FAIRFAX COUNTY
BOARD OF SUPERVISORS
February 28, 2012

AGENDA

9:30	**Done**	Presentations
10:30	**Report Adopted**	Report on General Assembly Activities
10:40	**Done**	County Executive Presentation of the FY 2013 Budget
11:40	**Done**	Board Appointments
11:50	**Done**	Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1	**Approved**	Authorization for the Fire and Rescue Department to Apply for Funding from the Department of Homeland Security for a Staffing for Adequate Fire and Emergency Response Grant
2	**Approved**	Authorization to Advertise a Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic)
3	**Approved**	Streets into the Secondary System (Lee, Mason and Providence Districts)
4	**Approved**	Designation of Plans Examiner Status under the Expedited Land Development Review Program
5	**Approved**	Approval of Traffic Calming Measures, Installation of “$200 Additional Fine for Speeding” Signs and “Watch For Children” Signs as Part of the Residential Traffic Administration Program (Mason and Mount Vernon Districts)
6	**Approved**	Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Northern Virginia Community College Residential Permit Parking District, District 39 (Braddock District)
7	**Approved**	Authorization to Advertise a Public Hearing on a Proposed Cut-Through Traffic Mitigation Plan for Farmington Drive, Edgehill Drive and Fort Drive as Part of the Residential Traffic Administration Program (Lee District)
8	**Approved**	Additional Time to Commence Construction for Special Exception Amendment SEA 01-H-027-02, One Reston Co LLC and Two Reston Co LLC (Hunter Mill District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
February 28, 2012

ADMINISTRATIVE ITEMS (Continued)

9	**Approved**	Extension of Review Periods for 2232 Review Applications (Mason, Providence, and Sully Districts)
10	**Approved**	Authorization to Advertise a Public Hearing for a Sewer Ordinance Amendment to Revise the Sewer Service Charges, Connection Charges, Availability Charges, Base Charges, and the Meter Reading Date on which the New Service Charges Will Take Effect
11	**Approved**	Authorization to Advertise a Public Hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2013

ACTION ITEMS

1	**Approved**	Approval of Calendar Year 2012 Forest Pest Management Suppression Program
2	**Approved**	Approval of New Contract for the Purchase of Electric Service with the Northern Virginia Electric Cooperative
3	**Approved**	Approval of the Great Falls Volunteer Fire Department Memorandum of Understanding
4	**Approved**	Approval of a Parking Reduction for Holy Trinity Church (Dranesville District)
5	**Approved**	Approval of Standard Project Administration Agreements with the Virginia Department of Transportation and Lorton Arts Foundation to Accept Transportation Enhancement Program Funding for the Cross County Trail (Mount Vernon District)
12:00	**Done**	Matters Presented by Board Members
12:50	**Done**	Closed Session

PUBLIC HEARINGS

3:30	**Approved**	Public Hearing on PRC 74-2-113-2 (Fairfax County Board of Supervisors) (Hunter Mill District)
3:30	**Approved**	Public Hearing on PCA 74-2-113-4 (Fairfax County Board of Supervisors) to Amend the Proffers for RZ 74-2-113 (Hunter Mill District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
February 28, 2012

PUBLIC HEARINGS
(Continued)

3:30	**Approved**	Public Hearing on DPA 74-2-113-8 (Fairfax County Board of Supervisors) (Hunter Mill District)
3:30	**Public Hearing deferred to 3/20/12 at 3:30 p.m.**	Public Hearing on RZ 2011-SU-024 (Pohanka Stonecroft LLC) (Sully District)
3:30	**Public Hearing deferred to 3/20/12 at 3:30 p.m.**	Public Hearing on SE 2011-SU-009 (Pohanka Stonecroft LLC) (Sully District)
3:30	**Public Hearing deferred to 3/20/12 at 3:30 p.m.**	Public Hearing on RZ 2011-BR-014 (Midland Road LLC and Ridgewood Commercial Owners Property Association) (Braddock District)
3:30	**Public Hearing deferred to 3/20/12 at 3:30 p.m.**	Public Hearing on PCA 2005-SP-019 (Midland Road LLC and Ridgewood Commercial Owners Property Association) to Amend the Proffers for RZ 2005-SP-019 (Braddock District)
3:30	**Deferred indefinitely for decision only**	Public Hearing on SE 2011-MV-006 (Hamdi H. Eslaquit D/B/A Hamdi's Child Care and Selim M. Eslaquit) (Mount Vernon District)
3:30	**Approved**	Public Hearing on SE 2011-HM-018 (Corinthian Colleges, Inc., D/B/A Everest College) (Hunter Mill District)
3:30	**Approved**	Public Hearing on RZ 2011-PR-030 (Fairfax County School Board, A Body Corporate) to Rezone from R-1 to R-2 (Providence District)
3:30	**Approved**	Public Hearing on SEA 87-M-103 (Fairfax County Board of Supervisors)(Mason District)
3:30	**Approved**	Public Hearing on PCA 2008-PR-009 (Inova Health Care Services)(Providence District)
3:30	**Approved**	Public Hearing on SEA 80-P-078-16 (Inova Health Care Services) to Amend SE 80-P-078 (Providence District)
4:00	**Approved**	Public Hearing on Proposed Amendments to Chapter 7 (Streets, Parking and Driveways) of the Public Facilities Manual Re: Street Lights

FAIRFAX COUNTY
BOARD OF SUPERVISORS
February 28, 2012

	PUBLIC HEARINGS (Continued)	
4:00	**Approved**	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Independent Living Facilities for Low Income Residents and Modifications of the Administrative Provisions of the Affordable Dwelling Unit Program and to the Definitions of "Dwelling Unit" and "Independent Living Facility"
4:00	**Approved**	Public Hearing on Proposed Plan Amendment S11-II-F1 for Property Located North of University Drive, East of Route 123 (Ox Road) and South of School Street (Braddock District)
4:00	**Approved**	Public Hearing to Consider Adopting an Ordinance Expanding the Northern Virginia Community College Residential Permit Parking District, District 39 (Braddock District)
4:00	**Adopted**	Public Hearing on Adoption of the Northern Virginia Regional Water Supply Plan
4:30	**Approved**	Public Hearing to Establish Parking Restrictions on Providence Forest Drive (Providence District)
4:30	**Approved**	Public Hearing to Authorize the Conveyance of a Portion of County-Owned Property to the Virginia Department of Transportation for the Telegraph Road Project (Lee District)
4:30	**Decision Deferred**	Public Hearing to Consider Proposed Amendments to the Home Child Care Facilities Ordinance, Chapter 30, Articles 1 and 3 of the Fairfax County Code
4:30	**Public Hearing deferred to 3/20/12 at 4:30 p.m.**	Public Hearing on PRC A-502-02 (Fairways I Residential, L.L.C. and Fairways II Residential, L.L.C.) (Hunter Mill District)
5:00	**Done**	Public Comment from Fairfax County Citizens and Businesses on Issues of Concern

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
February 28, 2012

9:30 a.m.

SPORTS/SCHOOLS

- CERTIFICATE – To recognize Sophie Chase of Lake Braddock Secondary School for her accomplishments. Requested by Supervisor Cook.

- CERTIFICATE – To recognize the schools in Fairfax County named for African-Americans. Requested by Supervisor Hyland.

RECOGNITIONS

- RESOLUTION – To recognize Robert Lederer for his years of service and partnership with Fairfax County. Requested by Chairman Bulova and Supervisors Herrity, Cook and Smyth.

- RESOLUTION – To recognize Steve Rorke for his contributions to the lives of those in the Lorton community. Requested by Supervisor Hyland.

- RESOLUTION – To recognize the Fairfax County Park Foundation for its 10th anniversary. Requested by Chairman Bulova and Supervisor McKay.

DESIGNATIONS

- PROCLAMATION – To designate February 2012 as Tuberculosis Awareness Month in Fairfax County. Requested by Chairman Bulova.

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

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Board Agenda Item
February 28, 2012

10:30 a.m.

Report on General Assembly Activities

ENCLOSED DOCUMENTS:
None. Materials to be distributed to the Board of Supervisors on February 28, 2012

PRESENTED BY:
Supervisor Jeff McKay, Chairman, Board of Supervisor's Legislative Committee
Anthony H. Griffin, County Executive

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Board Agenda Item
February 28, 2012

10:40 a.m.

County Executive Presentation of the Proposed FY 2013 Budget

ENCLOSED DOCUMENTS:
None. Materials to be distributed on February 28, 2012.

PRESENTED BY:
Anthony H. Griffin, County Executive

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Board Agenda Item
February 28, 2012

11:40 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard February 28, 2012
(A final list will be distributed at the Board meeting.)

STAFF:
Catherine A. Chianese, Clerk to the Board of Supervisors

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NOTE: A revised list will be distributed immediately prior to the Board meeting.

APPOINTMENTS TO BE HEARD FEBRUARY 28, 2012

(ENCOMPASSING VACANCIES PROJECTED THROUGH FEBRUARY 29, 2012)

(Unless otherwise noted, members are eligible for reappointment)

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
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 *Resigned*	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Carol Ann Hawn (Appointed 1/97-1/03 by Hanley; 1/06 by Connolly; 2/09 by Bulova) Term exp. 1/12	At-Large Chairman's Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by Barbara Kreykenbohm; appointed 1/09 by Gross) Term exp. 1/11 *Resigned*	Mason District Representative		Gross	Mason
Sherri D. Jordan (Appointed 10/08-1/09 by Hyland) Term exp. 1/12	Mount Vernon District Representative	**Sherri D. Jordan**	Hyland	Mount Vernon
Charles T. Coyle, III (Appointed 6/09 by Hyland) Term exp. 1/12	Mount Vernon District Business Representative	**Charles T. Coyle**	Hyland	Mount Vernon
Mark G. Searle (Appointed 9/98-1/09 by Frey) Term exp. 1/12	Sully District Representative		Frey	Sully

CONFIRMATION NEEDED:

- Mr. Frank Crandall as the Federation of Citizens Associations Representative

ANIMAL SERVICES ADVISORY COMMISSION (2 years)
[Note: In addition to attendance at Commission meetings, members shall volunteer at least 24 hours per year in some capacity for the Animal Services Division.]

Incumbent History	Requirement	Nominee	Supervisor	District
Philip S. Church (Appointed 6/01-2/02 by Hanley; 2/04-2/08 by Connolly; 2/10 by Bulova) Term exp. 2/12	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Linda Bartlett (Appointed 3/10 by Cook) Term exp. 2/12	Braddock District Representative		Cook	Braddock
Diane D'Arcy (Appointed 3/08-2/10 by Foust) Term exp. 2/12	Dranesville District Representative		Foust	Dranesville
Lucinda Stewart (Appointed 9/06-2/10 by Hudgins) Term exp 2/12	Hunter Mill District Representative		Hudgins	Hunter Mill
Larry A. Jackson (Appointed 2/10 by McKay) Term exp. 2/12	Lee District Representative		McKay	Lee
Michelle Hupp (Appointed 1/01-2/10 by Gross) Term exp. 2/12	Mason District Representative		Gross	Mason
Gina Marie Lynch (Appointed 11/97-2/10 by Hyland) Term exp. 2/12	Mount Vernon District Representative	**Gina M. Lynch**	Hyland	Mount Vernon

Continued on next page

ANIMAL SERVICES ADVISORY COMMISSION (2 years)
[Note: In addition to attendance at Commission meetings, members shall volunteer at least 24 hours per year in some capacity for the Animal Services Division.]

Continued

Incumbent History	Requirement	Nominee	Supervisor	District
Allison Volpert (Appointed 1/05-2/10 by Smyth) Term exp. 2/12	Providence District Representative	**Allison Volpert**	Smyth	Providence
Victoria Kirby (Appointed 2/94-2/04 by McConnell; 2/06-2/10 by Herrity) Term exp. 2/12	Springfield District Representative		Herrity	Springfield
Robin Kasken-Daryanani (Appointed 2/04-2/10 by Frey) Term exp. 2/12	Sully District Representative		Frey	Sully

ATHLETIC COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Clement Chan (Appointed 12/09 by Bulova) Term exp. 11/11	Diversity-At-Large Principal Representative		By Any Supervisor	At-Large
Michael Champness (Appointed 2/05&3/07 by DuBois; 3/09 by Foust) Term exp. 3/11	Dranesville District Principal Representative		Foust	Dranesville

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE
(1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Regina Jordan; appointed 6/04&6/09 by Hudgins) Term exp. 6/10 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Brian K. Halston; appointed 1/10-6/11 by McKay) Term exp. 6/12 *Resigned*	Lee District Representative		McKay	Lee
Rachel Rifkind (Appointed 5/09-6/09 by Gross) Term exp. 6/11	Mason District Representative		Gross	Mason
VACANT (Formerly held by Robert McDaniel; appointed 9/10 by Herrity) Term exp. 6/11 *Resigned*	Springfield District Representative		Herrity	Springfield

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS
(4 years)

(No official, technical assistant, inspector or other employee of the DPWES, DPZ, or FR shall serve as a member of the board.)

Incumbent History	Requirement	Nominee	Supervisor	District
J. Christopher Fox (Appointed 6/93-2/08 by Gross) Term exp. 2/12	Design Professional #5 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Brian K. Halston; appointed 1/10&2/10 by McKay) Term exp. 2/14 *Resigned*	Design Professional #6 Representative		By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE
(4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Harrison Glasgow (Appointed 12/03 by Hanley; 9/07 by Connolly) Term exp. 9/11	At-Large #2 Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by Michael Fraser; appointed 11/08 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence
Christina Terpak-Malm (Appointed 12/3-9/07 by Frey) Term exp. 9/11	Sully District Representative		Frey	Sully

CHILD CARE ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Karen Hecker; appointed 10/03-9/09 by Hyland) Term exp. 9/11 *Resigned*	Mount Vernon District Representative		Hyland	Mt. Vernon
VACANT (Formerly held by Joan C. Holtz; appointed 5/09 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence

CIVIL SERVICE COMMISSION (2 years)

[NOTE: The Commission shall include at least 3 members who are male, 3 members who are female, and 3 members who are from a member of a minority group.]
Current Membership: Males - 9 Females – 3 Minorities: 5

Incumbent History	Requirement	Nominee	Supervisor	District
Richard Stacy (Appointed 11/05-1/08 by DuBois; 12/09 by Foust) Term exp. 12/11	At-Large #11 Representative	**Richard Stacy** (Foust)	By Any Supervisor	At-Large

COMMISSION FOR WOMEN (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Toni Townes-Whitley; appointed 11/10 by Bulova) Term exp. 10/13 *Resigned*	At-Large Chairman's Representative	**Sondra Seba Hemenway**	Bulova	At-Large Chairman's

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

Incumbent History	Requirement	Nominee	Supervisor	District
Douglas Dane (Appointed 2/09 by Bulova) Term exp. 2/12	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Juan Ancalle (Appointed 5/09 by Cook) Term exp. 2/12	Braddock District Representative		Cook	Braddock
Steven Bloom (Appointed 2/09 by Foust) Term exp. 2/12	Dranesville District Representative		Foust	Dranesville
Shavonta Green (Appointed 2/09 by McKay) Term exp. 2/12	Lee District Representative		McKay	Lee
Philip Rosenthal (Appointed 1/01-2/06 by McConnell; 2/09 by Herrity) Term exp. 2/12	Springfield District Representative		Herrity	Springfield

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Rose Miles Robinson (Appointed 7/06-2/09 by Hudgins) Term exp. 2/12	Hunter Mill District Representative		Hudgins	Hunter Mill
Andrew Hunter (Appointed 4/04-2/09 by Gross) Term exp. 2/12	Mason District Representative		Gross	Mason

DULLES RAIL TRANSPORTATION IMPROVEMENT DISTRICT ADVISORY BOARD, PHASE II (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District

CONFIRMATION NEEDED:

- Mr. Randy S. Jaegle as the Town of Herndon #2 Representative

ECONOMIC ADVISORY COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
James Socas (Appointed 1/09 by Foust) Term exp. 12/11	Dranesville District Representative		Foust	Dranesville

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District

CONFIRMATION NEEDED:

- Mr. James S. Phelps as the Federation of Citizens Associations Representative

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Patricia Greenberg (Appointed 1/11 by Hudgins) Term exp. 1/12	Hunter Mill District Representative		Hudgins	Hunter Mill

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.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Thomas Choman; appointed 5/02 by Hanley; 11/04&1/08 by Connolly) Term exp. 11/10 *Resigned*	At-Large Fairfax County Representative		By Any Supervisor	At-Large
Ann Pimley (Appointed 9/03&11/06 by Frey) Term exp. 11/09 ***Not eligible for reappointment (need 3 year lapse)***	Sully District Representative		Frey	Sully

FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL
(2 years)

Incumbent History	Requirement	Nominee	Supervisor	District

CONFIRMATION NEEDED:

- Mr. Eric Bost as a Long Term Care Provider Representative
- C. Courtney Hutson Nuzzo as a Long Term Care Provider Representative

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

Incumbent History	Requirement	Nominee	Supervisor	District
Carol Ann Coryell (Appointed 6/05-6/08 by Frey) Term exp. 6/11 ***(Not eligible for reappointment. Must have 1 year lapse)***	Consumer #6 Representative		By Any Supervisor	At-Large
Stephen Goldberger (Appointed 7/04-6/06 by Kauffman; 7/09 by McKay) Term exp. 6/11 ***(Not eligible for reappointment. Must have 1 year lapse)***	Provider #3 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

Incumbent History	Requirement	Nominee	Supervisor	District
Esther McCullough (Appointed 3/00-11/02 by Hanley; 12/08-12/08 by Connolly) Term exp. 12/11 *Sully District*	Citizen #10 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Luis F. Padilla (Appointed 4/10 by Bulova) Term exp. 9/11	At-Large #11 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly Held by Wendy Breseman; appointed 9/09 by Cook) Term exp. 7/13 *Resigned*	Braddock District Representative		Cook	Braddock

INFORMATION TECHNOLOGY POLICY ADVISORY COMMITTEE (ITPAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Walter Williams (Appointed 5/09 by Herrity) Term exp. 12/11	Springfield District Representative		Herrity	Springfield

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

Incumbent History	Requirement	Nominee	Supervisor	District
Bernard Thompson (Appointed 6/10 by Gross) Term exp. 1/12	Mason District Representative		Gross	Mason

LIBRARY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly Held by Jay Jupiter; appointed 12/10 by Hyland) Term exp. 7/13 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon

SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Brett Coffee (Appointed 5/08&12/08 by Herrity) Term exp. 12/11	Springfield District Representative		Herrity	Springfield

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL
(2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Lawrence Bussey; appointed 3/05-3/09 by Hudgins) Term exp. 3/11 *Resigned*	Fairfax County #2 Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)
[NOTE: Per County Code Section 12-2-1, each member of this commission must be a County resident. Tenant Members: shall be a person who, prior to the time of his/her appointment, and throughout his/her term, shall be the lessee of and reside in a dwelling unit. Landlord Members: shall be a person who owns and leases, or serves as a manager for four (4) or more leased dwelling units in Fairfax County or is employed by a real estate management firm that manages more than four (4) rental units. Citizen Members: shall be anyone who is neither a lessee nor lessor of any dwelling unit in Fairfax County.]

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kevin Denton; appointed 4/10&1/11 by Smyth) Term exp. 1/14 *Resigned*	Tenant Member #3 Representative		By Any Supervisor	At-Large

TRAILS AND SIDEWALKS COMMITTEE (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kala Quintana; appointed 10/09&1/10 by Bulova) Term exp. 1/12 *Resigned*	At-Large Chairman's Representative	**Kenneth Comer**	Bulova	At-Large Chairman's
VACANT (Formerly held by Lisa S. Willey; appointed 7/08-1/10 by Herrity) Term exp. 1/12 *(Resignation effective 2/1/12)*	Springfield District Representative		Herrity	Springfield

WATER AUTHORITY (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Richard Terwilliger; appointed 5/97-6/03 by Hanley; 6/06 by Connolly; 6/09 by Bulova) Term exp. 6/12 *Resigned*	At-Large Chairman's Representative		Bulova	At-Large Chairman's

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Board Agenda Item
February 28, 2012

11:50 a.m.

Items Presented by the County Executive

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Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 1

Authorization for the Fire and Rescue Department to Apply for Funding from the Department of Homeland Security for a Staffing for Adequate Fire and Emergency Response Grant

ISSUE:
Board authorization for the Fire and Rescue Department (FRD) to apply for funding from the U.S. Department of Homeland Security (DHS) for a Staffing for Adequate Fire and Emergency Response (SAFER) Grant in the amount of $2,529,679 under the Hiring of Firefighters Activity to create 15/15.0 SYE additional merit firefighter positions to ensure that there is an adequate cadre of personnel to staff five truck companies according to the National Fire Protection Association (NFPA) standard of four person minimum staffing.

If awarded, the total amount of grant funds received by the County will be $2,529,679 over two years. There is no Local Cash Match required. However, costs such as training, equipment, and overtime are not eligible grant costs and will be borne by the County. In addition, the County is required to retain the new firefighters for one year after the initial two-year grant period and cover all personnel and operating costs during the third year. The total cost to the County over a three-year period is $1,837,815. Including DHS funding and the required County funding, the total cost of this program activity over a three-year period is $4,367,494. Currently, the required County funding of $1,837,815 has not been identified. If the County is awarded funding by DHS, staff will work with the County Executive to identify County resources and staff will submit another item to accept the award. If however, no County resources are identified, the County may need to decline the award.

RECOMMENDATION:
The County Executive recommends the Board authorize the Fire and Rescue Department to apply for funding in the amount of $2,529,679 to be received over two years from the U.S. Department of Homeland Security for the SAFER grant program to hire an additional 15/15.0 SYE merit firefighter positions. There is no Local Cash Match required. However, the required County funding over a three-year period is $1,837,815. The total cost of this program activity over a three-year period is $4,367,494, including DHS funding, non-eligible grant costs and full position costs for one year after the initial two-year grant period, as required by grant regulations.

TIMING:
Board approval is requested on February 28, 2012. The SAFER application was due on February 24, 2012; therefore, if the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:
The purpose of the SAFER Grant is to award funds directly to fire departments helping agencies increase their cadre of firefighters, thus assuring that the communities served have adequate protection from fire and fire-related hazards as prescribed by the National Fire Protection Association (NFPA) standards. The Hiring of Firefighters Activity is a two-year grant to assist fire departments in adding staff by paying the salaries and fringe benefits of newly hired firefighters. These newly hired positions must be in addition to authorized and funded active firefighter positions. Grantees are required to maintain the number of authorized funded positions as declared at the time of application plus the awarded new firefighter positions throughout the two-year period of performance and one year after the grant period ends.

The current three-person staffing of truck companies (of which there are 14 in the FRD) is below NFPA standards. Safe staffing, municipal fire and rescue department best practices, and NFPA 1710 guidelines include a fourth person on truck companies. The addition of a fourth person on truck companies will provide Advanced Life Support (ALS) capability on these vehicles. It will also bring units into compliance with OSHA-mandated “two in-two out” personnel safety regulations. This regulation applies to the entry into immediately dangerous to life and health (IDLH) environments such as structure fires, collapses, and hazardous materials incidents. Most importantly, it will immediately enhance the efficiency of the truck crew’s multi-faceted task list (search and rescue, laddering, ventilation, forcible entry, overhaul, and salvage) and dramatically boost the safety margin for firefighters and citizens in peril.

If Fairfax County is successful in obtaining this award, it will provide an opportunity for FRD to bring five County truck companies (each with three shifts) into compliance with NFPA safe-staffing standards. Costs associated with training, equipping, and overtime of newly hired firefighters, and other administrative support costs, cannot be included as part of the grant application and must be fully funded with Fairfax County funds. This amount is estimated to be $172,425 for each of the first two years for a total of $344,850. In addition, the County is required to retain new firefighters for one year after the initial two-year grant period and would be required to absorb the entire cost of any positions awarded as a result of the grant. The amount for the third year is estimated to be $1,492,965.

The department will continue to monitor the legislative process to seek opportunities for addressing other critical staffing issues through future grant funds, and will apply for future SAFER funding should this grant stream be continued in upcoming fiscal years.

FISCAL IMPACT:
If the application is successful, the Fire and Rescue Department would receive $2,529,679 in federal funding over two years for the Hiring of Firefighters Activity. These funds would be used to hire an additional 15/15.0 SYE merit firefighter positions to provide adequate staffing for five truck companies. There is no Local Cash Match required. However, because of the mandate to retain staff for one year after the initial two-year grant period and the need to fund non-eligible grant costs associated with training, equipping, and overtime, the required County contribution to fully fund this initiative is $1,837,815. The total cost of this program activity over a three-year period is $4,367,494, including DHS funding and required County funding. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This grant does allow the recovery of indirect costs; however, because this grant program is highly competitive, the FRD has elected to omit inclusion of indirect costs to maximize our competitive position.

CREATION OF NEW POSITIONS:
A total of 15/15.0 SYE merit positions would be created through this grant award. The County has an obligation to fully fund these positions for one year after the initial two-year grant period. The County is under no obligation to continue funding these positions once this time period expires.

ENCLOSED DOCUMENTS:
Attachment 1 – FY 12 SAFER Cost Estimate

STAFF:
Robert A. Stalzer, Deputy County Executive
Ronald L. Mastin, Fire Chief
Cathy Maynard, Grants Coordinator, Fire and Rescue Department

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FY 12 SAFER Cost Estimate

Attachment 1

Positions	# Positions	Reg Salary[1]	Shift Diff	Overtime	ALS - Riding Pay	ALS - Cert Pay	Operating Expense	Fringe Benefits Reg. Salaries[2]	Fringe Benefits OT[3]	Total Program Cost	County Commitment[4]	Federal Commitment
Year One												
(Estimate to begin FY 12)												
Truck Staffing	15	$830,715	$32,880	$90,000			$75,000	$383,043	$7,425	$1,419,063	$172,425	$1,246,638
Total Year One	15	***$830,715***	***$32,880***	***$90,000***	***$0***	***$0***	***$75,000***	***$383,043***	***$7,425***	***$1,419,063***	***$172,425***	***$1,246,638***
Year Two	# Positions	Reg Salary	Shift Diff	Overtime			Operating Expense	Fringe Benefits	Fringe for OT	Total	County Share	Federal Share
(Estimate to begin FY 13)												
Truck Staffing	15	$855,630	$32,880	$90,000			$75,000	$394,531	$7,425	$1,455,466	$172,425	$1,283,041
Total Year Two	15	***$855,630***	***$32,880***	***$90,000***	***$0***	***$0***	***$75,000***	***$394,531***	***$7,425***	***$1,455,466***	***$172,425***	***$1,283,041***
Year Three [5]	# Positions	Reg Salary	Shift Diff	Overtime			Operating Expense	Fringe Benefits	Fringe for OT	Total	County Share	Federal Share
(Estimate to begin FY 14)												
Truck Staffing	15	$881,295	$32,880	$90,000			$75,000	$406,365	$7,425	$1,492,965	$1,492,965	
Total Year Two	15	***$881,295***	***$32,880***	***$90,000***	***$0***	***$0***	***$75,000***	***$406,365***	***$7,425***	***$1,492,965***	***$1,492,965***	***$0***
								All Years Cost:		***$4,367,494***	***$1,837,815***	***$2,529,679***

[1]First year base salary projected on FY11 Uniformed Fire & Rescue Employees Pay Plan. An increase in base salary of 3% per year is projected in years two and three

[2]FY11 uniform fringe benefit planning factor 46.11%

[3]Fringe OT = 8.25% FICA and Workers Compensation

[4]Costs not eligible through grant funds - difference between entry level FF/medic (18-3 salary/fringe w 3% COLA added in Year Two) vs. position filled cost, firefighter overtime and operating expenses

[5]Note there is no requirement to fund re-hire positions after two year grant period, but must commit to retention of truck staff for one additional year after grant period ends

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Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic)

ISSUE:
Board authorization to advertise a public hearing to consider amending Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic) of the *Code of the County of Fairfax, Virginia*. This amendment would repeal outdated sections of the article that contain largely duplicate language of code sections previously adopted by reference into Section 82-1-6.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of the public hearing.

TIMING:
Board action is requested on February 28, 2012, to provide sufficient time to advertise the proposed hearing on March 20, 2012 at 4:30 p.m. If approved by the Board after the public hearing, these provisions will become effective immediately.

BACKGROUND:
Chapter 82, Article 4 (Regulation of Traffic) consists mostly of sections containing language that originally duplicated state code, but have since become outdated. In addition, the County has, where possible, adopted corresponding state code sections into Section 82-1-6, as authorized by State Code Section 46.2-1313. Repeal of outdated ordinances will eliminate confusion by police officers when writing violations, and should significantly reduce the likelihood of challenges in court due to duplicative and outdated language.

The following table displays proposed ordinances for repeal and their corresponding code sections from Section 82-1-6:

County Ordinance	Corresponding Adopted Code Section (82-1-6)	Description
82-4-1	46.2-852	Reckless driving generally
82-4-2	46.2-853, 46.2-854, 46.2-855, 46.2-856, 46.2-857, 46.2-858, 46.2-859, 46.2-860, 46.2-861, 46.2-863, 46.2-864	Reckless driving; specific instances
82-4-3	46.2-862, 46.2-870	Reckless driving; driving certain vehicles in excess of seventy-five miles per hour
82-4-4	46.2-862, 46.2-870	Reckless driving; driving certain vehicles in excess of sixty-five miles per hour
82-4-5	46.2-865	Reckless driving; racing
82-4-5.1	46.2-817	Failure to stop vehicle upon signal by Police
82-4-6	46.2-868	Reckless driving; penalty (unnecessary if 82-4-1 through 82-4-5.1 are repealed
82-4-7	46.2-392	Suspension of operator's license upon conviction of reckless driving generally
82-4-8	46.2-393	Suspension of operator's license upon conviction of reckless driving for exceeding speed of sixty-five or seventy miles per hour
82-4-8.1	46.2-396	Suspension of license for reckless driving in the death of any person
82-4-9	46.2-398	Disposition of surrendered licenses upon conviction requiring revocation or suspension
82-4-11	46.2-879	Prohibiting conviction for speeding in certain areas unless markers installed
82-4-12	46.2-920	Speed limits not applicable to certain vehicles under certain circumstances
82-4-14	46.2-882, 46.2-883	Checking on speed with electrical devices; certificate as to accuracy of device; arrest without warrant
82-4-15	46.2-1079	Prohibiting use of devices on motor vehicles to detect presence of radar upon highways or operation of motor vehicles so equipped
82-4-16	46.2-880	Table of speed and stopping distances
82-4-23	18.2-272	Driving after forfeiture of license
82-4-27	46.2-1077	Automobiles not to be equipped with television within view of operator of vehicle
82-4-28	46.2-1078	Unlawful to operate automobile while using earphones
82-4-29	46.2-814	Driving through safety zones prohibited
82-4-31	46.2-906	Riding bicycles without using handlebars
82-4-34	46.2-811	Coasting prohibited
82-4-35	46.2-812	Driving more than thirteen hours in twenty-four hours prohibited
82-4-36	46.2-802	Drive on right side of highways
82-4-37	46.2-807	Driving around rotary traffic islands
82-4-38	46.2-803	Keep to the right in crossing intersections or railroads
82-4-39	46.2-804	Special regulations applicable on streets and highways laned for traffic

County Ordinance	Corresponding Adopted Code Section (82-1-6)	Description
82-4-40	46.2-837	Passing vehicles proceeding in opposite directions
82-4-41	46.2-838	Passing upon overtaking a vehicle
82-4-43	46.2-841	When overtaking vehicle may pass on right
82-4-44	46.2-842	Driver to give way to overtaking vehicle
82-4-45	46.2-843	Limitations on privileges of overtaking and passing
82-4-46	46.2-816	Following too closely
82-4-48	46.2-846	Required position and method of turning at intersections; signs
82-4-49	46.2-848	Signals required on starting, stopping or turning
82-4-50	46.2-849	Signals required on starting, stopping or turning; how such signals are given
82-4-51	46.2-850	Signals required on starting, stopping or turning; change of course after giving signal
82-4-52	46.2-848	Signals required on starting, stopping or turning; duty of drivers receiving signals
82-4-53	46.2-851	Signals prior to moving standing vehicles into traffic
82-4-54	46.2-820, 46.2-821 46.2-822, 46.2-823	Right-of-way generally
82-4-55	46.2-825	Right-of-way when vehicle turns to left
82-4-56	46.2-826	Stop before entering public highway or sidewalk from private road; yielding of right-of-way
82-4-56.1	46.2-821	Vehicles before entering certain highways shall stop or yield right-of-way
82-4-57	46.2-827	Right-of-way of United States forces, troops, national guard
82-4-58	46.2-829	Approach of police or fire-fighting vehicles, rescue vehicles or ambulances; violation as failure to yield right-of-way
82-4-59	46.2-920	Police, fire-fighting and rescue vehicles and ambulances exempt from regulations in certain emergencies; exceptions and additional requirements
82-4-60	46.2-921	Following or parking near fire apparatus
82-4-61	46.2-922	Driving over fire hose

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic)

Board Agenda Item
February 28, 2012

STAFF:
Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Karen L. Gibbons, Senior Assistant County Attorney

CHAPTER 82

Motor Vehicles and Traffic

ARTICLE 4. Regulation of Traffic.

Division 1. Reckless Driving, Speeding, Driving While Intoxicated and Other Provisions Concerning the Operation of Automobiles.

Section 82-4-1. Reckless driving generally.44

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44. For similar state law, see Va. Code Ann., § 46.2-852, adopted in § 82-1-6.

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~~Irrespective of the maximum speeds provided in this Chapter, any person who drives a vehicle upon a highway recklessly or at a speed or in a manner so as to endanger the life, limb or property of any person shall be guilty of reckless driving; provided, that the driving of a motor vehicle in violation of any speed limit provision of Section 82-4-10 shall not of itself constitute ground for prosecution for reckless driving under this Section. Reckless driving shall be unlawful. ((3-13-63; 1961 Code, § 16-62.)~~

Repealed.

Section 82-4-2. Reckless driving; specific instances.45

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45. For similar state law, see Va. Code Ann., § 46.2-853 et seq, adopted in § 82-1-6.

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~~(a) A person shall be guilty of reckless driving who shall:~~

~~(1) Drive a vehicle when not under proper control or with inadequate or improperly adjusted brakes upon any highway of this County;~~

~~(2) While driving a vehicle, overtake or pass another vehicle proceeding in the same direction, upon or approaching the crest of a grade or upon or approaching a curve in the highway, where the driver's view along the highway is obstructed, except where the overtaking vehicle is being operated on a highway having two (2) or more designated lanes of roadway for each direction of travel or on a designated one-way street or highway;~~

~~(3) Pass or attempt to pass two (2) other vehicles abreast, moving in the same direction, except on highways having separate roadways of three (3) or more lanes for each direction of travel, or on designated one-way streets or highways;~~

~~(4) Drive any motor vehicle, including any motorcycle, so as to be in and parallel to another vehicle in a lane designed for one vehicle, or drive any motor vehicle, including any motorcycle, so as to travel~~

~~parallel to any other vehicle traveling in a lane designed for one (1) vehicle; provided, that this Subsection shall not apply to any validly authorized parade, motorcade or motorcycle escort;~~

~~(5) Overtake or pass any other vehicle proceeding in the same direction at any steam, diesel or electric railway grade crossing or at any intersection of streets or highways unless such vehicles are being operated on a highway having two (2) or more designated lanes of roadway for each direction of travel or unless such intersection is designated and marked as a passing zone pursuant to the provisions of*Code of Virginia,* Section 46.2-830 and Section 46.2-803 or on a designated one-way street or highway, or while pedestrians are passing or about to pass in front of either of such vehicles, unless permitted so to do by a traffic light or police officers;~~

~~(6) Fail to stop when approaching from any direction a school bus, whether publicly or privately owned, which is stopped on any highway or school driveway for the purpose of taking on or discharging children, elderly, mentally or physically handicapped persons, and to remain stopped until all children, elderly, mentally or physically handicapped persons, are clear of the highway or school driveway and the bus is put in motion; except, that the driver of a vehicle upon a dual highway, when the roadways are separated by a physical barrier or barriers or an unpaved area, need not stop upon approaching a school bus which is on a roadway so separated from the one on which he is driving or an adjoining service road so separated, and except that the driver of a vehicle need not stop upon approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if such driver is directed by a police officer or other duly authorized uniformed school crossing guard to pass such school bus. This Subsection shall apply to school buses which are equipped with warning devices prescribed in*Code of Virginia,* Section 46.2-1090, and are painted yellow with the words "School Bus, Stop, State Law" printed in black letters at least six (6) inches high on the front and rear thereof. If space is limited on the front, the words "School Bus" may be in letters at least four (4) inches high. Only school buses as defined in *Code of Virginia,* Section 46.2-100, which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses;~~

~~(7) Fail to give adequate and timely signals of intention to turn, partly turn, slow down or stop, as required in Sections 82-4-48 through 82-4-52;~~

~~(8) Exceed a reasonable speed under the circumstances and traffic conditions existing at the time regardless of any posted speed limit;~~

~~(9) Fail to bring his vehicle to a stop immediately before entering a highway from a side road when there is traffic approaching upon such highway within five hundred (500) feet of such point of entrance, unless a "Yield Right of Way" sign is posted; or where such sign is posted, fail, upon entering such highway, to yield the right of way to the driver of a vehicle approaching on such highway from either direction;~~

~~(10) Drive or operate any automobile or other motor vehicle upon any driveway or premises of a church, or school, or of any recreational facilities or of any business property open to the public, or on the premises of any industrial establishment providing parking space for customers, patrons or employees, or upon any highway under construction or not yet open to the public, recklessly or at a speed or in a manner so as to endanger the life, limb or property of any person; or~~

~~(11) Drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle. ((3-13-63; 1961 Code, § 16-63; 37-76-82; 34-78-82; 19-79-82.)~~

Repealed.

Section 82-4-3. Reckless driving; driving certain vehicles in excess of seventy-five miles per hour.46

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46. For similar state law, see Va. Code Ann., §§ 46.2-862, 46.2-870, adopted in § 82-1-6.

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~~A person shall be guilty of reckless driving if he operates a motor vehicle, except as provided in Section 82-4-4, in this County at a speed in excess of seventy-five (75) miles per hour. ((3-13-63; 1961 Code, § 16-64.)~~

Repealed.

Section 82-4-4. Reckless driving; driving certain vehicles in excess of sixty-five miles per hour.47

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47. For similar state law, see Va. Code Ann., §§ 46.2-862, 46.2-870, adopted in § 82-1-6.

_____

~~A person shall be guilty of reckless driving if he operates any truck, tractor or tractor-truck or motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer, or combination of vehicles designed to transport property upon the highways in the County at a speed in excess of sixty-five (65) miles per hour, unless upon the Interstate System of Highways or other limited access highways with divided roadways in which case exceeding seventy-five (75) miles per hour shall constitute reckless driving. ((3-13-63; 1961 Code, § 16-65.)~~

Repealed.

Section 82-4-5. Reckless driving; racing.48

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48. For similar state law, see Va. Code Ann., § 46.2-865, adopted in § 82-1-6.

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~~Any person who shall engage in a race between two (2) or more motor vehicles on the highways of this County or upon any driveway or premises of a church, school, recreational facility or business property open to the public in this County shall be guilty of reckless driving, unless authorized by the owner of the property or his agent. When any person shall be convicted of reckless driving under this Section, then in addition to any other penalties provided by law, the operator's or chauffeur's license of such person shall be suspended by the court or judge for a period of not less than six (6) months nor more than two (2) years. In case of conviction the court or judge shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of Section 82-4-8. ((3-13-63; 1961 Code, § 16-66.)~~

Repealed.

Section 82-4-5.1. Failure to stop vehicle upon signal by Police. 49

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49. For similar state law, see Va. Code Ann., § 46.2-817, adopted in § 82-1-6.

~~Any person who having received a visible or audible signal from any police officer to bring his motor vehicle to a stop, shall operate such motor vehicle in a wilful or wanton disregard of such signal so as to interfere with or endanger the operation of the police vehicle or endanger other property or person, or who shall increase his speed and attempt to escape or elude such police officer, shall be guilty of reckless driving, and, upon conviction thereof shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment in jail for not less than sixty (60) days nor more than one (1) year, or both such fine and imprisonment. When any person shall be convicted of penalties provided herein, the operator's or chauffeur's licenses of such person may be suspended by the court or judge for a period not to exceed one (1) year; provided, however, in any case where the speed of the accused is determined to have exceeded the maximum allowed by fifteen (15) miles per hour where the maximum speed is fifty-five (55) miles per hour or greater, the operator's or chauffeur's license shall be suspended by the court or judge trying the case for a period of not less than ninety (90) days. In case of conviction and suspension the court or judge shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of*Code of Virginia,* Section 46.2-398. ((37-76-82; 30-89-82.)~~

Repealed.

Section 82-4-6. Reckless driving; penalty.~~49~~ 50

~~49~~ 50. For similar state law, see Va. Code Ann., §§ 46.2-868~~, 46.2-392~~, adopted in § 82-1-6.

~~Every person convicted of reckless driving under Sections 82-4-1 through 82-4-5.1 shall, for the first violation, be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment. For each second or subsequent conviction for the offense of reckless driving, under any of such Sections, committed within twelve (12) months before or after the date of another act of reckless driving for which he has been convicted, such person shall be punished by a fine of not less than One Hundred Dollars ($100.00), nor more than One Thousand Dollars ($1,000.00) or by imprisonment in jail for not less than ten (10) days nor more than twelve (12) months, or by both such fine and imprisonment. ((3-13-63; 1961 Code, § 16-67.)~~

Repealed.

Section 82-4-7. Suspension of operator's license upon conviction of reckless driving generally.~~50~~ 51

~~50~~ 51. For similar state law, see Va. Code Ann., § 46.2-392, adopted in § 82-1-6.

~~(a) In addition to the penalties for reckless driving prescribed in Section 82-4-6 and except in those cases for which a revocation of license is provided in*Code of Virginia,* Section 46.2-389.A.5 any court may suspend any license issued to a convicted person under *Code of Virginia,* Ch. 3, Subtitle II, Title 46.2, Section 46.2-300 et seq. for a period of not less than ten (10) days nor more than six (6) months~~

~~and such court shall require the convicted person to surrender his license so suspended to the court where it shall be disposed of in accordance with Section 82-4-9.~~

~~(b) If a person convicted has not obtained the license required by such Chapter, or is a nonresident, the court may direct in the judgment of conviction that such person shall not, for a period of not less than ten (10) days nor more than six (6) months as may be prescribed in the judgment, drive or operate any motor vehicle in this State. The court or the clerk of court shall transmit the license to the Commissioner along with the report of the conviction requiring revocation under*Code of Virginia,* Section 46.2-389, the court shall suspend the operator's or chauffeur's license of such person and thereupon transmit the same to the Division of Motor Vehicles as provided by law. ((3-13-63; 1961 Code, § 16-68.)~~

Repealed.

Section 82-4-8. Suspension of operator's license upon conviction of reckless driving for exceeding speed of sixty-five or seventy-five miles per hour.~~51~~ 52

~~51~~ 52. For similar state law, see Va. Code Ann., § 46.2-393, adopted in § 82-1-6.

~~When any person shall be convicted of reckless driving for exceeding a speed of sixty-five (65) or seventy-five (75) miles per hour, as the case may be, upon the highways in this County under Section 82-4-3 or 82-4-4, then in addition to any other penalties provided by law, except in those cases for which revocation of licenses is provided in*Code of Virginia,* Section 46.2-389, the operator's or chauffeur's license of such person may be suspended by the court or judge for a period of not less than sixty (60) days nor more than six (6) months. In case of conviction the court or judge shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of *Code of Virginia,* Section 46.2-398. Where the conviction is a second conviction which would require revocation under the provisions of *Code of Virginia,* Section 46.2-389, the court shall suspend the operator's or chauffeur's license of such person and thereupon transmit the same to the Division of Motor Vehicles as provided by law. If such person so convicted has not obtained a license required by *Code of Virginia,* Ch. 3, Subtitle II, Title 46.2, Section 46.2-300 et seq. or is a nonresident, such court shall direct in the judgment of conviction that such person shall not drive or operate any motor vehicle in this State for a period of not less than sixty (60) days nor more than six (6) months. ((3-13-63; 1961 Code, § 16-69.)~~

Repealed.

Section 82-4-8.1. Suspension of license for reckless driving resulting in the death of any person. 53

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53. For similar state law, see Va. Code Ann., § 46.2-396, adopted in § 82-1-6.

~~When any person shall be convicted of reckless driving as provided in Section 82-4-2 and such reckless driving was the cause of the death of any person, then in addition to any other penalties provided by law, the operator's or chauffeur's license of such person may be suspended by the court or judge for a period not to exceed twelve (12) months. In case of conviction the court or judge may order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of Section 46.2-398 of the*Code of Virginia.* If such person so convicted has not obtained a license required by Chapter 3 of Title 46.2 in the *Code of Virginia* or is a~~

~~nonresident, such court may direct in the judgment of conviction that such person shall not drive nor operate any motor vehicle in this State for a period not to exceed twelve (12) months. The fact of such suspension shall not be admissible as evidence in any related civil proceeding. ((37-76-82; 30-89-82.)~~

Repealed.

Section 82-4-9. Disposition of surrendered licenses upon conviction requiring revocation or suspension.~~52~~ 54

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~~52~~ 54. For similar state law, see Va. Code Ann., § 46.2-398, adopted in § 82-1-6.

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~~(a) In any case in which the accused is convicted of an offense, upon the conviction of which the law requires or permits revocation or suspension of the operator's or chauffeur's license of the person so convicted, the court shall order the surrender of such license, which shall remain in the custody of the court during the period of such revocation or suspension if such period does not exceed thirty (30) days, or until: (1) The time allowed by law for appeal has elapsed, when it shall be forwarded to the Commissioner; or (2) An appeal is effected and proper bond posted, at which time it shall be returned to the accused.~~

~~(b) When the time of suspension or revocation coincides or approximately coincides with the appeal time, the court may retain the license and return the same to the accused upon the expiration of the suspension or revocation. ((3-13-63; 1961 Code, § 16-70.)~~

Repealed.

Section 82-4-10. Maximum and minimum speed limits; posting of school zones.

(a) Whenever the speed limits incorporated by reference pursuant to § 82-1-6 have been increased or decreased for any highway or portion thereof pursuant to Virginia Code § 46.2-878 or § 46.2-1300, it shall be unlawful for any person to drive a motor vehicle at a speed in excess of such increased or decreased limits, when the same are properly indicated by signs on such highway. As provided for in Virginia Code § 46.2-878, whenever the speed limit on any highway has been increased or decreased or a differential speed limit has been established and such speed limit is properly posted, there shall be a rebuttable presumption that the change in speed was properly established in accordance with the provisions of Virginia Code § 46.2-878.

(b) It shall be unlawful for any person to drive or operate a motor vehicle upon the highways in the county at a speed in excess of the maximum limits established in Virginia Code §§ 46.2-870—46.2-878.2. (3-13-63; 1961 Code, § 16-71; 9-78-82; 26-81-82; 25-10-82.)

Section 82-4-11. Prohibiting conviction for speeding in certain areas unless markers installed.~~54~~ 55

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~~54~~.55 For similar state law, see Va. Code Ann., § 46.2-879, adopted in § 82-1-6.

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~~No person shall be convicted of a violation of an ordinance enacted by local authorities pursuant to the provisions of the Va. Code Ann., § 46.1-180 decreasing the speed limit established in the Va. Code Ann., § 46.1-193 when such person has exceeded the speed limit in an area where the speed limit has been decreased, unless such area is clearly indicated by a conspicuous marker at the termini of such area. ((3-13-63; 1961 Code, § 16-72.)~~

Repealed.

Section 82-4-12. Speed limits not applicable to certain vehicles under certain circumstances.~~55~~ 56

~~55~~ 56. For similar state law, see Va. Code Ann., § ~~46.2-918~~ 46.2-920, adopted in § 82-1-6.

~~(a) The speed limitations set forth in this Article shall not apply to vehicles when operated with due regard for safety under the direction of the police or in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violations, or in response to emergency calls, or in testing the accuracy of the radio microwave or other electrical devices specified in Section 82-4-14, nor to Fire Department vehicles when traveling in response to a fire alarm or pulmotor call, nor to ambulances when traveling in emergencies.~~

~~(b) These exemptions, hereinbefore granted to such a moving vehicle, shall apply on when the operator of such vehicle displays a flashing, blinking or alternating red light and sounds a siren, bell, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary, and, only when there is in force and effect for such vehicle standard automobile liability insurance covering injury or death to any one (1) person in the sum of at least One Hundred Thousand Dollars ($100,000.00) in any one (1) accident, and subject to the limit for one (1) person, to a limit of Three Hundred Thousand Dollars ($300,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and to a limit of Ten Thousand Dollars ($10,000.00) because of injury to or destruction of property of others in any one (1) accident. Such exemptions shall not protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this Section shall be construed to release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation. ((3-13-63; 1961 Code, § 16-73; 37-76-82.)~~

Repealed.

Section 82-4-13. Suspension of license where speed limit exceeded by more than five miles per hour.

When any person shall be convicted for the second and each subsequent time within the period of one (1) year of violating any law of this State which designates the maximum speed limit for the operation of motor vehicles and the judge or jury shall find in each case that such person exceeded the prescribed speed limit by more than five (5) miles per hour, then in addition to any other penalties provided by law, the operator's license of such person shall be suspended for a period of sixty (60) days. The provisions of this Section shall not apply in any case unless the applicable legal speed is forty-five (45) miles per hour or more. In case of conviction the court or judge shall require the delivery of the operator's permit to the court, where it shall be held in accordance with *Code of Virginia,* Section 46.2-398. The provisions of *Code of Virginia,* Section 46.2-411, shall not apply to any person whose license is revoked under the provisions of this Section. (1961 Code, § 16-74; 30-89-82.)

Section 82-4-14. Checking on speed with electrical devices; certificate as to accuracy of device; arrest without warrant.~~56~~ 57

~~56~~ 57. For similar state law, see Va. Code Ann., § 46.2-882, 46.2-883, adopted in § 82-1-6.

~~(a) The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. In any court or legal proceedings in which any question arises about the calibration or accuracy of any radio microwave or other electrical device used to check the speed of any motor vehicle, a certificate, executed and signed by the officers calibrating or testing such device for its accuracy, and stating the time of such test, type of test and results of testing when such certificate is accompanied by a certificate, or a true copy thereof, showing the calibration of accuracy of the speedometer of any vehicle employed in calibrating or testing such device, and when and by whom such speedometer calibration was made, shall be admissible when attested by one such officer who executed and signed it as evidence of the facts therein stated and the results of such testing.~~

~~(b) The driver of any such motor vehicle may be arrested without a warrant under this Section; provided, the arresting officer is in uniform and displays his badge of authority; provided, that such officer has observed the registration of the speed of such motor vehicle by the radio microwaves or other electrical device or has received a radio message from the officer who observed the speed of the motor vehicle registered by the radio microwaves or other electrical device; provided, in the case of an arrest based on such a message, that such radio message has been dispatched immediately after the speed of the motor vehicle was registered and furnished the license number or other positive identification of the vehicle and the registered speed to the arresting officer.~~

~~(c) Signs to indicate the legal rate of speed and that the speed of motor vehicles may be measured by radio microwaves or other electrical devices shall be placed at or near the State boundary on those interstate and primary highways which connect the State to the other jurisdictions at such locations as the State Highway Commissioner, in his discretion, may select. There shall be a prima facie presumption that such signs were in place at the time of the commission of the offense of exceeding the legal rate of speed, and a certificate by the State Highway Commissioner as to the placing of such signs shall be admissible in evidence to support or rebut the presumption. Such legal rate of speed and notice of measurement of speed by radio microwaves or other electrical devices may be posted on different signs and need not be posted on the same sign. ((3-13-63; 1961 Code, § 16-75.)~~

Repealed.

Section 82-4-15. Prohibiting use of devices on motor vehicles to detect presence of radar upon highways or operation of motor vehicles so equipped.~~57~~ 58

~~57~~ 58. For similar state law, see Va. Code Ann., § 46.2-1079, adopted in § 82-1-6.

~~(a) It shall be unlawful for any person to operate a motor vehicle upon the highways of this State when such vehicle is equipped with any device or mechanism to detect the emission of radio microwaves in the~~

~~electromagnetic spectrum, which microwaves are employed by police to measure the speed of motor vehicles upon the highways of this State for law enforcement purposes; it shall be unlawful to use any such device or mechanism upon any such motor vehicles upon the highways; it shall be unlawful to sell any such device or mechanism in this State. Provided, however, that the provisions of this Section shall not apply to any receiver of radio waves utilized for lawful purposes to receive any signal from a frequency lawfully licensed by any State or federal agency.~~

~~(b) Any person violating any provision of this Section shall be guilty of a traffic infraction pursuant to Section 82-1-35 and Code of Virginia, Section 19.2-254.1 and shall, upon conviction thereof, be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00). This section shall not be construed to authorize the forfeiture to the Commonwealth of any device or mechanism. Any such device or mechanism may be taken by the arresting officer if needed as evidence, and shall, when no longer needed, be returned to the person charged with a violation under this Section, or at the person's request, and his expense, mailed to an address specified by him.~~

~~(c) Except as provided under Subsection (b) of this Section, the presence of any such prohibited device or mechanism in or upon a motor vehicle upon the highways of this State shall constitute prima facie evidence of the violation of this Section. The Commonwealth need not prove that the device in question was in an operative condition or being operated.~~

~~(d) No person shall be guilty of a violation of this Section when the device or mechanism in question, at the time of the alleged offense, had no power source and was not readily accessible for use by the driver of any passenger in the vehicle.~~

~~(e) This Section shall not apply to motor vehicles owned by the Commonwealth or any political subdivision thereof and which are used by the police of any such government nor to law enforcement officers in their official duties, not to the sale of any such device or mechanism to law enforcement agencies for use in their official duties. ((Va. Code Ann., 1962, c. 125; 3-13-63; 1961 Code, § 16-76; 37-76-82; 34-78-82.)~~

Repealed.

Section 82-4-16. Table of speed and stopping distances.~~58~~ 59

~~58. Editor's note--This Section is set out for information purposes and may be used by a locality for that purpose, if desired.~~

~~(a) All courts shall take notice of the following table of speed and stopping distances of motor vehicles, which shall not raise a presumption, in actions in which inquiry thereon is pertinent to the issues.~~

~~(b) The courts shall further take notice that such table is the result of experiments made with motor vehicles unloaded except for the driver, equipped with four wheel brakes, in good condition, on dry, hard, approximately level stretches of highway free from loose material.59~~

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59. For similar state law, see Va. Code Ann., § 46.2-880, adopted in § 82-1-6.

~~TABLE INSET:~~

~~Speed In~~	~~Average Stopping Distance~~				~~Total Stopping Distances: Driver and~~	
~~Miles Per Hour~~	~~Feet Per Second~~	~~Automobile Brakes (In Feet)~~	~~Truck Brakes (Brakes On All Wheels) (In Feet)~~	~~Average Driver Reaction Time (3/4 Second) (In Feet)~~	~~Automobiles (In Feet)~~	~~Trucks (In Feet)~~
~~10~~	~~14.67~~	~~5~~	~~7~~	~~11~~	~~16~~	~~18~~
~~15~~	~~22.0~~	~~12~~	~~17~~	~~16~~	~~28~~	~~33~~
~~20~~	~~29.34~~	~~21~~	~~30~~	~~22~~	~~43~~	~~52~~
~~25~~	~~36.62~~	~~32~~	~~47~~	~~27~~	~~59~~	~~74~~
~~30~~	~~44.0~~	~~47~~	~~67~~	~~33~~	~~80~~	~~100~~
~~35~~	~~51.3~~	~~63~~	~~92~~	~~38~~	~~101~~	~~130~~
~~40~~	~~58.7~~	~~82~~	~~120~~	~~44~~	~~126~~	~~164~~
~~45~~	~~66.0~~	~~104~~	~~152~~	~~50~~	~~154~~	~~202~~
~~50~~	~~73.3~~	~~128~~	~~187~~	~~55~~	~~183~~	~~242~~
~~55~~	~~80.7~~	~~155~~	~~227~~	~~61~~	~~216~~	~~288~~
~~60~~	~~88.0~~	~~185~~	~~270~~	~~66~~	~~251~~	~~336~~
~~65~~	~~95.3~~	~~217~~	~~316~~	~~71~~	~~288~~	~~387~~
~~70~~	~~102.6~~	~~252~~	~~367~~	~~77~~	~~329~~	~~444~~
~~75~~	~~109.9~~	~~289~~	~~422~~	~~82~~	~~371~~	~~504~~
~~80~~	~~117.2~~	~~328~~	~~480~~	~~88~~	~~416~~	~~568~~
~~90~~	~~132.0~~	~~425~~	~~607~~	~~99~~	~~524~~	~~706~~
~~100~~	~~146.6~~	~~514~~	~~750~~	~~109~~	~~623~~	~~859~~

~~((3-13-63; 1961 Code, § 16-77.)~~

Repealed.

Section 82-4-17. Driving motor vehicle, engine, etc., while intoxicated, etc.[60]

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60. For similar state law, see Va. Code Ann., § 18.2-266, adopted in § 82-1-6.

Repealed by 36-90-82.

Section 82-4-18. Analysis of breath to determine alcoholic content of blood.61

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61. For similar state law, see Va. Code Ann., § 18.2-267, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-19. Use of chemical test to determine alcohol or drug content of blood; procedure; qualifications and liability of person withdrawing blood; costs; evidence; suspension of license for refusal to submit to test; localities authorized to adopt parallel provisions.62

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62. For similar state law, see Va. Code Ann., § 18.2-268, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-20. Presumptions from alcoholic content of blood.63

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63. For similar state law, see Va. Code Ann., § 18.2-269, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-21. Penalty for driving while intoxicated; subsequent offense; prior conviction.64

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64. For similar state law, see Va. Code Ann., § 18.2-270, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-22. Forfeiture of driver's license for driving while intoxicated.65

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65. For similar state law, see Va. Code Ann., § 18.2-271, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-22.1. Probation, education and rehabilitation of person convicted; person convicted under law of another state.66

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66. For similar state law, see Va. Code Ann., § 18.2-271.1, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-23. Driving after forfeiture of license.67

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67. For similar state law, see Va. Code Ann., § 18.2-272, adopted in § 82-1-6.

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~~If any person so convicted shall, during the time for which he is deprived of his right so to do, drive or operate any motor vehicle, engine or train in this County, he shall be guilty of a misdemeanor and may be confined in jail not more than six (6) months and may in addition be fined not more than Five Hundred Dollars ($500.00). Nothing in this Section or Section 82-4-17, Section 82-4-21, or Section 82-4-22 shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance. ((3-13-63; 1961 Code, § 16-84; 32-73-16; 37-76-82; 28-88-82.)~~

Repealed.

Section 82-4-24. Operator to give full time and attention to driving.

No person shall operate a motor vehicle upon the highways of this County without giving his full time and attention to the operation of the vehicle. ((3-13-63; 1961 Code, § 16-85.)

Section 82-4-25. Vehicle to be kept under control.

No person shall operate a motor vehicle upon the highways of this County, failing to keep the vehicle under proper control at all times. ((3-13-63; 1961 Code, § 16-86.)

Section 82-4-26. Penalty for violation of Sections 82-4-24 and 82-4-25.

Any person who violates Sections 82-4-24 and 82-4-25 shall, upon conviction thereof, be punished according to the provisions of Section 82-1-35. ((3-13-63; 1961 Code, § 16-87; 19-76-82.)

Section 82-4-27. Automobiles not to be equipped with television within view of operator of vehicle.68

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68. For similar state law, see Va. Code Ann., § ~~46.2-812~~ 46.2-1077, adopted in § 82-1-6.

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~~No motor vehicle operated in this County shall be equipped with, nor shall there be used therein, a television receiver forward of the driver's seat or the screen of which would otherwise be visible to the driver while operating the vehicle. This Section shall apply to all motor vehicles which are registered or should be registered in Virginia. The operator of a motor vehicle which is not registered in Virginia and is not required to be registered in Virginia shall not operate a television receiver which violates the provisions of this Section while driving through or within this County. Any person violating this Section shall be guilty of a misdemeanor. ((3-13-63; 1961 Code, § 16-88.)~~

Repealed.

Section 82-4-28. Unlawful to operate automobile while using earphones.69

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69. For similar state law, see Va. Code Ann., § 46.2-1078, adopted in § 82-1-6.

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~~(a) It shall be unlawful for any person to operate a motor vehicle on the highways of this Commonwealth while using earphones on or in both ears. Any person violating this Section shall be guilty of a traffic infraction punishable as provided in Section 82-1-35.~~

~~(b) For the purpose of this Section, "earphones" shall mean any device worn on or in the ears which converts electrical energy to sound waves or which impairs or hinders the person's ability to hear, but shall not include any prosthetic device which aids the hard of hearing, nor does it include the driver of any police vehicle, any fire vehicle used exclusively for fire fighting, any ambulance or rescue or lifesaving vehicle used for the principal purpose of emergency relief. ((1976; 9-78-82; 34-78-82.)~~

Repealed.

Division 2. Rules of the Road.

Section 82-4-29. Driving through safety zones prohibited.70

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70. For similar state law as to driving through safety zone, see Va. Code Ann., § 46.2-814, adopted in § 82-1-6.

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~~The driver of a vehicle shall not, at any time drive through or over a safety zone. ((3-13-63; 1961 Code, § 16-89.)~~

Repealed.

Section 82-4-30. Where operation of motorcycles prohibited.

(a) It shall be unlawful in Fairfax County for any person to ride, drive or operate any validly licensed and registered motorcycle on the sidewalks of this County, on any County property or other publicly owned property except for motorcycles owned by the Police Department and used by policemen in furtherance of their duties; provided, that any person may operate such a motorcycle on public driveways and highways unless otherwise prohibited by law.

(b) It shall be unlawful in Fairfax County for any person to operate any motorcycle which does not comply with the State and County registration and licensing requirements on the public highways, on the sidewalks of the County, or on the driveways or premises of the County or other publicly-owned property open to the public including but not limited to a school, recreational facility and/or business property.

(c) It shall be unlawful in Fairfax County for any person to operate any motorcycle, unless authorized by the owner of the property or his agent, on the driveways or premises of any privately-owned property including but not limited to a school, church, recreational facility, business property or other privately-owned area.

(d) If the owner of any privately-owned property under (c) of this Section desires enforcement upon his property of the provisions of this Section he or his agent shall notify the Chief of Police in writing of his desire and the owner or his agent shall post notices on the owner's property adequate to inform the public that operation of such vehicles upon the property is unlawful. Whenever notices are posted on the property in accord with the requirements of this Section, there shall be a prima facie presumption that the owner has complied with the required written notification to the Chief of Police.

(e) Where any officer with the enforcement of the motor vehicle laws of the State of Virginia or the County of Fairfax arrests any person and charges him with a violation under this section, he may seize any motorcycle which does not comply with the State or County registration or licensing requirements and deliver the same to the Chief of Police, or his designee, and the vehicle shall be held by the Chief of Police or his designee until the charge is disposed of by the court having jurisdiction, provided seizure shall not be made on any such unlicensed or unregistered motorcycle operated on private property unless the owner of such property complies with the notice requirements of this Section. In disposing of the charge, the court shall order the vehicle returned to its owner. When any person has been convicted of a second or subsequent violation of this Section, the Court may order such vehicle held by the Chief of Police or his designee for a period not to exceed ninety (90) days.

(f) A violation by any persons of any provision of this Section shall be a misdemeanor and, in addition to seizure of the vehicle as provided for in (e) of this Section, the penalty imposed shall be as provided for in Section 82-1-35 of this Code~~, with the exception that the penalty imposed on any person convicted of operating any motorcycle on the sidewalks of the County shall be fined not less than Five Dollars ($5.00) nor more than Twenty five Dollars ($25.00)~~. ((1961 Code, § 16-89.1; 3-75-16; 37-76-82; 16-77-82; 34-78-82.)

Section 82-4-31. Riding bicycles without using handlebars.[71]

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49. For similar state law, see Va. Code Ann., § 46.2-906, adopted in § 82-1-6.

~~No person shall ride a bicycle upon any street without having his hands upon the handle bars. ((3-13-63; 1961 Code, § 16-90.)~~

Repealed.

Section 82-4-32. Backing of vehicles.

The operator of any vehicle in the County shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic. ((3-13-63; 1961 Code, § 16-91.)

Section 82-4-33. Blocking intersections.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. ((3-13-63; 1961 Code, § 16-92.)

Section 82-4-34. Coasting prohibited.~~71~~ 72

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~~71~~ 72. For similar state law, see Va. Code Ann., § 46.2-811, adopted in § 82-1-6.

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~~The driver of a motor vehicle when traveling upon a downgrade upon any highway shall not coast with the gears of such vehicle in neutral. ((3-13-63; 1961 Code, § 16-93.)~~

Repealed.

Section 82-4-35. Driving more than thirteen hours in twenty-four hours prohibited.~~72~~ 73

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~~72~~ 73. For similar state law, see Va. Code Ann., § 46.2-812, adopted in § 82-1-6.

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~~(a) It shall be unlawful for any person to drive any motor vehicle on the highways of this State for more than thirteen (13) hours in any period of twenty-four (24) hours or for a period which, when added to the time such person may have driven a motor vehicle over the highways of any other state, would make an aggregate of more than thirteen (13) hours in any period of twenty-four (24) hours; provided, however, that the provisions of this Section shall not apply to the operation of motor vehicles used in snow removal or similar emergency situations by the State Department of Highways and Transportation or its contractors or agents of any county, city or town.~~

~~(b) It shall also be unlawful for the owner of any such vehicle to cause or permit the same to be driven in violation of this Section. ((3-13-63; 1961 Code, § 16-94; 34-78-82.)~~

Repealed.

Section 82-4-36. Drive on right side of highways.~~73~~ 74

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~~73~~ 74. For similar state law, see Va. Code Ann., § 46.2-802, adopted in § 82-1-6.

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~~Except as otherwise provided by law upon all highways of sufficient width, the driver of a vehicle shall drive the same upon the right half of the highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle, subject to the limitations applicable in overtaking and passing set forth in Sections 82-4-41 and 82-4-45. ((3-13-63; 1961 Code, § 16-95.)~~

Repealed.

Section 82-4-37. Driving around rotary traffic islands.~~74~~ 75

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~~74~~ 75. For similar state law, see Va. Code Ann., § ~~46.2-812~~, 46.2-807, adopted in § 82-1-6.

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~~The driver of a vehicle in passing around a rotary traffic island shall drive such vehicle only to the right of such island. ((3-13-63; 1961 Code, § 16-96.)~~

Repealed.

Section 82-4-38. Keep to the right in crossing intersections or railroads.~~75~~ 76

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~~75~~ 76. For similar state law, see Va. Code Ann., § 46.2-803, adopted in § 82-1-6.

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~~Except as otherwise provided by law, in crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right side is obstructed or impassable. Provided however, that in crossing an intersection of highways, the driver of a vehicle may overtake or pass another vehicle in the intersection if such intersection is designated and marked as a passing zone by the State Highway and Transportation Commission pursuant to its authority set out in *Code of Virginia*, Section 46.2-830, and shall be punished as provided in Section 82-1-35. ((3-13-63; 1961 Code, § 16-97; 34-78-82.)~~

Repealed.

Section 82-4-39. Special regulations applicable on streets and highways laned for traffic.~~76~~ 77

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~~76~~ 77. For similar state law, see Va. Code Ann., § 46.2-804, adopted in § 82-1-6.

~~(a) Whenever any highway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following regulations:~~

~~(1) Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing shall be driven in the lane nearest the right-hand edge or curb of the highway when such lane is available for travel, except when overtaking and passing another vehicle or in preparation for a left turn or as permitted in Paragraph (4) of this Subsection.~~

~~(2) A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.~~

~~(3) Upon a highway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted or marked to give notice of such allocation; provided that official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.~~

~~(4) The State Highway Commission or the County, with respect to highways under their jurisdiction, may designate right-hand lanes for slow-moving traffic and when such lanes are sign-posted or marked to give notice of such designation a vehicle may be driven in any lane allocated to traffic moving in the direction such vehicle is proceeding, but when traveling within such inside lanes vehicles shall be driven at approximately the speed authorized in such lanes and speed shall not unnecessarily be decreased so as to block, hinder or retard traffic.~~

~~(5) Whenever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line; except, that it shall be lawful to make a left turn for the purpose of entering or leaving a public, private or commercial road or entrance; provided, however, that where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of making a left turn into a public, private or commercial road or entrance, provided however that the vehicle may not travel in such lane for a distance greater than one hundred fifty (150) feet.~~

~~(6) Wherever a highway is marked with double traffic lines consisting of two (2) immediately adjacent solid lines, no vehicle shall be driven to the left of such lines; except, that it shall be lawful to make a left turn for the purpose of entering or leaving a public, private or commercial road or entrance. ((3-13-63; 1961 Code, § 16-98; 37-76-82; 19-79-82.)~~

Repealed.

Section 82-4-40. Passing vehicles proceeding in opposite directions. 78

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78. For similar state law, see Va. Code Ann., § 46.2-837, adopted in § 82-1-6.

~~Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other, as nearly as possible, one-half of the main-traveled portion of the roadway. ((3-13-63; 1961 Code, § 16-99.)~~

Repealed.

Section 82-4-41. Passing upon overtaking a vehicle. 79

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79. For similar state law, see Va. Code Ann., § 46.2-838, adopted in § 82-1-6.

~~The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two (2) feet to the left thereof and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle, except as provided in this Article. ((3-13-63; 1961 Code, § 16-100.)~~

Repealed.

Section 82-4-42. Audible warning signal upon overtaking vehicle.

Repealed by 25-96-82.

Section 82-4-43. When overtaking vehicle may pass on right. 80

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80. For similar state law, see Va. Code Ann., § 46.2-841, adopted in § 82-1-6.

~~(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:~~

~~(1) When the vehicle overtaken is making or about to make a left turn, and the driver of such vehicle has given a signal as required.~~

~~(2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction.~~

~~(3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.~~

~~(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement made by driving off the pavement or main traveled portion of the roadway. ((3-13-63; 1961 Code, § 16-102.)~~

Repealed.

Section 82-4-44. Driver to give way to overtaking vehicle. 81

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81. For similar state law, see Va. Code Ann., § 46.2-842, adopted in § 82-1-6.

~~Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle; provided however, that any over-width, or slow-moving vehicle as defined by Section 82-6-25.1 shall be removed from the traveled way at the nearest suitable location when necessary to allow traffic to pass. ((3-13-63; 1961 Code, § 16-103; 19-79-82.)~~

Repealed.

Section 82-4-45. Limitations on privileges of overtaking and passing. 82

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82. For similar state law, see Va. Code Ann., § 46.2-843, adopted in § 82-1-6.

~~(a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.~~

~~(b) No person operating a truck or tractor and trailer shall pass or attempt to pass any truck or tractor and trailer going in the same direction on an upgrade hill if such passing will impede the passage of following traffic. ((3-13-63; 1961 Code, § 16-104.)~~

Repealed.

Section 82-4-46. Following too closely. 83

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83. For similar state law, see Va. Code Ann., § 46.2-816, adopted in § 82-1-6.

~~(a) The driver of a motor vehicle shall not follow another motor vehicle, trailer or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic upon, and conditions of, the highway at the time.~~

~~(b) The driver of any motor truck or bus shall not follow another motor truck or bus within two hundred (200) feet when upon any highway outside of cities or towns. ((3-13-63; 1961 Code, § 16-105.)~~

Repealed.

Section 82-4-47. Limitation upon turning so as to proceed in opposite direction.

(a) The driver of a vehicle in the County shall not turn such vehicle so as to proceed in the opposite direction except at an intersection of highways; provided, however, that no driver shall cause any vehicle to make a turn to proceed in the opposite direction at any intersection where there is a sign or other marking prohibiting such action.

(b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from any direction within five hundred (500) feet. ((3-13-63; 1961 Code, § 16-106.)

Section 82-4-48. Required position and method of turning at intersections; signs. 84

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84. For similar state law, see Va. Code Ann., § 46.2-846, adopted in § 82-1-6.

~~(a) The driver of a vehicle intending to turn at an intersection or other location on any highway, except as prohibited by the preceding Section or any other provision of this Chapter, shall do as follows:~~

~~(1) *Right turn.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.~~

~~(2) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.~~

~~(3) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one direction on one or more of the roadways, and at any crossover from one roadway of a divided highway to another roadway thereof on which traffic moves in the opposite direction, the driver of a vehicle intending to turn left at any such intersection or crossover shall approach the intersection or crossover in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection or crossover the left turn shall be made so as to leave the intersection or crossover, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.~~

~~(4) When markers, buttons or signs are placed within or adjacent to intersections and thereby require and direct that a different course from that specified above in this Section be traveled, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs. ((3-13-63; 1961 Code, § 16-107.)~~

Repealed.

Section 82-4-49. Signals required on starting, stopping or turning.~~77~~ 85

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~~77~~ 85. For similar state law, see Va. Code Ann., § 46.2-848, adopted in § 82-1-6.

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~~Every driver who intends to start, back, stop, turn or partly turn from a direct line shall first see that such movement can be made in safety and whenever the operation of any other vehicle may be affected by such movement shall give a signal as required in Section 82-4-50, 82-4-51 or 82-4-52 plainly visible to the driver of such other vehicle of his intention to make such movement. ((3-13-63; 1961 Code, § 16-108.)~~

Repealed.

Section 82-4-50. Signals required on starting, stopping or turning; how such signals are given.~~78~~ 86

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78 86. For similar state law, see Va. Code Ann., § 46.2-849, adopted in § 82-1-6.

_____

~~(a) The signal required in Section 82-4-49 shall be given by means of the hand and arm or by some mechanical or electrical device approved by the Superintendent, in the manner herein specified. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, turn, or partly turn by extending the hand and arm from beyond the left side of the vehicle, in the following manner:~~

~~(1) For left turn or to pull to the left, the arm shall be extended in a horizontal position straight from the level with the shoulder;~~

~~(2) For right turn or to pull to the right, the arm shall be extended upward;~~

~~(3) For slowing down or to stop, the arm shall be extended downward.~~

~~(b) Wherever the lawful speed is more than thirty-five (35) miles per hour, such signals shall be given continuously for a distance of at least one hundred (100) feet, and in all other cases at least fifty (50) feet, before slowing down, stopping, turning, partly turning or materially altering the course of the vehicle. ((3-13-63; 1961 Code, § 16-109.)~~

Repealed.

Section 82-4-51. Signals required on starting, stopping or turning; change of course after giving signal.~~79~~ 87

_____

~~79~~ 87. For similar state law, see Va. Code Ann., § 46.2-850, adopted in § 82-1-6.

~~Drivers having once given a hand, electrical or mechanical device signal must continue the course thus indicated, unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change. ((3-13-63; 1961 Code, § 16-110.)~~

Repealed.

Section 82-4-52. Signals required on starting, stopping or turning; duty of drivers receiving signals.~~80~~ 88

~~80. Similar to former § 46.2-219, which has been repealed.~~
88. For similar state law, see Va. Code Ann., § 46.2-848, adopted in § 82-1-6.

~~Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a misunderstanding of such signal. ((3-13-63; 1961 Code, § 16-111.)~~

Repealed.

Section 82-4-53. Signals prior to moving standing vehicles into traffic.~~81~~ 89

~~81~~ 89. For similar state law, see Va. Code Ann., § 46.2-851, adopted in § 82-1-6.

~~Drivers of vehicles standing or stopped at the curb or edge before moving such vehicles shall give signals of their intention to move into traffic, as hereinbefore provided, before turning in the direction of the vehicle will proceed from the curb. ((3-13-63; 1961 Code, § 16-112.)~~

Repealed.

Section 82-4-54. Right-of-way generally.~~82~~ 90

~~82~~ 90. For similar state law, see Va. Code Ann., §§ 46.2-820--46.2-823, adopted in § 82-1-6.

~~Except as provided in Section 82-4-58, when two (2) vehicles approach or enter an intersection at approximately the same time the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right unless a "Yield Right-of-Way" sign is posted. Where any such sign is posted, the driver of the vehicle approaching or entering such intersection on the highway, road or street on which such sign is posted shall yield the right-of-way to the driver of a vehicle approaching or entering such intersection from either direction. At traffic circles vehicles already in the circle shall have the right-of-way over vehicles approaching and entering the circle.~~

~~The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder. ((3-13-63; 1961 Code, § 16-113.)~~

Repealed.

Section 82-4-55. Right-of-way when vehicle turns to left.~~83~~ 91

_____

~~83~~ 91. For similar state law, see Va. Code Ann., § 46.2-825, adopted in § 82-1-6.

_____

~~The driver of a vehicle, intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute a hazard, provided, that where there is an automatic signal device governing the flow of traffic at any intersection and allowing turns to the left while all other vehicle traffic is required to stop, any vehicle making such turn shall have the right-of-way over all other vehicles approaching the intersection. ((3-13-63; 1961 Code, § 16-114.)~~

Repealed.

Section 82-4-56. Stop before entering public highway or sidewalk from private road; yielding of right-of-way.~~84~~ 92

_____

~~84~~ 92. For similar state law, see Va. Code Ann., § 46.2-826, adopted in § 82-1-6.

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~~The driver of a vehicle entering a public highway or sidewalk from a private road, driveway, alley or building shall stop immediately before entering such highway or sidewalk and upon entering such highway or sidewalk, shall yield the right-of-way to all vehicles approaching on such public highway or to all pedestrians or vehicles approaching on such public sidewalk. ((3-13-63; 1961 Code, § 16-115.)~~

Repealed.

Section 82-4-56.1. Vehicles before entering certain highways shall stop or yield right-of-way.93

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93. For similar state law, see Va. Code Ann., § 46.2-821, adopted in § 82-1-6.

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~~(a) The driver of a vehicle approaching an intersection on a highway controlled by a stop sign shall, immediately before entering such intersection, stop at a clearly marked stop line, but if none, shall stop before entering the crosswalk on the near side of the intersection, or, if none, shall stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting~~

~~roadway, and before proceeding shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction.~~

~~(b) Where a "Yield Right-of-Way" sign is posted, the driver of a vehicle entering such intersection shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, shall stop before entering the crosswalk on the near side of the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway, and before proceeding shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction. ((37-76-82.)~~

Repealed.

Section 82-4-57. Right-of-way of United States forces, troops, national guard.~~85~~ 94

~~85~~ 94. For similar state law, see Va. Code Ann., § 46.2-827, adopted in § 82-1-6.

~~United States forces or troops, or any portion of the Virginia national guard or naval militia, parading or performing any duty according to law, or any civil defense personnel performing any duty according to law, shall have the right-of-way in any street or highway through which they may pass; provided, that the carrying of the United States mails, the legitimate functions of the police and the progress and operation of fire engines and fire departments shall not be interfered with. ((3-13-63; 1961 Code, § 16-116.)~~

Repealed.

