FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 6, 2015

AGENDA

8:30		Domestic Violence Awareness Month Reception, Reception Area of the Lambert Conference Center
9:00		2015 Exceptional Design Awards Reception, Conference Room 7 of the Lambert Conference Center
9:30		Presentations
10:30		Presentation of the 2015 Environmental Excellence Award
10:40		Presentation of the 2015 Exceptional Design Awards
10:50		Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1		Approval of Traffic Calming Measures and "$200 Additional Fine for Speeding" Signs as Part of the Residential Traffic Administration Program (Dranesville and Braddock Districts)
2		Streets into the Secondary System (Springfield District)
	ACTION ITEMS	
1		Adoption of a Resolution Establishing Procedures for Use of the Construction Management and Design Build Methods of Construction Contracting
11:00		Matters Presented by Board Members
11:50		Closed Session
	PUBLIC HEARINGS	
3:00	**To be deferred**	Public Hearing on SE 2015-MV-003 (First Years Learning Center LLC / Claudia Tramontana) (Mount Vernon District)
3:30		Public Hearing on SE 2015-MV-007 (Felecia Hayes / Saratoga Learning Center) (Mount Vernon District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 6, 2015

	PUBLIC HEARINGS (Continued)	
3:30	**To be deferred**	Public Hearing on SEA 97-M-016 (Extra Space Storage Inc) (Mason District)
3:30		Public Hearing on PCA 2004-PR-044-02 (Tysons Corner Property Holdings LLC, Tysons Corner Holdings LLC, Tysons Corner Residential I LLC, Tysons Corner Office I LLC, and Tysons Corner Hotel Plaza LLC) (Providence District)
3:30		Public Hearing on CDPA 2004-PR-044 (Tysons Corner Property Holdings LLC and Tysons Corner Holdings LLC) (Providence District)
3:30	**To be deferred**	Public Hearing on RZ 2014-MA-011 (Spectrum Development, LLC) (Mason District)
3:30	**To be deferred**	Public Hearing on SE 2014-MA-013 (Spectrum Development, LLC) (Mason District)
3:30		Public Hearing on SE 2015-BR-011 (Jaye S. Bawa) (Braddock District)
3:30		Public Hearing on PCA 85-C-088-10 (Block 4 LLC) (Hunter Mill District)
3:30		Public Hearing on DPA 85-C-088-08 (Block 4 LLC) (Hunter Mill District)
3:30		Public Hearing on PRCA 85-C-088-03 (Block 4 LLC) (Hunter Mill District)
4:00		Public Hearing on a Proposed Zoning Ordinance Amendment Re: Minor/Editorial Revisions
4:00	**To be deferred**	Public Hearing on a Proposed Amendment to the Zoning Ordinance Re: Donation Drop-Off Boxes
4:30		Public Comment

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
October 6, 2015

9:30 a.m.

PRESENTATIONS

SPORTS/SCHOOLS

- CERTIFICATE – To recognize the Langley High School Boys Soccer team for winning its first Virginia Group 6A state championship. Requested by Supervisor Foust.

RECOGNITIONS

- RESOLUTION – To recognize the All Dulles Area Muslim Society — also known as ADAMS — for its contributions to the community. Requested by Chairman Bulova and Supervisor Foust.

- RESOLUTION – To recognize Exxon Mobil for its contributions to the community. Requested by Chairman Bulova.

- RESOLUTION – To recognize the Fairfax County Chamber of Commerce for its 90th anniversary. Requested by Chairman Bulova.

DESIGNATIONS

- PROCLAMATION – To designate November 2015 as Adoption Awareness Month in Fairfax County. Requested by Chairman Bulova.

— more —

Board Agenda Item
October 6, 2015

- PROCLAMATION – To designate October 2015 as Domestic Violence Awareness Month in Fairfax County. Requested by Supervisor Cook.

- PROCLAMATION – To designate October 4-10, 2015, as Fire Prevention Week in Fairfax County. Requested by Chairman Bulova.

STAFF:
Tony Castrilli, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

Board Agenda Item
October 6, 2015

10:30 a.m.

Presentation of the 2015 Environmental Excellence Awards

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
Stella Koch, Chairman, Environmental Quality Advisory Council

Board Agenda Item
October 6, 2015

10:40 a.m.

Presentation of the 2015 Exceptional Design Awards

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
Joseph J. Plumpe, Architectural Review Board Member and Chairman of the Exceptional Design Awards jury

Board Agenda Item
October 6, 2015

10:50 a.m.

Items Presented by the County Executive

Board Agenda Item
October 6, 2015

ADMINISTRATIVE – 1

Approval of Traffic Calming Measures and "$200 Additional Fine for Speeding" Signs as Part of the Residential Traffic Administration Program (Dranesville and Braddock Districts)

ISSUE:
Board endorsement of Traffic Calming Measures and "$200 Additional Fine for Speeding" signs as part of the Residential Traffic Administration Program (RTAP).

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

- Two Speed Humps on Pimmit Drive (Dranesville District)

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

- Queensberry Avenue between Braddock Road and Ravenel Lane (Braddock District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved traffic calming measures as soon as possible. The County Executive also recommends that FCDOT request VDOT to schedule the installation of the approved "$200 Fine for Speeding" signs as soon as possible.

TIMING:
Board action is requested on October 6, 2015.

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 multi-way stop signs (MWS), speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to

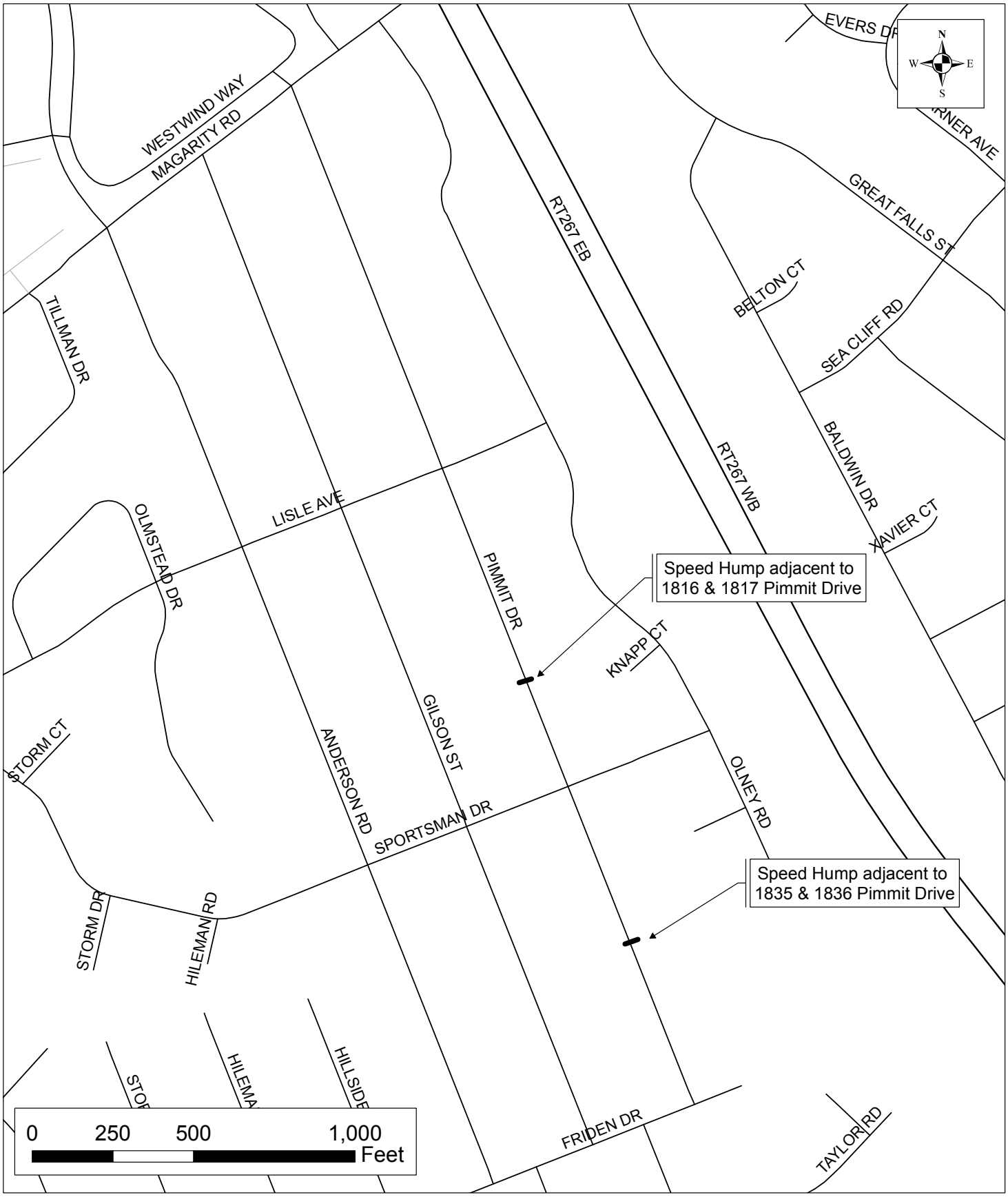
reduce the speed of traffic on a residential street. Staff performed engineering studies documenting the attainment of qualifying criteria. Staff worked with the local Supervisors' office and community to determine the viability of the requested traffic calming measures to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff that plan is then submitted for approval to residents of the ballot area in the adjacent community. On August 20, 2015, the Department of Transportation received verification from the local supervisors office confirming community support for the above referenced traffic calming plan.

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. Queensberry Avenue between Braddock Road and Ravenel Lane (Attachment III) meet the RTAP requirements for posting of the "$200 Additional Fine for Speeding Signs". On October 6, 2014, FCDOT received written verification from the appropriate local supervisor confirming community support.

FISCAL IMPACT:
Funding in the amount of $15,000 for the traffic calming measures associated with the Pimmit Drive project is available in Fund 300-C30050, General Fund, under Job Number 2G25-076-000.
For the "$200 Additional Fine for Speeding" signs an estimated cost of $600 is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for Pimmit Drive
Attachment II: "$200 Additional Fine for Speeding" Signs Resolution- Queensberry Avenue
Attachment III: Area Map of Proposed "$200 Additional Fine for Speeding" Signs- Queensberry Avenue

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Guy M. Mullinax, Transportation Planner, Traffic Engineering Section, FCDOT



AUGUST 2015

A Fairfax Co. Va., publication

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
PIMMIT DRIVE (NORTHERN SECTION)
Dranesville District

Tax Map: 30-3, 40-1

Attachment II

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
$200 ADDITIONAL FINE FOR SPEEDING SIGNS
QUEENSBERRY AVENUE (BRADDOCK 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, October 6, 2015, 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 Queensberry Avenue, from Braddock Road to Ravenel Lane. Such roads also being identified as a Local Roads; and

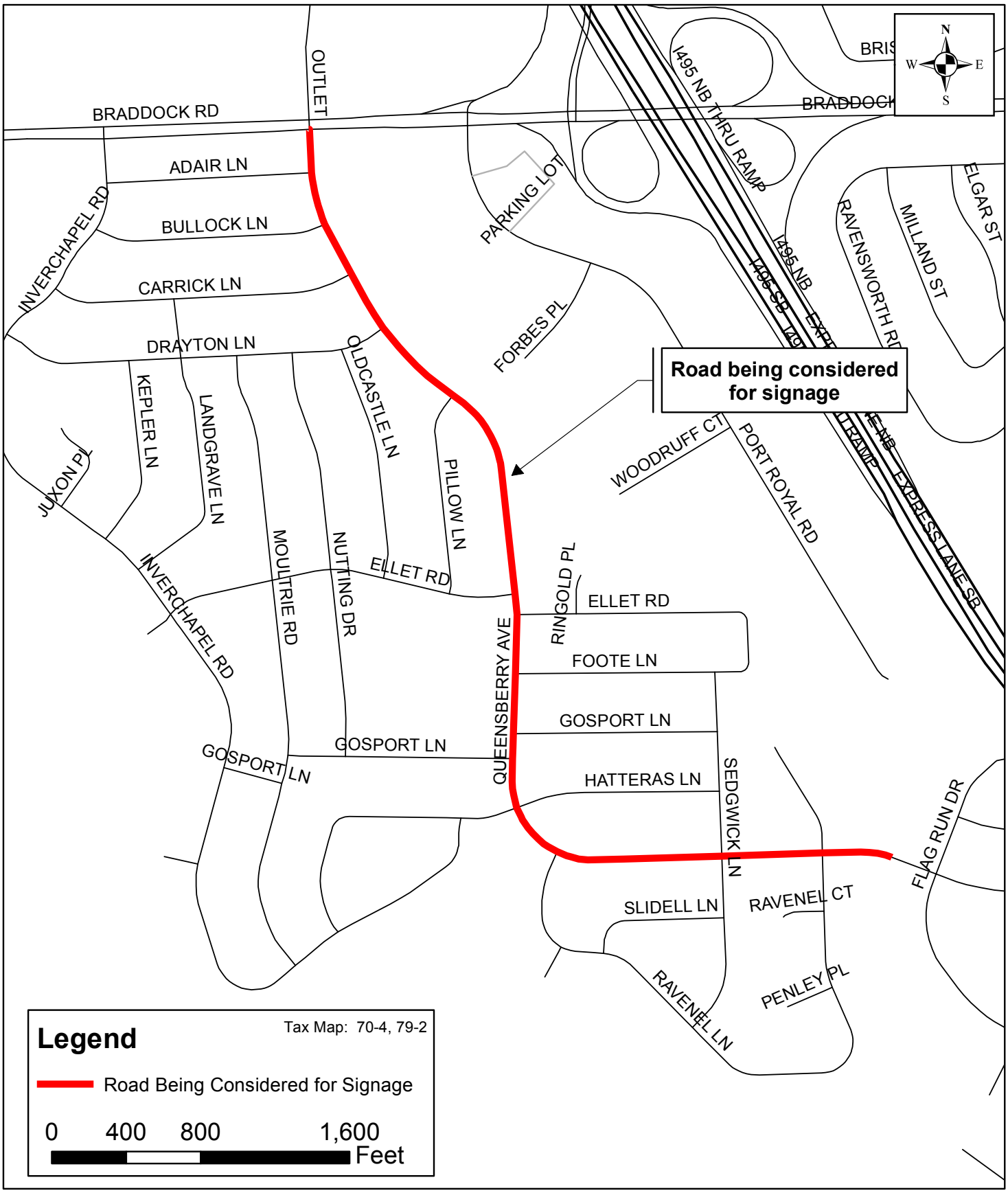
WHEREAS, community support has been verified for the installation of $200 Additional Fine for Speeding" signs on Queensberry Avenue.

NOW, THEREFORE BE IT RESOLVED that "$200 Additional Fine for Speeding" signs are endorsed for Queensberry Avenue from Braddock Road to Ravenel Lane.

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.

A Copy Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors



AUGUST 2015

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED $200 FINE FOR SPEEDING
QUEENSBERRY AVENUE
Braddock District

A Fairfax County, Va., Publication

Board Agenda Item
October 6, 2015

ADMINISTRATIVE – 2

Streets into the Secondary System (Springfield District)

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**
Board of Supervisors Lot 27B (Katherine Hanley Family Shelter)	Springfield	Katherine Hanley Court
		Lee Highway (Route 29) (Supplemental Right-of-Way Only)

TIMING:
Routine.

