Center Space Analysis | | |
|---|-----------------------|------------------------|
| Building | Gross SF | Net Rentable SF |
| <i>CSB offices moving to Woodburn Replacement Center</i> | | |
| 3900 Jermantown Road | 23,233 | 19,361 |
| 10370, 10388, & 10390 Democracy Place | 15,055 | 12,609 |
| 107 Park Place | 8,635 | 7,196 |
| Existing Woodburn MHC | 38,000 | 30,400 |
| Additional space required to meet demand at Woodburn MHC | 47,000 | 37,600 |
| Program leadership from other facilities | 5,940 | 4,752 |
| <i>Subtotal</i> | <i>137,863</i> | <i>111,918</i> |
| | | |

| <i>Additional Program Space at Woodburn Replacement Center</i> | | |
|---|----------------------|--|
| Emergency Operations Center | 550 | |
| Peer Resource Center | 1,558 | |
| Training Center | 3,610 | |
| Records Center | 3,620 | |
| Health Network Clinic | 5,670 | |
| Pharmacy | 706 | |
| Building Services* | 4,403 | |
| Proffer required shower rooms | 1,330 | |
| Security/Screening | 500 | |
| Building Reception | 190 | |
| <i>Subtotal</i> | <i>22,137</i> | |
| | | |
| Total SF | 160,000 | |

* Includes Building Engineer's Office, Utility Rooms, and Server Room

The County's 160,000 SF portion of the building is planned to provide appropriate operational space for the County staff of 369, and for an approximate daily client load of over 1,000. Space for future growth of County agency operations is planned for the 40,000 SF area to be leased to Inova for 10 years.

FISCAL IMPACT:

Financing Costs

County staff has conducted a comparative analysis of the proposed development with a number of other potential development alternatives. Staff believes that the proposed development of this facility at the Willow Oaks site is clearly the most cost effective alternative. The total estimated capital cost for the project is approximately \$98 million. The normal annual financing cost for a \$98 million capital project would be \$6.1 million per year; however, based on the \$15 million real estate payment from Inova, the 10-year Inova lease back of 40,000 SF, and the savings from the consolidation of existing lease spaces, the average annual cost to finance the proposed project is approximately \$3.1 million per year. County staff believes that the combination of cash payment, lease revenue and lease savings represent a unique opportunity to develop the proposed project for a yearly finance cost that is approximately 50% less than what would otherwise be required.

Operating Costs

County staff has analyzed the projected operation and maintenance (O&M) costs for the New Woodburn Replacement Facility in comparison to the operation and maintenance costs for the existing facilities that would be collocated in the new building. The projected annual County O&M costs for the New Woodburn Replacement Center are \$1,216,000. Average County O&M costs for the existing facilities total \$483,510 per year. The average

Board Agenda Item
September 28, 2010

annual increase in O&M costs for this new replacement facility would be approximately \$732,490. The increase in the annual O&M costs is primarily attributable to the increase in square footage that is needed to replace the outdated existing facilities, and provide the space needed to meet the current service delivery requirements of the CSB and their state mandate for providing emergency mental health service. The proposed parking structure will also increase the O&M costs of the facility.

If the existing Woodburn Mental Health Center were kept operational, a minimum additional capital renewal investment of \$7,500,000 would be required within the next 10 years in addition to the routine O&M costs noted above. This brings the total estimated 10-year O&M costs for the existing facilities to \$12,335,100. The total estimated 10-year O&M costs for the New Woodburn Replacement Center are \$12,160,000; a savings of \$175,000 compared to the total 10-year cost for the existing facilities.

Staff believes that the relatively small savings in the total 10-year O&M costs for a new 200,000 SF building and the equivalent cost for the existing Woodburn Mental Health Center and leased spaces help to substantiate the compelling logic of pursuing a very favorable capital financing agreement for the proposed new building at the Willow Oaks site.

ENCLOSED DOCUMENTS:

Attachment 1: Contract of Sale (Available online at <http://www.fairfaxcounty.gov/living/landuse/woodburn.htm>)

Attachment 2: Resolution

STAFF:

Robert A. Stalzer, Deputy County Executive

Patricia Harrison, Deputy County Executive

George Braunstein, Executive Director, Community Services Board

Cathy Muse, Director, Department of Purchasing and Supply Management

James W. Patteson, Director, Department of Public Works and Environmental Services

RESOLUTION AUTHORIZING CONTRACT OF SALE AND CONVEYANCE OF REAL ESTATE

WHEREAS, the Board of Supervisors finds that it would be in the best interest of the citizens of Fairfax County to enter in the Contract of Sale ("Contract of Sale") attached hereto with Inova Health Care Services ("Inova") to implement the real estate transactions contemplated therein.

NOW, THEREFORE, upon public hearing duly advertised according to law, it is RESOLVED that the Board of Supervisors enter into the Contract of Sale substantially in the form attached, and that the County Executive, or his designee, is hereby authorized to execute the Contract of Sale and all other documents necessary or convenient to carry out the transactions contemplated therein, and to take all such actions as shall be appropriate to implement the terms of the Contract of Sale, including without limitation the disposition of County-owned land as described in the Contract of Sale.

A Copy Teste:

Nancy Vehrs
Clerk to the Board of Supervisors

Board Agenda Item
September 28, 2010

4:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Eskridge Road Extension – Project RZ0001 (Providence District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project RZ0001, Eskridge Road Extension, Fund 124, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On July 27, 2010, the Board authorized advertisement of a public hearing to be held on September 28, 2010, commencing at 4:00 p.m.

BACKGROUND:

This project consists of the construction of Eskridge Road Extension from The Four Seasons Tennis Club of Merrifield property south to Williams Drive (Route 5162), an approximate distance of 400 linear feet.

This project requires the acquisition of deeds of dedication, sight distance, sidewalk, storm drainage, and grading agreement and temporary construction easements along Eskridge Road. Although the Land Acquisition Division (LAD) has been negotiating to acquire these land rights since June 8, 2010, as of this date, LAD has been unable to reach resolution with the property owner due to concerns about the project. Thus, condemnation is necessary.

In order to commence construction of this project on schedule, it is necessary for the Board to utilize quick-take eminent domain powers. These powers are conferred upon the Board by statute, namely, Va. Code Ann. §§15.2-1904 and 15.2-1905 (2008). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

Board Agenda Item
September 28, 2010

FISCAL IMPACT:

Funding for land acquisition and construction of Eskridge Road Extension - Project RZ0001, in Fund 124, County and Regional Transportation Projects, was approved by the Board on July 13, 2009, as part of the project funding list for the commercial and industrial tax for transportation. No additional funding is being requested from the Board for land acquisition.

ENCLOSED DOCUMENTS:

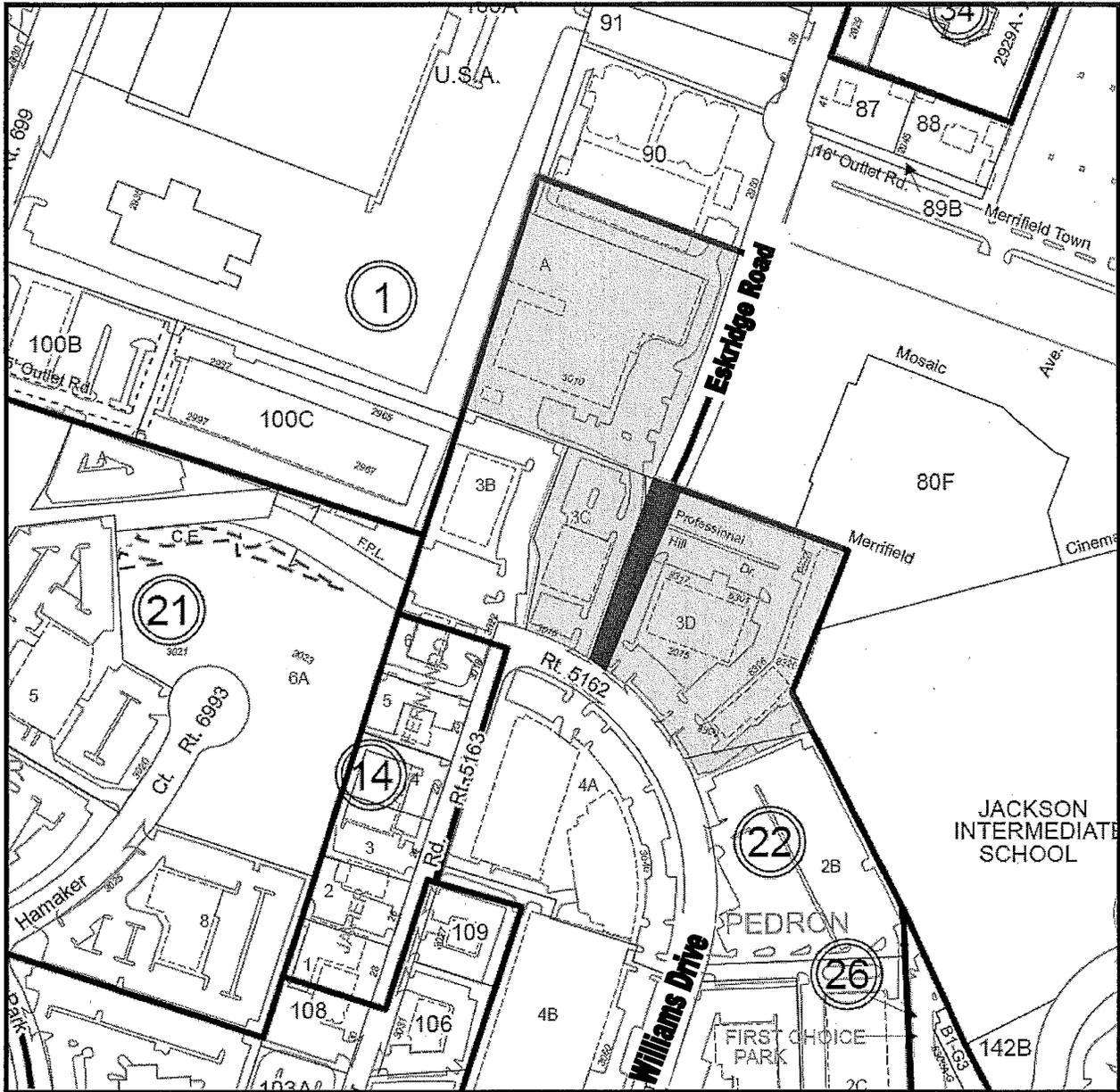
Attachment A - Project Location Map

Attachment B - Resolution with Fact Sheet on the affected parcels with plat showing interests to be acquired (Attachments 1 through 3A).

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)



ESKRIDGE ROAD EXTENSION

Tax Map: 49-3

Project RZ0001
Providence District

Scale: Not to Scale

Scope: This project consists of the construction of Eskridge Road extension from the Four Seasons Tennis Club of Merrifield property south to Williams Drive (Route 5162), an approximate distance of 400 linear feet. This project requires the acquisition of deeds of dedication, sight distance, sidewalk, storm drainage, and grading agreement and temporary construction easements along Eskridge Road.

Affected Properties: 

Proposed Improvements: 

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 28, 2010, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project RZ0001 - Eskridge Road Extension had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than September 30, 2010.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire by gift, purchase, exchange, or eminent domain the property interests listed in attachments 1 through 3A of this resolution, which are incorporated herein by reference; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said properties and property interests and that this Board intends to enter and take the said property interests for the purpose of improving roads, as shown and described in the plans of Project RZ0001 - Eskridge Road Extension on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, Suite 457, 12000 Government Center Parkway, Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the *Code of Virginia* and does hereby authorize and direct the Director, Land Acquisition Division, on or subsequent to September 30, 2010, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the *Code of Virginia* as to the property owners, the indicated estimate of fair market value of the properties and property interests and of damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the properties and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES

RZ0001 - Eskridge Road Extension

(Providence District)

| | <u>PROPERTY OWNER</u> | <u>TAX MAP NUMBER</u> |
|----|--|-----------------------|
| 1. | The Four Seasons Tennis Club of Merrifield Address: 3010 Williams Dr. Fairfax, VA 22031 | 049-3-22-0000-A |
| 2. | Hughes & Smith, Inc Address: 3016 Williams Dr. Fairfax, VA 22031 | 049-3-22-0003-C |

3. Fairfax Professional Center

049-3-22-0003-D

Address:
3015 Williams Dr.
Fairfax, VA 22031

A Copy - Teste:

Nancy Vehrs
Clerk to the Board of Supervisors

1. AFFECTED PROPERTY

Tax Map Number: 049-3-22-0000-A
Street Address: 3010 Williams Dr.

2. OWNER: The Four Seasons Tennis Club
of Merrifield

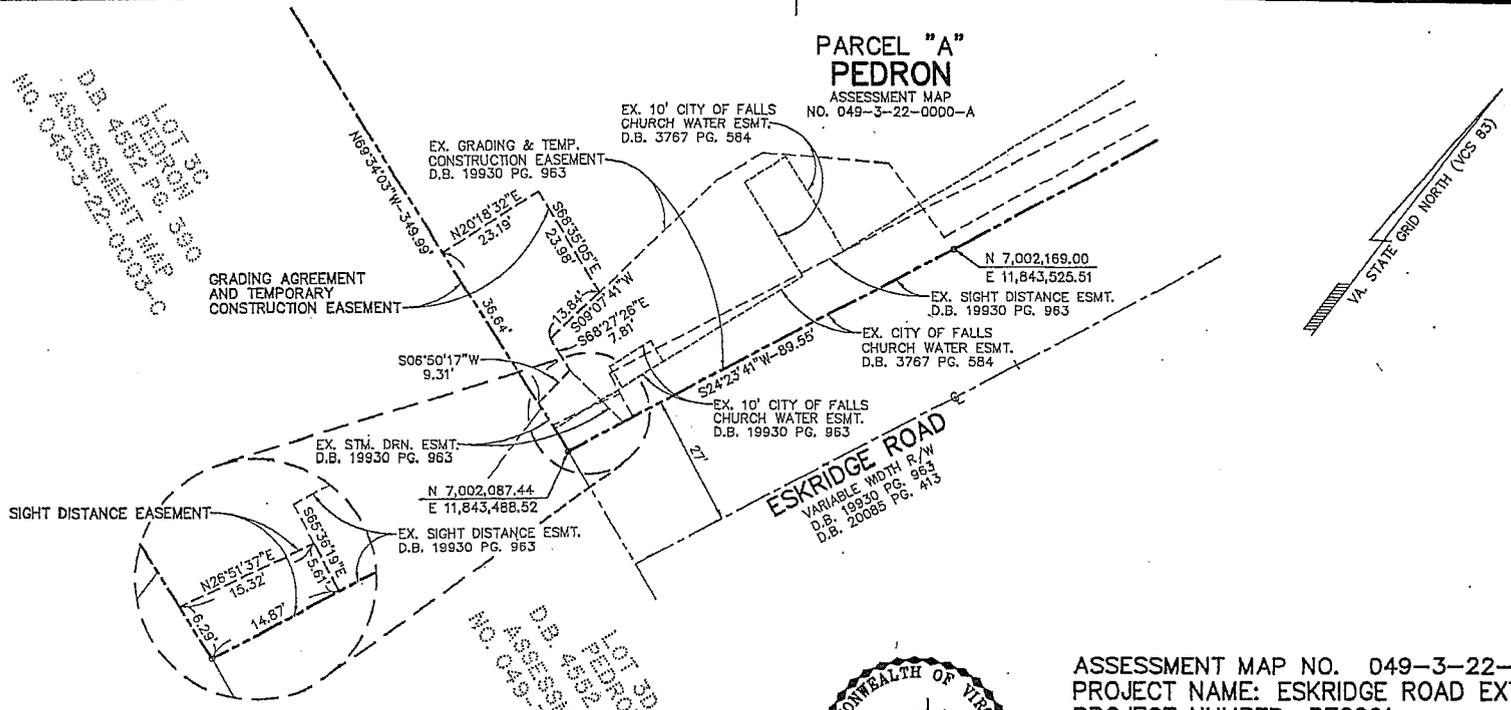
3. INTEREST(S) REQUIRED (as shown on attached plat/plan)

Sight Distance Easement - 90 sq. ft
Grading Agreement and Temporary Construction Easement - 675 sq. ft.

4. VALUE

Estimated value of interests and damages:

FIVE THOUSAND FOUR HUNDRED FIFTY-EIGHT DOLLARS (\$5,458.00)



LOT 30
PEDRON
D.B. 4852 PG. 390
ASSESSMENT MAP
NO. 049-3-22-0003-C

PARCEL "A"
PEDRON
ASSESSMENT MAP
NO. 049-3-22-0000-A

LOT 30
PEDRON
D.B. 4852 PG. 390
ASSESSMENT MAP
NO. 049-3-22-0003-D

NOTES:

1. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
2. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULTS OF AN ACTUAL FIELD SURVEY.
3. THE PLAT OF THE PROPERTY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 AS COMPUTED FROM A FIELD SURVEY WHICH TIES THIS BOUNDARY TO THE FAIRFAX COUNTY GEOGRAPHIC INFORMATION SYSTEM MONUMENT "GPS-45" WITH A SCALE FACTOR OF 0.99994431.

EASEMENT TABULATION

SIGHT DISTANCE EASEMENT 90 SQ. FT.
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT 675 SQ. FT.



Dewberry[®]
Dewberry & Davis LLC
8401 ARLINGTON BLVD.
FAIRFAX, VA 22031
PHONE: 703.848.0222
FAX: 703.848.0519

ASSESSMENT MAP NO. 049-3-22-0000-A
PROJECT NAME: ESKRIDGE ROAD EXTENSION
PROJECT NUMBER: RZ0001

| | | |
|---|-------------------|---------------|
| FAIRFAX COUNTY, VIRGINIA DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES | | |
| PLAT SHOWING SIGHT DISTANCE EASEMENT, GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT THROUGH PARCEL "A", PEDRON D.B. 3676 PG. 568 PROPERTY BEING IN THE NAME OF THE FOUR SEASONS TENNIS CLUB OF MERRIFIELD D.B. 3676 PG. 572 | | |
| PROVIDENCE DISTRICT, FAIRFAX COUNTY, VIRGINIA SHEET 1 OF 1 | | |
| SCALE: 1"=20' | DATE: MARCH, 2009 | DRAWN BY: SMR |

1. AFFECTED PROPERTY

Tax Map Number: 049-3-22-0003-C
Street Address: 3016 Williams Dr.
Fairfax, VA 22031

2. OWNER: Hughes & Smith, Inc.

3. INTEREST(S) REQUIRED (as shown on attached plat/plan)

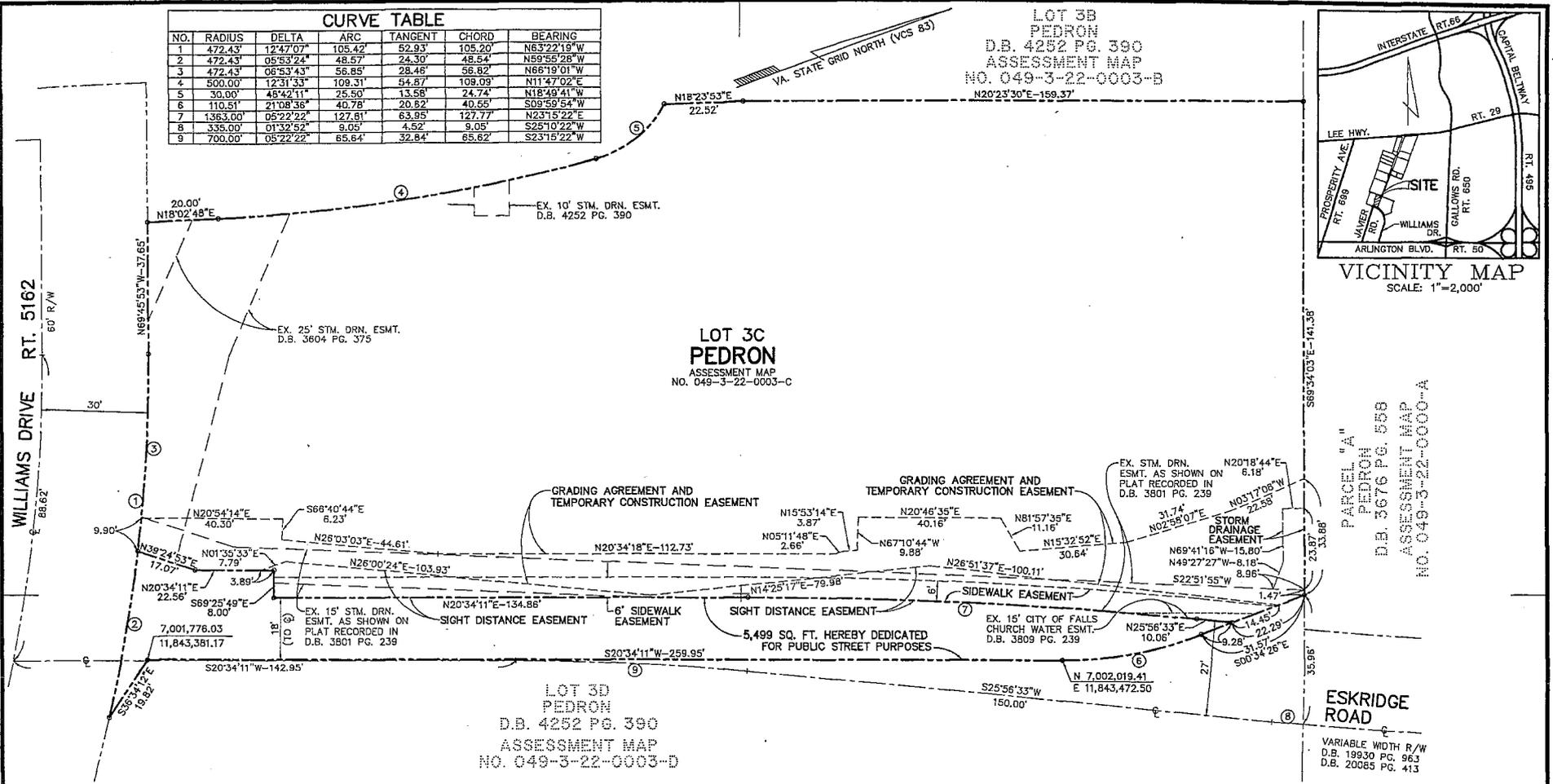
Deed of Dedication for Public Street Purposes – 5,499 sq. ft.
Sight Distance Easement – 1,765 sq. ft.
Grading Agreement and Temporary Construction Easement – 3,990 sq. ft.
Storm Drainage Easement - 157 sq. ft.
Sidewalk Easement – 1,674 sq. ft.

4. VALUE

Estimated value of interests and damages:

THREE HUNDRED NINETY-THREE THOUSAND ONE HUNDRED SEVENTY
DOLLARS (\$393,170.00)

| NO. | RADIUS | DELTA | ARC | TANGENT | CHORD | BEARING |
|-----|----------|-----------|---------|---------|---------|-------------|
| 1 | 472.43' | 12°47'07" | 105.42' | 52.93' | 105.20' | N63°22'18"W |
| 2 | 472.43' | 05°53'24" | 48.57' | 24.30' | 48.54' | N59°55'28"W |
| 3 | 472.43' | 08°53'43" | 58.85' | 28.48' | 58.82' | N66°19'01"W |
| 4 | 500.00' | 12°31'33" | 109.31' | 54.87' | 109.09' | N11°47'02"E |
| 5 | 30.00' | 48°42'11" | 25.50' | 13.58' | 24.74' | N18°49'41"W |
| 6 | 110.51' | 21°08'36" | 40.78' | 20.82' | 40.55' | S09°59'54"W |
| 7 | 1363.00' | 05°22'22" | 127.81' | 63.95' | 127.77' | N23°15'22"E |
| 8 | 335.00' | 01°32'52" | 9.05' | 4.52' | 9.05' | S25°10'22"W |
| 9 | 700.00' | 05°22'22" | 65.84' | 32.84' | 65.82' | S23°19'22"W |



NOTES:

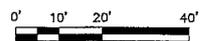
1. THE PLAT OF THE PROPERTY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 AS COMPUTED FROM A FIELD SURVEY WHICH TIES THIS BOUNDARY TO THE FAIRFAX COUNTY GEOGRAPHIC INFORMATION SYSTEM MONUMENT "GPS-45" WITH A SCALE FACTOR OF 0.93994431.
2. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
3. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULTS OF AN ACTUAL FIELD SURVEY.

EASEMENT TABULATION

| | |
|---|---------------|
| SIGHT DISTANCE EASEMENT | 1,765 SQ. FT. |
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | 3,990 SQ. FT. |
| STORM DRAINAGE EASEMENT | 157 SQ. FT. |
| SIDEWALK EASEMENT | 1,674 SQ. FT. |

STREET DEDICATION TABULATION

| | |
|---------------------------------------|----------------|
| LOT 3C | 48,559 SQ. FT. |
| REMAINDER OF LOT 3C | 43,060 SQ. FT. |
| DEDICATION FOR PUBLIC STREET PURPOSES | 5,499 SQ. FT. |



ASSESSMENT MAP NO. 049-3-22-0003-C
PROJECT NAME: ESKRIDGE ROAD EXTENSION
PROJECT NUMBER: RZ0001

FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES,
STORM DRAINAGE EASEMENT, SIDEWALK EASEMENT,
SIGHT DISTANCE EASEMENT, GRADING AGREEMENT
AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 3C, PEDRON
D.B. 4252 PG. 390
PROPERTY BEING IN THE NAME OF
HUGHES & SMITH, INC.
D.B. 4252 PG. 401

PROVIDENCE DISTRICT, FAIRFAX COUNTY, VIRGINIA SHEET 1 OF 1

SCALE: 1"=20' DATE: MARCH, 2009 DRAWN BY: SMR

P:\PROJECTS\99-002\50002\DWG\ESKRIDGE ROAD\PLATS\PEDRON 3C.DWG 1 50018927 E003INR

1. AFFECTED PROPERTY

Tax Map Number: 049-3-22-0003-D
Street Address: 3015 Williams Dr.
Fairfax, VA 22031

2. OWNER: Fairfax Professional Center

3. INTEREST(S) REQUIRED (as shown on attached plat/plan)

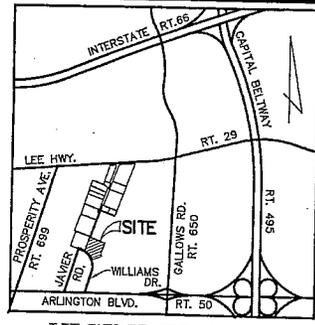
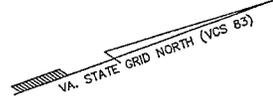
Deed of Dedication for Public Street Purposes – 8,063 sq. ft.
Sight Distance Easement – 1,239 sq. ft.
Grading Agreement and Temporary Construction Easement – 7,122 sq. ft.

4. VALUE

Estimated value of interests and damages:

SEVEN HUNDRED FIFTEEN THOUSAND TWO HUNDRED FORTY-EIGHT
DOLLARS (\$715,248.00)

P:\PROJECT\F88-002\SC0002\DWG\ESKRIDGE ROAD\PLATS\ESKRIDGE RD EXTENSION PEDRON 3D.DWG 1:5007.6927 E003INTR



| CURVE TABLE | | | | | | |
|-------------|----------|-----------|---------|---------|---------|-------------|
| NO. | RADIUS | DELTA | ARC | TANGENT | CHORD | BEARING |
| 1 | 472.43' | 33°49'15" | 278.87' | 143.63' | 274.84' | N40°04'09"W |
| 2 | 472.43' | 33°07'12" | 273.08' | 140.48' | 269.30' | N38°43'07"W |
| 3 | 472.43' | 00°42'03" | 5.78' | 2.89' | 5.78' | N53°37'44"W |
| 4 | 110.50' | 21°08'36" | 40.78' | 20.62' | 40.55' | N09°58'54"E |
| 5 | 22.00' | 52°20'36" | 20.10' | 10.81' | 19.41' | S52°06'48"W |
| 6 | 1587.00' | 05°22'22" | 149.75' | 74.93' | 149.70' | S23°16'22"W |
| 7 | 335.00' | 01°32'52" | 9.06' | 4.52' | 9.05' | S23°16'07"W |
| 8 | 700.00' | 05°22'22" | 65.64' | 32.84' | 65.62' | S23°16'22"W |

LOT 3C
PEDRON
D.B. 4252 PG. 390
ASSESSMENT MAP
NO. 049-3-22-0003-C

VICINITY MAP
SCALE: 1"=2,000'

PARCEL "A"
PEDRON
D.B. 3676 PG. 518
ASSESSMENT MAP
NO. 049-3-22-0000-A

ESKRIDGE ROAD
VARIABLE WIDTH R/W
D.B. 19930 PG. 963
D.B. 20085 PG. 413

N/F ESKRIDGE, LLC
D.B. 20726 PG. 333
ASSESSMENT MAP
NO. 049-3-01-080-A

WILLIAMS DRIVE
RT. 5162
60' R/W

EX. 15' STM. DRN. ESMT.
D.B. 3604 PG. 375

EX. 10' SAN. SEW. ESMT.
D.B. 4814 PG. 729

EX. 15' CITY OF FALLS
CHURCH WATER ESMT.
D.B. 4814 PG. 736

7,001,776.03
11,843,381.17

S20°34'11"W-142.95'

S69°25'49"E
4.00'

S20°34'11"W-74.58'

S20°35'19"W
39.09'

N71°20'19"W
5.32'

S20°33'32"W
11.40'

S20°34'11"W
31.53'

S20°35'19"E
20.98'

S20°35'19"E
59.38'

S20°11'19"W
33.65'

S20°35'19"E
59.38'

NOTES:

1. THE PLAT OF THE PROPERTY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 AS COMPUTED FROM A FIELD SURVEY WHICH TIES THIS BOUNDARY TO THE FAIRFAX COUNTY GEOGRAPHIC INFORMATION SYSTEM MONUMENT "GPS-45" WITH A SCALE FACTOR OF 0.99994431.
2. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
3. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULTS OF AN ACTUAL FIELD SURVEY.

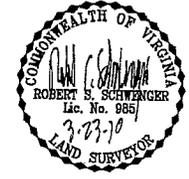
EASEMENT TABULATION

SIGHT DISTANCE EASEMENT.....1,239 SQ. FT.
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT 7,122 SQ. FT.

STREET DEDICATION TABULATION

LOT 3D 150,126 SQ. FT.
REMAINDER OF LOT 3D 142,063 SQ. FT.
DEDICATION FOR PUBLIC STREET PURPOSES 8,063 SQ. FT.