Section 82-4-58. Approach of police or fire-fighting vehicles, rescue vehicles or ambulances; violation as failure to yield right-of-way.~~86~~ 95

~~86~~ 95. For similar state law, see Va. Code Ann., § 46.2-829, adopted in § 82-1-6.

~~(a) Upon the approach of any vehicle listed in Section 82-4-59(a) giving audible signal by sirens, exhaust whistle, or air horn designed to give automatically intermittent signals, and displaying a flashing, blinking or alternating red light, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until such vehicle shall have passed. This provision shall not operate to relieve the driver of any such vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.~~

~~(b) Violation of this Section shall constitute failure to yield the right-of-way. ((3-13-63; 1961 Code, § 16-117; 37-76-82.)~~

Repealed.

Section 82-4-59. Police, fire-fighting and rescue vehicles and ambulances exempt from regulations in certain emergencies; exceptions and additional requirements.~~87~~ 96

~~87~~ 96. For similar state law, see Va. Code Ann., § 46.2-920, adopted in § 82-1-6.

~~(a) The operator of (1) any law enforcement vehicle operated by or under the direction of a Federal, State, or local law enforcement officer in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation, or in response to an emergency call; (2) any vehicle used for the purpose of fighting fire, including publicly owned State forest warden vehicles not to exceed two hundred (200) in number, when traveling in response to a fire alarm or emergency call; (3) any vehicle owned by a political subdivision of the Commonwealth for rescue purposes when traveling in response to a fire alarm or an emergency call; or (4) any ambulance or rescue or life-saving vehicle designed or utilized for the principal purposes of supplying resuscitation or emergency relief where human life is endangered, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:~~

~~(1) Proceed past red signal, light, stop sign or device indicating moving traffic shall stop if the speed and movement of the vehicle is reduced and controlled so that it can pass a signal, light or device with due regard to the safety of persons and property.~~

~~(2) Park or stand notwithstanding the provisions of this Chapter.~~

~~(3) Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property.~~

~~(4) Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection.~~

~~(5) Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, other stopped or slow-moving vehicles, by going off the paved or main-traveled portion of the roadway on the right. Notwithstanding Subsection (b) hereof, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.~~

~~(b) These exemptions, hereinbefore granted to such a moving vehicle, shall apply only when the operator of such vehicle displays a flashing, blinking or alternating red light and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary, and, only when there is in force and effect for such vehicle standard automobile liability insurance covering injury or death to any person in the sum of at least One Hundred Thousand Dollars ($100,000.00) because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of Three Hundred Thousand Dollars ($300,000.00) because of bodily injury to or death of two (2) or more persons in any one accident, and to a limit of Ten Thousand Dollars ($10,000.00) because of injury to or destruction of property of others in any one accident. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this Section shall be construed to release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation. (12-12-62; 3-13-63; 4-12-67; 1-10-68; 1961 Code, §§ 16-118, 16-121.2; 37-76-82; 9-78-82; 26-81-32.)~~

Repealed.

Section 82-4-60. Following or parking near fire apparatus. 97

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97. For similar state law, see Va. Code Ann., § 46.2-921, adopted in § 82-1-6.

~~It shall be unlawful for the driver of any vehicle, other than one on official business, to follow any fire apparatus traveling in response to a fire alarm at any distance closer than five hundred (500) feet to such apparatus or to park such vehicle within five hundred (500) feet of where fire apparatus has stopped in answer to a fire alarm. (3-13-63; 1961 Code, § 16-119.)~~

Repealed.

Section 82-4-61. Driving over fire hose. 98

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98. For similar state law, see Va. Code Ann., § 46.2-922, adopted in § 82-1-6.

~~It shall be unlawful for the driver of any vehicle to drive over any unprotected hose of a Fire Department when laid down on any street or private driveway for use at any fire or alarm of fire without the consent of the Fire Department official in command.(3-13-63; 1961 Code, § 16-120.)~~

Repealed.

Board Agenda Item
February 28, 2012

ADMINISTRATIVE – 3

Streets into the Secondary System (Lee, Mason and Providence 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.

Subdivision	**District**	**Street**
Financial Plaza Partnership McDonald's Restaurant	Lee	Commerce Street (Route 789) (Additional Right-of-Way (ROW) Only)
Metro Park Phase 5 Lot 2 Metro Park Drive	Lee	Metro Park Drive
Mount Vernon Canada LLC (Mount Vernon Plaza)	Lee	Richmond Highway (Route 1) (Additional ROW Only)
		Fordson Road (Route 779) (Additional ROW Only)
The Courtyards at Falls Gate	Mason	Falls Gate Court (Formerly Opah Street)
		Lacy Boulevard (Route 1026) (Additional ROW Only)
Idylwood Crest	Providence	Idylwood Road (Route 695) (Additional ROW Only)

TIMING:
Routine.

Board Agenda Item
February 28, 2012

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

FISCAL IMPACT:
None.

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, Deputy Director, DPWES, Land Development Services

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

(69)

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: 6170-SP-02

SUBDIVISION PLAT NAME: Financial Plaza Partnership - McDonald's Restaurant

COUNTY MAGISTERIAL DISTRICT: Lee

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 11/18/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Commerce Street (Route 789) (Additional Right-of-Way Only)	51' E CL Amherst Avenue (Route 1158)	282' E to Section Line	0.0
		TOTALS:	0.0

NOTES:

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

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

(70)

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.

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nadia Alphonse

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: 6836-PI-04

SUBDIVISION PLAT NAME: Metro Park Phase 5 Lot 2 - Metro Park Drive

COUNTY MAGISTERIAL DISTRICT: Lee

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 12/02/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Metro Park Drive	CL Beulah Street (Route 613) - 262' NE CL Lewin Drive (Route 1233)	415' NW to Section Line (Metro Park Drive Extension)	0.08
		TOTALS:	0.08

NOTES:

400' of 5' Concrete Sidewalk on South Side to be maintained by VDOT.

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

(71)

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: 5127-SP-03

SUBDIVISION PLAT NAME: Mount Vernon Canada LLC (Mount Vernon Plaza)

COUNTY MAGISTERIAL DISTRICT: Lee

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 12/09/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Richmond Highway (Route 1) (Additional Right-of-Way Only)	65' S CL Fordson Road (Route 779)	97' S to Section Line	0.0
Fordson Road (Route 779) (Additional Right-of-Way Only)	66' W CL Richmond Highway (Route 1)	151' W to Section Line	0.0
		TOTALS:	0.0

NOTES:

Richmond Highway: 100' of 10' Asphalt Trail on West Side to be maintained by Fairfax County.

Fordson Road: 150' of 5' Concrete Sidewalk on South Side to be maintained by VDOT.

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

(72)

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: 24521-SD-001

SUBDIVISION PLAT NAME: The Courtyards at Falls Gate

COUNTY MAGISTERIAL DISTRICT: Mason

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nulia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 11/10/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Falls Gate Court (Formerly Opah Street)	CL Lacy Boulevard (Route 1026) - 268' NW CL Arnet Street (Route 1845)	692' NE CL to End of Cul-de-Sac	0.13
Lacy Boulevard (Route 1026) (Additional Right of Way Only)	144' NW CL Arnet Street (Route 1845)	247' NW to Section Line	0.0
		TOTALS:	0.13

NOTES:

Falls Gate Court: 5' Concrete Sidewalk on Both Sides (Outside ROW) to be Privately Maintained.

Lacy Boulevard: 195' of 5' Concrete Sidewalk on East Side to be maintained by VDOT.

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

(73)

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: 7199-SD-02

SUBDIVISION PLAT NAME: Idylwood Crest

COUNTY MAGISTERIAL DISTRICT: Providence

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nidia Alphonzl

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 11/04/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Idylwood Road (Route 695) (Additional Right-of-Way Only)	25' E CL Sandburg Street (Route 936)	281' E to Section Line	0.0
		TOTALS:	0.0

NOTES:

272' of 8' Asphalt Trail on North Side to be maintained by Fairfax County.

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Board Agenda Item
February 28, 2012

ADMINISTRATIVE – 4

Designation of Plans Examiner Status under the Expedited Land Development Review Program

ISSUE:
Board action to designate an individual as a Plans Examiner to participate in the Expedited Land Development Review Program.

RECOMMENDATION:
The County Executive recommends that the Board take the following action:

- Designate the following individual identified with his registration number, as a Plans Examiner:

Scott Shelton	294

TIMING:
Routine.

BACKGROUND:
On August 7, 1989, the Board adopted Chapter 117 (Expedited Land Development Review) of The Code of the County of Fairfax, Virginia (the Code), establishing a Plans Examiner Program under the auspices of an Advisory Plans Examiner Board (APEB). The purpose of the Plans Examiner Program is to expedite the review of site and subdivision plans submitted by certain specially qualified applicants, i.e., Plans Examiners, to the Land Development Services, Department of Public Works and Environmental Services.

The Code requires that the Board designate an individual's status under the Expedited Land Development Review Program.

Plans Examiner Status: Candidates for status as Plans Examiners must meet the education and experience requirements contained in Chapter 117. After review of their applications and credentials, the APEB has found that the candidates listed above satisfy these requirements. This finding was documented in a letter dated January 27, 2012, from the Chairman of the APEB, James H. Scanlon, P.E., L.S., to Chairman Bulova.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I – Letter dated January 27, 2012, from the Chairman of the APEB to the Chairman of the Board of Supervisors.

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle Brickner, Deputy Director, DPWES, Land Development Services

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January 27, 2012

Hon. Sharon Bulova, Chairman
Fairfax County Board of Supervisors
12000 Government Center Parkway
Fairfax, VA 22035

Dear Chairman Bulova:

The following named individual, was approved by the Advisory Plans Examiner Board for recommendation as Designated Plans Examiners:

Name	Reg. No.
Scott Shelton	#294

He has been found to meet the qualifications outlined in Chapter 117-1-2 of the Code of Fairfax County and is in accordance with the criteria adopted by the Fairfax County Board of Supervisors on February 11, 1991.

Sincerely,

James H. Scanlon, P.E., L.S.
Chairman
Fairfax County Advisory Plans Examiner Board

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FEB - 2 2012

Land Development Services
Directors Office

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Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 5

Approval of Traffic Calming Measures, Installation of "$200 Additional Fine for Speeding" Signs and "Watch For Children" Signs as Part of the Residential Traffic Administration Program (Mason and Mount Vernon Districts)

ISSUE:
Board endorsement of a Traffic Calming plan, installation of "$200 Additional Fine for Speeding" signs and "Watch For Children" signs as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends that the Board endorse a traffic calming plan for Waterway Drive (Attachment I) consisting of the following:

- Painted Crosswalk at the intersection of Waterway Drive and Potterton Drive
- Painted Edgeline on Waterway Drive between Half Moon Circle and Cavalier Corridor

The County Executive further recommends that the Board approve a resolution (Attachment II) for the installation of "$200 Additional Fine for Speeding" signs on:

- Donegal Lane between Rolling Road and Orange Plank Road (Mount Vernon District)
- Patrick Henry Drive between Leesburg Pike and Beachway Drive (Mason District)

The County Executive further recommends that the Board approve a resolution (Attachment V) for the installation of "Watch For Children" signs on the following roads:

- Patrick Henry Drive (Mason District)
- Villa Drive (Mason District)
- Peace Valley Lane (Mason District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) schedule the installation of the approved measures as soon as possible.

Board Agenda Item
February 28, 2012

TIMING:
Board action is requested on February 28, 2012.

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, all-way-stops, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. For Waterway Drive a traffic calming plan was developed by staff in concert with community representatives. The plan was subsequently submitted for approval to residents in the ballot area from the adjacent community. On December 14, 2011, FCDOT received verification from the local supervisor's office confirming community support.

Section 46.2-878.2 of the *Code of Virginia* permits a maximum fine of $200, in addition to other penalties provided by law, to be levied on persons exceeding the speed limit on appropriately designated residential roadways. These residential roadways must have a posted speed limit of 35 mph or less. In addition, to determine that a speeding problem exists, staff performs an engineering review to ascertain that additional speed and volume criteria are met. Donegal Lane between Rolling Road and Orange Plank Road (Attachment III) and Patrick Henry Drive between Leesburg Pike and Beachway Drive (Attachment IV) meet the RTAP requirements for posting of the "$200 Additional Fine for Speeding Signs."

The RTAP allows for installation of "Watch for Children" signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. In particular, Section 33.1-210.2 of the *Code of Virginia* provides that the Board may request, by resolution to the Commissioner of Highways, signs alerting motorists that children may be at play nearby. FCDOT reviews each request to ensure the proposed signs will be effectively located and will not be in conflict with any other traffic control devices. On January 20, 2012, FCDOT received written verification from the appropriate local supervisor confirming community support for the referenced "Watch for Children" signs.

FISCAL IMPACT:
Funding in the amount of $9,000.00 for the identified traffic calming measures is available in Fund 001 General Fund, under Job Number 40TTCP and the estimated cost of $1,800.00 for the "$200 Additional Fine for Speeding" signs and Watch For Children signs is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for Waterway Drive
Attachment II: "$200 Additional Fine for Speeding" Signs Resolution – Donegal Lane and Patrick Henry Drive
Attachment III: Area Map of Proposed "$200 Additional Fine for Speeding" Signs – Donegal Lane
Attachment IV: Area Map of Proposed "$200 Additional Fine for Speeding" Signs- Patrick Henry Drive
Attachment V: Board Resolution for "Watch For Children" Signs

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, 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

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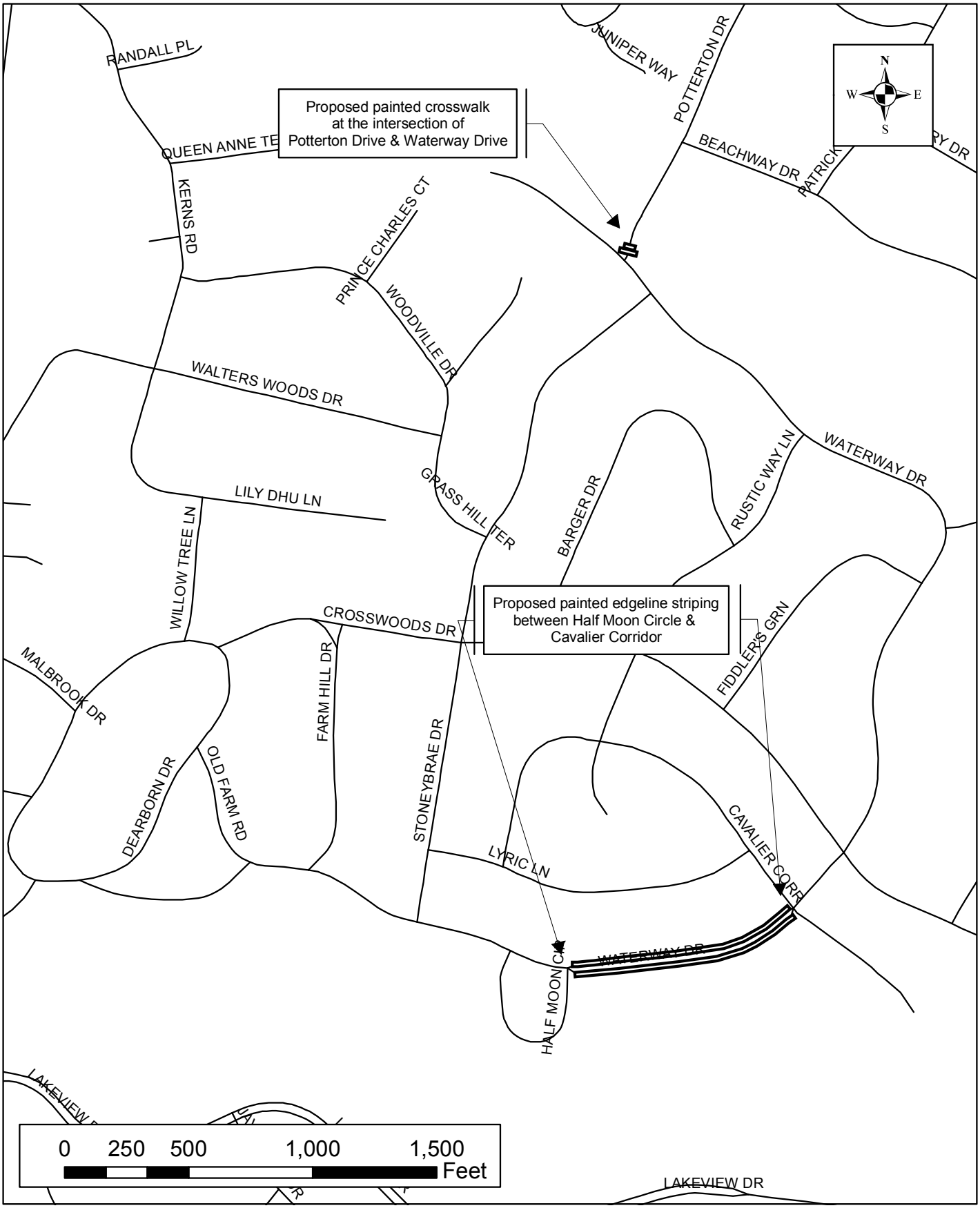

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
WATERWAY DRIVE
Mason District

12/30/2011

TAX MAP: 60-2, 60-4, 61-1, 61-3

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
$200 ADDITIONAL FINE FOR SPEEDING SIGNS
DONEGAL LANE
(MOUNT VERNON DISTRICT)
PATRICK HENRY DRIVE
(MASON DISTRICT)

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, February 28, 2012, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Section 46.2-878.2 of the *Code of Virginia* enables the Board of Supervisors to request by resolution signs alerting motorists of enhanced penalties for speeding on residential roads; and

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Donegal Lane between Rolling Road and Orange Plank Road; and Patrick Henry Drive between Leesburg Pike and Beachway Dive. Such roads also being identified as a Local Road and Collector Road; and

WHEREAS, community support has been verified for the installation of $200 Additional Fine for Speeding" signs on Donegal Lane between Rolling Road and Orange Plank Road; and Patrick Henry Drive between Leesburg Pike and Beachway Drive.

NOW, THEREFORE BE IT RESOLVED that "$200 Additional Fine for Speeding" Signs are endorsed for Donegal Lane between Rolling Road and Orange Plank Road; and Patrick Henry Drive between Leesburg Pike and Beachway Drive.

AND FURTHER, the Virginia Department of Transportation is requested to allow the installation of the "$200 Additional Fine for Speeding", and to maintain same, with the cost of each sign to be funded from the Virginia Department of Transportation's secondary road construction budget.

Copy Teste:

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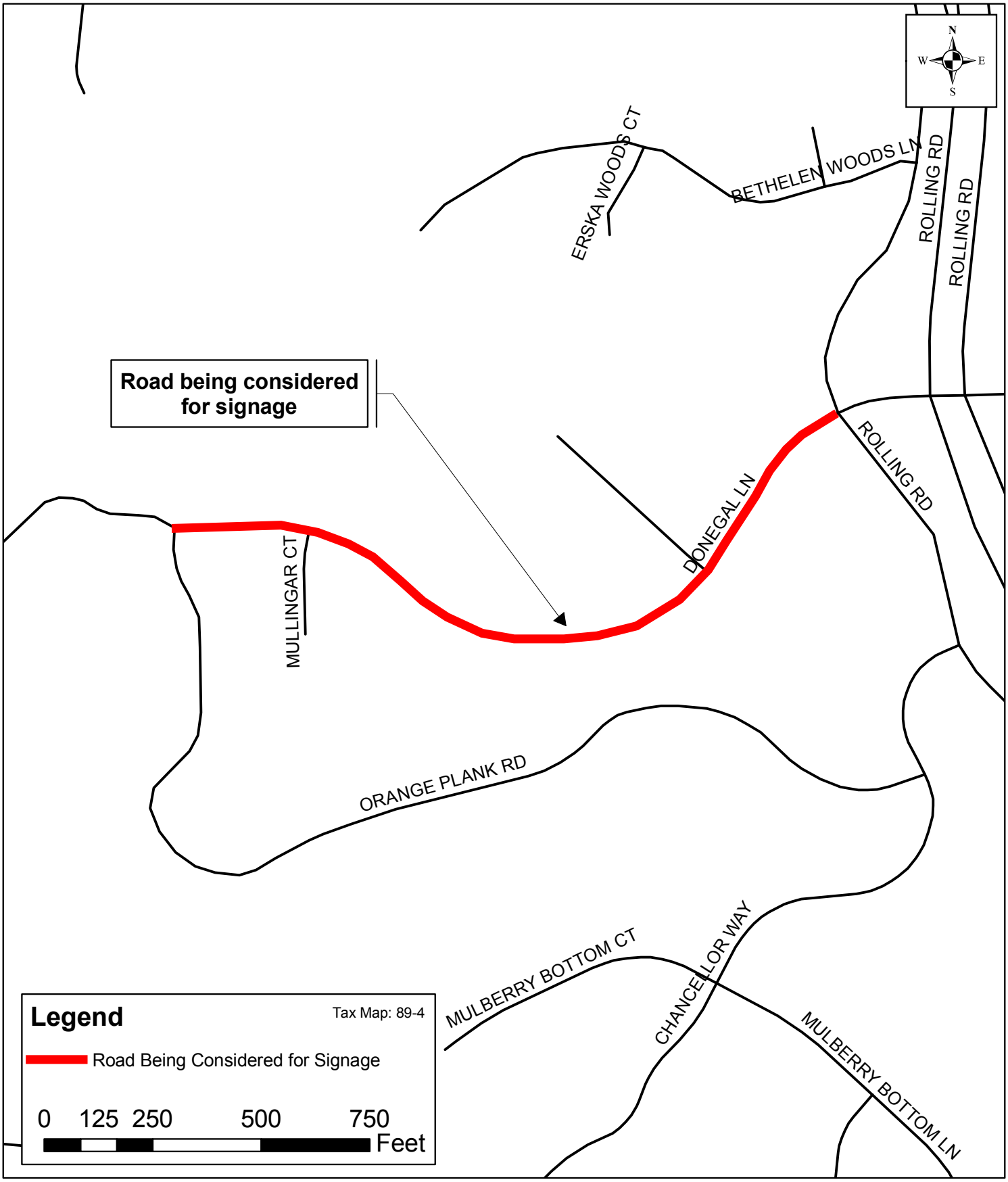
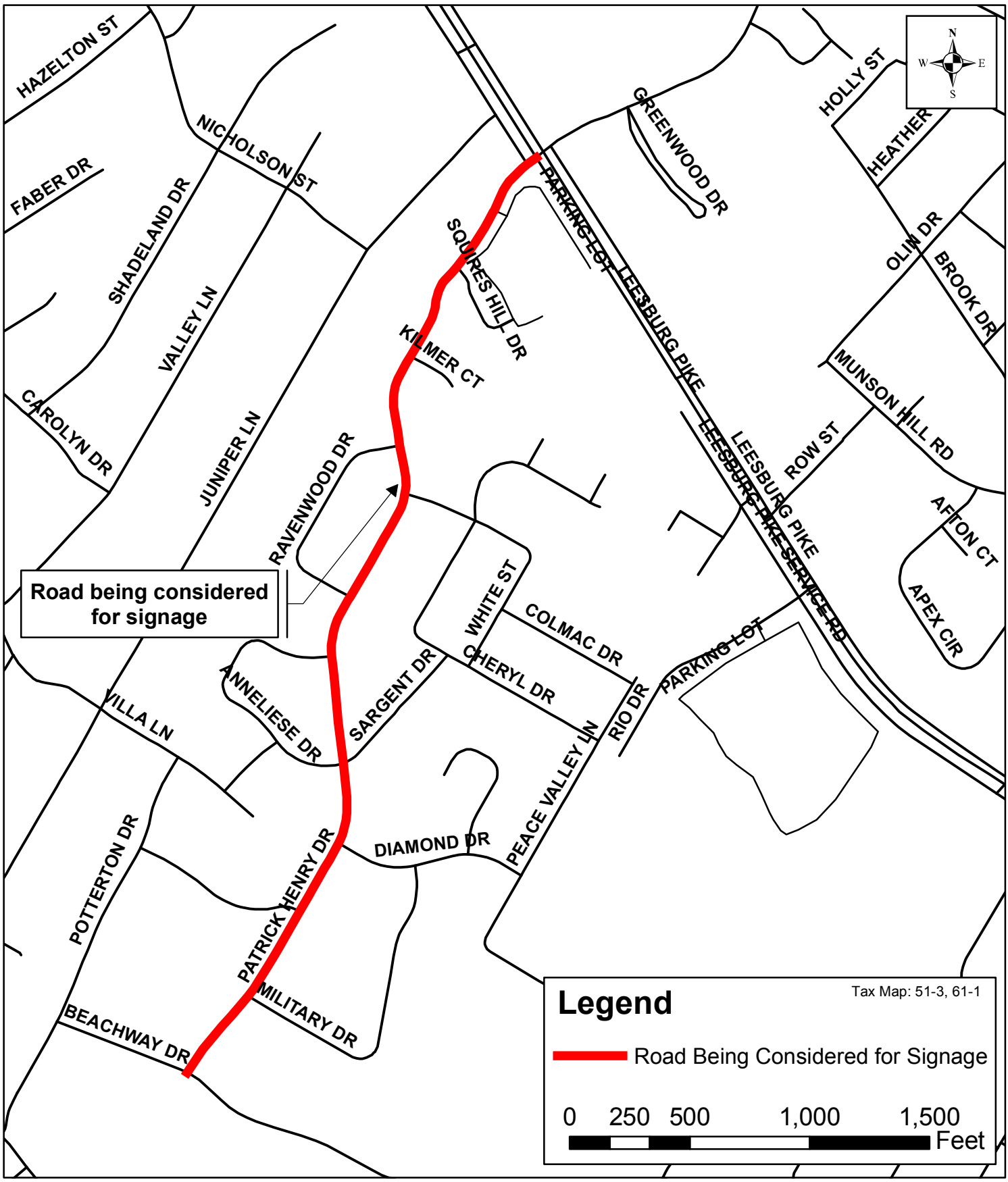
Catherine A. Chianese
Clerk to the Board of Supervisors



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED $200 FINE FOR SPEEDING
DONEGAL LANE
Mount Vernon District

12/27/2011



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED $200 FINE FOR SPEEDING
PATRICK HENRY DRIVE
Mason District

1/24/2012

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
WATCH FOR CHILDREN SIGNS
PATRICK HENRY DRIVE (MASON DISTRICT)
PEACE VALLEY LANE (MASON DISTRICT)
VILLA DRIVE (MASON DISTRICT)

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia on Tuesday, February 28, 2012, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, “Watch for Children” signs are available to local communities as part of the Fairfax County Department of Transportation Residential Traffic Administration Program (RTAP); and

WHEREAS, Section 33.1-210.2, of the *Code of Virginia*, enables the Board of Supervisors to request by resolution to the Commissioner of Highways, signs alerting motorists that children may be at play nearby; and

WHEREAS, the Virginia Department of Transportation has indicated a willingness to install "Watch for Children" signs on the above-referenced streets;

NOW THEREFORE BE IT RESOLVED, that “Watch for Children" signs are endorsed for these streets;

AND FURTHER, the Virginia Department of Transportation is requested to install the "Watch for Children" signs at the earliest possible date, and to maintain same, with the cost of such signs to be funded from the Virginia Department of Transportation's countywide traffic services fund in the Fairfax County secondary road construction budget

Copy Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors

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Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Northern Virginia Community College Residential Permit Parking District, District 39 (Braddock District)

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to expand the Northern Virginia Community College (NVCC) Residential Permit Parking District (RPPD), District 39.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing.

TIMING:
The Board should take action on February 28, 2012, to advertise a public hearing for March 20, 2012, at 4:00 p.m.

BACKGROUND:
Section 82-5A-4(a) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish RPPD restrictions encompassing an area within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundaries of an existing or proposed high school, existing or proposed rail station, or existing Virginia college or university campus if: (1) the Board receives a petition requesting the establishment or expansion of such a District, (2) such petition contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, and (3) the Board determines that 75 percent of the land abutting each block within the proposed District is developed residential. In addition, an application fee of $10 per address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Staff has verified that the proposed RPPD is within 2,000 feet walking distance to the NVCC pedestrian entrance and is within 1,000 feet from the property boundaries of NVCC, and all requirements to expand the RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated at $1,000 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*
Attachment II: Map Depicting Proposed Limits of RPPD Establishment

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Hamid Majdi, FCDOT

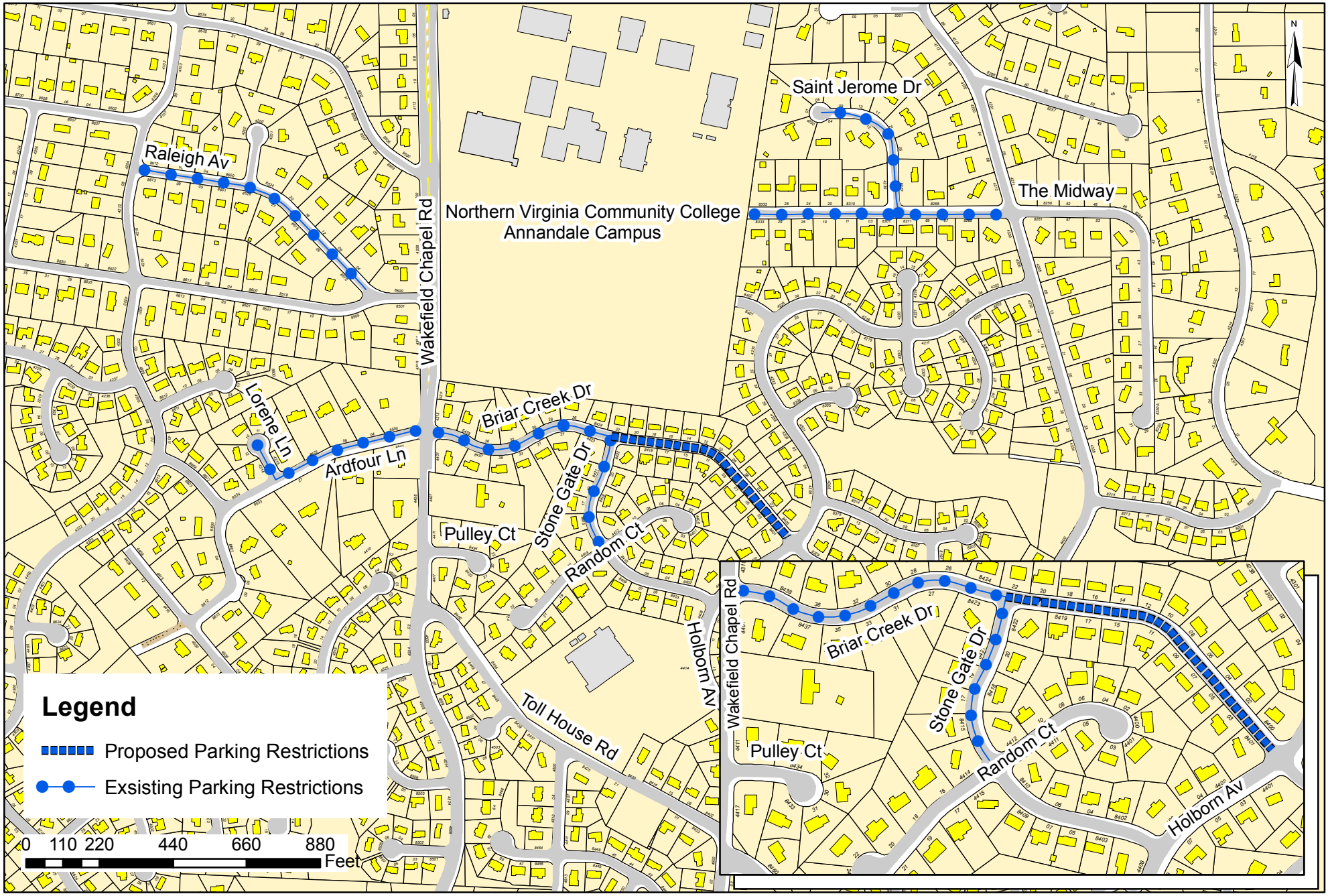
Attachment I

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following streets to Appendix G-39, Section (b), (2), Northern Virginia Community College Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Briar Creek Drive (Route 4495)
From Stone Gate Drive to Holborn Avenue.

Attachment II



Fairfax County Department of Transportation
Traffic Operations Section
RESIDENTIAL PERMIT PARKING DISTRICT (RPPD)
Northern Virginia Community College (NVCC) # 39
Braddock District

January 13, 2012

Tax Map 70-1

Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 7

Authorization to Advertise a Public Hearing on a Proposed Cut-Through Traffic Mitigation Plan for Farmington Drive, Edgehill Drive and Fort Drive as Part of the Residential Traffic Administration Program (Lee District)

ISSUE:
Board authorization to advertise a public hearing on a proposed cut-through traffic mitigation plan for Farmington Drive, Edgehill Drive and Fort Drive as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends the Board authorize advertisement of a public hearing for the purpose of endorsing Farmington Drive, between Telegraph Road and North Kings Highway; Edgehill Drive, between Fort Drive and Jefferson Drive; and Fort Drive, between North Kings Highway and Edgehill Drive for a cut-through traffic mitigation plan as part of the RTAP. The proposed plan consists of the following traffic calming measures:

- Two Speed Humps on Farmington Drive
- Painted Parking Lane Striping on Farmington Drive between North Kings Highway and Edgehill Drive
- One Speed Hump on Fort Drive
- Double Yellow Centerline Striping on Fort Drive between North Kings Highway and Monticello Road

TIMING:
The Board should take action on February 28, 2012, to advertise a public hearing for March 20, 2012, 4:00 p.m.

BACKGROUND:
In 2006, the Jefferson Manor Citizens Association requested that roads in their community be reviewed as candidate roadways for the RTAP Cut-Through Restriction program. Initial engineering studies and further cut-through analysis revealed that three roads, Farmington Drive, Edgehill Drive and Fort Drive, were viable roads for the Cut-Through Restriction program.

Board Agenda Item
February 28, 2012

On September 27, 2011, the Board of Supervisors approved a resolution requesting the Virginia Department of Transportation (VDOT) to consider cut-through or traffic calming measures for Farmington Drive, Edgehill Drive and Fort Drive. Concurrently a neighborhood task force was offering community input and feedback concerning the development of a cut-through mitigation plan consisting of three traffic calming devices, painted parking lanes and centerline striping (Attachment I).

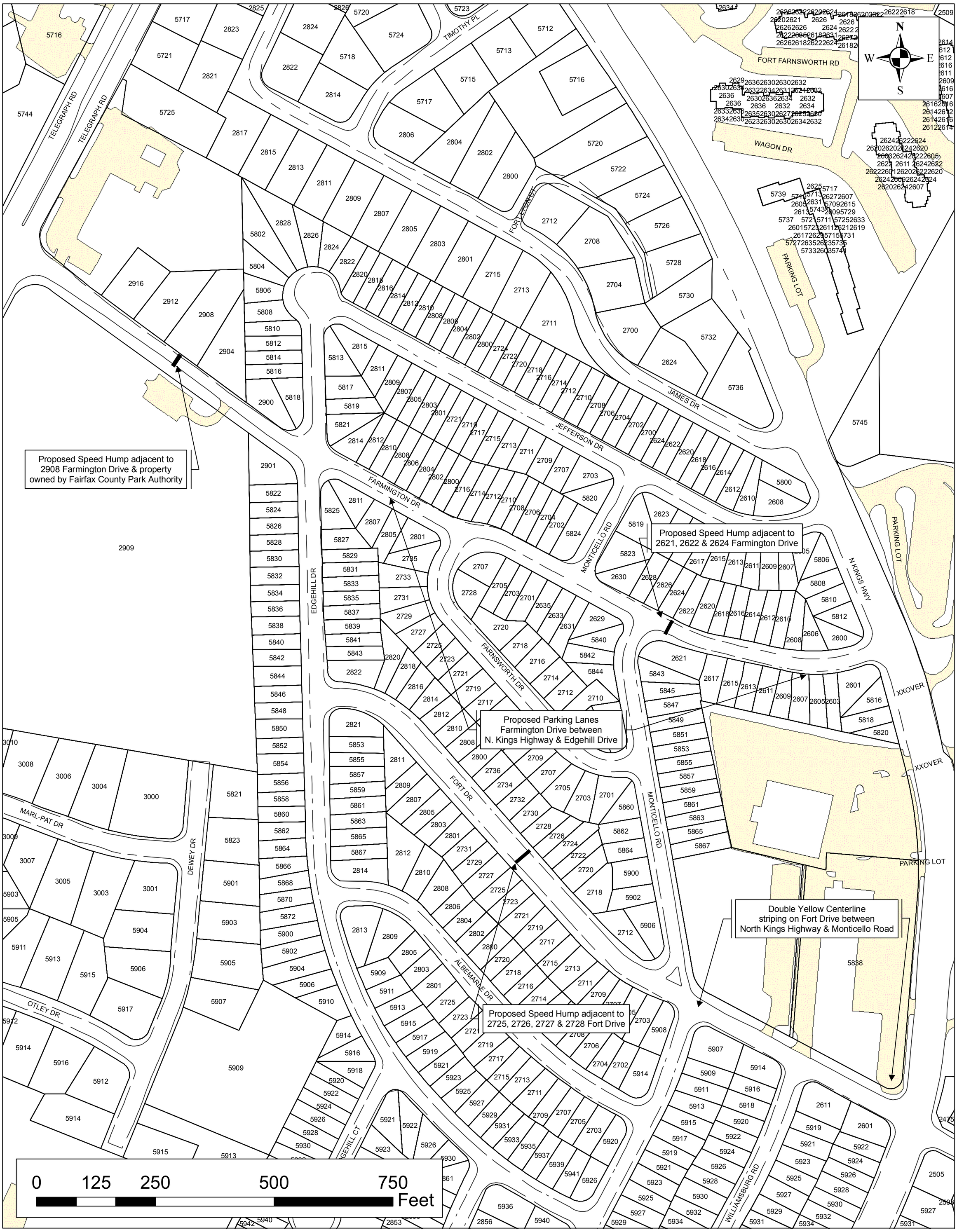
A properly advertised community meeting was held for discussion concerning the proposed cut-through mitigation plan and the Cut-Through Restriction program process. This meeting was followed by a community ballot process that successfully met the established program criteria.

For the plan to be implemented as part of the RTAP for Cut-Through Traffic Mitigation, a public hearing must be held pursuant to the policies and procedures adopted by the Commonwealth Transportation Board contained in the "Policy and Procedures, Control of Residential Cut-Through Traffic" dated May 9, 1996. In addition, a resolution (Attachment II) must be forwarded to VDOT requesting such measures.

FISCAL IMPACT:
Funding in the amount of $18,000 for the Cut-Through Traffic Mitigation measures is available in Fund 001, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Cut-Through Traffic Mitigation Plan for Farmington Drive, Edgehill Drive and Fort Drive
Attachment II: Proposed Resolution on Cut-Through Traffic Mitigation for Farmington Drive, Edgehill Drive and Fort Drive

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, 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



January 2012

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED CUT-THROUGH RESTRICTION PLAN
FARMINGTON DRIVE, FORT DRIVE & EDGEHILL DRIVE
Lee District

A Fairfax County, Va., publication

Tax Map: 82-2, 82-4, 83-1, 83-3

Attachment II

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
CUT-THROUGH TRAFFIC MITIGATION PLAN
FARMINGTON DRIVE, EDGEHILL DRIVE AND FORT DRIVE
LEE DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, held in the Board Auditorium of the Government Center in Fairfax, Virginia on Monday, March 20, 2012, at which time a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents of Jefferson Manor have petitioned the Fairfax County Department of Transportation (FCDOT) to provide the necessary measures to control cut-through traffic on Farmington Drive, Edgehill Drive and Fort Drive; and

WHEREAS, an engineering study by FCDOT indicates that basic cut-through criteria are met pertaining to functional classification of the roadway, identification of cut-through volume, and proof of community support for cut-through measures;

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to implement a cut-through traffic mitigation plan as part of the Residential Traffic Administration Program for Farmington Drive, Edgehill Drive and Fort Drive, consisting of traffic calming measures to include three speed humps, double yellow centerline striping and painted parking lane striping.

FURTHER BE IT RESOLVED, that the Virginia Department of Transportation is hereby formally requested to take necessary steps to enact this prohibition.

ADOPTED this 20th day of March, 2012.

Copy Teste:

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 8

Additional Time to Commence Construction for Special Exception Amendment
SEA 01-H-027-02, One Reston Co LLC and Two Reston Co LLC (Hunter Mill District)

ISSUE:
Board consideration of additional time to commence construction for SEA 01-H-027-02, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:
The County Executive recommends that the Board approve thirty months of additional time for SEA 01-H-027-02 to July 13, 2014.

TIMING:
Routine.

BACKGROUND:
Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time period specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless additional time is approved by the Board. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On July 13, 2009, the Board of Supervisors approved Special Exception Amendment SEA 01-H-027-02, subject to development conditions. The application was filed in the name of One Reston Co LLC and Two Reston Co LLC to amend SE 01-H-027 previously approved for an increase in building heights to permit increase in land area, additional increase in building height from 75 feet up to a maximum of 130 feet, increase in Floor Area Ratio (FAR) from 0.50 up to 0.70, and associated modifications to site design and development conditions, pursuant to Sections 5-407, 9-607 and 9-618 of the Fairfax County Zoning Ordinance, for the property at 12000 and 12010 Sunrise Valley Drive, Tax Map 17-3 ((8)) 1A1 and 1B (see Locator Map, Attachment 1). SEA 01-H-027-02 was approved with a condition that the use be established or construction commenced and diligently prosecuted within thirty (30) months of the approval date unless the Board grants additional time. The development conditions for SEA 01-H-027-02 are included as part of the Clerk to the Board's letter (see Attachment 2).

On December 9, 2011, the Department of Planning and Zoning (DPZ) received a letter dated December 7, 2011, from Jill S. Parks, agent for the applicant, requesting 60 months, or at the earliest until July 1, 2014, which is approximately 30 months, additional time to commence construction (see Attachment 3). The request for additional time was received prior to the date on which the approval would have expired; therefore, the special exception will not expire pending the Board's action on the request for additional time.

Ms. Parks states that since the approval of the SEA several external events have delayed implementation of the development. The first factor is the downturn of the national economy and real estate market, which has affected lending and market demand. The second factor cited is the uncertainty of the funding for Phase II of the Metrorail extension. Ms. Parks states in her letter that cost estimates of the Metrorail project were higher than projected, at which time Fairfax County, Metropolitan Washington Airports Authority and the U.S. Secretary of Transportation began negotiations for cost-saving measures, resulting in temporary uncertainties for the proposed development. The third factor cited is the ongoing revision to the Phase II Dulles Corridor Metrorail extension plan. Ms. Parks states that the applicant has been a participant in the Task Force for the Master Plan for Reston and expects that the Comprehensive Plan recommendations will be scheduled for Board hearings in the spring of 2012. The request letter states that due to these factors outside of the applicant's control, construction of the proposed development has been delayed. The applicant's request for additional time is for 60 months, or at the earliest, until July 1, 2014, which generally coincides with the date the state legislation approved in 2009 for extensions of certain land use approvals.

Staff has reviewed Special Exception Amendment SEA 01-H-027-02 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit an increase in land area, building height and FAR. Further, staff knows of no change in land use circumstances that affects the compliance of SEA 01-H-027-02 with the special exception standards applicable to this use or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation has not changed since approval of the special exception. Finally, the conditions associated with the Board's approval of SEA 01-H-027-02 are still appropriate and remain in full force and effect. Given that the amount of time originally granted with approval of the SEA was thirty (30) months, staff recommends that thirty (30) months of additional time be approved. Staff believes that approval of thirty (30) months additional time is in the public interest. The additional time would begin from the prior specified expiration date of January 13, 2012, and would result in a new expiration date of July 13, 2014.

FISCAL IMPACT:
None

Board Agenda Item
February 28, 2012

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Letter dated July 17, 2009, to Mark Looney (excerpt)
Attachment 3: Letter dated December 7, 2011, to Eileen McLane

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ
Kevin J. Guinaw, Chief, Special Projects/Applications Management Branch, ZED, DPZ
Pamela Nee, Chief, Environment and Development Review Branch, Planning Division, DPZ
Carrie Lee, Staff Coordinator, ZED, DPZ

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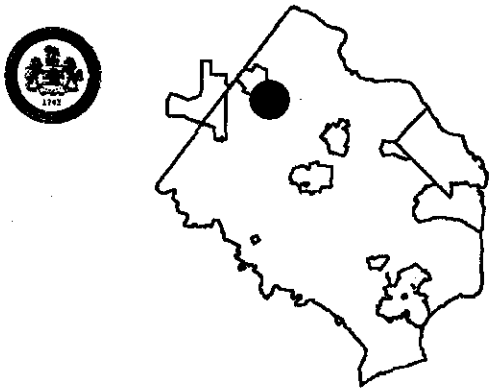
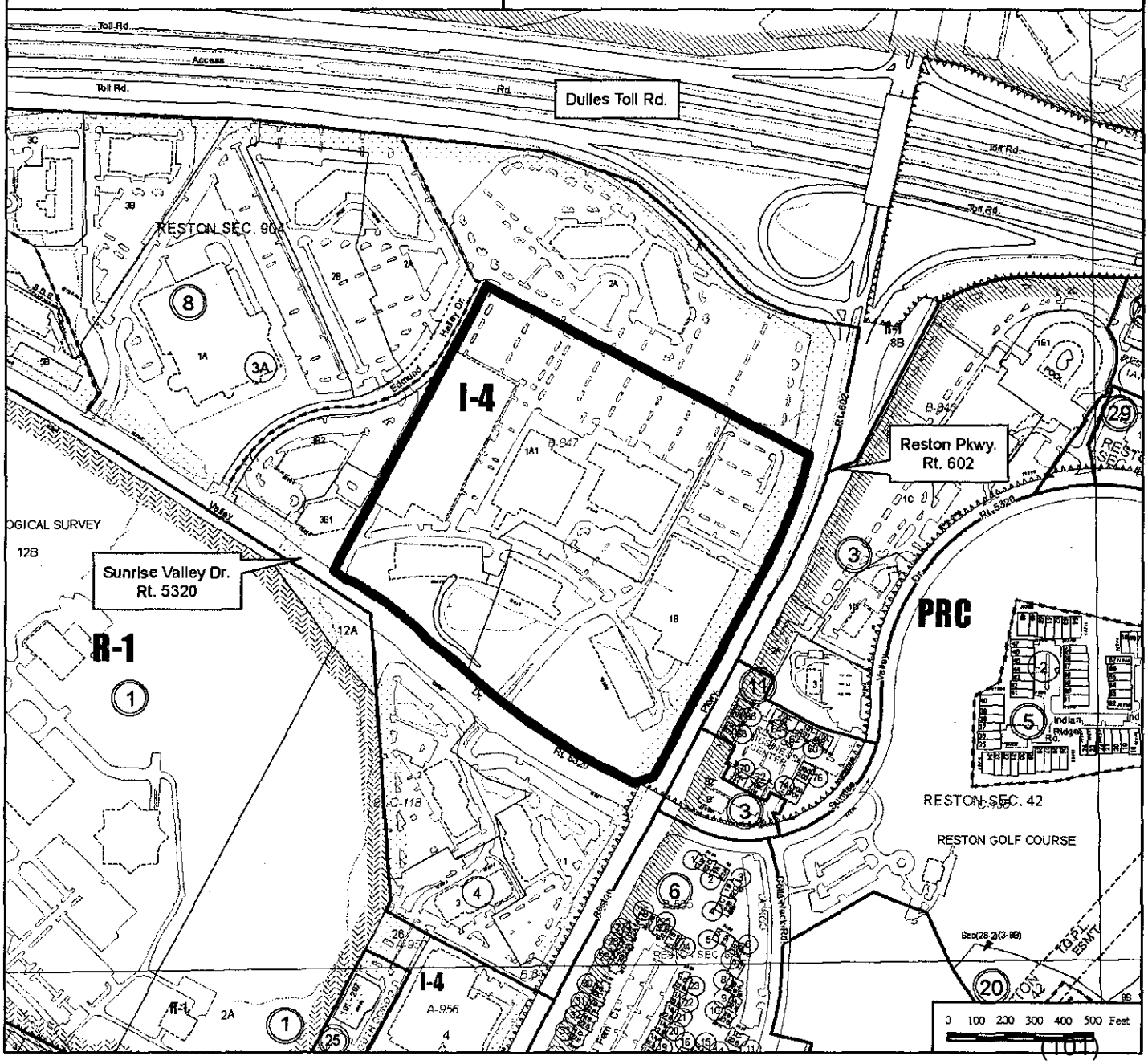
Special Exception Amendment

SEA 01-H -027-02



Applicant:	ONE RESTON CO LLC AND TWO RESTON CO LLC
Accepted:	11/05/2008
Proposed:	AMEND SE 01-H-027 PREVIOUSLY APPROVED FOR INCREASE IN BUILDING HEIGHTS TO PERMIT INCREASE IN LAND AREA, ADDITIONAL BUILDING HEIGHT AND INCREASE IN F.A.R.
Area:	36.08 AC OF LAND; DISTRICT - HUNTER MILL
Zoning Dist Sect:	09-060709-0618
Art 9 Group and Use:	6-03 6-15
Located:	12000 AND 12010 SUNRISE VALLEY DRIVE
Zoning:	I- 4
Plan Area:	3,
Overlay Dist:	
Map Ref Num:	017-3- /08/ /0001A1 /08/ /0001B



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

July 17, 2009

Mark Looney
Cooley Godward Kronish, LLP
Reston Town Center
One Freedom Square
11951 Freedom Drive, Suite 1500
Reston, Virginia 20190

RE: Special Exception Amendment Application SEA 01-H-027-02

Dear Mr. Looney:

At a regular meeting of the Board of Supervisors held on July 13, 2009, the Board approved Special Exception Amendment Application SEA 01-H-027-02 in the name of One Reston Co LLC and Two Reston Co LLC. The subject property is located at 12000 and 12010 Sunrise Valley Drive on approximately 36.08 acres of land zoned I-4 in the Hunter Mill District [Tax Map 17-3 ((8)) 1A1 and 1B]. The Board's action amends Special Exception Application SE 01-H-027, previously approved for an increase in building heights to permit increase in land area, additional increase in building height from 75 feet up to a maximum of 130 feet, increase in Floor Area Ratio (FAR) from 0.50 up to 0.70, and associated modifications to site design and development conditions pursuant to Sections 5-407, 9-607, and 9-618 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions (those conditions carried forward from the previous approval are marked by an asterisk *):

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land. *

2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions. *

3. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "SEA 01-H-027-2," prepared by Urban Ltd., and dated March 2008 as revised through June 24, 2009, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

B. During construction of the second new office building, the temporary facilities and landscaping in the interior of the Central Green and the Lower Central Green may be removed and the areas used for temporary surface parking and construction staging. The perimeter landscaping and pedestrian features installed pursuant to Par. A above shall be maintained. Upon completion of construction of the second new office building, temporary seating and removable landscaping shall be restored in the Central Green and permanent landscaping and hardscape shall be installed in the Lower Central Green, as shown on the SEA Plat.

C. During construction of the third and final new office building, the temporary facilities and landscaping in the interior of the Central Green may be removed and the area used for temporary surface parking and construction staging. The perimeter landscaping and pedestrian features installed pursuant to Par. A above shall be maintained. Upon completion of construction of the third and final new office building, permanent landscaping, hardscape and amenities shall be installed in the Central Green, as shown on the SEA Plat.

8. All lighting shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.

9. All signage shall be in conformance with Article 12 of the Zoning Ordinance.

10. An application for certification under the U.S. Green Building Council's ("USGBC") Leadership in Energy and Environmental Design ("LEED") Green Building Rating System shall be filed for each new office building constructed on the Property.

A. Prior to building plan review for each new office building, an agreement shall be executed and a bond posted, as a "Green Building Escrow," in the form of cash or a letter of credit from an institution acceptable to DPWES in an amount equal to $2.00 per square foot of development, to be held in an escrow account by the County to ensure compliance with this Development Condition. This escrow shall be in addition to, and separate from, other bond requirements and shall be released to the Applicant upon the applicable building's certification under the LEED rating system by the USGBC. A letter or other documentation from the USGBC stating that the building has obtained LEED certification shall be sufficient to demonstrate compliance with this Development Condition. In the event documentation of the Property's certification under the LEED rating system is not produced

privileges to review the project status and monitor the progress of all documents submitted by the project team only. This team member will not be assigned responsibility for any LEED credits, and will not be provided with the authority to modify any documentation or paperwork.

12. Road Improvements:

A. Reston Parkway/Sunrise Valley Drive. The eastbound approach of Sunrise Valley Drive at Reston Parkway shall be widened to provide dual left-turn lanes, an exclusive through lane, and a shared through/right-turn lane, subject to Virginia Department of Transportation ("VDOT") approval, prior to final bond release for the first new office building constructed on the property, or issuance of the first Non-RUP for the second new office building constructed on the property, whichever comes first. In conjunction with the improvements to the eastbound approach, the westbound approach of Sunrise Valley Drive at Reston Parkway shall be re-striped to provide dual left-turn lanes, an exclusive through lane, and an exclusive right-turn lane, subject to VDOT approval. If VDOT does not approve the intersection improvements indicated in this Condition, an escrow, equivalent to the cost of the improvements, including any utility relocations, as determined by DPWES, shall be contributed prior to final bond release for the second new office building constructed on the property towards future improvements at this intersection, or other transportation improvements in the vicinity of the property. Funds escrowed with the County for construction of this improvement may be accessed by the Applicant or reimbursed to the Applicant for the cost of this improvement.

B. Right-Turn Lane on Reston Parkway. Prior to the issuance of the first Non-RUP for the third new office building constructed on the property, the pork chop island at the right in/right out driveway on Reston Parkway (the "Right-In/Right-Out") shall be removed, the existing right-turn lane into the Property shall be connected with the existing right-turn lane on southbound Reston Parkway to westbound Sunrise Valley Drive and a new southbound right-turn lane on Reston Parkway into the Property shall be constructed along the Property's frontage on Reston Parkway, subject to VDOT approval. Any additional right-of-way necessary for the improvement shall be dedicated to the Board of Supervisors in fee simple. Funds escrowed with the County

A. Transportation Coordinator. Prior to issuance of a building permit for the first new office building, an individual shall be designated to act as the Transportation Coordinator (TC) for the Property, whose responsibility will be to implement the TDM strategies with on-going coordination with Fairfax County Department of Transportation (FCDOT). Written notice shall be provided to FCDOT of the appointment of the TC within 30 days of such appointment, and thereafter, within 30 days of any change in such appointment. The duties of the TC may be part of other duties assigned to the individual.

B. TDM Plan. Ninety days after the appointment of the TC, a TDM Plan for the Property shall be submitted to FCDOT for review and approval. The TDM Plan and any amendments thereto shall include provisions for the following with respect to the office uses within the Property:

i. Information Dissemination. Transit maps and schedules, ridesharing and other relevant transit option information shall be made available to owners/tenants and employees in a common area of each office building; such as a central lobby;

ii. Ride Matching. Coordination and assistance with vanpool and carpool formation programs, ride matching services (including notification of the program to adjacent office developments), and established guaranteed ride home programs shall be provided to employees of the office buildings;

iii. Car Sharing Information. Information regarding the use of car sharing program(s) to tenants and employees (such as ZipCar/FlexCar) shall be made available to owners/tenants and employees in a common area of each office building;

iv. Bicycle Storage. Secure bicycle parking for employees shall be provided at each new building in accordance with the following formula: one bicycle parking space for every 7,500 square feet or portion thereof of office GFA in that building. Additionally, one visitor bicycle parking space shall be provided at each new building for every 20,000 square feet or portion thereof of office GFA in that building. The final location and design of the bicycle racks shall be subject to the review of FCDOT at the time of site plan submission.

C. Mode Split Goals. Mass transit, ride-sharing and other transportation strategies targeted to employees within the development shall be utilized to achieve a minimum 10% non-single occupancy vehicle (non-SOV) mode split for employee trips to and from the site during the AM and PM peak hours upon completion of the first new office building. A 12.5% non-SOV mode split for employee trips shall be achieved upon completion of the second new office building and a 15% non-SOV mode split shall be achieved upon completion of the third new office building.

For purposes of this Condition, completion of each new building shall be deemed to occur upon the issuance of the last initial Non-RUP for floor area representing at least 80% of full occupancy.

D. Annual Surveys & Coordination with FCDOT. Between September and November of each calendar year following completion of the first new office building, the TC shall conduct a survey of employees (the "Employee Survey") designed to evaluate the effectiveness of the TDM measures in meeting the applicable Mode Split Goal and to evaluate the need, if any, for changes to the TDM measures then in place. The TC shall coordinate the draft Employee Survey materials and the methodology for validating survey results with FCDOT at least 30 days prior to each year's Employee Survey. If FCDOT has not responded with any comments to the TC within 60 days of receipt of the draft Employee Survey materials and the proposed methodology, the draft Employee Survey materials and the proposed methodology shall be deemed acceptable. The TC shall submit the Employee Survey to FCDOT as part of its annual report to the County (as defined below). The survey analysis shall include at a minimum:

i. A description of the TDM measures in effect for the survey period and a description of how such measures have been implemented;

ii. The number of people surveyed and the number of people who responded;

iii. The results of the surveys taken during the survey period;

iv. The number of employees participating in the TDM programs, displayed by category and mode of use;

v. An evaluation of the effectiveness of the TDM program elements in place, including their effectiveness at achieving the applicable Mode Split

i. Trip Counts shall be based on trip generation estimates calculated using the Institute of Transportation Engineer's Trip Generation, 8th Edition, Land Use Code 710 (General Office) for 596,068 gross square feet (GSF) of office upon completion of the first new building, 807,964 GSF of office upon completion of the second new building, and 1,109,608 GSF of office upon completion of the third new building. In the event the Applicant elects to construct less than the designated square footages listed above, then the baseline number of trips shall be calculated as if the designated square footages listed above were constructed on the Property; and

ii. The relevant weekday AM or PM "peak hour" shall be that 60-minute period during which the highest volume of mainline through volumes occurs between 6:00 and 9:00 AM and 4:00 to 7:00 PM, respectively, as determined by mechanical and/or manual traffic counts along Sunrise Valley Drive and/or Reston Parkway conducted by a qualified traffic engineering firm. To determine the peak hour, the Trip Counts shall be collected beginning on a Monday at 2400 hours and continuing to the following Thursday at 2400 hours during a week when public schools are in session that does not contain a federal holiday. The methodology for determining the peak hour may be modified, in agreement between the Applicant and FCDOT in order to respond to technological and/or other improvements in trip counting.

G. Non-Attainment. If the Trip Counts determine that the Mode Split Goal is not achieved, the TC shall request a meeting with FCDOT within 30 days after the completion of the Trip Counts to review the results of that information and the TDM strategies then in place for the Property. The TC shall be responsible for designing and implementing a strategy, including use of TDM Remedy Fund monies as described in (i.) below, that is intended to achieve the Mode Split Goal. The Applicant shall submit any revisions to the TDM Plan to FCDOT within 30 days following this meeting. If FCDOT has not responded with any comments to the TC within 60 days of receipt of the revised TDM Plan, this TDM Plan shall be deemed approved.

less than the 15% mode split goal, to a maximum of $150,000 *[15 – achieved non-SOV rate x 10 x $1,000 = Penalty*
Example: 15% goal and 14% achieved. 15% – 14% = 1% below goal. 1% = 10 tenths. 10 x $1,000 = $10,000 penalty]

iii. Any penalty for non-attainment shall be paid to Fairfax County within 30 days of a determination by FCDOT that non-attainment has occurred. Penalty funds paid to the County shall be applied to transportation improvements in the vicinity of the Property at the County's sole discretion.

H. Termination. Employee Surveys shall be conducted annually following completion of each of the three new buildings until it can be demonstrated to FCDOT that the Mode Split Goal has been met for two consecutive survey periods. If it is demonstrated that the goal has been met for two consecutive years, the surveys may be terminated until such time as another new building is constructed, although the TDM Program will continue.

I. Vehicle Trip Objectives with Rail. At such time as Metrorail service is operational at the Reston Town Center Transit Station, the Mode Split Goals outlined in subparagraph (C) shall be uniformly increased to 25% non-SOV mode split.

At that time, the Annual Surveys and/or Trip Counts shall continue as previously described or, if they have been terminated in accordance with subparagraph (H), shall be reinstituted in conformance with subparagraph (D) to determine the effectiveness of meeting the 25% Non-SOV Mode Split Goal. Remedies and penalties for non-attainment shall continue to be based on Pre-Rail Mode Split Goals outlined in subparagraph (C), wherein the threshold range for implementing penalties is between 10% and 15% as applicable.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Cooley LLP

Received
Department of Planning & Zoning
DEC 09 2011
Zoning Evaluation Division

Jill S. Parks
T: +1 703 456 8067
jparks@cooley.com

VIA FEDEX

December 7, 2011

Eileen McLane, Zoning Administrator
12055 Government Center Parkway
Fairfax, Virginia 22035

RE: Special Exception Amendment SEA 01-H-027-02
One Reston Co. LLC and Two Reston Co. LLC
12000 and 12010 Sunrise Valley Drive
Tax Map 17-3 ((8)) 1A1 and 1B

Request for an Extension of the Special Exception Amendment

Dear Ms. McLane:

One Reston Co. LLC and Two Reston Co. LLC, affiliates of Brookfield Office Properties (the "Applicant"), own the properties located at 12000 and 12010 Sunrise Valley Drive in Reston, Virginia and identified on the Fairfax County Tax Map as 17-3 ((8)) 1A1 and 1B (the "Property"). Currently, there are two commercial office buildings and a parking structure located on the Property.

On July 13, 2009, the Board of Supervisors approved Special Exception Amendment SEA 01-H-027-02 to bring the land area of Parcel 1A-1 under the previously-approved Special Exception and amendment thereto, to increase the allowable building height and to increase the total FAR on the Property from .50 to .70 (the "SEA"). The approved design shows a multi-phased, transit-oriented development for the Property, the first phase of which included three new commercial buildings, two new parking structures and an expansion to the existing parking structure for a total FAR of .70 (the "Proposed Development"). The Applicant reserved the back portion of the Property (that closest to the planned Reston Parkway Metrorail Station) for a combination of residential and retail uses to be installed in a later phase.

Unfortunately, since obtaining approval of the SEA, three critical things happened that have delayed implementation of the Proposed Development: (1) the national economy and the real estate market all but collapsed; (2) the funding of Phase 2 of the Metrorail extension became uncertain and the project was significantly delayed; and (3) the effort to re-plan the Dulles Corridor fell way behind schedule.

First, due to the financial crisis of 2007-2008, there was a contraction in lending that led to a severe slow-down in both the residential and commercial real estate markets. With most large banking institutions still struggling to regain their financial stability, lending remains challenging. In addition, tenant demand slipped and has not rebounded. As a result, the Applicant is still not in a position to move the Proposed Development forward.

Cooley LLP

Second, when it became clear that the costs of Phase 2 of the Dulles Corridor Metrorail Project would be considerably higher than initially projected, the Metropolitan Washington Airports Authority ("MWAA"), Fairfax County and the US Secretary of Transportation started looking for ways to reduce the scope and costs of the project. The protracted negotiations over potential cost-saving measures caused uncertainty among developers like the Applicant who had focused their redevelopments around rail and further limited tenant demand.

Last, in March of 2007, Supervisor Hudgins and the Board of Supervisors directed County Staff to review the Master Plan for Reston. In late 2009, the Reston Master Plan Special Study Task Force (the "Task Force") was specifically commissioned to plan the rail station areas. The Task Force quickly determined that its efforts would take longer than the schedule set by the Board: initially, the re-planning effort was scheduled to be completed by the Fall of 2010. Now, in December of 2011, the Task Force is still in the weeds of its deliberations - two density scenarios have just recently been submitted to County Staff to model the impacts on the transpiration network and the results are not anticipated until early next year. Further deliberations are expected to follow in the Spring of 2012 and the Planning Commission hearing has been tentatively scheduled for the Fall. The Applicant, who has been participating in the Task Force's deliberations so that it can begin to plan that portion of the Property it had reserved for residential and retail uses, is hamstrung by those deliberations.

In short, a number of factors outside the Applicant's control have forced it to delay construction of the Proposed Development. As a result, the Applicant respectfully requests an extension of the SEA, set to expire within 30 months of its approval date, or on January 13, 2012. The Applicant requests an extension until January 1, 2017 to coincide with the projected opening of Phase 2 of the Dulles Corridor Metrorail Project; or at the earliest, July 1, 2014, to comport with legislation signed by Governor Kaine in 2009, which extended the approval date of a number of land use approvals and obligations until such time.

We greatly appreciate your consideration of our request. Please contact me if I can provide any additional information.

Sincerely,

Jill Parks

Jill S. Parks

cc: Catherine Hudgins, Supervisor, Hunter Mill District
Barbara Berlin, Director, Zoning Evaluation Division
Kevin Guinaw, Chief, Special Project/Applications Management Branch, ZED
Diane Johnson-Quinn, Deputy Zoning Administrator, ZED
John Landry, Brookfield Properties
Joseph Hsu, Brookfield Properties

499941 v2/RE

Board Agenda Item
February 28, 2012

ADMINISTRATIVE – 9

Extension of Review Periods for 2232 Review Applications (Mason, Providence, and Sully 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: applications FS-P11-40 and FS-P11-41 to April 30, 2012; application 2232A-Y00-37-1 to May 3, 2012; and application 2232-M11-24 to September 6, 2012.

TIMING:
Board action is required on February 28, 2012, 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 applications FS-P11-40, FS-P11-41, and 2232A-Y00-37-1 which were accepted for review by the Department of Planning and Zoning (DPZ) between December 2, 2011 and December 5, 2011. 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 Board should extend the review period for application 2232-M11-24 which was accepted for review by the DPZ on January 6, 2012. This application is for a

non-telecommunication 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 review periods for the following applications should be extended:

2232-M11-24	Dept. of Public Works and Environmental Services County Indigent Cemetery 6271 Lincolnia Road, Alexandria Mason District
FS-P11-40	NextNav, LLC Antenna collocation on building rooftop 1751 Pinnacle Drive, McLean Providence District
FS-P11-41	NextNav, LLC Antenna collocation on building rooftop 7926 Jones Branch Drive, McLean Providence District
2232A-Y00-37-1	Sprint Antenna collocation on existing monopole 3721 Stonecroft Boulevard, Chantilly Sully 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
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Chris B. Caperton, Chief, Facilities Planning Branch, Planning Division, DPZ
Sandi M. Beaulieu, Planner, Facilities Planning Branch, Planning Division, DPZ

Board Agenda Item
February 28, 2012

ADMINISTRATIVE – 10

Authorization to Advertise a Public Hearing for a Sewer Ordinance Amendment to Revise the Sewer Service Charges, Connection Charges, Availability Charges, Base Charges, and the Meter Reading Date on Which the New Service Charges Will Take Effect

ISSUE:
Board authorization is needed to advertise a public hearing for the purpose of amending the County's sewer ordinance. As shown in the proposed advertisements provided in Attachments Ia, Ib, and II, the sewer ordinance is being amended to revise Sewer Service Charges, Availability Charges, Connection Charges, Base Charges, and the Meter Reading Date on which the new Service Charges will take effect. This is consistent with the Wastewater Management Program's "Revenue Sufficiency and Rate Analysis" (the Rate Study) for the Sewer System, prepared in cooperation with its consultant, Public Resources Management Group, Inc. (PRMG). The effects of these revisions are as follows:

1. To establish the Sewer Service rates for FY 2012 through FY 2016
2. To establish the Base Charge rates for FY 2012 through FY 2016
3. To establish the Availability Charges for FY 2012 through FY 2016
4. To maintain a five-year (FY 2012 - FY 2016) sewer rate schedule; FY 2011 rates will be deleted, and new FY 2016 rates will be added
5. To clarify the difference between the effective date of the Sewer Service Charge (July 1st) and the meter reading date on which the new rates will be used to calculate the sewer service charge portion of the quarterly water bills (October 1st, three months after the effective date)

Although the sewer rate schedule in the sewer ordinance is multi-year, all sewer rates are reviewed, adjusted as necessary, and adopted annually to ensure sewer rates are accurately priced.

The revised, five-year rate schedule for the Sewer Service Charge per 1,000 gallons, with previously adopted rates in parentheses, is as follows:

PROPOSED SEWER SERVICE CHARGE RATE SCHEDULE

FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
$6.01	$6.55 ($6.85)	$7.07($7.52)	$7.49 ($7.97)	$7.79

The proposed Sewer Service Charge rate increase is 5% less than the previously proposed rate increase because of cost saving initiatives and operating efficiencies implemented in FY 2010 and FY 2011. The Sewer Service Charge rate was proposed to increase from $6.01 to $6.85 per 1,000 gallons of water consumption in FY 2013, resulting in an anticipated increase in the annual cost to the typical household of $63.84. Wastewater Management staff in consultation with Public Resources Management Group (PRMG) has proposed a more modest increase for FY 2013 due to identified operating efficiencies within the Program. Operational cost savings and efficiencies included: electricity savings based on lower than anticipated fuel factor rates and a reduction in kilowatt usage; sewage treatment supply savings associated with a reduction in the unit price for petroleum based chemicals used in the treatment of wastewater and a change to less expensive chemicals; lower treatment by contract costs based on reduced operating costs at neighboring jurisdictions; as well as lower fuel costs, vehicle replacement costs and repair and maintenance requirements. The Department of Public Works and Environmental Services (DPWES) continues to review efficiencies and monitor usage. Therefore, in FY 2013, the Sewer Service Charge rate is proposed to increase from $6.01 to $6.55 per 1,000 gallons of water consumption. This equates to an approximate increase of 9.0 percent in Sewer Service Charges. This level of rate increase would allow the system to meet all of the bond rating agencies' identified financial targets by FY 2014, remain competitive with neighboring utilities, continue to preserve credit ratings at current levels and require less debt to support capital projects

Sewer service charge rates are increasing as debt and capital expenses rise due to construction of additional treatment facilities to meet more stringent nitrogen removal requirements imposed by the state as a result of "Chesapeake 2000" Agreement. Signatories of the Agreement besides the state of Virginia include the States of Maryland and Pennsylvania, the District of Columbia, the United States Environmental Protection Agency (USEPA), and the Chesapeake Bay Commission.

PROPOSED CONNECTION CHARGE RATE

In order to assist in the funding for the Extension and Improvement Program the Connection Charges will remain the same as FY 2012 rate of $152.50 per front foot of premises (with a minimum of $7,625 and a maximum of $15,250) for the connection of single-family detached and attached dwellings, churches, schools, fire stations, community centers or other such similar community uses to the facilities constructed by the County.

The above Connection Charges shall not apply to premises to be connected to the facilities of the County if such facilities of the County are constructed totally at private expense.

The revised, five-year rate schedule for the Base Charge per bill, with previously adopted rates in parentheses, is as follows:

PROPOSED BASE CHARGE RATE SCHEDULE

FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
$5.00	$5.50 ($5.00)	$5.50 ($5.00)	$5.50 ($5.00)	$5.50

The base charge will increase from $5.00 in FY 2012 to $5.50 in FY 2013. The base charge recovers 100 percent of the cost of billing as charged by the Fairfax County Water Authority. This increase will allow the County to fully recover the billing fee charged by our billing agents.

The revised, five-year rate schedule for the Availability Charge for a single-family residence, with previously adopted rates in parentheses, is as follows:

PROPOSED AVAILABILITY CHARGE RATE SCHEDULE

FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
$7,750	$7,750 ($7,750)	$7,750 ($7,750)	$7,750 ($7,750)	$7,750

The County has completed reviewing the adequacy of the amount of the Availability Charge. Based upon the results of this review, the Availability Charge will remain the same as the FY 2012 rate.

Availability Charges for all nonresidential uses will be computed as the number of fixture units (including roughed-in fixture units) in accordance with Part I of the current Virginia Uniform Statewide Building Code, Section 101.2, Note 1, which incorporates by reference the 2006 International Plumbing Code (Chapter 7, Section 709), times the fixture unit rate with a minimum charge equivalent to one (1) single family detached dwelling per premises.

PROPOSED METER READING DATE FOR BILLING

It is proposed to modify the Sewer Ordinance to clarify the difference between the effective date of the Sewer Service Charge and the meter reading date on which the new rates will be used to calculate the sewer service charge. The new service charges

go into effect on July 1st of each year. Since the water /sewer bills are issued quarterly, the Sewer Ordinance is modified to indicate that the new rates will be used to calculate the quarterly water bills starting with meter readings on October 1st of each year to reflect the water used for three months after the effective date.

RECOMMENDATION:
The County Executive recommends that the Board authorize two separate sewer rate advertisements, one for Sewer Service Charges including the Base Charges, another for Availability Charges, as proposed in Attachments Ia, 1b, and II.

TIMING:
Action must be taken on February 28, 2012, to provide adequate notice of a public hearing for comments on the proposed sewer rate revisions. The public hearing will be held on April 10, 2012, at 3:00 p.m. Decision on the sewer rate revisions will coincide with the markup and adoption of the FY 2013 Advertised Budget Plan. FY 2013 the new charges will become effective on July 1, 2012, as outlined above.

BACKGROUND:
In January 2012, the Wastewater Management Program and PRMG completed the Rate Study. Minimum fund balances or "reserves" are maintained to comply with bond requirements and to fund major capital expenditures such as the addition of nitrogen removal facilities at wastewater treatment plants. It is anticipated that desired reserve levels can be maintained under the proposed ordinance amendment (Attachment II).

A forecasted, four-year rate schedule (FY 2013 - FY 2016) is recommended for the County's Sewer Service Charge. The Sewer Service Charge is based on the volume of water used by a sewer customer and is billed quarterly to offset the operations, maintenance, debt, and capital costs allocated to "existing customers." The table below shows the rate increase for the forecasted period.

Fiscal Year	Base Charge $/Quarterly Billing	Service Charge ($/1,000 gallons)	Annual Bill ($)	Increase, $ (% Increase)
2012	$5.00	$6.01 (14.0%)	$476.76	$56.24 (11.8%)
2013	$5.50	$6.55 (9.0%)	$519.80	$43.04 (8.3%)
2014	$5.50	$7.07 (8.0%)	$559.32	$39.52 (7.1%)
2015	$5.50	$7.49 (6.0%)	$591.24	$31.92 (5.4%)
2016	$5.50	$7.79 (4.0%)	$614.04	$22.80 (3.7%)

The rate increases will provide for inflation and the cost of constructing nitrogen removal facilities at wastewater treatment plants to comply with new discharge requirements imposed by the state and the Chesapeake Bay Program. These rate increases are consistent with this year's Rate Study recommendations.

A four-year rate schedule is proposed for the Availability Charges and commercial fixture unit rates. Availability Charges are one-time "tap fees" paid by sewer customers to connect to the system. The revenue from Availability Charges is used to offset the costs of expanding major treatment facilities. The FY 2013 through FY 2016 rate will be held equal to FY 2012 rates based on the pricing analysis performed this year.

The County's Sewer Service Charges and Availability Charges remain very competitive on a local basis. Below are average annual sewer service billings and Availability Charges per Single Family Residential Equivalent (SFRE) for Fairfax County compared to other regional jurisdictions, as of January 2012 (FY 2012). Average sewer service billings for the other regional jurisdictions have been developed by applying each

jurisdiction's sewer service rate to appropriate SFRE water usage determined from Fairfax Water's average water usage for SFREs.

Comparison of Average Service Charges and Availability Charges for SFREs as of January 2012 (FY 2012)

***Based on 19,000 gallons per quarter for all jurisdictions**

Jurisdiction*	Average Annual Sewer Service Billing	Sewer Availability Fees
Loudoun Water	$ 417	$ 7,658
Fairfax County	477	7,750
WSSC	483	3,500
DCWASA	488	----
Prince William County	588	10,300
City of Alexandria	611	7,937
Arlington County	647	4,732

FISCAL IMPACT:
In FY 2013, assuming a typical water usage per household of 19,000 gallons/quarter (or 76,000 gallons/year) and a $5.50 quarterly billing charge (or $22 per year), the average homeowner's sewer bill will be approximately $520 per year, which is an increase of $43.04 over the FY 2012 sewer bill. In FY 2013, approximately $18.3 million in additional Sewer Service Charge revenues will be generated with the Sewer Service Charge increase. Revenues from the collection of Sewer Service Charges, Base Charges, and Availability Charges are recorded in Fund 690-C69000, Sewer Revenue Fund.

ENCLOSED DOCUMENTS:
Attachment Ia, and Ib - Proposed Public Hearing Advertisements
Attachment II - The Proposed Amendment to Article 67.1-10 (Charges), Section 2 of the Code of the County of Fairfax

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Randy Bartlett, Deputy Director, DPWES
Shahram Mohsenin, Director, Wastewater Planning and Monitoring Division, DPWES

Attachment Ia

FAIRFAX COUNTY NOTICE OF PROPOSED
SEWER SERVICE CHARGE - RATE REVISIONS

NOTICE is hereby given that the Fairfax County Board of Supervisors will hold a **PUBLIC HEARING** on:

Tuesday
April 10, 2012
commencing at 3:00 p.m.

in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on the matter of an amendment to Chapter 67.1 of the Fairfax County Code (Sanitary Sewers and Sewage Disposal), Article 10 (Charges), Section 2. Pursuant to the authority of the Virginia Code, Title 15.2., Chapter 21 (including, without limitation, Sections 15.2 - 2111, 2119, and 2122), the Board of Supervisors of Fairfax County, Virginia, proposes to amend Section 67.1-10-2 of the Fairfax County Code to change all references to the unit cost of sewer service and the base charge as follows:

SEWER SERVICE CHARGE
Cost ($) per 1,000 gallons of water used
Proposed New and Revised Rates in Bold

	Current Rate				\----- **New** -----/
	FY 2012	FY 2013	FY 2014	FY 2015	**FY 2016**
Sewer Service Charge	$6.01	$6.55	$7.07	$7.49	**$7.79**

BASE CHARGE
Cost ($) per Quarterly Bill
Proposed New Rates in Bold

	Current Rate	\---------- ---------- **New** ----------/			
	FY 2012	**FY 2013**	**FY 201**	**FY 2015**	**FY 2016**
Base Charge	$5.00	**$5.50**	**$5.50**	**$5.50**	**$5.50**

In addition, the amendment provides that the new sewer service charge will apply to meter readings beginning on October 1st of the current fiscal year, three months after the effective date of the new rate, to reflect the usage under the new rate.

Effective date: The rates will change on July 1st of each new fiscal year. For metered accounts, the change is effective with meter readings beginning October 1st of each year. For unmetered accounts, the change is effective with billings beginning October 1st of each year.

All persons wishing to present their views on these subjects may call the Office of the Clerk to the Board at 703-324-3151 to be placed on the Speakers List, or may appear and be heard. As required by law, copies of the full text of proposed ordinances, plans and amendments, as applicable, as well as information concerning the documentation for the proposed fee, levy, or increase, are on file and may be examined at the Office of the Clerk to the Board of Supervisors, Suite 533 of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia. For the convenience of the public, copies may also be distributed to the County's Regional and Community Public Libraries.