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

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Street Acceptance Form

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
William D. Hicks, P.E., Director, Land Development Services, DPWES

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.

ENGINEERING MANAGER: Imad A. Salous, P.E.
BY: Nesha Alphonso

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: 4365-SP-001

SUBDIVISION PLAT NAME: Board of Supervisors Lot 27B (Katherine Hanley Family Shelter)

COUNTY MAGISTERIAL DISTRICT: Springfield

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 07/23/2015

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Katherine Hanley Court	Existing Katherine Hanley Court - 198' W CL Meadow Estates Drive (Route 7885)	142' W to End of Cul-de-Sac	0.03
Lee Highway (Route 29) (Supplemental Right-of-Way Only)	198' W CL Meadow Estates Drive (Route 7885)	578' W to End of Dedication	0.0
		TOTALS:	0.03

NOTES:
Katherine Hanley Court: 5' Concrete Sidewalk on South Side to be maintained by VDOT.
Lee Highway: 8' Asphalt Trail on North Side to be maintained by Fairfax County

Board Agenda Item
October 6, 2015

ACTION - 1

Adoption of a Resolution Establishing Procedures for Use of the Construction Management and Design Build Methods of Construction Contracting

ISSUE:
Board of Supervisors' approval of a resolution to establish Fairfax County's construction management and design-build construction procedures.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the attached resolution establishing procedures for use of the construction management and design build methods of construction contracting.

TIMING:
Routine.

BACKGROUND:
The Virginia Public Procurement Act authorizes localities to enter into contracts for construction on a construction management or design-build basis. These procurement methods give the County additional flexibility in selecting a contractor and allow the County to negotiate its contract with the contractor. The construction management and design-build methods, however, are exceptions to the Virginia Public Procurement Act's (VPPA) stated preference for the competitive sealed bid process for procurement of construction services. As such, these methods may only be used in accordance with Virginia Code Ann. § 2.2-4308 (2014), as reflected in Article 3, Section 5 of the Fairfax County Purchasing Resolution.

The VPPA and the Fairfax County Purchasing Resolution require that prior to issuing a Request for Proposal for any construction management or design-build construction project the Board of Supervisors adopt by resolution written procedures governing the selection, evaluation and award of such construction projects. *See* Va. Code Ann. § 2.2-4308; Fairfax County Purchasing Resolution at Article 3, Section 5. These written procedures must comply with certain Code requirements and "be consistent with the procedures adopted by the Secretary of Administration for utilizing the design-build or construction management contracts." Va. Code Ann. § 2.2-4308(A).

The proposed Construction Management Procurement Manual and Design Build Construction Manual follow the state procedures, but, where permitted, have been

adapted to meet the requirements of the County's capital construction departments. The County Purchasing Agent will develop administrative policies to implement these procedures.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I - Resolution
Attachment II - Design-Build Procurement Manual
Attachment III - Construction Management Procurement Manual

STAFF:
Joseph M. Mondoro, Chief Financial Officer
Cathy A. Muse, Director, Department of Purchasing and Supply Management
Patricia Moody McCay, Assistant County Attorney
Thomas E. Fleetwood, Acting Director, Department of Housing and Community Development
Kirk W. Kincannon, Fairfax County Park Authority
James W. Patteson, Director, Department of Public Works and Environmental Services
Thomas P. Biesiadny, Director, Department of Transportation

ATTACHMENT I

Resolution Establishing Procedures for Use of the Construction Management and Design-Build Methods of Construction Contracting

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, October 6, 2015, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Virginia Public Procurement Act requires that a public body using the construction management or design-build method of construction contracting comply with Virginia Code Ann. § 2.2-4308 (2014); and

WHEREAS, the Board of Supervisors adopted the requirements of Virginia Code Ann. § 2.2-4308, on June 23, 2015, as reflected in Article 3, Section 5, of the Fairfax County Purchasing Resolution (effective July 1, 2015); and

WHEREAS, Virginia Code Ann. § 2.2-4308 and the Fairfax County Purchasing Resolution require that prior to issuing a Request for Proposal for any design-build or construction management contract for a specific construction project, the public body shall have adopted by resolution written procedures, which include the specifications set out in the Code and the Fairfax County Purchasing Resolution, governing the selection, evaluation and award of design-build and construction management; and

WHEREAS, Virginia Code Ann. § 2.2-4308 further requires that design-build construction projects include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department of General Services for state agencies and that construction management projects include selection procedures and required construction management contract terms consistent with the procedures as adopted by the Secretary of Administration; and

WHEREAS, the Construction Management Procurement Manual (Attachment 1) and Design Build Construction Manual (Attachment 2) establish procedures consistent with Virginia Code Ann. § 2.2-4308 and the Fairfax County Purchasing Resolution for use of the construction management and design-build method of construction contracting.

NOW, THEREFORE, BE IT RESOLVED, that the Fairfax County Board of Supervisors adopts the Construction Management Procurement Manual and the Design Build Construction Manual.

Given under my hand on this _____ day of ___ 2015.

_____
Catherine A. Chianese
Clerk to the Board of Supervisors
County of Fairfax, Virginia

FAIRFAX COUNTY, VIRGINIA

DESIGN-BUILD PROCUREMENT MANUAL

OCTOBER 2015

Table of Contents

1. LEGISLATIVE AUTHORITY 2
2. AUTHORITY 2
3. CRITERIA FOR USE OF DB 2
4. PROCEDURE 2
5. DB SELECTION PROCEDURES 2
6. DISCLOSURE OF INFORMATION 5

DESIGN-BUILD (DB) PROCEDURES
AS ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS

In accordance with Article 3, Section 5.B of the Fairfax County Purchasing Resolution, the following procedures for the procurement of Design-Build (DB) contracts shall be followed by all departments, agencies, and authorities of the County of Fairfax. These procedures shall be effective October 6, 2015.

1. **LEGISLATIVE AUTHORITY**: Under authority of § 2.2-4306 of the *Code of Virginia* and the Fairfax County Purchasing Resolution, the County may contract to secure DB projects on a fixed price basis in accordance with these procedures.

2. **AUTHORITY**: The County may enter into a contract for design-build construction services in accordance with these procedures. Pursuant to Article 3, Section 5 of the Fairfax County Purchasing Resolution, the County is authorized to use competitive negotiations to procure design-build services when it determines in advance, and sets forth in writing, that (i) design-build is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a design-build contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous. Authorization to use of the design-build alternative delivery method may be granted by the County Purchasing Agent or organizations cited in the Fairfax County Purchasing Resolution, Article 1, Section 3. The term Authorized Purchasing Agent shall apply to all such entities in this procedure.

3. **CRITERIA FOR USE OF DB**: DB contracts are intended to minimize the project risk for an owner and to reduce the delivery schedule by overlapping the design phase and construction phase of a project.

4. **PROCEDURE FOR APPROVAL TO USE DB:** Prior to issuing an RFQ or RFP for a Design Build (DB) contract, the Authorized Purchasing Agent must provide written approval for use of this delivery method. The request from the using agency to the Authorized Purchasing Agent shall justify and substantiate that the DB method is more advantageous than a design-bid-build construction contract with a general contractor and shall indicate how the County will benefit from using the DB method. The justification for the use of DB shall be stated in the Request for Qualifications form. Any exceptions to this procedure must be approved by the Authorized Purchasing Agent.

5. **DB SELECTION PROCEDURES**: On projects approved for DB, the procurement shall be a two-step competitive negotiation process. The following procedures shall be used in selecting a Design-Builder and awarding a contract:

    a. The Authorized Purchasing Agent shall appoint a Selection Advisory Committee (SAC) which shall consist of at least three or more principal staff personnel, including at least one licensed professional engineer or architect.

b. The basis of the award of the contract shall be in accordance with Article 2, Section 2, B.5 (Non-Professional Services) of the Fairfax County Purchasing Resolution. The criteria for the award shall be approved in advance by the Authorized Purchasing Agent. Cost is a critical component of the selection process. Guidance on methods for evaluation of the Request for Quotation and Request for Proposal are provided in Procurement Technical Bulletin 12-1003, as approved by the County Purchasing Agent.

c. Selection of Qualified Offerors **(STEP I)**: On approved DB projects, the County shall conduct a prequalification process to determine the offerors qualified to receive a Request for Proposal (RFP).

1. The County shall prepare a Request for Qualifications (RFQ) setting forth the scope of the project, the County's facility requirements, criteria upon which the qualifications of prospective contractors will be evaluated, project criteria, site and survey data (if available), and other relevant information. All offerors shall have a licensed Class "A" contractor registered in the Commonwealth of Virginia and an Architect or Engineer registered in the Commonwealth of Virginia as part of the Project Team.

2. Advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of offers so as to allow the procedures set forth in this subsection to be accomplished.

3. The RFQ shall be posted in accordance with the current standards for the posting of public bids in the Fairfax County Purchasing Resolution (Article 2, Section 2.A).

4. Prospective offerors may be prequalified for participation in the RFQ. The prequalification application form shall include any unique capabilities or qualifications that will be required of the contractor. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph D of the Fairfax County Purchasing Resolution.

5. The Selection Advisory Committee shall evaluate each Statement of Qualifications (SOQ) and any other relevant information and shall determine which offerors are fully qualified and suitable for the project, based upon the RFQ criteria.

6. The SOQ evaluation shall result in a short list of two or more offerors to receive the RFP. An offeror may be denied prequalification only as specified under the

Fairfax County Purchasing Resolution, Article 3, Section 6, but the short list shall also be based upon the RFQ criteria.

7. At least thirty days prior to the date established for submission of proposals, the County shall advise in writing each offeror that sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.

d. Selection of Design-Build Contractor **(STEP II)**:

1. The County shall send a Request for Proposal (RFP) to the offerors on the short list and request submission of proposals. The RFP shall define submittal requirements that must be included in the proposal and criteria for award. Offerors shall be required to submit separate sealed technical and cost proposals.

2. Proposals as described in the RFP shall be submitted to the SAC.

3. The SAC will evaluate the technical proposals based on the criteria contained in the RFP. It may inform each DB offeror of any adjustments necessary to make its technical proposal fully comply with the requirements of the RFP. In addition, the County may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified by the SAC during development of the design.

4. The SAC shall select two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Cost proposals shall be considered after evaluation of the technical proposals and the design adjustments are completed. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror.

5. The County shall offer the opportunity for an interview to all short-listed firms if the County intends to interview any contractor during the procurement process.

6. Based on the adjustments made to the technical proposals, offerors may be asked to amend the cost proposal. In addition, an offeror may submit cost modifications

to its original sealed cost proposal which are not based upon revisions to the technical proposals.

7. Should the County determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

8. The SAC shall make its recommendation for the selection of a design builder to the Authorized Purchasing Agent based on its evaluations of the technical and cost proposals and all modifications. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.

9. All proposed contracts for CM construction services shall be approved by the Authorized Purchasing Agent. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

10. The County will publicly announce the contract award on the eVA electronic procurement website or other appropriate website.

11. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.

6. **DISCLOSURE OF INFORMATION:** As provided in the Fairfax County Purchasing Resolution, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.

FAIRFAX COUNTY, VIRGINIA

CONSTRUCTION MANAGEMENT

PROCUREMENT MANUAL

OCTOBER 2015

Table of Contents

1. LEGISLATIVE AUTHORITY 2
2. AUTHORITY 2
3. CRITERIA FOR USE OF CM 2
4. PROCEDURE FOR APPROVAL TO USE CM 2
5. CM SELECTION PROCEDURES 2
6. REQUIRED CONSTRUCTION MANAGEMENT CONTRACT TERMS 5
7. GUARANTEED MAXIMUM PRICE 5
8. ONE-STEP WAIVER 6
9. DISCLOSURE OF INFORMATION 6

CONSTRUCTION MANAGEMENT (CM) PROCEDURES
AS ADOPTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS

In accordance with Article 3, Section 5.B of the Fairfax County Purchasing Resolution, the following procedures for the procurement of Construction Management (CM) contracts shall be followed by all departments, agencies, and authorities of the County of Fairfax. These procedures shall be effective October 6, 2015.

1. **LEGISLATIVE AUTHORITY**: Under authority of § 2.2-4308 of the *Code of Virginia* and the Fairfax County Purchasing Resolution, the County may enter into a contract with a Construction Manager in accordance with these procedures.

2. **AUTHORITY**: The County may enter into a contract with a Construction Manager (CM) in accordance with these procedures. Pursuant to Article 3, Section 5 of the Fairfax County Purchasing Resolution, the County is authorized to use competitive negotiations to procure CM contracts when it determines in advance, and sets forth in writing, that (i) a CM contract is more advantageous than a competitive sealed bid; (ii) there is a benefit to the public body by using a CM contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous. Authorization to contract with a Construction Manager may be granted by the Purchasing Agent or those organizations cited in the Fairfax County Purchasing Resolution, Article 1, Section 3. The term Authorized Purchasing Agent shall apply to all such entities in this procedure.

3. **CRITERIA FOR USE OF CM**: CM contracts may be approved for use on projects where 1) fast tracking of construction is needed to meet project requirements, or 2) value engineering and/or constructability analyses concurrent with design are required. The use of CM shall be limited to projects with a construction value that is estimated to be in excess of $10,000,000. With proper justification for small complex projects, the Authorized Purchasing Agent may grant a waiver of this requirement.

4. **PROCEDURE FOR APPROVAL TO USE CM**: Prior to issuing an RFQ or RFP for a CM contract, the Authorized Purchasing Agent must provide written approval for use of this delivery method. The request from the using agency to the Authorized Purchasing Agent shall justify and substantiate that the CM contract meets the criteria found in section 3. The request must also include the stipulation that the CM contract will be initiated at 35% design completion. The justification for the use of a CM contract shall be stated in the Request for Qualifications. Any exceptions to this procedure must be approved by the Authorized Purchasing Agent.

5. **CM SELECTION PROCEDURES**: On projects approved for CM, the procurement shall be conducted as a two-step process unless a one-step process is approved pursuant to section 8. The following procedures shall be used in selecting a CM and awarding a contract:

a. The Authorized Purchasing Agent shall appoint a Selection Advisory Committee (SAC) which shall consist of at least three or more principal staff personnel, including at least one licensed design professional engineer or architect.

b. The basis of the award of the contract shall be in accordance with Article 2, Section 2, B.5 (Non-Professional Services) of the Fairfax County Purchasing Resolution. The criteria for the award shall be approved in advance by the Authorized Purchasing Agent. Cost is a critical component of the selection process. Guidance on methods for evaluation is identified in Procurement Technical Bulletin 12-1002, as approved by the County Purchasing Agent.

c. Selection of Qualified Offerors (**STEP I**): On projects approved for CM, the County shall conduct a prequalification process as follows to determine which offerors are qualified to receive a Request for Proposals (RFP).

    1. The County shall prepare a Request for Qualifications (RFQ) setting forth the criteria upon which the qualifications of prospective contractors will be evaluated, project criteria, site and survey data (if available), and other relevant information. All offerors shall have a licensed Class "A" contractor registered in the Commonwealth of Virginia.

    2. Advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of offers for such construction so as to allow the procedures set forth in this subsection to be accomplished.

    3. The RFQ shall be posted in accordance with the current standards for the posting of public bids in the Fairfax County Purchasing Resolution (Article 2, Section 2.A).

    4. Prospective offerors may be prequalified for participation in the RFQ. The prequalification application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph D of the Fairfax County Purchasing Resolution.