LOT 3D
PEDRON
ASSESSMENT MAP
NO. 049-3-22-0003-D



Dewberry
Dewberry & Davis LLC
8401 ARLINGTON BLVD.
FAIRFAX, VA 22031
PHONE: 703.846.0232
FAX: 703.846.0910

ASSESSMENT MAP NO. 049-3-22-0003-D
PROJECT NAME: ESKRIDGE ROAD EXTENSION
PROJECT NUMBER: RZ0001

FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES
SIGHT DISTANCE EASEMENT
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 3D, PEDRON
D.B. 4252 PG. 390
PROPERTY BEING IN THE NAME OF
FAIRFAX PROFESSIONAL CENTER
D.B. 4834 PG. 181
PROVIDENCE DISTRICT, FAIRFAX COUNTY, VIRGINIA SHEET 1 OF 1

SCALE: 1"=20' DATE: MARCH, 2009 DRAWN BY: SMR

Board Agenda Item
September 28, 2010

4:00 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Virginia, Articles 2, 3 and 7 of Chapter 3 Re: Employees', Uniformed and Police Officers Retirement Systems – to Redefine Actuarial Surplus Requirement for Consideration of Ad-Hoc Cost of Living Adjustment

ISSUE:

Board approval of amendments to Articles 2, 3 and 7 of Chapter 3, County Employees. These changes to the Employees', Uniformed and Police Officers Retirement Systems revise the definition of "available actuarial surplus" for each System to mean the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the annual actuarial valuation of the System. In addition, as a "housekeeping" matter, these changes update the antiquated code references to the Consumer Price Index.

RECOMMENDATION:

That the Board of Supervisors approve amendments to the Employees', Uniformed and Police Officers Retirement Systems for the purpose of redefining the actuarial surplus requirement for consideration of an ad-hoc Cost of Living Adjustment (COLA).

TIMING:

Board action is requested on September 28, 2010. Public Hearing was authorized for advertisement on July 27, 2010.

BACKGROUND:

The current definition of "available actuarial surplus" for the Employees', Uniformed and Police Officers Retirement Systems is summarized below.

For each System, actuarial surplus is currently defined as the difference between the System's projected present value of all future benefits, the current market value of assets and the anticipated future value of employee and employer contributions. For purposes of this calculation, the future employer (County) contributions are based on a rate specified in each ordinance, adjusted for various plan changes subsequently passed. The rates in the ordinance are reflective of those rates in place at the time the ad-hoc provision was added to the ordinance. Under the current definition, it is possible

Board Agenda Item
September 28, 2010

for a system to be underfunded according to the traditional actuarial definition of that term and yet still have a surplus for ad-hoc COLA purposes.

Proposed Revisions

The proposed amendments would redefine “available actuarial surplus” to mean when the System’s actuarial value of assets exceeds the actuarial accrued liability as reported in the latest annual actuarial valuation report. This revision is more in keeping with the generally accepted definition of the term. Under the proposed new definition, the decision as to whether there is an actuarial surplus for ad-hoc COLA purposes would be more transparent and more consistent with the ongoing funding of each System.

These items were discussed by the Personnel and Reorganization Committee at its meeting on June 29, 2010, and the Committee recommended that the items be scheduled for a public hearing. The Board then authorized advertisement of a public hearing at its regular meeting on July 27, 2010.

FISCAL IMPACT:

Since none of the three Systems have an actuarial surplus at this time, under either the current or proposed definition, there would be no cost impact associated with making this change in the current fiscal year. The impact of the proposal on future years is uncertain since the existing and proposed methodologies may react differently to future economic climates. However, it is anticipated that the overall cost impact of these changes would reduce the employer (County) contributions because the anomaly of being able to approve an ad-hoc COLA when no “true” actuarial surplus exists would no longer occur.

ENCLOSED DOCUMENTS:

- Attachment 1: Proposed Amendment to Section 3-2-44
- Attachment 2: Proposed Amendment to Section 3-3-45
- Attachment 3: Proposed Amendment to Section 3-7-37
- Attachment 4: Letter from Fiona E. Liston, Consulting Actuary, Cheiron, to Robert Mears dated May 20, 2010

STAFF:

Edward L. Long, Jr., Deputy County Executive
Robert L. Mears, Executive Director, Fairfax County Retirement Systems

DRAFT**Proposed Amendment to Section 3-2-44, Cost of Living Adjustments.**

Section 3-2-44. Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of the benefit commencement; provided, however, that such adjustments shall not affect the amount of the Social Security benefit allowance payable pursuant to Section 3-2-32(a)(3)(A) or Section 3-2-32(a)(3)(B); and, provided further, that allowances for service-connected disability retirement shall be subject to the provisions of Subsection (d). The monthly benefit allowance to be effective July 1 of any such year shall be the benefit in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection 3-2-44(a) of this Section and the supplemental cost-of-living increase, if any, provided for in Subsection (b) of this Section with such increases reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than twelve (12) months.

(a) The basic cost-of-living increase shall be the lesser of four percent (4%) and the percentage corresponding to the percentage increase in the Consumer Price Index during the twelve (12) calendar month period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, Consumer Price Index shall mean the ~~Washington, DC MD VA index of the~~ Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes Fairfax County, Virginia.

(b) As part of each annual actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent (1%) that can be provided on the following July first based upon the available actuarial surplus. The Board then may, but shall not be required to, increase the benefits of all retirement allowances in pay status on each of the July firsts by such actuarially determined percentage. For the purpose of this Section, "available actuarial surplus" shall mean ~~one-half (1/2) of the excess of (i) the sum of the market value of assets, the present value of future employer contributions and the present value of future member contributions over (ii) the present value of the future benefits and allowances for current members and beneficiaries~~ the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the annual actuarial valuation of the System. ~~In making this determination, the actuary will assume an employer contribution rate of 8.292% of covered payroll; provided, however, that in the event that there is a change in actuarial assumptions, benefit design and/or funding methods, such percentage assumed employer contribution rate shall be increased (or decreased) by the same amount the required employer contribution rate changes as the direct result of such change in actuarial assumptions, benefits and/or funding methods.~~

(c) In the event a member has not been in pay status for twelve (12) full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in (a) and (b) above as follows:

TABLE INSET:

| Number of Complete Months Member Has Been in Pay Status | Percentage of Full Increase |
|--|--------------------------------|
|--|--------------------------------|

Less than 3 . . . 0%

3, 4 or 5 . . . 25%

6, 7 or 8 . . . 50%

9, 10 or 11 . . . 75%

(d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-2-36 have been made. The member's allowance after the adjustments of cost of living provided by the Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-2-36.

(e) The Board of Supervisors reserves the right to amend, terminate or modify the post-retirement increases described in Subsection (b) of this Section. Upon termination, no further increases to benefits shall be due or payable to any member or beneficiary. However, any such amendment, termination or modification shall not reduce the amount of benefits then being paid to any member or beneficiary who received benefits payments as of the date of the amendment, termination or modification. Furthermore, no amendment, termination or modification shall reduce the rights of any member as of June 30, 1981, to increases such member was entitled to based upon the terms of the plan in effect on June 30, 1981.

\\s17prolaw01\documents\108402\pda\correspondence\287712.doc

DRAFT**Proposed Amendment to Fairfax County Code Section 3-3-45**

Section 3-3-45. Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of benefit commencement; provided, however, that such adjustments shall not affect the amount of the Social Security benefit allowance payable pursuant to Section 3-3-33(a)(1)(B) or Section 3-3-33(a)(2)(B); and, provided further, that allowances for service-connected disability retirement shall be subject to the provisions of Subsection (d). The monthly benefit allowance to be effective July 1 of any such year shall be the benefit in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section and the supplemental cost-of-living increase if any, provided for in Subsection (b) of this Section with such increases reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than twelve (12) months.

(a) The basic cost-of-living increase shall be the lesser of four percent (4%) and the percentage corresponding to the percentage increase in the Consumer Price Index during the twelve (12) month calendar period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, "Consumer Price Index" shall mean the ~~Washington, DC-MD-VA index~~ of the Consumer Price Index for all Urban Consumers (CIP-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes Fairfax County, Virginia.

(b) As part of each biennial actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent (1%) that can be provided on the following two (2) July first's based upon the available actuarial surplus. The trustees then may, but shall not be required to, increase the benefits of all retirement allowances in pay status on each of such July first's by such actuarially determined percentage. For the purpose of this Section, "available actuarial surplus" shall mean ~~half of the excess of (i) the sum of the market value of assets, the present value of future County contributions and the present value of future participant contributions over~~ (ii) the present value of future benefits for current participants and beneficiaries- the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the biennial actuarial valuation of the System. ~~In making this determination, the actuary will assume a County contribution rate of seventeen and twenty six one hundredths percent (17.26%) of covered payroll; provided, however, that in the event that there is a change in actuarial assumptions, benefit design and/or funding methods, such percentage assumed County contribution rate shall be increased (or decreased) by the same amount the required County contribution rate changes as the direct result of such change in actuarial assumptions, benefits and/or funding methods.~~

(c) In the event a member receiving a retirement allowance has not been in pay status for twelve (12) full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in (a) and (b) above as follows:

| | |
|----------------------------------|----------------------|
| <i>Number of Complete Months</i> | <i>Percentage of</i> |
|----------------------------------|----------------------|

Benefit Has Been in Pay Status *Full Increase*

Less than 3 . . . 0%

3, 4 or 5 . . . 25%

6, 7 or 8 . . . 50%

9, 10 or 11 . . . 75%

(d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-3-37 have been made. The member's allowance after the adjustments for cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-3-37.

(e) The County reserves the right to amend, terminate or modify the post retirement increases described in Subsection (b) of this Section. Upon termination, no further increases to allowances shall be due or payable to any member receiving a retirement allowance or beneficiary. However, any such amendment, termination or modification shall not reduce the amount of the allowance then being paid to any member or beneficiary who has received allowances as of the date of the amendment, termination or modification. Furthermore, no amendment, termination or modification shall reduce the rights of any member as of June 30, 1981, to increases such member was entitled to based upon the terms of the ordinance in effect on June 30, 1981.

DRAFT**Proposed Amendment to Fairfax County Code Section 3-7-37**

Section 3-7-37. Cost-of-living adjustment.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of benefit commencement; provided, however, that allowances for service-connected disability retirement shall be subject to the provisions of Subsection (d). The monthly allowance to be effective July 1 of any such year shall be the allowance in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section, with such increase reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than twelve (12) months.

(a) The basic cost-of-living increase shall be the lesser of four percent (4%) and the percentage corresponding to the percentage increase in the Consumer Price Index during the twelve-month calendar period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, "Consumer Price Index" shall mean the ~~Washington, DC-MD-VA Index~~ of the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes Fairfax County, Virginia.

(b) As part of each biennial actuarial valuation, the actuary shall determine the percentage Supplemental cost-of-living increase (not greater than one percent (1%) that can be provided on the following two (2) July first's based upon the available actuarial

surplus. The Trustees may, but shall not be required to, increase all retirement allowances in pay status on each of such July first's by such actuarially determined percentage. For the purpose of this Section, "available actuarial surplus" shall mean ~~one-half (1/2) of the excess of (i) the sum of the market value of assets, the present value of future County contributions and the present value of future participant contributions over (ii) the present value of future benefits for current participants and beneficiaries~~ the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the biennial actuarial valuation. ~~In making this determination, the actuary will assume a County contribution rate of 20.446% of covered payroll; provided, however, that in the event there is a change in actuarial assumptions, benefit design and/or funding methods, such percentage assumed County contribution rate shall be increased (or decreased) by the same amount the required County contribution rate changes as the direct result of such change in actuarial assumptions, benefits and/or funding methods.~~

(c) In the event a retired member has not been receiving his allowance for twelve (12) full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in (a) and (b) above as follows:

| <i>Number of Complete Months Benefit Has Been in Pay Status</i> | <i>Percentage of Full Increase</i> |
|---|--|
| Less than 3 . . . | 0% |
| 3, 4 or 5 . . . | 25% |
| 6, 7 or 8 . . . | 50% |

9, 10 and 11 . . . 75%

(d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-7-28 have been made. The member's allowance after the adjustments for cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-7-28.

\\s17prolaw01\documents\108402\pda\correspondence\287717.doc



Classic Values, Innovative Advice

May 20, 2010

Mr. Robert Mears
Executive Director
Fairfax County Retirement Systems
10680 Maine Street, Suite 280
Fairfax, Virginia 22030-3812

Re: *ad hoc COLA Provision in Retirement System Ordinances*

Dear Bob:

As requested, we are writing to provide a cost impact for the three Fairfax County Retirement Systems if the ordinance is changed to redefine the term "Actuarial Surplus" to be more in keeping with the generally accepted definition of that term.

The current plan ordinances define actuarial surplus as the difference between the System's projected present value of all future benefits, the current market value of assets and the anticipated future value of member and County contributions. For purposes of this calculation the future County contributions are based on a rate specified in each ordinance, adjusted for various plan change elements subsequently passed. The rates in the ordinance are reflective of those rates in place at the time the ad hoc provision was added to the ordinance.

Concerns with this definition include the fact that the contribution rate used as an anchor point is somewhat arbitrary, as it reflected the percent of payroll that was being contributed at a certain point in time and is not related to the current funded status of the System. Under the current methodology it is possible to have a System which is underfunded according to the traditional actuarial definition of that term and yet may still have a surplus for ad hoc COLA purposes.

The proposed new definition of actuarial surplus is when the System's actuarial value of assets exceeds the actuarial accrued liability as reported in the latest actuarial valuation report. The report defines each of these terms on the basis of the currently adopted actuarial funding method (Entry Age Normal), the asset smoothing method, and using the actuarial assumptions most recently adopted and reported in that valuation report.

Under the proposed definition the decision as to whether there is an actuarial surplus for ad hoc COLA purposes will be more transparent and more in line with the on-going funding of each System. Since there is not an actuarial surplus in any of the three Systems at this time, under either the current or proposed definition, there would be no cost impact of making this change in the current fiscal year. The impact of the proposed change on future years is uncertain since the existing and proposed measures may react differently to future economic climates. However, the overall anticipated cost impact of this change would reduce the County



Mr. Robert Mears
May 20, 2010
Page 2

contribution because the anomaly of offering an ad hoc COLA when no "true" actuarial surplus exists would no longer occur as a result of this change.

Please let us know if you have any comments or questions.

Sincerely,
Cheiron

A handwritten signature in black ink that reads "Fiona E. Liston" with a long, sweeping horizontal line extending to the right.

Fiona E. Liston, FSA
Consulting Actuary

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:00 p.m.

Public Hearing on Amendments to The Code of the County of Fairfax, Virginia, Articles 2, 3 and 7 of Chapter 3 Re: Employees', Uniformed and Police Officers Retirement Systems – To Repeal the Sunset Provisions of the Deferred Retirement Option Programs and to Permit the Employees of the Department of Public Safety Communications Who are Members of the Uniformed Retirement System (URS) to Vote for a Trustee on the URS Board of Trustees

ISSUE:

Board of Supervisors approval of amendments to Articles 2, 3 and 7 of Chapter 3, County Employees. These changes to the Employees', Uniformed and Police Officers Retirement Systems repeal the sunset provisions of the Deferred Retirement Option Program (DROP) for each system. In addition, a change to Article 3 of Chapter 3 permits the employees of the Department of Public Safety Communications (DPSC) who are members of URS to vote for a Trustee on the URS Board of Trustees.

RECOMMENDATION:

That the Board of Supervisors approve amendments to the Employees', Uniformed and Police Officers Retirement Systems for the purpose of repealing the sunset provisions of the DROP programs and permitting the URS-member employees of DPSC to vote for a Trustee on the URS Board of Trustees.

TIMING:

Board action is requested on September 28, 2010. Public Hearing was authorized for advertisement on July 27, 2010.

BACKGROUND:

The DROP provision in the County retirement systems is a means of providing employees who choose to work beyond their normal retirement dates the flexibility to elect to receive some of their retirement benefits in a lump sum rather than continuing to earn additional years of retirement service and higher monthly annuities.

DROP was first implemented for the Police Officers and Uniformed Retirement Systems effective October 2003. The program was adopted in response to employee interest in added benefit flexibility and management's recognition that DROP would assist in workforce planning, given that it both encouraged employees to stay beyond their normal retirement date and provided a more definitive date of retirement for planning purposes. Following the

Board Agenda Item
September 28, 2010

successful implementation of DROP for the public safety systems, a DROP provision was added to the Employees' Retirement System effective July 2005.

In response to questions raised at the June 29, 2010 meeting of the Personnel and Reorganization Committee, the consulting actuary, Fiona E. Liston of Cheiron, has provided an update regarding the impact that DROP has had on the three County retirement systems (Attachment 6). Ms. Liston observes that "...statistics would imply that a major impact of the DROP has been for members to substitute DROP for retirement." In addition, Susan E. Woodruff, Director, Department of Human Resources (DHR), has provided a summary of the positive feedback that DHR received to a 2008 survey of senior County managers regarding their experiences with DROP (Attachment 7). It should be noted that the Employees Advisory Council has not conducted any specific research, surveys, etc., regarding DROP.

Currently, the ordinances for the Employees', Uniformed and Police Officers Retirement Systems contain a "Sunset Provision" as described below.

For each system, unless the Board of Supervisors specifically acts to extend the DROP program, no eligible member may make application to participate in DROP seeking to commence his or her DROP period after December 31, 2013. Only those participating DROP members who commenced their DROP period on or before December 31, 2013 will be allowed to continue in the DROP program.

Also, upon the creation of the Department of Public Safety Communications, certain of its employees were provided the opportunity to transfer to the Uniformed Retirement System and did so. However, no ordinance change was made to permit these new URS members to vote for a Trustee on the URS Board of Trustees. All other employee members of URS have such voting rights, as specified in the ordinance.

Proposed Revisions

The proposed amendments would delete the ordinance language establishing "Sunset Provisions" for the Employees', Uniformed and Police Officers Retirement Systems.

An additional proposed amendment would expand the electorate of the two (2) Trustees currently elected by the Uniformed employees of the Fire and Rescue Department to include the URS-member employees of DPSC.

These items were discussed by the Personnel and Reorganization Committee at its meeting on June 29, 2010, and the Committee recommended that the items be scheduled for a public hearing. The Board then authorized advertisement of a public hearing at its regular meeting on July 27, 2010.

Board Agenda Item
September 28, 2010

FISCAL IMPACT:

The repeal of the "Sunset Provisions" will not result in a cost increase to any of the three County Retirement Systems. This is because the current actuarial valuation process assumes continued application of the DROP provisions and so the cost of future DROP activity is already included in the costs currently being disclosed.

There is no cost impact associated with permitting URS-member employees of DPSC to vote for a Trustee on the URS Board of Trustees.

ENCLOSED DOCUMENTS:

- Attachment 1: Proposed Amendment to Section 3-2-57
- Attachment 2: Proposed Amendment to Section 3-3-57
- Attachment 3: Proposed Amendment to Section 3-7-52
- Attachment 4: Proposed Amendment to Sections 3-3-1 and 3-3-12
- Attachment 5: Letter from Fiona Liston, Consulting Actuary, Cheiron, to Robert Mears dated May 25, 2010
- Attachment 6: Letter from Fiona E. Liston, Consulting Actuary, Cheiron, to Robert L. Mears dated July 15, 2010
- Attachment 7: E-mail from Susan E. Woodruff to Robert L. Mears dated July 19, 2010

STAFF:

Edward L. Long, Jr., Deputy County Executive
Robert L. Mears, Executive Director, Fairfax County Retirement Systems

DRAFT**Proposed Amendment to Section 3-2-57 to Repeal the Sunset Provision in Sub-****Section (h)**

Section 3-2-57. Deferred Retirement Option Program.

Effective July 1, 2005, there is hereby established a Deferred Retirement Option Program ("DROP") for eligible members of this System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

(a) *Definitions.*

(1) *DROP period* means the three-year period immediately following the commencement of the member's participation in the DROP.

(2) *Eligible member* means any member who has reached, or will reach within 60 days, his or her normal retirement date as defined in § 3-2-1(n).

(b) *Election to participate.*

(1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP. In the case of employees who seek to commence their DROP period between July 1, 2005, and August 1, 2005, the Board of Trustees shall have the authority to waive the requirement that their application be made at least 60 days prior to the commencement of the member's participation in the DROP.

(2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the

commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.

(3) At the time of an eligible member's election to participate in the DROP, he or she must make an election in writing pursuant to § 3-2-32(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.

(4) An eligible member who elects to participate in the DROP will agree to do so for a period of three years.

(5) An eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) *Continued employment.*

(1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP program. Thereafter, the participating DROP member will perform the services of that position or any other position to which he or she is promoted or transferred.

(2) A participating DROP member will continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP

period, the member will receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case will a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.

(3) A participating DROP member will continue to remain eligible for health and life insurance benefits provided by the County to its employees and will remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefit will be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement benefits and allowances of a retiree.

(4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member will remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period will not be included in the computation of the member's average final compensation. A participating DROP member is also subject to the County's disciplinary policies and regulations.

(5) If a participating DROP member's continued employment with Fairfax County is interrupted by military service, there will be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement benefits and allowances will continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end

of the DROP period, the member's DROP account balance will be paid to the member whether or not he or she has returned to his or her former County position, and the member will begin to receive his or her normal retirement benefits.

(6) Except as otherwise set forth herein, a participating DROP member's continued service will be deemed to be normal service retirement and will not count as creditable service with the System.

(7) Upon commencement of a participating DROP member's DROP period, the County will cease to withhold contributions to the System from the participating DROP member's salary.

(8) The salary received by a participating DROP member during his or her DROP period will not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.

(d) *DROP account.*

(1) Upon commencement of the member's participation in the DROP, the member's service retirement allowance pursuant to § 3-2-32(a)(2) and the additional retirement allowance pursuant to § 3-2-32(a)(3) will be paid into the member's DROP account. The initial amount credited to a member's DROP account will be computed based on his or her average final compensation as of the date of the commencement of the DROP period.

(2) The initial monthly amount will be increased each July 1 based upon the annual cost of living adjustment provided to retirees pursuant to § 3-2-44. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement benefits and allowances if he or she were retired will also

result in adjustments to the monthly amount credited to a participating DROP member's DROP account.

(3) The participating DROP member's DROP account will be credited with interest at an annual rate of five percent, compounded monthly. Interest will not be pro-rated for any period less than a full month.

(4) Contributions by the County and the participating DROP member into the System for the participating DROP member will cease.

(5) Amounts credited to a participating DROP member's DROP account will not constitute annual additions under 26 U.S.C. § 415.

(6) A participating DROP member's DROP account will not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance will remain part of the assets of the System.

(e) *Cessation of County employment.*

(1) At the conclusion of a participating DROP member's DROP period, the member's County employment will automatically cease. The participating DROP member shall then begin to receive normal service retirement benefits and allowances computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost of living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member must make one of the following elections concerning payment of his or her DROP account balance:

- (A) The member may receive payment of his or her DROP account balance as a lump sum.
- (B) The member may elect to roll over his or her DROP account balance into a qualified retirement plan, such as an IRA.
- (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
- (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement benefits and allowances. The amount of the increase will be determined based on the actuarial equivalent of the member's DROP account balance.
- (E) The member may divide his or her DROP account balance in half, and may then elect to use 50% of his or her DROP account balance to increase his or her monthly retirement benefits and allowances, and to receive the remainder in any manner listed in paragraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this section, DROP account balance will be used to increase his or her monthly retirement benefits and allowances. The amount of the increase will be determined based on the actuarial equivalent of the member's DROP account balance.

- (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County

employment shall be treated as the end of the DROP period for the provisions of this section.

(3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.

(f) Death or disability during DROP period.

(1) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of § 3-2-32(c), the participating DROP member's surviving spouse will receive payment of the participating DROP member's DROP account balance and will begin to receive benefits and allowances pursuant to the joint and last survivor option election of the participating DROP member.

(2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member will receive:

(A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in § 3-2-33 and 3-2-35 the effective date of the member's disability will be treated as the end of the participating DROP member's DROP period.

(B) In the case that a participating DROP member suffers a service-connected disability as set forth in § 3-2-36, the participating DROP member may elect either (i) to receive the service-connected disability retirement benefits and allowances to which he or she would otherwise be entitled or (ii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement benefits and allowances or severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.

(g) *Execution of documents and adoption of rules and regulations.* The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board of Trustees is also authorized to adopt rule and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution.

~~(h) *Sunset provision.* Unless the Board of Supervisors specifically acts to extend this program, no eligible member may make application to participate in the DROP seeking to commence his or her DROP period after December 31, 2013. The provisions of this section will only continue in effect after December 31, 2013, for those participating DROP members who commenced their DROP period on or before December 31, 2013.~~

\\s17prolaw01\documents\108399\pda\correspondence\286418.doc

DRAFT**Proposed Amendment to Fairfax County Code Section 3-3-57 to Repeal the Sunset Provision in Sub-Section (h)**

Section 3-3-57. Deferred Retirement Option Program.

Effective October 1, 2003, there is hereby established a Deferred Retirement Option Program ("DROP") for eligible members of this System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

(a) *Definitions.*

(1) *DROP period* means the three-year period immediately following the commencement of the member's participation in the DROP.

(2) *Eligible member* means any member who is, or will become within 60 days, eligible for normal service retirement benefits as those are defined in § 3-3-32(a).

(b) *Election to participate.*

(1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP. In the case of employees who seek to commence their DROP period between October 1, 2003 and November 20, 2003, the Board of Trustees shall have the authority to waive the requirement that their application be made at least 60 days prior to the commencement of the member's participation in the DROP.

(2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.

(3) At the time of an eligible member's election to participate in the DROP, he or she must make an election in writing pursuant to § 3-3-33(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.

(4) An eligible member who elects to participate in the DROP will agree to do so for a period of three years.

(5) An eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) *Continued employment.*

(1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP program. Thereafter, the participating DROP member will perform the services of that position or any other position to which he or she is promoted or transferred.

(2) A participating DROP member will continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member will receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case will a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.

(3) A participating DROP member will continue to remain eligible for health and life insurance benefits provided by the County to its employees and will remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefit will be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement benefits and allowances of a retiree.

(4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member will remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period will not be included in the computation of the member's average final compensation. A participating DROP member is also subject to the County's disciplinary policies and regulations.

(5) If a participating DROP member's continued employment with Fairfax County is interrupted by military service, there will be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the

member's retirement benefits and allowances will continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance will be paid to the member whether or not he or she has returned to his or her former County position, and the member will begin to receive his or her normal retirement benefits.

(6) Except as otherwise set forth herein, a participating DROP member's continued service will be deemed to be normal service retirement and will not count as creditable service with the System.

(7) Upon commencement of a participating DROP member's DROP period, the County will cease to withhold contributions to the System from the participating DROP member's salary.

(8) The salary received by a participating DROP member during his or her DROP period will not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.

(d) *DROP account.*

(1) Upon commencement of the member's participation in the DROP, the member's service retirement allowance pursuant to § 3-3-33(a) and the additional retirement allowance pursuant to § 3-3-56 will be paid into the member's DROP account. The initial amount credited to a member's DROP account will be computed based on his or her average final compensation as of the date of the commencement of the DROP period.

(2) The initial monthly amount will be increased each July 1 based upon the annual cost of living adjustment provided to retirees pursuant to § 3-3-45. Any other changes that occur during the DROP period that would result in an alteration of the participating

DROP member's retirement benefits and allowances if he or she were retired will also result in adjustments to the monthly amount credited to a participating DROP member's DROP account.

(3) The participating DROP member's DROP account will be credited with interest at an annual rate of 5%, compounded monthly. Interest will not be pro-rated for any period less than a full month.

(4) Contributions by the County and the participating DROP member into the System for the participating DROP member will cease.

(5) Amounts credited to a participating DROP member's DROP account will not constitute annual additions under 26 U.S.C. § 415.

(6) A participating DROP member's DROP account will not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance will remain part of the assets of the System.

(e) *Cessation of County employment.*

(1) At the conclusion of a participating DROP member's DROP period, the member's County employment will automatically cease. The participating DROP member shall then begin to receive normal service retirement benefits and allowances computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost of living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP

member's DROP period, the member must make one of the following elections concerning payment of his or her DROP account balance:

- (A) The member may receive payment of his or her DROP account balance as a lump sum.
- (B) The member may elect to roll over his or her DROP account balance into a qualified retirement plan, such as an IRA.
- (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
- (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement benefits and allowances. The amount of the increase will be determined based on the actuarial equivalent of the member's DROP account balance.
- (E) The member may divide his or her DROP account balance in half, and may then elect to use 50% of his or her DROP account balance to increase his or her monthly retirement benefits and allowances, and to receive the remainder in any manner listed in paragraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this section, the member will receive payment of his or her DROP account balance as a lump sum.

- (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County

employment shall be treated as the end of the DROP period for the provisions of this section.

(3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.

(f) Death or disability during DROP period .

(1) (A) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of § 3-3-33(c), the participating DROP member's surviving spouse will receive payment of the participating DROP member's DROP account balance and will begin to receive benefits and allowances pursuant to the joint and last survivor option election of the participating DROP member.

(B) If a participating DROP member dies during the DROP period, and the participating DROP member's death is a service-connected accidental death as set forth in § 3-3-38, the member's beneficiary shall receive the benefits provided for in § 3-3-38(a)(1); if there is no designated beneficiary on record with the System, payment of these amounts shall be to the member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of § 3-3-33(c), the participating

DROP member's surviving spouse will receive the benefits provided for in § 3-3-38(a)(1)(B) and the participating DROP member's DROP account balance, and will begin to receive benefits and allowances pursuant to the joint and last survivor election of the participating DROP member.

(2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member will receive:

(A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in § 3-3-35, the effective date of the member's disability will be treated as the end of the participating DROP member's DROP period.

(B) In the case that a participating DROP member suffers a service-connected disability as set forth in § 3-3-36 or a severe service-connected disability as set forth in § 3-3-37.2, the participating DROP member may elect either (i) to receive the service-connected disability retirement benefits and allowances or the severe service-connected disability retirement benefits and allowances to which he or she would otherwise be entitled or (ii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement benefits and allowances or severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.

(g) *Execution of documents and adoption of rules and regulations.* The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the

participating DROP members' DROP accounts shall be held and administered. The Board of Trustees is also authorized to adopt rule and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution.

~~(h) *Sunset provision.* Unless the Board of Supervisors specifically acts to extend this program, no eligible member may make application to participate in the DROP seeking to commence his or her DROP period after December 31, 2013. The provisions of this section will only continue in effect after December 31, 2013, for those participating DROP members who commenced their DROP period on or before December 31, 2013.~~

\\s17prolaw01\documents\108399\pda\correspondence\286090.doc

DRAFT**Proposed Amendment to Fairfax County Code Section 3-7-52 to repeal the Sunset Provision in Sub-section (h)**

Section 3-7-52. Deferred Retirement Option Program.

Effective October 1, 2003, there is hereby established a Deferred Retirement Option Program ("DROP") for eligible members of this System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

(a) *Definitions.*

(1) *DROP period* means the three-year period immediately following the commencement of the member's participation in the DROP.

(2) *Eligible member* means any member who is, or will become within 60 days, eligible for normal service retirement benefits as those are defined in § 3-7-26(a).

(b) *Election to participate.*

(1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP. In the case of employees who seek to commence their DROP period between October 1, 2003 and November 20, 2003, the Board of Trustees shall have the authority to waive the requirement that their application be made at least 60 days prior to the commencement of the member's participation in the DROP.

(2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the

commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.

(3) At the time of an eligible member's election to participate in the DROP, he or she must make an election in writing pursuant to § 3-7-39 as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse and/or handicapped child after the member's death.