Fairfax County supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities. Open captioning will be provided in the Board Auditorium. For sign language interpreters or other accommodations, please call the Clerk's Office, 703-324-3151, TTY: 703-324-3903 at least five days in advance of the public hearing. Assistive listening devices are available at the meeting.

GIVEN under my hand this 28th day of February 2012.

_____
Patti M. Hicks
Chief Deputy Clerk to the Board of Supervisors

Ad Run Dates: March 9 and 16, 2012

FAIRFAX COUNTY NOTICE OF PROPOSED SEWER AVAILABILITY CHARGES - RATE REVISIONS **Attachment Ib**

NOTICE is hereby given that the Fairfax County Board of Supervisors will hold a **PUBLIC HEARING** on:

Tuesday
April 10, 2012
commencing at 3:00 p.m.

in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on the matter of an amendment to Chapter 67.1 of the Fairfax County Code (Sanitary Sewers and Sewage Disposal), Article 10 (Charges), Section 2. Pursuant to the authority of the Virginia Code, Title 15.2., Chapter 21 (including, without limitation, Sections 15.2 - 2111, 2119, and 2122), the Board of Supervisors of Fairfax County, Virginia, proposes to amend Section 67.1-10-2 of the Fairfax County Code to revise the availability charge schedule for residential, commercial and all other users desiring to connect to the County sanitary sewer facilities as follows:

AVAILABILITY CHARGES
Cost ($) per Unit
Proposed New and Revised Rates in Bold

	Current Rate FY 2012	FY 2013	FY 2014	FY 2015	\- **New -/ FY2016**
Residential uses:					
(a) Single Family Detached	$7,750	$7,750	$7,750	$7,750	**$7,750**
(b) Lodging House, Hotel, Inn, or Tourist Cabin	7, 750	7,750	7,750	7,750	**7,750**
(c) Townhouse	6,200	6,200	6,200	6,200	**6,200**
(d) Apartment	6,200	6,200	6,200	6,200	**6,200**
(e) Mobile Home	6,200	6,200	6,200	6,200	**6,200**
(f) Any other residential dwelling unit	6,200	6,200	6,200	6,200	**6,200**
(g) Hotel, Motel, or Dormitory rental unit	1,938	1,938	1,938	1,938	**1,938**

All availability fees paid after February 24, 1976 will be updated by or refunded without interest to current property owners whose properties have not been connected to public sewer within five (5) years of the initial date of payment or any subsequent payment update(s).

	Current Rate FY 2012	FY 2013	FY 2014	FY 2015	\- **New -/ FY 2016**
Commercial and all other uses:					
Fixture unit rate	$401	$ 401	$ 401	**$**401	**$ 401**

The availability charge for all nonresidential uses will be computed as the number of fixture units in accordance with the current Virginia Uniform Statewide Building Code (which incorporates by reference the 2006 International Plumbing Code, Chapter 7, Section 709) times the fixture unit rate with a minimum charge equivalent to one (1) single family detached dwelling per premises.

Effective date: The rates will change on July 1st of each new fiscal year.

All persons wishing to present their views on these subjects may call the Office of the Clerk to the Board at 703-324-3151 to be placed on the Speakers List, or may appear and be heard. As required by law, copies of the full text of proposed ordinances, plans and amendments, as applicable, as well as information concerning the documentation for the proposed fee, levy, or increase, are on file and may be examined at the Office of the Clerk to the Board of Supervisors, Suite 533 of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia. For the convenience of the public, copies may also be distributed to the County's Regional and Community Public Libraries.

Fairfax County supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities. Open captioning will be provided in the Board Auditorium. For sign language interpreters or other accommodations, please call the Clerk's Office, 703-324-3151, TTY: 703-324-3903 at least five days in advance of the public hearing. Assistive listening devices are available at the meeting.

GIVEN under my hand this 28th day of February 2012.

_____
Patti M. Hicks, Chief Deputy Clerk to the Board of Supervisors

Ad Run Dates: March 9 and 16, 2012

ATTACHMENT II

Proposed Amendment. Article 10. Charges.

Section 67.1-10-2. - Availability, Connection, Lateral Spur and Service Charges.

(a)

Availability Charges.

(1)

Residential uses: The following schedule of availability charges for residential uses desiring to connect to the Facilities of the County is hereby established and imposed:

		Fiscal Year (July 1-June 30)					
	Customer Class	~~FY 2011~~	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
(A)	Single Family Detached	~~$7,750~~	$7,750	$7,750	$7,750	$7,750	$7,750
(B)	Lodging House, Hotel, Inn or Tourist Cabin	~~7,750~~	7,750	7,750	7,750	7,750	7,750
(C)	Townhouse	~~6,200~~	6,200	6,200	6,200	6,200	6,200
(D)	Apartment	~~6,200~~	6,200	6,200	6,200	6,200	6,200
(E)	Mobile Home	~~6,200~~	6,200	6,200	6,200	6,200	6,200
(F)	Any other residential dwelling unit	~~6,200~~	6,200	6,200	6,200	6,200	6,200
(G)	Hotel, Motel, or Dormitory rental unit	~~1,938~~	1,938	1,938	1,938	1,938	1,938

All availability fees paid after February 24, 1976, will be updated by or refunded without interest to the current property owners whose properties have not been connected to public sewer within five years of the initial date of payment or any subsequent payment update(s). (See Section 10-5(d), "Refunds Updates".)

(2)

Commercial and all other uses: The following schedule of fixture unit rates for computing availability charges for all nonresidential uses is hereby established and imposed:

	Fiscal Year (July 1-June 30)					
	~~FY 2011~~	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Fixture unit rate	~~$401~~	$401	$401	$401	$401	$401

The availability charge will be computed as the number of fixture units (including roughed-in fixture units) in accordance with Part I of the current Virginia Uniform Statewide Building Code (as amended), Section 101.2, Note 1, which incorporates by reference the 2006 International Plumbing Code (Chapter 7, Section 709) ("VUSBC"), times the fixture unit rate with a minimum charge equivalent to one single-family detached dwelling per premises. For Significant Industrial Users with wastewater discharge permits authorizing discharge into the Integrated Sewer System and other industrial or commercial Users determined by the Director to have processes generating significant wastewater flows, the availability fee will be calculated on the basis of equivalent units. One equivalent unit is equal to 370 gallons per day and rated equal to one single-family detached dwelling unit. Therefore, the availability charge for Significant Industrial Users and other industrial or commercial Users determined by the Director to have processes generating significant flow will be equal to the current rate for a single family detached dwelling unit times the number of equivalent units associated with the permitted flow. The number of equivalent units is equal to the permitted or projected flow in gallons per day divided by 370 gallons per day. Fixture unit counts, for Users having fixtures discharging continuously or semi-continuously to drainage system leading to the County sanitary sewer facilities, shall be increased by two fixture units for each gallon per minute of such continuous or semi-continuous discharge. The rate of such discharge shall be deemed to be that rate certified by the manufacturer of the fixture or other equipment, or such other rates as the Director shall determine.

(3)

Effective date: The rate will change on July 1st of each new fiscal year. The rate applicable to each fiscal year is subject to annual review by the Board of Supervisors.

(b)

Connection Charges:

(1)

Residential and community uses: There is hereby established and imposed a connection charge of $152.50 per front foot of premises (with a minimum of $7,625 and a maximum of $15,250 for the connection of single-family detached and attached dwellings, churches, schools, fire stations, community centers or other such similar community uses to the Facilities of the County.

(A)

The above Connection Charges will go in effect starting July 1st of each new fiscal year. The rate applicable to each fiscal year is subject to annual review by the Board of Supervisors. ~~July 1, 2011 for all Facilities of the County constructed after July 1, 2011. During the period of July 1, 2011 through June 30, 2012 Connection Charges for connections to Facilities of the County constructed prior to July 1, 2011 will be $6.00 per front foot of premises (with a minimum of $300.00 and a maximum of $600.00). Beginning July 1, 2012 all connections to all Facilities of the County will be assessed the Connection Charges in Section 67.1-10-2(b)(1) above.~~

(B)

Connection Charges for connection to the Facilities of the County in the County's Extension and Improvement (E&I) Program that are under design for construction at the time the Connection Charges in Section 67.1-10-2(b)(1) are adopted (i.e. April 26, 2011) will be $6.00 per front foot of premises (with a minimum of $300.00 and a maximum of $600.00) provided all of the following conditions are met:

(i)

property owners in the E&I project area agree to grant all required easements within 4 months of the adoption date (i.e. no later than August 25, 2011) of Connection Charges in Section 67.1-10-2(b)(1)

(ii)

50% of the property owners in the E&I project area pay the required Availability Charges within 4 months of the adoption date (i.e. no later than August 25, 2011) of Connection Charges in Section 67.1-10-2(b)(1)

(iii)

connections to the Facilities of the County are made by no later than June 30, 2012, or within 30 days of completion of the construction of the E&I project, whichever comes last.

(2)

All other uses: There is hereby established and imposed a connection charge of $152.50 per front foot of premises (with a minimum charge of $15,250) for the connection of all other uses to the Facilities of the County.

(3)

The connection charges established and imposed above shall not apply to premises to be connected to the Facilities of the County if such Facilities of the County are constructed totally at private expense.

(4)

For the purposes of Section 67.1-10-2 (b), front foot of premises will be determined by measuring the frontage of the premises located on the street address side of the premises.

(c)

Lateral spur charges: There is hereby established and imposed a lateral spur charge of $600.00 for the connection of all uses to a lateral spur, where such lateral spur has been installed by the County at the expense of Fairfax County.

(d)

Service charges: There are hereby established and imposed the following quarterly sanitary sewer service charges:

	Sewer Service Charges Fiscal Year (July 1 - June 30)					
	~~FY 2011~~	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Sewer Service Charge, $/1,000 gallons	~~$5.27~~	$6.01	~~$6.85~~ 6.55	~~$7.52~~ 7.07	~~$7.97~~ 7.49	$7.79

(1)

Effective date: The rates will change on July 1st of each new fiscal year. For metered accounts, the change is effective with meter readings beginning October 1st of each year. ~~that date~~. For unmetered accounts, the change is effective with billings beginning October 1st of each year. ~~that date~~. Effective July 1, ~~2009~~ 2012, a Base Charge of ~~$5.00~~ 5.50 per bill will be charged, in addition to the sewer service charge.

(2)

Premises having a metered water supply:

Category of Use	Service Charges
(A) Single-family detached and single-family	For each 1,000 gallons of water, based on winter-

attached dwellings such as townhouses, duplexes, multiplexes, semi-detached, rowhouses, garden court and patio houses with a separate water service line meter.	quarter consumption or current quarterly consumption, as measured by the service line meter, whichever is lower, a charge equal to the effective unit cost rate ($/1,000 gallons).
(B) All other uses.	For each 1,000 gallons of water as measured by the water service line, a charge equal to the effective unit cost rate ($/1,000 gallons).
(C) All users.	Base charge of $~~5.00~~ $5.50 per billing.

(D)

The winter-quarter-maximum consumption is determined as follows:

(i)

The quarterly-daily-average consumption of water is the consumption, measured by the water service line meter for the period between meter readings divided by the number of days elapsed between meter readings.

(ii)

The quarterly consumption is 91.5 times the quarterly-daily-average consumption of water in leap years or 91.25 times the quarterly-daily-average consumption in non-leap years.

(iii)

The winter quarterly consumption is the quarterly consumption determined at the water service line meter reading scheduled between February 1 and April 30. The winter-quarter-consumption of each respective year shall be applicable to the four quarterly sewer billings rendered in conjunction with the regular meter reading scheduled after the next May.

(iv)

All water delivered to the premises, as measured by the winter quarter-consumption for single-family dwellings and townhouses or the meter of all other Users, shall be deemed to have been discharged to the Facilities of the County. However, any person may procure the installation of a second water service line meter. Such person may notify the Director of such installation, in which event the Director shall make such inspection or inspections as may be necessary to ascertain that no water delivered to the premises or only the water delivered through any such additional meter may enter the Facilities of the County. If the Director determines that water delivered through an additional meter may not enter the Facilities of the County, no charge hereunder shall be based upon such volume of water delivery. If the

Director determines that only the water delivered through an additional meter may enter the Facilities of the County, only the water recorded on the additional meter shall be charged. In the alternative, any person may procure the installation of a sewage meter which shall be of a type and installed in a manner approved by the Director, who shall make periodic inspection to ensure accurate operation of said meter; in such event, the charge imposed hereunder shall be based upon the volume measured by such meter. The cost of all inspections required by the foregoing provisions for elective metering, as determined by normal cost accounting methods, shall be an additional charge for sanitary sewer service to the premises on which such meter or meters are installed.

(E)

For single-family premises as in (d)(2)(A) not able to register valid meter readings for the measurement of winter-quarter-consumption the following billing method shall apply:

(i)

Premises not existing, unoccupied or occupied by a different household during the applicable winter quarter, or which due to unfavorable weather, meter failure or for any other reason of meter inaccuracy cannot register valid meter readings, shall not be considered to have a valid meter reading for the purpose of winter-quarter-consumption measurement.

(ii)

Such premises may be billed on the basis of the average winter-quarter-consumption for similar dwelling units or the current quarterly consumption, as registered by water service line meter, or based on historical water usage. Accounts for single-family premises established by a builder for sewerage service during construction shall be considered a nonresidential use.

(3)

Premises not having metered water supply or having both well water and public metered water supply:

(A)

Single-family dwellings, as in (d)(2)(A). An amount equal to the average winter-quarter-consumption, during the applicable winter quarter, of similar dwelling units, times the effective unit cost rate ($/1,000 gallons). In the alternative, any such single-family residential customer may apply to the County, via the water supplier providing water service to the area in which the residential customer is located, for special billing rates, based on average per capita consumption of water in similar type units.

(B)

All other uses: The charge shall be based upon the number of fixture units and load factor in accordance with the VUSBC and Table I. There shall be an additional charge equal to the effective unit cost ($/1,000 gallons) for the volume discharged by fixtures discharging continuously or semi-continuously. Volume of

continuous or semi-continuous discharge shall be deemed to be that used in determining availability charge.

TABLE I.

Table of Fixture Units

Type of Fixture or Group of Fixtures	Drainage Fixture Unit Value (d.f.u.)
Commercial automatic clothes washer (2" standpipe)	3
Bathroom group consisting of water closet, lavatory and bathtub or shower stall (Residential):	
Tank type closet	6
Bathtub (with or without overhead shower)	2
Combination sink-and-tray with food disposal unit	2
Combination sink-and-tray with 1½" trap	2
Dental unit or cuspidor	1
Dental lavatory	1
Drinking fountain	½
Dishwasher, domestic	2
Floor drains with 2" waste	2
Kitchen sink, domestic, with one 1½" waste	2
Kitchen sink, domestic, with food waste grinder and/or dishwasher	2
Lavatory with 1¼" waste	1
Laundry tray (1 or 2 compartments)	2
Shower stall	2
Sinks:	
Surgeon's	3
Flushing rim (with valve)	6
Service (trap standard)	3
Service (P trap)	2
Pot, scullery, etc.	4
Urinal, pedestal, syphon jet blowout	6
Urinal, wall lip	4
Urinal stall, washout	4
Urinal trough (each 6-ft. section)	2
Wash sink (circular or multiple) each set of faucets	2

Water closet, tank-operated	4
Water closet, valve-operated	6
Fixture drain or trap size:	
1¼ inches and smaller	1
1½ inches	2
2 inches	3
2½ inches	4
3 inches	5
4 inches	6

TABLE II.

Fixture Units and Load Factors for All Other Premises

Quarterly Service Charges

Fiscal Year (July 1 - June 30)

Fixture Units	Load Factor	~~2011~~	2012	2013	2014	2015	2016
20 or less	1.00	~~$131.75~~	$150.25	$163.75	$176.75	$187.25	$194.75
21 to 30	1.25	~~164.69~~	187.81	204.69	220.94	234.06	243.44
31 to 40	1.45	~~191.04~~	217.86	237.44	256.29	271.51	282.39
41 to 50	1.60	~~210.80~~	240.40	262.00	282.80	299.60	311.60
51 to 60	1.75	~~230.56~~	262.94	286.56	309.31	327.69	340.81
61 to 70	1.90	~~250.33~~	285.48	311.13	335.83	355.78	370.03
71 to 80	2.05	~~270.09~~	308.01	335.69	362.34	383.86	399.24
81 to 90	2.20	~~289.85~~	330.55	360.25	388.85	411.95	428.45
91 to 100	2.30	~~303.03~~	345.58	376.63	406.53	430.68	447.93
101 to 110	2.40	~~316.20~~	360.60	393.00	424.20	449.40	467.40
111 to 120	2.55	~~335.96~~	383.14	417.56	450.71	477.49	496.61

121 to 130	2.65	~~349.14~~	398.16	433.94	468.39	496.21	516.09
131 to 140	2.75	~~362.31~~	413.19	450.31	486.06	514.94	535.56
141 to 150	2.85	~~375.49~~	428.21	466.69	503.74	533.66	555.04
151 to 160	2.95	~~388.66~~	443.24	483.06	521.41	552.39	574.51
161 to 170	3.05	~~401.84~~	458.26	499.44	539.09	571.11	593.99
171 to 180	3.15	~~415.01~~	473.29	515.81	556.76	589.84	613.46
181 to 190	3.25	~~428.19~~	488.31	532.19	574.44	608.56	632.94
191 to 200	3.35	~~441.36~~	503.34	548.56	592.11	627.29	652.41
201 to 210	3.45	~~454.54~~	518.36	564.94	609.79	646.01	671.89
211 to 220	3.55	~~467.71~~	533.39	581.31	627.46	664.74	691.36
221 to 230	3.65	~~480.89~~	548.41	597.69	645.14	683.46	710.84
231 to 240	3.75	~~494.06~~	563.44	614.06	662.81	702.19	730.31
241 to 250	3.85	~~507.24~~	578.46	630.44	680.49	720.91	749.79
251 to 260	3.90	~~513.83~~	585.98	638.63	689.33	730.28	759.53
261 to 270	4.00	~~527.00~~	601.00	655.00	707.00	749.00	779.00
271 to 280	4.05	~~533.59~~	608.51	663.19	715.84	758.36	788.74
281 to 290	4.10	~~540.18~~	616.03	671.38	724.68	767.73	798.48
291 to 300	4.15	~~546.76~~	623.54	679.56	733.51	777.09	808.21
301 to 310	4.20	~~553.35~~	631.05	687.75	742.35	786.45	817.95
311 to 320	4.30	~~566.53~~	646.08	704.13	760.03	805.18	837.43
321 to 330	4.40	~~579.70~~	661.10	720.50	777.70	823.90	856.90

331 to 340	4.50	~~592.88~~	676.13	736.88	795.38	842.63	876.38
341 to 350	4.60	~~606.05~~	691.15	753.25	813.05	861.35	895.85
351 to 360	4.70	~~619.23~~	706.18	769.63	830.73	880.08	915.33
361 to 370	4.80	~~632.40~~	721.20	786.00	848.40	898.80	934.80
371 to 380	4.90	~~645.58~~	736.23	802.38	866.08	917.53	954.28
381 to 390	5.00	~~658.75~~	751.25	818.75	883.75	936.25	973.75
391 to 400	5.10	~~671.93~~	766.28	835.13	901.43	954.98	993.23
401 to 410	5.20	~~685.10~~	781.30	851.50	919.10	973.70	1,012.70
411 to 420	5.30	~~698.28~~	796.33	867.88	936.78	992.43	1,032.18
421 to 430	5.40	~~711.45~~	811.35	884.25	954.45	1,011.15	1,051.65
431 to 440	5.50	~~724.63~~	826.38	900.63	972.13	1,029.88	1,071.13
441 to 450	5.60	~~737.80~~	841.40	917.00	989.80	1,048.60	1,090.60
451 to 460	5.70	~~750.98~~	856.43	933.38	1,007.48	1,067.33	1,110.08
461 to 470	5.80	~~764.15~~	871.45	949.75	1,025.15	1,086.05	1,129.55
471 to 480	5.90	~~777.33~~	886.48	966.13	1,042.83	1,104.78	1,149.03
481 to 490	6.00	~~790.50~~	901.50	982.50	1,060.50	1,123.50	1,168.50
491 to 500	6.10	~~803.68~~	916.53	998.88	1,078.18	1,142.23	1,187.98
501 to 525	6.25	~~823.44~~	939.06	1,023.44	1,104.69	1,170.31	1,217.19
526 to 550	6.50	~~856.38~~	976.63	1,064.38	1,148.88	1,217.13	1,265.88
551 to 575	6.75	~~889.31~~	1,014.19	1,105.31	1,193.06	1,263.94	1,314.56
576 to 600	7.00	~~922.25~~	1,051.75	1,146.25	1,237.25	1,310.75	1,363.25

601 to 625	7.25	~~955.19~~	1,089.31	1,187.19	1,281.44	1,357.56	1,411.94
626 to 650	7.50	~~988.13~~	1,126.88	1,228.13	1,325.63	1,404.38	1,460.63
651 to 675	7.75	~~1,021.06~~	1,164.44	1,269.06	1,369.81	1,451.19	1,509.31
676 to 700	8.00	~~1,054.00~~	1,202.00	1,310.00	1,414.00	1,498.00	1,558.00
701 to 725	8.20	~~1,080.35~~	1,232.05	1,342.75	1,449.35	1,535.45	1,596.95
726 to 750	8.40	~~1,106.70~~	1,262.10	1,375.50	1,484.70	1,572.90	1,635.90
751 to 775	8.60	~~1,133.05~~	1,292.15	1,408.25	1,520.05	1,610.35	1,674.85
776 to 800	8.80	~~1,159.40~~	1,322.20	1,441.00	1,555.40	1,647.80	1,713.80
801 to 825	9.00	~~1,185.75~~	1,352.25	1,473.75	1,590.75	1,685.25	1,752.75
826 to 850	9.20	~~1,212.10~~	1,382.30	1,506.50	1,626.10	1,722.70	1,791.70
851 to 875	9.35	~~1,231.86~~	1,404.84	1,531.06	1,652.61	1,750.79	1,820.91
876 to 900	9.50	~~1,251.63~~	1,427.38	1,555.63	1,679.13	1,778.88	1,850.13
901 to 925	9.65	~~1,271.39~~	1,449.91	1,580.19	1,705.64	1,806.96	1,879.34
926 to 950	9.80	~~1,291.15~~	1,472.45	1,604.75	1,732.15	1,835.05	1,908.55
951 to 975	9.95	~~1,310.91~~	1,494.99	1,629.31	1,758.66	1,863.14	1,937.76
976 to 1,000	10.15	~~1,337.26~~	1,525.04	1,662.06	1,794.01	1,900.59	1,976.71
1,001 to 1,050	10.55	~~1,389.96~~	1,585.14	1,727.56	1,864.71	1,975.49	2,054.61
1,051 to 1,100	10.90	~~1,436.08~~	1,637.73	1,784.88	1,926.58	2,041.03	2,122.78
1,101 to 1,150	11.30	~~1,488.78~~	1,697.83	1,850.38	1,997.28	2,115.93	2,200.68
1,151 to 1,200	11.70	~~1,541.48~~	1,757.93	1,915.88	2,067.98	2,190.83	2,278.58
1,201 to 1,250	12.00	~~1,581.00~~	1,803.00	1,965.00	2,121.00	2,247.00	2,337.00

1,251 to 1,300	12.35	~~1,627.11~~	1,855.59	2,022.31	2,182.86	2,312.54	2,405.16
1,301 to 1,350	12.70	~~1,673.23~~	1,908.18	2,079.63	2,244.73	2,378.08	2,473.33
1,351 to 1,400	13.00	~~1,712.75~~	1,953.25	2,128.75	2,297.75	2,434.25	2,531.75
1,401 to 1,450	13.25	~~1,745.69~~	1,990.81	2,169.69	2,341.94	2,481.06	2,580.44
1,451 to 1,500	13.50	~~1,778.63~~	2,028.38	2,210.63	2,386.13	2,527.88	2,629.13
1,501 to 1,600	14.05	~~1,851.09~~	2,111.01	2,300.69	2,483.34	2,630.86	2,736.24
1,601 to 1,700	14.60	~~1,923.55~~	2,193.65	2,390.75	2,580.55	2,733.85	2,843.35
1,701 to 1,800	15.15	~~1,996.01~~	2,276.29	2,480.81	2,677.76	2,836.84	2,950.46
1,801 to 1,900	15.70	~~2,068.48~~	2,358.93	2,570.88	2,774.98	2,939.83	3,057.58
1,901 to 2,000	16.25	~~2,140.94~~	2,441.56	2,660.94	2,872.19	3,042.81	3,164.69
2,001 to 2,100	16.80	~~2,213.40~~	2,524.20	2,751.00	2,969.40	3,145.80	3,271.80
2,101 to 2,200	17.35	~~2,285.86~~	2,606.84	2,841.06	3,066.61	3,248.79	3,378.91
2,201 to 2,300	17.90	~~2,358.33~~	2,689.48	2,931.13	3,163.83	3,351.78	3,486.03
2,301 to 2,400	18.45	~~2,430.79~~	2,772.11	3,021.19	3,261.04	3,454.76	3,593.14
2,401 to 2,500	19.00	~~2,503.25~~	2,854.75	3,111.25	3,358.25	3,557.75	3,700.25
2,501 to 2,600	19.55	~~2,575.71~~	2,937.39	3,201.31	3,455.46	3,660.74	3,807.36
2,601 to 2,700	20.10	~~2,648.18~~	3,020.03	3,291.38	3,552.68	3,763.73	3,914.48
2,701 to 2,800	20.65	~~2,720.64~~	3,102.66	3,381.44	3,649.89	3,866.71	4,021.59
2,801 to 2,900	21.20	~~2,793.10~~	3,185.30	3,471.50	3,747.10	3,969.70	4,128.70
2,901 to 3,000	21.75	~~2,865.56~~	3,267.94	3,561.56	3,844.31	4,072.69	4,235.81
3,001 to 4,000	26.00	~~3,425.50~~	3,906.50	4,257.50	4,595.50	4,868.50	5,063.50

4,001 to 5,000	29.50	~~3,886.63~~	4,432.38	4,830.63	5,214.13	5,523.88	5,745.13
5,001 to 6,000	33.00	~~4,347.75~~	4,958.25	5,403.75	5,832.75	6,179.25	6,426.75
6,001 to 7,000	36.40	~~4,795.70~~	5,469.10	5,960.50	6,433.70	6,815.90	7,088.90
7,001 to 8,000	39.60	~~5,217.30~~	5,949.90	6,484.50	6,999.30	7,415.10	7,712.10
8,001 to 9,000	42.75	~~5,632.31~~	6,423.19	7,000.31	7,556.06	8,004.94	8,325.56
9,001 to 10,000	46.00	~~6,060.50~~	6,911.50	7,532.50	8,130.50	8,613.50	8,958.50
10,001 to 11,000	48.85	~~6,435.99~~	7,339.71	7,999.19	8,634.24	9,147.16	9,513.54
11,001 to 12,000	51.60	~~6,798.30~~	7,752.90	8,449.50	9,120.30	9,662.10	10,049.10
12,001 to 13,000	54.60	~~7,193.55~~	8,203.65	8,940.75	9,650.55	10,223.85	10,633.35
13,001 to 14,000	57.40	~~7,562.45~~	8,624.35	9,399.25	10,145.45	10,748.15	11,178.65
14,001 to 15,000	60.00	~~7,905.00~~	9,015.00	9,825.00	10,605.00	11,235.00	11,685.00

NOTES:

(1)

Baseline water use for 20 fixture units is 25 TG/Qtr.

(2)

Base charge is not included in rates.

The Service Charge rates will change on July 1st of each new fiscal year for accounts with meter readings beginning ~~that date~~ October 1st of each year. For unmetered accounts, the change shall be effective with the billings beginning ~~July~~ October 1st of each ~~new fiscal~~ year. (39-93-67.1; 19-94-67.1; 36-95-67.1; 18-96-67.1; 13-97-67.1; 6-98-67.1; 15-99-67.1; 16-00-67.1; 12-01-67.1; 21-02-67.1; 19-03-67.1; 15-04-67.1; 19-05-67.1; 09-06-67.1; 13-07-67.1; 29-08-67.1; 28-09-67.1; 11-10-67.1; 03-11-67.1.)

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Board Agenda Item
February 28, 2012

ADMINISTRATIVE - 11

Authorization to Advertise a Public Hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2013

ISSUE:
Board authorization to advertise a public hearing on the *Proposed Consolidated Plan One-Year Action Plan for FY 2013* as forwarded by the Consolidated Community Funding Advisory Committee (CCFAC).

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of a public hearing on the *Proposed Consolidated Plan One-Year Action Plan for FY 2013*. The public will have an opportunity to comment on the proposed use of funds as described in the *Proposed One-Year Action Plan for FY 2013* in accordance with United States Department of Housing and Urban Development (HUD) regulations and guidelines. Citizens may also comment on housing and community service needs in Fairfax County as well as provide information concerning changes in housing and community service trends since the last Board public hearing on the Consolidated Plan in 2011.

TIMING:
Board authorization on February 28, 2012 to advertise a public hearing is requested to be held at 4:00 p.m. on Tuesday, March 20, 2012, in order to proceed in a timely manner with required public notification and to maintain the schedule for the Consolidated Plan process.

BACKGROUND:
The *Proposed One-Year Action Plan for FY 2013* presents the proposed uses of funding for programs to be implemented in the third year of the Five-Year Consolidated Plan for FY 2011 - 2015. An annual action plan is required by HUD. These programs include: Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), Emergency Solutions Grants (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). The *Proposed Consolidated Plan One-Year Action Plan for FY 2013* includes the first year of the two-year (FY 2013-2014) funding cycle for the Consolidated Community Funding Pool (CCFP). Although the CCFP FY 2013 funding awards will be made by the Board in late April 2012, the awards are subject to annual appropriations, and approval of the annual Action Plan which is required by HUD.

Funding allocations under the *Proposed Consolidated Plan One-Year Action Plan for FY 2013 have* been reviewed by the Fairfax County Redevelopment and Housing Authority (FCRHA) and the CCFAC-FCRHA Working Advisory Group (WAG). The

WAG is a group established to strengthen coordination between the FCRHA and the CCFAC in the proposed use of funds and was composed of seven members: three appointed by the FCRHA Chairman, three appointed by the CCFAC Chairman, and one who serves on both the FCRHA and the CCFAC. Recommendations from the WAG were forwarded to the CCFAC and the FCRHA. The final recommendations contained in the *Proposed Consolidated Plan One-Year Action Plan for FY 2013* are consistent with the WAG, the FCRHA and the CCFAC recommendations.

The funding levels reflect deep cuts in federal funding - an 18.5 percent cut in CDBG funds from the FY 2012 funding level and a 41.0 percent cut in HOME funds from the FY 2012 levels. The County's FY 2013 CDBG entitlement grant will be $4,414,224. The HOME entitlement grant will be $1,405,283. The ESG program did receive a 14.6 percent increase from the FY 2012 level and its allocation is $469,222. The HOPWA amount is estimated at the FY 2011 expenditure level of $438,386. Some prior year funds are also recommended for reallocation.

The WAG approached the cuts with the intent of minimizing their impact to the greatest extent possible by recommending the one-time reallocation of older, unused funds. In many cases, projects which did not go forward or came in under budget allowed some funding from prior years to be re-allocated to current projects with a higher and current priority.

The WAG notes that while it is important for the FCRHA and the Board of Supervisors to utilize prior year balances, using such balances to cover substantial federal funding reductions as a practice is unsustainable. In the *Proposed Consolidated Plan One-Year Action Plan for FY 2013,* reallocated prior year balances total $1,226,902. The WAG recommends that the Board consider funding the gap for federal reductions in future fiscal years, beginning in FY 2014, to the greatest extent possible. Alternatively, benefits provided by the funds in the County would have to be reduced.

Further, for FY 2013, the reduction in the CDBG federal allocation necessitates a reduction in Targeted Public Services which is statutorily capped at 15 percent of the CDBG grant amount. Targeted Public Services funds are made available to non-profits through the Consolidated Community Funding Pool. Because of the 15 percent cap, funds could not be reprogrammed for much needed public service activities from the CCFP such as emergency food programs and youth support services. The WAG recommends that the Board consider restoring the FY 2012 funding level by allocating County General Funds in the amount of $307,024 to Targeted Public Services.

The *Proposed Consolidated Plan One-Year Action Plan for FY 2013* was released by the CCFAC to allow for a 30-day public comment period, and will also be the subject of the public hearing by the Board on March 20, 2012, as authorized by this item. Following the public hearing and the conclusion of the public comment period, the CCFAC will make any revisions and forward its recommendations to the Board for action in April 2012 to approve the One-Year Action Plan for FY 2013. The One-Year Action Plan for FY 2013 will include the first year of the two-year (FY 2013-2014)

funding cycle for the CCFP. The CCFP awards are based on the recommendations from the Selection Advisory Committee appointed to review the proposals received through the CCFP Request for Proposal process for FY 2013-2014.

The Fairfax County Citizen Participation Plan and HUD regulations require advertisement of the public hearing (Attachment 2) prior to the date of the Board meeting. The notice will include sufficient information about the purpose of the public hearing to permit informed comment from citizens. Upon approval of the Board, a public hearing on the *Proposed Consolidated Plan One-Year Action Plan for FY 2013* will be scheduled for Tuesday, March 20, 2012 at 4:00 p.m. An advertisement will appear in a newspaper(s) of general circulation and at least one minority and non-English speaking publication at least 15 days prior to the date of the public hearing, and will be included in the Weekly Agenda, as well as in information released by the Fairfax County Office of Public Affairs.

FISCAL IMPACT:
Funds identified in the *Proposed Consolidated Plan One-Year Action Plan for FY 2013* include CDBG ($4,414,224 entitlement and $300,000 estimated program income), HOME ($1,405,283), ESG ($469,222), and HOPWA ($438,386) funds. In addition, reallocated funds of prior year monies of $1,226,902 have also been recommended.

ENCLOSED DOCUMENTS:
Attachment 1: *Proposed Consolidated Plan One-Year Action Plan for FY 2013*
The *Proposed One-Year Action Plan for FY 2013* is available on line at:
http://www.fairfaxcounty.gov/rha (Copy to Board delivered under separate cover)
Attachment 2: Public Hearing Advertisement

STAFF:
Patricia D. Harrison, Deputy County Executive
Paula C. Sampson, Director, Department of Housing and Community Development (HCD)
John Payne, Deputy Director, Real Estate, HCD
Aseem K. Nigam, Director, REF&GM Division, HCD
Robert C. Fields, Interim Associate Director, Grants Management, HCD
Stephen Knippler, Senior Program Manager, Grants Management, HCD

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Attachment 2

PUBLIC HEARING ON
PROPOSED CONSOLIDATED PLAN
ONE-YEAR ACTION PLAN FOR FY 2013

The Fairfax County Board of Supervisors will hold a public hearing on Tuesday, March 20, 2012 at 4:00 p.m. in the Board Room of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on the Proposed Consolidated Plan One-Year Action Plan for FY 2013.

The Consolidated Community Funding Advisory Committee (CCFAC) is the citizen advisory group that oversees the preparation of the Proposed One-Year Action Plan for FY 2013 and Five-Year Consolidated Plan. The FY 2013 Action Plan covers the third year of the County's Five-Year Consolidated Plan for Fiscal Years 2011-2015.

The Proposed One-Year Action Plan for FY 2013 identifies the proposed use of funds for the four federal programs with an estimated amount of $6.7 million: Community Development Block Grant (CDBG - $4,414,224), HOME Investment Partnerships Program (HOME - $1,405,283), Emergency Solutions Grant (ESG - $469,222), and Housing Opportunities for Persons with AIDS (HOPWA - $438,386). The funding levels used for CDBG, HOME, and ESG are based on formal notification from HUD of actual grant levels. Funding for the HOPWA program is estimated at the FY 2011 expenditure level and actual funding will depend on the final allocation made available to Northern Virginia jurisdictions through the Northern Virginia Regional Commission and the District of Columbia, recipient of the funds. It is estimated that there will be approximately $300,000 in CDBG program income.

The Proposed Action Plan also proposes a reallocation of CDBG funds carried over from prior years. The Proposed Action Plan proposes using CDBG funds totaling $891,106 and HOME funds totaling $335,796 and reallocating them as follows:

CDBG Funds	**Reallocated**
	Prior Year Funds
Fair Housing	$ 41,366
From: Prior Year Fair Housing	($ 41,366)
Affordable Housing Fund (CCFP)	$ 200,420
From: Planning	($ 200,420)
Home Repair for the Elderly Program	$ 75,392
From: Prior Year Home Repair for the Elderly Program	($ 75,392)
Homeownership Program	$ 301,692
From: Prior Year Homeownership Program	($ 301,692)
Relocation Program	$ 198,640
From: Prior Year Relocation Program	($ 198,640)
Senior/Disabled/Homeless Housing	$ 73,596
From: Planning	($ 73,596)

HOME Funds	Reallocated Prior Year Funds
Fair Housing	$ 58,268
From: Prior Year Fair Housing	($ 58,268)
Planning	$ 37,934
From: Prior Year Planning	($ 37,934)
HOME Administration	$ 88,107
From: Prior Year HOME Administration	($ 88,107)
Homeownership Program	$ 10,000
From: HOME Administration	($ 10,000)
Senior/Disabled/Homeless Housing	$ 141,487
From: Prior Year Senior/Disabled/Homeless Housing	($ 141,487)

The Proposed One-Year Action Plan for FY 2013 also includes the first year of the two-year funding cycle for the Consolidated Community Funding Pool (CCFP) for FY 2013-2014. It identifies funding (an estimated $10.7 million in federal, State, and local funds, which includes $1.6 million in FY 2013 CDBG entitlement funds as well as approximately $200,000 in prior year CDBG funds to be reallocated to the CCFP) to be made available to nonprofit organizations for community-based programs that are recommended for awards. The awards are based on the recommendations from the Selection Advisory Committee appointed to review the proposals received through the competitive CCFP solicitation process for FY 2013-2014. However, final awards for FY 2013 are subject to appropriations by the Fairfax County Board of Supervisors, to be decided through the County budget approval process in April 2012.

In addition, the Proposed Consolidated Plan One-Year Action Plan for FY 2013 identifies: (1) various public and private resources available for housing and community development activities; (2) the goals and objectives for the Five-Year Consolidated Plan; and (3) the FY 2013-2014 CCFP funding priorities.

Citizens are also invited to express their views on housing, community development, fair housing, homelessness and community service needs in Fairfax County, as well as comment on Fairfax County's community development performance. The public is encouraged to provide information concerning changes in housing and community service trends since the last Board public hearing on the Consolidated Plan in March 2011.

To Obtain Copies of the Proposed Consolidated Plan One-Year Action Plan for FY 2013:

Copies of the Proposed Consolidated Plan One-Year Action Plan for FY 2013 are available for review on line at http://www.fairfaxcounty.gov/rha, at the Citizen Information Desk located on the lobby level of the Government Center, and at the information desk of all branches of the Fairfax County Public Library system. Copies may be obtained at the Fairfax County Department of Housing and Community Development, 3700 Pender Drive, Suite 300, Fairfax, Virginia 22030. All of the above mentioned locations are accessible to persons with disabilities.

To Testify at the Public Hearing:
Citizens wishing to comment on the Proposed Consolidated Plan One-Year Action Plan for FY 2013 may do so by testifying in person at the Public Hearing on Tuesday, March 20, 2012. All persons wishing to testify may register in advance by calling the Clerk to the Board of Supervisors at 703-324-3151 (TDD 703-324-3903).

To Submit Written Comments:
Citizens wishing to comment on the Proposed Consolidated Plan One-Year Action Plan for FY 2013 may also do so by writing to the attention of Stephen Knippler, Senior Program Manager, at the Department of Housing and Community Development, 3700 Pender Drive, Fairfax, Virginia 22030. The deadline for receipt of written comments on the Proposed One-Year Action Plan for FY 2013 will be 4 p.m. on Monday, March 19, 2012.

For additional information on the Proposed Consolidated Plan One-Year Action Plan for FY 2012, contact the Department of Housing and Community Development at 703-246-5170, TTY: 703-385-3578.

EQUAL HOUSING OPPORTUNITY

Fairfax County is committed to a policy of nondiscrimination in all County programs, services and activities and will provide reasonable accommodations upon request. To request special accommodations call 703-246-5101 or TTY 703-385-3578. Please allow seven working days in advance of the event in order to make the necessary arrangements.

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Board Agenda Item
February 28, 2012

ACTION - 1

Approval of Calendar Year 2012 Forest Pest Management Suppression Program

ISSUE:
Board approval of the Calendar Year 2012 Forest Pest Management Suppression Program.

RECOMMENDATION:
The County Executive recommends that the Board direct staff to take the following actions concerning Fairfax County's Calendar Year 2012 Forest Pest Management Suppression Program:

Gypsy Moth Suppression

a. Conduct a ground treatment program that treats tree damaging gypsy moth infestations identified after the annual program is adopted. Infestations eligible for treatment must meet the regular program criterion of a minimum of 250 egg masses per acre. This ground treatment program will use *Bacillus thuriengiensis* (Bt) according to biological criteria. This program will be limited to a total maximum of 25 acres.

Fall Cankerworm Suppression

a. Conduct a ground treatment program for fall cankerworm for approximately 150 acres in the Mount Vernon and Lee Districts (see attachment I). These areas have been identified by staff to be ones with the potential to experience extreme nuisance problems to homeowners, defoliation and possible tree mortality. This ground treatment program will use Bt according to biological criteria.

b. Conduct a ground treatment program that controls tree-damaging fall cankerworm infestations identified after the annual program is adopted. This ground treatment program will use Bt according to biological criteria. This program will be limited to a total maximum of 75 acres.

Emerald Ash Borer

a. Continue a monitoring program for life stages of the emerald ash borer in

areas of the County that have been identified as high risk by the Virginia Department of Agriculture and Consumer Services (VDACS). Authorize staff to execute a Cooperative Agreement with VDACS in order to obtain Federal funding should it become available. In addition, program staff will continue to inventory the County for ash resources as well as investigate new control methods for EAB, including the use of biological control.

b. Continue to Develop and implement an ash tree management plan that will be used in order to determine the feasibility of protecting specimen ash trees situated on County owned properties.

c. Continue to implement an extensive outreach program.

Hemlock Woolly Adelgid

a. Investigate the feasibility to conduct a control program for hemlock wooly adelgid. This program will be implemented on native stands of eastern hemlock *(Tsuga canadensis)* and will involve monitoring for the pest, releasing parasites and inventorying the County in order to locate native eastern hemlock stands.

Thousand Canker Disease of Walnut

a. Continue to explore the potential impact of this disease that is threatening black walnut (*Juglans nigra*). Continue to provide outreach opportunities for citizens on methods for protecting black walnut trees on their property. Develop and Implement a monitoring program for this disease using traps provided by VDACS.

Sudden Oak Death Disease

a. Continue to conduct a monitoring program in order to determine if Sudden Oak Death Disease is present in Fairfax County.

Asian Longhorned Beetle

a. Continue to develop a long term management plan for the asian longhorned beetle (*Anoplophora glabripennis*).

b. Continue to conduct an outreach program in order to educate the public and private industry on the potential impacts of this pest.

Board Agenda Item
February 28, 2012

TIMING:
Board action is requested on February 28, 2012 in order to provide sufficient notice to residents of the forthcoming treatments.

BACKGROUND:
The Code of the County of Fairfax, Virginia requires the submission of the annual Integrated Pest Management Program proposal for Board of Supervisors' approval.

Gypsy Moth
Based on egg mass surveys conducted during the fall of 2011, staff has determined that gypsy moth populations have remained low. The Forest Pest Program found no infestations of gypsy moth that warrant treatment in calendar year 2012.

Gypsy moth populations, like all insect populations, are cyclical in nature. Periods of high pest levels are followed by periods of low pest levels. There are many factors which influence the timing and duration of pest outbreaks and declines. Staff believes that the current low gypsy moth pest levels are the result of effective treatment programs in the past and abundant rainfall during the spring of recent years. Gypsy moth caterpillars are very susceptible to a moisture dependent fungal disease called *Entomaphaga maimaiga*. This disease is naturally occurring in the environment and can potentially have a dramatic effect on gypsy moth populations if there is sufficient rainfall during the spring when caterpillars are small. It should be noted that all areas that have gypsy moth in the United States have experienced similar population decreases. Fairfax County experienced similar population crashes due to *E. maimaiga* in the mid 1990's and in 2004. Each of these declines were followed by outbreaks in following years. Should undetected populations appear in the spring, staff will have the ability to provide limited ground treatment for these infestations.

Attachment II portrays the cumulative gypsy moth defoliation in Virginia since 1984. This map clearly shows that Fairfax County's gypsy moth suppression program continues to meet its program goals by keeping gypsy moths populations below defoliation levels. Without a diligent program, Fairfax County would have experienced drastic tree mortality and caterpillar nuisance issues.

Fall Cankerworm
Fall cankerworm populations were monitored this winter in those areas of the County that have experienced outbreaks in the past. The method used for this monitoring is a United States Forest Service recommended technique that involves trapping female moths as they emerge in the winter. Results of fall cankerworm monitoring indicate that fall cankerworm populations have increased in the Mount Vernon and Lee magisterial Districts. Staff has identified approximately 150 acres in 9 treatment areas that are

being proposed for ground treatment (see attachment I). Ground treatment is accomplished using local contractors that have the ability to reach the tops of trees using hydraulic spraying equipment. This ground treatment program will use the insecticide Bt according to biological criteria and is voluntary for the residents. Staff will send two first class notification mailings to homeowners and renters that reside in the treatment areas. Notification letters will provide citizens with instructions on how to acquire more information and how to opt out of this treatment if desired. Should undetected populations appear in the spring, staff will have the ability to provide limited ground treatment for these infestations.

Emerald Ash Borer

Emerald ash borer was first identified in Fairfax County in 2003. Due to the extremely destructive nature of this pest, VDACS and the United States Department of Agriculture, Animal Plant Health Inspection Service (APHIS) ordered all ash trees within a ½ mile radius of the introduction site be removed and destroyed. Staff of the Forest Pest Program carried out this project during the spring of 2004 and immediately set in place a monitoring program for EAB.

In July of 2008, three new infestations of EAB were discovered in Fairfax County. These new infestations are in the Town of Herndon, Bailey's Crossroads and in the Newington area. Based on the wide scale of severity of these infestations it was determined that eradication was not feasible. This decision was made by the USDA's National EAB Science Advisory Council. On July 11, 2008, a federal order quarantined Fairfax County for emerald ash borer. All interstate movement of infested ash wood and wood products from Fairfax County is now regulated, including firewood of all hardwood species, nursery stock, green lumber, waste, compost and chips from ash trees. On July 14, 2008, VDACS put in place a similar quarantine for Fairfax County. On July 21, 2008, VDACS expanded the quarantine area to include the counties of Arlington, Fauquier, Loudoun and Prince William and the cities of Alexandria, Fairfax City, Falls Church, Manassas and Manassas Park. In 2010, the quarantine was expanded to include the counties of Clarke and Frederick and the city of Winchester.

VDACS is responsible for enforcement of the state quarantine within the Commonwealth. Violations of the state quarantine constitute a Class 1 misdemeanor. Violations of the federal quarantine governing interstate movement of regulated articles will be enforced by USDA-APHIS and are subject to federal penalties.

VDACS and APHIS have recommended that monitoring continue in Fairfax County and Forest Pest Program staff will assist in this monitoring effort. Monitoring is conducted by placing large purple traps in susceptible high risk areas. Trap placement is determined by known insect populations, probable avenues of insect movement, and by known ash tree density. The information obtained by this monitoring effort will be used

to plan future treatment options and to identify areas that may be suitable for parasite release. Staff conducted similar monitoring efforts since calendar years 2009. Attachment III shows where the know EAB infestations have been detected in Fairfax County to date.

Staff will continue to expand and improve our outreach effort in relation to emerald ash borer. Staff will continue to develop and implement an ash tree management plan that will be used in order to determine the feasibility of protecting specimen ash trees situated on County owned properties.

This insect has the potential to eliminate all ash trees in Fairfax County and will have huge economic impacts to homeowners, parks and private business. Researchers are developing new control options for emerald ash borer and staff will continue to be diligent in monitoring these advances in order to pass them on to the public when appropriate. In recent years, Fairfax County has been eligible for substantial reimbursement of costs associated with this monitoring program through cost share arrangements with APHIS and VDACS. Staff will seek reimbursement for monitoring should it be available in 2012.

Hemlock Woolly Adelgid
Hemlock woolly adelgid is an insect that attacks and kills eastern hemlock (*Tsuga canadensis*) trees (see attachment IV). Native eastern hemlock is relatively rare in Fairfax County. The rarity of this species and the natural beauty that they impart make them worthy of protection. Staff will continue to inventory the County in order to identify the natural stands of eastern hemlock and determine control options as appropriate.

There are a number of methods for providing chemical control to combat HWA. Staff will continue to evaluate the various techniques and may propose treatment in native hemlock stands in the future if appropriate. Any control activities will be presented to the Board for approval at a later time.

Thousand Cankers Disease of Black Walnut
Black walnut (*Juglans nigra*) is a native tree to Fairfax County. Foresters have observed a disease called thousand cankers disease (TCD) that affects black walnut trees in the western United States in recent years, and have identified a beetle that spreads the disease. In the summer of 2010, black walnut trees were observed to be declining near Knoxville, Tennessee. Foresters confirmed that the beetle/disease had been artificially introduced to the eastern United States (see attachment V).

TCD was found in the vicinity of Richmond, VA in the summer of 2011 and, as a result, VDACS established a quarantine to curtail the movement of walnut material in hopes of slowing the spread of this disease. Staff recommends that resources in the form of an

outreach program continue to be developed and implemented in order to monitor for this disease. Key targets of the outreach effort will include homeowners and private tree care companies. According to researchers, detecting the beetle and disease is very difficult. Often the tops of the trees are first affected and branch samples must be examined by peeling bark back and looking for cankers. Tree care companies routinely remove or prune trees for multiple reasons. Staff would like to explore the possibility of partnering with tree care companies in order assist us in monitoring for this disease. Effective trapping techniques are currently being deployed for the walnut twig beetle. Staff hopes to begin trapping for this beetle in the summer of 2012, targeting high risk sites around the County.

Sudden Oak Death

In 1995, a disease was found to be killing oak trees in California. Scientist determined that the disease was caused by a fungus called *Phytophthora ramorum* or sudden oak death (SOD). This disease has caused wide scale tree mortality in the western United States (see Attachment IV). Fortunately, SOD has only been found in a number of isolated locations in the eastern United States and officials feel that these infestations have been contained.

Like other invasive insects and disease, diligent monitoring is critical in slowing the spread of SOD. Recent testing methods have been developed that are simple and cost effective and staff will continue to monitor for this disease. Staff will continue to implement an outreach component that will educate private and public groups on this disease and its control.

Asian Longhorned Beetle

Asian longhorned beetle (*Anoplophora glabripennis*) is currently one of the biggest threats facing the forest ecosystems of Fairfax County. This beetle is an invasive insect that is thought to have been brought to the United States via wood packing material used in shipping (see Attachment VII). Since the mid 1990's, ALB infestations in Chicago, Illinois, New York City, New Jersey and near Boston, Massachusetts have been discovered. Asian longhorned beetle (ALB) will infest many hardwood species but seems to prefer maple species. According to recent analysis conducted by Fairfax County Urban Forest Management, maple species are one of the predominant trees in our urban forest ecosystem. ALB larvae will infest and kill trees by boring into the heartwood of the tree and disrupting its nutrient flow causing eventual tree death.

Wood boring beetles such as EAB and ALB are difficult to detect. Most ALB infestations in the United States have been established for a number of years before being detected. This fact makes eradication particularly difficult since they have had time to spread well beyond the initial site of introduction. ALB has the potential to have drastic economic and social impacts should it be introduced in Fairfax County. It is

critical that private and public tree care experts remain vigilant in monitoring for this pest. According to the United States Forest Service, most of the infestations found in the United States have been identified by tree care professionals and informed homeowners. Staff will continue to develop a management plan that will address issues such as monitoring and outreach.

It should be noted that there are many invasive forest insect pests and diseases that are potential threats to the forests of Fairfax County. Staff will continue to keep informed of developing invasive forest pest issues. Past experience with new insects and diseases has proven that diligent monitoring, detection and prevention are much more cost effective and accepted by the public than control.

FISCAL IMPACT:
Currently, the Forest Pest Program is funded through the Special Service District for the Control of Forest Pests. The total cost to conduct the possible ground treatment for gypsy moth and fall cankerworm is $31,250. The total amount budgeted for FY 2012 for aerial and ground treatments is sufficient for this suppression program.

It is important to note that Fairfax County may be eligible to receive an undetermined portion of the personnel cost associated with emerald ash borer monitoring from the Federal Government should funding become available.

ENCLOSED DOCUMENTS:
Attachment I – Proposed Ground Treatment for Fall Cankerworm, 2012
Attachment II – Gypsy Moth Cumulative Defoliation in Virginia (1984-2009)
Attachment III – Emerald Ash Borer Infestations in Fairfax County – 2012
Attachment IV – United States Forest Service Pest Alert, Hemlock Woolly Adelgid
Attachment V – United States Forest Service Pest Alert, Thousand Cankers Disease
Attachment VI– United States Forest Service Pest Alert, Sudden Oak Death
Attachment VII– United States Forest Service Pest Alert, Asian longhorned Beetle

STAFF:
Robert A. Stalzer, Deputy County Executive
James A. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle Brickner, Deputy Director, Land Development Services, DPWES

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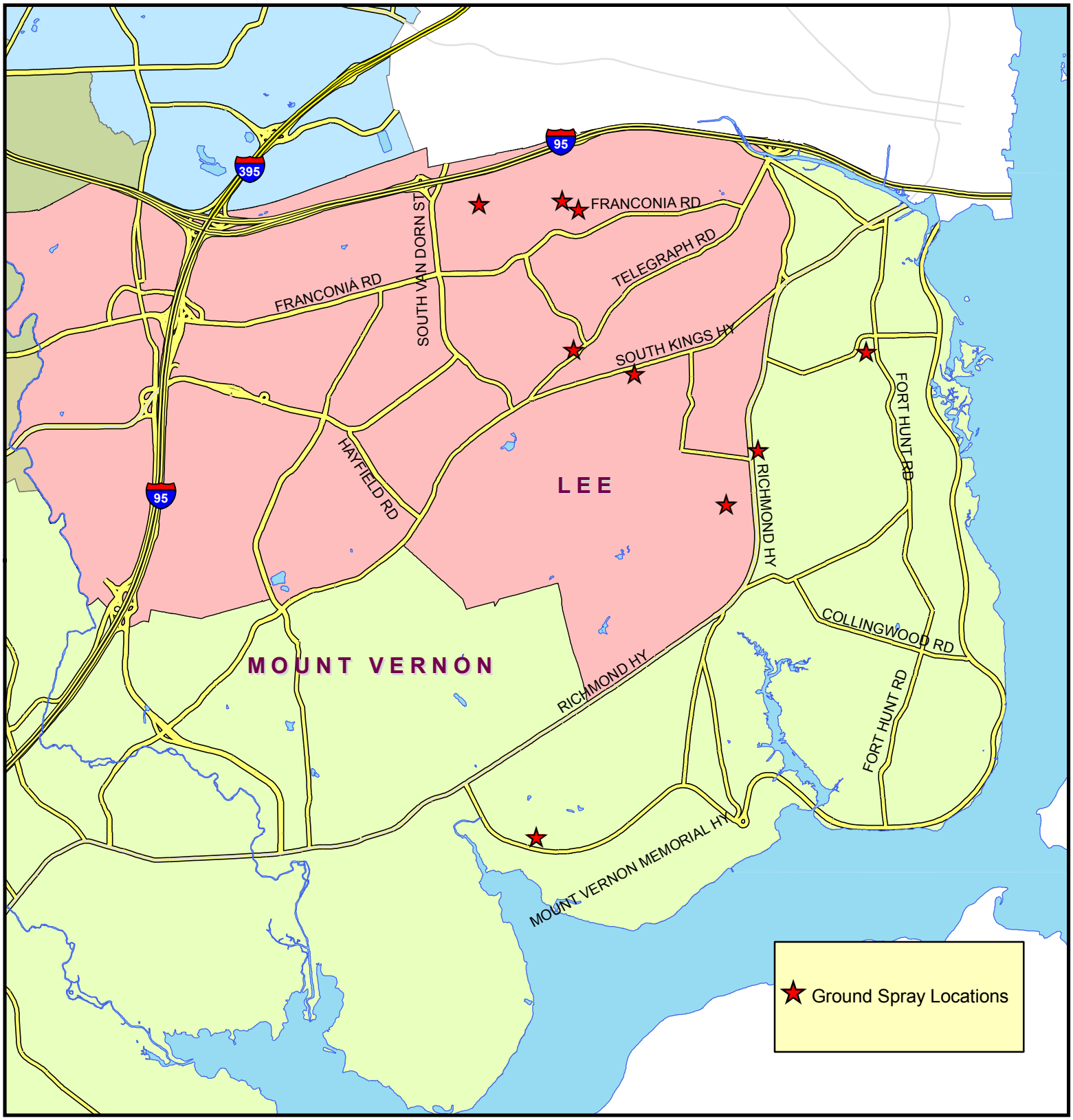
Proposed Ground Treatment for Fall Cankerworm, 2012



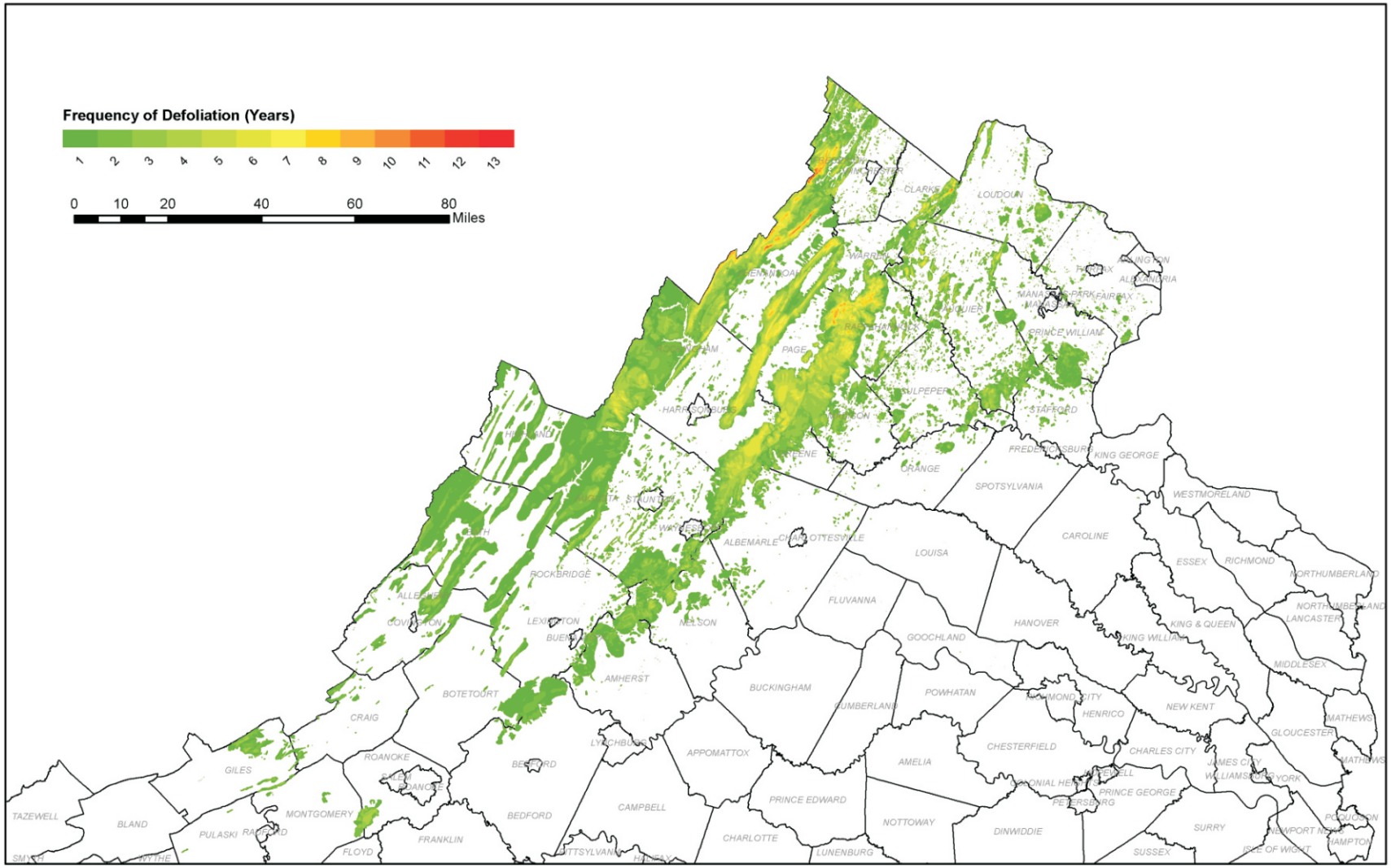
0 0.5 1 2 3 4 Miles

N

Source: Fairfax County Forest Pest Program

Attachment II

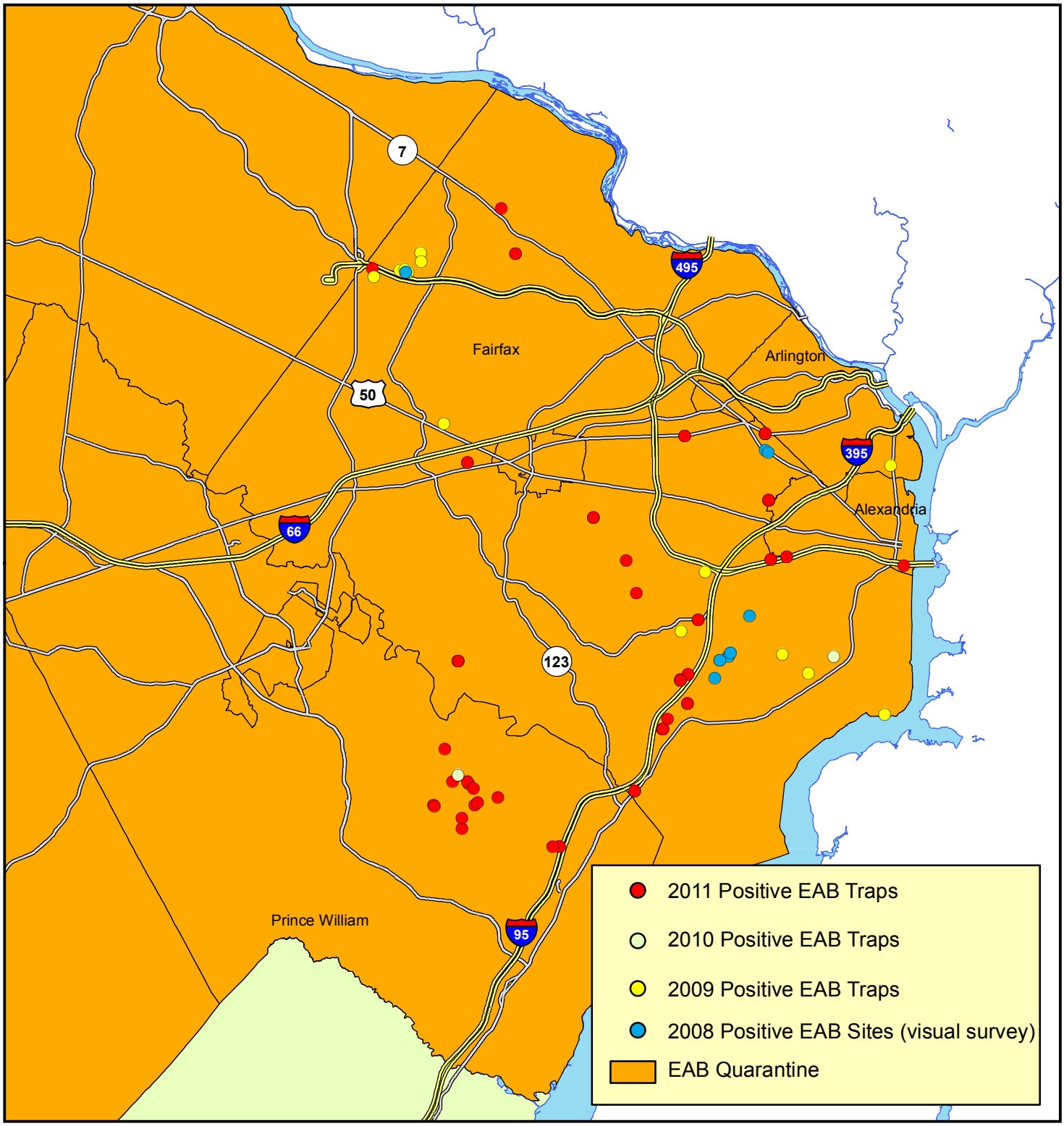
Gypsy Moth Cummulative Defoliation (1984-2009)



Acres affected within Virginia
Total - 2,426,956

Mapped by Todd Edgerton 2/17/2010

Emerald Ash Borer Infestations in Fairfax County-2012



0 2.5 5 10 15 20 Miles

Source: Fairfax County Urban Forest Mamagement

Pest Alert

United States
Department of
Agriculture

Forest Service

Northeastern Area
State and Private Forestry

NA–PR–09–05

August 2005

Hemlock Woolly Adelgid

Native to Asia, the hemlock woolly adelgid (*Adelges tsugae*) is a small, aphidlike insect that threatens the health and sustainability of eastern hemlock (*Tsuga canadensis*) and Carolina hemlock (*Tsuga caroliniana*) in the Eastern United States. Hemlock woolly adelgid was first reported in the Eastern United States in 1951 near Richmond, Virginia. By 2005, it was established in portions of 16 States from Maine to Georgia, where infestations covered about half of the range of hemlock. Areas of extensive tree mortality and decline are found throughout the infested region, but the impact has been most severe in some areas of Virginia, New Jersey, Pennsylvania, and Connecticut.

Hemlock decline and mortality typically occur within 4 to 10 years of infestation in the insect's northern range, but can occur in as little as 3 to 6 years in its southern range. Other hemlock stressors, including drought, poor site conditions, and insect and disease pests such as elongate hemlock scale (*Fiorinia externa*), hemlock looper (*Lambdina fiscellaria fiscellaria*), spruce spider mite (*Oligonychus ununguis*), hemlock borer (*Melanophila fulvogutta*), root rot disease (*Armillaria mellea*), and needlerust (*Melampsora parlowii*), accelerate the rate and extent of hemlock mortality.

Hosts

The hemlock woolly adelgid develops and reproduces on all species of hemlock, but only eastern and Carolina hemlock are vulnerable when attacked. The range of eastern hemlock stretches from Nova Scotia to northern Alabama and west to northeastern Minnesota and eastern Kentucky. Carolina hemlock occurs on dry mountain slopes in the southern Appalachians of western Virginia, North and South Carolina, Georgia, and Tennessee. Eastern hemlock is also commonly planted as a tree, shrub, or hedge in ornamental landscapes. At least 274 cultivars of eastern hemlock are known to exist.

Description

The hemlock woolly adelgid is tiny, less than 1/16-inch (1.5-mm) long, and varies from dark reddish-brown to purplish-black in color. As it matures, it produces a covering of wool-like wax filaments to protect itself and its eggs from natural enemies and prevent them from drying out. This "wool" (ovisac) is most conspicuous when the adelgid is mature and laying eggs. Ovisacs can be readily observed from late fall to early summer on the underside of the outermost branch tips of hemlock trees (figure 1).

FIGURE 1.—Hemlock woolly adelgid ovisacs.

Life History

The hemlock woolly adelgid is parthenogenetic (all individuals are female with asexual reproduction) and has six stages of development: the egg, four nymphal instars, and the adult. The adelgid completes two generations a year on hemlock. The winter generation, the sistens, develops from early summer to midspring of the following year (June–March). The spring generation, the progrediens, develops from spring to early summer (March–June). The generations overlap in mid to late spring.

The hemlock woolly adelgid is unusual in that it enters a period of dormancy during the hot summer months. The nymphs during this time period have a tiny halo of woolly wax surrounding their bodies (figure 2). The adelgids begin to feed once cooler temperatures prevail, usually in October, and continue throughout the winter months.

The ovisacs of the winter generation contain up to 300 eggs, while the spring generation ovisacs contain between 20 and 75 eggs. When hatched, the first instar nymphs, called crawlers, search for suitable feeding sites on the twigs at the base of hemlock needles. Once settled, the nymphs begin feeding on the young twig tissue and remain at that location throughout the remainder of their development. Unlike closely related insects that feed on nutrients in sap, the hemlock woolly adelgid feeds on stored starches. These starch reserves are critical to the tree's growth and long-term survival.

FIGURE 2.—Hemlock woolly adelgid nymphs in dormancy.

FIGURE 3.—Chemical treatment using the soil injection method.

FIGURE 4.—Predators introduced for control in the Eastern United States, left to right (origin): *Sasajiscymnus tsugae* (Japan), *Scymnus sinuanodulus* (China), and *Laricobius nigrinus* (Western North America).

Dispersal and movement of hemlock woolly adelgid occur primarily during the first instar crawler stage as a result of wind and by birds, deer, and other forest-dwelling mammals that come in contact with the sticky ovisacs and crawlers. Isolated infestations and long-distance movement of hemlock woolly adelgid, though, most often occur as the result of people transporting infested nursery stock.

Control

Cultural, regulatory, chemical, and biological controls can reduce the hemlock woolly adelgid's rate of spread and protect individual trees. Actions such as moving bird feeders away from hemlocks and removing isolated infested trees from a woodlot can help prevent further infestations. State quarantines help prevent the movement of infested materials into noninfested areas.

Chemical control options, such as foliar sprays using horticultural oils and insecticidal soaps, are effective when trees can be saturated to ensure that the insecticide comes in contact with the adelgid. Several systemic insecticides have also proven effective on large trees when applied to the soil around the base of the tree or injected directly into the stem (figure 3). Chemical control is limited to individual tree treatments in readily accessible, nonenvironmentally sensitive areas; it is not feasible in forests, particularly when large numbers of trees are infested. Chemical treatments offer a short-term solution, and applications may need to be repeated in subsequent years.

The best option for managing hemlock woolly adelgid in forests is biological control. Although there are natural enemies native to Eastern North America that feed on hemlock woolly adelgid, they are not effective at reducing populations enough to prevent tree mortality. Therefore, biological control opportunities using natural enemies (predators and pathogens) from the adelgid's native environment are currently being investigated. Several predators known to feed exclusively on adelgids have been imported from China, Japan, and Western North America and are slowly becoming established throughout the infested region (figure 4). It will likely take a complex of natural enemies to maintain hemlock woolly adelgid populations below damaging levels. Efforts to locate, evaluate, and establish other natural enemies continue.

Pesticide Precautionary Statement

Pesticides used improperly can be injurious to humans, animals, and plants. Follow the directions and heed all precautions on the labels.

Note: Some States have restrictions on the use of certain pesticides. Check your State and local regulations. Also, because registrations of pesticides are under constant review by the Federal Environmental Protection Agency, consult your county agricultural agent or State extension specialist to be sure the intended use is still registered.

For additional information or copies of this publication, visit http://www.na.fs.fed.us/fhp/hwa.

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Newtown Square, PA 19073
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Pest Alert

United States
Department of Agriculture
Forest Service
Northeastern Area
State and Private Forestry
NA–PR–02–10
Revised August 2010

Thousand Cankers Disease

Dieback and mortality of eastern black walnut (*Juglans nigra*) in several Western States have become more common and severe during the last decade. A tiny bark beetle is creating numerous galleries beneath the bark of affected branches, resulting in fungal infection and canker formation. The large numbers of cankers associated with dead branches suggest the disease's name—*thousand cankers disease*.

The principal agents involved in this disease are a newly identified fungus (*Geosmithia* sp. with a proposed name of *Geosmithia morbida*) and the walnut twig beetle (*Pityophthorus juglandis*). Both the fungus and the beetle only occur on walnut species. An infested tree usually dies within 3 years of initial symptoms.

Thousand cankers disease has been found in many Western States (figure 1). The first confirmation of the beetle and fungus within the native range of black walnut was in Tennessee (July 2010). The potential damage of this disease to eastern forests could be great because of the widespread distribution of eastern black walnut, the susceptibility of this tree species to the disease, and the capacity of the fungus and beetle to invade new areas and survive under a wide range of climatic conditions in the west.

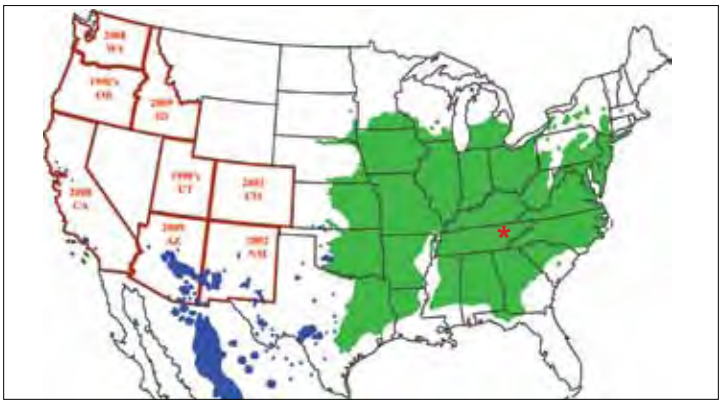

Figure 1. Thousand cankers disease occurs in eight western states (outlined in red) and in the east was first confirmed in Knoxville, TN in July 2010 (see *). In the west the year when symptoms were first noted is given. Native distributions of four species of western walnuts (blue) and eastern black walnut (green) are also shown. Eastern black walnut is widely planted in the West, but not depicted on this map.

Figure 2. Wilting black walnut in the last stages of thousand cankers disease.

Disease Symptoms

The three major symptoms of this disease are branch mortality, numerous small cankers on branches and the bole, and evidence of tiny bark beetles. The earliest symptom is yellowing foliage that progresses rapidly to brown wilted foliage, then finally branch mortality (figure 2). The fungus causes distinctive circular to oblong cankers in the phloem under the bark, which eventually kill the cambium (figure 3). The bark surface may have no symptoms, or a dark amber stain or cracking of the bark may occur directly above a canker. Numerous tiny bark beetle entrance and exit holes are visible on dead and dying branches (figure 4), and bark beetle galleries are often found within the cankers. In the final stages of disease, even the main stem has beetle attacks and cankers.

Figure 3. Small branch cankers caused by *Geosmithia morbida*.

Geosmithia sp.

Members of the genus *Geosmithia* have not been considered to be important plant pathogens, but

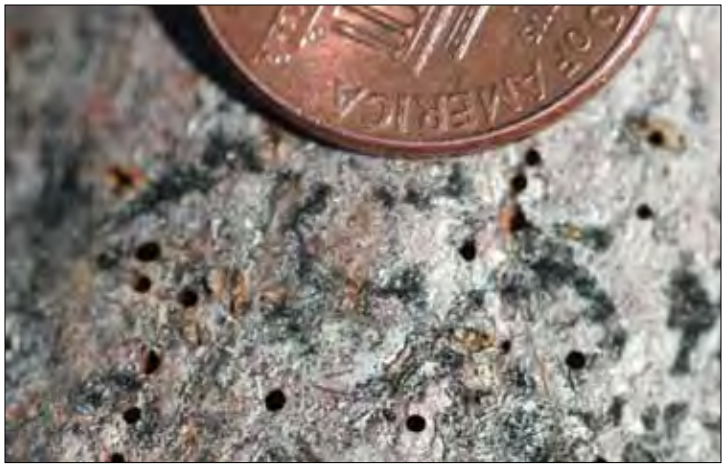

Figure 4. Exit holes made by adult walnut twig beetles.

Geosmithia morbida appears to be more virulent than related species. Aside from causing cankers, the fungus is inconspicuous. Culturing on agar media is required to confirm its identity. Adult bark beetles carry fungal spores that are then introduced into the phloem when they construct galleries. Small cankers develop around the galleries; these cankers may enlarge and coalesce to completely girdle the branch. Trees die as a result of these canker infections at each of the thousands of beetle attack sites.

Walnut Twig Beetle

The walnut twig beetle is native to Arizona, California, and New Mexico. It has invaded Colorado, Idaho, Oregon, Utah, and Washington where walnuts have been widely planted. The beetle has not caused significant branch mortality by itself. Through its association with this newly identified fungus, it appears to have greatly increased in abundance. Adult beetles are very small (1.5 to 2.0 mm long or about 1/16 in) and are reddish brown in color (figure 5). This species is a typical-looking bark beetle that is characterized by its very small size and four to six concentric ridges on the upper surface of the pronotum (the shield-like cover behind and over the head) (figure 5A). Like most bark beetles, the larvae are white, C shaped, and found in the phloem. For this species, the egg galleries created by the adults are horizontal (across the grain) and the larval galleries tend to be vertical (along the grain) (figure 6).

Survey and Samples

Visually inspecting walnut trees for dieback is currently the best survey tool for the Eastern United States. Look for declining trees with the symptoms described above. If you suspect that your walnut trees have thousand cankers disease, collect a branch 2 to 4 inches in diameter and 6 to 12 inches long that has visible symptoms. Please submit branch samples to your State's plant diagnostic clinic. Each State has a clinic that is part of the National Plant Diagnostic Network (NPDN). They can be found at the NPDN Web site (www.npdn.org). You may also contact your State Department of Agriculture, State Forester, or Cooperative Extension Office for assistance.

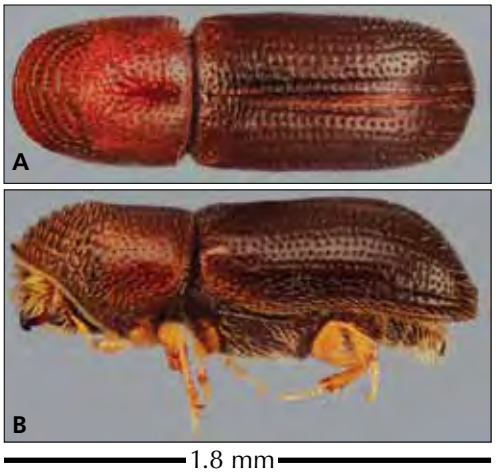

Figure 5. Walnut twig beetle: top view (A) and side view (B).

Figure 6. Walnut twig beetle galleries under the bark of a large branch.