    5. The SAC shall evaluate each Statement of Qualifications (SOQ) and any other relevant information and shall determine which offerors are fully qualified and suitable for the project, based upon the RFQ criteria.

6. The SOQ evaluation shall result in a short list of two or more offerors to receive the RFP. An offeror may be denied prequalification only as specified under the Fairfax County Purchasing Resolution, Article 3, Section 6, but the short list shall also be based upon the RFQ criteria.

7. At least 30 days prior to the date established for the submission of proposals, the County shall in writing advise each offeror that sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis for such reasons.

d. Selection of a Construction Manager (**STEP II**):

1. The County shall send a Request for Proposal (RFP) to the offerors on the short list and request submission of proposals. The criteria for award shall be included in the RFP. Offerors shall be required to submit separate sealed technical and cost proposals. The solicitation shall include the following minimum information for preconstruction services:
   a. Scope of services
   b. List of evaluation factors (including weighing factors)
   c. List of required deliverables
   d. Indication of whether interviews will be conducted before establishing the final rank
   e. General contract terms and conditions

2. Proposals as described in the RFP shall be submitted to the SAC.

3. The SAC will evaluate the technical proposals based on the criteria contained in the RFP. It may inform each CM offeror of any adjustments necessary to make its technical proposal fully comply with the requirements of the RFP. In addition, the County may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified by the SAC during development of the design.

4. The SAC shall select two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the criteria included in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror.

5. The County shall offer the opportunity for an interview to all short-listed firms if the County intends to interview any contractor during the procurement process.

6. Should the County determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

7. The SAC shall make its recommendation for the selection of a construction manager to the Authorized Purchasing Agent based on its evaluations of the technical and cost proposals and all modifications. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.

8. All proposed contracts for CM construction services shall be approved by the Authorized Purchasing Agent. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

9. The County will publicly announce the contract award on the eVA electronic procurement website or other appropriate website.

6. **REQUIRED CONSTRUCTION MANAGEMENT CONTRACT TERMS**: Any Guaranteed Maximum Price construction management contract entered into by the County will contain provisions requiring that:

   a. Not more than 10% of the construction work (measured by cost of the work) will be performed by the CM with its own forces and

   b. The remaining 90% of the construction work will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. Documentation shall be placed in the file detailing the reasons any work exceeding $100,000 is not procured by publicly advertised competitive sealed bidding. The Authorized Purchasing Agent may modify these contractual requirements in whole or in part for projects where it would be fiscally advantageous to the public to increase the amount of construction work performed by the Construction Manager.

7. **GUARANTEED MAXIMUM PRICE**: The Guaranteed Maximum Price shall be established no later than completion of construction documents unless a waiver has been granted to this requirement by the Authorized Purchasing Agent.

8. **ONE-STEP WAIVER**: The Authorized Purchasing Agent may approve use of a one-step solicitation for its project. If adequate justification is provided, in writing, the Authorized Purchasing Agent may approve the request.

9. **DISCLOSURE OF INFORMATION**: As provided in the Fairfax County Purchasing Resolution, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.

Board Agenda Item
October 6, 2015

11:00 a.m.

Matters Presented by Board Members

Board Agenda Item
October 6, 2015

11:50 a.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. *Cellco Partnership d/b/a Verizon Wireless and CWS VII, LLC v. Fairfax County, Virginia, and The Board of Supervisors of Fairfax County, Virginia*, Civil Action No. 1:15cv2 (E.D. Va.) (Dranesville District)

2. In Re: April 15, 2015, Decision Of The Fairfax County Board of Zoning Appeals In BZA Appeal No. A 2012-HM-020, Case No. CL-2015-0006478 (Fx. Co. Cir. Ct.) (Hunter Mill District)

3. *Betty Whilden v. Juan Romero and County of Fairfax*, Case No. CL-2015-0004778 (Fx. Co. Cir. Ct.)

4. *Poplar Place Homeowners Association v. Fairfax County* (State Building Code Tech. Rev. Bd.) (Dranesville District)

5. *Gary P. Poon and Matthew A. Stevenson v. Fairfax County, Board of Supervisors of Fairfax County, Virginia, and Zoning Administrator of Fairfax County, Virginia*, Case No. CL-2015-0004729 (Fx. Co. Cir. Ct.) (Providence District)

6. *Wilson Haywood Phillips v. Fairfax County Park Authority and County of Fairfax*, Case No. CL-2015-0012152 (Fx. Co. Cir. Ct.)

7. *Potomac Relocation Services, LLC v. Board of Supervisors of Fairfax County, Virginia and the Fairfax County Redevelopment and Housing Authority*, Case No. CL-2015-0011068 (Fx. Co. Cir. Ct.) (Lee District)

8. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Jose S. Portillo and Francisca E. Portillo*, Case No. CL-2014-0016150 (Fx. Co. Cir. Ct.) (Providence District)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Steven C. Bryant*, Case No. CL-2009-0005546 (Fx. Co. Cir. Ct.) (Sully District)

10. *Leslie B. Johnson, Fairfax County Zoning Administrator v. James G. Miller, Trustee of the James G. Miller Living Trust, and Atlantic Construction Fabrics, Inc.*, Case No. CL-2009-0002430 (Fx. Co. Cir. Ct.) (Sully District)

11. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Robinson Socrates Nunn and Glanetta Miller*, Case No. CL-2015-0003878 (Fx. Co. Cir. Ct.) (Hunter Mill District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ali Alahmed and Nadejada Nikiforova*, Case No. GV15-016183 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

13. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Gilbert L. Southworth Jr.*, Case No. GV15-016109 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

14. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Donald W. Major, Richard B. Major, and Dennis G. Major*, Case No. GV15-009950 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District/Town of Vienna)

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Board Agenda Item
October 6, 2015

3:00 p.m.

To be Deferred

Public Hearing on SE 2015-MV-003 (First Years Learning Center LLC / Claudia Tramontana) to Permit a Home Child Care Facility, Located on Approximately 10,488 Square Feet of Land Zoned PDH-2 (Mount Vernon District)

This property is located at 6614 Winstead Manor Court, Lorton, 22079. Tax Map 99-2 ((17)) 34.

On June 23, 2015, the Board of Supervisors deferred this public hearing to July 28, 2015, at 3:00 p.m.; at which time it was deferred to September 22, 2015 at 3:00 p.m.; and, then was deferred again to October 6, 2015 at 3:00 p.m.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, July 22, 2015, the Planning Commission voted 10-0 (Commissioners Lawrence and Migliaccio were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2015-MV-003, subject to the development conditions dated July 21, 2015.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4488469.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mary Ann Tsai, Planner, DPZ

SE 2015-MV-003 - FIRST YEARS LEARNING CENTER LLC/CLAUDIA TRAMONTANA

During Commission Matters

Commissioner Flanagan: Mr. Chairman. I have a decision only tonight, SE 2015-MV-003 First Years Learning Center, and I request that the applicant, come forward to the lectern and confirm for the record, agreement to the proposed development conditions now dated July 21, 2015, with two changes – recent changes - to the conditions and with the inclusion of the following language to condition one, which restricts the special exception approval to the applicant only. Do you agree with the conditions?

Lawrence McClafferty, Applicant's Agent, McCandlish & Lillard, PC: Mr. Flanagan and Mr. Chairman and members of the Commission, we hereby agree with that additional condition.

Commissioner Flanagan: Thank you.

Chairman Murphy: Sir, identify yourself for the record please, just to make it –

Mr. McClafferty: Lawrence McClafferty, of McCandlish & Lillard, here on behalf of the applicant, First Years Learning Center, LLC and Claudia Tramontana.

Chairman Murphy: Thank you very much, Mr. Flanagan.

Commissioner Flanagan: The conditions, are we on – verbatim?

Chairman Murphy: Yes.

Commissioner Flanagan: - okay, the conditions, number one that I refer to, was passed out to all the Commissioners in the handouts so you should all have that text, I will repeat it here. But based upon public testimony not previously available to staff and the applicant's willingness to achieve neighborhood harmony by amending staff's conditions so as to improve pipestem traffic and parking by eventually reducing the number of children on the site from 12 to 9. Second, improve playground safety by adding play equipment ground cover and fencing as recommended by Commissioners Strandlie and Hedetniemi and limiting the SE to the applicant rather than the site, as we are doing this evening. I therefore Mr. Chairman, MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2015-MV-003, SUBJECT TO THE DEVELOPMENT CONDITIONS NOW DATED JULY 21, 2015.

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger.

Commissioner Sargeant: Mr. Chairman.

Chairman Murphy: Is there a discussion of the motion?

Commissioner Sargeant: Mr. Chairman.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: I was not present for the public hearing however, I have reviewed the information and also the video recording of the public testimony and I intend to vote.

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 2015-MV-003, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 10-0. Commissioner Lawrence and Migliaccio absent from the meeting.)

TMW

Board Agenda Item
October 6, 2015

3:30 p.m.

Public Hearing on SE 2015-MV-007 (Felecia Hayes / Saratoga Learning Center) to Permit a Home Child Care Facility, Located on Approximately 15,639 Square Feet of Land Zoned PDH-3 (Mount Vernon District)

This property is located at 8047 Winding Way Court Springfield, 22153. Tax Map 98-1 ((4)) 542

PLANNING COMMISSION RECOMMENDATION:
On Thursday, September 24, 2015, the Planning Commission voted 9-0 (Commissioners Lawrence, Litzenberger, and Ulfelder were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2015-MV-007, subject to the Development Conditions dated September 23, 2015.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4499974.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),
Carmen Bishop, Planner, DPZ

SE 2015-MV-007 – FELECIA HAYES, SARATOGA LEARNING CENTER

After Close of the Public Hearing

Chairman Murphy: The public hearing is closed. Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. Oops. Thank you, Mr. Chairman. I – we didn't have any testimony, either in favor or opposed. But you all received an email yesterday from the neighbor of Ms. Hayes that indicated that he has been bothered by parking, evidently, from the current users of the daycare center. And so, consequently, he has been informed that his remedy will be to – make that any violations of the conditions – I just want to be sure that the owner's aware that we have a condition that all drop-off and all pick-ups must be on the property and not on the public street, particularly in front of Mr. – I think his name is Thomas – Mr. Thomas' address. And I want to be sure that the operator is aware that he has the telephone number and the name of the Zoning Enforcement Officer and it will be up to him if he has any concerns in the future. So I want to be sure that you're aware of that tonight. Is that – are you aware of that?

Felecia Hayes, Applicant/Title Owner: Yes.

Commissioner Flanagan: You are? Yes, if you'd come forward.

Ms. Hayes: Yes sir.

Commissioner Flanagan: You are aware that-

Ms. Hayes: Yes.

Commissioner Flanagan: And I know he has no objection to the – your current, you know, use of the property in this regard. But he was concerned about increasing it up to 12 – whether that might, you know, trigger additional parking congestion that – so, consequently, he's going to be very observant of that. And I wanted to be sure that you're aware of that. And I'm satisfied that he has a remedy, you know, to take care of that particular condition. Okay?

Ms. Hayes: Okay.

Commissioner Flanagan: Thank you. While I'm there, the – the conditions were amended, as of this evening, to preclude the use of the underside of the deck by the daycare children. And you're aware of that? And you're in agreement with that-

Ms. Hayes: Yes sir.

Commissioner Flanagan: -that change to the conditions. And the other condition about the fact that they are not to have any use of the deck or the hot tub that's on that deck?

Ms. Hayes: Yes sir.

Commissioner Flanagan: Okay. Thank you very much. You can be seated.

Ms. Hayes: Thank you.

Commissioner Flanagan: With that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2015-MV-007, SUBJECT TO THE CONDITIONS NOW DATED SEPTEMBER 23, 2015.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by – Ms. Strandlie? Who seconded?

Commissioner de la Fe: Hedetniemi.

Chairman Murphy: Oh, Ms. Hedetniemi. I'm sorry. All those in favor of the motion to recommend to the – is there a discussion of the motion?

Commissioner Sargeant: Mr. Chairman, can I-

Chairman Murphy: Yes.

Commissioner Sargeant: -ask one question for clarification?

Chairman Murphy: Sure.

Commissioner Sargeant: How does staff anticipation that the confirmation will come for the issues that have not been resolved yet?

Carmen Bishop, Zoning Evaluation Division, Department of Planning and Zoning: The issues related to the electrical service panel has been resolved and the –

Chairman Murphy: We just lost the microphone.

Ms. Bishop: Sorry.

Chairman Murphy: Okay.

Ms. Bishop: Okay. I think we're back. There's no light bulb here – I just would like to note – to tell me whether or not the microphone is on or off. But anyways, the issues with the electrical service panel have been resolved. The hot tub and the deck inspections are pending and the applicant is actively working with our inspections department to see that through.

Commissioner Sargeant: Okay. Thank you.

Chairman Murphy: Okay.

Commissioner Flanagan: And I also can add to that – that the applicant has been most diligent about pursuing these changes requested by the staff. It's been the staff that's been negligent in getting out there to confirm so I didn't want to delay getting to the –

Commissioner de la Fe: Not the current staff.

Commissioner Flanagan: Not the – not the – you know, well I – our electrical inspectors are the ones who have been – haven't had the opportunity to get back out there and make the final inspection. They were scheduled to go out on – before this meeting, but they're going to do it now after the meeting.

Chairman Murphy: Yes, Ms. Bishop almost fell off the chair over there. All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2015-MV-007, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you, Ms. Hayes.

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(The motion carried by a vote of 9-0. Commissioners Lawrence, Litzenberger, Ulfelder were absent from the meeting.)

JLC

Board Agenda Item
October 6, 2015

3:30 p.m.

To Be Deferred

The Planning Commission deferred its' public hearing until October 7, 2015

Public Hearing on SEA 97-M-016 (Extra Space Storage Inc) to Amend SE 97-M-016, Previously Approved for a Mini Warehouse Establishment to Permit Modifications to Site and Development Conditions in a Commercial Revitalization District, Located on Approximately 2.09 Acres of Land Zoned C-8, CRD, HC, and SC (Mason District)

This property is located at 5821 Seminary Road, Falls Church 22041. Tax Map 61-2 ((21)) 1

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing will be held on October 7, 2015. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4499284.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), Joe Gorney, Planner, DPZ

Board Agenda Item
October 6, 2015

3:30 p.m.

Public Hearing on PCA 2004-PR-044-02 (Tysons Corner Property Holdings LLC, Tysons Corner Holdings LLC, Tysons Corner Residential I LLC, Tysons Corner Office I LLC, and Tysons Corner Hotel Plaza LLC) to Amend the Proffers for RZ 2004-PR-044 Previously Approved for an Urban Mixed-Use Development at Tysons Corner Metrorail Station to Permit Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio (FAR) of 1.77, Located on Approximately 77.66 Acres of Land Zoned PDC, SC, and HC (Providence District) (Concurrent with CDPA 2004-PR-044)

This property is located East of International Drive South of Chain Bridge Road West of Interstate 495 North of Towers Crescent Drive and Leesburg Pike. Tax Map 29-4 ((1)) 35A, 35C, 35D, 35E, and 35F; and 39-2 ((1)) 2, 4, and 5

and

Public Hearing on CDPA 2004-PR-044 (Tysons Corner Property Holdings LLC and Tysons Corner Holdings LLC) to Amend the Conceptual Development Plan for RZ 2004-PR-044 to Permit Mixed Use Development and Associated Changes to Development Conditions, Located on Approximately 10.09 Acres of Land Zoned PDC, SC, and HC (Providence District) (Concurrent with PCA 2004-PR-044-02)

This property is located East of International Drive South of Chain Bridge Road West of Interstate 495 North of Towers Crescent Dr. and Leesburg Pike. Tax Map 29-4 ((1)) 35A pt.; 39-2 ((1)) 2 pt., 4 pt., and 5 pt.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, September 24, 2015, the Planning Commission voted 8-0-1 (Commissioner Hurley abstained and Commissioners Lawrence and Litzenberger were absent from the meeting) to recommended to the Board of Supervisors approval of PCA 2004-PR-044-02, subject to the execution of proffers consistent with those dated September 24, 2015.