(4) An eligible member who elects to participate in the DROP will agree to do so for a period of three years.

(5) An eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) *Continued employment.*

(1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP program. Thereafter, the participating DROP member will perform the services of that position or any other position to which he or she is promoted or transferred.

(2) A participating DROP member will continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP

period, the member will receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case will a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.

(3) A participating DROP member will continue to remain eligible for health and life insurance benefits provided by the County to its employees and will remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefit will be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement benefits and allowances of a retiree.

(4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member will remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period will not be included in the computation of the member's average final compensation. A participating DROP member is also subject to the County's disciplinary policies and regulations.

(5) If a participating DROP member's continued employment with Fairfax County is interrupted by military service, there will be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement benefits and allowances will continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end

of the DROP period, the member's DROP account balance will be paid to the member whether or not he or she has returned to his or her former County position, and the member will begin to receive his or her normal retirement benefits.

(6) Except as otherwise set forth herein, a participating DROP member's continued service will be deemed to be normal service retirement and will not count as creditable service with the System.

(7) Upon commencement of a participating DROP member's DROP period, the County will cease to withhold contributions to the System from the participating DROP member's salary.

(8) The salary received by a participating DROP member during his or her DROP period will not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.

(d) *DROP account.*

(1) Upon commencement of the member's participation in the DROP, the member's service retirement allowance pursuant to § 3-7-27 and the additional retirement allowance pursuant to § 3-7-51 will be paid into the member's DROP account. The initial amount credited to a member's DROP account will be computed based on his or her average final compensation as of the date of the commencement of the DROP period.

(2) The initial monthly amount will be increased each July 1 based upon the annual cost of living adjustment provided to retirees pursuant to § 3-7-37. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement benefits and allowances if he or she were retired will also

result in adjustments to the monthly amount credited to a participating DROP member's DROP account.

(3) The participating DROP member's DROP account will be credited with interest at an annual rate of five percent, compounded monthly. Interest will not be pro-rated for any period less than a full month.

(4) Contributions by the County and the participating DROP member into the System for the participating DROP member will cease.

(5) Amounts credited to a participating DROP member's DROP account will not constitute annual additions under 26 U.S.C. § 415.

(6) A participating DROP member's DROP account will not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance will remain part of the assets of the System.

(e) *Cessation of County employment.*

(1) At the conclusion of a participating DROP member's DROP period, the member's County employment will automatically cease. The participating DROP member shall then begin to receive normal service retirement benefits and allowances computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost of living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member must make one of the following elections concerning payment of his or her DROP account balance:

- (A) The member may receive payment of his or her DROP account balance as a lump sum.
- (B) The member may elect to roll over his or her DROP account balance into a qualified retirement plan, such as an IRA.
- (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
- (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement benefits and allowances. The amount of the increase will be determined based on the actuarial equivalent of the member's DROP account balance.
- (E) The member may divide his or her DROP account balance in half, and may then elect to use 50% of his or her DROP account balance to increase his or her monthly retirement benefits and allowances, and to receive the remainder in any manner listed in paragraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this section, the member will receive payment of his or her DROP account balance as a lump sum.

- (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County employment shall be treated as the end of the DROP period for the provisions of this section.

(3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.

(f) *Death or disability during DROP period.*

(1) (A) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and contingent spouse and handicapped child option pursuant to the terms of § 3-7-39, the participating DROP member's surviving spouse or handicapped child will receive payment of the participating DROP member's DROP account balance and will begin to receive benefits and allowances pursuant to the joint and contingent spouse and handicapped child option election of the participating DROP member in addition to the benefits to which they may be entitled under § 3-7-41.

(B) If a participating DROP member is killed while in performance of his or her official duties during the DROP period, as set forth in § 3-7-43, the member's spouse, or, if there is no surviving spouse, the member's handicapped child, may elect to receive the benefits set forth in § 3-7-43, pursuant to the terms and conditions set forth in that section. Such an election will constitute a waiver of the right to receive the participating DROP member's DROP account balance.

(C) If a participating DROP member is killed while in performance of his or her official duties and there is no surviving spouse or handicapped child, the member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate.

(2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member will receive:

(A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in § 3-7-31 and 3-7-36, the effective date of the member's disability will be treated as the end of the participating DROP member's DROP period.

(B) In the case that a participating DROP member suffers a service-connected disability as set forth in § 3-7-28, the participating DROP member may elect either (i) to receive the service-connected disability retirement benefits and allowances to which he or she would otherwise be entitled or (ii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance.

An election to receive service-connected disability retirement benefits and allowances or severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.

(g) *Execution of documents and adoption of rules and regulations.* The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the

participating DROP members' DROP accounts shall be held and administered. The Board of Trustees is also authorized to adopt rule and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution.

~~(h) *Sunset provision.* Unless the Board of Supervisors specifically acts to extend this program, no eligible member may make application to participate in the DROP seeking to commence his or her DROP period after December 31, 2013. The provisions of this section will only continue in effect after December 31, 2013, for those participating DROP members who commenced their DROP period on or before December 31, 2013.~~

\\s17prolaw01\documents\108399\pda\correspondence\286419.doc

DRAFT**Proposed Amendments to Fairfax County Code Sections 3-3-1(a)(9) (definition of employee) and 3-3-12 (board of trustees; membership; term of office) (Draft)**

Section 3-3-1(a)(9) (definitions; employee)

9) *Employee* shall mean any person regularly employed within the Fire and Rescue Department, the Sheriff's Department, and the Department of Animal Control, with the exception of clerical personnel in these Departments, or as a park police officer or Helicopter Pilot, rendering service to the County, and any person regularly employed within the Department of Public Safety Communications who transferred into this System pursuant to Section 3-2-19(e) or who were appointed to positions in the classes identified in Section 3-3-20(a)(4) on or after July 1, 2005, whose compensation is fully or partially paid directly or indirectly by the County.

Section 3-3-12. Membership; term of office.

(a) The Board of Trustees of the system shall consist of eight (8) Trustees as follows: Three (3) Trustees appointed by the Board of Supervisors; two (2) Trustees elected by the uniformed employees of the Fire and Rescue Department and the employees of the Department of Public Safety Communications; one (1) Trustee elected by the uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and Helicopter Pilot members of the system; the Director of Finance, who shall be treasurer of the Board; and the Director of Personnel or the personnel officer responsible for employee benefits for Fairfax County.

(b) With the exception of the Director of Finance, the Director of Personnel, or the personnel officer responsible for employee benefits for Fairfax County, who shall be ex officio members of the Board, the terms of office of the Trustees shall be four (4) years. The only persons eligible to be elected by the uniformed employees of the Fire and Rescue Department and the employees of the Department of Public Safety

Communications as Trustees are uniformed employees of the Fire and Rescue Department and employees of the Department of Public Safety Communications. The only persons eligible to be elected as a Trustee by the uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and Helicopter Pilot members of this system are uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and Helicopter Pilot members of this system. The offices of such trustees shall be vacated should such members separate from service prior to the completion of their term.

\\s17prolaw01\documents\108420\pda\correspondence\286971.doc



Classic Values, Innovative Advice

May 25, 2010

Mr. Robert Mears
Executive Director
Fairfax County Retirement Systems
10680 Main Street, Suite 280
Fairfax, Virginia 22030-3812

Re: Removal of the Sunset Provision on DROP Benefits

Dear Bob:

As requested, we are writing to provide an actuarial cost estimate on the proposal to remove the sunset provision on the DROP benefits provided in each of the Fairfax County Retirement Systems' three plans. It is our opinion that the removal of this provision will not result in a cost increase to any of the three Systems. This is because the current valuation process assumes continued application of the DROP provisions and so the cost of future DROP activity is already included in the costs currently being disclosed.

If the sunset provisions remain in place, effectively eliminating the DROP option, the Systems would likely experience some cost savings due to the change in retirement behavior. It would be difficult to quantify the available savings until later this fall, when we anticipate performing the scheduled 5-year experience study. It is likely that as a result of this study we will recommend an increase in the currently assumed rate of retirement to reflect recent experience that has been in excess of the current expectation. Without knowing if these members would have retired absent the existence of a DROP plan, it is not possible to know how much of the anticipated increase is due to the DROP plan and how much would have occurred anyway.

Please call if you have any questions or comments.

Sincerely,
Cheiron

A handwritten signature in black ink that reads 'Fiona E. Liston'.

Fiona E. Liston, FSA
Consulting Actuary





Classic Values, Innovative Advice

July 15, 2010

Mr. Robert L. Mears
 Executive Director
 Fairfax County Retirement Systems
 10680 Main Street, Suite 280
 Fairfax, Virginia 22030-3812

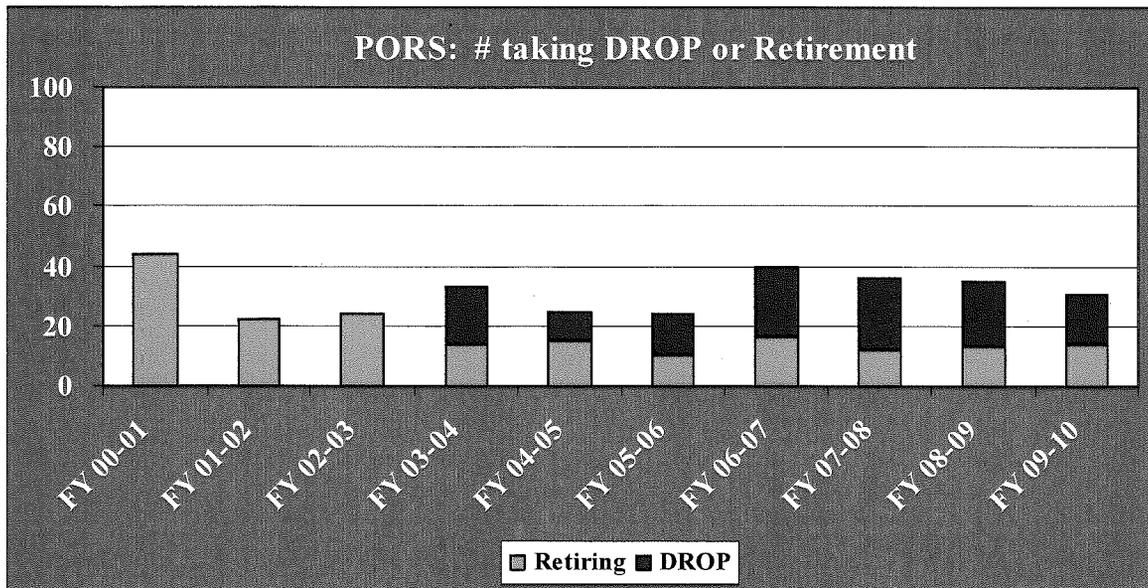
Re: DROP Impact on Retirement Behavior

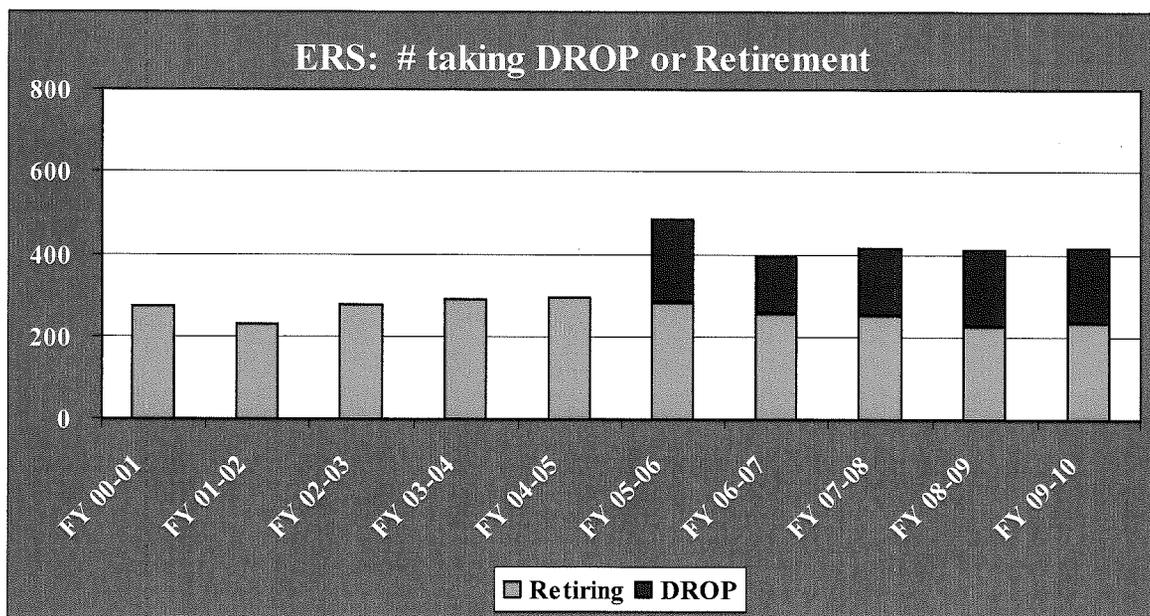
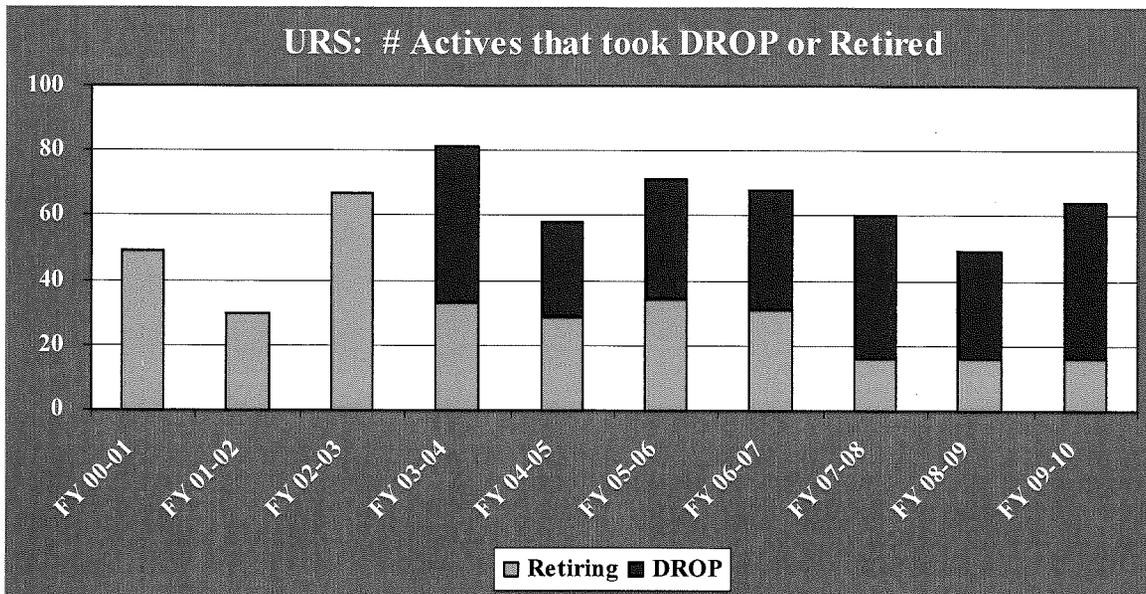
Dear Bob:

As requested, we are updating our analysis of the impact that the institution of a DROP plan has had on the retirement patterns of each of the three Fairfax County Systems.

Both the Uniformed Retirement System (URS) and Police Officers Retirement System (PORS) implemented DROP provisions effective during fiscal year 2004. The Employees' Retirement System added their DROP provision in fiscal year 2006. Prior to the implementation of each DROP program, actuarial cost studies were performed and the assumption of retirement behavior was increased in anticipation.

The charts below show the number of members who took either retirement or DROP in each of the fiscal years shown.





These statistics would imply that a major impact of the DROP has been for members to substitute DROP for retirement. While there has been an increase in the number of members taking a combination of DROP and retirement in the Employees' Retirement System, this is to be expected as the population matures and reaches eligibility for retirement. The jump in activity between FY05 and FY06 was due to the fact that DROP was first being instituted and there was a backlog of members who were eligible for the new program. The experience since that year has shown a leveling out of both retirement and DROP behavior and a substitution of DROP for normal retirement.

Mr. Robert L. Mears
July 15, 2010
Page 2

The actuarial assumptions regarding retirement and DROP will be reviewed when the next complete experience study is performed later this year. At that time we will compare the current actuarial assumptions about the probability of taking retirement or DROP to those that have been observed over the last five years. While this study may result in changes to the assumptions used in future actuarial valuations, it will be difficult to tell whether any such changes were caused by the DROP plans being in place or if they reflect a refinement of our estimates of member behavior.

Please call if you have any questions or comments.

Sincerely,
Cheiron



Fiona E. Liston, FSA
Consulting Actuary

From: Woodruff, Susan
Sent: Monday, July 19, 2010 10:52 AM
To: Mears, Robert L.
Subject: 2008 DROP Survey results

As we have discussed, DHR conducted a short survey of departments in early 2008 to determine the effectiveness of the DROP program from a senior management perspective as staff prepared recommendations related to extension of the sunset date for the uniformed and police DROP programs. When the extension was moved forward, staff also used that opportunity to align the Employees' System sunset date with the other two systems. All agencies were surveyed. The following summarizes the feedback received:

- Overall, managers provided positive feedback on their experience with the DROP program and indicated strong support for continuing the program.
- Department directors supported retention of the three year period; concern was expressed that a longer period of time might detract from the focus on knowledge transfer and succession planning, diminishing a primary value of the program.
- Managers were not experiencing issues with loss of motivation or work effort from employees who had entered the DROP program.

Please let me know if I can provide any additional information.

Thanks,

Sue

Board Agenda Item
September 28, 2010



4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Riding and Boarding Stables

ISSUE:

In conjunction with special permit approval for a riding and boarding stable (stable), the proposed Zoning Ordinance amendment would allow the Board of Zoning Appeals (BZA) in certain situations to reduce the 100 foot minimum distance between stable structures/riding rings and any lot line; and the 50 foot minimum distance between stable parking and loading spaces and adjoining residential properties.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing was held on Wednesday, March 31, 2010. On Wednesday, April 14, 2010, the Commission voted unanimously (Commissioners Lusk, Murphy, and Sargeant absent from the meeting) to recommend that the Board approve the proposed Zoning Ordinance amendment on Riding and Boarding Stable Setbacks, as set forth in the staff handout dated April 13, 2010 (Attachment 2).

RECOMMENDATION:

The County Executive concurs with the Planning Commission's recommendation for new stable structures/riding rings and parking and loading spaces proposed on or after the effective date of the amendment. However, for stable structures/riding rings and parking and loading spaces that existed prior to the effective date of the amendment, it is recommended that the BZA be allowed to consider a total waiver, under certain circumstances, of the 100 foot setback between stable structures and any lot line and the 50 foot setback between stable parking and loading spaces and adjoining residential properties as set forth in Attachment 1.

TIMING:

Board authorization to advertise – February 9, 2010; Planning Commission public hearing – March 31, 2010; Planning Commission deferred decision -April 14, 2010; Cancelled Board public hearing – April 27, 2010; Development Process Committee Meeting – June 1, 2010; Board public hearing - September 28, 2010 at 4:00 p.m.

BACKGROUND:

The proposed amendment is on the 2010 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a request from the Board to allow the BZA to modify the 100 foot minimum setback requirement for structures associated with stables from any lot line.

The Zoning Ordinance currently allows stables by special permit in the R-A, R-P, R-C, R-E and R-1 Districts and in the PDH and PRC Districts when not shown on an approved development plan subject to additional standards. One of the standards requires that all structures/riding rings associated with the stable must be located at least 100 feet from all property lines and another standard requires that all parking and loading spaces be a minimum of 50 feet from any adjoining residentially zoned property. The BZA does not currently have the authority to modify or waive any of the special permit standards. However, there may be certain situations where the 100 foot separation for the structures/riding rings and the 50 foot separation for the parking and loading spaces may not be needed to adequately protect adjacent properties from adverse noise, traffic and dust impacts of the stable structures/riding rings and associated parking and loading. The advertised amendment (Attachment 4) would give the BZA the flexibility to reduce the 100 foot setback to not less than 40 feet and to reduce or waive the minimum required 50 foot distance between parking and loading spaces and any adjoining residentially zoned property when the applicant has demonstrated to the satisfaction of the BZA that such setback(s) is not necessary to minimize any adverse impacts on adjacent properties due to one or more of the following:

- A. Specific operational characteristics of the stable such as the limits on the: number of horses, students and employees; use of outdoor lighting and public address systems; hours of operation; number and frequency of special events; and amount and type of outdoor activity.
- B. Conditions which adequately buffer adjacent properties from the stable, which may include but are not limited to: topography, vegetation, location and/or orientation of on-site structures, proximity of adjacent dwelling units, development of adjacent properties with non-residential uses, and/or existence of roads and/or major utilities.

In order to provide the Board the flexibility to adopt other minimum setbacks, the advertised amendment provides a minimum required setback range between 0 and 100 feet for the stable structures and riding ring and a range between 0 and 50 feet for the parking and loading spaces. The Board may select any setback within the advertised range and still be within the scope of advertising.

Board Agenda Item
September 28, 2010

On April 14, 2010, the Planning Commission voted to recommend to the Board approval of the proposed Zoning Ordinance amendment as advertised with three changes: (1) clarification that the criteria in subsections A and B apply to both structures and riding rings, as well as to parking and loading; (2) specify that the 50 foot setback for parking and loading spaces may be reduced to not less than 20 feet; and (3) add odor mitigation to the list of operational characteristics for which impacts must be addressed. The Planning Commission's recommended language and the Planning Commission verbatim are contained in Attachments 2 and 3, respectively.

The Board cancelled the April 27, 2010 Board public hearing and referred the proposed amendment to the Board's June 1, 2010 Development Process Committee meeting. At that meeting, the amendment was discussed and the basic concern was whether the BZA should be allowed to reduce the minimum required distance between existing stable structures/riding rings and any lot line to no less than 40 feet. It was noted that there are existing stable operations with existing structures/riding rings that are located less than 40 feet from property lines, and most of these stables have been operating for many years without any complaints. The Board's Committee requested staff to coordinate with the County Attorney's Office regarding the ability to impose a greater setback for new stables than may be required for existing stables.

Based on the Development Process Committee discussion and coordination with the County Attorney's Office, staff developed alternative language. Attachment 1 contains a revised proposed amendment that makes a distinction between stable structures/riding rings and associated parking/loading spaces that were in existence prior to the effective date of this amendment (pre-existing structures) and those new stable structures/riding rings and parking/loading spaces that are proposed on or after the effective date of the amendment (new structures). As proposed, the BZA could totally waive the setback requirement between all lot lines and pre-existing structures. For new stable structures the BZA could reduce the setback requirement between all lot lines and the new structures to as low as 40 feet, and reduce the setback requirement between new parking and loading spaces and adjoining residential properties to as low as 20 feet. In both instances the applicant must demonstrate to the satisfaction of the BZA that such setback(s) is not necessary to minimize any adverse impacts on adjacent properties.

REGULATORY IMPACT:

The proposed amendment provides flexibility in the design and operation of stables while ensuring that the adverse impacts of the stable on adjoining properties is minimized.

Board Agenda Item
September 28, 2010

FISCAL IMPACT:

There will be minimal fiscal impact with this amendment as there are no new submission requirements or additional expenses for the applicant, and minimal additional staff time or resources are required for the review of an application.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Amendment Based on Development Process Committee Discussion

Attachment 2 – Planning Commission April 13, 2010 Recommended Amendment

Attachment 3 – Planning Commission Verbatim

Attachment 4 – Staff Report/Advertised Amendment (Available online at:

<http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/stable setbacks.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Eileen M. McLane, Zoning Administrator, DPZ

Brian Parsons, Senior Assistant to the Zoning Administrator

**Proposed Amendment
Based on Development Process Committee Discussion**

September 10, 2010

The proposed changes to Par. 2 of 8-609 are based on the discussion at the June 1, 2010 Board's Development Process Committee and are shown in bold.

1 Amend Article 8, Special Permits, Part 6, Group 6 Outdoor Recreation Uses, as follows:

- 2
3 - Amend Sect. 8-603, Standards for all Group 6 Uses, by revising Par. 3 to read as
4 follows:

5
6 In addition to the general standards set forth in Sect. 006 above, all Group 6 special permit
7 uses shall satisfy the following standards:

- 8
9 3. Except as may be provided for in Sect. 609 below, no off-street parking and loading
10 space shall be located within fifty (50) feet of any adjoining property which is in an R
11 district.

- 12
13 - Amend Sect. 8-609, Additional Standards for Riding and Boarding Stables, by revising
14 Par. 2 to read as follows:

- 15
16 2. Except for light poles **and fences**, no structure **or riding ring** associated with a riding
17 or boarding stable shall be located closer than 100 feet to any lot line. **However, for**
18 **stable structures, riding rings and/or associated parking and loading spaces**
19 **established on the lot on or after [the effective date of the amendment], the BZA**
20 **may reduce the 100 foot setback required for stable structures and riding rings to**
21 **no less than 40 feet, and may reduce the 50 foot setback required for associated**
22 **parking and loading spaces, as required by Sect. 609 above, to no less than 20 feet.**
23 **For stable structures, riding rings and/or associated parking and loading spaces**
24 **existing on the lot prior to [the effective date of the amendment], the BZA may**
25 **modify or waive the 100 foot setback required for stable structures and riding**
26 **rings and/or the 50 foot setback required for associated parking and loading**
27 **spaces. Such modification or waiver shall only be granted when the applicant has**
28 **demonstrated to the satisfaction of the BZA that such setback(s) is not necessary**
29 **to minimize any adverse impacts on adjacent properties due to one or more of the**
30 **following:**

- 31
32 A. Specific operational characteristics of the riding and boarding stable such as the
33 limits on the number of horses, students and employees; use of outdoor lighting
34 and public address systems; hours of operation; number and frequency of special
35 events; **odor mitigation** and amount and type of outdoor activity.
36

- 1 B. Conditions which adequately buffer adjacent properties from the riding and
2 boarding stable, which may include but are not limited to: topography, vegetation,
3 location and/or orientation of on-site structures, proximity of adjacent dwelling
4 units, development of adjacent properties with non-residential uses, and/or
5 existence of roads and/or major utilities.

**PLANNING COMMISSION RECOMMENDED
PROPOSED AMENDMENT**

April 13, 2010

The Planning Commission recommended changes to the proposed amendment as contained in the February 9, 2010 Staff Report are denoted in *bold italics*.

1 **Amend Article 8, Special Permits, Part 6, Group 6 Outdoor Recreation Uses, as follows:**
2

- 3 - **Amend Sect. 8-603, Standards for all Group 6 Uses, by revising Par. 3 to read as**
4 **follows:**
5

6 In addition to the general standards set forth in Sect. 006 above, all Group 6 special permit
7 uses shall satisfy the following standards:
8

- 9 3. Except as may be provided for in Sect. 609 below, no off-street parking and loading
10 space shall be located within fifty (50) feet of any adjoining property which is in an R
11 district.
12

- 13 - **Amend Sect. 8-609, Additional Standards for Riding and Boarding Stables, by revising**
14 **Par. 2 to read as follows:**
15

- 16 2. Except for light poles and fences, no structure or riding ring associated with a riding or
17 boarding stable shall be located closer than 100 feet to any lot line. However, the BZA
18 may reduce ~~this the~~ 100 foot setback to no less than 40 feet and/or ~~may modify or~~
19 ~~waive reduce~~ the minimum 50 foot setback as required by Sect. 603 above to no less
20 ~~than 20 feet~~ when the applicant has demonstrated to the satisfaction of the BZA that
21 such setback(s) is not necessary to minimize any adverse impacts of the structures
22 and/or parking and loading on adjacent properties due to one or more of the
23 following:
24

- 25 A. Specific operational characteristics of the riding and boarding stable such as the
26 limits on the number of horses, students and employees; use of outdoor lighting
27 and public address systems; hours of operation; number and frequency of special
28 events; odor mitigation and amount and type of outdoor activity.
29

- 30 B. Conditions which adequately buffer adjacent properties from the riding and
31 boarding stable, which may include but are not limited to: topography, vegetation,
32 location and/or orientation of on-site structures, proximity of adjacent dwelling
33 units, development of adjacent properties with non-residential uses, and/or
34 existence of roads and/or major utilities.
35

Planning Commission Meeting
April 14, 2010
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT – RIDING/BOARDING STABLES
(Public Hearing held on March 31, 2010)

During Commission Matters

Commissioner Hart: Thank you Mr. Chairman. First let me thank staff, Brian Parsons and Lorrie Kirst, for their fine work on this case. I also want to thank the citizens who participated either by speaking or by sending written comments. On March 31, 2010, the Commission held a public hearing on a proposed Zoning Ordinance Amendment on Riding and Boarding Stable setbacks. We deferred decision in order to consider comments from citizens and Commissioners. Several days ago revised text was distributed incorporating three changes to the advertised text: first, confirming that the criteria in subsections A and B apply to both structures and riding rings as well as to parking and loading spaces; second, specifying that the 50-foot setback for parking and loading spaces may be reduced to not less than 20 feet; and third, adding odor mitigation to the list of operational characteristics for which impacts must be addressed. With respect to the second issue, although the number we select may be somewhat arbitrary and we advertised a range down to zero, in my judgment a minimum setback of 20 feet for parking and loading spaces – approximately one car length – will afford sufficient flexibility to an applicant while maintaining some separation from adjacent residential properties. In virtually all properties of sufficient size for this use there should be ample room to locate any parking and loading spaces more than 20 feet from the property line even if all impacts are otherwise mitigated. Riding and boarding stables are a desirable use in certain residential districts and we want to encourage them to remain in Fairfax County. Staff has determined that there is currently no procedural vehicle under the Ordinance, however, for approval of modifications to certain required setbacks, which would discourage some current operators from applying for Special Permit approval, and which required setbacks may make it difficult or impossible to clear zoning violations on some existing facilities. This amendment will facilitate consideration by the Board of Zoning Appeals of certain potential setback modifications so long as corresponding impacts from the use are mitigated. As modified, this amendment would allow case-by-case review of potential modifications through a public hearing process. This approach is generally consistent with numerous other setback modifications already in place for other uses under the Ordinance. The amendment also has staff's support, with which I concur. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT ON RIDING AND BOARDING STABLE SETBACKS, AS SET FORTH IN THE STAFF'S HANDOUT DATED APRIL 13, 2010.

Commissioner Flanagan: Second.

Vice Chairman Alcorn: Seconded by Mr. Flanagan. Any discussion on that motion? All those in favor of the motion to recommend approval of the Zoning – proposed Zoning Ordinance Amendment on Riding and Boarding Stable setback, consistent with the staff memo dated April 13th – is it –

Planning Commission Meeting
April 14, 2010
ZOA – Riding/Boarding Stables

Page 2

Commissioner Hart: Yes.

Vice Chairman Alcorn: – 2010? Please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

//

(The motion carried unanimously with Commissioners Lusk, Murphy, and Sargeant absent from the meeting.)