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Andrew Graves, Postdoctoral Research Associate, UC-Davis, Department of Plant Pathology

Photographs:
Figure 1: Andrew Graves
Figure 2: Manfred Mielke, U.S. Forest Service
Figures 3, 4, 6: Whitney Cranshaw, Colorado State University, www.forestryimages.org
Figure 5: Steve Valley, Oregon Department of Agriculture

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Pest Alert

United States
Department of Agriculture
Forest Service
State and Private Forestry
Northeastern Area

NA-PR-02-02
January 2002

Sudden Oak Death

Oak mortality is caused by a new pathogen, Phytophthora ramorum

In California Phytophthora ramorum **causes crown symptoms and tree mortality.**

A phenomenon known as Sudden Oak Death was first reported in 1995 in central coastal California. Since then, tens of thousands of tanoaks (Lithocarpus densiflorus), coast live oaks (Quercus agrifolia), and California black oaks (Quercus kelloggii) have been killed by a newly identified fungus, Phytophthora ramorum. On these hosts, the fungus causes a bleeding canker on the stem. The pathogen also infects Rhododendron spp., huckleberry (Vaccinium ovatum), bay laurel (Umbellularia californica), madrone (Arbutus menziesii), bigleaf maple (Acer macrophyllum), manzanita (Arctostaphylos manzanita), and California buckeye (Aesculus californica). On these hosts the fungus causes leaf spot and twig dieback.

As of January 2002, the disease was known to occur only in California and southwestern Oregon; however, transporting infected hosts may spread the disease. The pathogen has the potential to infect oaks and other trees and shrubs elsewhere in the United States. Limited tests show that many oaks are susceptible to the fungus, including northern red oak and pin oak, which are highly susceptible.

On oaks and tanoak, cankers are formed on the stems. Cankered trees may survive for one to several years, but once crown dieback begins, leaves turn from green to pale yellow to brown within a few weeks. A black or reddish ooze often bleeds from the cankers, staining the surface of the bark and the lichens that grow on it. Bleeding ooze may be difficult to see if it has dried or has been washed off by rain, although remnant dark staining is usually present.

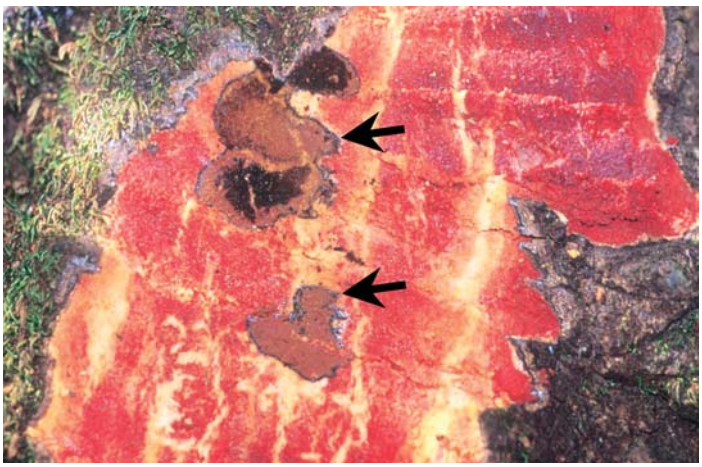
Necrotic bark tissues surrounded by black zone lines are usually present under affected bark. Because these symptoms can also be caused by other Phytophthora species, laboratory tests must be done to confirm pathogen identity.

In the Eastern United States, other disorders of oaks have similar symptoms. See the reverse of this sheet for descriptions. If unusual oak mortality occurs and symptoms do not match these regional disorders, evaluate affected trees for Phytophthora ramorum.

In the United States, sudden oak death is known to occur only along the west coast. However, the fact that widely traded rhododendron ornamentals can be infected with the pathogen and the demonstrated susceptibility of some important eastern oaks make introduction to eastern hardwood forests a significant risk. Early detection will be important for successful eradication. Oaks defoliated early in the growing season by insects or pathogens may appear dead, but leaves usually reflush later in the season. Canker rots, slime flux, leaf scorch, root diseases, freeze damage, herbicide injury, and other ailments may cause symptoms similar to those caused by P. ramorum. Oak wilt, oak decline, and red oak borer damage are potentially the most confusing. See the reverse of this sheet for comparisons with sudden oak death symptoms.

To report infected trees or to receive additional information, please contact your State or Federal forest health specialist. On the Internet, visit the SOD home page at www.suddenoakdeath.org. To distinguish this new disease from diseases with similar appearance, visit www.na.fs.fed.us/SOD.

Ooze bleeds from a canker on an infected oak.



Black zone lines are found under diseased bark in oak.

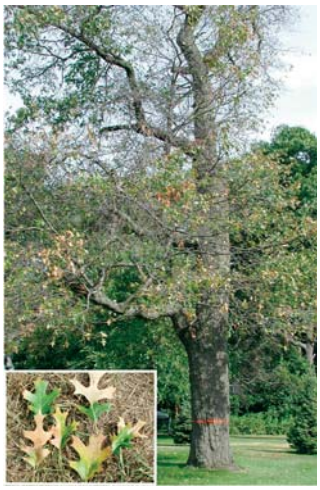
Eastern Oak Disorders That Resemble Sudden Oak Death

In eastern hardwood forests, sudden oak death can be confused, in particular, with oak wilt, oak decline, and red oak borer damage. Descriptions of these disorders and comparisons with sudden oak death follow.

Oak Wilt

Oak wilt is an aggressive fungus disease caused by Ceratocystis fagacearum. It is one of the most serious diseases in the Eastern United States, killing thousands of oak trees in forests, woodlots, and home landscapes. Susceptible hosts include most oaks in the red oak group and Texas live oak. Symptoms include wilting and discoloration of the foliage, premature leaf drop, and rapid death of the tree within days or weeks of the first symptoms. Trees become infected with oak wilt in two ways: through connections between root systems of adjacent trees, and through insects that carry the fungus to other trees that have been wounded.

Similarities: Oak wilt can also kill trees very quickly, especially if infection begins through root grafts. Differences: The oak wilt pathogen does not cause cankers on the stems, and no bleeding is associated with this disease. Dark staining may be evident under the bark of trees with oak wilt, but there are no conspicuous zone lines. Oak wilt typically causes red oak leaves to turn brown around the edges while the veins remain green. Leaves are rapidly shed as the tree dies. Conversely, in live oak with the sudden oak death pathogen, the veins first turn yellow and eventually turn brown. Leaves are often retained on the tree after it dies.



Oak wilt quickly kills most infected trees. Wilting leaves turn brown at the margins (inset) and fall as the tree dies.

Oak Decline

Oak decline is a slow-acting disease complex that can kill physiologically mature trees in the upper canopy. Decline results from interactions of multiple stresses, such as prolonged drought and spring defoliation by late frost or insects, opportunistic root disease fungi such as Armillaria mellea, and inner-bark-boring insects such as the twolined chestnut borer and red oak borer. Progressive dieback of the crown is the main symptom of oak decline and is an expression of an impaired root system. This disease can kill susceptible oaks within 3-5 years of the onset of crown symptoms. Oak decline occurs throughout the range of eastern hardwood forests, but is particularly common in the Southern Appalachian Mountains in North Carolina, Tennessee, and Virginia, as well as the Ozark Mountains in Arkansas and Missouri.

Similarities: Oak decline can cause death of many oaks on a landscape scale. Moist, dark stains may be present on the trunk of trees affected by oak decline. Differences: Oak decline shows evidence that dieback has occurred over several years from the top down and outside inward. Newly killed branches with twigs attached are usually found in the same crown as those in a more advanced state of deterioration killed years before. Dieback associated with sudden oak death occurs over a growing season or two. The inner bark beneath the dark stain associated with stem-boring-insect attacks has a discrete margin with no zone lines or evidence of canker development beyond the attack site.

Oak decline can take years to kill an entire tree.

Red Oak Borer

Red oak borer (Enaphalodes rufulus (Haldeman)) attacks oaks of both red and white groups throughout the eastern United States, but prefers members of the red oak group; however, it does not kill trees. Outbreaks are associated with stressed trees that eventually die from oak decline. The complete life cycle takes 2 years. Adults are 1-1.5 inches long with antennae one to two times as long as the body. Larvae are the damaging life stage. Adult females lay eggs in mid-summer in refuges in the crevices of the bark. Newly hatched larvae bore into the phloem, where they mine an irregular burrow 0.5-1 inch in diameter before fall. In spring and summer of the second year, dark, moist stains and fine, granular frass may be seen on the trunk. Exposure of the inner bark reveals the frass-packed burrow and the larva, if it has not bored more deeply into the wood to complete development. Mature larvae are stout, round-headed grubs about 2 inches long before they pupate deep in the wood.

Similarities: Moist, dark stains and fine frass may be present at sites of red oak borer attack. Differences: With red oak borer the inner bark beneath the dark stain contains a frass-packed burrow and has a discrete margin with no zone lines or evidence of canker development beyond it.

Tunnels in the inner bark indicate the presence of red oak borer.

For further information on related disorders:

Oak Wilt: http://www.na.fs.fed.us/spfo/pubs/howtos/ht_oakwilt/toc.htm
Oak Decline: http://www.na.fs.fed.us/spfo/pubs/fidls/oakdecline/oakdecline.htm
Red Oak Borer: http://www.na.fs.fed.us/spfo/pubs/fidls/Red%20Oak%20Borer/redoak.htm
Other Pest Publications: http://www.na.fs.fed.us/spfo/fth_pub.htm

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Pest Alert

United States
Department of Agriculture

Forest Service

**Animal and Plant
Health Inspection Service**

NA-PR-01-99GEN
Revised August 2008

Asian Longhorned Beetle *(Anoplophora glabripennis):*

A New Introduction

The Asian longhorned beetle (ALB) has been discovered attacking trees in the United States. Tunneling by beetle larvae girdles tree stems and branches. Repeated attacks lead to dieback of the tree crown and, eventually, death of the tree. ALB probably travelled to the United States inside solid wood packing material from China. The beetle has been intercepted at ports and found in warehouses throughout the United States.

This beetle is a serious pest in China, where it kills hardwood trees in roadside plantings, shelterbelts, and plantations. In the United States the beetle prefers maple species (*Acer* spp.), including ***boxelder, Norway, red, silver,*** and ***sugar maples***. Other preferred hosts are ***birches, Ohio buckeye, elms, horsechestnut,*** and ***willows***. Occasional to rare hosts include ***ashes, European mountain ash, London planetree, mimosa,*** and ***poplars***. A complete list of host trees in the United States has not been determined.

Currently, the only effective means to eliminate ALB is to remove infested trees and destroy them by chipping or burning. To prevent further spread of the insect, quarantines are established to avoid transporting infested trees and branches from the area. Early detection of infestations and rapid treatment response are crucial to successful eradication of the beetle.

The ALB has one generation per year. Adult beetles are usually present from July to October, but can be found later in the fall if temperatures are warm. Adults usually stay on the trees from which they emerged or they may disperse short distances to a new host to feed and reproduce. Each female usually lays 35-90 eggs during her lifetime. Some are capable of laying more than that. The eggs hatch in 10-15 days. The larvae feed under the bark in the living tissue of the tree for a period of time and then bore deep into the wood where they pupate. The adults emerge from pupation sites by boring a tunnel in the wood and creating a round exit hole in the tree.

For more information about Asian longhorned beetle in the United States, visit these U.S. Department of Agriculture Web sites:

www.na.fs.fed.us/fhp/alb/

www.aphis.usda.gov/plant_health/plant_pest_info/asian_lhb/index.shtml

If you suspect an Asian longhorned beetle infestation, please collect an adult beetle in a jar, place the jar in the freezer, and immediately notify any of these officials or offices in your State:

State Department of Agriculture:
- State Plant Regulatory Official
- State Entomologist

U.S. Department of Agriculture:
- Animal and Plant Health Inspection Service, Plant Protection and Quarantine
- Forest Service

County Cooperative Extension Office
State Forester or Department of Natural Resources

Asian Longhorned Beetle
WHAT TO LOOK FOR:

1. Adult beetles. Individuals are ¾ to 1¼ inches long, with jet black body and mottled white spots on the back. The long antennae are 1½ to 2½ times the body length with distinctive black and white bands on each segment. The feet have a bluish tinge.

2. Oval to round pits in the bark. These egg-laying sites or niches are chewed out by the female beetle, and a single egg is deposited in each niche.

3. Oozing sap. In the summer, sap may flow from egg niches, especially on maple trees, as the larvae feed inside the tree.

4. Accumulation of coarse sawdust around the base of infested trees, where branches meet the main stem, and where branches meet other branches. This sawdust is created by the beetle larvae as they bore into the main tree stem and branches.

5. Round holes, 3/8 inch in diameter or larger, on the trunk and on branches. These exit holes are made by adult beetles as they emerge from the tree.

Photo Sources:

USDA Forest Service

USDA Animal and Plant Health Inspection Service

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Board Agenda Item
February 28, 2012

ACTION - 2

Approval of the New Contract for the Purchase of Electric Service with the Northern Virginia Electric Cooperative

ISSUE:
The County's existing contract for electric service from the Northern Virginia Electric Cooperative (NOVEC) has expired and a new contract has been negotiated.

RECOMMENDATION:
The Board of Supervisors is requested to approve the attached contract with NOVEC.

TIMING:
The contract is currently in effect on an interim basis. The Board is requested to approve the new contract to ensure that the new lower electric rates will continue to apply through January 31, 2016.

BACKGROUND:
The Local Governments Customer Group ("Customer Group") contract with NOVEC for electricity services expired on January 31, 2011. In the summer of 2010 and in anticipation of the contract expiration, the Customer Group and NOVEC initiated discussions on a new contract.

On October 12, 2010, NOVEC requested a $950,000 (4.2%) annual rate increase from local governments or an increase of $125,600 per year for Fairfax County accounts (includes General County, schools, park authority and water authority accounts). The Customer Group did not agree to the implementation of the rate increase, and in the alternative persuaded NOVEC to keep the existing contract rates in-place until a final order was issued by the State Corporation Commission (SCC) in NOVEC's pending rate case (note: although local government rates are not set by the SCC, there are certain rate parameters decided by the SCC that all parties have agreed to follow). A true-up of existing rates and new contract rates was agreed to by the Customer Group and NOVEC following successful negotiation of a new contract.

Following the SCC's final order in NOVEC's rate case in June 2011, and further negotiations between the parties, the Local Government Customer Group and NOVEC agreed on November 29, 2011 to new contract terms that called for a $90,000 (0.4%) rate decrease or an $11,790 per year decrease for Fairfax County accounts over rates currently in effect.

The contract rate reduction will result in the following estimated cost savings over the increased rates proposed by NOVEC:

- General County - $23,555 per year ($117,775 over 5 years)
- Fairfax County Public Schools - $95,060 per year ($475,300 over 5 years)
- Park Authority - $6,132 per year ($30,658 over 5 years)
- Water Authority - $12,224 per year ($61,119 over 5 years)
- Total County Agency Savings - $136,970 per year ($684,850 over 5 years)

Not all rate schedules will receive rate decreases. While the majority of the county's electricity usage falls within rate schedules that will see decreases, two of the rate schedules (outdoor and athletic field lighting) will see rate increases. Below is a summary of rate impacts by customer class (rate schedules):

- Small Power Secondary: 2.39% decrease.
- Large Power Secondary: 1.96% decrease.
- Electrical Schools: 3.54% decrease
- Athletic Field Lighting: 7.83% increase
- Outdoor Lighting (streetlights): 31.51% increase

Rate changes became effective on an interim basis on November 1, 2011 pending approval by the Board. Rate changes are not identical across all rate schedules because the cost of serving particular customer classes varies. NOVEC's cost of service study indicated that several customer classes were under-recovering based on the cost of serving those customers. Only one of those schedules affects Fairfax County accounts and that is Outdoor Lighting (streetlights) which will experience a 31.51% increase in rates. To help soften the high rate increase for streetlights, the customer group has negotiated with NOVEC to implement only 50% of the increase November 1, 2011, with the full increase from the new rates being implemented starting November 1, 2012.

The Local Government Customer Group, represented counties, cities and towns in Fairfax, Prince William, Loudoun, Stafford, and Fauquier in the contract negotiations with NOVEC. NOVEC serves portions of the Chantilly, Centreville and Clifton areas of Fairfax County.

The negotiations have been concluded and the amendments will be effective through the term of the contract upon approval by the Board. The County was represented on the Customer Group negotiation team by the Public Utilities Branch in the Department of Cable and Consumer Services. The consulting firm of Columbia Group, Inc., and the

law firm of Christian & Barton, L.L.P., assisted the Customer Group during the negotiations.

FISCAL IMPACT:
The Contract will provide the County with immediate electricity cost savings, and should provide relative rate stability through January 31, 2016.

ENCLOSED DOCUMENTS:
Attachment 1 - Amended and Restated Contract between Northern Virginia Electric Cooperative (NOVEC) and Northern Virginia Electric Cooperative Local Government Customer Group

STAFF:
David J. Molchany, Deputy County Executive
Michael Liberman, Director, Department of Cable and Consumer Services
Steve Sinclair, Chief, Public Utility Branch, DCCS

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2011 AMENDED AND RESTATED CONTRACT BETWEEN NORTHERN VIRGINIA ELECTRIC COOPERATIVE AND NORTHERN VIRGINIA ELECTRIC COOPERATIVE LOCAL GOVERNMENT CUSTOMER GROUP

This contract, dated as of this ____day of _____, 2011 ("2011 Amended and Restated Contract" or "this Contract"), between the Northern Virginia Electric Cooperative ("NOVEC"), an electric utility cooperative that provides service to customers within its authorized service territory, and the Northern Virginia Electric Cooperative Local Government Customer Group ("Customer Group") consisting of Prince William County, Prince William County School Board, Prince William County Park Authority, Prince William County Service Authority, Fairfax County, Fairfax County School Board, Fairfax County Water Authority, Fairfax County Park Authority, Loudoun County, Loudoun County School Board, the Upper Occoquan Sewage Authority ("UOSA"), Fauquier County, Fauquier County Public Schools, Fauquier County Water & Sanitation Authority, Loudoun County Sanitation Authority, and the Town of Leesburg, which are customers of NOVEC, provides as follows:

Whereas, the Customer Group is not subject to the jurisdiction of the Virginia State Corporation Commission ("SCC") for the purpose of establishing rates, terms and conditions of service for electric utility service; and

Whereas, both NOVEC and the Customer Group agree that it is necessary to establish separate customer rates, terms and conditions of service for the Customer Group because the Customer Group is not subject to the jurisdiction of the SCC; and

Whereas, there is no provider of electric distribution or generation services other than NOVEC, that can currently supply the Customer Group with a long-term contract for electric distribution and generation services; and

Whereas, the Customer Group is desirous of entering into a long-term contract for electric distribution and generation services; and

Whereas, the relationship and terms between NOVEC and the Customer Group are currently governed by the Amended and Restated Contract between Northern Virginia Electric Cooperative and Northern Virginia Electric Cooperative Customer Group entered into effective February 1, 2005, as amended by the 2008 contract re-opener and by the December 17, 2008 and the December 23, 2008 correspondence between the Customer Group and NOVEC concerning the calculation of purchased power costs following NOVEC's departure from the Old Dominion Electric Cooperative (the "2005 Contract"); and

Whereas, NOVEC and Customer Group wish to amend and restate the 2005 Contract on the terms and conditions set forth below as the 2011 Amended and Restated Contract.

The parties hereby agree as follows:

1. The Customer Group will purchase all of its electrical requirements from NOVEC during the term of this Contract except that the Customer Group reserves, and NOVEC acknowledges, that current or future self-generation of electricity by any member of the Customer Group for its own purposes shall be allowed and shall not be affected by this Contract as long as such self-generation is consistent with Virginia law. If the Customer Group's right to exercise customer choice under Virginia law conflicts at any time with the Customer Group's obligations under Section 1 of this 2011 Amended and Restated Contract, the terms of this Section 1 shall control.

2. This Contract shall be effective as of February 1, 2011 and shall terminate on January 31, 2016, except as provided in Section 11 of this Contract.

3. Whether retail competition is effective in Virginia or not effective, during the term of this Contract, rates for NOVEC services (i.e., distribution and generation services) shall be based on generally accepted cost of service rate making principles consistent with the cost of service rate making principles utilized for the contract negotiations for this Contract, to the extent practical. NOVEC's generation services will have an energy supply service (ESS) component and a power cost adjustment (PCA) component. The capacity, transmission, and other demand costs charged in the ESS to the Customer Group shall be based on the costs imposed by the Customer Group using the five coincident peak (5 CP) method for generation capacity and using the one coincident peak (1 CP) method for transmission. The PCA rate will be initially set at zero and reset annually based on the difference between system purchased power revenue and system purchased power costs, and the PCA rate will be collected on a uniform kWh basis across all CG rate schedules. The PCA rate will be adjusted on an annual basis. The ESS rate will remain the same throughout the term of this contract with two exceptions. The first exception is that, from January 1, 2012 to December 31, 2012, a direct rate credit of $.0004/kWh (approximately $112,000 for the entire Customer Group) will be implemented as an adjustment of the new ESS rate shown on Exhibit A attached to this Contract ("**Exhibit A**") to offset the differential between the Customer Group under-recovery balance as of January 31, 2011 and that of all other NOVEC customers already subject to PCA-1. The second exception is that the ESS rate shall be reset to recover the costs for generation service imposed by the Customer Group if the system-wide average cost of power increases or decreases more than 10% relative to the initial system average cost of purchased power reflected in the new ESS rate shown on **Exhibit A;** at the same time, the PCA shall be reset to zero except as needed to true up to a prior period over or under recovery, but not under any circumstance would NOVEC be required to bill a separate PCA for the CG. The Customer Group has the right to examine NOVEC's purchased power costs relevant to ESS and PCA rates charged and proposed to be charged during the term of this Contract at two points: after January 1, 2013 and at the end of the term of this Contract. The Customer Group, in addition, may examine Account 557 costs and reserves for future potential liabilities (a) as part of resetting the ESS rate based on falling outside the 10% bandwidth and (b) at the termination of this Contract. The Customer Group has the right to have NOVEC propose a reasonable solution and implement it in order to correct any issues required for compliance with this Contract. NOVEC agrees to work in good faith with the Customer Group to resolve any issues raised by such examinations.

4. Both NOVEC and the Customer Group agree that the Upper Occoquan Sewage Authority's (UOSA)'s main plant facility is governed by a separate T-41 electric load contract that is not subject to the provisions of this Contract.

5. NOVEC agrees to pass on to the Customer Group as rate reductions any decreases in the cost of purchased power, whether capacity or energy related, during the term of this Contract. The Customer Group agrees to pay NOVEC any increases in power supply costs that NOVEC incurs, whether capacity or energy related, during the term of this Contract. NOVEC will provide to the Chair of the Customer Group, by April 1st of each year that this Contract is in effect, the documentation provided by NOVEC to the SCC to adjust the PCA each year for the customers subject to rate regulation by the SCC. In addition, if not already provided pursuant to the foregoing sentence, NOVEC agrees to provide the Customer Group, upon receiving a confidentiality agreement executed by the Customer Group Chair, the requested data and calculations required for the Customer Group to understand and replicate the annual PCA applicable to the Customer Group so that the Customer Group can confirm whether any decrease or increase in the cost of purchased power has been properly reflected in the PCA applicable to the Customer Group. NOVEC agrees to work in good faith with Customer Group to resolve any issues raised by such review.

6. The rates, terms and conditions of service for the Customer Group shall also apply to all new loads of the Customer Group, subject to the self-generation described and defined in Section 1 of this Contract.

7. In order for the rates, terms and conditions of this Contract to become effective for any member of the Customer Group, this Contract must be ratified by NOVEC's Board of Directors and an authorized governmental official of each member of the Customer Group. In the event any member of the Customer Group does not provide the necessary authorization, the rates, terms and conditions of service shall be effective between NOVEC and the members of the Customer Group that have received the authorizations required by law.

8. NOVEC will provide to the Chair of the Customer Group the annual determinations and supporting documentation of all class peak demand allocators (including the 1-CP, 5-CP, and Class NCP). In addition, NOVEC will provide the results of any new or updates to its load research studies upon request.

9. NOVEC agrees to revise the rate schedules of the Customer Group as described in Section 12 below. The Customer Group and NOVEC further agree, subsequent to the execution of this contract, to meet, if necessary, to discuss and negotiate in good faith any existing or proposed terms and conditions that may require discussion and possible modification. Such modifications shall be mutually agreed to by both parties in writing and become an amendment to this Contract. Until any terms or conditions are modified, the terms and conditions that are applicable to NOVEC's SCC service shall control, except that in the event there is a discrepancy between the terms and conditions on file at the SCC and this Contract, this Contract shall control and take precedence.

10. NOVEC agrees that future rates, terms and conditions of service for the Customer Group will not be discriminatory. NOVEC also agrees that the method of distribution of capital

credits shall be the same for the Customer Group as for customers subject to rate regulation by the SCC. NOVEC shall allocate and assign capital credits to the Customer Group based on the fully allocated cost of service applicable to the Customer Group each year during the term of this Contract and shall annually provide a copy of such cost of service study to the Chair of the Customer Group. The Customer Group understands that to the extent the allocation and distribution of capital credits is a function of operating margins, that the lower negotiated rates will provide less operating margins assuming costs are equal. NOVEC and the Customer Group agree that future rates, terms and conditions of service for the Customer Group will not be discriminatory to either party. Exhibit C attached to this Contract (**"Exhibit C"**) illustrates the old methodology used by NOVEC for allocating capital credits to Customer Group members. By August 1, 2012, NOVEC shall prepare a mutually acceptable new Exhibit C to illustrate how capital credits will be allocated and assigned based on the fully allocated cost of service applicable to the Customer Group. NOVEC will provide to the Chair of the Customer Group by December 1st of each year that this Contract is in effect the total amount of capital credits allocated to the Customer Group by rate class and the total amount retired if applicable in any given year, including documentation that will allow the Customer Group to confirm and to replicate how the Customer Group's capital credits are being allocated and assigned to the Customer Group based on the Customer Group's fully allocated cost of service. If the Customer Group requests information which is beyond that provided in the foregoing sentence and which requires custom reports that are currently not available by NOVEC's Customer Information System, such as reporting by Customer Group jurisdictions, the Customer Group will be charged at the reasonable costs for any program modifications that are needed to produce such reports.

11. The effective date of this Contract shall be February 1, 2011 for each member of the Customer Group which has received approval from an authorized governmental official of each member of the Customer Group and has provided NOVEC with a copy of such approval by December 31, 2011 or such other date as mutually agreed to by such member and NOVEC. For each member of the Customer Group that does not meet the December 31, 2011 notification date, or such other date as mutually agreed to by such member and NOVEC, this Contract shall not govern the rate paid by such member. This Contract shall terminate on January 31, 2016, except that any rights or obligations based on Customer Group reviews pursuant to Section 3, Section 5, or Section 10 of this Contract shall survive the termination of this Contract.

12. For the billing months of February 2011 through October 2011 (nine months), NOVEC will calculate the total Customer Group refund in aggregate and issue one check to the Customer Group for this amount upon execution of this Contract by all Customer Group members. In the event that the Contract is not executed by all Customer Group members, the refund will be based upon such members that have executed the Agreement, and NOVEC shall provide the refund check within one week of the Customer Group Chair requesting such refund. The refund will be based on the difference between the new rates and the old rates as shown on **Exhibit A** attached to this Contract. Beginning with the November 2011 billing month, NOVEC will implement the new rates shown on **Exhibit A** with the exception of the Outdoor Lighting rate schedules. The new rates result in a revenue increase to Outdoor Lighting schedules of approximately $230,000 per year. For the period November 2011 to through October 2012, the revenue increase resulting from the new rates will be reduced by approximately 50% so that it will be approximately $115,000 as compared to the old rates. Beginning with the November 2012 billing month, the Outdoor Lighting rate schedules will be increased to the fully

implemented new rates shown on **Exhibit A**, resulting in 100% of the revenue increase being applicable so it will be approximately $230,000 as compared to the old rates. The new rates shown on **Exhibit A** are based on an overall increase in distribution rates by approximately $74,000 per year being offset by an overall decrease in purchased power rates for the billing months of February 2011 through October 2011, with the net result being a rate credit in excess of $90,000. Although the overall rates for the Customer Group will result in a net decrease, some rate classes will have rate increases while other rate classes will have rate decreases as shown on Exhibit B attached to this Contract (**"Exhibit B"**) illustrating the revenue impact of the new rates.

13. All payments under this Contract beyond the current fiscal year of the members of the Customer Group are subject to an annual appropriation of funds sufficient for the purposes of this Contract by the governing bodies of the respective members.

14. Either party may terminate this Contract for the default of the other party, its agents or employees with respect to any agreement or provision contained herein.

15. NOVEC and Customer Group agree to participate in a Joint Action Committee as described in Exhibit D attached to this Contract (**"Exhibit D").**

IN WITNESS WHEREOF, the undersigned have executed this Agreement effective as of the date first above written.

NORTHERN VIRGINIA ELECTRIC COOPERATIVE

By: Title:

CUSTOMERS NAME:

By: Title:

(Information requested below to be filled in only if approval obtained or required by Customer.)

On , 2011, this Agreement was presented for approval as prescribed by the customer's rules of order and was approved, and the above officer was authorized to execute the same on its behalf.

Attest Clerk

List of Exhibits

Exhibit A	Comparison showing old and new Customer Group Rates
Exhibit B	Illustration of Revenue Impact of New Rates
Exhibit C	Capital Credit Information
Exhibit D	Joint Action Committee

Exhibit A

Comparison showing

old and new Customer Group Rates

Comparison of Old & New Customer Group Rates
(Residential)

	Current Rates (6/1/11)	2011-2016 Contract Rates
Power Supply Charges:		
Electricity Supply Charge (all KWH)		$0.09707
PCA (all KWH)		$0.00000
Total Power Supply Charge	$0.09757	$0.09707
Distribution Delivery Charges:		
Consumer Delivery Charge	$ 10.50	$ 15.00
Energy Charges:		
First 300 kWh	$0.02218	$0.02109
Over 300 kWh	$0.01949	$0.01609

Comparison of Old & New Customer Group Rates
(Small Commercial)

	Current Rates (6/1/11)	2011-2016 Contract Rates
Power Supply Charges:		
Electricity Supply Charge (all KWH)		$0.08676
PCA (all KWH)		$0.00000
Total Power Supply Charge	$0.09622	$0.08676
Distribution Delivery Charges:		
Consumer Delivery Charge		
Single Phase	$ 12.00	$ 25.50
Multi- Phase	$ 28.75	$ 41.50
Energy Charges:		
First 1,500 kWh	$0.03145	$0.01966
Over 1,500 kWh	$0.01586	$0.01966

Comparison of Old & New Customer Group Rates
(Large Power-- Primary & Secondary)

	Current Rates (6/1/11)	2011-2016 Contract Rates
Power Supply Charges:		
Electricity Supply Charge:		
First 100 kWh/kW		$0.07716
Next 200 kWh/kW		$0.07716
Next 300 kWh/kW		$0.07376
Over 600 kWh/kW		$0.07176
PCA		
First 100 kWh/kW		$0.00000
Next 200 kWh/kW		$0.00000
Next 300 kWh/kW		$0.00000
Over 600 kWh/kW		$0.00000
Total Power Supply Energy Charges:		
First 100 kWh/kW	$0.08750	$0.07716
Next 200 kWh/kW	$0.07070	$0.07716
Next 300 kWh/kW	$0.06750	$0.07376
Over 600 kWh/kW	$0.06150	$0.07176
ESS Demand Charge (Per KW)	$5.05	$4.00
Distribution Delivery Charges:		
Consumer Delivery Charge	$ 35.00	$ 75.00
Energy Charges:		
First 100 kWh/kW	$0.02163	$0.01638
Next 200 kWh/kW	$0.01064	$0.01095
Next 300 kWh/kW	$0.00825	$0.00695
Over 600 kWh/kW	$0.00399	$0.00545
Demand Charges:		
First 100 kW	$1.45	$1.50
Next 400 kW	$1.45	$1.25
Next 1500 kW	$1.45	$1.10
Over 2000 kW	$1.45	$1.00
Primary Discount	-$0.25	-$0.50

Comparison of Old & New Customer Group Rates
(All Electric Schools)

	Current Rates (6/1/11)	2011-2016 Contract Rates
Power Supply Charges:		
Electricity Supply Charge (All KWH):		$0.07776
PCA		$0.00000
Total Power Supply Energy Charges:	$0.07579	$0.07776
ESS Demand Charge (Per KW)	$5.27	$3.05
Distribution Delivery Charges:		
Consumer Delivery Charge	$ 35.00	$ 75.00
Energy Charges:		
First 100 kWh/kW	$0.02290	$0.02200
Next 200 kWh/kW	$0.00629	$0.00629
Over 300 kWh/kW	$0.00391	$0.00391
Demand Charges (all KW):	$1.23	$1.25

Comparison of Old & New Customer Group Rates
(Interuptible-- Primary)

	Current Rates (6/1/11)	2011-2016 Contract Rates

Rate Eliminated: See Large Power- Primary

Comparison of Old & New Customer Group Rates
(Athletic Field Lighting)

	Current Rates (6/1/11)	2011-2016 Contract Rates
Power Supply Charges:		
Electricity Supply Charge (all KWH)		$0.08176
PCA (all KWH)		$0.00000
Total Power Supply Charge	0.08948	$0.08176
Distribution Delivery Charges:		
Consumer Delivery Charge	$ 35.00	$ 75.00
Energy Charges (All KWH):	0.05072	0.0615

Comparison of Old & New Customer Group Rates
(For The Period November 1, 2011 Through October 31, 2012)
(Outdoor Street Lighting)

	Current Rates (6/1/11)	2011-2012 Contract Rates
Power Supply Charges:		
Electric Supply Charge (Per Lamp)		
100 MV		$ 3.13
175MV		$ 5.47
250MV		$ 7.82
400MV		$ 11.73
1000MV		$ 28.15
'70 HPS		$ 2.74
100 HPS		$ 3.13
150 HPS		$ 4.69
250 HPS		$ 7.82
400 HPS		$ 12.51
PCA Charge (Per Lamp)		
100 MV		$0.00
175MV		$0.00
250MV		$0.00
400MV		$0.00
1000MV		$0.00
'70 HPS		$0.00
100 HPS		$0.00
150 HPS		$0.00
250 HPS		$0.00
400 HPS		$0.00
Total Power Supply		
100 MV	$2.61	$3.13
175MV	$4.55	$5.47
250MV	$6.51	$7.82
400MV	$9.75	$11.73
1000MV	$23.40	$28.15
'70 HPS	$2.26	$2.74
100 HPS	$2.61	$3.13
150 HPS	$3.89	$4.69
250 HPS	$6.51	$7.82
400 HPS	$10.41	$12.51
Distribution Delivery Charges:		
100 MV	$5.69	$6.69
175MV	$7.55	$8.87
250MV	$10.49	$12.33
400MV	$12.74	$14.97
1000MV	$24.88	$29.23
'70 HPS	$6.24	$7.33
100 HPS	$6.99	$8.21
150 HPS	$8.43	$9.91
250 HPS	$10.55	$12.40
400 HPS	$15.84	$18.61

Comparison of Old & New Customer Group Rates
(For The Period November 1, 2012 Through January 31, 2016)
(Outdoor Street Lighting)

	Current Rates (6/1/11)	2012-2016 Contract Rates
Power Supply Charges:		
Electric Supply Charge (Per Lamp)		
100 MV		$ 3.13
175MV		$ 5.47
250MV		$ 7.82
400MV		$ 11.73
1000MV		$ 28.15
'70 HPS		$ 2.74
100 HPS		$ 3.13
150 HPS		$ 4.69
250 HPS		$ 7.82
400 HPS		$ 12.51
PCA Charge (Per Lamp)		
100 MV		$0.00
175MV		$0.00
250MV		$0.00
400MV		$0.00
1000MV		$0.00
'70 HPS		$0.00
100 HPS		$0.00
150 HPS		$0.00
250 HPS		$0.00
400 HPS		$0.00
Total Power Supply		
100 MV	$2.61	$3.13
175MV	$4.55	$5.47
250MV	$6.51	$7.82
400MV	$9.75	$11.73
1000MV	$23.40	$28.15
'70 HPS	$2.26	$2.74
100 HPS	$2.61	$3.13
150 HPS	$3.89	$4.69
250 HPS	$6.51	$7.82
400 HPS	$10.41	$12.51
Distribution Delivery Charges:		
100 MV	$5.69	$7.68
175MV	$7.55	$10.19
250MV	$10.49	$14.16
400MV	$12.74	$17.20
1000MV	$24.88	$33.59
'70 HPS	$6.24	$8.42
100 HPS	$6.99	$9.44
150 HPS	$8.43	$11.38
250 HPS	$10.55	$14.24
400 HPS	$15.84	$21.38

Exhibit B

Illustration of Revenue Impact of New Rates

NORTHERN VIRGINIA ELECTRIC COOPERATIVE
SUMMARY OF REVENUES

	Consumer Classification (a)	Per Books Customers (b)	Adjusted Customers (c)	Per Books kWh (d)	Adjusted kWh (e)	Per Books Revenue (f)	Adjusted Revenue (g)	Proposed Revenue (h)	Difference (i)	Percent (j)
154	Customer Group - Residential									
155	Distribtution Revenue	61	61	639,360	639,360	$ 20,513	$ 20,513	$ 22,080	$ 1,567	7.64%
156	ESS Revenue					$ 31,723	$ 30,256	$ 62,131	$ 31,875	105.35%
157	PCA Revenue					$ 28,004	$ 30,886	$ -	$ (30,886)	-100.00%
158	Total					$ 80,240	$ 81,654	$ 84,211	$ 2,557	3.13%
159										
160	Customer Group Small Power Secondary									
161	Distribtution Revenue	323	323	7,907,511	7,907,511	$ 233,132	$ 233,132	$ 265,636	$ 32,504	13.94%
162	ESS Revenue					$ 383,173	$ 366,623	$ 692,687	$ 326,064	88.94%
163	PCA Revenue					$ 346,321	$ 381,988	$ -	$ (381,988)	-100.00%
164	Total					$ 962,626	$ 981,742	$ 958,323	$ (23,419)	-2.39%
165										
166	Customer Group Large Power Secondary									
167	Distribtution Revenue	145	145	145,972,122	145,972,122	$ 2,778,121	$ 2,778,121	$ 2,527,680	$ (250,441)	-9.01%
168	ESS Revenue					$ 6,463,543	$ 6,076,290	$ 13,066,318	$ 6,990,027	115.04%
169	PCA Revenue					$ 6,393,846	$ 7,051,467	$ -	$ (7,051,467)	-100.00%
170	Total					$ 15,635,510	$ 15,905,878	$ 15,593,998	$ (311,880)	-1.96%
171										
172	Customer Group Large Power Primary									
173	Distribtution Revenue	1	1	2,408,737	2,408,737	$ 36,645	$ 36,645	$ 31,464	$ (5,181)	-14.14%
174	ESS Revenue					$ 89,316	$ 83,199	$ 204,963	$ 121,764	146.35%
175	PCA Revenue					$ 105,502	$ 116,359	$ -	$ (116,359)	-100.00%
176	Total					$ 231,463	$ 236,203	$ 236,427	$ 224	0.09%
177										
178	Customer Group Electric School									
179	Distribtution Revenue	19	19	21,555,453	21,555,453	$ 358,930	$ 358,930	$ 362,496	$ 3,566	0.99%
180	ESS Revenue					$ 1,014,881	$ 959,570	$ 1,913,832	$ 954,263	99.45%
181	PCA Revenue					$ 944,129	$ 1,041,278	$ -	$ (1,041,278)	-100.00%
182	Total					$ 2,317,940	$ 2,359,778	$ 2,276,328	$ (83,450)	-3.54%
183										
184	Customer Group Interruptible Primary									
185	Distribtution Revenue	1	1	9,892,214	9,892,214	$ 94,969	$ 94,969	$ 112,174	$ 17,205	18.12%
186	ESS Revenue					$ 315,190	$ 290,587	$ 807,443	$ 516,855	177.87%
187	PCA Revenue					$ 433,279	$ 477,863	$ -	$ (477,863)	-100.00%
188	Total					$ 843,438	$ 863,419	$ 919,617	$ 56,198	6.51%
189										
190	Customer Group Athletic Field Lighting									
191	Distribtution Revenue	23	23	1,662,366	1,662,366	$ 93,133	$ 93,133	$ 121,834	$ 28,701	30.82%
192	ESS Revenue					$ 68,646	$ 64,623	$ 134,855	$ 70,231	108.68%
193	PCA Revenue					$ 72,811	$ 80,304	$ -	$ (80,304)	-100.00%
194	Total					$ 234,590	$ 238,060	$ 256,689	$ 18,628	7.83%
195										
196	Customer Group Outdoor Lighting									
197	Distribtution Revenue	38	38	5,041,056	5,041,056	$ 676,448	$ 676,448	$ 913,205	$ 236,757	35.00%

NORTHERN VIRGINIA ELECTRIC COOPERATIVE
SUMMARY OF REVENUES

	Consumer Classification (a)	Per Books Customers (b)	Adjusted Customers (c)	Per Books kWh (d)	Adjusted kWh (e)	Per Books Revenue (f)	Adjusted Revenue (g)	Proposed Revenue (h)	Difference (i)	Percent (j)
198	ESS Revenue					$ 87,759	$ 74,308	$ 394,328	$ 320,020	430.67%
199	PCA Revenue					$ 220,785	$ 243,518	$ -	$ (243,518)	-100.00%
200	Total					$ 984,992	$ 994,274	$ 1,307,533	$ 313,259	31.51%
201										
202	Total Customer Group System									
203	Distribtution Revenue	611	611	195,078,819	195,078,819	$ 4,291,891	$ 4,291,891	$ 4,356,569	$ 64,678	1.51%
204	ESS Revenue					$ 8,454,231	$ 7,945,456	$ 17,276,556	$ 9,331,100	117.44%
205	PCA Revenue					$ 8,544,677	$ 9,423,661	$ -	$ (9,423,661)	-100.00%
206	Total					$ 21,290,799	$ 21,661,008	$ 21,633,125	$ (27,884)	-0.13%
207										
208	Growth									
209	Distribtution Revenue		62		11,211,815		$ 215,007	$ 224,804	$ 9,798	4.56%
210	ESS Revenue						$ 471,246	$ 987,735	$ 516,490	109.60%
211	PCA Revenue						$ 541,608	$ -	$ (541,608)	-100.00%
212	Total						$ 1,227,861	$ 1,212,540	$ (15,321)	-1.25%
213										
214	Other Revenue					$ 70,407	$ 70,407	$ 70,407		
215										
216	Grand Total Customer Group Sy	611	674	195,078,819	206,290,634	$ 21,361,206	$ 22,959,276	$ 22,916,072	$ (43,204)	

Exhibit C

Capital Credit Information

Exhibit C

C-1: Illustration of current methodology used by NOVEC for allocating capital credits to Customer Group members, by showing how capital credits are allocated for a sample of accounts of Customer Group members.

C-2: Illustration of form of summary statement showing the allocation of capital credits and retirements for Customer Group members for the prior twelve months ending September 30, 2004.

New Rate	Old Rate	Account	Sub	Name	2003 kWh	Row 1 2003 Total Account Revenue	Row 2 Average Power Cost (Row 1 x Item 7)	Row 3 Power Base Net Account Revenue (Row 2 - Row 3)	Row 4 NOVEC Allocation (Row 4 x Item 8)	Row 5 G&T Allocation (Row 4 x Item 9)	Row 6
1A2	2AN	2507978	49	County of Loudoun	48,813	$ 3,965.95	$ 2,704.00	$ 1,261.95	$ 595.41	$ 42.04	
2B1	3B1	2492020	1	PWCS Plant Operations Dept	127	$ 156.56	$ 7.04	$ 149.52	$ 70.55	$ 4.98	
2B5	4B1	2539969	3	Loudoun Co Voting Machines	26,535	$ 2,650.66	$ 1,469.91	$ 1,180.75	$ 557.10	$ 39.34	
3G	5C1	187496	85	PWCS Plant Operations Dept	620,928	$ 61,721.59	$ 34,396.34	$ 27,325.25	$ 12,892.45	$ 910.36	
IS2	CS	2507978	33	County of Loudoun 485999	5,020,897	$ 248,659.72	$ 278,132.86	$ (29,473.14)	$ (13,905.85)	$ (981.92)	
ES1	E10	1092685	2	PR WM CO Dept of Public Works	138,406	$ 12,571.72	$ 7,667.01	$ 4,904.71	$ 2,314.11	$ 163.40	
3L2	L10	2792458	0	PWC Public Works Transportation	9,348	$ 1,501.45	$ 517.83	$ 983.62	$ 464.08	$ 32.77	
3SL	7C	187496	60	PWCS Plant Operations Dept	6,960	$ 987.12	$ 385.55	$ 601.57	$ 283.83	$ 20.04	
4SL	7D	1317342	6	Fairfax Cty Facilities Mgmt	1,680	$ 206.96	$ 93.06	$ 113.90	$ 53.74	$ 3.79	

Item 7	Cost of Power Factor	$0.055395054
Item 8	NOVEC Allocation Factor	0.471814390
Item 9	G&T Allocation Factor	0.033315781

697715.1

C-1

NOVEC CAPITAL CREDIT COOP ALLOCATION REPORT FOR 2003				
ACCOUNT NUMBER	NAME	Y-T-D KWH	Y-T-D PATRONAGE	ALLOCATION
187496-007	PWCS PLANT OPERATION			
187498-010	PWCS PLANT OPERATION			
187496-037	PWCS PLANT OPERATION			
187496-045	PWCS PLANT OPERATION			
187496-066	PWCS PLANT OPERATION			
187666-001	PWCS PLANT OPERATION			
280135-064	FAIRFAX CTY PUBLIC S			
1092685-002	PRINCE WILLIAM COUNT			
1092685-004	PR WM CO DEPT OF PUB			
1547143-064	PR WM CO DEPT OF PUB			
1547143-076	PWCS PLANT OPERATION			
1547143-083	PWCS PLANT OPERATION			
2492020-020	PWCS PLANT OPERATION			
2492020-030	PWCS PLANT OPERATION			
2539969-000	LOUDOUN CO SCHOOL BD			
2539969-001	LOUDOUN CO SCHOOL BD			
2539969-004	LOUDOUN CO SCHOOL BD			
2549158-000	J LUPTON SIMPSON MID			
TOTAL FOR ES1 RECORDS 18		0	0	0

C-2

Exhibit D

Joint Action Committee

#1207329

Exhibit D

Joint Action Committee Provisions

There are a number of issues that NOVEC and the Customer Group have agreed to address through a joint action committee (JAC). The JAC is to be made up of local government employees who represent the collective interests of Customer Group members, and NOVEC employees. The parties agree to undertake involvement in the JAC in good faith, with the overall objective of affecting positive changes in the related procedures of NOVEC and Customer Group members that improve service to the Customer Group members while improving NOVEC's ability to provide good service.

The parties to the JAC agree to assign representatives who are knowledgeable in the various areas addressed and are in a position to affect change within their organizations. Neither the Customer Group nor NOVEC is committed to bring members to the table that are not matched by the faithful attendance of commensurate resources from the other. It is understood that the Customer Group representatives cannot mandate changes that all local governments are committed to follow. Nonetheless, the Customer Group representatives shall be empowered to commit with NOVEC to a standardized set of procedures whereby problems encountered by Customer Group members arising from their failure to follow the standardized procedures established by the JAC shall be interpreted by the Customer Group as problems incumbent on the particular Customer Group member to correct. This Committee shall routinely meet on a quarterly basis each year, and, if agreed to by one or more Customer Group representatives and one or more NOVEC representatives, shall meet more frequently as needed to accomplish the objectives of the Joint Action Committee.

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Board Agenda Item
February 28, 2012

ACTION – 3

Approval of the Great Falls Volunteer Fire Department Memorandum of Understanding (Dranesville District)

ISSUE:
Request for the Board to approve and adopt the Memorandum of Understanding with the Great Falls Volunteer Fire Department.

RECOMMENDATION:
The County Executive recommends that the Board approve and adopt the Memorandum of Understanding with the Great Falls Volunteer Fire Department.

TIMING:
Board approval is requested on February 28, 2012.

BACKGROUND:
The Great Falls Volunteer Fire Department (GFVFD) entered into an agreement with the Board of Supervisors on 03/27/2007 to construct a new fire station on the site of the existing station at 9916 Georgetown Pike, Great Falls, Virginia. The GFVFD agreed to deed the property and existing structure over to the Board in addition to the amount of $850,000 in exchange for the new station. This Memorandum of Understanding (MOU) was drafted to establish administrative control over designated areas within the station.

Staff has reviewed and analyzed the MOU and recommends that the Board adopt the MOU as written. By adopting and implementing this MOU, the Board will support the county's long standing commitment to promote the partnership between the volunteers and the county and will ensure that career staff and volunteers continue to work together harmoniously.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 – Great Falls Volunteer Fire Department MOU

STAFF:
Robert A. Stalzer, Deputy County Executive
Ronald L. Mastin, Fire Chief, Fire and Rescue Department

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Great Falls Volunteer Fire Department, Inc.
9916 Georgetown Pike
Great Falls, Virginia 22066

January 31, 2012

Mr. Jeffrey Katz
Volunteer Liaison
Fairfax County Fire and Rescue Department
4100 Chain Bridge Road
Fairfax, Virginia 22030

Dear Jeff:

I am enclosing a signed and notarized copy of the MOU that includes the following additions and corrections (made at your suggestion):

Corrected room numbers.

Rewording Section 8, second sentence from "County personnel will 'assist'" - corrected to "assume responsibility", to correspond to the first sentence language relating to the GFVFD.

I have also attached a schematic for each floor with the room numbers marked.

Based on your e-mail of 01-27-12, it is our understanding that you will forward this signed (by the GFVFD) document to the appropriate officials in the County Government for signature.

We look forward to the final execution of this document.

Thank you very much for your efforts in this matter.

Sincerely,

Joan Bliss

Joan Bliss, President
GFVFD

Memorandum of Understanding

This Memorandum of Understanding (MOU) is made as of the 5th of January, 2012 by and between the Board of Supervisors (BOS) of Fairfax County, Virginia and the Great Falls Volunteer Fire Department, Inc. (GFVFD).

WHEREAS, the BOS (acting on behalf of the Fairfax County Fire and Rescue Department - FCFRD), and the GFVFD (the "Parties") executed an Agreement, dated March 27, 2007, which provides, inter alia, that they would cooperate in the planning, financing and construction of a new fire station at 9916 Georgetown Pike, Great Falls, Virginia, that would be used by both the FCFRD and GFVFD; and

WHEREAS, the new station has been constructed and is currently occupied by the FCFRD and the GFVFD; and

WHEREAS, the Agreement provides for the allocation of certain areas in the new fire station between the GFVFD and the FCFRD; and

WHEREAS, it would promote the efficient use of the new station, for the GFVFD and the FCFRD to identify with specificity the GFVFD areas, FCFRD areas, common areas, and the rules, conditions and policies pertaining thereto:

NOW THEREFORE, the Parties agree as follows:

1. The areas of the new fire station that shall be under the administrative control of the GFVFD are as follows:

   (a) Conference Room No.212, which is shown on the attached schematic drawing of the fire station and which drawing is incorporated herein by reference. The FCFRD shall have use of this room for training purposes and other activities when not in use by the GFVFD, provided that notice shall be given to the GFVFD 24 hours in advance, when feasible. A dedicated master calendar for scheduling conference room No. 212 will be kept in the control room. When the conference room is used by the FCFRD, it shall assume all housekeeping duties related to such use.
   (b) Volunteer offices (Room Nos. 202 and 206)
   (c) Volunteer storage (Room Nos. 116 and 207)
   (d) Alcove (Room No.214)
   (e) Kitchen area next to the conference room (Room No. 211)
   (f) Ten (10) running gear storage lockers (Room No. 117)
   (g) Ten (10) dressing lockers (Room 131-men) (Room 135-women)

2. On behalf of the County, the Station Captain will have administrative control of areas of the station as follows:

   (a) Captain's office (Room Nos. 108 and 109)

(b) Shift leader's office (Room No.123)
(c) Fifty-six (56) running gear lockers (Room No.117)
(d) Decontamination room (Room 125)

3. Other areas of the station will be considered common areas for shared use by both career employees and volunteer department members. The Station Captain, in consultation with the Volunteer President and Volunteer Chief, shall develop policies for the joint use of these areas. Policies developed shall not conflict with current FCFRD standard operating procedures.

These areas are identified as follows:

(a) Bunk rooms (Room Nos.140 through 146; now marked as bunk rooms 1, 2, 3, 4, 5, and 6)
(b) Storage areas (other than volunteer storage areas) and EMS Storage (Room No. 125)
(c) Dining Room (Room No. 106)
(d) Shop and shop storage areas (Room Nos.118 and 119)
(e) Laundry room (Room No. 127)
(f) Apparatus bays (Room No. 111)
(g) Restrooms and bathrooms (Room Nos. 136, 208, and 209)
(h) Control room (Room No. 122)
(i) Exercise room (Room No. 129)
(j) Main kitchen (Room No. 103)
(k) Hose tower (Room No. 114)
(l) Locker rooms (Room Nos. 131 and 135)
(m) Dayroom (Room No. 102)
(n) Grounds
(o) Parking areas

4. Related matters:

(a) The FCFRD shall provide the GFVFD with access to and use of the photocopier, which has been provided and maintained by the County.
(b) Adequate mailboxes shall be supplied for volunteer membership, equivalent to, and located in the same place as those used by FCFRD personnel.

5. In order to provide for the security of the respective areas, locks and keys will be distributed as follows:

(a) One Grand master key to all locked areas shall be issued to the Station Captain, and one to the Volunteer Leadership.
(b) A subset key to all locked volunteer areas will be issued to volunteer members only as authorized by the volunteer President.
(c) A subset key to all career staff locked areas will be issued to career members only as authorized by the Station Captain.
(d) All authorized personnel will have the combination code for cipher locks on all exterior doors.
(e) Common areas will be unsecured, or if locked, both career and volunteer

personnel will have keys

6. Administrative control is defined as:

(a) Determination of the use of areas
(b) Formulation of the rules governing the use of areas
(c) Physical security of areas
(d) Housekeeping

7. This MOU shall have no effect on operational procedures, which are those activities that occur once the emergency vehicles leave the station to respond to a call and also those activities in the station that relate directly to preparation for emergency response, such as manpower assignments on the vehicles and equipping the vehicles. All such operational procedures are under the control of the County and its agents.

8. The GFVFD will assume responsibility for the routine maintenance and housekeeping of its areas of the station. County personnel assigned to the station will assume responsibility for the routine maintenance and housekeeping of their areas of the station.

9. The County will maintain the utilities and physical plant of the station, including the structure, heating system, water heaters, emergency generator, plumbing and electrical systems, and capital improvements, repairs and replacements.

WITNESS the following signatures and seals:

Board of Supervisors of Fairfax County, Virginia

By:_____

Date:_____

Notary:_____

My commission expires:_____

Great Falls Volunteer Fire Department, Inc.
Joan Bliss, President

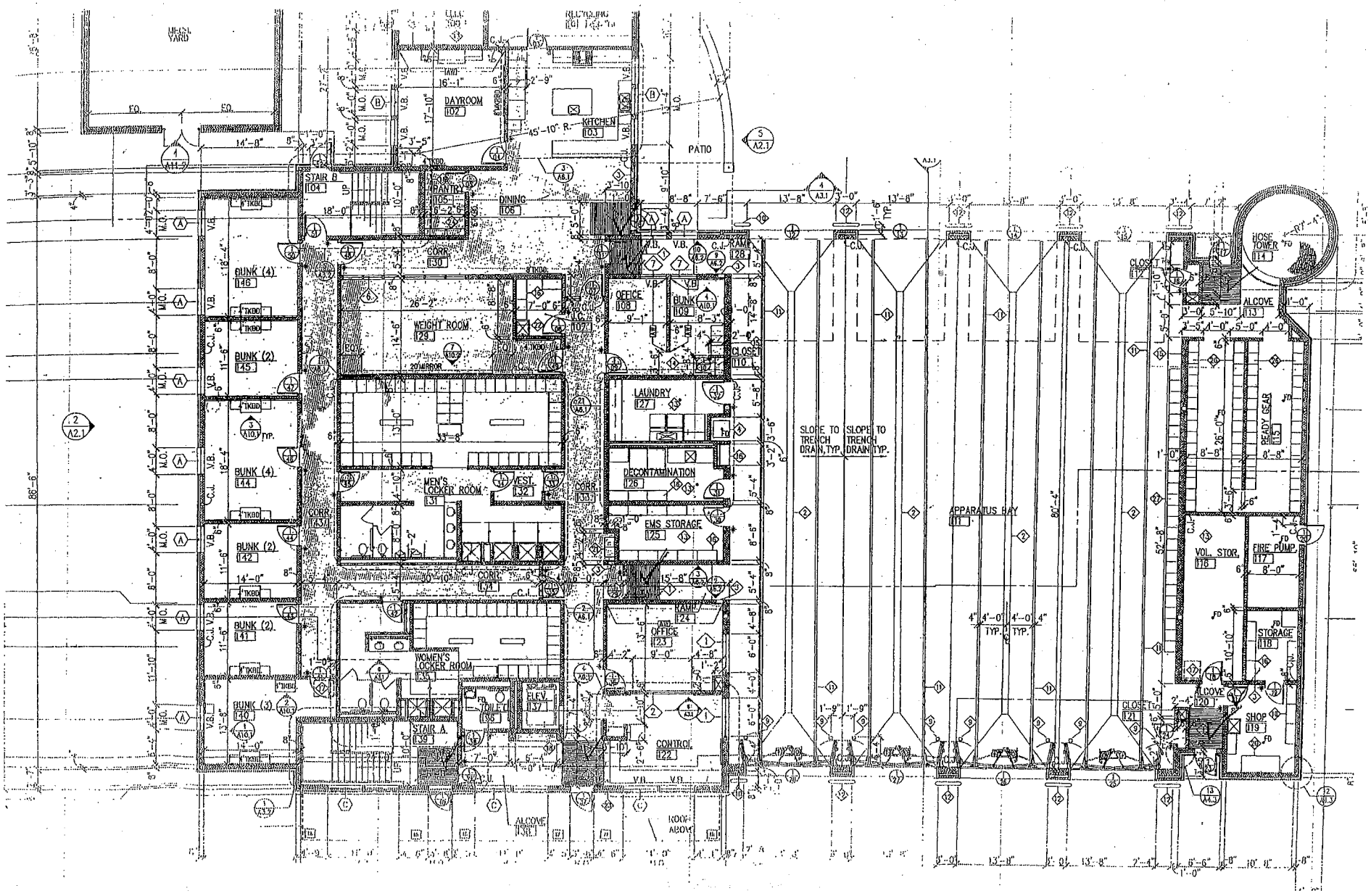
By: Joan Bliss

Date: Feb. 03, 2012

Notary: [illegible]

My commission expires:_____

MASOUD TAHERZADEH
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAR. 31, 2012
COMMISSION # 7163823


DAYROOM
102
KITCHEN
103
PATIO
STAIR B
104
PANTRY
105
DINING
106
CORR.
130
BUNK (4)
146
BUNK (2)
145
BUNK (4)
144
CORR.
143
BUNK (2)
142
BUNK (2)
141
BUNK (3)
140
WEIGHT ROOM
129
MEN'S LOCKER ROOM
131
VEST.
132
CORR.
133
CORR.
134
WOMEN'S LOCKER ROOM
135
ELEV.
137
STAIR A
139
ALCOVE
136
ROOF ABOVE
OFFICE
108
BUNK
109
CLOSET
110
LAUNDRY
127
DECONTAMINATION
126
EMS STORAGE
125
RAMP
124
OFFICE
123
CONTROL
122
SLOPE TO TRENCH DRAIN, TYP.
SLOPE TO TRENCH DRAIN TYP.
APPARATUS BAY
111
HOSE TOWER
114
CLOSET
112
ALCOVE
113
READY GEAR
115
VOL. STOR.
116
FIRE PUMP
117
STORAGE
118
SHOP
119
ALCOVE
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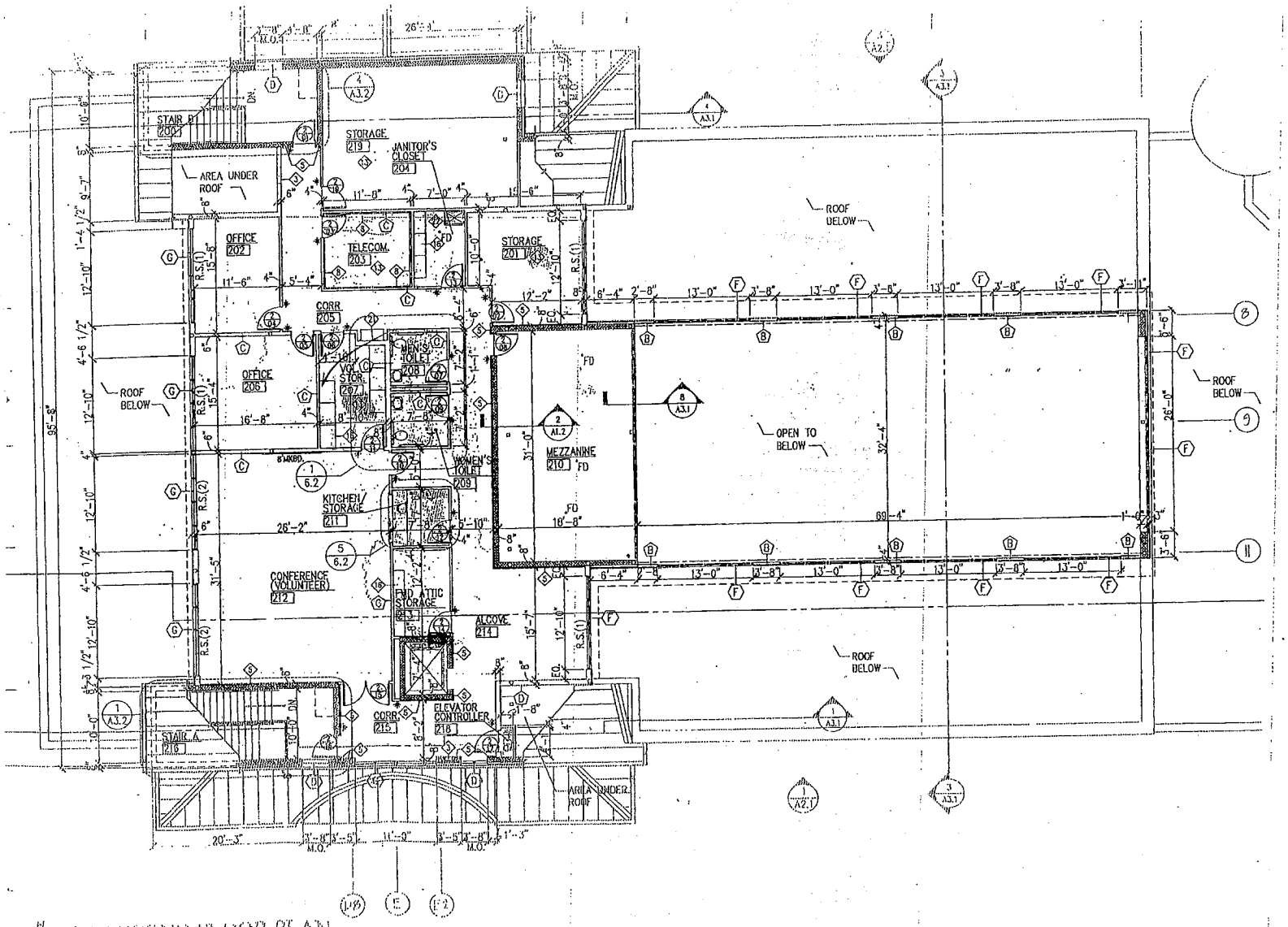
CLOSET
121

(195)



SECOND FLOOR PLAN

Board Agenda Item
February 28, 2012

ACTION - 4

Approval of a Parking Reduction for Holy Trinity Church (Dranesville District)

ISSUE:
Board approval of a 27.9 percent reduction in the required parking for Holy Trinity Church and a private school of general education, Tax Map Reference #21-3 ((1)) lot 56A, Dranesville District.

RECOMMENDATION:
The County Executive recommends that the Board approve a parking reduction of 27.9 percent (81 fewer parking spaces) for Holy Trinity Church and a private school of general education, pursuant to Paragraph 4(B), Section 11-102 of The Fairfax County Zoning Ordinance (Zoning Ordinance), and based on an analysis of the parking requirements for each use on the site and a shared use parking study, on condition that:

1. A minimum of 209 parking spaces must be provided onsite at all times.

2. The uses permitted per this parking reduction are:

   - A place of worship use with a maximum of 800 seats.
   - A private school of general education with a total maximum daily enrollment of 300 students.

   Any additional uses must be parked at code.

3. Compliance with the conditions of the approved Special Exception Amendment, SEA 00-D-006-04 (attached).

4. To ensure the general adequacy of parking for the private school of general education use, the school shall monitor parking lot usage. If, at any time, parking lot usage exceeds 95 percent of the total spaces on site during normal operating hours, the school shall institute, within 30 days, a parking plan to limit student parking for the remainder of the school year. The parking plan shall be designed to reduce parking lot usage below 95 percent and shall include, at a minimum, parking by permit only for students.

5. The current owners, their successors or assigns of the parcel identified as Fairfax County Tax Map #21-3 ((1)) lot 56A, shall submit a parking space utilization study

for review and approval by the Board of Supervisors 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 ninety 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.

6. 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 (the Code), and the Zoning Ordinance in effect at the time of said parking utilization study submission.

7. 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 of Supervisors' approval.

8. 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).

9. The conditions of approval of this parking reduction shall be incorporated into any site plan(s) for this site.

10. The conditions of approval of this parking reduction shall run with the land and be recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:
Board Action is requested on February 28, 2012.

BACKGROUND:
The subject property is located at 850 Balls Hill Road, just north of its intersection with Georgetown Pike. The property is currently the site of the Oakcrest School, an all-women's private school of general education for grades 6-12 with a current enrollment of 184 students and 48 faculty and staff. The site was originally developed as a church and operated simultaneously as a private school of general education and a place of worship from 2000 through 2004 under a special exception, SE 00-D-06. The church, Mclean Bible, relocated to another property in 2004 and the church use was deleted under a special exception amendment, SEA 00-D-06-02. Trinity Group, LLC, the

contract purchaser, filed applications for a proffered condition amendment and special exception amendment, PCA 2004-DR-03 and SEA 00-D-006-04, to reestablish the place of worship use (800 seat church) and continue the private school of general education use (maximum enrollment of 300 students). PCA 2004-DR-03 and SEA 00-D-006-04 were approved by the Board on January 24, 2012, with a condition that limits the church to 400 seats if this parking reduction is not approved. Holy Trinity Church will operate on the site with the Oakcrest School until such time as the Oakcrest School moves to a new location. Holy Trinity Church would then seek another private school to replace the Oakcrest School. The requested parking reduction and analysis assumes that the future school would be a high school. This assumption generates the largest parking requirement for any possible mixture of elementary and high school aged students and provides flexibility for the church in finding a replacement for the Oakcrest School.

The site currently maintains 209 regulation parking spaces including 9 accessible parking spaces. The Zoning Ordinance would require 290 parking spaces for the proposed uses computed as follows:

- 200 parking spaces for the place of worship use with 800 seats (1 space per 4 seats = 200 parking spaces)
- 90 spaces for the private school of general education with 300 high school students (0.3 spaces per student = 90 spaces)

Holy Trinity Church currently has 12 members. Therefore, near-term parking demand for the church is minimal. Based on past experience, Department of Planning and Zoning (DPZ) staff recommends a parking ratio of 1 space per 3 seats for this use. This would result in a parking demand of 267 spaces for an 800 seat church, which is greater than the Code requirement of 200 spaces and the available parking supply of 209 spaces. Based on 2009 data provided by Oakcrest School, approximately 30 percent (55) of the 184 students currently enrolled drive to school and the ratio of high school students to elementary school students is approximately two to one. Assuming that all current faculty and staff (48) drive to work, the current parking demand for the school is 103 spaces. Extrapolating current parking demand to an enrollment of 300 students, the parking demand would be 168 spaces, which is greater than the Code requirement of 90 spaces for a 300 student high school. There is no way to estimate with reasonable certainty, based on currently available information, what the actual parking demand would be for a future high school with 300 students but it likely would exceed the Code requirement for parking. Condition #10 of the approved special exception amendment requires that the school establish a carpool coordinator to encourage carpooling, busing, or vanpooling.
The hours of operation for the place of worship use and the school of general education use do not overlap. The determining factor in the adequacy of the available parking

supply, 209 spaces, is the place of worship use which has a higher Code requirement and potential demand than the school of general education use. The place of worship use requires 200 spaces under the Code and would need 268 spaces at DPZ staff's recommended rate of 1 space per 3 seats. With unconstrained demand, the available parking supply could become inadequate at some time in the future based on the above observations. In order to ensure the general adequacy of parking for this site, the proposed uses are extensively conditioned under the approved special exception amendment. The conditions of the approved special exception amendment adequately address concerns regarding church parking. With this parking reduction, staff is proposing an additional condition on the school of general education use to ensure that parking supply is adequate for this use. This restriction, stated in condition #4 above, is in addition to the restrictions in the development conditions for the special exception amendment.

In conclusion, staff recommends the Board approve a parking reduction of 27.9 percent (81 fewer parking spaces) for Holy Trinity Church and a private school of general education based on an analysis of the parking requirements for each use on the site and a shared use parking study subject to the conditions listed above in the County Executive's recommendation. The recommended parking reduction reflects a coordinated review by the Department of Public Works and Environmental Services and the Office of the County Attorney.

ENCLOSED DOCUMENTS:

Attachment I – Letter of Request and Shared Parking Analysis from Wells and Associates dated January 26, 2012, w/o attachments (#06622-PKS-003-1)

Attachment II – Approved Development Conditions SEA 00-D-006-04, January 20, 2012

STAFF:

Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle A. Brickner, Director, Land Development Services, DPWES

WELLS + ASSOCIATES

January 26, 2012

Mr. John Friedman
Fairfax County
Code Analysis Division
Department of Public Works & Environmental Services
12055 Government Center Parkway
Fairfax, Virginia 22035-5503

RE: Parking Reduction for Holy Trinity Church
SEA 2011-0072

Dear Mr. Friedman:

Per our recent discussions, I have enclosed a copy of the updated parking study for the above referenced project for your review. The study has been updated to amend the request for a parking reduction of 23 percent to a parking reduction of 27.9 percent. This request has been made to allow for the possibility of having up to 300 high school students (the previous request assumed a portion of the students would be elementary school students).

The subject site is identified as Tax Map No. 21-3 ((1)) 56 A and is located in the northwest quadrant of the Georgetown Pike and Balls Hill Road intersection in the Dranesville Magisterial District. A summary of the request follows:

SUMMARY OF REQUEST

- Holy Trinity Church is proposing to operate a church in the existing building on the site, which currently is occupied by Oakcrest School. Both the church and school will operate concurrently in the existing building.
- A total of 209 regulation parking spaces currently are and will remain on the site.
- The code requirement for the proposed church and existing school is 290 spaces. Therefore, **a parking reduction of 81 spaces or 27.9 percent is requested**.
- The school and the church are complementary uses; that is, the school's operations take place mainly on weekdays during daytime and early evening hours while the church's operations take place mainly on weekends and in the evening on weekdays. The church is committed to working with the school to reduce scheduling conflicts, thereby eliminating the possibility of both school-sponsored and church-sponsored events with high parking demands occurring at the same time.

1420 Spring Hill Road, Suite 600 • McLean, Virginia 22102 • 703 / 917-6620 • Fax: 703 / 917-0739 • www.mjwells.com

Please do not hesitate to contact Amber Mikec or me at 724-933-9010, anmikec@mjwells.com, or jlmilanovich@mjwells.com, or with any questions and/or comments regarding this project.

Sincerely,

Jami L. Milanovich

Jami L. Milanovich, P.E.
Principal Associate

JLM/jlm

Enclosures

cc: Greg Riegle/Lori Greenlief, McGuire Woods (1 copy)
Derek Rust, Holy Trinity Church (1 copy)
Glenn Youngkin, Holy Trinity Church (1 copy)

W:\Projects\5028 Holy Trinity Church\Parking Reduction\cover letter for parking reduction memo_friedman_9_26_2011.doc

WELLS + ASSOCIATES

COMMONWEALTH OF VIRGINIA
JAMI L. MILANOVICH
Lic. No. 042275
PROFESSIONAL ENGINEER

MEMORANDUM

TO: John Friedman
Code Analysis Division, Fairfax County Department of Transportation

FROM: Jami L. Milanovich, P.E.
Amber N. Mikec, P.E.

RE: SEA 2011-0072
Holy Trinity – Georgetown Pike Parking Reduction
Fairfax County, Virginia

DATE: January 26, 2012

INTRODUCTION

This memorandum presents the need for a parking reduction in conjunction with plans for Holy Trinity–Georgetown Pike (the Applicant) to operate a church at the existing Oakcrest School property at 850 Balls Hill Road in the Dranesville Magisterial District of Fairfax County, as shown on Figure 1. This memorandum is an update to our September 19, 2011 memorandum. Specifically, the parking requirements for the site and the requested parking reduction were modified to allow for a 300 student cap including all high school students (i.e., previously, the requirements and requested reduction were based on a 300 student cap with a combination of elementary/intermediate students and high school students).

Oakcrest School is an independent school for girls in grades six through twelve. The school currently has an enrollment of 184 students but has an enrollment cap of 300 students. The existing school is 50,382 SF, including 2,880 SF of removable modular space. Oakcrest School would continue to maintain its current operation until it relocates to its new location on Hunter Mill Road. Once Oakcrest relocates to its new location, a new school, subject to the same conditions as Oakcrest School, will take its place. In order to retain flexibility in the future, for purposes of this request, we have assumed that at the 300 student cap, all students would be high school students.

Holy Trinity – Georgetown Pike (the Applicant) currently has twelve members but is anticipating expanding membership to utilize the entire space of the building. The maximum occupancy of the existing building the church would occupy is 800 persons.

The site currently contains 209 parking spaces, which will remain.

The Applicant recently filed a Special Exception Amendment (SEA) and a Proffered Condition Amendment (PCA) to operate the church as described above. A copy of the Special Exception Amendment Plat is shown in Figure 2. A full size copy of the plan is included in Attachment I.

FAIRFAX COUNTY PARKING REQUIREMENTS

Article 11 of the Fairfax County Zoning Ordinance[1] ("Ordinance") establishes parking requirements for various land uses by providing parking rates per unit of land use (i.e., per faculty/staff, per student, per seat, per 1,000 GSF, etc.). According to the Ordinance, all required parking spaces shall be located on the same lot as the structure or uses to which they are accessory or on a lot contiguous thereto which has the same zoning classification, and is either under the same ownership, or is subject to arrangements satisfactory to the Director that will ensure the permanent availability of such spaces. A copy of the relevant Ordinance text is provided herein as Attachment II.

Article 11, Section 11-106 of the Ordinance outlines the parking requirements for churches and schools as follows:

> Church, Chapel, Temple, Synagogue or Other Such Place of Worship – "One (1) space per four (4) seats in the principal place of worship."
>
> School, Elementary or Intermediate, Public or Private School of General Education – ". . . in no instance less than one (1) space per faculty and staff member and other full-time employee, plus four (4) spaces for visitors."
>
> School, High School, Public or Private School of General Education – ". . . in no instance less than three-tenths (0.3) space per student, based on the maximum number of students attending classes at any one time."

Per the above language from the Ordinance, it was determined that the parking requirements at the 300 student cap would be higher if it was assumed that all students were high school students (rather than a portion of them being elementary/intermediate students). Therefore, to retain flexibility for a future school at the site, we have assumed that at the 300 student cap, all students would be high school students. Based on a strict application of the Ordinance, 290 parking spaces would be required to accommodate the parking demand associated with the existing school and proposed church, as summarized in Table 1.

Table 1
Parking Requirements

Component	Code Required Parking Ratio (per Unit)	Existing/Proposed Number of Units	Required Number of Spaces
High School	0.3 spaces/student	300 students‡	90
Church	1 space/4 seats	800 seats	200
Total			**290**

‡ Assumed all students are high school students under the enrollment cap of 300 students.

[1] Fairfax County. Zoning Ordinance. January 26, 2010, [http://www.fairfaxcounty.gov/dpz/zoningordinance/].

REQUESTED PARKING REDUCTION

Based on current plans for the site, 209 parking spaces would be provided. Therefore, a reduction of 81 spaces, or 27.9 percent, from that required is requested. The Ordinance recognizes the complimentary nature of churches and schools, recognizing that the parking needs for each use would peak at different times. Specifically, the Ordinance states, "for places of worship with child care centers, nursery schools and/or schools of general or special education, the Director may, subject to conditions the Director deems appropriate, reduce the total number of parking spaces required by the strict application of this Part for such child care centers, nursery schools and/or schools of general or special education when the Director has determined that fewer spaces than those required will adequately serve all the uses on-site due to their respective hourly parking accumulation characteristics." A copy of the relevant Ordinance text also is included in Attachment II.

To that end, Oakcrest School and Holy Trinity were surveyed to determine their respective parking needs. A summary for each use is provided below.

HOLY TRINITY

Currently, Holy Trinity has 12 members, but plans to expand over several years to the maximum capacity of 800 members. At the outset, Holy Trinity anticipates having two to three staff people at the facility during the week. As the church grows and approaches its maximum capacity, the number of staff is anticipated to increase to no more than 10 employees. Therefore, the number of parking spaces utilized by the church during typical school hours would be minimal.

The church anticipates having various activities, such as bible study or choir practice, at the facility on weekday evenings. Evening activities would occur three or four nights per week. The church has agreed that these weekday, evening activities will not start before 7:00 PM.

The church does not anticipate having any regularly scheduled Saturday activities.

On Sundays, the worship service is expected to start between 10:00 AM and 11:00 AM (the church indicating that 10:30 AM would be the ideal start time). A fellowship breakfast would occur prior to the service with children's ministry after the service. All Sunday church functions would be finished by 1:00 PM.

OAKCREST SCHOOL

Oakcrest currently has an enrollment of 184 students (with a cap of 300 students) with 39 full-time and 9 part-time faculty and staff. Students start at 7:50 AM and are dismissed at 3:00 PM, Monday through Friday. Teachers generally arrive at the school at 7:15 AM and depart at 3:30 PM, Monday through Friday.

Based on 2009 data provided by Oakcrest School, approximately 30 percent of the students drive to school. At a maximum enrollment of 300 students, approximately 90 students would drive. Additionally, for purposes of this analysis, it was conservatively assumed that all faculty and staff drive alone. Furthermore, the current number of faculty and staff was extrapolated to account for the increase in enrollment to 300 students. Under a linear extrapolation, the school would have an estimated 78 full and part-time faculty and staff at a 300 student enrollment. Based on these

assumptions, the maximum parking demand for the school, during a typical weekday, would be 168 spaces.