On Thursday, September 24, 2015, the Planning Commission voted 9-0 (Commissioners Lawrence, Litzenberger, and Ulfelder were absent from the meeting) to

recommend approval the following waivers and modifications related to PCA 2004-PR-044-02:

- Modification of Section 11-203 of the Zoning Ordinance to permit the reduction in the number of loading spaces to that shown on the CDPA/FDPA;

- Modification of Section 13-202 of the Zoning Ordinance to modify the interior parking lot landscaping to that shown on the CDPA/DPA;

- Modification of Section 13-300 of the Zoning Ordinance to modify the transitional screening requirement along eastern boundary to that shown on CDPA/FDPA;

- Waiver of Section 17-201-3A of the Zoning Ordinance requiring a Service Drive on all property boundaries;

- Waiver of Section 2-505 of the Zoning Ordinance to allow the structures and vegetation on a corner lot as shown on the CDPA/FDPA;

- Modification of Section 11-202(4) of the Zoning Ordinance to permit a loading space to be within 40 feet of an intersection;

- Modification of Section 17-201 of the Zoning Ordinance and Section 8-0201.3 of the Public Facilities Manual (PFM) to permit sidewalks and pedestrian trails as shown on the CDPA/FDPA in lieu of all required trails;

- Modification of Section 12-0508 of the PFM to permit the tree preservation target to be met on the site as a whole;

- Modification of Section 12-0510 of the PFM to permit the width of planting area to be no less than 6 feet upon a showing at site plan of alternative technology and to permit trees within the right of way to be counted toward the 10-year tree canopy if maintained by the applicant; and

- Modification of 12-0601(1)(B) of the PFM to permit a reduction of the minimum planter opening for trees used to count towards the tree cover requirements upon a showing of appropriate alternative technology.

In a related action, on Thursday, September 24, 2015, the Planning Commission voted 9-0 (Commissioners Lawrence, Litzenberger, and Ulfelder were absent from the meeting) to approve FDPA 2004-PR-044, subject to the Board of Supervisors approval of PCA 2004-PR-044-02.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4499474.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),
Suzanne Wright, Planner, DPZ

Planning Commission Meeting Attachment 1
September 24, 2015
Verbatim Excerpt

PCA 2004-PR-044-02 & CDPA/FDPA 2004-PR-044 – TYSONS CORNER PROPERTY HOLDINGS, LLC & TYSONS CORNER HOLDINGS, LLC

Decision Only During Commission Matters
(Public Hearing held on September 17, 2015)

Commissioner Hart: Thank you Mr. Chairman. On September 17th, the Planning Commission held a public hearing on a combined proffer conditioned amendment, conceptual development plan amendment, and final development plan amendment for the Tysons Corner Center, one of the most important commercial projects in the County. Staff was recommending approval but we deferred decision until tonight to work on language for some of the proffers. Revised language has been distributed to the Commission earlier this week with one additional change today to Proffer 52. I want to first thank the citizens who submitted correspondence, and the speaker at the public hearing for their input. I want also to thank the applicant for its willingness to make constructive changes as the discussion has progressed. I also want to thank staff particularly Suzanne Wright, and Cathy Lewis for their fine work on this case. As well as Mike Wing in Supervisor Smyths office. And Beth Teare and Pam Pelto in the County Attorney's office for their assistance on a very complicated package. I'm still pinch hitting for Commissioner Lawrence who cannot be with us tonight, but he's followed the progress of this case and also has been involved with suggestions about the proffers. I hope that I'm handling the case consistence with how he would with the help of capable staff. These applications are generally consistent with the previous do-over of the Tysons Corner Center, but reflect some refinements consistent with market changes and corresponding changing needs of the community. This package retains the strengths of the previous approval, but also accommodates the applicant's wishes to stay ahead of the curve for future phases. The first phase of the development has been successful, and I believe these future phases will meet that high standard. The McLean Citizens Association had submitted some thoughtful comments to which the applicant responded in detail by letter dated September 15, which has been distributed to the Commission. I wanted to touch on the resolution of several points. In a nutshell, the grocery store proffer is no longer needed in 2015 because of changes in the neighborhood since 2007 including additional grocery options and the commitment to make certain staples available to residents. The applicant also has an excellent track record of providing successful retail options as the market dictates. At Commissioner Lawrence's suggestion, there is an additional commitment to facilitation of grocery deliver options to the residents. I'm also satisfied that although a commitment to an earlier construction for the childcare would be desirable, there is not necessarily a suitable location for an outdoor play area, except where the applicant has requested it. I'm also satisfied that the demand in the market for childcare options will be met by the applicant as it is feasible. On the affordable housing issue, the applicant is not requesting any additional density over the 2007 approval, which was heavily negotiated. And I would remind the Commission that this case is not coming in under the newer PTC Zoning where expectations might be different but instead the PDC category. If the applicant had applied for PTC, they might be requesting more density and the PTC expectations might be applicable. As to the commitment for police support, the applicant has already been providing significant resources including space in the mall for eleven (11) officers, parking spaces and other support as well as significant security presence in the area. Regarding the super-street concept, the applicant has already made significant contributions to transportation infrastructure in excess of ten-million dollars, and including Route 7 widening,

land for the metro station bus phase, is currently improving the International Drive intersection and Route 123 and is committed to additional financial contributions of three-million dollars and will be participating in the super-street discussions as they progress in the years ahead. I believe that – I believe I lost a page here, which had some positive observations regarding other issues that had been addressed including the pedestrian bridge and some other good things.

Commissioner Murphy: In all elegance.

Commissioner Hart: Yes, which – we're now – poor Jake – isn't going to have to stay as late tonight typing this. Therefore, I believe that with the most recent changes to the proffers – both mentioned and which I haven't covered – the applications are ready to send along to the Board. The applicant has agreed to a proffer today, satisfactory to the County Attorney's office, resolving the Route 7 dedication, which was the principle outstanding issue. And the other proffers have been edited and clarified. The applications have staff's support, with which I concur. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY APPROVE PCA 2004-PR-044-02, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED SEPTEMBER 24, 2015.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? Ms. Hurley.

Commissioner Hurley: Overall, an excellent package – an extreme amount of work has gone into it. I am still concerned, along with the McLean Civic Association, about the child care center – that there is no minimum size set. I understand there's a concern about the play space, but this is the new urban environment. There are places – ways to put children – child care centers in urban environments. It's supposed – a place to work, live, and play. We need to have the child care so I will abstain from the motion. Overall, it's a tremendous package, but because of that one little detail I don't think has been fully – thoroughly satisfied, I will abstain.

Chairman Murphy: Okay. For all those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 2004-PR-044-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley abstains. Mr. Hart.

Commissioner Hart: Secondly, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 2004-PR-044, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF PCA 2004-PR-044-02.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of the motion to approve FDPA 2004-PR-044, subject to the approval of the Proffered Condition Amendment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Finally-

Chairman Murphy: Is there an abstention to that one? Or are you going with – oh, okay. All right. Mr. Hart.

Commissioner Hart: Finally, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THE BOARD OF SUPERVISORS APPROVE THE MODIFICATIONS AND WAIVERS, AS LISTED IN THE OMNIBUS HANDOUT DATED SEPTEMBER 10, 2015.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Thank you, Mr. Chairman.

Chairman Murphy: Thank you.

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(The first motion carried by a vote of 8-0-1. Commissioner Hurley abstained. Commissioners Lawrence and Litzenberger were absent from the meeting.)

(The second and third motions carried by a vote of 9-0. Commissioners Lawrence, Litzenberger, and Ulfelder were absent from the meeting.)

JLC

Board Agenda Item
October 6, 2015

3:30 p.m.

To be Deferred

Public Hearing on RZ 2014-MA-011 (Spectrum Development, LLC) to Rezone From R-3, C-2, CRD, HC and SC to C-6, CRD, HC, and SC to Permit Retail, Pharmacy with Drive-Through and Fast Food Uses With an Overall Floor Area Ratio (FAR) of 0.22, and Waivers and Modifications in a CRD, Located on Approximately 2.72 Acres of Land (Mason District) (Concurrent with SE 2014-MA-013).

This property is located on the South Side of Leesburg Pike between Charles Street and Washington Drive. Tax Map 61-2 ((17)) (D) 1, 3, 4 and 5; and 61-2 ((18)) 1, 2, 3, 4 and 5

and

Public Hearing on SE 2014-MA-013 (Spectrum Development, LLC) to Permit a Pharmacy with Drive-Through and Fast Food Restaurant(s) and Waivers and Modifications in a CRD, Located on Approximately 2.72 Acres of Land Zoned C-6, CRD, HC, and SC (Mason District) (Concurrent with RZ 2014-MA-011).

This property is located at 5885 Leesburg Pike, 3408 & 3410 Washington Drive and 3425 & 3401 Charles Street, Falls Church 22041. Tax Map 61-2 ((17)) (D) 1, 3, 4 and 5; and 61-2 ((18)) 1, 2, 3, 4 and 5

PLANNING COMMISSION RECOMMENDATION:
On Thursday, February 12, 2015, the Planning Commission voted 8-0 (Commissioner Hart was not present for the vote and Commissioners Hurley, Murphy, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2014-MA-011, subject to the execution of proffers consistent with those dated February 11, 2015;

- Approval of SE 2014-MA-013, subject to development conditions consistent with those dated February 9, 2015, contained in Attachment 3 of the Staff Report Addendum;

- Approval of a 20 percent parking reduction as permitted in a Commercial Revitalization District (CRD) to allow 108 parking spaces where 135 are required;

- Approval of a waiver of the front yard setback requirement in the C-6 District per the CRD provisions to permit a 10-foot setback to Leesburg Pike and 7-foot setback to Washington Drive;

- Approval of a waiver of the minimum lot width standard in the C-6 District per the CRD provisions to allow 160 feet after the dedication of the right-of-way along Charles Street;

- Approval of a modification of the trail requirement along Leesburg Pike to permit an 8-foot wide paver walkway in accordance the Bailey's Crossroads Streetscape Standards;

- Approval of a modification of the transitional screening and barrier requirements along all or portions of the east, south, and west property lines, in favor of the plantings and masonry walls shown on the GDP/SE Plat;

- Approval of a waiver of the tree preservation target area in favor of the proposed plantings shown on the GDP/SE Plat;

- Approval of a waiver of the service drive requirement along Leesburg Pike in favor of the frontage improvements shown on GDP/SE Plat;

- Approval of a modification of the loading space requirements to permit one loading area as depicted on the GDP/SE Plat; and

- Direct staff to study options for achieving the desired transportation improvements in the area, including the realignment envisioned by the plan, for the goal of minimizing impact to both existing residential neighborhoods and commercial developments while still providing adequate opportunities for redevelopment and understanding that the options may need to extend beyond the limits of the current application.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4474375.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),
Carmen Bishop, Planner, DPZ

Planning Commission Meeting Attachment 1
February 12, 2015
Verbatim Excerpt

RZ 2014-MA-011/SE 2014-MA-013 – SPECTRUM DEVELOPMENT, LLC

Decision Only During Commission Matters
(Public Hearing held on January 14, 2015)

Commissioner Strandlie: Thank you, Mr. Chairman. Tonight, the commission will make a decision on a proposed plan submitted by Spectrum Development, LLC, referred to as The Shops at Baileys Crossroads. As we discussed at the January 14th hearing, the site has been in need of redevelopment for over 20 years. A portion of the site has been sitting as a vacant lot since 2007 and a good portion of this vacant lot is needed to realign Charles Street in Glen Forest, making development close to impossible. Geico owns an addition – an adjacent lot and building and they have now shut down business at that location. The applicant cobbled together the vacant lot, the Geico property, and two additional residential properties immediately to the rear to have sufficient land for this development. Since the January 14th public hearing, the applicant, neighbors, and staff have diligently worked to try address issues with the design and other matters raised by commissioners, including my concerns about the design of CVS. In addition to meeting with the applicants, Fairfax County Division chief Kris Abrahamson and I met with Irene Xenos and Brian Lovitt for two hours on site in a snow storm, and we appreciated very much their meeting with us. Ms. Xenos is a zealous advocate on behalf of her grandmother, and I can definitely understand and appreciate her concerns. I want to thank everyone who's worked on this, especially Kris and Brent Krasner for their efforts, and ask them to briefly go through the design and proffer changes, including responses to requests for improvements to Lot 8.

Brent Krasner, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ): Thank you. I prepared a few slides just to briefly summarize where we – what we've been doing since the – during the deferral period, just to refresh everyone's memory that the property is on Leesburg Pike between Charles Street and Washington Drive on the west side of the Baileys Crossroads area. The applicant has submitted a revised GDP. The overall layout has not changed; however, they have incorporated a series of revisions to address various staff and neighborhood concerns. Some of the more changes were additional landscaping and a pedestrian path within the right-of-way at the intersection of Charles Street and Leesburg Pike. These were added at staff's recommendation to improve – both improve the visual appearance of the development as well as to prevent pedestrians from trampling on any plantings in that area. They've added a right-turn lane along Charles Street onto Leesburg Pike. The monument sign has been relocated from the intersection to the small seating area and we support this change. It would make it less prominent and it provides a pedestrian feature. They've also made a change to – to the bus shelter detail to provide additional right-of-way as requested by FDOT (Fairfax County Department of Transportation) to accommodate a future cycle track. They've also made significant architectural revisions to the pharmacy. The new elevations now show a more articulated building façade with a greater variety of colors and materials on all sides. They've added additional faux windows and awnings. There's also a proffer that now indicates that the windows fronting on Leesburg Pike as well as the ones that face the other retail building, will feature images of historic themes relevant to Baileys Crossroads and overall staff feels that the architectural revisions have improved the building and they have gone some way to address our

concerns about compatibility with the rest of the development as well as meeting the guidelines of the Baileys CBC in the comprehensive plan. These are additional renderings that show the new design; flip through these quickly. You can see the additional windows and awnings. And this is a bird's eye perspective. And I'll note that these images don't contain all the landscaping that will be provided in that right-of-way, but it gives you a sense of the architecture. The applicant has also submitted revised proffers in conjunction with the revised plan. The most current set, dated February 11th, was distributed to you yesterday. They've been updated to provide enhanced commitments to address various staff commission and neighborhood concerns. Some of the key changes were moving the monument sign, the additional landscaping in the right-of-way; the deliveries of the largest trucks will be restricted to non-peak periods; and of course there will be no loading on Washington Drive or any blocking of access to the site. They have increased the contribution for the off-site work on Lot 8, which is the adjacent residential property directly to the east of the site's entrance on Washington Drive, including funds for plantings, a fence, as well as a vehicle turnaround in their driveway so they can pull out forwards onto Washington Drive. They've added proffers clarifying that there will be no outdoor speakers or vending machines or anything like that on the site, and additional proffers related to trash, lighting, noise, parking enforcement, and construction, which were originally in the – in the – in the proffers have remained and been strengthened. The conditions were revised just to remove conditions that have now been addressed in the – in the proffers. We issued a staff report addendum and as we stated in that addendum staff feels that the applicant should be credited for making significant improvements to the architectural design as well making improvements to their proffer commitments. We feel the pharmacy more closely resembles the remainder of the development. It will provide a more pleasing appearance from Leesburg Pike. Ultimately, staff however – we were unable to reverse our recommendations for denial, the improved architectural notwithstanding. The building – in staff's opinion, it still faces rearwards, and it places that drive-through in a highly visible location at the intersection. In addition the right-of-way, based on what the Comp Plan currently recommends today, we feel that what they have provided is insufficient without needing additional private land. For those specific reasons, we're unable to reverse our – our recommendation; however, we do feel the applicant has made significant strides in addressing other concerns. Thank you very much.

