

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 29, 2019**

AGENDA

9:30	Done	Presentations
10:00	Done	Presentation of the 2019 Barbara Varon Award
10:10	Done	Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
10:20	Done	Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

1	Approved	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Innovation Center to Arrowbrook Trail (Dranesville District)
2	Approved	Designation of Plans Examiner Status under the Expedited Land Development Review Program
3	Approved	Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-2-13 and Relocate the Polling Place for the McLean Precinct in the Dranesville District
4	Approved	Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Lee District)
5	Approved	Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Lot Line and Lot Width
6	Approved	Authorization to Advertise a Public Hearing on the Sale of Board-Owned Property on West Drive to the City of Fairfax
7	Approved	Supplemental Appropriation Resolution AS 20093 for the Fairfax-Falls Church Community Services Board to Accept Grant Funding from Virginia Department of Behavioral Health and Developmental Services for the State Opioid Response (SOR), Recovery Services
8	Approved	Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend the Fairfax County Code by Adding a New Chapter 86, Relating to Shared Mobility Devices

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 29, 2019**

**ADMINISTRATIVE
ITEMS
(continued)**

- | | | |
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| 9 | Approved | Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, to Support Enhanced Transportation Options |
| 10 | Approved | Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, in Support of the Purchase of Wheelchair Lift-Equipped Vehicles |
| 11 | Approved | Authorization to Advertise a Public Hearing on a Proposed County Code Amendment for Chapter 3, County Employees, Personnel Administration, Definitions and Chapter 3, County Employees, Personnel Administration, Appointing Authorities |

ACTION ITEMS

- | | | |
|---|-----------------|-------------------------------------------------------------------------------|
| 1 | Approved | Approval of the Financing Plan for Dredging Lake Accotink (Braddock District) |
|---|-----------------|-------------------------------------------------------------------------------|

**CONSIDERATION
ITEMS**

- | | | |
|-------|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Appeal Denied -
Planning
Commission
Decision Upheld | Proffer Interpretation Appeal A-RZ 86-C-12, Related to the Planning Commission's Denial of Conceptual Plan CP 86-C-121-15, Filed by NS Reston LLC |
| 2 | Approved | Amendments to the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council (DVPPCC) Bylaws and Name Change |
| 10:30 | Done | Matters Presented by Board Members |
| 11:20 | Held | Closed Session |

**PUBLIC HEARING
ITEMS**

- | | | |
|------|---------------|-------------------------------------------------------------------------|
| 3:00 | Denied | Public Hearing on CP 86-C-121-15 (NS Reston LLC) (Hunter Mill District) |
|------|---------------|-------------------------------------------------------------------------|

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 29, 2019**

**PUBLIC HEARING
ITEMS
(continued)**

3:00	Denied	Public Hearing on PRC 86-C-121-06 (NS Reston LLC) (Hunter Mill District)
3:00	Deferred to 1/28/20 at 4:00 p.m.	Public Hearing on RZ 2019-BR-007 (Virendra Bery and Amit Bery) (Braddock District)
3:00	Approved	Public Hearing on SE 2018-MV-007 (National Trust for Historic Preservation in the United States) (Mount Vernon District)
3:30	Deferred to 1/14/20 at 3:30 p.m.	Public Hearing on PCA 2016-HM-035/CDPA 2016-HM-035 (CRS Sunset Hills, LC) (Hunter Mill District)
3:30	Approved	Public Hearing on PCA 82-P-069-23/CDPA 82-P-069-10 (Fair Lakes North & South L.C.) (Springfield District)
3:30	Approved	Public Hearing on PCA 82-P-069-17-01 (Fair Lakes North & South L.C.) (Springfield District)
3:30	Approved	Public Hearing on PCA 82-P-069-18-01 (Fair Lakes North & South L.C.) (Springfield District)
3:30	Approved	Public Hearing on PCA 82-P-069-22 (Fair Lakes North & South L.C.) (Springfield District)
3:30	Approved	Public Hearing on SE 2019-PR-015 (Crescendo Studios, LLC) (Providence District)
3:30	Deferred to 1/14/20 at 3:30 p.m.	Public Hearing on RZ 2019-SP-006 (Christopher Land, LLC) (Springfield District)
3:30	Deferred to 1/14/20 at 3:30 p.m.	Public Hearing on SEA 97-S-001 (Christopher Land, LLC) (Springfield District)
4:00	Approved	Public Hearing on Amending and Readopting Fairfax County Code Sections 4-14-1 and 4-14-3 Relating to Real Estate Tax Relief, to Exclude from Total Combined Income the Disability Income of Certain Relatives Living in the Owner's Sole Dwelling
4:00	Deferred Indefinitely	Public Hearing on SE 2018-SU-027 (Stonebridge Investments, LLC) (Sully District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 29, 2019**

**PUBLIC HEARING
ITEMS
(continued)**

4:00	Deferred to 1/14/20 at 4:00 p.m.	Public Hearing on PCA 2010-LE-009/CDPA 2010-LE-009 (MR Liberty View One, LLC and MR Liberty View West, LLC C/O Monument Realty) (Lee District)
4:00	Approved	Public Hearing on PCA 2008-LE-014 (Patriot Ridge Commons, LLC, Patriot Ridge I, LLC, Patriot Ridge 7700, LLC and Patriot Ridge II LLC) (Lee District)
4:30	Approved	Public Hearing on PCA 2002-LE-005 (Alwadi, LLC) (Lee District)
4:30	Held	Public Comment

REVISED



Fairfax County, Virginia ***BOARD OF SUPERVISORS*** ***AGENDA***

Tuesday
October 29, 2019

9:30 a.m.

PRESENTATIONS

- CERTIFICATE — To recognize the Fairfax County Professional Firefighters and Paramedics — IAFF Local 2068 for the successful 2019 Fill the Boot campaign. Requested by Chairman Bulova.
- CERTIFICATE — To recognize Will Pak of Chantilly High School for winning the Virginia High School League Tennis Singles Class 6 State Championship. Requested by Supervisor Smith.
- CERTIFICATE — To recognize Will Pak and Manu Balasubramanian of Chantilly High School for winning the Virginia High School League Tennis Doubles Class 6 State Championship. Requested by Supervisor Smith.
- CERTIFICATE — To recognize the Boys Tennis Team of Chantilly High School for winning the Virginia High School League Class 6 State Championship. Requested by Supervisor Smith.
- PROCLAMATION — To designate November 2019 as Adoption Awareness Month in Fairfax County. Requested by Chairman Bulova.

— more —

Board Agenda Item
October 29, 2019

- PROCLAMATION — To designate November 15, 2019, as Fairfax County Recycles Day. Requested by Supervisors Herrity and Gross.

STAFF:

Tony Castrilli, Director, Office of Public Affairs

Bill Miller, Office of Public Affairs

Austin Hendrick, Office of Public Affairs

Board Agenda Item
October 29, 2019

10:00 a.m.

Presentation of the 2019 Barbara Varon Award

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
The Honorable Emilie Miller, Barbara Varon Volunteer Award Selection Committee

Board Agenda Item
October 29, 2019

10:10 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard October 29, 2019
(An updated list will be distributed at the Board meeting.)

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

October 29, 2019

FINAL COPY

APPOINTMENTS TO BE HEARD OCTOBER 29, 2019
(ENCOMPASSING VACANCIES PROJECTED THROUGH **OCTOBER 31, 2019)**
(Unless otherwise noted, members are eligible for reappointment)

A. HEATH ONTHANK MEMORIAL AWARD SELECTION COMMITTEE
(1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Eileen J. Garnett (Appointed 1/03-2/17 by Gross) Term exp. 1/18	Mason District Representative		Gross	Mason

ADVISORY SOCIAL SERVICES BOARD (4 years – limited to 2 full consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alan M. Schuman; appointed 4/14-9/16 by Bulova) Term exp. 9/20 <i>Resigned</i>	At-Large Chairman's Representative	David T. S. Jonas	Bulova	At-Large Chairman's

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Mark Drake (Appointed 2/09-5/12 by McKay) Term exp. 5/16	Engineer/Architect/ Planner #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 <i>Resigned</i>	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by George Page; appointed 1/05-1/16 by Hudgins) Term exp. 1/19 <i>Resigned</i>	Hunter Mill Business Representative	Brian E. Carlson	Hudgins	Hunter Mill

CONFIRMATION NEEDED:

- Ms. Julia Jones as the League of Women Voters Representative

**ALCOHOL SAFETY ACTION PROGRAM LOCAL POLICY BOARD (ASAP)
(3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Frieda A. Tatem; appointed 10/93-10/96 by Davis; 9/99-10/02 by Hanley; 10/05-10/08 by Connolly; 11/11-10/17 by Bulova) Term exp. 10/20 Deceased	At-Large #1 Representative		By Any Supervisor	At-Large
Linda Perlstein (Appointed 4/05-1/17 by Hudgins) Term exp. 10/19	At-Large #6 Representative	Linda Perlstein (Hudgins)	By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Douglas Phung; appointed 12/17 by Bulova) Term exp. 12/19 <i>Resigned</i>	Diversity-At-Large Principal Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Karin Stamper; appointed 9/09-4/16 by McKay) Term exp. 4/18 <i>Resigned</i>	Lee District Alternate Representative		McKay	Lee

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ATHLETIC COUNCIL (2 years)
 continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15 <i>Resigned</i>	Mason District Alternate Representative		Gross	Mason
Jane Dawber (Appointed 3/13-9/16 by Hudgins) Term exp. 6/18	Women's Sports Alternate Representative		By Any Supervisor	At-Large

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Linda J. Waller; appointed 9/16-6/18 by McKay) Term exp. 6/19 <i>Resigned</i>	Lee District Representative		McKay	Lee
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i>	Mason District Representative		Gross	Mason

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Thomas J. Schroeder; appointed 06/92-2/17 by Bulova) Term exp. 2/21 <i>Resigned</i>	Design Professional #1 Representative		By Any Supervisor	At-Large

CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(2 years – limited to 3 consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Peter F. Murphy (Appointed 6/06-9/08 by Connolly; 9/09-9/17 by Bulova) Term exp. 9/19 <i>Not eligible for reappointment</i>	At-Large #4 Representative		By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Monica Billger (Appointed 1/18 by McKay) Term exp. 9/19	Lee District Representative		McKay	Lee
VACANT (Formerly held by Grant Sitta; appointed 9/10-9/15 by Gross) Term exp. 9/19 <i>Resigned</i>	Mason District Representative		Gross	Mason

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sue Kovach Shuman (Appointed 11/17 by L. Smyth) Term exp. 9/19	Providence District Representative	Sue Kovach Shuman	L. Smyth	Providence
Chris Koerner (Appointed 2/16 by K. Smith) Term exp. 9/19	Sully District Representative		K. Smith	Sully

CHILD CARE ADVISORY COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Mercedes O. Dash (Appointed 3/15-2/19 by L. Smyth) Term exp. 9/19	Providence District Representative		L. Smyth	Providence

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Patrick J. Scott; appointed 10/16 by Hudgins) Term exp. 5/18 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

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CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Gary Nisker; appointed 5/18 by Gross) Term exp. 5/20 <i>Resigned</i>	Mason District Representative		Gross	Mason
VACANT (Formerly held by Nicholas Ludlum; appointed 1/17 by L. Smyth) Term exp. 5/18 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

COMMISSION FOR WOMEN (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sondra Seba Hemenway (Appointed 2/12-10/16 by Bulova) Term exp. 10/19	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Emily B. McCoy (Appointed 8/82-9/95 by Alexander; 9/98-10/04 by Kauffman; 2/08-10/16 by McKay) Term exp. 10/19	Lee District Representative	Emily B. McCoy	McKay	Lee
Jane M. Materna (Appointed 2/19 by Gross) Term exp. 10/19	Mason District Representative	Jane M. Materna	Gross	Mason

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COMMISSION FOR WOMEN (3 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Lisa A. Sales (Appointed 2/17 by Storck) Term exp. 10/19	Mount Vernon District Representative		Storck	Mount Vernon
Barbara Lippa (Appointed 10/13 by Frey; 10/16 by K. Smith) Term exp. 10/19	Sully District Representative		K. Smith	Sully

COMMUNITY ACTION ADVISORY BOARD (CAAB) (3 years)

CONFIRMATION NEEDED:

- Ms. Heather Thomas as the Head Start Principal Fairfax County Representative

ECONOMIC ADVISORY COMMISSION (3 years)

CONFIRMATION NEEDED:

- Mr. Brian Winterhalter as the Northern Virginia Building Industry Association Representative

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Maya Huber; appointed 12/09-1/14 by Confirmation; 05/18 by Bulova) Term exp. 3/21 <i>Resigned</i>	Citizen #4 Representative		By Any Supervisor	At-Large

CONFIRMATION NEEDED:

- Mr. Seyed Asad Rouhi as the Northern Virginia Soil and Water Conservation District Representative
- Mr. Bryan Layman as the Association of Builders and Contractors Representative

FAIRFAX AREA DISABILITY SERVICES BOARD

(3 years- limited to 2 full consecutive terms per MOU, after initial term)

[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.]

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Michele Hymer Blitz (Appointed 6/06-3/16 by Hudgins) Term exp. 11/18 <i>Not eligible for reappointment</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

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

CONFIRMATION NEEDED:

- Ms. May F. Al-Barzinji as the Long Term Care Providers #29 Representative

**FAIRFAX COUNTY CONVENTION AND VISITORS CORPORATION
BOARD OF DIRECTORS (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Robert Shenk; appointed 7/16-6/19 by Storck) Term exp. 6/22	Mount Vernon District Representative		Storck	Mount Vernon

CONFIRMATIONS NEEDED:

- Mr. Don Anderson as the Fairfax County Convention and Visitors Corporation #1 Representative
- Mr. Rajesh Khubchandani as the Fairfax County Convention and Visitors Corporation #3 Representative
- Mr. Robert Shenk as the Fairfax County Convention and Visitors Corporation #8 Representative
- Mr. Gary Cohen as the Fairfax County Convention and Visitors Corporation #9 Representative

**FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD
(3 years – limited to 3 full terms)**

[NOTE: In accordance with *Virginia Code* Section 37.2-501, "prior to making appointments, the governing body shall disclose the names of those persons being considered for appointment." Members can be reappointed after 1-year break from initial 3 full terms, VA Code 37.2-502.

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jane H. Woods; appointed 11/08 by Connolly; 6/10-5/16 by Bulova) Term exp. 6/19 <i>Resigned</i>	At-Large #2 Representative		By Any Supervisor	At-Large

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FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD**(3 years – limited to 3 full terms)**

continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Gary A. Ambrose; appointed 3/13-6/17 by Bulova) Term exp. 6/20 <i>Resigned</i>	At-Large #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Tom Burger; appointed 9/17 by Herrity) Term exp. 6/20 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

HISTORY COMMISSION (3 years)

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Naomi D. Zeavin; appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Mason District Resident Resigned</i>	Historian #1 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Ahmed Selim; appointed 7/08-9/10 by Gross; 4/14-10/16 by L. Smyth) Term exp. 9/19 <i>Resigned</i>	At-Large #6 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Kimberley Alton; appointed 3/19 by McKay) Term exp. 9/19 <i>Resigned</i>	At-Large #7 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Raul Torres; appointed 6/18 by Bulova) Term exp. 9/20 <i>Resigned</i>	At-Large #9 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Adrienne Walters; appointed 3/14 by L. Smyth) Term exp. 7/17 <i>Resigned</i>	Providence District #2 Representative		L. Smyth	Providence

**INDUSTRIAL DEVELOPMENT AUTHORITY
(4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Leigh Anne Arnold (Appointed 4/85-9/91 by Davis; 9/95-10/99 by Dix; 1/04-10/15 by Hudgins) Term exp. 10/19	At-Large #2 Representative	Leigh Anne Arnold (Hudgins)	By Any Supervisor	At-Large
Joseph A. Heastie (Appointed 10/99- 10/03 by Hanley; 10/07 by Connolly; 10/11-10/15 by L. Smyth) Term exp. 10/19	At-Large #6 Representative	Joseph A. Heastie (L. Smyth)	By Any Supervisor	At-Large

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alan Schuman; appointed 7/16-1/18 by Foust) Term exp. 1/20 <i>Resigned</i>	Dranesville District Representative	Alicia E. Plerhoples	Foust	Dranesville
VACANT (Formerly held by Michael Berger; appointed 1/17-1/18 by McKay) Term exp. 1/20 <i>Resigned</i>	Lee District Representative		McKay	Lee

OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Annette Koklauner (Appointed 1/16 by Bulova) Term exp. 6/19	At-Large Chairman's Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i>	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
Bob Tallman (Appointed 1/17 by McKay) Term exp. 6/19	Lee District Representative		McKay	Lee
Nabil S. Barbari (Appointed 1/07- 9/16 by Gross) Term exp. 6/19	Mason District Representative		Gross	Mason
VACANT (Formerly held by Jeffrey Levy; appointed 7/02-6/13 by Hyland) Term exp. 6/16 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by L. Smyth) Term exp. 6/14 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

POLICE CIVILIAN REVIEW PANEL (3 Years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Anna Northcutt; appointed 5/18-2/19 by Bulova) Term exp. 2/22 <i>Resigned</i>	Seat #7 Representative	Francis A. Gallagher (Bulova)	By Any Supervisor	At-Large

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD

<p>The Board of Supervisors established the advisory board on April 4, 2017 There will be 14 members on this advisory board. The appointees would serve for 4-year terms from April 4, 2017</p>

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alexander Rough; appointed 10/17 by Foust) Term exp. 9/21 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
NEW POSITION	Residential Owners and HOA/Civic Association #1 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #2 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		Foust or Hudgins	At-Large

ROAD VIEWERS BOARD (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08-11/13 by Herrity) Term exp. 12/14 <i>Resigned</i>	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by L. Smyth) Term exp. 12/12 <i>Resigned</i>	At-Large #4 Representative		By Any Supervisor	At-Large
Micah D. Himmel (Appointed 12/11-1/18 by L. Smyth) Term exp. 12/18	At-Large #5 Representative		By Any Supervisor	At-Large

SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Elizabeth Novak; appointed 10/05-1/16 by Gross) Term exp. 12/18 <i>Resigned</i>	Mason District Representative	Daren Shumate	Gross	Mason

TENANT LANDLORD COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Michael Congleton; appointed 7/13-2/17 by Herrity) Term exp. 1/20 <i>Resigned</i>	Citizen Member #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Antonio Gomez; appointed 1/99-1/02 by Hanley; 3/05-1/08 by Connolly; 1/11-1/17 by Bulova) Term exp. 1/20 <i>Resigned</i>	Citizen Member #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by L. Smyth) Term exp. 1/14 Deceased	Condo Owner Representative		By Any Supervisor	At-Large
Christopher Lee Kocsis (Appointed 3/99-11/00 by Hanley; 1/04-12/06 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/18	Landlord Member #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Angelina Panettieri; appointed 6/11-1/15 by L. Smyth) Term exp. 1/18	Tenant Member #1 Representative		By Any Supervisor	At-Large

TRAILS, SIDEWALKS AND BIKEWAYS COMMITTEE (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jeffrey A. Anderson; appointed 5/11-1/18 by Hudgins) Term exp. 1/20 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

TRANSPORTATION ADVISORY COMMISSION (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Lewis C. Brodsky; appointed 9/18 by McKay) Term exp. 6/20 <i>Resigned</i>	Lee District Representative		McKay	Lee

TREE COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Kevin Holland (Appointed 12/16 by Gross) Term exp. 10/19	Mason District Representative	Kevin Holland	Gross	Mason
VACANT (Formerly held by Charles Ayers; appointed 6/16 by Herrity) Term exp. 10/19 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

CONFIRMATION NEEDED:

- Ms. Brenda J. Frank as the Virginia Department of Extension and Continuing Education Representative

TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (2 YEARS)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Barry Mark; appointed 3/15-2/17 by Bulova) Term exp. 2/19 <i>Resigned</i>	Commercial or Retail Ownership Representative #3		Bulova	At-Large
VACANT (Formerly held by Jay Klug; appointed 2/13-2/17 by Hudgins) Term exp. 2/19	Hunter Mill District Representative #1		Hudgins	Hunter Mill
VACANT (Formerly held by Molly Peacock; appointed 2/13-1/15 by L. Smyth) Term exp. 2/17 <i>Resigned</i>	Providence District Representative #2		L. Smyth	Providence
VACANT (Formerly held by Pindar Van Arman; appointed 11/16-2/17 by L. Smyth) Term exp. 2/19 <i>Resigned</i>	Residential Owners and HOA/Civic Association Representative #1		L. Smyth	Providence

WATER AUTHORITY (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Linda Singer; appointed 7/04-6/16 by Hudgins) Term exp. 6/19 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

Board Agenda Item
October 29, 2019

10:20 a.m.

Items Presented by the County Executive

Board Agenda Item
October 29, 2019

ADMINISTRATIVE - 1

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Innovation Center to Arrowbrook Trail (Dranesville District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project 2G40-086-007, Innovation Center to Arrowbrook Trail, Fund 40010, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for November 19, 2019, at 4:00 p.m.

TIMING:

Board action is requested on October 29, 2019, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

This project consists of the installation of 600 linear feet of multi-purpose, lighted trail extending from the Arrowbrook development to Sunrise Valley Drive and includes a HAWK Signal installation across Sunrise Valley Drive with Americans with Disabilities Act (ADA)-compliant crosswalks and curb ramps. This project is one of the improvements identified through the Herndon Metro Station Access Management Study (HMSAMS).

Land rights for these improvements are required on three properties, one of which has been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of dedication, storm drainage easement, traffic signal equipment easement, trail easement and grading agreement and temporary construction easements.

Negotiations are in progress with the affected property owners; however, because resolution of these acquisitions is not imminent, it may be necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code

Board Agenda Item
October 29, 2019

Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:

Funding is available in Project 2G40-086-000, HMSAMS, in Fund 40010, County and Regional Transportation Projects. This project is included in the FY2020 - FY2024 Adopted Capital Improvements Program (with future Fiscal Years to FY2029). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

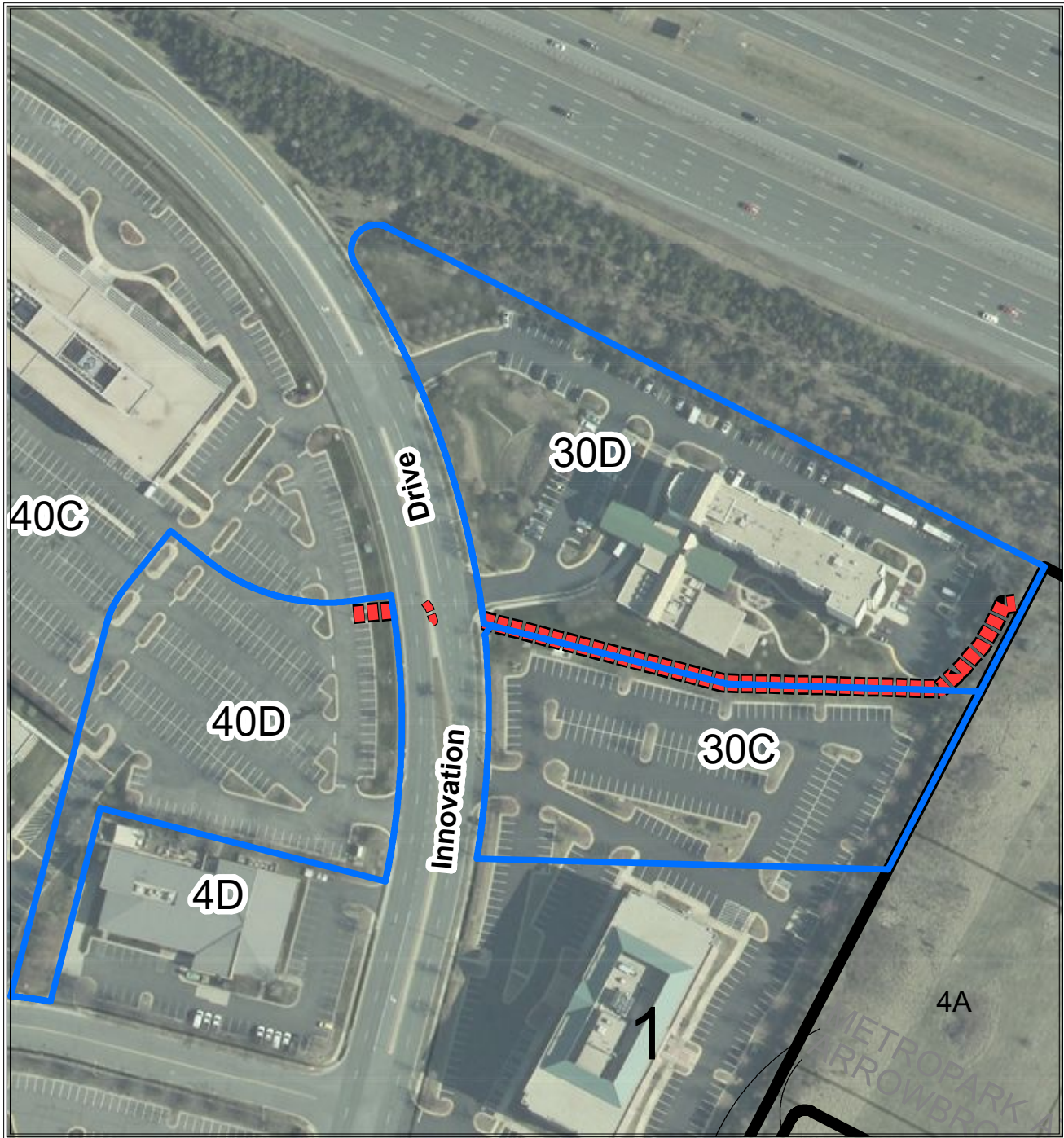
Attachment A - Project Location Map
Attachment B - Listing of Affected Properties

STAFF:

Rachel Flynn, Deputy County Executive
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Pamela K. Peltó, Assistant County Attorney



Innovation Center to Arrowbrook

Project: 2G40-086-007

Tax Map: 016-3

Dranesville District

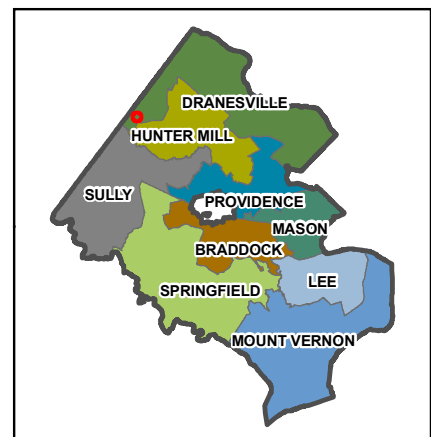
Affected Properties:



Proposed Improvements:



0 0.015 0.03 0.06
Miles



LISTING OF AFFECTED PROPERTIES
Project 2G40-086-007
Innovation Center to Arrowbrook Trail
(Dranesville District)

PROPERTY OWNER(S)

1. Richmond CW Hotel, LLC
and Sunrise Hotels, LLC

016-3-01-0030D

Address:
13460 Sunrise Valley Drive
Herndon, VA 20171

2. WF Liberty Park, LLC

016-3-01-0040D

Address:
13461 Sunrise Valley Drive
Herndon, VA 20171

ADMINISTRATIVE - 2

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

ISSUE:

Board of Supervisors' action to designate four individuals as Plans Examiners to participate in the Expedited Land Development Review Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (the Board) take the following actions:

- Designates the following four individuals, identified with their registration numbers, as a Plans Examiners:

Name	Reg. No
Joseph Martin Kiffe	337
Christie Louise Lodge	338
Shelby Nicole Olson	339
Michael James Gerth	340

TIMING:

Routine.

BACKGROUND:

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

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

Inactive Status: Chapter 117 requires Plans Examiners to participate in the Board adopted Continuing Education Program. Consonant with the requirements of Section 117-1-3(a), and subject to Board approval, the APEB will recommend designation of inactive status for individuals electing not to pursue the continuing education program.

Board Agenda Item
October 29, 2019

This status designation continues until and if they wish to reactivate their Designated Plans Examiner (DPE) status by completing the continuing education requirements. An inactive status makes these individuals ineligible to participate in the expedited plan process procedure. At the time they are placed in inactive status, individuals are provided with information concerning requirements for reinstatement as an active DPE.

Plans Examiner Status: Candidates for status as Plans Examiners must meet the education and experience requirements contained in Chapter 117. After the review of these applications and credentials, the APEB has found that the four candidates listed below satisfy these requirements. These findings were also documented in a letter dated August 29, 2019, from the Chairman of the APEB, James H. Scanlon, P.E., L.S., to Chairman Bulova.

Staff concurs with these recommendations as being in accordance with Chapter 117 and the Board-adopted criteria.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I – Letter dated August 29, 2019, from the Chairman of the APEB to the Chairman of the Board of Supervisors.

STAFF:
Rachel Flynn, Deputy County Executive
William D. Hicks, P.E., Director, Department of Land Development Services



Engineers & Surveyors Institute

"a public/private partnership"

4795 Meadow Wood Lane
Suite 115 East
Chantilly, VA 20151
703-263-2232

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Town of Leesburg

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VA Dept. Rail & Public
Transportation

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City of Alexandria, T&ES

Ann O. Germain, PE
christopher consultants, ltd.

Paul B. Johnson, P.E.
Charles P. Johnson & Associates
Inc.

Lee Ann Hall, P.E.
Virginia Department of
Transportation

David Logan, P.E.
Bohler Engineering, P.C.

Angela Rassas, P.E.
ESE Consultants, Inc.

J. Keith Sinclair, Jr., P.E.
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Inc.

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Smith Engineering

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Fairfax Water

Dennis M. Thomas, P.E.
Burgess & Niple, Inc.

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Loudoun County, B&D

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Dewberry

Aaron Vinson, P.E.
Walter L. Phillips, Inc.

Robert W. Walker, P.E., CLA
Gordon

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EXECUTIVE DIRECTOR
Jeffrey L. Blackford, P.E.

August 29, 2019

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

Dear Chairman, Bulova:

The following named individuals were approved by the Fairfax County Advisory Plans Examiner Board for recommendation as Designated Plans Examiner:

Name	Reg. No
Joseph Martin Kiffe	337
Christie Louise Lodge	338
Shelby Nicole Olson	339
Michael James Gerth	340

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

Sincerely,

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

Board Agenda Item
October 29, 2019

ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-2-13 and Relocate the Polling Place for the McLean Precinct in the Dranesville District

ISSUE:

Authorization to advertise a Public Hearing to consider an ordinance that proposes to amend and readopt Fairfax County Code Section 7-2-13, relating to election precincts and polling places, to move the polling place for the McLean precinct.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing on Tuesday, December 3, 2019, at 4:00 p.m. to consider this ordinance.

TIMING:

Board action is requested on October 29, 2019, to provide sufficient time to advertise the proposed public hearing for adoption of this ordinance on December 3, 2019, at 4:00 p.m. This will allow adequate time to notify voters who are affected by this change in advance of the next election, which is expected to be the March 3, 2020, Presidential Primary Election.

BACKGROUND:

The Virginia Code permits the governing body of each county and city to establish by ordinance as many precincts as it deems necessary with one polling place for each precinct. The Board of Supervisors is authorized to change polling place locations subject to the requirements of Virginia Code Sections 24.2-307, 24.2-310, and 24.2-310.1. If approved, the proposed ordinance will make the following change:

In Dranesville District, staff recommends moving the polling place for the McLean precinct from the Lewinsville Presbyterian Church located at 1724 Chain Bridge Road, McLean to the Lewinsville Senior Center, 1613 Great Falls Street, McLean. Lewinsville Presbyterian Church kindly offered the use of their fellowship hall as a temporary polling place while the Lewinsville Senior Center underwent expansion and renovation.

Board Agenda Item
October 29, 2019

FISCAL IMPACT:

Insignificant. Funding for precinct and polling place change notifications is provided in the agency's FY 2020 Adopted Budget.

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Election Precincts and Polling Places

Attachment 2: Summary of Proposed Change

Attachment 3: Descriptions and Map of Proposed Change

Attachment 4: Proposed Ordinance

STAFF:

Gary D. Scott, General Registrar and Director of Elections

Beth Dixon Methfessel, Clerk to the Fairfax County Electoral Board

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

§ 24.2-307. Requirements for county and city precincts.

The governing body of each county and city shall establish by ordinance as many precincts as it deems necessary. Each governing body is authorized to increase or decrease the number of precincts and alter precinct boundaries subject to the requirements of this chapter.

At the time any precinct is established, it shall have no more than 5,000 registered voters. The general registrar shall notify the governing body whenever the number of voters who voted in a precinct in an election for President of the United States exceeds 4,000. Within six months of receiving the notice, the governing body shall proceed to revise the precinct boundaries, and any newly established or redrawn precinct shall have no more than 5,000 registered voters.

At the time any precinct is established, each precinct in a county shall have no fewer than 100 registered voters and each precinct in a city shall have no fewer than 500 registered voters.

Each precinct shall be wholly contained within any election district used for the election of one or more members of the governing body or school board for the county or city.

The governing body shall establish by ordinance one polling place for each precinct.

(Code 1950, §§ 24-45, 24-46; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1992, c. 445; 1993, c. 641; 1999, c. [515](#).)

§ 24.2-309.2. Election precincts; prohibiting precinct changes for specified period of time.

No county, city, or town shall create, divide, abolish, or consolidate any precincts, or otherwise change the boundaries of any precinct, effective during the period from February 1, 2019, to May 15, 2021, except as (i) provided by law upon a change in the boundaries of the county, city, or town, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of local election districts other than at-large districts. Any ordinance required to comply with the requirements of § [24.2-307](#) shall be adopted on or before February 1, 2019.

If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ [24.2-304.3](#) and [30-264](#), and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.

This section shall not prohibit any county, city, or town from adopting an ordinance revising precinct boundaries after January 1, 2021. However, no revisions in precinct boundaries shall be implemented in the conduct of elections prior to May 15, 2021.