Current Development Conditions

Oakcrest School is subject to a number of development conditions pertaining to the operation of the school. The relevant conditions are summarized below:

- The maximum daily enrollment of the private school of general education shall be limited to 300 students in grades 6-12.
- Normal hours of operation for the School shall be limited to 7:00 AM until 5:00 PM, Monday through Friday. Class hours shall be limited to approximately 7:50 AM until 3:00 PM, Monday through Friday. Evening hours of operation for parent/teacher conferences and similar activities shall be limited to until 11:00 PM, Monday through Friday. Normal extracurricular activities and other school-only activities shall end by 6:00 PM, daily. Other school activities, such as fundraising events, school plays, musical and concerts, shall end by 12:00 midnight.
- Any on-site summer camp and summer school activities shall be subject to the following restrictions:
    - No more than one session of summer camp and summer school activities may take place on-site per day.
    - The total maximum daily enrollment in summer camp and summer school activities shall not exceed 300 participants, provided that it can be demonstrated to DPWES and DPZ that all required parking can be provided on-site. The maximum daily enrollment in the summer program shall be phased as follows:
        - 2007: 100 students
        - 2008: 200 students
        - 2009 on: 300 students
    - Participants shall be limited to students entering 1st grade through 12th grade; however, in order to limit the amount of outdoor activities and to address noise concerns, on a daily basis, there shall be no more than 50 students entering 1st grade through 4th grade on site at any one time.
    - Summer camp and summer school activities may begin one week after the official end of the school year for Oakcrest School and must terminate no later than two (2) weeks before the official start of the school year for Oakcrest School.
    - The hours of operation of the summer camp and summer school activities shall be limited to 8:00 AM to 5:00 PM, Monday through Friday.
- The School shall be permitted to lease its facilities to community organizations, not affiliated with or sponsored by the School subject to the following restrictions:
    - The leasing of facilities shall not be permitted during normal school hours of operation (7:00 AM to 6:00 PM, Monday through Friday).
    - The School may lease the facility a maximum of eight (8) times per month; however, no more than four (4) events per month shall have more than fifty (50) people in attendance. Any events which have more than fifty (50) people in attendance will be

required to provide a traffic marshal to direct and control traffic at the School's primary site entrance on Balls Hill Road, for two 30 minute periods, defined as the one-half hour before the scheduled start of the event and 30 minutes after the scheduled end of the event.

- However, following January 1, 2009, upon demonstration by the applicant that 1) arrival and departure patterns do not cause congestion at the site entrances as evidenced by any entrance study reviewed by Fairfax County Department of Transportation (FCDOT); and 2) submission of a petition of non-opposition signed by the 24 residents on Holyrood Drive, the Zoning Administrator or his/her designee may administratively suspend the use of a traffic marshal for community organization events. In the event, a written complaint regarding community organization event traffic is received by FCDOT or the Department of Planning and Zoning (DPZ), the Zoning Administrator may administratively reinstate the requirement to use a traffic marshal as described above in which case, no subsequent request for administrative suspension of the traffic marshal requirement shall be made for a period of two years.
- Community organization events shall terminate by 11 PM.

A copy of the complete set of development conditions is included in Attachment III.

Weekday Evening Activities

A number of evening activities take place (after 6:00 PM) on the Oakcrest Campus during the school year. A list of these activities is summarized in Table 2.

As shown in Table 2, approximately 10 functions per year have an attendance of 100 or more people (note that the parent teacher conferences have over 100 attendees; however, they take place throughout the day and do not have a heavily concentrated attendance at any given time). All of the events with 100 or more attendees during the week are school sponsored events. A substantial number of attendees for each of these events likely would not drive alone. Assuming an average vehicle occupancy of 1.5 persons per vehicle, the number of vehicles parking at the school would range from 67 (for events with an estimated attendance of 100 people) to 200 (for events with an estimated attendance of 300 people).

Given the limited church functions taking place during the week, sufficient parking would be available to accommodate both church functions and school functions at most times. For school functions with an excess of 200 attendees (such as concerts and shows), it may be necessary for the church to reschedule activities on those particular days.

Table 2
Summary of Weekday Evening Activities†‡

Activity	Day	Frequency	Time	Estimated Number of Attendees
Admission Info Session for Parents	Tuesday	Three/year	7:00 PM – 8:00 PM	10
Annual Fund Phone-a-thon	Monday	One/year	6:00 PM – 8:30 PM	10
Accreditation Parent Focus Group	Tuesday	One/year	7:00 PM – 8:00 PM	15
US Show Rehearsal and Stage Set Up	Friday	One/year	N/A	20
8th Grade Lock-in	Friday	One/year	3:00 PM – 11:00 PM	30
US Show Parent Information Session	Tuesday	One/year	7:00 PM	30
International Student Host Family Dinner	Thursday	One/year	7:30 PM – 8:30 PM	40
Middle School Dress Rehearsal	Friday	One/year	1:15 PM – 7:00 PM	45
College FAQ	Thursday	One/year	7:00 PM	45
Evening of Recollection	Wednesday	Ten/year	7:30 PM – 9:30 PM	50
Quarterly Evening of Recollection	Wednesday	Five/year	7:30 PM – 10:00 PM	60
McLean Orchestra Rehearsal	Varies	Five/year	7:30 PM – 10:00 PM	70
Admission Spring Open House	Tuesday	One/year	6:30 PM – 8:00 PM	85
Patron of the Arts for Upper and Middle School Shows	Friday	One/year	6:00 PM – 7:15 PM	100
Veritas Reception	Tuesday	One/year	7:00 PM – 8:30 PM	100
Winter Sports Night Dinner and Awards	Thursday	One/year	6:30 PM	100 – 125
Fall Sports Dinner	Thursday	One/year	6:30 PM	100-150
Parent-Advisor Conferences	Wednesday	Two/year	9:00 AM – 7:30 PM	150
Parent-Teacher/Advisor Conferences	Tuesday	One/year	1:00 PM to 8:00 PM	150
Spring Sports Awards Night	Wednesday	One/year	7:00 PM	150
Back to School Night	Tuesday/ Thursday	Two/year	7:00 PM – 9:00 PM	160-200
Middle School Show	Friday	One/year	7:30 PM	180
Upper School Show	Friday	One/year	7:30 PM – 7:30 PM	200
Oakcrest Christmas Concert	Tuesday	One/year	7:00 PM	300
Spring Concert	Wednesday	One/year	7:00 PM – 9:00 PM	300

† Summary of activities taking place during on weekdays after 6:00 PM.
‡ Activities based on 2010-2011 school year.

In addition to the activities listed in Table 2, several regularly scheduled sports activities take place at Oakcrest School on weeknights. Varsity sports practice every day after school until 5:00 PM. Varsity basketball practices on Saturday mornings from 10:00 AM to 12:00 PM. Middle School sports practice after school three days per week until 5:00 PM. Cross country, volleyball, Middle School basketball and track practice at Oakcrest. Tennis, soccer, swimming, varsity basketball, softball, and lacrosse practice off campus; however, approximately half of each team is picked up from Oakcrest after practices. Because these practices end at 5:00 PM, no parking conflict is anticipate with church activities since church activities during the week will not begin until 7:00 PM.

All games, matches, and meets are held at off-campus locations.

To demonstrate that the proposed parking supply would meet the anticipated parking demand, two parking accumulation graphs were developed for weekday conditions. The first graph, included as Figure 3, shows the parking accumulation on a typical school day when both a moderate-sized school event (200 attendees), such as the Back-to-School Night shown in Table 2, and a typical church event (60 attendees) take place at the same time during the evening. Note that data regarding student, faculty and staff, driving patterns and characteristics was provided by Oakcrest School and is included in Attachment IV. As shown in Figure 3, the maximum parking demand is expected to be 199 spaces out of the 209 spaces provided (or 95 percent occupancy). Therefore, if Oakcrest School has a planned event of 200 attendees, Holy Trinity still would be able to hold a 60 person event on a weeknight.

The second weekday graph, as shown on Figure 4, shows the parking accumulation on a typical school day when a school event with 300 attendees, such as the concerts shown in Table 2, takes place. This weekday scenario assumes that Holy Trinity would not have an event on a weeknight when the school has a large event, such as the concerts. As shown on Figure 4, the maximum parking demand is expected to be 200 spaces out of the 209 spaces provided (or 96 percent occupancy). Therefore, when Oakcrest School has a planned event of approximately 300 attendees, Holy Trinity would be unable to schedule a weeknight event.

Weekend Activities

In addition to the weekday evening activities, a number of functions also take place on weekends at the Oakcrest Campus. A summary of the Saturday and Sunday activities is provided in Table 3.

As show in Table 3, several of the weekend events have an estimated attendance of 100 or more people. The majority of these events are school-sponsored events such as graduation, shows, etc. All but two of the school-sponsored events with attendance in excess of 100 people occur on Saturdays. As with weekday evening events, it may be necessary for the church to reschedule any planned Saturday functions at times when school-sponsored events have an attendance in excess of 200 people.

The McLean Orchestra and McLean Youth Orchestra currently use the facility for rehearsals and performances. These activities would continue under the proposed SEA. The McLean Orchestra has rehearsals two or three weeknights prior to each performance and on Saturday before each performance. The Orchestra has 70 members; therefore, the parking needs during the rehearsals are not significant. The Orchestra has performances six times per year, including five on Saturday evenings and one on Sunday afternoon. An estimated 350 people attend these performances. Assuming an average vehicle occupancy of two persons per vehicle, 175 vehicles would need to be parked on-site during these performances. No parking issues are anticipated on Sundays since the church has agreed

to end its activities and functions by 1:00 PM on Sundays. Saturday parking conflicts will be avoided as well, since the church has agreed not to hold any functions on Saturday evenings when the McLean orchestra has a scheduled performance.

The McLean Youth Orchestra has only one Saturday rehearsal before each of their two Sunday performances. The Youth Orchestra has 65 members ages 12 to 18. As such, parking needs during rehearsals would be minimal. An estimated 100 people attend the Youth Orchestra performances. Assuming an average vehicle occupancy of two persons per vehicle, 50 vehicles would need to be parked on-site. Again, no parking issues are anticipated since the Sunday Youth Orchestra performances would occur after church functions are concluded.

Oakcrest currently holds two masses on Sunday mornings during the school year. The masses are attended by 250 to 350 people and would coincide with the church's activities on Sunday mornings. In order to avoid parking conflicts, the times of either Oakcrest's mass or Holy Trinity's Sunday services and activities would need to be shifted.

To demonstrate that the proposed parking supply would meet the anticipated parking demand, two parking accumulation graphs were developed for Sunday conditions. The first graph, included as Figure 5, shows the parking accumulation on a Sunday when Holy Trinity would have a typical morning service and then the McLean Orchestra would have an afternoon performance at 3:00 PM. As shown in Figure 5, the maximum parking demand is expected to be 204 spaces out of the 209 spaces provided (or 98 percent occupancy). Therefore, provided that Holy Trinity's service occurs at approximately 10:30 PM, the McLean Orchestra performance could take place on Sunday at approximately 3:00 PM and sufficient parking would be available.

As shown on Figure 6, the second Sunday graph shows the parking accumulation on a Sunday when Holy Trinity would have a typical morning service and Oakcrest School would have their annual OPA Family Mass and Christmas Brunch. Typically, the OPA Family Mass and Christmas Brunch begins at 9:30 AM on a Sunday; however, this event and Holy Trinity's service cannot take place at the same time due to insufficient parking. Therefore, we assumed that the OPA Family Mass and Christmas Brunch would be moved to 3:00 PM. As shown on Figure 6, the maximum parking demand is expected to be 200 spaces out of the 209 spaces provided (or 96 percent occupancy).

Table 3
Summary of Weekend Activities†

Activity	Day of Week	Frequency	Time	Estimated Number of Attendees
Swim Team Trip – Villanova	Saturday	Once/year	N/A	10
Swim Team Trip – Villanova	Sunday	Once/year	N/A	10
US Show Rehearsal and Stage Set Up	Saturday	Once/year	10:00 AM – 4:00 PM	20
US Show Rehearsal and Stage Set Up	Sunday	Once/year	10:00 AM – 4:00 PM	20
PEC Mother's Mass and Brunch	Sunday	Once/year	10:00 AM – 4:00 PM	50
McLean Youth Orchestra Rehearsal	Saturday	Two/year	10:00 AM – 1:00 PM	65
McLean Orchestra Rehearsal	Saturday	Five/year	10:00 AM – 3:00 PM	70
Admission Fall Open House	Sunday	Once/year	1:00 PM – 3:00 PM	85
McLean Youth Orchestra Performance	Sunday	Two/year	3:00 PM – 6:00 PM	100
MS Father Daughter Dance	Saturday	Once/year	7:00 PM	130
Fine Arts Night	Saturday	Once/year	5:00 PM – 8:00 PM	150
Middle School Show	Saturday	Once/year	11:00 AM / 7:30 PM	175 – 180
Upper School Show	Saturday	Once/year	11:00 AM / 7:30 PM	185 – 200
Class of 2011 Graduation	Saturday	Once/year	10:00 AM – 4:00 PM	240-400
Founding Day Anniversary Mass and Opening of School Brunch	Sunday	Once/year	9:30 AM	250
Oakcrest 34th Annual Gala	Saturday	Once/year	6:00 PM – 11:00 PM	250
McLean Orchestra Performance	Saturday	Five/year	6:00 PM to 10:00 PM	350
McLean Orchestra Performance	Sunday	Two/year	3:00 PM	350
OPA Family Mass and Christmas Brunch	Sunday	Once/year	9:30 AM	350

† Activities based on 2010-2011 school year.

CONCLUSIONS

In summary, Holy Trinity is requesting a parking reduction in conjunction with the proposed Special Exception Amendment. Under a strict application of the Zoning Ordinance, 290 parking spaces would be required to accommodate both the proposed church (with a seating capacity of 800 seats) and the existing school (at its cap of 300 students, assuming all high school students). The Applicant is seeking a parking reduction of 27.9 percent, or 81 fewer parking spaces than required by strict application of the Zoning Ordinance, for a total of 209 parking spaces.

The proposed Holy Trinity would provide a complimentary use to the existing Oakcrest School or any subsequent school subject to the same conditions as Oakcrest. As demonstrated herein, the number of overlapping activities between the church and the school would be minimal. The majority of the school activities take place during the week, when church activities will be minimal. The majority of the church activities will take place on the weekends, when the school activity is minimal.

Most activities occurring simultaneously would be low parking generators and, as such, the proposed parking would accommodate those parking needs (i.e., typical school day with typical church staff on a weekday). As demonstrated in the parking accumulation graphs, when moderate-sized school-sponsored or community events occur at the same time as moderate-sized church events, the proposed parking supply is anticipated to adequately accommodate these simultaneous events. Finally, in a few instances where attendance at school-sponsored/community events is expected to be high and a typical Sunday church service is planned, the start time of one of the events would need to be altered so that adequate parking would be available on the site.

Holy Trinity is committed to establishing a partnership with Oakcrest and any future school. They will work collaboratively with the schools to ensure activities and events are rescheduled as necessary to avoid excess parking demand.

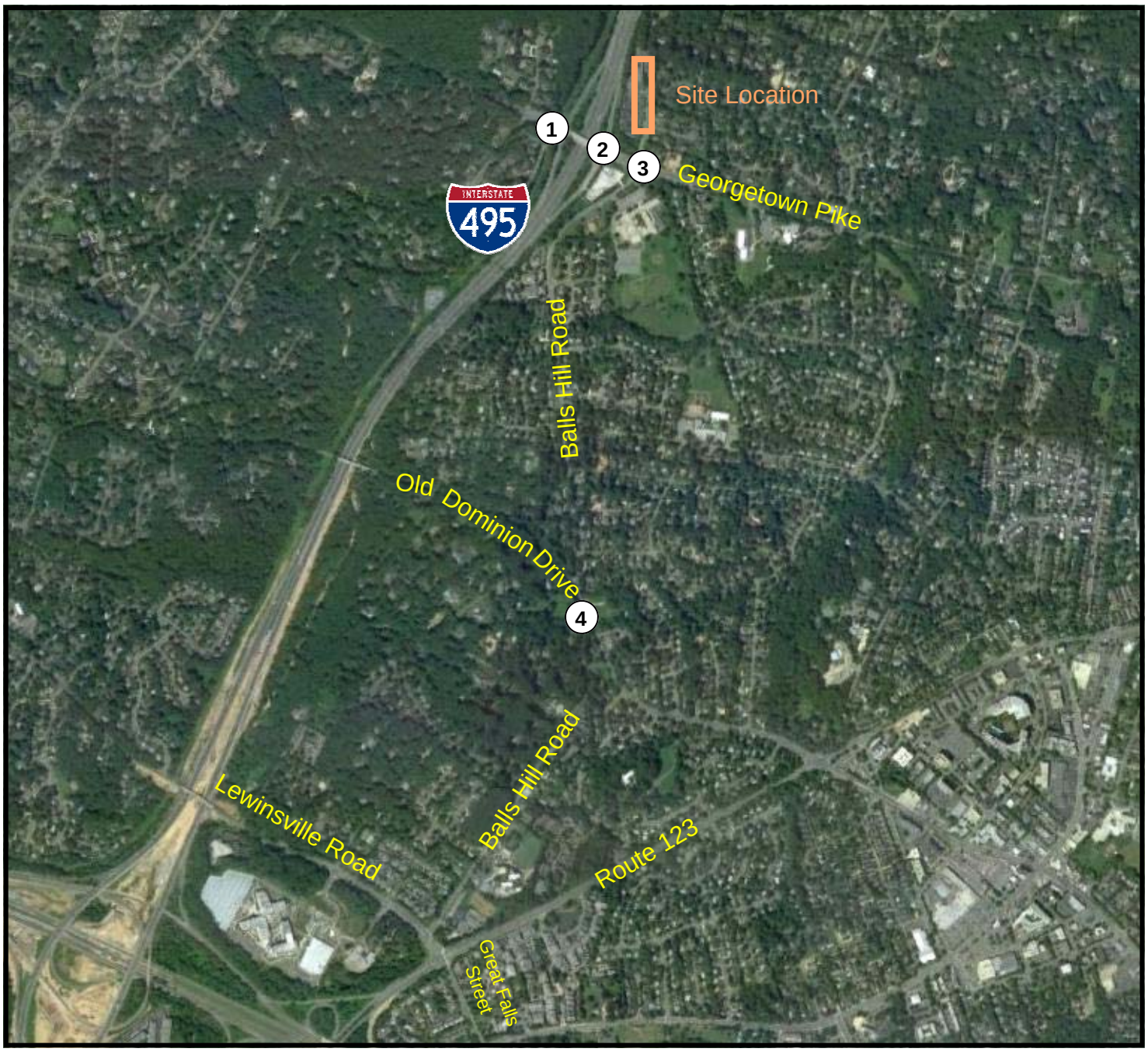


Figure 1
Site Location Map

North

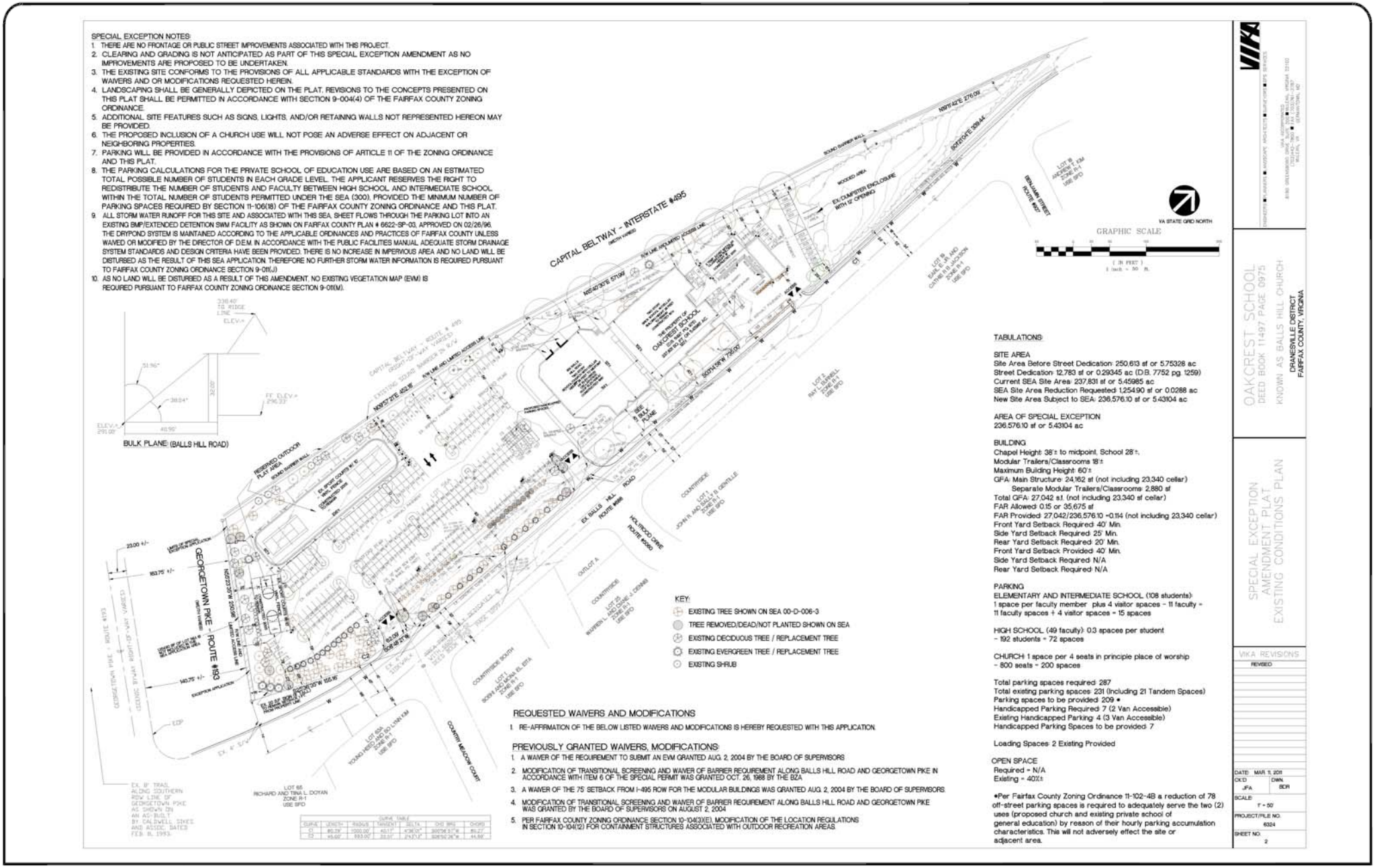
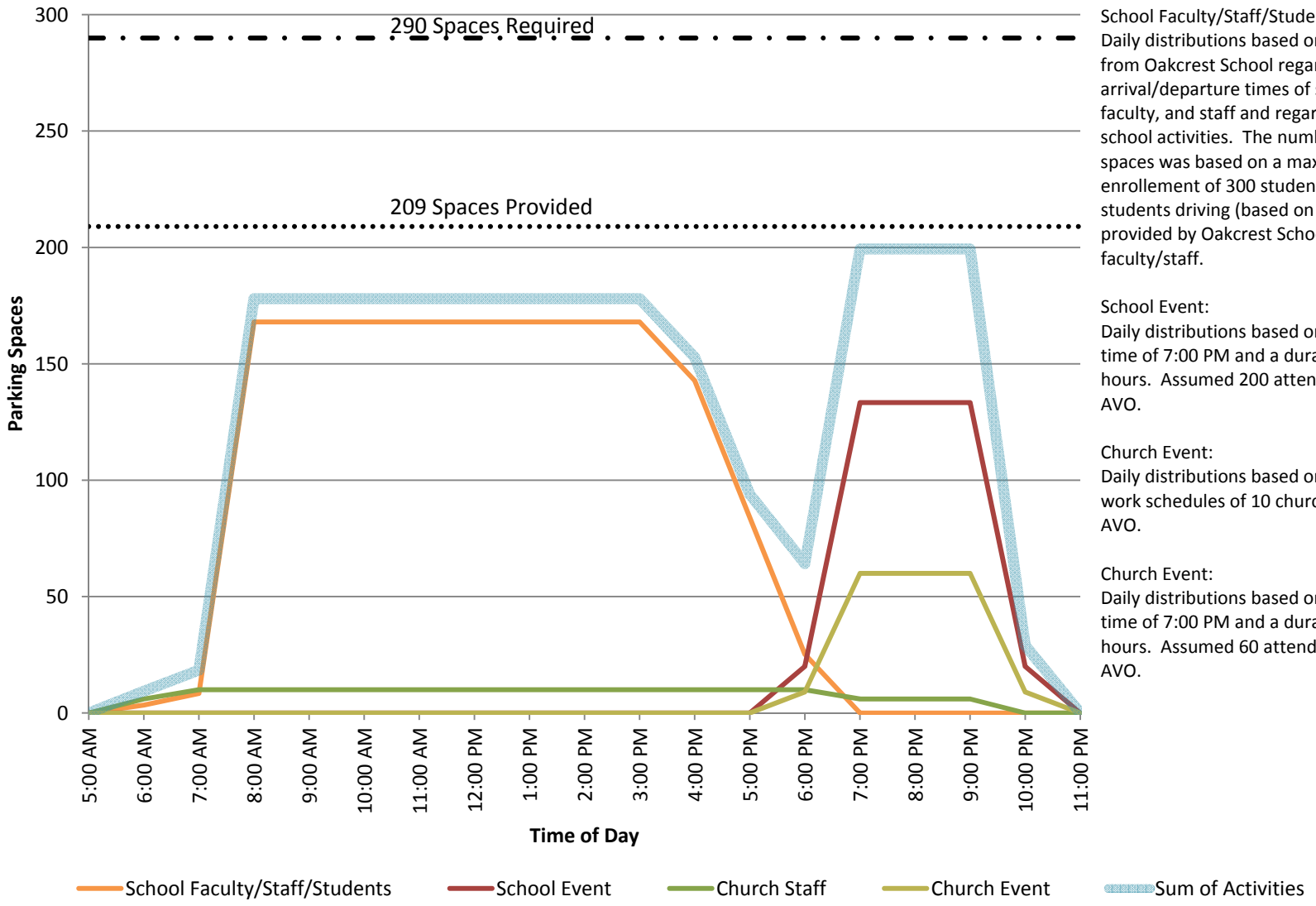


Figure 2
Special Exception Amendment Plat

North

Figure 3
Weekday Parking Accumulation
200 Attendee School Event with 60 Attendee Church Event



Assumptions

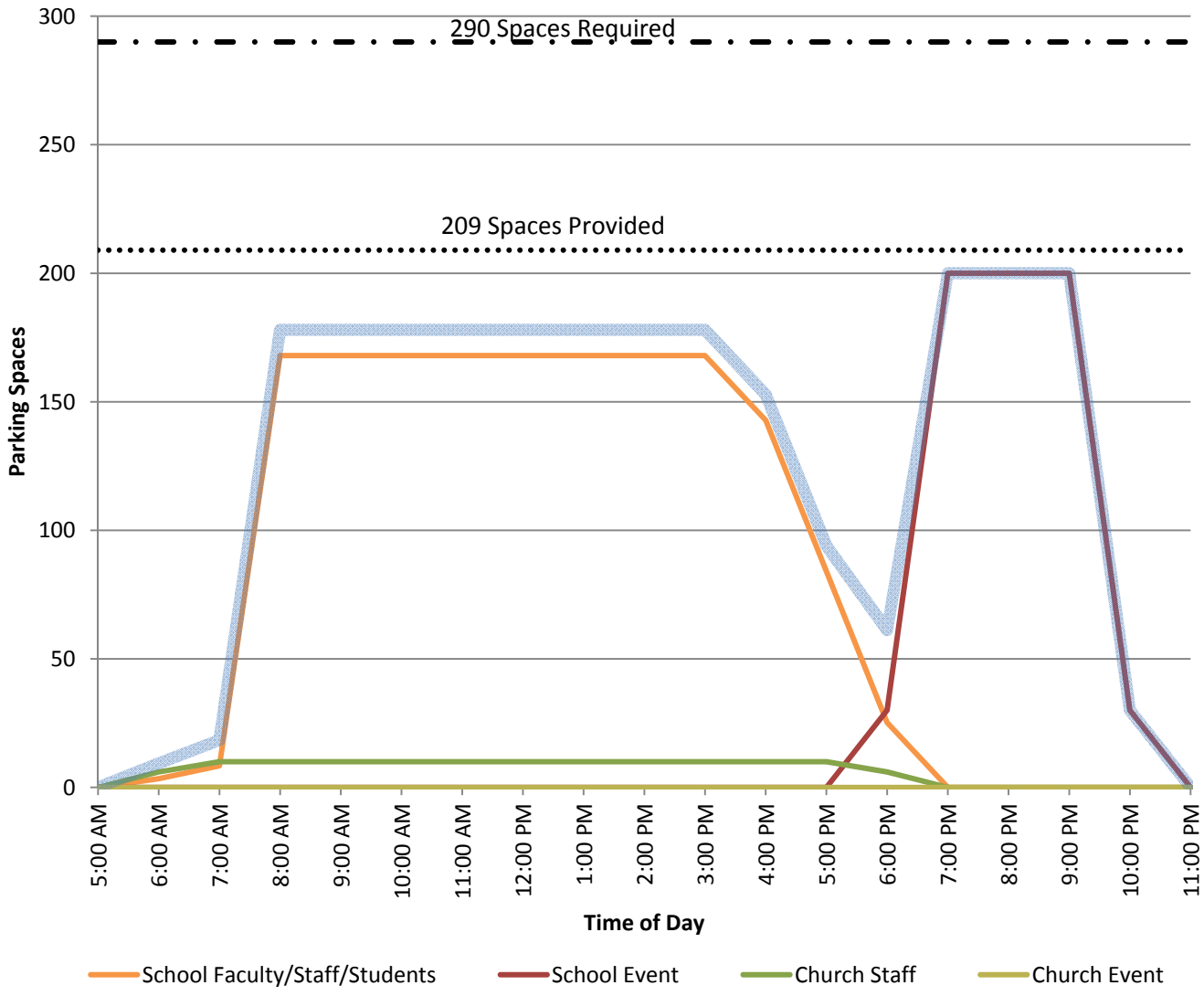
School Faculty/Staff/Students:
Daily distributions based on information from Oakcrest School regarding arrival/departure times of students, faculty, and staff and regarding after school activities. The number of parking spaces was based on a maximum enrollement of 300 students, 30% of students driving (based on information provided by Oakcrest School), and 78 faculty/staff.

School Event:
Daily distributions based on an event start time of 7:00 PM and a duration of two hours. Assumed 200 attendees at a 1.50 AVO.

Church Event:
Daily distributions based on anticipated work schedules of 10 church staff at a 1.0 AVO.

Church Event:
Daily distributions based on an event start time of 7:00 PM and a duration of two hours. Assumed 60 attendees at a 1.00 AVO.

Figure 4
Weekday Parking Accumulation
300 Attendee School Event without a Church Event



Assumptions

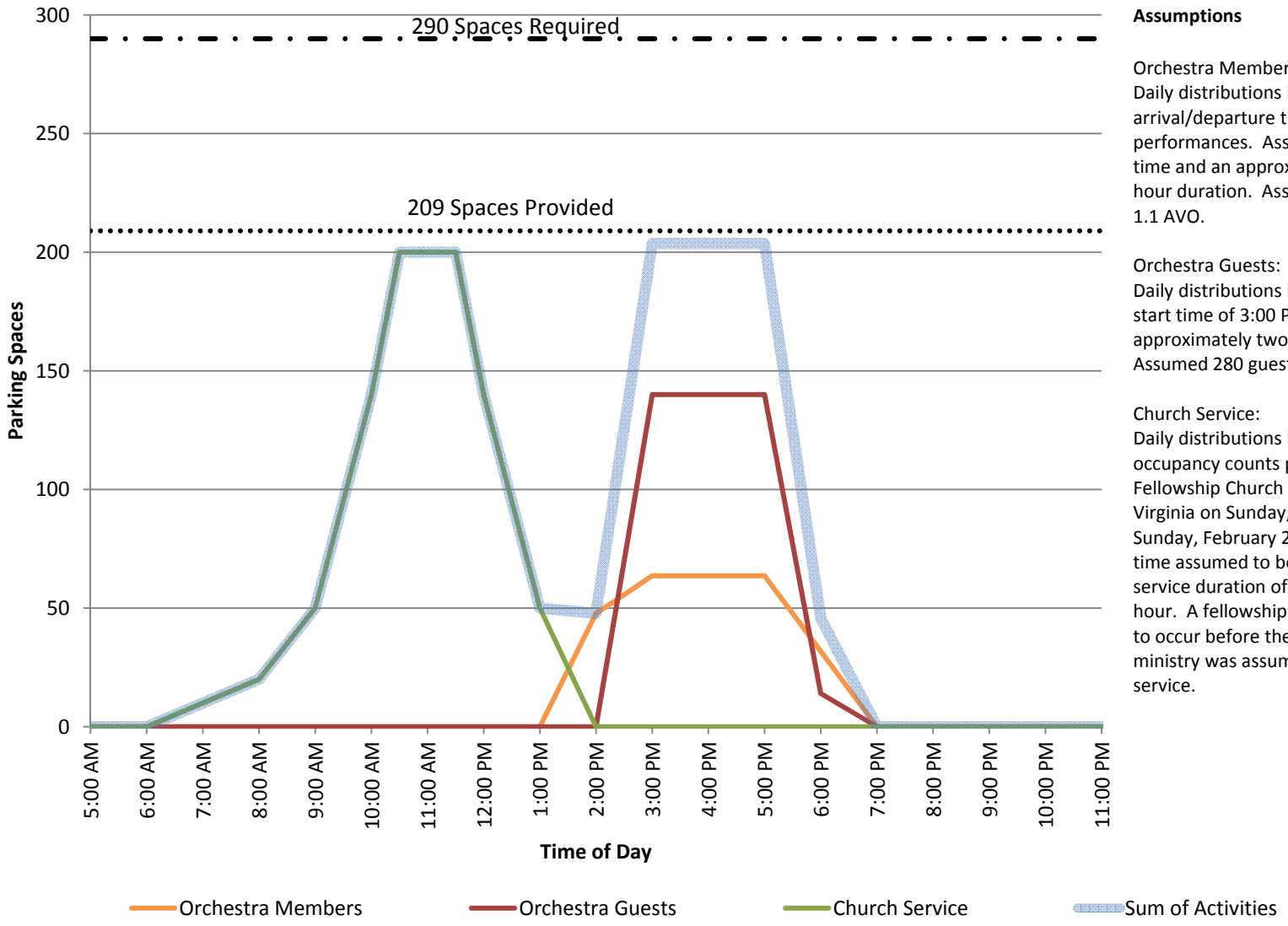
School Faculty/Staff/Students:
Daily distributions based on information from Oakcrest School regarding arrival/departure times of students, faculty, and staff and regarding after school activities. The number of parking spaces was based on a maximum enrollement of 300 students, 30% of students driving (based on information provided by Oakcrest School), and 78 faculty/staff.

School Event:
Daily distributions based on an event start time of 7:00 PM and a duration of two hours. Assumed 300 attendees at a 1.50 AVO.

Church Event:
Daily distributions based on anticipated work schedules of 10 church staff at a 1.0 AVO.

Church Event:
No church event permitted.

Figure 5
Sunday Parking Accumulation
Church Service with McLean Orchestra Performance



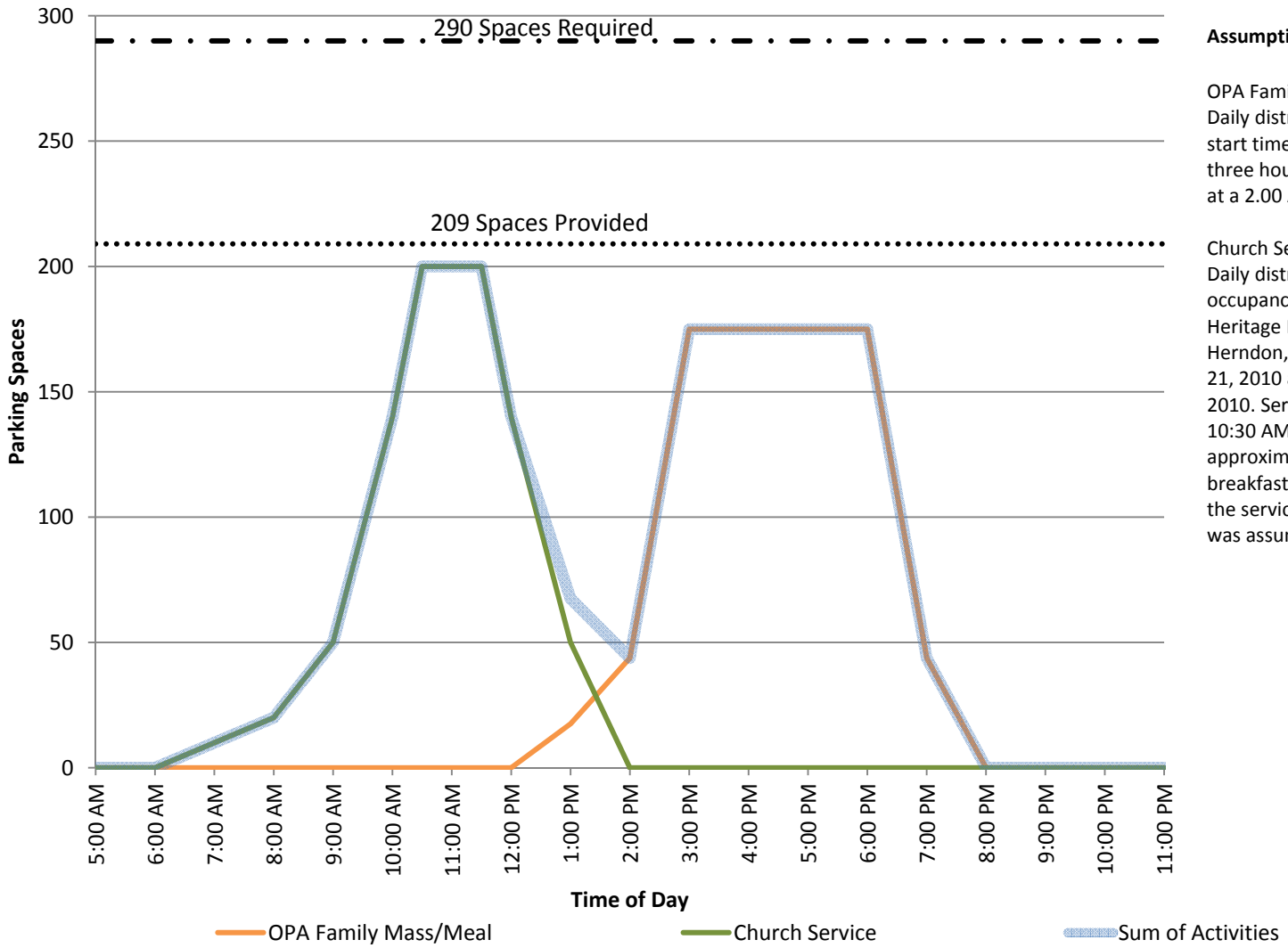
Assumptions

Orchestra Members:
Daily distributions based on typical arrival/departure times for orchestra-type performances. Assumed a 3:00 PM start time and an approximately two and half hour duration. Assumed 70 members at a 1.1 AVO.

Orchestra Guests:
Daily distributions based on a performance start time of 3:00 PM and duration of approximately two and half hours. Assumed 280 guests at a 2.0 AVO.

Church Service:
Daily distributions based on parking occupancy counts performed at Heritage Fellowship Church of Christ in Herndon, Virginia on Sunday, February 21, 2010 and Sunday, February 28, 2010. Service start time assumed to be 10:30 AM with a service duration of approximately one hour. A fellowship breakfast was assumed to occur before the service and a children's ministry was assumed to occur after the service.

Figure 6
Sunday Parking Accumulation
Church Service with OPA Family Mass/Meal



Assumptions

OPA Family Mass/Meal:
Daily distributions based on an event start time of 3:00 PM and duration of three hours. Assumed 350 attendees at a 2.00 AVO.

Church Service:
Daily distributions based on parking occupancy counts performed at Heritage Fellowship Church of Christ in Herndon, Virginia on Sunday, February 21, 2010 and Sunday, February 28, 2010. Service start time assumed to be 10:30 AM with a service duration of approximately one hour. A fellowship breakfast was assumed to occur before the service and a children's ministry was assumed to occur after the service.

ATTACHMENT II

APPROVED DEVELOPMENT CONDITIONS

SEA 00-D-006-04

January 20, 2012

If it is the intent of the Board of Supervisors to approve SEA 00-D-006-04 located at 850 Balls Hill Road, Tax Map 21-3 ((1)) 56A, previously approved for an existing private school of general education with a containment structure to permit the addition of a place of worship to the site, pursuant to Sect. 3-104 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

GENERAL

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.

3. A copy of this Special Exception Amendment and the Non-Residential Use Permit shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans, as may be determined by the Director of the Department of Public Works and Environmental Services (DPWES). The use of the site shall be in substantial conformance with the approved Special Exception Plat entitled "Trinity Group LLC.", prepared by VIKA, dated April 28, 2011 and as revised through October 18, 2011, and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

CAPACITY

5. The maximum daily enrollment of the School shall be limited to 300 students.

6. The maximum number of seats in the main area of worship for the Church shall be limited to 800 if a parking reduction or other similar shared parking agreement is approved by the Board of Supervisors. Should the parking reduction or other similar shared parking agreement be denied by the Board of Supervisors, the maximum number of seats shall be limited to 400.

HOURS OF OPERATION

7. Normal hours of operation for the School shall be limited to 7:00 a.m. until 5:00 p.m., Monday through Friday. Class hours shall be limited to approximately 7:50 a.m. until 3:00 p.m., Monday through Friday. Evening hours of operation for parent-teacher conferences and similar activities shall be limited to until 11:00 p.m. Monday through Friday. Normal extracurricular activities and other school-only activities shall end by 6:00 p.m., daily. Other school activities, such as fundraising events, school plays, musicals and concerts, shall end by 11:00pm, Sunday through Thursday and by 12:00am on Friday and Saturday.

SUMMER ACTIVITIES

8. Any on-site summer camp and summer school activities shall be subject to the following restrictions:

   a) No more than one session of summer camp and summer school activities may take place on-site per day.

   b) The total maximum daily enrollment in summer camp and summer school activities shall not exceed 300 participants.

   c) Summer camp and summer school activities may begin one week after the official end of the school year for the School and must terminate no later than two weeks before the official start of the school year for the School.

   d) The hours of operation of the summer camp and summer school activities shall be limited to 8:00 a.m. until 5:00 p.m., Monday through Friday.

   e) In order to address possible noise issues, outside activities shall be limited to no more than 50 people at any one time and shall only be permitted between the hours of 8:00 a.m. and 4:00 p.m.

   f) The starting and ending times of summer camp and summer school activities shall be coordinated by the School to the maximum extent possible in order to stagger the arrival and departure time of traffic.

NOTIFICATION/OUTREACH

9. The applicant shall assign a staff member to act as a communications representative for the Church and School. The name, phone number, and other appropriate contact information of this representative shall be provided to a neighborhood liaison, if identified, and the Dranesville District Supervisor's office. The applicant shall update this contact information annually or as necessary.

10. Prior to August 1 of each year, the communications representative shall contact the Dranesville District Supervisor's office and a neighborhood liaison if

designated by the Dranesville District Supervisor to offer to establish a meeting schedule for the school year. The purpose of the meetings shall be for neighborhood residents to discuss and address neighborhood concerns with the operation of the School and/or Church. If a meeting schedule is established, a copy of the schedule shall be sent to the Dranesville District Supervisor's office.

LEASING

11. Site facilities may be leased to community organizations not affiliated with or sponsored by the School or Church subject to the following restrictions:

    - The leasing of facilities shall not be permitted during normal School hours of operation (7:00 a.m. to 6:00 p.m., Monday through Friday) or worship services.

    - The facility may be leased a maximum of eight times per month; however, no more than four of these events per month shall have more than 50 people in attendance at any one time and the remaining four events shall have no more than 400 people in attendance at any one time. Notwithstanding the maximum number of events per month, the facility may be leased up to ten times per year for events where maximum attendance shall be no more than 800 people at any one time.

    - Special events associated with the leasing activity described above shall terminate by 11:00 p.m.

CARPOOLING

12. All loading and unloading of students shall occur on site. Cars which are waiting to load or unload students may not back up offsite on to Balls Hill Road, Holyrood Drive, or Country Meadow Court. The School shall establish a carpool coordinator to encourage carpooling, busing or vanpooling. Information detailing the arrival/dismissal procedures for the school, including a circulation map of the site, shall be distributed to the parents/guardians of students at the beginning of each school year to ensure that all loading and unloading of students occurs on site and that traffic does not back up onto Balls Hill Road.

13. At such time as enrollment reaches 250 students for the School, during the times of day when loading and unloading of students is occurring, a staff member of the School shall be present to ensure that the arrival/dismissal procedures are followed. As an alternative to using a separate staff member, the traffic marshal, as described in Development Condition 14c, may perform the duties of this staff member in addition to those listed in Development Condition 14c.

TRANSPORTATION

14. A traffic marshal shall be provided on site by the applicant to direct and control traffic at the site's primary entrance at the intersection of Balls Hill Road and Country Meadow Court during the following time periods:

    a) At such time as the daily enrollment for summer camp and/or summer school activities exceeds 100 students, for two 30-minute periods per day, defined as the one-half hour before the beginning of summer camp and summer school activities and one-half hour after the end of summer camp and summer school activities. The purpose of the traffic marshal is to ensure that motorists using Balls Hill Road, Holyrood Drive, Country Meadow Court and all surrounding streets can easily access and navigate the road without being impeded by the loading and unloading of students.

    b) For special events which have more than 100 people in attendance, for two 30-minute periods, defined as the one-half hour before the scheduled start of the event and the one-half hour after the scheduled end of the event. The purpose of the traffic marshal is to ensure that motorists using Balls Hill Road, Holyrood Drive, Country Meadow Court and all surrounding streets can easily access and navigate the road without being impeded by the arrival and departure of special event attendees.

    c) At such time as enrollment reaches 250 students for the School, for two 30-minute periods per school day, defined as the one-half hour before the beginning of classes and the one-half hour after the end of classes, Monday through Friday, on school days during the regular school year and anytime attendance on the site is expected to equal or exceed that which occurs during the regular school day as a result of students, staff, and visitors. The purpose of the traffic marshal is to ensure that motorists using Balls Hill Road, Holyrood Drive, Country Meadow Court and all surrounding streets can easily access and navigate the road without being impeded by the loading and unloading of students.

15. The applicant shall ensure that faculty, staff, students, parents, employees, church members, visitors, community organizations and facility users of any kind shall not park on surrounding residential streets. The applicant shall also ensure that nearby residential streets shall not be used to access Georgetown Pike upon leaving the site. Notice stating this condition shall be placed in a School newsletter, in the Church's weekly bulletin, or other similar publications. The notice shall state that if the conditions associated with this Special Exception are violated, the ability of the Church and School to use the site could be jeopardized.

16. At least one hour prior to worship services, signs shall be posted on the property as well as at the entrances to Holyrood Drive and Country Meadow Court which state that parking by worship service attendees on local residential streets and using these streets to access Georgetown Pike through the neighborhood are prohibited per the conditions of this Special Exception.

These signs shall be removed within one hour after the last scheduled service. Renderings of signs to be posted at the entrance to Holyrood Drive and Country Meadow Court shall be submitted for review and approved by the Dranesville District Supervisor or his/her designee within 90 days of the issuance of a Non-Residential Use Permit.

17. A minimum of 45 minutes shall be provided between the completion of one worship service and the commencement of the next worship service.

PARKING

18. All vehicle parking shall be provided on site. However, the applicant may utilize appropriate off-site parking facilities, as determined by the Director of the Department of Public Works and Environmental Services (DPWES,) from which participants shall be transported by shuttle bus. Shuttle bus traffic shall not use local residential streets, which include, but are not limited to, Holyrood Drive, Benjamin Street and Lawton Street, to reach off-site parking locations. Information detailing the location of off-site parking areas and shuttle bus details shall be included in all advertisements and notices for on-site activites. The applicant shall provide adequate traffic controls for overflow parking.

19. The applicant shall take all reasonable actions to prevent on-site parking by commuters or other parking not related directly to the operation of the School or Church.

20. Parking spaces shall not be used for any purpose which interferes with their parking use by School faculty, staff, students and employees, or Church members, visitors and employees. Any buses or vans which park on site overnight shall park on the side of the building adjacent to the I-495 noise wall. Only buses serving the School or Church shall be parked on the property.

21. A parking marshal shall be provided beginning 45 minutes prior to each worship service to ensure that worship service attendees adhere to Development Conditions 14-21. The parking marshal's duties shall be to: 1) monitor whether parking is occurring on the adjacent local residential streets and encourage worship service attendees to relocate their vehicle to an on-site parking space; and, 2) remind worship service attendees to not use the adjacent local residential streets in travelling to and from the site as outlined in Development Condition 15.

LANDSCAPING

22. Transitional screening requirements along Balls Hill Road shall be modified to permit the existing landscaping to satisfy the screening requirement with the following conditions:

    - Evergreen trees shall be provided in front of all of the parking spaces between the main parking lot and the stormwater management pond to

provide continuous year-round full screening of the parked vehicles and headlight glare, subject to UFM approval.

- The parking lot located north of the existing building shall be screened with evergreen trees or shrubs to the extent feasible given the narrow width of the planting strip between the parking spaces and the road, subject to UFM approval.

- All diseased and/or dying plant material shall be replaced as necessary to maintain a continuous year-round screen, particularly between the parking areas and the residential neighborhood, as approved by UFM. The grass shall be mowed on a weekly basis unless conditions warrant otherwise, such as drought or nongrowing seasons.

LIGHTING

23. Any new outdoor lighting shall be in conformance with the Performance Standards for Outdoor Lighting contained in Part 9 of Article 14 of the Zoning Ordinance. The maximum height of the light standards and fixtures shall not exceed twelve (12) feet. Except for emergency safety lights, parking lot lighting shall be extinguished no later than 10:00 p.m. daily with the exception of special events subject to Development Conditions 7 and 11 above. Except for emergency safety lights, all interior lights shall be extinguished no later than 11:00 p.m. daily with the exception of special events subject to Development Conditions 7 and 11 above.

NOISE

24. Except for emergencies, the use of outdoor loudspeakers shall be prohibited. There shall be no exterior bells or buzzers. The lawns shall not be mowed on weekends.

TRASH REMOVAL

25. The trash dumpster shall be fully screened from view by a masonry wall which has been designed to be compatible with the building materials, as determined by DPWES. Trash removal shall not occur before 7:00 a.m. On the days of trash pick-up, the subject site shall be patrolled by employees to pick up any trash on-site and to ensure that the doors to the dumpster enclosure are fully closed and in good working condition.

STORMWATER MANAGEMENT

26. Stormwater management, including BMPs, shall be provided for as determined by DPWES.

MODULAR CLASSROOMS

27. The two existing modular classrooms shall be permitted on the subject site as shown on the Special Exception Amendment Plat until August 2, 2015. In addition, a row of shrubs shall be maintained in front of the proposed modular classrooms and wood deck sitting area to provide additional screening from Balls Hill Road. Within 90 days of the removal of the modular classrooms, the applicant shall scarify any asphalt existing or other hard surface material and convert the former footprint of the modular classrooms to landscaped open space which may be used as overflow parking during special events.

OUTDOOR STORAGE

28. The storage shed shall be no taller than 8 ½ feet.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted as evidenced by the issuance of a Non-Residential Use Permit for either the private school of general education or the place of worship. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

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Board Agenda Item
February 28, 2012

ACTION - 5

Approval of Standard Project Administration Agreements with the Virginia Department of Transportation and Lorton Arts Foundation to Accept Transportation Enhancement Program Funding for the Cross County Trail (Mount Vernon District)

ISSUE:
Board authorization is requested for the Department of Transportation (DOT) to enter into construction and funding agreements with the Virginia Department of Transportation (VDOT) and the Lorton Arts Foundation (LAF). The County has successfully applied for and received, on behalf of the LAF, a VDOT Transportation Enhancement Grant. Funding of $312,500, including $250,000 in Transportation Enhancement Grants and $62,500 in a 20 percent required local match, will be used to offset costs associated with the construction of the Cross County Trail. As indicated in the November 16, 2010, Board Item which endorsed this project, the local match is the responsibility of LAF and will be met with in-kind contributions. No Local Cash Match from the County is required. LAF will also be responsible for any cost overruns. Grant funds must be expended by October 1, 2013. The County has no financial responsibility. It is merely acting as the fiscal intermediary, because VDOT cannot enter into agreement with non-profit private entities.

RECOMMENDATION:
The County Executive recommends the Board authorize the Department of Transportation to enter into the Standard Project Administration Agreement (Attachment 1), in substantial form, to accept funding from VDOT to administer the Cross County Trail Project and to allow LAF to construct the project on the County's behalf. Total funding of $312,500 consists of $250,000 in Transportation Enhancement Grants and a 20 percent required local match of $62,500.

TIMING:
Board approval is requested on February 28, 2012.

BACKGROUND:
On November 16, 2010, the Board endorsed the VDOT Transportation Enhancement Program funding application for the Cross County Trail Project. As outlined in the original application approved by the Board, the County will be the project sponsor for purposes of the VDOT agreement, but the project will be implemented by the LAF. The project includes the design and construction of a new multi-use trail to provide non-

motorized access between the Occoquan Regional Park and the Laurel Hill Greenway. The trail connects users with the historic Workhouse Arts Center, a program of the LAF, which is listed on the National Register of Historic Places and enhances an already significant historic destination.

The trail will connect with the regional network of existing and planned trails, including High Point Trail, Fairfax Cross-County Trail, Potomac Heritage Scenic Trail, and the Laurel Hill Greenway. The improvements to this section of trail will provide multi-use trail access to many recreational facilities and places of historic interest in the area, including Occoquan Regional Park, the Town of Occoquan and other sections of the Cross County Trail.

This award offsets the total cost of the trail, currently estimated to be $2.3 million. The County, on behalf of LAF, has applied for additional Transportation Enhancement Grants to offset the cost of the trial. The County has received preliminary notification that an additional $500,000 in Transportation Enhancement Grants will be awarded. The County is awaiting final notification and will submit a separate Board item once it is received. Therefore, it is anticipated that $750,000 in funding awarded through VDOT Transportation Enhancement Grants will offset the cost of the trail. A source of funding for the remaining project balance of $1.5 million must still be identified by LAF.

FISCAL IMPACT:
On behalf of the LAF, the County has applied for and received VDOT Transportation Enhancement Grants totaling $250,000. The County will act as the fiscal intermediary for the disbursement of these grant funds, because VDOT cannot enter into an agreement with LAF, which is a non-profit private entity. Minimal staff time will be required to process payments and ensure the project is completed under federal guidelines. The required 20 percent local match of $62,500 (for total funding of $312,500) is the responsibility of LAF and will be met with in-kind contributions. Since the County will be acting as the fiscal intermediary, a new grant will be created in the Federal-State Grant Fund; however, this action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated grant awards. No Local Cash Match or additional resources from the County are required.

CREATION OF POSITIONS:
No positions will be created through this grant award.

Board Agenda Item
February 28, 2012

ENCLOSED DOCUMENTS:
Attachment 1 - Project Agreement for Cross County Trail with VDOT
Attachment 2 - Project Agreement for Cross County Trail with LAF
Attachment 3 - Resolutions to Execute Agreement

STAFF:
Robert A. Stalzer, Deputy County Executive
Ellen F. M. Posner, Assistant County Attorney
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT
Jay Guy, Senior Transportation Planner, Coordination and Funding Division, FCDOT
Ken Kanownik, Transportation Planner, Coordination and Funding Division, FCDOT

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STANDARD PROJECT ADMINISTRATION AGREEMENT
Federal-aid Projects

Project Number	UPC	Local Government
EN09-029-120, P101, R201, C501	94287	Fairfax County

THIS AGREEMENT, made and executed in triplicate this ____ day of _____, 200_, by and between the County of Fairfax, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

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

1. The LOCALITY shall:

   a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT

   b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and DEPARTMENT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, rescinding of state funding match and/or termination of this Agreement

c. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.

d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.

e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.

f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the Locality. For federally funded projects and pursuant to the Code of Federal Regulations, Title 49, Section 18.43, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.

g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.1-44 or Section 33.1-70.01 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.

h. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.

i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements

j. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, and local laws and regulations. If the locality expends over $500,000 annually in federal funding, such certification shall include a copy

of the LOCALITY's single program audit in accordance with Office of Management and Budget Circular A-133.

k. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.

l. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.

m. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.

2. The DEPARTMENT shall:

a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal and state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.

b. Upon receipt of the LOCALITY's invoices pursuant to paragraph1.f., reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.

c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.

d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.

e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.

3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.

4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.1-94 of the Code of Virginia, 1950, as amended.

5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.

6. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.

7. This Agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

8. Prior to any action pursuant to paragraphs 1.b or 1.g of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

COUNTY OF FAIRFAX, VIRGINIA:

_____
Signature

_____
Typed or printed name of signatory

_____ Date
Title

_____
Signature of Witness Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

_____
Commonwealth Transportation Commissioner Date
Commonwealth of Virginia
Department of Transportation

_____
Signature of Witness Date

Attachments
Appendix A

Appendix A

Project Number: EN09-029-120, P101, R201, C501 UPC #94287 Project Name: Lorton Arts Foundation – Cross-County Trail	Locality: Fairfax County

Project Narrative

Scope: Lorton Cross County Trail-Design and construction of a multi-use trail between Occoquan Regional Park and the Laurel Hill Greenway

Locality Project Manager Contact Info: Andrea Cordray, Lorton Arts Foundation, Inc. 9601 Ox Road, Lorton VA 22079 (703) 584-2921

Department Project Coordinator Contact Info: Doug Miller, 14685 Avion Parkway, Chantilly, VA 20151-1104, (703)383-2108, Douglas.Miller@VDOT.Virginia.gov

Project Costs and Reimbursement

Phase	Estimated Project Costs	Estimated Eligible Project Costs	Estimated Eligible VDOT Project Expenses	Estimated Reimbursement to Locality
Preliminary Engineering	$288,898			
Right-of-Way & Utilities	$638,484			
Construction	$1,401,459			
Total Estimated Cost	$2,328,841	$312,500	$15,000	$235,000
Total Maximum Reimbursement by Locality to VDOT				N/A
Total Maximum Reimbursement by VDOT to Locality (may be reduced by eligible VDOT project expenses)				$250,000

Project Financing

A	B	C	D	E
Transportation Enhancement (80%)	Local Match (20%)	Local Funds (100%)		Aggregate Allocations (A+B+C+D=)
$250,000	$62,500	$2,016,341		$2,328,841

Program and Project Specific Funding Requirements

This project will be administered in accordance with the "Enhancement Program Procedure Manual" and the "Locally Administered Projects Manual". Any expenses above the combined federal (80%) and local (minimum 20% match) will be at 100% project sponsor cost.

100% of eligible VDOT project expenses will be recovered as follows:

- 20% will be deducted from reimbursement requests.
- 80% will be deducted from the Federal Enhancement allocation amount.

Shed stabilization as shown in the proposed budget is not eligible at this time. The approved project funding is for design and construction of the trail as described in the application. Any additional ineligible items identified throughout project development will not be reimbursable.

For Transportation Enhancement projects, the LOCALITY shall maintain the Project, or have it maintained, in a manner satisfactory to the Department or its authorized representatives, and make ample provision each year for such maintenance unless otherwise agreed to by the DEPARTMENT.

The Department will conduct all environmental studies necessary to complete an environmental document in compliance with the National Environmental Policy Act. The applicant is responsible for implementing any environmental commitments from the environmental document. In addition, the applicant is responsible for obtaining any water quality permits and conducting any required hazardous materials due diligence efforts. VDOT's estimated cost for the environmental document and studies will be provided to the applicant and deducted from the project funds.

In accordance with CTB policy, the project must be completed and the $250,000 Enhancement allocation expended by **October 1, 2013** or the project may be subject to de-allocation.

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official date

VDOT Enhancement Program Manager date

STANDARD PROJECT ADMINISTRATION AGREEMENT
Federal-aid Projects

THIS AGREEMENT, made and executed in triplicate this day of _____ , 2012, by and between the Lorton Arts Foundation, hereinafter referred to as the LAF and Fairfax County, hereinafter referred to as the COUNTY.

WHEREAS, the County and the Commonwealth of Virginia, Department of Transportation ("VDOT") are parties to a Standard Project Administration Agreement for Project Number EN09-029-120, P101, R201, C501 (the "Original Agreement").

WHEREAS, the LAF has expressed its desire to administer the work described in Appendix A and the Original Agreement, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LAF is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LAF's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

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

1. The LAF shall:

   a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the COUNTY or VDOT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by VDOT and be in compliance with the American with Disabilities Act.

b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and VDOT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, and/or termination of this Agreement.

c. Receive prior written authorization from the COUNTY and/or VDOT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.

d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the VDOT.

e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the COUNTY upon request by VDOT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.

f. No more frequently than monthly, submit invoices with supporting documentation to the COUNTY in the form prescribed by VDOT. The supporting documentation shall include copies of related vendor invoices paid by the LAF and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made to the COUNTY within 80 days after any eligible project expenses are incurred by the LAF. All requests for reimbursement shall be transmitted to VDOT in accordance with Section 2.a. of this Agreement. For federally funded projects and pursuant to the Code of Federal Regulations, Title 49, Section 18.43, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.

g. Reimburse the COUNTY all Project expenses incurred by the COUNTY if, due to action or inaction solely by the LAF, federally funded Project expenditures incurred are not reimbursed by VDOT, or reimbursements are required to be returned to VDOT, or in the event the reimbursement provisions of Section 33.1-44 or Section 33.1-70.01 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.

h. On Projects that the COUNTY is providing the required match to state or federal funds, LAF shall pay the COUNTY the match for eligible Project expenses incurred by VDOT in the performance of activities set forth in paragraph 2.a. of the Original Agreement.

i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements.

j. Provide certification to the COUNTY by a LAF official that all LAF administered Project activities have been performed in accordance with all federal, state, and local laws and regulations.

l. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.

2. The COUNTY shall:

a. Perform any actions and provide any decisions and approvals which are the responsibility of the COUNTY, as required by federal and state laws and regulations or as otherwise to, in writing, between the parties and provide necessary coordination with the FHWA and VDOT as determined to be necessary by the COUNTY.

b. Within 10 days of receipt of the LAF'S invoices pursuant to paragraph 1.f., submit LAF's invoices to VDOT in accordance with the requirements of the Enhancement Program. Upon Receipt of reimbursement from VDOT the COUNTY shall reimburse the LAF the cost of eligible Project expenses, as described in, Appendix A. Such reimbursements shall be payable by the COUNTY within 60 days of an acceptable submission by the LAF.

c. If appropriate, submit invoices to the LAF for the LAF's share of eligible project expenses incurred by the COUNTY in the performance of activities pursuant to paragraph 2.a.

d. Audit the LAF’s Project records and documentation as may be required to verify LAF compliance with federal and state laws and regulations,

e. Make available, upon request, to the LAF guidelines to assist the parties in carrying out responsibilities under this Agreement.

3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LAF, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.

4. If designated by VDOT, the LAF is authorized to act as VDOT's agent for the purpose of conducting survey work pursuant to Section 33.1-94 of the Code of Virginia, 1950, as amended.

5. Nothing in this Agreement shall obligate the COUNTY hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been inc1uded in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in seeking additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the COUNTY and the LAF shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.

6. Nothing in this Agreement shall be construed as a waiver of COUNTY'S sovereign immunity.

7. This Agreement may be terminated by either party upon 30 days advance written notice. The COUNTY shall immediately notify LAF if the COUNTY or VDOT provide notice of an intent to terminate the Original Agreement. This Agreement shall automatically terminate upon the termination of the Original Agreement. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, l.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the COUNTY shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the COUNTY by the LAF, in which case the LAF will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

8. This agreement shall not be constructed as creating any personal liability on the part of any officer, employee, agent of the parties, nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

9. Prior to any action pursuant to paragraphs 1.b or l.g of this Agreement, the COUNTY shall provide notice to the LAF with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LAF will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the COUNTY. If within sixty (60) days after receipt of the written notice of breach, the LAF has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the COUNTY, then upon receipt by the LAF of a written notice from the COUNTY stating that the breach has neither been cured, nor is the LAF diligently pursuing a cure, the COUNTY may exercise any remedies it may have under this Agreement.

THE LAF and COUNTY acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party,

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both Parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

COUNTY OF FAIRFAX, VIRGINIA:

_____
Signature

_____
Typed or printed name of signatory

_____ _____

Title Date

_____ _____
Signature of Witness Date

LORTON ARTS FOUNDATION:

_____ _____
Authorized LAF Official Date

_____
Typed or printed name of signatory

_____ _____
Signature of Witness Date

Attachments:
Appendix A

Appendix A

Project Number: EN09-029-120, P101, R201, C501 UPC #94287 Project Name: Lorton Arts Foundation – Cross-County Trail	Locality: Fairfax County

Project Narrative

Scope: Lorton Cross County Trail-Design and construction of a multi-use trail between Occoquan Regional Park and the Laurel Hill Greenway

Locality Project Manager Contact Info: Andrea Cordray, Lorton Arts Foundation, Inc. 9601 Ox Road, Lorton VA 22079 (703) 584-2921

Department Project Coordinator Contact Info: Doug Miller, 14685 Avion Parkway, Chantilly, VA 20151-1104, (703)383-2108, Douglas.Miller@VDOT.Virginia.gov

Project Costs and Reimbursement

Phase	Estimated Project Costs	Estimated Eligible Project Costs	Estimated Eligible VDOT Project Expenses	Estimated Reimbursement to Locality
Preliminary Engineering	$288,898			
Right-of-Way & Utilities	$638,484			
Construction	$1,401,459			
Total Estimated Cost	$2,328,841	$312,500	$15,000	$235,000
Total Maximum Reimbursement by Locality to VDOT				N/A
Total Maximum Reimbursement by VDOT to Locality (may be reduced by eligible VDOT project expenses)				$250,000

Project Financing

A	B	C	D	E
Transportation Enhancement (80%)	Local Match (20%)	Local Funds (100%)		Aggregate Allocations (A+B+C+D=)
$250,000	$62,500	$2,016,341		$2,328,841

Program and Project Specific Funding Requirements

This project will be administered in accordance with the "Enhancement Program Procedure Manual" and the "Locally Administered Projects Manual". Any expenses above the combined federal (80%) and local (minimum 20% match) will be at 100% project sponsor cost.

100% of eligible VDOT project expenses will be recovered as follows:

- 20% will be deducted from reimbursement requests.
- 80% will be deducted from the Federal Enhancement allocation amount.

Shed stabilization as shown in the proposed budget is not eligible at this time. The approved project funding is for design and construction of the trail as described in the application. Any additional ineligible items identified throughout project development will not be reimbursable.

For Transportation Enhancement projects, the LOCALITY shall maintain the Project, or have it maintained, in a manner satisfactory to the Department or its authorized representatives, and make ample provision each year for such maintenance unless otherwise agreed to by the DEPARTMENT.

The Department will conduct all environmental studies necessary to complete an environmental document in compliance with the National Environmental Policy Act. The applicant is responsible for implementing any environmental commitments from the environmental document. In addition, the applicant is responsible for obtaining any water quality permits and conducting any required hazardous materials due diligence efforts. VDOT's estimated cost for the environmental document and studies will be provided to the applicant and deducted from the project funds.

In accordance with CTB policy, the project must be completed and the $250,000 Enhancement allocation expended by **October 1, 2013** or the project may be subject to de-allocation.

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official date

VDOT Enhancement Program Manager date

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, February 28, 2012, at which meeting a quorum was present and voting, the following resolution was adopted.

AGREEMENT EXECUTION RESOLUTION

WHEREAS, in accordance with Virginia Department of Transportation project agreement procedures, it is necessary that a resolution be received from the local government authorizing execution of an agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes County staff to execute on behalf of the County of Fairfax a Project Administration Agreement with the Virginia Department of Transportation for the Cross County Trail by the County of Fairfax.

Adopted this_____day of_____, 2012, Fairfax, Virginia

ATTEST _____
Catherine Chianese
Clerk to the Board of Supervisors

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Board Agenda Item
February 28, 2012

12:00 p.m.

Matters Presented by Board Members

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Board Agenda Item
February 28, 2012

12:50 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. *Fairfax County, Virginia v. Mary Getts Bland*, Case No.11-2357 (U.S. Ct. of Appeals for the Fourth Cir.)

2. *Linda A. Eberhardt v. Fairfax County Employees' Retirement System Board of Trustees*, Record No. 10-1761 (Va. S. Ct.); *Linda A. Eberhardt v. Fairfax County, et al.*, Case No. 1:10cv00771-LO/TCB (E.D. Va.); Claim of Linda A. Eberhardt

3. Application of Reston Lake Anne Air Conditioning Corp., PUE-2011-00130 (Va. State Corp. Comm'n) (Hunter Mill District)

4. *SCI Virginia Funeral Services, Inc. v. Eileen M. McLane, Fairfax County Zoning Administrator*, Record No. 111227 (Va. Sup. Ct.) (Providence District)

5. *Fairfax County Redevelopment and Housing Authority v. Shadowood Condominium Association, et al.*, Case No. CL-2010-0013282 (Fx. Co. Cir. Ct.) (Hunter Mill District)

6. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. John A. Parrish and Maria P. Tungol*, Record No. 2475-11-4 (Va. Ct. App.) (Lee District)

7. *Shawn Shirks v. Fairfax County Department of Family Services*, Record No. 2319-11-4; *Bethany May v. Fairfax County Department of Family Services*, Record No. 1841-11-4 (Va. Ct. App.)

8. *Jennifer Logan v. Fairfax County Department of Family Services*, Record No. 2608-11-4; *Kevin Logan v. Fairfax County Department of Family Services*, Record No. 2751-11-4 (Va. Ct. App.)

9. *Zen Bar Concepts, L.L.C., T/A New Seasons Restaurant v. Fairfax County Police Department and K. D. Kiernan*, Case No. GV11033318-00 (Fx. Co. Gen. Dist. Ct.)

10. *Norma Bostick Hartwell, Elizabeth Ann Bostick, Warren E. Bostick, and Wycliffe on the Potomac Homeowners Association, Inc. v. The County of Fairfax and the Board of Supervisors of Fairfax County*, Case No. CL-2011-0003349 (Fx. Co. Cir. Ct.) (Mount Vernon District)

11. *SNSA, Inc. v. Eileen M. McLane*, Case No. CL-2011-0017511 (Fx. Co. Cir. Ct.) (Mount Vernon District)

12. *Eileen M. McLane, Fairfax County Zoning Administrator v. John B. McCracken, Jr., and Mary C. McCracken*, Case No. CL-2011-0009048 (Fx. Co. Cir. Ct.) (Mount Vernon District)

13. *Eileen M. McLane, Fairfax County Zoning Administrator v. Taleb Khallash and Affra Khallash*, Case No. CL-2011-0014328 (Fx. Co. Cir. Ct.) (Dranesville District)

14. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Barry Road, LLC*, Case No. CL-2011-0010552 (Fx. Co. Cir. Ct.) (Lee District)

15. *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 (Fx. Co. Cir. Ct.) (Mount Vernon District)

16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Robert Brennan*, Case No. CL-2010-0017543 (Fx. Co. Cir. Ct.) (Lee District)

17. *Eileen M. McLane, Fairfax County Zoning Administrator v. Philip W. Bradbury*, Case No. CL-2011-0009319 (Fx. Co. Cir. Ct.) (Mount Vernon District)

18. *Eileen M. McLane, Fairfax County Zoning Administrator v. Young Ho Kim and Wulsoon Kim, Trustees of the Kim Living Trust*, Case No. CL-2011-0013420 (Fx. Co. Cir. Ct.) (Mason District)

19. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Reyna Alvarez*, Case No. CL-2011-0014908 (Fx. Co. Cir. Ct.) (Providence District)

20. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Maria Alvarez*, Case No. CL-2011-0114733 (Fx. Co. Cir. Ct.) (Mason District)

21. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Paul E. Smith, Sr.*, Case No. CL-2011-0004306 (Fx. Co. Cir. Ct.) (Mason District)

22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ana B. Morales and Jose R. Torres*, Case No. CL-2011-0016255 (Fx. Co. Cir. Ct.) (Lee District)

23. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Jan Forbes and Virginia Forbes***,** Case No. CL-2012-0000223 (Fx. Co. Cir. Ct.) (Mount Vernon District)

24. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Gay S. Bowman and Suzanne L. Bowman, a/k/a Suzanne L. Bowman Crampton*, Case No. CL-2012-0000511 (Fx. Co. Cir. Ct.) (Providence District)

25. *Eileen M. McLane, Fairfax County Zoning Administrator v. Elizabeth Rodriguez Ortega*, Case No. CL-2012-0000470 (Fx. Co. Cir. Ct.) (Mason District)

26. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Melba V. Watkins-Trubem, Gail Adrienne Holmes, Inga Allean Watkins Sinclair, Hugh Everett Watkins, and Edward Alan Watkins*, Case No. CL-2012-0000577 (Fx. Co. Cir. Ct.) (Mount Vernon District)

27. *Eileen M. McLane, Fairfax County Zoning Administrator v. Pablo Garcia and Norka Garcia***,** Case No. CL-2012-0000578 (Fx. Co. Cir. Ct.) (Mason District)

28. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Steven G. Hamburger*, Case No. CL-2012-0000758 (Fx. Co. Cir. Ct.) (Providence District)

29. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ever A. Sanchez and Ana E. Cruz*, Case No. CL-2012-0000759 (Fx. Co. Cir. Ct.) (Lee District)

30. *Eileen M. McLane, Fairfax County Zoning Administrator v. Julio E. Argueta and Mauda Aguirre*, Case No. CL-2012-0001025 (Fx. Co. Cir. Ct.) (Mason District)

31. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. George C. Landrith*, Case No. CL-2012-0001029 (Fx. Co. Cir. Ct.) (Sully District)

32. *Eileen M. McLane, Fairfax County Zoning Administrator v. Teodoro Rojas, Rosa Amanda Rojas, and Mario T. Rojas*, Case No. CL-2012-0001238 (Fx. Co. Cir. Ct.) (Lee District)

33. *Eileen M. McLane, Fairfax County Zoning Administrator v. Springfield Petroleum Realty, LLC*, Case No. CL-2012-0001239 (Fx. Co. Cir. Ct.) (Mason District)

34. *Eileen M. McLane, Fairfax County Zoning Administrator v. Gonzalo B. Vasquez and Aminta M. Vasquez*, Case No. CL-2012-0001236 (Fx. Co. Cir. Ct.) (Providence District)

35. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. MTC Commercial, LLC*, Case No. CL-2012-0001557 (Fx. Co. Cir. Ct.) (Providence District)

36. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. David R. Benbennick and Erin Benbennick*, Case No. CL-2012-0001556 (Fx. Co. Cir. Ct.) (Hunter Mill District)

37. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Patricia Anne Crepeau, a/k/a Patricia Anne Ashland*, Case No. CL-2011-0001649 (Fx. Co. Cir. Ct.) (Braddock District)

38. *Eileen M. McLane, Fairfax County Zoning Administrator v. Shafqat Chaudry and Sarwat Malik*, Case No. CL-2012-0001647 (Fx. Co. Cir. Ct.) (Dranesville District)

39. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Gary Lee Hoskinson*, Case No. CL-2012-0002648 (Fx. Co. Cir. Ct.) (Dranesville District)

40. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kelly P. Campbell and Kimberly B. Campbell*, Case No. CL-2012-0001756 (Fx. Co. Cir. Ct.) (Mount Vernon District)

41. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Hung Tang and Dina Tang, a/k/a Di Tang*, Case No. CL-2012-0001852 (Fx. Co. Cir. Ct.) (Dranesville District)

42. *Eileen M. McLane, Fairfax County Zoning Administrator v. Glenda Sue Stump*, Case No. CL-2012-0001854 (Fx. Co. Cir. Ct.) (Braddock District)

43. *Eileen M. McLane, Fairfax County Zoning Administrator v. Loan Phuong and Patrick John Cooper*, Case No. CL-2012-0001907 (Fx. Co. Cir. Ct.) (Springfield District)

44. *Eileen M. McLane, Fairfax County Zoning Administrator v. Richard Morato and Elizabeth G. Weber*, Case No. CL-2012-0001974 (Fx. Co. Cir. Ct.) (Providence District)

45. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kheder A. Rababeh and Alia Rababeh*, Case No. CL-2012-0001925 (Fx. Co. Cir. Ct.) (Lee District)

46. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mohammad Adam and Rehana Y. Adam*, Case No. CL-2012-0001924 (Fx. Co. Cir. Ct.) (Mason District)

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3:30 p.m.

Public Hearing on PRC 74-2-113-2 (Fairfax County Board of Supervisors) to Approve the PRC Plan Associated with DPA 74-2-113 for Reconstruction of a Police Station and Government Offices Located on Approximately 8.44 Acres of Land Zoned PRC (Hunter Mill District)

and

Public Hearing on PCA 74-2-113-4 (Fairfax County Board of Supervisors) to Amend the Proffers for RZ 74-2-113 Previously Approved for Governmental Uses to Permit Modifications of Approved Proffers to Site Public Facilities (Hunter Mill District)

and

Public Hearing on DPA 74-2-113-8 (Fairfax County Board of Supervisors) to Permit the 8th Amendment of the Development Plan for RZ 74-2-113 Previously Approved with Unlimited FAR to Permit Site Modifications (Hunter Mill District)

This property is located in the North East and South East quadrant of the intersection of Town Center Parkway and Cameron Glen Drive and on the North side of Bowman Towne Drive, Tax Map 17-1 ((1)) 14B. (Concurrent with PCA 74-2-113-4, DPA74-2-113-8 and 2232-H11-18).

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, January 18, 2012, the Planning Commission voted unanimously (Commissioner Hart recused himself and Commissioner Hall absent from the meeting) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject applications:

- Approval of PCA 74-2-113-4, subject to the execution of proffers consistent with those dated January 18, 2012;

- Approval of DPA 74-2-113-8;

- Approval of PRC 74-2-113-2, subject to the development conditions dated January 17, 2012;

- Modification of the transitional screening and barrier requirement to permit the landscaping depicted on the PRC plan per Section 13-305 of the Zoning Ordinance; and

- Modification of the tree preservation target to 28 percent instead of 32 percent on the development site per Section 12.0513 of the Public Facilities Manual.

In a related action, the Commission also voted unanimously (Commissioner Hart recused himself and Commissioner Hall absent from the meeting) to approve 2232-H11-18 as meeting the criteria of character, location, and extent as specified in Section 15.2-2232 of the *Code of Virginia* and being in accord with the adopted Comprehensive Plan.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4373306.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William Mayland, Staff Coordinator, DPZ

Planning Commission Meeting
January 18, 2012
Verbatim Excerpt

2232-H11-18/PRC 74-2-113-02/DPA-74-2-113-08/PCA 74-2-113-04 – FAIRFAX COUNTY BOARD OF SUPERVISORS

After the Close of the Public Hearing

Chairman Murphy: Without objection, the public hearing is closed; recognize Mr. de la Fe.

Commissioner de la Fe: Thank you, Mr. Chairman. The process for getting this case to us tonight, as we've discussed, began more than five years ago when the voters approved funding for a renovation replacement of the Reston Police Station and Governmental Center. Over the years, it became clear that a new facility was required. The design and configuration before us tonight is – and explained the result of significant adjustments to the original concepts and reflect extensive community input. The Reston Planning and Zoning Committee, after very vigorous discussion, moved to recommend approval on a highly divided vote. Much of the opposition came from a perspective that replacing the Governmental Center at its current location did not make the best use of a highly valuable piece of real estate in Reston's urban core. Though one may debate the philosophical underpinnings of this point of view, the fact is that since Reston's early days, this site and the acreage around it has been planned and developed as a center for public institutions. A regional library, a homeless shelter, housing for the elderly, low-income populations, a park, numerous human services facilities both governmental and institutional, are located in this area. When the funds for this project were approved, the voters knew that this is where the facility would be located. A number of concerns were also raised concerning the specific location of the facility within the site. As described by the applicant, the facility location and its design reflect a variety of factors including being able to continue to use the existing facility until the new one is complete and to accommodate the anticipated redevelopment of the overall Governmental Center and North Reston Town Center, currently envisioned by the Reston Master Plan Task Force. Changes to the plans have also been made to reflect comments regarding the visibility of the secure parking areas to pedestrians while acknowledging the need for security. The location of the fueling station was also an issue. The current fueling station is located within a secure area and has presented operational issues. The need to have a fueling station made accessible to non-Police County vehicles, which is Fire and EMS equipment, and school buses, limited the possible locations for it. The location we seek tonight represents the best available one. The applicant recognized that future development might require changes and Proffer Number 7, which you received tonight, recognizes that fact. I believe that the plans we have tonight represent the best that can be achieved while recognizing that this area will change in the future. On a personal note, I might add that there is no question in anyone's mind that the current facility needs to be replaced as we were reminded vividly last night at the Hunter Mill Land Use Committee Meeting when the men's room was out of commission.

Chairman Murphy: Whoa, that'll get you every time.

Commissioner de la Fe: Mr. Chairman, I move – I CONCUR WITH STAFF'S CONCLUSIONS THAT THE PROPOSAL BY THE FAIRFAX COUNTY DEPARTMENT OF PUBLIC WORKS

AND ENVIRONMENTAL SERVICES TO CONSTRUCT A NEW RESTON DISTRICT POLICE STATION AND HUNTER MILL GOVERNMENTAL CENTER, LOCATED AT 1200 BOWMAN TOWNE DRIVE, RESTON, SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN *VIRGINIA CODE* SECTION 15.2-2232 AS AMENDMENDED AND I MOVE THAT THE PLANNING COMMISSION APPROVE THAT 2232.

Commissioners Alcorn and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence and Mr. Alcorn. Is there a discussion of the motion? All those in favor of the motion to approve 2232-H11-18, say aye.

Chairman Murphy: Opposed? Motion carries. Mr. de la Fe.

Commissioner de la Fe: Mr. Chairman, I further move that the Planning Commission find that the subject application – I'm sorry. I – well, we just did that one. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE PCA 74-2-113-4, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JANUARY 18TH, 2012.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 74-2-113-4, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. de la Fe.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF DPA 74-2-113-8.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve DPA 74-2-113-8, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. de la Fe.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PRC 74-2-113-2, SUBJECT TO THE DEVELOPMENT CONDITIONS NOW DATED JANUARY 17TH, 2012.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PRC 74-2-113-2, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. de la Fe.

Commissioner de la Fe: And finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENT TO PERMIT THE LANDSCAPING DEPICTED ON THE PRC PLAN PER SECTION 13-305 OF THE ZONING ORDINANCE AND MODIFICATION OF THE TREE PRESERVATION TARGET TO 28 PERCENT INSTEAD OF 32 PERCENT ON THE DEVELOPMENT SITE PER SECTION 12.0513 OF THE PUBLIC FACILITIES MANUAL.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried unanimously with Commissioner Hart having recused himself; Commissioner Hall absent from the meeting.)

JLC

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Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on RZ 2011-SU-024 (Pohanka Stonecroft LLC) to Rezone from I-5, AN and WS to C-8, AN and WS to Permit Vehicle Sale, Rental, and Ancillary Service Establishment and Vehicle Major Service Establishment Located on Approximately 9.86 Acres of Land (Sully District)

This property located in the Northeast quadrant of the intersection of Stonecroft Boulevard and Stonecroft Center Court, Tax Map 34-3 ((1)) 1D. (Concurrent with SE 2011-SU-009).

and

Public Hearing on SE 2011-SU-009 (Pohanka Stonecroft LLC) to Permit Vehicle Sale, Rental, and Ancillary Service Establishment and Vehicle Major Service Establishment and Waiver of Certain Sign Regulations Located on Approximately 9.86 Acres of Land Zoned C-8, AN and WS (Sully District)

This property located at 4175 Stonecroft Boulevard, Chantilly,VA 20151, Tax Map 34-3 ((1)) 1D. (Concurrent with RZ 2011-SU-024).

PLANNING COMMISSION RECOMMENDATION:
On Thursday, February 9, 2012, the Planning Commission voted unanimously (Commissioner Hart recused himself) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of RZ 2011-SU-024, subject to the execution of proffers consistent with those dated February 7, 2012;

- Approval of SE 2011-SU-009, subject to the development conditions consistent with those January 13, 2012;

- Modification of the signage requirements as they pertain to the free standing signs, directional signs, and building mounting signs, in favor of the signage depicted on the Generalized Development Plan (GDP)/Special Exception (SE) Plat;

- Waiver of the trail requirement along Stonecroft Boulevard in favor of the existing condition depicted on the GDP/SE plat;

- Waiver of the transitional screening and barrier requirement along the southern property line, in favor of the existing vegetation depicted on the GDP/SE plat; and

- Modification of the interior and peripheral parking lot landscaping, in favor of the planting shown on the GDP/SE plat.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4374245.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Brent M. Krasner, Staff Coordinator, DPZ

Planning Commission Meeting
February 9, 2012
Verbatim Excerpt

RZ 2011-SU-024 – POHANKA STONECROFT LLC
SE 2011-SU-009 – POHANKA STONECROFT LLC

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I want to start off by first – I really want to thank the staff and the Pohanka dealerships because when we first deferred this a month ago, we have made very significant progress in the environmental area. I want to thank both of them for all their hard work. That said, as we mentioned earlier, this Planning Commission as we get to include judgment, fairness, and innovation in our decision making and that's what we're going to do tonight. Just for the record, both the Sully District Council and the West Fairfax County Citizens Association Land Use Committees voted unanimously to support this application. They were most impressed with the innovation that was incorporated here. That said, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RZ 2011-SU-024, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED FEBRUARY 7, 2012.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2011-SU-024, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. Five more. I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2011-SU-009, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE JANUARY 13, 2012.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2011-SU-009, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE SIGNAGE REQUIREMENTS AS THEY PERTAIN TO THE FREE STANDING SIGNS, DIRECTIONAL SIGNS, AND BUILDING MOUNTING SIGNS, IN FAVOR OF THE SIGNAGE DEPICTED ON THE GENERALIZED DEVELOPMENT PLAN/SPECIAL EXCEPTION PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TRAIL REQUIREMENT ALONG STONECROFT BOULEVARD IN FAVOR OF THE EXISTING CONDITION DEPICTED ON THE GDP/SE PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENT ALONG THE SOUTHERN PROPERTY LINE, IN FAVOR OF THE EXISTING VEGETATION DEPICTED ON THE GDP/SE PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Lastly, I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE INTERIOR AND PERIPHERAL PARKING LOT LANDSCAPING, IN FAVOR OF THE PLANTING SHOWN ON THE GDP/SE PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried unanimously with Commissioner Hart recusing himself.)

JLC

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Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on RZ 2011-BR-014 (Midland Road LLC and Ridgewood Commercial Owners Property Association) to Rezone from PRM to PDH-12 with an Overall Density of 11.3 du/ac and PDC with an Overall FAR of 0.99, Approval of the Conceptual Development Plan, Located on Approximately 3.83 Acres of Land (Braddock District)

and

Public Hearing on PCA 2005-SP-019 (Midland Road LLC and Ridgewood Commercial Owners Property Association) to Amend the Proffers for RZ 2005-SP-019 Previously Approved for PRM to Permit Mixed Use Development and Associated Modifications to Proffers and Site Design with an Overall Density of 11.3 du/ac and FAR of 0.99, Located on Approximately 3.83 Acres of Land (Braddock District)

This property is located in the Northeast and Southeast quadrant of the intersection of Government Center Parkway and Ridge Top Road. Tax Map 56-2 ((1)) 37B, 37D and 37G.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing was held on Thursday, February 9, 2012 and decision was deferred to Thursday, February 23, 2012. The Commission's recommendations will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt to be provided after February 23, 2012
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4374997.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Suzianne Zottl, Staff Coordinator, DPZ

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Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on SE 2011-MV-006 (Hamdi H. Eslaquit D/B/A Hamdi's Child Care and Selim M. Eslaquit) to Permit a Home Child Care Facility with a Maximum of 10 Children, Located on Approximately 13,006 Square Feet of Land Zoned PDH-2 (Mount Vernon District)

This property is located at 6606 Winstead Manor Court, Lorton, 22079. Tax Map 99-2 ((17)) 31

PLANNING COMMISSION RECOMMENDATION:
On Thursday, October 20, 2011, the Planning Commission voted 8-1-1 (Commissioner Hall opposed; Commissioner Harsel abstaining; Commissioners Donahue and Sargeant absent from the meeting) to recommend that the Board of Supervisors approve SE 2011-MV-006, subject to the development conditions dated October 20, 2011.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4360980.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Kelli-Mae Goddard-Sobers, Staff Coordinator, DPZ

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Attachment 1

Planning Commission Meeting
October 20, 2011
Verbatim Excerpt

SE 2011-MV-006 – HAMDI ESLAQUIT, d/b/a HAMDI'S CHILD CARE & SELIM M. ESLAQUIT

After the Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I have a – I'm familiar with this case for quite some time now and I haven't heard any testimony this evening that has added anything to what I knew about the case previously. And it is a case where – although I must say that I'm beginning to become concerned about the number of day care on any given cul-de-sac. And so I did ask the staff whether there was any prohibition against every lot on this cul-de-sac from having a day care center and they said that there's none, so I guess that's one of the things which the Planning Commission may want to take a look at in the future. My understanding from talking with staff is that there has been a great deal of interest – renewed interest in day care given the downturn in the economy and that they're getting quite a few applications for day care. So I think we can – we should anticipate, you know, that this is likely to be a burgeoning caseload on our part. But given all of the facts that I have before me at the present time and the testimony that I've heard this evening, I see nothing in the application, you know, that is contrary to the requirements of Fairfax County. They may be contrary to the covenants of the association, but they're not contrary to the requirements of Fairfax County. So on that basis, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2011-MV-006, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED OCTOBER 20, 2011.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? Ms. Hall.

Commissioner Hall: Yes, Mr. Chairman, I'm opposed – I can't support this application and I'll tell you why. I remember what it's like to have – need day care and I think it's absolutely critical. And I think it is a wonderful thing for parents who elect to stay home and to take on children so that they can afford to stay home and watch them, but there is no prohibition on the number of houses on a street that can do this. And there seems to be a trend in this neighborhood. I mean this tiny little area already has three of them and I just would wonder if they – you know, if every single house and came in with the day care, it would be overwhelming. I think therefore we shouldn't be approving this request for additional children for this house. I think the seven is fair. It's reasonable. Everybody seems to abide by it. I would disagree with the speakers who

said she felt like she was being targeted. I don't think anybody targets anybody with this staff report. They just state the facts. But I can't support this application for the additional people – for the additional children. I think seven is what's allowed and that is what should be permitted and I don't think we should approve the additional children.
Chairman Murphy: Further discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. As on many of these it's a difficult decision, but in general I think we're better off with development conditions on the package to have ten children, to limit the hours of operation, to require the staggering of the pick-up and drop-off, things like that, and seven children by-right where there's no conditions at all. At least with ten we're constraining the use and constraining the impacts on the neighborhood and things like pick-up and drop-off are what would affect the congestion in the court. So I will be supporting the motion. Thank you.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2011-MV-006, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Harsel: Abstain.

Chairman Murphy: Motion carries. Ms. Hall votes no. Ms. Harsel abstains.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Flanagan: I just - - as a follow-up on that, I would like the Planning Commission to in the future undertake review of this burgeoning daycare and the concerns expressed by Commissioner Hall. I think she makes some very good points on here; I just feel that it's difficult to, you know, face up to the fact that we're having our different - - the State-run setting of the criteria for these - - the approval of these.

Chairman Murphy: Thank you very much.

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(The motion carried by a vote of 8-1-1 with Commissioner Hall opposed; Commissioner Harsel abstaining; Commissioners Donahue and Sargeant absent from the meeting.)

JLC

Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on SE 2011-HM-018 (Corinthian Colleges, Inc., D/B/A Everest College) to Permit a College/University, Located on Approximately 2.5 Acres Zoned I-4 (Hunter Mill District)

This property is located at 8620 Westwood Center Drive, Vienna, 22182, Tax Map 29-3 ((20)) 9 and 9B pt.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing will be held on Thursday, February 23, 2012. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim excerpt to be provided after February 23, 2012
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4377099.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Megan Brady, Staff Coordinator, DPZ

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Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on RZ 2011-PR-030 (Fairfax County School Board, A Body Corporate) to Rezone from R-1 to R-2 to Permit Expansion of Oakton Elementary School with an Overall Floor Area Ratio of 0.25, Located on Approximately 9.21 Acres (Providence District)

This property is located at on the west side of Chain Bridge Road approximately 750 feet north of its intersection with Jermantown Road and south side of Miller Road, Tax Map 47-2 ((1)) 34.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, January 18, 2012, the Planning Commission voted unanimously (Commissioner Hall absent from the meeting) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of RZ 2011-PR-030, subject to the execution of proffers consistent with those dated January 18, 2012;

- Modification of the transitional screening and a waiver of the barrier requirements along the northern and southern property boundaries in favor of those shown on the Generalized Development Plan;

- Waiver of the service drive requirement along the property's Chain Bridge Road frontage;

- Waiver of the on-road bike lane requirement along the property's Chain Bridge Road frontage; and

- Waiver of the dedication of the right-of-way and the construction of road frontage improvement along the property's Chain Bridge Road frontage.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4373303.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nicholas Rogers, Staff Coordinator, DPZ

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Planning Commission Meeting
January 18, 2012
Verbatim Excerpt

RZ 2011-PR-030 – FAIRFAX COUNTY SCHOOL BOARD

After the Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2011-PR-030, SUBJECT TO PROFFERS CONSISTENT WITH THOSE NOW DATED JANUARY 18TH, 2012.

Commissioners de la Fe and Flanagan: Second.

Chairman Murphy: Seconded by Mr. de la Fe and Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2011-PR-030, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Lawrence.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING AND A WAIVER OF THE BARRIER REQUIREMENTS ALONG THE NORTHERN AND SOUTHERN PROPERTY BOUNDARIES IN FAVOR OF THOSE SHOWN ON THE GDP.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Lawrence.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG THE PROPERTY'S CHAIN BRIDGE ROAD FRONTAGE.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE ON-ROAD BIKE LANE REQUIREMENT ALONG THE PROPERTY'S CHAIN BRIDGE ROAD FRONTAGE.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Last, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE DEDICATION OF THE RIGHT-OF-WAY AND THE CONSTRUCTION OF ROAD FRONTAGE IMPROVEMENT ALONG THE PROPERTY'S CHAIN BRIDGE ROAD FRONTAGE.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried unanimously with Commissioner Hall absent from the meeting.)

JLC

Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on SEA 87-M-103 (Fairfax County Board of Supervisors) to Amend SE 87-M-103 Previously Approved to Permit Temporary Fire and Rescue Station and to Permit Modifications to Site Design and Development Conditions, Located on Approximately 28,540 Square Feet Zoned C-8, CRD, HC and SC (Mason District)

This property is located at 3521 Moncure Avenue, Falls Church, VA 22041, Tax Map 61-2 ((19)) 5A.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, January 18, 2012, the Planning Commission voted unanimously (Commissioner Hall absent from the meeting) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of SEA 87-M-103, subject to the development conditions dated January 4, 2012;

- Waiver of the service drive requirement along Columbia Pike in favor of the existing condition indicated on the Special Exception Amendment (SEA) Plat;

- Waiver of the frontage requirements along Columbia Pike in favor of the existing conditions indicated on the SEA Plat;

- Waiver of the trail requirements along Columbia Pike and Moncure Avenue in favor of the existing conditions depicted on the SEA Plat; and

- Waiver of the tree conservation target in favor of the proposed vegetation plan depicted on the SEA Plat.

In a related action, the Commission also voted unanimously (Commissioner Hall absent from the meeting) to approve 2232-M11-22 as meeting the criteria of character, location, and extent as specified in Section 15.2-2232 of the *Code of Virginia* and being in accord with the adopted Comprehensive Plan.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4373302.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Brent M. Krasner, Staff Coordinator, DPZ

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Planning Commission Meeting
January 18, 2012
Verbatim Excerpt

2232-M11-22/SEA 87-M-103 – FAIRFAX COUNTY BOARD OF SUPERVISORS

After the Close of the Public Hearing

Chairman Murphy: Without objection, the public hearing is closed; recognize Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. Once again, I'm pinch hitting for Commissioner Hall tonight, who's unable to be here tonight, but will be here next week. I want to thank staff, Brent Krasner and Kris Abrahamson, for their fine work on this case and their assistance on getting me up to speed on short notice. This is a straightforward application for a temporary fire station at the corner of Columbia Pike and Moncure Avenue to replace the existing fire station site a few blocks away where the roof collapsed after the snow storm a couple years ago. It's a temporary station and will be removed when the construction is complete at the original site and this site will be restored. The application has the support of the Mason District Land Use Committee as well as the support of Commissioner Hall and a favorable recommendation from staff, with which I concur. Therefore, Mr. Chairman, I will have several motions. First, I MOVE THAT THE PLANNING COMMISSION FIND THAT THE FACILITY PROPOSED UNDER 2232-M11-22 DOES SATISFY THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AND IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Alcorn and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Alcorn. Is there a discussion of the motion? All those in favor of the motion to approve 2232-M11-22, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Second, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SEA 87-M-103, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED JANUARY 4, 2012.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 87-M-103, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Third, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG COLUMBIA PIKE IN FAVOR OF THE EXISTING CONDITION INDICATED ON THE SEA PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Fourth, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE FRONTAGE REQUIREMENTS ALONG COLUMBIA PIKE IN FAVOR OF THE EXISTING CONDITIONS INDICATED ON THE SEA PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Fifth, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TRAIL REQUIREMENTS ALONG COLUMBIA PIKE AND MONCURE AVENUE IN FAVOR OF THE EXISTING CONDITIONS DEPICTED ON THE SEA PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Sixth, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TREE CONSERVATION TARGET IN FAVOR OF THE PROPOSED VEGETATION PLAN DEPICTED ON THE SEA PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried unanimously with Commissioner Hall absent from the meeting.)

JLC

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Board Agenda Item
February 28, 2012

3:30 p.m.

Public Hearing on PCA 2008-PR-009 (Inova Health Care Services) to Amend the Proffers for RZ 2008-PR-009 Previously Approved for Medical Care and Related Facilities to Permit Building Additions and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio (FAR) of 0.80, Located on Approximately 65.46 Acres Zoned C-3, (Providence District)

The applicant property is located at 3300-3312 Gallows Road and 3300-3340 Woodburn Road, Falls Church, 22042. Tax Map 49-3 ((1)) 136C and 136C1; 59-2 ((1)) 1A1, 1B1 and 1C1. (Concurrent with SEA 80-P-078-16)

and

Public Hearing on SEA 80-P-078-16 (Inova Health Care Services) to Amend SE 80-P-078 Previously Approved for a Medical Care Facility and Increase in Building Height to Permit Building Addition and Associated Modifications to Site Design and Development Conditions, Located on Approximately 65.46 Acres Zoned C-3, (Providence District)

The applicant property is located at 3300-3312 Gallows Road and 3300-3340 Woodburn Road, Falls Church, 22042. Tax Map 49-3 ((1)) 136C and 136C1; 59-2 ((1)) 1A1, 1B1 and 1C1. (Concurrent with PCA 2008-PR-009)

PLANNING COMMISSION RECOMMENDATION:
On Thursday, December 8, 2011, the Planning Commission voted unanimously (Commissioners Hall and Harsel absent from the meeting) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject applications:

- Approval of PCA 2008-PR-009, subject to the execution of proffers consistent with those dated December 5, 2011;

- Approval of SEA 80-P-078-16, subject to development conditions consistent with those dated December 5, 2011; and

- Reaffirmation of a modification of transitional screening and a waiver of the barrier requirements, in favor of that shown on the Generalized Development Plan/Special Exception Amendment plat.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4366930.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William O'Donnell, Staff Coordinator, DPZ

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Attachment 1

Planning Commission Meeting
December 8, 2011
Verbatim Excerpt

PCA 2008-PR-009/SEA 80-P-078-16 - INOVA HEALTH CARE SERVICES

Decision Only During Commission Matters

(Public Hearing held on November 17, 2011)

Commissioner Lawrence: Thank you, Mr. Chairman. I have a couple things to do and I'll tackle first the decision, INOVA Health Care Services. I think everyone should have a copy of an elevation showing the garage. The question that we discussed at our public hearing – and to put it as succinctly as I can, they fixed it. And they did what I think is a very good job if you look at the top two stories of that garage – the ones that will be visible when the leaves are off. You don't see a garage structure anymore. You see a garage structure with some screening on it, very artfully placed, that breaks up those tell-tale outlines. And I think that satisfies the concern that staff had and that I had. Therefore, Mr. Chairman, I am ready to move this matter. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 2008-PR-009, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED DECEMBER 5TH, 2011.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 2008-PR-009, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Lawrence.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SEA 80-P-078-16, SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED DECEMBER 5TH, 2011.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 80-P-078-16, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Lawrence.

Commissioner Lawrence: Finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A REAFFIRMATION OF A MODIFICATION OF TRANSITIONAL SCREENING AND A WAIVER OF THE BARRIER REQUIREMENTS, IN FAVOR OF THAT SHOWN ON THE GDP/SEA PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried unanimously with Commissioners Hall and Harsel absent from the meeting.)

JLC

Board Agenda Item
February 28, 2012

Regulatory Review

4:00 p.m.

Public Hearing on Proposed Amendments to Chapter 7 (Streets, Parking and Driveways) of the Public Facilities Manual Re: Street Lights

ISSUE:
Public Hearing on proposed amendments to Chapter 7 (Streets, Parking and Driveways) of the Public Facilities Manual (PFM). The proposed amendments address issues related to the new procedures for installation of street lights and the use of mercury vapor lights.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, January 18, 2012, the Planning Commission voted unanimously (Commissioner Sargeant having recused himself; Commissioner Hall absent from the meeting) to recommend that the Board approve the proposed amendments to Chapter 7: Streets, Parking and Driveways of the PFM as set forth in the Staff Report dated December 6, 2011, with the following modifications: On page 123, line 39, underline the word “shall;” page 123, line 31, underline “NOVEC;” and page 124, line 36, underline “NOVEC” twice.

RECOMMENDATION:
The County Executive recommends that the Board adopt the proposed amendments to the PFM as recommended by the Planning Commission and that the amendments become effective at 12:01 a.m. on February 29, 2012.

The proposed amendments have been prepared by the Department of Public Works and Environmental Services (DPWES) and coordinated with the Office of the County Attorney. The proposed amendments to the PFM have been recommended for approval by the Planning Commission and the Engineering Standards Review Committee.

TIMING:
The Board is requested to take action on February 28, 2012. On December 6, 2011, the Board authorized the advertising of public hearings. A public hearing in front of the Planning Commission was held on January 18, 2012. If approved, these amendments will become effective at 12:01 a.m. on February 29, 2012.

Board Agenda Item
February 28, 2012

BACKGROUND:
Fairfax County is served by two electric utility companies: Dominion Virginia Power (Dominion) and the Northern Virginia Electric Cooperative (NOVEC).

The Virginia Energy Purchasing Governmental Association (VEPGA) negotiates electricity contracts on behalf of municipalities and counties of the Commonwealth of Virginia. The VEPGA agreement which stipulates the provisions under which electric service is provided to local governments by Dominion, has been revised regarding third party (i.e. developer) payments of the cost of installing street lights. Under the revised agreement, Dominion will no longer coordinate street light job requests directly with developers, will not accept street light payments directly from developers, and will only accept payments from Fairfax County. As of July 1, 2011, payments for the cost of installing street lights in the Dominion service area have been made to the County. Accordingly, the Street Light Installation Procedure for street lights in the Dominion service area has been revised.

The current Street Light Installation Procedure for street lights in NOVEC's service area, which is not covered by the VEPGA agreement, remains unchanged.

The United States Congress Energy Policy Act of 2005, effective January 1, 2008, mandated that the manufacturing and importation of mercury vapor (MV) ballasts (a key MV street light component) will no longer be allowed. This action is intended to address the associated environmental issues related to the handling and disposal of materials containing mercury. As a result of this law, both Dominion and NOVEC no longer provide the option to use MV lights for new street light installations.

The proposed amendments are necessary to align the PFM with the recently approved VEPGA agreement with Dominion, and with the United States Congress Energy Policy Act of 2005 regarding manufacturing and importation of MV ballasts.

PROPOSED AMENDMENTS:
The proposed amendments to the PFM establish the following installation procedure in the Dominion service area:

- As soon as construction begins, require the developer to provide approved plans to Dominion showing all the street lighting improvements that have been bonded with the development.
- A minimum of 135 days prior to the desired street light installation date, require the developer to request that DPWES obtain a cost estimate and construction sketch for the street lights. DPWES will submit this cost estimate request to

Dominion. Dominion will prepare and submit to DPWES a construction sketch and cost estimate within approximately 45 days. Upon receipt, DPWES will review the construction sketch and cost estimate to ensure that the scope of the street light installations conforms to the approved plan and then DPWES will forward the cost estimate to the developer for payment to the County.

- Require the developer to make full payment to the County for the street light installations within 30 days after receiving the copy of the cost estimate, but in no case will the payment be accepted by DPWES after the cost estimate has expired. Fully executed copies of all deeds of the required street light easements shall be transmitted directly to Dominion. Dominion will not be obligated to install any street lights until authorization from DPWES and all signed easement agreements from the developer have been received. After the payment has been received and cleared by the bank, DPWES will authorize Dominion to proceed with the street light installation.
- Require the developer to coordinate directly with Dominion to schedule the installation of street lights. This coordination shall be for installation of the wiring for the street lights, concurrently with the electric service, and the subsequent installation of the light poles, fixtures, and final connection when the site is ready for such work. If the street light installations have not been scheduled within one year of the date of the cost estimate, and provided the delay is not the fault of Dominion, Dominion may revise the cost estimate, which may require additional payment by the developer.
- Allow for the developer's bond reduction to account for the street light installation, once full payment has been made by the developer for the bonded street lights and all easements have been granted to Dominion. Any damage claims resulting from the installation of the street lights shall be resolved between the developer and Dominion prior to final bond release.
- Require the County to make final payment to Dominion and accept the street lights into the County Street Light System upon the submission of an invoice requesting payment and a standard completion report to DPWES by Dominion, except that the street light installations shall be inspected and approved by the County prior to making final payment and acceptance.

The proposed amendments to the PFM also delete the option to use MV lights for new street light installations.

REGULATORY IMPACT:
As of July 1, 2011, payments for the cost of installing street lights in the Dominion service area have been made to the County. Dominion will no longer coordinate street light job requests directly from developers, will not accept street light payments directly

from developers, and will only accept payments from the County. Accordingly, DPWES will authorize Dominion to proceed with the street light installation after the payment has been received from the developer and cleared by the bank.

There is no impact in NOVEC's service area since the current Street Light Installation Procedure for street lights in NOVEC's service area remains unchanged.

There is also no impact associated with deleting the option to use MV lights for new street light installations, since Dominion and NOVEC do not provide that option, as a result of the United States Congress Energy Policy Act of 2005. In addition, it is noted that the optional MV lights were only available for use at extra cost to the developer because of higher operating and maintenance costs than the standard sodium vapor lights.

FISCAL IMPACT:
None on County staff or the budget.

ENCLOSED DOCUMENTS:
Attachment I - Staff Report
Attachment II – Planning Commission Verbatim

STAFF:
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle Brickner, Deputy Director, DPWES

ATTACHMENT I

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

STAFF REPORT

- [ ] PROPOSED COUNTY CODE AMENDMENT
- [√] PROPOSED PFM AMENDMENT
- [ ] APPEAL OF DECISION
- [ ] WAIVER REQUEST

Proposed Amendments to Chapter 7 (Streets, Parking and Driveways) of the Public Facilities Manual Re: Street Lights

Authorization to Advertise	December 6, 2011
Planning Commission Hearing	January 18, 2012
Board of Supervisors Hearing	February 28, 2012
Prepared by:	Code Research and Development Branch BJS (703) 324-1797
	December 6, 2011

STAFF REPORT

A. Issue:

Proposed amendments to Chapter 7 (Streets, Parking and Driveways) of the Public Facilities Manual (PFM). The proposed amendments address issues related to the new procedures for installation of street lights and the use of mercury vapor lights.

B. Recommended Action:

Staff recommends that the Board of Supervisors adopt the proposed amendments to Chapter 7 (Streets, Parking and Driveways) of the PFM.

C. Timing:

Board of Supervisors authorization to advertise – December 6, 2011

Planning Commission Public Hearing – January 18, 2012

Board of Supervisors Public Hearing – February 28, 2012

Effective Date – February 29, 2012 at 12:01 a.m.

D. Source:

Department of Public Works and Environmental Services (DPWES)

E. Coordination:

The proposed amendments have been prepared by the Department of Public Works and Environmental Services and coordinated with the Office of the County Attorney. The proposed amendments to the PFM have been recommended for approval by the Engineering Standards Review Committee.

F. Background:

Fairfax County is served by two electric utility companies: Dominion Virginia Power (Dominion) and the Northern Virginia Electric Cooperative (NOVEC).

The Virginia Energy Purchasing Governmental Association (VEPGA) negotiates electricity contracts on behalf of municipalities and counties of the Commonwealth of Virginia. The VEPGA agreement which stipulates the provisions under which electric

service is provided to local governments by Dominion, has been revised regarding third party (i.e. developer) payments of the cost of installing street lights. Under the revised agreement, Dominion will no longer coordinate street light job requests directly with developers, will not accept street light payments directly from developers, and will only accept payments from Fairfax County. As of July 1, 2011, payments for the cost of installing street lights in the Dominion service area have been made to the County. Accordingly, the Street Light Installation Procedure for street lights in the Dominion service area has been revised.

The current Street Light Installation Procedure for street lights in NOVEC's service area, which is not covered by the VEPGA agreement, remains unchanged.

The United States Congress Energy Policy Act of 2005, effective January 1, 2008, mandated that the manufacturing and importation of mercury vapor (MV) ballasts (a key MV street light component) will no longer be allowed. This action is intended to address the associated environmental issues related to the handling and disposal of materials containing mercury. As a result of this law, both Dominion and NOVEC no longer provide the option to use MV lights for new street light installations.

The proposed amendments are necessary to align the PFM with the recently approved VEPGA agreement with Dominion, and with the United States Congress Energy Policy Act of 2005 regarding manufacturing and importation of MV ballasts.

G. Proposed Amendments:

The proposed amendments to the PFM establish the following installation procedure in the Dominion service area:

- As soon as construction begins, require the developer to provide approved plans to Dominion showing all the street lighting improvements that have been bonded with the development.
- A minimum of 135 days prior to the desired street light installation date, require the developer to request that DPWES obtain a cost estimate and construction sketch for the street lights. DPWES will submit this cost estimate request to Dominion. Dominion will prepare and submit to DPWES a construction sketch and cost estimate within approximately 45 days. Upon receipt, DPWES will review the construction sketch and cost estimate to ensure that the scope of the street light installations conforms to the approved plan and then DPWES will forward the cost estimate to the developer for payment to the County.
- Require the developer to make full payment to the County for the street light installations within 30 days after receiving the copy of the cost estimate, but in no case will the payment be accepted by DPWES after the cost estimate has expired. Fully executed copies of all deeds of the required street light easements shall be transmitted directly to Dominion. Dominion will not be obligated to install any street lights until authorization from DPWES and all signed easement agreements from the developer have been received. After the payment has

been received and cleared by the bank, DPWES will authorize Dominion to proceed with the street light installation.

- Require the developer to coordinate directly with Dominion to schedule the installation of street lights. This coordination shall be for installation of the wiring for the street lights, concurrently with the electric service, and the subsequent installation of the light poles, fixtures, and final connection when the site is ready for such work. If the street light installations have not been scheduled within one year of the date of the cost estimate, and provided the delay is not the fault of Dominion, Dominion may revise the cost estimate, which may require additional payment by the developer.
- Allow for the developer's bond reduction to account for the street light installation, once full payment has been made by the developer for the bonded street lights and all easements have been granted to Dominion. Any damage claims resulting from the installation of the street lights shall be resolved between the developer and Dominion prior to final bond release.
- Require the County to make final payment to Dominion and accept the street lights into the County Street Light System upon the submission of an invoice requesting payment and a standard completion report to DPWES by Dominion, except that the street light installations shall be inspected and approved by the County prior to making final payment and acceptance.

The proposed amendments to the PFM also delete the option to use MV lights for new street light installations.

H. REGULATORY IMPACT:

As of July 1, 2011, payments for the cost of installing street lights in the Dominion service area have been made to the County. Dominion will no longer coordinate street light job requests directly from developers, will not accept street light payments directly from developers, and will only accept payments from the County. Accordingly, DPWES will authorize Dominion to proceed with the street light installation after the payment has been received from the developer and cleared by the bank.

There is no impact in NOVEC's service area since the current Street Light Installation Procedure for street lights in NOVEC's service area remains unchanged.

There is also no impact associated with deleting the option to use MV lights for new street light installations, since Dominion and NOVEC do not provide that option, as a result of the United States Congress Energy Policy Act of 2005. In addition, it is noted that the optional MV lights were only available for use at extra cost to the developer because of higher operating and maintenance costs than the standard sodium vapor lights.

I. Attached Documents:

Attachment A - Proposed amendments to Chapter 7 of PFM

Proposed Amendment to Chapter 7 (Streets, Parking and Driveways)
of
The Public Facilities Manual

Deletions are shown as strikeouts and insertions are underlined.

Amend §7-0802 (Geometrics and Standards) of the Public Facilities Manual, by revising paragraph 7-0802.3 to read as follows:

7-0802.3 Motorcycle Parking Spaces. When provided, motorcycle parking spaces shall conform to the following minimum geometrics. The stall width shall be 4 feet and the depth of the stall perpendicular to the aisle shall be 9 feet. The travel aisle shall be as set forth in Tables ~~7.8~~7.6 and ~~7.9~~ 7.7.

Amend §7-1001 (General Information) of the Public Facilities Manual by revising paragraph 7-1001.1 to read as follows:

7-1001.1 Street lighting shall be installed, unless waived by the Director with all developments as a requirement of subdivision and site plans for the purpose of enhancing crime deterrence and pedestrian safety, and improving potentially hazardous intersections. The extent of street lighting improvements required for each development shall be based on the proposed density and land use. The installation costs of the required street lighting improvements shall be paid ~~directly~~ by the Developer. ~~to the electric utility company.~~

Amend §7-1003 (Authorization and Procedures) of the Public Facilities Manual to read as follows:

7-1003 Authorization and Procedures (80-03-PFM)

Fairfax County is served by two electric utility companies: Dominion Virginia Power (Dominion) and the Northern Virginia Electric Cooperative (NOVEC). Depending on which electric service area the project is located in, the following authorization and procedures shall be applicable.

7-1003.1 Dominion Electric Service Area:

7-1003.1A In order to minimize cost and disruption, Dominion may include the cabling to the new street lights in their construction plans for the electrical infrastructure serving the development. As soon as construction begins, the developer shall provide approved plans to Dominion showing all the street lighting improvements that have been bonded with the development.

7-1003.1B A minimum of 135 days prior to the desired street light installation date, the developer shall request that DPWES obtain a cost estimate and construction sketch for the street lights. DPWES will submit this cost estimate request to Dominion. Dominion

will prepare and submit to DPWES a construction sketch and cost estimate within approximately 45 days. The use of common trenches for street light wiring and the electric service to the lots is to be considered in order to minimize cost. Upon receipt, DPWES will review the construction sketch and cost estimate to ensure that the scope of the street light installations conforms to the approved plan and then DPWES will forward the cost estimate to the developer for payment to the County.

7-1003.1C The developer shall make full payment to the County for the street light installations within 30 days after receiving the copy of the cost estimate, but in no case will the payment be accepted by DPWES after the cost estimate has expired. Fully executed copies of all deeds of the required street light easements shall be transmitted directly to Dominion. Dominion will not be obligated to install any street lights until authorization from DPWES and all signed easement agreements from the developer have been received. After the payment has been received and cleared by the bank, DPWES will authorize Dominion to proceed with the street light installation.

7-1003.1D The developer shall coordinate directly with Dominion to schedule the installation of street lights. This coordination shall be for installation of the wiring for the street lights, concurrently with the electric service, and the subsequent installation of the light poles, fixtures, and final connection when the site is ready for such work. If the street light installations have not been scheduled within one year of the date of the cost estimate, and provided the delay is not the fault of Dominion, Dominion may revise the cost estimate, which may require additional payment by the developer.

7-1003.1E Once full payment has been made by the developer for the bonded street lights and all easements have been granted to Dominion, the developer's bond can be reduced to account for the street light installation. Any damage claims resulting from the installation of the street lights shall be resolved between the developer and Dominion prior to final bond release.

7-1003.1F The County shall make final payment to Dominion and accept the street lights into the County Street Light System upon the submission of an invoice requesting payment and a standard completion report to DPWES by Dominion, except that the street light installations shall be inspected and approved by the County prior to making final payment and acceptance.

1003.2 NOVEC Electric Service Area:

7-1003.2A~~1~~ As soon as construction begins, the developer shall ~~is to~~ request in writing that NOVEC ~~to the electric utility company to~~ prepare a cost estimate for the required street lights. The developer shall ~~is to~~ provide approved plans to ~~the electric utility company~~ NOVEC showing all the street lighting improvements that have been bonded with the development.

7-1003.2B ~~The electric utility company is to~~ NOVEC shall prepare and deliver a street light wiring construction sketch and cost letter to the developer for payment. The use of

common trenches for street light wiring and the electric service to the lots is to be considered in order to minimize cost. The developer is to pay ~~the electric utility company~~ NOVEC directly for the required street light wiring work. ~~The electric utility company~~ NOVEC will ~~is also to~~ prepare ~~for~~ and provide the developer, a cost estimate for the subsequent installation work of the street light poles and fixtures included on the plans, with a copy sent to DPWES. The street light poles and fixtures are to be installed when the site is ready for such work by ~~the electric utility company~~ NOVEC. Included with this cost letter shall be easement agreements and plats.

7-1003.2C~~3~~ DPWES will~~shall~~ review ~~the electric utility company~~ NOVEC's construction sketch and cost estimate to ensure that the scope of the street light installations conforms to the approved development plan. DPWES will authorize NOVEC in writing ~~the electric utility company~~ to include the new street lights into the Fairfax County Street Light Account. If the cost estimate is not in agreement with the approved plans, DPWES will~~shall~~ mark up the street light construction sketch indicating the deficiencies found and return it to ~~the electric utility company~~ NOVEC for correction. Adjustment to the street light layout may need to be made to account for any change in the original existing conditions when the plans were approved. After ~~the electric utility company~~ NOVEC has made the necessary corrections, it will be authorized by DPWES to include these street lights into the County account.

7-1003.2D4 The developer shall make full payment to ~~the electric utility company~~ NOVEC for the street light installations within the time frame that the cost estimate is valid. Fully executed copies of all deeds of the required street light easements shall be included with the payment. ~~The electric utility company~~ NOVEC will not be obligated to install any street lights until full payment and all signed easement agreements have been received. ~~The electric utility company~~ NOVEC shall provide DPWES with a copy of the receipt provided to the developer for the street light installation payment.

7-1003.2E~~5~~ The developer shall coordinate directly with ~~the electric utility company~~ NOVEC to schedule the installation of street lights. This coordination shall be for installation of the wiring for of the street lights, concurrently with the electric service, and the subsequent installation of the light poles and fixtures when the site is ready for such work. If the street light installations are not completed within one year of the date of payment of the estimated cost ~~the cost estimate payment~~, providing the delay is not the fault of ~~the electric utility company~~ NOVEC, NOVEC~~the electric utility company~~ may require the developer to make additional payment.

7-1003.2F~~6~~ The developer shall submit to the County payment receipts for all the street light installations indicated on the approved plans as verification that the street light requirements have been satisfied. ~~and that~~ Subject to verification that all required easements have been provided to NOVEC, the developer's bond can be reduced to account for the street light installation.

7-1003.2G~~7~~ The County will~~shall~~ accept the street lights into the County Street Light System upon the submission of a standard completion report to DPWES by NOVEC~~the~~

~~electric utility company~~, except that the street light installations shall be inspected and approved by the County prior to acceptance.

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.2A to read as follows:

7-1004.2A The standard light source for all street lights shall be the High Pressure Sodium (HPS) lamps. ~~Mercury Vapor (MV) lamps are an optional light source, which is available for use at an extra cost to the developer, as specified in § 7-1004.2B to 7-1004.2F. The HPS lamps emit a yellow-to-orange light, and the MV lamps produce a white-to-blue light.~~ The use of HPS street lights shall conform to the standards as set forth in Tables ~~7.12~~7.9, ~~7.13~~7.10, and ~~7.14~~ 7.11~~., respectively.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by deleting paragraphs 7-1004.2B, 1004.2C, 10042D, 1004.2E, Table 7.8, and paragraph 1004.2F:

~~7-1004.2B If the developer determines that the MV light source is more compatible with a particular development, then the developer may use the optional MV light source if the developer pays all additional costs associated with this light source as outlined in §§ 7-1004.2C to 7-1004.2F below.~~

~~7-1004.2C The photometric characteristics for MV street lights are different from those of HPS street lights. Therefore, if the developer elects to utilize the MV light source, the design of these street lights shall conform to the standards as set forth in Tables 7.12A, 7.13A, and 7.14A, respectively.~~

~~7-1004.2D Payment for Increased Operating Cost: The operation and maintenance costs for MV street lights are higher than those for a comparably sized HPS street light. To defray these higher costs, the developer opting for MV street lights shall pay the County, prior to plan approval, a one-time, non-refundable cash contribution equal to the additional operation and maintenance costs that the County is projected to incur over the 20-year useful life of the proposed MV street lights.~~

~~7-1004.2E Based on the County's street lighting contract with the electric utility company serving the area of the proposed development, DPWES will determine the amount of the required contribution. For each size of MV street light specified, the contribution will be determined by subtracting the current monthly operation and maintenance rates for an equivalent lumen size HPS street light from such cost for the MV street lights, then multiplying the difference by 240 and multiplying that product by the number of proposed MV street lights. The equivalent lumen size HPS street light to be used in computing the increased operation and maintenance cost of a MV street light shall be as set forth in Table 7.8.~~

~~Table 7.8 Equivalent Light Source (Lumens)~~
~~(80-03-PFM)~~

~~High Pressure Sodium (HPS)~~	~~Mercury Vapor (MV)~~
~~8,000~~	~~7,000~~
~~14,000~~	~~11,000~~
~~23,000~~	~~20,000~~
~~42,000~~	~~33,000~~

~~7-1004.2F Payment for Future MV Street light Conversion Cost: Under the County's supplemental agreement with Dominion Virginia Power, the developer shall make a payment to Dominion Virginia Power for each MV street light to be installed. This payment is to offset the economic incentive offered by Dominion Virginia Power to the County for the future conversion of MV street lights to HPS street lights. This payment shall be based on the rates contained in Schedule C of the County's supplemental agreement with Dominion Virginia Power. This payment is not required for new MV street lights installed in the Northern Virginia Electric Cooperative service area of Fairfax County. The above one-time, non-refundable cash payment shall be made to Dominion Virginia Power as part of the installation cost for the proposed street lights and will be a prerequisite to acceptance of the proposed lights into the Fairfax County Street Lighting System for maintenance. During any period in which Dominion Virginia Power does not offer an economic incentive for conversion of MV street lights to HPS, a developer will not be required to make additional payment to offset any such incentive.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.2G to read as follows:

7-1004.2~~G~~B ~~The use of~~ Any existing Mercury Vapor (MV) street lights along existing state road frontage ~~will~~shall be upgraded to meet ~~permitted at no additional cost to the developer provided that~~ the Illuminating Engineer Society of North America (IESNA), American National Standard Practice for Roadway Lighting (ANSI/IESNA RP-8-00, or latest). ~~standards are achieved without any modifications to the existing street light system. The relocation of any existing pole(s) that do not adversely impact the ability of the existing street lights to continue meeting current lighting standards shall not be considered a modification to the existing lighting system. If additional street lights are required or modifications to the size of the existing street lights are necessary to satisfy PFM requirements or current lighting standards, the conversion to a HPS light source will be required for all street lights unless the developer satisfies the provisions of § 7-1004.2B to § 7-1004.2F.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.3 to read as follows:

7-1004.3 Light Level Requirements. Illumination levels are determined based on area and road classification. See § 7-0306 for definitions of area and road classifications. Due

to the variations in the geometrics and traffic counts for existing State roadways, the design of street lights at these locations is very site specific. The initial design of these street lights shall conform to the generalized standards as set forth in Table 7.9 ~~for HPS and Table 7.9A for MV street lights~~. Special coordination with DPWES during the preparation of this street light design may be required to address specific site conditions. The design of these street lights must be shown on the first submission construction plans. This street light design shall be subject to revision after review by DPWES. DPWES may also adjust approved street lighting layouts along existing State roadways. DPWES shall explain to the developer the reasons why the approved lighting layout is adjusted. These modifications will be made only to coordinate with the location of existing or proposed street lights adjacent to the site or to meet current IESNA Standard Practice for Roadway Lighting.

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.3A(1) to read as follows:

7-1004.3A(1) Street lights shall be provided along roadways within new residential subdivisions in accordance with § 7-1002.1. Luminaire size and maximum allowable spacing and mounting height shall conform to the standards set forth in Tables 7.9, 7.10 and ~~7.13~~ 7.11.~~for HPS and Tables 7.9A and 7.13A for MV street lights.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.3A(2) to read as follows:

7-1004.3A(2) A minimum of three street lights shall be provided at all subdivision entrances as set forth in Tables 7.9 and 7.10.

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.3B(1) to read as follows:

7-1004.3B(1) Street lights shall be provided along all proposed and existing roadways that are or will be included in the State Roadway System within new commercial and industrial subdivisions. Luminaire size and maximum allowable spacing shall conform to the standards set forth in Tables 7.9 and 7.10. ~~for HPS and Table 7.10A for MV street lights.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.3B(2) to read as follows:

7-1004.3B(2) A minimum of three street lights shall be provided at all subdivision entrances as set forth in Tables 7.9 and 7.10. ~~for HPS and Table 7.9A for MV street lights.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.4A(1) to read as follows:

7-1004.4A(1) Residential Areas. Poles located at intersections shall be installed as close as possible to, but outside, the radius of the intersection. Poles located along roadways between intersections shall be installed with a 1-foot offset to side lot property boundaries. All pole placements shall conform to the standards set forth in Tables 7.9 and 7.10. ~~for HPS and Table 7.10A for MV street lights.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.4A(2) to read as follows:

7-1004.4A(2) Commercial/Industrial Areas. Poles located at intersections shall be installed as close as possible to, but outside, the radius of the intersection. Poles located along roadways between intersections shall be installed, if possible, with a 1-foot offset to side lot property boundaries. All pole placements and bracket lengths shall conform to the standards set forth in Tables 7.9 and 7.10. ~~for HPS and Table 7.10A for MV street lights.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.4B to read as follows:

7-1004.4B Standard colonial style roadway lighting fixtures shall utilize black fiberglass poles. These poles shall be installed 2 feet behind the face of curb as set forth in Table 7.11. ~~for HPS and Table 7.11A for MV street lights.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising paragraph 7-1004.5 to read as follows:

7-1004.5 Luminaire Mounting Height – All RF-1 and RF-2 luminaires shall be installed with mounting heights as specified in Tables 7.9 and ~~7.13~~ 7.10. ~~for HPS and Table 7.9A and 7.13A for MV street lights.~~ All RF-3 luminaires shall be installed at a height of 14 feet.

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by deleting Tables 7.9A, and 7.10A:

~~**Table 7.9A Lighting Levels For Existing Streets:**~~
~~**Standard Roadway Fixture (RF-1 and RF-2) (MV)**~~
~~(80-03-PFM)~~

~~Area Classification~~	~~Roadway Section Type ft.~~	~~Roadway Width ft.~~	~~Lamp Size Lumens~~	~~Maximum Spacing ft.~~	~~Mounting Height ft.~~
~~Residential~~	~~Curb & Gutter~~	~~30~~	~~7,000~~	~~155[2]~~	~~30~~
		~~36~~	~~7,000~~	~~150[2]~~	~~30~~
		~~44~~	~~11,000~~	~~155~~	~~30~~
	~~Ditch Section~~	~~24~~	~~7,000~~	~~155[2]~~	~~25~~
		~~36~~	~~7,000~~	~~145[2]~~	~~30~~
		~~48~~	~~11,000~~	~~155~~	~~30~~
~~Industrial/ Commercial~~	~~Curb & Gutter~~	~~30~~	~~20,000~~	~~217~~	~~35~~
		~~36~~	~~20,000~~	~~205~~	~~35~~
		~~44~~	~~20,000~~	~~145~~	~~35~~
	~~Ditch Section~~	~~24~~	~~20,000~~	~~229~~	~~35~~
		~~36~~	~~20,000~~	~~205~~	~~35~~
		~~48~~	~~20,000~~	~~185~~	~~35~~

~~NOTES:~~
~~1/ All luminaires to be installed on one side of the roadway.~~

~~2/ Luminaires bracket lengths are to be sized as to provide a 2-ft. roadway overhang. The maximum bracket length for standard concrete poles is 12 ft. Longer brackets, up to 20 ft. (in 2-ft. increments), are available for wood poles (down guiding is required) and for special concrete poles. Pole locations are to be determined based on current VDOT Road Design Manual, Section A-2-Clear Zone Guidelines.~~

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~~Table 7.10A-Lighting Levels For Proposed Curb & Gutter Streets: Standard Roadway Fixture (RF-2) (MV)~~ ~~(99-07-PFM, 80-03-PFM)~~

~~Area Class~~	~~Roadway Class~~	~~ADT~~	~~Lamp Size Lumens~~	~~Maximum Spacing ft.~~	~~Mounting Height ft.~~	~~Notes~~
~~Residential~~	~~Local~~	~~0-250~~	~~7,000~~	~~155~~	~~30~~	~~1,3,4~~
		~~251-400~~	~~7,000~~	~~155~~	~~30~~	~~1,3,4~~
		~~401-1000~~	~~7,000~~	~~145~~	~~30~~	~~1,3,4~~
		~~1001-2000~~	~~7,000~~	~~145~~	~~30~~	~~1,3,4~~
		~~2001-4000~~	~~7,000~~	~~140~~	~~30~~	~~1,4~~
		~~4001-5500~~	~~11,000~~	~~158~~	~~30~~	~~1,4~~
	~~Collector~~	~~4001-5500~~	~~11,000~~	~~123~~	~~30~~	~~1,4~~
~~Industrial/ Commercial~~	~~Local~~	~~0-250~~	~~20,000~~	~~220~~	~~35~~	~~1,4~~
		~~251-400~~	~~20,000~~	~~220~~	~~35~~	~~1,4~~
		~~401-1000~~	~~20,000~~	~~205~~	~~35~~	~~1,4~~

		~~1001-2000~~	~~20,000~~	~~205~~	~~35~~	~~1,4~~
		~~2001-4000~~	~~20,000~~	~~200~~	~~35~~	~~1,4~~
		~~4001-5500~~	~~20,000~~	~~150~~	~~35~~	~~1,4~~
	~~Collector~~	~~4001-5500~~	~~20,000~~	~~230~~	~~35~~	~~2,4~~

~~NOTES:~~
~~1/ Luminaires are to be set on one side of the roadway.~~

~~2/ Luminaires are to be set symmetrically on both side of the roadway.~~

~~3/ The standard colonial style roadway lighting fixture may be used at these locations. See Table 7.11 for additional details.~~

~~4/ Luminaires bracket lengths are to be sized as to provide a 2-ft. roadway overhang. The maximum bracket length for standard concrete poles is 12 ft. Longer brackets, up to 20 ft. (in 2-ft. increments), are available for wood poles (down guiding is required) and for special concrete poles. Pole locations are to be determined based on current VDOT Road Design Manual, Section A-2-Clear Zone Guidelines.~~

Amend §7-1004 (Standards and Criteria) of the Public Facilities Manual by revising Table 7.11 and deleting Table 7.11A to read as follows:

Table 7.11 Lighting Levels For Proposed Curb & Gutter Streets: Alternate Security Fixtures (RF-3) (High Pressure Sodium Vapor) (99-07-PFM, 80-03-PFM)

Area Class	**Roadway Class**	**ADT**	**Lamp Size Lumens**	**Maximum Spacing ft.**	**Mounting Height ft.**	**Notes**
Residential	Local	~~0-250~~	5,000	160	14	1,~~3,4~~2
		251-400	5,000	160	14	1,~~3,4~~2
		401-1000	8,000	160	14	1,~~3,4~~2
		1001-2000	8,000	160	14	1,~~3,4~~2

NOTES:
1/ Measured from face of pole to face of curb.
2/ Poles to be placed on one side of the roadway.

~~**Table 7.11A Lighting Levels For Proposed Curb & Gutter Streets: Alternate Security Fixtures (RF-3) (Mercury Vapor)** (99-07-PFM, 80-03-PFM)~~

~~**Area Class**~~	~~**Roadway Class**~~	~~**ADT**~~	~~**Lamp Size Lumens**~~	~~**Maximum Spacing ft.**~~	~~**Mounting Height ft.**~~	~~**Notes**~~

~~**Residential**~~	~~Local~~	~~0-250~~	~~7,000~~	~~150~~	~~14~~	~~1,3,4~~
		~~251-400~~	~~7,000~~	~~150~~	~~14~~	~~1,3,4~~
		~~401-1000~~	~~7,000~~	~~120~~	~~14~~	~~1,3,4~~
		~~1001-2000~~	~~7,000~~	~~120~~	~~14~~	~~1,3,4~~
~~NOTES:~~ ~~1/ Measured from face of pole to face of curb.~~ ~~2/ Poles to be placed on one side of the roadway.~~ ~~3/ Maximum spacing is based on the use of the "traditionaire" luminaires.~~						

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Planning Commission Meeting
January 18, 2012
Verbatim Excerpt

PUBLIC FACILITIES MANUAL AMENDMENT – NEW STREET LIGHT PROCEDURES

After the Close of the Public Hearing

Chairman Murphy: Without objection, the public hearing is closed; recognize Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. First, let me thank staff; B. J. Sistani, John Friedman, Walt Wozniak, Jack Wyant, and Felix Bermejo for their fine work on this case. This is a straightforward amendment to the Public Facilities Manual to address new procedures for street light installation and the Federal ban on new mercury vapor street lights. The Amendment has a favorable recommendation from staff, with which I concur. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED AMENDMENTS TO CHAPTER 7: STREETS, PARKING AND DRIVEWAYS OF THE PUBLIC FACILITIES MANUAL AS SET FORTH IN THE STAFF REPORT DATED DECEMBER 6TH, 2011, WITH THE FOLLOWING MODIFICATIONS. And before I say the modifications we emailed earlier today, it's really only underlining. It's not even changing any words. So hopefully, there's no problem with going forward to this tonight. ON PAGE 123, LINE 39, UNDERLINE THE WORD "SHALL;" PAGE 123, LINE 31, UNDERLINE "NOVEC;" AND THEN PAGE 124, LINE 36, UNDERLINE "NOVEC" TWICE. That's our motion.

Commissioners Litzenberger and Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Public Facilities Manual Amendment concerning new street light procedures in Chapter 7: Streets, Parking, and Driveways, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

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(The motion carried unanimously with Commissioner Sargeant having recused himself; Commissioner Hall absent from the meeting.)

JLC

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Board Agenda Item
February 28, 2012

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Independent Living Facilities for Low Income Residents and Modifications of the Administrative Provisions of the Affordable Dwelling Unit Program and to the Definitions of "Dwelling Unit" and "Independent Living Facility"

ISSUE:
The proposed Zoning Ordinance amendment will create a new subset of the current independent living facility use to serve low income occupants with handicaps/disabilities and/or who are 62 years of age and older. As proposed, a 25% density bonus will be available provided not less than 70% of the units shall be provided for occupants with an annual income of not more than 50% of the Area Median Income (AMI) for the Washington Metropolitan Statistical Area (WMSA) and not more than 30% of the units shall be provided for occupants with an annual income of not more than 70% of AMI for the WMSA. The amendment includes additional standards to ensure compatibility and appropriateness of the use at a proposed location. Correlating provisions of the Affordable Dwelling Unit Program are being modified accordingly. The amendment will also modify the definition of dwelling unit to delete the reference to "permanent" when referring to provisions for living, sleeping, eating, cooking and sanitation within the dwelling unit. The amendment also modifies the definition of "Independent Living Facility" by adding the word "disabilities" to be more current with preferred terminology.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, February 9, 2012, the Planning Commission voted unanimously to recommend that the Board of Supervisors adopt the proposed Zoning Ordinance amendment regarding independent living facilities for low-income residents as well as modifications to the administrative provisions of the Affordable Dwelling Unit Program and to the definitions of "dwelling unit" and "independent living facility", as advertised and further set forth in the Staff Report dated December 6, 2011.

In addition, the Planning Commission recommended that the Board authorize staff to draft text and appropriate advertising to amend the Zoning Ordinance to include an additional standard for the independent living use for low-income residents as well as other independent living type facilities to include a height limitation of 35 feet or such other range of height limitations as the Board deems appropriate.

RECOMMENDATION:
The County Executive recommends that the Board adopt the proposed Zoning Ordinance amendment, as advertised and recommended by the Planning Commission

and that staff be authorized to prepare the subsequent amendment to address the maximum height limit for certain independent living facilities, as noted.

TIMING:
Board authorization to advertise - December 6, 2011; Planning Commission public hearing – January 26, 2012; Planning Commission decision only – February 9, 2012; Board public hearing February 28, 2012, at 4:00 p.m.

BACKGROUND:
The proposed amendment, which primarily creates an independent living facility use for low income residents with handicaps/disabilities and/or who are 62 years of age and older, will address the Board's general affordable/workforce housing goals and the Board's initiative to end homelessness within a ten year time period by offering a new housing option for this population. The proposed use will serve low income persons who are 62 years of age and older (sometimes reduced by the Board to age 55), and/or those adults who meet the Federal Fair Housing Amendments Act of 1988's definition of "handicapped." The independent living facility units are required to be individual, complete dwelling units. The provision of complete dwelling units furthers the Board's implementation strategy to establish a housing product that embraces the "Housing First" concept for providing permanent housing opportunities to those persons who are formerly homeless. In addition, the proposed use could provide housing to anyone who meets the age and/or handicap/disability standards and income limitations, as defined by 70% of the units serving an income population that is not more than 50% of AMI and 30% of the units serving an income population that is not more than 70% of AMI. (Advertised to allow for alternatives to the proposed 70/30 recommendation.)

This amendment had been previously authorized by the Board on July 26, 2011; however, prior to the Planning Commission public hearing additional comments were received that warranted evaluation. Staff met with industry representatives and revised the amendment to facilitate the inclusion of live-in aides and resident care providers in these facilities, as both forms of care provision is commonplace in such uses. Additionally, the revised amendment will allow consideration to be given to increasing the timeframe from the previous recommendation of six months to nine months for residents to vacate a unit if they should become overqualified in terms of income. Lastly, the revised amendment will provide for additional flexibility for yard requirements in cases where the structure will resemble a single family detached dwelling in a residential district.

The amendment also deletes the word "permanent" from the definition of a dwelling unit, with reference to living, cooking, eating and sleeping facilities. This will help alleviate past misinterpretations of what features constitute the establishment of a separate dwelling unit within a dwelling. The amendment also modifies the definition of

independent living facility to add the word “disabilities” where “handicap” is currently used to incorporate preferred terminology.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

At the Planning Commission public hearing, the issue of building height for independent living facilities in residential districts was discussed. Specifically, the amendment was advertised to allow for a reduction of minimum required yards for those facilities that are located in the RE through R-8 Districts and which are designed to resemble a single family detached dwelling. Under the proposed amendment, those structures could utilize the specific setback requirements set forth in the respective zoning district, rather than the 50 foot setback for all yards currently required. This proposal was intended to make the structure compatible with the surrounding houses and ease setback requirements, where warranted, when the facility was scaled to be more “home-like” than “institutional” in appearance. As part of this discussion, the issue of compatible building height was raised. Under the current provisions, the maximum height would be 50 feet for an independent living facility in residential districts. The maximum building height for single family dwellings in residential districts is 35 feet. Staff believes that the qualifications of being designed to resemble a single family detached dwelling would take into account the proposed building height limits; however, one member of the public and some of the Planning Commissioners believe that the standard should be included in the Zoning Ordinance for clarity. Because this change was outside the scope of the current advertisement, the Planning Commission is recommending a follow-on amendment that will specifically address building height for certain independent living facilities in residential districts.

REGULATORY IMPACT:
The proposed amendment would create the new subset of the existing independent living facility special exception for low income residents with handicaps/disabilities and/or who are 62 years of age and older, subject to certain additional standards, including limits on resident’s income, lease and renewal terms, monitoring for compliance and recordation of a covenant in the land records.

FISCAL IMPACT:
Staff is proposing that the independent living facility use include an application fee of $1,100, regardless of whether the independent living facility for low income residents use is established through approval of a new special exception, in conjunction with an amendment to a previously approved special permit or special exception, or as an amendment to an existing development plan and/or proffered condition. Staff notes,

however, that the amendment has been advertised to allow the Board to adopt any application fee between $0 and $16,375.

The cost recovery rate for special exception uses at the $16,375 rate is approximately 75% of actual costs, so a fee of $1,100 represents a recovery rate of approximately 5%. While it is not anticipated that this new use will generate a large volume of new applications, each one will not include sufficient fees to cover the cost of staff processing. However, it is anticipated that the majority of these applications will be requested by non-profit entities in the business of providing housing for low income individuals. In an effort to establish an application fee that is not so high that would dissuade development of such independent living facilities and in light of the public benefit of providing appropriate housing for individuals at the proposed income levels, staff believes the proposed fee is appropriate.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff Report
Attachment 2 – Verbatim Excerpt

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Eileen M. McLane, Zoning Administrator, DPZ
Michelle O'Hare, Deputy Zoning Administrator, DPZ
Donna Pesto, Senior Assistant to the Zoning Administrator, DPZ

FAIRFAX COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Independent Living Facilities for Low Income Residents and Modifications of the Administrative Provisions of the Affordable Dwelling Unit Program and to the Definitions of "Dwelling Unit" and "Independent Living Facility"

PUBLIC HEARING DATES

Planning Commission January 26, 2012 at 8:15 p.m.

Board of Supervisors February 28, 2012 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

December 6, 2011

DP

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 Zoning Ordinance currently allows an independent living facility use that serves persons with handicaps/disabilities and/or those persons who are 62 years of age and older. The proposed amendment establishes a subset of the existing independent living facility use that will primarily serve a population whose annual income is not more than 50% of the Area Median Income (AMI) for the Washington Metropolitan Statistical Area (WMSA) and may include up to 30% of the units for households with an annual income of not more than 70% of AMI. The amendment is in furtherance of a 2011 Priority 1 Zoning Ordinance Amendment Work Program item intended to establish a new use or uses to provide permanent housing to persons or households at lower income levels. For income level reference, the U.S. Department of Housing and Urban Development (HUD) 2011 AMI for the WMSA is approximately $74,300 for a one person household, so the 50% AMI level is approximately $37,150 annually and the 70% AMI level is approximately $52,010.

Background

The proposed amendment was borne of the collective efforts to address affordable/workforce housing and the Board of Supervisor's (Board) initiative to end homelessness within a 10-year time period. Based on a study entitled the "Need for Affordable/Workforce Housing in Fairfax County," conducted by the Center for Regional Analysis at George Mason University, our area during the years 2005 to 2025 has a projected need for approximately 30,000 housing units for a population whose income is not more than 50% AMI. To help address this need, through the course of review of the Workforce Dwelling Unit (WDU) issue, the High-Rise Affordability Panel considered the inclusion of housing for an income population making not more than 60% of AMI. However, upon evaluation, it was determined that inclusion of an income tier for the less than 60% AMI in the WDU Program necessitated an extraordinarily large density bonus for high-rise buildings to mitigate the provision of such lower income units. The Board ultimately adopted the WDU Policy Guidelines and associated amendments to the Comprehensive Plan and Zoning Ordinance in 2007, which included three tiers of income (up to 80% AMI, up to 100% AMI and up to 120% AMI), leaving out the up to 60% AMI level. Staff was directed to continue to work on possible housing solutions to address this income population.

Additionally, in February 2007, the Board endorsed the *Blueprint for Success: Strategic Directions for the Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community*, with a goal of establishing implementation strategies to, among other things, increase the supply of affordable housing to prevent or remediate homelessness. On March 31, 2008, the Board approved the *Implementation Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community*, which embraces the concepts of the "Housing First" model, whereby finding permanent housing solutions for homeless individuals or families is a primary focus and is believed to be more beneficial than providing temporary shelter while focusing on the delivery of other services to those individuals or families. An integral part of the implementation plan was to develop zoning provisions that allow for appropriate housing to help address that recommendation. This amendment focuses on the existing use of independent living facilities and will establish a subset of that use that is designated for low income residents.

This amendment had been previously authorized for advertisement by the Board on July 26, 2011; however, staff received additional comments from industry representatives that warranted additional evaluation of the proposed amendment. Staff has met and consulted with various interest groups since that time and has developed this revised amendment that further accomplishes the goal of providing a housing product that will best serve the intended population.

Current Provisions

The Zoning Ordinance currently provides for independent living facilities that serve persons 62 years of age and older and/or persons with disabilities/handicaps, as defined by the Federal Fair Housing Amendments Act of 1998 (the Act), 42 U.S.C. §§ 3601-3631. The Act defines "handicap" in 42 U.S.C. § 3602(h) as follows:

(h) "Handicap" means, with respect to a person--

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21).

The current independent living facility use includes additional standards addressing parking needs, density bonuses, a minimum occupant age of 18, accommodations that assist with the provision of transportation/recreation/shopping/health care, location in relationship to major roadways, among others as set forth in Sect. 9-306 of the Zoning Ordinance. Independent living facilities are currently permitted in all planned development districts when shown on an approved development plan or by special exception and are allowed by special exception in the R-E through R-MHP Residential Districts and the C-1 through C-4 Commercial Districts (primarily office districts). The current regulations require that any independent living facility must provide a minimum of 15% of the units as Affordable Dwelling Units (ADUs), but a developer can choose to utilize an additional 20% density bonus for any facility that is comprised of 100% ADUs. These additional standards are applicable to any such use that is to be established pursuant to the approval of a special exception. For those uses that are to be located in a Planned Development District, these additional standards are used in the evaluation of the proposal.

The independent living facility use has most often been utilized to provide housing for persons 62 years of age and older, which has sometimes been modified by the Board to allow persons not younger than 55 years of age. Nevertheless, the Zoning Ordinance definition and standards for the independent living facility use also allow occupancy by any adult who qualifies under the Act. Staff is not currently aware of any land development applications for an independent living facility use that was developed only for adults who meet the Act's definition of "handicap," regardless of age, but such a facility is already permitted under the current regulations.

Proposed Amendment

Under the current regulations, a developer can already establish an independent living facility for persons with disabilities/handicaps at any income level. The proposed amendment will provide for a specific subset of the independent living facility use to allow for a 25% density bonus, if at least 70% of the units are made available to residents whose household income is not more than 50% of AMI and the remaining units are made available to residents whose household income is not more than 70% of AMI. Staff notes that this amendment has been advertised to allow the Board to approve any combination of income tiers, from 0% to 100% in each of the two levels, with staff recommending not less than 70% of the units at the up to 50% AMI tier and not more than 30% of the units at the up to 70% AMI tier. The amendment proposes that the independent living facility for low income residents would be exempt from the ADU Program and from participation in the WDU Program, in favor of specifically recorded covenants addressing the income and rent limits, as well as on-going documentation to verify appropriate tenancy. The 25% density bonus and the allowance for a percentage of the units at the higher income limit are intended to help offset the costs of providing a large percentage of the units with low rental rates, but also will allow residents to remain in the development if their income exceeds 50% of AMI due to modest increase(s) in income over time.

Staff is proposing some additional standards that would be applicable to the lower income subset of the independent living facility use. As noted, the maximum household income limit would primarily be 50% of AMI. In current terms, that would be a maximum of approximately $37,150/year or $3,096/month gross. As a frame of reference, a minimum wage earner ($7.25/hour) earns $15,080/year or $1,257/month, which is approximately 20% of AMI. Additionally, in accordance with the 2011 Point-in-Time Count of People who are Homeless in the Fairfax-Falls Church Community, only 7% of homeless individuals have an income over $1000/month, 36% have an income between $1 and $999/month, while 58% have no or unknown income. Further, the study found that of the homeless individuals, 60% are deemed to have serious mental illness, 14% have chronic health problems, 11% suffer from a physical disability, and 16% are homeless due to release from an institution. Additionally, 20% are age 55 or over (statistics not recorded for persons over age 62). While there is some overlap in these percentages, it is apparent that the majority of homeless individuals would likely qualify as having a handicap, having a record of being handicapped, or as being regarded as having a handicap. According to these statistics, a majority of homeless individuals could potentially qualify for occupancy of an independent living facility by their age and/or handicapped status, in furtherance of utilization of the “Housing First” model.

In addition to income limits, the proposed subset of the independent living facility use is to be limited to rental occupancy only, since acquiring a mortgage is unlikely for this income population, and such tenancy provides the ability to monitor income and other qualifications of the residents on a regular basis. The proposed amendment also includes limits on the initial lease term and renewal terms and establishes the formula by which maximum rent is to be determined. By requiring an initial lease term of at least six months, staff believes it fosters more permanency in the occupancy of units and could also serve as a reasonable interim housing solution for those individuals who may be looking for other kinds of permanent housing. Additionally, by precluding initial and renewal terms of more than one year at a time, income

and tenancy qualifications can be verified on at least an annual basis for tenants of the independent living facility. The owner/manager will be required to submit annual tenancy verifications to the Zoning Administrator to ensure on-going compliance with the income and occupancy limits. Further, the additional standards provide that, in the event that a resident becomes overqualified in terms of income, they shall be entitled to remain in their residence until the end of their current lease term or for up to nine months, whichever is greater, to enable them time to secure alternate housing. Staff notes that the amendment has been advertised to allow the Board to approve a maximum extension of occupancy for any amount of time from zero to nine months, with staff recommending the nine month limit.

Staff is also proposing that appropriate covenants be recorded in the Fairfax County land records. Such covenants will address the income limitations, rental price restrictions, the perpetuity of such controls, and any other relevant limits that are applicable to the property. The recordation of covenants puts the limitations in the chain of title for the property and notifies lenders, prospective purchasers of the development, and any other party who would have an interest in the development of the limits applicable to the facility. This process would be similar to the Affordable Dwelling Unit and Workforce Dwelling Unit covenants that are recorded for each residential project containing such price controlled units.

In addition to establishing the referenced additional standards for the new subset of the independent living facilities, staff is proposing a number of amendments to the existing additional standards that apply to all independent living facilities, including the new subset. In order to ensure that the independent living facilities are established and operated in accordance with the limitations set forth in the Zoning Ordinance and/or by any conditions imposed by the Board in their approval of a special exception or P-District rezoning, staff is proposing a clarification that the owner/manager of a facility is responsible for verifying compliance with the age, handicap and/or income criteria for occupancy and, upon specific request by the Zoning Administrator, the owner/manager shall provide a copy of those documents when it is determined that additional information is needed to verify compliance with the occupancy limitations.

The current setback requirements impose minimum yards that are typically in excess of what would otherwise be required in the underlying zoning districts. While staff believes this is appropriate in cases where the independent living facility takes the form of a multiple family structure in districts that do not otherwise permit such buildings, staff does support the concept of smaller facilities that are intended to be located in a structure that, but for the interior layout and use, would resemble a single family detached dwelling. In those cases, staff is proposing an amendment that will allow the Board to permit compliance with the minimum yard requirements for the underlying residential zoning district, instead of the more stringent yards that are currently required. In either case, the Board retains the authority to modify minimum yard requirements when warranted by a specific application to ensure compatibility with the surrounding neighborhood.

Additionally, staff is proposing a change that clarifies that the Board, in its review of a special exception or rezoning application, shall consider any specific facility maintenance or operating

requirements that are necessary to ensure that both the residents and the neighbors of the facility are best served.

Lastly, the amendment proposes to address the inclusion of both live-in aides and resident care providers to assist in making the income controlled units more accessible to persons who are elderly or who have handicaps/disabilities. Currently, the independent living facility provisions do not address such service providers in much detail, other than to indicate that a "caregiver" is permitted to live with a person who meets the Federal Fair Housing Act Amendment definition of handicapped. The proposed amendment will recognize two categories of care providers: a live-in aide, who resides in the same unit as the qualified resident and a resident care provider, who resides in the same independent living facility as the qualified resident(s) for whom they provide services, but can live in a separate dwelling unit within such facility. Both types of service providers will be permitted in any independent living facility development, with the resident care provider units limited to not more than 25% of the total unit count of those structures that are constructed as single family attached or multiple family dwelling units. Staff notes that the percentage of resident care provider units has been advertised as a range that will permit the Board to include any amount from 0 to 25%, with staff recommending 25%. Units for resident care providers would not be permitted in single family detached dwelling units. Further, the amendment modifies the existing ADU Program provisions to specifically state that a live-in aide is permitted to reside in an ADU with a qualified resident. Staff believes that the inclusion of both live-in aides and resident care providers will facilitate occupancy by a broader population with handicaps/disabilities and/or who are elderly.

For the live-in aide, staff believes it is essential to clarify the existing provisions regarding a care provider living in the same unit as the qualified resident, both in terms of who qualifies as a care provider and how their income should be considered. Staff is proposing to change "caregiver" to "live-in aide" and to define such live-in aide in accordance with the existing U.S. Department of Housing and Urban Development (HUD) regulations. Specifically Article 24, of the Code of Federal Regulations, Section CFR5.403 and CFR982.316, and further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22, which collectively set forth that such live-in aide must be determined to provide services that are essential to the disabled or elderly resident; they are not obligated for support for the resident and do not contribute financially to the support of the household; they would not be living in the unit if not for the provision of care services. A copy of each of these federal regulations is attached for reference. The live-in aide would not be subject to the minimum age, handicap/disability or income limitations and the proposed excludes the income of such live-in aide when determining "annual household income" for qualification purposes.

Regarding the resident care provider units, as noted, staff is proposing that not more than 25% of the independent living facility units that are constructed as single family attached or multiple family dwelling units may be occupied by an on-site care provider who provides direct care to one or more qualified residents of the facility. These resident care providers are not subject to the minimum age, handicap/disability, and/or income limitations set forth for the independent living facility units and rent for these persons is not required to be limited by the provisions. Staff is proposing regulations that limit rental terms to not more than six months at a time, provided that such terms may be extended for any number of terms (not to exceed six months

each) upon verification that the care provider continues to provide services to the resident(s). If the care services are terminated at any time, a resident care provider must vacate the unit at the end of their current lease term.

Application Fees

The proposed amendment establishes a subset of the Category 3 Special Exception use of independent living facilities for lower income residents in the fee schedule. Currently, there are three tiers of fees for Category 3 uses that range from $1,100 for small child care centers to $11,025 for places of worship with a school/child care center/nursery school to $16,375 for all other Category 3 uses, including independent living facilities. Staff believes that the fee for independent living facilities for low income tenants should be at the lowest level of $1,100, given the income population of the prospective tenants. Recognizing that the Planning Commission and Board may wish to consider a different fee for this use, the proposed amendment has been advertised to permit the adoption of any fee between $0 and $16,375 for the proposed use.

The amendment is also proposing a fee of $1,100 for an application that seeks to add a lower income independent living facility use to a property that is currently subject to an approved special permit or special exception or an amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan, or concurrent conceptual/final development plan for the sole purpose of adding the new use, whether or not new construction is proposed. Again, staff has advertised the amendment to allow the Board to adopt any fee between $0 and $16,375.

Affordable Dwelling Unit Program Provisions

The proposed amendment also addresses two correlating provisions of the ADU Program. Specifically, the exemption provisions will be amended to exclude independent living facilities for low income tenants from compliance with the ADU Program requirements. Staff believes this is essential to permit the establishment of a program specifically designed to meet the needs of elderly and/or disabled persons. The proposed special exception process, the income limits and maximum rent amounts set forth in the amendment, and the requirement for a recorded covenant setting forth all of the limitations will be used to ensure that the proposed use will satisfy this intent. Additionally, by excluding these units from the ADU Program, they would not be subject to the minimum prototype unit size for ADUs, which may be larger than what is envisioned for the independent living facilities for low income residents. A smaller efficiency style units can successfully accommodate the independent living use and will further the goal of making the units affordable.

Additionally, the proposed amendment sets forth that any income earned by a qualified live-in aide associated with an ADU is not to be used to determine the “annual household income” to establish income qualification. This provision mirrors the provision set forth for live-in aides in the independent living facilities for low income residents and staff believes it is essential for all price controlled units regulated by the Zoning Ordinance.

Dwelling Unit Definition

Unrelated to the independent living facility subset, this amendment also proposes to revise the

definition of a dwelling unit by deleting the word "permanent" in reference to living, sleeping, eating, cooking and sanitation in a dwelling unit.