Vice Chairman de la Fe: Thank you very much.

Commissioner Strandlie: There's a - - there was a question of the alignment of the exit on the Washington Street side and alignment with the Lot 8 driveway. Can you address the safety concerns of that as –

Mr. Krasner: Sure. Ultimately, having the driveway aligned with the access actually is the safest alternative. Just like with any other intersection, if it's skewed or offset, it introduces a potential conflict, as opposed to when it's head-on and the visibility is excellent for cars that come from either side. Also with the provision for a turnaround for the residential property, they will now be able to pull out forwards without having to back out, and we feel that provides a safe condition and it ameliorates that concern.

Commissioner Strandlie: Okay, thank you. On Proffer 26, I had some concerns about the amount of – included to provide the mitigation to Lot 8 for landscaping and/or fence and the driveway,

and I was hoping the applicant can come down and – and confirm a conversation that we had today – Peter Batten. They are going to address this. The amount currently calls for $10,000 to reimburse for construction costs and we were concerned that that was not the right amount. Can you please confirm our conversation that we were going to have to work with the Xenos Family to make sure that the amount is sufficient to address their concerns as in the invoice and estimate that the previously provided?

Peter Batten, Applicant: We talked about that we would go out actually and do a design of the turnaround and the fencing and landscaping and then get a – a firm to provide a bid to us. So we can confirm the amount that we have in the proffer allocated for those – those improvements.

Commissioner Strandlie: So between now and the time that this may go to the Board, you will work with the Xenos Family to make sure that the amount is the sufficient amount to cover those costs.

Mr. Batten: Yes. We're going to start tomorrow to – to get the design together and then get with our construction folks and get the pricing –

Commissioner Strandlie: Okay.

Mr. Batten: – for the landscaping.

Commissioner Strandlie: And the other issue is that the proffer originally called for reimbursement after the expenses and we had discussed providing an escrow account so that they did not have to put any costs upfront.

Mr. Batten: Correct.

Commissioner Strandlie: Good.

Commissioner Strandlie: Thank you.

Vice Chairman de la Fe: Just for the record, could you identify yourself?

Mr. Batten: Yes.

Vice Chairman de la Fe: We know you are the applicant, but –

Mr. Batten: Yes. I'm with the applicant, Spectrum Development, and my name is Peter Batten and I'm one of the managing directors of the firm.

Vice Chairman de la Fe: Thank you.

Mr. Batten: Thanks.

Commissioner Strandlie: Thanks. Thank you. Brent or Kris, do you have anything else to add?

Kris Abrahamson, ZED, DPZ: Not with this question.

Commissioner Strandlie: Thank you. In – in this particular circumstance, there is overriding community needs and development challenges that have convinced me to switch me as – from a no when I was a land use – on the land use committee following the many changes and as this has moved forward. In addition, the chair of the Mason District Land Use Committee now supports this application and asked me to read his February 11th, 2015, email into the record and he said, the chair of the Mason District Land Use Committee, Dan Aminoff, while having concerns about the project's specifics, feels that the opportunity for development outweighs keeping the status quo. The Bailey's Revitalization corporation previously endorsed the project; Glen Forest Neighbors support the redevelopment, the owner of the shopping center across the street, Adrian Dominguez, supports the project because it adds additional retail and shoppers to the neighborhood; however, their support is contingent upon future road realignment not taking much of her much needed parking lot. The property at hand is the Gateway to Baileys Crossroads and many see it as an impetus for further redevelopment, a jumpstart to revitalizing this area. Again, the lot has been vacant for 8 years and undeveloped for about 20; however, there are still impediments to redevelopment that came to light during the review of this application. There is a question of how to protect the neighborhoods and existing business while improving transportation and making it a more attractive community; therefore, following the initial motion to approve the application with conditions, I will offer a supplemental motion addressing the need to identify additional redevelopment options for this area.

Vice Chairman de la Fe: Go ahead.

Commissioner Strandlie: Thank you. So, Mr. Chairman I would like to make a motion to –

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RZ 2014-MA-011, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED FEBRUARY 11, 2015;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2014-MA-013, SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED FEBRUARY 9TH, 2015, CONTAINED IN ATTACHMENT 3 OF THE STAFF REPORT ADDENDUM;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A 20 PERCENT PARKING REDUCTION AS PERMITTED IN A COMMERCIAL REVITALIZATION DISTRICT (CRD) TO ALLOW 108 PARKING SPACES WHERE 135 ARE REQUIRED;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE FRONT YARD SETBACK REQUIREMENT IN THE C-6 DISTRICT PER THE CRD PROVISIONS TO PERMIT A 10-FOOT SETBACK TO LEESBURG PIKE AND 7-FOOT SETBACK TO WASHINGTON DRIVE;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE MINIMUM LOT WIDTH STANDARD IN THE C-6 DISTRICT PER THE CRD PROVISIONS TO ALLOW 160 FEET AFTER THE DEDICATION OF THE RIGHT-OF-WAY ALONG CHARLES STREET;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRAIL REQUIREMENT ALONG LEESBURG PIKE TO PERMIT AN 8-FOOT WIDE PAVER WALKWAY IN ACCORDANCE THE BAILEY'S CROSSROADS STREETSCAPE STANDARDS;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG ALL OR PORTIONS OF THE EAST, SOUTH, WEST – AND WEST PROPERTY LINES, IN FAVOR OF THE PLANTINGS AND MASONRY WALLS SHOWN ON THE GDP/SE PLAT;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TREE PRESERVATION TARGET AREA IN FAVOR OF THE PROPOSED PLANTINGS SHOWN ON THE GDP/SE PLAT;

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG LEESBURG PIKE IN FAVOR OF THE FRONTAGE IMPROVEMENTS SHOWN ON GDP/SE PLAT; and

- I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE LOADING SPACE REQUIREMENTS TO PERMIT ONE LOADING AREA AS DEPICTED ON THE GDP/SE PLAT.

Commissioner Flanagan: I second all nine of those motions.

Commissioner Hedetniemi: I do too.

Vice Chairman de la Fe: Seconded by Commissioners Hedetniemi and Flanagan. Any discussion?

Commissioner Migliaccio: Just on the special exception? Did we need the applicant to agree to those? Or did you get them on the record already? The development conditions, when they were up here?

Commissioner Strandlie: I believe those were all in the motion.

Ms. Abrahamson: Do you want to ask the applicant to come down?

Vice Chairman de la Fe: Yes, if the applicant - - if - before – before we take a vote, could the applicant please come down and confirm that he agrees with the development conditions as stated by and agreed to by Commissioner Strandlie.

William B. Lawson, Esquire, The Law Office of William B. Lawson, P.C.: Mr. Chairman, for the record, my name is William B. Lawson, Jr. I represent the applicant. The conditions are acceptable.

Vice Chairman de la Fe: Thank you very much. Okay. All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motions carry. Thank you very much..

Commissioner Strandlie: Thank you. I have – I have my supplemental motion if you –

Vice Chairman de la Fe: Yes.

Commissioner Strandlie: – would bear with me.

Vice Chairman de la Fe: Go ahead.

Commissioner Strandlie: Mr. Chairman, acknowledging the difficulties encountered in trying to adequately and safely accommodate the necessary road realignments, including the additional right-of-way for the proposed realignment of Charles Street intersection on the application property, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT STAFF TO STUDY OPTIONS FOR ACHIEVING THE DESIRED TRANSPORTATION IMPROVEMENTS IN THE AREA, INCLUDING THE REALIGNMENT ENVISIONED BY THE PLAN, FOR THE GOAL OF MINIMIZING IMPACT TO BOTH EXISTING RESIDENTIAL NEIGHBORHOODS AND COMMERCIAL DEVELOPMENTS WHILE STILL PROVIDING ADEQUATE OPPORTUNITIES FOR REDEVELOPMENT AND UNDERSTANDING THAT THE OPTIONS MAY NEED TO EXTEND BEYOND THE LIMITS OF THE CURRENT APPLICATION.

Commissioner Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Commissioner Hedetniemi. Any discussion? Hearing and seeing none, all those in favor of the motion, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

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(Each motion carried by a vote of 8-0. Commissioner Hart was not present for the votes; Commissioners Hurley, Murphy, and Sargeant were absent from the meeting.)

JN

Board Agenda Item
October 6, 2015

3:30 p.m.

Public Hearing on SE 2015-BR-011 (Jaye S. Bawa) to Permit a Waiver of the Minimum Lot Width Requirements, Located on Approximately 1.71 Acres of Land Zoned R-2 (Braddock District)

This property is located at 5210 Dunleigh Drive, Burke 22015. Tax Map 69-4 ((14)) 45

PLANNING COMMISSION RECOMMENDATION:
On Thursday, September 24, 2015, the Planning Commission voted 9-0 (Commissioners Lawrence, Litzenberger, and Ulfelder were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2015-BR-011, subject to the Development Conditions consistent with those dated September 24, 2015.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4499286.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),
Carmen Bishop, Planner, DPZ

SE 2015-BR-011 – JAYE S. BAWA

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed. Ms. Hurley.

Commissioner Hurley: Thank you. Now, Mr. Chairman, I request the applicant to confirm, for the record, agreement to the development conditions dated 24, September 2015.

Phil Parsons, Applicant's Agent: We agree.

Chairman Murphy: Thank you, sir.

Commissioner Hurley: With the four new development conditions that were added today, the HOA has no objections to this application. The Braddock Land Use Committee unanimously recommends approval of this minimum lot width exception to subdivide this property. It's a fairly simple case overall. Therefore, Mr. Chairman, I request that the applicant confirm – I'm sorry. I move – I already said that part – I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2015-BR-011, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED SEPTEMBER 24TH, 2015.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2015-BR-011, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion carried by a vote of 9-0. Commissioners Lawrence, Litzenberger, and Ulfelder were absent from the meeting.)

JLC

Board Agenda Item
October 6, 2015

3:30 p.m.

Public Hearing on PCA 85-C-088-10 (Block 4 LLC) to Amend the Proffers for RZ 85-C-088 Previously Approved for a Mixed Use Development to Permit Modifications to Proffers, Site Design, and Development Plan, Located on Approximately 4.52 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PRCA 85-C-088-03 and DPA 85-C-088-08)

This property is located South of New Dominion Parkway, West of Reston Parkway, North of Market Street and Freedom Drive, East of Fountain Drive. Tax Map 17-1 ((16)) 1A (formerly known as 1 and 4)

and

Public Hearing on DPA 85-C-088-08 (Block 4 LLC) to Permit the 8TH Amendment of the Development Plan for RZ 85-C-088 to Permit a Mixed Use Development with an Overall Floor Area Ratio (FAR) of 3.2 and Associated Modifications to Proffers, Site Design, and Development Plan, Located on Approximately 4.52 Acres of Land, Zoned PRC (Hunter Mill District) (Concurrent with PCA 85-C-088-10 and PRCA 85-C-088-03)

This property is located South of New Dominion Parkway, West of Reston Parkway, North of Market Street and Freedom Drive, East of Fountain Drive. Tax Map 17-1 ((16)) 1A (formerly known as 1 and 4)

and

Public Hearing on PRCA 85-C-088-03 (Block 4 LLC) to Approve an Amendment of the Planned Residential Community Plan Associated with RZ 85-C-088 Previously Approved for a Mixed-use Development to Permit Modifications to Proffers, Site Design and Development Plan, Located on Approximately 4.52 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA 85-C-088-10 and DPA 85-C-088-08)

This property is located South of New Dominion Parkway, West of Reston Parkway, North of Market Street and Freedom Drive, East of Fountain Drive. Tax Map 17-1 ((16)) 1A (formerly known as 1 and 4)

PLANNING COMMISSION RECOMMENDATION:
On Thursday, September 17, 2015, the Planning Commission voted 9-0 (Commissioner Strandlie was not present for the vote and Commissioners Flanagan and Lawrence

were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 85-C-088-10, DPA 85-C-088-08 and PRCA 85-C-088-03 subject to the execution of proffers consistent with those dated August 24, 2015 and subject to the PRC conditions dated September 3, 2015;

- Approval of the modifications of Section 11-203 of the Zoning Ordinance for the loading space requirements to that shown on the DPA/PRCA Plan; and

- Approval of the modification of Sections 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the DPA/PRCA Plan.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4452644.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),
Mary Ann Tsai, Planner, DPZ

PCA 85-C-088-10/DPA 85-C-088-08/PRCA 85-C-088-03 – BLOCK 4 LLC

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Mr. de la Fe.
Commissioner de la Fe: Thank you, Mr. Chairman. I might note that we tend to defer things here regularly, I-I noticed that this one actually was moved up two weeks from when it was originally scheduled and I'm glad that it did indeed turn out to be a simple case. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 85-C-088-10, DPA 85-C-088-08 AND PRCA 85-C-088-03 SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED AUGUST 24, 2015 AND SUBJECT TO THE PRC CONDITIONS DATED SEPTEMBER 3RD, 2015.

Commissioner Litzenberger: Second.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Hart. 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 85-C-088-10, DPA 85-C-088-08 and PRCA 85-C-088-03 say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS OF SECTION 11-203 OF THE ZONING ORDINANCE FOR THE LOADING SPACE REQUIREMENTS TO THAT SHOWN ON THE DPA/PRCA PLAN.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of that motion say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: And lastly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATION OF SECTIONS 13-303 AND 13-304 OF THE ZONING ORDINANCE FOR THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS TO THAT SHOWN ON THE DPA/PRCA PLAN.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(Each motion was carried by a vote of 9-0. Commissioner Strandlie was not present for the vote. Commissioners Flanagan and Lawrence were absent from the meeting.)

TMW

Board Agenda Item
October 6, 2015

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Minor/Editorial Revisions

ISSUE:
The proposed amendment makes clarifying and minor revisions, as well as correcting inconsistencies and errors that have resulted from the adoption of previous Zoning Ordinance amendments.

PLANNING COMMISSION RECOMMENDATION:
On July 8, 2015, the Planning Commission recommended approval of the proposed amendment as advertised. The Planning Commission further adopted a motion to recommend that the Board of Supervisors direct staff to evaluate and report back with appropriate recommendations regarding the phrase "childcare providers own children" and how it is defined, especially when it comes to children who are not counted towards the total number of children permitted in a home child care facility.

RECOMMENDATION:
The County Executive concurs with the Planning Commission's recommendation.
NOTE: Because the Board of Supervisors deferred decision on proposed changes to the Fairfax County Code, Chapter 108 (Noise) to November 17, 2015, staff recommends a deferred effective date for the proposed changes to Article 14 contained in this amendment to follow the adoption of the changes to the Fairfax County Code.