2008, c. [112](#); 2018, cc. [778](#), [779](#).

§ 24.2-310. Requirements for polling places.

A. The polling place for each precinct shall be located within the county or city and either within the precinct or within one mile of the precinct boundary. The polling place for a county precinct may be located within a city (i) if the city is wholly contained within the county election district served by the precinct or (ii) if the city is wholly contained within the county and the polling place is located on property owned by the county. The polling place for a town precinct may be located within one mile of the precinct and town boundary. For town elections held in November, the town shall use the polling places established by the county for its elections.

B. The governing body of each county, city, and town shall provide funds to enable the general registrar to provide adequate facilities at each polling place for the conduct of elections. Each polling place shall be located in a public building whenever practicable. If more than one polling place is located in the same building, each polling place shall be located in a separate room or separate and defined space.

C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ [51.5-1](#) et seq.), the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20101 et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.

D. If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, subject to the prior approval of the State Board. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, an "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

E. It shall be permissible to distribute campaign materials on the election day on the property on which a polling place is located and outside of the building containing the room where the election is conducted except as specifically prohibited by law including, without limitation, the prohibitions of § [24.2-604](#) and the establishment of the "Prohibited Area" within 40 feet of any entrance to the polling place. However, and notwithstanding the provisions of clause (i) of subsection A of § [24.2-604](#), and upon the approval of the local electoral board, campaign materials may be distributed outside the polling place and inside the structure where the election is conducted, provided that the "Prohibited Area" (i) includes the area within the structure that is beyond 40 feet of any entrance to the polling place and the area within the structure that is within 40 feet of any entrance to the room where the election is conducted and (ii) is maintained and enforced as provided in § [24.2-604](#). The local electoral board may approve campaigning activities inside the building where the election is conducted when an entrance to the building is from an adjoining building, or if establishing the 40-foot prohibited area outside the polling place would hinder or delay a qualified voter from entering or leaving the building.

F. Any local government, local electoral board, or the State Board may make monetary grants to any non-governmental entity furnishing facilities under the provisions of § [24.2-307](#) or [24.2-308](#)

for use as a polling place. Such grants shall be made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board, or the State Board to appropriate funds to any non-governmental entity.

Code 1950, §§ 24-45, 24-46, 24-171, 24-179 through 24-181; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37, 24.1-92, 24.1-97; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1984, c. 217; 1985, c. 197; 1986, c. 558; 1992, c. 445; 1993, cc. 546, 641; 1994, c. [307](#); 2003, c. [1015](#); 2004, c. [25](#); 2005, c. [340](#); 2008, cc. [113](#), [394](#); 2010, cc. [639](#), [707](#); 2012, cc. [488](#), [759](#); 2016, cc. [18](#), [492](#).

§ 24.2-310.1. Polling places; additional requirement.

The requirement stated in this section shall be in addition to requirements stated in §§ [24.2-307](#), [24.2-308](#), and [24.2-310](#), including the requirement that polling places be located in public buildings whenever practical. No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the State Board has approved the use of the building because no other building meeting the accessibility requirements of this title is available.

(1993, c. 904, § 24.1-37.1; 1993, c. 641.)

Attachment 2: Summary of Proposed Change

<i>December 2019 SUMMARY OF PRECINCT AND POLLING PLACE CHANGE</i>							
SUPERVISOR DISTRICT	OLD PRECINCT(S)	REGISTERED VOTERS*	OLD POLLING PLACE(S)	NEW PRECINCT(S)	PROJECTED REGISTERED VOTERS	NEW POLLING PLACE(S)	NOTES ON CHANGES
DRANESVILLE	314 MCLEAN	2,766	Lewinsville Presbyterian Church	314 MCLEAN	2,766	Lewinsville Senior Center	Move polling place back to original polling location

* VERIS registered voters as of 091719_Registrant_Counts_By_Locality

Commonwealth of Virginia
COUNTY OF FAIRFAX

DRANESVILLE DISTRICT

DESCRIPTION:

Beginning at the intersection of the Loudoun County/Fairfax County Line and the Maryland/Virginia State Line (Potomac River), thence with the Maryland/Virginia State Line in a generally southeasterly direction to its intersection with the Arlington County/Fairfax County Line, thence with the Arlington County/Fairfax County Line in a southwesterly direction to its intersection with the north corporate boundary of the City of Falls Church, thence with the corporate boundary of the City of Falls Church in a westerly, then southwesterly direction to its intersection with the Leesburg Pike (Route 7), thence with Leesburg Pike in a northwesterly direction to its intersection with Magarity Road, thence with Magarity Road in a northeasterly direction to its intersection with the Washington Dulles Access and Toll Road, thence with the Washington Dulles Access and Toll Road in a generally northwesterly direction to its intersection with Beulah Road, thence with Beulah Road in a generally northerly, then northeasterly direction to its intersection with Leesburg Pike, thence with Leesburg Pike in a northwesterly direction to its intersection with Sugarland Road, thence with Sugarland Road in a southwesterly direction to its intersection with Shaker Woods Road, thence with Shaker Woods Road in a southeasterly, westerly, then southwesterly, direction to its intersection with Rosiers Branch (stream) at the Fairfax County Parkway, thence with the meanders of Rosiers Branch in a westerly direction to its intersection with Sugarland Run (stream), thence with the meanders of Sugarland Run in a northwesterly, then southerly direction to its intersection with the east corporate boundary of the Town of Herndon, thence with the corporate boundary of the Town of Herndon in a southerly, then westerly direction to its intersection with Monroe Street, thence with Monroe Street in a southerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a southwesterly direction to its intersection with Sunrise Valley Drive, thence with Sunrise Valley Drive in a generally westerly direction to its intersection with Centreville Road, thence with Centreville Road in a southwesterly direction to its intersection with Frying Pan Road, thence with Frying Pan Road in a westerly direction to its intersection with Frying Pan Branch (stream), thence with the meanders of Frying Pan Branch in a westerly direction to its intersection with Horsepen Run (stream), thence with the meanders of Horsepen Run in a northwesterly direction to its intersection with the Loudoun County/Fairfax County Line, thence with the Loudoun County/Fairfax County Line in a northeasterly direction to its intersection with the Maryland/Virginia State Line, point of beginning.

As adopted by the Board of Supervisors on June 11, 2001

Section 7-2-6. Dranesville District

The Dranesville District shall consist of these election precincts: Chain Bridge, Chesterbrook, Churchill, Clearview, Colvin, Cooper, El Nido, Forestville, Great Falls, Haycock, Herndon No. 1, Herndon No. 2, Herndon No. 3, Hickory, Hutchison, Kenmore, Kirby, Langley, Longfellow, McLean, Pimmit, Salona, Seneca, Shouse, Sugarland, Westhampton, and Westmoreland.

As recodified and readopted by the Board of Supervisors on March 24, 2003

Section 7-2-6. Dranesville District

The Dranesville District shall consist of these election precincts: Chain Bridge, Chesterbrook, Churchill, Clearview, Colvin, Cooper, El Nido, Forestville, Great Falls, Haycock, Herndon No. 1, Herndon No. 2, Herndon No. 3, Hickory, Hutchison, Kenmore, Kirby, Langley, Longfellow, McLean, Pimmit, Salona, Seneca, Shouse, Sugarland, Westhampton, and Westmoreland.

NOTES: On March 24, 2003, revised and updated descriptions of the precincts were formally adopted to remove antiquated and unnecessary language, to update changes in the names of roads and other features, and to create a uniform format and appearance. No voters were affected by these changes.

As amended by the Board of Supervisors on March 8, 2004

NOTES: On March 8, 2004, the descriptions of Herndon #1 and Herndon #2 precincts were amended to adjust the boundary between Herndon #1 and Herndon #2 precincts in order to distribute the registered voters more evenly and to allow for growth in the region. The polling place for Shouse precinct was moved to the new Colvin Run Elementary School.

As amended by the Board of Supervisors on December 6, 2004

NOTES: On December 6, 2004, the Board affirmed the decision of the Electoral Board to temporarily move the polling place for the Colvin precinct to the Colvin Run Elementary School and then to return the polling place to the Capital Church effective April 1, 2005.

As amended by the Board of Supervisors on March 21, 2005

NOTES: On March 21, 2005, the use of a temporary polling place for Colvin precinct was extended due to construction delays at the Capital Church. The date of the return to the Capital Church was extended to October 1, 2005.

As amended and readopted by the Board of Supervisors on September 10, 2007

Section 7-2-6. Dranesville District

The Dranesville District shall consist of these election precincts: Chain Bridge, Chesterbrook, Churchill, Clearview, Colvin, Cooper, El Nido, Forestville, Great Falls, Haycock, Herndon No. 1, Herndon No. 2, Herndon No. 3, Hickory, Hutchison, Kenmore, Kirby, Langley, Longfellow, McLean, Pimmit, Salona, Seneca, Shouse, Spring Hill, Sugarland, Westhampton, and Westmoreland.

NOTES: On September 10, 2007, the Cooper precinct was divided to form Spring Hill precinct. The Cooper precinct polling place was moved to Cooper Middle School. The Spring Hill precinct polling place was established at Spring Hill Elementary School.

As amended and readopted by the Board of Supervisors on April 26, 2011

Section 7-2-6. Dranesville District

The Dranesville District shall consist of these election precincts: Chain Bridge, Chesterbrook, Churchill, Clearview, Coates, Cooper, El Nido, Forestville, Great Falls, Haycock, Herndon No. 1, Herndon No. 2, Herndon No. 3, Hickory, Hutchison, Kenmore, Kirby, Langley, Longfellow, McLean, Pimmit, Salona, Seneca, Shouse, Spring Hill, Sugarland, Westhampton, and Westmoreland.

REDISTRICTING NOTES: On April 26, 2011, the Board adopted their redistricting plan that moved the Coates precinct from Hunter Mill District to Dranesville District and moved the Colvin precinct from Dranesville District to Hunter Mill District.

As amended and readopted by the Board of Supervisors on July 26, 2011

Section 7-2-6. Dranesville District

The Dranesville District shall consist of these election precincts: Chain Bridge, Chesterbrook, Churchill, Clearview, Coates, Cooper, El Nido, Forestville, Great Falls, Haycock, Herndon No. 1, Herndon No. 2, Herndon No. 3, Hickory, Hutchison, Kenmore, Kirby, Langley, Longfellow, McLean, Pimmit, Salona No. 1, Salona No. 2, Seneca, Shouse, Spring Hill, Sugarland, Westhampton, and Westmoreland.

REDISTRICTIN NOTES: On July 26, 2011, the Board divided Salona precinct to create Salona No. 1 and Salona No. 2. The polling place for both precincts is the Franklin Sherman Elementary School.

As amended by the Board of Supervisors on November 18, 2014

NOTES: On November 18, 2014, the Board amended the description of Westhampton to conform to the new boundary between Fairfax County and the City of Falls Church.

As amended by the Board of Supervisors on June 23, 2015

NOTES: On June 23, 2015, the Board moved the polling place for Chesterbrook precinct to the Arleigh Burke Pavilion and adjusted the boundary between Clearview and Sugarland precincts.

As amended by the Board of Supervisors on December 8, 2015

NOTES: On December 8, 2015, the Board temporarily moved the polling place for McLean precinct to the Lewinsville Presbyterian Church and readopted the description for McLean and Kirby precincts to clarify the boundary.

As amended by the Board of Supervisors on July 12, 2016

NOTES: On July 12, 2016, the Board moved the polling place for Chesterbrook precinct to Vinson Hall.

As amended by the Board of Supervisors on July 11, 2017

NOTES: On July 11, 2017, the Board changed the name and address of the Chesterbrook precinct to Community Room at Vinson Hall, 1735 Kirby Road, McLean.

As amended by the Board of Supervisors on December 3, 2019

NOTES: On December 3, 2019, the Board moved the polling place for McLean precinct back to the Lewinsville Senior Center. The polling place was temporarily relocated in December 2015.

Commonwealth of Virginia
COUNTY OF FAIRFAX
Dranesville District

PRECINCT 314: MCLEAN

CONGRESSIONAL DISTRICT: TENTH
VIRGINIA SENATORIAL DISTRICT: THIRTY-SECOND
HOUSE OF DELEGATES DISTRICT: FORTY-EIGHTH

DESCRIPTION:

Beginning at the intersection of the Capital Beltway (I-495) and Old Dominion Drive, thence with Old Dominion Drive in a southeasterly direction to its intersection with Chain Bridge Road, thence with Chain Bridge Road in a southwesterly, then westerly direction to its intersection with Evers Drive, thence with Evers Drive (including an unpaved portion of Evers Drive) in a southeasterly direction to its intersection with an unimproved drainage area (behind the houses fronting on Davis Court), thence with the unimproved drainage area in a southwesterly direction to its intersection with Great Falls Street, thence with Great Falls Street in a southeasterly direction to its intersection with Magarity Road, thence with Magarity Road in a southwesterly direction to its intersection with the Washington Dulles Access and Toll Road, thence with the Washington Dulles Access and Toll Road in a northwesterly direction to its intersection with the Capital Beltway, thence with the Capital Beltway in a northeasterly direction to its intersection with Old Dominion Drive, point of beginning.

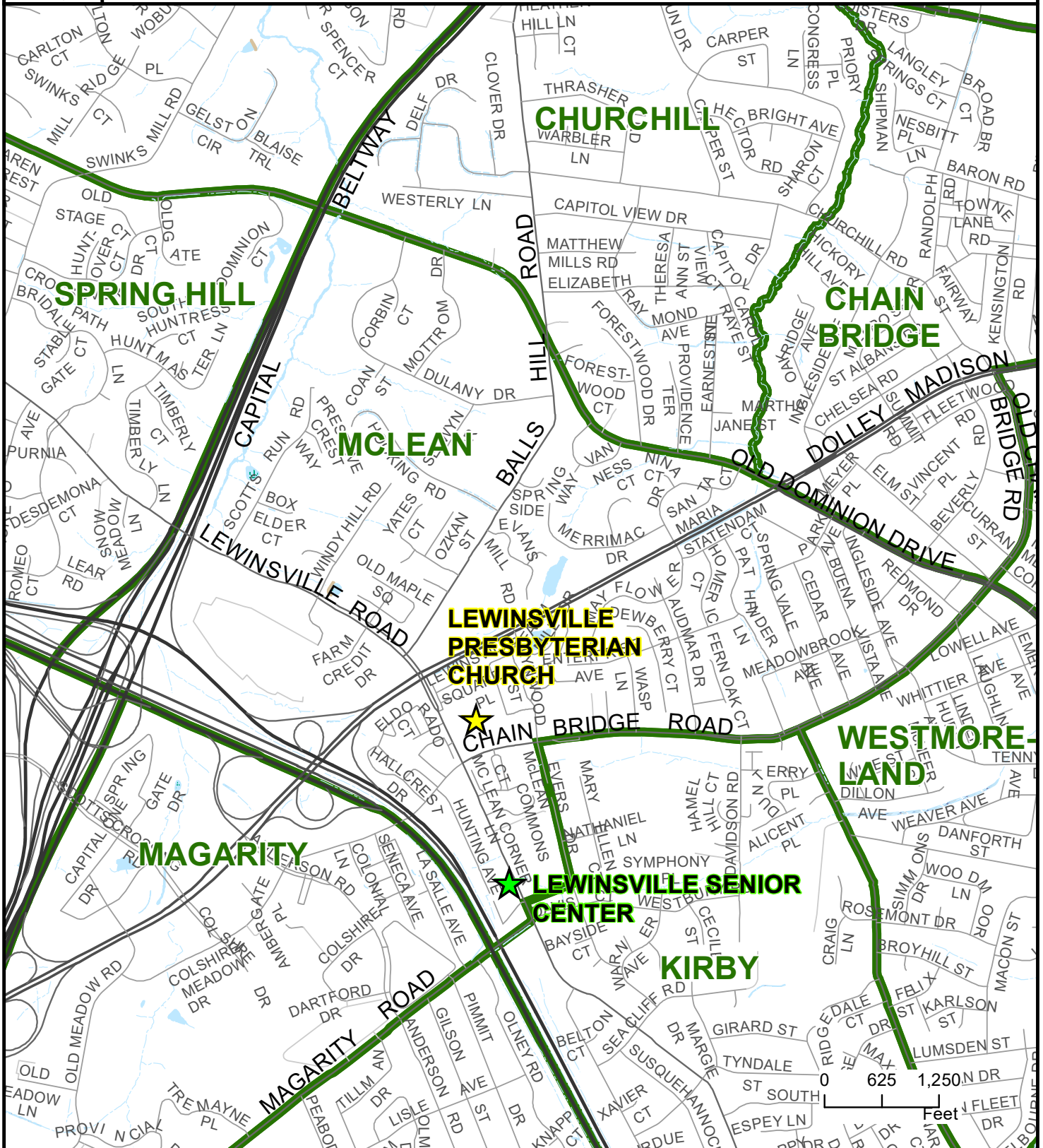
POLLING PLACE: Lewinsville Presbyterian Church Senior Center
 ~~1724 Chain Bridge Road~~ 1613 Great Falls Street, McLean

MAP GRIDS: 21-3, 29-2, 30-1, 30-2, 30-3, 30-4

NOTES: Established June 1955
 Precinct description revised and readopted – March 2003
 Delegate District changed from 53rd to 48th - July 2011
 Polling Place moved temporarily – December 2015
 Precinct description corrected and readopted – December 2015
 Polling Place moved – December 2019



Commonwealth of Virginia
County of Fairfax
Dranesville District



Proposed Polling Place Change for: 314 MCLEAN

September 2019

- ★ **Current name & address:** Lewinsville Presbyterian Church, 1724 Chain Bridge Rd
- ★ **Proposed name & address:** Lewinsville Senior Center, 1613 Great Falls St

ORDINANCE TO AMEND AND READOPT FAIRFAX COUNTY CODE SECTION 7-2-13 AND RELOCATE THE POLLING PLACE FOR THE MCLEAN PRECINCT IN THE DRANESVILLE DISTRICT.

Draft of October 29, 2019

AN ORDINANCE to amend and readopt Fairfax County Code Section 7-2-13 and relocate the polling place for the McLean precinct in the Dranesville District.

Be it ordained that the Board of Supervisors of Fairfax County:

1. That Section 7-2-13 of the Fairfax County Code is amended and readopted:

Section 7-2-13. - General provisions.

All references to election precincts shall refer to those precincts, together with the descriptions and maps of the boundaries and polling places for each of those precincts, which were adopted by the Board of Supervisors on March 24, 2003, as amended on March 8, 2004, March 21, 2005, March 27, 2006, March 26, 2007, September 10, 2007, March 10, 2008, January 12, 2009, March 9, 2010, July 27, 2010, April 26, 2011, July 26, 2011, January 10, 2012, July 10, 2012, March 19, 2013, July 9, 2013, November 18, 2014, June 23, 2015, December 8, 2015, July 12, 2016, July 11, 2017, March 20, 2018, December 4, 2018, and April 9, 2019, and December 3, 2019, and kept on file with the clerk to the Board of Supervisors. Whenever a road, a stream, or other physical feature describes the boundary of a precinct, the center of such road, stream, or physical feature shall be the dividing line between that precinct and any adjoining precinct.

2. That the election polling place for the following existing precinct is established at:

<u>Supervisor District</u>	<u>Precinct</u>	<u>Polling Place</u>
Dranesville District	McLean (polling place relocated)	From: Lewinsville Presbyterian Church 1724 Chain Bridge Road McLean, VA 22101 To: Lewinsville Senior Center 1613 Great Falls Street McLean, VA 22101

46 **3. That this ordinance shall become effective upon adoption.**
47

48
49 **4. That the Clerk for the Board of Supervisors shall send a certified copy**
50 **of this ordinance, with GIS maps and boundary descriptions, to the**
51 **Fairfax County Electoral Board, the Department of Elections, and the**
52 **Division of Legislative Services, as required under Va. Code**
53 **§ 24.2-306(C).**
54

55
56 GIVEN under my hand this _____ day of _____, 2019.
57

58
59 _____
60 Jill Cooper
61 Clerk for the Board of Supervisors

ADMINISTRATIVE - 4

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Lee District)

ISSUE:

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

RECOMMENDATION:

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

- Three Speed Humps on Berkshire Drive (Lee 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.

TIMING:

Board action is requested on October 29, 2019.

BACKGROUND:

As part of RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, or median islands 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 Supervisor's office and community to determine the viability of the requested traffic calming measure 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 the residents within the ballot area in the adjacent community.

On September 10, 2019, FCDOT received verification from the Lee District Supervisor's office confirming community support for the Berkshire Drive traffic calming plan.

Board Agenda Item
October 29, 2019

FISCAL IMPACT:

Funding in the amount of \$24,000 for the traffic calming measures associated with these traffic calming projects is available in Fund 2G25-076-000, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Plan for Berkshire Drive

Attachment II: Traffic Calming Resolution for Berkshire Drive

STAFF:

Rachel Flynn, Deputy County Executive

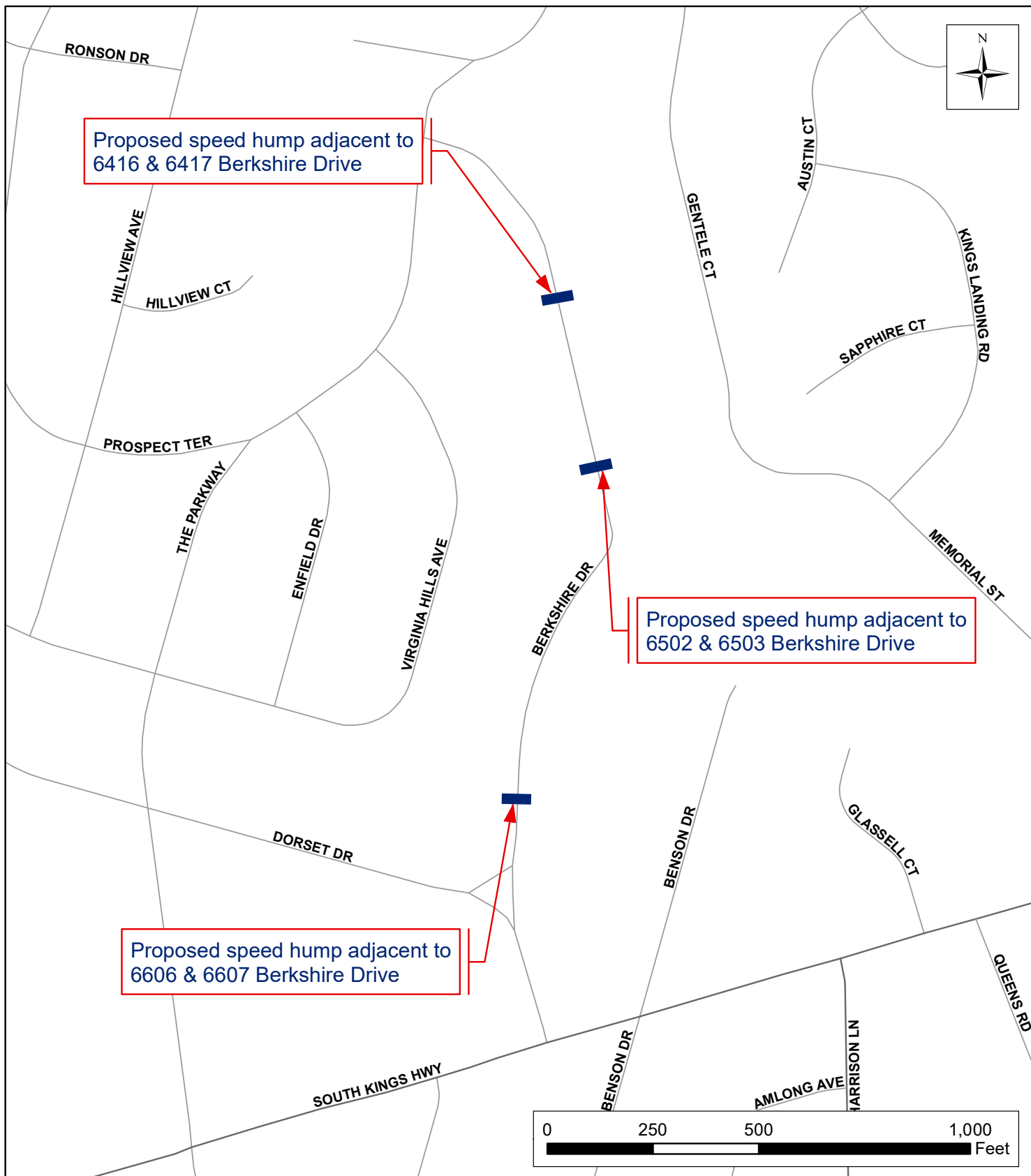
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

David Loss, Transportation Planner, Traffic Engineering Section, FCDOT



Tax Map: 82-4, 92-2

October 2019

Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Berkshire Drive
Lee District



RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
BERKSHIRE DRIVE
LEE 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 29, 2019, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Berkshire Drive have requested the Lee District Supervisor's Office of Fairfax County to consider remedial measures to reduce the speed of traffic on Berkshire Drive; and

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Berkshire Drive indicates that all basic traffic calming criteria are met pertaining to functional classification of the roadways, identification of a significant speeding concern, and proof of community support; and

WHEREAS, the proposed Traffic Calming Plan was properly presented to the community in the affected survey for their review and consideration; and

WHEREAS, the Traffic Calming Plan was subsequently approved by 100 percent of the occupied residences within the appropriate surveyed area that voted; and

WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors endorses the proposed Traffic Calming Plan and requests that the Virginia Department of Transportation review and approve the feasibility of implementing traffic calming measures on Berkshire Drive as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 29th day of October, 2019.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ADMINISTRATIVE - 5

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance
Amendment Re: Lot Line and Lot Width

ISSUE:

The proposed amendment is on the 2019 Zoning Ordinance Amendment Priority 1 Work Program and clarifies the definition of lot line and the measurement of lot width on through lots, reverse frontage lots, and lots with curved frontage.

RECOMMENDATION:

The County Executive recommends the authorization of the proposed amendment by adopting the resolution set forth in Attachment 1.

TIMING:

Board action is requested on October 29, 2019, to provide sufficient time to advertise the proposed Planning Commission public hearing on December 4, 2019, at 7:30 p.m., and the proposed Board public hearing on January 28, 2020, at 4:00 p.m.

BACKGROUND:

The proposed amendment is on the 2019 Zoning Ordinance Amendment Priority 1 Work Program and amends the definition of lot line and clarifies how lot width is measured on through lots, reverse frontage lots, and lots with curved frontage. The purpose of this amendment is to provide clarity and consistency regarding the methodology used to determine lot lines and measure lot width. Specifically, the amendment:

- (1) Deletes the portion of the lot line definition which states that “[w]here a lot line is curved, all dimensions related to said lot line shall be based on the chord of the arc”. As a result and based on the lot width definition, lot width is measured at a line parallel to the front lot line at a distance equal to the minimum required front yard on all lots, regardless of whether the frontage of the lot has a linear or curvilinear orientation;
- (2) Revises the lot width definition to clarify that:
 - (a) On reverse frontage lots, lot width is measured in the yard facing the local street; and

(b) On through lots, lot width may be measured from any street line.

The Department of Planning and Development staff have coordinated this amendment with staff from Land Development Services- Site Development and Inspections Division, the County Attorney's Office, and the County Surveyor. In addition, meetings and outreach with the following stakeholders have occurred:

- Board of Supervisor's Development Process Committee: September 9, 2019
- Fairfax County Zoning Open House (South County): September 10, 2019
- Northern Virginia Building Industry Association/Commercial Real Estate Development Association (NVBIA/NAIOP); Engineers and Surveyor's Institute: September 19, 2019
- Planning Commission Land Use Process Review Committee: October 3, 2019

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:

This amendment will facilitate plan approvals given that the methodology used to determine lot width and lot lines has been codified and clarified.

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 – Resolution
Attachment 2 – Staff Report

STAFF:

Rachel Flynn, Deputy County Executive
Barbara Byron, Director, Department of Planning and Development (DPD)
Leslie B. Johnson, Zoning Administrator, DPD
Ryan Johnson, Planner, DPD

ASSIGNED COUNSEL:

Sara Silverman, Assistant County Attorney

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on October 29, 2019, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, minimum lot width is one of the lot size standards employed within the Zoning Ordinance to ensure orderly development and subdivision of land; and

WHEREAS, there is a need to provide clarity and consistency on the methodology used to determine lot lines and measure lot width on through lots, reverse frontage lots, and lots with curved frontages; and

WHEREAS, the public necessity, convenience, general welfare, and good practice require consideration of the proposed revisions to Chapter 112 (Zoning Ordinance); and

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorize the advertisement of the proposed amendments to the Zoning Ordinance, as recommended by staff.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Lot Line and Lot Width

PUBLIC HEARING DATES

Planning Commission

December 4, 2019 at 7:30 p.m.

Board of Supervisors

January 28, 2020 at 4:00 p.m.

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

October 29, 2019

RJ



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 is on the 2019 Zoning Ordinance Amendment Priority 1 Work Program and clarifies how lot width is measured on lots that have curved frontage, on through lots, and on reverse frontage lots. The purpose of this amendment is to provide clarity and consistency on the methodology used to determine lot lines and measure lot width.

ZONING ORDINANCE PROVISIONS

What is a Lot Line?

The Zoning Ordinance currently defines lot line as:

*LOT LINE: Any boundary line of a lot as defined herein. Where applicable, a lot line shall coincide with a STREET LINE. **Where a lot line is curved, all dimensions related to said lot line shall be based on the chord of the arc. [emphasis added]***

Lot lines are the basis for various zoning ordinance provisions such as lot width and minimum yard requirements (front, side and rear yard setbacks). A lot line may either be straight or curved and, under the lot line definition when curved, is based on the chord of an arc.

What is Lot Width?

Minimum lot width is one of the Zoning Ordinance lot size standards that ensures orderly development and is applied in a variety of land development plans. Lot width is currently defined in the Zoning Ordinance as:

*LOT WIDTH: The width of a lot along a line parallel to the front street line and lying at a distance from said street line equal to the **required minimum front yard** on said lot. In the case of a lot which has an area in excess of five (5) acres, the width may be measured at any point where the minimum lot width is at least 200 feet, provided that such point shall also be where the front yard is established by location of the principal structure. **[emphasis added]***

The above lot width definition requires lot width to be measured along a line parallel to the front street line and located a distance from the street line equal to the required minimum front yard. Minimum required yards, which include minimum required front yards, are defined in the “Yard” definition as follows:

YARD: Any open space on the same lot with a building or building group lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in such open space by the provisions of this Ordinance. On any lot which is occupied by an attached dwelling, no minimum required yard shall be occupied by any part of a vehicular travel way or parking space that is owned and maintained by a homeowner's association, condominium, or by the public.

For the purpose of this Ordinance, there shall be a distinction between 'yard' and 'minimum yard required'. The minimum yard requirements set forth in this Ordinance represent that minimum distance which the principal building(s) shall be set back from the respective lot lines. [emphasis added]

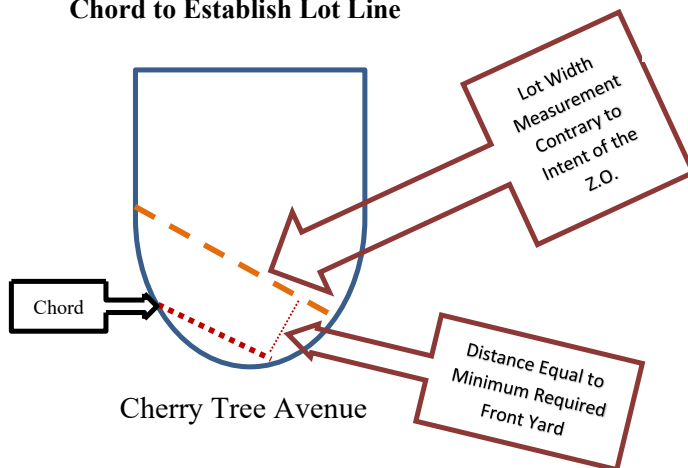
ISSUES

Measuring lot width is straightforward when the lot is rectangularly shaped or has straight front lot lines. However, the measurement becomes more difficult when there is a curved street lot line, such as on cul-de-sacs.

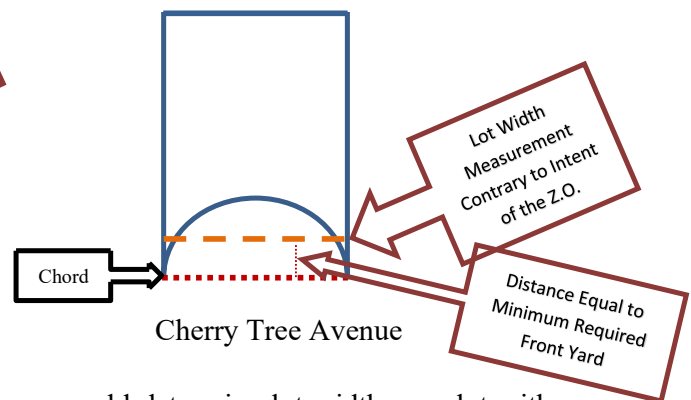
Under the current lot line definition, all dimensions (such as lot width and setbacks) related to curved lot lines are based on the chord of the arc. However, this method is not currently used by industry or staff to measure lot width or setbacks, because in practice it is ambiguous and may, in certain cases, result in measurements that are contrary to the intent of the Zoning Ordinance. Instead, when there is a curved lot line, the predominant practice is to measure lot width based on the actual distance of the arc, and to measure setback and other dimensions based on the actual distance of a line drawn perpendicular from a structure to the nearest point of the arc.

As defined in the dictionary, a chord is a straight line joining two points on a curve. Determining the chord on a curved lot line and verifying lot width based on the chord is problematic. The lot line definition does not describe how the chord is to be determined. That is significant, as there are multiple chords along a curved lot line. Moreover, in certain situations, a chord on a curved lot line could fall completely outside of the lot. Then, given that lot width is measured at the minimum required front lot line, lot width could not be determined based on a literal reading of the definition.

Example of Potential Problematic Chord to Establish Lot Line

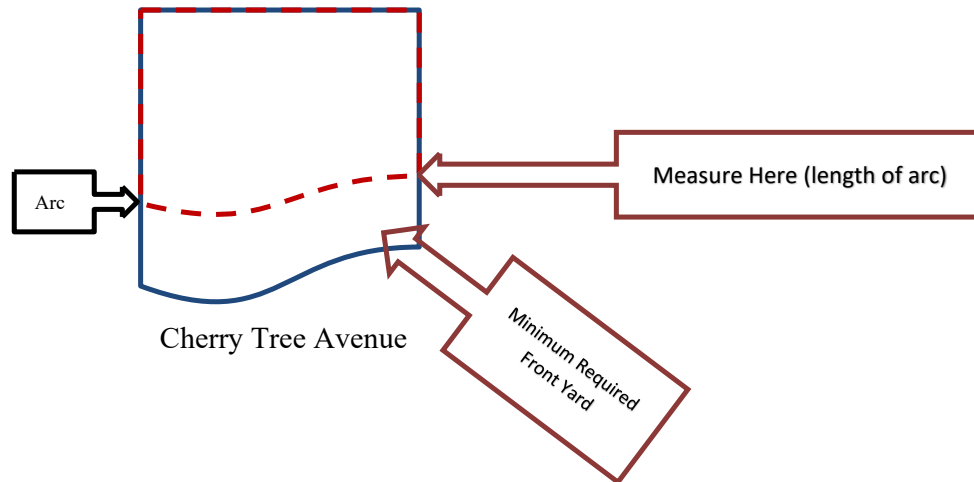


Example of Chord Outside of Lot

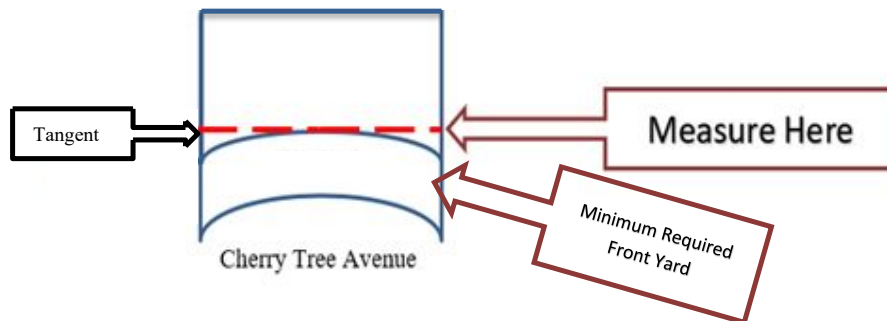


Currently, there is a mixture of methods by which one could determine lot width on a lot with curved frontage, including:

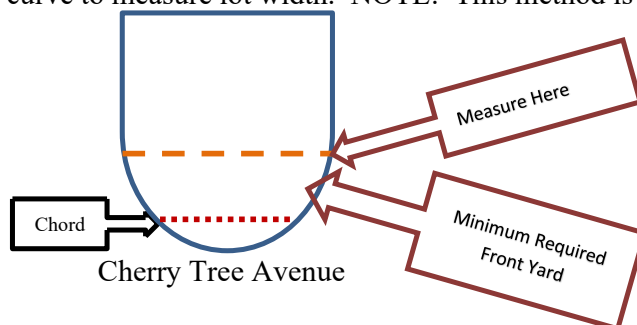
- **Arc Method** - A line representing the minimum required front yard is drawn parallel to the curved front lot line and the actual measurement of this line itself (an arc) is used to measure lot width.



- **Tangent Method** - A line representing the minimum required front yard is drawn parallel to the curved front lot line and a tangent is drawn to this conceptual parallel line to measure lot width. NOTE: This method is helpful only for concave-shaped lots.



- **Chord Method** - This is the method required by the Zoning Ordinance and is based on the current lot line definition. Under this method, a line representing the minimum required front yard is drawn parallel to the curved front lot line and a chord is drawn between two points on the curve to measure lot width. NOTE: This method is only helpful for convex-shaped lots.



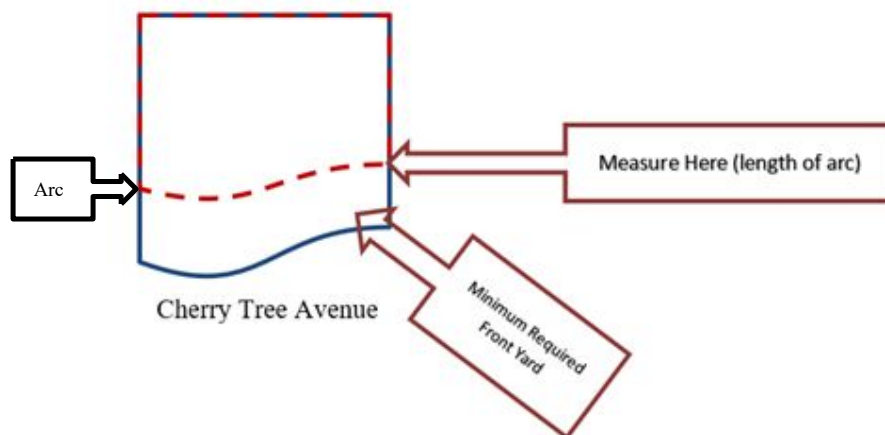
Industry representatives have expressed a preference for using the Arc Method. Furthermore, many jurisdictions, including the City of Fairfax, Loudoun County, and Prince William County, use the arc method to measure lot width on curved frontages.

However, not all nearby jurisdictions use the Arc Method. For example, Arlington County uses a lot depth to lot area ratio instead of having a minimum lot width requirement. This approach addresses the overall lot configuration and the compactness of a lot. Montgomery County measures lot width at three different locations on the lot—at the front lot line, the front setback line, and the front building line. This approach also addresses the regularity of the shape of the lot. Fairfax County addresses the shape of a lot by a maximum shape factor requirement. Given the shape factor requirement, it is staff's opinion that Arlington and Montgomery Counties' approaches to lot width are not germane to Fairfax County.

PROPOSED AMENDMENT

Lot Width

It is the intent of this amendment to provide clarity and uniformity regarding measuring lot width on lots with curved frontages. After coordination with staff and industry, the Arc Method is the preferred method due to its clarity and widespread applicability. To implement this preferred method, staff is recommending that the sentence containing the “chord of the arc” language be removed from the lot line definition. This will clarify that lot width is to be measured at a line parallel to the front lot line at a distance equal to the minimum required front yard, regardless of whether the frontage of the lot has a linear or curvilinear orientation.



Measuring Lot Width on Through Lots

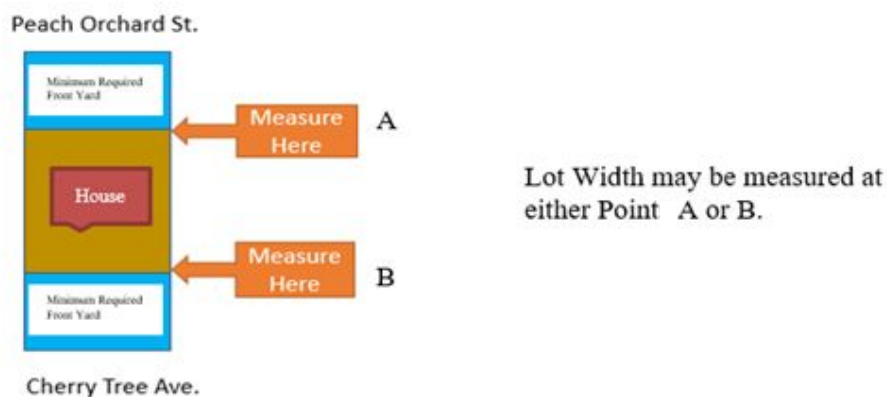
As was noted earlier, lot width is determined by the front street line. However, in the case of a through lot, there are multiple street lines. The following Zoning Ordinance definitions are key in determining lot width on through lots:

LOT, THROUGH: An interior lot, but not a corner lot, abutting on two (2) or more public streets, but not including an alley. For the purpose of this Ordinance, a through lot shall be subject to the regulations of an INTERIOR LOT.

LOT LINE, FRONT: A street line which forms the boundary of a lot; or, in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of the main building.

A through lot, by definition, is any lot that abuts on two or more public streets, but is not a corner lot, and has two or more front yards. However, the front lot line on a through lot is determined by the orientation of the principal entrance of the main building on the lot. It can be difficult, at the time of subdivision, to predict the final orientation of a future building on a lot and ultimately determine that minimum lot width has been satisfied. The current administrative practice is to allow lot width to be measured from any street line on a through lot.

PROPOSED AMENDMENT: To codify common practice, staff is recommending that the lot width definition be modified to specify that, on through lots, lot width may be measured from any street line. The proposed amendment only impacts where lot width is measured on a through lot. The amendment does not impact the through lot minimum yard requirements (setbacks) as the current Zoning Ordinance front yard definition would not be changed with this amendment. The yards lying between the principal building and the two or more public streets on a through lot will continue to be deemed front yards and subject to the minimum front yard setbacks.



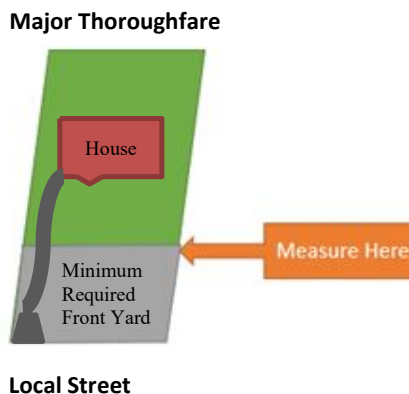
Measuring Lot Width on Reverse Frontage Lots

Reverse frontage lots present another unique situation for determining lot width. A reverse frontage lot is defined as:

LOT, REVERSE FRONTAGE: A residential through or corner lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major thoroughfare.

A reverse frontage lot, by definition, is residential and has one front lot line along a local street. However, reverse frontage lots also abut major thoroughfares, leading to some confusion as to whether the lot line along the major thoroughfare would also be considered a front lot line and, ultimately, be used to measure lot width. Although the reverse frontage lot definition implies that lot width is measured along the local street, the current lot width definition does not specifically state how lot width is measured on reverse frontage lots.

PROPOSED AMENDMENT: To clearly state how lot width is measured on reverse frontage lots, staff recommends that the lot width definition be revised to state that, on reverse frontage lots, lot width is measured from a line parallel to the local street line.



Lot width is measured in the yard facing the local street.

Certain Provisions Unchanged

This amendment would not change the current provisions regarding minimum lot width on lots of five acres or greater in area; minimum required yards (setbacks); bulk regulations; lot area; shape factor; or lot, street and yard classifications. These provisions will be reviewed as part of the Zoning Ordinance Modernization (zMOD) effort.

CONCLUSION

The Department of Planning and Development staff have coordinated this amendment with staff from the Site Development and Inspections Division of Land Development Services, the County Attorney's Office, and the County Surveyor. In addition, meetings and outreach with the following stakeholders have occurred:

- Board of Supervisor's Development Process Committee: September 9, 2019
- Fairfax County Zoning Open House (South County): September 10, 2019
- Northern Virginia Building Industry Association/Commercial Real Estate Development Association (NVBIA/NAIOP); Engineers and Surveyor's Institute: September 19, 2019
- Planning Commission Land Use Process Review Committee: October 3, 2019

If the amendment is adopted, staff will prepare a technical memorandum that provides guidance to industry on lot width measurements. Specifically, on lots with curved frontages, the length of the arc as measured at the minimum required front yard line must be provided on the plans. The arc length could be provided either in the form of a curve table, or as a measurement on the plan if there is a continuous curve. The arc length is necessary to verify that the minimum lot width requirement has been satisfied. This information is necessary to determine lot width and is readily available given the computerized software that is currently being used in plan design.

The proposed amendment provides clarity and consistency on the methodology used to determine lot lines and to measure lot width on lots with curved street frontages, through lots, and reverse frontage lots. The proposed Arc Method to measure lot width is the most equitable as it is the same for all lots regardless of the type of lot frontage. Therefore, staff recommends adoption 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 October 29, 2019, 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.

1 **Amend Article 20, Ordinance Structure, Interpretations, and Definitions, Part 3, Definitions,**
2 **by revising the lot line, front lot line and lot width definitions to read as follows:**

3
4 LOT LINE: Any boundary line of a LOT as defined ~~herein~~ by this Ordinance. Where applicable,
5 a lot line ~~shall~~ will coincide with a STREET LINE. ~~Where a lot line is curved, all dimensions~~
6 ~~related to said lot line shall be based on the chord of the arc.~~

7
8 LOT WIDTH: The ~~width of a lot along~~ length of a line parallel to the front street line and lying
9 within the lot at a distance from ~~said~~ the street line equal to the required minimum front yard on
10 ~~said~~ the lot.

11 In the case of a lot ~~which~~ that has an area in excess of five (5) acres, the width may be measured
12 at any point where the minimum lot width is at least 200 feet, provided that such point ~~shall~~ is also
13 ~~be~~ where the front yard is established by the location of the principal structure. On reverse frontage
14 lots, lot width is measured in the yard facing the local street. On through lots, lot width may be
15 measured from any street line.

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing on the Sale of Board-Owned Property on West Drive to the City of Fairfax

ISSUE:

Authorization of the Board of Supervisors (Board) to advertise a public hearing regarding the sale of Board-owned property on West Drive to the City of Fairfax.

RECOMMENDATION:

The County Executive recommends that the Board authorize a public hearing regarding the proposed sale of Board-owned property on West Drive to the City of Fairfax.

TIMING:

Board action is requested on October 29, 2019, to provide sufficient time to advertise the proposed public hearing on December 3, 2019, at 4:00 p.m.

BACKGROUND:

The Board of Supervisors is the owner of 4.24 acres located at 10635 and 10637 West Drive, in the City of Fairfax (two adjacent parcels). The properties are currently improved with approximately 25,000 square feet of industrial/office buildings with approximately 175 surface parking spaces. The site is currently the location of Fairfax County's Maintenance and Stormwater Management Division (MSMD) facilities and provides office space and work quarters for MSMD personnel. The facility most closely resembles light industrial uses, and is surrounded to the north, east and west by single family and townhome residences, and to the south by Providence Park. The West Drive properties have been under County ownership since 1955. Due to the site's location, age, size, and condition it no longer meets the operational needs of the County.

In July 2016, the County entered into a Contract for Purchase and Sale to acquire 9 acres of land adjacent to the 14 acre Fairfax County Wastewater Collection Division site at Freds Oak Drive. The purpose of the acquisition was to provide land adjacent to the existing public works facility to co-locate stormwater and wastewater operations, supporting greater efficiency between the shared missions of these programs. The acquisition was funded from the Stormwater Service District fund, which acts as an enterprise fund with the proviso that the money be reimbursed from the eventual sale of the West Drive Property. Conceptual plans were presented to the community and an

Board Agenda Item
October 29, 2019

application for 2232 review was approved by the Planning Commission on February 22, 2018, prior to the purchase of the property. The County settled on the purchase shortly afterward.

The Stormwater Consolidation project is currently in the design phase. The new facility will co-locate stormwater staff that are currently located at the Government Center (design and engineering staff) and at West Drive (operations) with Wastewater operations staff located at the Freds Oak complex. The project is scheduled to start construction by early 2021, with an approximately three year construction duration.

In July of 2018, staff from Fairfax County and the City of Fairfax entered into discussions regarding the sale of the West Drive properties to the City of Fairfax after the City expressed an interest in acquiring the properties. The Board of Supervisors and the City Council then authorized staff to proceed with negotiations resulting in a Draft Purchase and Sale Agreement for the West Drive properties to transfer the properties once construction is completed for the Stormwater Consolidation Facility and the West Drive properties are vacant. The terms of the sale of the properties to the City of Fairfax are as follows:

- The initial purchase price is \$4,000,000 for both parcels;
- The settlement date for the purchase is upon completion and occupancy of the Stormwater Consolidation Facility or 72 months, whichever occurs first;
- If settlement occurs on or before the projected settlement date per the agreement, then the purchase price will be adjusted to reflect market conditions at the time of settlement. In no event will the final purchase price be lower than the initial purchase price.
- The County has the right to extend closing up to 24 months of additional time if the County is not yet able to occupy the new facility under construction.
- A deed restriction will be placed on the properties in their entirety, to allow public uses only, for a period of 50 years following closing. If the City chooses to sell or otherwise use the properties for non-public purposes, then the City must reimburse the County for the difference in value between the initial purchase price and the subsequent market value of the land resulting from the non-public use.
- The City will pay a deposit of \$400,000 that is non-refundable after the expiration of the due diligence period except in certain circumstances.

Board Agenda Item
October 29, 2019

- If the County completes the Stormwater Consolidation Facility and then opts not to sell to the City, then the City will receive the return of the deposit, reimbursement of reasonable expenses up to \$150,000, and a right of first refusal to purchase the properties for a period of 15 years.

Because Virginia Code Ann. § 15.2-1800 requires a locality to hold a public hearing before it may dispose of any real property, staff recommends that the Board authorize staff to advertise a public hearing for the future sale of the West Drive Property to the City of Fairfax.

FISCAL IMPACT:

The sale of the West Drive properties to the City of Fairfax would result in a minimum reimbursement of \$4 million to Fund 40100, Stormwater Services.

ENCLOSED DOCUMENTS:

Attachment 1 – Location Map

Attachment 2 – Resolution

Attachment 3 -- Draft Purchase and Sale Agreement

STAFF:

Rachel Flynn, Deputy County Executive

Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)

Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

Carey F. Needham, Director, DPWES, Building Design and Construction Division

Julie B. Cline, Director, DPWES, Land Acquisition Division

F. Hayden Coddington, Assistant County Attorney, Office of the County Attorney

Jose A. Comayagua, Director, Facilities Management Department

Michael P. Lambert, Assistant Director, Facilities Management Department



Sale of 10635 and 10637 West Drive

Properties To Be Sold: 

0 0.0425 0.085 0.17
Miles



RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, December 3, 2019, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Board of Supervisors owns approximately 4.24 acres of land located at 10635 and 10637 West Drive, City of Fairfax Tax map numbers 057-3-02-012 and 057-3- 02-013, in the City of Fairfax (the West Drive property),

WHEREAS, the City of Fairfax, Virginia has requested the Board of Supervisors to sell the West Drive property to the City of Fairfax in accordance with the terms and conditions of the proposed Contract for Purchase and Sale negotiated between the two parties,

WHEREAS, the Board has no planned use for the West Drive property once the construction of the Stormwater Consolidation Facility has been completed and the West Drive property is vacant,

WHEREAS, the Board finds that it would be in the best interest of the residents of Fairfax County to sell the real property as described above to the City of Fairfax.

NOW, THEREFORE, upon public hearing duly advertised according to law, it is **RESOLVED** that the County Executive is hereby authorized to execute all necessary documents to convey the real property described above to the City of Fairfax.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

PURCHASE AND SALE AGREEMENT

10635 and 10637 West Drive, Fairfax, VA 22030

by and between

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

and

CITY OF FAIRFAX, VIRGINIA

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the “Agreement”) is made this _____ day of _____, 2019, (the “Effective Date”), by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia in its proprietary capacity, and not in its governmental or regulatory capacity (the “County”) and the **CITY OF FAIRFAX, VIRGINIA**, a Virginia municipal corporation (the “City”).

RECITALS:

- R-1 The County is the owner, in fee simple absolute, of certain land containing approximately 4.24 acres located at 10635 and 10637 West Drive, Fairfax, Virginia 22030, Tax Map No. 57-3-02-013 and 57-3-02-012, as legally described on the attached Exhibit A (the “Real Property”). The County and the City agree that the legal description may be updated following the City’s receipt of the Title Commitment (as hereinafter defined) and such updated legal description shall be substituted in the place and stead of any Exhibit A attached hereto.
- R-2 Approximately 25,000 square feet of Industrial/Office Buildings, an accessory maintenance yard, and facilities (the “Buildings”) are located on the Real Property as of the Effective Date.
- R-3 The County desires to sell and the City desires to purchase from the County, the Real Property and the Buildings, along with certain related personal and intangible property, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the Recitals, which are incorporated into this Agreement by reference, the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Land Conveyance.

(a) Subject to the terms and conditions of this Agreement and as more fully set forth in the Conveyance Documents (as defined in 1(c), below), the County will convey to the City the Real Property at Closing, together with:

(1) Any site improvements, facilities, and fixtures located and remaining on the Real Property after Closing (as hereinafter defined), including the Buildings (collectively, the “Improvements”);

(2) Any tangible and intangible personal property owned by the County located and remaining on the Real Property after Closing (collectively, the “Personal Property”);

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(3) Any and all easements, access rights, and development rights, if any, benefitting the Real Property, including without limitation, all right, title, and interest of the County in and to any roads, streets and ways, public or private, serving the Real Property and all right, title and interest of the County in and to any land lying in the bed of any street, road, avenue, lane or right-of-way in front of, adjoining or adjacent to the Real Property, all mineral, oil and gas rights and profits, water rights, and subterranean rights, and all sewer and utility rights allocated to the Real Property (collectively, the “Easements”); and

(4) All consents, authorizations, variances or waivers, licenses, certificates of occupancy, air rights, development credits, permits and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality with respect to the Real Property, which are assignable and remain valid or in effect as of Closing (collectively, the “Rights”).

The Real Property, Improvements, Personal Property, Easements, and Rights may be referred to collectively as the “Property.”

(b) At Closing, the County will convey title to the Property to the City, by a special warranty deed in a form to be agreed to by the parties (the “Deed”), subject to: (i) matters of record as of the Effective Date; (ii) any matters of record, not caused by the City or others acting on the City’s behalf, arising after the Effective Date that are not objected to by the City or otherwise acceptable to the City, as provided in this Agreement; and (iii) any other easements, covenants, proffers, or other documents, in each case pertaining to the Property, to be executed and recorded in connection with this Agreement.

(c) The term Conveyance Documents means the following: (1) the Deed referenced in 1(b), above; (2) an assignment and assumption agreement with regard to the Improvements, Personal Property, Easements, and Rights to be conveyed from the County to the City; and (3) any other documents reasonably necessary, in the opinion of the County, the City and/or the Closing and Title Agent (as hereinafter defined) to consummate the sale of the Property from the County to the City (collectively, all of the foregoing are the “Conveyance Documents”). The City and the County will not unreasonably withhold their approval to the form of the Conveyance Documents.

2. Purchase Price. The purchase price for the Property (the “Initial Purchase Price”) is \$4,000,000.00, subject to adjustment as provided in this Agreement (the Initial Purchase Price as finally adjusted pursuant to the provisions of this Agreement is hereinafter referred to as the “Purchase Price”). The City will tender the Purchase Price to Stewart Title and Escrow, Inc. (the “Closing and Title Agent”), in immediately available funds, on or before 12:00 p.m., Eastern Time, on the date of Closing.

- a. If Closing occurs on or prior to the Initial Outside Closing Date (as defined in 4, below), then the Purchase Price shall be calculated by multiplying the Initial Purchase Price by a factor, obtained by calculating the most recently published 6 month USD Libor rate (or, if the USD Libor rate is no longer

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published within 12 months prior to Closing, then the parties shall agree on an alternative measure, such as an appropriate average of the Secured Overnight Finance Rate (SOFR) as published by the Federal Reserve Bank of New York). Alternatively, if either party desires, or if no alternative measure is available or agreeable to both parties, acting reasonably, the City and the County will each obtain an independent appraisal of the Property to determine value as of the earlier to occur of the actual date of Closing or the Initial Closing Date. If the appraisal option is chosen, the Purchase Price shall be the average of the appraisals, provided they are within 10% of each other. If the two appraised values are not within 10% of each other, the two selected appraisers will, within 15 days after their determinations of value, mutually agree upon a third appraiser and the third appraiser will provide an appraised value within 30 days after appointment. The Purchase Price will then be equal to the average of the third appraised value and whichever of the prior appraised values is closest to the third appraised value. Using either calculation, the Purchase Price will be the greater of: (i) the Initial Purchase Price, or (ii) the resultant calculation(s) pursuant to this subsection.

- b. If Closing occurs on the date that is after the Initial Outside Closing Date (due to the permitted extension as provided in 4, below, or otherwise due to delay attributable solely to acts or omissions by the County), then the Purchase Price shall be fixed as of the 72 month date as calculated in 2(a), above.
- c. In no event shall the Purchase Price be lower than the Initial Purchase Price, except if the County, or others acting on the County's behalf, cause the value of the Property to be lower than the Initial Purchase Price.

3. Deposit; Material Default:

- a. The City shall tender the sum of \$400,000.00, in cash or immediately available funds, to serve as a deposit hereunder (the "**Deposit**"). The Deposit shall be deposited with Closing and Title Agent within 5 business days following the last date that either party executes this Agreement (the "**Effective Date**"). The Closing and Title Agent shall serve as title, escrow and closing agent for this transaction. The Deposit shall be placed in an interest bearing account, with any interest to become part of the Deposit for all purposes.
- b. The Deposit shall be fully refundable to the City through the expiration of the Due Diligence Period (as defined in 5, below). The Deposit is nonrefundable thereafter (except if the parties mutually agree, or in the event of a Material County Default as set forth in 3(c), below) but shall continue to be held in escrow until Closing (so that interest can continue to accrue on the Deposit amount).

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c. Failure by the County to materially comply with the terms of the Purchase and Sale Agreement, following written notice tendered by the City and a 30 day opportunity to cure (a “**Material County Default**”), shall provide a termination right to the City, exercisable in the City’s sole discretion, and result in the return of the Deposit (if the City chooses to exercise the termination right). In addition to the foregoing, if the County proceeds to construct the necessary improvements to establish a new MSMD facility at Tax Map No. 0773 01 0011 and 0773 01 0013 (the “**New MSMD Facility**”) and, following substantial completion of the same, decides, for whatever reason, that it no longer wishes to sell the Property to the City, then, the County shall, within 10 days following the County making such decision, notify the City and Closing and Title Agent in writing. In such event, the City shall be entitled to the return of the Deposit within 5 days following the County tendering such notice. In addition, the County shall also tender to the City a reimbursement of the City’s actual and reasonably incurred expenses incurred in connection with the transaction, up to a maximum of \$150,000.00. Such payment by the County to the City shall be made within 30 calendar days following the City’s tendering of a demand, with appropriate backup documentation, for such incurred expenses. Further, in such event, the County shall grant to the City a right of first refusal and/or a right of first offer, as applicable, for a period of 15 years following the date of such election by the County, with regard to any sale, lease or other transfer of all or any portion of the Property, whether initiated by the County or via a solicited or unsolicited proposal to sell, purchase, lease or otherwise transfer ownership of all or any portion of the Property. The form of such right of first refusal and/or right of first offer shall be agreed to between the parties and recorded against the Property within 45 calendar days following the date of the County’s written notice to the City of its desire to no longer sell the Property to the City as set forth above. Any conveyance of the Property by the County in contravention of this section shall be void *ab initio*, and the City shall have the right to pursue legal action to enforce its rights hereunder. The provisions of this section shall survive termination of this Agreement.

4. **Closing:**

a. Closing of the transactions contemplated by this Agreement (“**Closing**”) shall occur on a date selected by the County, and reasonably acceptable to the City, designated in writing by the County to the City (the “**Closing Date Notice**”). Closing shall occur at the office of Closing and Title Agent, or at such other location as the parties may mutually agree. The date of Closing set forth in the Closing Date Notice shall, in no event (unless waived by the City in writing), be fewer than 180 calendar days following the date that the

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City receives the Closing Date Notice. Further, the date designated in the Closing Date Notice shall in no event be later than the earlier to occur of: (i) the date that is 6 months following the issuance of the last Non-Residential Use Permit for the occupancy of the New MSMD Facility, or (ii) the date that is 72 months following the Effective Date (the “**Initial Outside Closing Date**”), subject to extension as provided in this Agreement or as otherwise agreed to between the parties.

- b. Subject to 4(c), below, the County shall have a one-time right, in its sole discretion, to extend the Initial Outside Closing Date for up to an additional 24 months following the Initial Outside Closing Date, by providing written notice to the City of such extension at least 90 days prior to the Initial Outside Closing Date.
- c. For all purposes under this Agreement, the County shall utilize its best efforts to ensure that Closing occurs as early as possible (understanding that the County MSMD is relocating to a new facility that will be constructed) and, further, that the only acceptable reason for delaying the Initial Outside Closing Date shall be if the County reasonably determines that it is not yet able to occupy the New MSMD Facility. The County shall provide regular updates to the City when asked of the progress of completion of the New MSMD Facility on at most a quarterly basis including making periodic updates available as to estimates for substantial completion of the same (and actual notice to the City in writing once substantial completion has been achieved).

5. Restriction on Use; Sale or Conversion of Property: The Deed conveying the Property to the City shall contain a restriction limiting the use of the Property in its entirety, for a period of 50 years following Closing (the “**Restriction Period**”), to public uses (as such phrase is generally understood at the time any determination of “public uses” is to be made during the Restriction Period). If the City desires, during the Restriction Period, to sell or lease the Property to an unaffiliated third party for non-public uses, then the City shall remit to the County the difference in value (if any) between (a) the gross sales price at closing under such sales transaction or the value of the property with such a lease (as determined by the appraisal method set forth in this paragraph below) and (b) the Adjusted Property Value (as hereinafter defined). Said remittance shall occur at closing in the case of the sale of the property, or upon execution of the lease document. If the City desires, during the Restriction Period, to itself convert the Property to non-public uses from public uses, then the City shall cause an independent appraisal of the Property to be conducted (with appropriate assumptions as agreed to by the City and County relating to the proposed non-public use or uses), and a copy provided to the County, prior to irrevocably committing to such action. If the County fails to object in writing to the City’s appraisal hereunder within 90 days following the County’s receipt of the same, the valuation contained therein shall be conclusive. If the County timely objects in writing to the City’s appraisal, then the County shall obtain its own independent appraisal of the Property (utilizing the same assumptions, agreed to by both parties as referenced above, and subsequently incorporated in the City’s appraisal) within 90 days following the date

the County objects. Reconciliation of the two appraisals, in such event, shall be in accordance with the procedure set forth in 2(a), above, and such value shall be conclusive. For all purposes hereunder, the phrase “Adjusted Property Value” shall refer to the number obtained by increasing (or decreasing) the Purchase Price each year following Closing by the annual average increase (or decrease) in City residential property assessments, each year through the date of closing of the sale to an unaffiliated third party, or the date of the City’s appraisal obtained in the event the City chooses to itself convert or to lease the Property for non-public uses, as applicable.

6. Due Diligence Period; Updates Prior to Closing: The City shall have a period of 90 days following the Effective Date to conduct such tests and inspections of the Property as it determines in its sole discretion (the “Due Diligence Period”). The City shall also obtain a title commitment and, if it desires, a survey of the Property. This Agreement contains provisions set forth below regarding access to the Property, protections from damage or injury during inspections, and title and survey objections. The County shall provide the City, within 5 business days following the Effective Date, the County Property Documents (as hereinafter defined), as well as copies of any title reports, surveys, environmental reports, notices of violation and similar materials in its possession and relating to the Property, and such other documents in the County’s possession relating to the Property that the City may reasonably request. Following the expiration of the Due Diligence Period, the sale of the Property shall be “as-is.” Notwithstanding the foregoing, and in contemplation of the period of time that will elapse from and after the expiration of the Due Diligence Period until Closing and the County’s continued operation at the Property, the City shall have the right, prior to Closing, to secure updates to any title commitment, survey, and/or environmental reports obtained during the Due Diligence Period to examine whether there have been any material changes to the condition of the Property since the expiration of the Due Diligence Period. If such updates disclose any new matters not included in the original reports obtained during the Due Diligence Period, then the City may object to any or all such matters within 10 days following the receipt of the last update to the title, survey and/or environmental reports, and the County shall utilize its best efforts to resolve the same, at its sole cost and expense, prior to Closing. Closing may be delayed for up to 30 days if the County commences to cure any such matter(s) prior to Closing and, despite diligently pursuing the same, is unable to cause such matter(s) to be cured. Also notwithstanding the foregoing, the County shall be responsible for causing any monetary liens against the Property to be removed at (or prior to) Closing.

7. Property Title, Survey and Other Investigations.

(a) The City shall obtain a title commitment for an extended coverage policy of Title Insurance from a reputable and qualified title insurance company, which may be the Closing and Title Agent, pertaining to the Property (the “Title Commitment”). During the Due Diligence Period, the City will have the right, at its own risk, cost and expense, to examine title to the Property and obtain an ALTA Survey (“Survey”) of the Property. The City will provide to the County copies of the Title Commitment and the Survey (and updates to each) as they become available. If the Survey, Title Commitment or the City’s examination of the Property reveals facts which render title unmarketable or

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otherwise reasonably unacceptable to the City ("**Defects**"), the City will report such Defects to the County in writing prior to the expiration of the Due Diligence Period. All title and survey matters to which the City does not object prior to expiration of the Due Diligence Period will be deemed waived by the City (subject to updates to the title and survey as provided in 6, above).

(b) During the Due Diligence Period, the City and its agents will have access to the Property, accompanied by the County's designated representative, if requested, subject to the rights of occupants in the Buildings, in order to make the desired investigations, studies, inspections, and surveys (the "**Inspections**"). The County will give the City and its agents access to the Property and the Buildings within 2 business days after the City's request. The County will provide the City with copies of any non-proprietary investigations, plans, reports, studies, surveys, and other documents related to the Property, including, but not limited to, any Buildings asbestos abatement findings and Buildings plans and specifications, that are in the County's possession ("**County Property Documents**"). All Inspections conducted by or on behalf of the City will be at the City's sole cost and expense. The County will have the right to approve any Inspections that may cause damage to the Property, such approval not to be unreasonably withheld, conditioned or delayed. The City will repair and restore any damage to the Property, caused by the City's activities. If the Inspections or the County Property Documents reveal any Defects, the City will report such Defects to the County in writing (with a copy of the applicable report or document) prior to the expiration of the Due Diligence Period. All Defects revealed in the Inspections or the County Property Documents to which the City does not object prior to expiration of the Due Diligence Period will be deemed waived by the City.

(c) After receipt of written notice of any Defect, the County will have 10 business days to notify the City whether the County will attempt to correct the Defect. The County's notice of intent to cure the alleged Defect will not obligate the County to incur expenses or complete a cure of the alleged Defect or prevent the County from subsequently advising the City it will decline to cure the alleged Defect. If the County elects to cure any alleged Defect, the County will have 60 days following the expiration of the Due Diligence Period to attempt to correct the Defect. If the County declines, or is unable, despite using commercially reasonable efforts, to correct the Defect, or does not respond within the 10 business day period, the City may elect to terminate this Agreement by written notice to the County given within 5 business days of such occurrence, as applicable. Conversely, the City may elect to waive the Defect by written notice to the County and proceed to purchase the Property in accordance with the remaining terms and provisions of this Agreement. The City will be deemed to have elected to waive any Defect if the City does not send written notice of termination in accordance with this Section, at which time the Defect will be considered a permitted exception to title or an acceptable Property condition, as applicable.

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8. Instruments of Conveyance.

(a) At Closing, the County will deliver to the Closing and Title Agent the following:

(1) the Deed, in a form to be agreed to by the parties, which will convey all of the County's rights, title and interest in and to the Property to the City;

(2) an assignment and assumption of intangible personal property and approvals, in a form to be agreed to by the parties (the "Assignment"), assigning and transferring to the City all of the County's right, title and interest, from and after the Closing, in and to the intangible personal property and the Rights (to the extent assignable) and to the tangible personal property located on the Real Property.

(3) 2 counterpart signature pages of the settlement sheet executed by the County (the "Settlement Sheet");

(4) an affidavit, signed by the County stating the County's United States taxpayer identification number and that the County is not (i) a foreign person as defined by the IRS Code, Paragraph 1445(0)(3), or (ii) a non-resident payee under the laws of the Commonwealth of Virginia (the "FIRPTA Affidavit");

(5) an affidavit and Form 1099-S containing all information required for compliance with IRS Code Paragraph 6405 in the form required by the Internal Revenue Service for filing thereunder (the "Form 1099-S");

(6) An "owner's affidavit," in form reasonably acceptable to the Closing and Title Agent and sufficient for the Closing and Title Agent to delete any exceptions for (i) mechanics' or materialmen's liens arising from work at the Property that is the responsibility of the County hereunder, (ii) parties in possession, and, (iii) matters not shown in the public records; and

(7) such other documents as are required under this Agreement and those reasonably required by the Closing and Title Agent.

(b) At Closing, the City will deliver to the Closing and Title Agent the following:

(1) 2 counterpart signature pages of the Settlement Sheet executed by the City;

(2) the Assignment, assuming all of the County's right, title, interest and obligations, from and after the Closing, in and to the intangible personal property and the Rights (to the extent assignable); and

(4) such other documents as are required under this Agreement and those reasonably required by the Closing and Title Agent.

9. Representations and Warranties.

EACH OF THE COUNTY AND THE CITY EXPRESSLY ACKNOWLEDGES AND AGREES THAT AT CLOSING, THE PROPERTY IS BEING CONVEYED FROM THE COUNTY TO THE CITY IN ITS “AS IS, WHERE IS” CONDITION, WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES WHICH ARE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE DEED, OR OTHER DOCUMENTS DELIVERED AT CLOSING.

The County and the City each represent and warrants to the other that all of the following are true and correct with respect to itself on the Effective Date and will be true and correct on, and restated as of, Closing:

(a) The County and the City each has the full and unrestricted power and authority to execute and deliver this Agreement and all other Conveyance Documents required or contemplated by the terms of this Agreement and to consummate the transactions contemplated by this Agreement after approval by the County’s Board of Supervisors following a public hearing pursuant to Va. Code § 15.2-1800 (2019), and applicable approval(s) by the City Council of the City, to include any necessary appropriation and/or borrowing action by the City Council of the City. Other than those approvals, all requisite action has been taken by the parties to authorize their respective agents or representatives, as applicable, to execute and deliver the Conveyance Documents. Upon either party’s request, the other will within 5 days deliver to the requesting party applicable resolutions authorizing it to enter into and perform this Agreement.

(b) The execution and delivery of the Conveyance Documents and compliance with the provisions of such documents by either party will not violate the provisions of (1) either party’s respective governing documents or any other such similar document or rule regarding each of the County and the City, or (2) any agreement to which either party is subject or by which either party or the Property is bound.

(c) To the best of the County’s and the City’s actual knowledge, the execution, delivery and performance of this Agreement will not violate any provision of any applicable statute, regulation, rule, court order or judgment or other legal requirements applicable to such party or the Property.

(d) To the best of the County’s actual knowledge, there are no lawsuits or legal proceedings pending or threatened regarding or resulting from encumbrances on, or the ownership, use, possession or development of, the Property.

(e) To the best of the County’s actual knowledge, there are no notices, suits or judgments pending relating to violations of any governmental regulations, ordinances or requirements affecting or which may affect the Property that have not been corrected. If the County receives a written notice of violation, the County will immediately take all actions reasonably required to comply with the terms thereof, and the Property will be free and clear of all such violations prior to Closing.

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(f) To the best of the County's actual knowledge, except for this Agreement, there are no Agreements of sale, options to purchase, reversionary rights, rights of first refusal or similar rights of any kind which are or will be binding upon the Property or which will become binding upon the County or the Property at or subsequent to the Closing.

The County and the City will notify the other party immediately of any facts that would constitute a material breach of or render inaccurate any of the foregoing representations and warranties immediately after becoming aware of such facts, and will reconfirm in writing at Closing the representations and warranties by execution of a certificate of reconfirmation of representations and warranties in all material respects. Each party is entitled to rely upon the representations and warranties of the other, and the representations and warranties will survive Closing and delivery of the Deed for a period of 1 year following Closing, and thereafter will be merged into the Deed, except as otherwise provided in this Agreement.

10. Costs; Apportionments.

(a) The City and County are exempt from all taxes in connection with this transaction, including but not limited to the Virginia Grantor's Tax, Regional Congestion Relief Fee and any grantee's tax(es). The City will pay all title commitment and survey charges. The County and the City will each pay one-half of the closing and escrow charges.

(b) Real estate taxes and any assessments are to be computed and apportioned, as of the day preceding the Closing.

11. Maintenance; Repair. Until Closing, the County will maintain the Property and Improvements in their present condition, subject to acts of nature and reasonable wear and tear. The County shall not make any changes to the Property of a structural nature without the prior written consent of the City, which consent shall be in the City's reasonable discretion (although this restriction shall not be applicable to temporary structures placed on the Property that are removed prior to Closing, or ordinary repairs or maintenance of a structural nature of existing structures on the Property as of the Effective Date).

12. Brokers. Each party represents to the other that no brokers were involved in this Agreement. This Section will survive Closing.

13. Defaults and Remedies.

(a) If the City defaults under this Agreement on its obligation to proceed to Closing and the County is willing and able to proceed, and the default continues for a period of ten (10) business days after written notice from the County, then the County will be entitled to terminate this Agreement. The County will have no right to seek damages for the City's failure to close other than to retain the Deposit.

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(b) If the County defaults under this Agreement and the default continues for a period of 10 business days after written notice from the City, then the City will be entitled to (i) terminate this Agreement, or (ii) in the alternative, pursue an action for specific performance of the Agreement. The City will have no right to seek damages for the County's failure to close other than as set forth in this Agreement.

14. Notices. Any notices, requests, and other communications under this Agreement must be in writing and sent by hand-delivery or next-business-day delivery mail service, with receipt therefor, addressed as follows:

If to the County:

Board of Supervisors of Fairfax County, Virginia
12000 Government Center Parkway, Suite 552
Fairfax, Virginia 22035
Attention: County Executive

With a copy to:

Office of the County Attorney
Attention: County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064

If to the City:

City of Fairfax, Virginia
10455 Armstrong Street, Suite 316
Fairfax, Virginia 22030
Attention: City Manager

With a copy to:

City of Fairfax, Virginia
10455 Armstrong Street, Suite 316
Fairfax, Virginia 22030
Attention: City Attorney

If to Closing and Title Agent:

Stewart Title and Escrow, Inc.
10505 Judicial Drive, Suite 300
Fairfax, Virginia 22030
Attention: Mark Fitzgerald, Senior Vice President

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or in each case to such other address as either party may from time to time designate. Regarding the effective dates of notices under this Agreement, if notice is received on or before 5:00 PM local time, then notice will be deemed to have been given on that same day. If notice is received after 5:00 PM local time, then notice will be deemed to have been given on the next business day.

15. Casualty. Risk of all loss, destruction or damage to the Property, from any and all causes whatsoever until consummation of the Closing, will be borne by the County. If a substantial portion of the Property is materially damaged by casualty, the County will immediately notify the City in writing (the “Casualty Notice”). In such event, the City, at its option, may terminate this Agreement by written notice to the County 10 days after receipt of the Casualty Notice or Closing, whichever occurs first. If the City does not terminate this Agreement under the sentence above, then the Closing will take place as provided in this Agreement without any adjustment to the Purchase Price.

16. Miscellaneous Provisions.

(a) Binding Effect. This Agreement is binding upon and inures to the benefit of the County and purchaser, and their successors and permitted assigns, provided, however, that neither party may voluntarily assign its rights or delegate its obligations under this Agreement without the express written express of the other party.

(b) Waiver, Modification. Failure by either party to insist upon or enforce any of its rights under this Agreement will not constitute a waiver of its rights, except where non-action is expressly described as a waiver. This Agreement may not be modified, amended, or altered except by a written agreement signed by the County and the City.

(c) Governing Law. This Agreement is governed by and will be construed under the laws of the Commonwealth of Virginia without regard to its conflict of laws statutes.

(d) Headings. The section headings in this Agreement are used for convenience of reference only and may not be deemed to vary the content of this Agreement.

(e) Counterparts. If this Agreement is executed in two or more counterpart originals, each counterpart original will be for all purposes considered an original.

(f) Partial Invalidity. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination will not affect any other provision of the Agreement, all of which other provisions will remain in full force and effect. If any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision will have the meaning which renders it valid.

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(g) Survival. Except as otherwise specifically provided, the provisions of this Agreement will not survive Closing.

(h) Time. With respect to all time periods contained in this Agreement, it is expressly understood that time will be of the essence.

(i) Holidays, etc. Whenever the last day for the performance of any act required by either party under this Agreement falls on a Saturday, Sunday, or legal holiday recognized by the County or the City, the date for the performance of any such act will be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

(j) Appropriations. To the extent so required by the laws of the Commonwealth of Virginia, both the County's and the City's respective financial obligations under this Agreement are subject to appropriations by the Fairfax County Board of Supervisors and the City Council of the City.

(k) Waiver of Jury Trial. Each party knowingly waives trial by jury in any action, proceeding, claim, or counterclaim brought by either party in connection with any matter arising out of or in any way connected with this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]

DRAFT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year first above written.

PURCHASER:

CITY OF FAIRFAX, VIRGINIA, a
Virginia municipal corporation

Date: _____

By: _____
Robert A. Stalzer
City Manager

APPROVED AS TO FORM:

CITY ATTORNEY

APPROVED AS TO FORM:

ASST. COUNTY ATTORNEY

SELLER:

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA**, acting
in its proprietary capacity and not its
governmental or regulatory capacity.

Date: _____

By: _____
Bryan J. Hill
County Executive

DRAFT

EXHIBIT A

[LEGAL DESCRIPTION TO BE INSERTED PRIOR TO SETTLEMENT]

ADMINISTRATIVE - 7

Supplemental Appropriation Resolution AS 20093 for the Fairfax-Falls Church Community Services Board to Accept Grant Funding from Virginia Department of Behavioral Health and Developmental Services for the State Opioid Response (SOR), Recovery Services

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 20093 for the Fairfax-Falls Church Community Services Board (CSB) to accept funding from the Virginia Department of Behavioral Health and Developmental Services (DBHDS) in the amount of \$150,000 to expand on substance use recovery services. No Local Cash Match is required. The grant period is from October 1, 2019 to September 30, 2020. When grant funding expires, the County is under no obligation to continue funding the program. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 20093 to accept funding from DBHDS in the amount of \$150,000 to expand on substance use recovery services. These funds will be used to expand CSB peer support services in the Drug Court and Adult Detention Center. There are 2/2.0 FTE new grant positions associated with this award. No Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board approval is requested on October 29, 2019.

BACKGROUND:

In Fairfax County, local health care professionals and law enforcement continue to witness the devastating effects of the opioid epidemic. Peer support is an effective

Board Agenda Item
October 29, 2019

practice for promoting recovery and reducing overdose, incarceration, and other negative impacts of substance misuse. Peer Support is not readily available in many high-risk settings, including the Drug Court specialty docket and Adult Detention Center (ADC). Individuals incarcerated in the ADC do not have access to professional peer support, with the exception of a small specialty detention unit (STAR Program). During FY 2019, this project trained additional peer supporters to work in substance use recovery and treatment programs. Year two of the project will increase the availability of peer support for justice-involved individuals with Opioid Use Disorder (OUD), and other substance abuse disorders. The target population is justice-involved individuals with OUD and other substance abuse disorders, especially those at high risk of relapse and overdose. Funding will support 2/2.0 FTE new grant positions, including 1/1.0 FTE Human Services Worker I and 1/1.0 FTE Human Services Worker IV.

FISCAL IMPACT:

Grant funding from DBHDS in the amount of \$150,000 will support substance use recovery services by expanding the peer support services in the Drug Court specialty docket and Adult Detention Center. No Local Cash Match is required. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2020. This grant does allow for the recovery of indirect costs; however, because of the ability to expend resources on direct costs associated with the program, the CSB will not include indirect costs as part of the budget.

CREATION OF NEW POSITIONS:

These funds will be used to support 2/2.0 FTE new grant positions. The County has no obligation to continue funding these positions when the grant period ends.

ENCLOSED DOCUMENTS:

Attachment 1: Award Letter from DBHDS

Attachment 2: Supplemental Appropriation Resolution AS 20093

STAFF:

Tisha Deeghan, Deputy County Executive

Daryl Washington, Executive Director, Fairfax-Falls Church Community Services Board



COMMONWEALTH of VIRGINIA

DEPARTMENT OF

BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

S. HUGHES MELTON, MD, MBA
FAAFP, FABAM
COMMISSIONER

Post Office Box 1797
Richmond, VA 23218-1797

Telephone (804) 786-3921
Fax (804) 371-6638
www.dbhds.virginia.gov

August 1, 2019

TO: Mr. Daryl Washington, Executive Director
Fairfax-Falls Church Community Services Board

FROM: Patrick Wessells
VA SOR Treatment Coordinator

SUBJECT: SOR Grant Year 2 Funding Award

This letter is to confirm that Fairfax-Falls Church Community Services Board has been awarded \$150,000 recovery expansion from the VA SOR grant. Please share this with your staff so that they will expect \$150,000 of the funds October 1, 2019, Warrant#7. The funds must be expended by September 30, 2020.

The VA SOR Recovery funds are to be expended by expanding on recovery services. Grant period is October 1, 2019 through September 30, 2020. These funds will:

- Address pragmatic barriers to treatment engagement
- Assist in the development of strengths-based individual goals
- Develop community support
- Manage GPRA database and data expectations
- Increase number of Certified Peer Recovery Specialists
- Establish First Responder and Peer partnerships
- Establish or Expand Emergency Department engagement programs with peers

Please note that DBHDS reserves the right to reduce funding at any time if fund utilization and target capacity is not met. Questions concerning operational and budgetary inquiries should be addressed to Mike Zohab, Angela Weight or Patrick Wessells.

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 20093

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on October 29, 2019, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2020, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: G7615, Fairfax-Falls Church Community Services Board \$150,000

Grant: 1760056-2020, VA State Opioid Response (SOR) Recovery

Reduce Appropriation to:

Agency: G8787, Unclassified Admin \$150,000

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Virginia Department of Behavioral Health and Developmental Services, \$150,000

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
October 29, 2019

ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend the Fairfax County Code by Adding a New Chapter 86, Relating to Shared Mobility Devices

ISSUE:

Board authorization to advertise a public hearing to consider the adoption of an ordinance that amends the Fairfax County Code by adding a new Chapter 86, relating to Shared Mobility Devices.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing at 4:00 p.m. on November 19, 2019, to consider adoption of a new Chapter of the Fairfax County Code, relating to Shared Mobility Devices.

TIMING:

Board action is requested October 29, 2019, to provide sufficient time to advertise the proposed public hearing on November 19, 2019, at 4:00 p.m. This will also allow the Board time to consider and adopt an ordinance prior to January 1, 2020.

BACKGROUND:

During the 2019 Session, the General Assembly passed HB 2752, which allows localities to regulate the use of motorized skateboards or scooters, bicycles, or electric power-assisted bicycles (Shared Mobility Devices) for hire. Specifically, a locality may (i) by ordinance regulate, or (ii) by any governing body action or administrative action establish a demonstration project or pilot program regulating the operation of Shared Mobility Devices for hire. On or after January 1, 2020, in the absence of any licensing ordinance, regulation, or other action, a person may offer Shared Mobility Devices for hire in Fairfax County.

The Department of Cable and Consumer Services (DCCS), in coordination with the Department of Transportation (FCDOT) and the Office of the County Attorney (OCA), has drafted an ordinance to regulate Shared Mobility Devices for hire in Fairfax County. Staff developed the ordinance based on the Board's directives and after research and analysis into the use of Shared Mobility Devices in other Virginia jurisdictions and across the country. The proposed ordinance would amend the Fairfax County Code by adding a new Chapter 86, relating to Shared Mobility Devices.

Board Agenda Item
October 29, 2019

County staff have solicited and received feedback on Shared Mobility Devices from the public, local businesses and property owners, pedestrian and biking groups, and the industry. This feedback was incorporated into the proposed ordinance.

On August 20, 2019, DCCS staff requested approval to advertise a public hearing at the Consumer Protection Commission (Commission) meeting on September 17, 2019. The Commission voted unanimously to advertise the public hearing.

On September 17, 2019, the Commission held a public hearing on the proposed Shared Mobility Device ordinance. During the public hearing, staff provided a presentation to the Commission, which included background on HB 2752, a discussion of the current Shared Mobility Device status in Fairfax County and other programs in Northern Virginia, and a review of the proposed ordinance. Following public comment and questions, the Commission deliberated and voted unanimously to recommend that the Board of Supervisors amend the Fairfax County Code by adding a new Chapter numbered 86, related generally to Shared Mobility Devices.

In the interim period from July 1, 2019, until 12:00 A.M. on January 1, 2020, any shared mobility device for hire company is free to apply for a Fairfax County business license, under Va. Code §46.2-1315, but no person or company may offer Shared Mobility Devices for hire within the County until either a) the County passes its ordinance regulating such use; or b) January 1, 2020, whichever is sooner.

Shared Mobility Device for hire companies have been instructed to monitor rides that terminate within Fairfax County and collect such devices within 12 hours of the company receiving notice of such location or notification from County staff to the company. Shared mobility devices not collected within 12 hours, will be deemed abandoned property and disposed of by the County.

The proposed new Chapter 86, Shared Mobility Devices, included as Attachment 1, contains provisions for Operator's Permits and Shared Mobility Device Certificates; application process and fee structure, insurance and bonding requirements; revocations, suspensions, and appeals; records and reports, requirements of the Permittees and Riders; and general penalties.

FISCAL IMPACT:

The revenue that could be collected in FY 2020, should a Shared Mobility Device for hire company request the maximum number of 300 initial Shared Mobility Device Certificates, would be approximately \$9,500 per Permittee. This revenue includes a \$100 non-refundable application processing fee, a \$1,000 annual Operator's Permit, and \$28 annual fee per Shared Mobility Device Certificate (maximum initial number

Board Agenda Item
October 29, 2019

issued to any Permittee is 300 certificates). Based on the number of Shared Mobility Device Certificates requested by the Permittee, these revenue projections could fluctuate.

Expenses associated with the regulation of the Shared Mobility Device for hire industry will be covered within existing FY 2020 budget appropriations in DCCS. Costs incurred by the County for the collection, removal, and/or disposal of shared mobility devices will be reimbursed to the County from the \$5,000 bond required by each Permittee, to be replenished as drawn on by the County.

DCCS staff will monitor the workload and any additional expenses associated with the new regulation of this industry and request additional funding if necessary.

ENCLOSED DOCUMENTS:

Attachment 1 – New Chapter 86, Shared Mobility Devices

STAFF:

Joseph M. Mondoro, Chief Financial Officer
Rachel Flynn, Deputy County Executive
Michael S. Liberman, Director, Department of Cable and Consumer Services
Tom Biesiadny, Director, Fairfax County Department of Transportation
Rebecca L. Makely, Director, Consumer Services Division, DCCS
Noelle C. Dominguez, Chief, Coordination Section, FCDOT
Chris Wells, Active Transportation Program Manager, FCDOT

ASSIGNED COUNSEL:

Joanna L. Faust, Assistant County Attorney

Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86

TABLE OF CONTENTS

1		
2	ARTICLE 1. - In General.	2
3	Section 86-1-1. - Purpose of chapter.	2
4	Section 86-1-2. - Definitions.	2
5	Section 86-1-3. - Exclusions.	2
6	ARTICLE 2. - Operator’s Permit and Shared Mobility Device Certificates.	3
7	Section 86-2-1. - Operator’s Permit and Shared Mobility Device Certificates required.	3
8	Section 86-2-2. - Application; forms; contents; notice of application.	3
9	Section 86-2-3. - False statements on applications or reports.	3
10	Section 86-2-4. - Operator’s Permit and Shared Mobility Device Certificate fees.	3
11	Section 86-2-5. - Number of Shared Mobility Device Certificates.	3
12	Section 86-2-6. - Duration of Shared Mobility Device Certificates; nontransferable.	4
13	Section 86-2-7. - Insurance requirements.	4
14	Section 86-2-8. - Permittee bonding required; condition; term renewal.	5
15	Section 86-2-9. - Revocation or suspension of Operator’s Permit or Shared Mobility Device	
16	Certificates.	6
17	Section 86-2-10. - Application after revocation of Operator’s Permit.	7
18	ARTICLE 3. - Appeals.	7
19	Section 86-3-1. - Appeals from decisions of the Director; procedure.	7
20	ARTICLE 4. - Records and reports.	8
21	Section 86-4-1. - Records to be maintained; reports; inspection and examination.	8
22	Section 86-4-2. - Reports to be filed.	9
23	ARTICLE 5. - Requirements and standards.	9
24	Section 86-5-1. - General requirements and standards for Permittees.	9
25	Section 86-5-2. - Shared Mobility Device requirements.	10
26	Section 86-5-3. - Rider requirements.	10
27	ARTICLE 6. - Penalties.	11
28	Section 86-9-1. - General penalties.	11
29		

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86****Page 2 of 11**

1 **AN ORDINANCE ADOPTING**
2 **CHAPTER 86 OF THE FAIRFAX COUNTY CODE, RELATING TO**
3 **SHARED MOBILITY DEVICES**
4

5 **Be it ordained by the Board of Supervisors of Fairfax County:**
6

- 7 1. **That Chapter 86 is adopted as follows:**

ARTICLE 1. - In General.

8 **Section 86-1-1. - Purpose of chapter.**

9 The purpose of this Chapter is to regulate the operation of Shared Mobility Devices offered
10 for hire within the County to ensure safe, reliable, adequate, and efficient service.

11 **Section 86-1-2. - Definitions.**

12 Applicant means any person that files an application to offer Shared Mobility Devices for
13 hire in the County.

14 Bicycle has the meaning specified in Virginia Code § 46.2-100.

15 Commission means the Consumer Protection Commission of the County.

16 Department means the Fairfax County Department of Cable and Consumer Services.

17 Director means the Director of the Department or the duly authorized agent of the Director
18 of the Department.

19 Electric power-assisted bicycle has the meaning specified in Virginia Code § 46.2-100.

20 Motorized skateboard or scooter has the meaning specified in Virginia Code § 46.2-100.

21 Operator's Permit means the permit granted by the Director to offer Shared Mobility
22 Devices for hire in the County and that comprises the specific number of Shared Mobility Device
23 Certificates that have been awarded by the Director.

24 Permittee means any person who has been granted an Operator's Permit and holds one or
25 more Shared Mobility Device Certificates.

26 Shared Mobility Device means a motorized skateboard or scooter, bicycle, or electric
27 power-assisted bicycle and any other device specified in Virginia Code § 46.2-1315.

28 Shared Mobility Device Certificate means the individual numbered certificate associated
29 with a specific Shared Mobility Device that is issued by the Director to a Permittee.

30 **Section 86-1-3. - Exclusions.**

31 No provision of this Chapter will apply to any Shared Mobility Device offered for hire
32 that is regulated pursuant to County administrative action under a regional multi-jurisdictional
33 agreement.

ARTICLE 2. - Operator's Permit and Shared Mobility Device Certificates.**Section 86-2-1. - Operator's Permit and Shared Mobility Device Certificates required.**

- (a) No person will engage in the business of offering Shared Mobility Devices for hire without a valid and current Operator's Permit from the Director. For the purposes of this Chapter, offering Shared Mobility Devices for hire means offering a ride for hire that originates within the County.
- (b) An Operator's Permit will only be issued upon receipt of a complete application and upon a finding that the Applicant has complied with all applicable sections of the Fairfax County Code, the Code of Virginia, and County regulations as may be adopted or amended.
- (c) A Permittee will not offer Shared Mobility Devices for hire or allow Shared Mobility Devices to be operated within the County without having been granted a Shared Mobility Device Certificate for each Shared Mobility Device that Permittee operates in the County.

Section 86-2-2. - Application; forms; contents; notice of application.

- (a) Applicants for Operator's Permits must possess a valid Fairfax County Business, Professional and Occupational License (BPOL) in accordance with Chapter 4 of the Fairfax County Code.
- (b) Applications for Operator's Permits or for a change in the number of individual Shared Mobility Device Certificates issued to a Permittee will be made upon forms provided and in the format requested by the Department. The Applicant will provide full answers to all questions on the application and that information will be submitted under oath.
- (c) The fee for processing an application for an Operator's Permit will be \$100.00. This application processing fee is nonrefundable, and it will be paid by check, credit card, or money order upon submission of the application to the Director.
- (d) In order to carry out the purposes of this Chapter, the Director may request that the Applicant provide information in addition to that provided on the application.

Section 86-2-3. - False statements on applications or reports.

It will be unlawful for any person to make or cause to be made any false statement in writing for the purpose of procuring an Operator's Permit or Shared Mobility Device Certificates, or to make any false statements or entry on the records required to be kept by this Chapter.

Section 86-2-4. - Operator's Permit and Shared Mobility Device Certificate fees.

- (a) The annual fee for an Operator's Permit will be \$1,000.00.
- (b) The annual fee for each Shared Mobility Device Certificate will be \$28.00.

Section 86-2-5. - Number of Shared Mobility Device Certificates.

- (a) The maximum initial number of Shared Mobility Device Certificates that will be issued to any Permittee is [300-600].
- (b) Permittee may request that additional Shared Mobility Device Certificates be issued to Permittee. Requests from Permittees to increase the number of Shared Mobility Device Certificates will be considered quarterly. If the Permittee demonstrates to the Director that the Permittee's existing fleet of Shared Mobility Devices averages a minimum of three

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86**

rides per Shared Mobility Device per day for a three month period, then the Director may authorize up to [75-150] additional Shared Mobility Device Certificates to be issued to Permittee per quarter. In no circumstances will the fleet size of any Permittee exceed [600-1200] Shared Mobility Devices.

- (c) If the Director determines that the Permittee's existing fleet of Shared Mobility Devices averages less than three rides per Shared Mobility Device per day, then the Director may require Permittee to reduce Permittee's fleet size in the County to no less than the number of Shared Mobility Device Certificates initially issued to Permittee.

Section 86-2-6. - Duration of Shared Mobility Device Certificates; nontransferable.

- (a) No Operator's Permit or Shared Mobility Device Certificate will be issued under this Article or continued in effect until all fees and taxes imposed by this Chapter or any other Chapter of this Code are paid, insofar as such fees relate to the operation of a Shared Mobility Device for hire business within the County.

- (b) Any Operator's Permit or Shared Mobility Device Certificate will be nontransferable by sale, lease, or otherwise and will be valid from the date of issuance until relinquished or revoked as provided in this Chapter.

- (c) Unless the Shared Mobility Device is removed from service pursuant to Section 86-2-9 or because of a critical safety issue, a Permittee may at any time substitute a replacement Shared Mobility Device for another Shared Mobility Device that has an individual numbered Shared Mobility Device Certificate and is to be removed from service with notice to the Department. The substituted Shared Mobility Device will comply with all provisions of this Chapter.

Section 86-2-7. - Insurance requirements.

- (a) Except as otherwise provided by Subsection (d) or (e) of this Section, Permittees will not offer Shared Mobility Devices for hire unless there is in full force and effect a liability insurance policy for each Shared Mobility Device in the amount of at least \$1,000,000 for property damages, bodily injury, or death to any person, and in the amount of at least \$5,000,000 for property damages, bodily injuries, or death to more than one person sustained in the same accident.

- (b) Such insurance policy will provide coverage for any liability during the operation of the Shared Mobility Device to include any actual or alleged negligence of Shared Mobility Device riders and inure to the benefit of any person who may be injured or the estate in the event of death, or to the benefit of any persons sustaining damage to property for which the Permittee may be liable.

- (c) Liability insurance may be in the form of commercial general liability insurance, automobile liability insurance, or another specialty insurance policy covering all owned, non-owned, borrowed, leased, or rented Shared Mobility Devices for claims arising from the ownership, maintenance, and use of any Shared Mobility Device by the rider and may be a combination of primary and excess or umbrella liability policy.

- (d) Evidence of such insurance will be filed with the Director prior to the issuance of any Shared Mobility Device certificates and will include provisions for notice by the insurance carrier to the Director prior to termination of such coverage.

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86**

- 1 (e) Permittees will maintain all insurance requirements for Shared Mobility Devices as
2 required by the Commonwealth of Virginia.

3 **Section 86-2-8. - Permittee bonding required; condition; term renewal.**

- 4 (a) All Permittees will maintain a bond or other letter of credit acceptable to the County and
5 furnish it to the Director. The surety will be payable to the County in the amount of \$5,000
6 and conditioned to indemnify, defend, and hold harmless the County and all its elected and
7 appointed officials, officers, boards, commissions, commissioners, agents, and employees
8 against any and all claims, suits, causes of action, proceedings, and judgments made by
9 third parties for any and all losses, damages, injuries, fees (including attorney's fees),
10 charges, expenses (including court costs), or damages caused by Permittee's acts or
11 omissions or any failure to comply with the provisions of this Chapter or other applicable
12 law.

- 13 (b) The following procedures will apply to drawing on any bond or letter of credit provided by
14 a Permittee:

- 15 (1) If the County notifies a Permittee of any amounts due pursuant to any applicable
16 law, and the Permittee does not make such payment within 30 days, the County
17 may draw the amount in question, with any applicable interest and penalties, from
18 the bond or letter of credit after providing written notice to the Permittee and the
19 issuing financial institution, specifying the amount and purpose of such draw.

- 20 (2) Within three business days of a draw on the bond or letter of credit, the County will
21 mail to the Permittee, by certified mail, return receipt requested, written notification
22 of the amount, date, and purpose of such draw.

- 23 (3) If at the time of a draw on the bond or letter of credit by the County, the amount
24 available is insufficient to provide the total payment of the claim asserted in the
25 County's draw notice, the balance of such claim will not be discharged or waived,
26 but the County may continue to assert the same as an obligation of the Permittee to
27 the County.

- 28 (4) No later than 30 days after the County mails notice to the Permittee by certified
29 mail, return receipt requested, of a draw on the bond or letter of credit, the Permittee
30 will restore the amount of the bond or letter of credit to its original amount.

- 31 (a) The bond will be for a term at least equal to the duration of the Operator's Permit.
32 Cancellation of the bond, for any reason, prior to the date of expiration of the Operator's
33 Permit will require a written notification to the Director at least 30 days prior to
34 cancellation. The Operator's Permit will be revoked if an alternate bond, meeting the
35 requirements of this Section, is not provided.

- 36 (b) The Director may increase the bond amount for any Permittee, or allow alternate financial
37 assurance mechanisms, if deemed necessary to protect the financial interests of the County
38 or to address chronic failure to comply with this Chapter.

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86****Section 86-2-9. - Revocation or suspension of Operator's Permit or Shared Mobility Device
Certificates.**

(a) In response to any finding that the public safety and welfare so demands, the Director may suspend any individual numbered Shared Mobility Device Certificate(s) of a Permittee, until proof of compliance is met to the Director's satisfaction for any of the following reasons:

(1) Failure to maintain the Shared Mobility Device(s) identified in the Shared Mobility Device Certificates in good order, maintenance, and repair, in accordance with Article 5 of this Chapter and industry safety standards as reasonably interpreted by the Director.

(2) Failure to comply with applicable speed limitations in state and local law.

(3) Failure to pay any fees required under this Chapter.

(4) Failure to list Permittee contact information on each Shared Mobility Device.

(5) Failure to collect any Shared Mobility Device within the applicable time period of being notified by the County.

(b) In response to any finding that the public safety and welfare so demands, the Director may suspend a Permittee's Operator's Permit and authority to operate in the County, including all individual numbered Shared Mobility Device Certificates issued to the Permittee, until proof of compliance is met to the satisfaction of the Director for any of the following reasons:

(1) Failure to maintain a BPOL license as required by the Fairfax County Code.

(2) Failure to supply information required under this Chapter.

(3) Failure to pay any fees and taxes required under this this Chapter or any other Chapter of this Code insofar as such fees and taxes relate to operation of a Shared Mobility Device business within the County.

(4) Failure to maintain proper insurance required under this Chapter.

(5) Discontinuance of service of the entire business of the Permittee for more than five consecutive calendar days.

(6) Three or more violations by the Permittee of any of the provisions of this Chapter within a 12-month period.

The Director's failure to suspend an individual Shared Mobility Device Certificate for any of the causes set forth in Subsection (a) of this Section will not impair the authority of the Director to suspend all certificates held by a Permittee based on such causes.

(c) Written notice of any suspension pursuant to this Section will be given to the Permittee by electronic mail. Such suspension will be effective upon receipt, unless a different effective date is specified.

(d) The Director, upon a determination that the Permittee is not operating the authorized Shared Mobility Devices in such a manner as to serve the public safely, reliably, adequately, or efficiently, may revoke the Permittee's authority to operate a Shared

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86****Page 7 of 11**

Mobility Device business in the County, including allowing a rider to originate a ride on the Shared Mobility Device in the County, and all individual numbered Shared Mobility Device Certificates issued thereunder. Such determination will be based upon the Director's consideration of evidence showing violation, by the Permittee, of one or more of the provisions of this Chapter.

(e) It will be unlawful for Permittee to offer a Shared Mobility Device for hire in the County, including allowing a rider to originate a ride on the Shared Mobility Device in the County, when the Shared Mobility Device Certificate under which the Shared Mobility Device was placed in service is under suspension or revocation. If a Shared Mobility Device Certificate is suspended or revoked, a Permittee will collect the Shared Mobility Device associated with the Shared Mobility Device Certificate within a reasonable time period as determined by the Director.

(f) An Operator's Permit or Shared Mobility Device Certificate that has been suspended or revoked will be returned to the Director within three business days from the effective date of the revocation or suspension.

Section 86-2-10. - Application after revocation of Operator's Permit.

A Permittee whose operating authority and all Shared Mobility Device Certificates have been revoked may not apply for an Operator's Permit for six months.

ARTICLE 3. - Appeals.**Section 86-3-1. - Appeals from decisions of the Director; procedure.**

(a) If the Director suspends or revokes an Operator's Permit or any or all Shared Mobility Device Certificates, any party aggrieved thereby may appeal such decision to the Commission.

(b) Any appeal will be filed with the Department by the appellant or by the legal representative of the appellant. Appeals will be in writing, and appeals will include a brief statement of the reasons thereof. Appeals will be filed within 45 calendar days of receipt of the notice of suspension or revocation, and appeals will be signed by the appellant or the legal representative of the appellant.

(c) Upon receipt of any notice of appeal, the Department will forward the notice of appeal to the Commission. The Commission will set a time and place for such hearing and will give the appellant or legal representative and the Director reasonable notice thereof. All hearings on appeals will be scheduled and determined as promptly as practicable and in no event more than 60 calendar days from the date the notice of appeal is filed.

(d) All hearings or other public proceedings conducted by the Commission in accordance with this Chapter will be conducted in an informal manner. The Commission will have the discretion to admit all evidence which may be of probative value even if that evidence is not in accord with formal rules of legal practice and procedure. Applicants and appellants may appear, either by personal appearance, legal counsel, or other representation, to present argument and evidence on their behalf. In addition, the Commission may establish rules of procedure for the conduct of hearings. Any interested party may record all public

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86**

- 1 proceedings of any hearing in any manner which will not impede the orderly conduct of
2 the hearing.
- 3 (e) The Commission will consider the case record as well as the statement offered by any
4 interested party and will consider the matter de novo, and the Commission will, upon the
5 basis of the record before it, affirm, modify or reverse the decision of the Director. The
6 Commission will report all recommendations and decisions in writing, and the Commission
7 will furnish copies of those decisions to the Director and to any Applicant or appellant
8 affected thereby. To any other person entitled to receive a copy pursuant to the Virginia
9 Freedom of Information Act, the Commission will furnish copies in accordance with that
10 Act.
- 11 (f) If the Commission affirms the decision of the Director to suspend or revoke an Operator's
12 Permit or any Shared Mobility Device Certificate, then the suspension or revocation will
13 be effective from the date of the Commission's decision.
- 14 (g) If the Commission reverses the decision of the Director, the Director will issue or restore
15 the Operator's Permit or any Shared Mobility Device Certificate in accordance with the
16 Commission's decision.

ARTICLE 4. - Records and reports.**Section 86-4-1. - Records to be maintained; reports; inspection and examination.**

- 17 (a) A Permittee will maintain records of the following in sufficient accuracy and detail to
18 comply with the filing requirements of this Chapter and provide monthly reports to the
19 Director in such format reasonably requested by the Director:
20
- 21 (1) Total number of active customers riding in the County;
- 22 (2) Number, type, and specifications of all Shared Mobility Devices available for
23 service and in operation on a daily basis, including the number of Shared Mobility
24 Device Certificates reassigned;
- 25 (3) Ride data, including number of rides beginning and ending in the County, rate
26 information, including the proration of any rates, average duration of rides for each
27 of Permittee's Shared Mobility Devices in service per day, and map data sufficient
28 to determine which areas of the County are being serviced;
- 29 (4) Maintenance and repair records of Permittee's Shared Mobility Devices and other
30 equipment employed in operating Permittee's Shared Mobility Device fleet,
31 including the reason why any Shared Mobility was removed from service;
- 32 (5) Number and location of any Shared Mobility Device that was towed or removed
33 from the County;
- 34 (6) Complaints received regarding Permittee's operations in the County or for any
35 Shared Mobility Device located within the County, including the time and date the
36 complaint was received and the resolution of the complaint, the location of the
37 Shared Mobility Devices;

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86**

- (7) Injury or crash data, including time, date, precise location, severity of incident, and cause (if known) of any reported injury or crash involving a Shared Mobility Device;
- (8) Such other information reasonably requested by the Director to ensure safe, reliable, adequate, and efficient service of Shared Mobility Devices in the County.
- (b) A Permittee will retain and preserve the records required by this Chapter, for a period of no less than three years. Such records may be kept in any reasonable form in ordinary business practice and will be made available within a reasonable period of time not to exceed 30 calendar days after request for inspection and examination by the Director.

Section 86-4-2. - Reports to be filed.

In order to accomplish the purpose of this Chapter, all Permittees will file, under oath, to the best of their knowledge, with the Department on a monthly basis (or more frequently if requested by the Department) reports with the information in Section 86-4-1(a). Such reports will include data solely related to the operations of Permittee's Shared Mobility Devices located in the County. Such reports must be filed by the 15th day of each month for the previous month.

ARTICLE 5. - Requirements and standards.**Section 86-5-1. - General requirements and standards for Permittees.**

- (a) Permittees will use their best efforts to offer Shared Mobility Devices in all areas of the County and will not restrict Shared Mobility Devices to any specific geographical area of the County.
- (b) Permittees will comply with Chapter 11 (Human Rights Ordinance) of the County Code and all other applicable laws governing fairness and equity to all persons in the County.
- (c) Permittees are encouraged to provide a cash-based or non-smartphone mechanism to access Shared Mobility Devices.
- (d) Permittees will maintain a place of business or office with telephone service within the County or within thirty miles of the County.
- (e) Permittees or their agents must be accessible 24 hours per day to receive requests for service and collect Shared Mobility Devices.
- (f) Permittees will notify all Shared Mobility Device riders of the Permittees' safety and etiquette rules and regulations as well as rider requirements pursuant to Section 86-5-3, and County and state laws applicable to the operation of Shared Mobility Devices.
- (g) If requested by the County, Permittee will collect any Shared Mobility Device within the County:
- i. If notified by the County between 7 a.m. to 9 p.m., within 4 hours, or
 - ii. If notified by the County after 9 p.m., by 8 a.m.
- If the Permittee fails to collect the Shared Mobility Device(s), the County may remove and store the Shared Mobility Device at Permittee's expense and the Shared Mobility Device may not be reacquired until all such expenses have been paid. Any Shared Mobility Device

**Fairfax County Code Chapter 86 (Shared Mobility Devices)
Proposed Adoption of New Chapter 86**

not reacquired within 30 days will be forfeited to the County and sold at public auction or added to the County's assets.

- (h) In the event of a critical issue or emergency situation designated by the County, Permittee will provide the approximate location of all Shared Mobility Devices to the Director and then collect and relocate all Shared Mobility Devices located within the County within such time reasonably specified by the Director. If the Permittee fails to collect the Shared Mobility Device(s), the County may remove and store all Shared Mobility Devices at Permittee's expense and the Shared Mobility Device may not be reacquired until all such expenses have been paid. Any Shared Mobility Device not reacquired within 30 days will be forfeited to the County and sold at public auction or added to the County's assets.

Section 86-5-2. - Shared Mobility Device requirements.

- (a) Each Shared Mobility Device offered by a Permittee for hire in the County will:
- (1) Have a unique identifying number provided to the County and associated with a Shared Mobility Device Certificate;
 - (2) Have a top-motor-powered speed not to exceed 10 miles per hour if the Shared Mobility Device is a motorized skateboard or scooter;
 - (3) Have the name and telephone number of Permittee as well as the unique identifying number for the Shared Mobility Device clearly and legibly displayed on the exterior of the Shared Mobility Device;
 - (4) Be equipped with appropriate and operable brakes and bell;
 - (5) Be equipped with lights as required by Virginia Code § 46.2-1015;
 - (6) Be operable, free of defects, reasonably clean, and conform to relevant safety standards for the operation of commercial Shared Mobility Devices;
 - (7) Be maintained so as to provide for the safety of the public and for continuous and satisfactory operation, and to reduce to a minimum, noise and vibration caused by operation.
- (b) If the Director determines that the requirements of this Section are not met or any Shared Mobility Device is unsafe for riders or the public warranting removal from service, then notice will be given to Permittee regarding immediate suspension of the Shared Mobility Device Certificate(s) pursuant to Section 86-2-9, and it will be unlawful for the Permittee to offer the Shared Mobility Device for hire in the County until the deficiencies have been corrected.

Section 86-5-3. - Rider requirements.

- (a) Where signs have been posted indicating that the use of Shared Mobility Devices is prohibited on designated sidewalks or crosswalks, no person will ride a Shared Mobility Device on any such designated sidewalk or crosswalk.
- (b) No person will park a Shared Mobility Device in a manner that impedes the normal movement of pedestrian or other traffic or where such parking is prohibited by official traffic control devices.

- 1 (c) A violation of this Section will be punishable by a civil penalty of not more than \$50.

ARTICLE 6. - Penalties.

2 **Section 86-9-1. - General penalties.**

3 Any person who violates or causes to be violated any provision of this Chapter except for
4 Section 86-5-3 will be guilty of a misdemeanor punishable by a fine of not more than \$50.00 for
5 the first offense and not more than \$500.00 for each subsequent offense.

6

7 **2. That the provisions of this ordinance will take effect on January 1, 2020.**

8

9 GIVEN under my hand this ____ day of ____, 2019

10

11

Jill G. Cooper

12

13

Clerk for the Board of Supervisors

ADMINISTRATIVE - 9

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, to Support Enhanced Transportation Options

ISSUE:

Board authorization is requested for the Department of Neighborhood and Community Services (NCS) to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments (MWCOC), Enhanced Mobility of Seniors and Individuals with Disabilities Program in the amount of \$707,213, including \$201,443 in Local Cash Match. Funding will support continued implementation of strategies to improve the mobility and transportation options and services for older adults and individuals with disabilities. The grant period for this award is two years and it is anticipated that funding will be awarded in January 2021. The required Local Cash Match of \$201,443 will be available in the Federal-State Grant Fund in FY 2021. The funding will continue to support 2/2.0 FTE existing grant positions. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends the Board authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments. Funding in the amount of \$707,213, including \$201,443 in Local Cash Match, will support continued implementation of strategies to improve the mobility and transportation options and services for older adults and individuals with disabilities. There are 2/2.0 FTE existing grant positions associated with this award. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
October 29, 2019

TIMING:

Board action is requested on October 29, 2019. The grant application deadline is November 4, 2019.

BACKGROUND:

The Metropolitan Washington Council of Governments issued a Request for Applications (RFA) announcing the availability of funds through the U.S. Department of Transportation, Federal Transit Administration, to improve mobility for seniors and individuals with disabilities throughout the region by removing barriers to transportation services and expanding available transportation mobility options. The County has applied for and received funding through this grant program two previous times, the first time in 2015, and then most recently in 2017. If the County is selected for funding as part of the current RFA process, the funding will be used to continue and expand upon the activities and initiatives that were started under the previous grant funding cycles.

Federal guidance states that all projects funded must address any four of the defined strategy areas including: 1) coordinate transportation services and programs; 2) provide customer-focused services and improve marketing and training; 3) improve the accessibility and reliability of existing services; and, 4) develop and implement additional transportation options.

Emphasis will be placed on the responsiveness to the following six strategy areas: coordination among agencies, responsiveness to the Transportation Planning Board's Coordinated Human Service Transportation Plan, capacity to manage an FTA grant, project feasibility, regional need and customer focus, and equity emphasis areas. Equity emphasis areas are geographic areas with high concentrations of low-income and/or minority populations.

Accessible and affordable transportation is a critical need for older adults and individuals with disabilities in the region. Transportation promotes independence, and the ability to maintain mobility enables people to age in place in their communities. The transportation challenges facing the region's older adults and individuals with disabilities are significant. In Fairfax County alone, the area's population of residents 50 years and older in 2017 was 396,042; of this population 4.6 percent live in poverty. In addition, 6.9 percent of all Fairfax County residents reported having a disability (American Community Survey 2017).

Non-emergency medical care continues to be a tremendous need in Fairfax County. The following community needs were identified in the 2016 Enhanced Mobility for Seniors and Individuals with Disabilities Survey:

- Eighty-two percent of the 812 survey respondents identified transportation to

Board Agenda Item
October 29, 2019

medical appointments as the number one need.

- The top three transportation needs were for medical appointments, grocery shopping, and pharmaceutical trips.
- One in four survey respondents identified that they were not able to reach certain destinations due to barriers in transportation.

Operational funding, if received, will provide additional funding to the Transportation Options Programs and Services (TOPS) Transportation Debit Card to subsidize low-income seniors and individuals with disabilities. NCS will work with identified community partner organizations to increase capacity and target vulnerable and at-risk seniors and individuals with disabilities in equity emphasis areas for the TOPS Transportation Debit Card.

The TOPS card will provide additional transportation options to older adults and individuals with disabilities. This will help bridge gaps in service delivery by providing transportation for non-emergency medical appointments, grocery and pharmacy trips, and other trips of necessity. Filling these gaps in service supports meet the overall grant objectives by providing a continuum of transportation options.

Funding, if received, will focus on mobility management efforts and will be used to improve service integration and strategic collaboration across transportation systems and services within Fairfax County. Funding will also be used to implement strategies that remove barriers to transportation, increase access to services, and strengthen the capacity of public and private service providers, non-profits, and other key partners and stakeholders to identify transportation and mobility opportunities and prompt sustainable solutions that meet the needs of older adults and individuals with disabilities.

This grant will help support the 50+ Community Action Plan by building upon existing and creating new partnerships to address the need for medical transportation. Through successfully meeting previous grant objectives, partnership with Department of Family Services, Area Agency on Aging, Fairfax County Commission on Aging, Disability Services Board, Fairfax Area Mobility and Transportation Committee and Department of Transportation will further advance medical transportation options and coordination.

Funding will continue to support 2/2.0 FTE existing grant positions that provide program planning, ensure that all administrative, fiscal, and program evaluation grant requirements are met, and provide a broad range of capacity-building activities including cross-agency initiatives and partnerships with community organizations.

In addition to this request, the Department of Neighborhood and Community Services is simultaneously requesting approval to apply for and accept grant funding under the same Enhanced Mobility of Seniors and Individuals with Disability Program for the purchase and replacement of five FASTRAN buses. MWCOG has requested that

Board Agenda Item
October 29, 2019

localities submit these applications separately. Therefore, a separate Board item has been submitted for that grant application.

FISCAL IMPACT:

Grant funding in the amount of \$707,213, including \$201,443 in Local Cash Match, is being requested from the MWCOG Enhanced Mobility of Seniors and Individuals with Disabilities Program to support mobility management efforts and strategies that will improve mobility and transportation options and services for older adults and individuals with disabilities. The required Local Cash Match of \$201,443 will be available in the Federal-State Grant Fund in FY 2021. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Department of Neighborhood and Community Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

This funding will continue to support 2/2.0 FTE existing grant positions. The County is under no obligation to continue funding these positions when the grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Proposal

STAFF:

Tisha Deeghan, Deputy County Executive
Christopher A. Leonard, Director, NCS
Sarah Allen, Deputy Director, NCS
Keisha Dotson, Division Director, NCS
Glenn Padeway, Manager, Human Services Transportation, NCS
Cynthia Alarico, Mobility Manager, Human Services Transportation, NCS

Enhanced Mobility of Seniors and Individuals with Disabilities Program SUMMARY OF GRANT PROPOSAL

Grant Title:	<u>Enhanced Mobility of Seniors and Individuals with Disabilities Program</u>
Funding Agency:	Metropolitan Washington Council of Governments
Applicant:	Fairfax County Department of Neighborhood & Community Services (NCS)
Partners:	Department of Family Services, Area Agency on Aging, the Fairfax County Commission on Aging, Disability Services Board, Fairfax Area Mobility and Transportation Committee, and the Department of Transportation
Purpose of Grant:	This grant opportunity, created under the MAP-21 Federal Surface Transportation Act, offers limited funding to certain qualifying organizations to enhance mobility for seniors and persons with disabilities by providing matching grants for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. Funding will assist in continuing Mobility Management efforts and to improve mobility and transportation options and services for older adults and individuals with disabilities.
Funding Amount:	Funding in the amount of \$707,213, including \$201,443 in Local Cash Match. The required Local Cash Match will be available in the Federal-State Grant Fund in FY 2021.
Proposed Use of Funds:	Funding will continue to support 2/2.0 FTE existing grant positions, which will function as a Mobility Manager and Management Analyst to provide outreach, community education, coordination of services and establish a network of regional representatives, community stakeholders and mobility coordinators. Funding will also be used for designing and implementing transportation pilot programs, supplies, and training/meeting expenses.
Target Population:	Seniors and individuals with disabilities; a special emphasis will be placed on individuals with lower incomes and those who reside in equity emphasis areas.
Performance Measures:	The success of this project will be based on three outcome areas: Enhancement of Affordable and Sustainable Transportation Options, Awareness of Available Transportation Options, and Community Capacity Building to create, support and implement affordable transportation options. Sustainability will also be a focus of this project with an emphasis on continued partnerships and coordination past the grant funding cycle.

Affordable and Sustainable Transportation Options

- Subsidize the cost of the TOPS Transportation Debit Card to seniors and individuals with disabilities.
- Identify community-based partners in equity emphasis areas to meet the transportation needs of vulnerable seniors and individuals with disabilities.

Awareness of Available Transportation Options

- Improved awareness of transportation options for hard-to-reach populations.
- Partnered with community and faith-based organizations to increase their knowledge of all transportation options.
- Increased mobility management knowledge among County staff to improve awareness of services.

Community Capacity Building

- Collaborate with community partners to expand the reach of volunteer driver programs.
- Train volunteer transportation navigators in community and faith-based organizations to enhance transportation options for the identified populations.

Upon successful completion of the grant objectives, stakeholders will have an increased capacity to assess community transportation needs and work together to meet them. This grant will provide short-term funding to initiate projects which will identify underserved seniors and individuals with disabilities and provide financial assistance to access more transportation options.

Grant Period:

NCS anticipates that the award will be issued in January 2021 with a total grant period of two years.

ADMINISTRATIVE - 10

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, in Support of the Purchase of Wheelchair Lift-Equipped Vehicles

ISSUE:

Board of Supervisors authorization is requested for the Department of Neighborhood and Community Services (NCS) to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments (MWCOG), Enhanced Mobility of Seniors and Individuals with Disabilities Program in the amount of \$312,500, including \$62,500 in Local Cash Match. Funding will support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. This two-year grant's objective is to enhance transportation options by providing funds for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. There are no new grant positions associated with this award. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments. Funding in the amount of \$312,500, including \$62,500 in Local Cash Match will support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. There are no new grant positions associated with the award. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements,

including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board action is requested on October 29, 2019. The grant application deadline is November 4, 2019.

BACKGROUND:

The County has the opportunity to apply for Section 5310 Enhanced Mobility Program (MAP-21) funds, through the Metropolitan Washington Council of Governments, to purchase five wheelchair lift-equipped vehicles to replace existing high-mileage County vehicles. These vehicles will be used to provide an estimated 393,000 annual rides for senior citizens and individuals with disabilities. Since 1994, the County has purchased 50 replacement vehicles through this grant program.

The current Human Services Transportation authorized bus fleet totals 69 buses. The expected operating life for these vehicles is ten years and 110,000 miles. Factoring in the life cycle and high mileage into the replacement planning efforts, Human Services Transportation anticipates the need to replace seven to eight buses each year. The factors utilized to determine the need to replace buses include age, mileage, and historical maintenance records.

Funding for the replacement of the FASTRAN buses is contained in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. NCS, through the General Fund, contributes to Fund 60010 on an annual basis to maintain the ability to purchase replacement buses as needed. The Enhanced Mobility Program (MAP-21) grant from the Metropolitan Washington Council of Governments provides NCS with the opportunity to purchase five buses at a significantly reduced net cost to the County. The award of this grant will allow the replacement fund to save \$250,000. Previous year grant awards have resulted in similar savings to the County and have allowed NCS to keep its annual contributions to the replacement fund at a manageable level.

FISCAL IMPACT:

Grant funding in the amount of \$312,500, including \$62,500 in Local Cash Match is being requested from the MWCOG Enhanced Mobility of Seniors and Individuals with Disabilities Program to support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. If awarded, this action does not increase the expenditure level of the Federal-State Grant

Board Agenda Item
October 29, 2019

Fund, as MWCOG will use the funding to purchase the buses on the County's behalf. Ownership of the buses will be transferred to the County within an estimated six months from the date of delivery, at which time the County will record the buses as donated assets. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Department of Neighborhood and Community Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

No new grant positions associated with this award.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Application

STAFF:

Tisha Deeghan, Deputy County Executive

Christopher A. Leonard, Director, NCS

Glenn Padeway, Manager, Human Services Transportation, NCS

**Enhanced Mobility of Seniors and Individuals with Disabilities Program
Vehicle Replacement
SUMMARY OF GRANT PROPOSAL**

Grant Title:	<u>Enhanced Mobility of Seniors and Individuals with Disabilities Program</u>
Funding Agency:	Metropolitan Washington Council of Governments
Applicant:	Fairfax County Department of Neighborhood & Community Services (NCS)
Partners:	Department of Family Services, Area Agency on Aging, the Fairfax County Commission on Aging, Disability Services Board, Fairfax-Falls Church Community Services Board, Health Department
Purpose of Grant:	This grant opportunity, created under the MAP-21 Federal Surface Transportation Act, offers limited funding to certain qualifying organizations to enhance mobility for seniors and persons with disabilities by providing matching grants for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. Funding will assist in purchasing five new wheelchair equipped buses.
Funding Amount:	Funding in the amount of \$312,500, including \$62,500 in Local Cash Match. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve.
Proposed Use of Funds:	Funding will continue to support the purchase of five wheelchair equipped vehicles needed to replace high-mileage vehicles owned by the County.
Target Population:	Seniors and individuals with disabilities.
Performance Measures:	The purchasing of five new buses does not have a set of independent performance measures; however, the utilization of these buses is part of NCS's Human Services Transportation performance measures.
Grant Period:	NCS anticipates that the award will be issued in January 2021, with two years to procure the vehicles; although vehicles are normally delivered within 12 months.

Board Agenda Item
October 29, 2019

ADMINISTRATIVE - 11

Authorization to Advertise a Public Hearing on a Proposed County Code Amendment for Chapter 3, County Employees, Personnel Administration, Definitions and Chapter 3, County Employees, Personnel Administration, Appointing Authorities

ISSUE:

Board of Supervisors authorization to advertise a public hearing to amend Chapter 3, County Employees, Article 1, Personnel Administration, of the Code of the County of Fairfax. The proposed changes will allow the County Executive to appoint Department Head positions as allowed by state statute and defined in the updated ordinance.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed County Code amendment.

TIMING:

Board action is requested on October 29, 2019, to advertise the public hearing before the Board on November 19, 2019, at 3:30 p.m.

BACKGROUND:

To facilitate more timely hiring of senior positions, the Board has requested a change to the Code of the County of Fairfax to allow the County Executive to appoint most Department Heads, as authorized by Va. Code Ann. § 15.2-807, after consulting with the Board of Supervisors on all such appointments.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENT:

Attachment 1 – Proposed changes to Fairfax County Code § 3-1-1, Definitions

Attachment 2 - Proposed changes to Fairfax County Code § 3-1-12, Appointing Authorities

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney

Section 3-1-1. - Purposes of Article; definitions.

(a) *Purposes.* The purposes of this Article are:

- (1) To place personnel administration on a merit basis in order to attract and retain for public service in the County Government employees with integrity and superior ability;
- (2) To strengthen the effectiveness of the County Government through the improvement of personnel administration;
- (3) To provide for a County merit system under which recruitment, appointment, and advancement of covered employees will be on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, political affiliation, disability, or genetic information, and which will be administered in conformity with the Merit Principles set forth by the U.S. Office of Personnel Management (5 CFR 900) under authority of the Intergovernmental Personnel Act of 1970, as amended;
- (4) To provide for an exempt service which will be limited to positions so designated in accordance with this Article or by Personnel Regulations.

(b) *Authority.* The authority for this article is contained in *Va. Code Ann. § 15.2-1506*, which reads, in part, as follows: "Notwithstanding any other provision of law to the contrary, the governing body of every county, city and town which has more than fifteen employees shall establish by June thirty, nineteen hundred seventy-four, a grievance procedure for its employees to afford an immediate and fair method for the resolution of disputes which may arise between such public employer and its employees and a personnel system including a classification plan for service and uniform pay plan for all employees;" and *Va. Code Ann. §15.2-807*, which reads, in part, as follows: "All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform." ¹ [§](#)

(c) *Applicability.*

- (1) This Article applies to all employees in the administrative service of the County who are appointed by the Board of Supervisors, County Executive or the head of a department, as provided in *Va. Code Ann. §15.2-807*. ² [§](#)
- (2) This Article and any regulations or administrative directives or procedures issued under its authority also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing boards of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered under this Article in the same manner as if those employees were in the administrative service of the County. ³ [§](#)

(d) *Severability.* Should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

(e) *Definitions.*

- (1) *Personnel Regulations.* A body of rules governing County personnel administration issued under authority of this Article by the Board of Supervisors after consideration of the recommendation of the County Civil Service Commission, and having the effect of ordinance.
- (2) *Competitive service.* All positions not specifically designated as exempt positions in accordance with this Article, and the employees appointed to fill such positions. Competitive positions must be filled in accordance with merit principles. Persons in the competitive service

are considered career employees. They have all rights, benefits, privileges, protections and obligations set forth in this Article and Personnel Regulations.

- (3) *Exempt service.* Positions which are specifically so designated in accordance with this article and Personnel Regulations, and employees appointed to fill such positions. Exempt personnel are not merit employees. They may be appointed, classified, promoted to other exempt positions, demoted to other exempt positions and discharged without regard to the restrictions contained in this Article and Personnel Regulations, which apply to the competitive service. They are entitled to only such employee rights and benefits as are provided for various categories of exempt personnel elsewhere in this Article and Personnel Regulations or by the Board of Supervisors or in procedural directives issued by the County Executive or his or her designee.
- (4) *Full-time position.* Any position, whether authorized for the competitive service or exempt, which is authorized to be filled for at least 2080 scheduled hours in 12 consecutive months.
- (5) *Part-time position.* Any position, whether authorized for the competitive service or exempt, which does not meet the above criteria for full-time positions.
- (6) *Full-time employee.* Any employee, whether in the competitive service or exempt, who is regularly scheduled to work at least 2080 hours in 12 consecutive months.
- (7) *Part-time employee.* Any employee, whether in the competitive service or exempt, who does not meet the above criteria for full-time employees.
- (8) *Probationary employee.* Any employee in the competitive service serving in a probationary appointment as defined in § 3-1-13 of this Article and Personnel Regulations.
- (9) *Merit system.* The system of personnel administration applicable to the competitive service. It includes the provisions of this Article, other applicable provisions of County ordinances, County Personnel Regulations and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.
- (10) *Merit employee.* Any employee in the competitive service.
- (11) *Department Head.* An employee appointed by the Board of Supervisors or the County Executive to oversee, direct, or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. All department head positions are assigned to the exempt service. All persons appointed as department heads on or after July 1, 1987, are exempt employees. Any department head appointed as a department head by the Board of Supervisors on or after July 1, 1987, may be removed by the Board of Supervisors with or without cause and in any event, may not grieve his or her removal under the County's grievance procedures. Any department head appointed by the County Executive may be removed by either the Board of Supervisors or the County Executive with or without cause and in any event, may not grieve his or her removal under the County's grievance procedure. (7-87-3; 32-8-3; 26-98-3; 35-05-3; 32-11-3.)

Footnotes:

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As to appointment, tenure, suspension or removal and compensation of officers and employees, see Va. Code Ann., § 15.2-807, 15.2-808 and 15.2-809.

--- () ---

Wherever used in this Article, the term "department" means "department," "office," "agency," or other administrative unit, the director of which reports to the County Executive, either directly or via a deputy

| county executive, or to the Board of Supervisors. Elected officials, persons appointed to fill vacancies in elective offices, and members of boards, authorities and commissions appointed by the Board of Supervisors are not employees in the sense of this article, although they may be compensated and receive such other benefits as State law or regulations, County ordinance or the Board of Supervisors may authorize.

--- () ---

Public agencies authorized to execute such agreements include (but are not limited to) the offices of Constitutional Officers and individual members of the Board of Supervisors, the School Board, the Library Board, the Park Authority, the Housing Authority, the Fairfax/Falls Church Community Services Board, the Economic Development Authority, the Water Authority, the Industrial Authority, similar agencies established by the Board of Supervisors in the future, community centers and other service agencies established in small districts under authority of the Board of Supervisors, and State agencies located in and serving the County where such agreements are consistent with State law and regulations. Employees whose conditions of employment are to be administered pursuant to such agreements may be either merit system or exempt employees, as defined in this Article, whichever is specified in the applicable agreement.

Section 3-1-12. - Appointing authorities.

- (a) Appointing authority means the officer, board, commission, person or group of persons having the power by virtue of State law or County ordinance to make appointments. The appointing authority or his or her designee is the responsible official or body to whom the Human Resources Director certifies lists of eligibles from which appointments shall be made. The appointing authority is generally responsible for personnel administration within a given department. For the purposes of this Article, appointing authorities are described as follows:
- (1) The Board of Supervisors shall be the appointing authority for the County Executive, deputy county executives, the County Attorney, the Board Auditor, the Police Independent Auditor, the Chief of Police, the Fire Chief, the Human Resources Director, the County Purchasing Agent, the Health Department Director, the Office of Human Rights & Equity Programs Director, and the Clerk to the Board. ~~and department heads under the control of the County Executive.~~ The Board of Supervisors shall consult with the County Executive with regard to all such appointments.
 - (2) ~~The All~~ department heads ~~in the above departments~~ are delegated the authority to appoint all employees in their respective department.
 - (3) The appointing authority for other public agencies within the County which may have executed agreements to administer their personnel under this Article, as provided by section 3-1-1(c)(2) of this Article, shall be the person or body designated as such in the applicable agreement, unless otherwise specified by law or regulation.
 - (4) Except as otherwise provided in this section or elsewhere by law, the County Executive shall be the appointing authority for the staff, if any, of the Planning Commission, the Civil Service Commission and all boards and commissions whose functions are primarily advisory rather than operating. In making such appointments, the County Executive shall consider the recommendations of the respective boards and commissions.
- (b) For any positions not covered by the above descriptions, the County Executive shall be the appointing authority. The County Executive shall consult with the Board of Supervisors with regard to all such appointments. For new departments, which may be created, the ~~Board of Supervisors~~ County Executive shall be the appointing authority for the department head if the department head reports to the County Executive or a deputy county executive, otherwise the Board of Supervisors shall be the appointing authority. The appropriate department head shall be the appointing authority for all other employees. (7-87-3; 26-98-3; 35-05-3.)

Board Agenda Item
October 29, 2019

ACTION - 1

Approval of the Financing Plan for Dredging Lake Accotink (Braddock District)

ISSUE:

Approval by the Board of Supervisors to pursue a loan from the Virginia Clean Water Revolving Loan Fund estimated to be \$30,500,000 for the dredging of Lake Accotink.

RECOMMENDATION:

The County Executive recommends approval to pursue a loan relating to the recommended strategy and financing plan for the dredging of Lake Accotink through the Virginia Resources Authority's (VRA) Virginia Clean Water Revolving Loan Fund (VCWRLF).

TIMING:

Approval by the Board is requested on October 29, 2019.

BACKGROUND:

Lake Accotink Park is a 493-acre public park owned and operated by the Fairfax County Park Authority located at 7500 Accotink Park Road in Springfield. The main portion of the park is located in the Braddock District with parts of the park overlapping with the Lee and Springfield Districts. The focal point of the park is the 55-acre lake surrounded by managed conservation areas, wetlands, deciduous and evergreen forests, and historic and pre-historic sites. Over 300,000 patrons visit the park annually to enjoy a variety of facilities and activities that vary with the season including bike rentals, canoe and pedal boat rentals, a boat launch, a nine-green double-holed miniature golf course, an antique carousel, a snack bar, pavilion shelters and picnic areas with grills, restrooms, a playground, a sand volleyball court and basketball court. Situated along the Gerry Connolly Cross County Trail, the park has a four-mile loop, natural-surface hiking/biking trail around the lake. The park plays host to a variety of events throughout the year including the popular annual cardboard boat regatta, classes and camps, and scouting programs.

The lake itself is fed by approximately 60 miles of streams that comprise approximately 30 square miles of the Accotink Creek Watershed. Sediment from the upstream areas of the watershed has continued to be deposited in Lake Accotink over the years filling in the lake and limiting recreational use of the lake. The lake has been dredged two times since 1985 to remove accumulated sediment. The most recent lake dredging, completed in

Board Agenda Item
October 29, 2019

2008, removed approximately 193,000 cubic yards of sediment from the lake. An average of 20,000 cubic yards of sediment continues to be deposited in the lake annually since the dredging was completed. The current estimated average depth of the lake is four feet and will continue to decrease over time without intervention.

The park master plan which serves as the guiding document for development and operation of Lake Accotink Park was last approved by the Park Authority Board in 1993. Park Authority staff kicked off the public process to update the park master plan including addressing sustainability of the lake in the Spring of 2016. Public meetings were held over a two-year period to discuss a variety of topics including facilities programming and usage, natural and cultural resources, trails and lake management options. Community input received as part of the planning process highly favored retaining the lake to the existing footprint including a petition from the Save Lake Accotink organization formed by local community members during the planning process.

The FY 2020 – FY 2024 Adopted Capital Improvement Program (CIP) identified an order of magnitude estimate of \$50,000,000 for lake dredging. The Board of Supervisors directed staff to update the CIP recommendations including identifying appropriate funding mechanisms to address Lake Accotink during its deliberations on the FY 2020 – FY 2021 Budget. Park Authority staff working with staff from the Department of Public Works and Environmental Services (DPWES) studied several strategies to retain the aesthetic and recreational value of the lake in the current footprint. Staff updated the Board of Supervisors at the Budget Committee meeting on September 17, 2019 with the recommended strategy to restore the lake which includes:

- Dredging 350,000 cubic yards of sediment from the lake to restore the lake to an average depth of eight feet;
- Pumping the sediment to an area located in Wakefield Park for dewatering;
- Hauling sediment to a closed quarry via Braddock Road and the Capital Beltway for disposal; and
- Periodic maintenance dredging.

The estimated cost for dredging including sediment disposal based on the above strategy is \$30,500,000. The annualized estimated cost for periodic maintenance dredging is \$2,013,000. Staff estimates the lake removes sediment equivalent to restoring thirty-three miles of stream at an estimated cost of \$230,000,000.

Project staff working with the Department of Management & Budget have identified the option of a low interest loan via the Virginia Clean Water Revolving Loan Fund (VCWRLF) as the preferred funding mechanism to fund the dredging. The VCWRLF is administered by the Virginia Department of Environmental Quality (DEQ) and the Virginia Resources Authority is the financial manager of the fund. DEQ preliminarily indicated in

Board Agenda Item
October 29, 2019

the spring of 2019 that the Lake Accotink project is eligible for funding from the VCWRLF. Qualifying projects under the VCWRLF program receive an interest rate of one percent below municipal market rates. DEQ has confirmed Fairfax County qualifies for an additional interest rate reduction of one percent below municipal market rates based on the County's dedicated source of stormwater revenue from the Stormwater Service District. The loan will be subject to final approval by the Virginia State Water Control Board. If funding from the VCWRLF is not available for this project, staff recommend a fallback option of project financing through the issuance of a bond sale through the Fairfax County Economic Development Authority (EDA). The County has utilized this approach in the past for select County facilities. As the project timeline progresses, staff will return to the Board with the bond documents necessary to execute the financing.

Project management of the lake dredging will be performed in partnership with the DPWES. Staff anticipates awarding a consultant contract for design and permitting in early calendar year 2020 with dredging to take place between calendar years 2021 and 2025.

FISCAL IMPACT:

The County will submit an application in the summer of 2020 (the next anticipated application deadline) to the Virginia Department of Environmental Quality for a loan from the Virginia Clean Water Revolving Fund as administered by the Virginia Resources Authority for dredging Lake Accotink with a project estimate of \$30,500,000. Should funding needs increase for the project prior to submitting the loan application, the Board of Supervisors will be briefed. It is anticipated that the loan would be approved in the fall of 2020 and dredging would be initiated in January 2021; however, debt service payments on the loan would not begin until FY 2025/2026. The County average annual debt service will be approximately \$1,500,000 based on the project estimate and current market conditions. The debt service will be included in future Stormwater Service District budgets.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive
Joseph Mondoro, Chief Financial Officer
Kirk Kincannon, Executive Director, FCPA
Randy Bartlett, Director, Department of Public Works & Environmental Services
Joseph LaHait, Debt Manager, Department of Management and Budget
David Bowden, Director of Planning and Development, FCPA

Board Agenda Item
October 29, 2019

**On 10/15/19, the Board
moved to defer this item
to 10/29/19 at 3:00 p.m.**

CONSIDERATION - 1

Proffer Interpretation Appeal A-RZ 86-C-12, Related to the Planning Commission's Denial of Conceptual Plan CP 86-C-121-15, Filed by NS Reston LLC

ISSUE:

NS Reston, LLC ("Appellant"), has filed a conceptual plan application CP 86-C-121-15 (the "CP Application") concurrently with PRC Plan Application PRC 86-C-121-06 (the "PRC Plan Application") for the development of Tax Map 17-1 ((17)) 4. Pursuant to Proffer D1 of the proffers accepted by the Board with RZ 86-C-121, the Appellant submitted its CP Application to the Planning Commission for review and approval. The Planning Commission denied the CP Application, and the Appellant filed this appeal of the denial. There is no specific authority set forth in the Zoning Ordinance or in the proffers for an appeal of a CP Application; however, it is recommended that the Board review the CP Application along with the public hearing on the PRC Plan Application.

TIMING:

Board consideration is requested on October 29, 2019, at 3:00 p.m. concurrent with the scheduled public hearing for PRC 86-C-121-06.

BACKGROUND:

A detailed review of the CP Application and PRC Plan Application, including the staff report is provided in the link below.

<http://ldsnet.fairfaxcounty.gov/ldsnet/ZAPSMMain.aspx?cde=PRCP&seq=4248194>

On March 9, 1987, the Board of Supervisors approved RZ 86-C-121 concurrent with RZ 85-C-0-88, RZ 86-C-119, and RZ 86-C-118 (Town Center rezonings) on a combined 353 acres of land with one set of combined proffers. Development Plans were proffered for each of the four Town Center rezonings. RZ 85-C-088, for the Reston Town Center Urban Core, was the only rezoning in which a detailed development plan was proffered. The approved proffers include a commitment to prepare conceptual plans for the remaining three Town Center rezonings. The conceptual plans were intended to provide additional detail of the development plan, as specifically stated in the proffers.

Relevant to this appeal, proffer D.1 states:

“D. DEVELOPMENT PLAN FOR RZ 86-C-121

1. *Property B will be developed in accordance with the Development Plans dated November, 1986 and revised January, 1987. Prior to submission of a preliminary site plan to DEM for any part of Property B (144.64 acres included in RZ-C-121) Applicant proffers to cause to be prepared a conceptual plan to include:*

*a vehicular traffic circulation plan including approximate location of entrances
minor streets in approximate location
pedestrian walkways and trails
landscaping and screening
open space
recreation and community facilities
location of a time-transfer transit hub
floor area ratios
height limits
general location and type of housing units
general location office and commercial buildings
general location of parking structures*

Applicant will afford members of the Reston community an opportunity to review and comment upon the conceptual plan prior to initial submission of the same to Fairfax County for review. Concurrent with the ongoing community input process, Applicant will submit the plan to the Fairfax County Office of Comprehensive Planning for review and the Fairfax County Planning Commission for review and approval. Once the overall preliminary site plan is approved, Applicant will submit preliminary and final site plans for review pursuant to Fairfax County Zoning Ordinances on a site by site basis.”

A Master Conceptual Plan (Master CP) was submitted by Reston Land Corporation and approved by the Planning Commission on April 2, 1992. An excerpt of this Master CP is provided on page 5 of the Staff Report, which is available at the link below.

<http://ldsnet.fairfaxcounty.gov/ldsnet/ZAPSMMain.aspx?cde=PRCP&seq=4248194>

The Appellant submitted the CP Application to propose development of a condominium building on its property. On June 19, 2019, the Planning Commission denied the CP Application, but also voted to recommend that the Board of Supervisors review (and

deny) the CP Application with its review of the PRC Plan Application. See PC verbatim, attached to appeal.

Citing to Par. 10 of Sect. 18-204 of the Zoning Ordinance, the Appellant filed this appeal. In its cover letter, the Appellant admits that “[p]roffer D.1 does not provide a process for appealing the Commission’s decision, and since this CP Application is not required nor addressed in any way in the Zoning Ordinance, there is no specific appeal process for an aggrieved party like NS Reston.” While staff does not concede that the Appellant is aggrieved, it does agree that there is no authority to appeal the Planning Commission’s denial of the CP Application.

DISCUSSION:

Par. 10 of Sect. 18-204 of the Zoning Ordinance permits appeals to the Board by “[a]ny person aggrieved by a decision of the Zoning Administrator regarding any proffered condition.” See Va. Code § 15.2-2301 (also allowing for an appeal to the Board from a decision by the Zoning Administrator regarding proffers). The Appellant relies on this provision in error, because it is not appealing from a decision of the Zoning Administrator. While the CP Application is a creature of proffers, the proffers also do not provide for an appeal.

The Appellant thus has no authority for its appeal to the Board. But it is not without a remedy, as the Planning Commission has already recommended that the Board consider the CP Application with its review of the PRC Plan Application. Staff concurs and recommends that the Board deny this appeal but accept the Planning Commission’s recommendation to consider the CP Application.¹ The CP Application is subsumed within the PRC Plan Application. In light of the Board’s ultimate authority over the PRC Plan Application, the Board necessarily has the authority to review the CP Application as part of its review of the PRC Plan Application.

¹ Staff notes that when the proffers were accepted in 1987, the PRC Plan Application process was an administrative process handled by the Department of Public Works and Environmental Services (now Department of Land Development Services). The Zoning Ordinance now requires the Board of Supervisors to approve a PRC Plan Application. Because the ultimate authority of the PRC Plan Application rests with the Board of Supervisors, staff has already recommended (as did the Planning Commission) that the CP Application be reviewed by the Board of Supervisors. Thus, Staff advertised the CP Application for public hearing.

Board Agenda Item
October 29, 2019

**On 10/15/19, the Board
moved to defer this item
to 10/29/19 at 3:00 p.m.**

SUMMARY:

Staff requests that the Board of Supervisors deny the appeal but review the CP Application when it considers the PRC Plan Application.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Letter dated July 17, 2019, to Leslie Johnson, Zoning Administrator;
Appeal of Planning Commission Decision on CP 86-C-121-15

STAFF:

Rachel Flynn, Deputy County Executive
Barbara Byron, Director, Department of Planning and Development (DPD)
Leslie Johnson, Zoning Administrator, DPD
Tracy Strunk, Director, Zoning Evaluation Division (ZED), DPD
Suzanne Wright, Chief, Substantial Conformance and Acceptance Branch, ZED, DPD
William Mayland, Branch Chief/Staff Coordinator, ZED, DPD

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney

**HUNTON
ANDREWS KURTH**

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JOHN C. MCGRANAHAN, JR.
DIRECT DIAL: 703 • 714 • 7464
EMAIL: jmcgranahan@HuntonAK.com

FILE NO: 067464.16

July 17, 2019

BY HAND DELIVERY

Leslie Johnson, Zoning Administrator
Fairfax County Department of
Planning and Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

RECEIVED
Dept of Planning & Development

JUL 17 2019

Zoning Evaluation Division

**NS Reston LLC
Reston Section 89, Block 4
Tax Map Parcel: 017-1-((17))-4
Zoning District: PRC
Appeal of Planning Commission Decision on CP 86-C-121-15**

Dear Ms. Johnson:

On June 19, 2019, the Fairfax County Planning Commission voted to deny conceptual plan application CP 86-C-121-15 (the "CP Application") filed by NS Reston LLC ("NS Reston"). NS Reston submitted the CP Application concurrently with PRC plan application PRC 86-C-121-06 (the "PRC Plan Application"). At the June 19, 2019 meeting, the Planning Commission also voted to recommend to the Board of Supervisors that it deny the PRC Plan Application.

The Board is scheduled to hear the PRC Plan Application at its September 24, 2019 meeting. In his motion on these applications, Commissioner John A. Carter expressly recommended that the Board "consider the review of the Concept Plan [i.e., the CP Application] as part of their review of the PRC Plan."

The CP Application is a creature of the proffered conditions that apply to the subject property. Proffer D.1. of the proffers accepted by the Board with the approval of RZ 86-C-121 provides that a "conceptual plan" will be submitted to the Planning Commission for review and approval. Proffer D.1. does not provide a process for appealing the Commission's decision,

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ANDREWS KURTH

Leslie Johnson, Zoning Administrator
July 17, 2019
Page 2

and since this CP Application is not required nor addressed in any way in the Fairfax County Zoning Ordinance (the "Zoning Ordinance"), there is no specific appeal process for an aggrieved party like NS Reston. However, Sect. 18-204(10) of the Zoning Ordinance provides that "[a]ny person aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal that decision to the Board [of Supervisors]." The Planning Commission's decision to deny the CP Application was made pursuant to the approved proffers for this property. NS Reston disagrees with that decision and is aggrieved by it. From an abundance of caution and to ensure the Board does in fact consider and act on both the PRC Plan Application and the CP Application as recommended by the Planning Commission, NS Reston hereby submits this appeal pursuant to Sect. 18-204(10) of the Zoning Ordinance.

Enclosed please find the following documents submitted on behalf of NS Reston:

- Application for Appeal (original and two copies);
- Notice of Appeal/Appellant Statement with exhibits; and
- Check in the amount of \$600.00 made payable to "County of Fairfax" for the filing fee.

Copies of the Application for Appeal form and the Notice of Appeal/Appellant Statement with exhibits are also hereby delivered to Ms. Catherine A. Chianese, Clerk to the Board of Supervisors.

If you have any questions or require additional information, please contact me.

With best regards,



John C. McGranahan, Jr.

Enclosures

cc: Catherine A. Chianese, Clerk to the Board of Supervisors
William Mayland, AICP
Norton Scott LLC



Please type or
Print in Black Ink

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
APPLICATION FOR APPEAL

APPLICATION NO. _____
(Assigned by Staff)

NAME OF APPELLANT: NS Reston LLC

NATURE OF THE APPEAL:

Appeal of a decision by the Fairfax County Planning Commission on June 19, 2019 to deny CP 86-C-121-15.
Appellant disagrees with all the reasons stated by the Planning Commission as the basis for its decision. The
Planning Commission's decision was erroneous and should be reversed by the Board of Supervisors.

**DATE OF ORDER, REQUIREMENT, DECISION, DETERMINATION OR NOTICE OF VIOLATION WHICH
IS SUBJECT TO THE APPEAL** Planning Commission decision on June 19, 2019

HOW IS THE APPELLANT AN AGGRIEVED PERSON?:

Appellant is the owner of the subject property and the applicant in CP 86-C-121-15 and the concurrent PRC
application PRC 86-C-121-06. The denial of these applications would deny Appellant all reasonable and
economically viable use of its property.

IF APPEAL RELATES TO A SPECIFIC PROPERTY, PROVIDE THE FOLLOWING INFORMATION:

POSTAL ADDRESS OF PROPERTY: None

TAX MAP DESCRIPTION: 017-1-((17))-4

John C. McGranahan, Jr., Attorney/Agent for Appellant

Type or Print Name of Appellant or Agent

John C. McGranahan Jr.
Signature of Appellant or Agent

Hunton Andrews Kurth LLP, 8405 Greensboro Drive, Suite 140, Tysons, VA 22102

Address

703-714-7464

Telephone No: Home

Work

Cell

Please type or print name, address, and phone number of contact person if different from above:

DO NOT WRITE IN THIS SPACE

Subdivision Name: _____

Total Area (Acres/Square Feet): _____

Present Zoning: _____

Supervisor District: _____

Date application received: _____

Application Fee Paid: \$ _____

Date application accepted: _____

8/2013

NS RESTON LLC

NOTICE OF APPEAL/APPELLANT STATEMENT

I. SUBJECT OF THIS APPEAL

This is an appeal of a decision by the Fairfax County Planning Commission (the "Planning Commission") pursuant to implementation of Proffer D.1. for rezoning application RZ 86-C-121. On June 19, 2019, the Planning Commission voted to deny conceptual plan application CP 86-C-121-15 (the "CP Application") for certain property owned by NS Reston LLC ("Appellant") and identified on the Fairfax County Tax Map as parcel 17-1-((17))-4 (the "Subject Property"). Appellant filed the CP Application concurrently with PRC plan application PRC 86-C-121-06 (the "PRC Plan Application"). The Planning Commission also voted on June 19, 2019 to recommend to the Board of Supervisors (the "Board") that the Board deny the PRC Plan Application. In his motion on these applications, Planning Commissioner John A. Carter expressly recommended that the Board "consider the review of the Concept Plan as part of their review of the PRC Plan." Appellant respectfully submits this Notice of Appeal pursuant to Sect. 18-204(10) of the Fairfax County Zoning Ordinance (the "Zoning Ordinance") because (i) Appellant disagrees with the Planning Commission's decision and all the reasons identified by the Planning Commission as the basis for its decision, and (ii) Appellant wants to ensure that the Board considers both the CP Application and the PRC Plan Application together as recommended by the Planning Commission.

II. DATE OF DECISION

The decision contested by this appeal was made by the Planning Commission on June 19, 2019. A copy of the Planning Commission Clerk's denial letter dated June 24, 2019, which includes the verbatim of the Planning Commission's decision, is attached as **Exhibit A**.

III. JURISDICTION – APPELLANT IS AN AGGRIEVED PARTY

Section 18-204(10) of the Zoning Ordinance permits appeals to the Board by "[a]ny person aggrieved by a decision of the Zoning Administrator regarding any proffered condition." Since the CP Application is a creature of Proffer D.1. of the proffered conditions for RZ 86-C-121 which apply to the Subject Property and the Planning Commission's decision was pursuant to and implements Proffer D.1., the appeal of that decision is to the Board. Appellant is an aggrieved party as the owner of the Subject Property and the applicant for the CP Application and the PRC Plan Application. The decision by the Planning Commission to deny the CP Application is intended to prevent Appellant from developing the Subject Property for permitted residential uses, and thus, will deny Appellant significant property rights, i.e., by-right use of its property as permitted under the existing PRC District zoning. The denial of the CP Application by the Planning Commission and the concurrent PRC Plan Application by the Board would deny all reasonable and economically viable use of the Subject Property. Therefore, Appellant is aggrieved by the Planning Commission's decision, and this appeal is properly before the Board.

IV. GROUND OF APPEAL AND REASONS THEREFOR

The Subject Property contains approximately 0.839 acre and is located on the north side of New Dominion Parkway (Route 6363) approximately 300 feet west of Fountain Drive (Route 8502) in Reston, Virginia. It currently is vacant land. The Subject Property is zoned to the PRC, Planned Residential Community District (the "PRC District"). A tax map with the Subject Property outlined in red is attached as **Exhibit B**.

The approved Development Plan for the Subject Property is dated October 1986 and revised January 1987. The existing PRC District zoning and the approved Development Plan permit development of residential uses at a density not to exceed 50 dwelling units per acre ("du/ac"). The approved Development Plan does not designate the Subject Property as open space or a public park. Nor does the approved Development Plan identify any public street running through any portion of the Subject Property. Appellant filed the CP Application and the PRC Plan Application concurrently in order to implement the existing zoning of the Subject Property. The residential condominium building proposed with the CP Application and the PRC Plan Application is less than 50 du/ac and is consistent with the approved Development Plan. It meets all other requirements of the Zoning Ordinance. The Planning Commission's denial of the CP Application was erroneous and would deny Appellant all reasonable and economically viable use of the Subject Property. That decision must be reversed by the Board.

The explanations offered by the Planning Commission to justify its decision to deny the CP Application are wrong. Some of those justifications are inconsistent with Virginia law. The following points, among others, reflect the errors of the Planning Commission's decision:

1. The proposed residential condominium building is consistent with the approved Development Plan for the Subject Property, which does not designate the Subject Property as open space or a park and does not identify a public road through any portion of the Subject Property.
2. No owner of the Subject Property, including Appellant, ever has taken the steps required under Part 7 of Article 2 of the Zoning Ordinance to commit the Subject Property to permanent open space for the mutual benefit of persons residing in the Reston PRC District.
3. The proposed residential condominium building does not violate any of the applicable density limitations set forth in Sect. 6-308 of the Zoning Ordinance, namely the maximum 13 persons per acre for the overall PRC District, the maximum 60 persons per acre for the overall high density areas of the PRC District and the maximum 50 du/ac for the Subject Property.
4. While the Board has no legal authority to impose conditions on a PRC plan approval that require the provision of workforce dwelling units (WDUs), the Board has done so for other properties in Part 5 of Reston where the Subject Property is located. If those approved WDUs and the associated WDU bonus units are included in the total number of units previously approved for those other properties in Part 5 of Reston, then the Board already has approved more than 50 du/ac in Part 5 without the units proposed by Appellant (767 total units already approved including WDUs and WDU

bonus units v. 746 units at 50 du/ac). Either WDUs and bonus units **do not count** toward the 50 du/ac maximum limit, in which case there are 66 units remaining in Part 5, or the Board approved the PRC plans for those other properties by relying on available density from outside Part 5. Under either explanation for those prior approvals, there is sufficient density available for the Appellant's proposed 58 dwelling units on the Subject Property. Accordingly, the Appellant's 58 units can be approved without reducing the number of units previously approved for those other properties in Part 5. The Board must treat all properties in Part 5 of Reston consistently with respect to treatment of WDUs and WDU bonus units for density purposes. It cannot choose to treat them differently in order to deny all by-right use of Appellant's Subject Property.

5. The PRC plan is a successor to the preliminary site plan under the original PRC (formerly RPC) District provisions of the Zoning Ordinance. It does not involve the rezoning of a property nor does it request a change to the proffered development plan for a property, both of which would require legislative review and action by the Board. To the contrary, a PRC plan seeks to implement those legislative entitlements in order to construct by-right uses. Review of a PRC plan is administrative notwithstanding that the Board has reserved to itself the right to review and approve PRC plans since 2007. As such, the Board is constrained in its review of PRC plans to impose only conditions where there is an essential nexus to mitigating an actual impact of the proposed development and where the conditions are roughly proportional to those impacts. Comprehensive Plan policies and goals, such as provision of WDUs, construction of roads which are not needed to support the proposed development, and the requirement of consolidation with properties under separate ownership, can guide and inform the review of a PRC application, but they cannot be strictly imposed as conditions without the owner's agreement nor are they a legally permissible basis for denying a by-right use, or in this case all by-right use, of the Subject Property.
6. While the Board has no legal authority to require consolidation of the Subject Property with neighboring properties as a condition to approval of a PRC plan, Appellant tried for more than five (5) years to consolidate the Subject Property with the adjacent properties owned by the Board as recommended in the Comprehensive Plan. Appellant incurred significant expenses in pursuit of the PPEA Request for Proposal 2000001682 (Part 1) Reston Town Center North Redevelopment. The County ultimately rejected Appellant's proposal, thus precluding Appellant from providing the very consolidation the Comprehensive Plan recommends.
7. While the Board has no legal authority to require WDUs as a condition to approval of a PRC plan, Appellant has agreed to provide the same percentage of WDUs that other properties located in Part 5 of Reston have agreed to provide, by purchasing units off-site within the Reston Transit Station Area and subjecting those units to the legal requirements of the County's WDU program as provided in the County's approved Guidelines for Provision of Workforce Housing.
8. While the Board has no legal authority to require right-of-way dedication for and/or construction of a public street through the middle of the Subject Property as a

condition to approval of a PRC plan, when such a street is not shown on the approved Development Plan and when the need for such a street is not generated by the proposed residential condominium building, Appellant has agreed to provide interparcel access through the Subject Property to facilitate the redevelopment of the County-owned property north of the Subject Property. That interparcel access will align with an extension of existing Cameron Glen Road on which the North County Governmental Center is located, across Bowman Towne Drive to the Subject Property.

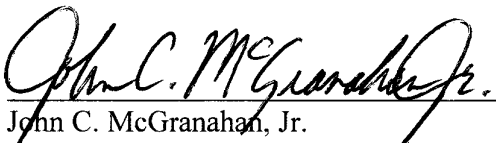
9. The proposed residential condominium building is consistent and compatible with surrounding uses and will be an attractive addition to the Reston Town Center environs. This proposed residential use will help address a demand for for-sale housing options in the Reston Town Center Transit Station Area.

V. CONCLUSION

For all the reasons stated by Appellant's representative at the June 19, 2019 Planning Commission meeting and in this Notice of Appeal/Appellant's Statement, as well as those reasons that will be provided at the Board's consideration of this appeal and the PRC Plan Application, the Board must reverse the Planning Commission's denial of the CP Application and approve both the CP Application and the PRC Plan Application.

Respectfully submitted,

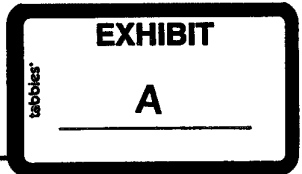
Dated: July 17, 2019



John C. McGranahan, Jr.
Attorney/Agent for the Appellant



County of Fairfax, Virginia



June 24, 2019

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2019 Planning Commission

Peter F. Murphy
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Vice Chairman
At-Large

James T. Migliaccio
Secretary
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Parliamentarian
At-Large

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Braddock District

John C. Ulfelder
Dranesville District

John A. Carter
Hunter Mill District

Julie M. Strandlie
Mason District

Walter C. Clarke
Mount Vernon District

Phillip A. Niedzielski-Eichner
Providence District

Donté Tanner
Sully District

Mary D. Cortina
At-Large

Jill G. Cooper
Executive Director

Jacob L. Caporaletti
Clerk to the Commission

John C. McGranahan, Jr.
Hunton Andrews Kurth, LLP
8405 Greensboro Drive, Suite 140
Tysons, VA 22102

BY:

**Re: Planned Residential Community and Conceptual Plan Applications
PRC 86-C-121-06/CP 86-C-121-15 – NS RESTON LLC
Hunter Mill District**

Dear Mr. McGranahan:

At a regular meeting held on June 19, 2019, the Planning Commission voted 7-0-1 (Commissioner Hurley abstained from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie, and Cortina were absent from the meeting) to **RECOMMEND DENIAL** of PRC 86-C-121-06 and CP 86-C-121-15. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to final decision by the Board of Supervisors.


Sincerely,

Jacob L. Caporaletti

Jacob L. Caporaletti
Clerk to the Planning Commission

Attachments (a/s)

cc: Catherine M. Hudgins, Supervisor, Hunter Mill District
John A. Carter, Planning Commissioner, Hunter Mill District
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office
William Mayland, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ)
Robert Harrison, ZED, DPZ
Case Date File June 19, 2019

 To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

Fairfax County Planning Commission
12000 Government Center Parkway, Suite 552, Fairfax, VA 22035
703-324-2865 (Voice) 703-324-7951 (TTY) 703-324-3948 (Fax)
www.fairfaxcounty.gov/planningcommission



**County of Fairfax, Virginia
Planning Commission Meeting
June 19, 2019
Verbatim Excerpt**

PRC 86-C-121-06 – NS RESTON, LLC – Appl. to approve the PRC plan associated with RZ 86-C-121 to permit residential development. Located on the N. side of New Dominion Parkway approx. 300 ft. W. of Fountain Dr. on approx. 36,553 sq. ft. of land zoned PRC. Comp. Plan Rec: Mixed Use. Tax Map 17-1 ((17)) 4. (Concurrent with CP 86-C-121-15). (Hunter Mill District)

CP 86-C-121-15 – NS RESTON, LLC – Appl. to approve the Conceptual Plan for RZ 86-C-121 to permit residential development. Located on the N. side of New Dominion Parkway approx. 300 ft. W. of Fountain Dr. on approx. 36,553 sq. ft. of land zoned PRC. Tax Map 17-1 ((17)) 4. (Concurrent with PRC 86-C-121-06). (Hunter Mill District)

After Close of Public Hearing

Commissioner Carter: Okay. This is an interesting case...

Chairman Murphy: Mic.

Commissioner Carter: It's on. I've got it on.

Chairman Murphy: Oh...

Commissioner Carter: How 'bout that...

Chairman Murphy: The next key word is closer.

Commissioner Carter: Okay. Alright. Alright. You know these – these cases. I've been enamored with our process over the last year or so. Our process is to – is to have the hearing, pull out sore thumbs, defer and work those out, and bring it back. That's – that's our general process. Some cases I – I think we can't do that and I – I think this is unfortunately one of these cases. There's a lot of back and forth, a lot of good comments on – on all sides of this. But I have six major concerns. One is the conformance with the development plan. And it's – some would question what the development plan is. But I think the development plan includes the zoning, it includes the park, it includes all of those features, and this project is not in conformance with requirements of the zoning case and development plan approved by the Board of Supervisors for Part 5 of the North Town Center District. This was approved in '87, it was reaffirmed in 2009. There is a table. We can argue about the WDUs. Were they counted? Were they not counted? The table is what it is. It – it has the data on it and it's – it's not – you can try to interpret it, but it has the numbers the way it is. And this project will take this above the fifty units per acre according to that table. So, I think it is not in conformance and I – I appreciated that box, the top and the bottom. I like that, but I can't imagine we just disregard the Comprehensive Plan in these cases in Reston. We have a lot of projects to go and particularly when the Zoning Ordinance is tied directly to – to the Comp Plan. And I think in those cases we can make a strong argument that – that there – whether you – whether you put in the top box or bottom box it – it does apply. So again, my point one is it's not in conformance with the development plan that I think includes the park. Number two. So, if you wanna put it in the bottom box there, I think it does not conform to the land use and density requirements of the Comprehensive Plan and the Zoning Ordinance. So

now I'm putting it in the bottom box. And – and I think this is a real problem in the way we do things and we have that case earlier tonight where the park is designated, but then somebody buys the park and then – well, maybe we can develop on this. I think this one is – is an open space. There's some density left, but not 58 units worth. I also think the – you're suppose to have a mix of – of land uses. You're suppose to have residential as well as least a little bit of commercial and I think that's inherent in the land use and density argument. Third. The location of WDUs on-site. The application's not in conformance with the recommendations to provide WDUs. The proposed development locates all that – the WDUs off-site with an unknown location. I don't know where you would buy the WDUs. Everybody is struggling to find them. But in the last year, we have had no cases that tried to do the WDUs off-site. And in most cases, we've even reduced the tiers for the WDUs from 70, 80 to 100 is – is been our standard procedure in Reston. So, I – I think this project is not in conformance with the – the WDU notion. Next, the consolidation. The plan clearly calls for the consolidation and I think the Zoning Ordinance backs that up. It – it says there's no density on this. It – let's see. From the plan it says the Comprehensive Plan recommends this underdevelopment parcel located south of the Regional Library and Winwood Children Center be considered for redevelopment only if consolidated with either or both of the adjacent parcels on which the library and shelter are located. It is unfortunate that that joint development didn't – didn't work out. I appreciated that – that comment. But undoubtedly that's coming back. We have money to rebuild the library so that's – that's gotta be resolved. So, I think you're no in conformance with that consolidation issue. And again, I think you can tie that both to the plan and the Comp Plan. The Comp Plan as well as the Zoning Ordinance. I think this project is not in conformance with the transportation recommendations in the Comp Plan and would not be in conformance with site plan kind of issues with transportation. First of all, Library Street is the only street that goes all the way through north Reston, goes through the existing Town Center, goes across the W&OD trail and connects directly to the – to the WMATA – the future WMATA Metro Station. So, I think this is a critical link in the transportation network. These things are important to have and this would certainly come in as part of the site plan. It's necessary to enhance the circulation and access to the area to help relieve congestion at key intersections. The – also, the extension of Library Street is intended to occur at the same time at the future development. And I won't go back to the site plan, but if you pull that up, I think regardless of the circuitous and I think that is a problem because you have Library Street both to the north and south of this. But the street that's proposed would probably not work well as a public street. I'm not sure the width is correct. You're supposed to have walks on both sides, the trees, the width of the sidewalks, that would be your main pedestrian bicycle and vehicular connection. It's not just the vehicular. This is your main connection to the – to the Metro. And if you don't provide that, I think that's problematic. Whether you use that, use the Comp Plan to back that up or whether it's the Zoning Ordinance in review of the site plan I – I think you can use both. The last one, perhaps not quite as important, but I – I think there is an issue about the placemaking. We've had a few of these cases recently where you show trees, and it looks very lush and then suddenly we find some utilities underground and we can't do quite as many trees. That's a problem here on this and I – I know – I think there are utilities in this case and the four street trees was not very much really, I think will be problematic. I also think that wall along New Dominion Parkway and along the street as well as the pathway. You have the wall from – from the parking garage is a problem. So, in conclusion, the application in my view does not conform to the requirements in the approved adopted plan that limits the site to open space, which I would argue is backed up with the Zoning Ordinance. The proposed development is also not in conformance with the recommendation in the Comprehensive Plan and Zoning Ordinance. For the land use intensity, the provision of

WDUs, consolidation of parcels, the important extension of Library Street, and the placemaking that is part of our normal review in terms of the site plan. So, I'm ready to make a motion.

Chairman Murphy: Okay.

Commissioner Carter: Okay. So, the motion is to deny. I MOVE THAT THE PLANNING COMMISSION DENY CP 86-C-121-15 AND RECOMMEND THAT THE BOARD OF SUPERVISORS CONSIDER THE REVIEW OF THE CONCEPT PLAN AS PART OF THEIR REVIEW OF THE PRC PLAN. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DENY PRC 86-C-121-06.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion?

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: One concern here and I think this – this borders on the legal question and I don't think we've seen any legal input from County Attorney's Office, which might be clarifying. I'm wondering if that would be a ...

Commissioner Carter: I – I think we do have some...

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: May I ask what the legal question you have?

Commissioner Sargeant: I think it's the – the interpretation of – of – of Part 5 density issues related to who was there first so to speak and whether the – the applicant might have another – we're hearing different interpretations of that and I appreciate that position here. I just think it might be helpful if we heard from the County Attorney or have we?

Mr. Mayland: So, the – the applicant was suggested on numerous occasions throughout this application and before the application was accepted to consider to file an interpretation request unrelated – related to density, they chose not to do that. During the review of the application before the staff report was published, I did discuss this staff report and these questions directly with the Zoning Administrator and with the Office of the County Attorney. The Zoning Administrator has interpreted density question regards related to WDUs. The provision in Reston for WDUs is different than non-other P-Districts. PRC calculates differently. And a PDC or PRM District bonus units related to provision WDUs are excluded. It's always the bonus units never the WDU. In Reston, it's only proffered bonus units are excluded. So, if you do not have proffers, you're not excluded from the provision of the density calculations. So, it's very clear what is included in Reston. It's only the provision – it's only proffered of affordable units and the bonus units associate those WDUs that would be excluded.

Commissioner Sargeant: Okay. Thank you.

Chairman Murphy: Further discussion of the motion? All those – yeah, Ms. Hurley.

Commissioner Hurley: I think I followed what staff just explained. Maybe it's just I'm too tired or it's too late or something. I thought I knew what was going on until I listened to Mr. McGranahan. So, at this point, I'm going to have to abstain because I'm kind of confused still on this legal thing.

Chairman Murphy: Further discussion? All those in favor of the motion to deny these applications as articulated by Mr. Carter, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: I abstain.

Chairman Murphy: Ms. Hurley abstains.

The motion carried by a vote of 7-0-1. Commissioner Hurley abstained from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

SL

Board Agenda Item
October 29, 2019

CONSIDERATION - 2

Amendments to the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council (DVPPCC) Bylaws and Name Change

ISSUE:

Approval of Bylaws for the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council with proposed amendment.

Approval of proposed name change from the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council (DVPPCC) to the Council to End Domestic Violence.

TIMING:

Board consideration is requested on October 29, 2019, so that the Bylaws can become effective, as amended.

BACKGROUND:

The Fairfax County Domestic Violence Prevention, Policy and Coordinating Council (DVPPCC) appointed a bylaws workgroup to draft amended bylaws and present the amendments to the DVPPCC. The amended bylaws and the recommended name change were approved at the DVPPCC's quarterly meeting on October 8, 2019.

The intent of the changes to the bylaws were to: 1) create a structure nimble enough to quickly form workgroups to address systemic issues, 2) better bridge policy and practice by formally having representation from direct service providers on the leadership facilitation committee; 3) expand council seats to include representative from a victim/survivor and someone from an immigrant community; and 4) provide clarification in the bylaws between institutional and nominated council seats.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Fairfax County Domestic Violence Prevention, Policy and Coordinating Council (DVPPCC) Bylaws -~~striketthrough~~

Attachment 2: Council to End Domestic Violence Bylaws

Board Agenda Item
October 29, 2019

STAFF:

Tisha Deeghan, Deputy County Executive
Toni Zollicoffer, Director, Domestic and Sexual Violence Services
Stacy Ziebell, Domestic Violence Coordinator

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

~~Fairfax County Council to End Domestic Violence Prevention, Policy, and Coordinating Council~~

~~Charter and~~ ~~Bylaws~~

~~Council~~First Enacted October 18, 2012

Board of Supervisors Approved January 8, 2013

~~Last amended~~Amended April 16, 2015

Amended October 8th, 2019

Background

In June 2002, the Fairfax County Board of Supervisors formed a workgroup to examine the County's response to domestic violence and to identify best practices related to domestic violence issues, policy, and coordination. The workgroup included representatives from the County Executive's office, key County human service agencies, public safety, ~~judicial~~the judiciary, and community-based organizations.

After review of best practices in the region and around the nation, the workgroup concluded that the community's domestic violence response would benefit by bringing together top leadership of county and community organizations to form the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council ~~(the ("Council"))~~, to act as an advisory body to the Board of Supervisors and to lead the development of a coordinated response on domestic violence issues. ~~The Council was established on February 10, 2003, by the Board of Supervisors.~~

In July 2012, an ad hoc charter workgroup was formed to strengthen the function and scope of responsibility of the Council. The charter and bylaws were adopted on January 8, 2013. The bylaws were most recently amended on October 8th, 2019, and the Council was renamed the Council to End Domestic Violence. The 2019 amendments arose out of a standard review to conform the document to the emerging interests of the Council.

Mission and Purpose

The mission of the ~~Fairfax County Council to End Domestic Violence Prevention, Policy and Coordinating Council~~ is to **unite** senior-level public officials and community leaders; to **advise** the Board of Supervisors on a range of domestic violence policy, legislative, and program issues; and to **guide** the development of a coordinated and collaborative community response to domestic violence in Fairfax County.

~~Vision Statement~~

~~Council Membership~~

~~The Council shall be comprised of Government Members and Community Members representing governmental agencies, community organizations, and individuals. Community Members shall be either "Standing Members" or "At Large Members," as is further detailed below.~~

~~The Council recognizes that an effective and coordinated response to domestic violence requires collaboration across the entire community, at all levels. To achieve this coordinated response, an ongoing commitment and consistent participation from our leaders, partners, and community are integral to the Council's planning and response efforts.~~

Government Members

~~Government Members shall be Standing Members with unlimited terms, each with a designated alternate, and shall include:~~

One

~~Fairfax County is a community where all individuals are safe, respected, and valued; where any form of violence is unacceptable; and where a commitment to collective responsibility is upheld and embraced.~~

~~Goals~~

~~The goals of the Council were confirmed by the Board of Supervisors on January 8, 2013. Four (4) permanent committees will carry out the work, planning and activities of the defined goals.~~

~~Committee 1: Community Engagement~~

~~Goal: Engage the community in a collective response to the prevention and intervention of domestic violence.~~

~~Committee 2: Assessment and Standards~~

~~Goal: Support victim safety and autonomy and promote offender accountability and an opportunity for offenders to eliminate violent behavior in all forms.~~

~~Committee 3: Training and Evaluation~~

~~Goal: Increase coordination and consistency of system and community interventions and service provision.~~

~~Committee 4: Policy, Funding and Legislation~~

Goal: Advise the Board of Supervisors on policy and legislative priorities for improving the county's response to domestic violence.

Each committee's work with these goals will be in collaboration with the Domestic Violence (DV) Network, the Domestic Violence Fatality Review Team (DVFRT), the Domestic Violence Action Center (DVAC), and our council partners.

Values and Guiding Principles

Individual Rights and Responsibilities	<p>Everyone deserves respect and safety regardless of age, cultural or ethnic background, ability, gender, immigration status, marital status, race, religion, sexual orientation, gender identity, or socio-economic status.</p> <p>Victims, offenders, and their families/household members, have the right to confidential, accessible, and affordable services.</p> <p>Victims have the autonomy to determine their own lawful response, appropriate to their culture, religion, and needs. —Victims have the right to full and accurate information when making any decision. —Victims have the right to make these determinations without fear of any retribution and/or repercussion.</p> <p>Offenders of domestic violence-related crimes are responsible for their behavior and are held legally accountable.</p>
Accountability	<p>The Council partners are accountable for creating, developing, and implementing policies and practices that prevent and respond to domestic violence in a culturally-sensitive and accessible manner that preserves the rights and dignities of all individuals involved.</p>
Community Engagement	<p>Our community is safer and served more effectively when systems and sectors work together to prevent, identify, and respond to domestic and sexual violence.</p> <p>Community responders must provide immediate crisis intervention and linkage to support services in a clear, culturally sensitive, easy-to-access way.</p> <p>Council partners will enable community members to be a part of the solution to end violence.</p> <p>All community members can play an important role in the prevention and intervention of domestic violence by becoming active bystanders. —Active bystanders are those who recognize a problem and decide to intervene in a way that feels safe and appropriate for them.</p>
Prevention	<p>Council partners will implement age-appropriate and culturally sensitive prevention initiatives and policies that deter violence and promote positive relationships.</p> <p>Council partners will implement evidence and research-based approaches to early intervention/prevention with children, youth, and families appropriate to our community.</p>

Collaborative Response	<p>Council partners recognize and address the intersections of other forms of oppression with domestic violence. These other forms of oppression include, but are not limited to, racism, sexism, heterosexism, classism, ableism, and ageism.</p> <p>The first priority of all Council partners is the safety of those impacted by domestic violence and the Council will promote a cross-system, collaborative response.</p> <p>Council partners share a commitment to work in a respectful and collaborative manner to help reduce or eliminate barriers that impede the development of a coordinated response.</p>
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Membership of Council

Government Membership

- ~~Board of Supervisor~~, member of the Fairfax County Board of Supervisors
- Chief Judge, - Circuit Court
- Chief Judge, General District Court
- Chief Judge, Juvenile and Domestic Relations District Court
- Chief Magistrate
- Chief of Police, Fairfax City
- Chief of Police, Fairfax County
- Chief of Police, Town of Herndon
- Chief of Police, Town of Vienna
- Commonwealth's Attorney
- County Attorney
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- Director, Juvenile and Domestic Relations Court Services
- Director, ~~Office for Women &~~ Domestic and Sexual Violence Services
- Director, Health Department
- Director, Department of Neighborhood and Community Services
- Director, Department of Public Safety Communications
- Director, Department of Family Services

- Director, Office to Prevent and End Homelessness
- Executive Director, Fairfax-Falls Church Community Services Board
- Fire Chief, Department of Fire and Rescue
- Public Defender
- Representative, Fairfax County Commission for Women
- Sheriff, Fairfax County Sheriff's Office
- Superintendent, -Fairfax County Public Schools

Standing Community Membership Members

Standing Community Members shall be Standing Members with unlimited terms. Standing Community Members shall designate a principal representative, with an alternate, to serve on the Council and shall inform Fairfax County Support Staff of the name and contact information of those individuals. Standing Community Members continue their membership until they resign or are removed from the Council.

Standing Community Members shall include organizations designated as Standing

Community Members by the Nominations Committee, as detailed below, and the following organizations:

Fairfax ~~Up to 24 community leader representatives from the following list:~~

- ~~Representative, Fairfax~~ Bar Association
- ~~Representative,~~ Faith Communities in Action Domestic Violence Prevention Task Force
- ~~Representative,~~ George Mason University
- Legal Services of Northern Virginia
- INOVA
- SANE program
- Northern Virginia Community College
- League of Women Voters of the Fairfax Area

At Large Community Members

At Large Community Members shall be either Individual or Organizational At Large Members with limited terms. Individual At Large Community Members may include representatives from the following non-exhaustive list:

- Representative, housing provider
- ~~Representative, Legal Services of Northern Virginia~~
- Representative, (minimum three), marginalized and/or underserved populations
- Representative, medical provider
- ~~Representative, Northern Virginia Community College~~
- ~~Representative, League of Women Voters of the Fairfax Area~~
- Representative from a certified Batterer Intervention program
- Representatives, up to 12 at-large

Membership and Council Obligations

~~Each member brings a unique and positive contribution to the overall vision and mission of the Council. The Council recognizes an effective and coordinated response to domestic violence requires collaboration across the entire community, at all levels. To achieve this coordinated response, an ongoing commitment and consistent participation from our leaders, partners, and community is integral to our planning and response efforts.~~

Member Obligations

- ~~• Appointed members~~Representative from a military installation
- ~~• Representative from survivor Community~~
- ~~• Representative from immigrant Community~~

Individual At Large Community Member Terms & Appointment

Individual At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms. Individual At Large Community Members will be nominated for appointment and reappointment by the Nominations Committee and confirmed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Individual At Large Community Members are not permitted to designate an alternate.

Organizational At Large Community Member Terms & Appointment

Organizations may apply to the Nominations Committee to become Organizational At Large Community Members of the Council, to be represented by the organization's executive director, or his or her alternate. Once approved by the Nominations Committee, Organizational At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms.

Designation of Organizational At Large Community Members as Standing Community Members

Any organization that has been an Organizational At Large Community Member for at least one three-year term may apply to be designated as a Standing Community Member.

Resignation & Removal of Members

In the event a Member is unable to fulfill his/her obligations, a Member may resign upon written notice to the Chairperson of the Council and the County-Wide Domestic Violence Coordinator. The Council may decide to appoint a replacement for the remainder of any applicable term. Members may be removed for cause, or for repeatedly failing to comply with membership obligations after multiple reminders to do so, by a majority vote of the Leadership Facilitation Group. The Council's authority to appoint or remove Members under these bylaws neither limits nor waives the Board of Supervisors' authority to remove Members as provided by law.

Member Obligations

All Members are expected to participate actively and consistently in the work of the Council, provide thoughtful input into ~~discussion~~discussions, focus on the best interests of the group rather than personal interests, and work towards accomplishment of ~~the outlined goals.~~ Members will agree upon goals. Members will focus on the best interests of those we serve, including people from diverse backgrounds with varying degrees of access to resources.

Members will:

- ~~1) 1) _____~~ attend ~~all~~as many Council meetings;
- ~~2) have one vote;~~
~~have an understanding of as possible; with either the Member or his or her alternate attending at least three meetings per year;~~
- ~~2) understand relevant~~ issues in the community and have the ability to provide —input on an issue or decision;
- ~~3) notify primary staff contact, if he/she is unable to make a meeting;~~
- ~~4) be respectful of others opinions and ideas;~~
~~3) treat information shared at Council meetings and during Council activities with discretion;~~
- ~~5) 4) _____~~ actively participate in ~~the discussions with openness and honesty;~~
- ~~6) be thoroughly prepared for each meeting;~~
- ~~7) maintain the confidentiality agreed upon;~~
- ~~8) share equally in the responsibility to reach consensus successfully;~~
- ~~9) be responsible for appointing a chairperson;~~
- ~~10) have the ability to bring a matter or concern to the attention of the council, prior to the regularly scheduled meeting, to be placed on the agenda by contacting the Chairperson or Domestic Violence County wide coordinator.~~

~~If a council member cannot make a meeting or obligation, he/she will notify the primary staff contact of absence and shall designate an alternate to represent the organization on his/her behalf. The alternate will:~~

- ~~1) serve and vote in place of the appointed council member;~~
- ~~2) have an understanding of the issues in the community and have the ability to provide input on an issue or decision and participate in discussion.~~

~~Community Membership Obligations and Terms~~

~~Community members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms. Community members~~

- ~~1) will be selected by the nomination ad hoc committee and appointed by the full council;~~
- ~~2) share the same rights and responsibilities as the “Member Obligations” listed above.~~

Chairperson's Obligations and Terms

~~The Council shall appoint a chairperson to serve a three (3) year term on the and identifying new Council. The chairperson shall:~~

- ~~1) be a resident of Fairfax County;~~
- ~~2) collaborate with domestic violence staff/contacts in the development of council meeting agendas;~~
- ~~3) partner and serve as a liaison to DV Network;~~
- ~~4) ensure active participation and consistent attendance by all members;~~
- ~~5) be nominated by the ad hoc committee; and be voted and appointed by the full Council;~~
- ~~6) establish special or ad hoc committees as needed.~~

Election of Chairperson and Community Membership

~~A nomination ad hoc committee will form one year prior to the close of the three year term.~~

~~The ad hoc committee will solicit names for community membership from organizations and individuals who have knowledge, expertise, and/or experience in the DV area and other leadership; and~~

- ~~1) The ad hoc committee will seek names for chairperson from the full council.~~
- ~~2) The ad hoc committee will bring forward names of the nominated community membership and chairperson to the full committee at their October meeting for vote.~~

~~-5) propose agenda items as appropriate in advance of Council meetings.~~

Members are expected to attend all Council meetings, and all meetings of Committees and Work Groups to which they are assigned. If a Member cannot attend a meeting, the Member will notify the primary County staff contact of the anticipated absence.

Designated Alternates

Government Members, Standing Community Members, and Organizational At Large Community Members may designate principal and alternate representatives in accordance with these bylaws. In the event a Member or Member's principal representative, as the case may be, cannot personally attend a meeting, the designated alternate may serve and vote in place of the principal Member or representative for that meeting.

Chairperson

Term & Appointment

The Council shall appoint a Chairperson to serve a three (3) year term. The Nominations Committee will bring forward names of candidates for Chairperson to the full Council for a vote. Nominees must be a resident of Fairfax County and possess the necessary experience individually and in the community to fulfill the duties listed below. The Chairperson will be elected by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

The three-year term can be extended for additional three-year terms by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

Membership ~~Resignation~~ Requirement

The Chairperson shall either be a current Council Member or will become a Council Member immediately upon appointment.

Duties

The Chairperson shall:

- 1) as directed by the Council, bring the actions and concerns of the Council to the Board of Supervisors;
- 2) as appropriate and as directed by the Council, communicate with elected officials, and others where a coordinated community response is needed to remedy a significant barrier to victim safety and services;
- 3) collaborate with staff and other appropriate partners in the development of Council meeting agendas;
- 4) lead all meetings of the Council in accordance with these bylaws;
- 5) partner with, and serve as a liaison to, the DV Network (the Chairperson may designate others to assist him or her with this task);
- 6) encourage active participation and consistent attendance by all Members; and
- 7) establish Committees and Work Groups as requested by the Council or Leadership Facilitation Group.

Vacancies

If the Chairperson's Office becomes vacant for any reason, it shall be filled by an election at the next regular meeting. The newly elected Chairperson shall complete the unexpired term of the Chairperson succeeded. Prior to the election of any replacement Chairperson, all Members shall be provided with notice of the proposed election before the meeting at which the replacement election will be held.

Meetings & Actions of Council

The Council meets four (4) times a year, typically in the months of January, April, July, and October.

The Council is not authorized to commit Fairfax County to any expenditure of funds or to the adoption of any specific policies or programs. However, the Council may take actions to guide the development of a coordinated and collaborative community response to domestic violence in Fairfax County. The Council may advise the Board of Supervisors on a range of proposed domestic violence policies, programs, and expenditures.

Compliance with the Freedom of Information Act

The Council, its Committees, Subcommittees, and Work Groups constitute public bodies under, and are therefore subject to, the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 *et seq.*, as amended ("VFOIA").

~~All In the event a council member is unable to fulfill his/her obligations, a member may resign upon written notice to the Chair of the Council and the County Wide Domestic Violence Coordinator. The council may elect to appoint a replacement immediately.~~

Meeting Structure and meetings shall be open to the public except as provided under the VFOIA. Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Notice and Agenda

Notice and the agenda of all meetings shall be provided as required under VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to all Members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Voting

A quorum is necessary for a vote. One third of the Members shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Members present and voting. Upon the request of any Member, the vote of each member on any issue shall be recorded in the minutes. All votes shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct

Except as otherwise provided by Virginia law or by these Bylaws, all meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised, and except as specifically authorized by VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Public Access

For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under VFOIA, all materials furnished to Members shall be made available for public inspection at the same time such documents are furnished to the Members. Pursuant to VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Council proceedings.

Fairfax County Staff Support of Council

~~The council meets four (4) times a year in the months of January, April, July and October for two (2) hours in length.~~

Fairfax County

~~All decisions requiring a vote shall be made, in person, by majority vote of the members in attendance.~~

~~Four (4) permanent committees will carry out the work of the goal areas. Council members are expected to be active in, at least one (1) committee of their choice. In addition, each committee area will:~~

- ~~1) work collaboratively with the Domestic Violence (DV) Network, the Domestic Violence Fatality Review Team (DVFRT), the Domestic Violence Action Center (DVAC), and our council partners;~~
- ~~2) be responsible for electing two co-chairs within their respective committee;~~
- ~~3) be responsible for setting their own dates and times to meet outside of the regular scheduled council area;~~
- ~~4) setting their own strategic area and action plan;~~
- ~~5) be responsible for reporting out at Council meetings to the full group.~~

Support of Council

~~The Office for Women &~~ Domestic and Sexual Violence Services will provide principal staff support ~~for the Council~~ through the County-Wide Domestic Violence Coordinator. Under the leadership of the Deputy County Executive, the Director of Family Services, and the County-Wide Domestic Violence Coordinator, staff from various ~~county~~County and community agencies will also provide technical and analytical support.

Amendments

Records

Fairfax County Domestic and Sexual Violence Services support staff shall ensure that minutes of meetings are recorded as required under VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. Fairfax County Domestic and Sexual Violence Services shall provide staff support to review and approve records and minutes of the meeting.

Leadership Facilitation Group

A Leadership Facilitation Group comprised of Council and Community Members shall be formed and will serve as the executive leadership of the Council. The Leadership Facilitation Group is responsible for helping to facilitate the strategic direction of the Council and ensuring the work of Committees and Work Groups is ongoing. This body will maintain a stable composition with additional Members participating as needed, at the invitation of the Group, depending on identified specific initiatives.

The Leadership Facilitation Group shall be comprised of the following:

- Chairperson
- Director Domestic and Sexual Violence Services
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- DV Network Chair
- DV Network Leader
- County Sheriff's Office
- Assistant Superintendent for Special Services, Fairfax County Public Schools
- Executive Director of Nonprofit
- Committee Chairs
- Representative from Survivor Community
- Representative from Immigrant Community

All meetings of the Leadership Facilitation Group shall comply with the notice, meeting, records, and other requirements of VFOIA.

Nominations Committee

Because of the central and ongoing importance of its work, the Nominations Committee is deemed to be a standing committee. The Nominations Committee shall be composed of three community members and two government members, appointed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Nominations Committee members shall serve for a three-year term and can be reappointed to additional terms without limitation.

The Nominations Committee shall comply with the notice, meeting, records, and other requirements of VFOIA. Nominations Committee meetings may be held at the call of the Nominations Committee Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Committees & Work Groups

Committees and Work Groups shall be tasked by the Council with advising the Council or performing specifically delegated functions of the Council, as required.

All Committees and Work Groups shall comply with the notice, meeting, records, and other requirements of VFOIA. To the extent practicable, any such Committees or Work Groups shall be composed of at least four members. Committee and Work Group meetings may be held at the call of the Committee or Work Group Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Annual Report

The Council shall prepare an annual report to the Board of Supervisors that describes the actions of the Council and plans for future actions and activities. If written, this report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

Compliance with Law & County Policy

The Council shall comply with all Virginia laws, including but not limited to VFOIA, the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 *et seq.*, as

amended, with all County ordinances, and with all applicable County policies. In case of a conflict between a provision of these Bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

Amendments

These Bylaws may be amended by the Council by adopting the proposed amendment or amendments and presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to these bylaws shall become effective upon approval by the Board of Supervisors.

~~The charter and bylaws may be amended at the discretion of the council to support the ongoing development of the mission, vision and goals of the Domestic Violence Prevention, Policy and Coordinating Council.~~

Council to End Domestic Violence

Bylaws

First Enacted October 18, 2012

Board of Supervisors Approved January 8, 2013

Amended April 16, 2015

Amended October 8th, 2019

Background

In June 2002, the Fairfax County Board of Supervisors formed a workgroup to examine the County's response to domestic violence and to identify best practices related to domestic violence issues, policy, and coordination. The workgroup included representatives from the County Executive's office, key County human service agencies, public safety, the judiciary, and community-based organizations.

After review of best practices in the region and around the nation, the workgroup concluded that the community's domestic violence response would benefit by bringing together top leadership of county and community organizations to form the Fairfax County Domestic Violence Prevention, Policy and Coordinating Council ("Council"), to act as an advisory body to the Board of Supervisors and to lead the development of a coordinated response on domestic violence issues. The Council was established on February 10, 2003, by the Board of Supervisors.

In July 2012, an ad hoc charter workgroup was formed to strengthen the function and scope of responsibility of the Council. The charter and bylaws were adopted on January 8, 2013. The bylaws were most recently amended on October 8th, 2019, and the Council was renamed the Council to End Domestic Violence. The 2019 amendments arose out of a standard review to conform the document to the emerging interests of the Council.

Mission and Purpose

The mission of the Council to End Domestic Violence is to **unite** senior-level public officials and community leaders; to **advise** the Board of Supervisors on a range of domestic violence policy, legislative, and program issues; and to **guide** the development of a coordinated and collaborative community response to domestic violence in Fairfax County.

Council Membership

The Council shall be comprised of Government Members and Community Members representing governmental agencies, community organizations, and individuals. Community

Members shall be either “Standing Members” or “At Large Members,” as is further detailed below.

The Council recognizes that an effective and coordinated response to domestic violence requires collaboration across the entire community, at all levels. To achieve this coordinated response, an ongoing commitment and consistent participation from our leaders, partners, and community are integral to the Council’s planning and response efforts.

Government Members

Government Members shall be Standing Members with unlimited terms, each with a designated alternate, and shall include:

- One member of the Fairfax County Board of Supervisors
- Chief Judge, Circuit Court
- Chief Judge, General District Court
- Chief Judge, Juvenile and Domestic Relations District Court
- Chief Magistrate
- Chief of Police, Fairfax City
- Chief of Police, Fairfax County
- Chief of Police, Town of Herndon
- Chief of Police, Town of Vienna
- Commonwealth's Attorney
- County Attorney
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- Director, Juvenile and Domestic Relations Court Services
- Director, Domestic and Sexual Violence Services
- Director, Health Department
- Director, Department of Neighborhood and Community Services
- Director, Department of Public Safety Communications
- Director, Department of Family Services
- Director, Office to Prevent and End Homelessness
- Executive Director, Fairfax-Falls Church Community Services Board
- Fire Chief, Department of Fire and Rescue
- Public Defender
- Representative, Fairfax County Commission for Women
- Sheriff, Fairfax County Sheriff’s Office
- Superintendent, Fairfax County Public Schools

Standing Community Members

Standing Community Members shall be Standing Members with unlimited terms. Standing Community Members shall designate a principal representative, with an alternate, to serve on the Council and shall inform Fairfax County Support Staff of the name and contact information

of those individuals. Standing Community Members continue their membership until they resign or are removed from the Council.

Standing Community Members shall include organizations designated as Standing Community Members by the Nominations Committee, as detailed below, and the following organizations:

- Fairfax Bar Association
- Faith Communities in Action Domestic Violence Prevention Task Force
- George Mason University
- Legal Services of Northern Virginia
- INOVA
- SANE program
- Northern Virginia Community College
- League of Women Voters of the Fairfax Area

At Large Community Members

At Large Community Members shall be either Individual or Organizational At Large Members with limited terms. Individual At Large Community Members may include representatives from the following non-exhaustive list:

- Representative, housing provider
- Representative, (minimum three), marginalized and/or underserved populations
- Representative, medical provider
- Representative from a certified Batterer Intervention program
- Representatives, up to 12 at-large
- Representative from a military installation
- Representative from survivor Community
- Representative from immigrant Community

Individual At Large Community Member Terms & Appointment

Individual At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms. Individual At Large Community Members will be nominated for appointment and reappointment by the Nominations Committee and confirmed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Individual At Large Community Members are not permitted to designate an alternate.

Organizational At Large Community Member Terms & Appointment

Organizations may apply to the Nominations Committee to become Organizational At Large Community Members of the Council, to be represented by the organization's executive director, or his or her alternate. Once approved by the Nominations Committee, Organizational At Large Community Members will serve a three (3) year term and may be reappointed to the Council for an unlimited number of terms.

Designation of Organizational At Large Community Members as Standing Community Members

Any organization that has been an Organizational At Large Community Member for at least one three-year term may apply to be designated as a Standing Community Member.

Resignation & Removal of Members

In the event a Member is unable to fulfill his/her obligations, a Member may resign upon written notice to the Chairperson of the Council and the County-Wide Domestic Violence Coordinator. The Council may decide to appoint a replacement for the remainder of any applicable term. Members may be removed for cause, or for repeatedly failing to comply with membership obligations after multiple reminders to do so, by a majority vote of the Leadership Facilitation Group. The Council's authority to appoint or remove Members under these bylaws neither limits nor waives the Board of Supervisors' authority to remove Members as provided by law.

Member Obligations

All Members are expected to participate actively and consistently in the work of the Council, provide thoughtful input into discussions, focus on the best interests of the group rather than personal interests, and work towards accomplishment of agreed-upon goals. Members will focus on the best interests of those we serve, including people from diverse backgrounds with varying degrees of access to resources.

Members will:

- 1) attend as many Council meetings as possible; with either the Member or his or her alternate attending at least three meetings per year;
- 2) understand relevant issues in the community and have the ability to provide input on an issue or decision;
- 3) treat information shared at Council meetings and during Council activities with discretion;
- 4) actively participate in appointing a Chairperson and identifying new Council membership and other leadership; and
- 5) propose agenda items as appropriate in advance of Council meetings.

Members are expected to attend all Council meetings, and all meetings of Committees and Work Groups to which they are assigned. If a Member cannot attend a meeting, the Member will notify the primary County staff contact of the anticipated absence.

Designated Alternates

Government Members, Standing Community Members, and Organizational At Large Community Members may designate principal and alternate representatives in accordance with these bylaws. In the event a Member or Member's principal representative, as the case may be, cannot personally attend a meeting, the designated alternate may serve and vote in place of the principal Member or representative for that meeting.

Chairperson

Term & Appointment

The Council shall appoint a Chairperson to serve a three (3) year term. The Nominations Committee will bring forward names of candidates for Chairperson to the full Council for a vote. Nominees must be a resident of Fairfax County and possess the necessary experience individually and in the community to fulfill the duties listed below. The Chairperson will be elected by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

The three-year term can be extended for additional three-year terms by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council.

Membership Requirement

The Chairperson shall either be a current Council Member or will become a Council Member immediately upon appointment.

Duties

The Chairperson shall:

- 1) as directed by the Council, bring the actions and concerns of the Council to the Board of Supervisors;
- 2) as appropriate and as directed by the Council, communicate with elected officials, and others where a coordinated community response is needed to remedy a significant barrier to victim safety and services;
- 3) collaborate with staff and other appropriate partners in the development of Council meeting agendas;
- 4) lead all meetings of the Council in accordance with these bylaws;
- 5) partner with, and serve as a liaison to, the DV Network (the Chairperson may designate others to assist him or her with this task);
- 6) encourage active participation and consistent attendance by all Members; and
- 7) establish Committees and Work Groups as requested by the Council or Leadership Facilitation Group.

Vacancies

If the Chairperson's Office becomes vacant for any reason, it shall be filled by an election at the next regular meeting. The newly elected Chairperson shall complete the unexpired term of the Chairperson succeeded. Prior to the election of any replacement Chairperson, all Members shall be provided with notice of the proposed election before the meeting at which the replacement election will be held.

Meetings & Actions of Council

The Council meets four (4) times a year, typically in the months of January, April, July, and October.

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All meetings shall be open to the public except as provided under the VFOIA. Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Notice and Agenda

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Voting

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Fairfax County Staff Support of Council

Fairfax County Domestic and Sexual Violence Services will provide principal staff support for the Council through the County-Wide Domestic Violence Coordinator. Under the leadership of the Deputy County Executive, the Director of Family Services, and the County-Wide Domestic Violence Coordinator, staff from various County and community agencies will also provide technical and analytical support.

Records

Fairfax County Domestic and Sexual Violence Services support staff shall ensure that minutes of meetings are recorded as required under VFOIA. Minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. Fairfax County Domestic and Sexual Violence Services shall provide staff support to review and approve records and minutes of the meeting.

Leadership Facilitation Group

A Leadership Facilitation Group comprised of Council and Community Members shall be formed and will serve as the executive leadership of the Council. The Leadership Facilitation Group is responsible for helping to facilitate the strategic direction of the Council and ensuring the work of Committees and Work Groups is ongoing. This body will maintain a stable composition with

additional Members participating as needed, at the invitation of the Group, depending on identified specific initiatives.

The Leadership Facilitation Group shall be comprised of the following:

- Chairperson
- Director Domestic and Sexual Violence Services
- Deputy County Executive, Health and Human Services
- Deputy County Executive, Public Safety
- DV Network Chair
- DV Network Leader
- County Sheriff's Office
- Assistant Superintendent for Special Services, Fairfax County Public Schools
- Executive Director of Nonprofit
- Committee Chairs
- Representative from Survivor Community
- Representative from Immigrant Community

All meetings of the Leadership Facilitation Group shall comply with the notice, meeting, records, and other requirements of VFOIA.

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Because of the central and ongoing importance of its work, the Nominations Committee is deemed to be a standing committee. The Nominations Committee shall be composed of three community members and two government members, appointed by a majority vote of the Members in attendance at a regularly scheduled meeting of the Council. Nominations Committee members shall serve for a three-year term and can be reappointed to additional terms without limitation.

The Nominations Committee shall comply with the notice, meeting, records, and other requirements of VFOIA. Nominations Committee meetings may be held at the call of the Nominations Committee Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Committees & Work Groups

Committees and Work Groups shall be tasked by the Council with advising the Council or performing specifically delegated functions of the Council, as required.

All Committees and Work Groups shall comply with the notice, meeting, records, and other requirements of VFOIA. To the extent practicable, any such Committees or Work Groups shall be composed of at least four members. Committee and Work Group meetings may be held at

the call of the Committee or Work Group Chair, the Council Chairperson, or at the request of two Members, with notice to all Members.

Annual Report

The Council shall prepare an annual report to the Board of Supervisors that describes the actions of the Council and plans for future actions and activities. If written, this report shall be provided to the Clerk to the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

Compliance with Law & County Policy

The Council shall comply with all Virginia laws, including but not limited to VFOIA, the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all applicable County policies. In case of a conflict between a provision of these Bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

Amendments

These Bylaws may be amended by the Council by adopting the proposed amendment or amendments and presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to these bylaws shall become effective upon approval by the Board of Supervisors.

Board Agenda Item
October 29, 2019

10:30 a.m.

Matters Presented by Board Members

11:20 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. *Glen M. Sylvester v. Brian C. Geschke*, Record No. 190203 (Va. Sup. Ct.)
 - 2. *Curtiss Davis v. Edwin C. Roessler Jr.*, Case No. 2:19-cv-1254 (E.D. Va.)
 - 3. Claim of Bonnie Coogan, a five-year-old minor, and her parents, Robert and Tanya Coogan, related to a dog bite at the Animal Shelter on January 23, 2018
 - 4. In the Matter of a Petition Filed by Joseph Glean and Petitioners, Seeking an Audit of Certain Sewer Fund Accounts, CL-2019-0013070 (Fx. Co. Cir. Ct.)
 - 5. *Joseph A. Glean v. Board of Supervisors, Michael J. McGrath, and Christopher J. Pietsch*, Case No. CL-2019-0001067 (Fx. Co. Cir. Ct.); *Joseph A. Glean v. Board of Supervisors*, Case No. CL-2019-0002450 (Fx. Co. Cir. Ct.); *Joseph A. Glean v. Board of Supervisors, Michael J. McGrath, and Christopher J. Pietsch*, Case No. CL-2019-0002360 (Fx. Co. Cir. Ct.)
 - 6. *Jerry Mobley v. John Schmalenberg*, Case No. CL-2018-0012130 (Fx. Co. Cir. Ct.)
 - 7. *Valerie Ney v. Anthony Enendu and Kelly A. Loss*, Case No. GV19-018571 (Fx. Co. Gen. Dist. Ct.)
 - 8. *Dilia Martinez Alvarado v. Anthony Enendu and Kelly A. Loss*, Case No. GV19-018572 (Fx. Co. Gen. Dist. Ct.)
 - 9. *Erica M. Allen Winslow v. Ramona Simmons*, Case No. GV19-008954 (Fx. Co. Gen. Dist. Ct.)
 - 10. *Board of Zoning Appeals of Fairfax County, Virginia v. Board of Supervisors of Fairfax County, et al.*, Case No. 190391 (Va. Sup. Ct.) (Springfield District)

11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Hugo F. Amaya*, Case No. CL-2019-0013901 (Fx. Co. Cir. Ct.) (Braddock District)
12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Brookhaven LLC*, Case No. GV19-026167 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Kyle Marble*, Case No. GV19-025601 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. James L. Price*, Case No. CL-2018-0017871 (Fx. Co. Cir. Ct.) (Lee District)
15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Julio C. Lazo and Sonia M. Lazo*, Case No. CL-2019-0013844 (Fx. Co. Cir. Ct.) (Lee District)
16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Shafiquel Sikder*, Case No. CL-2019-0013845 (Fx. Co. Cir. Ct.) (Lee District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mount Vernon Internal Medicine, P.C.*, Case No. CL-2019-0011331 (Fx. Co. Cir. Ct.) (Mount Vernon District)
18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Bill H. Waller*, Case No. GV19-025602 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
19. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Wardeh S. Rabadi*, Case No. GV19-026166 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
20. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Reyna Alvarez*, Case No. CL-2019-0013268 (Fx. Co. Cir. Ct.) (Providence District)
21. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Chiang Ching Kuo Foundation for International Scholarly Exchange, and Greensboro Square Association of Unit Owners, Inc.*, Case No. CL-2019-0013382 (Fx. Co. Cir. Ct.) (Providence District)
22. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Martinez Properties, LC, and Greensboro Square Association of Unit Owners, Inc.*, Case No. CL-2019-0013384 (Fx. Co. Cir. Ct.) (Providence District)
23. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Martin D. Siegel Living Trust, and Greensboro Square Association of Unit Owners, Inc.*, Case No. CL-2019-0013383 (Fx. Co. Cir. Ct.) (Providence District)
24. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Rouben A. Yedigarian, and Greensboro Square Association of Unit Owners, Inc.*, Case No. CL-2019-0013385 (Fx. Co. Cir. Ct.) (Providence District)

25. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. 8373B Greensboro, LLC, and Greensboro Square Association of Unit Owners, Inc.*, Case No. CL-2019-0013457 (Fx. Co. Cir. Ct.) (Providence District)
26. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Hummingbird Holdings, LLC, and Greensboro Square Association of Unit Owners, Inc.*, Case No. CL-2019-0013494 (Fx. Co. Cir. Ct.) (Providence District)
27. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Judy V. Marshall*, Case No. GV19-025605 (Fx. Co. Gen. Dist. Ct.) (Providence District)
28. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Kathleen E. Sprague and Timothy F. Showalter*, Case No. GV19-026357 (Fx. Co. Gen. Dist. Ct.) (Providence District)
29. *Leslie B. Johnson, Fairfax County Zoning Administrator v. David Morgan and Nyaint Morgan*, Case No. CL-2019-0013580 (Fx. Co. Cir. Ct.) (Springfield District)
30. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Arnold A. Souders, Jr.*, Case No. GV19-025604 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
31. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Arnold A. Souders, Jr.*, Case No. GV19-025603 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
32. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Quoc K. Troung*, Case No. GV19-026356 (Fx. Co. Gen. Dist. Ct.) (Sully District)

Board Agenda Item
October 29, 2019

3:00 p.m.

Public Hearing on CP 86-C-121-15 (NS Reston LLC) to Approve the Conceptual Plan for RZ 86-C-121 to Permit Residential Development, Located on Approximately 36,553 Square Feet of Land Zoned PRC (Hunter Mill District) (Concurrent with PRC 86-C-121-06)

and

Public Hearing on PRC 86-C-121-06 (NS Reston LLC) to Approve the PRC Plan Associated with RZ 86-C-121 to Permit Residential Development, Located on Approximately 36,553 Square Feet of Land Zoned PRC (Hunter Mill District) (Concurrent with CP 86-C-121-15)

This property is located on the N. side of New Dominion Parkway, W. of Fountain Dr. Tax Map 17-1 ((17)) 4.

This property is located on the N. side of New Dominion Parkway, W. of Fountain Dr. Tax Map 17-1 ((17)) 4.

On September 24, 2019, the Board of Supervisors deferred decision only to October 15, 2019, at 5:30 p.m. On October 15, 2019, the Board of Supervisors moved to conduct a second public hearing on October 29, 2019, at 3:00 p.m.

PLANNING COMMISSION RECOMMENDATION:

On June 19, 2019, the Planning Commission voted 7-0-1 (Commissioner Hurley abstained from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting) to recommend to the Board of Supervisors denial of CP 86-C-121-15 and that the Concept Plan be considered as part of the review of the PRC plan, and denial of PRC 86-C-121-06.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
William Mayland, Planner, DPD

Board Agenda Item
October 29, 2019

REVISED

3:00 p.m.

Public Hearing on RZ 2019-BR-007 (Virendra Bery and Amit Bery) to Rezone from R-1 to R-3 to Permit Residential Development with a Total Density of 2.15 Dwelling Units per Acre, Located on Approximately 2.32 Acres of Land (Braddock District)

This property is located on the N. side of Maury Rd. approx. 400 ft. W. of its intersection with Powell Rd. Tax Map 69-3 ((2)) 14 and 14A.

PLANNING COMMISSION RECOMMENDATION:

On October 24, 2019, the Planning Commission voted 11-0 (Commissioner Murphy was absent from the meeting) to defer the decision only on this application to a date certain of November 20, 2019. The Planning Commission recommendation will be forwarded following decision. The Planning Commission further voted 11-0 (Commissioner Murphy was absent from the meeting) to recommend to the Board of Supervisors that its public hearing on this application be rescheduled to a date certain of January 28, 2020.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Zachary Fountain, Planner, DPD

Board Agenda Item
October 29, 2019

3:00 p.m.

Public Hearing on SE 2018-MV-007 (National Trust for Historic Preservation in the United States) to Permit a Cultural Center, Located on Approximately 125.6 Acres of Land Zoned R-1, HC and HD (Mount Vernon District)

This property is located at 8907, 8900 and 9000 Richmond Hwy., Alexandria, 22309, and VDOT Surplus right-of-way. Tax Map 109-2 ((1)) 2, 3 and 4 and Surplus VDOT right-of-way.

PLANNING COMMISSION RECOMMENDATION:

On October 17, 2019, the Planning Commission voted 10-0 (Commissioners Strandlie and Tanner were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2018-MV-007, subject to the development conditions dated October 17, 2019;
- Modification of transitional screening and waiver of barrier requirements of Sect. 13-303 and Sect. 13-304 pursuant to Sect. 13-305 of the Zoning Ordinance, as shown on the SE Plat except along the western property boundary; and
- Waiver of the Countywide Trail Plan requirements in the following locations: Jeff Todd Way (Route 619), and retain the existing 5-foot wide pedestrian walkway instead of a 10-foot wide major paved trail along the western side, and eliminate small section of trail as shown on the SE plat on the southwest corner of the property.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Wanda Suder, Planner, DPD

Board Agenda Item
October 29, 2019

3:30 p.m.

Public Hearing on PCA 2016-HM-035/CDPA 2016-HM-035 (CRS Sunset Hills, LC) to Amend the Proffers and Conceptual Development Plan for RZ 2016-HM-035, Previously Approved for a Mixed-Use Development to Permit Modifications to Proffers and Site Design at a 3.68 Floor Area Ratio, Located on Approximately 8.44 Acres of Land Zoned PDC (Hunter Mill District)

This property is located on the S. side of Sunset Hills Rd., W. side of Wiehle Ave., N. side of Reston Station Blvd. Tax Map 17-4 ((1)) 14A, 17A (pt.), 17B and 20.

PLANNING COMMISSION RECOMMENDATION:

On October 16, 2019, the Planning Commission voted 10-0 (Commissioners Tanner and Strandlie were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA 2016-HM-035 and the associated Conceptual Development Plan Amendment, subject to the execution of proffered conditions consistent with those dated September 30, 2019;
- Modification of Sect. 2-505 of the Zoning Ordinance on the Use Limitations on Corner Lots to permit the proposed building, landscaping, and sign locations within sight triangles formed by the streets along the corner lot as shown on the CDPA/FDPA and as proffered;
- Modification of Sect. 11-203 of the Zoning Ordinance for the loading space requirement in favor of the loading spaces depicted on the CDPA/FDPA;
- Modification of Sect. 13-303 of the Zoning Ordinance for the transitional screening and waiver of Sect. 13-304 of the Zoning Ordinance for barrier requirement in favor of the landscaping shown on the CDPA/FDPA;
- Modification of Par. 4 of Sect. 17-201 of the Zoning Ordinance for the widening of Sunset Hills Road in favor of that shown on the CDPA/FDPA and in the proffers; and

Board Agenda Item
October 29, 2019

- Modification of Public Facility Manual Standards 12-0510 4E(5) to permit a reduction of the minimum planting width requirement from eight feet to four feet as shown on the CDPA/FDPA and as proffered.

In a related action, the Planning Commission voted 10-0 (Commissioners Tanner and Strandlie were absent from the meeting) to approve FDPA 2016-HM-035, subject to the development conditions dated October 2, 2019.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Mary Ann Tsai, Planner, DPD

Board Agenda Item
October 29, 2019

3:30 p.m.

Public Hearing on PCA 82-P-069-23/CDPA 82-P-069-10 (Fair Lakes North & South L.C.) to Amend Proffers Associated with PCA 82-P-069-14 and PCA 82-P-069-20 to Permit a Continuing Care Facility and Residential Development or Independent Living Facility and Residential Development and Associated Modifications to Proffers and Site Design at a Floor Area Ratio of 0.79 Exclusive of ADUs, Located on Approximately 23.61 Acres of Land Zoned PDC and WS (Springfield District) (Concurrent with PCA 82-P-069-22, PCA 82-P-069-17-01, and PCA 82-P-069-18-01)

and

Public Hearing on PCA 82-P-069-17-01 (Fair Lakes North & South L.C.) to Amend the Proffers Associated with PCA 82-P-069-17 Previously Approved for Mixed Use Development to Permit Mixed Use Development with Associated Modifications to Proffers, Located on Approximately 5.6 Acres of Land Zoned PDC and WS (Springfield District) (Concurrent with PCA 82-P-069-18-01, PCA 82-P-069-22, PCA 82-P-069-23, and CDPA 82-P-069-10)

and

Public Hearing on PCA 82-P-069-18-01 (Fair Lakes North & South L.C.) to Amend the Proffers Associated with PCA 82-P-069-18 Previously Approved for Retail and Office Development to Permit Retail and Office Development with Associated Modifications to Proffers, Located on Approximately 13.96 Acres of Land Zoned PDC and WS (Springfield District) (Concurrent with PCA 82-P-069-17-01, PCA 82-P-069-22, PCA 82-P-069-23, and CDPA 82-P-069-10)

and

Public Hearing on PCA 82-P-069-22 (Fair Lakes North & South L.C.) to Amend Proffers Associated with PCA 82-P-069-19 to Permit the Continuation of a Drive-in Financial Institution and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.10, Located on Approximately 4.7 Acres of Land Zoned PDC and WS (Springfield District) (Concurrent with PCA 82-P-069-23, CDPA 82-P-069-10, PCA 82-P-069-17-01, and PCA 82-P-069-18-01)

This property is located in the N.E. quadrant of the intersection of Fairfax County Pkwy. and Fair Lakes Pkwy. Tax Map 45-4 ((1)) 25B, 25E1 and 25E2.

Board Agenda Item
October 29, 2019

This property is located on the N. side of Fair Lakes Cir., S.W. of the E. intersection with Fair Lakes Pkwy. Tax Map 55-2 ((1)) 6A and 8A2.

This property is located S.W. of the W. intersection of Fair Lakes Pkwy. and Fair Lakes Cir. Tax Map 55-2 ((4)) 12, 16, 19 and 26A.

This property is located S.E. of the W. intersection of Fair Lakes Cir. and Fair Lakes Pkwy. Tax Map 55-2 ((5)) A1, B, and D4 (pt.).

PLANNING COMMISSION RECOMMENDATION:

On October 17, 2019, the Planning Commission voted 10-0 (Commissioners Strandlie and Tanner were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 82-P-069-23 and its associated conceptual development plan amendment, CDPA 82-P-069-10, subject to the execution of proffered conditions consistent with those dated October 14, 2019;
- Approval of PCA 82-P-069-22, subject to the execution of proffered conditions consistent with those dated July 18, 2019;
- Approval of PCA 82-P-069-17-01, subject to the execution of proffered conditions consistent with those dated September 26, 2019;
- Approval of PCA 82-P-069-18-01, subject to the execution of proffered conditions consistent with those dated July 18, 2019;
- Waiver of Par. 2 of Section 11-302 of the Zoning Ordinance to permit the maximum length of a private street to exceed 600 feet;
- Modification of Par. 2 of Sect. 6-207 of the Zoning Ordinance to modify the minimum 200 square foot privacy yard for single family attached dwelling units as shown on the CDPA/FDPA;
- Modification of Par. 5 of Sect. 6-206 of the Zoning Ordinance to permit the gross floor area of dwellings as a secondary use to exceed 50-percent of the gross floor area of the principal uses in Fair Lakes as shown on the CDPA/FDPA;

Board Agenda Item
October 29, 2019

- Modification of Sect. 13-303 of the Zoning Ordinance regarding transitional screening requirements between residential and continuing care facility or residential and independent living facility, in favor of the landscape plantings and site design as shown on the CDPA/FDPA; and
- Waiver of Sect. 13-304 of the Zoning Ordinance regarding barrier requirements between residential and continuing care facility or residential and independent living facility.

In related actions, the Planning Commission voted 10-0 (Commissioners Strandlie and Tanner were absent from the meeting) to:

- Approve FDPA 82-P-069-01-19, subject to the development conditions dated October 15, 2019 and subject to the Board of Supervisors approval of PCA 82-P-069-23; and
- Approve FDPA 82-P-069-09-10, subject to the development conditions dated October 3, 2019 and subject to the Board of Supervisors approval of PCA 82-P-069-22.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Kelly Atkinson, Planner, DPD

Board Agenda Item
October 29, 2019

3:30 p.m.

Public Hearing on SE 2019-PR-015 (Crescendo Studios, LLC) to Permit a Private School of Special Education with Music-Recording Studio as an Accessory Use, Located on Approximately 1.65 Acres of Land Zoned R-3, CRA and HC (Providence District)

This property is located at 8101A Lee Hwy., Falls Church, 22042. Tax Map 49-4 ((1)) 54A and 54D.

PLANNING COMMISSION RECOMMENDATION:

On October 17, 2019, the Planning Commission voted 10-0 (Commissioners Strandlie and Tanner were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of SE 2019-PR-015, subject to the development conditions dated October 2, 2019;
- Waiver of Par. 2 of Sect. 17-201 of the Zoning Ordinance to provide a sharrow along Porter Road;
- Modification of Par. 2 of Sect. 17-201 of the Zoning Ordinance to provide a major paved trail along Lee Highway in favor of the existing sidewalk depicted on the Special Exception Plat;
- Waiver of Par. H of Sect. 13-304 of the Zoning Ordinance to provide a barrier along the southern property line in favor of existing off-site vegetation;
- Waiver of Sect. 13-302 and 13-203 of the Zoning Ordinance to provide interior and peripheral parking lot landscaping in favor of existing vegetation; and
- Waiver of Par. 18 of Sect. 11-203 of the Zoning Ordinance to provide a loading space.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

Board Agenda Item
October 29, 2019

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Kelly Atkinson, Planner, DPD

3:30 p.m.

Public Hearing on RZ 2019-SP-006 (Christopher Land, LLC) to Rezone from R-1, R-3 and HC to R-3 and PDH-3 and HC to Permit Residential Development and a Private School of Special Education with a Total Density of 2.97 Dwelling Units per Acre, Located on Approximately 12.32 Acres of Land (Springfield District) (Concurrent with SEA 97-S-001)

and

Public Hearing on SEA 97-S-001 (Christopher Land, LLC) to Amend SE 97-S-001 Previously Approved for a Private School of Special Education and Parking in R Districts to Modify the Land Area and Development Conditions, Located on Approximately 3.91 Acres of Land Zoned R-1, R-3 and HC (Springfield District) (Concurrent with RZ 2019-SP-006)

This property is located on the S. side of Tuttle Rd. and E. side of Louis Edmond Ct. Tax Map 79-3 ((4)) 26A, 27A1, 27B and 31B.

This property is located at 8519 and 8533 Tuttle Rd., Springfield, 22152. Tax Map 79-3 ((4)) 26A (pt.), 27A1 (pt.) and 31B (pt.).

PLANNING COMMISSION RECOMMENDATION:

On October 24, 2019, the Planning Commission voted 9-0-2 (Commissioner Murphy was absent from the meeting; Commissioners Strandlie and Tanner abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2019-SP-006, subject to the execution of proffered conditions consistent with those dated October 10, 2019;
- Approval of a waiver of Par. 2 of Sect. 11-302 of the Zoning Ordinance to exceed the maximum length of 600 feet for the private street for the PDH-3 District;
- Approval of SEA 97-S-001, subject to the development conditions dated October 1, 2019;

- Approval of a waiver of Par. 1 of Sect. 17-201 for interparcel pedestrian walkways between the private school of special education and the residential development;
- Approval of a reaffirmation of a waiver of Sect. 13-203 of the Zoning Ordinance for the 10-foot peripheral parking lot landscaping strip along Tuttle Road for the school of special education for the existing parking areas associated with the adjacent office use; and
- Approval of a modification of Sect. 13-303 for the transitional screening requirements and waiver of Sect. 13-304 of the Zoning Ordinance for the barrier requirement for the school of special education.

In a related action, the Planning Commission voted 9-0-2 (Commissioner Murphy was absent from the meeting; Commissioners Strandlie and Tanner abstained from the vote) to approve FDP 2019-SP-006, subject to the development conditions dated October 1, 2019.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Wanda Suder, Planner, DPD

Board Agenda Item
October 29, 2019

4:00 p.m.

Public Hearing on Amending and Readopting Fairfax County Code Sections 4-14-1 and 4-14-3 Relating to Real Estate Tax Relief, to Exclude from Total Combined Income the Disability Income of Certain Relatives Living in the Owner's Sole Dwelling

ISSUE:

A public hearing to consider amendments to Fairfax County Code Sections 4-14-1 and 4-14-3 that would exclude the disability income of permanently and totally disabled relatives living in a property owner's sole dwelling from the owner's total combined income, thereby potentially expanding the number of properties that qualify for tax relief.

RECOMMENDATION:

The County Executive recommends that, after holding a public hearing, the Board adopts the proposed amendments to Chapter 4, Article 14 of the Fairfax County Code, with an effective date of January 1, 2020.

TIMING:

On September 24, 2019, the Board authorized advertisement of a public hearing to be held on October 29, 2019, at 4:00 p.m.

BACKGROUND:

Pursuant to Virginia Code §§ 58.1-3210 through -3217, Fairfax County provides income-based real estate tax relief to qualified homeowners based upon income and/or disability if the home is their sole dwelling. For Fiscal Year 2019, the Fairfax County Tax Relief Program approved roughly 7,000 real estate applications representing approximately \$28 million in relief. The availability and extent of relief is based on the "total combined income" of the owner, which is calculated in accordance with Virginia law and Fairfax County Code and includes all income from non-caregiving relatives living in the home regardless of disability.

Virginia Code § 58.1-3212 was amended effective July 1, 2019. Under the revised statute, localities may now exclude the disability income of permanently and totally disabled relatives residing in a taxpayer's sole dwelling from the total combined income calculation.

Board Agenda Item
October 29, 2019

The proposed amendments to Fairfax County Code Sections 4-14-1 and 4-14-3 put that exclusion in place for Fairfax County taxpayers. The proposed amendments also make housekeeping changes to conform the language of the ordinance with the existing requirements in, and current County practice under, state code. This draft revises the effective date to January 1, 2020, aligning implementation of the relief program with the 2020 tax year, and is within the scope of advertisement.

FISCAL IMPACT:

The total amount of relief resulting from this amendment is difficult to estimate because the Department of Tax Administration cannot precisely determine how many individuals will apply and qualify under the revised calculation. It is anticipated that the fiscal impact will be minor.

ENCLOSED DOCUMENTS:

Attachment 1 – Virginia Code § 58.1-3212

Attachment 2 – Proposed Ordinance change to amend and readopt Fairfax County Code Sections 4-14-1 and 4-14-3

STAFF:

Joseph M. Mondoro, Chief Financial Officer

Jaydeep "Jay" Doshi, Director, Department of Tax Administration (DTA)

Gregory A. Bruch, Fiscal Administrator, Supervision Division, DTA

Justin K. Nejad, Management Analyst, Supervision Division, DTA

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

§ 58.1-3212. Local restrictions and exemptions

Pursuant to Article X, Section 6 (b) of the Constitution of Virginia, the General Assembly hereby authorizes the governing body of a county, city or town to establish by ordinance net financial worth or annual income limitations as a condition of eligibility for any exemption or deferral of tax allowed pursuant to this article. If the governing body establishes an annual income limitation, the computation of annual income shall be based on adding together the income received during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) owners of the dwelling who use it as their principal residence, (ii) owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not. A locality may provide in its ordinance that, for the purpose of the computation of annual income, if an individual described in clause (ii) and (iii) is permanently and totally disabled, any disability income received by such person shall not be included. If the governing body establishes a net financial worth limitation, net financial worth shall be based on adding together the net financial worth, including the present value of equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, of the dwelling.

Nothing in this section shall be construed or interpreted as to preclude or prohibit the governing body of a county, city or town from excluding certain sources of income, or a portion of the same, for purposes of its annual income limitation or excluding certain assets, or a portion of the same, for purposes of its net financial worth limitation.

Any county, city, or town that pursuant to this article provides for the exemption from, deferral of, or a combination program of exemptions from and deferrals of real property taxes may exempt or defer the real property taxes of the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated.

No local ordinance shall require that a citizen reside in the jurisdiction for a designated period of time as a condition for qualifying for any real estate tax exemption or deferral program established pursuant to § 58.1-3210.

Code 1950, § 58-760.1; 1971, Ex. Sess., c. 169; 1972, cc. 315, 616; 1973, c. 496; 1974, c. 427; 1976, c. 543; 1977, cc. 48, 453, 456; 1978, cc. 774, 776, 777, 780, 788, 790; 1979, cc. 543, 544, 545, 563; 1980, cc. 656, 666, 673; 1981, c. 434; 1982, cc. 123, 457; 1984, cc. 267, 675; 1989, c. 568; 2011, cc. 438, 496; 2012, c. 299; 2014, c. 767; 2019, c. 16.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**AN ORDINANCE AMENDING AND READOPTING FAIRFAX COUNTY CODE
SECTIONS 4-14-1 AND 4-14-3 RELATING TO REAL ESTATE TAX RELIEF, TO
EXCLUDE FROM TOTAL COMBINED INCOME THE DISABILITY INCOME OF
CERTAIN RELATIVES LIVING IN THE OWNER'S SOLE DWELLING**

Draft of September 26, 2019

**[Change from August 27, 2019, draft presented on
September 24, 2019, appears in brackets]**

**AN ORDINANCE amending and readopting Fairfax County Code
Sections 4-14-1 and 4-14-3 relating to real estate tax relief, to exclude from
total combined income the disability income of certain relatives living in the
owner's sole dwelling.**

Be it ordained by the Board of Supervisors of Fairfax County:

**1. That Sections 4-14-1 and 4-14-3 of the Fairfax County Code are amended and readopted
as follows:**

Section 4-14-1. – Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings
respectively ascribed to them by this Section.

(1) *Director* means the Director of the Fairfax County Department of Tax Administration
or the designated agent of the Director.

(2) *Net combined financial worth* means all assets of the owners of the dwelling and the
spouse of the owner who resides therein, including equitable interests, excluding
furniture, household appliances and other items typically used in a home and the value of
the dwelling and the land in an amount not to exceed one acre upon which that dwelling
is located.

(3) *Total combined income* means gross income from all sources of owners of the
dwelling residing therein and any relative of the owner who resides in the dwelling,
except for those relatives living in the dwelling and providing bona fide caregiving
services to the owner whether such relatives are compensated or not, provided that the
first \$7,500.00 of any income received by an owner who is permanently and totally
disabled and the first \$6,500.00 of income of each relative, other than the spouse of the
owner or owners who is living in the dwelling, shall not be included in such total. If a
relative subject to this subsection (3) is permanently and totally disabled, any disability
income received by such person shall not be included in the calculation of total combined
income.

Section 4-14-3. – Application for exemption; affidavits.

Application for exemption provided for by this Article shall be made not later than April 1 of each year for which exemption is sought, except this date may be extended by the Director to December 31 of the year following the year that application was due, if the applicant is applying for relief for the first time or if hardship conditions exist which through no fault of the applicant prohibit applying by April 1, and if proper application is made along with sworn affidavit that failure to apply was due to reasons beyond the control of the applicant.

All applications for exemption shall be made to the Director on application forms provided by the Director. Each application shall be accompanied by an affidavit, setting forth the names of all ~~persons~~ owners and relatives occupying such dwelling and stating the total combined income, and the net combined financial worth of all such persons and such other information required by the Director to administer the provisions of this Article. If the application is made by an ~~person~~ owner filing for exemption because of permanent and total disability, or if the owner is seeking exclusion from total combined income of the disability income of a relative living in the residence, the application shall also be accompanied by ~~a certification~~ affidavits made in accordance with Code of Virginia § 58.1-3213 stating that such ~~person owner or relative, as the case may be,~~ meets the definition of permanently and totally disabled specified by Code of Virginia § 58.1-3217. The Director may require an applicant to answer questions under oath concerning the requirements under this Article and/or to produce for inspection certified federal income tax returns for the preceding three (3) years to establish the total combined income or net combined financial worth as defined in Section 4-14-1.

Beginning January 1, 1997, applications for real estate tax relief shall be filed on a three-year cycle. Applicants approved for real estate tax relief for 1996, or for any year thereafter pursuant to the filing of an application for exemption, shall file a certification in each of the two (2) years following approval attesting that no information contained on the last previous years application has changed in a way that would exceed the limitations and conditions prescribed herein pertinent to the eligibility for tax relief. The annual certification shall be filed no later than April 1 each year. The deadline to file a certification may be extended by the Director to December 31 of the year following the calendar year in which the certification was due, if hardship conditions existed where, through no fault of the applicant, the applicant was prohibited from filing by the April 1 due date. Failure to file an application or certification as specified in this section shall result in denial of tax relief.

3. That the provisions of this ordinance shall take effect ~~upon adoption~~ January 1, 2020].

GIVEN under my hand this _____ day of _____, 2019

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
October 29, 2019

REVISED

4:00 p.m.

Public Hearing on SE 2018-SU-027 (Stonebridge Investments, LLC) to Permit Development of a New Limited Brewery in the R-C District and a Modification of Limitations on the Number of Events Defined in Article 20 of the Zoning Ordinance for Limited Brewery, Located on Approximately 40.62 Acres of Land Zoned R-C and WS (Sully District)

This property is located at 6780 Bull Run Post Office Rd., Centreville, 20120. Tax Map 53-3 ((7)) 32Z, 33Z (pt.); 64-1 ((7)) 31Z (pt.), 34Z, 35Z (pt.); 38Z (pt.), 39Z, 40Z, 41Z and 42Z.

The Board of Supervisors deferred this public hearing at the July 30, 2019 meeting until September 24, 2019 at 5:30 p.m. On September 24, 2019, the Board of Supervisors deferred this public hearing until October 29, 2019, at 4:00 p.m.

PLANNING COMMISSION RECOMMENDATION:

On October 24, 2019, the Planning Commission voted 11-0 (Commissioner Murphy was absent from the meeting) to indefinitely defer the decision only for the application, noting that this action would result in the Board of Supervisors' public hearing also being deferred.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Emma Estes, Planner, DPD

Board Agenda Item
October 29, 2019

4:00 p.m.

Public Hearing on PCA 2010-LE-009/CDPA 2010-LE-009 (MR Liberty View One, LLC and MR Liberty View West LLC C/O Monument Realty) to Amend the Proffers and Conceptual Development Plan for RZ 2010-LE-009, Previously Approved for Commercial Development with a Floor Area Ratio of 1.5 to Permit a Residential Building and Associated Modifications to Proffers and Site Design at a Floor Area Ratio of 1.5, Located on Approximately 12.94 Acres of Land Zoned PDC (Lee District)

This property is located in the N.W. quadrant of the intersection of Franconia-Springfield Pkwy. and Beulah St. Tax Map 91-1 ((4)) 2, 2A, 3, 3A, 4, 4A, 5, 5A, 6, 6A, 7, 7A, 8, 8A, 9, 9A, 10, 10A, 11, 11A, 13, 13A, 14, 14A, 15, 15A, 16, 16A, 17, 17A, 18, 18A, 19, 19A, 20, 20A, 21, 21A, 22, 22A, 23, 23A, 24, 24A, 25, 500, 500A, and 501.

PLANNING COMMISSION RECOMMENDATION:

On October 17, 2019, the Planning Commission voted 10-0 (Commissioners Strandlie and Tanner were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2010-LE-009 subject to the execution of proffered conditions consistent with those dated October 9, 2019;
- Modification of the loading requirements for a residential use per Sect. 11-201 and Sect. 11-203 of the Zoning Ordinance in favor of the loading as shown on the CDPA/FDPA;
- Reaffirmation of the modification of the loading space requirement for the hotel and office uses to that shown on the CDPA/FDPA;
- Reaffirmation of the waiver of the transitional screening and barrier requirements between uses within the PDC District;
- Reaffirmation of the waiver of the 600-foot private street length requirement;
- Reaffirmation of the modification of the transitional screening requirement and waiver of the barrier requirement along the southern and eastern boundaries of the site in favor of that shown on the CDPA/FDPA; and

Board Agenda Item
October 29, 2019

- Reaffirmation of the waiver of the peripheral parking lot landscaping requirements for the subject site in favor of that shown on the CDPA/FDPA.

In a related action, the Planning Commission voted 10-0 (Commissioners Strandlie and Tanner were absent from the meeting) to approve FDPA 2010-LE-009, subject to the development conditions dated October 2, 2019.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Kelly Posusney, Planner, DPD

4:00 p.m.

Public Hearing on PCA 2008-LE-014 (Patriot Ridge Commons, LLC, Patriot Ridge I, LLC, Patriot Ridge 7700, LLC and Patriot Ridge II LLC) to Amend the Proffers for RZ 2008-LE-014 Previously Approved for Office and Hotel Development to Permit Modifications to Proffers with an Overall Floor Area Ratio of 1.50, Located on Approximately 14.88 Acres of Land Zoned C-4 (Lee District)

This property is located on the W. side of Backlick Rd. approximately ½ mile N. of the Henry G. Shirley Memorial Hwy. interchange. Tax Map 99-1 ((1)) 22A, 23B, 23C, 23D, 23E and 99-1 ((5)) 3 and 4.

PLANNING COMMISSION RECOMMENDATION:

On October 24, 2019, the Planning Commission voted 11-0 (Commissioner Murphy was absent from the meeting) to recommend to the Board of Supervisors approval of PCA 2008-LE-014, subject to the execution of proffered conditions consistent with those dated October 10, 2019.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Daniel Creed, Planner, DPD

4:30 p.m.

Public Hearing on PCA 2002-LE-005 (Alwadi, LLC) to Amend the Proffers for RZ 2002-LE-005 Previously Approved for Commercial Development to Permit a Shopping Center and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.18, Located on Approximately 1.23 Acres of Land Zoned C-8, CRD and HC (Lee District)

This property is located on the N. side of Richmond Hwy., E. of Martha St. Tax Map 101-4 ((1)) 11A and 12.

PLANNING COMMISSION RECOMMENDATION:

On October 24, 2019, the Planning Commission voted 10-0-1 (Commissioner Murphy was absent from the meeting; Commissioner Strandlie abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2002-LE-005, subject to the execution of proffered conditions consistent with those dated October 21, 2019; and
- Approval of a modification of the transitional screening requirements along the north, west, and south property line, pursuant to Par. 3 of Sect. 13-303 of the Zoning Ordinance, in favor of transitional screening as shown on the Generalized Development Plan and waiver of the barrier requirements along the south property line.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

William Mayland, Planner, DPD

Board Agenda Item
October 29, 2019

4:30 p.m.

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