The current definition of DWELLING UNIT provides that each individual unit shall include ***permanent*** provisions for living, sleeping, eating, cooking and sanitation (emphasis added). Based on the inclusion of the term "permanent" in the definition, it has been argued that certain appliances or kitchen features do not constitute a permanent feature since they can be removed; therefore, the living facility should not be considered a dwelling unit under the Zoning Ordinance. This has been particularly problematic for the enforcement efforts involving the establishment of multiple dwelling units on a lot. Some landlords have asserted that cooking appliances such as microwaves, hot plates, and even refrigerators do not create "permanent" provisions for cooking and eating, since these appliances are simply brought in and plugged into an electrical outlet. By their logic, none of the areas served by such features should constitute a separate dwelling unit and, thus, would not create a multiple dwelling unit violation by having multiple areas with appliances in a house. While this is not the position of current or past Zoning Administrators, the proposed deletion of the word "permanent" from the dwelling unit definition eliminates the opportunity to make this argument. It is noted that, in a January 11, 2008, unpublished ruling by the Supreme Court of Virginia (Circuit Court No. 06-332), the Court found that a property owner in Arlington County had established four separate dwelling units within a single family detached dwelling unit, despite the fact that the owner had removed the stoves from three of the four units immediately prior to the zoning inspection. While this ruling does not specifically relate to the definition of a dwelling unit as set forth in the Fairfax County Zoning Ordinance, it does illustrate the extent to which some violators have gone to manipulate the regulations governing the establishment of additional dwelling units on a lot.

Independent Living Facility Definition

The current definition of INDEPENDENT LIVING FACILITY refers to a residential development that is limited to occupancy by elderly persons and/or persons with handicaps. The amendment adds the word "disabilities" to update this definition to be current with preferred terminology.

Conclusion

The proposed amendment will modify the independent living facility use to create a subset designed to serve households primarily with a maximum income of 50% of AMI, with not more than 20% of the units serving households with a maximum income of 70% of AMI. Staff believes this modification will incentivize the development of such uses as a means to house low income persons who are elderly and/or have actual or perceived disabilities/handicaps who may be coming out of homelessness, foster care, institutionalization or any other circumstance. Staff believes the proposed subset use will facilitate a use not currently or adequately provided for in the Zoning Ordinance and will assist the Board in their goal to help end homelessness within the designated ten year timeframe. Therefore, staff recommends adoption of the proposed amendments as advertised with an effective date of 12:01 A.M. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 6, 2011 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.

Amend Article 9, Special Exceptions, by amending Part 3, Category 3, Quasi-Public Uses, to modify Sect. 9-306, Independent Living Facilities as follows:

9-306 Additional Standards for Independent Living Facilities

1. Housing and general care shall be provided only for persons who are sixty-two (62) years of age or over, couples where either the husband or wife is sixty-two (62) years of age or over and/or persons with handicaps (disabilities), as defined in the Federal Fair Housing Act Amendments of 1988, who are eighteen (18) years of age or older and with a spouse ~~and/or caregiver~~, if any. In addition, any dwelling unit within the facility may include a live-in aide. For the purposes of this Section, a live-in aide is any person who meets the definition set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Article 24, of the Code of Federal Regulations, Section CFR 5.403 and 982.316, and is further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22, and any future applicable notices issued by HUD.

   An independent living facility may also provide for a resident care provider(s), subject to the provisions of this Section. A resident care provider is any person who lives in a separate dwelling unit within the independent living facility, who provides services that are determined to be essential to the care and well-being of one or more elderly or disabled persons living within the same facility and is further subject to the provisions of this Section.

   The owner/manager of the facility shall be responsible for ensuring compliance with this occupancy criterion and shall, upon specific request by the Zoning Administrator, provide a copy of the document(s) used to verify occupancy qualifications of residents, live-in aides, and/or care providers.

2. The Board specifically shall find that applications under this Section adequately and satisfactorily take into account the needs of elderly persons and/or persons with handicaps (disabilities) for transportation, shopping, health, recreational and other similar such facilities and shall consider any specific facility maintenance and operating requirements to ensure that the facility meets the needs of the residents and is compatible

with the neighborhood. The Board ~~and~~ shall impose such reasonable conditions upon any exception granted as may be necessary or expedient to insure provisions of such facilities.

3. The Board shall find that such development shall be compatible with the surrounding neighborhood, shall not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and shall not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

4. To assist in assessing whether the overall intensity of the proposed use is consistent with the scale of the surrounding neighborhood, the total gross floor area, including the dwelling unit area and all non-dwelling unit areas, the floor area ratio and the number of dwelling units shall be shown on the plat submitted with the application.

5. No such use shall be established except on a parcel of land fronting on, and with direct access to, a collector street or major thoroughfare.

6. The density of such use shall be based upon the density of the land use recommendation set forth in the adopted comprehensive plan and as further modified by the corresponding multiplier and open space requirements set forth in the schedule provided below. Where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the density range shall be determined in accordance with Sect. 2-804. A minimum of fifteen (15) percent of the total number of dwelling units shall be Affordable Dwelling Units (ADUs). When 100 percent of the dwelling units are ADUs, the total number of units should be calculated using the high end of the residential density range as set forth in the adopted comprehensive plan plus the addition of a twenty (20) percent density bonus. All ADUs shall be administered in accordance with the provisions of Part 8 of Article 2. When not less than seventy (70) percent of the dwelling units are to be provided for those residents whose annual household income is not more than fifty (50) percent of the median income for the Washington Metropolitan Statistical Area (WMSA) and not more than thirty (30) percent of the dwelling units are provided for residents whose annual income is not more than seventy (70) percent of the median income for the WMSA, Part 8 of Article 2 shall not be applicable and the total number of units may be calculated using the high end of the residential density range, as set forth in the adopted comprehensive plan, plus the addition of a twenty-five (25) percent density bonus.
[NOTE: The amendment has been advertised to allow the Board to adopt any combination of percentages between 0 and 100 percent for each of the two income levels, with staff recommending not less than 70% at the 50% AMI level and not more than 30% at the 70% AMI level.]

Comprehensive Plan Residential Density	**Maximum Number of Units Per Acre***	**Required Open Space**
0.2 unit per acre	not to exceed 5 times unit per acre	75%
0.5 unit per acre	" 4 times unit(s) per acre	70%
1 unit per acre	" "	65%

2 units per acre	"	"	60%
3 units per acre	"	"	55%
4 units per acre	"	"	50%
5 units per acre	"	"	35%
8 units per acre	"	"	25%
12 units per acre or more	"	"	35%
PRC District	In accordance with an approved Development Plan		

*Excluding nursing facilities and assisted living facilities

7. Independent living facilities may include assisted living facilities and skilled nursing facilities designed solely for the residents as an accessory use.

8. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public.

9. In residential districts, the maximum building height shall be 50 feet and in commercial districts the maximum building height shall be as set forth in the district in which located, except that in all cases greater heights may be approved by the Board.

10. For independent living units that are located in a structure designed to look like a single family detached dwelling unit and is located in the R-E through R-8 Districts, the Board may permit compliance with the applicable single family detached minimum yard requirements of the zoning district in which located. For such facilities located in any other structure or district, the minimum front, side and rear yard requirements shall be as follows~~, except greater yards may be required by the Board~~:

    A. Where the yard abuts or is across a street from an area adopted in the comprehensive plan for 0.2 to 8 dwelling units per acre - 50 feet.

    B. Where the yard abuts or is across a street from an area adopted in the comprehensive plan for a residential use having a density greater than 8 dwelling units per acre or any commercial, office or industrial use - 30 feet.

    In any event, the Board may modify such yard requirements to ensure compatibility with the surrounding neighborhood.

11. Transitional screening shall be provided in accordance with the provisions of Article 13, and for the purpose of that Article, an independent living facility shall be deemed a multiple family dwelling.

12. The provisions of Par. 6 above shall not be applicable to proffered rezoning and approved special exception applications or amendments thereto approved prior to May 20, 2003 or for special exception applications approved prior to May 20, 2003 for which a request for additional time to commence construction is

subsequently requested in accordance with Sect. 9-015. Additionally, Par. 6 above shall not be applicable, unless requested by the applicant to rezoning and special exception amendment applications filed on or after May 20, 2003, which propose no increase in density over the previously approved density.

13. Live-in aides, as defined in Par. 1 above, shall not be subject to the income limitations and/or the age/disability occupancy requirements set forth in this Section. For the purposes of this Section, the "annual household income" shall not include the income of any live-in aide when determining the eligibility of the qualified resident.

14. Resident care providers, as defined in Par. 1 above, may be provided in independent living facilities located in single family attached units or multiple family dwelling unit buildings, limited to not more than twenty-five (25) percent of the total number of dwelling units within the facility. *[NOTE: the amendment has been advertised to allow the Board to approve any maximum up to 25%, with staff recommending a maximum of 25%.]* Such resident care providers shall not be subject to the income limitations and/or age/disability occupancy requirements set forth in this Section; however, rental occupancy shall be limited to a maximum six (6) month term, subject to renewal for additional six (6) month maximum terms upon confirmation that the care provider continues to provide services to the primary resident(s) of the development. At such time that it is determined that an individual is no longer providing care services to a resident, such individual shall vacate the rental unit at the end of the lease term.

15. For independent living facilities for low income tenants in which not less than seventy (70) percent of the dwelling units are to be provided for those residents whose annual household income is not more than fifty (50) percent of the median income for the Washington Metropolitan Statistical Area (WMSA) and not more than thirty (30) percent of the dwelling units are provided for residents whose annual income is not more than seventy (70) percent of the median income for the WMSA, the following additional standards shall also apply:
[NOTE: The amendment has been advertised to allow the Board to adopt any combination of percentages between 0 and 100 percent for each of the two income levels, with staff recommending not less than 70% at the 50% AMI level and not more than 30% at the 70% AMI level.]

A. All occupancy shall be on a rental basis only. Maximum rental prices shall be established in accordance with the following formula, based on the appropriate median income for the WMSA. The base figure shall be adjusted by the following factors for different dwelling unit sizes based on bedroom count:

Number of Bedrooms	Adjustment Factor
0 bedrooms (efficiency/studio)	70%
1 bedroom	85%
2 or more bedrooms	100%

The result of this calculation for each size dwelling unit shall then be divided by twelve (12), then multiplied by twenty-five (25) percent and rounded to the nearest whole number to establish the maximum rent for the unit, which may or may not include utilities, at the developer's option. Resident care provider units shall not be subject to this calculation.

Initial lease terms shall be for not less than six (6) months and not more than one (1) year. Renewal terms may be on a month-to-month or other time basis, but shall not be longer than one (1) year for each renewal period.

B. The owner or manager shall monitor the income level of tenants at the time of initiation and renewal of any lease term and shall establish that any live-in aide or resident care provider continues to meet the applicable requirements of this Section. The results of such monitoring shall be provided to the Zoning Administrator on an annual basis to assure on-going compliance with the tenancy and income limits. Such report shall include the dwelling unit number/address, date of lease renewal, term of lease renewal, and tenant's income. Should a tenant become over-qualified with regard to income at any time during a lease term, such tenant shall vacate the unit at the end of the lease term in effect at the time of such over-qualification or within nine (9) months of such over-qualification, whichever time period is longer. *[NOTE: the amendment has been advertised to allow the Board to approve any term of time up to nine months, with staff recommending nine months.]*

C. Prior to the issuance of the first Residential Use Permit for any unit in the independent living facility, the owner shall record a covenant, on a form provided and approved by the Fairfax County Department of Housing and Community Development, to address at a minimum the income limitations; rental price restrictions; the perpetuity of such controls; and any other relevant limits that are imposed by the Board.

D. Such independent living facilities for low income residents shall not be subject to Part 8 of Article 2 of the Zoning Ordinance, the ADU Program, nor shall they be subject to the Board's policy for Workforce Dwelling Units.

Amend Article 2, General Regulations, by amending Part 8, Affordable Dwelling Unit Ordinance, as follows:

- **Amend Sect. 2-803, by adding a new Par. 7, to read as follows:**

Notwithstanding the provisions of Sect. 802 above, the requirements of this Part shall not apply to the following:

7. Any independent living facility for low income residents approved in accordance

with this Ordinance in which not less than seventy (70) percent of the dwelling units are provided for those residents whose annual household income is not more than fifty (50) percent of the median income for the Washington Metropolitan Statistical Area (WMSA) and not more than thirty (30) percent of the dwelling units are provided for residents whose annual income is not more than seventy (70) percent of the median income for the WMSA. *[NOTE: The amendment has been advertised to allow the Board to adopt any combination of percentages between 0 and 100 percent for each of the two income levels, with staff recommending not less than 70% at the 50% AMI level and not more than 30% at the 70% AMI level.]*

- **Amend Sect. 2-810, by adding a new Par. 10 and amend Sect. 2-811 by adding a new Par. 9, both to read as follows:**

10. or 9. For the purposes of this Section, the "annual household income" shall not include the income of any live-in aide when determining the eligibility of the qualified household, provided such live-in aide meets the standards set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Article 24, of the Code of Federal Regulations, Section CFR 5.403 and 982.316, and is further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22 and any future applicable notices issued by HUD.

Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Paragraphs 1 and 2 of Sect. 18-106, Application and Zoning Compliance Letter Fees, by adding the subcategory of independent living facilities to the fee structure, as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Application for a:
Category 3 special exception
Child care centers, nursery schools and private schools which have an enrollment of less than 100 students daily; churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of less than 100 students daily and independent living facilities

for low income tenants, whether a new application or an amendment to a previously approved and currently valid application, with or without new construction	$1100
[Note: advertised range is $0 to $16,375, staff is recommending $1,100.]	
Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of 100 or more students daily	$11025
All other uses	$16375
Category 4 special exception	$16375
Category 5 special exception	$16375
Category 6 special exception	
Reduction of yard requirements for the reconstruction of certain single family detached dwellings that are destroyed by casualty	$0
Modification of minimum yard requirements for certain existing structures and uses; modification of grade for single family detached dwellings	$910
Modification of shape factor limitations	$8180
Waiver of minimum lot width requirements in a residential district	$8180
All other uses	$16375

Amendment to a pending application for a special permit, variance or special exception	10 percent of the prevailing application fee
Application for an extension of a special permit or special exception	1/8 prevailing fee
Application to amend a previously approved and currently valid variance	Prevailing fee for new application
Application to amend a previously approved and currently valid special permit or special exception with no new construction	1/2 prevailing fee
Application to amend a previously approved and currently valid special permit or special exception with new construction	Prevailing fee for new application
Amendment to a previously approved and currently valid special permit or special exception for a reduction of certain yard requirements or an increase in fence and/or wall height in any front yard on a single family dwelling lot	$910

Amendment to a previously approved and currently valid special permit or special exception for a reduction of certain yard requirements or an increase in fence and/or wall height in any front yard on all other uses	$8180
All other amendments to a previously approved and currently valid special permit or special exception	
With no new construction	½ prevailing fee
With new construction	Prevailing fee for new application

Note: Additional fees may be required for certain special permit and special exception uses to pay for the cost of regular inspections to determine compliance with performance standards. Such fees shall be established at the time the special permit or special exception application is approved.

When one application is filed by one applicant for two (2) or more special permit uses on the same lot, only one filing fee shall be required. Such fee shall be the highest of the fee required for the individual uses. This shall also apply to an application for two (2) or more special exceptions or two (2) or more variances filed by one applicant on the same lot.

The fee for an amendment to a pending application for a special permit, variance, or special exception is only applicable when the amendment request results in a change in land area, change in use or other substantial revision.

2. Application for an amendment to the Zoning Map:

District Requested	**Filing Fee**
All R Districts	$27280 plus $570 per acre
All C, I and Overlay Districts	$27280 plus $910 per acre
PRC District	$27280 plus $910 per acre
Application with concurrent filing of a PRC plan	$27282 plus $1354 per acre
PRC plan	$13640 plus $435 per acre
PDH, PDC and PRM District	
Application with conceptual development plan	$27280 plus $910 per acre

Application with concurrent filing of conceptual and final development plans	$27280 plus $1354 per acre
Final development plan	$13640 plus $435 per acre
Amendment to a pending application for an amendment to the Zoning Map	$4445 plus applicable per acre fee for acreage affected by the amendment
Amendment to a pending application for a final development plan or development plan amendment or PRC plan	$4130
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on a single family dwelling lot or an increase in fence and/or wall height on a single family dwelling lot	$910
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on all other uses or an increase in fence and/or wall height on all other uses	$8180
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for the addition of or modification to an independent living facility for low income tenants, whether or not there is new construction *[Note: advertised range is $0 to $16,375, staff is recommending $1,100.]*	*$1100*
All other amendments to a previously approved development plan, proffered condition, conceptual development plan, final development plan, PRC plan or concurrent conceptual/final development plan	

With new construction	$13640 plus applicable per acre fee for acreage affected by the amendment
With no new construction	$13640

Note: For purpose of computing acreage fees, any portion of an acre shall be counted as an acre.

The fee for an amendment to a pending application is only applicable when the amendment request results in a change in land area, change in use or other substantial revision.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, by amending Part 3, Definitions, to modify the definition of DWELLING UNIT and INDEPENDENT LIVING FACILITY, as follows:

DWELLING UNIT: One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility, which includes ~~permanent~~ provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

INDEPENDENT LIVING FACILITY: A residential development that is primarily limited to occupancy by elderly persons and/or by persons with handicaps (disabilities), as defined in the Federal Fair Housing Amendments Act of 1988. Such a facility shall provide: (a) dwelling units with complete kitchen facilities, (b) supportive services, such as meals, personal emergency response systems, recreation and transportation services, and (c) design features, such as wider doorways and hallways, accessible-ready bathrooms and lower light switches.

1

ATTACHMENTS

United States Code of Federal Regulations

TITLE 24--HOUSING AND URBAN DEVELOPMENT

PART 5--GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS--Table of Contents

Subpart D--Definitions for Section 8 and Public Housing Assistance Under the United States Housing Act of 1937

Sec. 5.403 Definitions.
Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
(1) Is determined to be essential to the care and well-being of the persons;
(2) Is not obligated for the support of the persons; and
(3) Would not be living in the unit except to provide the necessary supportive services.

PART 982--SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM--Table of Contents

Subpart G--Leasing a Unit

Sec. 982.316 Live-in aide.
(a) A family that consists of one or more elderly, near-elderly or disabled persons may request that the PHA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability. (See Sec. 982.402(b)(6) concerning effect of live-in aide on family unit size.)
(b) At any time, the PHA may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if:
(1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
(2) The person commits drug-related criminal activity or violent criminal activity; or
(3) The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

U.S. Department of Housing and Urban Development
Public and Indian Housing

Special Attention of: Directors of HUD Regional and Field Offices of Public Housing; Agencies that Administer the Housing Choice Voucher Program	**Notice**	**PIH 2008-20 (HA)**
	Issued:	April 16, 2008
	Expires:	April 30, 2009
	Cross References: None	

Subject: Over Subsidization in the Housing Choice Voucher Program

1. Purpose The Office of Inspector General (OIG) issued a report on over subsidization in the Housing Choice Voucher (HCV) program due to the issuance of vouchers with unit sizes greater than the number of family members. Pursuant to the recommendation of the OIG, the Department is issuing clarifying guidance on the matter of categorization of live-in aides, other reasonable accommodation issues and corresponding data entry into the Public and Indian Housing Information Center (PIC).

A. Live-in Aides. The primary reason public housing agencies (PHA) issued vouchers with more bedrooms as recorded on line 12a of the Family Report (form HUD-50058) than the number of family members recorded on line 3t was related to live-in aides. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size voucher), the live-in aide must be identified by the family and approved by the PHA first.

The definition of a live-in aide is recorded in 24 CFR Section 5.403 which states that a live-in aide is a person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the HCV as the remaining member of the tenant family.

In accordance with 24 CFR Section 982.316, the PHA must approve the person identified as the live-in aide. The PHA may disapprove such a person if s/he has: (1) committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal activity; or (3) currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act. Additionally, under 24 CFR Section 982.402(a), the PHA must establish subsidy standards to determine the number of bedrooms needed for families of different sizes and compositions. Consequently, PHAs may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA's subsidy standards for an unidentified live-in aide. The guidance outlined in this Notice is in accordance with these regulatory provisions.

Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live–in

aide since 24 CFR Section 982.402(7) implies live-in-aides must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards established by the PHA. Therefore, regardless of whether these caregivers spend the night, an additional bedroom should not be approved.

B. Medical Equipment. Although PHAs may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the PHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. However, the PHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

C. Other Causes. The secondary cause of over subsidization was the failure of the PHA to change the voucher unit size after changes in family composition. Although families are not required to move from an assisted unit when the number of bedrooms in the unit exceed the number of bedrooms for which the family is eligible, the payment standard must conform to the PHA's subsidy standards at the family's next annual recertification after the change in family composition.

2. PIC Data Entry. PHAs are expected to ensure that data on the Family Report (form HUD-50058) is correct when entered in PIC. Whenever there is a change in the subsidy standard and corresponding payment standard for which the family is eligible, lines 12a and 12j of the Family Report must be adjusted accordingly.

3. Effective Date. This Notice is effective upon publication.

4. Implementation. Voucher issuance for new admissions must conform to the guidance and program requirements outlined above. For existing families, PHAs must begin evaluating the number of bedrooms for which the family is eligible and any necessary changes to the payment standard at the family's next annual recertification.

5. Information Contact. Inquiries about this Notice should be directed to the staff in the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 708-0477.

6. Paperwork Reduction Act. The information collection requirements contained in this letter have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The following active information collections contained in this Notice have been approved under the PRA - OMB Control Number 2577-0083.

/s/

Paula O. Blunt, General Deputy Assistant Secretary
for Public and Indian Housing

U.S. Department of Housing and Urban Development
Public and Indian Housing

Special Attention of: Directors of HUD Regional and Field Offices of Public Housing; Agencies that Administer the Housing Choice Voucher Program	**Notice**	**PIH 2009- 22 (HA)**
	Issued:	July 21, 2009
	Expires:	July 31, 2010
	Cross References: Notice PIH 2008-20	

Subject: Over Subsidization in the Housing Choice Voucher Program

1. Purpose The purpose of this Notice is to extend and revise Notice PIH 2008-20 (HA). Specifically, the last paragraph under 1.A. in regard to occasional, intermittent, multiple or rotating care givers has been modified and section 1.C. has been added in regard to reasonable accommodation issues.

A. Live-in Aides. The primary reason public housing agencies (PHA) issued vouchers with more bedrooms as recorded on line 12a of the Family Report (form HUD-50058) than the number of family members recorded on line 3t was related to live-in aides. Although a health care provider must document the need for a live-in aide (which would result in the issuance of an additional bedroom size voucher), the live-in aide must be identified by the family and approved by the PHA first.

The definition of a live-in aide is recorded in 24 CFR Section 5.403 which states that a live-in aide is a person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the HCV as the remaining member of the tenant family.

In accordance with 24 CFR Section 982.316, the PHA must approve the person identified as the live-in aide. The PHA may disapprove such a person if s/he has: (1) committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal activity; or (3) currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act. Additionally, under 24 CFR Section 982.402(a), the PHA must establish subsidy standards to determine the number of bedrooms needed for families of different sizes and compositions. Consequently, PHAs may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA's subsidy standards for an unidentified live-in aide. The guidance outlined in this Notice is in accordance with these regulatory provisions.

Occasional, intermittent, multiple or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances.

B. Other Reasonable Accommodation Issues. A family may always request a reasonable accommodation to permit program participation by individuals with disabilities. A family's composition or circumstances may warrant the provision of an additional bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit. Such limited exceptions to the established subsidy standards are permitted under 24 CFR Section 982.402(b)(8). The PHA must consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation. The PHA shall document the justification for all granted exceptions.

C. Medical Equipment. Although PHAs may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the PHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. However, the PHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

D. Other Causes. The secondary cause of over subsidization was the failure of the PHA to change the voucher unit size after changes in family composition. Although families are not required to move from an assisted unit when the number of bedrooms in the unit exceed the number of bedrooms for which the family is eligible, the payment standard must conform to the PHA's subsidy standards at the family's next annual recertification after the change in family composition.

2. PIC Data Entry. PHAs are expected to ensure that data on the Family Report (form HUD-50058) is correct when entered in PIC. Whenever there is a change in the subsidy standard and corresponding payment standard for which the family is eligible, lines 12a and 12j of the Family Report must be adjusted accordingly.

3. Effective Date. This Notice is effective upon publication.

4. Implementation. Voucher issuance for new admissions must conform to the guidance and program requirements outlined above. For existing families, PHAs must begin evaluating the number of bedrooms for which the family is eligible and any necessary changes to the payment standard at the family's next annual recertification.

5. Information Contact. Inquiries about this Notice should be directed to the staff in the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 708-0477.

6. Paperwork Reduction Act. The information collection requirements contained in this letter have been approved by the Office of Management and Budget (OMB) under the Paperwork

Planning Commission Meeting
February 9, 2012
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT (INDEPENDENT LIVING FOR LOW-INCOME RESIDENTS)

During Commission Matters
(Public Hearing held on January 26, 2012)

Chairman Murphy: Mr. Hart.

Commissioner Hart: Mr. Chairman, on January 26 – this is the motion on the Zoning Ordinance Amendment – on January 26, the Commission held a public hearing on a Zoning Ordinance Amendment regarding independent living facilities for low-income residents and revisions to the definitions of dwelling unit and independent living facility. We deferred decision until tonight to consider several comments and questions. I am now ready to move forward and will have two motions. First, let me thank the speaker who came out to the public hearing and the citizens who submitted written comments and questions. Let me also thank staff, particularly Donna Pesto as well as Michelle O'Hare, and Laura Gori in the County Attorney's Office, as well as the Zoning Administrator, Eileen McLane, for their fine work on this case. Reducing homelessness in Fairfax County has been a priority of the Board for some time. Creating an option for independent living facilities for low-income residents may be one way of achieving that goal, but implementing that use in a legally permissible way has been more difficult than we had hoped. For a number of months, staff has refined the original proposal for residential studios into what we have before us tonight. With the changes over the past year, the proposal has garnered some community and industry support. In this iteration, the Amendment has staff's favorable recommendation, although there is some opposition in the community regarding the absence of a height restriction in residential districts, which would appear to allow a structure of 50 feet – at least in the short term – taller than the limit of 35 feet for houses. But a 50-foot structure is something we still can avoid, on a case-by-case basis, without having to re-advertise. Even if we add an additional standard for the new use with a height limit of 35 feet, the Board could always modify it. In the absence of an additional standard, however, the Commission and Board still can evaluate whether the building was consistent with the character of the neighborhood and therefore be able to address height concerns on a case-by-case basis. The Zoning Administrator also has suggested that even if we want to add a height restriction to the use, we should proceed ahead with the Ordinance now, but can recommend by follow-on motion another amendment shortly to add a height restriction. Staff also suggests that we not try to add temporarily a height restriction to the low-income type use where none exists for other similar independent living facilities, even if we were within the scope of the advertising as there may be legal problems with creating a distinction. I agree with staff's analysis and believe we can move forward tonight. Staff also is ready to roll on a follow-up Amendment if the Board so directs. A subsidiary issue with the Amendment is the revision to the definition of dwelling unit. Multiple kitchens in single-family residences have been problematic for enforcement. Ambiguity in the Ordinance currently encourages some users to claim in response to violation notices that by unplugging a microwave or other appliance, the cooking facilities are not permanent and therefore the alleged dwelling unit is not a violation. Questions have been raised, however, regarding the implications

of deleting the word "permanent" from the definition of dwelling unit across the board because many homes have wet bars, microwaves, toaster ovens, or other devices outside the kitchen. This remains a complicated question. I believe, however, that staff has satisfactorily justified the deletion of the word "permanent" as it relates to cooking facilities. The Zoning Administrator, staff, the Board of Zoning Appeals, and the Courts still will look at the overall circumstances to evaluate the total package as a whole and whether it is intended to function as a separate dwelling unit. We recognize that residents may have microwaves in the basement or other devices for cooking in a home, which do not rise to the level of a second dwelling unit. With this Amendment, the technicality of whether the cooking appliance is permanent is removed from the equation. Questions also were raised at the public hearing regarding the effect of potential spouses and children for live-in caregivers or resident care providers with this type of use. Staff has responded on that issue with the assistance of the County Attorney's Office and a copy of the analysis was forwarded to the Commission last week. In a nutshell, there are a number of pertinent federal regulations and exemptions which are extremely complicated. Different factual scenarios related to the type of rental agreement or employment arrangements may yield different answers. Staff recommends we not attempt to paraphrase or spell out in our Ordinance what we think is allowed. We cannot control what the existing Fair Housing regulations require at the local level and we will have to abide by those rules no matter what uses we may allow in our Zoning oOrdinance. Overall, the Amendment has staff's favorable recommendation, with which I concur. Therefore, Mr. Chairman – first, I MOVE THAT THE PLANNING COMMISSION FORWARD TO THE BOARD OF SUPERVISORS THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING INDEPENDENT LIVING FACILITIES FOR LOW-INCOME RESIDENTS AND MODIFICATIONS OF THE ADMINISTRATIVE PROVISIONS OF THE ADU PROGRAM AND TO THE DEFINITIONS OF "DWELLING UNIT" AND "INDEPENDENT LIVING FACILITY" WITH A RECOMMENDATION FOR ADOPTION, AS ADVERTISED AND FURTHER SET FORTH IN THE STAFF REPORT DATED DECEMBER 6, 2011.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the proposed Zoning Ordinance Amendment on independent living facilities for low-income residents and modifications of the administrative provisions of the Affordable Dwelling Unit Program and to the definitions of dwelling unit independent living facilities, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Secondly, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS AUTHORIZE STAFF TO PROCEED FORTHWITH WITH DRAFTING TEXT AND APPROPRIATE ADVERTISING TO AMEND THE ZONING ORDINANCE TO INCLUDE AN ADDITIONAL

STANDARD FOR THE INDEPENDENT LIVING USE FOR LOW-INCOME RESIDENTS APPROVED ABOVE AS WELL AS OTHER INDEPENDENT LIVING TYPE FACILITIES TO INCLUDE A HEIGHT LIMITATION OF 35 FEET OR SUCH OTHER RANGE OF HEIGHT LIMITATIONS AS THE BOARD DEEMS APPROPRIATE AT THE EARLIEST FEASIBLE OPPORTUNITY.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried unanimously.)

JLC

Board Agenda Item
February 28, 2012

4:00 p.m.

Public Hearing on Proposed Plan Amendment S11-II-F1 for Property Located North of University Drive, East of Route 123 (Ox Road) and South of School Street (Braddock District)

ISSUE:
The proposed plan amendment pertains to land located in the F7 George Mason Community Planning Sector in the Braddock Supervisor District. The subject area includes Tax Map Parcels 57-4 ((1)) 6 and 57-4 ((18)) A, 11-47. Parcel ((1)) 6 is planned for public facilities/governmental and institutional use. Parcels ((18)) A, 11-47 is planned for residential use at a density of 3-4 dwelling units per acre, with an option for residential use at a density of 5-8 dwelling units per acre. Alternative options plan the entire subject area for mixed-use development to include residential use at 12-16 dwelling units per acre, hotel and retail components or residential use at 12-16 dwelling units per acre. The development of the Fairfax Gateway Townhomes precludes the implementation of this guidance on the Eleven Oaks site. This plan amendment considers re-planning the subject area for residential use at a density up to 8 dwelling units per acre.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, January 26, 2012, the Planning Commission voted unanimously to recommend that the Board of Supervisors adopt Plan Amendment S11-II-F1 as shown in the Staff Report dated December 29, 2011, but recommended residential use at a maximum of seven dwelling units per acre for parcel 57-4 ((1)) 6, rather than the 6.5 dwelling units per acre recommended by staff, and deleted guidance that the large mature tree canopy be preserved to the greatest extent possible.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:
Planning Commission public hearing – January 26, 2012
Board of Supervisors public hearing – February 28, 2012

BACKGROUND:
On June 21, 2011, the Board Supervisors authorized Plan Amendment S11-II-F1 for a 6.1-acre property generally located north of University Drive, east of Ox Road and south of School Street. The subject property is part of a 7.6-acre site proposed for development that also includes land located in the City of Fairfax. The 6.1-acre site (Tax Map Parcel 57-4

((1)) 6) is located at 10515 School Street, Fairfax, Virginia 22030. The Board directed staff to evaluate re-planning the subject area for residential use not to exceed 8 homes per acre.

The Board later clarified that the Comprehensive Plan recommendation for the adjacent Fairfax Gateway development (Tax Map Parcels 57-4 ((18)) A, 11-47) should also be updated to reflect townhouse construction as a part of the evaluation and enlarged the subject area to accomplish this objective.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I: Planning Commission Verbatim and Proposed Text
Attachment II: Staff Report

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne Gardner, Director, Planning Division, DPZ
Aaron Klibaner, Planner II, PD, DPZ

Planning Commission Meeting
January 26, 2012
Verbatim Excerpt

S11-II-F1 – COMPREHENSIVE PLAN AMENDMENT (ELEVEN OAKS SCHOOL SITE)

After the Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Ms. Hurley. Now, you're on.

Commissioner Hurley: Mr. Chairman, this Amendment considers re-planning Tax Map Parcels 57-4 ((1)) 6 and 57-4 ((18)) A, 11-47 for residential use at a maximum density of eight dwelling units per acre, and to modify the recommendations for Tax Map Parcels 57-4 ((18)) A, 11-47, to reflect that the option has been implemented. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT THE RECOMMENDATION FOR PLAN AMENDMENT S11-II-F1, AS SHOWN as my - - ON MY HAND-OUT DATED JANUARY 26, 2012. MY LANGUAGE REFLECTS that the - - THAT SHOWN IN THE STAFF REPORT DATED DECEMBER 29TH, 2011, BUT RECOMMENDS RESIDENTIAL USE AT A MAXIMUM OF 7 DWELLING UNITS PER ACRE FOR PARCEL 57-4 ((1)) 6, RATHER THAN THE 6.5 DWELLING UNITS PER ACRE RECOMMENDED BY STAFF, AND DELETES GUIDANCE THAT THE LARGE MATURE TREE CANOPY BE PRESERVED TO THE GREATEST EXTENT POSSIBLE. The reason for these changes is that I feel the density limitation of 6.5 dwelling units per acre for parcel 6 does not provide sufficient flexibility, and the recommendation to pursue preserving the mature tree canopy refers to trees that lie on property owned by Fairfax City, and not controlled by Fairfax County. Thank you, Mr. Chairman.

Chairman Murphy: Is there a second to the motion?

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment S11-II-F1, as amended this evening by Ms. Hurley, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion carried unanimously.)

JN

PROPOSED COMPREHENSIVE PLAN AMENDMENT

ITEM: S11-II-F1
December 29, 2011

GENERAL LOCATION: North of University Drive, east of Route 123 (Ox Road), and south of School Street.

SUPERVISOR DISTRICT: Braddock

PLANNING AREA: II

PLANNING DISTRICT: Fairfax Planning District

SUB-DISTRICT DESIGNATION:
F7 George Mason Community Planning Sector

PARCEL LOCATION: 57-4 ((18)) A, 11-47, 57-4 ((1)) 6

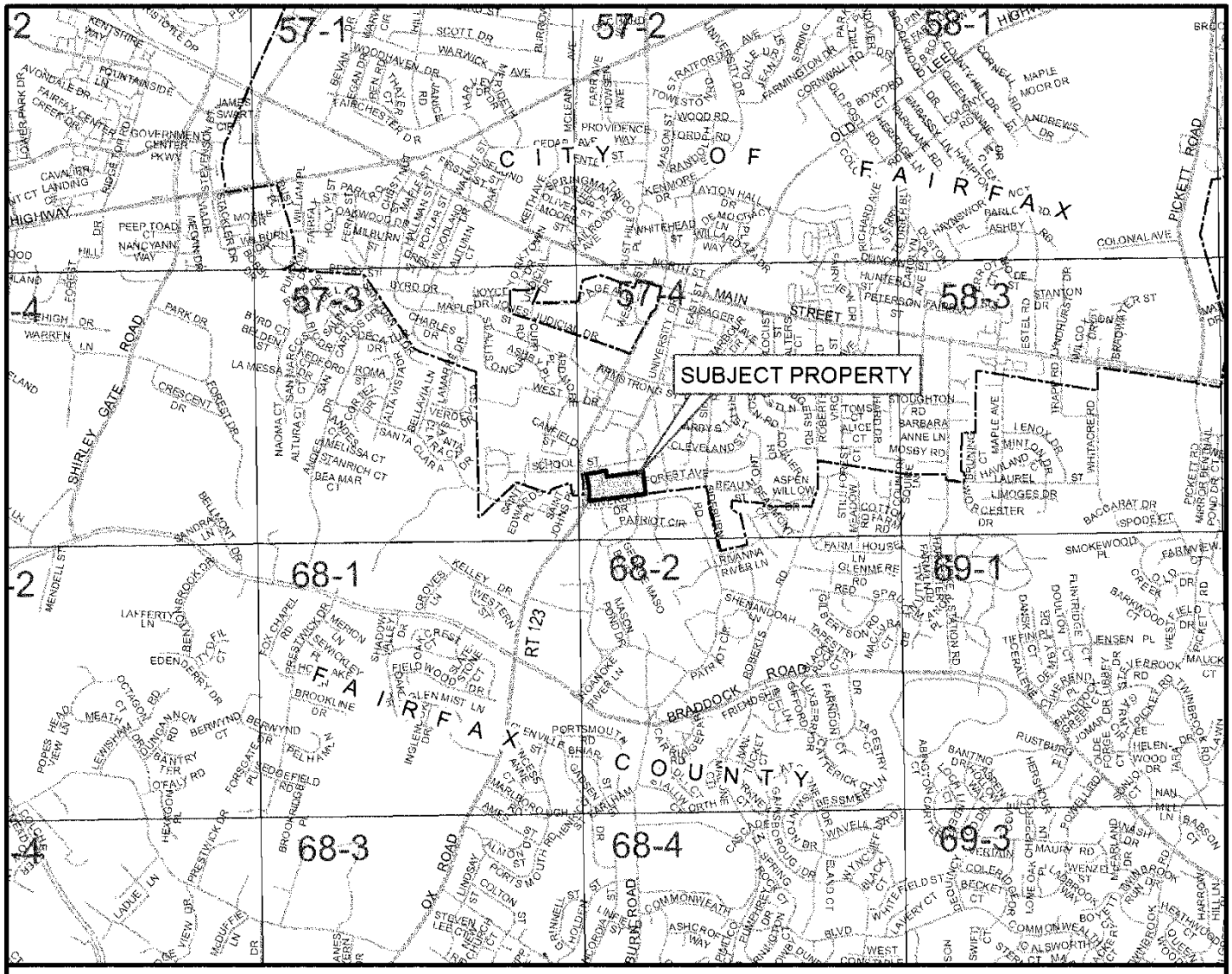
For additional information about this amendment call (703) 324-1380.

PLANNING COMMISSION PUBLIC HEARING:
Thursday, January 26, 2012 @ 8:15 PM

BOARD OF SUPERVISORS PUBLIC HEARING:
Tuesday, February 28, 2012 @ 4:00 PM

PLANNING STAFF DOES RECOMMEND THIS ITEM FOR PLAN AMENDMENT

Reasonable accommodation is available upon 48 hours advance notice. For additional information about accommodation call (703) 324-1334.

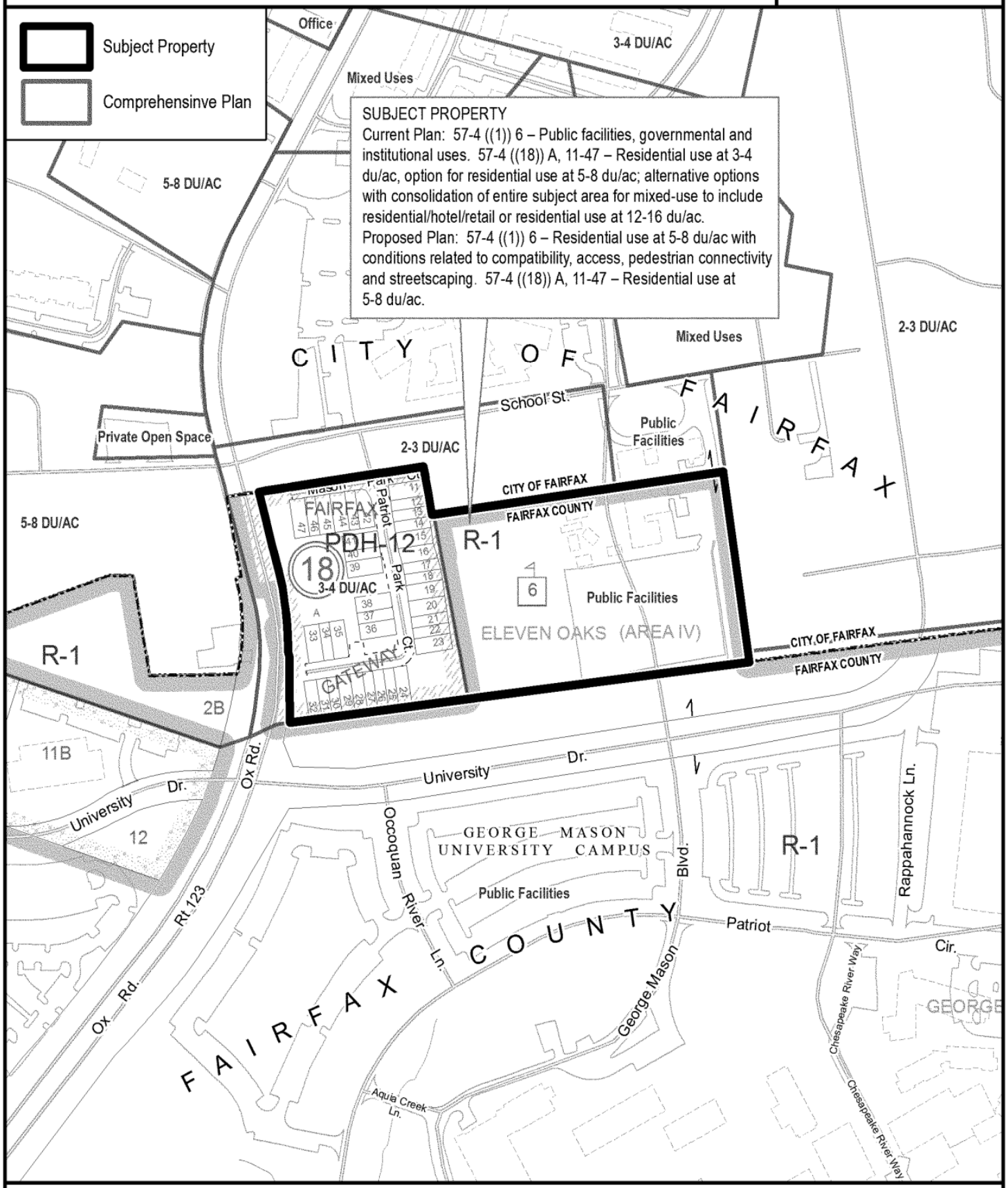


PREPARED BY THE DEPARTMENT OF PLANNING AND ZONING USING FAIRFAX COUNTY GIS

CURRENT PLAN AND PROPOSED CHANGE

PARCEL LOCATION MAP SHOWING CURRENT PLAN AND PROPOSED CHANGE FOR SUBJECT PROPERTIES AND CURRECNT PLAN MAP FOR ADJACENT AREAS

ITEM: S11-II-F1
December 29, 2011



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PREPARED BY THE DEPARTMENT OF PLANNING AND ZONING USING FAIRFAX COUNTY GIS
PARCEL INFORMATION CURRENT TO DECEMBER 2011
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STAFF REPORT FOR PLAN AMENDMENT S11-II-F1

BACKGROUND

On June 21, 2011, the Board Supervisors authorized Plan Amendment S11-II-F1 for a 6.1-acre property generally located north of University Drive, east of Ox Road and south of School Street. This property is part of a 7.6-acre site proposed for development that also includes land located in the City of Fairfax. The 5.4-acre site (Tax Map Parcel 57-4 ((1)) 6) is located at 10515 School Street, Fairfax, Virginia 22030. The Board directed staff to evaluate re-planning the subject area for residential use not to exceed 8 homes per acre. The Board later clarified that the Comprehensive Plan recommendation for the adjacent Fairfax Gateway development (Tax Map Parcels 57-4 ((18)) A, 11-47) should also be updated to reflect townhouse construction as a part of the evaluation and enlarged the subject area to accomplish this objective.

CHARACTER OF THE PROPERTY AND SURROUNDING AREA

As stated above, the 7.6-acre proposed development area spans the boundaries of the City of Fairfax and Fairfax County. It is bisected by George Mason Boulevard. Parcel ((1)) 6 is part of the former Eleven Oaks School site that now contains vacant land and a parking lot used for school bus parking by Fairfax County Public Schools and is planned for public facilities, governmental and institutional use. Parcels ((18)) A**,** 11-47, which are outside the development area, contain the Fairfax Gateway townhome development planned for residential use at a density of 3-4 dwelling units per acre with an option for residential use at a density up to 5-8 dwelling units per acre. Should full consolidation of all parcels occur, the Plan offers alternative options for mixed-use development with a residential component at 12-16 dwelling units per acre and a non-residential component consisting of a hotel/conference center with supporting retail use, or residential use at a higher density of 12-16 dwelling units per acre. Parcel ((1)) 6 is zoned R-1. The Fairfax Gateway property is zoned PDH-12 with a maximum density of 7.9 dwelling units per acre (du/ac). The property (and adjacent land in the City of Fairfax) is developed with townhouses.

To the north of parcel 6 is vacant land in the City of Fairfax planned and zoned for residential use. To the east are single-family detached homes in the City of Fairfax, to the south is a wooded strip of land owned by George Mason University that is planned for public facilities, governmental and institutional use and zoned R-1 and to the west across Ox Road are a church, a single-family detached home and vacant land in the City of Fairfax.

PLANNING HISTORY

In 1997, the Board adopted an amendment to the Comprehensive Plan for what is now the Fairfax Gateway townhomes (previously Tax Map Parcels 57-4 ((1)) 1, 1 A, 3 and 7, now Tax Map Parcels 57-4 ((18)) A, 11-47) that are located on the west side of parcel 6. This amendment

planned the area for residential use at a density of 3-4 dwelling units per acre and deleted an option for residential use at 8-12 dwelling units per acre. A new option for a mixed-use development with a residential component at a density of 12-16 dwelling units per acre and a non-residential component consisting of a hotel/conference center with supporting retail, or residential use at a higher density of 12-16 dwelling units per acre was added. The main condition for the pursuit of this option is the consolidation of Tax Map Parcels 57-4 ((1)) 1, 1A, 3, 7 with Tax Map Parcel 57-4 ((1)) 6. This amendment was the result of efforts by Fairfax County, the City of Fairfax and George Mason University to promote the comprehensive redevelopment of the area including abutting land in the City of Fairfax as well as that portion of GMU located north of University Drive.

The Plan was amended again in 2000 for Parcels 57-4 ((1)) 1, 1A, 3 and 7 which retained the base density of 3-4 dwelling units per acre, but added a new option for residential use at 5-8 dwelling units per acre. The option for mixed-use development with consolidation with Parcel 6 was retained with a minor modification.

In 2002, the Board approved a rezoning application for Tax Map Parcels 57-4 ((1)) 1, 1A, 3 and 7 (RZ 2001-BR-022) to the PDH-12 district with a proffered density of 7.99 dwelling units per acre, which resulted in the development of the Fairfax Gateway townhomes. This approval was consistent with the 5-8 dwelling units per acre option added to the Plan in 2000.

ADOPTED COMPREHENSIVE PLAN

Fairfax County Comprehensive Plan, 2011 Edition, Area II, Fairfax Planning District, Amended through 3-9-2010, F7 George Mason Community Planning Sector, pages 70-72:

> "3. The land on the east side of Route 123 between the Fairfax County boundary and George Mason University (Tax Map 57-4 ((1)) 1A, 1, 3 and 7) is planned for residential use at a density of 3-4 dwelling units per acre.
>
> As an option, residential development at a density of 5-8 dwelling units per acre may be considered if all parcels referenced above are consolidated. Development at this higher density must achieve a very high quality design that is consistent with new development that has occurred just north of this site, in the City of Fairfax. In order to compliment development in the City, small lot or "zero-lot-line" single-family detached or single-family attached may be appropriate. Multiplex units or a mixture of housing types may also be considered as a way to foster superior design. The streetscape along Route 123 should be maintained and enhanced with any development. Since access to Route 123 may be limited to right-turn in and right-turn out, the potential for future access to the planned University Drive realignment through the Eleven Oaks School site should not be precluded. A tree survey should be undertaken identifying and locating all trees 10 inches in diameter or greater. These trees should be analyzed for preservation and to the extent possible; trees in good condition should be preserved and incorporated into the final design.

As an alternative option, Tax Map parcels 57-4((1)) 1A, 1, 3, and 7 and the Eleven Oaks School Property (Tax Map 57-4((1)) 6) may be appropriate for mixed-use with a residential component at 12-16 dwelling units per acre and a non-residential component consisting of a hotel/conference center with support retail and service uses, or a higher density residential use at 12-16 dwelling units per acre. For this option to be considered, all of the following conditions should be met:

- Parcels 1, 1A, 3, 6 (the school property), and 7 are consolidated;
- This consolidation occurs as part of the consolidation and redevelopment of a larger area that includes abutting properties located in Fairfax City (on the south side of School Street between Route 123 and the school property) and that portion of George Mason University property [68-2((1)) part of 3] located north of University Drive;
- The hotel/conference center is limited to not more than 200 guest rooms;
- Support retail and service uses do not exceed 25,000 square feet and should be designed as an integral component of the hotel/conference center;
- The hotel/conference center is located on the western portion of the site with other structures diminishing in scale from the west to the residential neighborhood on the east;
- Pedestrian trails and pathways should be provided to facilitate circulation between George Mason University and the surrounding area;
- Affordable housing is included as part of any residential development on the site;
- Effective screening, buffering, and landscaping are provided between new development and adjacent residential neighborhoods and public facilities;
- No direct access onto Route 123 should be provided; however, if hotel/conference center use is to be located on the western portion of the property adjacent to Route 123, consideration may be given to right-turn in and right-turn out access to Route 123 with an appropriate deceleration lane;
- A traffic study is provided to show the impacts of site-generated traffic on adjacent roads and intersections in the vicinity and how commitments will be made to mitigate the identified impacts;

- Design of the site should be distinctive in its architecture and site design and result in a signature development with a substantial architectural element reflecting the significance of this location as an entry way into both the City of Fairfax and George Mason University."

The Comprehensive Plan Map shows this area as planned for residential use at 3-4 dwelling units per acre and public facilities, governmental and institutional uses.

PROPOSED PLAN AMENDMENT

The proposed plan amendment considers a mix of single-family dwelling units on 5.4 acres within Fairfax County at an overall density of 6.5 dwelling units per acre. To demonstrate the ability to achieve a transition from the townhouses to the west to single family houses that abut the property to the east, the potential developer of the property provided a design showing 28 single-family detached houses west of George Mason Boulevard at a density of 8.3 dwelling units per acre. A total of 7 single-family detached units were shown east of George Mason Boulevard at a density of 3.5 dwelling units per acre. The entire development (both Fairfax City and Fairfax County portions) would include 49 total units and have an overall density of 6.5 dwelling units per acre if approved. Although the planned density range requested was 5-8 dwelling units per acre, the potential developer provided a design with an overall density of 6.5 dwelling units per acre. Therefore, staff evaluated a proposed density maximum of 6.5 dwelling units per acre and not the maximum overall density of 8 dwelling units per acre allows under the 5-8 du/as density range.

ANALYSIS

Land Use

The proposed plan amendment, if adopted, would facilitate infill residential development on land that is partially within Fairfax County and the City of Fairfax, and adjacent to property owned by George Mason University. The main issue associated with the proposed plan is the creation of a residential development that is of a compatible design with the character of the surrounding area. The overall density of 6.5 dwelling units per acre of the proposed plan could fit with the surrounding area provided the plan is designed so that density tapers down from west to east and demonstrates that there is adequate useable open space for residents, while preserving mature trees on the northern portion of the west half of the site in the City of Fairfax.

Transportation

The County's Transportation Plan shows no planned improvements on or near the subject area. Mason Park Court is a street within the neighboring Fairfax Gateway development (located within the City of Fairfax) to the west that ends in a stub at the property line with the subject area. The portion of the proposed plan that is located within the City of Fairfax also shows a

stub street at this location. The possibility of establishing a connection between these two stub streets in order to form a complete street network should be pursued in conjunction with the City of Fairfax.

The possibility of creating a pedestrian connection between the subject area and the Fairfax Gateway townhomes to the west should be investigated. An ideal location for this connection would be at the southwest corner of the Fairfax Gateway development, where Patriot Park Court lies in close proximity to the property line with the subject area.

Table 1. Adopted Plan Higher Density Alternative Mixed-Use Scenario

Development Type	Land Use	Amount	Measured in	AM Peak Hour		PM Peak Hour		Average Weekday Trips
				In	Out	In	Out	
Apartment	220	99	Dwelling Units	16	39	40	26	658
Hotel	310	148	Rooms	42	35	52	38	1,209
Total Trips				**58**	**74**	**92**	**64**	**1,867**

Table 2. Plan Amendment S11-II-F1 Proposed Scenario

Development Type	Land Use	Amount	Measured in	AM Peak Hour		PM Peak Hour		Average Weekday Trips
				In	Out	In	Out	
Single Family Detached Housing	210	11	Dwelling Units	2	6	7	4	105
Residential/ Condominium/ Townhouse	230	37	Dwelling Units	3	13	12	7	215
Total Trips				**5**	**19**	**19**	**11**	**320**

1) Trip formulas are from the Institute of Traffic Engineers (ITE) Trip Generation, 8th Edition, 2008.
2) Trip generation estimates do not account for internal capture, or traffic reductions as a result of proximity to transit stations or bus service.
3) Land Use Code 310, hotel use, includes conference facilities, retail and other uses specifically associated with a hotel.

The proposed plan is projected to have a minimal impact on the transportation network in the vicinity of the subject area. The proposed plan will generate 320 average daily vehicle trips. The subject area is planned for public facilities, governmental and institutional uses, with an alternative option for mixed-use development to include residential use at 12-16 dwelling units per acre with a hotel/conference center. Since there has never been a public facilities type project proposed for the site, staff chose to test the alternative option as a comparison to the proposed plan for trip generation purposes. The George Mason Inn was used as a model for the typical type of project that might be proposed under the alternative option. Table 1 indicates that such a project would generate more than five times more trips than the proposed plan.

Parks and Recreation

If the plan amendment is adopted as proposed, 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. The proposed plan amendment would result in a potential increase of 100 residents within the Fairfax Planning District, which would generate a need for approximately 0.5 acres of additional local parkland. This parkland would ideally be located within the new development and include local serving facilities such as play equipment, courts and/or open space. Trails and trail connections should also be included in the site design.

Environment

The excerpt of the Policy Plan shown next encourages commitments to the attainment of Energy Star Qualified Homes or Earthcraft for new residential development. Additionally, consistent with Policy Plan guidance recommends t environmentally sensitive siting and application of low impact development practices

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, Amended through 7-27-2010, pages 7-8, 19-21:

- **Objective 2, policy k** – "For new development and redevelopment, apply better design and low impact development (LID) techniques…and pursue commitments to reduce stormwater runoff volumes and peak flows…;"
- **Objective 13, policy c.** – "Ensure that zoning proposals for residential development will qualify for the ENERGY STAR Qualified Homes designation, where such zoning proposals seek development at the high end of the Plan density range and where broader commitment sot green building practices are not being applied."

There are several mature trees located on the western portion of the subject area, abutting School Street in the City of Fairfax. The County should work with the City of Fairfax to preserve as many of these trees as possible. The proposed green area on this portion of the subject area should be oriented and designed to incorporate these mature trees.

Schools

Under the existing R-1 zoning district, the proposed plan would yield and additional 4 students (2 elementary, 1 middle school and 1 high school), and the proposed plan would yield and additional 20 students (11 elementary, 3 middle and 6 high school). The plan amendment is anticipated to yield an additional 16 students above what would be anticipated if the area is developed by-right. This will impact the capacity deficit at Oak View Elementary school and Frost Middle school.

RECOMMENDATION

The development of the Fairfax Gateway townhomes precludes the implementation of Comprehensive Plan options for mixed use development or higher density residential use on parcel 6. The proposed amendment for a combination of single family housing types provides a compatible transition to adjacent development and will lead to unified development of abutting City of Fairfax and Fairfax County properties.

Staff recommends that the Comprehensive Plan be amended as shown below.

REPLACE: Fairfax County Comprehensive Plan, 2011 Edition, Area II, Fairfax Planning District, Amended through 3-9-2010, F7 George Mason Community Planning Sector, Recommendations, Land Use, recommendation #3, pages 70-72:

"3. The area in Fairfax County generally bordered by Route 123, University Drive, School Street, and lies on both sides of George Mason Boulevard is planned for residential use at a density of 5-8 dwelling units per acre.

It includes Fairfax Gateway, a townhouse community (Tax Map 57-4 ((18)) A, 11-47) and the former Eleven Oaks School site (Tax Map 57-4 ((1)) 6). However, the former Eleven Oaks School site should not exceed 6.5 dwelling units per acre.

As an infill parcel the Eleven Oaks site should provide for a transition between the lower density single-family detached housing types on the east and the townhouses along Route 123. In order to complement existing development small lot or "zero-lot-line" single-family detached and single-family attached may be appropriate. The development should incorporate adjacent parcels along School Street.

Large, mature tree canopy should be preserved to the greatest extent possible A tree survey should be undertaken identifying and locating all trees 10 inches in diameter or greater. These trees should be analyzed for preservation and to the extent possible trees in good condition should be preserved and incorporated into the final design.

A consistent streetscape treatment along George Mason Boulevard, to include street trees, landscaping, sidewalks, and various paving textures should be provided to the extent possible.

The access points to the development should be aligned with each other on opposite sides of George Mason Boulevard and the number of median breaks should be minimized.

The proposed density and/or total number of dwelling units should be balanced against the needs for adequate open space to serve the recreational needs of residents and adequate visitor parking, as parking is not permitted along George Mason Boulevard.

MODIFY FIGURE: Fairfax County Comprehensive Plan, 2011 Edition, Area II, Fairfax Planning District, Amended through 3-9-2010, F7 George Mason Community Planning Sector, page 74, Figure 34 "Transportation Recommendations", will be amended by deleting the arrow that points to the area where George Mason Boulevard has been constructed.

DELETE FIGURE: Fairfax County Comprehensive Plan, 2011 Edition, Area II, Fairfax Planning District, Amended through 3-9-2010, F7 George Mason Community Planning Sector, page 75, Figure 35, "Access Recommendations F7 George Mason Community Planning Sector".

PLAN MAP: The Comprehensive Plan Map will be amended in the following manner: the recommendations for Tax Map Parcels 57-4 ((1)) 6 (public facilities/ governmental and institutional uses) and 57-4 ((18)) A, 11-47 (residential at 3-4 du/ac) will be deleted and a new recommendation for residential use at 5-8 du/ac will be added.

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Board Agenda Item
February 28, 2012

4:00 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the Northern Virginia Community College Residential Permit Parking District, District 39 (Braddock District)

ISSUE:
Public hearing on proposed amendment to Appendix G, of *The Code of the County of Fairfax*, *Virginia*, to expand the Northern Virginia Community College (NVCC) Residential Permit Parking District (RPPD), District 39.

RECOMMENDATION:
The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of *The Code of the County of Fairfax*, *Virginia*, to expand the NVCC RPPD, District 39.

TIMING:
On January 24, 2012, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to take place on February 28, 2012, at 4:00 p.m.

BACKGROUND:
Section 82-5A-4(a) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish RPPD restrictions encompassing an area within 2,000 feet walking distance from the pedestrian entrances and/or within 1,000 feet from the property boundaries of an existing or proposed high school, existing or proposed rail station, or existing Virginia college or university campus if: (1) the Board receives a petition requesting the establishment or expansion of such a District, (2) such petition contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, and (3) the Board determines that 75 percent of the land abutting each block within the proposed District is developed residential. In addition, an application fee of $10 per address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District. Staff has verified that the proposed RPPD is within 2,000 feet walking distance to the NVCC pedestrian entrance. Therefore, the requirements to expand the RPPD have been met.

Staff recommends that the Board adopt the proposed amendment (Attachment I) to expand the NVCC RPPD.

FISCAL IMPACT:
The cost of sign installation is estimated at $920 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Hamid Majdi, FCDOT

Attachment I

Proposed Amendment

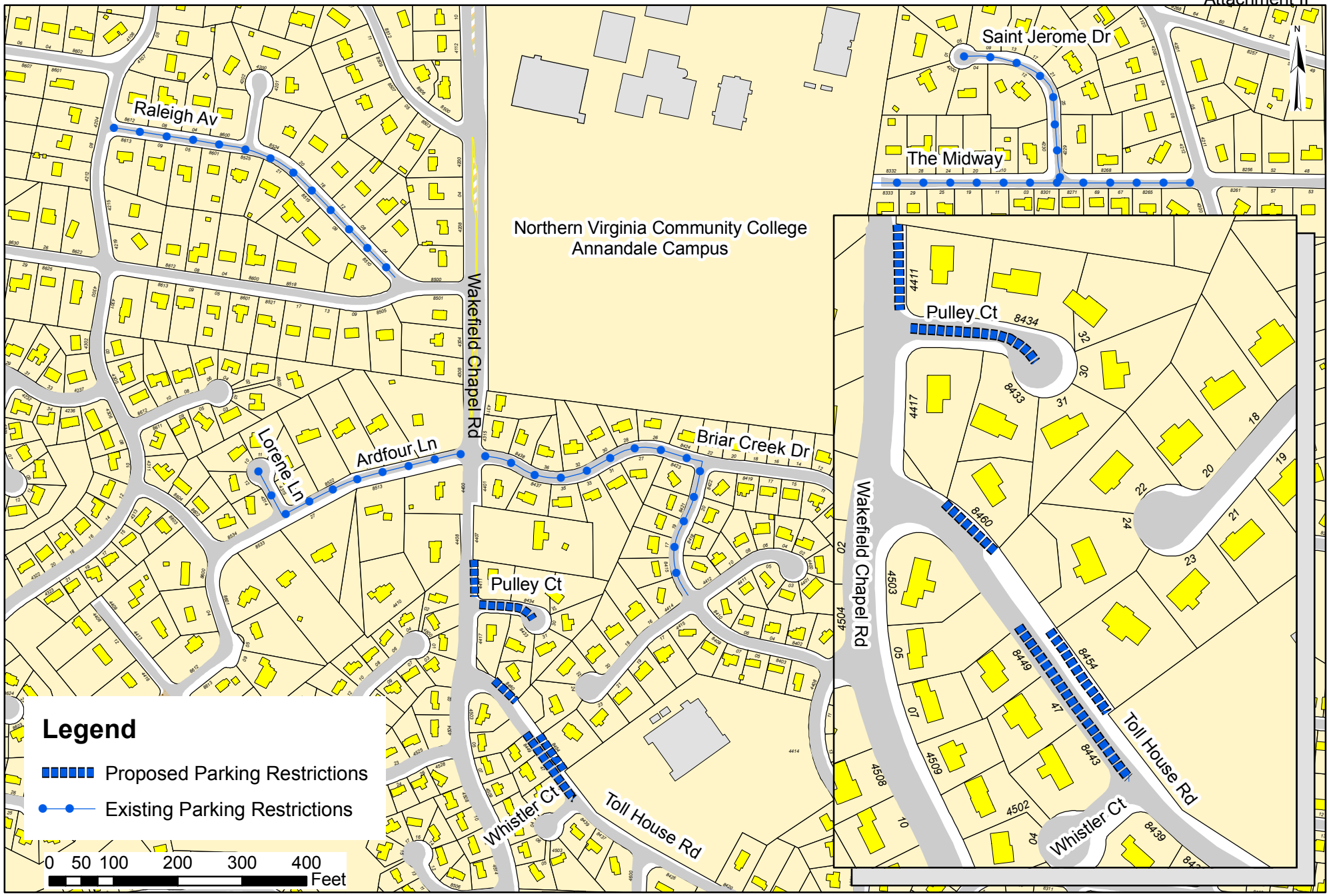
Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following streets to Appendix G-39, Section (b), (2), Northern Virginia Community College Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Pulley Court (Route 4398)
From Wakefield Chapel Road to the cul-de-sac inclusive.

Toll House Road (Route 4488)
From the eastern boundary to the western boundary of 8454 Toll House Road; from the eastern boundary to the western boundary of 8460 Toll House Road; and from the western boundary of 8449 Toll House Road to Whistler Court.

Wakefield Chapel Road (Route 710)
From Pulley Court to the northern boundary of 4411 Wakefield Chapel Road.

Attachment II



Fairfax County Department of Transportation
Traffic Operations Section
RESIDENTIAL PERMIT PARKING DISTRICT (RPPD)
Northern Virginia Community College (NVCC) # 39
Braddock District

December 9, 2011

Tax Map 70-1

FCDOT
Serving Fairfax County for 25 Years and More

Board Agenda Item
February 28, 2012

4:00 p.m.

Public Hearing on Adoption of the Northern Virginia Regional Water Supply Plan

ISSUE:
Public hearing on the adoption of the Northern Virginia Regional Water Supply Plan. The proposed plan addresses state requirements for localities to have such a plan adopted through a public hearing process.

RECOMMENDATION:
The County Executive recommends that the Board adopt the Northern Virginia Regional Water Supply Plan by approving the resolution in Attachment II.

The water supply plan has been developed by the Northern Virginia Regional Commission (NVRC) in coordination with the 21 jurisdictions covered by the plan and local water utilities. This Board Item has been prepared by the Department of Public Works and Environmental Services (DPSES) and coordinated with the Office of the County Attorney and the County's Environmental Coordinator. Staff of Fairfax Water reviewed the final draft of the water supply plan for technical content and accuracy as it relates to Fairfax Water and Fairfax County and advised that it is acceptable. The water supply plan indicates that existing water supplies will be sufficient to meet Fairfax County needs through the 2040 planning period.

TIMING:
Board action is requested on February 28, 2012. On January 10, 2012, the Board authorized the advertising of a public hearing.

BACKGROUND:
In November 2005, the Commonwealth enacted the Local and Regional Water Supply Planning Regulation (9 VAC 25-780-10). The regulation was developed largely as a result of the droughts experienced in 1999 and 2002. Its purpose is to: (i) ensure that adequate and safe drinking water is available to all citizens of the Commonwealth; (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources; and (iii) encourage, promote, and develop incentives for alternative water sources, including but not limited to desalinization.

On January 22, 2007, the Board approved entering into a Memorandum of Agreement (MOA) among NVRC, the County, and other Northern Virginia jurisdictions to designate

the NVRC as the lead agency for the development of a regional water supply plan (WSP) for the participating Northern Virginia jurisdictions. The Board also designated Fairfax Water as the County's agent responsible for representing the County in the development of the regional WSP and directed the County Executive to appoint an Advisory Committee comprised of appropriate County staff lead by the County's Environmental Coordinator to assist Fairfax Water in data collection and other County activities that may be required for the development of the County's portion of the regional plan. The County's share of the costs incurred by NVRC for managing the project, preparing the regional WSP, and engaging consultant services is $50,000. At authorization of the public hearing for adoption of the regional WSP, the Board directed staff to disseminate the report electronically with environmental organizations and the development community and ensure that they are properly notified of the proposed public hearing. In response to the Board's request, the Office of Public Affairs placed an announcement of the public hearing on the Fairfax County NewsWire, DPWES distributed an announcement through the Letters to Industry e-mail list, and DPWES has been distributing announcements at our normally scheduled industry group meetings. In addition, the Environmental Quality Advisory Council was provided a briefing on February 8, 2012. A copy of that presentation is included as Attachment III.

Under Virginia's Local and Regional Water Supply Planning Regulations (9 VAC 25-780-10), local governments must adopt a local program, including any revisions to comprehensive plans, water supply plans, water and sewer plans, and other local authorities necessary to implement the regulations. A local public hearing consistent with § 15.2-1427 of the Code of Virginia is required during the development of the local program. Adoption of a water supply plan is the only program element that the County needs to address to implement the regulations. Local governments have the choice of submitting water supply plans independently or regionally as has been done by the 21 jurisdictions that cooperated in the development of the regional water supply plan. Water supply plans were required to be submitted to the Virginia Department of Environmental Quality (DEQ) no later than November 2, 2011. The plan has been submitted to the DEQ and the Board needs to adopt a resolution approving the plan as it relates to Fairfax County. The resolution and a record of the public hearing will be incorporated into the plan prior to final approval of the plan by DEQ.

All local programs shall be reviewed no later than five years after a compliance determination by the State Water Control Board in accordance with 9 VAC 25-780-140. Revised plans must be submitted when this review indicates that circumstances have changed or new information has been made available that will result in water demands that will not be met by alternatives contained in the water plan. These circumstances may be caused by changes in demands, the availability of the anticipated source, cumulative impacts, in-stream beneficial uses, or other factors. In the case where the review by the local government or regional planning unit indicates that the circumstances have not changed sufficiently to warrant a revision of the water plan after

five years, the locality shall notify DEQ that the existing plan is still in effect. Notwithstanding the above, all local programs must be reviewed, revised and resubmitted to DEQ every 10 years after the date of last approval.

NORTHERN VIRGINIA REGIONAL WATER SUPPLY PLAN:
The regional water supply plan was prepared by Draper Aden Associates with NVRC serving as project manager. The participating Northern Virginia jurisdictions are the Towns of Clifton, Dumfries, Hamilton, Haymarket, Herndon, Hillsboro, Leesburg, Lovettsville, Middleburg, Occoquan, Purcellville, Quantico, Round Hill, and Vienna; the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park; and the Counties of Arlington, Fairfax, Loudoun and Prince William. The regional water supply plan has a planning horizon of 30 years to the year 2040.

The plan includes the following elements:

1. A description of existing water sources.

2. A description of existing water use.

3. A description of existing water resource conditions.

4. An assessment of projected water demand.

5. A description of water management actions that address water conservation generally and drought response and contingency plans.

6. A statement of water supply needs and alternatives (i.e. adequacy of water supplies.).

7. An alternatives analysis that identifies potential alternatives to address projected deficits in water supplies.

8. A map or maps identifying important elements of the program that may include existing environmental resources, existing water sources, significant existing water uses, and proposed new sources.

9. A copy of the adopted program documents including any local plans or ordinances or amendments that incorporate the local program elements required by this chapter.

10. A resolution approving the plan from each local government that is party to the plan.

11. A record of the local public hearing, a copy of all written comments and the submitter's response to all written comments received.

The majority of County residents are served by Fairfax Water. Fairfax water gets approximately 60 percent of its water from a stream intake on the Potomac River and the remaining 40 percent from the Occoquan Reservoir. Portions of the County are served by the City of Falls Church, the City of Fairfax, and the Town of Vienna which operate their own systems. The City of Falls Church purchases water from the Washington Aqueduct and the City of Fairfax gets its water from Goose Creek in Loudoun County. The Town of Vienna purchases water from the City of Falls Church. In Fairfax County, the regional water supply plan identifies eight self-supplied nonagricultural users of 300,000 gallons or more per day (e.g. Dulles Airport), one community system utilizing groundwater (Tauxemont), one community system (Fort Belvoir) that purchases water from Fairfax Water, and approximately 15,000 homes and business served by wells.

Fairfax Water is one of the major water suppliers in this region serving approximately 1.6 million people throughout Northern Virginia, including portion of the counties of Fairfax, Loudoun, and Prince William, the City of Alexandria, and the Town of Herndon. Fairfax Water is a signatory to the Water Supply Coordination Agreement of 1982. The three signatories to the Water Supply Coordination Agreement, which also include the Washington Aqueduct and the Washington Suburban Sanitary Commission, cooperate on water supply operations in the Potomac, Patuxent, and Occoquan basins during periods of low flow. The cooperative work is coordinated by a special section of the Interstate Commission on the Potomac River Basin (ICPRB), the “Section for Cooperative Water Supply Operations on the Potomac” (CO-OP). The Northern Virginia Water Supply Plan incorporates planning information previously prepared by the CO-OP covering areas of Northern Virginia served by Fairfax Water and the Washington Aqueduct. Fairfax County’s emergency water use restrictions, located in Chapter 113 (Water Use, Emergency Regulations) of the County Code, satisfy the requirements of the state regulations for drought response and contingency plans.

Based on water demand forecasting by the ICPRB, Fairfax County will have sufficient water supply through the 2040 planning period, although the regional system as a whole may have difficulty meeting demands during droughts. Fairfax Water has performed water supply studies to consider other potential supplemental water sources. It should be noted that the water demand forecasts are based on population projections that were made prior to the economic downturn and future demand may be less than the estimates in the regional water supply plan for the 30 year planning period.

<u>REGULATORY IMPACT</u>:
None.

FISCAL IMPACT:
None. The Water Supply Plan does not commit the County to any specific expenditure of funds. The County's cost-share for preparation of the plan, $50,000, was encumbered in 2007.

ENCLOSED DOCUMENTS:
Attachment I – Northern Virginia Regional Water Supply Plan (Available online at: http://novaregion.org/index.aspx?NID=1214)
Attachment II – Resolution
Attachment III – February 8, 2012, Environmental Quality Advisory Council presentation

STAFF:
Kambiz Agazi, Environmental Coordinator
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle A. Brickner, Deputy Director, DPWES

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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 February 28, 2012, at which meeting a quorum was present and the following resolution was adopted:

WHEREAS, Virginia State Water Control Board Regulation 9 VAC 25-780, Local and Regional Water Supply Planning, requires all counties, cities and towns in the Commonwealth of Virginia to prepare and submit a water supply plan to the Department of Environmental Quality (DEQ);

WHEREAS, on February 28, 2012, the Board of Supervisors held a public hearing to accept public comment on the Northern Virginia Regional Water Supply Plan;

WHEREAS, the County of Fairfax is a participant in the Northern Virginia Regional Water Supply Plan;

WHEREAS, the Northern Virginia Regional Water Supply Plan has been submitted to the DEQ; and.

WHEREAS, the public necessity, convenience, general welfare, and state regulations require consideration of the Northern Virginia Regional Water Supply Plan.

NOW, THEREFORE BE IT RESOLVED, the Board of Supervisors hereby adopts the Northern Virginia Regional Water Supply Plan as it pertains to the Fairfax County. Approval and adoption of this regional plan indicates support for and general agreement with the regional planning approach, but does not indicate approval or disapproval of conclusions and recommendations presented in the plan as they pertain to other localities. Fairfax County reserves the right to comment on specific water supply alternatives in the future even though such alternatives may or may not be recommended in this adopted plan. Fairfax County will not be limited to specific water supply alternatives in this adopted plan and reserves the right to recommend additional alternatives for consideration in the future.

BE IT FURTHER RESOLVED, the Board of Supervisors intends that the Northern Virginia Regional Water Supply Plan shall be revised to reflect changes in relevant data at least once every five years and resubmitted to DEQ every ten years in accordance with the regulation and sound planning practice.

A Copy Teste:

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Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT III

Fairfax Water

Regional Water Supply Planning

Fairfax County Environmental Quality Advisory Council

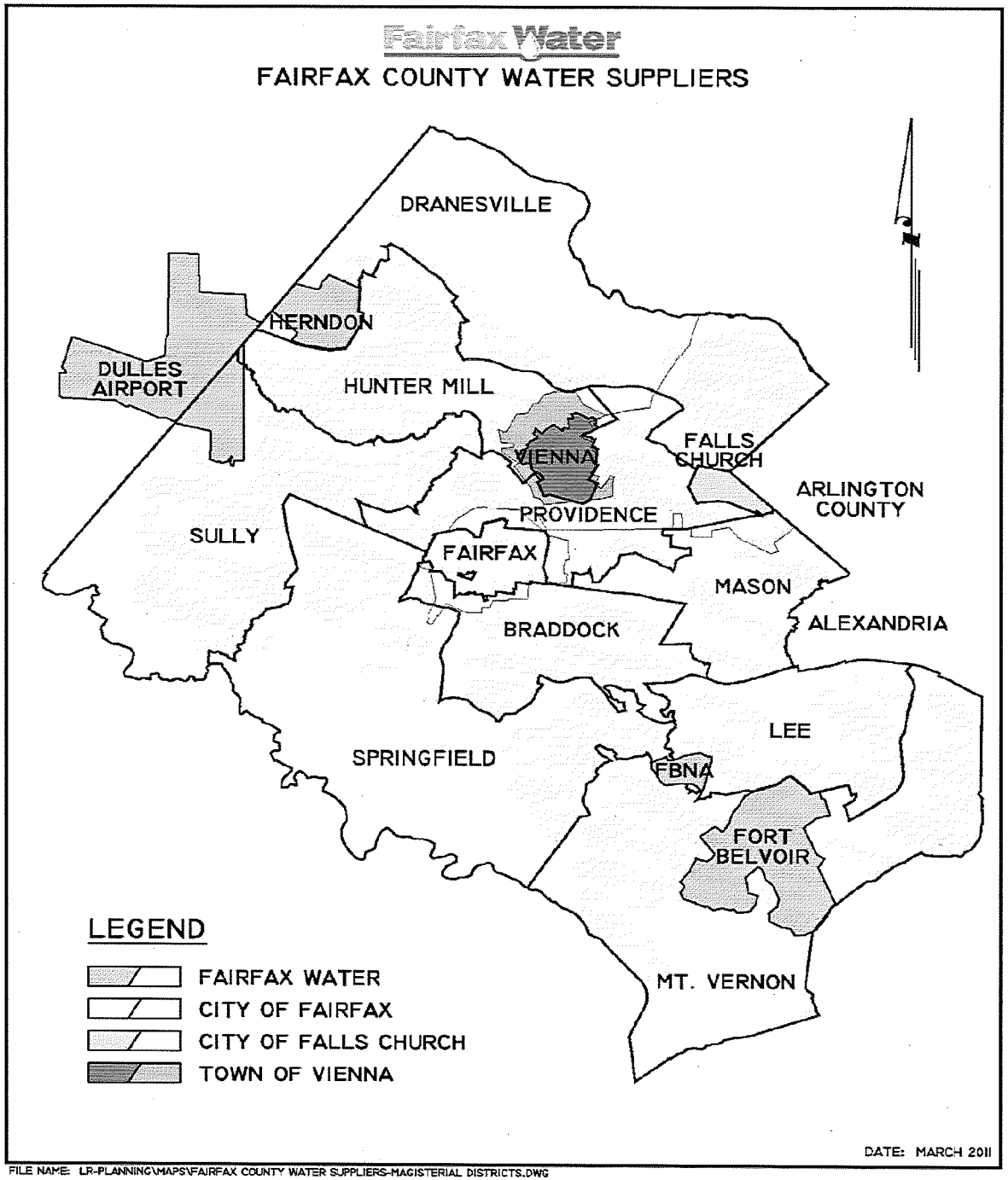
February 8, 2012

Presentation Overview

- Fairfax Water
- Potomac River / WMA Water Supply Coordination
- 2010 WMA Potomac River Demand & Resource Evaluation Highlights
- Potomac River / WMA Drought Operations
- Virginia Water Supply Planning Regulations
- Meeting Virginia Requirements in Northern Virginia & Northern Virginia WSP

Fairfax Water

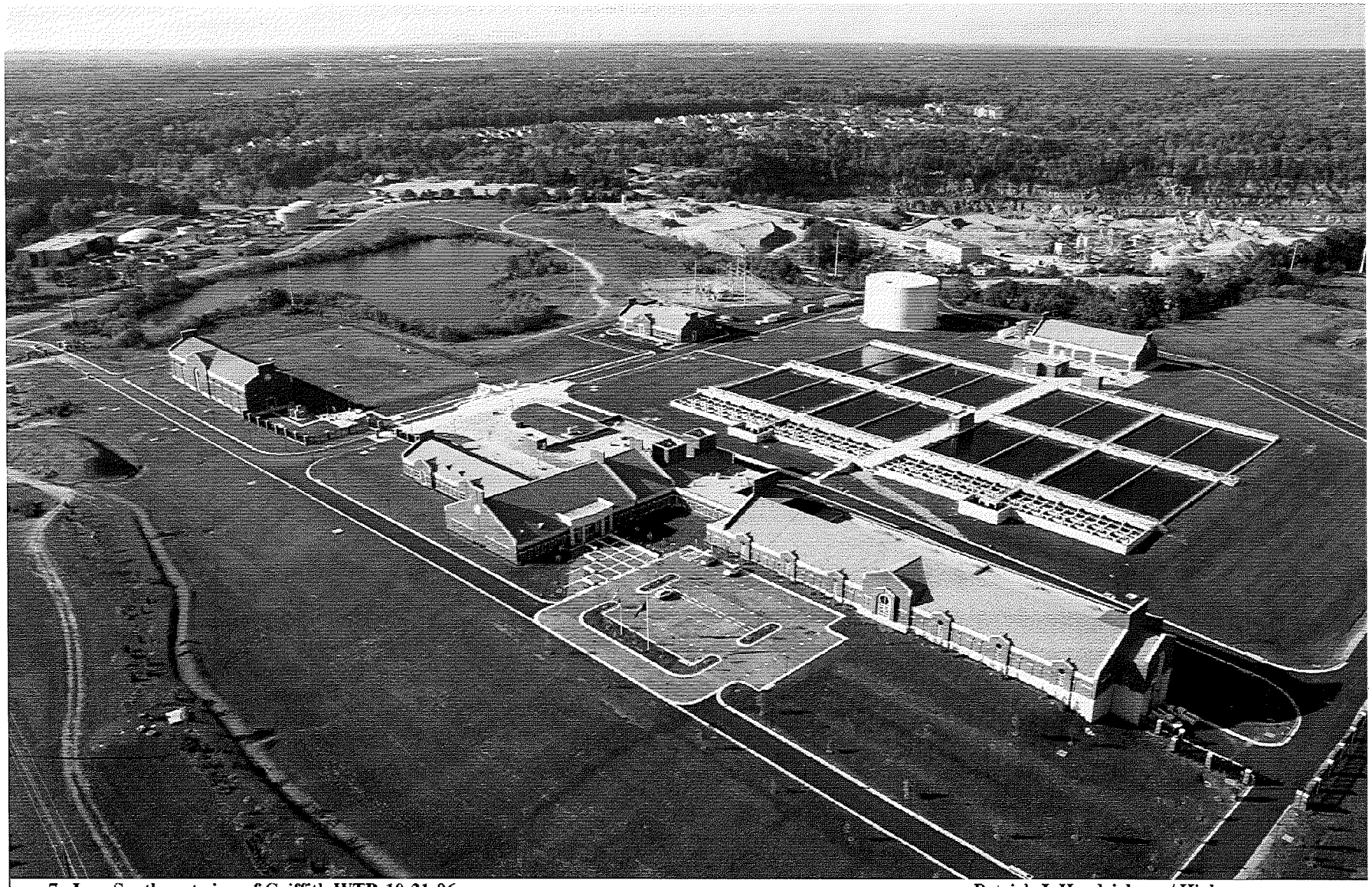
- Serves over 1.6 million Northern Virginians
  - 1 of every 5 Virginians on public water
- Largest treatment facilities in Commonwealth
- Approaching $2 Billion in infrastructure assets
- 3,400 miles of pipe in Fairfax County
- Average production 167 million gallons per day
- Annual operating expenses - $75 million
- 10-Year CIP - $639 million



FILE NAME: LR-PLANNING\MAPS\FAIRFAX COUNTY WATER SUPPLIERS-MAGISTERIAL DISTRICTS.DWG

Corbalis Water Treatment Plant (Potomac)

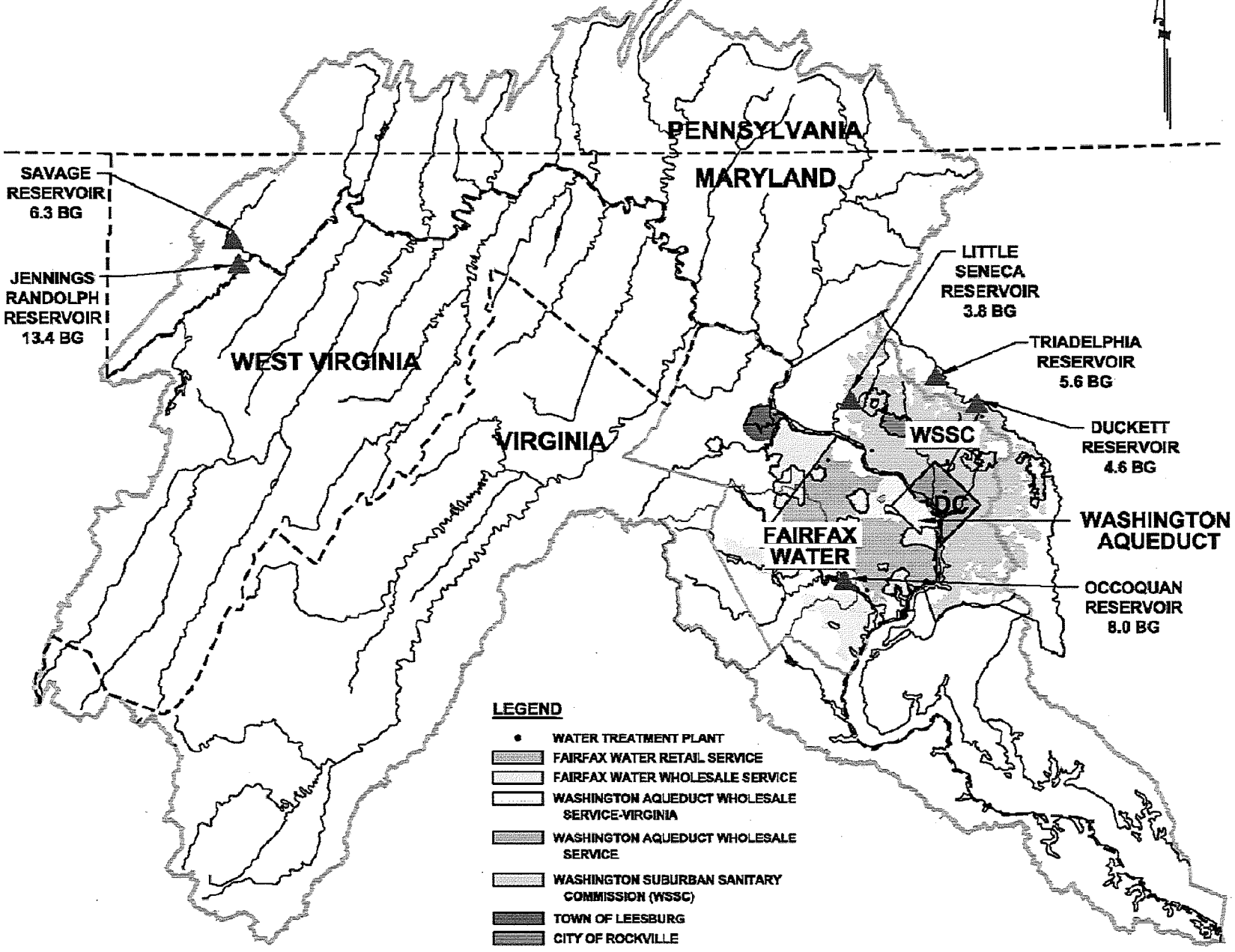
Griffith Water Treatment Plant (Occoquan)



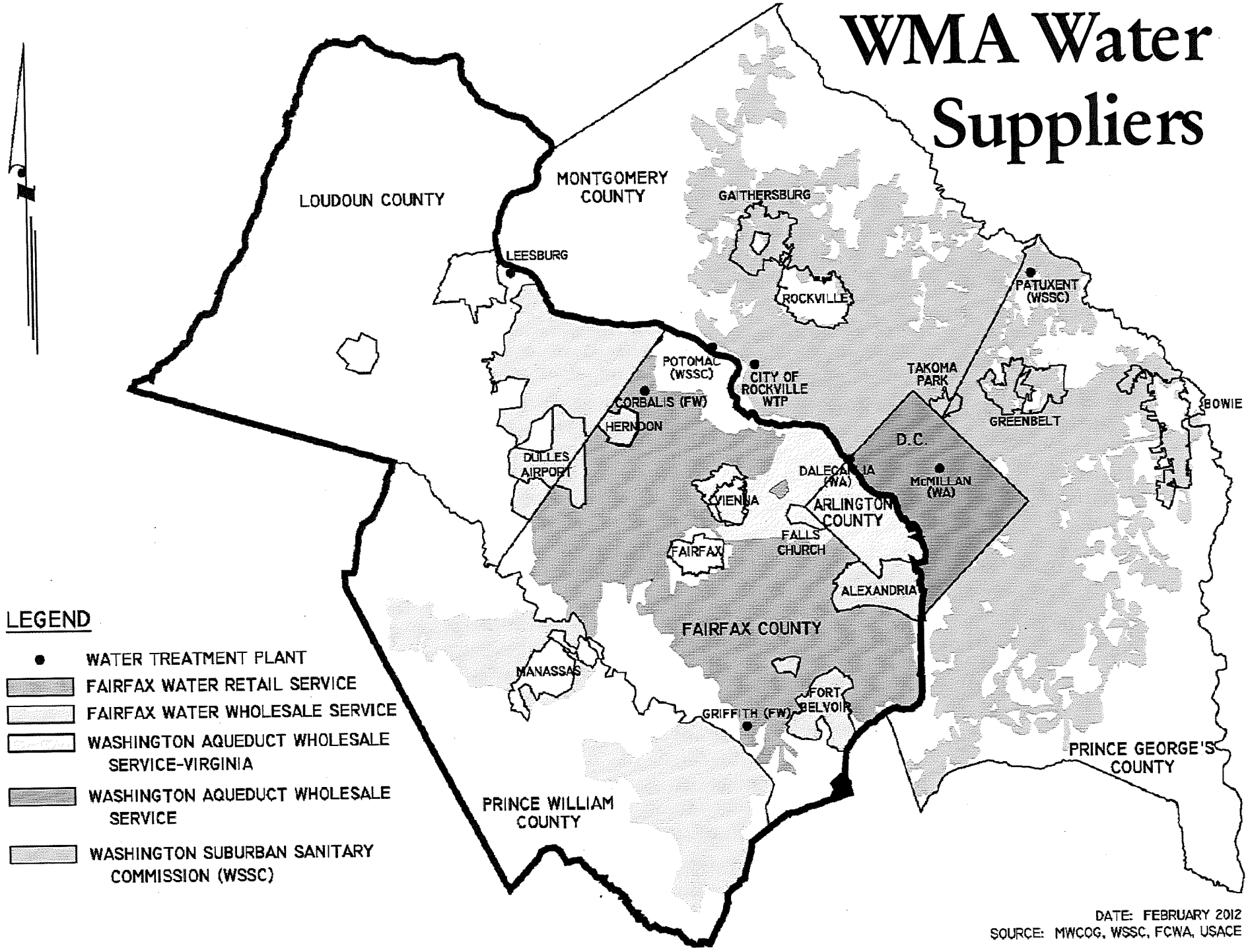
7. Low Southwest view of Griffith WTP 10-21-06

Patrick J. Hendrickson / Highcamera.com

Potomac River Water Resources



WMA Water Suppliers

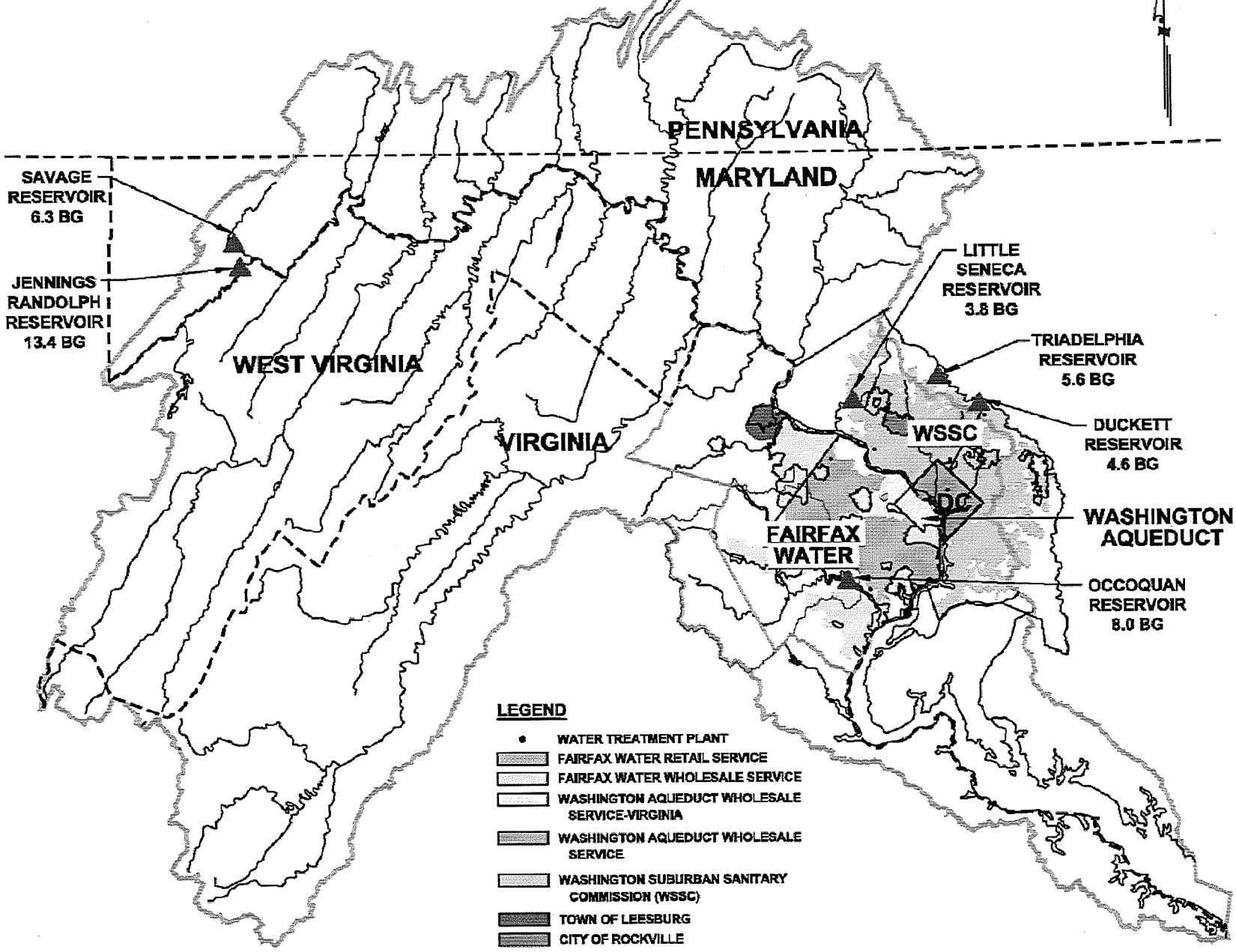


DATE: FEBRUARY 2012
SOURCE: MWCOG, WSSC, FCWA, USACE

WMA / Potomac River Water Supply Coordination

- Cost sharing of upstream Potomac River reservoirs
- Drought Operations – Exercised Annually
- 20 Year Water Demand Forecast
  - Prepared every 5 years
  - Identifies need for additional resources
- Monthly Water Supply Outlook
- ICPRB CO-OP Section

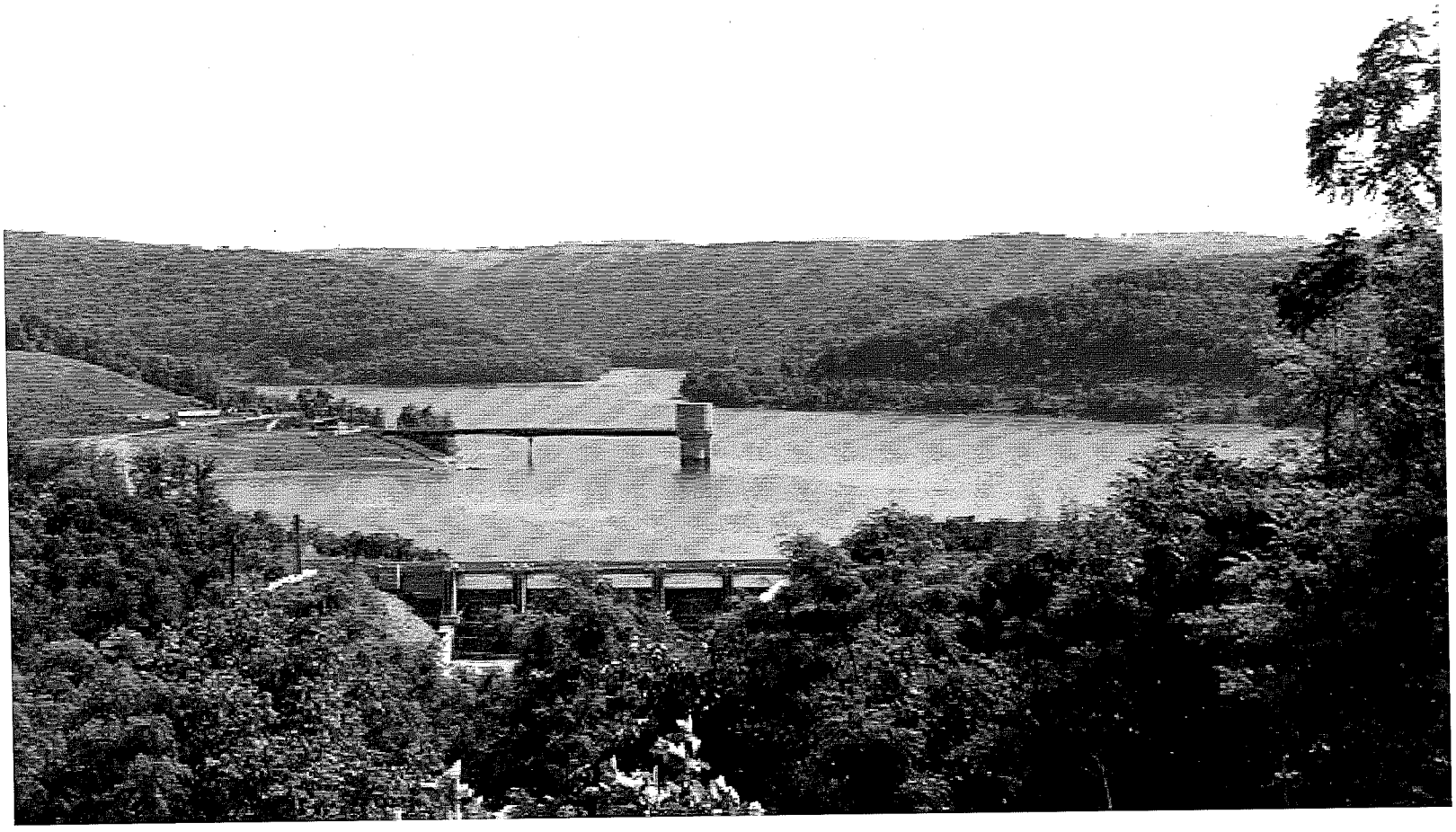
Potomac River Water Resources



WMA / Potomac River Water Supply Agreements

- Low Flow Allocation Agreement (1978)
  - Signed by federal government, states, the 3 large water suppliers
  - Establishes Potomac River allocation during extreme drought conditions
  - Considered "instrument of last resort"
- Water Supply Coordination Agreement (1982)
  - Signed by the 3 large water suppliers and Interstate Commission on the Potomac River Basin (ICPRB)
  - Reduces risk of LFAA allocations
  - Promotes sharing of benefits, risks, resources and costs
  - Establishes drought operations protocols

Jennings Randolph Reservoir



(Source: Washington Metropolitan Area Water Supply: Current Institutional & Regulatory Framework, Presentation made on April 16, 2010
Original Source: http://www.riverexplorer.com/images/Jennings_Randolph_Lake.jpg)

Little Seneca Reservoir

(Source: http://commons.wikimedia.org/wiki/File:Little_Seneca_Lake_2008.jpg)

2010 WMA Regional Demand Study Highlights

- With Respect to Drought of Record:
  - Current CO-OP system is adequate through 2030
  - By 2040 system may have difficulty meeting regional demands
- Summer peak water use may be increasing in some areas
- Reservoir sedimentation is a concern (Potomac Reservoirs)
- Completion of an alternatives evaluation is recommended

Potential Alternatives

- Potomac Estuary
- Occoquan Estuary
- Quarries near Occoquan Reservoir
- Loudoun Quarries

Virginia Water Supply Planning Regulation (effective 2006)

- Put in place after 1999 & 2002 droughts
- Intended to ensure adequate safe drinking water, protect other beneficial uses, and promote alternative water sources
- Administered by VA Department of Environmental Quality
- All counties, cities and towns required to submit plan or participate in regional plan, with input from water suppliers – intended to cover all Virginians

Key Elements

- Supply/resource evaluation, including:
  - Surface supplies
  - Groundwater/wells
  - Agricultural
  - Industrial uses not otherwise covered
- Demand projections
- Determination of need
- Environmental, recreational, and other background information on sources

Administrative Requirements

- Public Hearing consistent with 15.2 – 1427
- Local resolution approving plan
- Incorporation of WSP into local planning documents and ordinances
- DEQ public notice
- DEQ public meeting upon request
- Review every 5 years; resubmission no less than every 10

Northern Virginia - Regional Water Supply Plan Being Conducted

- NVRC serving as Project Manager
- Agreement signed by jurisdictions in 2007
- Potomac Regional planning efforts complete and to be incorporated into NoVA plan
- Final Draft submitted to DEQ November 2011

Northern Virginia - Regional Water Supply Plan Being Conducted

- NVRC serving as Project Manager
- Agreement signed by jurisdictions in 2007
- Potomac Regional planning efforts complete and to be incorporated into NoVA plan
- Final Draft submitted to DEQ November 2011

Counties:
Fairfax
Loudoun
Prince William
Arlington

Towns	Vienna	Lovettsville
Dumfries	Clifton	Middleburg
Herndon	Hamilton	Occoquan
Leesburg	Haymarket	Quantico
Purcellville	Hillsboro	Round Hill

Cities
Alexandria
Falls Church
Fairfax
Manassas
Manassas Park

Fairfax Water

Regional Water Supply Planning

Fairfax County Environmental Quality Advisory Council

February 8, 2012

Board Agenda Item
February 28, 2012

4:30 p.m.

Public Hearing to Establish Parking Restrictions on Providence Forest Drive (Providence District)

ISSUE:
Public hearing on a proposed amendment to Appendix R of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish parking restrictions on the south side of Providence Forest Drive from Gallows Road to Hartland Road.

RECOMMENDATION:
The County Executive recommends that the Board adopt the amendment to the Fairfax County Code shown in Attachment I to prohibit the parking of commercial vehicles as defined in 82-5-7, recreational vehicles and all trailers on the south side of Providence Forest Drive from Gallows Road to Hartland Road from 9:00 p.m. to 6:00 a.m., seven days per week.

TIMING:
The public hearing was authorized on January 24, 2012, for February 28, 2012, at 4:30 p.m.

BACKGROUND:
The Providence District office has forwarded the latest of several requests to review the long term parking situation on the south side of Providence Forest Drive from Gallows Road to Hartland Road.

The south side of Providence Forest Drive has long been used for the storage of commercial vehicles and trailers. Although this is a mixed use area, this long term parking has put a strain on the space available to park passenger vehicles for both residents and visitors of neighboring residential areas, as well as local businesses for both their customers and employees. Staff has contacted the sole business that has ingres/egress access on Providence Forest Drive, and they stated that they support the restriction for their residential neighbors and that it would not negatively affect them.

Board Agenda Item
February 28, 2012

Fairfax County Code Section 82-5-37.1 authorizes the Board of Supervisors to designate restricted parking in non-residential areas that diminishes the capacity of on-street parking for other uses. By prohibiting the parking of commercial and recreational vehicles and all trailers from 9:00 p.m. to 6:00 a.m., seven days per week, additional short term parking will be available for local residents and businesses in the immediate area.

FISCAL IMPACT:
The cost of sign installation is estimated at $600 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

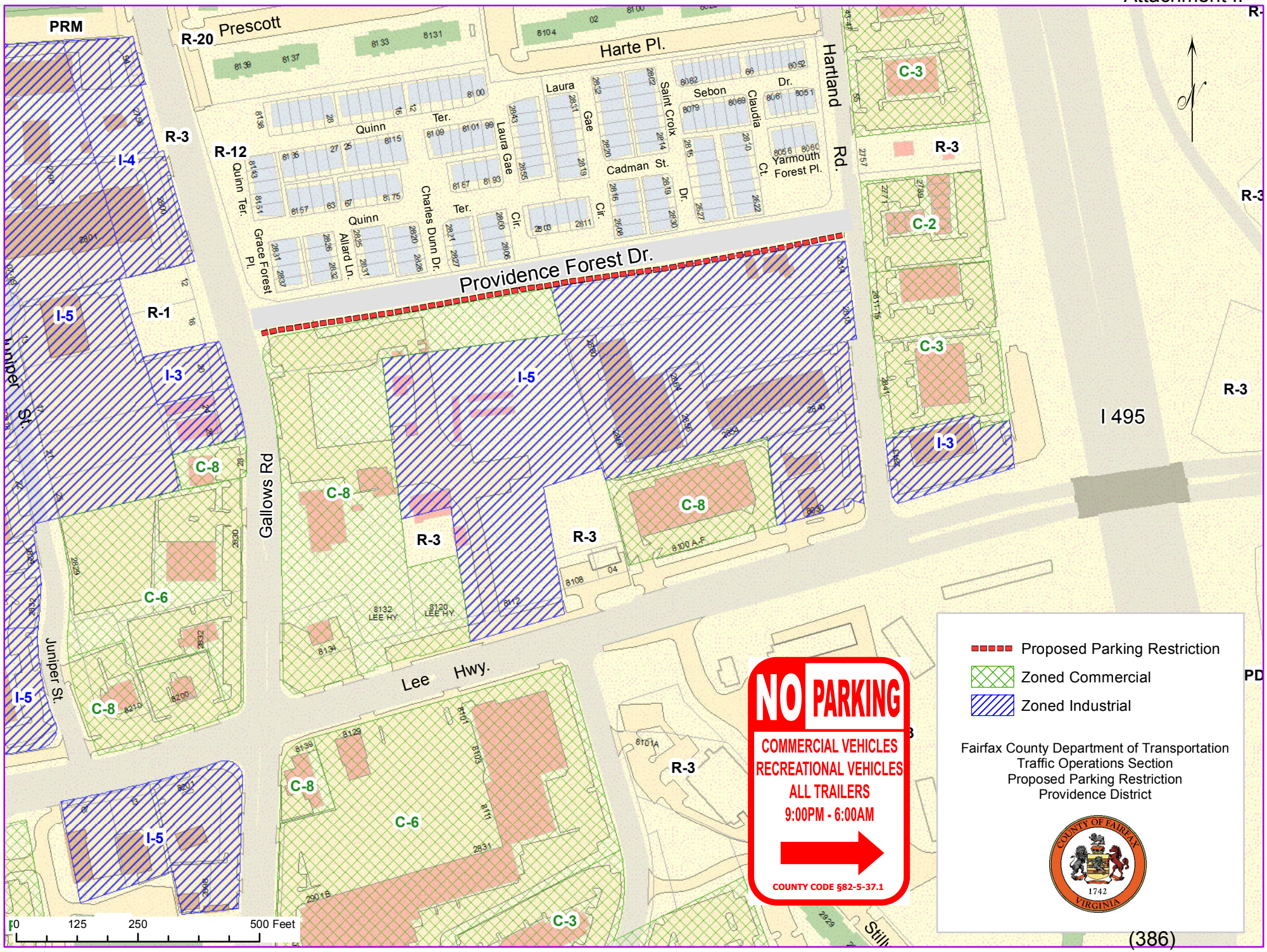
ENCLOSED DOCUMENTS:
Attachment I: Amendment to the Fairfax County Code, Appendix R (General Parking Restrictions)
Attachment II: Area Map of Proposed Parking Restriction

STAFF:
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Corinne N. Lockett, Assistant County Attorney
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT

APPENDIX R – Ordinance Designating Long Term Parking Restrictions.

Providence Forest Drive (Route 7749) from Gallows Road to Hartland Road. Commercial vehicles, recreational vehicles, and trailers as defined in Fairfax County Code Sections 82-5-7(b) and 82-5B-1 shall be restricted from parking on the south side of Providence Forest Drive (Route 7749) from Gallows Road to Hartland Road from 9:00 p.m. to 6:00 a.m., seven days per week.

Attachment II



October 18, 2011

Tax Map 49-2

Board Agenda Item
February 28, 2012

4:30 p.m.

Public Hearing to Authorize the Conveyance of a Portion of County-Owned Property to the Virginia Department of Transportation for the Telegraph Road Project (Lee District)

ISSUE:
Public hearing to convey a portion of County-owned property to the Virginia Department of Transportation (VDOT) for the Telegraph Road Project.

RECOMMENDATION:
The County Executive recommends that the Board authorize staff to convey a portion of County-owned property to VDOT for the Telegraph Road Project.

TIMING:
On January 10, 2012, the Board of Supervisors authorized the advertisement of a public hearing to convey County-owned property to VDOT for the Telegraph Road Project.

BACKGROUND:
The Board of Supervisors is the owner of two parcels of land identified as Tax Map Nos. 0912 09 H1 and 0921 01 0006 that are impacted by the Telegraph Road Project managed by VDOT.

VDOT would like to acquire 1,014 square feet of land from parcel 0912 09 H1 and 1,682 square feet of land from parcel 0921 01 0006, as well as permanent and temporary easements to construct and maintain the Telegraph Road Project. This project is designed to improve a 0.2-mile segment of Telegraph Road from South Van Dorn Street to South Kings Highway with additional turn lanes and a raised median. VDOT is acting as project manager.

VDOT presented an offer of compensation of $17,400 for the fee taking and easements. Since the project is 100 percent funded by the County through transportation bond funds approved by the voters and the Commercial and Industrial property tax for transportation, the Department of Transportation recommends, and the Facilities Management Department concurs, that there should be no charge for the required land rights.

FISCAL IMPACT:
None.

Board Agenda Item
February 28, 2012

ENCLOSED DOCUMENTS:
Attachment A: Location Map

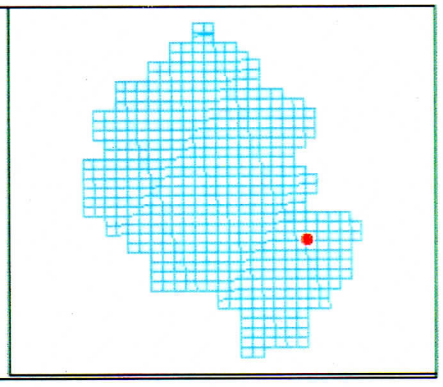
STAFF:
Jose A. Comayagua, Director, Facilities Management Department
Tom Biesiadny, Director, Department of Transportation

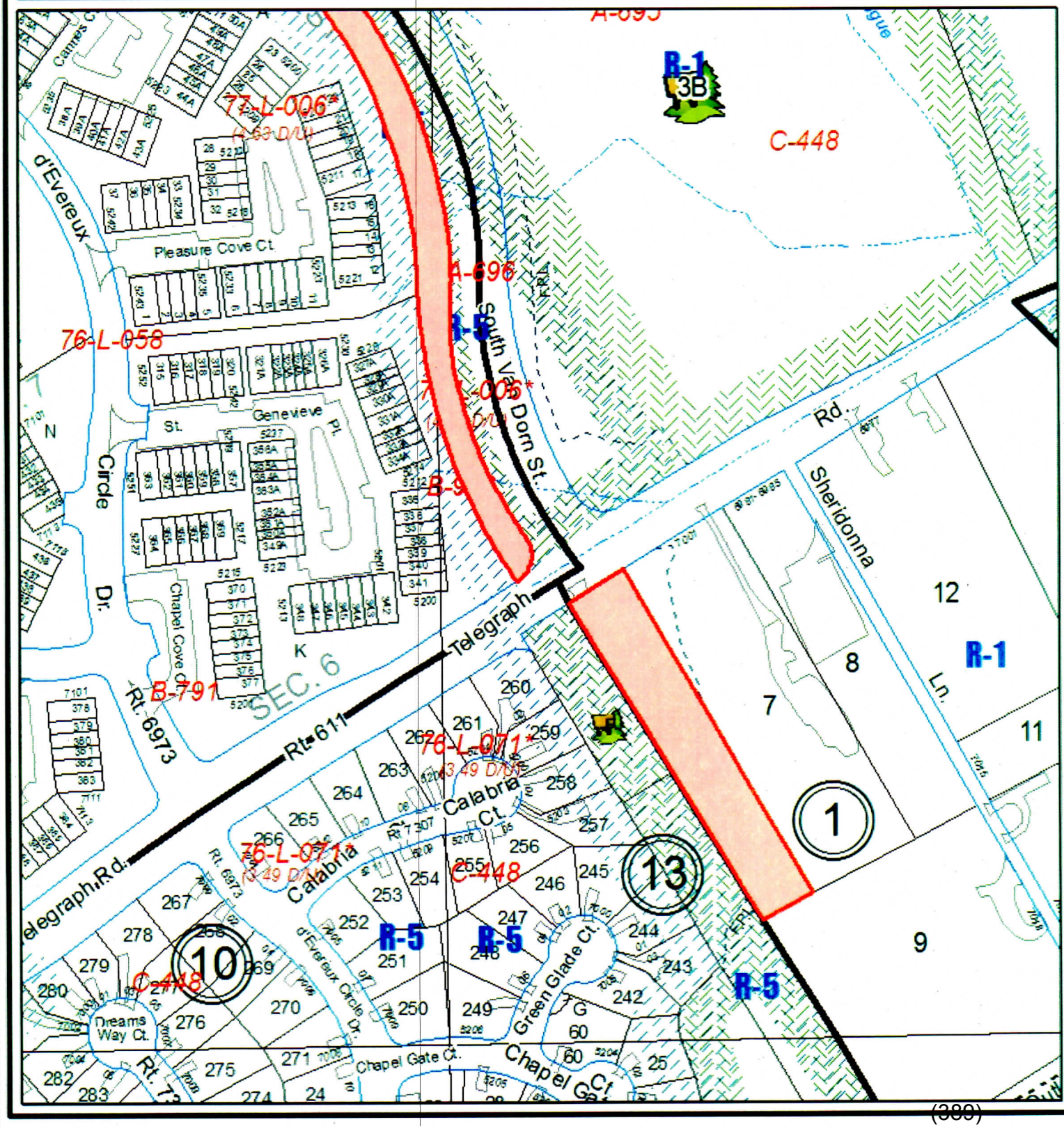
Attachment A

N

0 85 170 340 Feet

Subject Property:
Parcels: 0912 09 H1
0921 01 0006





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Board Agenda Item
February 28, 2012

4:30 p.m.

Public Hearing to Consider Proposed Amendments to the Home Child Care Facilities Ordinance, Chapter 30, Articles 1 and 3 of the *Fairfax County Code*

ISSUE:
Public hearing on proposed amendments to Chapter 30, Articles 1 and 3 of the *Fairfax County Code,* to become effective July 1, 2012. The amendments are the result of a comprehensive review of the ordinance by the Child Care Advisory Council, the Department of Family Services, Office for Children and the Office of the County Attorney. The ordinance has been reviewed and revised to reflect current health and safety regulations, practices and codes; best practices in the field, updated state home child care regulations; and to reorganize and reword the ordinance for clarity

RECOMMENDATION:
The County Executive recommends adoption of the proposed amendments to Chapter 30, Articles 1 and 3 of the *Fairfax County Code.*

TIMING:
The Board authorized this public hearing on January 24, 2012. Board action on February 28, 2012, at 4:30 p.m. would provide sufficient time to notify all individuals with a home child care facilities permit of the changes to the ordinance before the amendments take effect on July 1, 2012.

BACKGROUND:
Chapter 30, Article 3 of the *County Code* regulates Home Child Care Facilities in which a person cares for five or fewer children. The ordinance is intended to protect the health and safety of children who receive care in family child care homes. Home Child Care Facilities in which a person cares for more than five children are regulated by the Virginia Department of Social Services, Division of Licensing.

First approved in 1989, the County's Home Child Care Facility Ordinance was last significantly revised in 2001. The Board adopted an amendment regarding the storage of firearms in June 2010, and amendments regarding medication administration and national background checks in June 2011.

This past year the Child Care Advisory Council has worked with the Department of Family Services, Office for Children to comprehensively review and update the

ordinance to reflect current health and safety regulations, practices and codes; best practices in the field; updated state home child care regulations; and to reorganize and reword the ordinance for clarity. The Department of Family Services, Office for Children has worked in partnership with the Office of the County Attorney, the Health Department, the Fire and Rescue Department and the Department of Planning and Zoning during this process. Staff has also worked with county family child care associations, the City of Fairfax and the City of Falls Church.

As a result, staff proposes a number of amendments to *County Code*, Chapter 30, Article 1 (definitions and administration/enforcement provisions) and Article 3 (the Home Child Care Facilities ordinance). The Child Care Advisory Council has approved the amendments that staff is proposing. The following are proposed amendments that reflect the primary substantive changes to the ordinance:

<u>Section 30-1-1: Barrier offenses</u>
The list of offenses that bar an applicant from obtaining a County home child care permit have been updated so that they are the same as the offenses that bar an applicant from receiving a state child care license.

<u>Section 30-3-2 a: Annual permit application, issuance or denial</u>
The provider and all adult household members will be required to have a TB screening bi-annually. Currently the provider is the only adult in the household required to have a TB screening every two years.

Providers will be required to have a written emergency preparedness plan.

<u>Section 30-3-4 b: Operator Qualifications</u>
All new and renewing providers will be required to complete 16 hours of training annually. The new requirement will be phased in over a three-year period. Currently, new providers are required to complete 12 hours of training annually; renewing providers are required to complete 6 hours of training annually. The new requirement would bring County-permitted providers into parity with state-licensed child care providers, who must complete 16 hours of training annually.

<u>Section 30-3-6 c: Physical facilities, equipment and operation</u>
Providers will be required to provide adequate space for each child to allow free movement and active play indoors and out.

Providers are currently required to provide a crib for overnight care. The proposed amendments also would require the provider to provide appropriate sleeping equipment during rest times as identified by the United States Consumer Product Safety Commission.

Additionally, staff proposes adding the following new sections/items:

New Section 30-3-4.1: Substitute Care Providers
When a provider must be away from the home child care facility, a substitute care provider may be used. Substitute care shall not exceed 240 hours per calendar year. Any substitute care provider must be an adult. All substitutes must: pass criminal background checks, be certified in first aid, be certified annually in CPR and receive a TB screening every two years.

Currently, the ordinance does not allow for substitute care. This proposed new section will require an amendment to the Zoning Ordinance, Article 10, Part 10-103 so that both ordinances will be aligned regarding substitute care. The Department of Planning and Zoning intends to present the Zoning Ordinance amendment to the Board on March 20, 2012. Accordingly, Section 30-3-4.1 has a contingent effective date.

Section 30-3-6 q & r: Physical facilities, equipment and operation
The addition of regulations for swimming and wading activities including:

- The provider and another adult 18 years or older shall be present and able to supervise the children.
- The home child care facility shall annually obtain written permission from the parent of each child who participates.
- The provider must obtain a written statement from the parent advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.
- An individual certified in basic water rescue, community water safety, water safety instruction, or lifeguarding must be on duty to supervise children. The certification shall be obtained from a national organization such as the American Red Cross or the YMCA.

The addition of a drowning hazard safety policy:

- Access to the water in above-ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to children.
- A non-climbable barrier at least four feet high such as, but not limited to, a fence or impenetrable hedge shall surround outdoor play areas located within 30 feet of drowning hazards such as, but not limited to, in-ground swimming or wading pools, ponds, or fountains not enclosed by safety fences.
- Hot tubs, spas, and whirlpools shall not be used by children in care, and shall be covered with safety covers while children are in care.

New Section 30-3-6-1: Home child care facility fire safety requirements
The Fire and Rescue Department has updated all fire safety items, currently Chapter 30, according to Fairfax County Code Chapter 62: Fire Protection Code. All fire safety

items have been grouped into a new section. New requirements included in the proposed amendments include the following:

- A landline telephone will be required.
- Carbon monoxide alarms will be required.
- Stored machinery must be inaccessible to the children in care.
- Any room used as a sleeping area must have two means of exit, as required by the Virginia Uniform Statewide Building Code.
- Inspections will be required for fireplaces and wood stoves.

FISCAL IMPACT:
Some of the proposed amendments to the ordinance will result in additional costs to the provider. These include the requirement that additional adults in the household have a TB screening, CPR be renewed annually, the provider have a landline telephone, the provider have a carbon monoxide alarm in the home, and fireplace and woodstove inspections and cleaning if applicable.

ENCLOSED DOCUMENTS:
Attachment 1: Draft amendments to Chapter 30, Articles 1 and 3

STAFF:
Nannette M. Bowler, Director, Department of Family Services
Ronald L. Mastin, Chief, Fire and Rescue Department
Dereck A. Baker, Deputy Chief, Fire and Rescue Department
Erin C. Ward, Assistant County Attorney
Rosalyn Foroobar, Deputy Director for Health Services, Health Department
Eileen McLane, Zoning Administrator, Department of Planning and Zoning
Anne-Marie D. Twohie, Director, Office for Children

AN ORDINANCE AMENDING CHAPTER 30 OF THE FAIRFAX COUNTY CODE, RELATING TO HOME CHILD CARE FACILITIES

Draft of December 29, 2011

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 30-1-1, 30-3-2, 30-3-3, 30-3-4, 30-3-6, 30-3-7, 30-3-8, 30-3-9, 30-3-10, and by adopting two new Sections numbered 30-3-4.1 and 30-3-6.1, all relating to home child care facilities.

Be it ordained by the Board of Supervisors of Fairfax County:

1. That Sections 30-1-1, 30-3-2, 30-3-3, 30-3-4, 30-3-6, 30-3-7, 30-3-8, 30-3-9, 30-3-10 of the Fairfax County Code are amended and readopted, and two new Sections numbered 30-3-4.1 and 30-3-6.1 are adopted, as follows:

ARTICLE 1. - In General.

Section 30-1-1. - Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Adult means a person 18 years of age or older.

[Drafting note: The definition of "barrier offense" has been changed to mirror the list of offenses that bar receipt of a state child care permit.]

Barrier offense means offenses which bar an applicant from obtaining a home child care facility permit pursuant to this Chapter or mandate revocation of an outstanding permit. Barrier offenses are:

(1) If the ~~operator, a~~ provider~~,~~ or any person who resides in the home is convicted of (a) any of the following offenses set out in the Virginia Code: murder <u>or manslaughter</u> as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2~~,~~<u>;</u> malicious wounding by mob as set out in § 18.2-41~~,~~<u>;</u> abduction as set out in § 18.2-47<u>(</u>A<u>)</u>~~,~~<u>;</u> abduction for immoral purposes as set out in § 18.2-48~~,~~<u>;</u> ~~assault~~ <u>assaults</u> and bodily wounding<u>s</u> as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2~~,~~<u>;</u> robbery as set out in

§ 18.2-58~~,~~; car jacking as set out in § 18.2-58.1~~,~~; ~~extortion by threat~~ threats of death or bodily injury as set out in § 18.2-60~~,~~; ~~any~~ felony stalking ~~violation~~ as set out in § 18.2-60.3~~,~~; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2~~,~~; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2~~,~~; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2~~,~~; any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2~~,~~; drive-by shooting as set out in § 18.2-286.1~~,~~; use of a machine gun in a crime of violence as set out in § 18.2-289~~,~~; aggressive use of a machine gun as set out in § 18.2-290~~,~~; use of a sawed-off shotgun in a crime of violence as set out in § 18.2-300(A)~~,~~; pandering as set out in § 18.2-355~~,~~; crimes against nature involving children as set out in § 18.2-361~~,~~; incest as set out in § 18.2-366~~,~~; taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1~~,~~; abuse and neglect of children as set out in § 18.2-371.1~~,~~; failure to secure medical attention for an injured child as set out in § 18.2-314~~,~~; obscenity offenses as set out in § 18.2-374.1~~,~~; possession of child pornography as set out in § 18.2-374.1:1~~,~~; electronic facilitation of pornography as set out in § 18.2-374.3~~,~~; abuse and neglect of incapacitated adults as set out in § 18.2-369~~,~~; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379~~,~~; delivery of drugs to prisoners as set out in § 18.2-474.1~~,~~; escape from jail as set out in § 18.2-477~~,~~; felonies by prisoners as set out in § 53.1-203~~,~~; or (b) an equivalent offense in another state; or (c) any other felony unless ~~in the~~ five years ~~prior to~~ have elapsed since ~~the application date~~ the conviction. Convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on ~~an offense which~~ a crime that would ~~have been at the time of conviction~~ be a felony ~~conviction~~ if committed by an adult within or outside the Commonwealth.

(2) If the ~~operator, a~~ provider~~,~~ or a person who resides in the home is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and

(3) If the ~~operator~~ provider makes a false statement regarding a material fact on an application for a home child care permit under this Chapter; this bar shall remain in effect for a period of one year from the time the permit is denied or revoked on this basis.

Director of Health means the Director of the Fairfax County Health Department or the authorized agent of the Director of the Fairfax County Health Department.

Director of the Office for Children means the Director of the Fairfax County Office for Children or the authorized agent of the Director of the Fairfax County Office for Children.

Home child care facility means any facility located in a dwelling or mobile home, as defined in Article 20 of Chapter 112 of the Fairfax County Code (the Zoning Ordinance), where a person, for compensation, regularly provides care, protection, supervision and

guidance to one or more children who do not reside in the facility and who are not attended by a parent, guardian or legal custodian while they are in that facility, during a part of the day for at least four days of a calendar week. If, on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children in a structure other than a dwelling or mobile home, as defined in the Zoning Ordinance, that facility shall be deemed to be a child care center and included within those facilities defined in this Section. A home child care facility does not include: (i) any family day home licensed by the Commonwealth pursuant to Virginia Code § ~~63.1-196~~ 63.2-1701 or any facility exempted from licensure by Virginia Code § ~~63.1-196.3~~ 63.2-1715; (ii) any dwelling or mobile home where a person provides care solely for children who reside there; or (iii) any dwelling or mobile home where a person provides care solely for relatives of the resident owner or tenant. However, if on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children who do not reside in that dwelling or mobile home and who are not attended by a parent, guardian or legal custodian while they are in that dwelling or mobile home during a part of the day for at least four days of a calendar week, and a home child care facility is established thereby, then any children who are related to the person who provides such care and are present in that dwelling or mobile home and any other children who reside in that dwelling or mobile home shall be counted and considered in determining whether the facility complies with the provisions of this Chapter.

Occasional child care means care provided on an hourly basis, for one or more children between the ages of six weeks and twelve years of age, for a period not to exceed four hours within any one day, which is contracted for by a parent, guardian, or legal custodian for the same child not more than ten days within a calendar month.

Permit means authorization from the County to operate a private school, nursery school, child care center or home child care facility for the care, guidance, education, training or protection of children in compliance with this Chapter.

Private school, nursery school, or child care center means any place, home, facility, or institution, however designated, or any part thereof, that (1) is eligible for an exemption from state licensure pursuant to Virginia Code §§ ~~63.1-196.3 or 63.1-196.3:1~~63.2-1716 and 63.2-1717; (2) is operated for the purposes of providing care, guidance, education or training; and (3) receives on a regular basis, for any period of more than one hour but less than twenty-four hours in any twenty-four-hour period, one or more children under the age eligible for enrollment in the Fairfax County Public Schools who are not attended by a parent, guardian or person with legal custody. A home child care facility, as defined in this Section, shall not be included within this definition.

Provider means the ~~operator~~ adult responsible for obtaining the permit and for the day-to-day operation of ~~a~~ the home child care facility. The provider is responsible for ~~and any other person who provides~~ providing care, protection, supervision, and guidance to

children in a home child care facility ~~for compensation~~.

Substitute Care Provider means any person who provides care, protection, supervision, and guidance to children when the provider is away from the home child care facility.

Section 30-1-2. - Administration and enforcement of Chapter.

The Director of Health shall administer and enforce the provisions of Article 2 of this Chapter. The Director of the Office for Children and the Chief of the Fairfax County Fire and Rescue Department or the agent of the Chief ("the Fire Code Official") shall administer and enforce the provisions of Article 3 of this Chapter.

ARTICLE 3. - Home Child Care Facilities.

Section 30-3-2. - Annual permit application, issuance or denial.

(a) A person proposing to operate a home child care facility shall submit an application on a form prepared by the Director of the Office for Children, which shall include:

(i) The name and address of the home child care facility;

(ii) The name of the applicant;

(iii) A statement of whether the applicant currently holds or previously held a home child care facility permit in the County;

(iv) The names of ~~all providers and~~ all persons who reside in the home;

(v) Disclosures from the applicant~~, each provider,~~ and each adult who resides in the proposed facility stating whether he or she has committed any barrier offense, consent forms signed by the applicant~~, each provider,~~ and each adult who resides in the proposed facility allowing the Director of the Office for Children to request a search of the Central Criminal Records Exchange for files on each such person, and payment of an investigation fee in an amount equal to the fee established by the Virginia State Police for conducting a records search multiplied by the number of persons making disclosures and providing consent forms. When the Central

Criminal Records Exchange records indicate that any such person has a criminal record in another state, or when the Director otherwise deems appropriate, the Director may also require that the applicant~~, the provider,~~ or ~~the~~ such adult who resides in the proposed facility consent to and pay for a national criminal background check;

(vi) Statements from the applicant~~, each provider,~~ and each adult who resides in the proposed facility, and statements from a parent, guardian or legal custodian on behalf of all minors age 14 and older who reside in the proposed facility, consenting to the release of information to the Director of the Office for Children from child protective services investigating agencies reflecting whether any such individual has been the subject of a founded complaint of abuse or neglect; the term~~s~~ "child protective services" ~~and "investigating agencies"~~ shall have the meaning defined by Virginia law;

(vii) Copies of the applicant's certifications in pediatric first aid and pediatric cardiopulmonary resuscitation (CPR);

(viii) Proof of the applicant's compliance with the training requirements established in Section 30-3-4(b), which shall consist of records provided by the trainer or, if none are provided by the trainer, records maintained by the applicant;

(ix) A description of the structure in which the home child care facility is proposed to be operated, including a description of all places and areas to which the children shall have access;

(x) The proposed hours of operation;

(xi) A statement of whether the applicant is eighteen or more years old;

(xii) A certificate from a physician, physician's designee, or Health Department official stating that acceptable screening methods (tuberculin skin test and/or tuberculosis risk and symptom screen and/or chest X-ray), singly or in combination as determined appropriate by the signatory, indicate that the applicant and all ~~providers~~ adult household members are currently free from communicable tuberculosis. The screen must be performed ~~not more than 24 months~~ prior to coming into contact with children and it shall be conducted every two years ~~the date on which the application is submitted;~~ or more frequently as recommended by a physician or the local health department;

(xiii) A written policy describing what the applicant will do with children in care who are sick and a written emergency preparedness plan;

(xiv) Such other information, including, but not limited to, information concerning applicant's child care training and special skills, as the Director of the Office for Children may deem appropriate;

(xv) The application fee of $14, which is in addition to any business or occupation license tax imposed by the County, and any other taxes or fees that may be required to engage in the business.

During the term of the permit, the ~~operator~~ provider must report to the Director of the Office for Children any change in the information required by subsections (iv), (v), (vi), and (xii) within 21 days of learning of the change.

(b) Upon submission of an application to the Office for Children:

(i) The Director of the Office for Children shall inspect the proposed facility to determine whether it is in compliance with this Article and all applicable Virginia law that may affect the health and safety of the children who may attend or be present at the facility.

(ii) The ~~Chief of the Fairfax County Fire and Rescue Department or the agent of the Chief~~ Fire Code Official shall conduct a fire safety inspection of the proposed facility and advise the Director of the Office for Children of any noncompliance with this Article or any applicable Virginia law that may affect the health and safety of the children who may attend or be present at the facility.

(iii) If the applicant does not hold a permit under this Article at the time of the application, the Director of the Office for Children shall request a search of the Central Criminal Records Exchange to determine whether the applicant~~, any provider~~ or any persons who reside in the home have committed any crimes that constitute barrier offenses. When the Central Criminal Records Exchange records indicate that any such person has a criminal record in another state, or when the Director otherwise deems appropriate, the Director may also require that the applicant~~, the provider,~~ or ~~the~~ such adult who resides in the proposed facility consent to and pay for a national criminal background check. Otherwise, the Director may request a criminal records search if five or more years have passed since the last records search on an individual, or upon receipt of new information submitted in accordance with this section, or as the Director deems appropriate in

extenuating circumstances.

(iv) The Director of the Office for Children shall request information from child protective services investigating agencies as deemed necessary to determine whether the applicant~~, any provider~~ or any person age 14 and older who resides in the proposed facility has been the subject of a founded complaint of abuse or neglect.

(c) The Director of the Office for Children shall issue a permit to an applicant if the Director determines from the information contained in the permit application, the facility inspections, and the records searches that (i) the applicant is an adult; (ii) neither the applicant~~,~~ nor ~~any provider or~~ any person who resides in the facility has committed any barrier offense; and (iii) both the applicant and the proposed facility are in compliance with this Article and all applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the proposed facility. The permit shall be displayed in the home child care facility by the ~~operator~~ provider ~~of that facility~~.

(d) The Director of the Office for Children shall deny a permit to any applicant if the Director determines from the information contained in the permit application, the facility inspections, and the records searches that (i) the applicant is not an adult; (ii) the applicant~~, any provider,~~ or any person who resides in the facility has committed any barrier offense; or (iii) either the applicant or the proposed facility is not in compliance with this Article and all applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the proposed facility. If the denial is based on the results of the searches of the records of the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the Director shall provide the applicant a copy of the information upon which the denial was based.

Section 30-3-3. - Temporary permits.

(a) A person proposing to operate a home child care facility that is not in compliance with the requirements of this Article may apply to the Director of the Office for Children for a temporary permit to operate a home child care facility for a period of not more than six months. The Director of the Office for Children may grant such a temporary permit for a period of not more than six months if the applicant:

(i) Is an adult;

(ii) Certifies that all the requirements of this Article will be met within six months

from the date of issuance of the temporary permit or within such lesser period as may be approved by the Director;

(iii) Agrees to apply for a regular permit as soon as the facility is able to comply with the requirements of this Article;

(iv) Certifies that neither the applicant~~, any provider,~~ nor any adult who resides in the proposed facility has committed any barrier offense; and

(v) The Director of the Office for Children has no information which is contrary to the applicant's certification.

(b) If the holder of a temporary home child care facility permit is unable to comply with the requirements of this Article within the period authorized by the temporary permit period, the holder of the temporary permit may apply to the Director of the Office for Children for an extension of the temporary permit for an additional period of not more than six months. If in the judgment of the Director of the Office for Children the failure to comply with the provisions of this Article was the result of circumstances beyond the control of the holder of the temporary permit then the Director of the Office for Children may extend the temporary permit for an additional period of not more than six months.

Section 30-3-4. - ~~Operator~~ Provider Qualifications.

(a) ~~Each operator~~ The provider must be an adult.

[Drafting note: Training requirements are increased over time to match the training requirement that state regulations impose on family day home providers.]

(b) ~~Each operator~~ The provider must be trained in areas such as physical, intellectual, social, and emotional child development, behavior management and discipline techniques, health and safety in the home child care environment, art and music activities for children, nutrition, child abuse detection and prevention, ~~or~~ recognition and prevention of the spread of communicable diseases, emergency preparedness, and business practices of family child care. Until January 1, 2014, any ~~Any~~ applicant who does not hold a permit under this Article at the time he or she submits a permit application must attend 12 hours of training by an approved trainer during the term of the permit. ~~After January 1, 2002,~~ Until January 1, 2013, any applicant who holds a permit under this Article at the time he or she submits an application for a new permit must attend six hours of training by an approved trainer

within twelve months immediately preceding the date of the application. From January 1, 2013, until December 31, 2013, any applicant who holds a permit under this Article at the time he or she submits an application for a new permit must attend 12 hours of training by an approved trainer within twelve months immediately preceding the date of the application. From January 1, 2014, to December 31, 2014, any applicant must attend 14 hours of training by an approved trainer within twelve months immediately preceding the date of the application. Beginning January 1, 2015, any applicant must attend 16 hours of training by an approved trainer within twelve months immediately preceding the date of the application. The Director of the Office for Children shall maintain a list of entities that are approved as trainers. Upon request from ~~an applicant or operator~~ the provider, accompanied by information about the entity and/or the course, the Director of the Office for Children may approve additional trainers or a specific course.

(c) ~~Each operator~~ The provider must be certified in pediatric first aid and certified annually in pediatric cardiopulmonary resuscitation (CPR).

(d) In addition to the training required in subsection (b) above, and except as set forth in Section 30-3-6 ~~(bb) and (cc)~~ (o) and (p), ~~an operator~~ a provider who administers prescription medications or non-prescription medications to children in care must satisfactorily complete a training program for this purpose developed or approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist. Providers required to complete the training program shall be retrained at three-year intervals.

[Drafting note: Section 30-3-4.1 has a separate effective date; this proposed new section will take effect only if the Board adopts an amendment to the Zoning Ordinance to allow substitute care providers for home child care facilities. Staff expects that the Board will consider such a proposed Zoning Ordinance amendment on March 20, 2012.]

Section 30-3-4.1. – Substitute Care Providers.

(a) When a provider must be away from the home child care facility, a substitute care provider may be used. Substitute care shall not exceed 240 hours per calendar year. Any substitute care provider must be an adult.

(b) The substitute care provider shall submit to the Director of the Office for Children the disclosure and statement required of providers by Section 30-3-2(a), subsections (v) and (vi), along with payment of the applicable fees. A provider shall not use a substitute

care provider until the Director has notified the provider that the substitute care provider has not committed a barrier offense.

(c) The substitute care provider must be certified in pediatric first aid and certified annually in pediatric cardiopulmonary resuscitation (CPR). The provider must maintain copies of the certifications.

(d) The substitute care provider must have a tuberculosis screening in accordance with Section 30-3-2(xii). The provider must maintain copies of the screenings.

Section 30-3-6. - Physical facilities, equipment and operation.

(a) Providers shall supervise children in a manner which ensures that the provider is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary. In deciding how closely to supervise children, providers shall consider the ages of the children, individual differences and abilities, layout of the house and play area, neighborhood circumstances or hazards and risk activities in which children are engaged.

(b) All rooms used for child care shall be dry, well-lighted and have adequate ventilation and shall be smoke free when any child in care is present. Windows that can be opened shall be screened from April 1 through November 1 of each year.

(c) ~~An outdoor recreation area shall be provided for use by the children.~~ The provider shall provide each child with adequate space to allow free movement and active play indoors and out. Indoor and outdoor areas shall provide developmentally appropriate activities, supplies, and materials that are safe and accessible. All areas shall be free of dangerous and hazardous conditions.

(d) Covered, washable waste receptacles shall be provided for all waste materials, diapers, garbage, and refuse. Trash and other waste materials shall be removed as often as necessary to prevent excessive accumulations and shall be deposited in ~~approved~~ trash or waste disposal containers.

(e) Toxic or dangerous materials shall be stored in areas that are inaccessible to children and separate from food supplies and areas in which food is prepared.

(f) Dogs and cats four months old or older that regularly are present at the facility shall be immunized for rabies, and records of such immunizations shall be kept

available at the facility for inspection by the Director of the Office for Children.

(g) A refrigerator shall be used for perishable food and that refrigerator shall maintain a constant temperature of 41 degrees Fahrenheit or less. Food brought into any home child care facility for consumption by nonresident children shall be clearly marked for consumption by the children for whom the food is intended. Meals or snacks shall be offered to the children at least once every three hours. Home child care facilities that provide meals or snacks to children in care shall follow the most recent, age-appropriate nutritional guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service.

(h) Each home child care facility that is not served by a public water supply shall have a private water supply approved by the Department of Health. Each home child care facility that is not served by a public sewage disposal system shall have a private sewage disposal system approved by the Department of Health. Drinking water from a public water supply, well permitted by the Department of Health, or other source acceptable to the Department of Health shall be available for all children.

[Drafting note: The language currently in subsection (i) has been revised and moved to Section 30-3-6.1, along with other requirements that are related to fire safety. The language below now designated as subsection (i) was previously set forth as subsection (t) and has been relocated and relettered, but is otherwise unchanged.]

(i) Except for those rooms used by children while sleeping under covers, all rooms used for child care shall be maintained at a temperature of not less than 68 degrees Fahrenheit.

(j) Providers shall not use or allow any other person to use corporal punishment, physical, verbal, or emotional punishment, or any humiliating or frightening methods of discipline.

(k) Firearms of every type and purpose shall be stored unloaded in a locked container, compartment, or cabinet, and apart from ammunition. Ammunition shall be stored in a locked container, compartment, or cabinet during the home child care facility's hours of operation. If a key is used to lock the container, compartment, or cabinet, the key shall be inaccessible to children.

[Drafting note: Subsections (l) through (s) and (u) through (x), all relating to fire safety, have been revised and relocated to a new Section 30-3-6.1.]

~~(y)~~(l) Providers shall handle blood, bodily fluids, and other potentially infectious materials as if known to be infectious for human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens.

~~(z)~~(m)~~The operator shall have appropriate sleeping arrangements for all children in care~~. During rest times the provider shall provide appropriate sleeping equipment that meets the current standards of the United States Consumer Product Safety Commission for children birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or bed. If children are in care overnight on a regular or frequent basis, then the ~~operator~~ provider shall provide cribs that meet the current standards of the United States Consumer Product Safety Commission for full-size baby cribs for children from birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or bed.

~~(aa)~~(n) All home child care facilities shall be maintained free from rodents and insect infestation ~~insects and rodents~~.

~~(bb)~~(o) Except as set forth in subsection ~~(cc)~~ (p) below, whenever the home child care facility has agreed to administer prescription medications or non-prescription medications, the medication shall be administered in compliance with the Virginia Drug Control Act by a provider who has satisfactorily completed the training required by Section 30-3-4(d).

~~(cc)~~(p) Notwithstanding subsection ~~(bb)~~ (o) above, a provider may administer nonprescription topical skin products such as sunscreen, diaper ointment and lotion, oral teething medicine, and insect repellent, provided the following requirements are met:

(i) The provider has obtained written authorization, at least annually, from a parent or guardian noting any known adverse reactions;

(ii) The product is in the original container and, if the product is provided by the parent, labeled with the child's name;

(iii) The product is applied in accordance with the manufacturer's instructions;

(iv) Parents are informed immediately of any adverse reaction;

(v) The product shall not be used beyond the expiration date of the product;

(vi) Sunscreen must have a minimum sunburn protection factor (SPF) of 15; and

(vii) The product does not need to be kept locked, but shall be inaccessible to children.

[Drafting note: Provisions regarding swimming and wading are being added to impose requirements similar to those imposed by state regulations on family day homes.]

(q) The home child care facility shall annually obtain written permission from the parent of each child who participates in swimming or wading activities, and a written statement from the parent advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.

(i) The provider shall have a system for accounting for all children in the water.

(ii) Outdoor swimming activities shall occur only during daylight hours.

(iii) When one or more children are in water that is more than two feet deep in a pool, lake, or other swimming area on or off the premises of the home child care facility:

a. The provider and another adult 18 years or older shall be present and able to supervise the children; and

b. An individual currently certified in basic water rescue, community water safety, water safety instruction, or lifeguarding shall be on duty supervising the children participating in swimming or wading activities at all times. The certification shall be obtained from a national organization such as the American Red Cross or the YMCA.

(r) Access to the water in above-ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to children.

(i) A non-climbable barrier at least four feet high such as, but not limited to, a

fence or impenetrable hedge shall surround outdoor play areas located within 30 feet of drowning hazards such as, but not limited to, in-ground swimming or wading pools, ponds, or fountains not enclosed by safety fences. Facilities permitted prior to the effective date of this ordinance must comply fully with the requirement of this subsection by January 1, 2013.

(ii) Portable wading pools without integral filter systems shall be emptied, rinsed, and filled with clean water after use by each group of children or more frequently as necessary; and shall be emptied, sanitized, and stored in a position to keep them clean and dry when not in use during the home child care facility's hours of operation. Portable wading pools shall not be used by children who are not toilet trained. Bathtubs, buckets, and other containers of liquid accessible to children shall be emptied immediately after use.

(iii) Hot tubs, spas, and whirlpools shall not be used by children in care, and shall be covered with safety covers while children are in care.

Section 30-3-6.1. – Home child care facility fire safety requirements.

[Most of these provisions have been relocated from Section 30-3-6 into this new Section 30-3-6.1 and revised. Underlining/strikeouts show changes from the corresponding current provision in Section 30-3-6.]

~~(i) An operational telephone shall be available and easily accessible within the home child care facility, and emergency telephone numbers for fire, police and medical assistance shall be posted near the telephone. Each such facility shall have the address of the building posted in a manner so as to be visible and distinguishable from the street or parking lot.~~

(a) A landline telephone (excluding a cordless or cell) shall be available, operable, and accessible during the home child care facility's hours of operation. Cordless or cell phones may be used in addition to the landline telephone.

(b) All telephones shall be labeled with 911 stickers approved by the Office of the Fire Code Official.

(c) Address numbers or building numbers shall be placed in a position that is plainly legible and visible from the street or road fronting the property.

~~(l) Each home child care facility shall be structurally sound and in a good state of repair. The operator shall not allow oil, grease, dust, lint, and other combustible materials to accumulate on cooking surfaces; heating, ventilation, and air conditioning equipment; clothes dryers; and other mechanical equipment.~~

(d) Combustible waste material, lint, and dust creating a fire hazard shall not be allowed to accumulate in or on dryers, heating appliances, and furnaces.

~~(o) Kitchen ranges, other cooking equipment and other appliances shall be kept in good working order and free from grease, dust, lint, and other combustible materials. Small appliances, including but not limited to hair dryers, toaster ovens, toasters, mixers, blenders, and food processors, shall remain unplugged except when in use.~~

(e) Kitchen ranges, ovens, and exhaust hoods, grease removal devices, fans, ducts, and other appurtenances shall be free of excessive grease.

~~(m) All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code. No exit door that has a double deadbolt lock shall be locked with the key removed from the interior side of the exit door during the hours of child care.~~

(f) All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code.

(g) All egress pathway and exit doors shall be unlocked in the direction of egress and free from obstructions that would prevent their use, including debris, storage, and accumulations of snow and ice.

(h) Closet and bathroom doors shall be unlocked in the direction of egress and designed to permit opening of the locked door from the outside with a readily accessible opening device.

~~(n) Electric panels and equipment shall be in good working order and free of loose connections. Protective sheathing on all wiring shall be intact with no frayed ends or exposed wiring and shall be anchored or supported. Fuses or circuit breakers shall be of the proper size and type. Electric panels shall be readily accessible and a minimum clear space measuring three feet out from the panel and 30 inches wide must be maintained. The use of multi-plug adapters or extension cords to provide permanent power to electrical equipment is prohibited. However, the use of power strips with a~~

~~built-in fuse or circuit breaker is approved if such power strips are of the type approved and listed by a recognized testing authority, such as Underwriter's Laboratories or Factory Mutual Research Corporation.~~

(i) Electrical hazards identified by the Fire Code Official shall be abated in accordance with the Virginia Uniform Statewide Building Code.

(j) Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.

(k) A working space of not less than 30 inches in width, 36 inches in depth, and 78 inches in height shall be provided in front of the electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

~~(p) Electric portable space heaters shall be of the type approved and listed by a recognized testing authority, such as Underwriter's Laboratories or Factory Mutual Research Corporation. Portable heaters shall be provided with suitable guards to prevent contact with the heating element and shall be located a minimum of three feet from combustible materials. The use of unvented, fuel-fired space-heating appliances designed for portable use is prohibited during the hours of child care.~~

(l) The use of portable unvented fuel-fired heating equipment is prohibited except in single-family dwellings classified R-5 by the Virginia Uniform Statewide Building Code. Where allowed, such equipment must be listed and approved by a nationally recognized testing laboratory.

(m) Where portable unvented fuel-fired heating equipment is allowed, the heating element or the combustion chamber shall be permanently guarded so as to prevent accidental contact by persons or combustible material.

~~(q) Fireplaces and chimneys shall be in good condition and free of cracks or voids in the firebox and flue liner. Fireplaces and chimneys shall be inspected and cleaned as often as necessary to remove the buildup of creosote and other flammable residues. A fireplace screen or other protective guard shall be required for all fireplaces.~~

(n) Fireplace screens, glass, or doors shall be in good condition and designed to guard against accidental contact with the combustion chamber contents. The fireplace screen, glass, or doors shall be affixed to prevent accidental release of embers or products of combustion.

~~(r) Wood stoves shall be tested by a recognized testing authority, such as Underwriter's Laboratories or Factory Mutual Research Corporation, and shall be installed and inspected as required by the Virginia Uniform Statewide Building Code. Wood stoves shall be inspected and cleaned as often as necessary to remove the buildup of creosote and other flammable residues. Providers shall take all precautions necessary to minimize potential injury from contact with hot surfaces by any child at the facility.~~

(o) Wood stoves shall be listed and approved by a nationally recognized testing laboratory. Wood stoves shall be used and installed in accordance with the manufacturer's specifications. The provider shall have the manufacturer's specifications available on site for the Fire Code Official's review upon request.

(p) Fireplaces, wood stoves, and chimneys shall be inspected and cleaned annually or as often as necessary to remove the buildup of creosote and other flammable residues. The provider shall have proof of inspection available on site for the Fire Code Official's review upon request.

~~(s) Ashes from fireplaces and woods stoves shall be removed to the outside and stored in a noncombustible container, with a tight fitting lid, that has been approved by the Fire Marshal.~~

(q) Ashes from fireplaces and wood stoves shall be removed to the outside and stored in a container, with a tight fitting lid, which has been listed and approved by a nationally recognized testing laboratory.

~~(w) The storage of flammable or combustible liquids or gases, hazardous chemicals, and other highly flammable or toxic materials shall not be permitted inside the facility unless approved by the Fairfax County Fire Marshal. Storage of other materials shall be neat and orderly with required clearances provided for furnaces, hot water heaters, portable heaters, electric panels, fireplaces, and wood stoves. The exterior of the property shall be kept free from trash or other materials which in the opinion of the Fairfax County Fire Marshal pose a fire or safety hazard.~~

(r) The furnace and other heating appliances shall maintain clearance from ignition

sources as specified by the equipment manufacturer, unless the provider can establish cause for an exception.

(s) Storage of combustible materials in buildings shall be orderly. Storage shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.

(t) Heating systems and associated ductwork shall be clean and in good working order. Adequate combustion air must be provided as required by the Virginia Uniform Statewide Building Code. Flues for the exhaust of carbon monoxide and other by-products of combustion shall be free of leaks and in good repair. ~~Except for those rooms used by children while sleeping under covers, all rooms used for child care shall be maintained at a temperature of not less than 68 degrees Fahrenheit.~~

~~(u) An operable smoke detector shall be provided on each floor level and shall be tested at least once a month. Smoke detectors may be of the fixed-wired or battery type.~~

(u) An operable smoke alarm shall be provided outside of each sleeping area, with at least one such device on each floor. Each smoke alarm shall be tested at least once a month and records of testing provided to the Fire Code Official upon request. Smoke alarms may be of the fixed-wired or battery type.

(v) An operable carbon monoxide alarm shall be installed in homes according to the manufacturer's specifications where appliances may produce carbon monoxide. Each carbon monoxide alarm shall be tested at least once a month and records of testing provided to the Fire Code Official upon request.

~~(v) At least one portable fire extinguisher, having a minimum rating of 1A10BC shall be provided. The extinguisher shall be properly mounted, readily accessible and be located near the kitchen.~~

(w) Portable fire extinguishers having a minimum rating of 1A10BC shall be properly mounted and readily accessible (i) within 30 feet of cooking equipment; and (ii) in areas where flammable liquids are stored, used, or dispensed.

(x) Portable fire extinguishers shall be selected, installed, and maintained in accordance with the manufacturer's specifications. All fire extinguishers shall be replaced at least every six years.

~~(w) The storage of flammable or combustible liquids or gases, hazardous chemicals, and other highly flammable or toxic materials shall not be permitted inside the facility unless approved by the Fairfax County Fire Marshal. Storage of other materials shall be neat and orderly with required clearances provided for furnaces, hot water heaters, portable heaters, electric panels, fireplaces, and wood stoves. The exterior of the property shall be kept free from trash or other materials which in the opinion of the Fairfax County Fire Marshal pose a fire or safety hazard.~~

(y) Storage of flammable or combustible liquids inside buildings in containers and portable tanks shall be in accordance with the Virginia Statewide Fire Prevention Code and the manufacturer's recommendations. Areas of flammable and combustible liquid storage shall be secured to prevent access during the home child care facility's hours of operation.

(i) Combustible waste material creating a fire hazard shall not be allowed to accumulate in buildings, structures, or upon premises.

(ii) Areas of storage of machinery such as lawnmowers and power tools shall be inaccessible to the children in care.

~~(x) A fire drill shall be conducted at least once every month in accordance with instructions provided by the Fire Marshal at the annual inspection of the facility. A written record of each fire drill shall be kept available for inspection by any authorized code enforcement official.~~

(z) The provider shall prepare an emergency evacuation plan, which shall include the preferred method to notify employees, children, and other occupants of an emergency situation; emergency egress routes from each room where child care is permitted; procedures for accounting for employees, children, and other occupants; and the preferred and alternate plans to notify emergency response organizations.

(aa) Fire evacuation drills shall be conducted monthly in all home child care facilities. Records shall be maintained on site and provided to the Fire Code Official upon request. Each record shall include the identity of the person conducting each drill; the date and time of each drill; the notification/initiating method used; the number of occupants evacuated; special conditions simulated; problems encountered; weather conditions when occupants were evacuated; and the time required to accomplish a complete evacuation.

(bb) Rooms used for sleeping must provide two means of exit, one which leads directly

to the outside, as required by the Virginia Uniform Statewide Building Code.

Section 30-3-7. - Immunizations.

The ~~operator~~ provider shall not accept into care any child who has not been immunized, or exempted from mandatory immunization, in accordance with Virginia Code § 32.1-46. The ~~operator~~ provider shall maintain for each child a copy of the child's immunization records; or a statement from the parents certifying that they object on religious grounds but that, to the best of the parent's knowledge, the child is in good health; or a statement from a physician indicating that immunization is not currently advisable for specific health reasons and an estimated date when immunizations can be safely administered.

Section 30-3-8. - Inspection of facilities.

In addition to the inspections required by Section 30-3-2, with the consent of the owner, ~~operator~~ provider, or agent in charge of the facility, or pursuant to a duly issued inspection warrant, the Director of the Office for Children shall have the right at all reasonable times to inspect all areas of any home child care facility that are accessible to children for compliance with this Article. Warrants to inspect any such facility shall be based upon a demonstration of probable cause and supported by affidavit.

Section 30-3-9. - Enforcement.

(a) Any person operating a home child care facility without the permit required by this Article shall be guilty of a Class 2 misdemeanor as provided in Section 1-1-12 of this Code.

(b) Any person subject to this Article who fails to comply with any other requirement of this Article or the permit shall be subject to such administrative action as prescribed in this Section. However, administrative action by the Director of the Office for Children shall not preclude any other administrative, civil or criminal proceedings authorized by law as a result of the same conduct.

(c) The Director of the Office for Children may revoke any permit granted under this Article if during the term of the permit the home child care facility is found by the Director to be in violation of the permit or this Article or if any circumstances exist which, if existing at the time of the permit application, would have warranted denial of the application. The Director of the Office for Children may suspend any permit granted under this Article if during the term of the permit the Director reasonably suspects a violation of the permit, this Article, or any applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the facility. Prior to suspending or revoking any permit, unless in the judgment of the Director of the Office for Children there are exigent health and safety conditions which justify immediate

suspension of a permit, the Director of the Office for Children shall give the ~~operator~~ provider at least ten calendar days written notice of the proposed suspension or revocation. In the case of exigent health and safety conditions which in the judgment of the Director of the Office for Children justify the immediate suspension of the permit, the Director of the Office for Children shall suspend the permit immediately and notify the ~~operator~~ provider as soon as is practicable.

(d) If a permit to operate a home child care facility is revoked or suspended by the Director of the Office for Children, the ~~operator~~ provider shall notify all clients. Evidence of such notification shall be submitted to the Director of the Office for Children.

Section 30-3-10. - Appeals from permit denials, revocations and suspensions.

Any applicant for a home child care facility permit whose application is denied and any ~~operator~~ provider whose permit is suspended or revoked may submit a written request to the Director of the Office for Children for a hearing on the matter. Any request for hearing must be submitted to the Director of the Office for Children within 10 ~~calendar~~ business days of the time the ~~operator~~ provider receives notice of the action regarding which the ~~operator~~ provider seeks a hearing, and must specify the grounds for appeal.

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

3. **That the provisions of this ordinance shall take effect on July 1, 2012, except as set forth in enactment clause 4 below.**

4. **That the provisions of Section 30-3-4.1 shall take effect only if the Board of Supervisors adopts an amendment to the Zoning Ordinance, Article 10, Accessory Uses, Accessory Service Uses, and Home Occupations, Part 1, Accessory Uses and Structures, Section 10-103, Use Limitations, by revising Paragraph 6B to allow use of substitute care providers for home child care facilities for up to 240 hours per calendar year.**

GIVEN under my hand this day of _____ 2012.

_____

Clerk to the Board of Supervisors

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Board Agenda Item
February 28, 2012

4:30 p.m.

Public Hearing on PRC A-502-02 (Fairways I Residential, L.L.C. and Fairways II Residential, L.L.C.) to Approve a PRC Plan Associated with RZ A-502 to Redevelop Existing Multi-Family Dwellings with Single-Family Attached and Multi-Family Dwellings and Bonus Density for Providing ADUs, Located on Approximately 18.82 Acres Zoned PRC, Hunter Mill District

THIS PUBLIC HEARING TO BE DEFERRED

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Board Agenda Item
February 28, 2012

5:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern

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