JN



FAIRFAX
COUNTY

ATTACHMENT 4

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Riding and Boarding Stable Setbacks

PUBLIC HEARING DATES

Planning Commission March 31, 2010 at 8:15 p.m.

Board of Supervisors April 27, 2010 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

February 9, 2010

BP



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed amendment is on the 2009 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a request by the Board of Supervisors (Board) to review the provisions applicable to riding and boarding stables (stables), specifically the 100 foot minimum setback requirement from any lot line for structures associated with the use. The proposed amendment would allow the Board of Zoning Appeals (BZA) in its review of a special permit for a stable to reduce the minimum 100 foot setback requirement for structures associated with stables in certain situations. In addition, the amendment would allow the BZA to waive or modify the minimum 50 foot distance between any stable parking and loading space and the adjoining residentially zoned properties when the impacts on the adjacent properties can be appropriately minimized.

Existing Zoning Ordinance Provisions

Under Sect. 2-512 of the Zoning Ordinance, the keeping of horses for personal use on any lot of at least 2 acres is permitted as an accessory use provided that the number of horses does not exceed 3 horses per acre. In addition, structures that are used for the confining of horses for personal use or as part of an agricultural activity must be located no closer than 40 feet to any front or side lot line and 20 feet to any rear lot line. However, horses that are typically kept for commercial purposes are considered a stable which is defined in Article 20 as follows:

STABLE, RIDING/BOARDING: A structure and/or use of land where four (4) or more horses or ponies are kept, maintained and/or boarded for profit, or in connection with which saddle horses or ponies are rented to the general public, made available to members of a private club, or boarded for the convenience of their absentee owners. Exercise rings and show rings shall be considered uses accessory to the use of the premises of a stable.

Stables are permitted in the PDH and PRC Districts when shown on an approved development plan and are allowed in the R-A, R-P, R-C, R-E and R-1 Districts with special permit approval by the BZA as a Group 6 Outdoor Recreation Special Permit Use. One of the additional standards for all Group 6 special permit uses requires that all off-street parking and loading spaces be located at least 50 feet from any adjoining property which is residentially zoned. The additional standards for stables contained in Sect. 8-609 require a minimum lot size of 2 acres and, except for light poles, all structures associated with a stable must be located at least 100 feet from any lot line. Sect. 8-003 states that the BZA has no authority to vary, modify or waive any of the regulations or standards for any use for which a special permit is required. As such, currently the minimum 100 foot setback requirement for stable structures and the minimum 50 foot setback requirement for parking and loading spaces can not be modified by the BZA.

With regard to light poles, although they are not subject to the 100 foot setback requirement, light poles are subject to the outdoor lighting standards contained in Part 9 of Article 14. Under the outdoor lighting standards, when an outdoor lighted horse riding ring/show area is larger than 10,000 square feet in area and/or contains light poles of more than 20 feet in height, a sports illumination plan (SIP) is required to be submitted in conjunction with the special permit application. Among other things, the SIP must demonstrate that a maintained lighting level of 20 footcandles is not being exceeded on the riding ring/show area.

Background

The proposed amendment only pertains to the keeping of horses as defined in the above stable definition and used primarily for commercial purposes. The purpose of the minimum 100 foot distance between stable structures and any lot line and the minimum 50 foot distance between parking and loading spaces and any adjoining residentially zoned property is to mitigate the adverse impacts of the commercial stable operation on adjacent properties. Adverse impacts of stables on adjacent properties may include traffic, noise, glare and dust. The current regulations do not make any distinction of the size of stable use, its intensity, site characteristics and the character of the surrounding area as all stable structures (except light poles) are required to meet the minimum 100 foot setback requirement and all parking and loading spaces must be setback at least 50 feet from any adjoining residentially zoned property.

A review of the regulations of adjacent jurisdictions shows that some jurisdictions have different setback requirements for different types of stable uses. For example, in Loudoun County the required setback for stable structures varies based on the type of stable and size of the lot with the minimum setback from lots lines varying between 60 and 175 feet. In Montgomery County, a 100 foot setback is required between outdoor areas of stables and existing dwellings on adjacent properties.

It is believed that in certain circumstances a 100 foot setback, or possibly more, is needed to adequately protect adjacent property from adverse impacts from the stable operation. However, it is also believed that in certain situations the 100 foot separation may not be necessary to adequately protect adjacent properties. Such situations may include less intense stable operations with limits on hours of operation, use of loud speakers, number of students and use of outdoor lighting. In addition, topography, existing vegetation, the location and orientation of on-site structures, presence of roads and major utilities, and the proximity of adjacent dwelling units may also provide effective buffers of the stable use on adjacent properties. Therefore, it is staff's opinion that it may be appropriate to give the BZA the flexibility to reduce the 100 foot setback between stable structures and any lot line when it can be determined that adjacent properties are adequately protected from the stable use.

Given that the parking and loading associated with a stable operation is typically located near stable structures and/or riding rings where much of the activity occurs, it is believed that a reduction or waiver of the 50 foot minimum separation between parking and loading and adjoining properties may also be appropriate in situations where such parking has minimal impacts on adjacent properties.

Proposed Amendment

The proposed amendment would modify the additional standards for stables in Sect. 8-609 of the Zoning Ordinance to allow the BZA in conjunction with the special permit approval for a stable to, under limited circumstances, reduce the minimum 100 foot distance between structures associated with a stable and any lot line to no less than 40 feet and to reduce or waive the minimum 50 foot distance from any parking or loading space to any adjacent residentially zoned property. In order to reduce the setbacks, it must be demonstrated by the applicant to the satisfaction of the BZA that such setback(s) is not necessary to minimize any adverse impacts on adjacent properties due to one or more of the following:

- Specific operational characteristics of the stable such as limits on the: number of horses, students and employees; use of outdoor lighting and public address systems; hours of operation; number and frequency of special events; and amount and type of outdoor activity.
- Conditions which adequately buffer adjacent properties from the stable, which may include but are not limited to: topography, vegetation, location and/or orientation of on-site structures, proximity of adjacent dwelling units, development of adjacent properties with non-residential uses, and/or existence of roads and/or major utilities.

Fences are permitted accessory structures on any property. As part of a stable, fences are typically placed around the perimeter of a property, around pastures where horses are kept and/or around riding rings. It has been a longstanding interpretation that such fencing is not subject to the 100 foot setback requirement and the proposed amendment codifies this interpretation. An outdoor riding ring is frequently the area of the most stable activity as this is the area with outdoor lighting and loud speakers, where riding lessons are taught and horse shows occur. In many instances the most noise, glare and dust from a stable operation occur on the riding ring area. As such, staff has required that the riding ring also meet the 100 foot setback even though there might not be any permanent structures in the riding ring area. This longstanding administrative practice is also being codified as part of this amendment.

It is staff's position that, at a minimum, a 40 foot setback for stable structures and the riding ring should be maintained as this setback is consistent with the front and side yard setback requirement for barns and other structures that are used for the confining of horses and ponies that are accessory to a principal agricultural or residential use. There have been several instances where structures associated with the keeping of horses for personal use has become a stable that is subject to special permit approval by the BZA. In such instances, a property owner may be able to keep the existing structures with this amendment. Given that stables vary in location, access, size, intensity of use, site characteristics, and distance from adjacent dwelling units and in order to provide the Board the flexibility to adopt other minimum setbacks, the proposed amendment provides a minimum required setback range between 0 and 100 feet for the stable structures and riding ring, and a minimum required setback between 0 and 50 feet for the parking and loading spaces. The Board can select any setback within the advertised range and still be within the scope of advertising.

Conclusion

The desires of the stable operators and the users of the stables must be balanced with the need to mitigate the potential adverse impacts of the stable use on adjacent properties. Given that not all stable operations have the same impacts on adjacent properties, it may be appropriate to allow the BZA in conjunction with the approval of a special permit for a stable to reduce the minimum 100 foot distance between stable structures/riding rings and property lines and to reduce or waive the minimum 50 foot distance between parking and loading spaces and adjoining residentially zoned properties in certain situations. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 AM on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of February 9, 2010 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

The item in bold brackets is provided for advertising purposes and to allow the Board to approve any number within the listed range. The underlined text outside of the brackets is the staff recommendation.

1 **Amend Article 8, Special Permits, Part 6, Group 6 Outdoor Recreation Uses, as follows:**
2

3 - **Amend Sect. 8-603, Standards for all Group 6 Uses, by revising Par. 3 to read as follows:**
4

5 In addition to the general standards set forth in Sect. 006 above, all Group 6 special permit uses
6 shall satisfy the following standards:
7

8 3. Except as may be provided for in Sect. 609 below, no off-street parking and loading space
9 shall be located within fifty (50) feet of any adjoining property which is in an R district.
10

11 - **Amend Sect. 8-609, Additional Standards for Riding and Boarding Stables, by revising**
12 **Par. 2 to read as follows:**
13

14 2. Except for light poles and fences, no structure or riding ring associated with a riding or
15 boarding stable shall be located closer than 100 feet to any lot line. However, the BZA
16 may reduce this 100 foot setback to no less than 40 feet and may modify or waive the
17 minimum 50 foot setback as required by Sect. 603 above when the applicant has
18 demonstrated to the satisfaction of the BZA that such setback(s) is not necessary to
19 minimize any adverse impacts on adjacent properties due to one or more of the following:
20 [Advertised range would allow the BZA to reduce the stable structure/riding ring setback
21 requirement from any lot line from 0 to 100 feet and to reduce the minimum distance
22 between parking and loading spaces and adjoining residentially zoned property from 0 to
23 50 feet.]
24

25 A. Specific operational characteristics of the riding and boarding stable such as the limits
26 on the: number of horses, students and employees; use of outdoor lighting and public
27 address systems; hours of operation; number and frequency of special events; and
28 amount and type of outdoor activity.
29

1 B. Conditions which adequately buffer adjacent properties from the riding and boarding
2 stable, which may include but are not limited to: topography, vegetation, location
3 and/or orientation of on-site structures, proximity of adjacent dwelling units,
4 development of adjacent properties with non-residential uses, and/or existence of
5 roads and/or major utilities.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-2FS, Located West of Loisdale Road and South of Franconia Road (Lee District)

ISSUE:

APR nomination 09-IV-2FS proposes to replan the subject area from office and hotel uses at an intensity of up to 0.50 floor area ratio (FAR) to office, residential, hotel and retail mixed-use at an intensity of up to 2.0 FAR. The subject area for the nomination originally included approximately 3 acres located west of Loisdale Road and east of Loisdale Court. In October 2009, the Board of Supervisors expanded the subject area for the nomination to include approximately 19 acres west of Loisdale Road and south Franconia Road.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioners Flanagan and Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-IV-2FS that is consistent with the staff and task force recommendations, as set forth in Attachment I. This alternative would allow mixed-use at an intensity of up to 1.0 FAR.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-2FS as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

Board Agenda Item
September 28, 2010

The subject property is located west of the recently approved redevelopment of the Springfield Mall into a mixed-use town center and is currently planned for office and hotel uses at an intensity of up to 0.50 FAR. The Planning Commission alternative recommends office, hotel, civic/conference center, residential, and support retail uses with an overall intensity up to 1.0 FAR. The office use maximum would include up to 460,000 square feet. The highest intensity would be concentrated on a 6-acre core area along Loisdale Road. Development in the core area would be oriented to and built around an urban park that would correspond to the approved central plaza of the approved Springfield Mall redevelopment. This mixture of land uses and intensity would provide a means to mitigate the difficult transportation challenges that have emerged in this area during several recent planning studies. The Lee District APR Task Force recommended approval of the staff alternative. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Lee District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-2FS (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/2fs.pdf>)

Attachment III: Lee District Task Force Recommendation (Available on line at http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/2fs_2.pdf)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Meghan D. Van Dam, Planner III, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-2FS – Lee District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: Are you ready over there, Lee District? Okay. Going back to page 1. APR 09-IV-2FS. And I guess we have your motions too. Okay; APR 09-IV-2FS.

Commissioner Migliaccio: Thank you, Mr. Chairman.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you. South County APR Item 09-IV-2FS, found at Land Unit H of the Franconia-Springfield Transit Station Area, generally located west of Loisdale Road and south of Franconia Road. For APR Item 09-IV-2FS, the Lee District APR Task Force and staff recommend an alternative to the nomination that involves the 19-acre northern portion of the Land Unit H in the Franconia-Springfield Transit Station Area. This area of land would be replanned to add an option for mixed-use redevelopment to include office, hotel, retail, and potentially residential and civic/conference center uses up to 1.0 FAR with the possibility to increase the intensity up to 1.2 FAR. The majority of the redevelopment would be concentrated on a six-acre core area centered on a - - on an urban park that corresponds to the urban park of the planned redevelopment of the Springfield Mall, across Loisdale Road. The alternative would establish a maximum for the amount of office use and would be predicated on the demonstration of trip neutrality. Therefore, Mr. Chairman, FOR APR ITEM 09-IV-2FS, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE, FOUND ON PAGE 78 THROUGH 79 OF THE STAFF REPORT BOOK DATED JUNE 16, 2010. The alternative can also be found on pages 12 through 13 of the final staff report.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioners Flanagan and Harsel not present for the vote.)

KAD

RECOMMENDATION

As an alternative to the nomination, staff recommends that the Comprehensive Plan be modified as shown below. Text proposed to be added is shown as underlined.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Franconia-Springfield Area, Franconia-Springfield Transit Station Area, Land Unit Recommendations, page 41-42, as amended through 1-12-2010:

“Land Unit H

Land Unit H, about 29 acres, contains retail stores, offices, and hotels. This land unit is planned for a mix of office and hotel uses at an intensity up to .50 FAR. Accessory uses such as banks and restaurants may also be appropriate provided they are not located in free standing structures. Landscaping and plantings along sidewalks and streets are encouraged to foster pedestrian activity. Safe pedestrian connections to the Springfield Mall (future town center) in Land Unit I and to the Transportation Center should be incorporated into the pedestrian circulation plan and network for this land unit. A signalized, mid-block crossing is planned to connect the northern portion of this area to the Town Center’s central plaza. Development in this land unit should follow the guidance set forth in the overview section of this Plan, particularly focusing on the high frequency bus service to the Joe Alexander Transportation Center and, eventually, the Springfield CBC.

As an option, the 19-acre northern portion of Land Unit H, north of Tax Map parcel 90-2 ((1)) 46, may be appropriate for mixed-use redevelopment up to an overall intensity of 1.0 FAR. The mix of land uses within the entire Land Unit should include a combination of hotel, office, and supporting retail uses and may include civic/conference center and residential uses, with a maximum of approximately 460,000 square feet of office use. The highest intensity in this 19-acre area should be concentrated on the 6-acre core area, located across from the planned central plaza of the town center in Land Unit I, which includes the consolidation of parcels 90-2 ((1)) 1, 3A, and 8. The core area is planned for the an intensity up to 1.4 FAR, and at least 150,000 square feet of the total office use should be located in this area. The intensity of the properties within the remaining 13 acres, surrounding the core area and north of parcel 90-2 ((1)) 46, is planned to reflect the approved zoning, up to either 0.8 FAR or 1.0 FAR. Redevelopment under this option is predicated on a demonstration of peak hour trip neutrality when compared to the peak hour trip characteristics of the existing uses in the land unit.

The overall intensity of the 19-acre northern portion of this land unit may be increased up to a 1.2 FAR, if the option for residential use on Tax Map parcel 90-2 ((1)) 46 is implemented. In this case, the maximum for office use in this area should increase up to 470,000 square feet. Redevelopment up to the 1.2 FAR should include the same mix of land use types and should address the same condition of trip neutrality.

Any redevelopment under these options should enhance the area’s linkage with the Joe Alexander Transportation Center through participation in and contribution to high frequency transit service, such as a bus circulator system. Redevelopment should support multi-modal connectivity and integrate usable open spaces, such as pocket parks, plazas, common greens and recreation-focused urban parks that enhance functionality and contribute to the overall sense of place. A central urban park of approximately 1 acre should be included in the core area, as well as a bus stop for the planned circulator service and the provision and/or contribution to the pedestrian connection to the central plaza in the planned town center in Land Unit I. The urban

park in Land Unit H should be designed to coordinate with the central plaza in town center and should achieve the open space standards that are recommended in the areawide goals. If only a portion of the urban park can be accommodated in the core area, then the design of the core area should demonstrate how a unified and usable park can be completed on other parcels. Buildings should align with and front Loisdale Road and the urban park.

If parcels 1 and 3A are not consolidated with parcel 8, then the development should demonstrate how such redevelopment could be integrated with the future redevelopment of parcel 8, particularly through a unified plan for the urban park.”

NOTE: The Comprehensive Plan Map would not change.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-21MV, Located South of Rolling Hills Avenue, East of Janna Lee Avenue and North of Richmond Highway (Lee District)

ISSUE:

South County Area Plans Review (APR) nomination 09-IV-21MV proposes to amend the Comprehensive Plan for property in Area 4 of the Suburban Neighborhood Areas between the Hybla Valley/Gum Springs CBC and the South County CBC. The nomination proposes to add an option for residential use at 20-30 du/ac, which would support 180 low-rise multifamily units with above ground, internalized parking. The option also allows office and retail use up to 80,000 square feet, with a minimum of 10,000 square feet of retail use. The nomination proposes to remove or revise guidance pertaining to phasing, noise mitigation, open space and parks, and right-of-way dedication for a planned interchange at Buckman Road and Richmond Highway.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioners Harsel and Flanagan not present for the vote) to recommend that the Board of Supervisors adopt the Task Force alternative to APR 09-IV-21MV, as set forth in Attachment I. The Planning Commission recommends up to 80,000 square feet of office and retail uses for the subject area, along with residential use at 20-30 du/ac. The recommendation retains most of the existing conditions but proposes a more flexible approach to development phasing and parks and recreation contributions.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for 09-IV-21MV with a modification to the transportation condition related to improvements to Richmond Highway and the Buckman Road/Mt. Vernon Highway/Richmond Highway intersection, as shown in the Staff Report Addendum, Attachment III.

TIMING:

Planning Commission public hearing- June 16, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The staff analysis and recommendation for South County APR item 09-IV-21MV are found in Attachment II. An updated staff analysis and recommendation, resulting from ongoing work between staff, the Task Force, and the nominator to address concerns in the original nomination, is found in the Staff Report Addendum, Attachment III. The updated staff alternative recommends the proposed land use and density, but restores many of the conditions that were omitted in the original nomination. The recommendation also proposes a more flexible approach to phasing, and supports proportional contribution to parks and recreation based the size of the development. The staff alternative is generally consistent with the Planning Commission alternative, as shown in Attachment I; however, the condition related to the dedication of right-of-way for an interchange at Buckman Road and Richmond Highway has been amended to reflect the needed transportation improvements in the vicinity of the subject area. The Lee District APR Task Force recommendation is shown in Attachment IV. The Task Force supported the revised language with the addition of a condition that encourages Low Impact Development (LID) practices to be incorporated wherever possible.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-21MV (Available on line at http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/20mv_21mv.pdf)

Attachment III: Staff Report Addendum for South County APR item 09-IV-21MV (Available on line at

http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/21mv_addendum.pdf)

Attachment IV: Lee District APR Task Force Report for South County APR Item 09-IV-21MV (Available on line at

http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/21mv_2.pdf

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Kimberly M. Rybold, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-21MV – Lee District

Markup Session (Public Hearing held on June 16, 2010)

Chairman Murphy: APR 09-IV-21MV.

Commissioner Migliaccio: Thank you, Mr. Chairman. South County APR Item 09-IV-21MV, Richmond Highway Corridor, located south of Buckman Road, east of Janna Lee Avenue, and north of Rolling Hills Avenue. APR Item 09-IV-21MV was deferred indefinitely by the Planning Commission on June 30, 2010, in order to allow the Lee District APR Task Force to review new information regarding the nomination. Upon review of modified Plan text, the Task Force voted to recommend the nomination as modified. Therefore, Mr. Chairman, FOR APR ITEM 09-IV-21MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE NOMINATION, AS MODIFIED AND SHOWN IN MY HANDOUT DATED JULY 28, 2010.

Chairman Murphy: Without objection. Thank you very much.

//

(The motion carried unanimously with Commissioners Flanagan and Harsel not present for the vote.)

KAD

ADD:

Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, as amended through 3-9-2010, Richmond Highway Corridor, page 55:

“As a third option for a subset of Area 4 (Tax Map Parcels 101-2 ((1)) 24; and 101-2 ((5))(2) 1,2,5-7,8A,8B,9-12,16), development of residential use at a density of 20-30 dwelling units per acre with up to 80,000 square feet of office and ground floor retail use may be appropriate if the area is redeveloped in accordance with Appendix 8 of the Land Use section of the Policy Plan “Guidelines for Neighborhood Redevelopment,” and the following conditions are met. Limited stand-alone retail uses, such as a bank or a coffee shop, may be appropriate.

Design:

- Substantial and logical parcel consolidation is desired. If total consolidation is not achieved, the development plan should demonstrate how the unconsolidated parcels could be integrated within the project at a later date, and buffered from the development in the interim.
- High quality, pedestrian-oriented architectural and landscape design, and other elements are incorporated.
- Buildings provide appropriate transition in scale and mass from Richmond Highway towards adjacent residential areas along Buckman Road and Janna Lee Avenue.
- Useable, well-landscaped open space is provided throughout the site.
- Landscaping is employed to offset the effect of parking lots, driveways and pavement areas adjacent to the commercial and residential structures.
- All buildings are designed to provide an attractive appearance on all sides. Blank walls should be avoided. High quality building materials should be used.

Environment:

- Noise should be mitigated consistent with guidance outlined in the Environment element of the Policy Plan through appropriate design of the site, and the design and construction of buildings. Noise walls along Richmond Highway are not appropriate.
- Trees determined to be of value by the Urban Forester are preserved if feasible.
- Low Impact Development (LID) practices should be incorporated to the maximum extent possible.

Parks and Recreation:

- The existing park and recreation deficiencies are offset through provision of neighborhood park land through a dedication to the Park Authority of a proportional share of the total 2.5 to 4 acres to be dedicated in the first option for Area 4, if provided on-site, or a proportional share of 3 to 4 acres, if provided off-site. Any on-site dedication should be located such that it can be expanded upon at the time the remainder of Area 4

redevelops. As a substitute, funds may be dedicated to the Park Authority for off-site land acquisition and/or facilities. Appropriate neighborhood park recreation facilities should also be provided. In addition, urban park features should be integrated within the site, such as plazas, gathering spaces, special landscaping, street furniture, and pedestrian amenities.

Transportation and Pedestrian Circulation:

- Capacity issues associated with the Buckman Road/Mt. Vernon Highway/Richmond Highway intersection are resolved with the dedication of right-of-way for an interchange. If right-of-way for an interchange is not provided, Richmond Highway should be improved to a six-lane divided highway with a raised median between Janna Lee Avenue and Buckman Road.
- Primary access is provided via Janna Lee Avenue. Vehicular access from Richmond Highway is limited to one right turn in and one right turn out access point only with a possibility of a pick up/drop off area along the highway frontage.
- Janna Lee Avenue between Richmond Highway and Buckman Road is improved and modifications of the Janna Lee/Richmond Highway intersection are made to achieve efficient circulation patterns.
- Continuous sidewalks and trails within a streetscape consistent with the Richmond Highway Corridor guidelines are provided along Richmond Highway and Janna Lee Avenue. Hard surface material that enhances the corridor's urban character should be used. Within the site, trails and sidewalks are provided to create a pedestrian friendly environment and to connect the site with transit services along the Richmond Highway corridor and surrounding areas.
- An effective Transportation Demand Management (TDM) program applicable to residential and non-residential uses that utilizes a combination of measures as deemed appropriate by the Department of Transportation is provided. These measures may include shuttle services, transit subsidies, vanpool or carpool matching services and bus shelters as well as telework office space with advanced telecommunication systems. The program should be monitored periodically.”

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-18MV, Located on the East Corner of Richmond Highway and Mohawk Lane (Mount Vernon District)

ISSUE:

South County Area Plans Review (APR) nomination 09-IV-18MV proposes to add language that would emphasize educational use for the Old Mount Vernon High School. Buildings on the property are described in further detail, and text is added stating that peripheral buildings would be appropriate for non-profit use. Additionally, the nominated text proposes to retain the existing ball fields and open space currently on the subject property.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the staff alternative to APR 09-IV-18MV, as set forth in Attachment I. The staff alternative modifies the proposed language regarding the retention of open space, adding that this should be subject to the Board of Supervisors' approval and removing the language that the open space should be retained as ball fields.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for 09-IV-18MV as shown in Attachment I.

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The staff analysis and recommendation for South County APR item 09-IV-18MV are found in Attachment II. The staff alternative modifies proposed language regarding the retention of open space, adding that this should be subject to the Board of Supervisors'

Board Agenda Item
September 28, 2010

approval and removing the language that the open space should be retained as ball fields. The Mount Vernon APR Task Force Report is shown in Attachment III. The Task Force supported the nomination as submitted, with an editorial modification.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-18MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/18MV.pdf>)

Attachment III: Mount Vernon District APR Task Force Report for South County APR Item 09-IV-18MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/18mv.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Kimberly M. Rybold, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-18MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: All right. APR 09-IV-18MV.

Commissioner Flanagan: It's 18MV?

Commissioner Hart: Page 30 - -

Chairman Murphy: Eighteen.

Commissioner Hart: - - 34 of 47.

Commissioner Flanagan: Yes. Mr. Chairman, the South County APR Item 09-IV-18MV is located - - is the South County Center CBC, Sub-unit B-2, located on the east corner of Richmond Highway and Mohawk Lane. Mr. Chairman, the Mount Vernon Council submitted South County APR Item 09-IV-18MV. The Old Mount Vernon High School is currently occupied by the Islamic Saudi Academy; however, the school will relocate upon completion of a new facility in Springfield District. This nomination proposes to add language that would emphasize educational use for the Old Mount Vernon High School, providing guidance for the future reuse of the property. Additionally, the language stating that the peripheral buildings would be appropriate for non-profit use in addition - - is added. The proposed language also states that existing ball fields and open space currently on the subject property be retained. The staff alternative reflects the intent of the proposed nomination, but recommends approval of an alternative that modifies proposed language regarding the retention of open space, adding that this should be the subject to - - to the Board of Supervisors' approval and removing the language that the open space should be retained as ball fields. Since the Board of Supervisors owns the property and leases the ball fields to the Park Authority, I believe that it is important to include this information. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR ITEM 09-IV-18MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF ALTERNATIVE, AS SHOWN ON PAGE 421 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGE 7 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

to retain the existing ball fields and open space on the south side of the subject property. These proposed text changes provide further guidance for the future reuse of the Old Mount Vernon School and the subject property. Staff recommends approval of a staff alternative that modifies proposed language regarding the retention of open space, adding that this should be subject to the Board of Supervisors' approval.

PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN

Staff recommends the Comprehensive Plan be modified as shown below. Text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, as amended through 3-9-2010, Richmond Highway Corridor Area, Land Unit B-2, page 57:

"Sub-unit B-2

The Old Mount Vernon High School ~~is~~ located on the east side of Richmond Highway between Maury Place and Mohawk Lane ~~is planned for public facilities use~~. The school should be retained in County ownership and preserved as a local historic site. The building is planned for public facilities use, primarily for educational use. The campus includes a main building that is surrounded by, and attached to, smaller structures. Ancillary institutional uses to support non-profit services may be appropriate in the peripheral buildings. Existing county-owned open space at the rear of the property should be retained as publicly accessible park space, subject to Board of Supervisors' approval.

Tax Map Parcels 101-4 ((8))(O) 1A and 1B, which are The two parcels located at the northeast corner of Richmond Highway and Mohawk Street adjacent to the Old Mount Vernon High School are planned for institutional use. Any design and development plan should be compatible with the historic nature of the Old Mount Vernon High School. Uses of this site may include a community recreation center and a performing and visual arts center. These uses are consistent with the Richmond Highway revitalization goals and present an opportunity for a community activity center and adaptive reuse of the site.

Any design and development plan should be compatible with the historic nature of the Old Mount Vernon High School. These uses are consistent with the Richmond Highway revitalization goals and present an opportunity for a community activity center and adaptive reuse of the site."

NOTE: The Comprehensive Plan Map would not change.

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-19MV, Located on the Southeast Side of Richmond Highway Generally Near the Forest Place Intersection (Mount Vernon District)

ISSUE:

South County Area Plans Review (APR) nomination 09-IV-19MV proposes to amend the Comprehensive Plan for Area 3 and Area 6 of the Suburban Neighborhood Areas between the South County Center CBC and the Woodlawn CBC. Both Areas 3 and 6 are planned for residential use at a density of 5-8 du/ac. As an option, Area 6 is planned for residential use at a density up to 8-12 du/ac on 75% of the land area, and retail and office use at an intensity up to .35 FAR on 25% of the land area. An additional option for Areas 3 and 6 allows retail and office use at an intensity up to .50 FAR with full consolidation. An urban/town center concept is proposed with substantial parcel consolidation in these areas. Seventy-five percent of the land area would be developed as residential at 16-20 du/ac. The remaining land area would be developed with retail and office uses at an intensity up to .35 FAR.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the staff alternative to APR 09-IV-19MV, as set forth in Attachment I. The staff alternative recommends eliminating the proposed .35 FAR option, as there are no additional requirements to achieve the .50 FAR option. Areas 3 and 6 would be combined into one recommendation, Area 3. The recommendation clarifies the percentage of nonresidential to residential uses to reflect a maximum of 25% non-residential uses. Adequate on-site park facilities and connectivity to nearby parks are recommended. Redevelopment should not degrade the transportation network in the vicinity of the site. Pedestrian, but not vehicular, connection is recommended to the Mount Zephyr Community. LEED Silver certification for office buildings and residential buildings is recommended.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for 09-IV-19MV as shown in Attachment I.

TIMING:

Planning Commission public hearing- July 14, 2010

Board Agenda Item
September 28, 2010

Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The staff analysis and recommendation for South County APR item 09-IV-19MV are found in Attachment II. The Mount Vernon APR Task Force Report is shown in Attachment III. The Task Force supported the nomination as submitted, with the addition of a condition related to transportation improvements.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-19MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/19MV.pdf>)

Attachment III: Mount Vernon District APR Task Force Report for South County APR Item 09-IV-19MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/19mv.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Kimberly M. Rybold, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-19MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-IV-19MV.

Commissioner Flanagan: Yes. The South County APR Item 09-IV-19MV is located southeast side of Richmond Highway, generally near the Forest Place intersection. Mr. Chairman, the Mount Vernon Council submitted South County APR Item 09-IV-19MV. The nomination proposes to modify existing options for the subject property, allowing for an urban/town center concept with substantial parcel consolidation. Seventy-five percent of the land area would be developed as residential at 16 to 20 dwelling units per acre, resulting in up to 396 low-rise multi-family residential units. The remaining land area would be developed with retail and office uses at an intensity up to .35 FAR, with approximately 40 percent office use and 60 percent retail use. As an option, the retail and office uses at an intensity up to .50 FAR on the remaining land area would be permitted. The nomination, however, does not indicate additional conditions or requirements needed to increase the option for the non-residential use to an intensity of .50 FAR from .35 FAR. The proposed nomination would allow for a better mix of uses, including residential use, in these Suburban Neighborhood Areas, while maintaining a similar level of intensity as is currently recommended by the maximum Comprehensive Plan option for the subject property. Because there is no substantive difference between the two proposed options, staff recommends approval of a staff alternative that would eliminate the .35 FAR option, and combine Areas 3 and 6 into one recommendation area. The staff alternative would add language regarding the transportation impacts, park facilities, and pedestrian access from the Mount Zephyr Community. This mix of uses would generate a similar number of average daily trips as the Plan maximum option - - current Plan maximum option. In the nominated text, staff recommends clarifying the percentage of non-residential to residential uses to reflect a maximum of 25 percent non-residential uses, to be consistent with staff's understanding of the nomination as reflected in the transportation analysis. The proposed condition regarding LEED Silver certification for office buildings was modified to include residential buildings as well. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR NOMINATION 09-IV-19MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF ALTERNATIVE, AS SHOWN ON PAGES 445-447 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGES 9 THROUGH 11 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

RECOMMENDATION

The proposed nomination would allow for a better mix of uses, including residential use, in these Suburban Neighborhood Areas, while maintaining a similar level of intensity as is currently recommended by the maximum Comprehensive Plan option for the subject property. As a result of this mix of uses, the average daily trips generated would be approximately the same as the Plan maximum option. Staff supports the nomination with some changes that are outlined in the recommended alternative. This alternative would eliminate the proposed .35 FAR option, as there are no additional requirements recommended to achieve the .50 FAR option. In the nominated text, staff recommends clarifying the percentage of nonresidential to residential uses to reflect a maximum of 25% non-residential uses. This percentage is consistent with staff's understanding of the nomination as reflected in the transportation analysis. Due to the joint nature of the recommendations for Areas 3 and 6, the staff alternative would combine these areas into one recommendation, Area 3. Recommendations regarding parks and recreation were added so as to ensure adequate on-site park facilities and connectivity to nearby parks. A recommendation regarding transportation impacts was modified to clarify that proposed redevelopment should not degrade the transportation network in the vicinity of the site. The proposed condition regarding LEED Silver certification for office buildings was modified to include residential buildings as well. Additionally, the condition regarding access to the Mount Zephyr Community was modified to specify vehicular access, so as to not preclude pedestrian access from being provided from the subject property.

PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN

Staff recommends the Comprehensive Plan be modified as shown below. Text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~strike through~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, as amended through 3-9-2010, Richmond Highway Corridor Area, pages 58-60:

Note: Areas 3 and 6 will be combined to create a new Area 3. Area 6 will be deleted.

**“SUBURBAN NEIGHBORHOOD AREAS
 BETWEEN SOUTH COUNTY CENTER CBC AND WOODLAWN CBC
 (Refer to Figure 12 for recommendations 1-409)**

...

3. ~~The area located on the east side of Richmond Highway south of Potomac Square Center to Parcel 101 3((1))31C north of the Engleside Trailer Park is planned for residential use at 5-8 dwelling units per acre. This area includes the Engleside Trailer Park and Ray's Mobile Colony north of the intersection of Forest Place and Richmond Highway and commercial uses fronting on Richmond Highway. This area is planned for residential use at 5-8 dwelling units per acre. Residential uses should be designed to provide for a transition to the adjacent single-family residential neighborhood by providing the required buffering and screening to adjacent neighborhoods. Any redevelopment of this area is encouraged to comply with the County's voluntary relocation guidelines. No vehicular access should be~~

provided to any proposed development from existing streets in the Mount Zephyr community. ~~See recommendation #6 for additional recommendations.~~

If substantial consolidation is achieved, this area may be appropriate for a mixed-use development using an urban/town center design concept with residential, office and retail uses. Approximately seventy-five percent of the total development should be developed as residential at 16-20 dwelling units per acre with a component of up to 25 percent of the total site area developed with retail and office uses at an intensity of .50 FAR. In addition, the following conditions should be met:

- The proposed “urban/town center” concept’s site design should enable the creation of a cohesive and walkable environment.
- High-quality architecture should be provided.
- Buildings should be oriented to internal/external streets and sidewalks, and sufficient open space should be interspersed with retail, residential, and office uses to provide usable public gathering areas.
- Building tapering, vegetative buffering and screening should be provided as needed on the periphery to create a transition to the surrounding areas. Lighting and sound from any development should be designed so that it is not intrusive to adjacent residential development.
- Any freestanding office or residential building is encouraged to meet at least U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) Silver standards or other comparable programs with third party certification. Retail users are encouraged to meet applicable LEED standards, or other comparable programs, in design and construction to promote sustainable development. The impervious nature of hard surfaces should be offset through approaches such as providing vegetated planting strips in surface parking lots.
- Multi-story office buildings should include ground-floor retail use and other services where possible. To the extent possible, the new retail uses should be located in places that would encourage public usage, activate the town center, and reduce vehicular traffic. Such new retail uses should also be distributed throughout the site in the ground floors of the residential buildings and at prominent entrance points to the town center.
- The residential units should be distributed in buildings across the site in a manner that is well-integrated into the town center. The residential uses also should have convenient access to open space, community-serving retail uses, and other services. Affordable and workforce housing should be provided through compliance with the Affordable Dwelling Unit Ordinance and other County policies.
- Usable open spaces such as pocket parks, plazas, common greens and recreation-focused urban parks should be integrated into the development with supporting pedestrian connectivity.
- Internal roadways, trails, sidewalks, and street crossings should connect buildings and open spaces. Trails and sidewalks should link the site to adjoining communities. It is especially desirable to develop a strong pedestrian link from the site to Mount Vernon Manor Park to allow the future town center residents access to the park. Streetscape treatments should include trees, landscaping, sidewalks, bicycle facilities, street furniture, and various paving textures, to the extent possible.
- The impact on parks and recreation levels of service should be offset per Objective 6 of the Parks and Recreation Section of the Policy Plan through the provision of on-site urban park amenities, parkland dedication, provision of active recreation facilities and/or improvements to existing nearby parks.

-
- Transportation improvements should be provided that ensure that the impact of the proposed development is mitigated so that there is no overall degradation of the transportation network in the vicinity of the site.
 - Bus transit stops and accompanying shelters should be provided along Richmond Highway.
 - No vehicular access from this community should be provided into the Mount Zephyr Community.

...

6. ~~This area includes the Engleside Trailer Park and Ray's Mobile Colony north of the intersection of Forest Place and Richmond Highway and commercial uses fronting on Richmond Highway. This area is planned for residential use at 5-8 dwelling units per acre. If full consolidation is achieved, this area may be appropriate for a mixed-use development with residential, office and retail uses. At least seventy five percent of the total development should be developed as residential at 8-12 dwelling units per acre with a component of up to 25 percent of the total site area developed with retail and office uses at an intensity of .35 FAR. Any redevelopment of this area is encouraged to comply with the County's voluntary relocation guidelines. If Areas 3 and 6 are fully consolidated, an option for mixed use including retail and office uses at an intensity up to .50 FAR may be appropriate."~~

(Subsequent conditions in Plan text will be renumbered accordingly, and Figure 11 revised to show the new recommendation numbers)

NOTE: The Comprehensive Plan Map would be changed to show the density of a small section of parcel 30B as planned for a density of 5-8 du/ac. It is currently shown as planned for a density of 2-3 du/ac.

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-23MV, 09-IV-25MV, and 09-IV-26MV, Located East and Southeast of the Intersection of North Kings Highway and Richmond Highway (Mount Vernon District)

ISSUE:

Area Plans Review (APR) nominations 09-IV-23MV, 09-IV-25MV, and 09-IV-26MV address approximately 2-acre, 49-acre, and 5-acre subject areas, respectively, located in the Penn Daw Community Business Center (CBC) along Richmond Highway.

APR nomination 09-IV-23MV addresses Sub-unit F2 of the CBC. The nomination proposes to replan the subject area from retail use up to an intensity of 0.35 floor-area ratio (FAR) or a gateway park, if an interchange is constructed, to a bus rapid transit station.

APR nomination 09-IV-25MV addresses Sub-units E1, E2, and E3 and Land Unit G of the CBC. The nomination concerns property planned for neighborhood-serving office and/or retail use at an intensity up to 0.50 FAR; residential use at a density of 3-4 dwelling units per acre (du/ac) with an option to increase the density up to 5-8 du/ac; a mobile home park at a density of 5-8 du/ac; and community-serving retail use up to an intensity of 0.50 FAR. There is an option for some or all of the subject area to be developed as retail, office, hotel, and residential mixed-use at an overall intensity up to 1.0 FAR if consolidation and other conditions are met. The nomination proposes to replan the subject area for residential, office, retail mixed-use up to an intensity of 1.5 FAR with an approximately 26-acre consolidation and increase the intensity up to a 2.0 FAR with an approximately 41-acre consolidation.

APR nomination 09-IV-26MV addresses property within and adjacent to Land Unit G of the CBC. The portion of the subject area located within the CBC is planned for community-serving retail use up to an intensity of 0.50 FAR with an option based on consolidation for retail, office, hotel and residential uses with an overall intensity of up to 1.0 FAR. The portion of the subject area located outside of the CBC is planned for residential use up to a density of 3-4 du/ac. This area is located within the Greater Belle Haven Community Planning Sector in the Mount Vernon Planning District. The nomination proposes to add an option for residential and retail mixed-use up to an intensity of 1.0 FAR.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioners Donahue and Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR items 09-IV-23MV, 09-IV-25MV, and 26-MV. The alternative is consistent with the staff and task force recommendations, except for a

Board Agenda Item
September 28, 2010

slight modification to the language regarding transit. The alternative, set forth in Attachment I, allows higher intensity mixed-use development with a different consolidation pattern.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommended text as found in Attachment I.

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The Planning Commission alternative re-envisioned the current Plan recommendations for the east side of the Penn Daw CBC as a vibrant, mixed-use, transit-oriented community, based on the goals of the original nominations. The alternative dissolves Sub-units E1, E2, and E3 into a unified Land Unit E and shift the current Plan option for redevelopment recommended for Land Unit G onto this land unit. The new option has a higher intensity than the current Plan with a different consolidation pattern. The option also recognizes current development feasibility and affords the opportunity to create a well-designed, pedestrian and transit-friendly environment with integrated land uses, logical consolidation, and natural resource preservation. Transit stops would be located in this area to support the development. Additional Plan text also recognizes that the area on the southern edge of Land Unit G may have the potential for future redevelopment through a concurrent Plan amendment and rezoning process. The Planning Commission modification to the staff and task force recommendation removes guidance regarding transit that may be too specific for the Comprehensive Plan. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

Board Agenda Item
September 28, 2010

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for APR items 09-IV-23MV, 09-IV-25MV, and 09-IV-26MV (Available on-line at

http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/23mv_25mv_26mv.pdf)

Attachment III: Mount Vernon District APR Task Force Report for APR items 09-IV-23MV, 09-IV-25MV, and 09-IV-26MV (Available on line at

http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/23mv_25mv_26mv.pdf)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Meghan D. Van Dam, Planner III, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Items #09-IV-23MV, 09-IV-25MV, and 09-IV-26MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: Okay. APR 09-IV-23MV, 25MV, and 26MV.

Commissioner Flanagan: Thank you, Mr. Chairman. South County APR Items 09-IV-23MV and 09-IV-25MV and 09-IV-26MV are in the Mount Vernon Planning District, generally located north and east of the intersection of Richmond Highway and North Kings Highway. Mr. Chairman, the Mount Vernon Council submitted APR Items 09-IV-23MV and 09-IV-25MV in an effort to re-envision the Penn Daw Community Business Center as a new focal point for the Richmond Highway Corridor. APR 09-IV-25MV proposes a mixed-use, transit-friendly town center, more intense than the current Plan, on Sub-units E-1, E-2, E-3, and a portion of Land Unit G of the CBC; while APR 09-IV-23MV proposes to support this redevelopment by replanning Sub-unit F-2 of the CBC to include a rapid transit bus station. APR 09-IV-26MV on pages 533 and 534 of the Staff Report Book dated July 14, 2010, which is also primarily within the CBC, proposes to work towards a similar goal with more intense mixed-use development and expansion of the CBC. Staff and the Mount Vernon APR Task Force generally support the overarching goals of these nominations and have recommended an alternative, which combines the recommendations for the three nominations in order to provide a cohesive vision for the redevelopment. The vision would encourage development in the CBC as an urban, walkable, attractive, and transit-friendly place, while addressing concerns about intensity, transitions to adjacent neighborhoods - - and that's basically residential neighborhoods-- and impacts to transportation and environmentally sensitive areas. There is a RPA just behind this property. In the alternative, Sub-units E-1, E-2, and E-3 would dissolve into a unified Land Unit E and the current Plan's option for mixed-use development in the CBC would be shifted onto a portion of this land unit, with an increased intensity. The option would be based on a number of conditions, including the mixture of land uses and their location, buffering, orientation, design, parking, and environmental preservation, and transportation mitigation. This redevelopment also would be predicated on the provision of mass transit and a defined pedestrian circulation system. The mass transit, in the form of a transit center or enhanced transit stop, would be located within this redevelopment option or on the adjacent Land Unit, Sub-unit F-2. I believe that the alternative staff and Task Force recommendation would achieve the original goals of the nominations and create a more viable redevelopment scenario for this portion of the CBC; however, I would like to modify the alternative slightly to remove the directional guidance for the transit service in Land Bays - - Land Units E and F-2. Specifying the northbound and southbound transit service, as recommended, may be premature at this time and should occur during the rezoning development review. Therefore, Mr. Chairman, I have three motions for these nominations. First, FOR SOUTH COUNTY APR ITEM 09-IV-23MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF AND TASK FORCE ALTERNATIVE FOR LAND UNIT F-2 OF THE PENN DAW CBC, AS MODIFIED IN ITALICS AND SHOWN IN MY HANDOUT DATED JULY 28, 2010.

Planning Commission Meeting
July 28, 2010

Page 2

APR Items #09-IV-23MV, 09-IV-25MV, and 09-IV-26MV

Chairman Murphy: Without objection.

Commissioner Flanagan: Second, FOR SOUTH COUNTY APR ITEM 09-IV-25MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF AND THE TASK FORCE ALTERNATIVE FOR SUB-UNITS E-1, E-2, E-3, AND LAND UNIT G on the Penn - - ON THE PENN DAW CBC, AS MODIFIED IN ITALICS AND SHOWN IN MY HANDOUT DATED JULY 28, 2010.

Chairman Murphy: Without objection.

Commissioner Flanagan: Third, FOR SOUTH COUNTY APR ITEM 09-IV-26MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF AND TASK FORCE ALTERNATIVE FOR LAND UNIT G OF THE PENN DAW CBC, AS SHOWN IN MY HANDOUT DATED JULY 28, 2010.

Chairman Murphy: Without objection.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Yes, Mr. Sargeant.

Commissioner Sargeant: I'm sorry. Mr. Flanagan, were you finished? Were you finished reading your motions?

Commissioner Flanagan: Yes.

Commissioner Sargeant: Okay. Just one note that came up during the Task Force process and discussions with staff. A transit study was involved in these - - in these three - - these three proposals -- the 23MV, 25MV, and 26MV. And it was noted that the transit study - - during our Task Force process that the transit study was not completed. Just to get staff to comment on where we are at this point and what - - how that transit study may or may not influence the language, especially with regard to the transit centers in this - - in this proposal.

Thomas Burke, Fairfax County Department of Transportation: The Department of Transportation working with OCRR has identified sites through this study that are farther to the south around the Fordson/Boswell intersections with Richmond Highway. So, that study would not have an effect on this area although we did not select a site as far north primarily because of the distance to Huntington Metrorail because we were looking more for a transfer center where we would have structured parking and more of - - more of transfers. I think here we're looking more at enhanced bus stop or transfer bus stop.

Commissioner Sargeant: Just to clarify. If you are - - if you are providing transit facilities of some sort or a transit center - - okay - - if you are providing transit facilities then you do have to prioritize given - - given any budget constraints. If your study suggests transit stops, centers,

Planning Commission Meeting
July 28, 2010

Page 3

APR Items #09-IV-23MV, 09-IV-25MV, and 09-IV-26MV

whatever farther to the south of this - - of these nominations, what does that do to what's recommended in these - - in these proposals?

Mr. Burke: I don't necessarily think that they're attached. I think they're on separate tracks. We're looking farther to the south because we want to catch more of the commuters who are going to Huntington. And if you put the station farther north at this location, you're not going to catch them. They're going to continue on to Huntington, but if you put it down towards Fordson, we're hoping that it will catch more of the - - maybe regional commuters, but we don't see any reason why there couldn't be an enhanced transit center at this location because there are six routes that do traverse the area.

Commissioner Sargeant: So, you would envision that any transit center/transit station within these nominated proposals would probably be developed privately in conjunction with other development. Is that the - - is that the thought?

Mr. Burke: On this site I would think so.

Commissioner Sargeant: Okay. Thank you.

Chairman Murphy: All right.

Commissioner Flanagan: And Mr. Chairman, I just would like to add to that. We only have really two transit locations on Richmond Highway. One is at the Kings Crossing where we do have the - - several routes that travelers cross at that point, and we do have a lot of transfers too. And we also have a lot of transfers down at - - at the Sherwood Hall in the Hybla Valley area.

Commissioner Sargeant: Yes.

Commissioner Flanagan: There's a lot of buses that interact at that particular location. So --

Commissioner Sargeant: I just wanted to make sure that the transit study would not influence location of a transit center/transit stop within this proposal.

Commissioner Flanagan: Right. I think the major decision there is to whether it's - - will have the transit on one side of the road rather than having pedestrians running back and forth across Richmond Highway.

Commissioner Sargeant: Right. Thank you.

//

(The motion carried unanimously with Commissioners Donahue and Harsel not present for the votes.)

KAD

RECOMMENDATION

Text proposed to be added is shown as underlined, text proposed to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, Area IV, Mount Vernon Planning District, Richmond Highway Corridor, Penn Daw CBC, Land Use Recommendations, pages 35-37, as amended through August 3, 2009:

“Land Unit E

As delineated on the Plan Map, properties fronting on the east side of Richmond Highway between Quander Road and Shields Avenue and Tax Map parcels 83-3 ((1)) 23A and 83-3 ((8)) A are planned for neighborhood-serving office and/or retail uses up to .50 FAR with a maximum height of 50 feet. The Penn Daw Trailer Park is planned and currently developed as a mobile home park at a density of 5-8 dwelling units per acre. Any redevelopment of the mobile homes should comply with the County’s voluntary relocation guidelines. Properties located along the south side of Quander Road between Richmond Highway and Quander Road Center are planned for residential use at 3-4 dwelling units per acre. As an option, with complete parcel consolidation of these properties along Quander Road, a density of 5-8 dwelling units per acre may be appropriate. Structures should be clustered to minimize impacts on steep slopes in the area. Consolidating and/or limiting access should be encouraged in order to preclude congestion within the Richmond Highway and Quander Road corridors and their intersections.

This land unit presents an opportunity for a well-designed, mixed-use project that will serve as the focal point and core area for the Penn Daw Community Business Center. As an option, the properties fronting Richmond Highway in Land Unit E and the Penn Daw Trailer Park if consolidated may be appropriate for redevelopment as a well-integrated mix of residential, office, retail, and hotel uses at an overall intensity up to a 1.5 FAR with a unified development plan. Properties along Quander Road, north of the stream valley and the EQC area (Tax Map parcels 83-3 ((1)) 34, 36, 41A, 42, 44, 45, 46, and 49; ((22)) 2, 2A, A, and B) also may be considered for this option provided logical consolidation is achieved.

Under this option, buildings should be coordinated in terms of scale, mass and function and mitigate impacts to adjacent residential neighborhoods. High-quality building and site design, incorporating the urban design recommendations found at the end of this Plan, should distinguish this area as a well-designed urban center. Development proposals should reflect a single integrated project or a project that allows for future coordination with other projects and should meet the following conditions:

- Substantial and logical consolidation is obtained. Where consolidation of parcels is not obtained, existing uses should be integrated into the site design by providing interparcel vehicular and pedestrian access;
- The level of non-residential development should be approximately one third of the total gross floor area for the entire mixed-use development. Appropriate first floor support retail and service uses designed to serve the development and surrounding area in this option should be encouraged. A table-service restaurant that is well-integrated into the project is desirable;
- Non-residential uses should be located at the front of the property and oriented to Richmond Highway. Residential uses should be located toward the middle and rear in

- order to take advantage of the visual and passive recreational amenity, provided by the adjacent stream valley area.
- Sufficient buffering, year-round screening with predominantly native plants and trees, tapering of building heights and massing, should be utilized to mitigate adverse impacts on nearby residential areas or unconsolidated residential properties.
 - High-quality architecture, landscape design, and pedestrian amenities should be provided. Building design should be combined with an innovative and creative use of surrounding pedestrian open space in such a manner as to reduce the effect of the building height and bulk;
 - Urban design elements, such as streetscaping, public art, pedestrian plazas, cultural/recreation facilities, landscaped open space, landmarks or building designs are provided;
 - Parking should be consolidated into structures and integrated into the streetscape in order to avoid adverse visual impacts to major pedestrian, bicycle, or vehicular corridors and unconsolidated parcels. Façade treatment of parking structures should contribute to the visual appeal of the streetscape. On-street and underground parking should be given preference over other forms of parking, such as surface parking lots or structured parking garages. Surface parking lots should be avoided or located in the rear of the buildings when necessary.
 - An acceptable, detailed transportation analysis is performed that identifies transportation improvements required to support the development. Access points should be consolidated along Richmond Highway and an efficient internal circulation system provided. Traffic circulation on the site must ensure safe and orderly access to adjacent arterials. Cut-through traffic is minimized;
 - Adequate right-of-way is provided for road improvements;
 - Consolidating and/or limiting access should be considered in order to preclude congestion within the Richmond Highway and Quander Road corridors and their intersection.
 - No more than one additional access onto Richmond Highway, besides Shields Avenue should be provided. Consolidated access for redevelopment along Quander Road should be considered. These provisions are intended to preclude congestion near the Richmond Highway/ Quander Road intersection.
 - Low impact development measures and innovative stormwater management techniques should be used to mitigate the impact of development on water quality and quantity. Some low impact development measures which could provide enhancements to development as well as a stormwater benefit include facilities such as detention, infiltration and bioretention measures, as well as landscaped areas and constructed wetlands. Steep slopes, streams and floodplains with their existing vegetation located on the property are preserved as a public park. Safe, attractive, well-signed pathways, using natural surfaces, should connect this area to the redevelopment. Techniques should exceed the requirements for the baseline level in the areas of stormwater management and should complement other green and sustainable features, as recommended within Policy Plan.
 - Pedestrian circulation and the use of mass transit are encouraged through site design, connection with proposed and existing and planned bicycle and pedestrian circulation

systems in the area, and other methods. A transit center or enhanced transit stop serving existing and planned Metrobus and Fairfax Connector bus routes in the Richmond, North Kings and South Kings Highway corridors should be accommodated to support this development and the surrounding area. Safe and convenient vehicular, bicycle, and pedestrian access and connections between Land Unit E and Sub-Unit F2 should be provided to ensure safe operation. Should future study determine that rail is appropriate for the Richmond Highway corridor and that this location warrants a station, a future rail station should be accommodated, as depicted on Figure 13. Land Unit F2 provides additional guidance on mass transit.

Sub-unit E-1

~~Lots fronting on the east side of Richmond Highway between Quander Road and Shields Avenue are planned for neighborhood-serving office and/or retail uses up to .50 FAR with a maximum height of 50 feet. See Land Unit G for an additional land use option.~~

Sub-unit E-2

~~Properties located along the south side of Quander Road between Richmond Highway and Quander Road Center are planned for residential use at 3-4 dwelling units per acre. As an option, with complete parcel consolidation in this sub-unit, a density of 5-8 dwelling units per acre may be appropriate. Structures should be clustered to minimize impacts on steep slopes in the area. No more than one entrance point onto Richmond Highway that is no closer than 200 feet from Quander Road, and no more than two entrance points on Quander Road, that are no closer than 200 feet from Richmond Highway should be provided. These latter provisions are intended to preclude congestion near the Richmond Highway/Quander Road intersection because of the importance of that road for carrying school traffic to and from West Potomac High School and Metro-related traffic to and from Huntington, as well as the residential traffic generated on these sites. See Land Unit G for an additional land use option.~~

Sub-unit E-3

~~The Penn Daw Trailer Park is planned and currently developed as a mobile home park at a density of 5-8 dwelling units per acre. Any redevelopment of this sub-unit is encouraged to comply with the County's voluntary relocation guidelines. See Land Unit G for an additional land use option.~~

...

Sub-unit F-2

~~Parcels within this sub-unit include 83-3((1)) 22A and a portion of Parcel 22B1 and are planned for retail use up to .35 FAR. If substantial land is required for interchange improvements, the remaining property should also be acquired for use as a gateway park to provide A gateway feature should be provided on the sub-unit to serve as a focal point for the Penn Daw Community Business Center. If a transit center or enhanced transit stop cannot be accommodated in Land Unit E or additional analysis determines that Land Unit F2 is a more appropriate and logical location, a transit center or enhanced transit stop should be accommodated in this land unit to support mixed-use redevelopment on Land Unit E and in the surrounding area. Safe and convenient vehicular, bicycle, and pedestrian access and connections between Land Unit E and Sub-Unit F2 should be provided to ensure safe operation. Should future study determine that rail is appropriate for the Richmond Highway corridor and that this location warrants a station, a future rail station should be accommodated.~~

Land Unit G

The area along the east side of Richmond Highway south of Shields Avenue to Fairview Drive is planned for community-serving retail use up to .50 FAR. Tax Map parcel 83-3 ((1)) 24 is owned by the county. Steep slopes, streams and floodplains with their existing vegetation located on the property should be preserved as a public park. Where past practices have degraded these slopes and streams, bioengineering approaches should be followed to restore them to more natural conditions and functions.

As an option, Tax Map parcel 83-3 ((1)) 20 may be appropriate for redevelopment. The mix of use and intensity should be examined through a concurrent Comprehensive Plan amendment and zoning application. This approach is consistent with county policy that permits concurrent processing of Comprehensive Plan amendment and zoning applications in order to facilitate the review of development proposals in Commercial Revitalization Areas. Redevelopment under this option may consider consolidation with Tax Map parcels 83-3 ((1)) 19 and 18 in order to accommodate compatible land use transitions, building height tapering, and potential buffering to the adjacent, low density neighborhood.

~~Existing conditions present an opportunity for a well-designed, mixed-use project that will serve as the focal point and core area for the Penn Daw Community Business Center. As an option, Land Unit G is planned for a well integrated mix of retail, office, hotel and residential uses with an overall intensity of up to 1.0 FAR. Development proposals for a single integrated project or a project that allows for future coordination with other projects should meet the following conditions:~~

- ~~• Consolidation of Parcels 83-3((1)) 20, 23A, 24, 24A and 24B together with consolidation of additional lots in adjacent Sub-units E-1, E-2 and E-3 is encouraged. If full consolidation is not achieved, interparcel access to adjacent uses should be provided;~~
- ~~• The level of non-residential development should not exceed two-thirds of the total gross floor area for the entire mixed-use development. Appropriate first floor support retail and service uses designed to serve the development in this land unit should be encouraged.~~
- ~~• Non-residential uses should be located at the front of the property and oriented to Richmond Highway. Residential uses should be located toward the middle and rear of parcels 24A and 24B in order to take advantage of the visual and passive recreational amenity provided by the adjacent stream valley area. Residential density and building heights should be tapered from mid-rise or garden-style apartments to townhouses located nearest to the existing adjacent neighborhood;~~
- ~~• Building heights are tapered down toward the existing single-family area;~~
- ~~• Adequate measures to mitigate against undue environmental impact are provided. Steep slopes, streams and floodplains with their existing vegetation located on the property are preserved as a public park. Where past practices have degraded these slopes and streams, bioengineering approaches should be followed to restore them to more natural conditions and functions;~~
- ~~• Sufficient buffering and screening are provided to mitigate adverse impacts on adjacent residential areas;~~
- ~~• Adequate right-of-way is provided for road improvements;~~
- ~~• Pedestrian circulation and the use of mass transit is encouraged through site design, connection with proposed and existing pedestrian circulation systems in the area and other methods;~~
- ~~• Urban design elements, such as streetscaping, public art, pedestrian plazas, cultural/recreation facilities, landscaped open space, landmarks or building designs which will~~

~~denote this area as a focal point of the Penn Daw Community Business Center are provided. The urban design recommendations found at the end of this Plan, should be used as a guide; and;~~

- ~~• Incorporation of residential use in office or retail buildings in an “above the shop” arrangement is encouraged.~~

~~As an option, if Sub-units E-1, E-2 and E-3 are substantially and logically consolidated with Land Unit G, a well-integrated mix of uses with an overall intensity at up to 1.0 FAR that includes at least two of the following uses: retail, office, hotel and residential. The conditions listed above should be fulfilled for the entire assemblage.”~~

NOTE: The Comprehensive Plan Map will change to show Tax Map parcel 83-3 ((1)) 23A as Alternative Uses.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-III-5P, Located Northeast of Ox Road, Across from the Intersection with Palmer Drive, and Southwest of the William Halley Elementary School (Mount Vernon District)

ISSUE:

APR nomination 09-III-5P proposes to amend the adopted Comprehensive Plan for an existing shopping center on approximately 20 acres along Ox Road. The proposed amendment would modify the conditions for redevelopment to recommend that one free-standing retail structure up to 5,500 square feet would be appropriate. The nomination also includes a 2.2-acre parcel that was subdivided from the shopping center and dedicated to the adjacent home owners association as private open space. This parcel is part of the nomination because its former parcel number, prior to the subdivision, is referenced in the Plan. The planned maximum square footage of the shopping center is not proposed to change nor is there a proposed change to the private open space designation.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-III-5P that is consistent with the staff and task force recommendations, as set forth in Attachment I. The alternative does not support the proposed nomination for the free-standing retail use.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-III-5P as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The subject area includes approximately 22 acres along Ox Road adjacent to the Crosspointe subdivision. The area is planned for residential use at a density of 0.5 to 1.0 dwelling unit per acre. The alternative does not support the proposed nomination for the free-standing retail use. The current Comprehensive Plan recommends that free-standing retail uses should not be included within the Plan option due to the residential character of the area. No change in circumstance in the area has occurred to the area that would warrant an amendment to the recommendation about free-standing uses. At the same time, the staff alternative recommends an editorial update the Tax Map parcel references for the private open space. The Mount Vernon District APR Task Force recommended approval of the staff alternative. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-III-5P (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/5p.pdf>)

Attachment III: Mount Vernon District APR Task Force Recommendation (Available on line at

<http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/5p.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Meghan D. Van Dam, Planner III, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-III-5P – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-III-5P.

Commissioner Flanagan: Oh, yes. The South County APR Item 09-III-5P is in the Pohick Planning District, located northeast of Ox Road, across from the intersection with Palmer Drive, and southwest of the William Halley Elementary School. APR 09-III-5P proposes to amend the option for the subject property to recommend a free-standing retail structure on the site. There is none now. The subject area for this nomination includes the Shoppes at Lorton Shopping Center on Ox Road and a two-parcel - - two-acre parcel that was dedicated to the adjacent Crosspointe Homeowners Association. The Plan recommends the shopping center as an option for this area and specifically calls out the prohibition of free-standing uses in order to avoid the appearance of a strip commercial center. This condition has been reinforced through past zoning applications, and there have been no change in circumstance that would warrant the amendment presently. In regards to the two-acre parcel owned by the Crosspointe Homeowners Association, the Plan references the old Tax Map number and that does need to be updated. The Mount Vernon Task Force and the staff do not support the nomination, but recommend an alternative that would update the Tax Map number on this parcel. Therefore, Mr. Chairman, FOR APR ITEM 09-III-5P, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE AS FOUND ON PAGE 47 OF THE STAFF REPORT BOOK, DATED JULY 14, 2010, AND ON PAGE 5 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

RECOMMENDATION

Text proposed to be added is shown as underlined, text proposed to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, Area III, Pohick Planning District, P5 Dominion Community Planning Sector, page 64, as amended through January 26, 2009:

“8. ~~Parcels 106-2((7))1-5 and the southern portion of Parcel 106-2((1))9b corresponding to the northern boundary of Parcel 106-2((7))5,~~ at the northeast quadrant of Windrush Drive and Route 123 are planned for residential development at .5-1 dwelling unit per acre as shown on the Plan map.

...

- The retail development should provide at least a two-acre site for active recreational use, such as a soccer field. This recreational site should be provided in the northern portion of on Parcel 106-2((1)) 9b and should not be rezoned for commercial use as it is meant to be part of the buffer area for the site...”

NOTE: The Comprehensive Plan Map would not change.

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-2LP, Located North of Interstate 95, and West of Furnace Road (Mount Vernon District)

ISSUE:

The nomination proposes to amend the Comprehensive Plan for 2 subject areas along Furnace Road that are 17.8 acres and 9.9 acres in size, respectively. The adopted Plan recommendations for the subject properties are for industrial use for a recycling center and/or recycling related industries, with options in the long range for public open space when the adjacent landfills are covered. The nomination would modify the Plan by replacing the recommendation for industrial use with a recommendation for “light industrial use”, and deleting the recommendations for recycling facilities. The nomination would also plan the nominated areas for open space in the long term.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-IV-2LP, consistent with the Task Force Recommendation as set forth in Attachment I. The Planning Commission supports the retention of the adopted Plan recommendation for industrial use and recycling center use with an option for public open space in the future when the adjacent landfills are covered, on the southern portion of the subject property and to replace the adopted Plan recommendation for the northern portion of the subject property with the nominated change for light industrial use and public open space in the future when the adjacent landfills are covered.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors retain the adopted Plan for APR Item 09-IV-2LP as shown on page 5 of the Staff Report in Attachment II.

TIMING:

Planning Commission public hearing – July 14, 2010

Planning Commission mark-up – July 28, 2010

Board of Supervisors public hearing – September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

Both the I-95 landfill and Overlook Ridge landfill that surround the northern portion of the subject property are planned for active and passive recreational uses in the long term after they are closed and covered. The Task Force recommended that this portion of the subject property include a recommendation for public open space in the long term, in order to be consistent with the future planned uses of the landfill properties and that the adopted Plan be retained for the southern portion of the subject property. Staff recommended that the adopted Plan be retained because there are other industrial and public facilities uses located in the vicinity of the subject property, and there are no residential areas nearby. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-2LP (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/2lp.pdf>)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/2lp.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Aaron Klibaner, Planner II, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-2LP – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: Item APR 09-IV-2LP.

Commissioner Flanagan: APR Item 09-IV-2LP, generally located north of Interstate 95 on the west side of Furnace Road. The nominated area for APR Item 09-IV-2LP is split between two triangular pieces of land that are located approximately 600 feet apart on Furnace Road. The nomination proposes to modify the current Plan text by replacing the recommendation for industrial use with a recommendation for "light industrial use," and deleting the recommendation for recycling facilities. The nomination would also plan the nominated area for open space in the long term. The subject property is surrounded by other industrial and/or public facility uses and is not located near a residential area. In addition, the conditions in the surrounding area have not changed since the subject area was originally planned for industrial use in 1995; therefore, replanning the subject property is not warranted at this time. For these reasons, staff recommended that the Plan be retained - - the adopted Plan be retained. The Task Force recommended that the nomination be approved for the northern portion of the subject property and that the adopted Plan be retained for the southern portion of the property. In other words, there's a split between the nominator and the staff. Public hearing testimony supported the Task Force recommendation. Therefore, Mr. Chairman, FOR APR ITEM 09-IV-2LP, I support the Task Force recommendation and **MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE NOMINATION BE ADOPTED AS AMENDED AND SHOWN ON PAGE 4 [sic] OF MY HANDOUT DATED JULY 28, 2010.**

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Are we on page 4?

Commissioner Sargeant: We're on page - -

Chairman Murphy: We're on page 6.

Commissioner Sargeant: Six.

Commissioner Flanagan: We're on page 6.

Chairman Murphy: Okay. Without objection.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: I'm sorry. Mr. Sargeant.

Planning Commission Meeting
July 28, 2010
APR Item #09-IV-2LP

Page 2

Commissioner Sargeant: Given that both sites were planned in the original language, long range for public - - with an option for public open space, I'm wondering if we are by specifically identifying a site for a recycling center and other uses, if we are not limiting our opportunities and options for the future. But the northern site may be an opportunity if and when something else comes adjacent to it for public use, especially recreation use. But do we not limit our options by saying one will be more dedicated for a specific use than another?

Commissioner Flanagan: I believe that question came up in the Task Force and was resolved - - you know - - before they made their recommendation.

Commissioner Sargeant: And how was that resolved?

Commissioner Flanagan: Staff, can you give me the background on that?

Aaron Klibaner, Planning Division (PD), Department of Planning and Zoning (DPZ): Well, the nomination is proposing - - so, right now both - - both pieces of the property have the option for public open space in the long term once the adjacent landfills are closed. That's the adopted Plan. The nomination was proposing that for the northern triangular piece that that be mandatory, so it's not an option when the adjacent landfills are closed. And that - - and that currently it should be planned for the light industrial classification that they identified. So.

Commissioner Sargeant: Does that limit the site's use in the future for such specific language for something of such along the lines of recreational use?

Marianne Gardner, PD, DPZ: The - - within the scope of the nomination - - I'm Marianne Gardner. Within the scope of the nomination, we could only consider light industrial use, so private recreation wasn't a part of the nomination, so we didn't specifically analyze it. And it's unusual to see property planned specifically for open space, and I would say that if someone came in for private recreation use in the future or once those adjacent landfills are covered and perhaps become public park, then that was the intent. But the language has been in the Plan for 15 years or so, and that's why it has this term that we don't designate as a - - as a land use category, which is open space.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes. Mr. Hart.

Commissioner Hart: Thank you. I - - without - - without getting into whether staff is right or the Task Force is right, the motion itself I think - - I think there's a mistake somewhere because the - - it's referring to page 4 of the handout dated tonight, but page 4 of the handout deals with the shopping center with no free-standing uses, it's a different - - it's a totally different case.

Mr. Klibaner: Aaron Klibaner.

Planning Commission Meeting
July 28, 2010
APR Item #09-IV-2LP

Page 3

Commissioner Hart: It should be pages 6 and 7, I think. Is that right?

Mr. Klibaner: Yes, that is a mistake. You're correct.

Commissioner Hart: PAGES 6 AND 7 are the right pages?

Mr. Klibaner: Six and seven.

Commissioner Hart: All right. Thank you.

Chairman Murphy: All right. Further discussion? All right.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

**PLANNING COMMISSION RECOMMENDED PLAN TEXT
APR NOMINATION 09-IV-2LP
July 28, 2010**

In order to distinguish between the adopted Comprehensive Plan and the Planning Commission recommended text, text proposed to be added is shown as underlined, and text proposed to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Lower Potomac Planning District, amended through 3-23-2010, LP2 Lorton-South Route 1 Community Planning Sector, Land Use, Page 79:

Sub-unit B3

These two triangular-shaped pieces of property west of Furnace Road together contain about 27 acres. The northern piece of property is planned for light industrial use and for public open space when the adjacent landfills are covered. The southern piece of property is ~~and are~~ planned for industrial use for a recycling center and/or recycling related industries with an option in the long range for public open space when the adjacent landfills are covered.

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-5LP, Located East of Richmond Highway and West of the Noman M. Cole, Jr. Pollution Control Plant (Mount Vernon District)

ISSUE:

Area Plans Review (APR) Item 09-IV-5LP proposes to amend the Comprehensive Plan for Tax Map Parcels 107-4 ((1)) 30 and 107-4 ((1)) 32. The Comprehensive Plan recommends the subject area for a residential facility for persons requiring special needs housing. As an option, the subject area is planned for residential use at 5-8 dwelling units per acre provided the entire sub-unit is consolidated and developed as one project. The Plan notes the County should consider acquiring the property to buffer the plant. The nomination suggests updating the Comprehensive Plan to note the entire 5.31 acre sub-unit has been acquired by Fairfax County. The nomination also proposes that recreational fields should be considered an optional use for the site and deleting Plan recommendations for residential use.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the staff alternative as set forth in Attachment I. The Planning Commission recommendation adds language to the Comprehensive Plan noting the subject area is owned by Fairfax County and should therefore be used as an open space buffer. The recommendations for residential use would be deleted. The recommendation also suggests recreation uses could be considered provided that all environmental containments are identified, remediated, or mitigated.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation as shown in Attachment I.

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The staff analysis and recommendation are found in Attachment II. The Mount Vernon District APR Task Force recommendation is found as Attachment III. The recommendations are similar, except that the staff recommendation suggests that all environmental contaminants are identified and remediated to address environmental issues beyond those directly related to soil contamination.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR Item 09-IV-5LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/5lp.pdf>)

Attachment III: Mount Vernon District APR Task Force Report for APR Item 09-IV-5LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/5lp.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Jennifer C. Lai, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-5LP – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: Okay. APR 09-IV-6LP and Plan Amendment S10 [sic] - -

Commissioner Hart: 5LP we skipped.

Chairman Murphy: I'm sorry. 5LP.

Commissioner Flanagan: 5LP.

Chairman Murphy: I'm sorry.

Commissioner Flanagan: All right.

Chairman Murphy: Thank you.

Commissioner Flanagan: APR Item 09-IV-5LP is generally located on the east side of Richmond Highway, across from the Williamsburg Square townhouse development, and west of the Noman M. Cole, Jr. Pollution Control Plant. APR Item 09-IV-5LP proposes to amend the Plan for the subject area by adding language stating the subject area, which is all of Sub-unit G5, has been acquired by Fairfax County and should be used entirely as a buffer to the pollution control plant. The nomination also proposes that recreational fields could be considered for this site. The nomination proposes to remove the recommendation for residential use. As reflected in the staff alternative, I support amending the Plan to state that the Board of Supervisors owns the subject area and it should be maintained entirely as a buffer. I support removing the recommendation for residential use since the subject area will be used as a buffer. I also support the staff modification to address existing recreation uses that are operated and maintained by the Fairfax County Park Authority. The Task Force also proposes a modification to the nomination to recommend that recreational uses could be considered for the site, provided all soil contamination concerns are considered, remediated, or mitigated. Staff supports the intent of the Task Force modification, but recommends stronger language that remediation and mitigation should not be limited to soils. The more inclusive language of all environmental contaminants as suggested by staff seeks to address environmental issues beyond those directly related to soil contamination. The staff alternative would ensure a more complete environmental assessment is completed prior to the consideration of recreation uses. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR ITEM 09-IV-5LP, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE, FOUND ON PAGE 129 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGE 7 OF THE STAFF REPORT.

Chairman Murphy: Are we on the right page?

APR Item #09-IV-5LP

Commissioner Flanagan: It was 5LP.

Chairman Murphy: 5LP. It's on page 10, isn't it?

Commissioner Hart: Well, no. It's a different book.

Chairman Murphy: Oh, that's a different book. Okay.

Commissioner Flanagan: This is a different book.

Chairman Murphy: Without objection. Okay. Sorry about that. I've got my pages screwed up here.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

RECOMMENDATION

Staff recommends modifying the Task Force recommended Comprehensive Plan text by noting that recreation uses could be considered provided all environmental contaminants are fully identified and remediated or mitigated. Staff proposes adding language to the Comprehensive Plan that states existing basketball and tennis courts on parcel 107-4 ((1)) 32 are operated and maintained by the Fairfax County Park Authority. Staff supports the nomination's proposal to remove the recommendations for residential use and add language noting the subject area should be used as a buffer under County ownership.

STAFF RECOMMENDED PLAN TEXT**MODIFY:**

Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Lower Potomac Planning District, Amended through 5-4-2009, LP2 -Lorton-South Route 1 Community Planning Sector, Page 96:

Additions are shown underlined and deletions are shown with ~~strikethrough~~.

“Sub-unit G5

“This 10-acre sub-unit (Tax Map 107-4((1)) 30 and 32) ~~is~~ located on the east side of Richmond Highway across from the Williamsburg Square townhouse development is planned for public facilities use. The entirety of this sub-unit is owned by Fairfax County and should be used as a buffer to the Noman M. Cole, Jr. Pollution Control Plant. Recreational uses could be considered for the site provided that all environmental contaminants are fully identified and remediated or mitigated. Parcel 107-4 ((1)) 32 is part of the pollution control plant and is developed with tennis and basketball courts that are operated and maintained by the Fairfax County Park Authority. Development should be extensively buffered from the Noman M. Cole, Jr. Pollution Control Plant. It is planned for development of a residential facility for persons requiring special needs housing. As an option, residential use at 5-8 dwelling units per acre is planned provided the entire area is consolidated and developed as one project. The County should also consider acquiring this property for buffers to the plant.”

THE PLAN MAP: The Comprehensive Plan Map will not change.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-6LP and Plan Amendment S10-IV-LP1, Located at the Intersection of Lorton Road and Richmond Highway (Mount Vernon District)

ISSUE:

Area Plans Review (APR) Item 09-IV-6LP and Plan Amendment S10-IV-LP1 propose to amend the Comprehensive Plan for Tax Map Parcels 108-3 ((1)) 2,3 and 108-3 ((2)) 2, 5, 6. The Comprehensive Plan recommends the subject area for retail and related uses at an intensity up to .25 FAR with full consolidation. Absent full consolidation, development should not exceed an intensity of .15 FAR. As an option, a drive-in bank and drive-through pharmacy at an intensity up to .15 FAR may be appropriate with conditions. The nomination proposes to remove the option for a drive-in bank and drive-through pharmacy.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-IV-6LP and Plan Amendment S10-IV-LP1, as set forth in Attachment I. The alternative removes the recommendation to widen Route 1 and Lorton Road, as this has been implemented. The alternative recommends that no new drive-through uses should be permitted. However, as an option, drive-through uses approved before 2011 such as a drive-in bank and drive-through pharmacy may be appropriate.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-6LP and Plan Amendment S10-IV-LP1 as shown in Attachment I.

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

After acceptance, it was determined that this nomination was not eligible for consideration under the guidelines established for the 2009-2010 South County APR process because it covered a land area that was included in a Plan amendment adopted since May 1, 2006.

In light of the fact that this nomination was accepted and significant work had been done, staff requested the Board of Supervisors authorize a Plan Amendment to allow continued consideration of this nomination. The Board of Supervisors authorized the Plan Amendment on January 26, 2010 to consider APR item 09-IV-6LP.

The staff analysis and recommendation are found in Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III. The staff and the task force recommendations agree. The recommendation removes the reference to widen Route 1 and Lorton Road, retains the recommendation for primary access from Lorton Road and secondary access from Route 1, and maintains the option for a drive-in bank and drive-through pharmacy.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR Item 09-IV-6LP (Available online at http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/6lp_lp1.pdf)

Attachment III: Mount Vernon District APR Task Force Report, for APR Item 09-IV-6LP, April 22, 2010 (Available online at

<http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/6lp.pdf>)

Attachment IV: Mount Vernon District APR Task Force Report, reconsideration for APR Item 09-IV-6LP, April 27, 2010 (Available online at

<http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/6lp-2.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Jennifer C. Lai, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
 July 28, 2010
 Verbatim Excerpt

APR Item #09-IV-6LP and Plan Amendment S10-IV-LP1 – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-IV-6LP and Plan Amendment S10-IV-LP1.

Commissioner Flanagan: Thank you, Mr. Chairman. APR Item 09-IV-6LP/Plan Amendment S10-IV-LP1 is generally located at the intersection of Lorton Road and Richmond Highway. APR Item 09-IV-6LP proposes to amend the Plan by removing the optional uses for a drive-in bank and a drive-through pharmacy. The nomination also proposes adding text noting uses that generate high levels of vehicular traffic are not appropriate; removing the recommendation to dedicate land for widening Route 1 and Lorton Road since this has been accomplished; and removing language that recommends primary access to the site be limited to Lorton Road. Staff recommends an alternative to the nomination. The alternative supports removing the text that addresses the road widening, but recommends retaining the Plan guidance that primary access to the site would be via Lorton Road and not Route 1. According to Virginia Department of Transportation standards, there is insufficient frontage for full access on Route 1. Additionally, the portion of Route 1 that fronts the subject property is divided by a median. The adopted Plan text and approved site plan limits access to Route 1 to right-in and right-out. The staff alternative also proposes retaining the drive-through use option. A Special Exception has been approved, permitting the construction of a drive-in bank and drive-through pharmacy. It is anticipated that construction of the bank and pharmacy will begin prior to the date the SE approval expires. In fact, it's already underway. Retaining the text is important to properly review - - properly review future requests to modify the existing Special Exception. The Task Force concurred with the staff alternative. Testimony by the nominator requests - - let's see - - I support additional text to make clear that the option is intended to apply only to the existing SE. Therefore, Mr. Chairman, from South County - - FOR SOUTH COUNTY APR ITEM 09-IV-6LP, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE, FOUND ON PAGE 145 OF THE STAFF REPORT BOOK DATED JULY 14, 2010, AND WITH THE NEW TEXT PROVIDED AS ATTACHMENT 1 DATED JULY 28, 2010, which has been distributed to you this evening.

Chairman Murphy: Without objection.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: I just have a question for staff. On the - - on the next text on the one-paged, two-sided handout tonight. The - - two sentences beginning - - the second sentence, "However, as an option, drive-through uses approved before 2011," etcetera. Does - -?

July 28, 2010

APR Item #09-IV-6LP and Plan Amendment S10-IV-LP1

Jennifer Lai, Planning Divisions, Department of Planning and Zoning: Yes.

Commissioner Hart: Does staff support that language and specifically does that prevent any SEA application or conceptually, if somebody gets an SEA - -or excuse me - - if somebody gets an SEA - - a special exception approved in the next five months, which I guess could happen, can they apply for a SEA afterwards, or this locks it in forever?

Ms. Lai: My name is Jennifer Lai. An SEA would be tied to the approved special exception application that was done prior to 2011.

Commissioner Hart: So, an SEA is not necessarily inconsistent with the new text tonight?

Ms. Lai: Correct.

Commissioner Hart: Staff is okay with this second sentence?

Ms. Lai: Yes.

Commissioner Hart: Okay. Thank you.

Chairman Murphy: Okay. Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

MODIFY:

Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Planning District, Community Planning Sector, Page 87:

Additions are shown underlined and deletions are shown with ~~strikethrough~~.

“Sub-unit E4

This sub-unit, located southwest of the intersection of Route 1 and Lorton Road (see Figure 33), is planned for retail and related uses up to .25 FAR, as long as all the parcels in the sub-unit are consolidated. Absent full consolidation no development should exceed .15 FAR. Any development on the site should recognize site and access constraints. Auto-oriented uses are not appropriate, except as specified under the option below for drive-thru uses. Efficient circulation should be provided and curb cuts should be minimized. Buffering and screening of adjacent residential development should be provided. ~~Dedication for the widening of Route 1 and Lorton Road should be provided with primary access to the site from Lorton Road. Primary access to the site should be from Lorton Road.~~ Secondary access may be provided from Route 1, but must be restricted to right turns in and out. Internal vehicular circulation and locations of entrances and median breaks should be arranged to minimize conflicts with traffic on the adjacent arterial roadways. As an option, parcels within Sub-unit E4 may be considered for public park.

No new drive-through uses should be permitted. However, as an option, drive-through uses approved before 2011 such as a drive-in bank and drive-through pharmacy up to .15 FAR may be appropriate provided the following conditions are met:

- All parcels in the sub-unit are consolidated.
- Development should include no more than two separate buildings.
- Every effort should be made to orient buildings toward Richmond Highway and to avoid locating parking in front of buildings in order to create an attractive streetscape along Richmond Highway and to improve/enhance the visual image of this portion of Richmond Highway.
- Development includes appropriate landscaping to protect the integrity and character of Pohick Church and the Pohick Church Historic Overlay District.
- Development includes landscaping in the right-of-way along Lorton Road where it intersects with Richmond Highway, if permission is granted by VDOT.
- All recommendations on transportation and buffering and screening for Sub-unit E4 are satisfied.”

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-7LP, Located in the Northwest Quadrant of the Intersection of Richmond Highway and Telegraph Road (Mount Vernon District)

ISSUE:

Area Plans Review (APR) Item 09-IV-7LP proposes to amend the Comprehensive Plan for Tax Map Parcels 108-1 ((1)) 20, 22A, 24, 25, 26, and 28. The Comprehensive Plan recommends the subject area for residential use at 5-8 dwelling units per acre (du/ac). As an option, residential use at 8-12 du/ac may be appropriate provided certain site-specific conditions are met. The nomination proposes reducing the base recommendation for residential use from 5-8 du/ac to 3-4 du/ac. The nomination also proposes adding an option for the nominated parcels to be maintained as open space.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-IV-7LP as set forth in Attachment I. The Planning Commission's recommendation supports the staff alternative which retains the planned density of 5-8 dwelling units per acre for Parcel 108-1 ((1)) 20, with the additional option for the nominated parcels to be used as open space.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommended text as found in Attachment I.

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

Board Agenda Item
September 28, 2010

The staff analysis and recommendation are found in Attachment II. The Mount Vernon District APR Task Force voted to approve the staff alternative as found in Attachment III. The staff alternative recommends the planned density of 5-8 dwelling units per acre for Parcel 20 be retained, as it is part of an approved rezoning application for the Pohick Landing townhouse community. Staff recommends adding text noting most of the nominated parcels are owned by the state and may be used in the construction of future transportation improvements. Staff does not support adding the option for open space.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR Item 09-IV-7LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/7lp.pdf>)

Attachment III: Mount Vernon District APR Task Force Report for APR Item 09-IV-7LP (Also available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/7lp.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Jennifer C. Lai, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-7LP – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-IV-7LP.

Commissioner Flanagan: Thank you, Mr. Chairman. APR Item 09-IV-7LP is generally located at the northwest quadrant of the intersection of Richmond Highway and Telegraph Road. APR Item 09-IV-7LP proposes to amend the Plan for the subject area from residential use at a density of five to eight dwelling units per acre to residential use at a density of three to four dwelling units per acre, and to add an option for the subject area to be maintained as open space. I support the alternative proposed by the staff. The staff alternative supports replanning the subject area from five to eight units per acre to three to four dwelling units per acre, except that the planned density of five to eight dwelling units per acre for Parcel 108-1 ((1)) 20 be retained, as it is part of an approved rezoning application for the Pohick Landing townhouse community. Staff however does not support adding the option for open space and recommends adding text noting most of the nominated parcels are owned by the State and may be used in the construction of future transportation improvements. The Task Force concurred with the staff alternative. Testimony by the nominator concerned land use that may not be used for future transportation improvements and recommended that the words "or as open space" be added after "improvements." Therefore, Mr. Chairman, FOR APR ITEM 09-IV-7LP, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE, WITH THE TEXT "OR OPEN SPACE" ADDED AFTER THE WORD "IMPROVEMENTS" AS SHOWN IN HANDOUT DATED JULY 28, 2010.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV,
Lower Potomac Planning District, Amended through 3-23-2010,
LP2 – Lorton-South Route 1 Community Planning Sector, Pages 86-87:

Additions are shown underlined and deletions are shown with ~~strikethrough~~.

“Sub-unit E3

Sub-unit E3 is located within the Pohick Church Historic District at the northwest quadrant of Route 1 and Telegraph Road (see Figure 33). ~~and planned for residential use at 5-8 dwelling units per acre provided that the following site-specific conditions are met:~~ Parcels 108-1((1)) 22A, 24, 25, 26, and 28 located in the southern portion of this Sub-unit near Richmond Highway and closest to Pohick Church are planned for residential use at 3-4 dwelling units per acre, provided the units are part of a high quality design that is compatible with Pohick Church. Parcels 108-1 ((1)) 24, 25, 26, and 28 are owned by the Commonwealth of Virginia and may be used for future transportation improvements or open space.

The northern portion of the sub-unit is planned for residential use at 5-8 dwelling units per acre provided that the following site specific conditions are met:

- Development above the low end of the density range should provide substantial consolidation of Sub-unit E3;
- Provision of buffers along any property line adjacent to non-residential use, both existing and planned; and
- Provision of high quality design which is compatible with Pohick Church.

As an option, Sub-unit E3 may be appropriate for residential use at 8-12 dwelling units per acre provided that the following site-specific conditions are met:

- Provision of parcel consolidation of the entire Sub-unit E3;
- Provision of high quality design which is compatible with Pohick Church; and
- Provision of buffers along any property line adjacent to a non-residential use, both existing and planned.”

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-8LP, Located East of Groom Cottage Drive, South of the Lorton Station Shopping Center, and North of Thomas Baxter Place (Mount Vernon District)

ISSUE:

Area Plans Review (APR) Item 09-IV-8LP proposes to amend the Comprehensive Plan for Tax Map Parcels 107-4 ((1)) 44 and 54A. The Comprehensive Plan recommends the subject area for mixed use at an overall intensity up to .25 FAR for the entirety of Sub-unit E8. The nomination proposes to add text stating effort should be made to maintain the subject parcels as open space, and if it is developed, special care should be taken to ensure that development does not have a negative impact on the adjacent residential community.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted 5-2-4 (Commissioners Hart and Lawrence opposed; Commissioners Alcorn, de la Fe, Hall, and Murphy abstaining, Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the nomination as submitted as shown in Attachment I.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the staff recommendation to retain the adopted Plan as found in Attachment II. The nomination gives the impression that uses permitted under the existing I-5 industrial zoning designation can be limited absent a zoning action. However, uses permitted by the Zoning Ordinance are not subject to Comprehensive Plan review. For this reason, staff recommends retaining the adopted Plan. Furthermore, the adopted Plan recommendations and the requirements in the Zoning Ordinance fulfill the underlying intent of the nomination, which is to minimize impacts to the adjacent residential communities and encourage compatibility with existing uses

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The staff analysis and recommendation are found in Attachment II. The Mount Vernon District APR Task Force voted to approve the nomination as submitted as found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR Item 09-IV-8LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/8lp.pdf>)

Attachment III: Mount Vernon District APR Task Force Report for APR Item 09-IV-8LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/8lp.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Jennifer C. Lai, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
 July 28, 2010
 Verbatim Excerpt

APR Item #09-IV-8LP – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: All right. APR 09-IV-8LP.

Commissioner Flanagan: Thank you, Mr. Chairman. The APR Item 09-IV-8LP is generally located east of the Groom Cottage Drive, south of the Lorton Station Shopping Center, and north of the Thomas Baxter Place. APR Item 09-IV-8LP proposes to amend the Plan by adding text stating effort should be made to maintain the nominated area as open space, but if it is developed that special care should be taken to ensure that the development does not have a negative impact on the adjacent residential community. The recommendation to maintain the subject area as open space is an attempt to influence development that can occur under the existing I-5 industrial zoning designation of the subject property. And I'd like to just point out here that this is the only I-5 property, it's all residential or planned community business area. The staff is concerned that the recommendation for open space gives the impression that the Comprehensive Plan could prohibit permitted uses from being developed. In general, open space is achieved through a larger coordinated development plan or is recommended to protect environmentally sensitive land, neither of which is the case for the subject area. With regard to residential impacts, the adopted Plan already notes substantial buffering and screening is strongly encouraged if non-residential uses are developed next to residential use. Screening between the industrial uses permitted by the existing zoning and residential uses is set forth in the Zoning Ordinance. The existing Plan guidance and the requirements in the Zoning Ordinance fulfill the underlying intent of the nomination, which is to minimize impacts to the adjacent residential communities and encourage compatibility with existing uses. The proposed text addressing impacts to the adjacent residential community would not provide additional meaningful guidance over and above the language in the adopted Plan. For these staff recommended retaining the adopted Plan. The Task Force however recommended the nomination be adopted as submitted. Testimony by the nominator pointed out that the two-plus acres are now open space and the only thing the nomination asks is that an effort be made to maintain the land as open space before it is developed if it is to be developed other than as zoned. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR ITEM 09-IV-8LP, I support the nomination as a means to address future development of the site and possible effects on its neighbors. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE TASK FORCE RECOMMENDATION TO APPROVE THE NOMINATION AS SUBMITTED, AS SHOWN ON PAGE 185 OF THE STAFF REPORT BOOK DATED JULY 14, 2010, ON PAGE 5 OF THE STAFF REPORT. And Mr. Chairman, I have some further comments on this.

Chairman Murphy: Go ahead.

Commissioner Flanagan: Yes. The reason why I'm doing that is because one of the things that I think the staff did not take into consideration in their recommendation is there's a shopping

center right adjacent to this. And the shopping center has a certain open space commitment in their SE - - in their PR - - PCA. And so consequently, if they want to increase the density in the shopping center, they may wish to purchase this site if it is - - if it's stated that this is desirable if it be open space. And so this is right next to the shopping center so therefore it could become - - the community wants it to be evident - - you know - - to the shopping center that they might want to consider purchasing this site so that they could have higher density than on the shopping site itself.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: I have a question for staff. Does any language about maintaining this land as open space place the landowner in an adverse position as compared to no language as is presently the case?

Marianne Gardner, Planning Divisions, Department of Planning and Zoning: Marianne Gardner. I believe that having a recommendation that this should be open space could possibly place - - disadvantage the property owner if they were seeking a land use other than what is permitted by their current zoning. Right now that land unit is incorporated into the larger Lorton Town Center area that has recommendations for mixed use. And so, it would be interesting to see how a proposal might be reviewed given that there seems to be a preference for open space.

Commissioner Lawrence: Or such guidance to be present.

Ms. Gardner: Yes.

Commissioner Flanagan: Mr. Chairman?

Commissioner Lawrence: Thank you very much.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Yes. It's good to understand the peculiarities of this site. This site has residential townhouses on both sides of it, and in the past the property has been advanced for development as a storage facility using its I - - by-right I-5 uses. And so, the community is most anxious that if it's - - they figure that this text that's in the - - that they're proposing will encourage it to be developed either as residential like the residential on both sides of this site. And the - - I would have moved this as including the open space language if it did as Marianne said, if it planned this - - said it was planned as open space. The language that's being proposed here is that only that it be considered as open space.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: I don't have a motion on this, but could I ask that we vote on this one separately? Not in the omnibus. I didn't - - I didn't - - I don't have a motion, but are we allowed to vote on this?