TIMING:
Board of Supervisors' authorization to advertise – June 2, 2015; Planning Commission public hearing on July 8, 2015; Board of Supervisors' public hearing October 6, 2015.

BACKGROUND:
The proposed amendment is on the 2015 Priority 1 Zoning Ordinance Amendment Work Program and makes clarifying and minor revisions as well as correcting inconsistencies and errors that have resulted from the adoption of previous Zoning Ordinance amendments. Specifically, the amendment:

1) Revises Par. 2B(2) of Sect. 2-514 to increase the permitted height of directional/panel antennas from 6 feet to 8.5 feet when mounted on existing or replacement utility distribution and transmission poles or light/camera standards. Also revises Par. 2C(3)(b) to increase the permitted diameter for certain new or replacement light/camera standards from 42 inches to 60 inches.

2) Revises Par. 1 of Sect. 8-305 to permit the BZA to allow an expansion of the permitted hours of attendance beyond the current limits of 7:00 AM to 6:00 PM for a nonresident employee of a home child care center seeking special permit approval.

3) Revises Paragraphs 3 and 4 of Sect. 8-810 to allow temporary farmers' markets when there is frontage or safe and convenient access to any arterial street and clarifies the kinds of display items (canopies, tables, shelving, etc.) that may be utilized for the market.

4) Revises the reference to the Noise Ordinance in Par. 7 of Article 14, Noise Standards, by reflecting the recodification of the Noise Ordinance from Chapter 108 of the Code to 108.1.

5) Deletes references to metric units of measure and inserts the English equivalent in Sections 17-106 and 17-201and 18-704.

6) Modifies the definition of group residential facility in Article 20 to be consistent with the amended language in the Code of Virginia with regard to non-resident and resident counselors.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

REGULATORY IMPACT:
The proposed amendment enhances existing regulations by providing clarification, resolving inconsistencies and updating the Zoning Ordinance.

FISCAL IMPACT:
The proposed amendment will not require any additional review by staff or cost to the public and, as such, there will be no fiscal impacts to applicants or staff.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff Report
Attachment 2 – Planning Commission Verbatim

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Michelle M. O'Hare, Deputy Zoning Administrator for Ordinance Administration Branch, DPZ
Donna Pesto, Senior Assistant to the Zoning Administrator, DPZ
Saundra O'Connell, Assistant to the Zoning Administrator, DPZ
Matthew D. Mertz, Assistant to the Zoning Administrator, DPZ

FAIRFAX COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Minor/Editorial Revisions

PUBLIC HEARING DATES

Planning Commission July 8, 2015 at 8:15 p.m.

Board of Supervisors October 6, 2015 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

June 2, 2015

DP/SO/MM

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

Background

The proposed amendment addresses several topic areas that are set forth in the 2015 Priority 1 Zoning Ordinance Amendment Work Program under the heading "Minor Revisions," as well as correcting a few inconsistencies that have resulted from the adoption of previous Zoning Ordinance amendments. The proposed amendment will also clarify the original intent and meaning of certain Zoning Ordinance provisions, modify certain provisions based on current practices and industry standards, and update the Zoning Ordinance to incorporate the changes made to the Code of Virginia at the last legislative session.

Proposed Amendment

A description of each element of the proposed amendment is set forth by topic area, as follows:

Telecommunication Facility

The proposed amendment will change the maximum size of certain directional or panel antenna from 6 feet by 2 feet to 8.5 feet by 2 feet and will change the maximum diameter for certain new or replacement poles or standards from 42 inches to 60 inches. With regard to the antenna size, the increased dimensions would apply to those antennas mounted on existing or replacement utility distribution and transmission poles or on light/camera standards. The proposed change to Par. 2B(2) of Sect. 2-514 will make the antenna dimensions on an existing pole or standard consistent with the antenna size currently permitted on a new pole or standard.

The size limits for directional or panel antennas located on a new pole/standard or on a rooftop was increased from 6 feet by 2 feet to 8.5 feet by 2 feet under a previous text amendment, ZOA-09-415. Since that time, there has been an increase in public acceptance of structures associated with telecommunication services, as there has been a significant increase in demand for such services. Additionally, staff is aware of instances where a telecommunications provider has constructed a new pole directly adjacent to an existing pole, solely for the purpose of being able to install a 8.5 feet by 2 feet panel antenna instead of being limited to a 6 feet by 2 feet size. Staff does not believe the proliferation of new poles serves any purpose and believes that the visual impacts of such a minor increase in antenna size will be negligible. The net result will allow the telecommunications industry to establish directional/panel antennas of slightly larger size on existing poles/standards and, in turn, to reduce the number of new support structures needed to provide sufficient coverage.

Regarding the increase in the diameter of the pole or standard, staff notes that representatives of the telecommunications industry have indicated that a 42 inch diameter may be structurally insufficient in situations where there would be a full array of lighting and/or cameras in addition to multiple antennas on a pole or standard. Staff has confirmed with the Department of Public Works and Environmental Services that the 42 inch diameter limits for a pole/standard may be a limiting factor for the installation of antennas on a structure that also supports lighting and recording appurtenances. In an effort to increase the opportunity for colocation of antennas on light/camera standards, staff is proposing an amendment to allow for a 60 inch diameter pole or standard in Par. 2C(3)(b) of Sect. 2-514. Again, staff believes the negligible visual impact of the

proposed increase in pole diameter is outweighed by the benefits of collocation in an attempt to reduce the overall number of antenna support structures throughout the County.

Temporary Farmers' Market

In response to the growing demand for and popularity of farmers' markets offering more locally/regionally grown, organic or other specialty produce and farmed items, staff has been requested to consider changes that would allow broader opportunities for location of a farmers' market. Farmers' markets are typically conducted one day per week at any given location and generally operate during growing through harvesting seasons for farm produce. Currently, farmers' markets are permitted to locate only on a lot that has frontage on a principal arterial. The proposed change would permit farmers' markets to have frontage on and/or safe and convenient access to both principal and minor arterial roadways. Staff believes this will better accommodate farmers' markets in more urbanizing areas of the County where commercial areas are often accessed by roadways other than principal arterials. Additionally, as more mixed use communities develop and residential uses are integrated in areas that had been predominantly commercial in nature, staff believes that the customers will come increasingly to farmers' markets by means other than private vehicles, such as on foot and/or by bicycle This lessens the need for high capacity roadways to serve the use.

In staff's proposed change to Par. 3 of Sect. 8-810, temporary farmers' markets will be required to be located on a lot that has frontage on or safe and convenience access to any arterial street, including principal and minor arterials. The standards for temporary farmers' markets also include a requirement that the temporary special permit may only be issued when there is safe ingress and egress to the adjacent street. Under the current regulations, the Zoning Administrator uses these provisions in combination to determine that there is safe and convenient access to the principal arterial on which the lot fronts. With the proposed change, the Zoning Administrator can consider those farmers' market applications that have frontage on a minor arterial and/or for lots that have frontage on, but no access to, a principal arterial. Additionally, for consistency, staff proposes to change the text in Par. 3 that states the roadway classification definitions "set forth in the adopted comprehensive plan" to a reference of "Appendix 8 of the Zoning Ordinance", which is the section of the Zoning Ordinance that lists all arterial streets.

With regard to structures associated with a farmers' market, staff is proposing to change Par. 4 of Sect. 8-810 to state that temporary, fabric pop-up canopies are permitted in addition to canopies that may be attached to vehicles. Additionally, temporary portable shelving, hanging racks and the like would also be allowed. Structures of a more permanent nature continue to be prohibited. Farmers' market displays today typically include a pop-up canopy, along with bins or shelves of produce that are often placed on top of folding tables. Staff believes these kinds of structures are appropriate given how farmers' markets typically function.

Home Child Care Facility

Currently, the Zoning Ordinance provides that the maximum number of children who can be cared for in a "by right" home child care facility is 5 children in a multiple family/single family attached/mobile home dwelling unit or 7 children in a single family detached unit. Under the zoning provisions, the care provider's own children do not count toward these maximum

numbers of children. The current provisions provide that one non-resident assistant may work at the home child care facility during the hours of 7:00 AM and 6:00 PM, Monday through Friday. The Ordinance allows the Board of Zoning Appeals (BZA) or the Board of Supervisors (Board), for properties located in Planned Development District, to increase the number of children to 12 upon approval of a special permit or special exception. The BZA and Board can also approve a request to increase the number of non-resident assistant as part of a special permit or special exception application. There is, however, no current provision in the Zoning Ordinance that allows for a modification of the non-resident assistant's hours, regardless of the hours of operation for the facility.

Under the State's regulations for home child care facilities, ratio guidelines set forth the minimum number of adult caregivers to the number of children under care. In general, a provider-to-child ratio of 1:4 is required when the children are less than 16 months old; a ratio of 1:5 is required when the children are between 16 and 24 months old; and the ratio for two to four year olds is 1:8. Although the Zoning Ordinance does not include a child care provider's own children in the maximum number of children allowed, the State regulations do include those children for licensing purposes, which can make the impact of the ratios more restrictive. There have been multiple special permit and special exception applications in which the provider has requested to operate past 6:00 PM and/or during weekend hours. In a circumstance where the home child care facility is being sought by way of a special exception, the Board can modify the hours of attendance of a nonresident employee as the use limitations of Sect. 10-102 would be considered as additional standards; however, the BZA has no such authority under the special permit provisions. Because the BZA could not extend the hours of employment for the nonresident assistant, some applicant's request to extend the hours of operation have been denied or have been granted only when the number of children in care can be reduced to the State-mandated ratios by 6:00 PM, when the assistant must leave the facility.

Given diverse working hours related to jobs and businesses in the County, including medical care services, retail/entertainment/restaurant services, etc., coupled with long commuting times, the need for early morning/late evening/weekend child care is inherent in many working households. Staff believes that it is appropriate to allow the BZA to be able to consider a request to extend the work hours of a nonresident assistant as part of a special permit application, just as the Board can with a special exception. The BZA will have the ability to evaluate the potential for increased noise, light, headlight glare and traffic as well as the availability of parking. The changes are proposed to Sect. 8-305, which sets forth the use limitations for home child care facilities special permit.

Noise Standards Reference

A new Noise Ordinance has been drafted and a public hearing has been scheduled on May 12, 2015 for the Board to consider the proposed Ordinance. The chapter number of the proposed new Noise Ordinance is 108.1 of the County Code. The Zoning Ordinance, under Article 14, Performance Standards, makes reference to the Noise Ordinance under its current Chapter 108 designation. The proposed amendment changes the reference to the Noise Ordinance in Article 14 of the Zoning Ordinance to Chapter 108.1.

Metric Dimension

In 1992, the federal government enacted requirements to mandate that federally funded transportation project submissions must be calculated in metric units. The Virginia state government and Fairfax County subsequently adopted corresponding regulations to require a metric standard of measure on plans and submissions. In 1998, the federal government passed legislation suspending a requirement that submissions utilize metric measurements as a condition for receiving federal funding for transportation projects, and in 1999, both the Virginia General Assembly and Fairfax County reverted back to the English standard. Since that time, staff has become aware of a number of locations in the Zoning Ordinance where the metric standard of measure is still specified. This amendment deletes those references and converts them to the English equivalent. These changes are purely editorial in nature and correct several oversights from the 1999 amendment to revert from the metric to the English standard of measure.

Group Residential Facility

The definition of a group residential facility was modified in the Code of Virginia during the 2014 Virginia General Assembly, specifically under House Bill HB 527. The Code change clarified that a counselor in residence is not required. The new language now states that a group residential facility must include "one or more resident or nonresident staff persons." Accordingly, the definition of a group residential facility under the Zoning Ordinance is being amended to reflect this change. It is noted that staff has always interpreted that off-site counselors or staff are permitted for a group residential facility.

Conclusion

The proposed amendment represents changes that serve to clarify, codify and/or provide for slight modifications in current provisions regarding a number of Ordinance topics. There are no new uses or extensive modifications of existing provisions proposed by these changes. As such, staff recommends approval of the proposed amendment 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 June 2, 2015, 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, as other amendments may be adopted prior to action on this amendment. In the case of such an 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 2, General Regulations, Part 5, Qualifying Use, Structure Regulations, by amending Paragraphs 2B(2) and 2C(3)(b) of Sect. 2-514, Limitations on Mobile and Land Based Telecommunication Facilities, as follows:

Mobile and land based telecommunication facilities shall be permitted on any lot in the following zoning districts when such use is in accordance with the following limitations and when such use is not specifically precluded or regulated by any applicable proffered condition, development condition, special permit or special exception condition which limits the number, type and location of antenna and/or related equipment structure. Further provided, however, such use shall be in substantial conformance with any proffered condition, development condition, special permit or special exception condition. In addition, such uses shall be subject to the requirements of Sect. 15.2-2232 of the Code of Virginia.

2. Antennas mounted on existing or replacement utility distribution and transmission poles (poles) and light/camera standards (standards), with related unmanned equipment cabinets and/or structures, shall be permitted in accordance with the following and may exceed the maximum building height limitations, subject to the following paragraphs:

B. The following antenna types shall be permitted subject to Paragraphs 2C through 2I below:

(2) Directional or panel antennas, not exceeding ~~six (6)~~ <u>eight and one-half (8½)</u> feet in height or two (2) feet in width.

C. The antennas listed in Par. 2B above shall be permitted as follows:

(3) In commercial or industrial districts; in commercial areas of PDH, PDC, PRC PRM, and PTC Districts; in districts zoned for multiple family dwellings and residentially developed with buildings that are greater than thirty-five (35) feet in height; in any zoning district on lots containing: Group 3 special permit uses, except home child care facilities and group housekeeping units, Group 4, 5 or 6 special permit uses, Category 1, 2, 3 or 4 special exception uses, or Category 5 special exception uses of country clubs, golf clubs, commercial golf courses, golf

driving ranges, miniature golf ancillary to golf driving ranges, baseball hitting and archery ranges, or kennels and veterinary hospitals ancillary to kennels; or in any zoning district on property owned or controlled by a public use or Fairfax County governmental unit, to include street right-of-ways, the following shall apply:

(b) Except for replacement light/camera standards identified in the following paragraph, the height of a replacement pole or standard, including antennas, shall not exceed 100 feet, provided however, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed sixty (60) ~~forty-two (42)~~ inches.

The height of a new or replacement light/camera standard on the property used for athletic fields and owned or controlled by a public use or Fairfax County governmental unit, including antennas, shall not exceed 125 feet. The diameter of the light/camera standard shall not exceed sixty (60) ~~forty-two (42)~~ inches.

Amend Article 8, Special Permits, as follows:

- **Amend Part 3, Group 3 Institutional Uses, by amending Par. 1 of Sect. 8-305, Additional Standards for Home Child Care Facilities, to read as follows:**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use and/or allow an expansion of the permitted hours of attendance of any such nonresident person beyond the hours permitted under Par. 6D of Sect. 10-103. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.

- **Amend Part 8, Group 8 Temporary Uses, by amending Paragraphs 3 and 4 of Sect. 8-810, Standards and Time Limits for Temporary Farmers' Markets, to read as follows:**

3. Such use shall be located on a lot having frontage on or safe and convenient access to a principal or minor arterial street as ~~defined in the adopted comprehensive plan~~ set forth in Appendix 8.

