

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
July 12, 2016**

**AGENDA**

9:30	<b>Done</b>	Presentations
10:00	<b>Done</b>	Presentation of the Volunteer Fire Commission Awards
10:15	<b>Done</b>	Items Presented by the County Executive

**ADMINISTRATIVE  
ITEMS**

1	<b>Approved</b>	Authorization for the Fairfax County Police Department to Apply for Grant Funding from the U.S. Department of Justice, Office of Community Policing Services, COPS Hiring Program
2	<b>Approved</b>	Streets into the Secondary System (Mount Vernon and Sully Districts)
3	<b>Approved</b>	Extension of Review Period for 2232 Applications (Mason, Sully, Dranesville, Springfield, Providence and Hunter Mill Districts)
4	<b>Approved</b>	Additional Time to Commence Construction for Special Exception SE 2010-SU-012: Headquarters 2, LLC (Sully District)
5	<b>Approved</b>	Additional Time to Commence Construction for Special Exception SE 2010-SU-013: Headquarters 2, LLC (Sully District)
6	<b>Approved</b>	Additional Time to Commence Construction for Special Exception SE 2013-LE-005, Franconia Square, LLC (Lee District)
7	<b>Approved</b>	Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville District)
8	<b>Approved</b>	Authorization to Advertise a Public Hearing to Lease County-Owned Property to Cellco Partnership D/B/A Verizon Wireless (Lee District)
9	<b>Approved</b>	Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Funding from the Virginia Department of Behavioral Health and Developmental Services for Permanent Supportive Housing for Individuals with Severe and Persistent Mental Health Issues (SMI) and/or Co-occurring SMI and Substance Use Issues

**FAIRFAX COUNTY  
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**ACTION ITEMS**

1	<b>Approved</b>	Approval of Amendments to Fairfax County's Title VI Program for the Federal Transit Administration (FTA)
2	<b>Approved</b>	Approval of Revisions to the Transportation Priorities Plan (Dranesville District)
3	<b>Approved with amendment</b>	Approval of the 2016 Zoning Ordinance Amendment Work Program
4	<b>Approved</b>	Authorization for the Fairfax County Redevelopment and Housing Authority (FCRHA) to Make a Loan to Christian Relief Services of Virginia (CRSVA), in an Amount Not to Exceed \$5,650,000 from Housing Blueprint Funds, for the Acquisition of Huntington Gardens (Lee District)
5	<b>Approved</b>	Adoption of the One Fairfax Resolution that Directs the Development of a Racial and Social Equity Policy and Strategic Actions to Advance Opportunities and Achieve Equity
6	<b>Approved</b>	Approval of the Process for the Commonwealth's County Safety and Operational Improvements Funding Program
7	<b>Approved</b>	Authorization to Execute Standard Project Administration Agreement for the Department of Transportation to Accept Grant Funding for the Springfield Community Business Center (CBC) Commuter Parking Garage (Lee District)
10:25	<b>Done</b>	Matters Presented by Board Members
11:15	<b>Done</b>	Closed Session

**PUBLIC HEARINGS**

3:30	<b>Approved</b>	Public Hearing on AF 2016-SP-001 (Charles E. Dyer, Trustee, Joanne L. Dyer, Trustee, Dyer Living Trust) (Springfield District)
3:30	<b>Approved</b>	Public Hearing on RZ 2015-MA-018 (Board of Supervisors of Fairfax County, Virginia) (Mason District)

**FAIRFAX COUNTY  
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**PUBLIC HEARINGS  
(Continued)**

3:30	<b>Approved</b>	Public Hearing on RZ 2014-PR-021 (Bit Investment Fifty-Two, LLC) (Providence District)
3:30	<b>Approved</b>	Public Hearing on PCA 92-P-001-12 (Bit Investment Fifty-Two, LLC) (Providence District)
3:30	<b>Approved</b>	Public Hearing on SE 2015-SP-023 (Cellco Partnership D/B/A Verizon Wireless; Little League Inc. Fairfax) (Springfield District)
3:30	<b>Approved</b>	Public Hearing on SE 2015-MV-035 (Starbucks Coffee Company) (Mount Vernon District)
4:00	<b>Approved</b>	Public Hearing SEA 88-S-077-07 (Golden Brook, LLC) (Sully District)
4:00	<b>Approved</b>	Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 7-2-5, 7-2-10, and 7-2-13 Relating to Election Precincts and Polling Places
4:00	<b>Approved</b>	Public Hearing on Amendments to Articles 2 and 3 of Chapter 3 of the Code of the County of Fairfax Re: Employees' and Uniformed Retirement Systems – Change in Social Security Offset to Service-Connected Disability Benefits
4:00	<b>Approved</b>	Public Hearing to Amend Chapter 82 of the Code of the County of Fairfax and the Adoption of Health Department Rules and Regulations for Mobile Food Vending within Virginia Department of Transportation Rights-of-Way (Providence District)



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

**Tuesday**  
**July 12, 2016**

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9:30 a.m.

**PRESENTATIONS**

- CERTIFICATE – To recognize the Springfield Youth Club West End High School Girls and Boys Rugby Teams for their accomplishments. Requested by Supervisor Herry.
- RESOLUTION – To recognize Joby Warrick for receiving his second Pulitzer Prize. Requested by Supervisor Smith.
- CERTIFICATE – To recognize election officers who have served 20 or more elections. Requested by Chairman Bulova.

**STAFF:**

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



Board Agenda Item  
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10:00 a.m.

Presentation of the Volunteer Fire Commission Awards

ENCLOSED DOCUMENTS:

None. Report delivered under separate cover.

PRESENTED BY:

Shawn Stokes, Commissioner, Volunteer Fire Commission

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10:15 a.m.

Items Presented by the County Executive

ADMINISTRATIVE – 1

Authorization for the Fairfax County Police Department to Apply for Grant Funding from the U.S. Department of Justice, Office of Community Policing Services, COPS Hiring Program

ISSUE:

Board of Supervisors authorization is requested for the Fairfax County Police Department (FCPD) to apply for grant funding from the U.S. Department of Justice, Office of Community Policing Services (COPS) in the amount of \$500,000 over a three-year period. The County will need to contribute \$821,665 over the three-year period in order to meet the Local Cash Match requirement as well as costs not covered by the grant. Therefore, the total cost of the program over the three-year period is \$1,321,665. Anticipated funding over the three year period is broken down as follows:

<b>Year</b>	<b>Federal Funding</b>	<b>County Contribution</b>	<b>Total</b>
One	\$178,969	\$232,042	\$411,011
Two	\$196,866	\$248,903	\$445,769
Three	\$124,165	\$340,721	\$464,886
<b>Total</b>	<b>\$500,000</b>	<b>\$821,665</b>	<b>\$1,321,665</b>

Funding will support 4/4.0 FTE new merit police officer positions that will be assigned to the Public Affairs Bureau to partner with the Communities of Trust committee and create a Community Engagement Team. The team members will be charged with showcasing the commitment to keeping the community informed and fostering the public's trust by leveraging both traditional media platforms and social media channels on a 24-hour basis. At the end of the three-year grant period, the County is required to retain the four positions for an additional year; however it is intended that the positions will continue indefinitely.

The County contribution of \$821,665 has not been specifically identified in either the Police Department or the Federal-State Grant fund. If the County is awarded funding, then resources will need to be identified and staff will submit another item to accept the award. If however, no County resources are identified, the County may elect to decline the award.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Fairfax County Police Department to apply for funding in the amount of \$500,000 from the U.S. Department of Justice, Office of Community Policing Services. The County will need to contribute \$821,665 in order to meet the Local Cash Match requirement as well as costs not covered by the grant. Therefore, the total cost of the program is \$1,321,665. Funding will support 4/4.0 FTE new merit police officer positions that will be assigned to the Public Affairs Bureau to partner with the Communities of Trust committee and create a Community Engagement Team.

TIMING:

Board Action is requested on July 12, 2016. Due to the application deadline of June 23, 2016, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:

Recognizing that many jurisdictions continue to have budget constraints that have resulted in reductions in staffing, the COPS Hiring Program provides funding directly to law enforcement agencies to hire and/or rehire career law enforcement officers in an effort to increase their community policing capacity and crime prevention efforts. The Police Department intends to use the grant funding, if awarded, to hire four patrol officers. These officers will enable the department to continue the many initiatives associated with community policing by increasing staffing as described in the Public Safety Staffing Plan. The grant funded officers will be assigned to the Public Affairs Bureau to partner with the Communities of Trust committee and create a Community Engagement Team. This team will respond to emerging community issues, respond to community specific concerns, and manage programs that create community trust and engagement through public information. This will be done by showcasing the commitment to keeping the community informed and fostering the public's trust by leveraging both traditional media platforms and social media channels on a 24-hour basis. These social media outlets include YouTube, Facebook, Twitter, WordPress, Instagram and SoundCloud. This grant will increase the capacity of the FCPD and the Communities of Trust to implement community policing strategies that strengthen partnerships for safer communities. The goal is to enhance law enforcement's capacity to prevent, solve, control crime, inform the public, and help resolve neighborhood issues as the Police Department explores best practices to further its community policing strategy.

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The COPS grant allows for funding for up to 75 percent of the approved entry-level salary and fringe benefits of each newly-hired and/or rehired, full-time sworn career law enforcement officer over the three-year grant period, with a minimum 25 percent local cash match requirement and maximum federal share of \$125,000 per officer position. The grant application funding costs were based on the department's current entry-level salary and fringe benefits for full-time sworn officers. Any additional costs for higher than entry-level salaries and fringe benefits as well as all operating expenses are the grantee agency's responsibility and will be evaluated with the County Executive if an award is received. The County is not obligated to accept the award if County funding is not available.

FISCAL IMPACT:

If awarded, the FCPD will receive \$500,000 in federal funding over a three-year period to hire, train and support 4/4.0 FTE merit police officer positions. The County will need to contribute \$821,665 over the three-year period in order to meet the Local Cash Match requirement as well as costs not covered by the grant. Therefore, the total cost of the program over the three-year period is \$1,321,665. The County contribution of \$821,665 has not been specifically identified in either the Police Department or the Federal-State Grant fund. If the County is awarded funding, then resources will need to be identified and staff will submit another item to accept the award. If however, no County resources are identified, the County may elect to decline the award. At the end of the three-year grant period, the County is required to retain the four positions for an additional year; however, it is intended that they will continue indefinitely at an estimated yearly cost of \$484,959. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

A total of 4/4.0 FTE merit police officer positions will be created through this grant award. The County has an obligation to fully fund these positions for one additional year after the initial three-year grant period; however, it is intended that they will continue indefinitely.

ENCLOSED DOCUMENTS:

Attachment 1 – Summary of Grant Proposal

STAFF:

David M. Rohrer, Deputy County Executive for Public Safety

Colonel Edwin C. Roessler Jr., Chief of Police

Major Joseph R. Hill, Commander, Administrative Support Bureau

## 2016 COPS HIRING GRANT SUMMARY OF GRANT PROPOSAL

Please note, the actual grant application is completed online; therefore, this summary has been provided detailing the specifics of the application.

<b>Grant Title:</b>	2016 COPS Hiring Grant
<b>Funding Agency:</b>	the U.S. Department of Justice, Office of Community Policing Services (COPS)
<b>Applicant:</b>	Fairfax County Police Department
<b>Partner:</b>	Communities of Trust Committee
<b>Purpose of Grant:</b>	This grant will fund four new positions in the Police Department's Public Affairs Bureau. The four positions will be primarily working on community outreach and community transparency by the use of social media. In conjunction with the Communities of Trust Committee, the two will form a loose knit group called the Community Engagement Team to perform this task with the goal of getting information out to community groups, the public, the media and others as quickly as possible.
<b>Funding Amount:</b>	Federal funding of \$500,000 and a County contribution of \$821,665 for total funding of \$1,321,665
<b>Proposed Use of Funds:</b>	Funding will support 4/4.0 FTE new merit police officer positions and associated costs.
<b>Target Population:</b>	Media, public, minority groups, political elements, and County personnel.
<b>Performance Measures:</b>	<ol style="list-style-type: none"> <li>1) Increase the timeliness of disseminating information to the media and the public, mainly through social media, by having 24 hour coverage.</li> <li>2) Reduce the number of complaints from media and citizens against the police department.</li> <li>3) Improve minority recruitment by increasing the amount of information disseminated to the media and minority organizations through COT and Public Affairs Bureau.</li> <li>4) Increase the timely dissemination of information to community groups to improve police/citizen relations.</li> </ol>
<b>Grant Period:</b>	October 1, 2016 to September 30, 2019

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ADMINISTRATIVE – 2

Streets into the Secondary System (Mount Vernon and Sully Districts)

ISSUE:

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

RECOMMENDATION:

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

<b><u>Subdivision</u></b>	<b><u>District</u></b>	<b><u>Street</u></b>
Riverwood – Section 2	Mt. Vernon	Dolphin Lane
		Ferry Landing Court
The Fields of Woodlawn	Mt. Vernon	Longfields Lane
		Pole Road (Route 622) (Supplemental Right-of-Way Only)
Shadetree Estates	Sully	Mary Etta Lane
		Goldenchain Court
		Old Pine Way
		Bennett Road (Route 669) (Supplemental Right-of-Way Only)

TIMING:

Routine.

BACKGROUND:

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

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FISCAL IMPACT:  
None.

ENCLOSED DOCUMENTS:  
Attachment 1 – Street Acceptance Forms

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



# Street Acceptance Form For Board Of Supervisors Resolution - June 2005

<b>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</b>  Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.		<b>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</b>  REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.  <b>PLAN NUMBER:</b> 4289-SD-001 <b>SUBDIVISION PLAT NAME:</b> Riverwood - Section 2 <b>COUNTY MAGISTERIAL DISTRICT:</b> Mount Vernon	
<b>ENGINEERING MANAGER:</b> Imad A. Salous, P.E. <b>BY:</b> <u>Nadia Alphonse</u>		<b>FOR OFFICIAL USE ONLY</b>  <b>DATE OF VDOT INSPECTION APPROVAL:</b> <u>04/22/2016</u>	

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Dolphin Lane	Existing Dolphin Lane (Route 3120) - 200' SE CL Neptune Drive (Route 3117)	213' SE to CL Ferry Landing Court	0.04
Ferry Landing Court	Existing Ferry Landing Court (Route 4281) 832' SW CL Ferry Landing Road (Route 623)	1,058' SW to End of Cul-de-Sac	0.20
<b>TOTALS:</b>			0.24

<b>NOTES:</b>	
Dolphin Lane: 5' Concrete Sidewalk on Both Sides to be maintained by VDOT.	
Ferry Landing Court: 5' Concrete Sidewalk on Both Sides to be maintained by VDOT.	

# Street Acceptance Form For Board Of Supervisors Resolution - June 2005

<b>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</b> Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.		<b>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</b> REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. <b>PLAN NUMBER:</b> 0439-SD-001 <b>SUBDIVISION PLAT NAME:</b> The Fields of Woodlawn <b>COUNTY MAGISTERIAL DISTRICT:</b> Mount Vernon	
<b>ENGINEERING MANAGER:</b> Imad A. Salous, P.E. <b>BY:</b> <i>Nadia Alphonse</i>		<b>FOR OFFICIAL USE ONLY</b> <b>DATE OF VDOT INSPECTION APPROVAL:</b> <i>04/22/2016</i>	

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Longfields Lane	CL Pole Road (Route 622) - 265' NE CL Leaf Road (Route 735)	496' N to End of Cul-de-Sac	0.09
Pole Road (Route 622) (Supplemental Right-of-Way Only)	186' NE CL Leaf Road (Route 735)	237' NE to End of Dedication	0.0
<b>TOTALS:</b>			0.09

<b>NOTES:</b>	
Longfields Lane: 5' Concrete Sidewalk on East Side to be maintained by VDOT.	
Pole Road: 6' Asphalt Trail on North Side to be maintained by Fairfax County.	

# Street Acceptance Form For Board Of Supervisors Resolution - June 2005

<b>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</b>  Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.	<b>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</b>  REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.  <b>PLAN NUMBER:</b> 8183-SD-01 <b>SUBDIVISION PLAT NAME:</b> Shadetree Estates <b>COUNTY MAGISTERIAL DISTRICT:</b> Sully
<b>ENGINEERING MANAGER:</b> Imad A. Salous, P.E. <b>BY:</b> <u>Nadine Alphonse</u>	<b>FOR OFFICIAL USE ONLY</b>  <b>DATE OF VDOT INSPECTION APPROVAL:</b> <u>04/25/2016</u>

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Mary Etta Lane	CL Bennett Road (Route 669) - 729' NE CL Upper Wynnewood Place (Route 8290)	1,738' S to End of Cul-de-Sac	0.33
Goldenchain Court	CL Mary Etta Lane - 527' S CL Bennett Road (Route 669)	204' E to Beginning of Section 3 Dedication	0.04
Old Pine Way	CL Mary Etta Lane - 1,206' S CL Bennett Road (Route 669)	501' E to Beginning of Section 2 Dedication	0.10
Bennett Road (Route 669) (Supplemental Right-of-Way Only)	276' NE CL Upper Wynnewood Place (Route 8290)	543' NE to End of Dedication	0.0
<b>NOTES:</b>			<b>TOTALS:</b> 0.47
Mary Etta Lane: 4' Concrete Sidewalk on the East Side to be maintained by Fairfax County.			
Goldenchain Court: 4' Concrete Sidewalk on the North Side to be maintained by Fairfax County.			
Old Pine Way: 4' Concrete Sidewalk on the North Side to be maintained by Fairfax County.			
Bennett Road: 8' Asphalt Trail on the South Side to be maintained by Fairfax County.			

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ADMINISTRATIVE – 3

Extension of Review Period for 2232 Applications (Mason, Sully, Dranesville, Springfield, Providence and Hunter Mill Districts)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following applications: FSA-Y04-2-1, 2232-M15-23, 2232-M15-24, 2232-D16-28, FS-S16-3, 2232-M16-24, 2232-H16-23, FS-P16-6, FS-V16-1.

TIMING:

Board action is required on July 12, 2016, to extend the review period of the applications noted above before their expiration date.

BACKGROUND:

Subsection B of *Section 15.2-2232 of the Code of Virginia* states: "Failure of the commission to act within 60 days of a submission, unless the time is extended by the governing body, shall be deemed approval." Subsection F of *Section 15.2-2232 of the Code of Virginia* states: "Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than 60 additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission." The need for the full time of an extension may not be necessary, and is not intended to set a date for final action.

The review period for the following applications should be extended:

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- |             |   |
|-------------|---|
| FSA-Y04-2-1 | Verizon Wireless<br>3675 Centerview Drive<br>Chantilly, VA<br>Sully District<br>Accepted May 11, 2016<br>Extend to January 10, 2017                                     |
| 2232-M15-23 | Department of Public Works and Environmental Services<br>3101 Hodge Place<br>Falls Church, VA<br>Mason District<br>Accepted May 18, 2016<br>Extend to January 17, 2017  |
| 2232-M15-24 | Department of Public Works and Environmental Services<br>6631 South Street<br>Falls Church, VA<br>Mason District<br>Accepted May 18, 2016<br>Extend to January 17, 2017 |
| 2232-D16-28 | Falls Church City School Board<br>2328 North Oak Street<br>Falls Church, VA<br>Dranesville District<br>Accepted May 24, 2016<br>Extend to January 23, 2017              |
| FS-S16-3    | Verizon Wireless<br>13003 Lee Jackson Memorial Highway<br>Fairfax, VA<br>Springfield District<br>Accepted April 20, 2016<br>Extend to September 17, 2016                |
| 2232-M16-24 | Verizon Wireless<br>5575 Vincent Gate Terrace<br>Alexandria, VA<br>Mason District<br>Accepted May 2, 2016<br>Extend to September 29, 2016                               |

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- 2232-H16-23      Milestone Communications, Inc. and Verizon Wireless  
2791 Fox Mill Road  
Herndon, VA  
Hunter Mill District  
Accepted May 24, 2016  
Extend to October 21, 2016
- FS-P16-6          AT&T  
2533 Herrell Court  
Falls Church, VA  
Providence District  
Accepted June 6, 2016  
Extend to November 3, 2016
- FS-V16-1          Department of Public Works and Environmental Services  
7701 Armistead Road  
Lorton, VA  
Mount Vernon District  
Accepted June 8, 2016  
Extend to December 8, 2016

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive  
Fred R. Selden, Director, Department of Planning and Zoning, DPZ  
Chris B. Caperton, Chief, Facilities Planning Branch, Planning Division, DPZ  
Douglas W. Hansen, Senior Planner, Facilities Planning Branch, Planning Division, DPZ

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ADMINISTRATIVE - 4

Additional Time to Commence Construction for Special Exception SE 2010-SU-012:  
Headquarters 2, LLC (Sully District)

ISSUE:

Board consideration of additional time to commence construction for SE 2010-SU-012, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve thirty-six months additional time for SE 2010-SU-012 to July 11, 2019.

TIMING:

Routine.

BACKGROUND:

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

On January 11, 2011, the Board of Supervisors approved Special Exception SE 2010-SU-012, subject to development conditions. The application was filed in the name of Headquarters 2, LLC, to permit a hotel pursuant to Section 5-504 of the Fairfax County Zoning Ordinance, for the property located at the northeast quadrant of the intersection of George Carter Way and Lee Road, Tax Map 34-3 ((14)) 2 pt. (see Locator Map in Attachment 1). SE 2010-SU-012 was approved with a condition that the use be established or construction commenced and diligently prosecuted within thirty months of the approval date unless the Board grants additional time. The development conditions for SE 2010-SU-012 are included as part of the Clerk to the Board's letter contained in Attachment 2.

On June 18, 2013, the Board approved thirty-six months of additional time to commence construction, extending the conditioned date to July 11, 2016. On May 10, 2016, the Department of Planning and Zoning (DPZ) received a letter dated May 9, 2016, from Sara Mariska, agent for the Applicant, Headquarters 2, LLC, requesting thirty-six months

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of additional time (see Attachment 3). The approved Special Exception will not expire pending the Board's action on the request for additional time.

Ms. Mariska states that the Applicant has been working to secure a contract with an operator for the approved hotel. The Applicant has diligently pursued an operator, but has not yet been able to reach an agreement with interested parties. Ms. Mariska states that the current market conditions relative to hotels in the area has contributed to the delay. The request for thirty-six months of additional time to commence construction, Ms. Mariska states, would provide the Applicant enough time to find a suitable hotel operator, negotiate an agreement, and submit plans.

Staff has reviewed Special Exception SE 2010-SU-012 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a hotel in the I-5 zoning district. Further, staff knows of no change in land use circumstances that affects compliance of SE 2010-SU-012 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception. Finally, the conditions associated with the Board's approval of SE 2010-SU-012 are still appropriate and remain in full force and effect. Staff believes that approval of the request for thirty-six months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Letter dated January 12, 2011, to Sara V. Mariska

Attachment 3: Letter dated May 9, 2016, to Leslie Johnson

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ

Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ

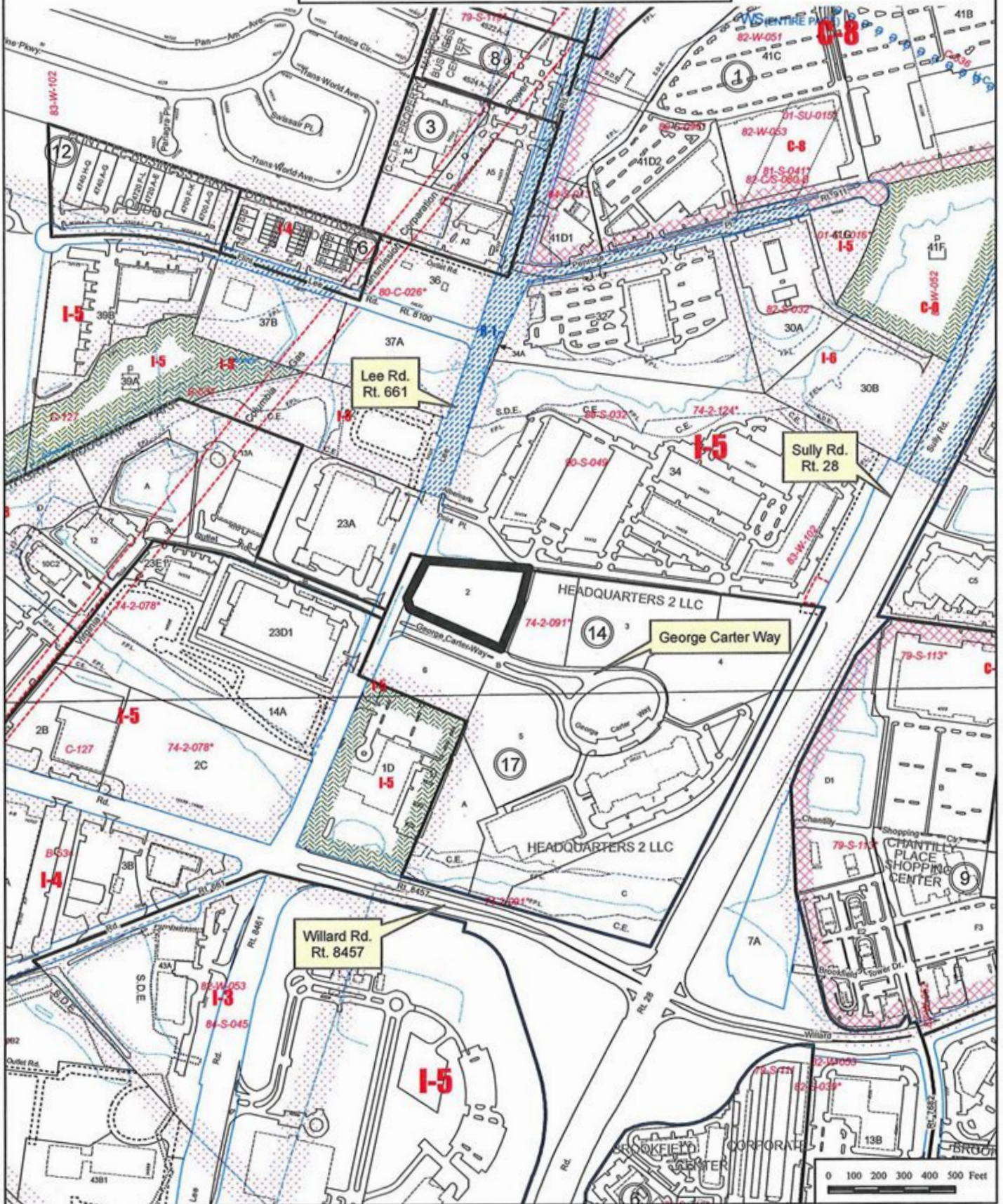
Denise James, Chief, Environment & Development Review Branch, Planning Division, DPZ

Jonathan Buono, Staff Coordinator, ZED, DPZ



**Special Exception**  
**SE 2010-SU-012**

Attachment 1







## County of Fairfax, Virginia

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

January 12, 2011

Sara V. Mariska  
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.  
2200 Clarendon Boulevard, 13<sup>th</sup> Floor  
Arlington, VA 22201

Re: Special Exception Application SE 2010-SU-012

Dear Ms. Mariska:

At a regular meeting of the Board of Supervisors held on January 11, 2011, the Board approved Special Exception Application SE 2010-SU-012 in the name of Headquarters 2, LLC. The subject property is located in the northeast quadrant of the intersection of George Carter Way and Lee Road on approximately 4.07 acres of land, zoned I-5 and WS, in the Sully District [Tax Map 34-3 ((14)) 2 pt]. The Board's action permits a hotel, pursuant to Section 5-504, of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Lot 2 @ The Ellipse at Westfields," prepared by William H. Gordon Associates Inc. and dated October 28, 2010 (sealed on October 27, 2010,) and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

---

Office of the Clerk to the Board of Supervisors  
12000 Government Center Parkway, Suite 533  
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903  
Email: [clerktothebos@fairfaxcounty.gov](mailto:clerktothebos@fairfaxcounty.gov)  
<http://www.fairfaxcounty.gov/bosclerk>

4. Landscaping shall be provided in general as shown on Sheet 5 of the SE Plat. The exact number, size and spacing of trees and other plant materials shall be submitted at the time of final site plan review and shall be subject to the review and approval by Urban Forest Management (UFM).
5. At the time of Site Plan approval, the Applicant shall provide a contribution to DPWES in the amount of \$20,000.00 toward future roadway improvements in the surrounding area. This amount of the cash contribution shall escalate on a yearly basis from the base year of 2010 and change effective each January 1 thereafter based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI").
6. At the time of Site Plan approval, the Applicant shall vacate the existing public access easement and provide a realigned inter-parcel access easement, as shown on the SE Plat, to provide public access through the property between George Carter Way and Tax Map parcel 34-3((1)) 34 to the north of Subject Property.
7.
  - A. The Applicant shall include a U.S. Green Building Council Leadership in Energy and Environmental Design ("LEED") accredited professional who is an engineer or architect as a member of the design team. The LEED accredited professional shall work with the team to incorporate LEED design elements into the project so that the project will be positioned to attain LEED certification. At the time of site plan submission, the Applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating compliance with the commitment to engage such professional.
  - B. The Applicant shall include, as part of the site plan submission and building plan submission, a list prepared by the LEED accredited professional of specific credits that the Applicant anticipates attaining within the LEED-NC rating system, or other LEED rating system determined to be applicable to the project as agreed upon by the Environment and Development Review Branch of DPZ. The LEED accredited professional shall provide certification statements at both the time of site plan review and the time of building plan review indicating that the items on the list should meet at least the minimum number of credits necessary to position the project to attain LEED certification.
  - C. Prior to approval of a site plan by Fairfax County for the project, the Applicant shall execute a separate agreement and post, for that project

a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual, in the fixed amount of \$205,104. This escrow will be in addition to and separate from other bond requirements and shall be released upon demonstration of attainment of certification, by the U.S. Green Building Council, under the most current version of U.S. Green Building Council's LEED-NC rating system or other LEED rating determined to be applicable to the project. The provision of documentation to the Environment and Development Review Branch of DPZ from the U.S. Green Building Council that the project has attained LEED certification shall be sufficient to satisfy this commitment. If the Applicant fails to provide documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification within one year of issuance of the first RUP or Non-RUP for the project, the escrow shall be released to Fairfax County as the sole remedy for failure to meet the LEED certification and shall be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the Applicant provides evidence that LEED Certification has been delayed through no fault of the Applicant, this proffered time-frame shall be extended until such time as LEED Certification is attained or one (1) year, and no release of escrowed funds shall be made to the Applicant or the County during this extended time-frame..

- D. Prior to issuance of the first Non-RUP or RUP, the Applicant shall provide to the Environment and Development Review Branch of DPZ a letter from the LEED accredited professional certifying that a green building maintenance reference manual has been prepared for use by future managers that this manual has been written by a LEED accredited professional, that copies of this manual shall be provided to all future building occupants and that this manual, at a minimum:
- Provides a narrative description of each green building component, including a description of the environmental benefits of that component and including information regarding the importance of maintenance and operation in retaining the attributes of a green building;
  - Provides, where applicable, product manufacturer's manuals or other instructions regarding operations and maintenance needs for each green building component, including operational practices that can enhance energy and water conservation;
  - Provides, as applicable, either or both of the following: (1) a maintenance staff notification process for improperly functioning

equipment; or (2) a list of local service providers that offer regularly scheduled service and maintenance contracts to assure proper performance of green building-related equipment and the structure, to include, where applicable, the HVAC system, water heating equipment, water conservation features, sealants, and caulks; and

Prior to issuance of a Non-RUP or RUP, the Applicant shall provide an electronic copy of the manual in PDF format to the Environment and Development Review Branch of DPZ.

8. No more than one free-standing identification sign shall be permitted on the site. No pole signs shall be permitted. This free-standing sign shall be a monument-style sign and no more than five (5) feet in height. Such sign shall meet the requirements of Article 12, as well as the sight line requirements of the Zoning Ordinance, the Virginia Department of Transportation (VDOT) and the Public Facilities Manual (PFM). All sign illumination shall be provided internally or through down-lighting.
9. Hotel meeting space may be made available for scheduled use by community groups at times when it is not in use by hotel patrons.
10. The Applicant shall implement a TDM Plan for the Subject Property. The TDM Plan shall include the following:
  - a. Program Manager. Prior to the approval of the site plan, the Applicant shall designate an individual to act as the Program Manager ("PM") for the hotel, whose responsibility will be to implement the TDM strategies. The applicant shall inform the Fairfax County Department of Transportation (FCDOT) of who is designated as the PM and notify FCDOT if and when the PM changes. The duties of the PM may be part of other duties assigned to the individual(s).
  - b. Information Dissemination: The PM shall make Metrorail and bus maps, schedules and forms, ridesharing and other relevant transit option information available to hotel employees, visitors and guests in a common area; such as the central lobby, community room, and/or hotel management office. The Applicant shall also make multi-modal transportation information available as part of in-room service guides or hotel information through the closed-circuit television system to its hotel guests.
  - c. Ride Matching: The PM shall make information on vanpool and carpool formation programs, ride matching services, and established guaranteed ride home programs available for employees.

- d. Tele-working: The PM shall encourage hotel guests to telework through the utilization of high capacity data/network connections available through their employers.
- e. Car Sharing Information: The PM shall make information available regarding the availability of car sharing program(s) to hotel employees, visitors and guests (such as ZipCar).
- f. Preferential Parking. Applicant shall provide preferential hotel parking for car/van pools.
- g. Coordination: The PM shall work with FCDOT to promote alternatives to single occupant automobile commute trips.

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

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use of to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

**The Board also:**

- Waived the trail requirement along Lee Road, in favor of the existing and proposed sidewalks shown on the SE Plat.

Sincerely,



Nancy Vehrs  
Clerk to the Board of Supervisors  
NV/ph

SE 2010-SU-012  
January 12, 2011

-6-

Cc: Chairman Sharon Bulova  
Supervisor Michael Frey, Sully District  
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration  
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ  
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning  
Angela K. Rodeheaver, Section Chief, Transportation Planning Division  
Ken Williams, Plans & Document Control, ESRD, DPWES  
Department of Highways-VDOT  
Sandy Stallman, Park Planning Branch Manager, FCPA  
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division  
District Planning Commissioner  
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



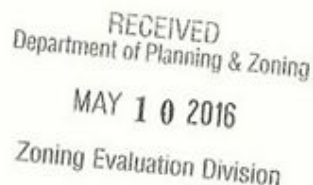
Sara V. Mariska  
(703) 528-4700 Ext. 5419  
[smariska@thelandlawyers.com](mailto:smariska@thelandlawyers.com)



May 9, 2016

**Via E-mail and Overnight Delivery**

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



Re: SE 2010-SU-012 (Fairfax County Tax Map Reference: 34-3 ((14)) 2 (part))  
SE 2010-SU-013 (Fairfax County Tax Map Reference: 34-3 ((14)) 4)  
Applicant: Headquarters 2, LLC

Dear Ms. Johnson:

Please accept this letter as a request for additional time in accordance with the provisions of Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The referenced special exception applications were approved by the Board of Supervisors (the "Board") on January 11, 2011. On June 18, 2013, the Board approved 36 months of additional time to commence construction and the applications and are presently scheduled to expire on July 11, 2016 unless construction has commenced and been diligently pursued. On behalf of the Applicant, I hereby request thirty-six (36) months of additional time to commence construction of the improvements approved with the referenced applications.

The Applicant has been working to secure operators for the proposed hotels. As soon as the special exceptions were approved, the Applicant contacted thirty-four (34) parties that expressed interest in hotel development at this location. The Applicant has continued discussions with two (2) brokers and one (1) hotel developer since that time; however, it has been unable to reach an agreement with interested parties given current market conditions relative to hotels in this area. The Applicant continues to market the sites via Costar and Loopnet, two prominent online commercial listing databases. Additionally, the Applicant markets the properties in a bi-weekly email blast that reaches approximately 1700 entities. The Applicant will continue to diligently pursue the preparation and submission of the plans necessary to commence construction in accordance with the special exceptions.

I would appreciate the acceptance of this letter in accordance with Section 9-015 of the Zoning Ordinance as a request for thirty-six (36) months of additional time to commence construction in accordance with the referenced special exceptions. Thirty-six (36) months of

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2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664



additional time will allow for continued negotiations with hotel operators and will ensure that plans can be prepared, submitted, and diligently pursued. The delays experienced by the Applicant were unforeseen circumstances at the time of approval. Further, there has been no change in circumstances that would render the approvals inconsistent with the Comprehensive Plan or the public interest.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.



Sara V. Mariska

SVM

cc: Mark Randall  
Lynne J. Strobel  
Thomas J. Colucci

A0704482.DOCX / 1 Johnson Ltr re: 2016 additional time request 006093 000010

Board Agenda Item  
July 12, 2016

ADMINISTRATIVE - 5

Additional Time to Commence Construction for Special Exception SE 2010-SU-013:  
Headquarters 2, LLC (Sully District)

ISSUE:

Board consideration of additional time to commence construction for SE 2010-SU-013, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve thirty-six months additional time for SE 2010-SU-013 to July 11, 2019.

TIMING:

Routine.

BACKGROUND:

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

On January 11, 2011, the Board of Supervisors approved Special Exception SE 2010-SU-013, subject to development conditions. The application was filed in the name of Headquarters 2, LLC, to permit a hotel pursuant to Section 5-504 of the Fairfax County Zoning Ordinance, for the property located at the terminus of George Carter Way on the west side of Sully Road, Tax Map 34-3 ((14)) 4 (see Locator Map in Attachment 1). SE 2010-SU-013 was approved with a condition that the use be established or construction commenced and diligently prosecuted within thirty months of the approval date unless the Board grants additional time. The development conditions for SE 2010-SU-013 are included as part of the Clerk to the Board's letter contained in Attachment 2.

On June 18, 2013, the Board approved thirty-six months of additional time to commence construction, extending the conditioned date to July 11, 2016. On May 10, 2016, the Department of Planning and Zoning (DPZ) received a letter dated May 9, 2016, from Sara Mariska, agent for the Applicant, Headquarters 2, LLC, requesting thirty-six months of additional time (see Attachment 3). The approved Special Exception will not expire

Board Agenda Item  
July 12, 2016

pending the Board's action on the request for additional time.

Ms. Mariska states that the Applicant has been working to secure a contract with an operator for the approved hotel. The Applicant has diligently pursued an operator, but has not yet been able to reach an agreement with interested parties. Ms. Mariska states that the current market conditions relative to hotels in the area has contributed to the delay. The request for thirty-six months of additional time to commence construction, Ms. Mariska states, would provide the Applicant enough time to find a suitable hotel operator, negotiate an agreement, and submit plans.

Staff has reviewed Special Exception SE 2010-SU-013 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a hotel in the I-5 zoning district. Further, staff knows of no change in land use circumstances that affects compliance of SE 2010-SU-013 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception. Finally, the conditions associated with the Board's approval of SE 2010-SU-013 are still appropriate and remain in full force and effect. Staff believes that approval of the request for thirty-six months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Letter dated January 12, 2011, to Sara V. Mariska

Attachment 3: Letter dated May 9, 2016, to Leslie Johnson

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ

Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ

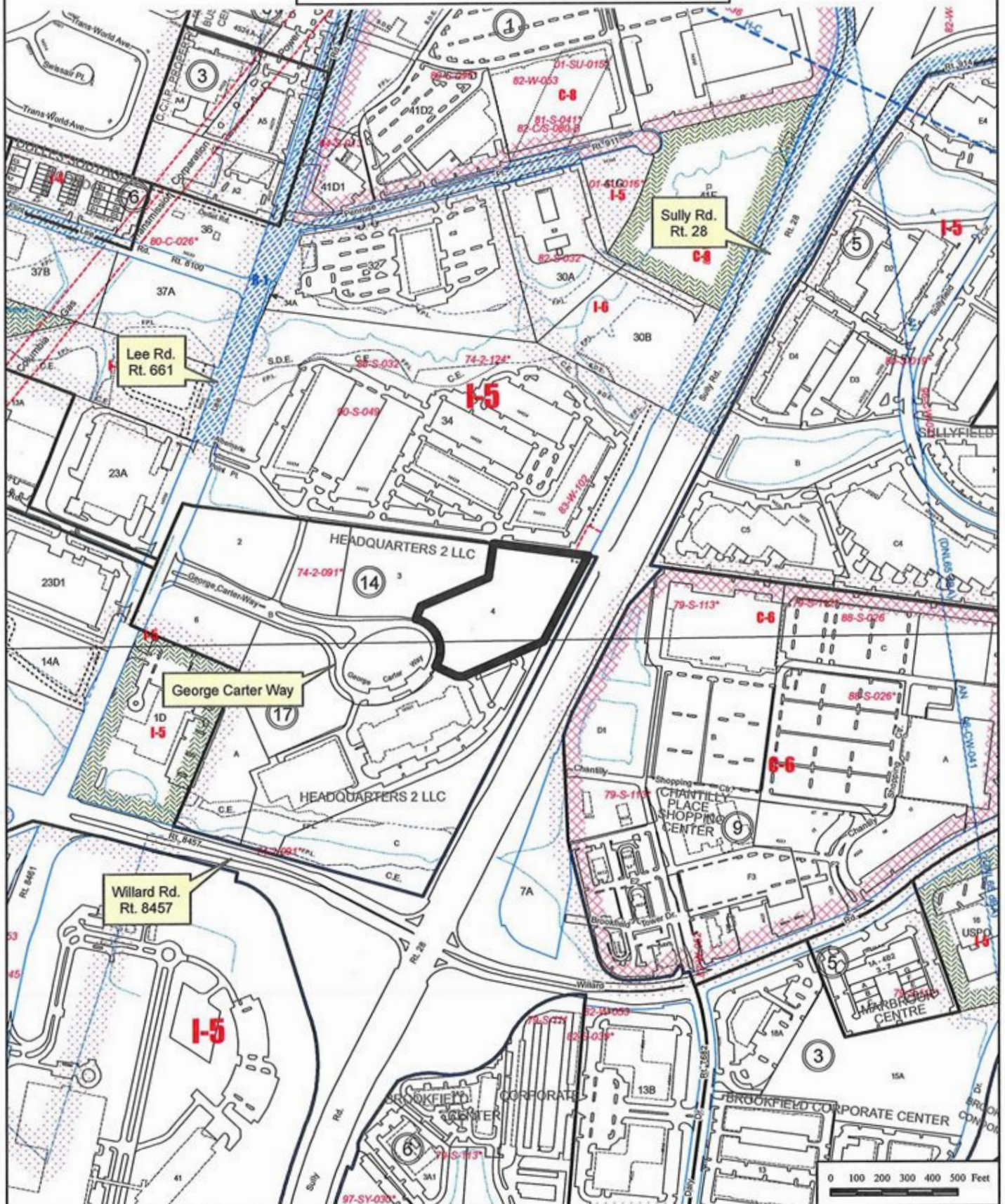
Denise James, Chief, Environment & Development Review Branch, Planning Division, DPZ

Jonathan Buono, Staff Coordinator, ZED, DPZ



**Special Exception**  
**SE 2010-SU-013**

Attachment 1





## County of Fairfax, Virginia

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

January 12, 2011

Sara V. Mariska  
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.  
2200 Clarendon Boulevard, 13<sup>th</sup> Floor  
Arlington, VA 22201

Re: Special Exception Application SE 2010-SU-013

Dear Ms. Mariska:

At a regular meeting of the Board of Supervisors held on January 11, 2011, the Board approved Special Exception Application SE 2010-SU-013 in the name of Headquarters 2, LLC. The subject property is located at the terminus of George Carter Way on the west side of Sully Road on approximately 4.44 acres of land, zoned I-5 and WS, in the Sully District [Tax Map 34-3 ((14)) 4]. The Board's action permits a hotel, pursuant to Section 5-504, of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved "Special Exception Plat entitled Lot 4 @ The Ellipse at Westfields," prepared by William H. Gordon Associates Inc. and dated October 27, 2010 (sealed on October 27, 2010,) and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

---

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4. Landscaping shall be provided in general as shown on Sheet 5 of the SE Plat. The exact number, size and spacing of trees and other plant materials shall be submitted at the time of final site plan review and shall be subject to the review and approval by Urban Forest Management (UFM).
5. At the time of Site Plan approval, the Applicant shall provide a contribution to DPWES in the amount of \$40,000.00 toward future roadway improvements in the surrounding area. This amount of the cash contribution shall escalate on a yearly basis from the base year of 2010 and change effective each January 1, thereafter based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI").
6.
  - A. The Applicant shall include a U.S. Green Building Council Leadership in Energy and Environmental Design ("LEED") accredited professional who is an engineer or architect as a member of the design team. The LEED accredited professional shall work with the team to incorporate LEED design elements into the project so that the project will be positioned to attain LEED certification. At the time of site plan submission, the Applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating compliance with the commitment to engage such professional.
  - B. The Applicant shall include, as part of the site plan submission and building plan submission, a list prepared by the LEED accredited professional of specific credits that the Applicant anticipates attaining within the LEED-NC rating system, or other LEED rating system determined to be applicable to the project, as agreed upon by the Environment and Development Review Branch of DPZ. The LEED accredited professional shall provide certification statements at both the time of site plan review and the time of building plan review indicating that the items on the list should meet at least the minimum number of credits necessary to position the project to attain LEED certification.
  - C. Prior to approval of a site plan by Fairfax County for the project, the Applicant shall execute a separate agreement and post, for that project a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual, in the fixed amount of \$340,000. This escrow will be in addition to and separate from other bond requirements and shall be released upon demonstration of attainment of certification, by the U.S. Green Building Council, under the most current version of U.S.

Green Building Council's LEED-NC rating system or other LEED rating determined to be applicable to the project. The provision of documentation to the Environment and Development Review Branch of DPZ from the U.S. Green Building Council that the project has attained LEED certification shall be sufficient to satisfy this commitment. If the Applicant fails to provide documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED certification within one year of issuance of the first RUP or Non-RUP for the project, the escrow shall be released to Fairfax County as the sole remedy for failure to meet the LEED certification and shall be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the Applicant provides evidence that LEED Certification has been delayed through no fault of the Applicant, this time-frame shall be extended until such time as LEED Certification is attained or one (1) year, and no release of escrowed funds shall be made to the Applicant or the County during this extended time-frame.

- D. Prior to issuance of the first Non-RUP or RUP, the Applicant shall provide to the Environment and Development Review Branch of DPZ a letter from the LEED accredited professional certifying that a green building maintenance reference manual has been prepared for use by future managers that this manual has been written by a LEED accredited professional, that copies of this manual shall be provided to all future building occupants and that this manual, at a minimum:
- Provides a narrative description of each green building component, including a description of the environmental benefits of that component and including information regarding the importance of maintenance and operation in retaining the attributes of a green building;
  - Provides, where applicable, product manufacturer's manuals or other instructions regarding operations and maintenance needs for each green building component, including operational practices that can enhance energy and water conservation;
  - Provides, as applicable, either or both of the following: (1) a maintenance staff notification process for improperly functioning equipment; or (2) a list of local service providers that offer regularly scheduled service and maintenance contracts to assure proper performance of green building-related equipment and the structure, to include, where applicable, the HVAC system, water heating equipment, water conservation features, sealants, and caulks; and

Prior to issuance of a Non-RUP or RUP, the Applicant shall provide an electronic copy of the manual in PDF format to the Environment and Development Review Branch of DPZ.

7. No more than one free-standing identification sign shall be permitted on the site. No pole signs shall be permitted. This free-standing sign shall be a monument-style sign and no more than ten (10) feet in height. Such sign shall meet the requirements of Article 12, as well as the sight line requirements of the Zoning Ordinance, the Virginia Department of Transportation (VDOT) and the Public Facilities Manual (PFM). All sign illumination shall be provided internally or through down-lighting.
8. Hotel meeting space may be made available for scheduled use by community groups at times when it is not in use by hotel patrons.
9. The Applicant shall implement a TDM Plan for the Subject Property. The TDM Plan shall include the following:
  - a. Program Manager. Prior to the approval of the site plan, the Applicant shall designate an individual to act as the Program Manager ("PM") for the hotel, whose responsibility will be to implement the TDM strategies. The applicant shall inform the Fairfax County Department of Transportation (FCDOT) of who is designated as the PM and notify FCDOT if and when the PM changes. The duties of the PM may be part of other duties assigned to the individual(s).
  - b. Information Dissemination: The PM shall make Metrorail and bus maps, schedules and forms, ridesharing and other relevant transit option information available to hotel employees, visitors and guests in a common area; such as the central lobby, community room, and/or hotel management office. The Applicant shall also make multi-modal transportation information available as part of in-room service guides or hotel information through the closed-circuit television system to its hotel guests.
  - c. Ride Matching: The PM shall make information on vanpool and carpool formation programs, ride matching services, and established guaranteed ride home programs available for employees.
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  - e. Car Sharing Information: The PM shall make information available regarding the availability of car sharing program(s) to hotel employees, visitors and guests (such as ZipCar).



- f. Preferential Parking. Applicant shall provide preferential hotel parking for car/van pools.
  - g. Coordination: The PM shall work with FCDOT to promote alternatives to single occupant automobile commute trips.
10. A shared parking study and/or parking reduction study shall be submitted and approved in accordance with the Zoning Ordinance that demonstrates that adequate parking is available to support the proposed uses prior to site plan approval. If it is determined in review of the shared parking and/or parking reduction study that parking is not adequate for the proposed uses, the Applicant may be permitted to provide additional parking spaces on the subject property without a special exception amendment, provided that open space is not reduced. In the event that it cannot be demonstrated that there is adequate parking, the size of the proposed uses shall be limited to sizes that provide sufficient parking, as determined by Director, DPWES.

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

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use of to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

SE 2010-SU-013  
January 12, 2011

-6-

**The Board also:**

- Waived the service drive requirement along Sully Road (Route 28), in favor of the interparcel access to the adjacent property to the south.

Sincerely,



Nancy Vehrs  
Clerk to the Board of Supervisors  
NV/ph

Cc: Chairman Sharon Bulova  
Supervisor Michael Frey, Sully District  
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration  
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ  
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning  
Angela K. Rodeheaver, Section Chief, Transportation Planning Division  
Ken Williams, Plans & Document Control, ESRD, DPWES  
Department of Highways-VDOT  
Sandy Stallman, Park Planning Branch Manager, FCPA  
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division  
District Planning Commissioner  
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation

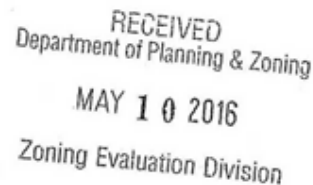
Sara V. Mariska  
(703) 528-4700 Ext. 5419  
smariska@thelandlawyers.com



May 9, 2016

Via E-mail and Overnight Delivery

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



Re: SE 2010-SU-012 (Fairfax County Tax Map Reference: 34-3 ((14)) 2 (part))  
SE 2010-SU-013 (Fairfax County Tax Map Reference: 34-3 ((14)) 4)  
Applicant: Headquarters 2, LLC

Dear Ms. Johnson:

Please accept this letter as a request for additional time in accordance with the provisions of Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The referenced special exception applications were approved by the Board of Supervisors (the "Board") on January 11, 2011. On June 18, 2013, the Board approved 36 months of additional time to commence construction and the applications and are presently scheduled to expire on July 11, 2016 unless construction has commenced and been diligently pursued. On behalf of the Applicant, I hereby request thirty-six (36) months of additional time to commence construction of the improvements approved with the referenced applications.

The Applicant has been working to secure operators for the proposed hotels. As soon as the special exceptions were approved, the Applicant contacted thirty-four (34) parties that expressed interest in hotel development at this location. The Applicant has continued discussions with two (2) brokers and one (1) hotel developer since that time; however, it has been unable to reach an agreement with interested parties given current market conditions relative to hotels in this area. The Applicant continues to market the sites via Costar and Loopnet, two prominent online commercial listing databases. Additionally, the Applicant markets the properties in a bi-weekly email blast that reaches approximately 1700 entities. The Applicant will continue to diligently pursue the preparation and submission of the plans necessary to commence construction in accordance with the special exceptions.

I would appreciate the acceptance of this letter in accordance with Section 9-015 of the Zoning Ordinance as a request for thirty-six (36) months of additional time to commence construction in accordance with the referenced special exceptions. Thirty-six (36) months of

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LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664

Page 2

additional time will allow for continued negotiations with hotel operators and will ensure that plans can be prepared, submitted, and diligently pursued. The delays experienced by the Applicant were unforeseen circumstances at the time of approval. Further, there has been no change in circumstances that would render the approvals inconsistent with the Comprehensive Plan or the public interest.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

A handwritten signature in dark ink, appearing to read "Sara V. Mariska". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sara V. Mariska

SVM

cc: Mark Randall  
Lynne J. Strobel  
Thomas J. Colucci

A0704482.DOCX / I Johnson Ltr re: 2016 additional time request 006093 000010

Board Agenda Item  
July 12, 2016

ADMINISTRATIVE - 6

Additional Time to Commence Construction for Special Exception SE 2013-LE-005,  
Franconia Square, LLC (Lee District)

ISSUE:

Board consideration of additional time to commence construction for SE 2013-LE-005, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve twelve months additional time for SE 2013-LE-005 to June 3, 2017.

TIMING:

Routine.

BACKGROUND:

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

On December 3, 2013, the Board of Supervisors approved Special Exception SE 2013-LE-005, subject to development conditions. These applications were filed in the name of Franconia Square, LLC (d/b/a Shell Oil Co.) for the purpose of permitting a service station within the C-5 zoning district for property located at 6136 Franconia Road, Tax Map 81-3 ((4)) 4A (see Locator Map in Attachment 1). The service station, a Category 6 special exception use, is permitted pursuant to Section 9-611 of the Zoning Ordinance and is subject to the use limitations of Section 7-608. SE 2013-LE-005 was approved with a condition that the use be established or construction commenced and diligently prosecuted within eighteen months of the approval date unless the Board grants additional time. The development conditions for SE 2013-LE-005 are included as part of the Clerk to the Board's letter contained in Attachment 2.

On July 28, 2015, the Board approved twelve months of additional time to commence construction, extending the conditioned date to June 3, 2016. On April 22, 2016, the Department of Planning and Zoning (DPZ) received a letter dated April 20, 2016, from Roland Joun, agent for the Applicant, Franconia Square LLC, requesting twelve months of additional time (see Attachment 3). The approved Special Exception will not expire pending the Board's action on the request for additional time.

Mr. Joun states that the Applicant has not yet secured site plan approval. He states that there have been four submissions to this point, and a fifth site plan submission is imminent. The request for twelve months of additional time to commence construction, Mr. Joun states, would provide the Applicant enough time to secure site plan approval and pursue permitting to bring the site into compliance.

Staff has reviewed Special Exception SE 2013-LE-005 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a service station in C-5 zoning district. Further, staff knows of no change in land use circumstances that affects compliance of SE 2013-LE-005 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception. Finally, the conditions associated with the Board's approval of SE 2013-LE-005 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twelve months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Letter dated December 4, 2013, to John Manganello

Attachment 3: Letter dated April 20, 2016, to Barbara Berlin

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ

Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ

Denise James, Chief, Environment & Development Review Branch, Planning Division, DPZ

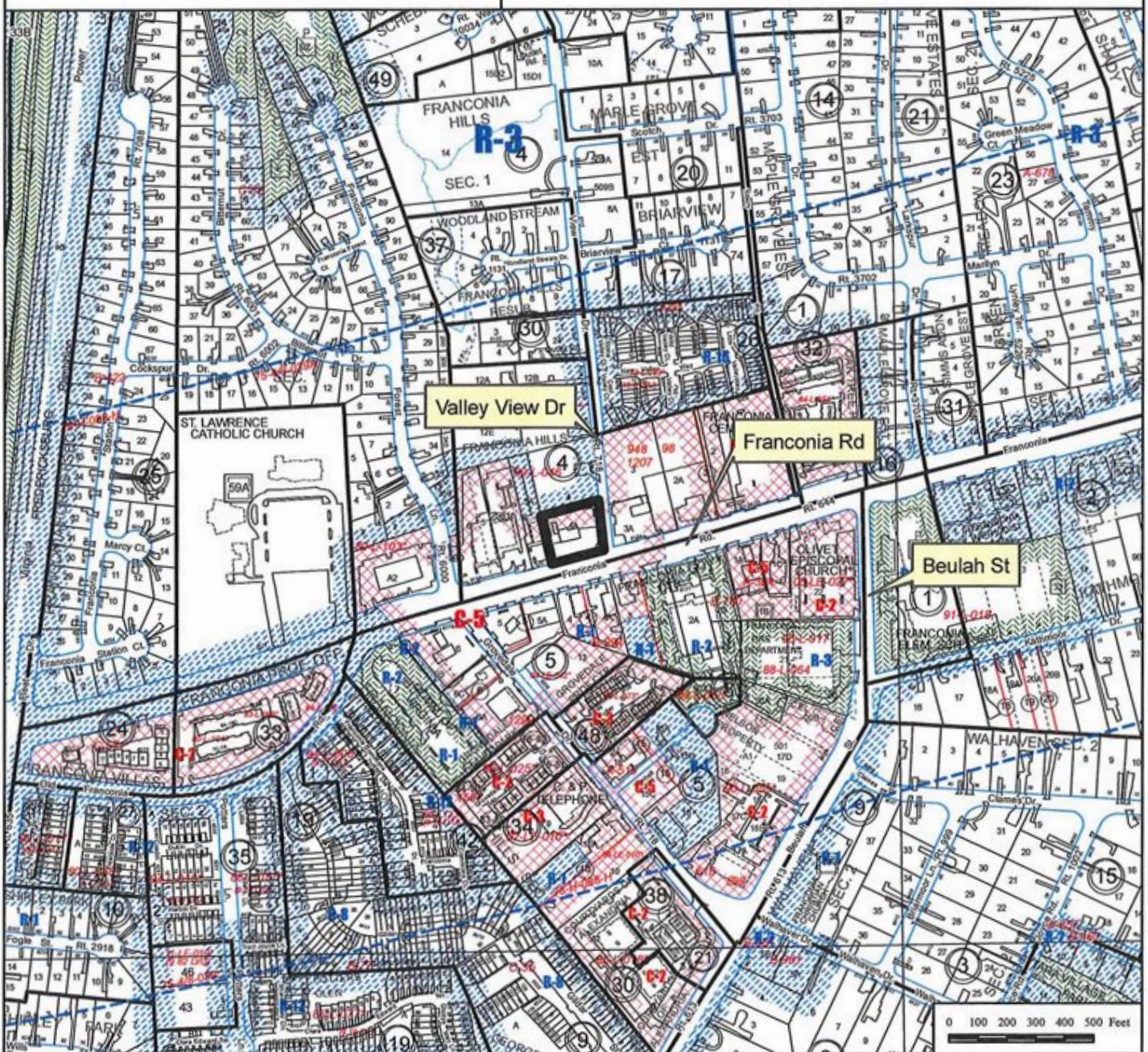
Jonathan Buono, Staff Coordinator, ZED, DPZ



**Special Exception****SE 2013-LE-005**

Applicant: FRANCONIA SQUARE, LLC  
 Accepted: 04/05/2013  
 Proposed: SERVICE STATION  
 Area: 32088 SF OF LAND; DISTRICT - LEE  
 Zoning Dist Sect: 07-0607  
 Art 9 Group and Use: 6-07  
 Located: 6136 FRANCONIA ROAD, ALEXANDRIA, VA 22310

Zoning: C- 5  
 Plan Area: 4,  
 Overlay Dist: HC  
 Map Ref Num: 081-3- /04/ /0004A







## County of Fairfax, Virginia

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

December 4, 2013

John Manganello  
Land Development Consultants, Inc.  
10805 Main Street, Suite 700  
Fairfax, VA 22030

Re: Special Exception Application SE 2013-LE-005

Dear Mr. Manganello:

At a regular meeting of the Board of Supervisors held on December 3, 2013, the Board approved Special Exception Application SE 2013-LE-005 in the name of Franconia Square, LLC. The subject property is located at 6136 Franconia Road, on approximately 32,088 square feet of land, zoned C-5 and HC in the Lee District [Tax Map 81-3 ((4)) 4A]. The Board's action permits a service station, pursuant to Section 7-607 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s), and/or use(s) indicated on the Special Exception Plat approved with this application, as qualified by these development conditions. A copy of the Special Exception conditions shall be displayed in a visible location to customers.

This Special Exception is subject to the provisions of Article 17 of the Zoning Ordinance, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any site plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception plat entitled Franconia Shell and prepared by Land Development Consultants, Inc., containing seven sheets dated February 14, 2013 and revised through August 29, 2013 and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

---

Office of the Clerk to the Board of Supervisors  
12000 Government Center Parkway, Suite 533  
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903  
Email: [clerktothebos@fairfaxcounty.gov](mailto:clerktothebos@fairfaxcounty.gov)  
<http://www.fairfaxcounty.gov/bosclerk>

4. Sales of food and other items indoors shall be limited to those permitted by the definition of a "Service Station" in Article 20 of the Zoning Ordinance and shall be limited to 250 square feet of gross floor area. There may be up to 50 square feet of accessory outdoor storage and display areas for goods offered for sale, but outdoor display and storage of items for sale, other than automobile fuel and oil, shall be prohibited.
5. The maximum number of service bays on site shall be limited to five as depicted on the Special Exception Plat. Vehicle repairs shall be performed within interior service bays only. No Virginia State emission testing shall be conducted in either of the two rear service bays.
6. No outdoor vehicle lifts shall be permitted.
7. No major vehicle repairs are permitted and outside storage of more than two abandoned, wrecked or inoperable vehicles on the site for more than 72 hours is prohibited.
8. The outdoor trash dumpster shall be enclosed by a board-on-board fence or other material that shall screen the trash dumpster from view. Such enclosure shall be provided within 60 days of this Special Exception approval.
9. The hours of operation for the service station shall be between 6:00 a.m. and 12:00 a.m., seven days a week; however, automotive repairs shall be limited to between 7:00 a.m. and 7:00 p.m., Monday through Friday and between 8:00 a.m. and 4:00 p.m. on Saturday and Sunday.
10. All exterior lighting, security, pedestrian and/or other incidental lighting, shall be in conformance with Part 9 of Article 14 of the Zoning Ordinance.
11. All signs shall be in conformance with Article 12 of the Zoning Ordinance and Section 10-4.1 of the Fairfax County Code, and Part 9 of Article 14 of the Zoning Ordinance. All non-conforming signs shall be removed within 60 days of the Special Exception approval. No pole-mounted signs shall be permitted.
12. No temporary signs (including "popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on-site or off-site.
13. A sidewalk five feet in width with handicap accessible ramps shall be constructed within 60 days of site plan approval along the site's Valley View Drive frontage.
14. Tree Preservation. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a

Registered Consulting Arborist, and shall be subject to the review and approval of UFMD.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 12 inches in diameter and greater (measured at 4 1/2 -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the Special Exception Plat and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

15. Tree Appraisal. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 12 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD.

At the time of the respective site plan approvals, the Applicant shall post a cash bond or a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the paragraph above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit or cash deposit shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFMD due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized construction activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives.

Upon release of the bond for the improvements on the Application Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

16. **Tree Preservation Walk-Through.** The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.
17. **Limits of Clearing and Grading.** The Applicant shall conform strictly to the limits of clearing and grading as shown on the Special Exception Plat, subject to allowances specified in these conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the Special Exception Plat, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.
18. **Tree Preservation Fencing.** All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four foot high, 14 gauge welded wire attached to six foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

19. **Root Pruning.** The Applicant shall root prune, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
  - Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
  - Root pruning shall take place prior to any clearing and grading, demolition of structures.
  - Root pruning shall be conducted with the supervision of a certified arborist.
  - An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
20. **Site Monitoring.** During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.
21. The applicant shall demonstrate at time of site plan that the proposed Magnolia Virginiana (Sweetbay Magnolia) plantings shall not be located within a four foot restrictive planting area and shall not conflict with street planting regulations of the Virginia Department of Transportation (VDOT).
22. If 10-year tree canopy credits are taken, at the time of site plan, the applicant shall

provide a letter certifying that all native trees planted on the site for additional 10-year tree canopy credits as provided by §12-0510.4B(5) have been propagated from seed or non-genetically modified germoplasm collected within the mid-Atlantic region.

23. Prior to site plan approval, approximately 211 square feet of right-of-way at the northeast corner of the site as shown on the Special Exception Plat shall be dedicated to the Board of Supervisors in fee simple in conformance with the policies and requirements of Fairfax County and VDOT.
24. If a waiver of the design standard for the site's easternmost access point on Franconia Road is not granted at the time of site plan, the applicant shall construct the entrance as directed by VDOT.
25. Vehicles parked on-site shall be parked only in designated, striped parking spaces at all times. Design of such parking spaces shall meet Zoning Ordinance and Public Facilities Manual requirements.
26. Prior to site plan approval, the applicant shall provide a detailed comparison of existing versus proposed impervious area tabulation/map. The existing impervious area shall be established based on Special Permit S-168-74, which was approved on November 13, 1974. Based on this, stormwater detention and requirements shall be met, if not waived pursuant to the Public Facilities Manual and the applicant shall establish the impervious area of the site, recalculate the phosphorus removal, and provide additional Best Management Practices as necessary.
27. The site shall be patrolled daily by the service station employees to pick up any trash on the site.
28. The selling, renting or leasing of trucks, trailers or automobiles on-site shall be prohibited.
29. If not already provided, an automotive fluid separator and/or underground fluid container shall be installed within 60 days of this Special Exception approval and designed such that any areas that could have oil or other vehicular fluid spills shall be contained. Such facility shall be properly maintained and properly drained and any liquids contained within shall be properly disposed of on a routine basis.
30. The applicant shall provide a separate container or enclosed container or enclosed area within the two storage trailers where automotive fluid or liquids are stored in order to capture spillage that may leak onto the floor of the storage trailer or onto the ground. Such container or enclosed area shall be provided within 60 days of this Special Exception approval.

31. To reduce the noise levels associated with any impact guns used for vehicle service, the employees of the vehicle light service establishment shall use "quiet gun" impact guns in the two rear service bays. This model of impact guns shall be the only model used during all hours of operation.
32. All applicable trade permits and final inspections shall be obtained for the existing additions (two rear service bays) and new construction prior to Non-Residential Permit approval.
33. No outdoor containers for clothing, books, etc. shall be permitted on-site.

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

Pursuant to Sect. 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, 18 months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

**The Board also:**

- Modified the Countywide trails plan for a major paved trail along Franconia Road in favor of the existing five-foot wide concrete sidewalk.
- Modified Section 13-303 of the Zoning Ordinance for the transitional screening requirement along the northern property line to that shown on the Special Exception plat.
- Waived Section 13-203 of the Zoning Ordinance for peripheral parking lot landscaping along Franconia Road and Valley View Drive.

Sincerely,



Catherine A. Chianese  
Clerk to the Board of Supervisors



**WILKERSON & ASSOCIATES, INC.**

**ENGINEERS AND SURVEYORS**

**P.O. BOX 17**

**DUNKIRK, MARYLAND 20754**

**(301) 855-8272/ (410) 257-3332**

**FAX: (301) 855-8380**

**rjoun@wilkersonnassociates.com**

April 20, 2016



2016-0583

Barbara Berlin  
Director, Zoning Evaluation Division  
Fairfax County Dept. of Planning & Zoning  
12055 Government Center Parkway, Suite 801  
Fairfax, VA 22035-5501

**RE: Special Exception Extension Letter**  
**Special Exception SE 2013-LE-005**  
**(d/b/a Shell Oil Co) Franconia Square, LLC**  
**Tax Map Ref: 81-3(4) 4A**

Dear Miss Berlin:

On behalf of our client, Franconia Square LLC, we request an additional time to obtain the approval of the site plan and commence construction. The Special Exception is due to expire on June 3, 2016. This site plan has been submitted and reviewed by staff four times and staff is requesting a fifth submittal. The issues that we are facing with staff is applying the new regulations to this site redevelopment and not following the approved special exception site plan. We have secured approval from all agencies except land development services department and VDOT. We are asking an additional 12 months extension to allow time for the site plan approval and for permitting.

We thank you in advance for your attention to this matter. If you have any questions or require additional information, please do not hesitate to call me at 301-855-8272.

Sincerely yours

**WILKERSON & ASSOCIATES, INC.**

  
Roland Joun, P.E.  
President

RECEIVED  
Department of Planning & Zoning

APR 28 2016

Zoning Evaluation Division

Board Agenda Item  
July 12, 2016

ADMINISTRATIVE - 7

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville 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 a traffic calming plan for Thomas Avenue consisting of the following:

- One Speed Hump on Thomas Avenue (Dranesville District)

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

TIMING:

Board action is requested on July 12, 2016.

BACKGROUND:

As part of the RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners' or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. Staff performed engineering studies documenting the attainment of qualifying criteria. Staff worked with the local Supervisors' office and community to determine the viability of the requested traffic calming measures to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff that plan is then submitted for approval to residents of the ballot area in the adjacent community. On May 25, 2016, FCDOT received verification from the local Supervisor's office confirming community support for the above referenced traffic calming plan.

Board Agenda Item  
July 12, 2016

FISCAL IMPACT:

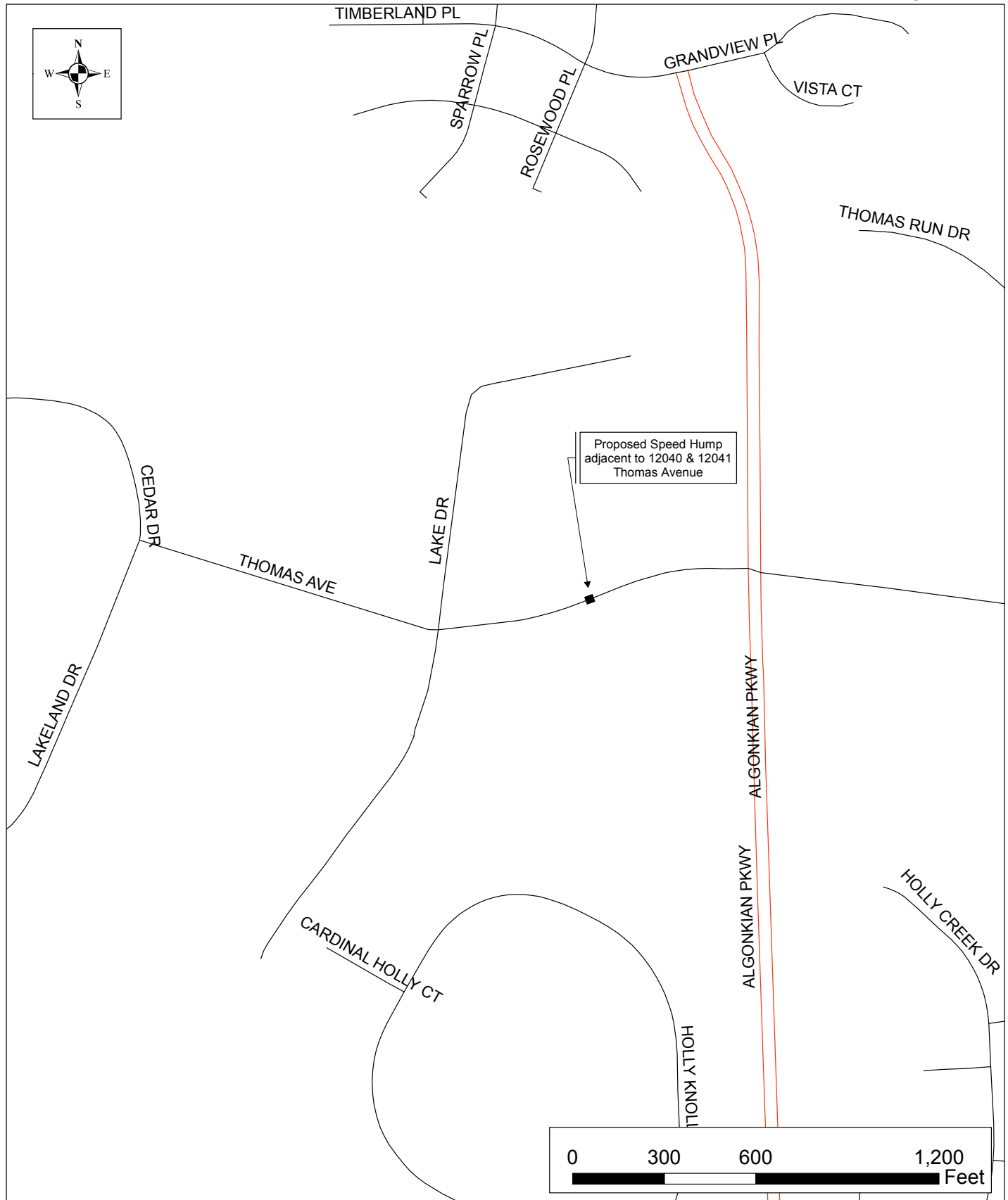
Funding in the amount of \$7,000 for the traffic calming measure associated with the Thomas Avenue project is available in Fund 300-C30050, General Fund, under Job Number 2G25-076-000.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Plan for Thomas Avenue

STAFF:

Robert A. Stalzer, 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



November, 2015

Fairfax County Department of Transportation  
Residential Traffic Administration Program (RTAP)  
TRAFFIC CALMING PLAN  
THOMAS AVENUE  
Dranesville District



A Fairfax Co. Va., publication



Tax Map: 61-1

Board Agenda Item  
July 12, 2016

ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing to Lease County-Owned Property to Cellco Partnership D/B/A Verizon Wireless (Lee District)

ISSUE:

Authorization to advertise a public hearing to lease County-owned property to Cellco Partnership D/B/A/ Verizon Wireless ("Verizon Wireless") for the installation of telecommunications equipment for public use at the existing monopole at the Kingstowne Fire Station located at 7936 Telegraph Road.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to publish the advertisement of a public hearing to be held on July 26, 2016, at 4:30 p.m.

TIMING:

Board action is requested on July 12, 2016 to provide sufficient time to advertise the proposed public hearing on July 26, 2016, at 4:30 p.m.

BACKGROUND:

The Board of Supervisors is the owner of the Kingstowne Fire Station facility located at 7936 Telegraph Road on a County-owned parcel identified as Tax Map Number 100-1 ((1)) 16. The site is currently improved with a 150-foot telecommunications tower positioned at the rear of the property. The County has an existing lease with Crown Castle for the equipment on the monopole, and Crown Castle has subleases with two other providers, Cricket Wireless and T-Mobile. The lease generated approximately \$36,000 for FY15 from the three occupants of the monopole.

Verizon Wireless has submitted a proposal to the Facilities Management Department (FMD) to co-locate 12 panel antennas on the monopole and install a backup generator and related ground equipment on a 16 foot by 14 foot portable equipment platform. Both the antenna and its mounting will be of a color and finish that match that of the existing monopole. An 8-foot high wooden fence will screen the equipment compound.

Staff negotiated proposed terms for a new agreement with Verizon Wireless in the form of a ground lease with updated provisions that reflect recent changes in the telecommunications industry and County procedures. The term of the lease is 5 years with four 5-year extensions. The lease fee will be \$12,000 for the first year with an annual increase of 3% thereafter. The lease requires Verizon Wireless to avoid any activity that would interfere with the daily operations at the fire station.

In anticipation of the proposed lease, Verizon Wireless submitted its plans to the Planning Commission in application FS-L15-29. On January 27, 2016, the Planning

Board Agenda Item  
July 12, 2016

Commission approved the telecommunications facility set forth in application FS-L15-29 as in substantial conformance with the recommendations of the Comprehensive Plan and confirmed that the facility should be considered a “feature shown,” pursuant to Section 15.2-6409 of the *Code of Virginia*, as amended.

Virginia Code Ann. § 15.2-1800 requires a locality to hold a public hearing before it may lease its real property. Staff recommends that the Board authorize the staff to advertise a public hearing to lease County property to Verizon Wireless, which will permit the co-location of its telecommunications equipment on the monopole located at 7936 Telegraph Road.

FISCAL IMPACT:

The proposed monopole license will generate approximately \$12,000 in revenue the first year with a three percent (3%) increase each subsequent year. All revenue will be deposited in the general fund.

ENCLOSED DOCUMENTS:

Attachment 1 – Location Map 100-1 ((1)) 16  
Attachment 2 – Draft Lease Agreement

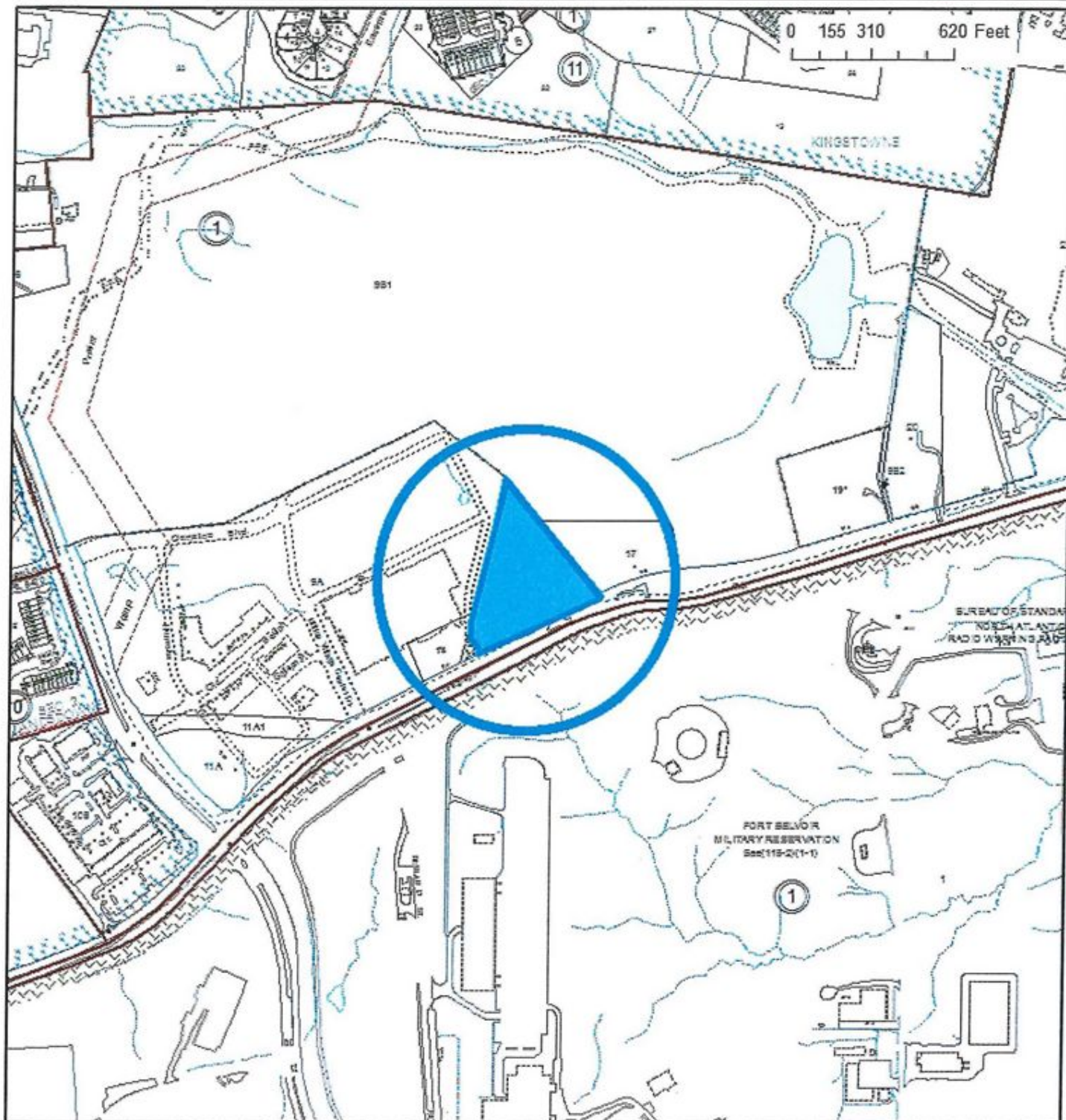
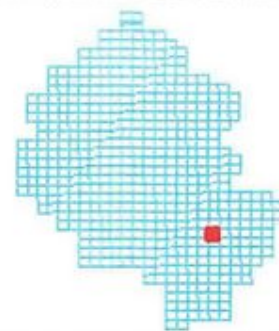
STAFF:

David J. Molchany, Deputy County Executive  
José A. Comayagua, Jr., Director, Facilities Management Department



# Kingstowne Fire Station

County Tax Map No.  
100-1 ((1)) Parcel 16  
Lee District  
3.5 Acres





**LEASE AGREEMENT BETWEEN THE FAIRFAX COUNTY BOARD  
OF SUPERVISORS AND CELLCO PARTNERSHIP d/b/a VERIZON  
WIRELESS**

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	Exhibit A	Major Components of Lessee's Equipment
	Exhibit B	Site Plan

**THIS REAL PROPERTY DEED OF LEASE AGREEMENT ("Lease")**, is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 (the **"Effective Date"**), between the **THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY**, with an address of 12000 Government Center Parkway, Fairfax, Virginia 22035 (**"Lessor"**), and **CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS**, a Delaware general partnership company, having an address of One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404) (**"Lessee"**), and the parties mutually agree as follows:

Whereas, Lessee intends to co-locate on the monopole (the **"Tower"**) located on the Parcel described below, which Tower was constructed pursuant to a separate Real Property Deed of Lease Agreement with Crown Castle between THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, Virginia and AMERICAN PCS, LTD. Trading as American Person Communication dated, March 16, 1996, assumed by Crown Castle (the **"Crown Tower Lease"**), and

Whereas, Lessee is entering into a separate lease agreement with Crown Castle to install Lessee's antennas and related equipment on the Tower (**"Lessee's Tower Lease"**), and Lessor and Lessee are entering into this Lease to permit Lessee to install its ground-based equipment to service Lessee's antennas and other tower equipment.

Whereas Lessee desires to lease from the Lessor the Premises described below for the purpose of the operations as further described in this Lease;

NOW THEREFORE, in consideration of the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **1. Leased Premises.**

Lessor is the owner of a parcel of land located at 7936 Telegraph Road, in Fairfax County, Virginia and referred to among the Tax Map records of Fairfax County as PIN 100-01-0016, and in Deed Book 8859, Page 720, hereinafter referred to as the **"Parcel"**. A portion of the Parcel that constitutes approximately 64 square feet of ground space is delineated **"Premises"** on the attached **Exhibit A** and is hereinafter referred to as the **"Premises"**. Lessor is willing to permit Lessee to use the Premises for the purposes and in accord with the terms and conditions set forth in this Lease. Lessee shall install and operate its Facilities, as defined below, on the Premises.

**"Facilities,"** as used herein, means Lessee's wireless communications facility, which may include an equipment platform, power and telephone utility pedestals, back-up power generator, and cabinets and related cables and utility lines and a location based system, including without limitation, coaxial cables, base units and other associated antennas,

equipment, cables, accessories and improvements, the major components of which are more specifically described on **Exhibit A** attached hereto.

## **2. Use of Premises.**

(a) Lessor leases to Lessee the Premises for the purpose of operating the Facilities upon the Premises as described in **Exhibit B** in the configuration shown on **Exhibit B**, together with the non-exclusive use of that area between the Premises and the Tower for Lessee's ice bridge, cables, conduits and pipes, in the location as shown on **Exhibit B**. Subject to compliance with all laws, Lessee may at its own cost and expense, use the portion of the Premises shown on **Exhibit B** to install, operate, maintain, repair, replace, protect and secure the Facilities, as set forth herein, or as subject to the written approval of Lessor.

(b) Lessor grants to Lessee, subject to all conditions herein, including but not limited to Paragraph 6, the right to install and operate: (i) underground electric lines from the existing "Utility Frame", as shown on **Exhibit B**, to the Premises, (ii) underground communication lines from the existing "Telco Box", as shown on **Exhibit B**, to the Premises, and (iii) a partially above-ground and partially underground natural gas line and related facilities from that point on the Parcel shown on **Exhibit B** to the Premises. Lessee acknowledges it will file the necessary application to seek utility easements and pay all fees for such in a separate process through the Planning Division of the Department of Planning and Zoning.

(c) All portions of the Facilities brought onto the Premises by Lessee shall remain the Lessee's personal property and, at Lessee's option, may be removed by Lessee at any time during the term, so as long as Lessee is not in default. Upon the termination of the Lease, the Facilities and any foundation shall be removed entirely from the Premises by the Lessee no later than ninety (90) days after the date of the termination of the Lease. Lessee shall verify and confirm in writing that all public service corporations and communication utility company(s) that were granted easements pursuant to Lessee's use of the Premises to have equipment on the Premises have been removed at the Lessee's expense and Lessee shall restore the Premises to an open area to the reasonable satisfaction of Lessor and which is free of any equipment, foundations, concrete mounting pads, grounding devices, easements or utilities and which has been graded and seeded. All such easements and Facilities shall be vacated at the Lessee's expense.

(d) Lessor grants Lessee a non-exclusive license for ingress and egress to the Premises as shown on **Exhibit B**; and a non-exclusive license to the extent of the Lessor's interest therein to any existing access roads, easements or rights of way serving the Premises for access to the Facilities for the purposes of installing, maintaining, operating, repairing, and removing the Facilities. Subject to the foregoing, Lessee shall have twenty-four (24) hour a day, seven (7) day a week access to the Premises and the Facilities for maintenance, unscheduled repairs and other emergencies.

(e) Except for the Premises (as described in **Exhibit B**), Lessor reserves the right to continue all existing uses of the Parcel. Lessor further reserves the right to make or permit any such future additional use and to make or permit any use of the Parcel as Lessor deems

appropriate, provided that Lessee's use of the Premises and the operation of the Facilities are not unreasonably interfered with by such future additional use.

(f) Lessee shall not (i) violate any environmental laws (now or hereafter enacted), in connection with Lessee's use or occupancy of the Premises; or (ii) use, generate, release, manufacture, refine, produce, process, store, or dispose of any hazardous wastes on, under, or about the Premises, or transport to or from the Premises any Hazardous Material (as defined in Paragraph 10); except as allowed by, and in full compliance with, applicable law, for the use of such materials and substances that are ordinary and customary for wireless communications facilities similar to the one operated at the Premises. Lessee will be responsible for all obligations of compliance with any and all environmental laws, including any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental conditions or concerns as may now or hereafter be in effect with respect to the Facilities being installed on the Premises by the Lessee. Lessee shall cure, remedy and be responsible to cure or remedy any environmental condition created on the Premises by Lessee. Lessor represents that it has no knowledge of any substance, chemical, waste or Hazardous Material in the Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Additionally, Lessor agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. This paragraph shall survive the termination of this Agreement.

(g) Any modifications of the Facilities or the addition of new Facilities shall be accomplished without interfering with the use or development of the Parcel, existing as of the date of this Agreement, by Lessor or any other party and/or the necessary day to day operations of the Lessor. Promptly upon completion of the forgoing modifications or maintenance, Lessee shall, at its own cost and expense, repair any damage to the Parcel resulting from such construction, installation or maintenance.

### 3. Term.

(a) This Agreement shall be effective as of the Effective Date. Subject to the terms and conditions of this Agreement, the initial term of this Lease ("**Initial Term**") shall begin on the **Commencement Date** (as defined below) and end at 11:59 P.M. on the day immediately preceding the fifth (5<sup>th</sup>) anniversary of the Commencement Date. The term "Commencement Date" shall mean the earlier to occur of: (i) the first day of the month in which Lessee commences installation of its Facilities at the Premises, or (ii) the first day of the month in which the date occurs that is one hundred twenty (120) days after the Effective Date. Lessor and Lessee agree that they shall acknowledge in writing the Commencement Date in the event the Commencement Date is based upon the date Lessee commences installation of its Facilities at the Premises. In the event the Commencement Date is the fixed date set forth above, there shall be no written acknowledgement required.

(b) Upon thirty (30) days written notice given by Lessee to Lessor, Lessee may terminate this Agreement if Lessee determines the Premises has become unsuitable for Lessee because (i) Lessee is unable to obtain or maintain in force all necessary Governmental

Approvals (as hereinafter defined); (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate the Facilities; (iii) interference by or to Lessee's operation cannot be resolved; (iv) the Crown Tower Lease or Lessee's Tower Lease has expired or been terminated early; or (v) the Premises are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee's reasonable judgment to affect adversely Lessee's use of the Facilities. Notwithstanding the foregoing, Lessee shall give written notice to Lessor to terminate this Agreement within one hundred twenty (120) days after the occurrence of any of the foregoing described events which is the basis of termination.

Provided that the Lessee does not breach any of the terms, conditions, covenants, representations or warranties set forth in this Agreement, this Agreement shall automatically renew subject to the provisions of this Paragraph 3(c) for four (4) additional periods of five (5) years each (the "**Renewal Term**") upon the same terms and conditions contained herein; provided, however, that the annual lease fee provided for in Paragraph 4 shall be adjusted at the commencement of each Renewal Term as provided in Paragraph 4. The Agreement shall automatically renew for each Renewal Term unless, at least sixty (60) days prior to expiration of the then existing period, Lessee provides written notification to Lessor of its intention not to renew this Agreement.

(c) Notwithstanding anything herein to the contrary, Lessor shall have the right to terminate this Agreement on not less than one hundred and eighty (180) days written notice if the Crown Tower Lease has expired or terminated early (and has not be replaced with a new lease). If this Agreement is not renewed or terminated as set forth herein, the option(s) remaining shall be rendered null and void. Each Renewal Term shall commence upon the expiration of the immediately preceding Term or applicable Renewal Term. All references in this Agreement to the "Term" hereof shall include, where appropriate, the Initial Term and all Renewal Terms so effected.

#### 4. Lease Fee.

- (a) Commencing upon the Commencement Date, Lessee shall pay to Lessor a non-refundable annual lease fee, as rent, in accordance with the following schedule during the Initial Term:

Year 1	\$12,000.00
Year 2	\$12,360.00
Year 3	\$12,730.80
Year 4	\$13,112.72
Year 5	\$13,506.11

- (b) If the Lease is renewed for any Renewal Term, Lessee shall pay to Lessor a non-refundable annual lease fee in an amount equal to 103% of the annual lease fee in effect during the previous lease year, which increase shall be effective on each anniversary of the Commencement Date occurring during the Renewal Term(s).

- (c) Lessor and Lessee acknowledge and agree that initial rental payment for Year 1 may not actually be sent by Lessee until ninety (90) days after the Commencement Date or after a written acknowledgement confirming the Commencement Date, if such an acknowledgement is required. By way of illustration of the preceding sentence, if the Commencement Date is March 1 and no written acknowledgement confirming the Commencement Date is required, Lessee shall send to the Lessor the annual rental payment for Year 1 by May 30, and if the Commencement Date is March 1 and a required written acknowledgement confirming the Commencement Date is dated March 14, Lessee shall send to the Lessor the annual rental payment for Year 1 by June 12. Thereafter, annual payment shall be due on or before the anniversary of the Commencement Date. All rent hereunder shall be paid without notice, demand, deduction or setoff.
- (d) If Lessee fails to pay any installment of lease fees by the fifth (5<sup>th</sup>) day of the month in which it is due, Lessee shall also pay to Lessor a late fee equal to five percent (5%) of the late payment. If any amount remains unpaid more than thirty (30) days after its due date, Lessee shall pay Lessor interest on such unpaid amount at an annual rate of eighteen percent (18%) from the date such amount was due until the date such amount is paid to Lessor. If at the time of assessing any late fee, the applicable interest rate exceeds that which Lessor may lawfully assess, the interest rate for that late fee shall be the maximum that the Lessor may lawfully assess. Notwithstanding the foregoing, Lessor shall waive such late fee and interest with respect to the first late payment in any five (5) year period if Lessee makes the required payment within ten (10) days after delivery of written notice from Lessor that the same is overdue.

Lessee and Lessor agree that Lessee shall not permit any other carriers on the Premises nor shall it transmit any other carrier's signal from the Premises.

## **5. Cost Reimbursement**

Lessee shall pay Lessor, as additional rent and as a reimbursement of costs incurred by Lessor for preparing, reviewing and negotiating, this Agreement, the sum of Two Thousand and 00/100ths Dollars (\$2,000.00), which shall be due and payable within ninety (90) days after the date of full execution of this Agreement.

## **6. Modification of the Premises.**

(a) Lessor has approved all existing plans, specifications, drawings, renderings, permits, applications and descriptions for Lessee's use of the Premises, which is attached hereto as Exhibit A. Lessee shall have full responsibility and shall pay all costs for plan preparation and procurement of all necessary permits and other approvals from the appropriate governmental agencies.

(b) Except as otherwise set forth herein, any alterations, modifications or additions (any an "Alterations") to the Facilities at the Premises shall require Lessor's prior written consent, which shall not be unreasonably withheld, conditioned or delayed provided the proposed Alterations are reasonable and customary for the type of communications facility contemplated by this Lease. Notwithstanding the foregoing, but provided the same otherwise comply with all of the terms and conditions of this Lease, Lessee shall have the right to make the following Alterations to the Facilities at the Premises without Lessor's consent: (i) any Alteration that is exclusively within the interior of Lessee's equipment cabinet(s), (ii) any Alteration that is in the nature of a repair, maintenance work or replacement/substitution of a piece of equipment (or component thereof) with a substantially similar piece of equipment (or component thereof), and/or (iii) the addition of an equipment cabinet on Lessee's equipment platform provided the same is of similar structure and dimension as the cabinet(s) shown or described on **Exhibit A** attached hereto.

(c) All Alterations will comply with the terms set forth in this Agreement and with all applicable laws, codes, ordinances (including the Fairfax County Zoning Ordinance as it applies to telecommunication facilities) and regulations.

(d) No damage will be done or interference committed with any equipment or structures located within the Parcel with respect to the Alterations. If damage to the Parcel and/or equipment occurs then, Lessee shall within thirty (30) days repair the damage and return the Parcel to the condition existing before the damage occurred.

(e) If any Alterations should require the relocation of any facilities or equipment presently located at the Premises owned by the Lessor, such facilities or equipment may be relocated by Lessee only with Lessor's prior written consent and at Lessee's sole cost and expense.

## **7. Interference.**

(a) Lessee agrees not to permit any use of the Facilities after the Commencement Date that will interfere with Lessor's operations or use of the Parcel.

(b) Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with Lessor's "Public Safety Grade" (Manufacturers High Tier) radio frequency communications equipment used by Lessor. In the event the Facilities cause such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon notification to Lessee's Authorized Representative of the interference. Lessee shall be obligated to respond to the problem of interference within twelve (12) hours of receipt of notification from the Lessor and if the interference is not corrected within one (1) day of receipt of notification, the Lessee shall immediately turn off the Facilities causing such interference until the Facilities can be repaired or replaced (except that Lessee shall be able to intermittently test the Facilities at times reasonably approved by Lessor).



Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with other forms of radio frequency communications equipment existing, or previously approved on the Parcel as of the execution date of this Agreement. In the event the Facilities cause such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated to respond to the problem of interference within forty-eight (48) hours of receipt of notice from Lessor, and if the interference is not corrected within five (5) days of receipt of written notification (or such time as may reasonably be required with exercise of the due diligence provided such repairs are begun within said five (5) days), the Facilities causing such interference shall be powered down until Lessee is able to repair or replace the interfering equipment (provided that Lessee shall be able to intermittently test the Facilities at times reasonably approved by Lessor).

All notices under this Section 7(b) shall be made to Lessee's emergency contact number at its Network Operations Center: 1-800-852-2671.

(c) Lessor agrees that any future lease or license it executes with other parties for use of the Parcel will include a clause that prohibits the lessee or licensee from installing such equipment that is of the type and frequency which causes harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of Lessee.

(d) In the event of noncompliance with the provisions of this Section 7, either party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

#### **8. Condition of the Premises.**

Lessee and Lessor acknowledge and agree that Lessee has accepted the Premises "as is" and Lessor shall have no obligation to improve or modify the Premises in any manner whatsoever.

#### **9. Maintenance and Repairs of Facilities.**

The parties acknowledge and agree that: (i) Lessee is constructing a new board-on-board wooden fence on the Parcel as depicted on **Exhibit B** attached hereto (the "New Fence"), (ii) Lessee shall cause the New Fence to be constructed and installed in a good and workmanlike manner with new materials of good quality, (iii) Lessor shall have the right to require, by written notice to Lessee, that Lessee remove the New Fence upon the expiration or earlier termination of this Lease, provided if Lessor does not provide such notice to Lessee, then upon the expiration or earlier termination of this Lease, the New Fence shall automatically become the property of Lessor without any further action of the parties, with title vesting in Lessor, and this Agreement shall act as a bill of sale therefor. During the term of this Lease, Lessee shall maintain, repair or replace (or cause Crown Castle to maintain, repair or replace) the New Fence. Lessor agrees to reasonably assist and cooperate with Lessee at Lessee's

expense to seek reimbursement for repairs related to any damage caused to the New Fence by Lessor's other tenants on the Parcel. Nothing contained in this Lease shall be construed to impose upon Lessor any duty or obligation to ensure other tenants do not damage the New Fence, and Landlord shall not be liable to Tenant for such damage caused by any other tenant, its employees, agent, business invitees, licensees, customers, clients, or guests.

Lessee shall be responsible for all maintenance and repair of the Facilities and any appurtenant equipment or facilities of Lessee during the term of this Agreement. Lessee shall promptly and diligently respond to any request by Lessor for any such maintenance or repair.

#### **10. Indemnification.**

(a) Lessee indemnifies and holds Lessor and its agents, employees, volunteers, officers and directors harmless from and against all claims, demands, costs, losses, liabilities, fines and penalties, including but not limited to reasonable attorney's fees and costs of defense, arising from (i) the condition of the Facilities; (ii) any activities undertaken on, in, under or near the Premises by, for or at the direction of Lessee or the Lessee's agents, contractors, employees or invitees; (iii) any default or Event of Default (as defined below) by Lessee under this Agreement; and (iv) the presence, storage, use, placement, treatment, generation, transport, release or disposal on, in, under or near the Premises by Lessee or any of Lessee's Agents of (1) oil, petroleum or other hydrocarbon derivatives, additives or products, (2) hazardous wastes, (3) hazardous or toxic substances or chemicals, (4) fungicides, rodenticide or insecticides, (5) asbestos or (6) urea formaldehyde, in each case as defined by any applicable state, federal or local law, rule or regulation (collectively, "Hazardous Material").

(b) Lessee hereby agrees to indemnify and hold harmless Lessor, its officers, directors, agents, and all employees and volunteers from any and all claims for bodily injury, death, personal injury, theft, and/or property damage, including cost of investigation, all expenses of litigation, including reasonable attorney's fees, and the cost of appeals arising out of any claims or suits that result from the errors, omissions, or negligent or willful acts of the Lessee and its subcontractors and each of their agents and employees or invitees.

(c) Nothing contained in this Lease shall be deemed to obligate Lessee to indemnify Lessor for claims solely arising out of the negligence or intentional wrongful acts of the Lessor or Lessor's agents, employees or contractors.

#### **11. Insurance.**

(a) Lessee shall acquire, maintain and pay for commercial general liability insurance with a limit of Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage and Two Million Dollars (\$2,000,000) general aggregate insuring against claims occurring upon the Premises and/or arising from Lessee's use thereof. Insurance shall include Lessor as an additional insured as their interest may appear under this Agreement, and shall otherwise be reasonably satisfactory to Lessor. Such insurance must be issued by an insurance company licensed, authorized or permitted to conduct business in the Commonwealth of Virginia and shall have a general policyholder's rating of at least A- and a Financial rating of

at least VIII in the current edition of Best's Insurance Reports. Lessee shall provide Lessor an original certificate evidencing such insurance upon (i) the Commencement Date of the term of this Agreement, (ii) each anniversary of the Commencement Date, and (iii) at any other time during the term of this Agreement upon the request of the Lessor.

(b) Lessee shall carry hazard insurance to cover damage to or destruction of the Lessee's equipment and other property. If the Premises or Facilities are destroyed or damaged and rendered unsuitable for normal use, Lessee may terminate this Agreement upon providing thirty (30) days written notice to Lessor. In such event, with the exception of liabilities that arise prior to such termination and liabilities that survive termination of the Agreement as provided in Paragraph 15 herein, all rights and obligations of the parties shall cease as of the date of the damage or destruction, without further liability hereunder. Notwithstanding the foregoing, Lessee shall remain responsible for removal of its equipment and other property and for restoration of the Parcel and this provision shall not limit Lessee's obligation to restore the site to its original condition.

## **12. Liens.**

Lessee shall promptly pay for all work, labor, services or material supplied by or on behalf of Lessee at the Premises or in connection with the Facilities. If any mechanics' or materialmen's liens shall be filed affecting the Parcel, Lessee shall cause the same to be released of record by payment, bond, court order or otherwise, within thirty (30) days after notice of filing thereof. Upon the completion of the construction of the Facilities or upon the completion of any approved modifications thereto, Lessee shall obtain and provide to Lessor lien waivers from all contractors and subcontractors which provided services or materials in connection with the construction or modification of the Facilities.

## **13. Compliance with Laws.**

Lessee shall, at its expense, throughout the term of this Agreement, obtain all building permits and other governmental or quasi-governmental licenses, permits, consents and approvals required for the construction, installation, operation and use of the Facilities in compliance with all applicable laws, rules, orders, ordinances and requirements, including but not limited to, all laws, rules, orders, ordinances and requirements which relate to the Federal Aviation Administration, Federal Communications Commission, health, safety, environment or land use. In the event of Lessee's failure to comply with this paragraph, Lessor may, but is not obligated to, take such actions as may be necessary to comply with any such laws, rules, regulations, order, ordinances or requirements, and Lessee shall immediately reimburse Lessor for all reasonable costs and expenses incurred thereby.

## **14. Representations and Warranties.**

Lessee represents and warrants to Lessor that (i) it is a partnership duly formed and validly existing under the laws of the State of Delaware, (ii) it has all power and authority necessary to own its properties and conduct its business, as presently conducted, and to enter into and perform its obligations under this Agreement, (iii) the person executing this Agreement on its

behalf has been duly authorized to do so, and (iv) that it has not dealt with, nor is any brokerage commission due to, any broker in connection with this Agreement.

#### **15. Termination.**

Upon the expiration or earlier termination of this Agreement, Lessee shall remove the Facilities and any foundation from the Premises as provided in Paragraph 2(c) of this Agreement, and shall repair any damage to the Premises and associated public utility areas caused by the installation, operation or removal of the Facilities. If Lessee remains on the premises more than ninety (90) days after the expiration or termination of this Agreement, Lessee shall pay to Lessor for such holding over a license fee per month equal to 10% of the annual installment of the license fee which accrued during the immediately preceding term. The license fee for such holding over shall remain in effect until Lessee removes the Facilities. If the Facilities are not removed within one hundred twenty (120) days after expiration or earlier termination of this Agreement, Lessor shall at its option complete the removal and restoration at the Lessee's expense. Acceptance of the license fees upon termination shall not be a waiver by Lessor of any of its other remedies at law or in equity. Paragraphs 10, 12 and 15, 18 and 21 of this Agreement shall survive termination of this Agreement.

#### **16. Default.**

If Lessee shall fail to pay when due any of the installments of the lease fee provided for herein or any other sum accruing pursuant to the terms of this Agreement, and such failure shall continue for ten (10) days after written notice from Lessor, or if Lessee shall be in default or fail to perform in a timely manner any other obligation herein provided, other than the payment of license fee installments, and such failure shall continue for thirty (30) days after written notice from Lessor (provided Lessee shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and Lessee commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion, but in no event shall such extended cure period exceed 60 days), or if a petition in bankruptcy shall be filed by or against Lessee, or if Lessee shall be adjudicated insolvent, or if Lessee shall make a general assignment for the benefit of its creditors, or if a receiver or trustee shall be appointed to take charge of and wind up Lessee's business, or if the Lessee abandons or vacates the Facilities for more than twelve (12) consecutive months prior to the termination of this Agreement, then Lessee shall be considered to have caused an event of default ("**Event of Default**") hereunder and Lessor may elect to terminate this Agreement at its sole discretion and pursue its remedies hereunder, at law or in equity.

#### **17. Authorized Representative**

(a) Lessee and Lessor shall provide the names, titles, email addresses and direct telephone numbers of their qualified individuals employed by Lessor and Lessee ("**Authorized Representatives**") who can, from time-to-time, and as needed, assist in answering questions or any accounting discrepancies. The Authorized Representative is:

**LESSOR:**

Name: Kaylynn Kingery  
Title: Leasing Manager  
Email Address: [Kaylynn.kingery@fairfaxcounty.gov](mailto:Kaylynn.kingery@fairfaxcounty.gov)  
Direct Phone Line: 703-324-2836

**LESSEE:**

Name: Brian Stover  
Email Address: [brian.stover@verizonwireless.com](mailto:brian.stover@verizonwireless.com)  
Direct Phone Line: 301-512-2459

Or such other employee designated by Lessee from time to time.

**18. Notices.**

All notices required hereunder or in respect hereof shall be in writing and shall be transmitted by postage prepaid certified mail, return receipt requested, delivered by hand, or transmitted by overnight courier to the following addresses:

Lessor:

Fairfax, Virginia  
Attn: Leasing Manager  
12000 Government Center Parkway, Suite 424  
Fairfax, VA. 22035  
And County Attorneys Office  
12000 Government Center Parkway, Suite 549  
Fairfax, VA 22035

Lessee:

Cellco Partnership d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notices shall be deemed given upon delivery or mailing by certified mail with return receipt requested thereof to the address specified above. Either party may change its address or any address for copies by giving ten (10) days prior notice of such change in the manner described above.

**19. Assignment.**

(a) This Agreement may be sold, assigned or transferred by the Lessee without any approval or consent of the Lessor to the Lessee's principal, affiliates, subsidiaries of its

principal or to any entity which acquires all or substantially all of Lessee's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. Lessee shall provide Lessor with notice of any such sale, assignment or transfer within a reasonable time thereafter. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the Lessor, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of Lessee or transfer upon partnership or corporate dissolution of Lessee shall constitute an assignment hereunder. Lessee shall not sublet the Premises without Lessor's prior written consent in each instance. The original Lessee hereunder, Celco Partnership, shall not be released or discharged in connection with any sale, assignment or transfer of this Lease by the Lessee hereunder.

(b) This Agreement shall not be interpreted to create anything other than a lease and shall not create any other right, title or interest in the property or Premises, nor shall it create an easement. In the event of any assignment or sub-license, Lessee agrees that it shall remain liable for all obligations hereunder. No other parties are permitted use of the Premises without written permission of Lessor. Furthermore, no other party's equipment shall be permitted at the Premises without written permission of Lessor.

## **20. Miscellaneous.**

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and may not be amended except by a writing signed by the parties hereto. The invalidation of any of the provisions hereof shall not affect any of the other provisions hereof, which shall remain in full force. This Agreement shall be binding on the parties hereto and their respective successors and assigns.

## **21. Applicable Law.**

This Agreement shall be executed, constructed and enforced in accordance with the laws of the Commonwealth of Virginia, disregarding those laws pertaining to conflicts of law. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Agreement shall be the Circuit Court of Fairfax County or the United States District Court for the Eastern District of Virginia.

## **22. Quiet Enjoyment.**

Lessor covenants that Lessee, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises, subject to the terms and conditions herein contained.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the date first above written.

WITNESS OR ATTEST:

LESSOR:

**THE BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY**

\_\_\_\_\_(SEAL)

By: \_\_\_\_\_

Name: David J. Molchany

Title: Deputy County Executive

Date: \_\_\_\_\_

WITNESS OR ATTEST:

LESSEE:

**CELLCO PARTNERSHIP d/b/a VERIZON  
WIRELESS**

\_\_\_\_\_

By: \_\_\_\_\_

Name: Aparna Khurjekar

Title: Vice President – Field Network

Date: \_\_\_\_\_

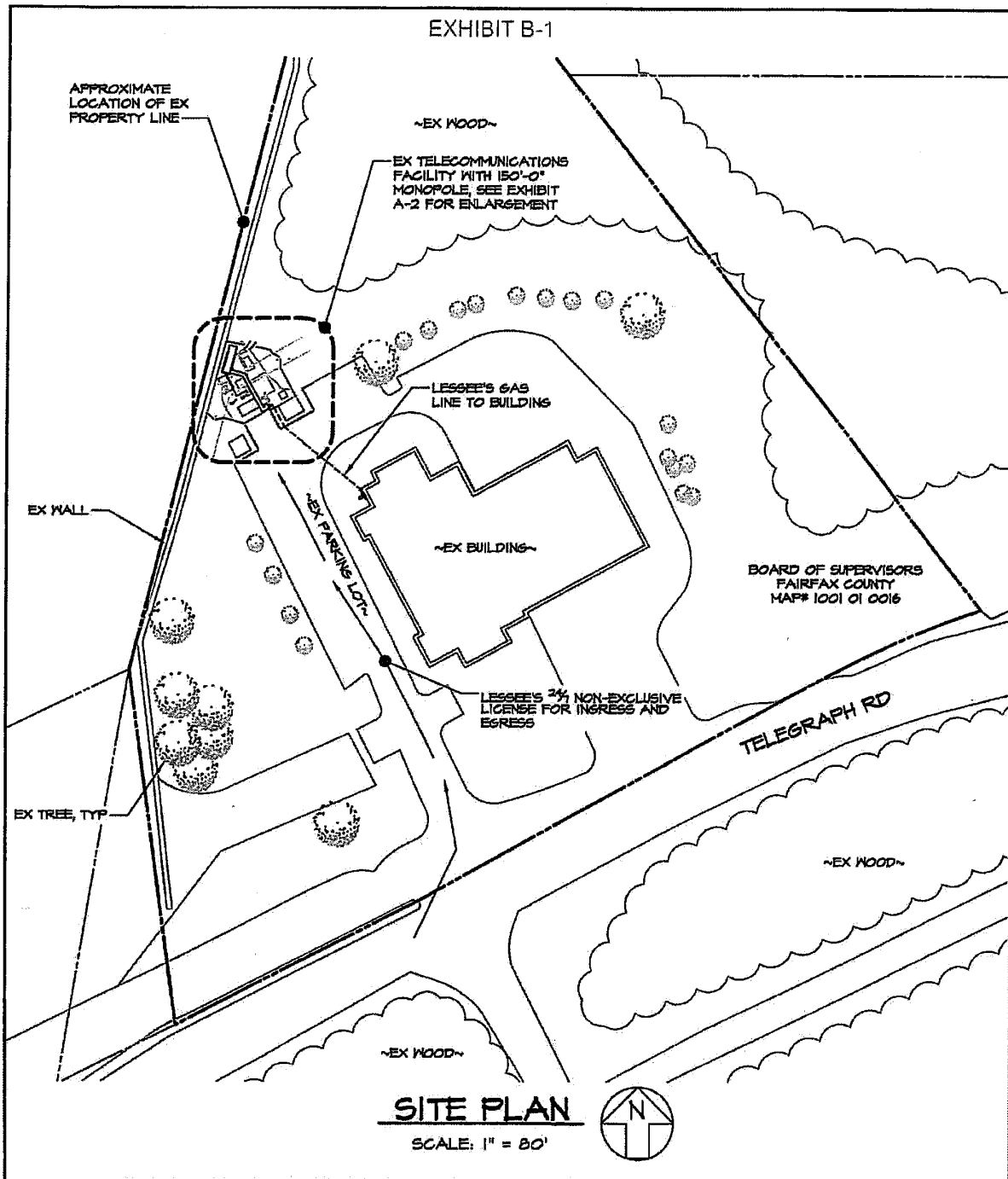


## **EXHIBIT A**

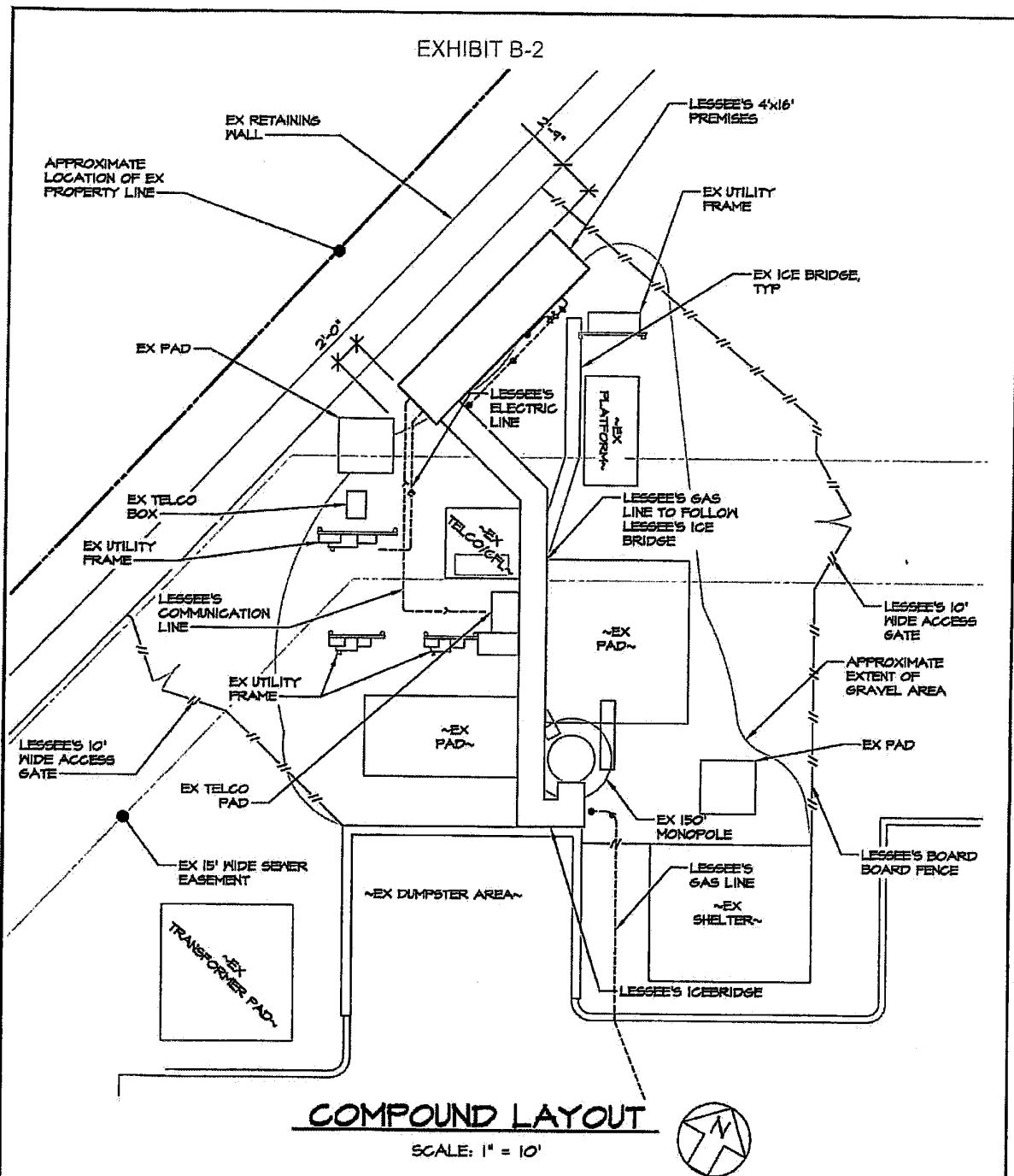
### **MAJOR COMPONENTS OF LESSEE'S FACILITIES**

- 1 Steel platform
- Up to 3 Equipment Cabinets on platform
- 1 Emergency natural gas backup generator
- Requisite cables (coax/fiber) in support of installation
- Requisite cable support superstructure
- Meter Backboard with necessary meters, distribution boxes, safety lighting and appurtenances
- GPS antennas with supporting mounts and brackets

**EXHIBIT B**  
**SITE PLANS**  
**[see attached]**



	<p><b>MORRIS &amp; RITCHIE ASSOCIATES, INC.</b> ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS 1220-C East Joppa Road, Suite 505 Towson, Maryland 21286 (410) 821-1890 Fax (410) 821-1748</p>	<p style="text-align: center;"><b>HILLTOP</b> <b>7936 TELEGRAPH RD</b> <b>ALEXANDRIA, VA 22315</b> <b>FAIRFAX COUNTY</b></p>			
<p>SCALE: AS NOTED</p>	<p>DATE: 06/03/16</p>	<p>DRAWN BY: DNT</p>	<p>DESIGN BY: JT</p>	<p>REVIEW BY: BES</p>	<p>JOB NO.: 10427.1690</p>



**MORRIS & RITCHIE ASSOCIATES, INC.**  
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 Fax (410) 821-1748

### HILLTOP

**7936 TELEGRAPH RD  
 ALEXANDRIA, VA 22315  
 FAIRFAX COUNTY**

SCALE: AS NOTED	DATE: 06/03/16	DRAWN BY: DNT	DESIGN BY: JT	REVIEW BY: BES	JOB NO.: 10427.1690
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ADMINISTRATIVE – 9

Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Funding from the Virginia Department of Behavioral Health and Developmental Services for Permanent Supportive Housing for Individuals with Severe and Persistent Mental Health Issues (SMI) and/or Co-occurring SMI and Substance Use Issues

ISSUE:

Board authorization for the Fairfax-Falls Church Community Services Board to apply for and accept funding, if received, from the Department of Behavioral Health and Developmental Services (DBHDS). Funding of \$706,506 will provide permanent supportive housing to 30 individuals with SMI or co-occurring SMI and substance use issues. The required local match will be met with in-kind resources. It is anticipated that funding will be awarded in the summer of 2016. 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 per Board policy.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Fairfax-Falls Church Community Services Board to apply for and accept funding, if received, from the DBHDS. Funding in the amount of \$706,506 will be used to house homeless individuals and individuals at risk of homelessness who have a SMI and/or co-occurring SMI and substance use issues. The local match requirement will be met with in-kind resources. There are no grant positions associated with this award.

TIMING:

Board action is requested on July 12, 2016. Due to an application deadline of June 21, 2016, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:

Research has demonstrated that individuals in stable housing have better health outcomes. There is a significant shortage of affordable housing for the population served by the CSB. A recent CSB housing report indicated that 991 individuals with

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active CSB cases are in need of some type of supportive housing. This project established by DBHDS will help meet that housing need.

Funding will be used to provide housing location and leasing services to adults served by the CSB who are homeless, at risk of homelessness, at risk of coming in contact with the criminal justice system, and individuals leaving hospitals without a housing plan and are in need of need of supportive housing. Due to the quick implementation timeline established by DBHDS, it is anticipated that current County contracts will be used to provide these services. CSB staff will provide in-kind clinical and supportive services.

FISCAL IMPACT:

Grant funding in the amount of \$706,506 is being requested from DBHDS in order to provide Permanent Supportive Housing to 30 individuals with SMI or co-occurring SMI and substance use issues. The required local match will be met with in-kind resources. This grant does allow for the recovery of indirect costs; however, because of the highly competitive nature of the award, the CSB did not include indirect costs as part of the application. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2017.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENT:

Attachment 1: Grant Summary

STAFF:

Patricia Harrison, Deputy County Executive

Tisha Deeghan, Executive Director, Fairfax-Falls Church Community Services Board

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

**Department of Behavioral Health and Developmental Services  
Permanent Supportive Housing for Adults with Serious Mental Illness Program**

<b>Grant Title:</b>	Permanent Supportive Housing for Adults with Serious Mental Illness Program
<b>Funding Agency:</b>	Virginia Department of Behavioral Health and Developmental Services (DBHDS)
<b>Applicant:</b>	Fairfax-Falls Church Community Services Board (CSB)
<b>Funding Amount:</b>	State funding of \$706,506 with the required local match met with in-kind resources.
<b>Proposed Use of Funds:</b>	This project will support the development of 30 permanent supportive housing units. The units will be used to provide supportive housing units to the homeless, those at risk of homelessness, exiting a state hospital without housing, and at risk of involvement with criminal justice system interventions. The CSB will be partnering with New Hope Housing and FACETS to provide housing location and leasing services.
<b>Performance Measures:</b>	<ol style="list-style-type: none"><li>1- Within 90 days of receiving funds from DBHDS, identify and successfully house all 30 individuals identified in the target populations.</li><li>2- Maintain at least 85 percent of these individuals in the supportive housing units.</li><li>3- Decrease hospitalizations and improve health and well-being.</li><li>4- Decrease involvement with the criminal justice system.</li><li>5- Improve employment and independence.</li><li>6- This is a new program developed by DBHDS; therefore, CSB will work with DBHDS to develop any additional outcome measures.</li></ol>
<b>Grant Period:</b>	Funding will be awarded in the summer of 2016.



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ACTION - 1

Approval of Amendments to Fairfax County's Title VI Program for the Federal Transit Administration (FTA)

ISSUE:

Board of Supervisors approval of amendments to the Fairfax County Title VI Program. These amendments better define System-wide Service Standards, Disparate Impact, and Disproportionate Burden policies.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the Fairfax County's Title VI Program Amendments in substantially the form of Attachment I.

TIMING:

The Board of Supervisors is requested to act on this Title VI Program on July 12, 2016, so that Fairfax County can remain eligible for financial assistance from FTA.

BACKGROUND:

All recipients of federal financial assistance (e.g., states, local governments, transit providers) are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the United States Department of Transportation's (USDOT) implementing regulations. To document their compliance with Title VI, all recipients of federal financial assistance must maintain a valid Title VI Program or Plan that demonstrates how the recipient is complying with Title VI requirements, including prohibiting discrimination on the basis of race, color, or national origin. Although not directly prohibited by Title VI, preventing discrimination on the basis of economic status is also part of a Title VI Program. [See Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, signed by President Clinton on February 11, 1994.]

On July 1, 2014, the Board of Supervisors approved the County's Title VI Program. FTA then approved the Title VI Program on November 19, 2014. FTA then performed a compliance review of FCDOT's Title VI Program on November 3, 4, and 5, 2015. As a result of the compliance review, FTA required the County amend language describing *System-wide Service Standards, Disparate Impact, and Disproportionate Burden*

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policies. FCDOT has proposed revised policy definitions to FTA, which FTA has tentatively approved, contingent upon approval by the Board of Supervisors.

FTA's findings and FCDOT's proposed responses to those findings are as follows:

*FTA Finding: System-wide Service Standards/Policies - FCDOT did not have a quantifiable standard for service availability, as required by FTA Circular 4702,18,*

*FCDOT's Response:* FCDOT's current service availability standard is as follows:

"Service availability indicates whether a person resides within 1/4 mile of a bus route, either Fairfax Connector, Metrobus, or both. This is measured as an aggregate of how many people in the County have bus service available to them."

FCDOT proposes the following replacement language:

"Fairfax Connector's service standard is to provide fixed-route bus services within one quarter mile of a minimum of 53% of all residents within the County's service area."

Using the original service standard policy language, FCDOT staff determined the percent of the population (53%) that resides within one quarter mile of a bus route to provide a quantifiable service standard. The proposed change has no impact on who the County serves or service standards.

*FTA Finding: Evaluation of Fare/Service Changes - FCDOT did not assess the level of adverse effects borne by minority populations compared to non-minority populations to determine the occurrence of disparate impact or disproportionate burden, as required by FTA Circular 4702. 1B.*

*FCDOT's Response:* The County proposes to revise the definitions for Disparate Impact and Disproportionate Burden, in accordance with the Title VI Circular. The County's current definitions are as follows:

Disparate Impact

"A disparate impact occurs when the difference between the system-wide percentage of minority riders and the percentage of minority riders affected by a proposed service change or fare change is 10 percent or greater."

Disproportionate Burden

"A disproportionate burden occurs when the difference between the system-wide percentage of low-income riders and the percentage of low-income riders affected by a proposed service change or fare change is 10 percent or greater."

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FCDOT proposes revised definitions as follows:

Disparate Impact

"A disparate impact occurs when the difference between minority riders and non-minority riders affected by a proposed fare or service change is 10 percent or greater."

Disproportionate Burden

"A disproportionate burden occurs when the difference between low-income riders and non-low-income riders affected by a proposed fare or service change is 10 percent or greater."

FISCAL IMPACT:

Remaining Title VI compliant will allow Fairfax County to remain eligible to receive current and future FTA grant and other USDOT funding. However, there is no direct financial impact of this action.

ENCLOSED DOCUMENTS:

Attachment I: Fairfax County Department of Transportation Title VI Program, with Amendment

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Patricia McCay, Assistant County Attorney  
Dwayne Pelfrey, Division Chief, Transit Services Division, FCDOT  
Randy White, Countywide Transit Services Coordinator, FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Brent Riddle, Coordination and Funding Division, FCDOT

**Addendum 1 – Systemwide Service Standards**

Fairfax County’s System Wide Service Standard has been revised as follows:

“Fairfax Connector’s service standard is to provide fixed-route bus services within one quarter mile of a minimum of 53% of all residents within the County’s service area.”

## **Addendum 2 – Disproportionate Burden/Disparate Impact Definitions**

Fairfax County's Disproportionate Burden and Disparate Impact definitions have been revised as follows:

### **Disparate Impact**

"A disparate impact occurs when the difference between minority riders and non-minority riders affected by a proposed fare or service change is 10 percent or greater."

### **Disproportionate Burden**

"A disproportionate burden occurs when the difference between low-income riders and non-low-income riders affected by a proposed fare or service change is 10 percent or greater."

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ACTION – 2

Approval of Revisions to the Transportation Priorities Plan (Dranesville District)

ISSUE:

Board approval of funding for a new pedestrian project (Georgetown Pike Walkway, project #198) not previously approved in the Board's Transportation Priorities Plan (TPP).

RECOMMENDATION:

The County Executive recommends that the Board approve: including the Georgetown Pike Walkway project (#198) into the TPP, and reprogramming \$500,000 from project #31, spot intersection improvements at Georgetown Pike (Route 193) and Dolley Madison Blvd (Route 123) to fund this new project (#198).

TIMING:

The Board should act on this item on July 12, 2016, so staff can begin implementation of this project as expeditiously as possible.

BACKGROUND:

On January 28, 2014, the Board approved its TPP, identifying projects to fund through FY 2020. The approved projects included project #31, spot intersection improvements at Georgetown Pike (Route 193) and Dolley Madison Blvd (Route 123). Improvements at this intersection included adding a right turn lane on Georgetown Pike in the eastbound direction, signalization improvements, and pedestrian facilities. After completion of preliminary scoping work, staff has eliminated the right turn lane improvement on project #31, since it would not provide measurable improvements to intersection operations. However, the pedestrian improvements at the intersection will still be implemented.

At the request of the Dranesville District office, staff recommends adding project # 198 (not previously approved in the TPP), Georgetown Pike (Route 193) Walkway into the TPP. This improvement would provide 600 feet of walkway on the north side of Georgetown Pike from the intersection of Dolley Madison Boulevard to Colonial Farm Road, and connects with an existing walkway leading to the Clemmyjontri Park. Staff's revised estimate for this project is \$500,000.

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As the total estimate for project #198 exceeds the director's authority under the funding allocation policy approved by the Board in March 2011, staff is seeking approval to include the project in the TPP, and use the savings from project #31, to fund the \$500,000 needed for pedestrian improvements for project #198.

FISCAL IMPACT:

Total funding in the amount \$1,150,000 is available in Fund 40010 (County and Regional Transportation Projects, 2G40-087) for projects #31, Georgetown Pike and Dolley Madison Blvd, and #198, Georgetown Pike Walkway. There is no impact to other projects or the General Fund.

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT

Karyn Moreland, Section Chief, Capital Projects and Traffic Engineering Division (CPTED), FCDOT

Tad Borkowski, Transportation Planner, CPTED, FCDOT

Ray Johnson, Transportation Planner, CFD, FCDOT



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ACTION – 3

Approval of the 2016 Zoning Ordinance Amendment Work Program

ISSUE:

Approval of the 2016 Zoning Ordinance Amendment Work Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the attached 2016 Zoning Ordinance Amendment Work Program.

TIMING:

Board action is requested on July 12, 2016.

BACKGROUND:

The Zoning Ordinance Amendment Work Program is approved by the Board on an annual basis and contains requests for amendments to the Zoning Ordinance generated from the Board, the Planning Commission, the Board of Zoning Appeals, staff, citizens, and industry representatives. The Work Program is comprised of two lists: Priority 1 and Priority 2. The Priority 1 list includes those items to be addressed in the up-coming year and the Priority 2 list includes items to be retained for future Priority 1 consideration.

Enclosed as Attachments 1 and 2 are summary charts of the status of the 2015 Priority 1 list and those items proposed for the 2016 Priority 1 list, respectively. Attachment 3 sets forth the 2016 Priority 1 list with a brief description of each item, and Attachment 4 provides a listing of the items on the 2016 Priority 2 list. Attachment 5 contains a list of new amendment requests that have been made since the adoption of the 2015 Work Program, and Attachment 6 is the Planning Commission's recommendation on the proposed 2016 Work Program.

With regard to the status of the 2015 Priority 1 list, there were a total of 37 items originally approved by the Board. Since July 1, 2015, 14 amendments have been adopted and 5 amendments have either been authorized for public hearing or are anticipated for authorization by July 26, 2016. It is noted that the Modifications to the PDC/PRM Districts and Other Associated Provisions Amendment, which comprises 7 items on the 2015 Work Program was adopted by the Board on June 21, 2016.

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On May 5, 2016, the Planning Commission's Policy and Procedures Committee reviewed the proposed 2016 Work Program and on May 18, 2016 the Work Program was endorsed by the full Planning Commission with a recommendation to place the Congregate Living Facility Definition on the Priority 2 list for future prioritization.

On May 24, 2016, staff presented the proposed 2016 Work Program to the Board's Development Process Committee for review and consideration. Staff highlighted a number of amendments where significant staff time has been spent researching and conducting outreach including the PDC/PRM Amendment, Agricultural Districts and Uses, Adult Day Health and the initiation of a comprehensive review of Article 12 to update and simplify sign regulations. Staff also identified a new proposal called the Building Repositioning Initiative that was being added to the Priority 1 list to address recommendations from the Building Repositioning Work Group for repurposing existing commercial buildings to facilitate emerging trends and new uses. There was also discussion on staff's recommendation to address the Congregate Living Facility Definition, which was a new item for 2016 and the Public Use Definition, which was added to the Priority 1 Work Program in 2015, by Zoning Administrator Interpretation rather than through an amendment.

Subsequent to the Development Process Committee meeting, a few changes to the proposed 2016 Work Program have occurred. The Congregate Living Facility Definition which was a new item for the 2016 Work Program has been placed on the 2016 Priority 2 list as set forth in the Planning Commission recommendation and the Public Use Definition has been retained as a Priority 1 Item.

The attached 2016 Priority 1 Zoning Ordinance Amendment Work Program contains 30 amendments for consideration and review. Of the 30 amendments, 18 are carry over amendments from the 2015 Priority 1 list and 12 are new amendment requests. Of the 18 carry over amendments, 1 item has been authorized and 3 are anticipated to be brought to the Board for authorization by July 26, 2016. Of the 12 new amendment requests, 2 have been authorized for public hearing by the Board - Minor Lot Line Adjustments and Shape Factor in the R-C District and the Approval Process for Monopoles and Towers was adopted by the Board on June 21, 2016.

**FISCAL IMPACT:**

The 2016 Work Program can be addressed using existing staff and resources. However, it is noted that funds have been allocated to hire a consultant to begin an evaluation of the current structure of the Zoning Ordinance and the process for amendments as compared to other jurisdictions and to look at best practices and options for updating to better respond to evolving uses and development patterns.

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ENCLOSED DOCUMENTS:

Attachment 1 - Summary Chart of the Status of 2015 Priority 1 Work Program  
Attachment 2 - Summary Chart of the Proposed 2016 Priority 1 Work Program  
Attachment 3 – Proposed 2016 Priority 1 Zoning Ordinance Work Program  
Attachment 4 – Proposed 2016 Priority 2 Zoning Ordinance Work Program  
Attachment 5 – New Requests since July 1, 2015  
Attachment 6 – Planning Commission Recommendation

STAFF:

Robert A. Stalzer, Deputy County Executive  
Fred Selden, Director, Department of Planning and Zoning (DPZ)  
Leslie B. Johnson, Zoning Administrator

**2015 Priority 1 Zoning Ordinance Amendment Work Program – Status****July 12, 2016**

<b>Adopted</b>	<b>Amendment Authorized</b>	<b>Amendment Being Researched</b>	<b>Target Date</b>
Minor Revisions – 10/6/15 ( <i>Consists of 5 items from the 2015 Work Program</i> )	Building Height (5)*	Accessory Structure Size (1)	Spring 2017
Donation Drop-Off Boxes - 11/17/15	Public Use Definition (19)*	Adult Day Health Care (2)	Fall 2016
Alt. Lending Institutions - 11/17/15	Residential Studios [ <i>Priority 2 – No. 23</i> ]	Agricultural Districts and Uses (3)	Fall 2016
Noise – 11/17/15	Special Permit Submission Requirements (25)*	Application Fees (4)	Winter 2017
Modifications to the PDC/PRM Districts and other Associated Provisions – 6/21/16 ( <i>Consists of 7 items from 2015 Work Program</i> )	State Code - 2015 Session – Variance Provisions (26)*	College/University (7)	Spring 2017
		Commercial Revitalization – Review certain SE uses as by right (8)	Spring 2017
		Commercial Vehicles in Residential Districts (9)	Fall 2016
		Commonly Accepted Pet Definition [ <i>Priority 2 No. 9A</i> ]	
		Gross Floor Area – Calculation of cellar space outside of the PDC, PRM and PTC Districts [ <i>Priority 2 – No. 17</i> ]	
		Outdoor Lighting (14)	Fall 2016
		Parking Reductions (16)	Winter 2017
		PRC District Density (17)	Fall 2016
		PTC District Amendments (18)	TBD
		Rear Yard Coverage (20)	Fall 2016
		Riding Lessons as a Home Occupation (22)	Fall 2016
		Sign Ordinance (24)	TBD
		State Code – Development in Dam Break Inundation Zones [ <i>Priority 2 – No. 52</i> ]	
<b>Total Adopted: 15</b>	<b>Total Authorized: 5</b>	<b>Total Outstanding: 17</b>	

( ) Denotes paragraph reference on Proposed 2016 Priority 1 Work Program  
Amendment has been authorized or will be brought to the Board for authorization by July 2016.

**Total Amendments: 37**

## 2016 Priority 1 Zoning Ordinance Amendment Work Program

July 12, 2016

Carry Over from 2015			New Priority 1	
Amendment Authorized	Amendment Being Researched	Target Date	New Amendments	Target Date
Building Height (5) Minor Lot Line Adjustments (12) Shape Factor in the R-C District (23)	Accessory Structure Size (1)	Spring 2017	Building Repositioning Initiative (6)	TBD
Public Use Definition (19)*	Adult Day Health Care (2)	Fall 2016	Food and Beverage Processing and Production (10)	Fall 2016
Special Permit Submission Requirements (25)*	Agricultural Districts and Uses (3)	Fall 2016	Laurel Hill Historic Overlay District (11)	TBD
State Code - 2015 Session – Variance Provisions (26)*	Application Fees (4)	Winter 2017	Minor Modification Provisions (13)	TBD
State Code – 2016 Session (27a) (a) Telecommunication Facilities - Monopoles and Towers	College/University (7)	Spring 2017	P District Recreation Fees (15)	Winter 2017
	Commercial Revitalization Review Certain SE Uses as By-Right (8)	Spring 2017	Parking Reduction Process (16b)	Winter 2017
	Commercial Vehicles in Residential Districts (9)	Fall 2016	Retail Initiative (21)	TBD
	Outdoor Lighting (14)	Fall 2016	State Code – 2016 Session (27b)	TBD
	Parking Reductions – Parking Maximums or reduced requirements outside of Tysons (16a)	Winter 2017	Zoning Ordinance Diagnostic (28)	TBD
	PRC District Density (17)	Fall 2016		
	PTC District Amendments (18)	TBD		
	Rear Yard Coverage (20)	Fall 2016		
	Riding Lessons as a Home Occupation (22)	Fall 2016		
	Sign Ordinance (24)	TBD		
<b>Total Authorized: 7</b>	<b>Total Outstanding: 14</b>		<b>New Amendments: 9</b>	

Highlighted Items under Amendment Authorized are new Priority 1 Items for 2016

( ) Denotes paragraph reference on Draft 2016 Priority 1 Work Program

Amendment anticipated to be brought to the Board for Authorization in July, 2016\*

**Total Amendments 30**

**2016 PRIORITY 1  
ZONING ORDINANCE AMENDMENT WORK PROGRAM**

Below is an alphabetical list and brief description of all Priority 1 Zoning Ordinance Amendments. Any amendment that has been authorized has the scheduled hearing dates listed; otherwise, only projected authorization dates are provided. If annotated with an asterisk (\*), the amendment is without a projected timeline. **Highlighted** items are new amendments on the Priority 1 list. All amendments listed may not be completed within the 12 month time frame covered by this Work Program, as other higher priority items may place greater demands on staff resources than originally anticipated. Finally, several amendments are annotated with the abbreviation (Economic Success), as they are directly aligned with the recommendations set forth in the “Strategic Plan to Facilitate the Economic Success of Fairfax County”.

1. Accessory Structure Size (2015 Priority 1)  
Consider limiting the size of an accessory structure relative to a principal structure that can be permitted by right and allowing larger accessory structures with special permit approval by the BZA.

***Spring 2017 Authorization to Advertise***

2. Adult Day Health Care (2015 Priority 1)  
Consider adding adult day care as a new use subject to use limitation and determine if the use should be permitted by-right or subject to a special exception.

***Fall 2016 Authorization to Advertise***

3. Agricultural Districts and Uses (2015 Priority 1)  
Review of zoning districts which permit agricultural activities in light of amendments to the State Code limiting local regulation of agricultural activities including farm wineries, farm breweries, farm distilleries and agri-tourism/recreational activities to determine which zoning districts are appropriate for these uses and whether additional standards should be considered to address potential impacts to health, safety and welfare. Consider updating the definition of agriculture and the additional standards for temporary farmers markets to reflect contemporary activities associated with such uses.

***Fall 2016 Authorization to Advertise***

4. Application Fees (2015 Priority 1 and On-Going)  
Research on application fees is on-going for the next budget cycle scheduled for 2017.

***Winter 2017 Authorization to Advertise***

5. Building Height (2015 Priority 1)  
Consider increasing the building height for single family detached dwellings in the R-C, R-E and R-1 Districts when the impact of the increased height on adjacent properties would be mitigated.

*Authorized June 7, 2016*

6. Building Repositioning Initiative (New – Economic Success Goal 2)\*  
Consider changes that would allow repurposing of existing commercial buildings to facilitate emerging trends and new uses such as makerspaces and live/work units within certain zoning districts.

7. College/University (2015 Priority 1)  
Consider defining college/university to differentiate the use from a private school of special education and revising the current parking rates for both college/university and private school of special education.

*Spring 2017 Authorization to Advertise*

8. Commercial Revitalization (2015 Priority 1)  
Review options for allowing certain special exception uses by right subject to use limitation within CRDs and CRAs including colleges and universities, hotels and Category 6 uses.

*Spring 2017 Authorization to Advertise*

9. Commercial Vehicles in Residential Districts (2015 Priority 1)  
Review definition and accessory use provisions for commercial vehicles to determine whether existing provisions are adequate and compliment Chapter 82 of the County Code.

*September, 2016 Authorization to Advertise*

10. Food and Beverage Processing and Production (New – Economic Success Goal 1)  
Consider adding food and beverage manufacturing, production and processing establishments as a use permitted by right in the I-3 and I-4 Districts with use limitations to address the ancillary uses often found in association with craft beverage operations such as tasting rooms and on-site retail sales.

*Fall 2016 Authorization to Advertise*

11. Laurel Hill Historic Overlay District ( 2015 Priority 2)\*  
Establish a Laurel Hill Historic Overlay District as anticipated by the 2001 Memorandum of Agreement (MOA) between Fairfax County and the federal government for the former Lorton Correctional Complex.



12. Minor Lot Line Adjustments (New – Economic Success Goal 3)

Consider adding language to facilitate the minor adjustment of lot lines for corner lots and contiguous lots to allow for a more regular configuration of lot lines, provided the adjustment of lot lines does not create any new or further aggravate any existing noncompliance.

*Authorized June 7, 2016*

13. Minor Modification Provisions (New – Economic Success Goal 3)\*

Review the Minor Modification provisions for approved Rezonings, Special Exceptions and Special Permits to identify opportunities to allow for additional flexibility in the administrative approval of minor modifications.

14. Outdoor Lighting (2015 Priority 1)

Consider revisions to the outdoor lighting standards pertaining to security lighting, outdoor sports facilities and automatic teller machines to improve the overall effectiveness of such provisions; consider requiring Architectural Review Board review of sports illumination plans and photometric plans that are submitted in Historic Overlay Districts when such plans do not require site plan, special permit, special exception, rezoning or development plan approval; and review single family residential lighting exemptions to consider additional requirements for minimum spacing of lighting fixtures and possible limitations on cumulative allowable initial light outputs.

*Fall 2016 Authorization to Advertise*

15. P District Recreation Fees (New)

Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts.

*Winter 2017 Authorization to Advertise*

16. Parking Reductions (2015 Priority 1 and New – Economic Success Goal 3 )

- (a) Consider applying parking maximums and/or reductions of the minimum parking requirements due to transit oriented areas and/or transportation demand management provisions.
- (b) Consider other changes that would streamline the parking reduction process

*Winter 2017 Authorization to Advertise*

17. Planned Residential Community (PRC) District Density (2015 Priority 1)

Consider possible revisions to the maximum allowable densities and/or persons per acre in the PRC District to facilitate the implementation of the Reston Master Plan.

*Fall 2016 Authorization to Advertise*

18. Planned Tysons Corner (PTC) Urban District Amendments (2015 Priority 1)\*  
Consider modifications to the PTC District regulations in conjunction with the amendments to the Tysons Comprehensive Plan.

*To be processed in conjunction with the Tysons Master Plan update*

19. Public Use Definition (2015 Priority 1)  
Clarify that a use controlled or sponsored by other local governments, such as a school or library, is not deemed a public use for purposes of zoning.

*July, 2016 Authorization to Advertise*

20. Rear Yard Coverage (2015 Priority 1)  
(a) Clarify how the 30% coverage limitation within the minimum required rear yard is calculated. (b) Consider allowing modifications of the maximum 30% minimum required rear yard lot coverage requirement to be approved by the BZA as a special permit.

*September, 2016 Authorization to Advertise*

21. Retail Initiative (New – Economic Success Goal 3)\*  
Consider improvements to the Zoning Ordinance that accommodate the evolving nature of retail development, updates outdated definitions and further evaluates the retail sector (including food service) to ensure that the community's vision for growth, redevelopment and community reinvestment can be realized.

22. Riding Lessons as a Home Occupation (2015 Priority 1)  
Consider permitting small-scale riding lesson operations as home occupations, subject to specific limitations designed to minimize impact on surrounding properties, such as the prohibition of lights, limited hours of operation and numbers of students.

*Fall 2016 Authorization to Advertise*

23. Shape Factor in the R-C District (2015 Priority 2)  
Consider adding a Shape Factor requirement in the R-C District

*Authorized June 7, 2016*

24. Sign Ordinance (2015 Priority 1)\*  
Comprehensive review of Article 12 in light of the recent Supreme Court Decision and to update and simplify all sign regulations, including: moveable copy/electronic signs; real estate directional signs; similar free standing signs in auto parks and office parks; add special permit provisions to allow off-site commercial and residential signs based on topography or other unique circumstances; permit more flexibility for office and industrial park signs to include single tenant buildings; address temporary political campaign signs.

25. Special Permit Submission Requirements (2015 Priority 1)

In conjunction with a special permit for an accessory dwelling unit or home professional office, require the submission of a certified dimensioned floor plan for the special permit use and principal dwelling unit that shows all ingresses and egresses, including any window egresses required under the Building Code, gross floor area for both the principal dwelling and special permit use, use of each room, and any kitchen sinks, cabinets or appliances. In addition, consider amending the special permit requirements for home child care facilities to require a certified plat rather than a hand drawn plat.

*July, 2016 Authorization to Advertise*

26. State Code – 2015 Session (2015 Priority 1)

(a) Update the Variance provisions

*July, 2016 Authorization to Advertise*

27. State Code – 2016 Session (Continuing)\*

(a) Telecommunication facilities – House Bill 883

*Adopted June 21, 2016*

(b) Other potential revisions resulting from the 2016 General Assembly

28. Zoning Ordinance Diagnostic (Economic Success Goal 3)\*

Consider hiring an outside consultant to review the current structure of the Zoning Ordinance and amendment processes as compared to other jurisdictions and offer recommendations for modification including looking at best practices and options for pursuing an update versus a rewrite.

**PROPOSED PRIORITY 2 ZONING ORDINANCE AMENDMENT  
2016 WORK PROGRAM**

**The Following Abbreviations are used:**

Architectural Review Board (ARB)  
Board of Zoning Appeals (BZA)  
Business Process Redesign (BPR)  
Department of Public Works and Environmental Services (DPWES)  
Environmental Improvement Program (EIP)  
Fairfax County Economic Advisory Commission (EAC)  
Fairfax County Health Care Advisory Board (HCAB)  
Planning Commission (PC)

**ACCESSORY USES, ACCESSORY SERVICE USES AND  
HOME OCCUPATIONS**

**SOURCE**

- |  |   |
|--|---|
| 1. Comprehensive review of accessory uses and structures, to include consideration of issues such as:  | Board/PC/BZA/<br>Staff/Industry   |
| <p>(a) The establishment of a maximum height limitation.</p> <p>(b) Revisions to the location regulations for uses/structures accessory to residential, commercial and industrial uses.</p> <p>(c) Establishment of a side yard requirement for accessory structures in the PRC District.</p> <p>(d) Consider revising the height of accessory structures and accessory storage structures that can be located anywhere in the rear or side yards to be the same.</p> <p>(e) Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance of its height from all property lines.</p> <p>(f) Review the accessory use limitations to determine whether they adequately address the placement of commercial portable storage containers in commercial districts.</p> <p>(g) Review the allowable placement of roll-off debris containers-dumpsters in residential districts during home improvement projects.</p> <p>(h) Consider requiring the issuance of fence permits for either all fences or fences that are over a certain height.</p> <p>(i) Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway.</p> <p>(j) Consider establishing a minimum distance a fence can be located from a pipestem driveway.</p> |   |
|  | <p>Board</p> <p>Board</p> <p>Board</p> <p>Citizen</p> <p>Citizen</p> <p>Citizen</p> |

- (k) Consider permitting electric fences on lots less than 2 acres as a deer management tool. Citizen
- 2. Consider revisions to the accessory service use provisions to include: BZA/PC
  - (a) A clearer distinction between accessory service uses and accessory uses.
  - (b) The appropriateness of whether office buildings in the retail commercial districts should be allowed to have a small deli as a by right accessory service use instead of requiring special exception approval.
- 3. Consider revising the home occupation provisions to allow a small amount of storage of stock in trade for a home business conducted via the internet or sales outside of the dwelling unit. Citizen

### **ADMINISTRATION**

- 4. Consider allowing the Board of Supervisors, Planning Commission and Board of Zoning Appeals to set the day or days to which any public hearing shall be continued due to inclement weather or other conditions without further advertisement or posting of the property. Staff/General Assembly
- 5. Consider revising the cluster provisions to delete the bonus density option. General Assembly

### **BOARDS, COMMISSIONS, COMMITTEES**

- 6. Review Par. 7 of Sect. 19-101 to clarify that the Planning Commission has the authority to make recommendations on variance applications to the Board of Zoning Appeals. Staff
- 7. Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval. ARB

### **COMMERCIAL ZONING DISTRICTS**

- 8. Consider allowing veterinary clinics in the C-3 and C-4 Districts with use limitations or as a special exception use Staff

### **DEFINITIONS AND USE LIMITATIONS**

- 9. Review the following definitions: Staff/BZA
  - (a) Commonly Accepted Pets [2015 Priority 1] Board
  - (b) Congregate Living Facilities Board
  - (c) Contractors' offices and shops

- (d) Junk yard
  - (e) Riding and boarding stables
  - (f) Private schools
  - (g) Storage yard
  - (h) Streets
10. Add the following definitions Staff/BPR/BZA
- (a) Establishment for production, processing, etc.
  - (b) Place of worship
  - (c) Storage
11. Consider excluding patios from the deck definition in order to facilitate the placement of patios in side yards. Staff
12. Clarify the meaning of “transient” in the hotel/motel definition. BZA
13. Consider allowing the use of pervious pavers in more parking situations in order to reduce the amount of impervious surfaces and stormwater runoff. Board/DPWES
14. Consider revising the contractors’ office and shops definition to clarify that the use includes establishments used by paving and road contractors and by facilities that install water and sewer pipes. BZA
15. Fast Food Restaurants – Clarify the square footage and percentage use limitations for by right fast food restaurants in the commercial retail districts. Staff  
*[To be considered as part of 2016 Priority 1 No. 23]*
16. Consider allowing electric vehicle charging stations as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met. Staff
17. Review the definition of gross floor as to how it is calculated outside of the PDC, PRM and PTC Districts Staff  
*[2015 Priority 1]*

### **GENERAL REGULATIONS**

18. District Regulation Interpretations – Consider allowing the transfer of allowable density or gross floor area from parcels located within an identified sending area to parcels located within an identified receiving area. Board
19. Qualifying Lot and Yard Regulations – Consider the following:
- (a) Allow approval of modifications to the setback requirements from railroads and interstate highways in conjunction with review and approval of SP/SE uses. BPR

- (b) Review pipestem lot and yard requirements, to include possible addition of illustrations. BPR
  - (c) Revise provisions of lots contiguous to pipestem driveways to remove the language “serving more than one pipestem lot.” Citizen
  - (d) Review the existing provisions which allow uncovered stairs and stoops to encroach into minimum required yards. Staff
  - (e) Allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located Staff
  - (f) Consider requiring greater setbacks for proposed construction in areas influenced by tidal flooding. Board’s Environmental Committee
  - (g) ~~Addition of shape factor limitations to the R-C District.~~ [Moved to 2016 Priority 1 – No. 25] Board
  - (h) Consider revisions to the lot and yard definitions; consider whether front yards should be required from unimproved dedicated rights-of-way. Infill Study
  - (i) In order to address compatibility issues associated with new residential development in existing residential areas, review methods, such as lot coverage and square footage maximums. Board
20. Qualifying Use and Structure Regulations - Consider the following:
- (a) Consider revising the maximum number of horses that may be maintained on a lot. No. Va. Soil & Water Conservation District
  - (b) Consider allowing chickens to be permitted on lots less than two acres in size in certain situations. Citizen

## **HOUSING**

21. Consider the following revisions to the ADU program:

- (a) Allow units that are acquired by the Fairfax County Redevelopment and Housing Authority (FCRHA) and are part of any FCRHA affordable housing program to be considered equivalent. Staff
- (b) Clarify Par. 2B of Sect. 2-812 to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units. Staff
- (c) Increase the closing cost allowance from 1.5% of the sales price to either the actual closing costs or up to 3%, whichever is less. Staff
- (d) For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance. Staff

- (d) Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions. Staff
- (e) Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities. *[Place holder until data and resources are available to complete the required survey of independent living facilities in ADUs]* Staff
- (f) Determine whether inheritance laws affect the retention of an ADU within the ADU Program in the event of the death of an ADU owner, and if so, whether an amendment is necessary. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception. Staff
- (g) Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception. Staff
- 22. Review the Board of Supervisors' accessory dwelling unit policy in Appendix 5 to determine whether updates are necessary. Staff
- 23. Residential Studios – Establish a new use and associated use limitations for an affordable housing product generally designed for one person per unit. *[2015 Priority 1]* Board

### **ILLUSTRATIONS**

- 24. Add illustrations to clarify certain provisions such as the sight distance triangle and permitted encroachments into minimum required yards. Staff

### **INDUSTRIAL ZONING DISTRICTS**

- 25. Revise use limitations in I-5 District regarding outdoor storage of trucks and equipment. Board
- 26. Clarify use limitations in the I-5 and I-6 Districts which allow vehicle light service establishments by right. Also consider allowing this use by right in other C and I Districts. BPR
- 27. Consider allowing private clubs and public benefit associations in the industrial district by right and subject to use limitations. Staff

### **LANDSCAPING & SCREENING**

- 28. Comprehensive review of landscaping and screening provisions to include:
  - (a) Appropriateness of modification provisions. BPR/Staff/  
Industry



- (b) Address issue of requirements when property abuts open space, parkland, including major trails such as the W&OD and public schools. Staff/EIP
  - (c) Increase the parking lot landscaping requirements. Tree Action Plan/EIP
  - (d) Include street tree preservation and planting requirements. Tree Action Plan
  - (e) Consider requiring the use of native trees and shrubs to meet the landscaping requirements for developments along Richmond Highway. Board
29. Evaluate opportunities to include provisions that support and promote sustainable principles in site development and redevelopment, including the application of better site design, Low Impact Development (LIDs) and natural landscaping practices. Tree Action Plan

### **NONCONFORMITIES – ARTICLE 15**

30. Comprehensive review and study, to include addition of provisions to address situations resulting from condemnation of right-of-way by public agencies. Staff/BPR

### **OPEN SPACE**

31. Review of the open space provisions to include: Infill Study/EIP/Staff
- (a) Consider the establishment of minimum sizes/dimensions for required open space areas.
  - (b) Exempt either all or part of stormwater management dry pond facilities from the open space calculations.
  - (c) Provide open space credit for innovative BMPs but not for non-innovative BMPs
  - (d) Allow open space credit only for usable open space.
  - (e) Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.
  - (f) Review the general open space provisions to clarify that open space is only intended for land that is dedicated or conveyed without monetary compensation.

### **OVERLAY DISTRICTS**

32. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport and Davison Airfield Board

33. Historic Overlay Districts - Consider the following revisions to the Historic Overlay Districts:
- (a) ~~Establish an historic overlay district for the Lorton Correctional Facility (Laurel Hill).~~ *[Moved to 2016 Priority 1 – No. 12]* Board
  - (b) Requiring all demolition permits for structures listed on the County Inventory of Historic Places to be reviewed by the History Commission prior to the issuance of the permit. History Commission
  - (c) Establish an historic overlay district for Mason Neck. Board

### **PARKING REQUIREMENTS**

34. Study parking requirements for: Board/Staff
- (a) Funeral homes
  - (b) Places of worship
  - (c) Child care centers and nursery schools
35. Consider reducing the minimum required parking requirement for all retail and retail mixed projects and not only those projects that are located near mass transit. *[This item is partly included in 2016 Priority 1 – No. 17 and No. 23]* Industry
36. Consider the following revisions to vehicle parking on lots with single family detached dwellings:
- (a) Limit the amount of pavement for driveways and parking in the R-5 and R-8 Districts. Citizen
  - (b) Limit parking for all vehicles or trailers to the front yard and only on a paved surface. Citizen
37. Clarify the meaning of “permanent availability” in Par. 1 of Sect. 11-102 as it pertains to the use of off-site parking spaces on a contiguous lot. Staff

### **PERFORMANCE STANDARDS**

38. Review the earthborn vibration performance standards. Staff

### **PLANNED DEVELOPMENT DISTRICTS**

39. Consider the following revisions to the Planned Development Districts: *[Some of these items will be addressed as part of 2016 Priority 1 – No. 18]* Infill Study/EIP/EAC/PC/Staff

Clarify the office secondary use limitations in the PDH District; Review the purpose and intent statements and the General and Design Standards; Review minimum lot size and open space requirements, the CDP/FDP submission requirements, and density credit for RPAs, streams and floodplains; Review permitted secondary commercial uses in the PDH District and consider increasing amount of commercial uses permitted; Consider waiving the minimum district size requirement for additions to existing PDH or PDC Districts and allowing the Planning Commission to waive the 200 foot privacy yard for single family attached dwellings as part of FDP approvals.

### **RESIDENTIAL ZONING DISTRICTS**

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|---|--|
| 40. Establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception and public uses in the R-C District; review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception and public uses in the Occoquan. | New Millennium<br>Occoquan Task<br>Force/EAC |
|---|--|

### **SITE PLANS**

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|--|-------|
| 41. For uses subject to site plan approval, which does not include single family detached dwellings, consider increasing the amount of gross floor area or disturbed area that is exempt from site plan or minor site plan requirements. | Staff |
|--|-------|

### **SPECIAL EXCEPTIONS**

- |  |       |
|--|-------|
| 42. Category 2 Heavy Public Utility Uses – Consider the deletion of special exception requirement in the I-5 District for storage yards and office/maintenance facilities in conjunction with public utility uses, so these uses will be allowed by right. | BPR   |
| 43. Category 5 Commercial and Industrial Uses of Special Impact – Consider the appropriateness of the list of heavy industrial uses.   | Staff |
| 44. Consider requiring special exception approval to establish dancing and/or live entertainment/recreation venues and clarify what is allowed as accessory entertainment to an eating establishment.  | Board |

### **SPECIAL PERMITS**

- |  |     |
|--|-----|
| 45. Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots. | BPR |
|--|-----|

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|--|-----------|
| 46. Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests.   | Staff     |
| 47. Allow BZA to modify special permit additional standards.   | BPR       |
| 48. Group 1 Extraction and Excavation Uses - Consider expanding the number of property owners requiring notification for the renewal of a special permit for a quarry and revise the blasting vibration maximum resultant peak particle velocity to be consistent with state regulation 4VAC25-40-880. | Board/PC  |
| 49. Group 4 Community Uses – Consider allowing community uses to be approved via development plans in the rezoning process in lieu of requiring special permit approval.   | Staff/BPR |
| 50. Group 5 Commercial Recreation Uses – Consider clarifying types of uses included in “any other similar commercial recreation use.”  | Staff     |
| 51. Group 9 Uses Requiring Special Regulations – Consider the following:   |           |
| (a) Revise the reduction of certain yard special permit additional standards to increase the allowable size of an addition and to allow the complete teardown and rebuild of a structure.  | Board/PC  |
| (b) Revise the accessory dwelling unit submission requirements, occupancy and lot size limitations.  | Board     |
| (c) Increase the minimum 55 year age requirement for accessory dwelling units.   | BZA       |

### **STATE CODE CHANGES**

- |  |                  |
|--|------------------|
| 52. Incorporate the new requirement for Development in dam break inundation zones. [2014 Priority 1] | General Assembly |
|--|------------------|

### **SUBMISSION REQUIREMENTS**

- |   |                      |
|---|----------------------|
| 53. Revise submission requirements to include identification of heritage resources; and consider expanding the archaeological survey submission requirements to be applicable to all zoning applications and not only those applications located in Historic Overlay Districts. | Plan/Board           |
| 54. Consider adding specificity to the submission requirements for Comprehensive Sign applications. <i>[This item will be addressed under the Comprehensive Review of Article 12 Signs – 2016 Priority 1 No. 26]</i>  | Staff                |
| 55. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications.   | General Assembly     |
| 56. Consider the strengthening of zoning application submission requirements to require the submission of a preliminary utility plan where utility construction could conceivably result in clearing of trees.  | Tree Action Plan/EIP |

- |   |             |
|---|-------------|
| 57. Review regulations related to:  | Staff/Board |
| (a) Adult video stores  |             |
| (b) “Doggie” day care   |             |
| (c) Sports arenas, stadiums   | Staff/Board |
| 58. Review the drug paraphernalia regulations to determine whether changes are necessary due to State Code revisions.   | Staff       |
| 59. Consider adding regulations for Farm Wineries <i>[To be addressed as part of 2016 Priority 1 No. 3 - Agricultural Districts and Uses]</i>                                       | Board       |
| 60. Clarify that a certain amount of biotech (bioscience) research and development, which is primarily computer related and excludes animal testing, is permitted as an office use. | Staff       |
| 61. Consider adding regulations for fast-casual restaurants. <i>[To be addressed as part of 2016 Priority 1 No. 23 - Retail Initiative]</i>   | PC          |

**NEW AMENDMENT REQUESTS SINCE JULY 28, 2015 ENDORSEMENT OF  
THE 2015 ZONING ORDINANCE WORK PROGRAM**

The following new amendment requests have been received:

1. Building Repositioning Initiative - Consider changes that would allow repurposing of existing commercial buildings to facilitate emerging trends and new uses such as makerspaces and live/work units within certain zoning districts. **[Priority 1 – No. 6]**
2. Congregate Living Facilities - Consider revising the definition of Congregate Living Facilities to clarify the types of supportive services provided. (Board) **[Priority 2 – No. 9(b)]**
3. Food and Beverage Processing and Production – Consider adding food and beverage manufacturing, production and processing establishments as a use permitted by right in the I-3 and I-4 Districts with use limitations to address ancillary uses found in association with craft beverage operations such as tasting rooms and on-site retail sales. (Board) **[Priority 1 – No. 10]**
4. Laurel Hill Historic Overlay District – Establish a Laurel Hill Historic Overlay District as anticipated by the 2001 Memorandum of Agreement (MOA) between Fairfax county and the Federal Government for the former Lorton Correctional Complex. (2015 Priority 2) **[Priority 1- No. 13]**
5. Minor Lot Line Adjustment - Consider adding language to facilitate the minor adjustment of lot lines for corner lots and contiguous lots to allow for a more regular configuration of lot lines, provided the adjustment of lot lines does not create any new or further aggravate any existing noncompliance. (Staff) **[Priority 1 – No. 14]**
6. Minor Modification Provisions - Review the Minor Modification provisions for approved Rezoning, Special Exceptions and Special Permits to identify opportunities to allow for additional flexibility in the administrative approval of minor modifications. (Staff) **[Priority 1 – No. 15]**
7. P-District Recreation Fees - Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts. (Board) **[Priority 1 – No. 17]**
8. Parking Reductions - Consider changes that would streamline the parking reduction process (Staff and Citizen) **[Priority 1 – No. 18b]**
9. Retail Initiative - Consider improvements to the Zoning Ordinance that accommodate the evolving nature of retail development, updates outdated definitions and further evaluates the retail sector (including food service) to ensure that the community's vision for growth, redevelopment and community reinvestment can be realized. (Staff and Citizen) **[Priority 1- No. 25]**

## Attachment 5

10. Shape Factor in the R-C District (2015 Priority 2) [**Priority 1 – No. 27**]
11. State Code – 2016 Session – (a) Telecommunication facilities – Monopoles and Towers and (b) other potential revisions resulting from the 2016 General Assembly [**Priority 1 – No. 31**]
12. Zoning Ordinance Diagnostic – Consider hiring an outside consultant to review the current structure of the Zoning Ordinance and amendment processes as compared to other jurisdictions and offer recommendations for modification including looking at best practices and options for pursuing an update versus a rewrite. (Staff) [**Priority 1 – No. 32**]

Planning Commission Meeting  
May 18, 2016  
Verbatim Excerpt

ADMINISTRATIVE ITEM

During Commission Matters

Commissioner Migliaccio: Thank you, Mr. Chairman. I have a motion based on the Policies and Procedures Committee.

Chairman Murphy: Please.

Commissioner Migliaccio: Zoning Ordinance. This is on behalf of Chairman Lawrence of Policies and Procedures Committee. Mr. Chairman, on May 5<sup>th</sup>, 2016, the Zoning Administrator presented the 2016 Zoning Ordinance Amendment Work Program to Policies and Procedures Committee for review and discussion. The Committee voted to recommend that the Work Program be brought to the full Planning Commission for endorsement with one change. Commissioner Hurley requested that the Congregate Living Facilities item, which was proposed to be addressed by interpretation with no amendment necessary, be moved to the Priority 2 List for future prioritization. The Zoning Administrator had no objection to this request. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THIS ENDORSEMENT OF THE PROPOSED 2016 ZONING ORDINANCE AMENDMENT WORK PROGRAM AS PRESENTED BY STAFF WITH THE CONGREGATE LIVING FACILITY ITEM TO BE PLACED ON THE PRIORITY 2 LIST.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 10-0. Commissioner Lawrence was not present for the vote. Commissioner Flanagan was absent from the meeting.)

TMW



Board Agenda Item  
July 12, 2016

ACTION – 4

Authorization for the Fairfax County Redevelopment and Housing Authority (FCRHA) to Make a Loan to Christian Relief Services of Virginia (CRSVA), in an Amount Not to Exceed \$5,650,000 from Housing Blueprint Funds, for the Acquisition of Huntington Gardens (Lee District)

ISSUE:

The Board of Supervisors is requested to authorize the Fairfax County Redevelopment and Housing Authority (FCRHA) to make a loan in an amount not to exceed \$5,650,000 from Housing Blueprint Funds, to CRSVA for the acquisition of Huntington Gardens in the Lee District.

RECOMMENDATION:

The County Executive recommends that the Board authorize the FCRHA to loan up to \$5,650,000 to CRSVA for the proposed acquisition.

TIMING:

Immediate. The buyer, CRSVA, has entered into an amended purchase and sale agreement, with the seller, PC Huntington Gardens LLC, which stipulates that County financing approval would be obtained by July 29, 2016, and that the financing closing to take place no later than September 1, 2016.

BACKGROUND:

In July 2015, a Notice of Funding Availability (NOFA) was issued by the Department of Housing and Community Development (HCD) announcing the availability of up to \$10.1 million in Housing Blueprint Funds. The HCD Selection Advisory Committee (SAC) rejected one of the two applications received as the proposed project had zoning and financing issues which the developer was not able to overcome. The other application was submitted by CRSVA, who requested \$5,650,000 in Housing Blueprint Funds to acquire and preserve 113 units in Huntington Gardens located on Fairhaven Avenue, close to the Huntington Metro Station. For the last several months, HCD has been negotiating with CRSVA on the project, and recommended approval of \$5,650,000 from the FY 2016 Housing Blueprint Funds. The FCRHA subsequently acted to approve making the loan to CSRVA, subject to Board approval, on June 9, 2016.

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PC Huntington Gardens LLC is the current owner of Huntington Gardens, a market affordable property with rents between 55 percent and 70 percent AMLI, and acquired the property for \$14,500,000 in May 2012. The property is currently under contract between PC Huntington Gardens LLC (Seller) and CRSVA, the buyer, for a price of \$18,500,000. According to the Purchase and Sale Agreement, the buyer has until September 1, 2016 to close on the financing of the project. CRSVA made a good faith deposit of \$100,000 to the Seller on August 7, 2015 and it will become non-refundable on July 29, 2016. As part of the agreement, CRSVA and the Seller have agreed to split the prepayment penalty associated with the existing financing. This penalty is estimated to be approximately \$1,660,000, which will be shared equally between the buyer and the seller.

The property is located near the Richmond Highway corridor in the Alexandria area of Fairfax County, one mile from the Capital Beltway, with access via Telegraph Road. The property is about one-half mile from the Huntington Metro Station. The property's immediate neighborhood consists primarily of detached single-family homes and duplexes built in the 1940s and a town house development built in the mid-1990s.

About CRSVA:

CRSVA, an affiliate of Christian Relief Services Charities, is a 501(c)(3) non-profit housing developer serving Fairfax County and other locations within the Commonwealth of Virginia for the past 24 years. Its purpose is to acquire, preserve, construct and manage properties to serve low-income, homeless, and disadvantaged families in Virginia.

CRSVA currently owns and manages ninety-six (96) scattered-site properties comprised of single-family homes, condominiums and townhomes located throughout Fairfax County and Arlington County. These properties fill a vital gap to serve as temporary or permanent housing for homeless families and disabled adults, survivors of domestic violence and low-income residents where the availability of affordable housing remains tremendously scarce. These sites were acquired through the organization's ongoing participation in the Fairfax County Continuum of Care program securing a variety of funding streams awarded by the U.S. Department of Housing and Urban Development (HUD), and multiple low-interest loans from Virginia Housing Development Authority, along with approximately \$533,000 from the FCRHA in HOME and Neighborhood Stabilization Program (NSP) funds, commercial financing and equity from its affiliated entities, such as Christian Relief Services 21<sup>st</sup> Century Campaign and Christian Relief Services Charities Residential.

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CRSVA operates these ninety-six (96) properties in collaboration with several non-profit agencies to offer quality affordable and supportive housing for the most vulnerable residents of Fairfax County. Most notably, CRSVA has partnered with Pathway Homes since 1991 and through their combined work, operate seven (7) of these properties to serve twenty-eight (28) single adults with severe mental illness. CRSVA serves as owner and landlord of the properties and Pathways provides all direct services. CRSVA has, over the years, developed strong and effective partnerships with local Fairfax County entities including Pathway Homes, serving as sponsoring agencies responsible for direct supportive services in those units where CRSVA is the landlord and property manager.

As Huntington Gardens is CRSVA's first multi-family acquisition, it intends to engage Christian Relief Services Charities Residential (CRSCR), their affiliated property management company, to manage the daily operations at Huntington Gardens. CRSCR, an affiliate of Christian Relief Services Charities (CRSC), handles the property management of over 2,000 units in twelve (12) multifamily properties owned by CRSC's affiliates. For the last fifteen (15) years, CRSCR has managed approximately 3,600 units in affordable housing communities in five (5) states.

Project Description:

Huntington Gardens is a 113-unit apartment complex built in the 1950s. The previous owner completed a substantial rehabilitation of the property with new plumbing, wiring, HVAC, interiors, and exteriors in 2010. CRSVA will be positioning the subject property, which is currently market affordable, with long-term affordability restrictions in connection with the Housing Blueprint funds. A total of 28 units will be affordable at 30 percent of the Area Median Income (AMI), with the balance affordable at up to 60 percent AMI. CRSVA will be preserving this property at the proposed affordable rents for a period of no less than thirty (30) years. The actual affordability period may be longer than thirty (30) years as the Housing Blueprint Loan will at least be coterminous with the proposed new HUD Section 223(f) acquisition first mortgage loan from CBRE, Inc., the HUD FHA-insured lender, which may have a maturity longer than thirty (30) years.

In addition, there is an opportunity to set aside the twenty-eight (28) units at 30 percent of AMI for chronically homeless individuals, to be leased to Pathway Homes who will also provide supportive services. Acquisition of this property provides a unique opportunity for Pathway Homes to find suitable affordable housing for their disabled clients to be served under Fairfax County's federal Continuum of Care (CoC) grant award. The grant award is in the amount of \$1.2 million annually which will be used to establish 50 new permanent supportive housing units. CRSVA currently has a

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Memorandum of Understanding (MOU) with Pathway Homes to provide the twenty-eight (28) units at Huntington Gardens to the County's housing stock targeting homeless and chronically homeless individuals, many of whom have serious mental illness and extremely low incomes (below 30 percent of AMI). CRSVA will work with the Office to Prevent and End Homelessness (OPEH) and Pathways to coordinate access to this resource.

It is anticipated that the individuals served in the twenty-eight (28) units will depend on HUD leasing subsidies and pay 30 percent of their net adjusted income towards rent. Based on the target beneficiaries of this project, it is assumed that leasing subsidies will be required for each resident. Should CRSVA or Pathways rescind the MOU, CRSVA would still be obligated to keep these twenty-eight (28) units affordable at 30 percent AMI, with a preference for persons with disabilities.

Zoning:

The property is split zoned R-20 Residential District, twenty dwelling units/acre with a small portion zoned R-8 Residential District, eight dwelling units/acre.

Ownership Structure:

Before the closing of the financing, CRSVA will form Huntington Gardens LLC, a single member LLC, where CRSVA will be the sole member and owner. Huntington Gardens LLC will be the ultimate owner of the proposed acquisition of Huntington Gardens.

Scope of Work:

There is no major rehabilitation planned at this time as the Physical Needs Assessment (PNA), as ordered by the Federal Housing Administration (FHA) lender, CBRE, shows no need for critical repairs or major upgrades. However, the PNA has identified \$119,764 in repairs, including flatwork and mold remediation, as well as upgrading 3 units to become ADA accessible, which need to be completed before the closing on the financing. In addition, CBRE is requiring CRSVA to set-aside \$231,650 in the development budget as an initial deposit to the replacement reserve in order to have sufficient reserves built up over a period of time to take care of long term needs of the project. These reserves will be held by CBRE. There are currently three (3) units that are ADA accessible at the property and, as mentioned before, an additional three (3) units will be converted into ADA accessible units. There will also be an annual contribution of \$36,160 to the replacement reserves.

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Potential Benefits:

- The Housing Blueprint Loan allows CRSVA to acquire Huntington Gardens and keep its units affordable for at least thirty (30) years. Even though the rents are currently market affordable, the project is located in a fast developing area and increased demand of housing close to a Metro station may drive the rents up.
- The project will add an additional 113 committed units to the County's affordable housing stock, including twenty-eight (28) units for homeless and chronically homeless individuals, many of whom have serious mental illnesses with extremely low incomes.
- The property is in good condition and does not require any major rehabilitation at this time.
- Currently, three (3) units are ADA accessible at the property. An additional three (3) units will be converted into ADA accessible units.

Affordability:

The following table represents the proposed net rents:

No. of Apts.	Apartment Type	Affordability Level (AMI)	Affordable Rent	Utility Allowance	Adjusted Aff. Rent
3	Studio	30%	\$573	\$50	\$523
25	1 BR	30%	\$614	\$57	\$557
24	1 BR	60%	\$1,229	\$57	\$1,172
51	2 BR	60%	\$1,474	\$74	\$1,400
10	3 BR	60%	\$1,704	\$90	\$1,614

Twenty eight (28) of the units will be affordable to households with incomes at or below 30 percent of AMI. The remaining units will be at 60% AMI or below.

Each unit is individually metered. After acquisition, the tenants will pay for all utilities, except for gas (for hot water), and water and sewer costs, which will be paid by the new owner, Huntington Gardens, LLC.

Relocation:

There are no legal requirements to provide for relocation.

Appraised Value:

The appraisal ordered by the first mortgage lender Coldwell, Banker, Richard Ellis (CBRE) and completed on February 4, 2016 shows an as-built value of \$18,500,000.

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The County's Department of Tax Administration (DTA) has reviewed the appraisal and has found the assumptions to be reasonable.

Assessed Value:

The assessed value for 2016 from Fairfax County records is \$15,448,580 (land: \$5,985,730; building: \$9,462,850).

Financing:

The current estimated sources and uses for the acquisition are:

<b>SOURCES</b>	
HUD FHA Acquisition Loan (Section 223(f))	12,850,000
Housing Blueprint Loan	5,650,000
Equity Contribution from CRS 21st Century Campaign	1,892,809
<b>TOTAL SOURCES</b>	<b>20,392,809</b>

<b>USES</b>	
Acquisition costs: purchase price	18,500,000
Acquisition costs: contract adjustments	962,500
FHA Repairs and other Remediation	119,764
Initial Deposit to Replacement Reserves	231,650
Required Third-Party Reports	37,310
Financing Fees	252,799
Escrow for Non-Critical Repairs	23,003
Escrows for Ins., R.E. Tax, and MIP	55,364
Recordation/Local Taxes	122,349
Borrower Costs	55,000
Title and Survey	33,070
<b>TOTAL USES</b>	<b>20,392,809</b>

The first mortgage for the acquisition of Huntington Gardens will be financed by FHA's Section 223(f) Program. The FHA Program allows for up to a 35-year term, fully

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amortizing loans. The annual debt service is projected to be \$691,235 based on a FHA loan amount of \$12,850,000, a 35-year term, interest rate of 3.6 percent, and Mortgage Insurance Premium of 35 basis points. The interest rate cannot be locked until HUD issues the FHA Firm Commitment, so the loan amount may fluctuate based on the final interest rate. In any case, the first mortgage loan and the Housing Blueprint Loan will not exceed the appraised value of \$18,500,000 of the property. CRSVA submitted their FHA application on May 18, 2016, which is under review at this point and the approval may take up to sixty (60) days. Once the FHA application is approved, it will take about 30 – 45 days to close the FHA financing.

Christian Relief Services 21<sup>st</sup> Century Campaign, Inc., an affiliate of Christian Relief Services Charities (CRSC), will make the equity contribution of approximately \$1.9 million to finance various costs associated with the acquisition of Huntington Gardens.

Terms of Housing Blueprint Loan (Loan):

The Housing Blueprint Loan will be subordinate to the FHA-insured first mortgage. Staff to the FCRHA will negotiate the terms and conditions of the Subordination Agreement with FHA. The Loan will be closed simultaneously with all other permanent funding sources in this transaction. The interest rate for the Blueprint Loan will be two percent (2%) simple interest per annum. Interest will start accruing at the time the FHA first mortgage begins to amortize; until the start of the amortization, it will be zero percent (0%).

The payment of all principal and interest will be deferred and simple interest will accrue for 30 years or such other term as is coterminous with the first mortgage loan from CBRE or such other third party lender. The entire indebtedness will become due and payable upon (i) the transfer of the Property, without the prior approval of the FCRHA, (ii) refinancing, unless approved in advance by the FCRHA, or (iii) failure to comply with the Housing Blueprint and/or loan document requirements. Although the principal and interest are deferred, the loan from the FCRHA will be a “cash flow” loan, which means that, should there be cash flow, it will be applied first to the accrued interest and then to the principal. At the end of the term of 30 years or such other term as is coterminous with the first mortgage loan, the outstanding principal balance along with any accrued interest shall become due and payable. The annual loan payments shall be payable only from fifty percent (50%) of the cash flow remaining after payment of the must-pay debt service and the Housing Blueprint Loan Monitoring Fee. During the 30-year term or such other term as is coterminous with the first mortgage loan, refinancing may occur at the discretion of the FCRHA and as allowed by FCRHA policies. In the event that the Housing Blueprint Loan is paid off before maturity of the loan, the project owner shall maintain the affordability period according to the Housing Blueprint goals, for a

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minimum term of thirty (30) years or for a term coterminous with the first mortgage.

Closing:

The loan will be closed following approval by the FCRHA and Board of Supervisors. However, requirements for the closing include, but are not limited to the following items being completed:

1. First Mortgage loan financing closing (FHA financing) and disbursement of funds
2. Final underwriting by HCD
3. The loan documents and Subordination Agreement are acceptable to the FCRHA
4. Receipt and approval of all third party reports by HCD staff
5. Receipt of Operations and Maintenance (O&M) Plan for asbestos-containing materials and results of long-term tests of radon levels at specific units at the property
6. Other factors as deemed necessary to protect the interest of the FCRHA and Fairfax County

FISCAL IMPACT:

Funding in an amount up to \$5,650,000 will be allocated from funds identified as part of the FY 2016 Housing Blueprint Project (2H38-180-000) in Fund 300-C30300, The Penny for Affordable Housing Fund, with a project balance of \$11,147,513, as of June 17, 2016. There will also be an annual monitoring fee of \$5,000 to be received by the FCRHA from CRSVA and placed in Fund 810-C81000, FCRHA General Operating Fund beginning in FY 2017.

ENCLOSED DOCUMENTS:

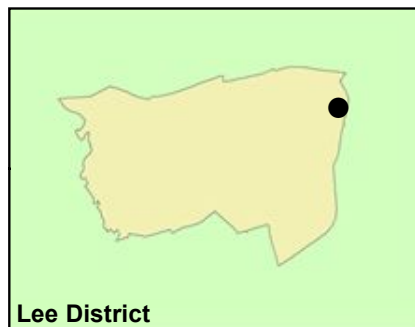
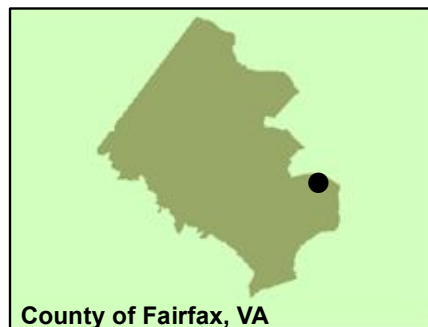
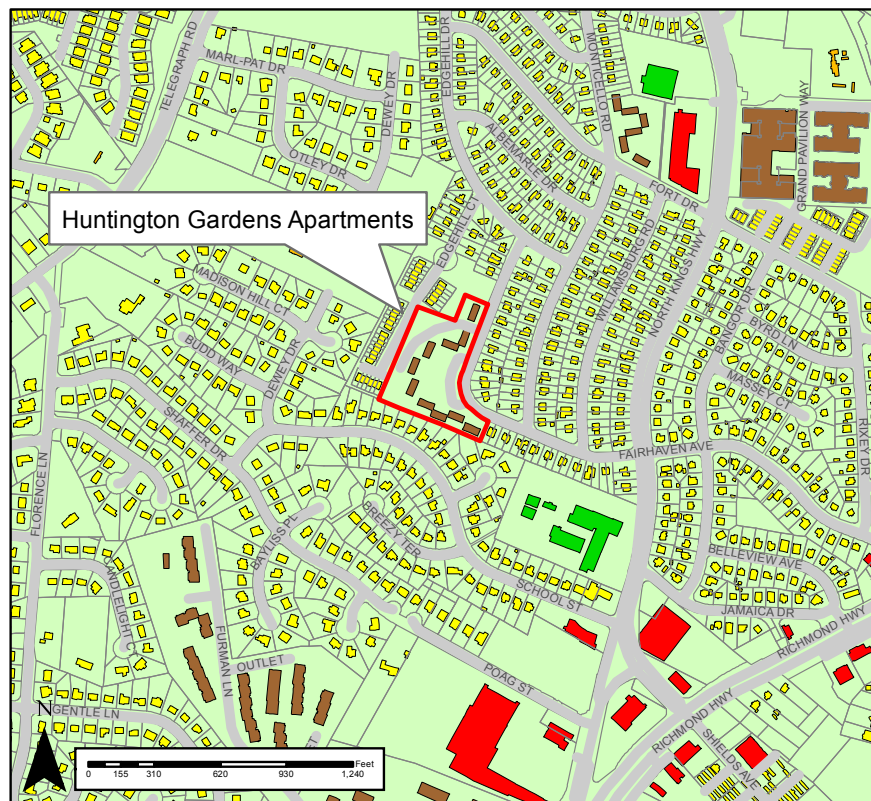
Attachment 1 - Vicinity Map

STAFF:

Patricia Harrison, Deputy County Executive  
Thomas Fleetwood, Director, Department of Housing and Community Development (HCD)  
Hossein Malayeri, Deputy Director, Real Estate, Finance and Development, HCD  
Aseem K. Nigam, Director, Real Estate Finance and Grants Management Division, (REFGM), HCD  
Debashish Chakravarty, Senior Real Estate Finance Officer, REFGM, HCD



# Huntington Gardens Apartments



ACTION - 5

Adoption of the One Fairfax Resolution that Directs the Development of a Racial and Social Equity Policy and Strategic Actions to Advance Opportunities and Achieve Equity

ISSUE:

Over the last several years, Fairfax County has undertaken several initiatives to address disparities in a variety of areas including juvenile justice, education, employment, self-sufficiency, health, and child welfare. Most recently, the Board of Supervisors recognized the importance of equity as a driver of the county's future economic success in its 2015 adoption of the Strategic Plan to Facilitate Economic Success; and the Successful Children and Youth Policy Team (SCYPT), comprised of county and school leadership and community representatives, has identified racial and social equity as an integral component to improving educational, health and life outcomes for youth.

Adoption of the **One Fairfax** Resolution provides the foundation for the development of a racial and social equity policy to ensure all individuals have an opportunity to reach their highest level of personal achievement. Linking people to opportunities including workforce development, education, employment and affordable housing, helps ensure healthy living, lifelong learning, resilience, and economic success.

An intentional focus on racial and social equity positions Fairfax County government to proactively and collectively, with schools and communities, including businesses, faith organizations, nonprofits and others, identify and improve policy and institutional strategies that will not just eliminate the gaps, but increase success for all.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the **One Fairfax** Resolution and joins with the School Board in directing the development of a racial and social equity policy and strategic actions to advance opportunities and achieve equity that includes intentional collective leadership, community engagement, equity tools and infrastructure to support and sustain systemic changes, and shared accountability.

TIMING:

Board action is requested on July 12, 2016.

BACKGROUND:

For more than two decades, prompted by concerns to address gaps in outcomes, Fairfax County has implemented an array of initiatives focusing on aspects of racial and social inequity, such as the Fairfax County Public Schools Minority Student Achievement Oversight Committee, “Together We’re the Answer” community coalition, community dialogues on “Unnatural Causes: Is Inequality Making Us Sick?”, an Institutional Analysis examining system contributors to the disproportionate minority contact of African American and Hispanic youth in the juvenile justice system, as well as a number of interagency staff teams including the Early Intervention Strategy Team and the Disproportionality and Disparity Prevention and Elimination Team. The foundation laid by these initiatives provided important lessons to move us forward beyond programs and services into a more comprehensive approach to address the policies, systems and structures that drive inequities.

In February 2014, the SCYPT endorsed recommendations regarding an intentional collective leadership approach to advance racial and social equity that outlined interrelated actions including community engagement, implementation of equity tools and infrastructure and shared accountability by Fairfax County Government and Fairfax County Public Schools. Staff presented these recommendations and the foundations of **One Fairfax** to the Board of Supervisors Human Services Committee and the School Board on October 21, 2014 and December 8, 2014 respectively, and the Resolution was discussed at the June 14th joint School Board and Board of Supervisors Retreat.

Fairfax County’s Strategic Plan to Facilitate Economic Success adopted in 2015 lays out goals and strategies to maintain and enhance our strong and vital community in order to sustain and grow our economic prosperity. One of the unique elements of this plan is the inclusion of social equity as a primary component. Specifically, Goal 5, Action Item 5.5 of the Plan calls for the exploration of policy opportunities, strategies or frameworks to address the issue of social equity within the context of economic success. Adoption of the **One Fairfax** Resolution fulfills this Action Item.

In 2015, a baseline Equitable Growth Profile (EGP) analysis completed by PolicyLink and The University of Southern California’s Program for Environmental and Regional Equity in conjunction with a multi-sector advisory group provided compelling evidence that equity is an economic imperative. Research shows that more equitable regions experience stronger, more sustained growth; regions with lower income inequality and less segregation (by race and income) have more upward mobility; companies with a diverse workforce achieve a better bottom line; and a diverse population more easily connects to global markets.

**One Fairfax** moves us beyond embracing our growing diverse population to implementing a growth model driven by equity. A racial and social equity policy provides both the direction and means to work together with schools and communities to eliminate disparities and build a vibrant and opportunity-rich society for all.

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FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:

Attachment 1: One Fairfax Resolution

Attachment 2: Equitable Growth Profile of Fairfax County Summary may be accessed online at:

[http://nationalequityatlas.org/sites/default/files/Fairfax\\_Summary\\_16June2015\\_Final.pdf](http://nationalequityatlas.org/sites/default/files/Fairfax_Summary_16June2015_Final.pdf)

Attachment 3: Equitable Growth Profile of Fairfax County may be accessed online at:

<http://nationalequityatlas.org/sites/default/files/Fairfax-Profile-6June2015-final.pdf>

Attachment 4: Unnatural Causes: Is Inequity Making us Sick may be accessed online at:

[http://www.unnaturalcauses.org/episode\\_descriptions.php?page=1](http://www.unnaturalcauses.org/episode_descriptions.php?page=1)

STAFF:

Patricia D. Harrison, Deputy County Executive

David J. Molchany, Deputy County Executive

David M. Rohrer, Deputy County Executive

Robert A. Stalzer, Deputy County Executive

**The Successful Children and Youth Policy Team recommends to  
the Fairfax County Board of Supervisors and School Board:**

**RESOLUTION**

**“One Fairfax”**

Whereas, Fairfax County takes pride as a great place to live, learn, work, and play; and,

Whereas, Fairfax County is the largest and strongest economy in the Washington Metropolitan area and one of the strongest in the nation; and,

Whereas, county and school leaders and staff are committed to providing excellent services for every resident of Fairfax; and,

Whereas, Fairfax County government has established a vision of Safe and Caring Communities, Livable Spaces, Connected People and Places, Healthy Economies, Environmental Stewardship, Culture of Engagement and Corporate Stewardship; and Fairfax County Public Schools has established goals of Student Success, a Caring Culture, a Premier Workforce, and Resource Stewardship; and,

Whereas, Fairfax County embraces its growing diverse population and recognizes it as a tremendous economic asset but recognizes that racial and social inequities still exist; and,

Whereas, achieving racial and social equity are integral to Fairfax County’s future economic success, as illustrated in the Equitable Growth Profile and highlighted as a goal in the Strategic Plan to Facilitate the Economic Success of Fairfax County; and,

Whereas, we define **Racial Equity** as the development of policies, practices and strategic investments to reverse racial disparity trends, eliminate institutional racism, and ensure that outcomes and opportunities for all people are no longer predictable by race; and

Whereas, we utilize the term **Social Equity** to consider the intersection and compounding effects of key societal issues such as poverty, English as a second language, disability, etc. with race and ethnicity; and,

Whereas, as servants of the public we are committed to the definition of social equity adopted by the National Academy of Public Administration – “the fair, just and equitable management of all institutions servicing the public directly or by contract; the fair, just and equitable

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distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.”

Whereas, it is essential to identify and address institutional and systemic barriers that exist and understand that these barriers may impede access to opportunities for achieving the visions and goals set forth by county leaders; and,

Whereas, an extensive body of research has established that a community’s access to an interconnected web of opportunities shapes the quality of life for all; and,

Whereas, to truly create opportunity, we need to understand and improve our work through a racial and social equity lens from the very core of the organization outward, focusing intentionally and deliberately towards sustainable structural changes; and,

Whereas, a growing number of local jurisdictions across the United States are adopting intentional equity strategies and see equity as an economic growth model;

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS AND THE FAIRFAX COUNTY SCHOOL BOARD that:

The time is now to move beyond embracing diversity as an asset and implement a new growth model driven by equity — just and fair inclusion into “One Fairfax,” a community in which everyone can participate and prosper.

“One Fairfax” can only be realized with an intentional racial and social equity policy at its core for all publicly delivered services. A racial and social equity policy provides both the direction and means to eliminate disparities, and work together to build a vibrant and opportunity-rich society for all.

In July 2016, the Fairfax Board of Supervisors and School Board join in this resolution and direct the development of a racial and social equity policy for adoption and strategic actions to advance opportunities and achieve equity that include intentional collective leadership, community engagement, equity tools and infrastructure to support and sustain systemic changes, and shared accountability so collectively, we will realize “One Fairfax,” a community where everyone can participate and prosper.

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July 12, 2016

ACTION - 6

Approval of the Process for the Commonwealth's County Safety and Operational Improvements Funding Program

ISSUE:

Board approval of a prioritization process for the ongoing development of projects in coordination with the Virginia Department of Transportation (VDOT) for the County Safety and Operational Improvements Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt Attachment 1 as the initial work effort to be undertaken using the Commonwealth's County Safety and Operational Improvement Funds. Additionally, the County Executive recommends that the Board of Supervisors approve the process referenced below as a means of selecting and prioritizing projects for use of these funds. County staff will coordinate with Board members throughout this process.

TIMING:

Board of Supervisors' approval is requested on July 12, 2016, to provide VDOT an approval of the prioritization process to expend the Commonwealth's County Operational and Safety funds allocated to be spent in Fairfax County, and acceptance of the initial list of projects they recommended for funding through this new program.

BACKGROUND:

In 2015, the General Assembly approved HB 1887 which replaced the old 40-30-30 (primary-secondary-urban) roadway funding formula. Under the previous system, secondary and urban funds were allocated to projects by the localities. Projects could include road widenings, safety improvements, drainage improvements, and spot intersection improvements. HB 1887 changed the formula to the following:

- 45 percent of the funding to state of good repair (rehabilitation of structurally deficient bridges and deteriorating pavement)
- 27.5 percent of funding to the statewide high-priority projects program (projects of statewide importance to be competed under the HB 2 prioritization process)
- 27.5 percent of funding to highway construction district grant programs (localities would compete for funds under a regional version of HB 2)

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All of these allocations are to be undertaken by the Commonwealth Transportation Board.

Following enactment of the HB 1887, the Commonwealth Transportation Board also approved funding for a new program for County Safety and Operational Improvements, which can provide funding for projects that may have previously been funded by the Secondary Road program, but may not necessarily be suitable for the HB 2 prioritization process or that may not compete well against the HB 2 criteria. However, these projects may still address important needs in the individual jurisdiction. The program can be used for various projects such as, but not limited to: critical safety issues, drainage repairs and improvements, preliminary engineering, traffic services, and pavement repair. This funding can be used on any county roadway system (interstate, primary, or secondary).

This program is available for VDOT's resident engineer to use in coordination with their counties' representatives. VDOT manages the funding and does not require formal approval from the County. However, the work should be agreed upon by the resident engineer and county representatives.

This new program is expected to receive approximately \$10 million annually, statewide. This funding is allocated based on the previous Secondary Formula, the components of which are:

- 80 percent is based on the population of counties within a highway construction district to the total population of all counties.
- 20 percent is based on the land area of a county to the total land area of all counties.

Fairfax County is expected to benefit from approximately \$1.8 million each year.

There has been a long-standing need to fund drainage improvement projects in Fairfax County. This new funding will allow VDOT to start meeting these needs countywide. Understanding the limited amount of funds, VDOT and County staff in the Department of Transportation, the Department of Public Works and Environmental Services, and the Police Department have been working together to identify and evaluate roadway drainage projects to determine which should be prioritized. A significant number of roadway drainage problems have been identified in the County. While this funding can be used for various types of projects, VDOT and County staff are recommending that much of the funding be used for roadway drainage projects, since there are currently no other funds to address these types of problems. Drainage issues result in significant adverse impacts to the transportation system, as well as hamper emergency response. VDOT and County staff are prioritizing roadway drainage improvement projects based on five criteria: safety, cost, property damage, maintenance, and severity and frequency of occurrence.



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This working group has initially identified 13 projects that should receive funding due to their urgent need (Attachment 1). The cost of these projects totals approximately \$414,000. In addition, Attachment 2 is a comprehensive list of drainage concerns received to date. There are more than 70 projects that have been identified. The working group estimates that average project costs will fall within the range of \$10,000 - \$200,000, and will vary based upon the scope of work for each project. VDOT and County staff will continue to work together to identify additional needs that can be addressed through this funding source. As projects are field reviewed and as cost estimates are developed, additional funding will be allocated to projects. County staff will coordinate with Board members throughout this process.

FISCAL IMPACT:

Recommendations for funding projects for FY2016-FY2017 are shown in Attachment 1. There is no local cash match associated with these state revenues, and no impact to the General Fund. At such time as individual projects are implemented, the County may send VDOT any related funds that have been collected for a particular project by the County through proffers, construction escrows and/or other local funds. Some of the project may be coordinated with County construction projects.

ENCLOSED DOCUMENTS:

Attachment 1 – List of Recommended Projects to Date  
Attachment 2 – Previously Identified Drainage Concerns

STAFF

Robert A. Stalzer, Deputy County Executive  
Lauren Mollerup, Transportation & Land Use Director, Northern Virginia District, Virginia Department of Transportation  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT  
Karyn Moreland, Chief, Capital Projects Section, Capital Projects and Operations Division, FCDOT  
Noelle Dominguez, Senior Transportation Planner, Coordination and Funding, FCDOT

VDOT Stormwater Management - County Safety and Operational Improvement Fund Estimates for projects Identified by VDOT, FCDOT, FCDPWES and FCPD					
#	County Map Number	Location	Magisterial District	Estimated Cost*	Comments
1	DC096	Compton Road just west of Old Centerville Road	Mount Vernon	\$63,000	Project completed on 5/21/16.
2	DC007	13135,13155 and 13125 Compton Road	Springfield	\$32,000	Project scheduled in mid-July
3	DC021	6505 Windham Ave.	Lee	\$12,000	
4	DC022	Wolf Run Shoals	Springfield	\$25,000	Project scheduled end of July
5	DC028	Balls Hill Road/Old Dominion Drive	Dranesville	\$28,000	Project scheduled in mid-July
6	DC045	Fowlers Lane/Whip Road	Hunter Mill	\$5,000	Project completed on 6/2/16. Actual expenditures are not available at this time.
7	DC051	Hunter Mill Road at Cedar Pond Drive	Hunter Mill	\$25,000	Project completed on 6/3/16. Actual expenditures are not available at this time.
8	DC086	Swinks Mill at Burford	Dranesville	\$11,000	Project scheduled beginning of August
9	DC029	Bellview Rd. at Rocky Run	Dranesville	\$84,000	Project scheduled end of August
10	DC053	Hunter Mill Road approximately 515 feet south of Hunting Crest Lane	Hunter Mill	\$17,000	
11	DC091	Walker Rd between Manning St and Sunnybrook Dr	Dranesville	\$75,000	Project is urgent. Culverts corroded and need replacement.
12	DC097	1875 Kirby Road	Dranesville	\$15,000	Working with County to incorporate drainage improvement into sidewalk project
13	DC098	Rutherford Park culvert replacement	Braddock	\$22,000	Working on culvert analysis
Total				\$414,000	

\* Potential projects and estimates are subject to change based on existing field conditions. Additions to this list are forthcoming.

**VDOT/Fairfax County SWM Drainage Concerns**

	<b>Maintenance</b>
	<b>Potential small project, some requiring analysis (not full study)</b>
	<b>Hydrologic and Hydraulic Study</b>
	<b>Drainage Improvement underway</b>

	<b>Completed</b>
	<b>Not an issue/Not an issue anymore</b>
	<b>Study Completed</b>
	<b>To be determined</b>

Updated: 6/24/2016

County Map Number	Location	Maint Issue	Safety Concern	Property Damage & Date	Status	Comments	Magisterial District	Watershed
DC081	Route 236/Lee Place	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size. Ditch work needed also.	Braddock	Accotink Creek
DC037	Burke Lake Road between Routes 123 and 286	No	Yes	Yes	Study	At lake, road floods due to backup of water. Needs a detailed hydrologic and hydraulic study to determine what could be done.	Braddock	Pohick Creek
DC098	Rutherford Park	Yes	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size. Ditch work needed also.	Braddock	Accotink Creek
DC003	11226 Beach Mill Rd	No	Yes	Yes	Under Review		Dranesville	Nichol Run
DC005	11224 Beach Mill Rd	No	Yes	Yes	Under Review	Low-lying area; creek cannot handle volume of runoff water	Dranesville	Nichol Run
DC028	Balls Hill Rd south of Old Dominion	Yes	Yes	No	Maintenance	Clean out or replace driveway culverts depending on corrosion. Needs some minor ditch work. Also need to clean out, ditch and install inlet protection.	Dranesville	Dead Run
DC029	Bellview Rd. at Rocky Run	No	Yes	Yes	Maintenance	Water is running underneath culverts. Needs a culvert analysis for installation of larger culverts. Also, need to sink counter-sink culverts for water to flow through.	Dranesville	Rocky Run
DC084	Springvale Road	No	Yes	Yes	Under Review	Creek overflows its banks	Dranesville	Difficult Run
DC086	Swinks Mill at Burford	Yes	Yes	Yes	Maintenance	Ditching needed. Replace one driveway culvert. Clean out drop inlet box.	Dranesville	Difficult Run

County Map Number	Location	Maint Issue	Safety Concern	Property Damage & Date	Status	Comments	Magisterial District	Watershed
DC087	Swinks Mill at Georgetown Pike	Yes	Yes	Yes	Maintenance	Needs a pipe under Swinks Mill then needs ditching to creek.	Dranesville	Difficult Run
DC099	Leigh Mill Road	Yes	No	No	Maintenance	Replace pipe	Dranesville	Difficult Run
DC062	Leigh Mill Rd and White Chimney Lane	No	Yes	No	Maintenance but needs analysis	Needs creek re-alignment which would require county easement; Major erosion.	Dranesville	Difficult Run
DC091	Walker Rd between Manning St and Sunnybrook Dr	No	Yes	No	Maintenance	Needs culvert analysis to possibly increase pipe size. Ditch work needed also.	Dranesville	Difficult Run
DC088	Swinks Mill Rd	No	Yes	Yes	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Dranesville	Difficult Run
DC097	1875 Kirby Road	No	Yes	Yes	Project	Fairfax County is making improvement as part of a sidewalk project, VDOT is paying for it with CS&OI funds	Dranesville	Little Pimmit Run
DC010	2512 Pegasus Lane	No	Yes	Yes	Under Review	Discuss with Area HQ and field verify issue at this location	Hunter Mill	Difficult Run
DC032	Beulah Road	No	Yes	No	Under Review	Creek overflows its banks	Hunter Mill	Difficult Run
DC053	Hunter Mill Road approximately 515 feet south of Hunting Crest Lane	No	Yes	No	Maintenance	Ditch work, bank protection and culvert replacement	Hunter Mill	Difficult Run
DC011	(2790, 2818 & 2832) Fox Mill Road between Thoroughbred Road and Loveless Lane	Yes	Yes	No	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size	Hunter Mill	Difficult Run
DC012	2791 Fox Mill Rd at Crossfield School	Yes	Yes	No	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size	Hunter Mill	Difficult Run
DC046	Fox Mill and Folkstone	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size.	Hunter Mill	Difficult Run
DC047	Fox Mill and Thoroughbred	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size. Ditch work needed also.	Hunter Mill	Difficult Run
DC002	11054 Stuart Mill Road @ Birdfoot	No	Yes	Yes	Study	Creek overflows its banks	Hunter Mill	Difficult Run
DC035	Browns Mill Road at 1500 Pennycress Lane	No	Yes	Yes	Study	Creek overflows its banks. Needs a detailed hydrologic and hydraulic study to determine what could be done.	Hunter Mill	Difficult Run

County Map Number	Location	Maint Issue	Safety Concern	Property Damage & Date	Status	Comments	Magisterial District	Watershed
DC052	Hunter Mill Road	No	Yes	Yes	Study	Creek overflows its banks. Needs a detailed hydrologic and hydraulic study to determine what could be done.	Hunter Mill	Difficult Run
DC057	Lawyers Road @ Hunter Mill	No	Yes		Study	Creek overflows its banks. Needs a detailed hydrologic and hydraulic study to determine what could be done.	Hunter Mill & Sully	Difficult Run
DC021	6505 Windham Ave	Yes	Yes	No	Maintenance	6505 driveway culvert needs to be cleaned out or replaced, install culvert at 6497, ditch work and bank protection. Clean out grate inlet and ensure underdrain is not clogged.	Lee	Accotink Creek
DC089	Telegraph Road: Old Telegraph to Marl Pat	Yes	Yes	Yes	Maintenance	Driveway pipes are rusted out and ditches need regrading	Lee	Cameron Run
	5608 Quaker Ln, Intersection of South Quaker Ln & Elmwood Dr				Under Review	During storms a significant amount of stormwater runoff accumulates at the SE corner of South Quaker Ln & Elmwood Dr. The ice "ribbon" is caused by a homeowner on Quaker Ln that has a sump pump running into the utility strip that then runs into the roadway this has been ongoing issue for the last 10 years	Lee	Cameron Run
	Higham Drive & Clames				Under Review	Field verify what is the existing issue.	Lee	Dogue Creek
	Drainage issue from the roadside ditch near 7500 Simms				Under Review	Field verify what is the existing issue.	Lee	
DC020	5701 Tremont Drive	No			Maintenance but needs analysis	At the intersection of Burgandy Road and Tremont Drive the water collects and can freeze in the winter. The curb and gutter should have been tied in together when the new homes were built.	Lee	Cameron Run
DC063	Loisdale Rd; 1/2 mile before Newington	Yes	Yes	Yes	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Lee	Accotink Creek
DC033	Blair Rd at Col Pike	No	Yes	Yes	Under Review	Field verify what is the existing issue.	Mason	Cameron Run
DC064	Montgomery St	Yes	Yes	Yes	Maintenance	Corroded pipes need to be replaced.	Mason	Cameron Run
DC071	Old Columbia Pike/Sleppy Hollow	Yes	Yes	Yes	Maintenance	Blocked culvert; flush or replace.	Mason	Cameron Run
DC093	Wayne Road at Annandale	No	Yes	Yes	Under Review	Field verify what is the existing issue.	Mason	Cameron Run & Accotink Creek

County Map Number	Location	Maint Issue	Safety Concern	Property Damage & Date	Status	Comments	Magisterial District	Watershed
DC017	Chowan Ave.	No	Yes	Yes	Project	Some locations in floodplain. Detailed study was done. Improvements range from \$600K to \$1.5 M.	Mason	Cameron Run
DC050	Holmes Run/Sleepy Hollow	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size.	Mason	Cameron Run
DC043	Electronic Dr	No	Yes	Yes	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Mason	Cameron Run
	Annandale Acres, built in the 1940s, comprises Auburn Street, Beverly				Study	Some culvert replacements being done. Basic hydrologic and hydraulic analysis was done.	Mason	Cameron Run
	Barrett Road				Study	Field verify what is the existing issue.	Mason	Cameron Run
	3306 Kaywood Place	No	Yes	Yes	Study	Fairfax County is doing study to determine the problem	Mason	Four Mile Run
DC001	Ft Hunt and Route 1 east side	Yes	No	No	Maintenance	Blocked culvert; Field verify and speak with VDOT maintenance.	Mount Vernon	Mill Branch
DC016	4520 Dolphin Lane	Yes			Maintenance	Flush pipe	Mount Vernon	Dogue Creek
DC027	8801 Winthrop Drive	Yes			Maintenance	Clean out driveway culvert	Mount Vernon	Little Hunting Creek
DC030	Bellview: West Wakefield at Old Towne	No	Yes	No	Under Review	Beaver Dam	Mount Vernon	Belle Haven
DC048	Ft Hunt and Route 1 east side	Yes	No	No	Maintenance	Culverts are blocked with sediment and vegetation/debris.	Mount Vernon	Belle Haven
DC070	Old Colchester Rd/Hassett	No	Yes	Yes	Under Review	Field verify what is the existing issue.	Mount Vernon	Mill Branch
	Route 1 crossing of Dogue Creek				Under Review	Field verify what is the existing issue.	Mount Vernon	Dogue Creek
	Hunter Estates: Higham, Franklin, Bulkley, Catskill, Newington, and Ona Roads. (Possibly Accotink and Hamilton will be added to this list.)				Under Review	Community has ditches and swales. Ditches overflow during heavy rains into neighborhood yards.	Mount Vernon	

County Map Number	Location	Maint Issue	Safety Concern	Property Damage & Date	Status	Comments	Magisterial District	Watershed
DC078	Route 1 and Giles Run	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size.	Mount Vernon	Mill Branch
DC065	Morningside Drive just south of Chandler Street	No	Yes	No	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size. Ditch work needed also.	Providence	Accotink Creek
DC023	7135 Tyler Avenue	Yes	Yes	No	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Providence	Cameron Run
DC069	Oak St & Providence St	No	Yes	Yes	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Providence	Pimmit Run
DC082	Rt 50 - Prosperity to Cedar	No	Yes	No	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Providence	Accotink Creek
DC095	Woodford Rd/Woodford Ct	No	Yes	Yes	Study	Water stands year round at subdivision entrance; no inlets or ditches and nowhere for the water to drain. Needs a detailed hydrologic and hydraulic study to determine what could be done.	Providence	Difficult Run
DC007	13135,13155 and 13125 Compton Road	Yes			Maintenance	Replace pipe, ditch work needed	Springfield	Popes Head Cr
DC022	Wolf Run Shoals 150 yds, north of Rutledge Dr	Yes			Maintenance	Ditch work needed; flush pipe	Springfield	Sandy Run
DC038	Chapel Road at Frosty Meadows	No	Yes	Yes	Maintenance but needs analysis	Ditch work needed on both sides of road. Needs new pipes.	Springfield	Popes Head Cr
DC044	Fairfax Station Road	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size.	Springfield	Popes Head Cr
DC058	Lee Highway at Clifton Road	No	Yes	No	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size. Major ditch work needed also.	Springfield	Little Rocky Run
DC067	Newman Road	No	No	No	Study	Needs a detailed hydrologic and hydraulic study to determine what could be done.	Springfield	Popes Head Cr
DC041	Compton near Bay Valley	No	Yes	No	Under Review	Field verify what is the existing issue.	Springfield & Sully	Little Rocky Run
DC004	11701 Waples Mill Road @ Bronzedale	No	Yes	Yes	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size	Sully	Difficult Run
DC008	13273 Stone Heather Drive @ Lady Bank	No	Yes	No	Maintenance but needs analysis	Needs culvert analysis to possibly increase pipe size	Sully	Horsepen Creek
DC072	Old Lee Road at Braddock Road	No	Yes	Yes	Under Review	Field verify what is the existing issue.	Sully	Cub Run

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ACTION - 7

Authorization to Execute Standard Project Administration Agreement for the Department of Transportation to Accept Grant Funding for the Springfield Community Business Center (CBC) Commuter Parking Garage (Lee District)

ISSUE:

Board of Supervisors' approval for the Fairfax County Department of Transportation (FCDOT) to accept Congestion Mitigation and Air Quality (CMAQ) Program funding in the amount of \$55,872,500 from the Virginia Department of Transportation (VDOT) for the Springfield CBC Commuter Parking Garage. The total required Local Match of \$7,937,500 has been previously appropriated in Fund 50000, Federal-State Grant Fund and Fund 40010, County and Regional Transportation Projects bringing the total project to \$63,810,000. No new General Fund resources are required.

Authorization is also requested for the Director of the Fairfax County Department of Transportation to enter into Standard Project Administration Agreement with VDOT for \$63,810,000, substantially in the form of Attachment 2, to implement the Springfield CBC Commuter Parking Garage.

RECOMMENDATION:

The County Executive recommends that the Board approve a resolution (Attachment 1) authorizing the Director of the Fairfax County Department of Transportation to execute a Standard Project Administration Agreement with VDOT, substantially in the form of Attachment 2, to implement the Springfield CBC Commuter Parking Garage.

TIMING:

The Board of Supervisors should act on this item on July 12, 2016, so that the project can advance.

BACKGROUND:

The Springfield CBC Commuter Parking Garage will serve a critical role in reducing traffic congestion in Northern Virginia. The facility will operate as a transit transfer location allowing users to transfer from single-occupancy vehicles to more environmentally friendly, congestion reducing, modes of transportation, including carpools and commuter bus service. The five-story project will create approximately 1,000 commuter parking spaces and provide up to seven bus bays for Fairfax



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Connector buses. It also will include a dedicated area for passengers utilizing the extensive informal carpool system (i.e., slugging). The facility design includes pedestrian and bicycle access, bicycle storage, passenger waiting areas, and transit system information. In addition, the project includes a pedestrian bridge over Old Keene Mill Road. The proposed project will be located on one parcel of property that is owned by the County and currently used as a surface commuter parking lot.

The development the project was first described in the *Springfield Connectivity Study* (2006). More recently, the project was recommended in the *Fairfax County Comprehensive Plan, 2013 Edition, Area IV – Franconia-Springfield Area and Fort Belvoir North Area* (as amended through 10-20-2015, pg. 28). This facility will build upon and enhance a variety of transit investments that have been made in the Greater Springfield area over the past two decades.

The project recently completed the conceptual design phase and initial Preliminary Engineering (PE) activities have begun. As a result of conceptual design considerations, the County has revised the total project cost estimate to \$63,810,000 and has allocated additional federal Congestion Mitigation and Air Quality (CMAQ) funds to the project.

Staff had previously presented the Board of Supervisors with a Standard Project Administration Agreement for this project on January 12, 2016. That agreement identified funding for Preliminary Engineering (PE) and Right of Way. It did not include full funding for Construction. Previously, funding for Construction could be identified after the PE and Right of Way phases were completed and a revised Standard Project Administration Agreement would be entered into between VDOT and the County. However, VDOT now requires all funding (PE, Right of Way and Construction) be identified prior to the start of the project. It is; therefore, anticipated that going forward, the Standard Project Administration Agreement will include all phases of the project. Since VDOT has not yet signed the January 12, 2016, Standard Project Administration Agreement, the parties may execute the new Standard Project Administration Agreement (Attachment 2) without amendment or termination of the previously approved version.

FISCAL IMPACT:

Total Congestion Mitigation and Air Quality Program funding of \$55,872,500 is available from the VDOT for the Springfield CBC Commuter Parking Garage. Formal budget appropriation will be requested in Fund 50000, Federal-State Grant Fund as part of the *FY 2016 Carryover Review*. The total required Local Match of \$7,937,500 has been previously appropriated in Fund 50000, Federal-State Grant Fund (grant number 1400040-2011) utilizing Federal Transit Administration (FTA) funding and Fund 40010,

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County and Regional Transportation Projects (project number ST-000033) bringing the total project to \$63,810,000. No new General Fund resources are required.

CREATION OF POSITIONS:

No positions will be created through this award.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution to Authorize Staff to Execute Standard Project Agreement with the Virginia Department of Transportation

Attachment 2: Standard Project Agreement for the Springfield CBC Commuter Parking Project, including Related Appendices, with the Virginia Department of Transportation

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Karyn Moreland, Section Chief, Capital Projects and Traffic Engineering Division, FCDOT

Michael Guarino, Engineer IV, Capital Projects and Traffic Engineering Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Patricia McCay, Assistant County Attorney

## **Fairfax County Board of Supervisors 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 of Fairfax, Virginia, on Tuesday, July 12, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

### **AGREEMENT EXECUTION RESOLUTION**

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, a Standard Project Agreement with the Virginia Department of Transportation (VDOT) for the implementation of the Springfield CBC Commuter Parking Garage project (Project # 0644-029-175) (UPC 106274) to be administered by VDOT.

The Board of Supervisors of Fairfax County, Virginia also hereby agrees to provide the local share of the total project cost for preliminary engineering and construction of this project in accordance with the project financial documents (Attachment 2, Appendix A).

Adopted this 12<sup>th</sup> day of July 2016, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**STANDARD PROJECT ADMINISTRATION AGREEMENT**  
**Federal-aid Projects**

Project Number	UPC	Local Government
0644-029-175	106274	Fairfax County

THIS AGREEMENT, made and executed in triplicate this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the County of Fairfax, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

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

1. The LOCALITY shall:
  - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT
  - b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and DEPARTMENT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, rescinding of state funding match, termination of this Agreement, or DEPARTMENT denial of future requests to administer projects by the LOCALITY.

- c. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.
- d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
- e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.
- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the Locality. For federally funded projects and pursuant to 2 CFR 200.338, Remedies for Noncompliance, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.
- g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.2-348 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.
- h. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
- i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements
- j. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, and local laws and regulations. If the locality expends over

\$750,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with 2 CFR 200.501, Audit Requirements.

- k. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
  - l. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
  - m. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.
2. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal and state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.
  - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.f., reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
  - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
  - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.
  - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements

agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.

4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
6. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.
9. This Agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be

reimbursed in accordance with paragraphs 1.f, 1.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

10. Prior to any action pursuant to paragraphs 1.b or 1.g of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.



IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

**COUNTY OF FAIRFAX, VIRGINIA:**

\_\_\_\_\_

\_\_\_\_\_  
Typed or printed name of signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF  
TRANSPORTATION:**

\_\_\_\_\_  
Chief of Policy  
Commonwealth of Virginia  
Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Attachments**

Appendix A (UPC 106274)

## Appendix A

Project Number: 0644-029-175 UPC: 106274 CFDA # 20.205 Locality: Fairfax County

Project Location ZIP+4: 22150-2804	Locality DUNS# 74837626	Locality Address (incl ZIP+4): 4050 Legato Road, Suite 400 Fairfax, VA 22033-2867
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**Project Narrative**

Scope:	Springfield CBC Commuter Parking Garage
From:	At Old Keene Mill Road Commuter Lot
To:	
Locality Project Manager Contact info:	Deepak Bhinge, P.E. 703-324-8770 <a href="mailto:Deepak.Bhinge@fairfaxcounty.gov">Deepak.Bhinge@fairfaxcounty.gov</a>
Department Project Coordinator Contact Info:	Derick Undan 703-259-3347 <a href="mailto:Rhoderick.Undan@VDOT.Virginia.gov">Rhoderick.Undan@VDOT.Virginia.gov</a>

**Project Estimates**

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$5,200,000	\$3,100,000	\$54,760,000	\$63,060,000
Estimated VDOT Project Expenses	\$300,000	\$10,000	\$440,000	\$750,000
Estimated Total Project Costs	\$5,500,000	\$3,110,000	\$55,200,000	\$63,810,000

**Project Cost and Reimbursement**

Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$1,237,500	Other - Local (FTA)	100%	\$1,237,500	\$0	
	\$3,962,500	Local Funds	100%	\$3,962,500	\$0	
	\$300,000	CMAQ	0%	\$0	\$0	
				\$0	\$0	
<b>Total PE</b>	\$5,500,000			\$5,200,000	\$0	\$0
Right of Way & Utilities	\$3,110,000	CMAQ	0%	\$0	\$3,110,000	
				\$0	\$0	
<b>Total RW</b>	\$3,110,000			\$0	\$3,110,000	\$3,100,000
Construction	\$52,462,500	CMAQ	0%	\$0	\$52,462,500	
	\$2,737,500	Local Funds	100%	\$2,737,500	\$0	
<b>Total CN</b>	\$55,200,000			\$2,737,500	\$52,462,500	\$52,022,500
<b>Total Estimated Cost</b>	\$63,810,000			\$7,937,500	\$55,572,500	\$55,122,500

**Total Maximum Reimbursement by VDOT to Locality (Less Local Share)**

\$55,572,500

**Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)**

\$55,122,500

**Project Financing**

CMAQ	State Match	Local Funds (FTA)	Local Funds (C&I Tax)		Aggregate Allocations
\$44,899,250	\$10,973,250	\$1,237,500	\$6,700,000		\$63,810,000

**Program and project Specific Funding Requirements**

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 12/30/2016.
- This is a limited funds project. The Locality shall be responsible for any additional funding in excess of \$55,572,500 (if applicable)
- This project is funded with federal-aid Congestion Mitigation and Air Quality Program (CMAQ) funds. These funds must be obligated within 24 months of allocation and expended within 48 months of the obligation.
  - FY05 \$3,000,000 Allocation by the CTB
  - FY07 \$1,173,990 Allocation by the CTB
  - FY13 \$5,735,844 Allocation by the CTB, Expenditure deadline 6/30/2018
  - FY14 \$8,291,540 Allocation by the CTB, Expenditure deadline 6/30/2019
- This project is funded with federal-aid Congestion Mitigation and Air Quality Program (CMAQ) funds. These funds must be obligated within 12 months of allocation and expended within 36 months of the obligation.
  - FY15 \$11,334,100 Allocation by the CTB, Expenditure deadline 6/30/2018
  - FY16 \$6,371,509 Allocation by the CTB, Expenditure deadline 6/30/2019
  - FY17 \$11,493,012 Allocation by the CTB, Obligation deadline 6/20/2017, Expenditure deadline 6/30/2020
  - FY20 \$8,472,505 Allocation by the CTB, Obligation deadline 6/30/2020, Expenditure deadline 6/30/2023
- Total project allocations:** \$63,810,000

Authorized Locality Official and date

Tom Biesiadny

Typed or printed name of person signing

Authorized VDOT Official and date

Ray Burkhardt

Typed or printed name of person signing

Version 8/19/11

Board Agenda Item  
July 12, 2016

10:25 a.m.

Matters Presented by Board Members

Board Agenda Item  
July 12, 2016

11:15 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. *Harrison Neal v. Fairfax County Police Department and Colonel Edwin C. Roessler, Jr.*, Case No. CL-2015-0005902 (Fx. Co. Cir. Ct.)
  - 2. *Moirá Callaghan, Robert Sawicki, Carrie Sawicki, David Okerson, Barbara Okerson, Judith Strother, and Kris Capps v. Fairfax County Board of Supervisors, Fairfax County Park Authority, and Reston Dogs, Inc.*, Case No. CL-2014-0003016 (Fx. Co. Cir. Ct.) (Hunter Mill District)
  - 3. In Re: *Decision of September 17, 2014, of the Board of Zoning Appeals of Fairfax County, Virginia, Jonathan Clark, and Carolyn Clark v. Fairfax County Board of Supervisors, Leslie B. Johnson, Zoning Administrator, and Jeffrey L. Blackford, Director, DCC*, Case No. CL-2014-0013587 (Fx. Co. Cir. Ct.) (Mason District)
  - 4. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Luom Son and Sen Ly*, Case No. CL-2016-0001201 (Fx. Co. Cir. Ct.) (Mason District)
  - 5. *Kaveh Sari v. Board of Supervisors of Fairfax County, Fairfax County Park Authority, Jean A. Marcelin, Jr., and Elisabeth H. Marcelin, Yorkshire II Homeowners Association, Inc., and SunTrust Mortgage Inc.*, Case No. CL-2015-0012396 (Fx. Co. Cir. Ct.) (Mount Vernon District)
  - 6. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Edward Eugene Ankers, Jr.*, Case No. CL-2016-0005534 (Fx. Co. Cir. Ct.) (Hunter Mill District)
  - 7. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Sherman E. Phillip*, Case No. GV16-008690 (Fx. Co. Gen. Dist. Ct.) (Lee District)

8. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ester F. Lopes*, Case No. GV16-004580 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Katherine Safly*, Case No. GV16-004581 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
10. *Sagres Construction Corp. v. County of Fairfax*, Case No. CL-2016-0007023 (Fx. Co. Cir. Ct.)
11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Lloyd G. Strickland*, Case No. CL-2016-0008753 (Fx. Co. Cir. Ct.) (Springfield District)
12. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Janice T. McCallum*, Case Nos. GV16-004924 and GV16-011655 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
13. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Gregory Miklasiewicz*, Case Nos. GV16-011091 and GV16-011092 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Thomas F. Lepore and Rosemary J. Lepore*, Case Nos. GV16-011656 and GV16-011657 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
15. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Junghi Weiss*, Case No. GV16-011658 (Fx. Co. Gen. Dist. Ct.) (Sully District)
16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Yung C. Yung*, Case No. GV16-010935 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. James G. Miller, Trustee of the James G. Miller Living Trust, and Atlantic Construction Fabrics, Inc.*, Case No. CL-2009-0002430 (Fx. Co. Cir. Ct.) (Sully District)
18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Steven C. Bryant*, Case No. CL-2009-0005546 (Fx. Co. Cir. Ct.) (Sully District)

Board Agenda Item  
July 12, 2016

3:30 p.m.

Public Hearing on AF 2016-SP-001 (Charles E. Dyer, Trustee, Joanne L. Dyer, Trustee, Dyer Living Trust) to Permit the Creation of a Local Agricultural and Forestal District, Located on Approximately 39.22 Acres of Land Zoned R-C, WS (Springfield District)

This property is located at 6501 Colchester Rd., Fairfax Station, 22039. Tax Map 76-3 ((1)) 8.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, June 16, 2016, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend that the Board of Supervisors approve AF 2016-SP-001 and amend Appendix F of the county code to establish the Dyer Local Agricultural and Forestal District for an initial eight-year term subject to ordinance provisions consistent with those contained in the staff report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Michael Lynskey, Planner, DPZ

Board Agenda Item  
July 12, 2016

3:30 p.m.

Public Hearing on RZ 2015-MA-018 (Board of Supervisors of Fairfax County, Virginia) to Rezone from C-5 to R-4 to Permit Public Uses (Fire Station) with an Overall Floor Area Ratio of 0.34, Located on Approximately 1.20 Acres of Land (Mason District)

This property is located on the South side of Arlington Boulevard at the intersection of Hodge Place and Woodley Lane. Tax Map 50-3 ((4)) B.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, June 29, 2016, the Planning Commission voted 8-0 (Commissioner Hurley, Keys-Gamarra, Lawrence, and Murphy were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2015-MA-018 and the associated Generalized Development Plan (GDP), subject to the proffers dated May 20, 2016;
- Approval of a modification of the transitional screening yard requirements along the northern, eastern, and southern property lines in favor of that shown on the GDP;
- Approval of the modification of the barrier requirements along the eastern property line in favor of that shown on the GDP;
- Approval of a deviation of the tree preservation target in favor of that shown on the GDP; and
- Approval of a modification of the tree canopy coverage in favor of that shown on the GDP.

In a related action, the Planning Commission voted 8-0 (Commissioner Hurley, Keys-Gamarra, Lawrence, and Murphy were absent from the meeting) to approve 2232-M15-23. The Commission noted that the application satisfied the criteria of location, character, and extent, as specified in Virginia Code 15.2-2232 as amended and determined that the subject application is substantially in accord with the provisions of the adopted Comprehensive Plan.

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ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),  
Natalie Knight, Planner, DPZ



Board Agenda Item  
July 12, 2016

3:30 p.m.

Public Hearing on RZ 2014-PR-021 (Bit Investment Fifty-Two, LLC) to Rezone from C-3, HC to PTC, HC to Permit Mixed-Use Development with an Overall Floor Area Ratio of 2.59, Including a Maximum of 1,940 Dwelling Units, Located on Approximately 16.74 Acres of Land (Providence District) (Concurrent with PCA 92-P-001-12)

and

Public Hearing on PCA 92-P-001-12 (Bit Investment Fifty-Two, LLC) to Amend the Proffers for RZ 92-P-001 Previously Approved for Office Development with an Overall Floor Area Ratio of 0.65 to Permit Deletion of Land Area, Located on Approximately 16.74 Acres of Land (Providence District) (Concurrent with RZ 2014-PR-021)

This property is located on the East and West sides of Old Meadow Road, approximately 1,500 feet South of its intersection with Dolley Madison Boulevard. Tax Maps 29-4 ((6)) A, B, 95C, 97C, 105, and 106.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, June 29, 2016, the Planning Commission voted 6-0-2 (Commissioners Hedetniemi and Strandlie abstained from the vote, and Commissioners Hurley, Keys-Gamarra, Murphy, and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 92-P-001-012;
- Approval of RZ 2014-PR-021, subject to proffers consistent with those dated June 8, 2016, and subject to the commitment the applicant made to continue discussions related to the issue of flexibility with respect to the proffer for the public facilities contributions;
- Direct the Fairfax County Park Authority to issue any easements or right-of-way as necessary for the construction of Grant Street and associated park improvements; and
- Approval of the following waivers and modifications:
  - Waiver of Section 2-505 of the Zoning Ordinance to permit structures and vegetation on a corner lot as shown on the CDP;
  - Waiver of Paragraphs 3(E) of 10-104 of the Zoning Ordinance to increase the maximum fence height from 7 to 14 feet around accessory

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uses/structures located within the rear yard for areas associated with sports courts and urban plazas;

- Modification of Section 11-202(4) of the Zoning Ordinance requiring a minimum distance of forty feet of a loading space in proximity to drive aisles, to that shown on the CDP;
- Waiver and/or modification to interior parking lot landscaping requirements of Section 13-202 of the Zoning Ordinance for interim surface lots, structured parking and spaces on private streets as either depicted on an FDP or shown on a landscape plan;
- Waiver of Paragraph 2 of Section 6-505 of the Zoning Ordinance to permit a site plan for public improvements plans associated with public roadway, infrastructure, or other park spaces to be filed without an approved FDP;
- Waiver of Paragraph 3B of Section 17-201 of the Zoning Ordinance to provide any additional interparcel connections to adjacent parcels beyond that shown on the CDP and as proffered;
- Modification of Paragraph 2 of Section 17-201 of the Zoning Ordinance to permit the construction of the sidewalks and on-road bike lane system shown on the CDP;
- Waiver of Paragraph 4 of Section 17-201 of the Zoning Ordinance to allow only for the dedication and construction of roads as depicted on the CDP and indicated in the proffers;
- Waiver of Paragraph 7 of Section 17-201 of the Zoning Ordinance to allow establishment of parking control, signs and parking meters along private streets within the development;
- Modification of Section 12-0510 of the PFM to reduce the minimum planter opening area for trees used to satisfy the tree cover requirement in favor of that shown on the CDP;
- Modification of Section 12-0515.6B of the PFM to allow trees located above any proposed percolation trench or bioretention areas to count towards county tree cover requirements as depicted on the CDP;
- Modification of Section 12-0501 of the PFM to permit the 10 year tree canopy requirements as shown on the CDP and as proffered;

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- Modification of Section 12-0511 of the PFM for required tree preservation target and ten percent canopy to be calculated as shown on the overall CDP area; and
- Modification of Section 12-0514 of the PFM to adjust the area to be counted for the 5% interior parking lot landscaping to include areas of the public streets as shown on the CDP.

In a related action, the Planning Commission voted 6-0-2 (Commissioners Hedetniemi and Strandlie abstained from the vote, and Commissioners Hurley, Keys-Gamarra, Murphy, and Lawrence were absent from the meeting) to approve FDP 2014-PR-021, subject to the Development Conditions dated June 15, 2016.

Also, in a related action, the Planning Commission voted 6-0-2 (Commissioners Hedetniemi and Strandlie abstained from the vote, and Commissioners Hurley, Keys-Gamarra, Murphy, and Lawrence were absent from the meeting) to approve FDP 2014-PR-021-02, subject to the Development Conditions dated June 15, 2016.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),  
Megan Duca, Planner, DPZ

Board Agenda Item  
July 12, 2016

3:30 p.m.

Public Hearing on SE 2015-SP-023 (Cellco Partnership D/B/A Verizon Wireless; Little League Inc. Fairfax) to Permit a Telecommunications Facility, Located on Approximately 4.86 Acres of Land Zoned R-C, WS (Springfield District)

This property is located at 12601 Braddock Road, Fairfax, 22030. Tax Map 66-2 ((3)) 2.

The Board of Supervisors deferred this public hearing from the February 16, 2016 meeting until March 15, 2016 at 3:30 p.m., at which time it was deferred until July 12, 2016, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, June 16, 2016, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of SE 2015-SP-023, subject to the Development Conditions dated June 1, 2016;
- Approval of a modification of Section 13-303 of the Zoning Ordinance for the transitional screening requirements to permit the landscaping as shown on the Special Exception Plat; and
- Direct the Director of the Department of Public Works and Environmental Services to waive the dustless service requirement of Section 11-102 (11) of the Zoning Ordinance for the gravel driveway to access the telecommunications compound as depicted on the Special Exception Plat.

In a related action, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to approve 2232-S15-5.

The Planning Commission noted the application, as amended, satisfied the character, location, and extent and was in conformance with Virginia Code Section 15.2-2232, as amended and is substantially in accord with the revisions of the adopted Comprehensive Plan.

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ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),  
Megan Duca, Planner, DPZ

Board Agenda Item  
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3:30 p.m.

Public Hearing on SE 2015-MV-035 (Starbucks Coffee Company) to Permit Fast Food Restaurant with Drive-Thru in a Highway Corridor Overlay District, Located on Approximately 36,590 Square Feet of Land Zoned C-6, CRD, and HC (Mount Vernon District)

This property is located at 7511 Richmond Highway, Alexandria 22306. Tax Map 93-3 ((2)) (1) 8A.

The Board of Supervisors deferred this public hearing from the June 7, 2016 meeting until July 12, 2016, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, June 30, 2016, the Planning Commission voted 8-0 (Commissioners Hurley, Lawrence, Murphy and Strandlie were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2015-MV-035, subject to the Development Conditions dated June 30, 2016, as modified to combine Condition 6 and 7.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),  
Kelly Posusney, Planner, DPZ

Board Agenda Item  
July 12, 2016

4:00 p.m.

Public Hearing SEA 88-S-077-07 (Golden Brook, LLC) to Amend a Portion of SE 88-S-077, Previously Approved for a Service Station/Quick-Service Food Store, Car Wash, Drive-In Financial Institution, Fast-Food Restaurants, Hotel, Vehicle Rental Establishment, and Increase in Building Height, to Permit an Additional Fast Food Restaurant with Drive-Thru Window, and Associated Modifications to Site Design and Development Conditions, Located on Approximately 1.41 Acres of Land Zoned C-6, WS (Sully District)

This property is located at Chantilly Shopping Center, Chantilly, 20151. Tax Map 44-1 ((9)) 6

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, June 29, 2016, the Planning Commission voted 8-0 (Commissioners Hurley, Keys-Gamarra, Lawrence, and Murphy were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 88-S-077-07 by Golden Brook, LLC, subject to the Development Conditions contained in the staff report dated June 15, 2016; and
- Direct the Director of the Department of Public Works and Environmental Services to approve a deviation of tree preservation target, per Public Facilities Manual Section 12-0508.3A, in favor of a conditioned commitment to maintain and/or replace existing streetscape trees located within utility easements.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Michael Lynskey, Planner, DPZ

Board Agenda Item  
July 12, 2016

4:00 p.m.

Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 7-2-5, 7-2-10, and 7-2-13 Relating to Election Precincts and Polling Places

ISSUE:

Public hearing to consider an ordinance that proposes to amend and readopt sections of Chapter 7 of the Fairfax County Code to (1) rename Terraset precinct, (2) relocate the polling place for Chesterbrook precinct, (3) relocate the polling place for Huntley precinct, (4) divide Tysons precinct to add a new precinct and establish its polling place, and (5) change the name of the polling place for Fair Oaks precinct.

RECOMMENDATION:

The County Executive recommends adoption of the proposed ordinance.

TIMING:

On June 21, 2016, the Board authorized a public hearing to be held on July 12, 2016, at 4:00 p.m. to consider this ordinance. Board action on July 12, 2016, is necessary to provide sufficient time to notify voters of the changes in advance of the November 8, 2016, General and Special Elections.

BACKGROUND:

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 precinct boundaries and polling place locations subject to the requirements of Virginia Code Sections 24.2-305, 24.2-307, 24.2-310 and 24.2-310.1. All registered voters who are affected by a change in their precinct or polling place will be mailed a notice in advance of the November 8, 2016, General and Special Elections.

- (1) In Hunter Mill District, staff recommends changing the name of Terraset precinct to "Hughes" to match the name of the polling location at Hughes Middle School. Since the Hughes Middle School provides a larger parking lot with better voter accessibility, there is currently no benefit to returning the polling place to Terraset Elementary School.
- (2) In Dranesville District, staff recommends moving the polling place for Chesterbrook precinct from Arleigh Burke Pavilion, located at 1739 Kirby Road, McLean to Vinson Hall, located at 6251 Old Dominion Drive, McLean. Vinson Hall is an adjacent but co-



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joined building with the Arleigh Burke Pavilion. This move will provide a larger polling place room for the Chesterbrook voters.

(3) In Lee District, staff recommends moving the polling place for Huntley precinct which is currently co-located with Groveton precinct. The proposal will move Huntley from Groveton Elementary School located at 6900 Harrison Lane, Alexandria, to nearby St. Mark's Episcopal Church located at 6744 South Kings Highway, Alexandria. The polling place for Groveton precinct will remain at Groveton Elementary.

(4) In Providence District, staff recommends dividing the Tysons precinct which currently has nearly 4,000 registered voters. This proposal will create a new precinct to be named "Rotonda" and its polling place will be established at the Rotonda Condominiums Community Center, 8352 Greensboro Drive, McLean. The new precinct will reduce the size of Tysons precinct by about 1,300 voters. The polling place for Tysons voters will remain at the Providence Committee Meeting Room.

(5) In Springfield District, staff recommends changing the name of the polling place for Fair Oaks precinct from Fair Oaks Church Rec Center to Expectation Church Rec Center. The church reorganized and changed its name in late 2015. Its street address, 4531 West Ox Road, Fairfax, is unchanged.

FISCAL IMPACT:

Insignificant. Funding for precinct and polling place change notifications is provided in the agency's FY 2017 Adopted Budget.

ENCLOSED DOCUMENTS:

Attachment 1 – Virginia Code Pertaining to Election Precincts and Polling Places  
Attachment 2 – Summary of Proposed Changes  
Attachment 3 – Descriptions and Maps of Proposed Changes  
Attachment 4 – Proposed Ordinance

STAFF:

Cameron Glenn Sasnett, Director of Elections  
Susan E. Cooke, Assistant County Attorney

**§ 24.2-305. Composition of election districts and precincts.**

A. Each election district and precinct shall be composed of compact and contiguous territory and shall have clearly defined and clearly observable boundaries.

B. A "clearly observable boundary" shall include (i) any named road or street, (ii) any road or highway which is a part of the federal, state primary, or state secondary road system, (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census, or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census. No property line or subdivision boundary shall be deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census.

(1986, c. 593, § 24.1-40.7; 1990, c. 500; 1992, c. 425; 1993, c. 641; 2001, c. [614](#).)

**§ 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](#).)

**§ 24.2-310. 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 electoral board 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 (42 U.S.C. § 1973ee 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 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 electoral board 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](#).)

#### **§ 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 Changes

<b>2016 PROPOSED PRECINCT BOUNDARY and POLLING PLACE CHANGES</b>								
<b>SUPERVISOR DISTRICT</b>	<b>EXISTING PRECINCT</b>	<b>REGISTERED VOTERS*</b>	<b>EXISTING POLLING PLACE(S)</b>	<b>PROPOSED PRECINCT(S)</b>	<b>PROJECTED REGISTERED VOTERS</b>	<b>PROPOSED POLLING PLACE(S)</b>	<b>NOTES ON CHANGES</b>	
HUNTER MILL	TERRASET	4,263	Hughes Middle School	HUGHES	4,263	Hughes Middle School	Change name of precinct to match name of school.	
DRANESVILLE	CHESTERBROOK	2,725	Arleigh Burke Pavilion	CHESTERBROOK	2,602	Vinson Hall	Moves polling place to a more suitable location in the same complex.	
LEE	HUNTLEY	2,835	Groveton Elementary School	HUNTLEY	2,497	St. Mark's Episcopal Church	Move polling place to eliminate crowding due to co-located polling places at Groveton Elementary.	
PROVIDENCE	TYSONS	3,989	Providence Committee Meeting Room	TYSONS ROTONDA	2,685 1,304	Providence Committee Meeting Room Rotonda Condominiums Community Center	Divide precinct to reduce crowding at Providence Committee Meeting Room.	
SPRINGFIELD	FAIR OAKS	3,629	Fair Oaks Church Rec Center	FAIR OAKS	3,629	Expectation Church Rec Center	Change name of polling place building to reflect new ownership.	

\* Registered voters as of May 3, 2016

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
**Hunter Mill District**

**PRECINCT 225:        ~~TERRASET~~ HUGHES**

**CONGRESSIONAL DISTRICT:        ELEVENTH**  
**VIRGINIA SENATORIAL DISTRICT:    THIRTY-SECOND**  
**HOUSE OF DELEGATES DISTRICT:   THIRTY-SIXTH**

**DESCRIPTION:**

Beginning at the intersection of Reston Parkway and Sunrise Valley Drive, thence with Sunrise Valley Drive in a generally easterly direction to its intersection with Soapstone Drive, thence with Soapstone Drive in a southerly direction to its intersection with Snakeden Branch (stream), thence with the meanders of Snakeden Branch in a northwesterly direction to its intersection with Reston Parkway, thence with Reston Parkway in a northeasterly direction to its intersection with Sunrise Valley Drive, point of beginning.

**POLLING PLACE:**                    Hughes Middle School  
   11401 Ridge Heights Road, Reston

**MAP GRIDS:**    17-3, 17-4, 26-1, 26-2, 26-4

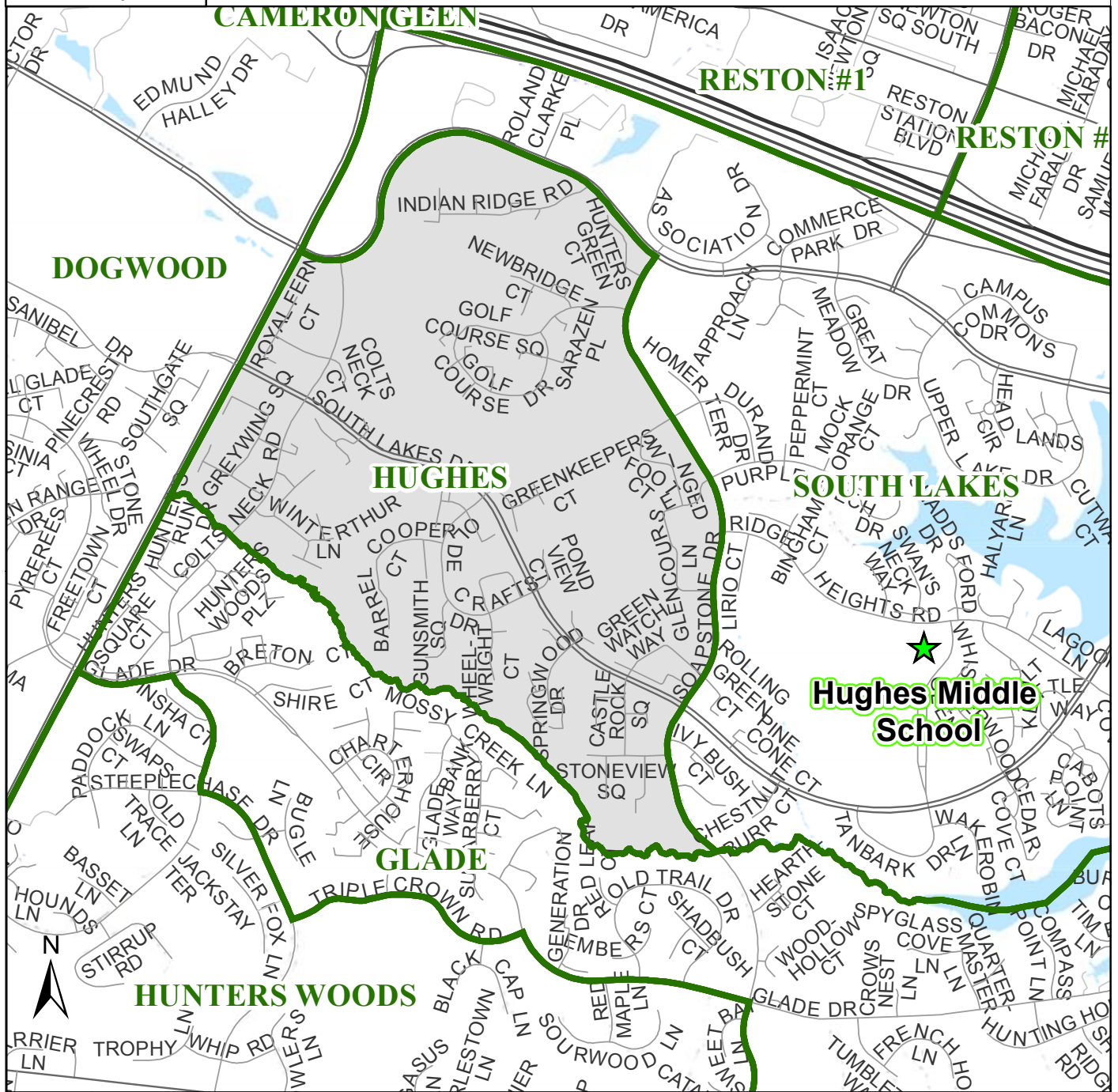
**NOTES:**            Established December 1976  
                         Precinct description revised and readopted – March 2003  
                         Congressional District changed from 8<sup>th</sup> to 11<sup>th</sup> – January 2012  
                         Polling Place moved – November 2014  
                         Precinct renamed – July 2016



Commonwealth of Virginia  
**County of Fairfax**



**Hunter Mill District**

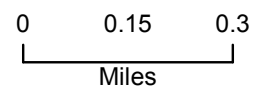


**Proposed Precinct Change for 225 Terraset Precinct**

**Current name:** *Terraset*

**Proposed name:** *Hughes*

★ **Polling Place:** *Hughes Middle School*



May 2016

Commonwealth of Virginia  
**COUNTY OF FAIRFAX**  
**Dranesville District**

**PRECINCT 302: CHESTERBROOK**

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

**DESCRIPTION:**

Beginning at the intersection of Kirby Road and Pimmit Run (stream), thence with the meanders of Pimmit Run in a 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 Old Dominion Drive, thence with Old Dominion Drive in a northwesterly direction to its intersection with Park Road, thence with Park Road in a westerly, then northwesterly direction to its intersection with Kirby Road, thence with Kirby Road in a generally northeasterly direction to its intersection with Pimmit Run, point of beginning.

**POLLING PLACE:** ~~Arleigh Burke Pavilion~~ Vinson Hall  
~~1739 Kirby Road,~~ 6251 Old Dominion Drive, McLean

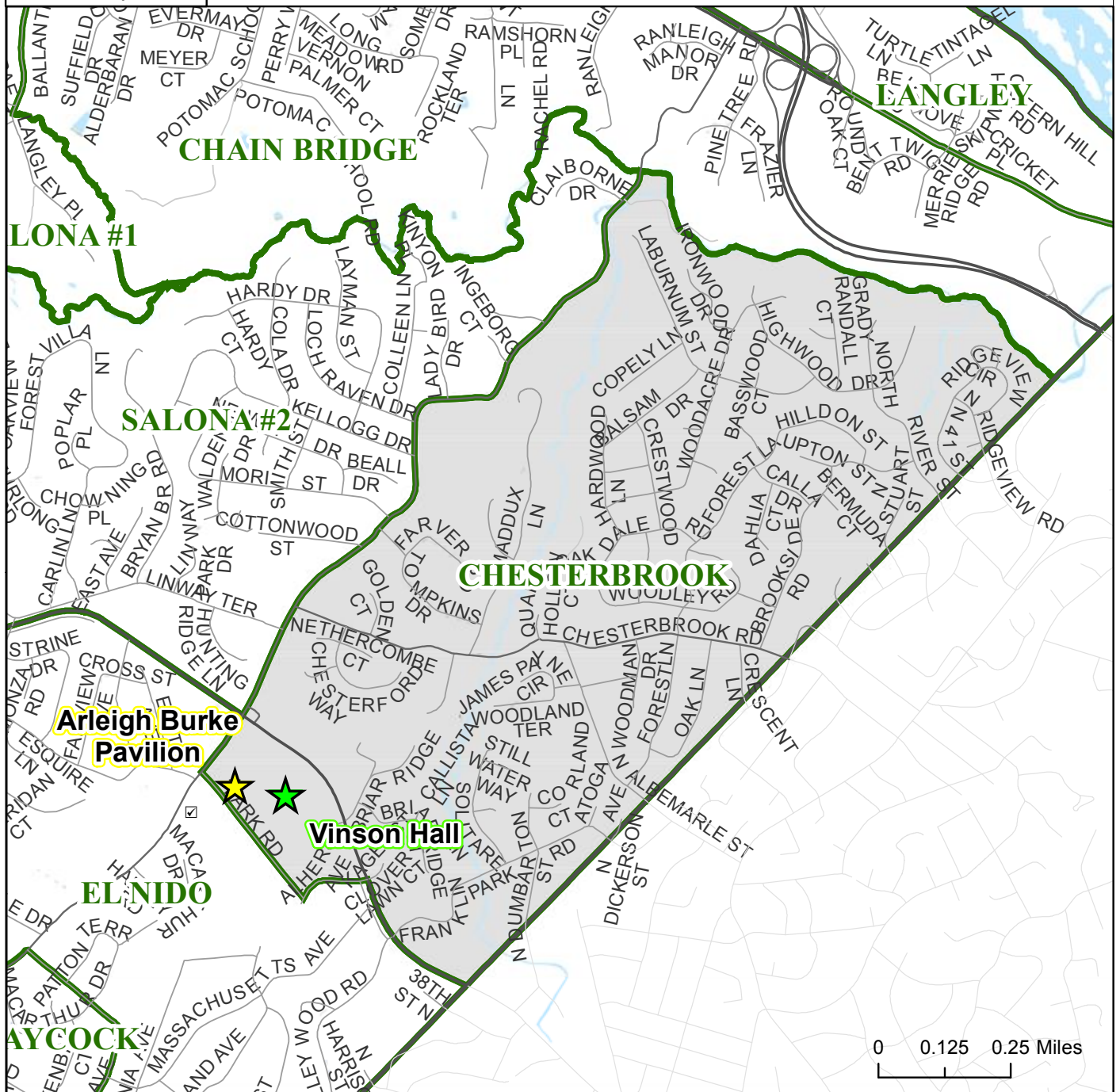
**MAP GRIDS:** 31-2, 31-3, 31-4, 41-1, 41-2

**NOTES:** Established December 1976  
Precinct description revised and readopted – March 2003  
Senate District changed from 32<sup>nd</sup> to 31<sup>st</sup> – July 2011  
Delegate District changed from 34<sup>th</sup> to 48<sup>th</sup> – July 2011  
Polling place temporarily moved – January 2012  
Congressional District changed from 10<sup>th</sup> to 8<sup>th</sup> – January 2012  
Polling place returned to original location – June 2015  
Polling place moved – July 2016





Commonwealth of Virginia  
**County of Fairfax**  
Dranesville District



**Proposed Polling Place Change for 302 Chesterbrook Precinct**

- ★ **Current name and address:** Arleigh Burke Pavilion, 1739 Kirby Rd.
- ★ **Proposed name and address:** Vinson Hall, 6251 Old Dominion Dr.



May 2016

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
**Lee District**

**PRECINCT 424: HUNTLEY**

**CONGRESSIONAL DISTRICT: EIGHTH**  
**VIRGINIA SENATORIAL DISTRICT: THIRTY-SIXTH**  
**HOUSE OF DELEGATES DISTRICT: FORTY-THIRD**

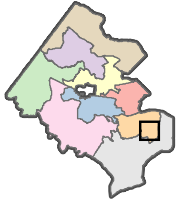
**DESCRIPTION:**

Beginning at the intersection of Dogue Creek and South Kings Highway, thence with South Kings Highway in a northeasterly direction to its intersection with Harrison Lane, thence with Harrison Lane in a southerly direction to its intersection with Lockheed Boulevard, thence with Lockheed Boulevard in an easterly direction to its intersection with the east boundary of Huntley Meadows Park, thence with the boundary of Huntley Meadows Park in a southerly, then westerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a southwesterly direction to its intersection with the south boundary of Huntley Meadows Park, thence with the boundary of Huntley Meadows Park in a southwesterly, then northwesterly direction to its intersection with Dogue Creek, thence with the meanders of Dogue Creek in a generally northeasterly direction to its intersection with South Kings Highway, point of beginning.

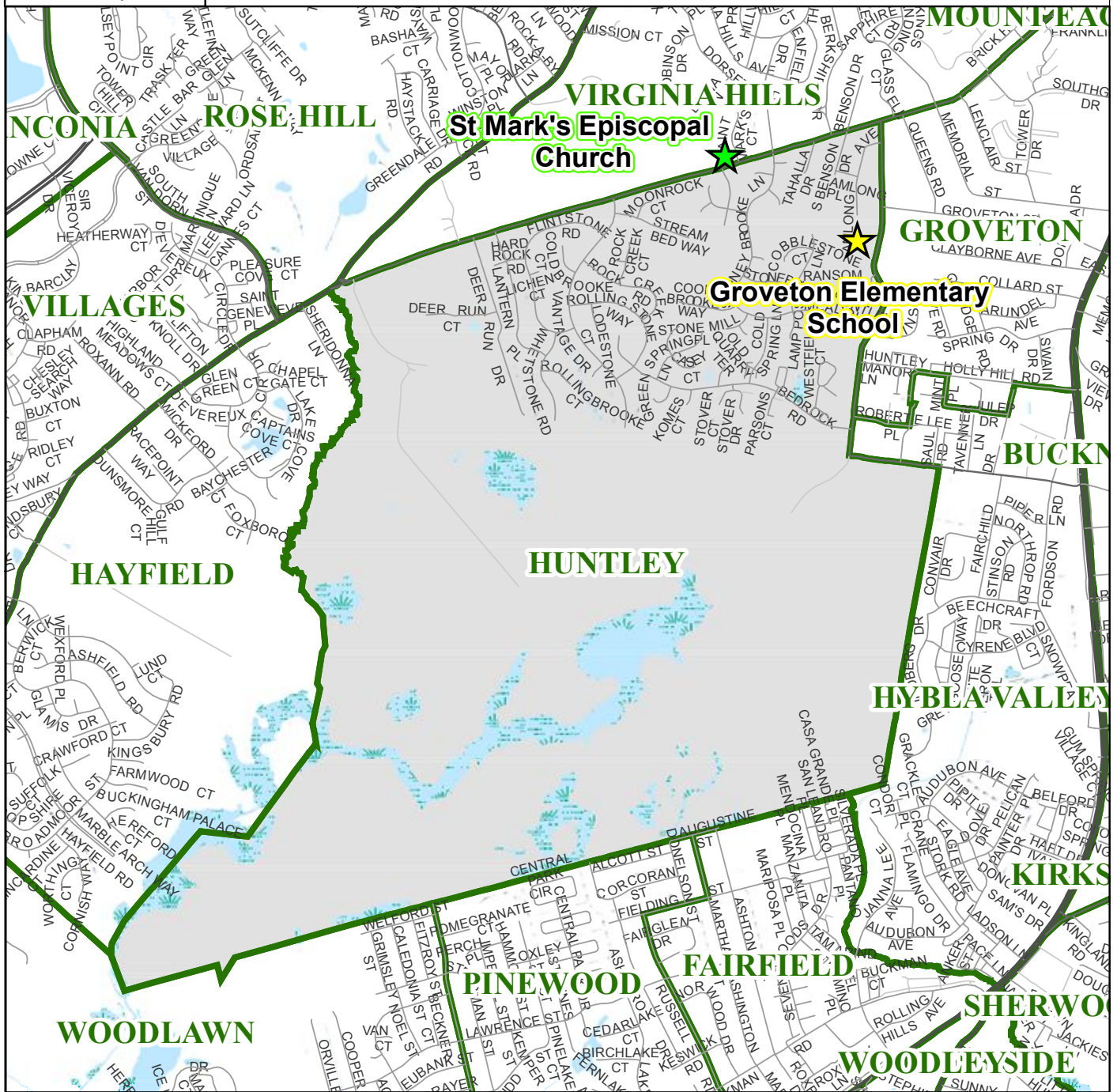
**POLLING PLACE:** ~~Groveton Elementary School~~ St Mark's Episcopal Church  
~~6900 Harrison Lane,~~ 6744 South Kings Highway, Alexandria

**MAP GRIDS:** 92-1, 92-2, 92-3, 92-4, 100-2, 101-1, -101-2

**NOTES:** Established August 2001  
Precinct description revised and readopted – March 2003  
Polling place moved – July 2016



Commonwealth of Virginia  
**County of Fairfax**  
Lee District



**Proposed Polling Place Change for 424 Huntley Precinct**

- ★ Current Polling Place
- ★ Proposed New Polling Place

0 0.25 0.5 Miles



May 2016

Commonwealth of Virginia  
**COUNTY OF FAIRFAX**  
**Providence District**

**PRECINCT 731: TYSONS**

**CONGRESSIONAL DISTRICT: ELEVENTH**  
**VIRGINIA SENATORIAL DISTRICT: THIRTY-SECOND**  
**HOUSE OF DELEGATES DISTRICT: THIRTY-FIFTH**

**DESCRIPTION:**

Beginning at the intersection of ~~Leesburg Pike (Route 7)~~ International Drive and the Washington Dulles Access and Toll Road, thence with the Washington Dulles Access and Toll Road in an easterly direction to its intersection with the Capital Beltway (I-495), thence with the Capital Beltway in a southwesterly direction to its intersection with Leesburg Pike, thence with Leesburg Pike in a northwesterly direction to its intersection with Spring Hill Road, thence with Spring Hill Road in an easterly direction to its intersection with Greensboro Drive, thence with Greensboro Drive in a southeasterly direction to its intersection with Westpark Drive, thence with Westpark Drive in a northeasterly direction to its intersection with International Drive, thence with the International Drive in a northwesterly direction to its intersection with the Washington Dulles Access and Toll Road, point of beginning.

**POLLING PLACE:** Providence Committee Meeting Room  
7921 Jones Branch Drive, McLean

**MAP GRIDS:** 29-1, 29-2, 29-3, 29-4, 39-2

**NOTES:** Established June 1991  
Precinct description revised and readopted – March 2003  
Polling place moved – July 2011  
Boundary adjusted to conform to Congressional District line – July 2012  
Delegate District changed from 34<sup>th</sup> to 35<sup>th</sup> - July 2011  
Congressional District changed from 8<sup>th</sup> to 11<sup>th</sup> – July 2012  
Precinct divided – July 2016

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
**Providence District**

**PRECINCT 735:        ROTONDA**

<b>CONGRESSIONAL DISTRICT:</b>	<b>ELEVENTH</b>
<b>VIRGINIA SENATORIAL DISTRICT:</b>	<b>THIRTY-SECOND</b>
<b>HOUSE OF DELEGATES DISTRICT:</b>	<b>THIRTY-FIFTH</b>

**DESCRIPTION:**

Beginning at the intersection of Leesburg Pike (Route 7) and the Washington Dulles Access and Toll Road, thence with the Washington Dulles Access and Toll Road in an easterly direction to its intersection with International Drive, thence with International Drive in a southeasterly direction to its intersection with Westpark Drive, thence with Westpark Drive in a southwesterly direction to its intersection with Greensboro Drive, thence with Greensboro Drive in a northwesterly direction to its intersection with Spring Hill Road, thence with Spring Hill Road in a westerly direction to its intersection with Leesburg Pike, thence with Leesburg Pike in a northwesterly direction to its intersection with the Washington Dulles Access and Toll Road, point of beginning.

<b>POLLING PLACE:</b>	Rotonda Condominiums Community Center 8352 Greensboro Drive, McLean
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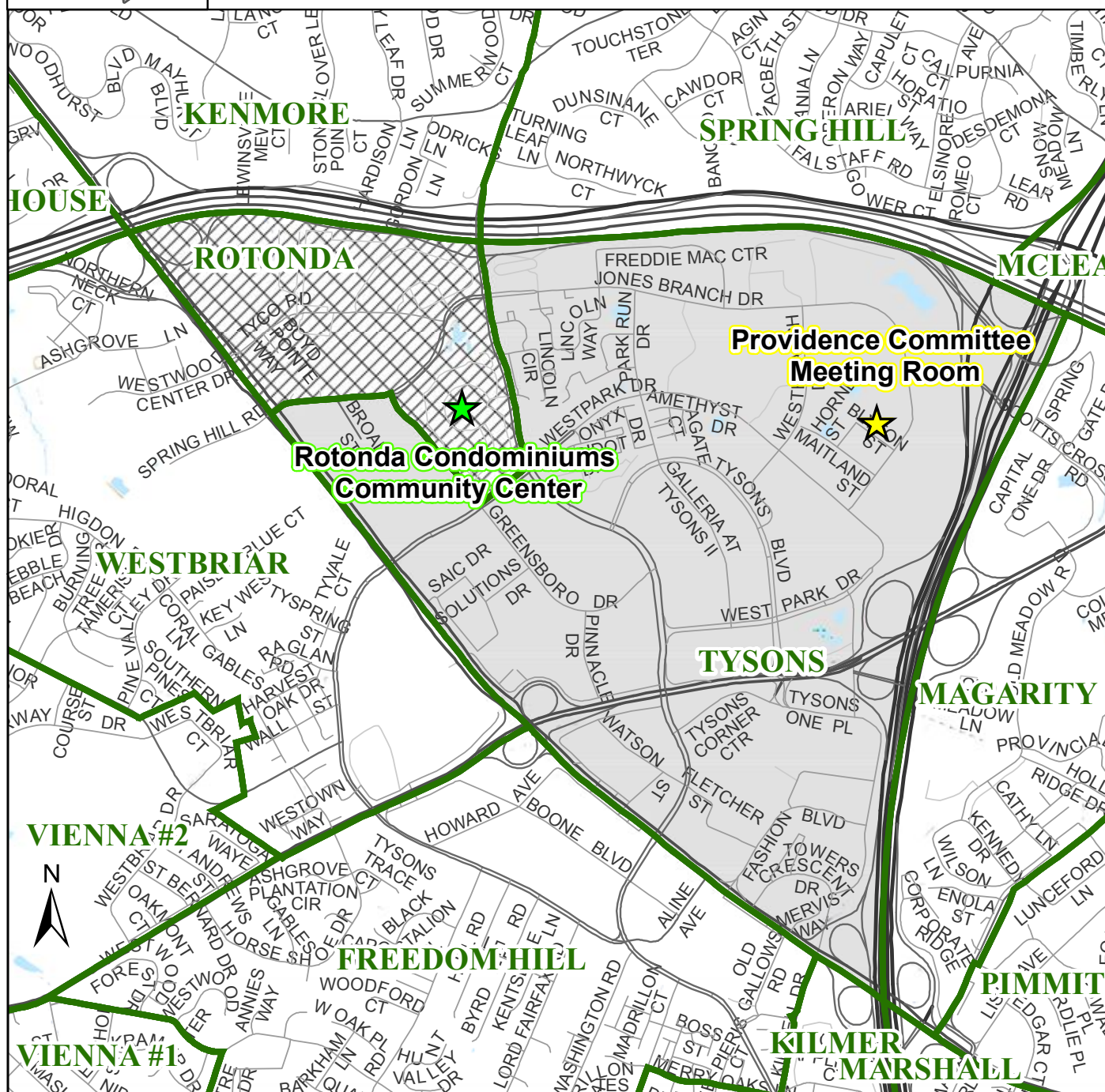
**MAP GRIDS:** 29-1, 29-3

**NOTES:**        Established July 2016





Commonwealth of Virginia  
**County of Fairfax**  
Providence District



**Proposed Division of 731 Tysons Precinct**

0 0.125 0.25 Miles



Proposed 735 Rotonda Precinct



Updated 731 Tysons Precinct



Proposed New Polling Place



Current Polling Place

May 2016

Commonwealth of Virginia  
**COUNTY OF FAIRFAX**  
**Springfield District**

**PRECINCT 848: FAIR OAKS**

**CONGRESSIONAL DISTRICT: ELEVENTH**  
**VIRGINIA SENATORIAL DISTRICT: THIRTY-SEVENTH**  
**HOUSE OF DELEGATES DISTRICT: THIRTY-SEVENTH**

**DESCRIPTION:**

Beginning at the intersection of Stringfellow Road and Interstate 66, thence with Interstate 66 in a northeasterly direction to its intersection with Monument Drive, thence with Monument Drive in a southeasterly direction to its intersection with Random Hills Road, thence with Random Hills Road in a southwesterly direction to its intersection with Legato Road at Post Forest Drive, thence with Legato Road in a southwesterly direction to its intersection with Lee Highway (Route 29), thence with Lee Highway in a southwesterly direction to its intersection with Stringfellow Road, thence with Stringfellow Road in a northerly direction to its intersection with Interstate 66, point of beginning.

**POLLING PLACE:** ~~Fair Oaks Church Rec Center~~ Expectation Church Rec Center  
4531 West Ox Road, Fairfax

**MAP GRIDS:** 55-1, 55-2, 55-3, 55-4, 56-1, 56-3

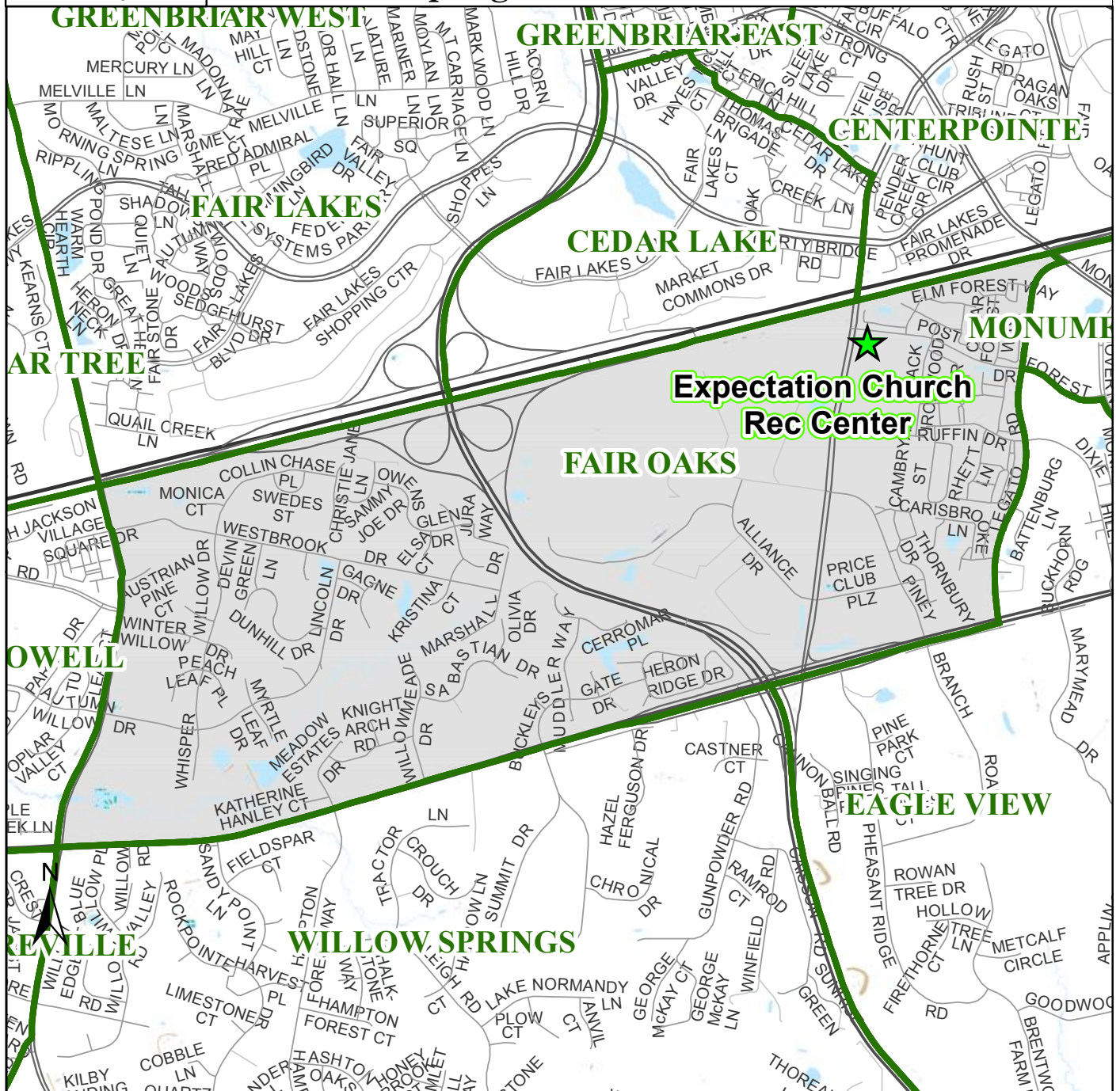
**NOTES:** Established July 1981  
Moved from Sully District to Springfield District – 2001 Redistricting  
Precinct divided to form Monument precinct – March 2003  
Polling place (facility) renamed – May 2003  
Polling place address updated – January 2008  
Precinct divided and renamed – January 2008  
Precinct boundary adjusted – July 2011  
Delegate District changed from 35<sup>th</sup> to 37<sup>th</sup> – July 2011  
Polling place (facility) renamed – July 2016



Commonwealth of Virginia  
**County of Fairfax**



**Springfield District**



**Proposed Polling Place Change for 848 Fair Oaks Precinct**

**Current name:** *Fair Oaks Church Rec Center*

**Proposed name:** *Expectation Church Rec Center*

0 0.125 0.25 Miles



May 2016



**PROPOSED ORDINANCE TO AMEND AND READOPT SECTIONS OF CHAPTER 7  
OF THE FAIRFAX COUNTY CODE TO RENAME TERRASET PRECINCT,  
RELOCATE THE POLLING PLACES FOR CHESTERBROOK AND HUNTLEY  
PRECINCTS, DIVIDE TYSONS PRECINCT TO ADD A NEW PRECINCT AND  
ESTABLISH ITS POLLING PLACE, AND CHANGE THE NAME OF THE POLLING  
PLACE FOR FAIR OAKS PRECINCT**

**Draft of May 25, 2016**

AN ORDINANCE to amend and readopt Sections 7-2-5, 7-2-10, and 7-2-13 of the Fairfax County Code to rename Terraset precinct, relocate the polling places for Chesterbrook and Huntley precincts, divide Tysons precinct to add a new precinct and establish its polling place, and change the name of the polling place for Fair Oaks precinct.

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

**1. That Sections 7-2-5, 7-2-10 and 7-2-13 of the Fairfax County Code are amended and readopted:**

**Section 7-2-5. Hunter Mill District.**

The Hunter Mill District shall consist of these election precincts: Aldrin, Armstrong, Cameron Glen, Colvin, Dogwood, Flint Hill, Floris, Fox Mill, Frying Pan, Glade, Hughes, Hunters Woods, Madison, McNair, North Point, Reston No. 1, Reston No. 2, Reston No. 3, South Lakes, Stuart, Sunrise Valley, ~~Terraset~~, Vienna No. 1, Vienna No. 2, Vienna No. 4, Vienna No. 6, Westbriar, and Wolftrap.

**Section 7-2-10. Providence District.**

The Providence District shall consist of these election precincts: Blake, Fairfax Court (that part of Fairfax County containing the governmental complex which is surrounded by Fairfax City), Fort Buffalo, Freedom Hill, Graham-Greenway, Hunters Branch, Kilmer, Magarity, Mantua, Marshall, Merrifield, Mosby, Nottoway, Oak Marr, Oakton, Penderbrook, Pine Ridge, Pine Spring, Price, Rotonda, Shreve, Thoreau, Timber Lane, Tysons, Walker, and Woodburn.

**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, ~~and~~ July 9, 2013, November 18, 2014, June 23, 2015, ~~and~~ December 8, 2015, and July 12, 2016, 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. The polling place location for the newly-created precinct identified in the first clause of this ordinance is established at:**

<u>Supervisor</u>		
<u>District</u>	<u>Precinct</u>	<u>Polling Place</u>
Providence	Rotonda (new precinct)	Rotonda Condominiums Community Center 8352 Greensboro Drive McLean, Virginia 22102

**3. The polling place locations for the following existing precincts are established at:**

<u>Supervisor</u>		
<u>District</u>	<u>Precinct</u>	<u>Polling Place</u>
Dranesville	Chesterbrook (polling place relocated)	<u>From:</u> Arleigh Burke Pavilion 1739 Kirby Road McLean, Virginia 22101
		<u>To:</u> Vinson Hall 6251 Old Dominion Drive McLean, Virginia 22101
Lee	Huntley (polling place relocated)	<u>From:</u> Groveton Elementary School 6900 Harrison Lane Alexandria, Virginia 22306

To:  
St. Mark's Episcopal Church  
6744 South Kings Highway  
Alexandria, Virginia 22310

**4. The following precinct is renamed:**

<u>Supervisor</u>	<u>Precinct</u>	<u>Polling Place</u>
Hunter Mill	Hughes (formerly Terraset)	Hughes Middle School 11401 Ridge Heights Road Reston, Virginia 20191 (no change in location)

**5. The following polling place is renamed:**

<u>Supervisor</u>	<u>Precinct</u>	<u>Polling Place</u>
Springfield	Fair Oaks (polling place renamed)	<u>From:</u> Fair Oaks Church Rec Center 4531 West Ox Road Fairfax, Virginia 22030  <u>To:</u> Expectation Church Rec Center 4531 West Ox Road Fairfax, Virginia 22030 (no change in location)

**6. This ordinance shall become effective upon adoption.**

GIVEN under my hand this \_\_\_\_ day of July, 2016.

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Catherine A. Chianese  
Clerk to the Board of Directors

Board Agenda Item  
July 12, 2016

4:00 p.m.

Public Hearing on Amendments to Articles 2 and 3 of Chapter 3 of the Code of the County of Fairfax Re: Employees' and Uniformed Retirement Systems – Change in Social Security Offset to Service-Connected Disability Benefits

ISSUE:

Public Hearing on amendments to Articles 2 and 3 of Chapter 3 of the Code of the County of Fairfax, County Employees. These changes to the Employees' and Uniformed Retirement Systems revise service-connected disability retirement benefits by changing the reduction based on Social Security benefits from 15% to 10% of Social Security benefits.

RECOMMENDATION:

The County Executive recommends that the Board approve amendments to the Employees' and Uniformed Retirement Systems for the purpose of changing the level of service-connected disability benefits. The Boards of Trustees for the Employees' and Uniformed Retirement Systems were advised of and agreed with these recommended changes.

TIMING:

On June 7, 2016, the Board authorized advertisement of a public hearing to consider this matter on July 12, 2016, at 4:00 p.m.

BACKGROUND:

As part of the approval of the *FY 2016 Third Quarter Review* and adoption of the FY 2017 budget, the Board approved funding to reduce the Social Security offset for service-connected disability retirement benefits for both the Uniformed and Employees' Retirement Systems from 15% to 10%.

The current service-connected disability benefit provisions for the Employees' and Uniformed Retirement Systems are summarized below.

For the Employees' Retirement System: The service-connected disability benefit is two-thirds ( $66\frac{2}{3}\%$ ) of salary. This benefit is reduced by 15% of Social Security disability benefits received at any age, or, at age 62, by 15% of the age-based Social Security benefit.

For the Uniformed Retirement System: For those retired prior to December 9, 1996, the benefit level is two-thirds ( $66\frac{2}{3}\%$ ) of salary. If retired after December 8, 1996, there are two possible levels of benefit. The standard benefit is 40% of salary and a severe service-connected disability benefit is 90% of salary.

Board Agenda Item  
July 12, 2016

All three levels of benefits are offset to some extent by Social Security benefits. There is a 15% offset of disability benefits provided by Social Security. This offset occurs regardless of age unless the Social Security benefit is based on a disability other than that for which the employee was retired. If the retiree is not eligible for Social Security disability benefits and is eligible to receive a Social Security benefit based on age, for those with a 66 2/3% or a 90% benefit, there is a 15% offset of the age-based Social Security benefit that occurs at age 62, the first date of eligibility for Social Security benefits.

Benefits in both Systems are also offset by any workers' compensation benefits that are being received.

Proposed Revisions

The proposed amendments would enhance service-connected disability retirement benefits by reducing the Social Security offsets from 15% of the Social Security benefit to 10%, effective with the July retiree payroll.

FISCAL IMPACT:

Based on the final actuarial analysis, a reduction of the offset provisions from 15% to 10% would increase the liability of the Employees' and Uniformed Retirement Systems by a total of \$1.5 million due to applying new provisions to past years of service. As required by the revised funding provisions adopted into the Fairfax County Code by the Board on July 28, 2015, this increase in liability must be fully funded with a one-time employer contribution to avoid creation of any unfunded liability. Total funding of \$1.99 million was approved by the Board as part of the *FY 2016 Third Quarter Review* to address this one-time funding requirement based on preliminary actuarial estimates. The impact on the ongoing employer contribution rates is an increase of 0.01% for the Employees' System and less than 0.01% for the Uniformed System. In accordance with Fairfax County Code, these increases to the employer contribution rates will be effective beginning in FY 2017. Based on FY 2016 budgeted payroll levels and prior actuarial estimates, the FY 2017 General Fund impact of the employer contribution rate increases is \$35,107 for the Employees' System and \$15,377 for the Uniformed System. These amounts were included in the FY 2017 Adopted Budget Plan.

ENCLOSED DOCUMENTS:

Attachment 1 - Amendment to Chapter 3, Section 3-2-36  
Attachment 2 - Amendment to Chapter 3, Section 3-3-37  
Attachment 3 - Amendment to Chapter 3, Section 3-3-37.3  
Attachment 4 - Letter from Fiona Liston, Consulting Actuary, Cheiron, to Jeffrey Weiler dated May 10, 2016

STAFF:

Joseph Mondoro, Chief Financial Officer  
Jeffrey Weiler, Executive Director, Fairfax County Retirement Systems

AN ORDINANCE TO AMEND AND REENACT SECTION 3-2-36 OF THE CODE OF THE COUNTY OF FAIRFAX

BE IT ORDAINED that:

- I. Section 3-2-36 of the Code of the County of Fairfax is hereby amended and reenacted to read as follows:

**Section 3-2-36. - Service-connected disability retirement allowance.**

- (a) Upon service-connected disability retirement under Section 3-2-35, a member shall receive an annual retirement allowance, payable monthly and during his or her lifetime and continued disability, consisting of an amount equal to sixty-six-and-two-thirds percent (66 2/3%) of his or her average final compensation. However, the allowance shall be reduced by ten percent (10%) of the amount of any primary social security benefit to which said member is entitled and by the amount of any compensation paid to the member under the Virginia Workers' Compensation Act for temporary total or partial incapacity.
- (b) When the amount of a member's primary social security benefit has once been determined for purpose of applying the ten percent (10%) reduction described above, the amount of the reduction shall not thereafter be increased on account of cost-of-living increases awarded under social security. However, the amount of the reduction shall be increased by an award of a cost-of-living increase to a member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (c) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act, nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-2-35, shall be offset against the member's allowance under this Section; and provided further, that in the event that a member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (20-81-3; 4-83-3; 1-93-3; 23-07-3; 47-08-3; 23-11-3; 66-13-3, § 1.; 2-16-3)

2. The effective date of this Ordinance amending Section 3-2-36 is July 1, 2016. The reduction of the offset for any primary Social Security benefit from 15% to 10% is to be applied to the calculation of the retirement allowance due to members who are receiving and allowance for service-connected disability under Section 3-2-35 on or after the effective date of this Ordinance. This change is prospective n application and is not retroactive. The Board of Trustees of the Systems and staff of the Retirement Administration Agency are hereby authorized and directed to make all necessary changes in the calculation of a member's allowance to implement this amendment.

AN ORDINANCE TO AMEND AND REENACT SECTION 3-3-37 OF THE CODE OF THE COUNTY OF Fairfax  
County Government

BE IT ORDAINED that:

1. Section 3-3-37 of the Code of the County of Fairfax is hereby amended and reenacted to read as follows:

Section 3-3-37. - Service-connected disability retirement allowance.

- (a) Any member who is receiving, or has been approved by the Board to receive, service-connected disability retirement, or who has applied for service-connected disability retirement, or whose employer has submitted as application for service-connected disability retirement for such employee as of December 9, 1996, under Section 3-3-36, shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to sixty-six-and-two-thirds percent ( $66 \frac{2}{3}\%$ ) of the salary the member received at the time of retirement. This allowance shall be reduced by ten percent (10%) of the amount of any primary social security benefit to which the member is entitled and by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity; provided, however, that no reduction shall be made to a member's service-connected disability retirement allowance due to the member's entitlement to social security disability benefits in whole or in part as the result of a disability other than the disability that served as the basis for the award of service-connected disability retirement.
- (b) Any member who submits an application for service-connected disability retirement, or for whom his or her employer submits such application under Section 3-3-36 on or after December 9, 1996, shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to forty percent (40%) of the salary the member received at the time of retirement. However, this allowance shall be reduced by ten percent (10%) of the amount of any primary social security disability benefit to which the member is entitled and by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity.
- (c) When the amount of a member's primary social security benefit has once been determined for purposes of applying the ten percent (10%) reduction described in Subsections (a) and (b) of this Section, the amount of the reduction shall not thereafter be increased on account of cost-of-living increases awarded under social security. However, the amount of the reduction shall be increased by an award of a cost-of-living increase to the member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (d) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or portion thereof representing



compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-3-36 shall be offset against the member's allowance under this Section; and provided further, that in the event the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (1961 Code, § 9-107; 11-74-9; 28-77-3; 20-81-3; 34-81-3; 4-83-3; 36-88-3; 29-89-3; 1-93-3; 48-96-3; 10-01-3; 23-07-3; 47-08-3; 23-11-3; 67-13-3, § 1; 3-16-3.)

2. The effective date of this Ordinance amending Section 3-3-37 is July 1, 2016. The reduction of the offset for any primary Social Security benefit from 15% to 10% is to be applied to the calculation of the retirement allowance due to member who are receiving an allowance for service-connected disability under Section 3-3-36 on or after the effective date of this Ordinance. This change is prospective in application and is not retroactive. The Board of Trustees of the Systems and the staff of the Retirement Administration Agency are hereby authorized and directed to make all necessary changes in the calculation of a member's allowance to implement this amendment.

AN ORDINANCE TO AMEND AND REENACT SECTION 3-3-37.3 OF THE CODE OF THE COUNTY OF FAIRFAX.

BE IT ORDAINED that:

- I. Section 3-3-37.3 of the Code of the County of Fairfax is hereby amended and reenacted to read as follows.

Section 3-3-37.3. - Severe service-connected disability retirement allowance.

- (a) Any member who retires pursuant to Section 3-3-37.2 shall receive an annual retirement allowance, payable monthly during his or her lifetime, consisting of an amount equal to ninety percent (90%) of the salary the member was entitled to receive at the time of his or her retirement. This allowance shall be reduced by ten percent (10%) of the amount of any primary social security benefit to which the member is entitled and by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity; provided, that no reduction shall be made to a member's service-connected disability retirement allowance due to the member's entitlement to social security disability benefits in whole or in part as the result of a disability other than the disability that served as the basis for the award of service-connected disability retirement.
  - (b) When the amount of a member's primary social security disability benefit has once been determined for purposes of applying the ten percent (10%) reduction described in Subsection (a), the amount of the reduction shall not thereafter be increased on account of cost-of-living increases awarded under social security. However, the amount of the reduction shall be increased by an award of a cost-of-living increase to the member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
  - (c) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, however, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-3-37.2 shall be offset against the member's allowance under this Section; and provided further, that in the event the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (48-96-3; 10-01-3; 23-07-3; 47-08-3; 23-11-3; 68-13-3, § 1; 3-16-3.)
2. The effective date of this Ordinance amending Section 3-3-37.3 is July 1, 2016. The reduction of the offset for any primary Social Security benefit from 15% to 10% is to be applied to the calculation of the

retirement allowance due to members who are receiving and allowance for service-connected disability under Section 3-3-37.2 on or after the effective date of this Ordinance. This change is prospective in application and is not retroactive. The Board of Trustees of the System and the staff of the Retirement Administration Agency are hereby authorized and directed to make all necessary changes in the calculation of a member's allowance to implement this amendment.



May 10, 2016

Mr. Jeffrey Weiler  
Executive Director  
Fairfax County Retirement Systems  
10680 Main Street, Suite 280  
Fairfax, Virginia 22030-3812

***Re: Adjustments to Service-Connected Disability Benefits***

Dear Jeff:

As requested, we have estimated the cost of reducing the 15% offset of Social Security benefits for employees who retired or will retire from the Employees' or Uniformed Retirement System on service-connected disability to a 10% offset. The cost impact is shown below for each of the Systems.

Please note that the first year cost impact includes an immediate payment of the increase in unfunded actuarial liability. After the first year the on-going cost impact would be a 0.01% increase in normal cost for the ERS contribution and a zero increase for the URS contribution.

**Employees' Retirement System**

	<b>Valuation (15% Offset)</b>	<b>Study (10% Offset)</b>	<b>Change</b>
Normal Cost	8.17%	8.18%	0.01%
UAL Amortization	2.67%	2.67%	0.00%
UAL Impact for Change	n/a	0.11%	0.11%
Expenses	<u>0.20%</u>	<u>0.20%</u>	<u>0.00%</u>
Total Base Rate	11.04%	11.16%	0.12%
Corridor Contribution Rate			
-- Amortize to 97%	22.90%	23.02%	0.12%
-- Amortize to 98%	23.56%	23.68%	0.12%
Unfunded Liability (in Millions)	\$1,146.9	\$1,147.6	\$0.7

**Uniformed Retirement System**

	<b>Valuation (15% Offset)</b>	<b>Study (10% Offset)</b>	<b>Change</b>
Normal Cost	20.19%	20.19%	0.00%
UAL Amortization	7.20%	7.20%	0.00%
UAL Impact for Change Expenses	n/a	0.48%	0.48%
Total Base Rate	27.64%	28.12%	0.48%
Corridor Contribution Rate			
-- Amortize to 97% <sup>1</sup>	38.80%	39.28%	0.48%
-- Amortize to 98%	39.84%	40.32%	0.48%
Unfunded Liability (in Millions)	\$294.4	\$295.2	\$0.8

The valuation data does not provide the Social Security offset unless the benefit is currently being offset. For those whose offset was listed, we used the offset amount as if it were calculated as of the retirement date. This means, to restore the offset we adjusted the amount listed for COLA increases from the individuals retirement date through the valuation date. We had to make assumptions for those inactive members for whom no offset is listed. For inactive members under age 62 we estimated an offset (based on 15% of a projected PIA amount) to commence at age 62. For those older than 62 with no offset provided, we assumed no offset. Below is a breakdown of the data into the groups described above:

<u>System</u>	<u>Currently Offset</u>	<u>Offset Estimated Under 62</u>	<u>No Offset Over 62</u>
ERS	113	26	10
URS	93	61	17

These estimates were prepared as of July 1, 2015, using the same actuarial assumptions and methods as described in our July 1, 2015 actuarial valuation reports. The employee data used in this analysis was that provided for the 2015 valuation. The results are applicable only for the 2017 Fiscal Year.

I hereby certify that, to the best of my knowledge, this letter and its contents are complete and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this report. This report does not address any contractual or legal issues. We are not attorneys and our firm does not provide any legal services or advice.

<sup>1</sup> The county has a policy of not paying any less than the existing rate until such a time as the UAL has been exhausted. The FY 2017 has been held at the 38.83% rate in effect for FY 2016.

Mr. Jeffrey Weiler  
May 10, 2016  
Page 3

Please call if you have any questions or comments.

Sincerely,  
Cheiron

A handwritten signature in blue ink, reading "Fiona E. Liston".

Fiona E. Liston, FSA, EA  
Principal Consulting Actuary

cc: Coralie A. Milligan, FSA



Board Agenda Item  
July 12, 2016

4:00 p.m.

Public Hearing to Amend Chapter 82 of the Code of the County of Fairfax and the Adoption of Health Department Rules and Regulations for Mobile Food Vending within Virginia Department of Transportation Rights-of-Way (Providence District)

ISSUE:

Public hearing to amend Section 82-1-30(a) of the County Code to allow for mobile food vending from authorized public streets within Tysons in accordance with a valid Food Establishment Permit for mobile food vending, following the Virginia Department of Transportation's (VDOT's) issuance of a Land Use Permit for Mobile Food Vending, and with rules and regulations adopted by the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Section 82-1-30 of *The Code of the County of Fairfax, Virginia (Code)* to allow mobile food vending from authorized public streets within Tysons, and to endorse the Rules and Regulations for Vending within VDOT Rights-of-Way that will be enforceable by the County Health Department (Attachment II).

TIMING:

On June 21, 2016, the Board directed staff to advertise the public hearing scheduled for July 12, 2016, 4:00 p.m.

BACKGROUND:

Until recently, all vending was prohibited within VDOT right of way pursuant to Va. Code Ann. § 33.2-210. In 2015, the General Assembly passed HB 2042, legislation directing the Commonwealth Transportation Board (CTB) to amend its regulations to permit mobile food vending on state highway rights-of-way. In accordance with that legislation, the CTB amended its regulations to allow "localities to administer mobile food vending on nonlimited access highways, where the vending operations are regulated by local ordinances, operated consistent with such ordinances, and in accordance with the Commonwealth Transportation Board's regulations and policies." 24VAC30-151-670(2)(c).

County staff met with the Fairfax County Board Transportation Committee on February 12, 2016. Subsequent to that meeting, the Fairfax County Department of Transportation (FCDOT) began developing a pilot program for Mobile Food Vending in Tysons, which initially involved assessing which roadways within Tysons satisfy VDOT's requirements for mobile food vending. County staff focused its initial efforts in Tysons, because it is the County's urban center, and in response to the food truck industry's

Board Agenda Item  
July 12, 2016

expressions of interest in vending in Tysons. On May 24, 2016, staff met with the Board's Transportation Committee again to discuss mobile food vending. The food truck industry subsequently expressed considerable interest in vending this summer. Section 82-1-30(a) of the Code, however, currently prohibits vending from the right-of-way. Therefore, in an effort to try to provide vending opportunities, staff was directed to advertise an amendment to Chapter 82 that would allow for mobile food vending within Tysons because that is the location where County staff had already identified certain streets as potentially authorized locations for food trucks (Attachment III). The proposed amendment would allow mobile food vending within these VDOT rights-of-way only with a Food Establishment Permit issued by the Health Department. This amendment to Section 82-1-30(a) would authorize the County Executive or his designee to mark or sign streets within the Tysons Zone where mobile food vending is permitted.

Staff proposes that the Board further regulate the operation of food trucks within the right-of-way through the adoption of rules and regulations that would be enforceable by the Health Department. During the public hearing, the Board may consider whether, in its legislative discretion, certain rules should be codified in Chapter 82 or whether they would be more effectively enforced as Health Department regulations. Staff anticipates that it will propose an amendment to the Health Code, Chapter 43.1, this fall and may recommend codification of some or differing regulations after assessing the pilot program this summer.

To allow any mobile food vending, the County must first execute VDOT's Land Use Permit for Mobile Food Vending (LUP-MFV) (Attachment IV), which the Director, FCDOT, has been directed to execute. Through this LUP-MFV, VDOT has imposed numerous requirements and restrictions on the County's mobile food vending program. These requirements are incorporated by reference into the proposed amendment to Chapter 82 and the proposed Rules and Regulations. It should be noted that these requirements represent significant constraints on where mobile food vending may occur within the County.

Finally, FCDOT has started analyzing additional roadways in other magisterial districts in the County. Staff therefore anticipates that it will bring a more comprehensive amendment to the Board this fall to propose additional mobile food vending zones and thereby expand opportunities for mobile food vending within Fairfax County.

FISCAL IMPACT:

The cost of sign installation is estimated at \$10,000 to be paid out of Fairfax County Department of Transportation funds (100-C10001).



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July 12, 2016

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*

Attachment II: Rules and Regulation for Vending Within VDOT Rights-of-Way

Attachment III: Map indicating streets in Tysons where mobile food vending would be permissible.

Attachment IV: VDOT Land Use Permit for Mobile Food Vending

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Neil Freschman, Chief, Transportation Engineering Section, FCDOT

Pieter Sheehan, Director, Environmental Health, Fairfax County Department of Health

***Revise Sections 82-1-30(a)***

Underlined is added

**Section 82-1-30. - Sale of merchandise from vehicles on road rights of way.**

- (a) It shall be unlawful for any person to park any automobile, truck or any other automotive equipment on or along the roads, highways and streets of the County, or within the rights of way of such roads, highways, and streets for the purpose of selling or soliciting the sale of or otherwise displaying or offering for sale any goods, wares or other merchandise in or from such vehicles, except in accordance with the provisions of this Section and with all conditions, rules, and regulations of a valid Food Establishment Permit issued pursuant to Chapter 43.1 of this Code and Fairfax County Health Department Regulations, and in accordance with the terms and conditions of the Virginia Department of Transportation (VDOT) Land Use Permit for Mobile Food Vending, issued to Fairfax County, Virginia (LUP-MFV), once such permit has been issued to the County. All other sales of goods or services from any vehicle parked upon any street or other right of way used for transportation purposes is prohibited.
- (1) For the purpose of this Section, a Food Establishment Permit shall mean the document issued pursuant to Chapter 43.1 of this Code that authorizes a person to operate a food establishment to include a mobile food establishment. In addition to all other applicable enforcement mechanisms, violations of this Section may result in enforcement, including revocation, of a Food Establishment Permit by the Health Department.
- (2) Mobile Food Vendors may only engage in mobile food vending within Zones where authorized by the County Executive. The County Executive or his designee has authority to determine where vending may occur within Zone(s), once such Zone(s) are approved by the Board of Supervisors, subject to the requirements of the LUP-MFV and the provisions set forth below:
- (A) Mobile Food Vending shall be permitted only within areas zoned for commercial or industrial use or in any planned zoning district allowing for mixed use. Mobile Food Vending within any residential neighborhood or within 500 feet of any residentially zoned area is prohibited;
- (B) the County Executive or his designee may mark or sign streets within Zones where mobile food vending is authorized or, until such streets and locations are marked or signed, the County Executive may provide electronic notice of such locations to Permittees;

(C) the County Executive or his designee may temporarily or permanently suspend any mobile food vending operations within a designated Zone to protect the public health, safety, or welfare. In such event, notice shall be provided electronically to Permittees to the electronic mail address they have on file with the County or by removal of signs that designated the location as an authorized location for mobile food vending operations; and

(D) the County Executive may add streets or portions of streets that meet all of these requirements and may remove streets or portions of streets at any time from Zone(s) in the interest of the public health, safety, or welfare.

- (3) The Tysons area of Fairfax County is a Zone. The Board may create additional Zones or eliminate existing Zone(s), in its discretion, in the future.

SOME OR ALL OF THESE RULES AND REGULATIONS MAY BE CODIFIED BY THE BOARD OF SUPERVISORS INTO CHAPTER 82 OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, FOLLOWING A PUBLIC HEARING ON JULY 12, 2016. TO THE EXTENT ANY SUCH RULES AND REGULATIONS ARE NOT CODIFIED, THEY WILL REMAIN PART OF THESE RULES AND REGULATIONS THAT APPLY TO MOBILE FOOD VENDING WITHIN VDOT RIGHTS-OF-WAY AND WILL BE ENFORCED BY THE HEALTH DEPARTMENT

**FOOD ESTABLISHMENT PERMIT: RULES AND  
REGULATIONS FOR VENDING WITHIN VDOT RIGHTS-OF-WAY**

Mobile Food Vending is permitted only in accordance with a valid Food Establishment Permit issued by the Fairfax County Health Department, all Fairfax County Health Department Regulations, the requirements of Chapter 82 of The Code of the County of Fairfax, Virginia (Code), all state requirements as specified in the Virginia Department of Transportation (VDOT) Land Use Permit for Mobile Food Vending, issued to Fairfax County, Virginia (LUP-MFV), and the rules and regulations set forth below:

1. Mobile Food Vending means and refers to the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise, of food, as defined in Chapter 43.1 of the Code, from the curb side of a self-contained vehicle or trailer that is legally parked in a single parking space on a public street to pedestrian customers on the curbside of a Mobile Food Vending Zone (Zone), as set forth in Chapter 82 of the Code. Vending from a pushable cart shall not be permitted.
2. A Mobile Food Vendor refers to any individual that operates or assists in the operation of a motor vehicle in the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise of food from a vending motor vehicle parked on marked or signed streets within a Zone.
3. A valid Food Establishment Permit issued pursuant to Chapter 43.1 of this Code and a copy of the LUP-MFV must be displayed in plain view on the exterior or the interior of the Mobile Food Vending Vehicle.
4. A Mobile Food Vendor holding a Food Establishment Permit (Permittee) that vends from within VDOT rights-of-way shall be civilly liable to the County for any and all expenses or damages incurred by VDOT or the County as a result of any violation of the Commonwealth Transportation Board's regulations as provided for in Virginia Code Ann. § 33.2-210, which remain unpaid for more than ten (10) days following written notice from the County of such expenses or damages. Further, a Permittee shall be civilly liable to the County for any and all costs incurred by the County or VDOT relating to litter pick-up or disposal or restoration of the right of way, if such costs remain unpaid for more than ten (10) days following written notice from the County of such costs. Failure to pay such costs following written notice may result in legal action.
5. Mobile Food Vending Operations may be conducted for a maximum of four (4) hours on any one (1) day at any one (1) location, including set-up and break-

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down. For purposes of this limitation, vending twice in one day within the same block of a public street shall not be permitted. Upon the completion of the four hour window of operations, or completion of break-down of operations, whichever occurs earlier, Mobile Food Vending vehicles or trailers must be moved or removed from the parking space from which such vehicle or trailer was operating. Exceptions to this time limitation shall not be made for any reason, including, without limitation, logistical difficulties involving trailers.

6. Mobile Food Vending Operations shall be prohibited between the hours of 10 p.m. and 7 a.m. the following day and except that no such vending operations shall be permitted prior to 9 a.m. on Sundays or federal holidays. Upon the establishment of Zone(s), the hours of operation for such Zone(s), as determined and approved by the Fairfax County Executive or his designee, including holiday hours, shall supersede the time limitations established by this provision with respect to Mobile Food Vending Operations within such Zone(s).
7. Mobile Food Vendors shall ensure that the vicinity around a Mobile Food Vending vehicle is kept clean and free of trash and debris. Mobile Food Vendors shall also provide receptacles in the immediate area of any stationary location from which mobile food vending operations are taking place for the disposal of waste materials or other litter created, they shall request customers to place all waste and litter in the receptacles, and they shall remove and dispose of all of the waste materials and litter anywhere in the vicinity of the Mobile Food Vending Vehicle. No tables, seating, umbrellas, propane tanks, cooking implements, signs or other accessories are allowed outside of the Mobile Food Vending vehicle.
8. The operation of any loudspeaker or other amplification device from, within, or in the immediate vicinity of any Mobile Food Vending vehicle is prohibited.
9. Prior to issuance of a Food Establishment Permit for mobile food vending, the permit applicant must provide proof of insurance to protect against liability for personal injury and property damage up to one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) aggregate. Fairfax County, Virginia, must be named as an additional insured. Said insurance must remain valid as long as the permit holder occupies state maintained highway rights-of-way in accordance with the permit. Proof of insurance shall be maintained in all Mobile Food Vending Vehicles and made readily available for inspection by the County and/or VDOT.

**SOME OR ALL OF THESE RULES AND REGULATIONS MAY BE CODIFIED BY THE BOARD OF SUPERVISORS INTO CHAPTER 82 OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, FOLLOWING A PUBLIC HEARING ON JULY 12, 2016. TO THE EXTENT ANY SUCH RULES AND REGULATIONS ARE NOT CODIFIED, THEY WILL REMAIN PART OF THESE RULES AND REGULATIONS THAT APPLY TO MOBILE FOOD VENDING WITHIN VDOT RIGHTS-OF-WAY AND WILL BE ENFORCED BY THE HEALTH DEPARTMENT**

10. VDOT has reserved the right, in the VDOT LUP-MFV, to suspend any or all mobile food vending operations on state maintained highway rights-of-way in response to public safety or operational concerns. VDOT shall be held harmless from any resulting monetary losses by the County or by any and all Mobile Food Vendors resulting from such suspension. The County also reserves the right to suspend any or all mobile food vending operations on state maintained highway rights-of-way in response to public safety or operational concerns and/or to implement a suspension initiated by VDOT. The County shall be held harmless, in the event of any such suspension of Mobile Food Vending operations on state maintained highway rights-of-way whether initiated by VDOT or the County, from any resulting monetary losses incurred by any and all Mobile Food Vendors.



## Attachment 4



Land Use Permit

LUP-MFV

Local Program for the Temporary Occupation of Right-of-Way by Mobile Food Vendors

December 9, 2015

### Information for Land Use Permit Issuance

I, an official of the undersigned locality, hereby acknowledge that I am fully cognizant of all of the following requirements associated with the issuance of a Virginia Department of Transportation (VDOT) land use permit authorizing the locality to operate a program for the temporary occupation of non-limited access state maintained highway right-of-way by mobile food vendors.

Locality Name: \_\_\_\_\_ Federal Tax ID No. \_\_\_\_\_

Locality Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Locality Representative's Name: \_\_\_\_\_

Locality Representative's Signature: \_\_\_\_\_

Locality Representative's Title: \_\_\_\_\_

Telephone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ E-mail Address: \_\_\_\_\_

### VDOT Land Use Permit Required by Law

The General Rules and Regulations of the Commonwealth Transportation Board provide that no work of any nature shall be performed on any real property under the ownership, control, or jurisdiction of VDOT until written permission has been obtained from VDOT. Written permission is granted for a locality to operate a program for the temporary occupation of non-limited access state maintained highway right-of-way by mobile food vendors through the issuance of a land use permit to the locality in which the activity is to occur.

By issuing a permit, VDOT is giving permission only for whatever rights it has in the right-of-way; the permittee is responsible for obtaining permission from others who may also have an interest in the property.

The permittee agrees to take legal action to recover expenses and damages incurred by VDOT as a result of the violation by a mobile food vendor of the Commonwealth Transportation Board's regulations, as provided for in [§33.2-210](#) of the Code of Virginia.

### Application Requirements

This form, accompanied by a ([LUP-SB](#)) or resolution ([Resolution](#)), as appropriate, and the required fee shall be submitted to the VDOT land use permit office covering the locality where the activity is to occur.



### **Contact Information**

A list of counties with their corresponding VDOT district offices and contact information may be obtained on the VDOT web site at: <http://www.virginiadot.org/about/districts.asp>

### **Permit Term and Fees**

Land use permits authorizing localities to operate programs for the temporary occupation of state maintained highway right-of-way by mobile food vendors are valid for a period of one (1) year and may be renewed annually. The 1-year fee for a permit authorizing a locality to operate a program for the temporary occupation of right-of-way by mobile food vendors is \$100.

### **Restoration Requirement**

In the event of damage to state maintained facilities, the locality shall ensure the appropriate and timely restoration of the highway right-of-way, including litter pick-up and disposal, as necessary to return the right-of-way to pre-operation condition.

### **General Requirements**

- 1) Locality acceptance and use of a VDOT land use permit is prima facie evidence that the locality is fully cognizant of all required permit provisions for the locality's operation of a program for temporary occupation of state maintained highway right-of-way by mobile food vendors.
- 2) The locality's program shall, at a minimum, include the following requirements for mobile food vending on state maintained highway right-of-way:
  - a. The occupation of state maintained highway right-of-way by mobile food vendors shall be restricted to non-limited access highways having a speed limit of 35 miles per hour (MPH) or less.
  - b. All mobile food vending vehicles or trailers must be located in marked or signed parking spaces. Such spaces may be general use spaces or spaces reserved for mobile food vending operations, at the discretion of the locality.
  - c. Mobile food vending vehicles or trailers shall not be parked so as to obstruct sight lines at intersections or entrances to highways. Minimum intersection or stopping sight distance (whichever applies to the adjacent intersection) shall not be impacted.
  - d. All mobile food vending operations must be located adjacent to sidewalks with a width of five (5) feet or greater or, at locations with sidewalks that are less than five (5) feet wide, a level passable surface of at least six (6) feet (including the width of the sidewalk).
  - e. Mobile food vendors shall not be authorized to place, put, or affix advertisements upon the highway right-of-way.
  - f. Vending directly to motor vehicle occupants or to pedestrians on the travel-way side of the vending unit shall be prohibited. Vending will be to pedestrians and only from the sidewalk side of the vending unit.
  - g. Mobile food vendors authorized to temporarily occupy state maintained highway right-of-way shall secure and maintain insurance to protect against liability for personal injury and property damage up to one million dollars (\$ 1,000,000) for each occurrence. Said insurance must remain valid as long as the mobile food vendor occupies state maintained highway right-of-way under authorization granted by the locality. Proof of insurance needs to be provided to the locality prior to the issuance of the locality permit for mobile food vending.
- 3) The locality assures VDOT that VDOT shall not be liable for any and all damages that may occur as a result of the activities authorized under a land use permit allowing mobile food vending on state maintained highway right-of-way.

- 4) The locality agrees to notify the local VDOT area land use engineer of the general locations of proposed vending areas at least 48 hours prior to allowing mobile food vending to occur in those areas.
- 5) The locality agrees to order the relocation or removal of any authorized mobile food vending activity that is determined to be in conflict with the construction, maintenance, or operation of the highway upon written notification from VDOT of such conflict.
- 6) The locality shall immediately require the vendor to correct, any situation that may arise as a result of these activities that VDOT deems hazardous to the traveling public.
- 7) A copy of the VDOT land use permit and the locality permit (or other form of local authorization), and proof of insurance shall be maintained at all mobile food vending sites and made readily available for inspection when requested by VDOT.
- 8) VDOT reserves the right to suspend any or all mobile food vending operations on state maintained highway right-of-way in response to public safety or operational concerns and shall be held harmless for any resulting monetary losses by the locality or the vendors resulting from said suspension.
- 9) Roadway drainage shall not be blocked or diverted resulting from the temporary occupation of state maintained highway right-of-way by mobile food vendors. The shoulders, ditches, sidewalk, roadside, drainage facilities, and pavement shall be kept in an operable condition satisfactory to VDOT.

#### **Authorized Hours and Days of Operation**

The locality shall determine the normal days and hours of operation for the temporary occupation of state maintained highway right-of-way by mobile food vendors.

#### **Holiday Restrictions**

The locality shall designate any holiday restrictions for the temporary occupation of state maintained highway right-of-way by mobile food vendors.

#### **Permittee Notice**

The preceding provisions are intentionally condensed in format and should not be loosely interpreted by the permittee without consultation with the VDOT area land use engineer or the central office permit manager and affirmation from the [Land Use Permit Regulations](#).