Chairman Murphy: Well, if I say, "without objection" and then someone votes "no" then - -

Commissioner Alcorn: Yes. We can record it.

Chairman Murphy: We can record the vote "no."

Commissioner Hart: I'd like to - - I'd like to do that. I don't have a motion, but if we can vote on this separate from the others, I'd like to.

Chairman Murphy: All right. Without objection. All those in favor of this APR nomination, as articulated by Mr. Flanagan, say aye.

Commissioners Migliaccio, Sargeant, Litzenberger, Flanagan, and Donahue: Aye.

Chairman Murphy: Opposed?

Commissioner Hart: Nay.

Chairman Murphy: All right.

Commissioners de la Fe and Alcorn: Abstain.

Chairman Murphy: I abstain too.

Commissioner Hall: Abstain.

Chairman Murphy: All right. We have one vote for? Who voted for? Earl? We had three. Okay. Four. Did you get that, Kara? All right, Mr. - -

Commissioner Hart: Division, I guess.

Chairman Murphy: Mr. Migliaccio, Mr. Sargeant, Mr. Litzenberger, and Mr. Flanagan voted "aye." Who voted no?

Commissioner Hart: I did.

Commissioner Donahue: Mr. Chairman, I also voted "aye."

Chairman Murphy: And Mr. Donahue and Mr. Lawrence [sic].

Commissioner Lawrence: I voted "no."

Chairman Murphy: Oh, I'm sorry. Mr. Lawrence voted "no."

Commissioner Hart: I voted "no."

Chairman Murphy: And Mr. Hart voted "no." And the rest of us voted with the Commission as abstained.

Commissioner Flanagan: Thank you.

//

(The motion carried by a vote of 5-2-4 with Commissioners Donahue, Flanagan, Litzenberger Migliaccio, and Sargeant in favor; Commissioners Hart and Lawrence opposed; Commissioners Alcorn, de la Fe, Hall, and Murphy abstaining; Commissioner Harsel not present for the vote.)

KAD

NOMINATED PLAN AMENDMENT

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Lower Potomac Planning District, Amended through 5-4-2009, LP2 – Lorton-South Route 1 Community Planning Sector, Pages 89-90:

Additions are shown underlined and deletions are shown with ~~strikethrough~~.

“Sub-unit E8

Sub-unit E8 is located east of the CSX Railroad tracks, south of Lorton Road, as shown on Figure 33. Sub-unit E8 is planned for a mix of uses such as office, open space, retail, cultural center, hotel/motel and recreational uses. Effort should be made to maintain parcels 107-4 ((1)) 44 and 107-4 ((1)) 54A as open space. In the event this parcel is developed, special care should be taken to ensure that it does not have a negative impact on the adjacent residential community. Development of a mixed-use project should be contingent upon satisfactory achievement of the following conditions:

- Substantial and logical parcel consolidation should be provided so that the area is developed as one unified project to provide for high quality design and an integration of uses;
- A thorough heritage resources survey should precede development and the recovery of significant heritage resources should be undertaken in conjunction with development;
- The overall floor area ratio is appropriate up to .25 FAR;
- Substantial contribution towards transportation improvements should be provided;
- Uses and intensities should generally be arranged so that new uses situated next to existing residential uses are compatible in height, scale and intensity. Generous buffering and screening should be employed between non-residential and residential land uses;
- Good design principles should be employed including the provision of pedestrian and vehicular circulation systems within and to the sub-unit with special attention given to the linkages to the commuter rail station;
- Landscaping and trees should be used in parking lots, plazas, and streetside areas and medians along major roads to create boulevard-like effects;
- Architectural design features such as variations of window materials, as well as public space furniture or entry accents are encouraged. When appropriate, arcades, awnings or other building features to distinguish ground floor retail are desirable;
- Comprehensive sign systems that establish a distinctive theme and identity and eliminate visual clutter are desirable. Building mounted and ground mounted shopping center signs incorporated within a planting strip are encouraged. Pole mounted signs are discouraged; and
- Safe pedestrian access to the commuter rail station from adjacent recreational areas and from across Lorton Road, Pohick Road and the CSX Railroad should be provided.”

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-9LP, Located East of the CSX Railroad Tracks at the Southwest Corner of the Intersection at Lorton Road and Lorton Market Street (Mount Vernon District)

ISSUE:

Area Plans Review (APR) item 09-IV-9LP proposes to amend the Comprehensive Plan for Tax Map Parcel 107-4 ((23)) B. The Comprehensive Plan recommends Sub-unit E8, which includes the subject parcel, for mixed use at an overall intensity up to .25 FAR. The nomination proposes to add text stating access to the subject parcel is constrained because it does not have enough frontage on Lorton Road for an exit, and due to this limitation, auto-oriented uses that generate high amounts of traffic should be discouraged on the nominated parcel.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the nomination as submitted and shown in Attachment I.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the staff alternative as found in Attachment II. The staff alternative supports the nomination except notes insufficient frontage on Lorton Road for both ingress and egress and therefore recommends avoiding direct vehicular access from Lorton Road. The staff alternative also recommends access be provided via Lorton Market Street through interparcel connectivity to the south.

TIMING:

Planning Commission public hearing- July 14, 2010
Planning Commission mark-up session- July 28, 2010
Board of Supervisors' public hearing- September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

Board Agenda Item
September 28, 2010

The staff analysis and recommendation are found in Attachment II. The Mount Vernon District APR Task Force voted to approve the nomination as submitted as found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR Item 09-IV-9LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/9lp.pdf>)

Attachment III: Mount Vernon District APR Task Force Report for APR Item 09-IV-9LP (Available online at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/9lp.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne R. Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Jennifer C. Lai, Planner II, Policy and Plan Development Branch, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-9LP – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: All right. APR 09-IV-9LP. And I may say parenthetically if some of these items come to us in the rezoning it's going to be very interesting. And I might take a long vacation. All right. 9LP.

Commissioner Flanagan: 9LP. This is the fastest growing part of Fairfax County, by the way.

Chairman Murphy: You'd never know it by some of these nominations.

Commissioner Flanagan: That's - - I think that's what prompted them actually. APR Item 09-IV-9LP is generally located at the southeast corner of the intersection at Lorton Road and Lorton Market Street. APR Item 09-IV-9LP proposes to amend the Plan by adding text stating access to parcel 109 [sic] - - 107-4 ((23)) B is constrained because it does not have sufficient frontage on Lorton Road for an exit, and auto-oriented uses and uses that generate high amounts of traffic should be discouraged. The staff supports adding language that auto-oriented uses and uses that generate high amounts of vehicular traffic should be discouraged. In order to fully address access issues; however, staff recommends that the nominator's text regarding access on Lorton Road be modified to note that both ingress and egress are prohibited from Lorton Road. According to the Virginia Department of Transportation standards, there is insufficient frontage along Lorton Road for any access. Due to these constraints, the - - the best access for the site is through interparcel connection with parcel 107-4 ((23)) Land Unit C, adjoining the subject property to the south. This access is not ideal, and amending the Plan to discourage auto-oriented uses could help minimize the volume of traffic generated by the site. The Mount Vernon APR Task Force voted to approve the nomination as submitted. Testimony by the nominator noted that VDOT has recently widened Lorton Road at this site to six lanes with a deceleration lane for eastbound traffic south onto Lorton Market Street and with a right-in only curb cut onto the nominated site, which is contrary to the staff statement earlier that there was both ingress and egress. Therefore, Mr. Chairman, FOR APR ITEM 09-IV-9LP, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE NOMINATION AS SUBMITTED, AS SHOWN ON PAGE 203 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGE 5 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

Commissioner Sargeant: Mr. Chairman, may I ask just one question for clarification?

Chairman Murphy: Please. Mr. Sargeant.

Commissioner Sargeant: In the - - in the summary chart regarding this nomination, page 2 of 5, the nominated plan simply says, discourage auto-oriented uses on Parcel 107-4 ((23)) B. The staff alternative lists mixed use up to .25 FAR with conditions, and then it goes on to say, auto uses should be - - auto-oriented uses should be discouraged. Direct access from Lorton Road should be avoided, access provided via Lorton Market Street. Why - - just clarification, why the difference if - - if both staff and the Task Force nominations say discourage access from Lorton Road?

Marianne Gardner, Planning Division (PD), Department of Planning and Zoning (DPZ): Do you mean why is the - - Marianne Gardner.

Commissioner Sargeant: Why the two point - - why the .25 FAR?

Ms. Gardner: The - - one is just, if I understand your question, they're the same. It's just that the nominated Plan text only shows the beginning part of the recommendation and the way the staff did the recommended text, we showed all of it for that Land Unit.

Commissioner Sargeant: So, you're comfortable with the motion Commissioner Flanagan just - - just read?

Ms. Gardner: I'd like to ask Tom Burke of the Department of Transportation to respond to that because it is related to access.

Thomas Burke, Fairfax County Department of Transportation: Thomas Burke, Department of Transportation. We just raised the point that Virginia Department of Transportation access management standards requires for partial access, 305 feet between centerline to centerline. In this case, Lorton Market Street, and I believe we only have 250 feet. So, you have a situation where cars slowing down to turn right at Lorton Market Street may be surprised that someone is entering the site in the turn lane. That was our safety concern that we raised, so we would prefer that the avoiding access be as in the staff report.

Commissioner Sargeant: I don't disagree with the issue regarding ingress and egress from Lorton Road. It is not an easy turn unless you're using that stop light at the corner. The - - I just wanted to make sure that when the staff alternative listed here, it says, mixed use up to .25 FAR with conditions. Is - - is that included in this - - is that incorporated into the motion that Commissioner Flanagan just read?

Jennifer Lai, PD, DPZ: Yes.

Commissioner Sargeant: Okay. All right. Thank you.

Commissioner Flanagan: Mr. Chairman, I'd like - -?

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Yes, and I'd also like to clarify the - - the curb cut on Lorton Road that the staff thought would provide ingress and egress was approved by VDOT when they widened Lorton Road from two lanes to six lanes. In other words, that curb cut is there at the approval of VDOT and - - however they do restrict it to right-in only. And we have a - - if you'll remember, we had an application of an Exxon station that wanted to go there some months ago, and we denied that on the basis that there was - - but we did - - we didn't deny it on the basis that it had that right-in only access on Lorton Road, but it was a part of the application that we didn't object - - at that time, we didn't object to the right-in only from Lorton Road. So, it all depends upon whether we want to put something in the Plan now to do away with that curb cut that was previously approved by VDOT, or not. I think it's better if we just defer that until there's another application that comes in, frankly. That issue - - if that okay with you, Tim?

Commissioner Sargeant: That's fine. That's fine.

Commissioner Flanagan: Yes. Okay.

Chairman Murphy: Okay. Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

NOMINATED PLAN AMENDMENT

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Lower Potomac Planning District, Amended through 5-4-2009, LP2 – Lorton-South Route 1 Community Planning Sector, Pages 89-90:

Additions are shown underlined and deletions are shown with ~~strikethrough~~.

“Sub-unit E8

Sub-unit E8 is located east of the CSX Railroad tracks, south of Lorton Road, as shown on Figure 33. Sub-unit E8 is planned for a mix of uses such as office, open space, retail, cultural center, hotel/motel and recreational uses. The access to parcel 107-4 ((23)) B is constrained because it does not have enough frontage on Lorton Road for an exit. Because of this limitation, auto-oriented uses and those that generate high amounts of vehicular traffic should be discouraged on this parcel. Development of a mixed-use project should be contingent upon satisfactory achievement of the following conditions:

- Substantial and logical parcel consolidation should be provided so that the area is developed as one unified project to provide for high quality design and an integration of uses;
- A thorough heritage resources survey should precede development and the recovery of significant heritage resources should be undertaken in conjunction with development;
- The overall floor area ratio is appropriate up to .25 FAR;
- Substantial contribution towards transportation improvements should be provided;
- Uses and intensities should generally be arranged so that new uses situated next to existing residential uses are compatible in height, scale and intensity. Generous buffering and screening should be employed between non-residential and residential land uses;
- Good design principles should be employed including the provision of pedestrian and vehicular circulation systems within and to the sub-unit with special attention given to the linkages to the commuter rail station;
- Landscaping and trees should be used in parking lots, plazas, and streetside areas and medians along major roads to create boulevard-like effects;
- Architectural design features such as variations of window materials, as well as public space furniture or entry accents are encouraged. When appropriate, arcades, awnings or other building features to distinguish ground floor retail are desirable;
- Comprehensive sign systems that establish a distinctive theme and identity and eliminate visual clutter are desirable. Building mounted and ground mounted shopping center signs incorporated within a planting strip are encouraged. Pole mounted signs are discouraged; and
- Safe pedestrian access to the commuter rail station from adjacent recreational areas and from across Lorton Road, Pohick Road and the CSX Railroad should be provided.”

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-3MV, Located on the Southwest Corner of Huntington Avenue and Richmond Highway (Mount Vernon District)

ISSUE:

Area Plans Review (APR) nomination 09-IV-3MV proposes to modify the current Comprehensive Plan text by allowing up to 200,000 square feet of full service hotel use on the site, in addition to the residential units currently planned and existing on the site. Current Plan text for the 8.5 acre subject area recommends up to 50 dwelling units per acre. The new hotel use would replace existing office and retail uses, while the 443 existing residential units would remain.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-IV-3MV that supports the proposed hotel use and is consistent with the Staff and Task Force Recommendations, as set forth in Attachment I, with an additional condition that the new development should minimize blocking the river views of the adjoining residential units.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-3MV as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The subject property on Richmond Highway is currently planned for high-rise residential units and developed with 443 residential units and 39,000 square feet of office and retail uses. The proposed nomination would allow mixed use development with the existing

Board Agenda Item
September 28, 2010

residential units and a full-service hotel, which would replace the existing office and hotel uses. Staff recommended approval of the nomination with additional development conditions that focus on bicycle and pedestrian facilities, site and building design, screening of telecommunications equipment, the use of green building and transportation demand management practices, as well as provision of usable open space and underground parking. The Task Force recommended approval of the Staff Alternative. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-3MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/3mv.pdf>)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/3mv.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Lindsay Mason, Planner III, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-3MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-IV-3MV. Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. The South County APR Item 09-IV-3MV is in the Mount Vernon Planning District, located on the southwest corner of the intersection of Richmond Highway and Huntington Avenue. Mr. Chairman, the nominator, Keith Martin submitted South County APR item 09-IV-3MV. The nomination proposes to add 200,000 square feet of hotel use to replace the office and hotel use on the site. Staff agrees with the intent of the proposed nomination, but suggests clarifying the residential density to reflect the existing units and that new hotel space would replace the existing retail and office on the site. The staff alternative adds conditions related to bicycle and pedestrian facilities, building design, screening of the telecommunications equipment, the use of green building and transportation demand management practices, provision of unstable - - unusable - - of usable open space and underground parking. The Mount Vernon District Task Force recommended approval of the staff alternative. During the July 14, 2010 public hearing, several people from the adjacent Hunting Creek community voiced objections regarding their views being blocked by the proposed hotel. The views from the first seven stories are already currently blocked by trees. However, in an attempt to limit the negative impact of the proposed buildings, I am inclined to insert a new condition in the Plan text to address those concerns. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR ITEM 09-IV-3MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF ALTERNATIVE, AS MODIFIED AND SHOWN IN MY HANDOUT DATED JULY 28, 2010, WITH THE FOLLOWING AMENDMENT: ADD A CONDITION TO THE TEXT THAT READS, "BUILDING HEIGHT AND ORIENTATION SHALL BE COORDINATED TO MINIMIZE BLOCKAGE OF RIVER VIEWS BY THE ADJOINING RESIDENTIAL UNITS."

Chairman Murphy: Without objection.

Commissioner Flanagan: And I have comments on that.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: I have a question for staff. First, is staff - - I guess - - I see the new sentence tonight. I thought it isn't really blockage by the adjoining units, it would be blockage of the views from those units, I think. But is staff okay with this new sentence? Or is - - is - - because this is something different from the staff alternative, I thought.

Planning Commission Meeting
July 28, 2010
APR Item #09-IV-3MV

Page 2

Marianne Gardner, Planning Division, Department of Planning and Zoning: Mr. Hart. Yes, I believe we're comfortable with the intent although I agree that perhaps the sentence may not be as clear as it could be.

Chairman Murphy: Yes. We have a preposition problem here, I think.

Ms. Gardner: Yes.

Chairman Murphy: It's "from."

Commissioner Hart: It would be - - the view is from the existing units. The blockage is by the new, but this sounds like the adjoining ones are the ones that we don't want blocking someone.

Ms. Gardner: Yes. And it was intended to be the other way, I believe.

Commissioner Flanagan: Well, Mr. Chairman?

Chairman Murphy: You accept that, Mr. - -?

Commissioner Flanagan: Well, actually the grammar is correct. It's river - - it's the river views by the adjoining residential units. It's the river views - - it's - -

Chairman Murphy: Near.

Commissioner Flanagan: All the river views by the adjoining residential units. It's the adjoining residential units who have river views.

Commissioner Hart: The subject is blockage. It's blockage by.

Commissioner Flanagan: To minimize blockage of river views. Okay. So, blockage would have to be - - I think we can correct this before it goes to the staff.

Commissioner de la Fe: I think it needs to be "from."

Chairman Murphy: "From."

Commissioner Hart: It's "FROM," NOT "BY."

Chairman Murphy: All those in favor of the word "from" - -

Commissioner de la Fe: Instead of "by."

Chairman Murphy: - - instead of "by," say aye.

Planning Commission Meeting
July 28, 2010
APR Item #09-IV-3MV

Page 3

Commissioners: Aye.

Chairman Murphy: Yes. It should be "from." You accept that?

Commissioner Flanagan: Yes, I do.

Chairman Murphy: All right. Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

PLANNING COMMISSION RECOMMENDED PLAN TEXT
APR NOMINATION 09-IV-3MV
July 28, 2010

To identify changes from the previously adopted Plan, new text is shown with underline and deleted text shown with ~~striketrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, Amended through 8-3-2009, MV1 - Huntington Community Planning Sector, Land Units Q, R, S and U (North Gateway Area), Page 103-104:

“Near the intersection of Richmond Highway and Huntington Avenue, one portion of Land Unit R has been developed with the Hunting Creek condominiums at the planned density of 16-20 dwelling units per acre. The other portion of this land unit, approximately 9 acres, is ~~approved for~~ developed with a mixed-use project of 443 dwelling units and 39,200 gross square feet of commercial space. This site (Tax Map 83-3((1))76) is planned for residential development at 40 52 dwelling units per acre, plus a full service hotel up to 200,000 square feet to replace the existing commercial uses, in the event that the following conditions are met. ~~Coordinated development should take place so that:~~

- Project design, building materials, and layout provides a high quality development and pedestrian focused site design which should include street-oriented building forms; in keeping with the character of residential development in the area;
- Buildings should be designed in a way that unifies the site and minimizes negative impacts on the adjacent uses;
- Building height and orientation shall be coordinated to minimize blockage of river views from the adjoining residential units;
- Buildings should be designed to accommodate telecommunications antennas and equipment cabinets in a way that is compatible with the building’s architecture and conceals the antennas and equipment from surrounding properties and roadways;
- Underground structured parking is provided to serve the development;
- Implementation of an effective transportation demand management (TDM) program to reduce auto travel in the area, which could include coordinated shuttle service to Huntington Metro Station for both residents and hotel users;
- Provision of integrated pedestrian and bicycle systems with features such as covered and secure bicycle storage facilities, walkways, trails and sidewalks, amenities such as street trees, benches, bus shelters and adequate lighting;
- Creation of usable open spaces such as pocket parks, plazas, common greens and recreation-focused urban parks on the site;
- Provision of environmental elements into the design, including buildings designed to meet the criteria for LEED Silver green building certification;

- The impact on parks and recreation should be mitigated per County policies contained in Objective 6 of the Parks and Recreation section of the Policy Plan;
- ~~Development is screened and set back from Richmond Highway to avoid excessive building bulk in proximity to Richmond Highway and to provide an adequate transition toward the lower residential densities existing and planned south of Richmond Highway and west of Fort Hunt Road;~~
- Mixed-use is encouraged provided that the traffic impact is thoroughly analyzed and mitigated so that Huntington Avenue and Richmond Highway adjacent to the site will operate at levels of service acceptable to the Virginia Department of Transportation and the County;
- There is an internal circulation system to allow connection with adjacent parcels;
- Vehicular access points are limited to locations as far from the Richmond Highway/Huntington Avenue intersection as possible;
- The site access points will operate at levels of service acceptable to the Virginia Department of Transportation and the County; and
- Adequate right-of-way is provided for the improvement of ~~that~~ the intersection of Huntington Avenue and Richmond Highway as planned, or other improvements found to be necessary if necessary.

~~A density of up to 50 dwelling units per acre may be considered in the event that Huntington Avenue and Richmond Highway adjacent to the site can be proven to operate at levels of service acceptable to the Virginia Department of Transportation and the County.”~~

NOTE: The Comprehensive Plan Map would be changed to show parcel 83-3 ((1)) 76 planned for Mixed Use.

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-4MV, Located East of Blaine Drive, North and South of Huntington Avenue (Mount Vernon District)

ISSUE:

Area Plans Review (APR) nomination 09-IV-4MV proposes to correct errors affecting land units T and B of the Huntington Transit Station Area. The current Comprehensive Plan map for the subject area shows the subject parcels are planned for residential use at 8-12 dwelling units per acre. The proposed amendment would correct the boundary of Land Unit T in figures found in the Plan, and the Plan Map would be amended to show the nominated parcels planned for residential use at 16-20 dwelling units per acre to be consistent with Plan text for Land Unit T.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt APR 09-IV-4MV as submitted, as set forth in Attachment I.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-4MV as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010

Planning Commission mark-up – July 28, 2010

Board of Supervisors public hearing – September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The subject properties on Blaine Avenue and Huntington Avenue are currently planned for 8-12 dwelling units per acre and developed with duplex residential units. The proposed nomination would remove existing discrepancies in the Plan figures and

Board Agenda Item
September 28, 2010

restore the boundary of Land Unit T to its original shape. Staff and the Task Force both recommended approval of the nomination as submitted. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-4MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/4mv.pdf>)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/4mv.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Lindsay Mason, Planner III, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-4MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: I guess this is - - APR 09-IV-4MV.

Commissioner Flanagan: Thank you, Mr. Chairman. South County APR Item 09-IV-4MV is about 14 parcels located north and south of Huntington Avenue, east of Blaine Drive. Mr. Chairman, South County APR Item 09-IV-4MV was submitted by County staff in order to correct errors affecting land units T and B in the Huntington Transit Station Area. The proposed amendment would correct the boundary for Land Unit T in Plan figures, and the Plan Map would be amended to show the nominated parcels planned for 16 to 20 dwelling units per acre to be consistent with the Plan text for the land unit. The Plan text would not be changed. The Mount Vernon District Task Force recommended approval of the nomination as submitted. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR 09-IV-4MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE NOMINATION AS SUBMITTED, AS SHOWN ON PAGES 264 THROUGH 267 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGES 8 THROUGH 11 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-6MV, Located on Mount Vernon Memorial Highway, South of George Washington's Grist Mill (Mount Vernon District)

ISSUE:

The Comprehensive Plan indicates the subject property is a former treatment plant and is planned for public parks and community-serving public facilities that are compatible with the surrounding existing and planned residential uses. Residential use at a density of 2-3 dwelling units per acre (du/ac) is recommended should the site be declared as surplus for public use in the future. The nomination proposes to revise the current Plan recommendation to state that the site is now a sewage pumping station. The nomination also proposes that portions of the site that are not being used by the sewage pumping operations be planned as open space. Finally, the nomination proposes to delete the text for residential use at 2-3 du/ac should the subject area be declared surplus for public use by the County, and add text that would allow the subject area to be used for environmental stewardship and historical tourism activities.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the staff alternative for APR 09-IV-6MV as set forth in Attachment I. The Planning Commission recommends new text that identifies the site as a sewage pumping station, and plans the subject area for public facilities use in the long term to accommodate future sewer service demands that would replace existing guidance. The alternative would also replan the northern portion of the subject area from public parks to public facilities use.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-6MV as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The Task Force recommended adoption of the staff alternative to update the Plan to reflect that the entire site is planned for public facilities use for a sewage pumping station and delete the recommendation for residential use at 2-3 du/ac. According to the Department of Public Works and Environmental Services, the site should be retained for any future capacity expansions to the pumping station facilities that may be necessary to accommodate future growth in this part of the County. The Park Authority does not own or operate the northern portion of the site as a park, and has no future plans to acquire this tract, and the Task Force also supported replanning this portion of the site as public facilities use. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-6MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/6mv.pdf>)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/6mv.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Aaron Klibaner, Planner II, PD, DPZ

Planning Commission Meeting
 July 28, 2010
 Verbatim Excerpt

APR Item #09-IV-6MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR Item 09-IV-6MV.

Commissioner Flanagan: Yes, Mr. Chairman. The APR Item 09-IV-6MV is generally located on Mount Vernon Memorial Highway and south of the George Washington Grist Mill. APR Item 09-IV-6MV proposes to retain the current Plan recommendation, but add text that states it is a sewage pumping station. The nomination also proposes to preserve portions of the site that are not being used by the sewage pumping operations as open space. Finally, the nomination proposes to delete the text for residential uses at two to three dwelling units per acre should the subject area be declared surplus for - - for public uses by the County, and add text that would allow the subject area to be used for environmental stewardship and historical tourism activities. Just to give you a - - a bigger - - there's a - - Dogue Creek runs between this property and the grist mill - - George Washington's Grist Mill. So, it's right next door to the grist mill. Staff analysis notes that the updating - - update the Plan to reflect that the entire site's planned for public facilities use for a sewage pumping station and deleting the recommendation for residential use at two to three dwelling units is appropriate, since it appears that this latter recommendation was implemented in the past. However, adding guidance to support public access is not appropriate because the security and integrity of the pumping station facility might be compromised. According to the DPWES, the site should be retained for any future capacity expansions to the pumping station facilities that may be necessary to accommodate future growth in this part of the County. The Park Authority does not own or operate the northern portion of this site as a park, and has no future plans to acquire this tract. The Task Force and the staff recommendation - - recommended an alternative that amends the Plan to reflect that the site is a sewage pumping station, and that the subject property should be planned for public facilities use in the long term. The alternative also recommends that the recommendation for residential use at two to three dwelling units be deleted. Public hearing testimony by the nominator supported the Task Force recommendation of the staff alternative amended to provide any - - and wished to have amended to provide "Portions not in use by the DPWES should be preserved as open space." I do not agree with the - - this suggestion. Therefore, Mr. Chairman, FOR APR ITEM 09-IV-6MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE SHOWN ON PAGES 286-287 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGES 8 THROUGH 9 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioners de la Fe, Harsel, and Lawrence not present for the vote.)

KAD

PLANNING COMMISSION RECOMMENDED PLAN TEXT
SOUTH COUNTY APR ITEM
09-IV-6MV
July 28, 2010

In order to distinguish between the adopted Comprehensive Plan and the Planning Commission recommended Plan text, new text to be added to the Plan is shown as underlined, and text to be deleted is shown as ~~strikethrough~~:

Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, amended through 3-9-2010, Overview, Public Facilities, page 18:

- MODIFY:** 6. The site of the ~~former~~ Dogue Creek Sewage Pumping Station Treatment Plant located on Old Mill Road in Sector MV7 is planned for community-serving public facilities that will be compatible with the surrounding existing ~~and proposed~~ residential uses. The site is planned for public facilities use in the long term to accommodate future sewer service demands. ~~Should the property be declared surplus for public use, residential use at a density of 2-3 dwelling units per acre is appropriate. Any future development should not encroach into the 100-year floodplain.~~

Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, MV7 Mount Vernon Community Planning Sector, Public Facilities, amended through 3-9-2010, page 163:

MODIFY: Public Facilities

The site of the Dogue Creek Sewage Pumping Station Treatment Plant is planned for community-serving public facilities that will be compatible with the surrounding existing ~~and proposed~~ residential uses. The site is planned for public facilities use in the long term to accommodate future sewer service demands. ~~Should the property be declared surplus for public use, residential use at a density of 2-3 dwelling units per acre is appropriate. Any future development should not encroach into the 100-year floodplain.~~

NOTE: The Plan Map land use designation of “public parks” on the northern portion of parcel 109-2 ((1)) 32A will be replaced with the land use designation “public facilities.”

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Items 09-IV-9MV and 09-IV-10MV,
Located West of Culpeper Road, East of Little Hunting Creek and South of Childs Lane
(Mount Vernon District)

ISSUE:

The subject property for APR nominations 09-IV-9MV and 09-IV-10MV is currently planned for community-serving public facilities that are compatible with the surrounding existing and planned residential uses, and planned for residential use at a density of 2-3 dwelling units per acre (du/ac) should the site be declared surplus for public use in the future. The adopted Plan also refers to the site as a former treatment plant.

Nomination 09-IV-9MV proposes to add text to the Plan that reflects the current public facilities use of the property as a sewage pumping station, and that unused portions of the site should be preserved as open space. The nomination also proposes text that would recommend the site be consolidated with Tax Map Parcel 102-3 ((2)) A, which abuts the subject area on the south and is owned by the Northern Virginia Conservation Trust and would provide trails access to this parcel. Finally, the nomination proposes to delete text referring to residential use at a density of 2-3 dwelling units per acre (du/ac) if the property be declared surplus.

Nomination 09-IV-10MV proposes to add text to the Plan that reflects the current public facilities use of the property as a sewage pumping station, recommends adding text stating that the security of the site should be maintained and that changes in zoning designation, decisions regarding consolidation with adjacent properties, issues of public access to the subject property and any proposed residential development of the subject property would require approval of the surrounding Stratford Landing community.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt the Planning Commission recommendation that includes a modification of the staff alternative for APR's 09-IV-9MV and 09-IV-10MV as set forth in Attachment I. The recommendation includes text that designates the site as a sewage pumping station, and to plan the subject area for public facilities use in the long term to accommodate future sewer service demands.

Board Agenda Item
September 28, 2010

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Items 09-IV-9MV and 09-IV-10MV as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010

Planning Commission mark-up – July 28, 2010

Board of Supervisors public hearing – September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The Task Force also recommended adoption of the staff alternative noting that updating the Plan to reflect that the entire site is planned for public facilities use for a sewage pumping station and deleting the recommendation for residential use at 2-3 du/ac is appropriate. According to DPWES, the site should be retained for any future capacity expansions to the pumping station facilities that may be necessary to accommodate future growth in this part of the County. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR Items 09-IV-9MV and 09-IV-10MV
(Available on line at

http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/9mv_10mv.pdf)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at

http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/9mv_10mv.pdf)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Aaron Klibaner, Planner II, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Items #09-IV-9MV and 09-IV-10MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: All right.

Commissioner Flanagan: APR Items 09-IV-9MV and 09-IV-10MV are generally located west of Culpepper Road, east of Little Hunting Creek, and south of Childs Lane. APR Item 09-IV-9MV proposes to add text to the Plan that reflects the current public facilities use of the property as a sewage pumping station, and that unused portions of the site should be preserved as open space. The nomination also proposes text that would recommend the site be consolidated with Tax Map Parcel 102-3 ((2)) Lot A, which abuts the subject area on the south and is owned by the Northern Virginia Conservation Trust. Finally, the nomination proposes to delete text referring to residential use at two to three dwelling units per acre if the property be declared surplus. APR Item 09-IV-10MV addresses the same property and also proposes to add text to the Plan that reflects the current public facilities use of the property as a sewage pumping station. 10MV differs from 9MV in that it recommends adding text stating that the security of the site should be maintained and that changes in zoning designation, decisions regarding consolidation with adjacent properties, issues of public access to the subject property, and any proposed residential development of the subject property would require approval of the surrounding Stratford Landing community. Updating the public facilities description of the site as a sewage pumping station and removing text referring to the development of the site by residential - - for residential use at two to three dwelling units is appropriate. Preserving portions of the site that are not being used by DPWES as open space, granting public access to the site, and consolidating the site with land owned by the Northern Virginia Conservation Trust would be inappropriate because the subject property is home to the third largest sewage pumping station in Fairfax County. According to DPWES, there are no practical alternatives for adding future capacity that may be needed to this facility to accommodate future population growth. New text regarding the maintenance of the security of the site is not necessary and is not within the scope of the Comprehensive Plan. The recommendation that any future decisions regarding proposed zoning changes, residential development, consolidation, and public access to - - be subject to the approval of the surrounding Stratford Landing community would imply that the Board of Supervisors is ceding its legal authority to make decisions to a body that is not the duly elected governing body of Fairfax County. For reasons stated previously, both the Task Force and the staff recommend an alternative that amends the Plan to reflect that the site is a sewage pumping station, and that the subject property should be planned for public facilities use in the long term. The alternative also recommends that the - - recommended that the recommendation for residential use at two to three dwelling units be deleted. Public hearing testimony by the nominator supported the Task Force recommendation of the staff alternative amended to provide that "Portions not in use by DPWES should be preserved as open space." I do not support this language and would be - - that would be counter to planning the site for the long-term public facilities use to meet the future sewer service demands. I also recommend deleting text in the adopted Plan that refers to the operations of the site for a sewage pumping station being

Planning Commission Meeting
July 28, 2010
APR Items #09-IV-9MV and 09-IV-10MV

Page 2

discontinued in the future, as this would also be counter to the planning - - the site for public facilities use for a sewage pumping station in the long term. Therefore, Mr. Chairman, FOR APR ITEMS 09-IV-9MV AND 10MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE WITH THE MODIFICATION THAT DELETED TEXT IN THE ADOPTED PLAN REFERRING TO DISCONTINUING THE SEWAGE PUMPING OPERATIONS IN THE FUTURE, AS SHOWN ON MY HANDOUT DATED JULY 28, 2010.

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

**PLANNING COMMISSION RECOMMENDED PLAN TEXT
APR NOMINATION 09-IV-9MV & 10MV
July 28, 2010**

In order to distinguish between the adopted Comprehensive Plan and the Planning Commission recommended text, text proposed to be added is shown as underlined, and text proposed to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, amended through 3-9-2010, Overview, Public Facilities, Page 18:

“Public Facilities

4. ~~When the operation of †The Little Hunting Creek Treatment Plant~~ sewage pumping station located near Thomas J. Stockton Parkway in Sector MV6 is discontinued, the property is planned for ~~community-serving public facilities that will be compatible with the surrounding existing and proposed residential uses.~~ planned for public facilities use in the long term to accommodate future sewer service demands. ~~However, should the property be declared surplus for public use, residential use at a density of 2-3 dwelling units per acre is appropriate. Any future development should not encroach into the 100-year floodplain.”~~

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, MV6 Fort Hunt Community Planning Sector, Public Facilities, amended through 3-9-2010, Overview, Public Facilities, Page 153:

“Public Facilities

1. The site of the Little Hunting Creek sewage pumping station ~~Treatment Plant~~ is planned for community-serving public facilities that will be compatible with the surrounding existing ~~and proposed~~ residential uses. The site is planned for public facilities use in the long term to accommodate future sewer service demands. ~~Should the property be declared surplus for public use, residential use at a density of 2-3 dwelling units per acre is appropriate. Any future development should not encroach into the 100-year floodplain.”~~

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-13MV, for Property Generally Located in the Vicinity of Sherwood Hall Lane, Holland Road and Hinson Farm Road (Mount Vernon District)

ISSUE:

The Area Plans Review (APR) Item addresses approximately 73 acres that are developed with the Mount Vernon Hospital, Mount Vernon Governmental Center, Walt Whitman Middle School and the Sherwood Hall Regional Library.

The subject property is currently planned for expansion of the hospital and related ancillary medical service uses and the mental health center at an intensity up to .35 FAR provided conditions are met related to building height limits on the periphery of the site, provision of useable open space, and landscaping to screen the site from the adjacent residential neighborhoods. The rest of the subject area which includes the Governmental Center, the library and the middle school is planned for public facilities use; a small area located north of Sherwood Hall Lane is planned for office use.

The nomination proposes to designate the subject area as a unified campus to promote better pedestrian and bicycle connectivity, and increase access to public transit. Redevelopment of the site is recommended to increase open space by removing some of the existing surface parking areas, and installing structured parking on the site. The nomination proposes for an overall intensity of up to .50 FAR.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt a Planning Commission alternative shown in Attachment I. The Planning Commission alternative incorporates the campus concept but would retain the adopted Plan intensity of .35 FAR. The Planning Commission alternative clarifies that this intensity applies to Tax Map Parcel 102-1 ((1)) 4 and that the parcels located on the north side of Sherwood Hall Lane are planned for office use. The alternative would also delete proposed text that refers to the uses on Tax Map Parcels 102-1 ((38)) and ((39)).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-13MV, with a minor wording change that corrects the location description of the nomination to read "east of Holland Road" rather than "west of Holland Road".

Board Agenda Item
September 28, 2010

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The Mount Vernon District APR Task Force recommended that the adopted Plan be retained for the nominated area based on the increased vehicle traffic that would be generated from redevelopment of the site. Staff agreed that the nomination's suggestions for a redevelopment of the subject area to include greater pedestrian and bicycle connectivity and more useable open space would have substantial benefits to the community. However, staff believes that the adopted Plan intensity of .35 FAR provides ample development potential to achieve these benefits, whereas the proposed intensity of .50 FAR would result in a large increase in vehicle trips that would be counter to achieving the benefits stated in the nomination. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation
Attachment II: Staff Report for South County APR Items 09-IV-9MV and 09-IV-10MV
(Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/13mv.pdf>)
Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/13mv-2.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)
Fred R. Selden, Director, Planning Division (PD), DPZ
Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ
Aaron Klibaner, Planner II, PD, DPZ

PLANNING COMMISSION RECOMMENDED PLAN TEXT
APR NOMINATION 09-IV-13MV
July 28, 2010

In order to distinguish between the adopted Plan and the Planning Commission recommended Plan Text, text proposed to be added is shown as underlined, and text proposed to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, amended through 3-9-2010, MV6 Fort Hunt Community Planning Sector, Land Use, Pages 151-153:

“5. The Mount Vernon District Campus is generally located along both sides of Parkers Lane, west of Holland Road. The campus generally includes health care, civic, and educational uses. Within the campus, along the north side of Sherwood Hall Lane are medical offices, a bank and service station. South of Sherwood Hall Road is the Mount Vernon Governmental Center, and Fire and Police Stations, Sherwood Hall Regional Library and Walt Whitman Middle School. The Mount Vernon Hospital and Sunrise assisted living facility are located north of Hinson Farm Road.

The Mount Vernon Campus is envisioned to be transformed into an accessible and interconnected space that provides services to residents, employees and visitors in a setting that is easily walked or biked. Access to transit will enhance this vision, as will a connected, well-lit system of trails, sidewalks, crosswalks, bike paths, plazas, and passive open space with mature trees and vegetation. The overarching goal for the campus is to develop a pedestrian realm, preserve the existing green space and reduce the extent of impervious surface where possible. In addition, by encouraging walking, cycling and transit use the transportation impact of new development can be reduced.

Facilities for the hospital portion of the complex (located between the governmental center/fire station portion of the site and Hinson Farm Road) should be limited to hospital and related ancillary medical service uses, a helistop for medical emergency transport, medical offices, employee child care facilities and skilled nursing care facilities. Any skilled nursing care facility shall be added as additional floor(s) to the existing hospital or may be freestanding so

long as there is no reduction in the total open space on the hospital campus portion of the complex.

Development of governmental center/fire station use, mental health facilities and hospital facilities with related ancillary medical service uses, including medical offices, employee child care facilities and skilled nursing care facilities, and the Sunrise assisted living facility, may be appropriate if the impacts on the surrounding community are mitigated. Development is planned at an intensity up to .35 FAR on parcel 102-1((1)) 4. Tax Map Parcels ((7)) (7) 17B, 18A and ((35)) 100-408) located on the north side of Sherwood Hall Lane are planned for office use. These parcels are currently developed with low-intensity office and commercial uses, and are zoned commercial. These existing uses are planned to be retained, except that the addition of a table service restaurant is encouraged.

Any development within the campus area should meet the following conditions:

- Limit the height of buildings on the periphery of the site to minimize visual impacts on the community;
- Provide for substantial, usable open space. The entire complex should be visually screened by evergreen landscaping from the residentially planned and developed land fronting on Holland Road. However, landscaping along Holland Road should not be designed or located in a manner that interferes with the safe operation of the existing helistop;
- Existing open spaces should be preserved and retrofitted to include features such as plazas, gazebos, gardens, and pedestrian walkways and paths in order to create focal points for community gathering places. Additional open space should be added on areas of the site currently devoted to surface parking, and converting these areas for new open spaces should be explored;
- To the extent possible, in order to accommodate future parking needs due to expansion of current uses on the site, surface parking should be replaced with structured parking;

- Development design that encourages the concentration of services and the inclusion of retail concessions to serve the local workforce and public is appropriate. Development that improves accessibility and integrates the hospital facilities, civic and public safety institutions, and commercial uses throughout the campus using pedestrian walkways, both covered and uncovered, and bicycle paths that limit the need for vehicular transport should be utilized. A common streetscape theme throughout the campus should be created.
- A transit center should be established on the campus to provide community access to the hospital and other institutions and services as well as reduce the need for private vehicular traffic.

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-13MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: All right. Turn the page here. APR 09-IV-13MV.

Commissioner Flanagan: APR Item 09-IV-13MV is generally located west of Schellhorn Road, north of Sherwood Hall Lane - - a part, and west of Friars Court and Bayberry Drive, and north of Apple Hill Road and east of the Holland Road. APR Item 09-IV-13MV proposes to designate the nominated area as a unified campus that includes greater internal pedestrian and bicycle connectivity, new pedestrian and bicycle connections to the larger community, and increases access to public transit. Redevelopment of the site is recommended to preserve existing open space and allow for additional open space to be created by removing some of the existing surface parking areas, and installing structured parking on the site. The nominated area is proposed to be planned for an intensity up to .50 FAR. Due to issues related to transportation and loss of open space, staff recommended an alternative that designates the nominated area as a unified campus and includes the nomination text related to pedestrian and bicycle connectivity and public transit, and removal of existing surface parking to create additional open space. The current Plan intensity of .35 FAR would be retained. The Task Force recommended that the adopted Plan be retained. Mr. Chairman, FOR APR ITEM 09-IV-13MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE WITH THE FOLLOWING MODIFICATIONS: ONE, I would ADD NEW TEXT TO THE FOURTH PARAGRAPH THAT STATES THAT THE ADOPTED PLAN FAR OF .35 APPLIES TO PARCEL 102-1 ((1)) LOT 4, AND THAT THE PARCELS LOCATED ON THE NORTH SIDE OF SHERWOOD HALL LANE ARE PLANNED FOR OFFICE USE; AND TWO, DELETION OF THE LAST SENTENCE OF THE FOURTH PARAGRAPH THAT READS, "THE EXISTING MEDICAL OFFICE CONDOMINIUMS LOCATED SOUTH OF HINSON FARM ROAD (PARCELS ((38)) 201 THROUGH 219 AND ((39)) 301-319, 401-419 AND 501-515) ARE PLANNED TO BE RETAINED." The modified staff alternative is shown on my handout dated July 28, 2010.

Commissioners Sargeant and Hart: Mr. Chairman?

Chairman Murphy: Without - - all right. Without objection. Mr. Hart - - Mr. Sargeant, then Mr. Hart. Sorry about that.

Commissioner Sargeant: Thank you, Mr. Chairman. Questions on this one. As the Task Force recommendation regarding retaining the adopted Plan comes in, I think the question that we had was how you have a unified campus involving a hospital, a government center with Police substation, a road that divides this from a middle school and a library that are also envisioned as part of the campus, on a busy road intersected to a T-intersection with Sherwood Hall Lane. The uses, while similar, I mean the traffic - - the traffic concerns regarding the use for the school, buses, parents, children, coupled with library use, seemed to collide, and I use that word loosely

here, with uses - - auto-oriented uses of a hospital, a Police substation, and a government center facility. I'm uncomfortable with the use of the word "campus setting," certainly appreciate the use of walkability, of bicycle and pedestrian-friendly uses, but I'm not sure this - - this coincides - - this coordinates as a campus here. I'd appreciate staff reaction to this, given that the Task Force said to retain the adopted Plan.

Aaron Klibaner, Planning Division, Department of Planning and Zoning: Aaron Klibaner from DPZ. I think we're using the term "campus" loosely, but the main focus of this is to establish greater pedestrian and bicycle connections between all of these different properties. So, I think that's what the term "campus" is meant to refer to.

Commissioner Sargeant: I guess I question the - - the concept of connectivity between a hospital and a middle school, among other - - among other points of connectivity here for pedestrian or bicycle use. Thank you, Mr. Chairman?

Chairman Murphy: Who else?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart. Sorry.

Commissioner Hart: Thank you. Question for staff. Has staff had a chance to review the changes in tonight's handout from what the staff alternative said before, and is staff comfortable with tonight's changes? I wasn't really following - - I mean - - I - - the references to these parcels are kind of tricky in - - in what's being deleted. I don't really understand. But has staff gone through this, and is staff okay with tonight's changes?

Mr. Klibaner: Yes.

Commissioner Hart: Okay. Thank you.

Chairman Murphy: All right. Without objection.

Commissioner Flanagan: Thank you.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

THIS PAGE INTENTIONALLY LEFT BLANK

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 09-IV-16MV, Located East of North Kings Highway and South of the Huntington Metro Station (Mount Vernon District)

ISSUE:

Area Plans Review (APR) nomination 09-IV-16MV proposes to modify the current Comprehensive Plan text by adding 200 residential units to the maximum number of units currently recommended. Current Plan text for the area adjacent to the transit station recommends up to 250,000 gross square feet of office use, 30,000 gross square feet of retail use, 400 dwelling units, and either a 200-room hotel or 250 additional dwelling units. The nominated change would recommend 250,000 gross square feet of office use, 30,000 gross square feet of retail use, 600 dwelling units, and either a 200-room hotel or 250 additional dwelling units.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR 09-IV-16MV that is consistent with the staff and Task Force Recommendations, as set forth in Attachment I, but modifies a condition related to the provision of underground parking and. The Commission also recommended the insertion of the word “they” between the words “and” and “should” in the second to the last sentence of the new condition. The Planning Commission recommendation supports the addition of 200 residential units proposed in the nomination along with development conditions meant to address such things as bicycle and pedestrian features, screening of telecommunications facilities and green building practices.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item 09-IV-16MV, as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The subject property is adjacent to the Huntington Transit Station and is currently planned for a mix of office, residential, retail, and hotel uses. Staff recommended approval of the nomination with additional development conditions that include the provision of bicycle and pedestrian features, screening of telecommunications equipment, the use of green building practices, provision of usable open space, and underground parking. The Task Force recommended approval of the Staff Alternative. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item 09-IV-16MV (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/16mv.pdf>)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/16mv.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Lindsay Mason, Planner III, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-16MV – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-IV-16MV.

Commissioner Flanagan: Thank you, Mr. Chairman. South County APR Item 09-IV-16MV is located in the Mount Vernon Planning District, and also located east of the North Kings Highway, south of the Huntington Transit Station facilities. Mr. Chairman, the nominator, Neel Teague, submitted South County APR Item 09-IV-16MV. The nomination proposes to add 200 residential units to the maximum units recommended in the current Plan for the site. Staff supports the proposed increase in density adjacent to the Metro station, but suggests additional development conditions. The staff alternative adds conditions related to the provision of bicycle and pedestrian features, screening of telecommunications equipment, the use of green building practices, provision of usable open space, and underground parking. The Mount Vernon District APR Task Force recommended approval of the staff alternative. During the July 14, 2010 public hearing, the nominator supported the staff alternative, but requested an amendment to the condition in the proposed text dealing with underground parking. Therefore, Mr. Chairman, FOR SOUTH COUNTY APR ITEM 09-IV-16MV, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF ALTERNATIVE, AS MODIFIED AND SHOWN IN MY HANDOUT DATED JULY 28, 2010, BY REPLACING THE CONDITION THAT READS, "UNDERGROUND STRUCTURED PARKING IS PROVIDED TO SERVE THE DEVELOPMENT (ON STREET AND INCIDENTAL SURFACE PARKING SHALL BE ALLOWED CONSISTENT WITH URBAN DESIGN GUIDELINES);" AND REPLACING THAT WITH "UNDERGROUND PARKING, OR PARKING BUILT INTO THE SLOPE, IS PREFERRED TO MINIMIZE VISUAL INTRUSION AND CREATE A PEDESTRIAN ORIENTED ATMOSPHERE. ARCHITECTURAL DETAILING, SCREENING, LIGHTING, AND LANDSCAPING THAT IS AESTHETICALLY APPEALING SHOULD BE EMPLOYED ALONG EXPOSED PARKING LEVELS TO MITIGATE NEGATIVE IMPACTS. EFFORTS SHOULD BE TAKEN TO FACE ABOVE GROUND STRUCTURES TO SERVICE STREETS, AND SHOULD BE DESIGNED TO BE CONSISTENT WITH SURROUNDING BUILDINGS. ON-STREET AND INCIDENTAL SURFACE PARKING SHALL BE ALLOWED CONSISTENT WITH URBAN DESIGN GUIDELINES."

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Yes. Without objection. Mr. Alcorn.

Commissioner Alcorn: I just want to check with staff. Is staff okay with the text that's being recommended here?

Marianne Gardner, Planning Division, Department of Planning and Zoning: Yes, we are, Mr. Alcorn.

Commissioner Alcorn: Okay. Thank you.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Yes, Mr. Lawrence.

Commissioner Lawrence: I think there's a - - a syntactical problem in the - - in the replacement text. The sentence beginning, "Efforts should be taken to face above ground structures to service streets, and should be designed," I don't think it's the efforts that should be designed. I think **THE WORD "THEY" SHOULD BE INSERTED AFTER THE WORD "AND."** So, in fact I'd like to see IT READ, **"EFFORTS SHOULD BE TAKEN TO FACE ABOVEGROUND PARKING STRUCTURES TO SERVICE STREETS, AND THEY SHOULD BE DESIGNED TO BE CONSISTENT WITH SURROUNDING BUILDINGS."**

Commissioner Flanagan: I ACCEPT THAT AMENDMENT.

Chairman Murphy: Okay.

Commissioner Flanagan: Thank you.

Chairman Murphy: Without objection. Nice catch.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

**PLANNING COMMISSION RECOMMENDED PLAN TEXT
APR NOMINATION 09-IV-16MV
July 28, 2010**

Text proposed to be added is shown as underlined. Text to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, Amended through 8-3-2009, MV1 - Huntington Community Planning Sector, Land Units E &F, Page 95-96:

“(Land Units E and F) The WMATA Property

The 60-acre WMATA property is occupied by the Huntington Metro Station and associated parking facilities and Mount Eagle Park. There is also a privately-owned parcel associated with the WMATA property; Parcel 83-1((7))1A is a .34-acre lot along North Kings Highway planned for office use.

The portion of Land Unit E which is occupied by the Metro station, the parking garage, and the parking lot along Huntington Avenue is planned for public facilities. Air rights development over the station and the parking facilities may have long-term potential. For the ~~this~~ 35-acre area south of the station, the following mix of uses is recommended within the maximum levels shown:

- 250,000 gross square feet of office space;
- 30,000 gross square feet of retail space;
- ~~400~~ 600 dwelling units; and
- 200-room hotel with conference facilities or 250 additional dwelling units.

In addition, the following uses should be incorporated into this development:

- The existing 900+ space Metro surface parking lot should be reconfigured into an on-site underground or above-ground facility up to six stories. Adequate buffering and landscaping around the parking structure should be provided adjacent to nearby neighborhoods;
- Approximately 9 to 12 acres of the WMATA property should be dedicated to Fairfax County for Mount Eagle Park in order to provide needed park facilities in this high density area and to buffer Metro-related development from the existing community. The development of both passive and active recreation facilities is suggested; and
- The development of the WMATA property should be in accordance with the urban design concept plan shown in Figures 24, 25 and 26. The commercial uses, including the optional hotel, should be clustered around a public plaza near the Metro station and North Kings Highway. Residential use should be located east and south of this cluster to provide a transition to surrounding residential development. As shown in Figure 26, Mount Eagle Park and/or open space should be accessible to, and provide buffering for, the Huntington community, the high-rise residential projects located east of the WMATA property, and the Fairhaven community.

In order to develop except at the base level, all the applicable general development criteria listed for all sites in the Transit Development Area should be satisfied, except that in lieu of criterion #6, affordable housing should be provided in accordance with the County's Affordable Dwelling Unit Ordinance. In addition, the following site-specific conditions must be met:

- Development should be coordinated under one planning program for the entire site;
- Retail uses should be limited to the ground level of proposed buildings along the main pedestrian access routes to the Metro station;
- Non-residential uses should be clustered around the public space near the Metro station. Residential development should occur towards the south and east of the station in order to provide an appropriate transition to adjacent neighborhoods;
- Provision of integrated pedestrian and bicycle systems with features such as covered and secure bicycle storage facilities, walkways, trails and sidewalks, enhanced crosswalks providing connections to adjacent neighborhoods, and amenities such as street trees, benches, bus shelters, and adequate lighting;
- Creation of usable open spaces such as pocket parks, plazas, common greens and recreation-focused urban parks on the site;
- Provision of environmental elements into the design, including buildings designed to meet the criteria for LEED Silver (or comparable rating system) green building certification and innovative stormwater management techniques;
- Buildings should be designed to accommodate telecommunications antennas and equipment cabinets in a way that is compatible with the building's architecture and conceals the antennas and equipment from surrounding properties and roadways;
- Underground parking, or parking built into the slope, is preferred to minimize visual intrusion and create a pedestrian oriented atmosphere. Architectural detailing, screening, lighting, and landscaping that is aesthetically appealing should be employed along exposed parking levels to mitigate negative impacts. Efforts should be taken to face above ground parking structures to service streets, and they should be designed to be consistent with surrounding buildings. On-street and incidental surface parking shall be allowed consistent with urban design guidelines; and
- Vehicular access to private development should be separated from vehicle access to the Metro station.”

Board Agenda Item
September 28, 2010

4:30 p.m.

Public Hearing on Proposed Plan Amendment S09-IV-MV2, Located East of Richmond Highway, South of East Lee Avenue, North of Preston Avenue and West of Memorial Heights Drive (Mount Vernon District)

ISSUE:

The subject property includes two parcels planned at the baseline for townhouse style office or retail at an intensity up to .30 FAR with conditions, and two options to develop at intensities up to .50 FAR and .80 FAR with additional conditions; and two parcels planned at the baseline for residential use at a density of 3-4 du/ac and the same two options. The entire nominated area comprises 1.2 acres in size. The nomination proposes retail use at an intensity up to .35 FAR, with potential for low density residential use on parcels abutting the residential neighborhood. The purpose of the amendment is to allow parking rather than buildings to be located along the Richmond highway frontage.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 28, 2010, the Planning Commission voted unanimously (Commissioner Harsel not present for the vote) to recommend that the Board of Supervisors adopt an alternative to APR S09-IV-MV2 that is consistent with the Task Force Recommendation as set forth in Attachment I. The recommendation supports office or retail use to include eating establishments and fast food restaurants without drive thru facilities at an intensity up to .15 FAR, with limited parking along the street edge if conditions relating to pedestrian orientation and compatibility are met.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation for APR Item S09-IV-MV2 as shown in Attachment I.

TIMING:

Planning Commission public hearing – July 14, 2010
Planning Commission mark-up – July 28, 2010
Board of Supervisors public hearing – September 28, 2010

Board Agenda Item
September 28, 2010

BACKGROUND:

The Board of Supervisors designated 2009-2010 as the years to review and evaluate recommendations contained in the Comprehensive Plan for the southern part of the County.

The staff alternative recommended office or retail use at an intensity of .15 FAR but did not include a recommendation for eating establishments or fast food restaurants. The staff analysis and recommendation are found in the Staff Report, Attachment II. The Mount Vernon District APR Task Force recommendation expanded the staff alternative to include eating establishments and fast food restaurants without drive thru uses, and is found in Attachment III.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation

Attachment II: Staff Report for South County APR item S09-IV-MV2 (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/finalstaffreports/mv2.pdf>)

Attachment III: Mount Vernon Task Force Recommendation (Available on line at <http://www.fairfaxcounty.gov/dpz/apr/2009southcounty/taskforcereports/mv2.pdf>)

STAFF:

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Fred R. Selden, Director, Planning Division (PD), DPZ

Marianne Gardner, Chief, Policy and Plan Development Branch, PD, DPZ

Aaron Klibaner, Planner II, PD, DPZ

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

Plan Amendment S09-IV-MV2 – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: All right. S09 - - back in the Mount Vernon District - - S09-IV-MV2.

Commissioner Flanagan: Thank you, Mr. Chairman. APR item/OTPA - - Out-of-Turn Plan Amendment S09-IV-MV2 is generally located on the east side of Richmond Highway, south of East Lee Avenue and north of Preston Avenue and west of Memorial Heights Drive. OTPA S09-IV-MV2 proposes retail use at an intensity up to .35 FAR, with potential for low density residential use on parcels abutting the residential neighborhood. The purpose of the amendment is to allow parking rather than buildings to be located along the Richmond Highway frontage. As you'll remember, we have been discussing that quite a bit lately, the Urban Design Criteria.

Chairman Murphy: Yes.

Commissioner Flanagan: The subject area occupies a narrow property along Richmond Highway and includes two parcels planned for residential use at a density of three to four dwelling units per acre at the baseline that are in the Memorial Heights Community Improvement Area, a neighborhood of mostly single-family houses. All of the subject area is zoned PRM. The properties are part of the PRM Zoning District area. This was a - - the reason it is zoned PRM is because it was a previous application that proposed a three-story building up at the curb. The properties are part of the PRM Zoning District area - - okay. The subject property currently has options to develop at intensities up to .50 FAR and .80 FAR. These options are the result of previous attempts to redevelop the property and are not provided in the Comprehensive Plan to other blocks in Land Unit E of the Beacon/Groveton CBC. These other land units in E are both north and south of this site. The two options should be deleted based on the recognition of the importance of providing an appropriate transition to the abutting residential neighborhoods. Staff recommended an alternative to add a new baseline recommendation for office or retail use at an intensity of .15 FAR. This alternative would also include replanning the recommended parcels for residential development and though feasible to locate the building with no parking in front of the building as recommended by the Urban Design Guidelines, allow a limited amount of parking at the street edge along Richmond Highway, as an incentive for a lower intensity development up to .15 FAR and consistent with other adjacent new buildings located north and south of this building. The Task Force also recommended adoption of the staff alternative with the modification that the subject area be "planned for office or retail use to include eating establishments and fast food restaurants without drive-through facilities." Mr. Chairman, FOR OTPA S09-IV-MV2, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE STAFF ALTERNATIVE, WITH A MODIFICATION SHOWN ON MY HANDOUT DATED JULY 28, 2010.

Planning Commission Meeting
July 28, 2010
Plan Amendment S09-IV-MV2

Page 2

Chairman Murphy: Without objection.

//

(The motion carried unanimously with Commissioner Harsel not present for the vote.)

KAD

**PLANNING COMMISSION RECOMMENDED PLAN TEXT
PLAN AMENDMENT S09-IV-MV2
July 28, 2010**

In order to distinguish between the adopted Comprehensive Plan and the Planning Commission recommended text, text proposed to be added is shown as underlined, and text to be deleted is shown as ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Mount Vernon Planning District, amended through 3-9-2010, Richmond Highway Corridor Area, Land Use, Pages 43-44:

“Land Unit E

Lots on the east side of Richmond Highway from East Side Street to Popkins Lane are planned for townhouse-style office and/or retail use up to .30 FAR with maximum building heights of 35 feet. The following conditions should be met with any development proposal:

- Commercially-zoned lots along Richmond Highway between Groveton Street and East Lee Avenue or East Lee Avenue and Preston Avenue or Preston Avenue and Popkins Lane are consolidated;
- Buildings are oriented to Richmond Highway with parking located at the rear of the property; and
- Effective screening and buffering are provided and maintained between the proposed development and the adjacent residential neighborhood.

With the full consolidation of Tax Map Parcels 93-1((18))(D)117, 126, 130 and 138 located between East Lee Avenue and Preston Lane, planned for office or retail use without drive thru facilities to include eating establishments and fast food restaurants up to .15 .50 FAR with maximum building height of ~~45~~ 25 feet may be developed provided that:

- ~~Buildings are oriented to Richmond Highway with parking located at the rear of the property;~~
- ~~Effective screening and buffering are provided and maintained between the proposed development and the adjacent residential neighborhood;~~
- ~~Retail use is limited to no more than 10,000 gsf; and~~

- ~~Development should provide for compatible architecture to mitigate impacts on adjacent residential development.~~
- Buildings and parking are oriented to encourage pedestrian traffic;
- Development is screened and buffered from the adjacent residential neighborhood in accordance with zoning regulations.
- Development provides compatible architecture treatments to avoid creating an adverse visual impact on adjacent residential development.

Limited parking may be considered along the property frontage provided the preceding conditions are addressed and all other applicable Richmond Highway Streetscape elements are met.

~~An option for increased intensity up to .80 FAR could be appropriate for mixed use development consisting of multifamily residential and ground floor retail provided that:~~

- ~~All conditions for the office/retail option noted above are addressed, including maximum building height;~~
- ~~Appropriate noise mitigation from Richmond Highway can be demonstrated through a noise study to be reviewed at the time of rezoning; and~~
- ~~Redevelopment for residential use can achieve a viable living environment that is compatible with adjacent uses.~~

~~Modification to minimum building set back from Richmond Highway may be appropriate in order to further revitalization goals provided that appropriate noise mitigation can be achieved as recommended above.”~~

NOTE:

The Plan Map will change to show the entire subject area (parcels 117, 126, 130 and 138) as planned for alternative uses. The boundary of Land Unit E will be expanded to include the entire subject area.