4. No ~~overnight~~ storage of vehicles, canopies, display items or produce shall be permitted when the market is not in operation.~~, and~~ Additionally, no structures shall be allowed, provided, however, that canopy tents, fabric canopies primarily attached to vehicles and temporary portable shelving, portable tables, bins, hanging racks and similar display items shall not be deemed structures.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, as follows:

- **Amend Part 1, Accessory Uses and Structures, Sect. 10-103, Use Limitations, by revising Par. 6.G. to read as follows:**

6.G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person or an extension of the hours of attendance of such nonresident person as ~~permitted~~ provided for under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

Amend Article 14, Performance Standards, Part 7, Noise Standards, by revising Sect. 14-700 to read as follows:

No use, operation or activity shall cause or create noise in excess of the sound levels prescribed in Chapter 108.1 of The Code.

Amend Article 17, Site Plans, as follows:

- **Amend Part 1, General Requirements, Sect. 17-106, Required Information on Site Plans, by revising the lead-in paragraph and Paragraphs 2, 8 and 9 to read as follows:**

All site plans shall contain a cover sheet as prescribed by the Director and the following information, where applicable, unless the Director determines, based upon written justification submitted with the plan, that the information is unnecessary for a complete review of the site plan. Site plans shall also be prepared in accordance with the provisions of the Public Facilities Manual and shall be submitted in English ~~metric~~ measurements ~~of the English equivalent to metric measurements; provided, however, that in the event of any discrepancy between the English and metric measurements used to express any standard in this Ordinance, the English measure shall control~~, unless otherwise approved by the Director.

2. Site plans shall be prepared to a ~~metric scale of 1:500 or an English~~ scale of one inch equals fifty feet (1”=50’) or larger and all lettering shall be not less than ~~3mm in height if done in metric or~~ 1/10” in height ~~if done in English measurements~~. The sheet(s) shall be 24” by 36” and, if prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets adjoin.

8. ~~Horizontal dimensions shown on the site plan in metric shall be shown to the closet one-hundredth (0.01) meter. Survey data shall be shown to the closest one-thousandth (0.001) meter.~~ Horizontal dimensions shown on the site plan ~~in English measurements~~ shall be shown in feet and decimal fractions of a foot accurate to the closet one-hundredth of a foot (.00). All bearings in degrees,

minutes and seconds shall be shown to a minimum accuracy of ten (10) seconds.

9. Existing topography with a maximum contour interval of ~~one half (0.5) meter if done in metric and~~ two (2) foot ~~if done in English measurement~~, except that where existing ground is on a slope of less than two (2) percent, either ~~one-quarter (0.25) meter or~~ one (1) foot contour or spot elevations shall be provided where necessary, but no more than ~~fifteen (15) meters or~~ fifty (50) feet apart in both directions.

- **Amend Part 2, Required Improvements, Sect. 17-201, Improvements to be Provided, by revising the Paragraphs 3B and 7 to read as follows:**

3B. Adjacent to any minor arterial or collector street, a travel lane not less than 22 feet ~~6.60 meters, or the English equivalent,~~ in width shall be constructed to afford access to adjoining properties.

7. Installation of adequate 'No Parking' signs along travel lanes or service drives to prohibit parking on same. Such signs shall be located on each curbed side, no more than 50 feet ~~fifteen (15) meters, or the English equivalent,~~ apart.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 7, Residential and Non-Residential Use Permits, by revising Paragraphs 13 and 13A of Sect. 18-704, Minimum Requirements, to read as follows:

13. For single family detached dwelling units, five (5) copies of an as-built house location survey plat shall be submitted to the Zoning Administrator for review and approval within thirty (30) days of the issuance of the Residential Use Permit. Such plat shall be presented on a sheet having a maximum size of 8 ½" by 14", drawn to a designated scale of not less than one inch equals fifty feet (1" = 50')~~, or a metric scale of 1:500~~ or larger, unless a smaller scale is required to accommodate the development, with the scale clearly indicated. In all cases, the scale used on the as-built house location plat shall be the same as the scale of the approved house grading plan. Such plat, regardless of the area of the lot, shall be prepared in accordance with the rules and regulations adopted by the Commonwealth of Virginia, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (APELSLA), and shall also show the following:

A. The distance from all structures including any extensions from the vertical plane of the building, structure, or addition shown to the nearest one-tenth of a foot to all lot lines and any floodplain. ~~If metric units are used, their English equivalents shall be provided, with English measurements shown in parentheses.~~ For features which extend into the minimum required yard pursuant to Sect. 2-412, in addition to showing the distance of the feature to all lot lines, the plat shall also include the specific dimensions which qualifies the feature for the permitted extension.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 2, Definitions, by amending the entry for GROUP RESIDENTIAL FACILITY, to read as follows:

GROUP RESIDENTIAL FACILITY: A group home or other residential facility, with one or more resident ~~counselors or other~~ <u>or nonresident</u> staff persons, in which no more than: (a) eight (8) mentally ill, intellectually disabled or developmentally disabled persons reside and such home is licensed by the Virginia Department of Behavioral Health and Developmental Services; or (b) eight (8) intellectually disabled persons or eight (8) aged, infirm or disabled persons reside and such home is licensed by the Virginia Department of Social Services; or (c) eight (8) handicapped persons reside, with handicapped defined in accordance with the Federal Fair Housing Amendments Act of 1988. The terms handicapped, mental illness and developmental disability shall not include current illegal use or addiction to a controlled substance as defined in Sect. 54.1-3401 of the Code of Virginia or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802).

For the purpose of this Ordinance, a group residential facility shall not be deemed a group housekeeping unit, or ASSISTED LIVING FACILITY and a dwelling unit or facility for more than four (4) persons who do not meet the criteria set forth above or for more than eight (8) handicapped, mentally ill, intellectually disabled or developmentally disabled persons shall be deemed a CONGREGATE LIVING FACILITY.

Planning Commission Meeting
July 8, 2015
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT MINOR/EDITORIAL REVISIONS

After Close of the Public Hearing.

Vice Chairman de la Fe: The public hearing is closed. This is, Commissioner Heditniemi, I believe you are the one that is handling this.

Commissioner Heditniemi: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED MINOR/EDITORIAL REVISIONS AS ADVERTISED.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. Is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries and Commissioner Hurley, you said you were going to, make a motion.

Commissioner Hurley: I MOVE THE PLANNING COMMISSION.

Commissioner Hart: No, your mic isn't on.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DIRECT THE STAFF TO EVALUATE AND REPORT BACK WITH APPROPRIATE RECOMMENDATIONS THE DEFINITION OF THE TERM CHILDREN IN REGARDS TO THE PHRASE "CHILD PROVIDERS OWN CHILDREN."

Commissioner Migliaccio: Second.

Vice Chairman de la Fe: Seconded by Commissioner Migliaccio. Is there any discussion? Hearing and seeing none all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

//

(The motion carried by a vote of 9-0. Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting.)

TMW

Board Agenda Item
October 6, 2015

4:00 p.m.

To be Deferred

Public Hearing on a Proposed Amendment to the Zoning Ordinance Re: Donation Drop-Off Boxes

ISSUE:
The proposed amendment is on the 2015 Priority 1 Zoning Ordinance Amendment Work Program, and is in response to a Board request to consider adopting provisions to regulate donation drop-off boxes, which are unattended self-serve depositories for clothing, shoes, household textiles and other items that people are willing to donate. The amendment proposes to address the number, location and proper maintenance of these containers.

PLANNING COMMISSION RECOMMENDATION:
On July 8, 2015, the Planning Commission held a public hearing on the proposed Zoning Ordinance amendment and took public comments. Following these comments, the Planning Commission unanimously voted (Commissioners Lawrence, Murphy, and Strandlie were absent from the meeting) to defer decision on the amendment to a date certain of July 22, 2015, with the record remaining open until such time for written comments, and to give staff time to respond to questions raised at the public hearing.

On July 22, 2015, following review of staff's responses and a discussion of public outreach efforts the Planning Commission voted 9-0-1 (Commission Murphy abstained from the vote. Commissioners Lawrence and Migliaccio were absent from the meeting) to recommend adoption of the Zoning Ordinance amendment to the Board of Supervisors.

RECOMMENDATION
The County Executive concurs with the Planning Commission recommendation.

TIMING:
Board of Supervisors' authorization to advertise on June 2, 2015; Planning Commission public hearing on July 8, 2015; Planning Commission decision on July 22, 2015; Board of Supervisors' public hearing on October 6, 2015 at 4:00 p.m.

Board Agenda Item
October 6, 2015

BACKGROUND:
The proposed amendment would create a definition for a donation drop-off box and regulate such structures as an accessory use, subject to specific use limitations. Currently, a donation drop-off box is considered to be most similar to a freestanding accessory storage structure and, therefore, subject to the same location requirements as set forth in Par. 10 of Sect. 10-104 (Location Regulations) of the Zoning Ordinance. Given the number of donation drop-off boxes observed around the County and the complaints received regarding their location and proper maintenance, the Board requested that staff prepare a Zoning Ordinance Amendment to regulate such containers. In response, staff has prepared the attached amendment. Specifically, the amendment proposes to:

(1) Add a definition of a donation drop-off box to Article 20 of the Zoning Ordinance.

(2) Create a new Par. 34 in Sect. 10-102 of the Zoning Ordinance that provides standards and regulatory restrictions for donation drop-off boxes. These limitations include:
   a) Restricting the permitted locations to property zoned C-5 through C-9 on lots at least 40,000 square feet in area, in any commercial area of a P district when shown on an approved development plan, in any R district lot with a non-residential principal use, or in conjunction with approval for another use by a special permit, special exception or proffered rezoning and only when shown on an approved development plan;
   b) Limiting the number of donation drop-off boxes to two (2) per lot in an area not to exceed a total of 120 square feet and the size of each container to a maximum of 7 feet tall x 6 feet deep x 6 feet wide;
   c) Prohibiting donation drop-off boxes in a minimum required front yard, required open space, landscaped areas, pedestrian and vehicular travel ways, and intersections;
   d) Requiring that donation drop-off boxes be constructed of weather-proof, noncombustible materials and be maintained so donations are collected regularly and no items are left outside; and
   e) Listing the following information on the exterior of the donation drop-off box: name and telephone number of the owner/operator, the items for collection, and a statement prohibiting liquids and dumping.

Subsequent to the Planning Commission action on the amendment, staff received a request from the Mason District Supervisor to consider additional language that would 1) require a donation drop-box to be emptied as needed or within 48 hours of a request by the property owner or authorized agent; 2) require that donation drop-off box operators obtain written consent from the property owner, lessee or their authorized agent to place a donation drop-box on the property and 3) that such written consent be made available for review upon request by Fairfax County. There was testimony at the Planning Commission public hearing from citizens that many of these boxes are placed on properties without permission. While most commercial property owners effectively

manage their properties and grant the appropriate permission, the added language makes it clear to the donation drop-off box operators that written permission must be obtained. Staff has prepared revised text for the Board's consideration which is set forth in Attachment 1. A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

In addition, during the Planning Commission review of the proposed amendment, it was suggested that staff create an outreach program to explain the new regulations to commercial property owners, civic groups and donation box operators. In addition to preparing a press release upon adoption of the amendment, staff will be establishing a web page that will include a summary of the adopted regulations, and provide information on how to report violations. In addition, staff will be working with the Department of Code Compliance to prepare an informational letter to send to property owners and donation box operators, if they can be identified, upon receipt of a complaint advising the parties of the new regulations and requesting voluntary compliance. Finally, staff also proposes to reach out to local business groups such as the Chamber of Commerce, to explain the new regulations and responsibility for compliance.

REGULATORY IMPACT:
The proposed amendment establishes new regulations for donation drop-off boxes, restricting the number, size and location as well as imposing maintenance standards. Such regulations should assist with compliance efforts.

FISCAL IMPACT:
There may be an initial increase in staff resources devoted to enhanced enforcement efforts and outreach to property owners, but it is anticipated that these efforts can be accommodated with existing staff resources.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed Amendment
Attachment 2 – Staff Report
Attachment 3 – Planning Commission Verbatim

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Heath Eddy, Senior Assistant to the Zoning Administrator, DPZ

ATTACHMENT 1

PROPOSED AMENDMENT

DONATION DROP-OFF BOXES – SEPTEMBER 14, 2015

Changes proposed to the recommended amendment text from that recommended by the Planning Commission are shown below with underlining.

Amend Article 10, Accessory Uses, Accessory S ervice Uses and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-102, Permitted Accessory Uses, by adding new Par. 34 to read as follows:

34. Donation drop-off boxes, but subject to the following:

A. Donation drop-off boxes shall be permitted:

(1) In the C-5 through C-9 districts on a lot containing not less than 40,000 square feet;

(2) In the commercial area of a P district, when ancillary to the principal use and only when shown on an approved development plan;

(3) In the R district where the principal use of the development is not residential; or

(4) When the donation drop-off box is specifically identified on an approved development plan that is approved in conjunction with (i) an approval by the BZA of a special permit for another use or (ii) an approval by the Board of a proffered rezoning or a special exception for another use.

The owner or operator of the donation drop-off box shall obtain written permission from the property owner, lessee, or their authorized agent to place the donation drop-off box on the property. When requested by Fairfax County, the property owner, lessee, donation drop-off box operator or owner, or their designated agent shall make such written consent available for review.

B. A maximum of two (2) donation drop-off boxes shall be permitted on any one (1) lot and shall be located within a contiguous area of not more than 120 square feet, with no individual drop-off box exceeding the dimensions of seven (7) feet in height, six (6) feet in width or six (6) feet in length.

C. Donation drop-off boxes shall be permitted in any yard except the minimum required front yard and shall be screened from view from the first-story window of any neighboring dwelling.

D. Donation drop-off boxes shall not be located in any required open space, transitional screening yard, landscaped area, on any private street, sidewalk or trail, in any required parking space, or in any location that blocks or interferes with vehicular and/or pedestrian circulation. Donation drop-off boxes shall be located in accordance with all applicable building and fire code regulations for the

purpose of ensuring safe ingress and egress, access to utility shut-off valves, and for fire protection. Such containers shall also be subject to the sight distance provisions of Sect. 2-505.

E. Donation drop-off boxes shall be weather-proof, constructed of painted metal, plastic, or other similarly noncombustible material, properly maintained in good repair and in a manner that complies with all applicable Building Code and Fire Code regulations, and secured from unauthorized access.

F. All donated items shall be collected and stored in the donation drop-off box <u>which shall be emptied as needed or within 48 hours of a request by the property owner or authorized agent</u>. Items and materials including trash shall not be located outside or in proximity to a donation drop-off box for more than 24 hours and shall be removed by the property owner, operator of the donation drop-off box or a designated agent.

G. Donation drop-off boxes shall display the following information in a permanent and legible format that is clearly visible from the front of the container:

(1) The specific items and materials requested;

(2) The name of the operator or owner of the container;

(3) The entity responsible for the maintenance of the container and the removal of donated items, including any abandoned materials and trash located outside the donation drop-off box;

(4) A telephone number where the owner, operator or agent of the owner or operator may be reached at any time.

(5) A notice stating that no items or materials shall be left outside of the donation drop-off box and the statement, "Not for refuse disposal. Liquids are prohibited."

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, Sect. 20-300, by adding a new definition in alphanumeric order to read as follows:

DONATION DROP-OFF BOX: Any portable outdoor container intended or used for the collection and storage of unwanted textile and household items such as clothing, toys, books, and shoes, which are removed from the container on a periodic basis. For purposes of this Ordinance, a donation drop-off box shall not be deemed to include a RECYCLING CENTER or SOLID WASTE COLLECTION FACILITY.

ATTACHMENT 2

FAIRFAX COUNTY

V I R G I N I A

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Donation Drop-Off Boxes

PUBLIC HEARING DATES

Planning Commission July 8, 2015 at 8:15 p.m.

Board of Supervisors October 6, 2015 at 4:00 p.m.

PREPARED BY
FAIRFAX COUNTY DEPARTMENT OF PLANNINGAND ZONING
703-324-8692

June 2, 2015

HE

Americans With Disabilities Act (ADA): Reasonableaccommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed amendment is on the 2015 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a Board item adopted on April 9, 2013, to amend the Zoning Ordinance to regulate donation drop-off boxes. The Board expressed concern that while these donation boxes can provide opportunities for donations of used clothing, shoes and small household items, they also attract the dumping of unwanted furniture and other junk items, generating complaints of overflowing containers which often appear in undesirable locations. The purpose of the proposed amendment is to define these containers, to specify the conditions under which such a use may be permitted, and to provide a clear framework for enforcement.

Background

Donation drop-off boxes are collection containers of various designs, sizes and colors that are frequently placed in commercial parking lots, unused areas of roadways or any other highly visible location. They function as self-service depositories for unwanted clothing, shoes, household textiles and other items that people are willing to donate. Oftentimes they are found grouped together, with each box advertising a specific charity and soliciting for either a specific item or a variety of items. These boxes can become a nuisance and detract from a community's appearance when they are inappropriately located on a site, appear as a predominate feature on a lot, or function as a dumping ground.

Donation drop-off boxes are mainly found in highly visible locations in commercial areas and shopping centers so the public can easily donate unwanted items at their convenience. Many are located at the periphery of commercial parking lots in parking spaces that are infrequently used. When placed in parking spaces, the boxes may be located in required parking areas, thereby reducing the available parking to less than the number of spaces required by the Zoning Ordinance. Furthermore, the location of the boxes can be a concern because they may block adequate lines of sight and disrupt proper traffic circulation. Some are located in places that may not be appropriate. Boxes have been seen in residential areas and on vacant properties that can contribute to a negative community appearance. Finally, if improperly maintained the boxes become filled to capacity that results in donated items being left outside the box. Staff has observed that large household items, those too big to fit in the drop box opening, such as mattresses, are placed near the boxes creating a makeshift dumping site. Staff has also seen boxes made of materials that are not waterproof, lack durability, or are poorly maintained, creating an eyesore.

Current Zoning Ordinance Provisions

Donation drop-off boxes are not currently defined in the Zoning Ordinance. At the present time, they are regulated by interpretation and deemed to be most similar to accessory storage structures. As such, donation drop-off boxes are not permitted within a front yard, except on lots that contain greater than 36,000 square feet of land area. On all lots, donation drop-off boxes may not be placed within a minimum required front yard, which is typically 40 feet for commercial and industrial districts. Donation drop-off boxes that exceed 8½ feet in height cannot be located in any minimum required side yard or closer than a distance equal to its height to the rear lot line. Donation drop-off boxes that do not exceed 8½ feet in height may be located in any side or rear yard. Additional

regulations also apply. Donation drop-off boxes are permitted only in commercial and industrial districts as accessory to a principal commercial or industrial use. They are not permitted in any transitional screening yard, landscaped open space, required parking space, in the public right-of-way, or any location that would impede onsite circulation or access to the site. They are not permitted as the principal use on a lot.

Staff conducted research and outreach in preparation for this amendment. Staff met with representatives of Planet Aid, a local organization that uses donation drop-off boxes to collect used clothing and shoes. The collected items are then bundled and sold to processors who sort donations for resale or to be repurposed, with the result that all donations are reused and not thrown away. Planet Aid indicated that regulation of donation drop-off boxes would be a benefit to the industry as it would provide clear standards for maintenance and a means for local enforcement. Staff also received comments from the Secondary Materials and Recycled Textiles (SMART) Association, an international trade association dedicated to the recycling and reuse of textiles and related secondary materials. The association promotes a code of conduct for the use of clothing collection bins (or donation drop-off boxes), and advocates the benefits of donation drop-off boxes for the reduction of waste and promotion of recycling of clothing and other household items. SMART provided staff with a draft ordinance for consideration. They also noted that two federal courts have ruled that donation drop-off boxes are a form of charitable solicitation, which is protected as free speech under the First Amendment. As such, local and state governments may regulate donation drop-off boxes but must do so reasonably so as not to limit the recognized constitutionally protected rights of charitable organizations. Furthermore, staff reviewed regulatory approaches to donation drop-off boxes of various jurisdictions bordering or nearby to Fairfax County. The following table summarizes these approaches by other jurisdictions.

Location	***Regulation?***	***Method***	***Permit Required?***	***Enforcement***
Fairfax City	No			
Falls Church	Yes	Site Plan	No	Complaint basis
Alexandria	None specific to drop boxes	Compliance as sight distance obstructions	No	Complaint basis
Arlington County	None specific see above	Shall be shown on a Site Plan	No	Not specified
Loudoun County	No			
Prince William County	Yes	Treated as an accessory structure, with limitations	Yes	Complaint basis/ coordination with VDOT in right-of-way
Town of Herndon	No – banned	Deadline of 7/31/14 for removal; all donation drop-off boxes are prohibited	No	Complaint basis
Town of Vienna	No			
Gaithersburg, MD	Yes	Accessory structure	Yes – with sunset provision for existing non-permitted boxes	Complaint basis

Most recently, staff prepared a draft set of standards that were discussed with the Board's Development Process Committee (DPC) on February 3, 2015. With the input provided by Planet Aid, SMART, and the comments received at the DPC meeting, staff prepared this amendment to the Zoning Ordinance to permit donation drop-off boxes as an accessory use that would be subject to limitations. This amendment provides specific limitations with regard to the numbers, placement and maintenance of these containers. With the addition of these regulations, the Department of Code Compliance will have specific provisions for donation drop-off boxes that will assist staff in enforcement efforts. Note that the Zoning Ordinance does not deal with regulations in the public rights-of-way and the proposed amendment does not address donation drop-off boxes placed in a public street. Any enforcement on public roads is handled by VDOT, since public rights-of-way are owned and maintained by VDOT and therefore outside of County zoning jurisdiction. VDOT is responsible for removing donation drop-off boxes within the public right-of-way and have had them removed previously.

Proposed Amendment

The proposed amendment adds the term 'Donation Drop-off Box' in Article 20 and defines it as a fully enclosed storage container specifically intended for the collection and storage of donated household items. This new definition provides the necessary basis on which to distinguish these containers from other types of storage structures, such as sheds. The proposed regulations will treat donation drop-off boxes as a permitted accessory use under Section 10-102 of the Zoning Ordinance, with the following proposed use limitations:

Permitted in Limited Zoning Districts

The proposed amendment deems donation drop-off boxes as an accessory use, because they contribute to the comfort and convenience of visitors, shoppers, and others who frequent retail and community-oriented uses. In recognition that donation drop-off boxes are a form of protected speech, and in certain circumstances can be an appropriate use, the proposed amendment allows donation drop-off boxes as an accessory use subject to limitations that mitigate the negative impacts associated with this type of use.

Therefore, the proposed amendment permits donation drop-off boxes in the C-5 through C-9 Districts on lots that meet the minimum lot area requirement of 40,000 square feet. In addition, the proposed amendment allows donation drop-off boxes in commercial areas of P districts, provided that a principal use is already located on a given property and provided the donation drop-off box area is shown on an approved development plan.

Furthermore, in recognition that some nonresidential uses are permitted in districts other than those listed above, the proposed amendment allows for donation drop-off boxes to be placed on properties in residential districts where the principal use is not a dwelling. When such uses are subject to a special permit or a special exception approval, donation drop-off boxes may be permitted as a minor modification under Par. 4 of Sect. 8-004 for special permits or under Par. 4 of Sect. 9-004 for special exceptions. Finally, donation drop-off boxes may be permitted in conjunction with the approval of another special permit or special exception use or in conjunction with a rezoning, and only when the proposed donation drop-off box is shown on the approved development plan.

Number, Dimensions, and Locational Restrictions on Each Site

The proposed amendment establishes limits on where donation drop-off boxes can be located, how large they can be, and how many can be located on any given site. The proposed amendment limits the number of donation drop-off boxes on a property to two. This limitation is in response to concerns about situations where an excessive number of donation drop-off boxes were found on commercial properties, which leads to dumping of unwanted items. Staff has identified a number of locations that have 8-10 donation drop-off boxes lined up in parking areas.

As such, the proposed amendment limits the number allowed on an individual lot to two (2) donation drop-off boxes. No single donation drop-off box may exceed the dimensions of seven (7) feet in height, six (6) feet in width or six (6) feet in length. Based on surveys conducted by staff around the County, most of the existing donation drop-off boxes would comply with this size limitation.

Furthermore, several standards are proposed to address where donation drop-off boxes can be located on the site and require that they be located within a contiguous area of not more than 120 square feet in size. The proposed amendment allows these containers to be located in any yard except the minimum required front yard, and requires screening from view of any residential property.

The proposed amendment also seeks to ensure that donation drop-off boxes are situated on-site so as to avoid creating conflicts with pedestrians or vehicles or interfere with on-site circulation. The proposal also seeks to ensure that donation drop-off boxes are not located in any sight distance areas for site access as currently regulated by Sect. 2-505 of the Zoning Ordinance. The proposed amendment further restricts the location of donation drop-off boxes so as to preserve and protect required open space, transitional screening, landscaped areas, private streets, sidewalks or trails, and required parking. It is recognized that typically donation drop-off boxes are located in paved parking spaces. The proposed amendment allows donation drop-off boxes to locate in parking spaces only when the spaces are considered excess parking, meaning there are more parking spaces onsite than the minimum required under Article 11 of the Zoning Ordinance.

Construction, Maintenance, and Signage/Identification Requirements

In order to protect donated charitable items inside the donation drop-off boxes as well as prevent the deterioration of any donation drop-off box and its surroundings, staff proposes a minimum standard for maintenance and upkeep of these boxes. The proposed amendment provides that donation drop-off boxes shall be constructed of a weather-proof, noncombustible material and secured so as to prevent unauthorized access. In addition, there is a standard for collections such that the operator or owner of a donation drop-off box regularly manages the location of each container so as to avoid overflow, and to maintain the surrounding area so that unwanted refuse or illegal dumping is prevented.

In addition, there is a requirement to display the identity of the owner or operator of each donation drop-off box and their contact information, along with identification of the materials requested and prohibited. This requirement is to address problems concerning maintenance of the donation drop-

off box and its surroundings and to provide a means for direct contact for compliance purposes. In addition, the proposed amendment clearly establishes that a donation drop-off box shall not be utilized for unrelated commercial advertising.

Permitting/Licensing Questions

In reviewing the proposed amendment with the Board at the Development Process Committee meeting in February 2015, a permitting process for donation drop-off box approval was discussed. While the merits were considered, staff believes a permitting process would consume additional staff resources, and offers no significant advantages over the proposed amendment set forth herein. The proposed amendment is intended to create specific regulations and assist in enforcement efforts for this particular accessory use.

Conclusion

The proposed amendment recognizes the proliferation of donation drop-off boxes around the County and the unique nature of these uses. As such, the proposed amendment adds a new definition for donation drop-off boxes that distinguishes these containers from other accessory storage structures, while providing a reasonable regulatory framework for the number, location, and maintenance of donation drop-off boxes. Staff believes the proposed amendment strikes an appropriate balance between the convenience that donation drop-off boxes provide coupled with the positive benefits of charitable giving and the free speech protections associated with charitable uses, while also providing an effective basis for protection of local community character. Therefore, staff recommends approval of the proposed amendment 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 June 2, 2015 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 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-102, Permitted Accessory Uses, by adding new Par. 34 to read as follows:

34. Donation drop-off boxes, but subject to the following:

A. Donation drop-off boxes shall be permitted:

(1) In the C-5 through C-9 districts on a lot containing not less than 40,000 square feet;

(2) In the commercial area of a P district, when ancillary to the principal use and only when shown on an approved development plan;

(3) In the R district where the principal use of the development is not residential; or

(4) When the donation drop-off box is specifically identified on an approved development plan that is approved in conjunction with (i) an approval by the BZA of a special permit for another use or (ii) an approval by the Board of a proffered rezoning or a special exception for another use.

B. A maximum of two (2) donation drop-off boxes shall be permitted on any one (1) lot and shall be located within a contiguous area of not more than 120 square feet, with no individual drop-off box exceeding the dimensions of seven (7) feet in height, six (6) feet in width or six (6) feet in length.

C. Donation drop-off boxes shall be permitted in any yard except the minimum required front yard and shall be screened from view from the first-story window of any neighboring dwelling.

D. Donation drop-off boxes shall not be located in any required open space, transitional screening yard, landscaped area, on any private street, sidewalk or trail, in any required parking space, or in any location that blocks or interferes

with vehicular and/or pedestrian circulation. Donation drop-off boxes shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress, access to utility shut-off valves, and for fire protection. Such containers shall also be subject to the sight distance provisions of Sect. 2-505.

E. Donation drop-off boxes shall be weather-proof, constructed of painted metal, plastic, or other similarly noncombustible material, properly maintained in good repair and in a manner that complies with all applicable Building Code and Fire Code regulations, and secured from unauthorized access.

F. All donated items shall be collected and stored in the donation drop-off box. Items and materials including trash shall not be located outside or in proximity to a donation drop-off box for more than 24 hours and shall be removed by the property owner, operator of the donation drop-off box or a designated agent.

G. Donation drop-off boxes shall display the following information in a permanent and legible format that is clearly visible from the front of the container:

(1) The specific items and materials requested;

(2) The name of the operator or owner of the container;

(3) The entity responsible for the maintenance of the container and the removal of donated items, including any abandoned materials and trash located outside the donation drop-off box;

(4) A telephone number where the owner, operator or agent of the owner or operator may be reached at any time.

(5) A notice stating that no items or materials shall be left outside of the donation drop-off box and the statement, "Not for refuse disposal. Liquids are prohibited."

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, Sect. 20-300, by adding a new definition in alphanumeric order to read as follows:

DONATION DROP-OFF BOX: Any portable outdoor container intended or used for the collection and storage of unwanted textile and household items such as clothing, toys, books, and shoes, which are removed from the container on a periodic basis. For purposes of this Ordinance, a donation drop-off box shall not be deemed to include a RECYCLING CENTER or SOLID WASTE COLLECTION FACILITY.

Planning Commission Meeting
July 22, 2015
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT – DONATION DROP BOXES

During Commission Matters

Commissioner Hedetniemi: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT FOR DONATION DROP OFF BOXES AS SET FORTH IN THE STAFF REPORT DATED JUNE 2ND, 2015.

Commissioner Litzenberger: Second.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Flanagan. Is there a discussion of the motion? All those in favor to recommend to the Board of Supervisors that it adopt the Zoning Ordinance Amendment regarding drop off boxes, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. The chair abstains, I was not present for the public hearing and I did not have the opportunity to review the film or anything else.

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(The motion carried by a vote of 9-0-1. Chairman Murphy abstained from the vote. Commissioners Lawrence and Migliaccio were absent from the meeting.)

TMW

Board Agenda Item
October 6, 2015

4:30 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern