FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 31, 2018

AGENDA

9:30	**Done**	Presentations
10:00	**Done**	Presentation of the Volunteer Fire Commission Awards and Annual Report
10:10	**Done**	Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
10:20	**Done**	Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1	**Approved**	Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Removing Specific Streets from the Robinson Residential Permit Parking District, District 17, to be Included in an Expansion of the George Mason University Residential Permit Parking District, District 40 (Braddock District)
2	**Approved**	Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Establishing the Sydenstricker Residential Permit Parking District, District 47 (Springfield District)
3	**Approved**	Approval of Traffic Calming Measures and “$200 Additional Fine for Speeding” Signs as Part of the Residential Traffic Administration Program (Mount Vernon and Providence Districts)
4	**Approved**	Authorization to Advertise a Public Hearing on the County and Schools’ FY 2018 Carryover Review to Amend the Appropriation Level in the FY 2019 Revised Budget Plan
5	**Approved**	Authorization to Advertise a Public Hearing to Consider Amending Fairfax County Code Chapter 82 (Motor Vehicles and Traffic), Article 5 (Stopping, Standing, and Parking), Sections 19 and 29
6	**Approved**	Authorization to Advertise a Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 6, Relating to Weapons
7	**Approved**	Extension of Review Period for 2232 Applications (Hunter Mill, Mason, Dranesville, Braddock and Providence Districts)
8	**Approved**	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Jefferson Manor Improvements, Phase IIIA (Lee District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 31, 2018

ADMINISTRATIVE ITEMS (Continued)

9	**Withdrawn**	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Pedestrian Improvements 2014-Glen Forest Drive Walkway- Rte 7- Glen Forest ES (Mason District)
10	**Approved**	Streets into the Secondary System (Dranesville)
11	**Approved**	Authorization for the Fairfax County Fire and Rescue Department to Apply for Grant Funding from the U.S. Department of Homeland Security for the Port Security Grant Program (PSGP)
12	**Approved**	Supplemental Appropriation Resolution AS 19002 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services for the Virginia Quality Rating and Improvement System
13	**Approved**	Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Zoning for Wireless Telecommunications Infrastructure

ACTION ITEMS

1	**Approved**	Approval of FY 2018 Year-End Processing
2	**Approved**	Approval of a Memorandum of Understanding and Cost Reimbursement Agreement Between the Fairfax County Police Department and the Federal Bureau of Investigation Washington DC Metro Safe Streets Task Force
3	**Approved**	Approval of a Renewal of a Reciprocal Agreement Between George Mason University and the Fairfax County Police Department
4	**Approved**	Approval of a Renewal of a Reciprocal Agreement Between the Town of Vienna and the Fairfax County Police Department
5	**Approved**	Approval of a Parking Reduction for Novus Kings Crossing (Mount Vernon District)
6	**Approved**	Approval of a Plain Language Explanation for the 2018 Bond Referendum for Public Safety Facilities

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 31, 2018

ACTION ITEMS
(Continued)

7	**Deferred**	Approval for the Development and Implementation of a Public Safety Unmanned Aircraft Systems (UAS) Program
8	**Approved**	Approval of an Agreement between the Town of Vienna and Fairfax County to Design and Construct the Hunter's Branch Phase II Stream Restoration Project (Hunter Mill District)
9	**Approved**	Approval of a Minor Variation Request for RZ 2005-SP-019, The Ridgewood by Windsor II LLC, to Add a Private School of Special Education Use to the List of Secondary Uses Permitted in Proffer 13 (Braddock District)
10	**Approved**	Endorsement of Design Plans for the Rolling Road Widening Phase I – Intersection Improvements at Rolling Road and Old Keene Mill Road (Braddock and Springfield Districts)
11	**Approved**	Endorsement of Design Plans for the Widening of Rolling Road from Viola Street to Old Keene Mill Road – Phase II (Springfield District)
12	**Approved**	Approval of an Agreement Between the Town of Vienna and Fairfax County to Design and Construct the Tapawingo/Kingsley Urban Bioretention Project (Hunter Mill District)
13	**Approved**	Adoption of the 2018 Comprehensive Plan Amendment Work Program, Including the Proposed 2017 North County Site-Specific Plan Amendment Nominations
14	**Approved**	Approval of an Agreement Between the Town of Herndon and Fairfax County to Design and Construct the Sugarland Run (South) SU9207-A Stream Restoration Project (Dranesville District)
15	**Approved**	Approval of Resolutions Endorsing Projects Being Submitted for State Funding through the Commonwealth Transportation Board's Smart Scale Program (Braddock, Dranesville, and Providence Districts)
16	**Approved**	Approval of Standard Project Agreements with the Virginia Department of Transportation for Design of Braddock Road Multimodal Improvements from Humphries Drive to Ravensworth Road (Braddock and Mason Districts)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 31, 2018

	ACTION ITEMS (Continued)	
17	**Approved**	Approval of a Minor Variation Request for RZ 2003-LE-055 by The Evergreene Companies, LLC to Modify the Architectural Treatments Approved by Proffer B-7 on Proposed Single Family Detached Dwellings (Lee District)
18	**Approved**	Approval of a Permit Application and Review Criteria for Administrative Review-Eligible Projects and Direction to Process them Administratively for a $500 Fee
19	**Approved**	Approval of a Memorandum of Understanding Between the Fairfax County Public Schools and the Fairfax County Police Department For the School Liaison Commander and the School Resource Officer Program
	INFORMATION ITEMS	
1	**Noted**	Planning Commission Action on Application 2232-D18-2 – Pimmit Run Stream Valley Park
10:30	**Done**	Matters Presented by Board Members
11:20	**Done**	Closed Session
	PUBLIC HEARINGS	
3:00	**Approved**	Decision Only on a Proposed Zoning Ordinance Amendment Re: Short-Term Lodging Uses (Residential Owner/Renter Operated Dwelling Only) and a Proposed Amendment to Chapter 4 of the Fairfax County Code
3:00	**Approved**	Public Hearing on RZ 2017-HM-032 (Coresite Real Estate Sunrise Technology Park, LLC) (Hunter Mill District)
3:00	**Approved**	Public Hearing on SE 2017-HM-030 (Coresite Real Estate Sunrise Technology Park, LLC) (Hunter Mill District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 31, 2018

	PUBLIC HEARINGS (Continued)	
3:00	**Approved**	Public Hearing on PCA 82-L-030-13 (White Horse Four, LLC) (Lee District)
3:00	**Approved**	Public Hearing on PCA 87-L-031-03 (White Horse Four, LLC) (Lee District)
3:00	**Approved**	Public Hearing on SE 2015-LE-031 (White Horse Four, LLC) (Lee District)
3:00	**Approved**	Public Hearing on RZ 2016-HM-007 (One Reston Co. LLC and Two Reston Co. LLC) (Hunter Mill District)
3:30	**Approved**	Public Hearing on PCA 86-C-119-07/DPA 86-C-119-03 (Boston Properties LP) (Hunter Mill District)
3:30	**Approved**	Public Hearing on PRC 86-C-119-02 (Boston Properties LP) (Hunter Mill District)
3:30	**Approved**	Public Hearing on PCA 86-C-121-08/DPA 86-C-121-05 (Boston Properties LP) (Hunter Mill District)
3:30	**Approved**	Public Hearing on SEA 1997-Y-035-02 (The Woodlands Retirement Community, LLC) (Braddock District)
3:30	**Approved**	Public Hearing on PCA 1997-SU-027-02 (The Woodlands Retirement Community, LLC) (Braddock District)
3:30	**Approved**	Public Hearing on SEA 95-P-008 (Starbucks Coffee Company) (Providence District)
3:30	**Approved**	Public Hearing on PCA 84-D-049-06 (Tysons Galleria Anchor Acquisition, LLC) (Providence District)
3:30	**Approved**	Public Hearing on RZ 2017-HM-006 (RP 11111 Sunset Hills LLC) (Hunter Mill District)
4:00	**Approved**	Public Hearing on RZ 2017-LE-022 (Springfield Gateway, LLC) (Lee District)
4:00	**Approved**	Public Hearing on Proposed Plan Amendment 2017-CW-4CP, 2017 Heritage Resources Plan Update

FAIRFAX COUNTY
BOARD OF SUPERVISORS
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	PUBLIC HEARINGS (Continued)	
4:00	**Approved**	Public Hearing on Amendments to Fairfax County Code Appendix D – Industrial Development Authority
4:30	**Approved**	Public Hearing to Consider Adopting an Ordinance Expanding the West Potomac Residential Permit Parking District, District 36 (Mount Vernon District)
4:30	**Approved**	Public Hearing on RZ 2006-HM-004 (Daniel W. McKinnon) (Hunter Mill District)
4:30	**Held**	Public Comment

R E V I S E D

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
July 31, 2018

9:30 a.m.

RECOGNITON AND APPRECIATION

A resolution to recognize the appropriate jurisdictions, agencies, organizations and entities for their service during and subsequent to the simultaneous fires on May 2 in Fairfax County.
Put forward by Chairman Bulova and Supervisor Smith.

PRESENTATIONS

SPORTS/SCHOOLS

- CERTIFICATE — To recognize the West Springfield High School Varsity Baseball team for winning the Virginia Class 6A state championship. Requested by Supervisors Herrity and Cook.

— more —

Board Agenda Item
July 31, 2018

RECOGNITIONS

- CERTIFICATE — To recognize Marlene Miller and Steve Hunt for their 16 years of service in Fairfax County as the publishers of The Mount Vernon Voice. Requested by Supervisors McKay and Storck.

DESIGNATIONS

- PROCLAMATION — To designate September 2018 as Suicide Awareness Month in Fairfax County. Requested by Chairman Bulova and Supervisor Cook.

- PROCLAMATION — To designate September 2018 as Environmental Health Awareness Month in Fairfax County and recognize the environmental health specialists deployed to the U.S. Virgin Islands following Hurricanes Irma and Maria. Requested by Chairman Bulova.

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

Board Agenda Item
July 31, 2018

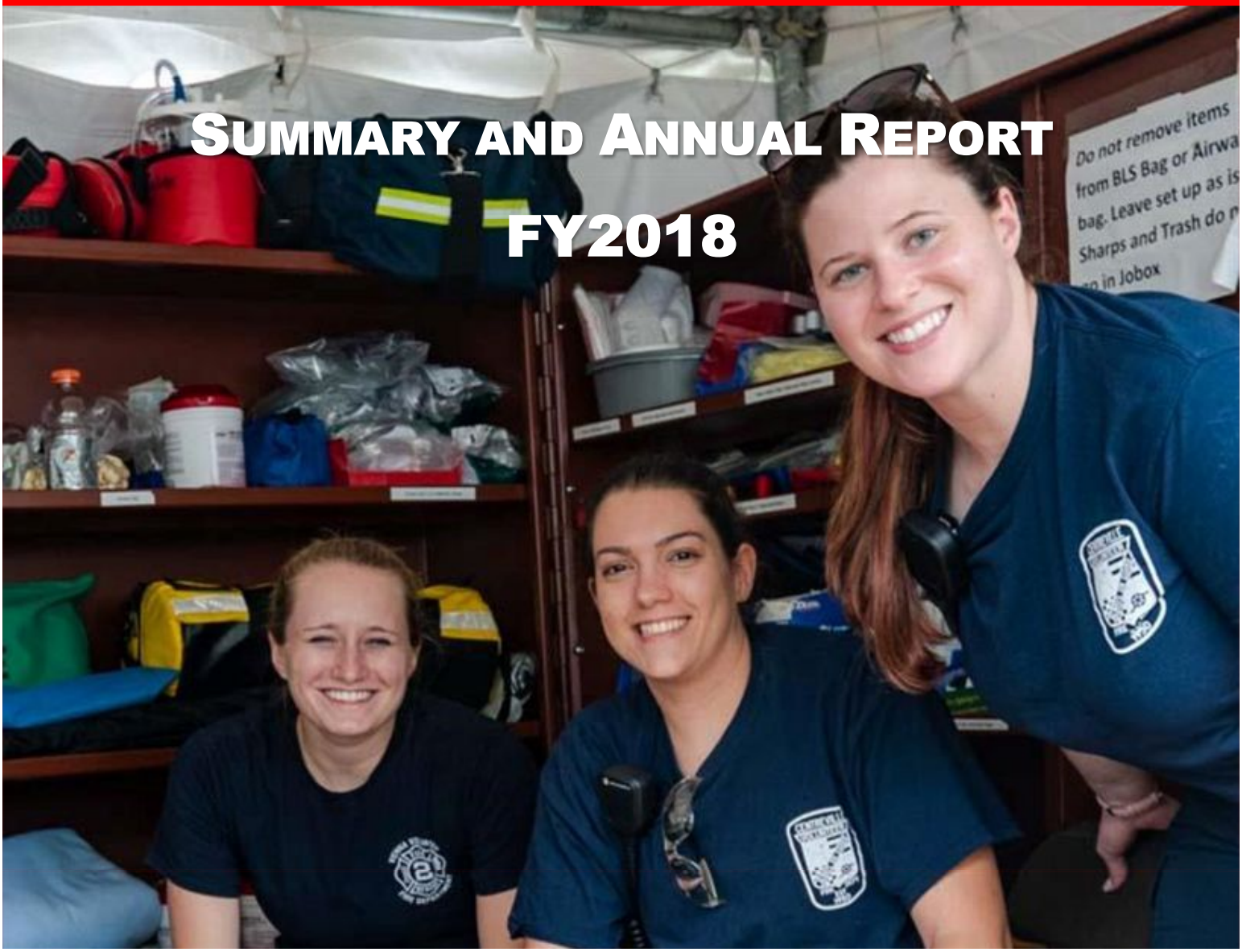
10:00 a.m.

Presentation of the Volunteer Fire Commission Awards and Annual Report

ENCLOSED DOCUMENTS:
Hand-out to be distributed on July 31, 2018.

PRESENTED BY:
Timothy G. Fleming, Chair, Volunteer Fire Commission

Fairfax County Volunteer Fire Commission Annual Report



Highlights

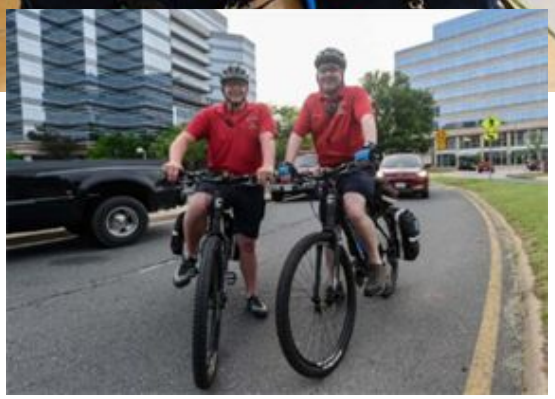
- 205,800 Volunteer Hours
  - 74,400 Operational Hours
  - 44,800 Training Hours
  - 86,600 Administrative Hours

- Contributed to the combination system by placing units in service on 1,877 occasions for 19,156 hours.

- Members rode Supplemental on Career Units 2,153 times for a total of 26,593 hours.

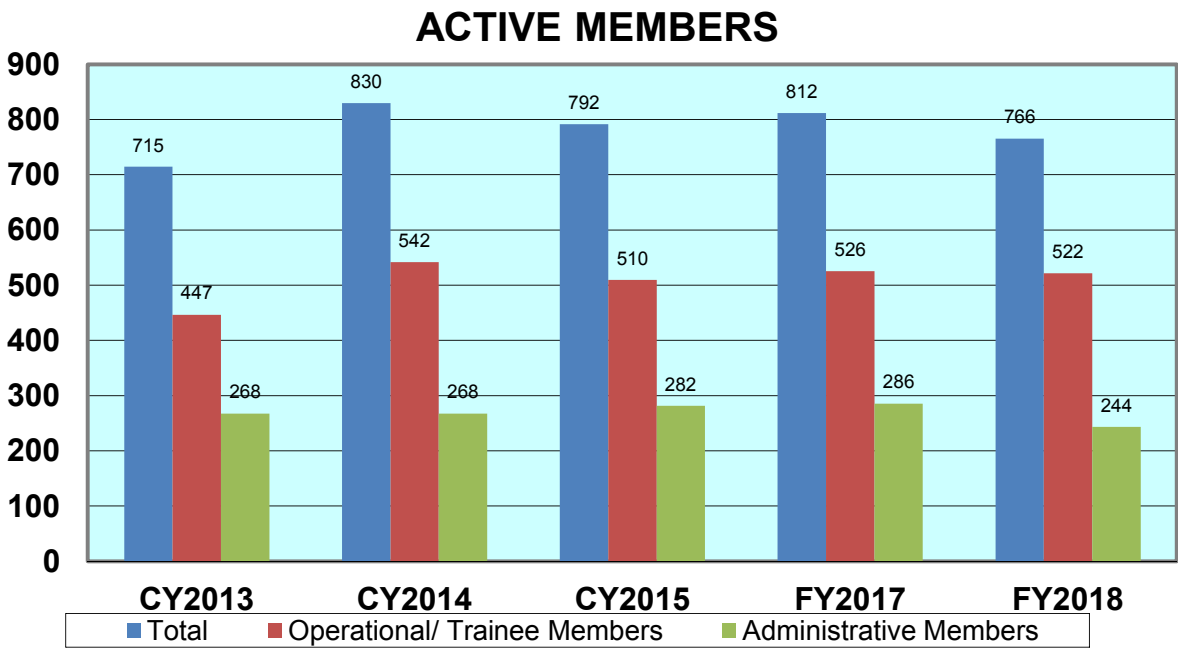






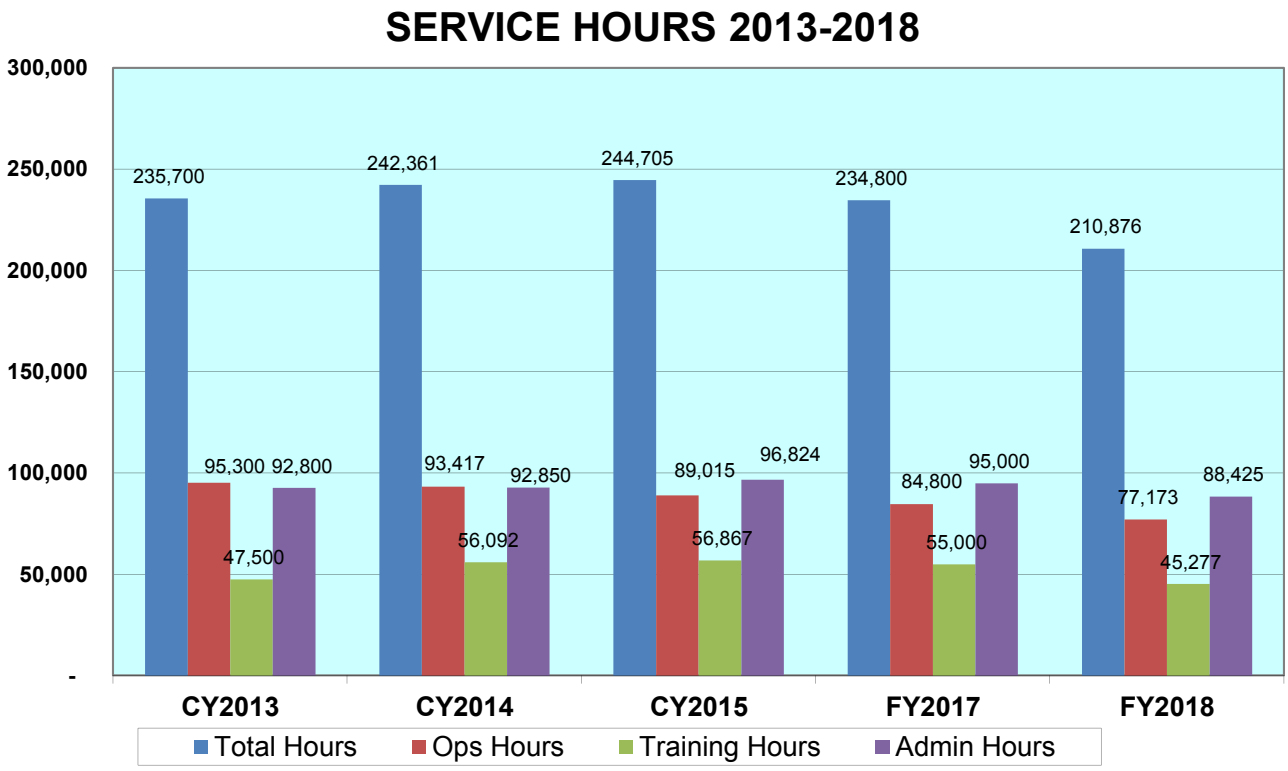


Personnel


ACTIVE MEMBERS
900
800
700
600
500
400
300
200
100
0
715
447
268
830
542
268
792
510
282
812
526
286
766
522
244
CY2013
CY2014
CY2015
FY2017
FY2018
Total
Operational/ Trainee Members
Administrative Members


McLEAN
VOLUNTEER
401

Statistics


SERVICE HOURS 2013-2018
300,000
250,000
200,000
150,000
100,000
50,000
-
235,700
95,300
47,500
92,800
242,361
93,417
56,092
92,850
244,705
89,015
56,867
96,824
234,800
84,800
55,000
95,000
210,876
77,173
45,277
88,425
CY2013
CY2014
CY2015
FY2017
FY2018
Total Hours
Ops Hours
Training Hours
Admin Hours



Volunteer Owned Apparatus

Volunteers own 87 vehicles with a replacement cost of nearly $30,310,000.

- 31 Ambulances
- 19 Engines
- Rescue
- Tower ladder *
- Ladder truck
- 5 Canteens
- 5 Brush trucks
- 18 other vehicles
- 3 Antique engines

* In Partnership with Fairfax County





Capital Purchases

Placed in Service in FY 2018

- 1 Ambulance valued at $260,000
- 1 Utility vehicle valued at $50,000

Scheduled to be placed in service in FY 2019

- 4 Ambulances valued at $1,120,000
- 3 Engines valued at $2,145,000
- 2 Utility Vehicles valued at $100,000



Volunteer Facilities

- Eight Volunteer Owned Stations with a 2018 assessed value of nearly $26,000,000.
- Partners in Seven County Owned Stations.



Accomplishments

- Performed Community Outreach
- Implemented Operational Academy Rotations (OARS).
- Supported the High School Fire School Incident Simulations.
- Responded and Back-filled for the May 2, 2018, Multiple Three Alarm Fires.
- Helped with Planning and Staffing of the iWomen's Conference.
- Providing Support for the Girl's Fire Academy.
- Working with the Community Emergency Response (CERT) program to further integrate them into the combination system.



New Qualifications

- 55 New EMTs completed certification at the Academy.
- 24 New members joined with a current EMT certificate.
- 10 EMTs were certified as Drivers.
- 9 EMTs were certified as Aides.







CERT Accomplishments

FY2018 Highlights

- 220 Newly Trained CERTS
- 1233 Members on Active List
- 11 CERT Basic Training Courses
- 73 Continuing Education Classes
- 19 Operational Activities
- 55 Community Outreach Events






BOSS




95
14





Board Agenda Item
July 31, 2018

10:10 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard July 31, 2018
(An updated list will be distributed at the Board meeting.)

STAFF:
Catherine A. Chianese, Assistant County Executive and Clerk to the Board of Supervisors

FINAL COPY

APPOINTMENTS TO BE HEARD JULY 31, 2018

(ENCOMPASSING VACANCIES PROJECTED THROUGH AUGUST 31, 2018)

(Unless otherwise noted, members are eligible for reappointment)

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Ronald Copeland; appointed 1/05-1/17 by Hudgins) Term exp. 1/18 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
Eileen J. Garnett (Appointed 1/03-2/17 by Gross) Term exp. 1/18	Mason District Representative		Gross	Mason

ADVISORY PLANS EXAMINER BOARD (4 years)

CONFIRMATIONS NEEDED:

- Mr. Gilbert Osei-Kwadwo as the Citizen Member Representative
- Mr. Jeffrey J. Stuchel as the Professional Engineer/Surveyor #1 Representative
- Mr. Paul B. Johnson as the Professional Engineer/Surveyor #2 Representative

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Alison C. Balzer; appointed 6/17 by Foust) Term exp. 9/21 *Resigned*	Dranesville District Representative		Foust	Dranesville

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

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

AIRPORTS ADVISORY COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by George Page; appointed 1/05-1/16 by Hudgins) Term exp. 1/19 *Resigned*	Hunter Mill Business Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Sherri D. Jordan; appointed 10/08-1/15 by Hyland) Term exp. 1/18 *Resigned*	Mount Vernon District Representative	**William John Kane**	Storck	Mount Vernon

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

Incumbent History	Requirement	Nominee	Supervisor	District
Jayant Reddy (Appointed 1/16 by Bulova) Term exp. 8/18	At-Large #4 Representative	**Jayant Reddy** (Bulova)	By Any Supervisor	At-Large

CONFIRMATIONS NEEDED:

- Ms. Sandra L. Sale as the Fairfax City Council Representative
- Mr. Jonathan L. Phillips as the Fairfax Bar Association Representative

ARCHITECTURAL REVIEW BOARD (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Charles Bierce; appointed 11/86 by Egge; 8/89-9/13 by Hyland; 10/16 by Storck) Term exp. 9/19 *Resigned*	Architect #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by John A. Carter; appointed 2/17 by Hudgins) Term exp. 9/18 *Resigned*	Related Professional Group #4 Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Karin Stamper; appointed 9/09-4/16 by McKay) Term exp. 4/18 *Resigned*	Lee District Alternate Representative		McKay	Lee
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15	Mason District Alternate Representative		Gross	Mason

Continued on next page

ATHLETIC COUNCIL (2 years)
continued

Incumbent History	Requirement	Nominee	Supervisor	District
Mr. Chip Chidester (Appointed 3/10-10/15 by Bulova) Term exp. 10/17	Member-At-Large Alternate Representative		Bulova	At-Large Chairman
Jane Dawber (Appointed 3/13-9/16 by Hudgins) Term exp. 6/18	Women's Sports Alternate Representative		By Any Supervisor	At-Large

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
Andrew R. Miller (Appointed 1/15-7/17 by Cook) Term exp. 6/18	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 Resigned	Mason District Representative		Gross	Mason
VACANT (Formerly held by Joshua D. Foley; appointed 9/13-6/16 by Herrity) Term exp. 6/17 Resigned	Springfield District Representative		Herrity	Springfield

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

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Susan Kim Harris; appointed 5/09-2/11 by Hudgins) Term exp. 2/15 *Resigned*	Alternate #4 Representative		By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Grant Sitta; appointed 9/10-9/15 by Gross) Term exp. 9/19 *Resigned*	Mason District Representative		Gross	Mason

CHILD CARE ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Mercedes O. Dash (Appointed 3/15 by L. Smyth) Term exp. 9/17	Providence District Representative		L. Smyth	Providence

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY
(2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Patrick J. Scott (Appointed 10/16 by Hudgins) Term exp. 5/18	Hunter Mill District Representative		Hudgins	Hunter Mill
Nicholas Ludlum (Appointed 1/17 by L. Smyth) Term exp. 5/18	Providence District Representative		L. Smyth	Providence

CIVIL SERVICE COMMISSION (2 years)
[NOTE: The Commission shall include at least 3 members who are male, 3 members who are female, and 3 members who are from a member of a minority group.]

Current Membership: Males - 9 Females – 3 Minorities: 5

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Ronald Copeland; appointed 9/04-1/17 by Hudgins) Term exp. 12/18 *Resigned*	At-Large #2 Representative		By Any Supervisor	At-Large
Rosemarie Annunziata (Appointed 10/05-1/08 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/17	At-Large #3 Representative		By Any Supervisor	At-Large

COMMISSION FOR WOMEN (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kathryn McDaniel; Appointed 10/14-12/17 by Herrity) Term exp. 10/20 *Resigned*	Springfield District Representative	**Michelle Russell**	Herrity	Springfield

COMMISSION ON AGING (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Steve Gurney; appointed 3/17 by Hudgins) Term exp. 5/18 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Robert Kuhns; appointed 2/15 by Hyland; 9/16 by Storck) Term exp. 9/18 Resigned	Mount Vernon District Representative	**Diane Watson**	Storck	Mount Vernon

COMMUNITY ACTION ADVISORY BOARD (CAAB)
(3 years)

CONFIRMATION NEEDED:

- Ms. Beth Tudan as the Fairfax County Council of PTAs Representative

CONSUMER PROTECTION COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Mehmood S. Kazmi (Appointed 11/12-6/15 by Bulova) Term exp. 7/18	Fairfax County Resident #3 Representative		By Any Supervisor	At-Large
Wes Callender (Appointed 9/14-6/15 by Foust) Term exp. 7/18	Fairfax County Resident #6 Representative	**Wes Callender** (Foust)	By Any Supervisor	At-Large
VACANT (Formerly held by Rodney Woodruff; appointed 4/16 by K. Smith) Term exp. 7/18 *Resigned*	Fairfax County Resident #7 Representative		By Any Supervisor	At-Large
Harold G. Belkowitz (Appointed 11/08-7/15 by Herrity) Term exp. 7/18	Fairfax County Resident #8 Representative	**Harold G. Belkowitz** (Herrity)	By Any Supervisor	At-Large
Abrar Omeish (Appointed 2/18 by Bulova) Term exp. 7/18	Fairfax County Resident #9 Representative		By Any Supervisor	At-Large
John Theodore Fee (Appointed 7/97-6/15 by Bulova) Term exp. 7/18	Fairfax County Resident #10 Representative		By Any Supervisor	At-Large
Scott Hine (Appointed 2/07 by McConnell; 7/09-7/15 by Herrity) Term exp. 7/18	Fairfax County Resident #11 Representative	**Scott Hine** (Herrity)	By Any Supervisor	At-Large
Denis Gulakowski (Appointed 5/16 by Cook) Term exp. 7/18	Fairfax County Resident #12 Representative	**Denis Gulakowski** (Cook)	By Any Supervisor	At-Large

Continued on next page

CONSUMER PROTECTION COMMISSION (3 years)
continued

Incumbent History	Requirement	Nominee	Supervisor	District
Umair Javed (Appointed 2/17 by L. Smyth) Term exp. 7/18	Fairfax County Resident #13 Representative		By Any Supervisor	At-Large

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael A. Skvortsov (Appointed 12/16 by Hudgins) Term exp. 8/18	At-Large Representative	**Michael A. Skvortsov** (Hudgins)	By Any Supervisor	At-Large
VACANT (Formerly held by Robert Gehring; appointed 1/14-2/15 by Hudgins) Term exp. 2/18 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
Joy Marlene Bryan (Appointed 9/97-7/06 by Kauffman; 9/09-9/15 by McKay) Term exp. 8/18	Lee District Representative	**Joy Marlene Bryan**	McKay	Lee
VACANT (Formerly held by Adam Samuel Roth; appointed 12/13-9/15 by L. Smyth) Term exp. 8/18 *Resigned*	Providence District Representative		L. Smyth	Providence
Jennifer Chronis (Appointed 12/16 by Herrity) Term exp. 7/18	Springfield District Representative	**Jennifer Chronis**	Herrity	Springfield

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

Incumbent History	Requirement	Nominee	Supervisor	District
Thomas D. Fleury (Appointed 6/01-3/14 by L. Smyth) Term exp. 3/18	At-Large #5 Representative		By Any Supervisor	At-Large
Michael J. Cooper (Appointed 3/04-3/14 by L. Smyth) Term exp. 3/18	At-Large #6 Representative	**Michael J. Cooper** (L. Smyth)	By Any Supervisor	At-Large

ECONOMIC ADVISORY COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Mark Silverwood; appointed 1/09-11/14 by Hudgins) Term exp. 12/17 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill

CONFIRMATION NEEDED:

- Mr. William M. Drohan as the At-Large #15 Representative
- Ms. Dorothy McAuliffe as the At-Large #16 Representative

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Ronald C. Johnson (Appointed 11/01-6/02 by Hanley; 7/06 by Connolly; 6/10-6/14 by Bulova) Term exp. 6/18	At-Large #4 Citizen Representative	**Ronald C. Johnson** (Bulova)	By Any Supervisor	At-Large

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

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

FAIRFAX AREA DISABILITY SERVICES BOARD
(3 years- limited to 2 full consecutive terms per MOU, after initial term)

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

Incumbent History	Requirement	Nominee	Supervisor	District
Timothy W. Lavelle (Appointed 4/09-12/14 by Bulova) Term exp. 11/17 ***Not eligible for reappointment***	At-Large #2 Business Community Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Harriet Epstein; appointed 5/10-12/16 by L. Smyth) Term exp. 11/19 *Resigned*	Providence District Representative		L. Smyth	Providence

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

Incumbent History	Requirement	Nominee	Supervisor	District
Paul Gilbert (Appointed 6/09-6/15 by Bulova) Term exp. 6/18 ***(Not eligible for reappointment)***	At-Large Chairman's		Bulova	At-Large Chairman's
Fouad Qreitem (Appointed 9/12-7/15 by Herrity) Term exp. 6/18 ***(Not eligible for reappointment)***	Springfield District Representative		Herrity	Springfield

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

Incumbent History	Requirement	Nominee	Supervisor	District
Jon A. Miskell (Appointed 11/10-7/14 by Cook) Term exp. 7/18	At-Large #4 Representative	**Jon A. Miskell** (Cook)	By Any Supervisor	At-Large

CONFIRMATION NEEDED:

- Ms. Terry Kellogg as the Fairfax County Public Schools Representative

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

Incumbent History	Requirement	Nominee	Supervisor	District
Bettina Lawton (Appointed 1/16 by Hudgins) Term exp. 6/18	Hunter Mill District Representative	**Bettina Lawton** *(Will be confirmed on September 25, 2018)*	Hudgins	Hunter Mill
Suzette Kern (Appointed 9/12-6/15 by McKay) Term exp. 6/18	Lee District Representative	**Suzette Kern** *(Nomination announced on June 19, 2018)*	McKay	Lee

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

Incumbent History	Requirement	Nominee	Supervisor	District
Batul N. Alsaigh (Appointed 7/12-9/15 by Foust) Term exp. 6/18 ***(Not eligible for reappointment, need 1 year lapse)***	Consumer #5 Representative	**RJ Narang**	By Any Supervisor	At-Large
Dave Lucas (Appointed 12/10-9/15 by Hyland) Term exp. 6/18	Provider #2 Representative		By Any Supervisor	At-Large
Fizzah Z. Gocke (Appointed 12/12-6/15 by McKay) Term exp. 6/18 ***(Not eligible for reappointment, need 1 year lapse)***	Provider #3 Representative		By Any Supervisor	At-Large

HISTORY COMMISSION (3 years)

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

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

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

HUMAN RIGHTS COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Vanessa G. Paul; appointed 11/16 by McKay) Term exp. 9/19 *Resigned*	At-Large #7 Representative		By Any Supervisor	At-Large
Daoud Khairallah (Appointed 11/05-9/14 by Gross) Term exp. 9/17	At-Large #8 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Itoro Ibia (Appointed 1/18 by Hudgins) Term exp. 7/18	Hunter Mill District #1 Representative	**Itoro Ibia**	Hudgins	Hunter Mill
Robert L. Faherty (Appointed 9/99-7/02 by Kauffman; 7/06-7/14 by McKay) Term exp. 7/18	Lee District #2 Representative	**Robert L. Faherty**	McKay	Lee
Barbara A. Burgess (Appointed 12/16 by Gross) Term exp. 7/18	Mason District #1 Representative	**Christopher Falcon**	Gross	Mason
Marion L. Barnwell (Appointed 4/03-11/14 by Hyland) Term exp. 7/18	Mount Vernon District #2 Representative	**Marion L. Barnwell**	Storck	Mount Vernon
Thomas G. Goodwin (Appointed 6/16 by L. Smyth) Term exp. 7/18	Providence District #1 Representative	**Thomas G. Goodwin**	L. Smyth	Providence
VACANT (Formerly held by Adrienne M. Walters; appointed 3/14 by L. Smyth) Term exp. 7/17 *Resigned*	Providence District #2 Representative		L. Smyth	Providence

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Richard Grams; appointed 3/17 by Storck) Term exp. 12/19 *Resigned*	Mount Vernon District Representative	**Richard A. Kostro**	Storck	Mount Vernon

LIBRARY BOARD
(4 years)

CONFIRMATION NEEDED:

- Ms. Priscille Dando as the School Board Representative

MOSAIC DISTRICT COMMUNITY DEVELOPMENT AUTHORITY (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Gary Hurst; appointed 1/10-2/16 by L. Smyth) Term exp. 1/20 *Resigned*	Developer Representative		By Any Supervisor	At-Large

OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 *Resigned*	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 Resigned	Dranesville District Representative		Foust	Dranesville
VACANT (Formerly held by Adam Parnes; appointed 9/03-6/12 by Hudgins) Term exp. 6/15 Resigned	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Jeffrey Levy; Appointed 7/02-6/13 by Hyland) Term exp. 6/16 Resigned	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by L. Smyth) Term exp. 6/14 Resigned	Providence District Representative		L. Smyth	Providence

POLICE OFFICERS RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
James E. Bitner (Appointed 5/17 by Bulova) Term exp. 6/18	Citizen At-Large #3 Representative		By Any Supervisor	At-Large

REDEVELOPMENT AND HOUSING AUTHORITY (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Willard O. Jasper (Appointed 6/97-3/00 by Hanley; 4/04-4/08 by Connolly; 5/12-6/16 by Bulova) Term exp. 4/20 *Resignation effective 8/31/18*	At-Large #1 Representative			

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD
The Board of Supervisors established the advisory board on April 4, 2017
There will be a total of 14 members on this advisory board. The appointees would serve for 4 year terms from April 4, 2017

Incumbent History	Requirement	Nominee	Supervisor	District
NEW POSITION	Residential Owners and HOA/Civic Association #1 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #2 Representative		Foust or Hudgins	At-Large

Continued on next page

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD
continued

Incumbent History	Requirement	Nominee	Supervisor	District
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		Foust or Hudgins	At-Large
VACANT (Formerly held by Tyler Aaron Hall; appointed 9/17 by Hudgins) Term exp. 9/21 *Resigned*	Apartment or Rental Owner Associations Representative		Hudgins	At-Large

ROAD VIEWERS BOARD (1 year)

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

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Emily Huaroco (Appointed 10/16 by Hudgins) Term exp. 3/18	Fairfax County #5 Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michael Congleton; appointed 7/13-2/17 by Herrity) Term exp. 1/20 *Resigned*	Citizen Member #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by L. Smyth) Term exp. 1/14 *Deceased*	Condo Owner Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Angelina Panettieri; appointed 6/11-1/15 by L. Smyth) Term exp. 1/18	Tenant Member #1 Representative		By Any Supervisor	At-Large

TRANSPORTATION ADVISORY COMMISSION (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Harry Zimmerman; appointed 6/04-6/06 by Kauffman; 6/08-6/16 by McKay) Term exp. 6/18 *Resigned*	Lee District Representative		McKay	Lee
Michael Shor (Appointed 3/16 by Storck) Term exp. 6/18	Mount Vernon Representative		Storck	Mount Vernon
VACANT (Formerly held by Micah Himmel; appointed 6/13-7/16 by L. Smyth) Term exp. 6/18 *Resigned*	Providence District Representative		L. Smyth	Providence

TREE COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Thomas D. Fleury (Appointed 1/17 by L. Smyth) Term exp. 10/17	Providence District Representative		L. Smyth	Providence

TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (2 YEARS)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Molly Peacock; appointed 2/13-1/15 by L. Smyth) Term exp. 2/17 *Resigned*	Providence District Representative #2		L. Smyth	Providence

UNIFORMED RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Frank Henry Grace (Appointed 5/01-6/02 by Hanley; 10/06 by Connolly; 7/10-7/14 by Bulova) Term exp. 7/18	Citizen appointed by BOS #1 Representative	**Frank Henry Grace** (Bulova)	By Any Supervisor	At-Large

CONFIRMATION NEEDED:

- Captain Brian C. Edmonston as the Fire and Rescue #1 Representative

WETLANDS BOARD (5 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Deana M. Crumbling (Appointed 1/14 by Bulova) Term exp. 7/16	Alternate #1 Representative		By Any Supervisor	At-Large

Board Agenda Item
July 31, 2018

10:20 a.m.

Items Presented by the County Executive

Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 1

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Removing Specific Streets from the Robinson Residential Permit Parking District, District 17, to be Included in an Expansion of the George Mason University Residential Permit Parking District, District 40 (Braddock District)

ISSUE:
Board authorization to advertise a public hearing to consider proposed amendments to Appendix G of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to remove specific streets from the Robinson Residential Permit Parking District (RPPD), District 17, to be included in an expansion of the George Mason University Residential Permit Parking District, District 40.

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

TIMING:
The Board should take action on July 31, 2018, to advertise a public hearing for September 25, 2018, at 4:00 p.m.

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

The sections of Portsmouth Road, Sideburn Road, and Stallworth Court under consideration in this amendment meet the distance requirements for inclusion for both Robinson RPPD and George Mason University (GMU) RPPD. The residents of the petitioning streets have requested that these streets be removed from the Robinson RPPD and included in an expansion of the GMU RPPD, because the GMU RPPD hours of restriction, 7:00 am to 8:00 pm Monday - Friday and 7:00 am to 1:00 pm Saturday, are preferable to the Robinson RPPD hours of restriction, 8:00 am to 3:30 pm Monday – Friday. A petition describing both actions was distributed to the residents of the effected streets. All petition requirements to remove the aforementioned streets from the Robinson RPPD and included in an expansion of the GMU RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated to be $1,000. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to the Fairfax County Code to Remove Streets from Robinson RPPD (G-17)
Attachment II: Map Depicting Proposed Streets to be removed from Robinson RPPD
Attachment III: Proposed Amendment to the Fairfax County Code to Expand GMU RPPD (G-40)
Attachment IV: Map Depicting Proposed Limits of GMU RPPD

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
Henri Stein McCartney, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:
Marc E. Gori, Assistant County Attorney

Attachment I

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by modifying the following street blocks in Appendix G-17, Section (b)(2), Robinson Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Stallworth Court (Route 6995):

From ~~Sideburn Road (Route 653)~~ Headly Court to the end.

~~*Sideburn Road (Route 653):*~~

~~From Portsmouth Road to Stallworth Court~~

Sideburn Road (Route 653), west side:

From Linfield Street to Commonwealth Boulevard.

From Commonwealth Boulevard to Holden Street.

From Holden Street to the boundary of Oak View Elementary School.

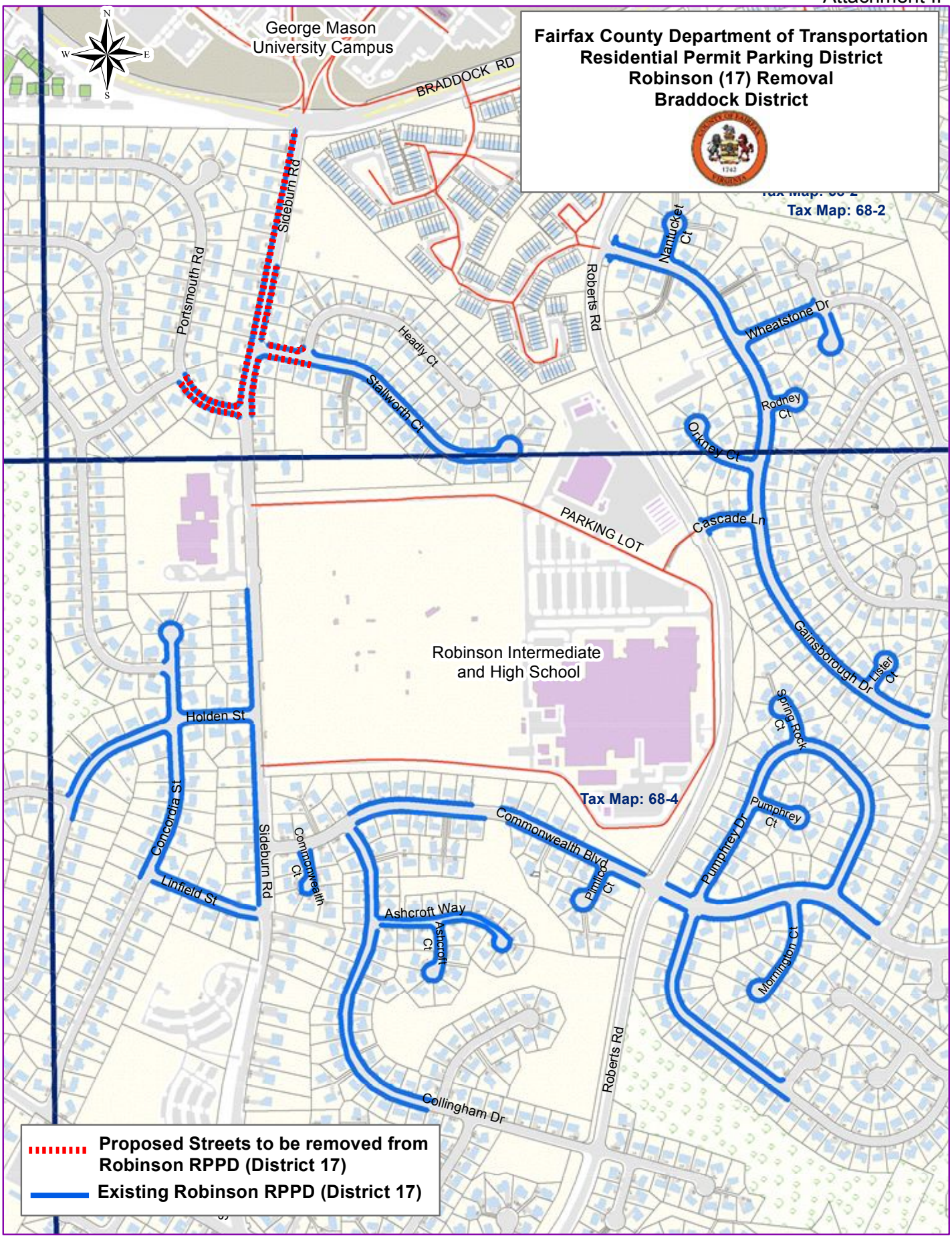
~~From Stallworth Court to Braddock Road~~

~~*Sideburn Road (Route 653) east side:*~~

~~From Stallworth Court to 4909 Sideburn Road~~

~~*Portsmouth Road (Route 4406):*~~

~~From Sideburn Road to Earlham Street~~


Fairfax County Department of Transportation
Residential Permit Parking District
Robinson (17) Removal
Braddock District
George Mason University Campus
BRADDOCK RD
Sideburn Rd
Portsmouth Rd
Headly Ct
Stallworth Ct
Roberts Rd
Nantucket Ct
Wheatstone Dr
Rodney Ct
Orkney Ct
Tax Map: 68-2
PARKING LOT
Cascade Ln
Gainsborough Dr
Lister Ct
Spring Rock Ct
Pumphrey Ct
Pumphrey Dr
Robinson Intermediate and High School
Tax Map: 68-4
Holden St
Concordia St
Linfield St
Commonwealth Ct
Commonwealth Blvd
Pimlico Ct
Ashcroft Way
Ashcroft Ct
Mornington Ct
Collingham Dr
Proposed Streets to be removed from Robinson RPPD (District 17)
Existing Robinson RPPD (District 17)

Attachment III

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following street blocks in Appendix G-40, Section (b)(2), George Mason University Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Portsmouth Road (Route 4406):

From Sideburn Road to Earlham Street.

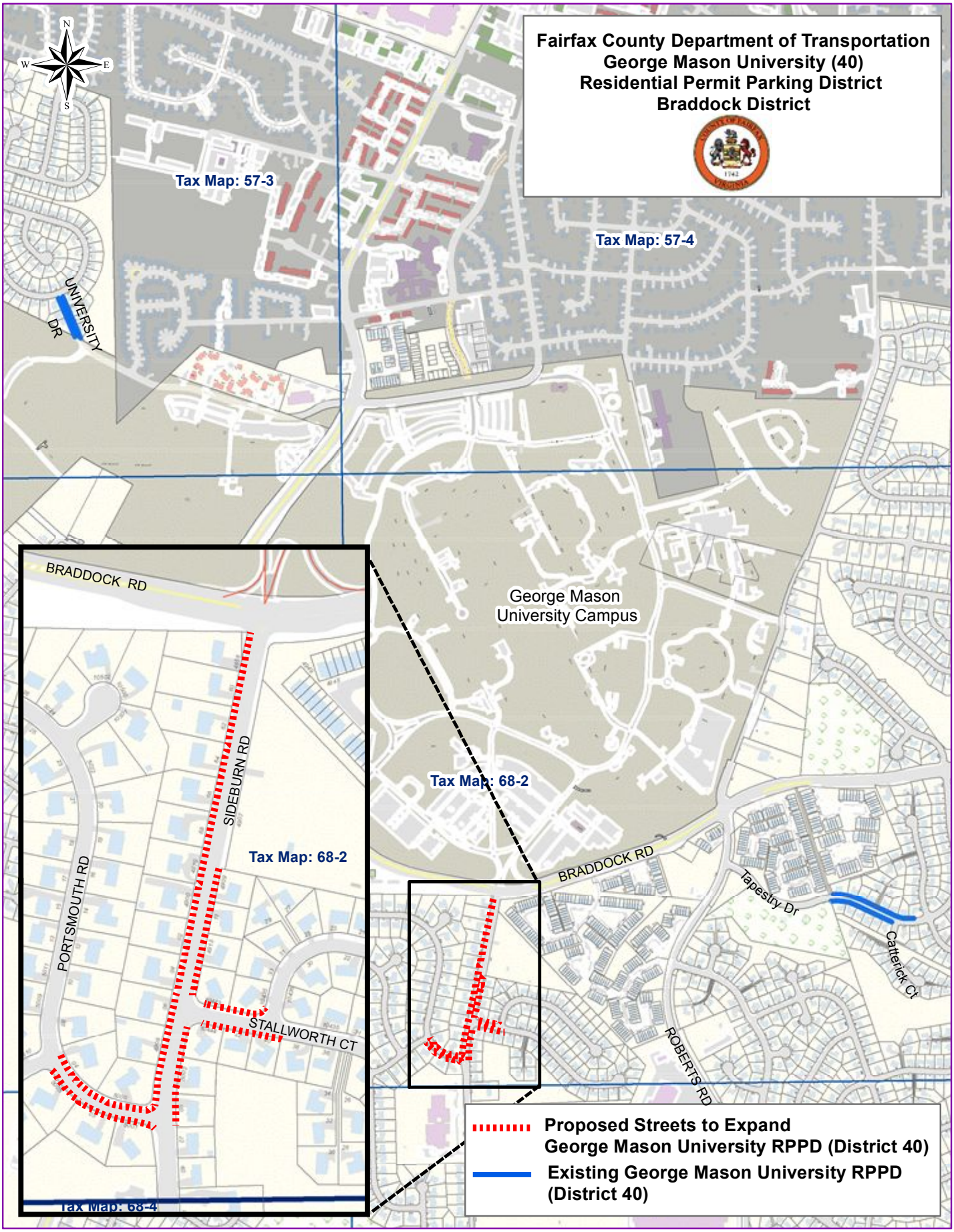
Sideburn Road (Route 653):

From Braddock Road to Portsmouth Road*, west side.*

From the northern property boundary of 4909 Sideburn Road to Portsmouth Road*, east side.*

Stallworth Court (Route 6995):

From Sideburn Road to Headly Court.


Fairfax County Department of Transportation
George Mason University (40)
Residential Permit Parking District
Braddock District
Tax Map: 57-3
Tax Map: 57-4
UNIVERSITY DR
BRADDOCK RD
George Mason
University Campus
Tax Map: 68-2
SIDEBURN RD
PORTSMOUTH RD
STALLWORTH CT
Tax Map: 68-4
BRADDOCK RD
Tapestry Dr
Catterick Ct
ROBERTS RD
Proposed Streets to Expand
George Mason University RPPD (District 40)
Existing George Mason University RPPD
(District 40)

Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Establishing the Sydenstricker Residential Permit Parking District, District 47 (Springfield District)

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to Appendix G of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish the Sydenstricker Residential Permit Parking District (RPPD), District 47.

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

TIMING:
The Board should take action on July 31, 2018, to advertise a public hearing for September 25, 2018, at 4:00 p.m.

BACKGROUND:
Section 82-5A-4(b) of the Fairfax County Code authorizes the Board to establish or expand an RPPD in any residential area of the County if: (1) the Board receives a petition requesting establishment or expansion of an RPPD that contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, (2) the proposed District contains a minimum of 100 contiguous or nearly contiguous on-street parking spaces 20 linear feet in length per space, unless the subject area is to be added to an existing district, (3) 75 percent of the land abutting each block within the proposed District is developed residential, and (4) 75 percent of the total number of on-street parking spaces of the petitioning blocks are occupied, and at least 50 percent of those occupied spaces are occupied by nonresidents of the petitioning blocks, as authenticated by a peak-demand survey. In addition, an application fee of $10 per petitioning address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Fairfax County Code Section 82-5A-4(b)(1) requires that a proposed RPPD have a minimum number of on-street parking spaces available when establishing a new district. Section 82-5A-4(c) allows for the Board of Supervisors to waive this requirement if the proposed district meets the purpose and intent of the program. On February 20, 2018, the Board waived this requirement for the Innisfree and Middleford Ridge communities, which would be subject to this proposed RPPD.

On February 27, 2018, a peak parking demand survey was conducted for the requested area. The results of this survey verified that more than 75 percent of the total number of on-street parking spaces of the petitioning blocks were occupied by parked vehicles, and more than 50 percent of those occupied spaces were occupied by nonresidents of those petitioning block faces. All other requirements to establish the RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated to be $1,100. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to the Fairfax County Code
Attachment II: Map Depicting Proposed Limits of New RPPD

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
Henri Stein McCartney, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:
F. Hayden Codding, Assistant County Attorney

Appendix G

G-47 Sydenstricker Residential Permit Parking District.

(a) *Purpose and Intent*. The Sydenstricker Residential Permit Parking District is established to protect this residential area from polluted air, excessive noise, and other adverse impacts of automobile commuting; to protect the residents of these areas from unreasonable burdens in gaining access to their property; and to preserve the residential character of the area and the property values therein.

(b) *District Designation*.

(1) The Sydenstricker Residential Permit Parking District is designated as Residential Permit Parking District 47, for the purposes of signing and vehicle decal identification.

(2) Blocks included in the Sydenstricker Residential Permit Parking District are shown on the Official Residential Permit Parking District map and are described below:

Hooes Road (Route 636):

From the eastern property boundary of 8530 Hooes Road to the western property boundary of 8556 Hooes Road, north side; and from the eastern property boundary of 8521 Hooes Road to Innisfree Drive, south side.

(c) *District Provisions*.

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5A of Chapter 82.

(2) Within the Sydenstricker Residential Permit Parking District, parking is prohibited from 7:00 a.m. to 12:00 p.m., Monday through Friday, except as permitted by the provisions of Article 5A of Chapter 82.

(3) One (1) transferable visitor pass per address shall be issued in the name of a bona fide resident of said address. However, visitor passes shall not be issued to multifamily or townhouse addresses, which have off-street parking provided.

(4) Owners of property in the District who are not bona fide residents of said District may obtain a temporary visitor parking pass for a period not to exceed two (2) weeks.

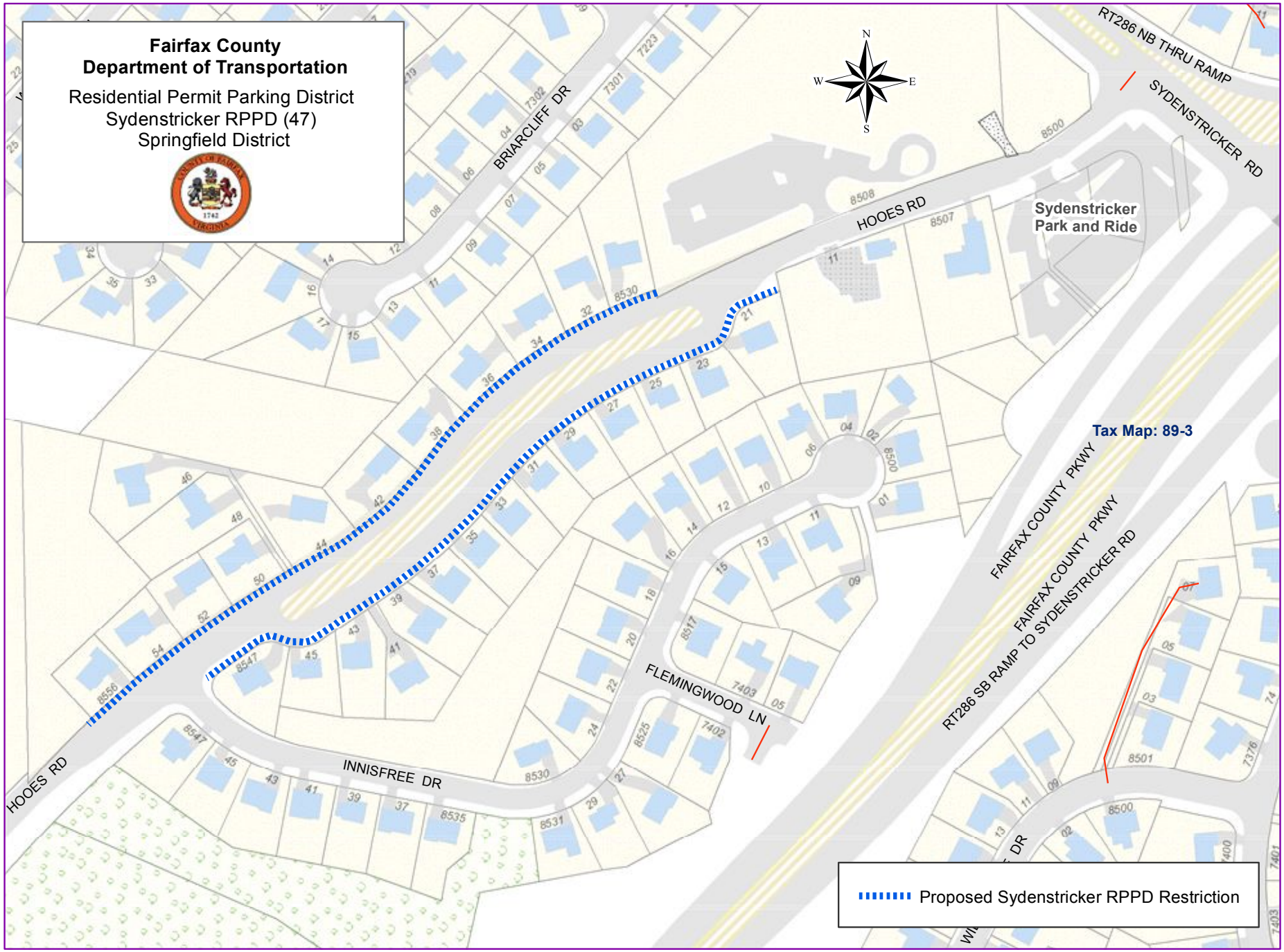
(5) All permits and visitor passes for the Sydenstricker Residential Permit Parking District shall expire on October 31, 2019. Thereafter, all permits and visitor passes may be

renewed in accordance with Article 5A of Chapter 82 and the renewal procedures established by Fairfax County Department of Transportation.

(d) *Signs*. Signs delineating the Sydenstricker Residential Permit Parking District shall indicate the following:

NO PARKING
7:00 a.m. - 12:00 p.m.
Monday through Friday
Except by Permit
District 47

Attachment II



Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 3

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

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

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

- Two speed humps on Summerfield Road (Providence District)

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

- Vernon View Drive from Fort Hunt Road to George Washington Memorial Parkway (Mount Vernon District)

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

TIMING:
Board action is requested on July 31, 2018.

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 Supervisor's office and communities 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 June 19, 2018, FCDOT received verification from the local Supervisor's office confirming community support for the above referenced traffic calming plan (Providence District).

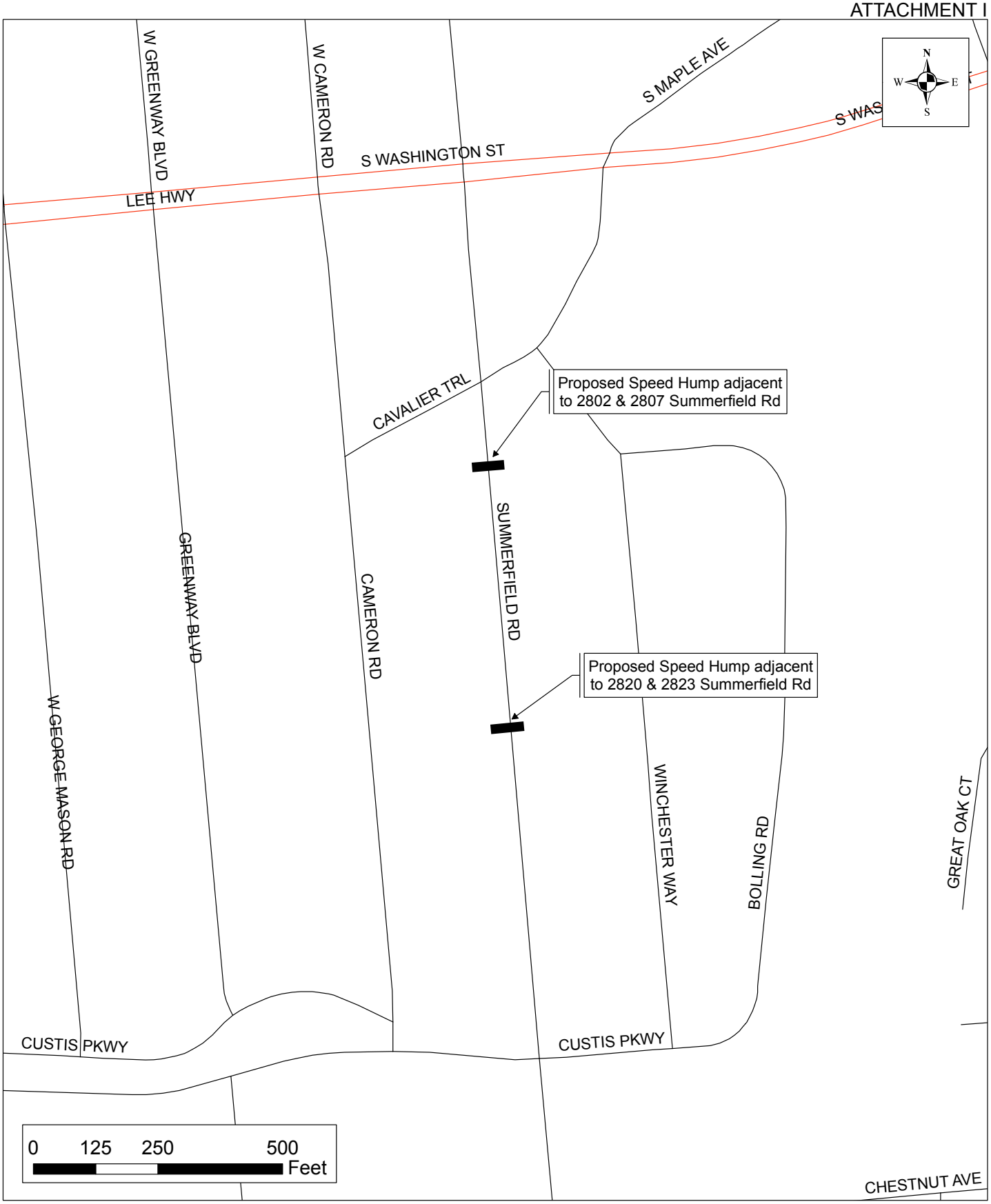
Section 46.2-878.2 of the *Code of Virginia* permits a maximum fine of $200, in addition to other penalties provided by law, to be levied on persons exceeding the speed limit on appropriately designated residential roadways. These residential roadways must have a posted speed limit of 35 mph or less. In addition, to determine that a speeding problem exists, staff performs an engineering review to ascertain that additional speed and volume criteria are met. Vernon View Drive from Fort Hunt Road to George Washington Memorial Parkway (Attachment II), meets the RTAP requirements for posting of the "$200 Additional Fine for Speeding" signs. On June 22, 2018, FCDOT received written verification from the appropriate local supervisors confirming community support (Mount Vernon District).

FISCAL IMPACT:
Funding in the amount of $16,000 for the traffic calming measures associated with the Summerfield Road project is available in Fund 2G25-076-000, General Fund, under Job Number 40TTCP. For the "$200 Additional Fine for Speeding" signs on Vernon View Drive an estimated cost of $600 is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for Summerfield Road
Attachment II: Area Map of Proposed "$200 Additional Fine for Speeding" Signs – Vernon View Drive
Attachment III: "$200 Additional Fine for Speeding" Signs Resolution – Vernon View Drive

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

ATTACHMENT I



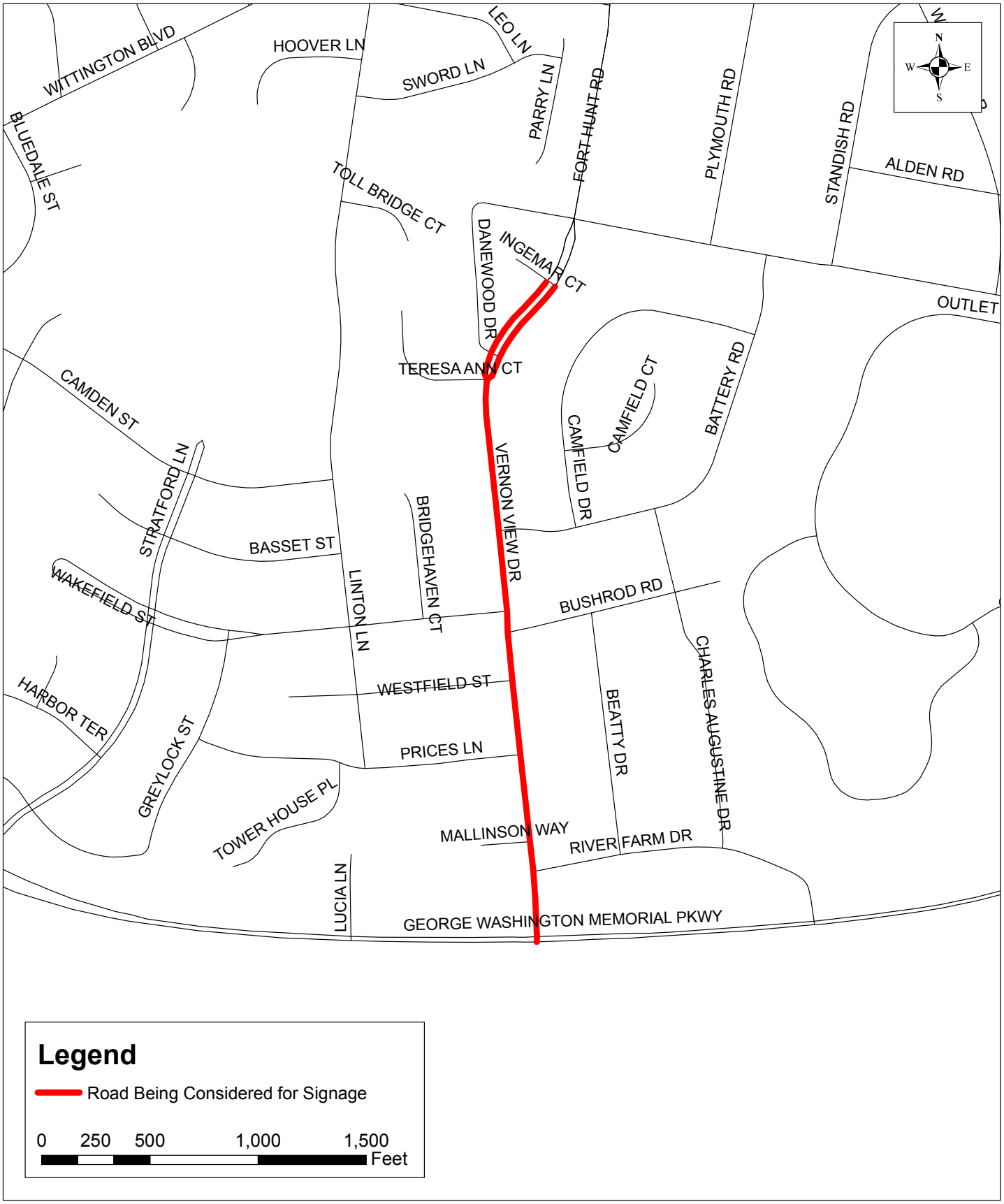
July 2018

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
SUMMERFIELD ROAD
Providence District

A Fairfax Co. Va., publication

Tax Map: 50-2

ATTACHMENT II



July 2018

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

A Fairfax Co. Va., publication

Tax Map: 111-1, 111-2

Attachment III

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
$200 ADDITIONAL FINE FOR SPEEDING SIGNS
VERNON VIEW DRIVE
MOUNT VERNON DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, July 31, 2018, at which a quorum was present and voting, the following resolution was adopted:

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

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Vernon View Drive from Fort Hunt Road to George Washington Memorial Parkway. Such road also being identified as a Minor Arterial; and

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

NOW, THEREFORE BE IT RESOLVED that "$200 Additional Fine for Speeding" signs are endorsed for Vernon View Drive from Fort Hunt Road to George Washington Memorial Parkway.

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

A Copy Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
July 31, 2018

ADMINISTRATIVE – 4

Authorization to Advertise a Public Hearing on the County and Schools' FY 2018 Carryover Review to Amend the Appropriation Level in the FY 2019 Revised Budget Plan

ISSUE:
Board approval of an advertisement to increase the FY 2019 appropriation level. The advertisement encompasses both the County and the Schools' *FY 2018 Carryover Reviews*. Section 15.2 – 2507 of the Code of Virginia requires that a public hearing be held prior to Board Action.

RECOMMENDATION:
The County Executive recommends that the Board authorize staff to publish the advertisement for a public hearing to be held on September 25, 2018 at 10:30 a.m.

TIMING:
Board action is requested on July 31, 2018.

BACKGROUND:
As the *FY 2018 Carryover Review* includes potential increases in appropriation greater than 1 percent, a public hearing is required prior to Board action. In addition, the Code of Virginia requires that a synopsis of proposed changes be included in the advertisement for a public hearing.

Details of the proposed changes shown in the advertisement are provided to the Board in the enclosed *FY 2018 Carryover Review* documents.

The School Board funding adjustments included in the advertisement are based on staff's recommendations to the School Board, which were presented to the School Board on July 12, 2018, with action to be taken by the School Board on July 26, 2018. Any changes by the School Board to staff recommendations on July 26, 2018 will be incorporated into the Carryover advertisement for the public hearing on September 25, 2018.

Board Agenda Item
July 31, 2018

ENCLOSED DOCUMENTS:
These attachments will be available online on Monday, July 30, 2018:
http://www.fairfaxcounty.gov/dmb/carryover/fy2018/carryover.htm

Attachment A: Proposed advertisement for public hearing
Attachment B: July 31, 2018 Memorandum to the Board of Supervisors from Bryan J. Hill, County Executive, with attachments, transmitting the County's *FY 2018 Carryover Review* with appropriate resolutions
Attachment C: Fairfax County School Recommended FY 2018 Final Budget Review and Appropriation Resolutions

STAFF:
Bryan J. Hill, County Executive
Joseph M. Mondoro, Chief Financial Officer
Christina Jackson, Deputy Director, Department of Management and Budget

Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing to Consider Amending Fairfax County Code Chapter 82 (Motor Vehicles and Traffic), Article 5 (Stopping, Standing, and Parking), Sections 19 and 29

ISSUE:
Board authorization to advertise a public hearing to consider amending Chapter 82, Article 5, Sections 19 and 29 of *The Code of the County of Fairfax, Virginia* (Fairfax County Code). Changes being considered include code revisions to prohibit fleet vehicle parking, as defined, and to expand the definition of unattended vehicles to facilitate code enforcement.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for September 25, 2018, at 4:00 p.m. to consider adoption of proposed amendments to Chapter 82, Article 5, Sections 19 and 29 (Attachments I and II) of the Fairfax County Code. Proposed amendments include code revisions to prohibit fleet vehicle parking, as defined, and to expand the definition of unattended vehicles to facilitate code enforcement.

TIMING:
The Board of Supervisors should act on July 31, 2018, to provide sufficient time for advertisement of the public hearing on September 25, 2018, at 4:00 p.m.

BACKGROUND:
Based upon direction from the Board, Department of Transportation staff has worked with the Office of the County Attorney and Fairfax County Police Department to develop a series of amendments to Chapter 82 (Motor Vehicles and Traffic), Article 5 (Stopping, Standing, and Parking) of the Fairfax County Code.

Six proposed ordinance revisions to Chapter 82, Article 5 were presented to the Board Transportation Committee in February 2017. Four of those revisions advanced, and were approved by the Board on January 23, 2018. Two of the proposed code revisions, regarding fleet vehicles and unattended vehicles, were withheld for further consideration and discussion (Code Sections 82-5-19 and 82-5-29, respectively). Proposed revisions of these ordinance section were presented to the Board Transportation Committee in December 2017. The Board requested that the amendment to Section 82-5-29 related to unattended vehicles be advertised with a range of options that they will consider during

the public hearing (Attachment II). Staff recommends approval of the language as proposed in Attachments I and II. The proposed amendments include the following:

Section 82-5-19 (Attachment I): Proposed modifications, in addition to editorial changes, to include the addition of a series of definitions ascribed to this section; and to include the addition of subsection (b), prohibiting fleet vehicles, as defined, from parking within the public right-of-way for the purpose of storage, when not in use.

Section 82-5-29 (Attachment II): Proposed modifications to expand the definition of unattended vehicles to include any vehicle that has been parked at a specific location for 10 days without being moved at least 300 feet (OPTION: Board to consider a vehicle unattended if parked at a specific location for 10-30 days). Provision not applicable if vehicle is parked within 1,000 feet of the property line where the vehicle is registered (OPTION: Board to consider exception for vehicles parked within 0-1,000 feet of the property line where the vehicle is registered).

Section 82-5-29 (Attachment II): Additional revisions have been made that are largely administrative in nature, including updating agency references, removing language that refers to outdated procedures, and reflecting current processes related to abandoned vehicle disposition that are set forth in Title 46.2, Chapter 12 of the Code of Virginia. All abandoned vehicle disposals are carried out in accordance with provisions found in the Code of Virginia.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to the Fairfax County Code, § 82-5-19; Parking for certain purposes prohibited
Attachment II: Proposed Amendment to the Fairfax County Code, § 82-5-29; Removal and disposition of certain unattended vehicles; sale, disposition or proceeds

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

ASSIGNED COUNSEL:
F. Hayden Codding, Assistant County Attorney

Proposed Amendment

Amend The Code of the County of Fairfax, Virginia, by modifying the following Section, in accordance with Article 5 of Chapter 82:

Section 82-5-19. Parking for certain purposes prohibited.

For purposes of this Section, the following words and phrases shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

Fleet Vehicles shall be defined as any vehicles and/or trailers, greater than one, that are controlled, owned or leased by a single company and are used in the normal business operations of that company. Fleet vehicles also include vehicles intended to be rented or leased to individuals or organizations. This includes fleets of revolving inventory. Vehicles which are used in the normal business operations of a company, but are owned or leased by company employees are not fleet vehicles.

Company means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession.

Storage means fleet vehicles parked on public right-of-way, when not in use.

(a) It shall be unlawful for any person:

(1) To park or place any automobile, truck, trailer or other vehicle upon or in ~~any street, alley or parkway~~ the public right-of-way for the purpose of selling or offering the same for sale or rent;

~~(2) To attach or place any sign or lettering upon any automobile, truck, trailer or other vehicle parked in or upon any public street, alley or parkway indicating that such vehicle is offered for sale or for rent;~~

~~(3)~~ (2) To park any vehicle from which any merchandise is being sold upon any ~~street~~ public right-of-way in a ~~business~~ commercial district;

~~(4)~~ (3) To park or stop a vehicle at any time ~~upon the highway~~ in the public right-of-way for the purpose of advertising any article of any kind, or to display thereupon advertisements of any article or advertisement for the sale or rental of the vehicle itself.

(b) It shall be unlawful for employees and/or representatives of any company to park or allow to be parked, for the purpose of storage, any fleet vehicles, as defined in this section, within the public right-of-way.

(1) Such restrictions do not apply to any commercial vehicle when picking up or discharging passengers, when making a pickup or delivery of merchandise, or when temporarily parked pursuant to the performance of work or service at a particular location, provided that such vehicle does not thereby obstruct traffic.

(2) At such time as a single vehicle is rented or leased by an individual or organization, it is no longer considered a fleet vehicle.

(c) Penalty.

Penalties as defined in Section 82-1-32.

Attachment II

Proposed Amendment

Amend The Code of the County of Fairfax, Virginia, by modifying the following Section, in accordance with Article 5 of Chapter 82:

Section 82-5-29. Removal and disposition of certain unattended vehicles; sale, disposition or proceeds.

(a) Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic, or is parked in such manner as to be in violation of law, or whenever any motor vehicle, trailer or semitrailer is left unattended for more than ten (10) days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, ~~within any such county, city or town,~~ or is abandoned upon such public property or privately owned property, without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer, or semitrailer is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage ~~garage or~~ area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the property owner, property lessee, or property occupant thereof.

(b) The person at whose request such motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify ~~such county, city or town~~ the County against any loss or expense incurred by reason of removal, storage or sale thereof.

(c) It shall be presumed that such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if: (~~A~~1) it lacks either a current license plate, or a valid state inspection certificate or sticker~~; and (B~~, or is parked in violation of the law; or (2) it has been in a specific location for ~~four~~ ten (10) days without being moved at least 300 feet. Provision (2) does not apply if the vehicle is parked within 1,000 feet of the property line where the vehicle is registered.

[Advertised to allow the Board to consider a vehicle left unattended for 10-30 days.] [Advertised to allow the Board to consider an exception for vehicles parked within 0-1000 feet of the property line where the vehicle is registered.]

(d) Each removal shall be reported immediately to the ~~Chief of Police~~ Department of Public Safety Communications and notice thereof given to the owner of the motor vehicle, trailer or semitrailer as promptly as possible.

(e) The owner of such motor vehicle or trailer or semitrailer, before obtaining possession thereof, shall pay to the parties entitled thereto all reasonable costs incidental to the removal, storage, and locating and notifying the owner of the

motor vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the cost, or should the ~~identify~~ identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last-known address and to the holder of any lien of record ~~in~~ filed with the ~~office of the Division~~ Virginia Department of Motor Vehicles ~~in Virginia~~ against the motor vehicle, trailer or semitrailer, the officer or authorized agent designated by the Chief of Police may, after holding the motor vehicle, trailer or semitrailer 40 days and after due notice of sale dispose of the same at a public ~~sale~~ auction, which may include an internet sale by auction. ~~and the proceeds from the sale shall be forwarded by the Chief to the County Director of Finance, provided that if the value of such motor vehicle, trailer or semitrailer be determined by three disinterested dealers or garagemen to be less than $150.00 it may be disposed of by private sale or junked. The Director of Finance or similar officer shall pay from the proceeds of the sale~~ The County or its authorized agent shall reimburse itself for the expenses of the auction, the cost of removal, storage, and investigation as to ownership and liens. ~~and notices of sale, and the balance of such funds~~ Any remainder from the proceeds of a sale shall be held ~~by him~~ for the owner ~~and paid to the owner upon satisfactory proof of ownership~~ of the abandoned motor vehicle or any person having security interest in the vehicle, as their interests may appear, for 60 days, and then be deposited into the General Fund of the County.

~~(f) If no claim has been made by the owner for the proceeds of such sale, the remaining funds may be deposited to the general fund or any special fund of the County.~~

~~(g) Any such owner shall be entitled to apply to the County within three years from the date of such sale; and if timely application is made therefor, the County shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three years from the date of such sale.~~

~~(h)~~(f) This Section shall not operate to deprive any person of other remedies available under law to obtain payment from the owner of unattended, abandoned or immobile vehicles for towing, storage or other services rendered.

~~(i)~~(g) The ~~Division~~ Virginia Department of Motor Vehicles ~~of the Commonwealth of Virginia~~ shall be notified of the disposition of any motor vehicle, trailer or semitrailer under this Section.

~~(j)~~(h) Any person who shall violate, permit, or suffer or allow anyone to violate any provisions of Section 82-5-29 shall be punished as provided in Section 82-1-32.

(3-13-63; 1961 Code, § 16-133; 37-76-82; 26-81-82; 24-84-82; 34-86-82; 08-06-82.)

Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing on Amendments to the *Code of the County of Fairfax*, Chapter 6, Relating to Weapons

ISSUE:
Board of Supervisors' authorization to advertise a public hearing on amendments to the *Code of the County of Fairfax*, Chapter 6, Weapons.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on the proposed amendments to Chapter 6, Weapons.

TIMING:
Authorization to advertise the proposed amendments on July 31, 2018; Board of Supervisors' public hearing scheduled for September 25, 2018 at 4:30 p.m. If adopted, the amendments would take effect on January 1, 2019.

BACKGROUND:
At its June 26, 2018, meeting, the Board's Public Safety Committee directed staff to request authorization to advertise a public hearing on amendments to the *Code of the County of Fairfax*, Chapter 6, Weapons at the July 31, 2018, Board meeting. Details of this Public Safety Committee meeting are found at the following:

https://www.fairfaxcounty.gov/boardofsupervisors/board-public-safety-committee-meeting-june-26-2018

The proposed amendments would: (1) add a new Section 6-2-2.2, to prohibit the transportation of loaded shotguns or rifles in vehicle on any public street, road or highway within the County, subject to certain exceptions, (2) add a new Section 6-2-2.3, to prohibit the carrying or possession of a loaded firearm for the purpose of hunting on any public highway within the County, subject to certain exceptions, (3) revise Section 6-4-1, Shooting of Bows, to prohibit the shooting of arrowguns and slingbows in a manner that could reasonably be expected to result in the impact of an arrow on the property of another without permission, and (4) revise Section 6-1-1, Definitions to add certain applicable definitions. The amendments also contain minor grammatical

revisions to Section 6-4-1.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 - Proposed Amendments to the Code of the County of Fairfax, Chapter 6, Relating to Weapons (markup)
Attachment 2 – Proposed Amendments to the Code of the County of Fairfax, Chapter 6, Relating to Weapons (clean)

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:
John W. Burton, Assistant County Attorney

**AN ORDINANCE AMENDING
CHAPTER 6 OF THE FAIRFAX COUNTY CODE, RELATING TO
WEAPONS**

Draft of June 26, 2018

AN ORDINANCE to amend Chapter 6 the Fairfax County Code by amending and reenacting Sections 6-1-1, related to definitions, and 6-4-1, related to the shooting of bows and adding new Sections 6-1-2.2 and 6-1-2.3, related to loaded firearms.

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

1. **That Sections 6-1-1 and 6-4-1 of the Fairfax County Code are amended and reenacted, and Chapter 6 of the Fairfax County Code is amended by adding Sections 6-1-2.2 and 6-1-2.3, as follows:**

Section 6-1-1. Definitions.

The words and phrases defined in this Section when used in this Chapter shall have the following meanings, unless a different meaning is clearly required by the context:

Chief of Police means the Chief of the Fairfax County Police Department or the designated agent of the Chief.

Firearm means any weapon that will, or is designed to, or may be readily converted to, expel a projectile or projectiles by the action of any explosive; provided, that stud nailing guns, rivet guns and similar construction equipment neither designed nor intended as weapons, shall not be deemed firearms.

Loaded firearm, loaded rifle or *loaded shotgun* as used in this Chapter means a firearm, rifle or shotgun with ammunition within the action chamber, magazine or clip which is within or on the firearm, rifle or shotgun.

Parcel of Land means any lot or lots, or other contiguous areas of land constituting a combined area of not less than twenty acres where all of the landowners, tenants in possession or agents of such landowners and tenants have joined in a written acknowledgement of the rights of persons to shoot on all of such land.

Pneumatic gun means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure; it includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

Recreational shooting means the discharge of firearms at fixed or movable artificial targets.

Rifle means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Shotgun means a firearm designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive in a shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ~~one or more~~ ball shot or a single projectile for each single pull of the trigger.

Starting pistol means any device which is designed or functions to simulate the firing of a weapon by means of a primer or other explosive charge, but which cannot be readily converted for use as a firearm as defined in this Section.

Section 6-1-2.2. Transporting loaded rifle or shotgun

(a) No person shall transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road or highway within the county. Any violation of this section shall be punishable by a fine of not more than $100.
(b) The provisions of this section shall not apply to duly authorized law enforcement officers or military personnel in the performance of their lawful duties, to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business, nor to any person transporting a malfunctioning rifle or shotgun for the purpose of having it repaired or otherwise rendered safe.

Section 6-1-2.3. Carrying of loaded firearms on public highways

(a) No person shall carry or have a loaded firearm in his possession, for the purpose of hunting, while standing or walking on any part of a public highway within the county when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking. Any violation of this section shall be punishable by a fine of not more than $100.
(b) The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles or for purposes other than hunting, or to persons acting at the time in defense of persons or property.

Section 6-4-1. Shooting of bows and arrowguns.

It shall be unlawful for any person to shoot an arrow from a bow or arrowgun in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner, fee holder or tenant of the property on which the arrow is expected to impact. For the purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows and recurve bows having a peak draw weight of ten pounds or more. The term "bow" does not include bows which have a peak draw of less than ten pounds or ~~which~~ that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

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

3. **That the provisions of this ordinance shall take effect on January 1, 2019.**

GIVEN under my hand this day of _____ 2018.

_____
Clerk to the Board of Supervisors

AN ORDINANCE AMENDING CHAPTER 6 OF THE FAIRFAX COUNTY CODE, RELATING TO WEAPONS

Draft of June 26, 2018

AN ORDINANCE to amend Chapter 6 the Fairfax County Code by amending and reenacting Sections 6-1-1, related to definitions, and 6-4-1, related to the shooting of bows, and adding new Sections 6-1-2.2 and 6-1-2.3, related to loaded firearms.

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

1. **That Sections 6-1-1 and 6-4-1 of the Fairfax County Code are amended and reenacted, and Chapter 6 of the Fairfax County Code is amended by adding Sections 6-1-2.2 and 6-1-2.3, as follows:**

Section 6-1-1. Definitions.

The words and phrases defined in this Section when used in this Chapter shall have the following meanings, unless a different meaning is clearly required by the context:

Chief of Police means the Chief of the Fairfax County Police Department or the designated agent of the Chief.

Firearm means any weapon that will, or is designed to, or may be readily converted to, expel a projectile or projectiles by the action of any explosive; provided, that stud nailing guns, rivet guns and similar construction equipment neither designed nor intended as weapons, shall not be deemed firearms.

Loaded firearm, loaded rifle or *loaded shotgun* as used in this Chapter means a firearm, rifle or shotgun with ammunition within the action chamber, magazine or clip which is within or on the firearm, rifle or shotgun.

Parcel of Land means any lot or lots, or other contiguous areas of land constituting a combined area of not less than twenty acres where all of the landowners, tenants in possession or agents of such landowners and tenants have joined in a written acknowledgement of the rights of persons to shoot on all of such land.

Pneumatic gun means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure; it includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

Recreational shooting means the discharge of firearms at fixed or movable artificial targets.

Rifle means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Shotgun means a firearm designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive in a shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ball shot or a single projectile for each single pull of the trigger.

Starting pistol means any device which is designed or functions to simulate the firing of a weapon by means of a primer or other explosive charge, but which cannot be readily converted for use as a firearm as defined in this Section.

Section 6-1-2.2. Transporting loaded rifle or shotgun

(a) No person shall transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road or highway within the county. Any violation of this section shall be punishable by a fine of not more than $100.
(b) The provisions of this section shall not apply to duly authorized law enforcement officers or military personnel in the performance of their lawful duties, to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business, nor to any person transporting a malfunctioning rifle or shotgun for the purpose of having it repaired or otherwise rendered safe.

Section 6-1-2.3. Carrying of loaded firearms on public highways

(a) No person shall carry or have a loaded firearm in his possession, for the purpose of hunting, while standing or walking on any part of a public highway within the county when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking. Any violation of this section shall be punishable by a fine of not more than $100.
(b) The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles or for purposes other than hunting, or to persons acting at the time in defense of persons or property.

Section 6-4-1. Shooting of bows and arrowguns.

No person shall shoot an arrow from a bow or arrowgun in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner, fee holder or tenant of the property on which the arrow is expected to impact. For the purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows and recurve bows having a peak draw weight of ten pounds or more. The term "bow" does not include bows which have a peak draw of less than ten pounds or which that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

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

3. **That the provisions of this ordinance shall take effect on January 1, 2019.**

GIVEN under my hand this day of _____ 2018.

_____
Clerk to the Board of Supervisors

Board Agenda Item
July 31, 2018

ADMINISTRATIVE – 7

Extension of Review Period for 2232 Applications (Hunter Mill, Mason, Dranesville, Braddock and Providence 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: 2232-H18-3, 2232-M18-7, 2232-D18-11, 2232-H18-8, 2232-B18-9, 2232-H18-14, and FS-P18-23.

TIMING:
Board action is required on July 31, 2018, 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:

2232-H18-3	Department of Public Works and Environmental Services Reston Fire Station 1820 Wiehle Avenue Reston, VA Hunter Mill District Accepted May 29, 2018 Extend to April 26, 2019
2232-M18-7	Department of Public Works and Environmental Services Edsall Road Fire Station (Temporary Facility) 5317 Carolina Road Springfield, VA Mason District Accepted June 11, 2018 Extend to May 9, 2019
2232-D18-11	Fairfax County Park Authority McLean Central Park 1468 Dolley Madison Boulevard McLean, VA Dranesville District Accepted June 21, 2018 Extend to May 17, 2019
2232-H18-8	Sprint 11921 Freedom Drive Reston, VA Hunter Mill District Accepted June 25, 2018 Extend to November 22, 2018
2232-B18-9	New Cingular Wireless, PCS, LLC (AT&T) 12011 Government Center Parkway Fairfax, VA Braddock District Accepted June 21, 2018 Extend to November 18, 2018

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2232-H18-14 AT&T
10780 Parkridge Boulevard
Reston, VA
Hunter Mill District
Accepted June 21, 2018
Extend to November 18, 2018

FS-P18-23 Sprint
8500 Leesburg Pike
Vienna, VA
Providence District
Accepted June 25, 2018
Extend to November 22, 2018

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
None.

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning, DPZ
Michelle K. Stahlhut, Chief, Facilities Planning Branch, Planning Division, DPZ
Douglas W. Hansen, Senior Planner, Facilities Planning Branch, Planning Division, DPZ

Board Agenda Item
July 31, 2018

ADMINISTRATIVE – 8

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Jefferson Manor Improvements, Phase IIIA (Lee District)

ISSUE:
Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project 2G25-097-000, Jefferson Manor Improvements, Phase IIIA, Fund 300-C30050, Transportation Improvements.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for September 25, 2018, at 4:00 p.m.

TIMING:
Board action is requested on July 31, 2018, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:
This community improvement project consists of the construction of both American with Disabilities Act compliant concrete sidewalks and pedestrian curb ramps, curb and gutter, storm drainage improvements, and retaining wall reconstructions along both Albemarle Drive and a portion of Edgehill Drive.

The construction of this project requires the acquisition of Storm Drainage and Grading Agreement and Temporary Construction Easements.

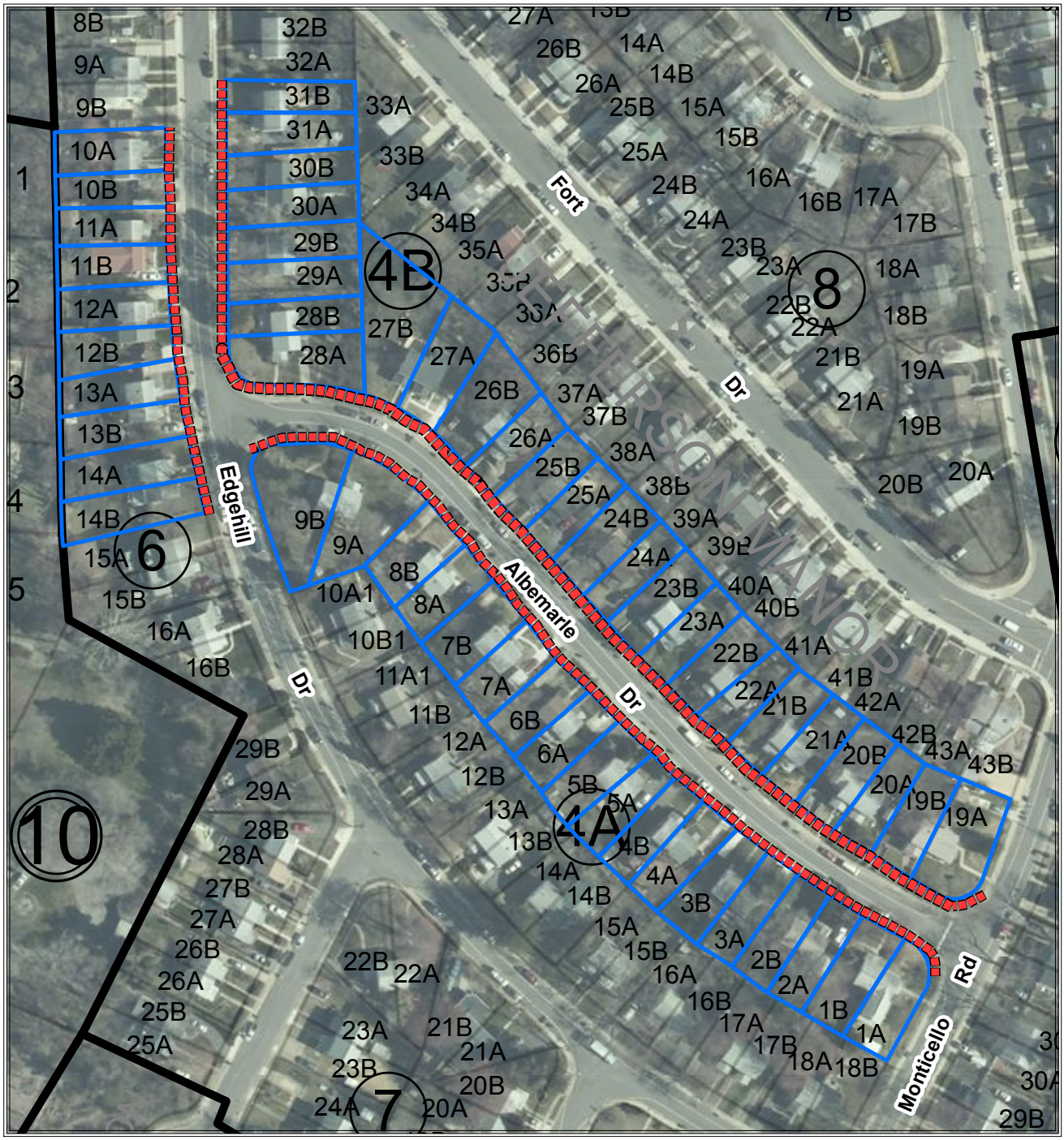
Negotiations are in progress with the affected property owners; however, because resolution of these acquisitions is not imminent, it may be necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:
Funding is available in Project 2G25-097-000, Jefferson Manor Improvements, Phase IIIA, Fund 300-C30050, Transportation Improvements. This project is included in the FY2019 - FY2023 Adopted Capital Improvement Program (with future Fiscal Years to FY2028). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:
Attachment A - Project Location Map
Attachment B - Listing of Affected Properties

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:
Pamela K. Pelto, Assistant County Attorney, Office of the County Attorney



JEFFERSON MANOR IMPROVEMENTS PHASE IIIA

Project: 2G25-097-000

Tax Map: 83-3 **Lee District**

Affected Properties:

Proposed Improvements:

0 0.0125 0.025 0.05 Miles

Not to Scale



ATTACHMENT B

LISTING OF AFFECTED PROPERTIES
Project 2G25-097-000
Jefferson Manor Improvements, Phase IIIA
(Lee District)

PROPERTY OWNER(S)

1. Thomas Robison — 083-3-02-4A-0004A
   Jena Zlock

   Address:
   2713 Albemarle Drive, Alexandria, VA 22303

2. Anne Jhoon-Yen — 083-3-02-4B-0021B

   Address:
   2710 Albemarle Drive, Alexandria, VA 22303

3. Mary Christina Burroughs — 083-3-02-4B-0023B

   Address:
   2718 Albemarle Drive, Alexandria, VA 22303

4. Hendrik A. Lammers — 083-3-02-4B-0027B
   Cassandra D. Lammers

   Address:
   2812 Albemarle Drive, Alexandria, VA 22303

Board Agenda Item
July 31, 2018

ADMINISTRATIVE – 9

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Pedestrian Improvements 2014-Glen Forest Drive Walkway- Rte 7- Glen Forest ES (Mason District)

ISSUE:
Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project 5G25-060-028, Pedestrian Improvements 2014-Glen Forest Dr. Walkway- Rte. 7- Glen Forest ES, Fund 30050, Transportation Improvements.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for September 25, 2018, at 4:30 p.m.

TIMING:
Board action is requested on July 31, 2018, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:
This project consists of pedestrian improvements from the intersection of Route 7 and Glen Forest Drive to Glen Forest Elementary School in Bailey's Crossroads. The improvements include new sidewalk, six American with Disabilities Act (ADA) compliant ramps, new driveway entrances and storm drainage improvements.

Land rights for these improvements are required on fourteen properties. The construction of this project requires the acquisition of Dedication for Public Street Purposes, Grading Agreement and Temporary Construction Easements, Storm Drainage Easements, and Utility Easements.

Negotiations are in progress with the affected property owners; however, because resolution of these acquisitions is not imminent, it may be necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these

provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:
Funding is available in Project 5G25-060-028, Pedestrian Improvements 2014-Glen Forest Dr. Walkway- Rte 7- Glen Forest ES, Fund 30050, Transportation Improvements. This project is included in the Adopted FY 2019 – FY 2023 Capital Improvement Program (with future Fiscal Years to FY2028). No additional funding is being requested from the Board.

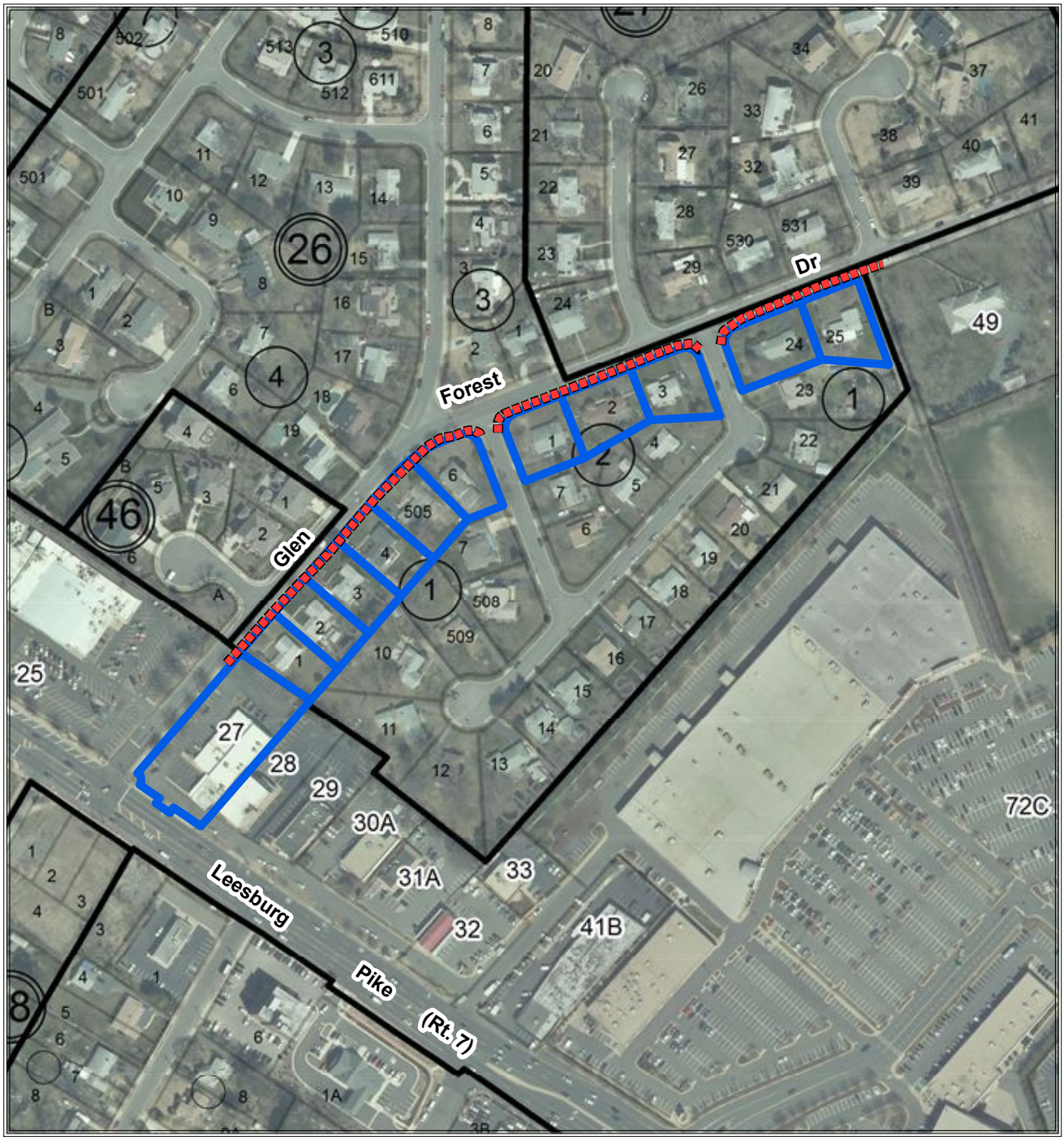
ENCLOSED DOCUMENTS:
Attachment A - Project Location Map
Attachment B - Listing of Affected Properties

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:
Pamela K. Pelto, Assistant County Attorney, Office of the County Attorney

GLEN FOREST DRIVE WALKWAY

ATTACHMENT A



Tax Map: 61-2

Project 5G25-060-028
Mason District

Affected Properties:

Proposed Improvements:

0 0.0275 0.055 0.11 Miles



ATTACHMENT B

LISTING OF AFFECTED PROPERTIES
Project 5G25-060-028
Pedestrian Improvements 2014-Glen Forest Dr. Walkway- Rte. 7- Glen Forest ES
(Mason District)

PROPERTY OWNER(S)

1. E Virginia Aguilar 061-2-01-0049

   Address:
   5839 Glen Forest Dr.
   Falls Church, VA 22041

2. Alta Enterprises 2 LLC 061-2-01-0027

   Address:
   5894 Leesburg Pike
   Falls Church, VA 22041

3. Robert and Ferial Demy 061-2-27-0530

   Address:
   5844 Glen Forest Dr.
   Falls Church, VA 22041

4. Marcos, Carmen and Cecilia Enriquez 061-2-26-01-0002

   Address:
   5861 Glen Forest Dr.
   Falls Church, VA 22041

5. Francisco, Maria Del Carmen and Ronald Flores 061-2-26-01-0004

   Address:
   5857 Glen Forest Dr.
   Falls Church, VA 22041

6. Brigitta G. Gruenther, Trustee 061-2-26-01-0003

   Address:
   5859 Glen Forest Dr.
   Falls Church, VA 22041

7. Mike Hazelbaker and Crystal Fitzgerald 061-2-26-02-0003

   Address:
   5847 Glen Forest Dr.
   Falls Church, VA 22041

8. Josephine H. Ingerski, Trustee 061-2-26-02-0001

   Address:
   5851 Glen Forest Dr.
   Falls Church, VA 22041

9. Bang Mai 061-2-26-02-0002

   Address:
   5849 Glen Forest Dr.
   Falls Church, VA 22041

10. Joleen Marie Michalowicz 061-2-26-01-0505

    Address:
    5855 Glen Forest Dr.
    Falls Church, VA 22041

11. Grace L. Recabo 061-2-26-01-0006

    Address:
    3314 Longwood Dr.
    Falls Church, VA 22041

12. Christopher Reddaway 061-2-26-01-0001

    Address:
    5863 Glen Forest Dr.
    Falls Church, VA 22041

13. Marie A. Waite 061-2-26-01-0025

    Address:
    5841 Glen Forest Dr.
    Falls Church, VA 22041

14. Nancy J. Ziegelbauer 061-2-26-01-0024

    Address:
    5843 Glen Forest Dr.
    Falls Church, VA 22041

Board Agenda Item
July 31, 2018

ADMINISTRATIVE – 10

Streets into the Secondary System (Dranesville)

ISSUE:
Board approval of a street to be accepted into the State Secondary System.

RECOMMENDATION:
The County Executive recommends that the street listed below be added to the State Secondary System.

Subdivision	**District**	**Street**
Markell Property	Dranesville	Hanchel Terrace

TIMING:
Routine.

BACKGROUND:
Inspection has been made of this street, and it is recommended for acceptance into the State Secondary System.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Street Acceptance Form

STAFF:
Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services

Attachment 1 Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

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

VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA

REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.

PLAN NUMBER: 7339-SD-003

SUBDIVISION PLAT NAME: Markell Property

COUNTY MAGISTERIAL DISTRICT: Dranesville

ENGINEERING MANAGER: Houda A. Ali, PMP

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 05/25/2018

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Hanchel Terrace	CL Great Passage Court (Route 10287) - 463' NW CL Great Passage Boulevard (Route 9824)	215' W to End of Cul-de-Sac	0.04
NOTES:		**TOTALS:**	0.04

5' Concrete Sidewalk on South Side; located outside the dedicated ROW; will be maintained by Fairfax County

Driveway Culverts (15" RCP's); located outside or partially outside the dedicated ROW; will not be maintained by VDOT

Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 11

Authorization for the Fairfax County Fire and Rescue Department to Apply for Grant Funding from the U.S. Department of Homeland Security for the Port Security Grant Program (PSGP)

ISSUE:
Board of Supervisors' authorization is requested for the Fairfax County Fire and Rescue Department (FRD) to apply for grant funding from the Department of Homeland Security, Port Security Grant Program in the amount of $850,000, including $100,000 in Local Cash Match. Funding will be used to purchase a Chemical, Biological, Radiological, Nuclear, and Explosives/Improvised Explosive Device (CBRNE/IED) All-Hazard Rapid Response Vessel for the Marine Operations Team to augment homeland security and public safety capabilities. The FRD anticipates that the awards will be issued by September 2018, and the grant period will be 36 months from the date of award. There are no positions associated with this award. The total 25 percent match requirement of $250,000 will be met through a combination of in-kind resources and Local Cash Match, with $150,000 being met through in-kind resources and the remaining $100,000 being met through Local Cash Match, for total funding for the boat of $1,000,000. The $100,000 Local Cash Match requirement has not been specifically identified in either FRD 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 of Supervisors authorize FRD to apply for grant funding from the Department of Homeland Security, Port Security Grant Program. Funding in the amount of $850,000, including $100,000 in Local Cash Match, will be used to purchase a Chemical, Biological, Radiological, Nuclear, and Explosives/Improvised Explosive Device All-Hazard Rapid Response Vessel for the Marine Operations Team to augment homeland security, law enforcement, and public safety capabilities. The total 25 percent match requirement of $250,000 will be met through a combination of in-kind resources and Local Cash Match, with $150,000 being met through in-kind resources and the remaining $100,000 being met through Local Cash Match, for total funding for the boat of $1,000,000. There are no positions associated with this grant.

Board Agenda Item
July 31, 2018

TIMING:
Board action is requested on July 31, 2018. Due to the application deadline of June 20, 2018, 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:
The Department of Homeland Security Port Security Grant Program (PSGP) plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient nation. PSGP funds are available to state, local, and private sector maritime industry partners to improve port-wide maritime security training and exercises; and to maintain or re-establish maritime security mitigation protocols that support port recovery and resiliency capabilities. PSGP investments must address the U.S. Coast Guard (USCG) and Area Maritime Security Committee identified vulnerabilities in port security and support the prevention, protection, response, and recovery attacks involving IED and other non-conventional weapons.

Since the 1980's, FRD's Special Operations Division has operated a Marine Operations Branch. Marine Operations members are trained and certified by the United States Coast Guard (USCG), Commonwealth of Virginia's Department of Fire Programs. FRD's Fire Boat was scheduled to be replaced in FY 2015 utilizing apparatus replacement funding. Due to the financial stress on this fund FRD has deferred replacement. Presently, the boat is slated for replacement in FY 2020, but only if the heavy apparatus fund is stabilized by that fiscal year to support this large expense. If awarded, this grant will afford FRD the opportunity to fund the majority of the boat replacement with grant funds. The proposed replacement fire boat is a CBRNE/IED All-Hazard Rapid Response Vessel that meets NFPA 1925, and is equipped for response, high flow fire suppression, advanced life support, patient transport, hazmat and environmental response, search and rescue, day/night surveillance, and various other public safety and homeland security functions.

FRD will use existing staffing 24/7/365 to ensure the vessel is ready for rapid deployment within the National Capital Region. Possessing extreme maneuverability, speed capability of at least 40 miles per hour and a response range of 200 miles (without refueling), this vessel will be capable of serving the ports throughout the National Capital Region (NCR). This vessel will include interoperable communications equipment allowing secure communications with the USCG and other federal, state, and local agencies. A state-of-the-art CBRNE Fire/Rescue All-Hazard Rapid Response Vessel will augment and enhance the overall capability of first responder vessels and

equipment, improving response times and expanding coverage area. In addition to CBRNE detection equipment, the proposed vessel will be equipped with modern night vision equipment, which will be made available to law enforcement agencies to improve nighttime domain awareness.

FISCAL IMPACT:
Grant funding in the amount of $850,000, including $100,000 in Local Cash Match is being requested to purchase a Chemical, Biological, Radiological, Nuclear, and Explosives/Improvised Explosive Device (CBRNE/IED) All-Hazard Rapid Response Vessel for the Marine Operations Team to augment homeland security and public safety capabilities. The total 25 percent match requirement of $250,000 will be met through a combination of in-kind resources and Local Cash Match, with $150,000 being met through in-kind resources including maintenance costs, fuel costs and other County purchased equipment, and the remaining $100,000 being met through Local Cash Match, for total funding for the boat of $1,000,000. The $100,000 Local Cash Match requirement has not been specifically identified in either FRD 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. This grant does allow the recovery of indirect costs; however because this funding opportunity is highly competitive, the FRD has elected to omit the inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:
No new positions will be created by this grant.

ENCLOSED DOCUMENTS:
Attachment 1: Summary of Grant Proposal

STAFF:
David M. Rohrer, Deputy County Executive
Acting Fire Chief John J. Caussin, Jr., Fire and Rescue Department
Acting Assistant Chief Richard Roatch, Fire and Rescue Department
Assistant Chief Charles W. Ryan, III, Fire and Rescue Department
Merin Mani, Grants Coordinator, Fire and Rescue Department

PORT SECURITY GRANT PROGRAM (PSGP)
SUMMARY OF GRANT PROPOSAL

Grant Title: Port Security Grant Program (PSGP)

Funding Agency: U.S. Department of Homeland Security

Applicant: Fairfax County Fire and Rescue Department (FRD)

Purpose of Grant: This grant will fund the replacement of the current Fire Boat with a CBRNE/IED All-Hazard Rapid Response Vessel. The current boat was scheduled for replacement in FY 2015, but was delayed until FY 2020. Without stabilization of the heavy apparatus fund, replacement in FY 2020 will not be possible. This grant funding will cover the costs of the new vessel and ensure that the current boat is replaced in a timely manner.

Funding Amount: $850,000, including $100,000 in Local Cash Match. The total match requirement of $250,000 will be met through a combination of in-kind resources ($150,000) and Local Cash Match ($100,000) for total funding for the boat of $1,000,000.

Proposed Use of Funds: Funding will be used to purchase a CBRNE/IED All-Hazard Rapid Response Vessel that will enhance homeland security, law enforcement, and public safety capabilities. This purchase is necessary to ensure the FRD continues to meet NFPA 1925, and is equipped for response for high flow fire suppression, advanced life support, patient transport, hazmat and environmental scenarios, search and rescue, day/night surveillance, and other functions.

Target Population: Residents and visitors of Fairfax County and Fairfax County Fire and Rescue Department personnel, and National Capital Region (NCR). This initiative will enhance FRD's capability of responding to emergent maritime incidents in Fairfax County as well as the NCR.

Performance Measures: The success of this project will be based on three outcomes:

1) Enhanced interoperable communications with U.S. Coast Guard and other local, state, and federal agencies.
2) Improved response times for maritime emergent incidents.
3) Continue to provide advanced service to Fairfax County and NCR.

Grant Period: The FRD anticipates that all awards will be issued by September 2018. The performance period is 36 months from the date of the award.

ADMINISTRATIVE - 12

Supplemental Appropriation Resolution AS 19002 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services for the Virginia Quality Rating and Improvement System

ISSUE:
Board approval of Supplemental Appropriation Resolution AS 19002 for the Department of Family Services to accept supplemental grant funding from the Virginia Department of Social Services (VDSS) for the Virginia Quality Rating and Improvement System grant in the amount of $345,072. Funding will support the continued development and implementation of a regional quality rating and improvement system for early care and education programs. There are 3/3.0 FTE new grant positions associated with this award to support the recruitment, enrollment and mentoring of programs serving families who are at-risk and Department of Defense (DoD) fee assistance recipients. This grant is included in the FY 2019 Adopted Budget Plan. FY 2019 grant funding of $474,929 has already been awarded by VDSS and was processed administratively per Board policy. This funding represents a supplemental award and requires Board approval since it is significantly higher than what was included in the budget. The award period is July 1, 2018 through June 30, 2019. There is no Local Cash Match required to accept this award. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 19002 for the Department of Family Services to accept supplemental funding from the Virginia Department of Social Services in the amount of $345,072 for the Virginia Quality Rating and Improvement System grant. Funding will support the continued development and implementation of a regional quality rating and improvement system for early care and education programs. There are 3/3.0 FTE new grant positions associated with this award to support the recruitment, enrollment and mentoring of programs serving families who are at-risk and Department of Defense (DoD) fee assistance recipients. There is no Local Cash Match required to accept this award. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:
Board approval is requested on July 31, 2018.

BACKGROUND:
A quality rating and improvement system is a method to assess, improve, and communicate the level of quality in early care and education settings that families consider for their children. Quality rating and improvement systems not only define standards for early childhood education and create a framework for accountability, but also establish a network of support and outreach for programs and educators, provide incentives linked to achieving and maintaining the quality standards, and improve the information available to parents. Therefore, starting in 2009, the Virginia Department of Social Services piloted the Virginia Star Quality Initiative (VSQI) for Continuous Quality Improvement, in which Fairfax County participated. The VSQI pilot ended June 30, 2013 and the state implemented Virginia Quality to meet those same goals. Fairfax County has participated in Virginia Quality through a grant received from the Virginia Department of Social Services, serving as the lead agency in developing, coordinating, and implementing Virginia Quality in Fairfax County and the Northern Region. Through this grant, Fairfax County and local partners are now serving approximately 150 early care and education programs throughout the region. Programs participating in Virginia Quality receive support in the implementation of quality improvement plans that focus on progressing through the standards of quality. As goals are attained, quality improvement plans are revised and new goals and strategies are identified, ensuring a systematic approach to obtaining the highest level of program quality.

New early care and education programs are recruited through community outreach efforts, focusing on programs that are located in economically diverse areas across the region and that serve children with disabilities, English language learners, children who are homeless, children in foster care, and children in families with low incomes. To develop relationships that strengthen each other's work, staff from across the region meet on a regular basis to share strategies and techniques that support programs and to create and deliver professional development opportunities. This cycle, supporting programs through the development, implementation and scaffolding of quality improvement plans, as well as providing professional learning opportunities for educators and professionals, has created a sustainable system of quality improvement for participating early childhood programs throughout the region.

FISCAL IMPACT:
Supplemental grant funding in the amount of $345,072 is available for the Virginia Quality Rating and Improvement System grant through the Virginia Department of Social Services. These funds will be used to support the continued development and implementation of a regional quality rating and improvement system for early care and education programs. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2019.

There is no Local Cash Match required to accept this award. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:
These funds will be used to support 3/3.0 FTE new grant positions. The County has no obligation to continue funding these positions when the grant funding expires.

ENCLOSED DOCUMENTS:
Attachment 1: OECD-16-043-03 Contract Modification Agreement
Attachment 2: Supplemental Appropriation Resolution AS 19002

STAFF:
Tisha Deeghan, Deputy County Executive
Nannette M. Bowler, Director, Department of Family Services
Anne-Marie D. Twohie, Director, Office for Children, Department of Family Services

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT
CONTRACT MODIFICATION AGREEMENT

Effective Date: August 31, 2018

Contract No.: OECD-16-043-03

Modification No.: Three (3)

Issued By: Commonwealth of Virginia
Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

Contractor: Fairfax County DFS/Office for Children
12011 Government Center Parkway, Suite 920
Fairfax, VA 22035

Commodity: Virginia Quality Rating and Improvement System (VQRIS)

This Supplemental Agreement is entered into pursuant to the provision of the Basic Contract, Renewal-Modification One (1) dated July 1, 2017 and Renewal-Modification Two (2) dated July 1, 2018.

Purpose of Modification: This contract is being modified to allow the sub-recipient to increase targeted outreach, enrollment, and quality improvement supports/activities with measurable outcomes to Department of Defense fee assistance exceptions list providers effective August 31, 2018; and to incorporate the 2018-2019 revised Budget and Overview of Activities/Outcomes. The Budget is increased by $345,072.00 from $474,929.00 to $820,001.00 to allow for services, as described above.

Description of Modification:

Reference the Contract: Add the Contractor's *revised* Budget and Overview of Activities/Outcomes for the period July 1, 2018, through June 30, 2019.

Except for the changes provided herein, all other terms and conditions of the contract remain unchanged and in full force and effect.

FAIRFAX COUNTY DFS/OFFICE OF CHILDREN	VIRGINIA DEPARMENT OF SOCIAL SERVICES
_____	_____
Signature	Signature
By:_____	By:_____
Title: _____	Title: _____
Date Signed: _____	Date Signed: _____

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 19002

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on July 31, 2018, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2019, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	G6767, Department of Family Services	$345,072
Grant:	1670040-2019, Virginia Quality Initiative	

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	$345,072
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: Virginia Dept. of Social Services, $345,072

A Copy - Teste:

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
July 31, 2018

ADMINISTRATIVE - 13

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Zoning for Wireless Telecommunications Infrastructure

ISSUE:
Authorization to advertise public hearings on a proposed amendment to the Zoning Ordinance in response to 2018 legislation on wireless telecommunications infrastructure.

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

TIMING:
Board of Supervisors' action is requested on July 31, 2018, to provide sufficient time to advertise the proposed Planning Commission public hearing on September 20, 2018, at 7:30 p.m., and the proposed Board public hearing on September 25, 2018, at 5:00 p.m.

BACKGROUND:
On July 1, 2018, new telecommunications legislation took effect after the General Assembly adopted House Bill 1258 and Senate Bill 405. Virginia Code § 15.2-2316.3 now defines the term "administrative review-eligible project" (AREP) to include two types of projects: (1) the installation or construction of a new structure that is not more than 50 feet in height (and meets all other applicable criteria); and (2) the co-location on an existing structure of a wireless facility that is not a small cell facility. *See* Attachment 2 (also defining the terms "project" and "standard process project").

Virginia Code § 15.2-2316.4:1 prohibits localities from requiring a special exception for AREPs, but it allows localities to require administrative review for the issuance of a zoning permit for those projects. This statute is self-executing, so by separate Action Item, the Board may approve a permit and review criteria without a Zoning Ordinance amendment. But for ease of reference and to allow for public input, this proposed Zoning Ordinance amendment would incorporate the new process and criteria into the Zoning Ordinance following public hearings before the Planning Commission and the Board.

The legislation allows localities to continue requiring special exception for projects that do not qualify as AREPs or small cell facilities, subject to limits on localities' ability to require information or to disapprove applications.

As of July 1, localities may charge a reasonable fee for AREP applications not to exceed $500. The legislation did not set a ceiling on the fee for standard process projects, but the fee "shall not exceed the actual direct costs to process the application, including permits and inspection." See Attachment 2. The cost basis for either fee must be provided on request. The amendment would incorporate two new fees into the Zoning Ordinance: (1) $500 for administrative review-eligible projects; and (2) $8180 for standard process projects (advertised to allow the Board to select an application fee amount up to $16,375).

Until the legislation took effect, co-locations that fell within the by-right size limitations in the Zoning Ordinance were processed without a zoning permit. They were subject to feature-shown review under the Comprehensive Plan and a $750 application fee adopted by the Board of Supervisors last year. By Action Item today, the Board may approve a reduction in that fee to $500 for AREP applications. The proposed Zoning Ordinance amendment would codify this change in fee.

Since 2016, the County has required a special exception and 2232 review for all new structures. Those applications were processed concurrently for a $16,375 fee. Starting July 1, the new 50-foot (or less) structures qualify as AREPs, and the County may not require a special exception for those structures, and they may only be charged a $500 fee. All other new structures will still require special exception approval and are considered "standard process projects" under the new legislation; however, the County is limited to charging the actual direct costs to process the application. This proposed amendment would reduce the special exception fee for standard process projects to $8180 (see Fiscal Impact section for more details). However, in order to provide the Board the flexibility to consider a different application fee, the proposed amendment will be advertised so that the Board can select any application fee up to $16,375 and still be within the scope of advertisement.

The amendment would also delete and replace the term Mobile and Land-based Telecommunications Facility and the many references to it throughout the Ordinance, because the term is outdated. Additionally, the amendment would incorporate new wireless-related definitions from the Virginia Code. And it would delete provisions in Section 2-514 that have been superseded by law. For example, that Section specifies size limits on antennas co-located on existing structures to designate whether they are allowed by right. But under the 2018 legislation, the County can no longer require a special exception for any wireless facility co-locations on existing structures, regardless of size or zoning district. As a result, the proposed amendment would delete those limits.

The amendment also proposes a change that relates to the electronic submission of application forms anticipated to occur with the new PLUS system. Due to the short turnaround to review certain wireless facility applications, the after-hours submission of electronic application forms could have a detrimental effect on staff's ability to conduct a meaningful review of applications. For example, staff has only 10 days to review and provide notice of any deficiencies in small cell permit applications. If an application was submitted electronically after hours on the Friday of a three-day weekend, that would significantly reduce staff's available time to review. If the County did not accept electronic submissions, this scenario would not occur. To balance the convenience of electronic submissions (once available) with the need to protect staff's review time, the proposed amendment establishes that applications submitted electronically after hours will be deemed received on the next business day.

Draft text for the proposed Zoning Ordinance amendment is included in Attachment 3. Staff anticipates that this draft text may be refined in response to feedback received before the public hearings are advertised.

REGULATORY IMPACT:
The proposed Zoning Ordinance amendment would require wireless services providers and wireless services infrastructure providers to obtain a permit from the Department of Planning and Zoning for all AREPs. The permit application for AREP projects will involve a combined zoning and 2232 review. Both reviews will be conducted administratively for a single $500 fee. Projects that do not qualify as small cell facilities (last year's amendment) or AREPs will be processed as standard process projects. Under the new legislation, the County has 10 business days to provide notice to the applicant of any deficiencies in an AREP or standard process project application. Otherwise, the application will be deemed complete. Once an application is complete, the Zoning Administrator must approve or deny the application within:

1. 90 days for a proposed co-location on an existing structure (or less per federal law);
2. 150 days for new structures (or less per federal law).

These applications are deemed approved if the Zoning Administrator fails to act within the referenced deadlines. The deadlines may be extended by mutual agreement between the applicant and the Zoning Administrator.

FISCAL IMPACT:
As of July 1, the County may charge only $500 for a permit review of AREP applications. Based on the patterns exhibited in FY 2018, it is estimated that this change could result in a small potential revenue loss of $5,500. Similarly, the reduction

of the special exception fee from $16,375 to $8,180 (advertised for the Board to select an amount up to $16,375) could result in a potential revenue loss of approximately $33,000. There may be more significant revenue impacts if behavior regarding permit applications changes as a result of this legislation or if the Board selects a different special exception fee than staff's recommended amount of $8,180. Department of Planning and Zoning staff will work with staff from the Department of Management and Budget to monitor these fees and notify the Board if budgetary adjustments are needed to revenues.

ENCLOSED DOCUMENTS:
Attachment 1 – Resolution
Attachment 2 – New Legislation
Attachment 3 – Draft Zoning Ordinance Amendment text

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

ASSIGNED COUNSEL:
Laura S. Gori, Senior Assistant County Attorney

ATTACHMENT 1

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on July 31, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the 2018 Virginia General Assembly adopted new wireless telecommunications infrastructure legislation (legislation) with the adoption of House Bill 1258 and Senate Bill 405;

WHEREAS, the legislation became effective on July 1, 2018, and defines an administrative review-eligible project as the installation or construction of a new structure that is not more than 50 feet in height and meets other applicable criteria or the co-location on any existing structure of a wireless facility that is not a small cell facility;

WHEREAS, the legislation prohibits localities from requiring special exception approval for administrative review-eligible projects, but allows localities to require the issuance of zoning permits for such projects;

WHEREAS, the current Zoning Ordinance requires special exception approval for all new structures and for co-locations that do not meet the requirements of Sect. 2-514 of the Zoning Ordinance and, to the extent they conflict with the new legislation, those zoning provisions have been superseded;

WHEREAS, it may be appropriate to amend the Zoning Ordinance to require Zoning Administrator approval of administrative review-eligible projects, to incorporate new fees and definitions, to delete outdated provisions, and to include other associated revisions; and

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

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

Given under my hand this 31st day of July, 2018.

A Copy Teste:

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

VIRGINIA ACTS OF ASSEMBLY -- 2018 RECONVENED SESSION

CHAPTER 835

An Act to amend and reenact § 15.2-2316.3 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-2316.4:1, 15.2-2316.4:2, and 15.2-2316.4:3, relating to zoning for wireless communications infrastructure.

[H 1258]

Approved April 18, 2018

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2316.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-2316.4:1, 15.2-2316.4:2, and 15.2-2316.4:3 as follows:

§ 15.2-2316.3. Definitions.

As used in this article, unless the context requires a different meaning:

"Administrative review-eligible project" means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any existing structure of a wireless facility that is not a small cell facility.

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"New structure" means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

"Project" means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 apply.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Standard process project" means any project other than an administrative review-eligible project.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 15.2-2316.4:1. Zoning; other wireless facilities and wireless support structures.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for the installation or construction of an administrative review-eligible project but may require administrative review for the issuance of any zoning permit, or an acknowledgement that zoning approval is not required, for such a project.

B. A locality may charge a reasonable fee for each application submitted under subsection A or for any zoning approval required for a standard process project. The fee shall not include direct payment or reimbursement of third-party fees charged on a contingency basis or a result-based arrangement. Upon request, a locality shall provide the applicant with the cost basis for the fee. A locality shall not charge market-based or value-based fees for the processing of an application. If the application is for:

1. An administrative review-eligible project, the fee shall not exceed $500; and

2. A standard process project, the fee shall not exceed the actual direct costs to process the application, including permits and inspection.

C. The processing of any application submitted under subsection A or for any zoning approval required for a standard process project shall be subject to the following:

1. Within 10 business days after receiving an incomplete application, the locality shall notify the applicant that the application is incomplete. The notice shall specify any additional information required to complete the application. The notice shall be sent by electronic mail to the applicant's email address provided in the application. If the locality fails to provide such notice within such 10-day period, the application shall be deemed complete.

2. Except as provided in subdivision 3, a locality shall approve or disapprove a complete application:

a. For a new structure within the lesser of 150 days of receipt of the completed application or the period required by federal law for such approval or disapproval; or

b. For the co-location of any wireless facility that is not a small cell facility within the lesser of 90 days of receipt of the completed application or the period required by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).

3. Any period specified in subdivision 2 for a locality to approve or disapprove an application may be extended by mutual agreement between the applicant and the locality.

D. A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified in subdivision C 2 or any agreed extension thereof pursuant to subdivision C 3.

E. If a locality disapproves an application submitted under subsection A or for any zoning approval required for a standard process project:

1. The locality shall provide the applicant with a written statement of the reasons for such disapproval; and

2. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1. The locality's subsequent disapproval of an application

for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the locality's subsequent disapproval was arbitrary or capricious in any appeal of the locality's action.

F. A locality's action on disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project shall:

1. Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and

2. Be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

G. An applicant adversely affected by the disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of § 15.2-2285, or to § 15.2-2314 if the requested zoning approval involves a variance, within 30 days following delivery to the applicant or notice to the applicant of the record described in subdivision F 2.

§ 15.2-2316.4:2. Application reviews.

A. In its receiving, consideration, and processing of a complete application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project, a locality shall not:

1. Disapprove an application on the basis of:

a. The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;

b. The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or

c. The wireless facility technology selected by the applicant for use at the project;

2. Require an applicant to provide proprietary, confidential, or other business information to justify the need for the project, including propagation maps and telecommunications traffic studies, or information reviewed by a federal agency as part of the approval process for the same structure and wireless facility, provided that a locality may require an applicant to provide a copy of any approval granted by a federal agency, including conditions imposed by that agency;

3. Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application. A locality may adopt reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;

4. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other types of financial surety, to ensure that abandoned or unused wireless facilities can be removed, unless the locality imposes similar requirements on other permits for other types of similar commercial development. Any such instrument shall not exceed a reasonable estimate of the direct cost of the removal of the wireless facilities;

5. Discriminate or create a preference on the basis of the ownership, including ownership by the locality, of any property, structure, base station, or wireless support structure, when promulgating rules or procedures for siting wireless facilities or for evaluating applications;

6. Impose any unreasonable requirements or obligations regarding the presentation or appearance of a project, including unreasonable requirements relating to (i) the kinds of materials used or (ii) the arranging, screening, or landscaping of wireless facilities or wireless structures;

7. Impose any requirement that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by a locality, in whole or in part, or by any entity in which a locality has a competitive, economic, financial, governance, or other interest;

8. Condition or require the approval of an application solely on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project;

9. Impose a setback or fall zone requirement for a project that is larger than a setback or fall zone area that is imposed on other types of similar structures of a similar size, including utility poles;

10. Limit the duration of the approval of an application, except a locality may require that construction of the approved project shall commence within two years of final approval and be diligently pursued to completion; or

11. Require an applicant to perform services unrelated to the project described in the application, including restoration work on any surface not disturbed by the applicant's project.

B. Nothing in this article shall prohibit a locality from disapproving an application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project:

1. On the basis of the fact that the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds 50 feet above ground level, provided that the locality follows a local ordinance or regulation that does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent

services; or

2. That proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan, if:

a. The undergrounding requirement or comprehensive plan objective existed at least three months prior to the submission of the application;

b. The locality allows the co-location of wireless facilities on existing utility poles, government-owned structures with the government's consent, existing wireless support structures, or a building within that area;

c. The locality allows the replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller within that area; and

d. The disapproval of the application does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.

C. Nothing in this article shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of a new structure or facility.

D. Nothing in this article shall prohibit a locality from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

§ 15.2-2316.4:3. Additional provisions.

A. A locality shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller. However, a locality may require a permit to work within the right-of-way for the activities described in clause (i) or (ii), if applicable.

B. Nothing in this article shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.

2. That any publicly-owned or privately-owned wireless service provider operating within the Commonwealth or serving residents of the Commonwealth shall, by January 1, 2019, and annually thereafter until January 1, 2025, provide to the Department of Housing and Community Development a report detailing by county, city, and town enhanced service capacity in previously served areas and expansion of service in previously unserved geographic areas that are provided access to wireless services. Notwithstanding any other provision of law, the Department shall maintain the confidentiality of company-specific data but may publicly release aggregate data.

3. That the Secretariats of Commerce and Trade and Public Safety and Homeland Security shall convene a group of stakeholders, to include representatives from the Department of Housing and Community Development, the Virginia Economic Development Partnership, the Virginia Tobacco Region Revitalization Commission, and the Department of Emergency Management, industry representatives, and representatives of affected communities, to develop a plan for expanding access to wireless services in unserved and underserved areas of the Commonwealth. The plan shall be completed by December 15, 2018. The plan shall include the following components: a definition of unserved and underserved areas, identification of barriers to access to wireless services in such areas, a proposed expedited review process for such areas, identification of ways to encourage industry to locate in such areas, and consideration of a lower fee for such an expedited review process.

FAIRFAX COUNTY

V I R G I N I A

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Zoning for Wireless Telecommunications Infrastructure

PUBLIC HEARING DATES

Planning Commission September 20, 2018 at 7:30 p.m.

Board of Supervisors September 25, 2018 at 5:00 p.m.

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

July 31, 2018

LK

Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of July 31, 2018, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 2, General Regulations, Part 5, Qualifying Structure Regulations as follows:

- **Amend Sect. 2-514, to read as follows:**

2-514 Limitations on ~~Mobile and Land Based Telecommunication~~ Wireless Facilities and Equipment

~~Mobile and land based telecommunication~~ Wireless facilities ~~shall~~ may be permitted on any lot in ~~the following zoning~~ any zoning districts~~s~~ subject to approval by the Zoning Administrator of a zoning permit when such ~~use is in accordance with~~ facilities meet the following limitations and ~~when such use~~ is not specifically precluded or regulated by any applicable proffered condition, development condition, special permit or special exception condition ~~which limits the number, type and location of antenna and/or related equipment structure~~. ~~Further provided, however, such use shall be in substantial conformance with any proffered condition, development condition, special permit or special exception condition.~~ In addition, ~~such uses~~ wireless facilities, including those located within the right-of-way, ~~shall be~~ are subject to the requirements of Sect. 15.2-2232 of the Code of Virginia and to the application fees as provided for in Sect. 18-106. Wireless facilities and equipment that do not meet these limitations require special exception approval. ~~When the cumulative volume of all antennas and associated equipment installed on an existing structure or on the ground adjacent to an existing structure exceeds the limitations contained in Sect. 2-519 below, or when such antennas and equipment are proposed to be installed on a structure that is not already existing or approved for installation, the facility will be deemed a mobile and land based telecommunication facility and subject to this section.~~

~~1.~~ ~~Structure or rooftop mounted antennas, with related unmanned equipment cabinets and/or structures~~:

~~A.~~ ~~Shall be permitted:~~

~~(1)~~ ~~When located on a multiple family dwelling which is thirty-five (35) feet or greater in height.~~

~~(2) In all C Districts, I-1, I-2, I-3, I-4, I-5, and I-6 Districts, and in the commercial areas of PDH, PDC, PRC, PRM and PTC Districts.~~

~~(3) On an existing transmission tower or monopole in any zoning district.~~

~~(4) In any zoning district on buildings and structures owned or controlled by a public use or Fairfax County governmental unit.~~

~~(5) In any residential district on nonresidential buildings and structures which are a Group 3 special permit use, except home child care facilities and group housekeeping units, Group 4 special permit use or Category 1, 2, 3, or 4 special exception use, and which are thirty-five (35) feet or greater in height.~~

~~(6) In any zoning district when the antennas and related equipment are totally enclosed within an existing nonresidential building or structure.~~

~~(7) In any zoning district when the antennas are totally enclosed within a new or replacement flagpole, bell tower, clock tower, steeple or similar structure designed to disguise antennas which is no more than twenty (20) feet taller than the rooftop or original structure on which it is placed.~~

~~B. Antennas allowed under Par. 1A(2) above, which do not exceed the maximum building height limitations, and Par. 1A(6) above shall be permitted in accordance with the applicable zoning district regulations and shall not be subject to the provisions listed below. Antennas allowed under Par. 1A(2) above, which exceed the maximum building height limitations, and Paragraphs 1A(1), 1A(3) through 1A(5) and 1A(7) shall be permitted subject to the provisions listed below.~~

~~C~~ ~~Except for omnidirectional or whip antennas completely enclosed within a structure, ominidirectional or whip antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter and the~~ Antennas and their supporting mounts and any structure mounted equipment ~~shall~~ must be of a material or color which closely matches and blends with the exterior of the building or structure on which it is mounted, or must be fully screened from view from the adjacent property line or street.

~~D. Except for directional or panel antennas completely enclosed within a structure, directional or panel antennas shall not exceed eight and one-half (8 ½) feet in height or two (2) feet in width and the antennas and their supporting mounts shall be of a material or color which closely matches and blends with the exterior of the building or structure.~~

~~E. Except for dish antennas completely enclosed within a structure, dish antennas shall not exceed six (6) feet in diameter and when building or rooftop mounted shall be fully screened such that the dish antennas are enclosed on all sides by screening walls which are at least as tall as the dish antennas and the associated supporting~~

~~mounts; provided, however, that dish antennas up to three (3) feet in diameter with supporting mounts that are of a material or color which closely matches and blends with the exterior of the building or structure shall not be required to be screened.~~

~~F.~~ ~~Except for cylinder type antennas completely enclosed within a structure, cylinder type antennas shall not exceed six (6) feet in height or twelve (12) inches in diameter and shall be of a material or color which closely matches and blends with the exterior of the building or structure.~~

~~G.~~ ~~Except for a flag mounted on a flagpole as permitted under the provisions of Par. 2 of Sect. 12-103, No commercial advertising shall be allowed on any antenna, antenna support structure, or related equipment cabinet or structure.~~

~~H.~~ ~~No signals, lights or illumination shall be~~ are not ~~permitted on an antenna unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County, provided, however, that on all antenna structures which exceed 100 feet in height, a steady red marker light shall~~ must ~~be installed and operated at all times, unless the Zoning Administrator waives the red marker light requirement upon a determination by the Police Department that such marker light is not necessary for flight safety requirements for police and emergency helicopter operations. All such lights shall~~ must ~~be shielded to prevent the downward transmission of light.~~

~~I.~~ ~~The related unmanned equipment cabinet or structure for each provider shall not exceed.14 feet in height or a total of 500 square feet of gross floor area when located on the roof of a building, or shall not exceed 12 feet in height or a total of 750 square feet of gross floor area when located on the ground. For multiple family dwellings which are less than sixty five (65) feet in height, or nonresidential buildings and structures which are less than sixty-five (65) feet in height and which are a Group 3 special permit use, except home child care facilities and group housekeeping units, Group 4 special permit use or Category 1, 2, 3, or 4 special exception use, the related unmanned equipment cabinet or structure, if over seventy (70) cubic feet in volume or four (4) feet in height, shall be located on the ground and shall not be located on the roof of the structure~~.

~~J.~~ ~~If the equipment cabinet or structure is located on the roof of a building, the area of the equipment cabinet or structure and other equipment and structures shall not occupy more than twenty-five (25) percent of the roof area in accordance with the provisions of Par. 1A of Sect. 506 above~~.

~~K.~~ ~~Equipment cabinets or structures located on the ground shall meet the minimum yard requirements of the zoning district in which located, except that equipment cabinets or structures associated with antennas mounted on existing monopoles and transmission towers located in a utility transmission easement or street right-of-way shall~~ must ~~be located a minimum of twenty (20) feet from the utility transmission easement or street right-of-way line.~~

L. Equipment cabinets or structures located on the ground, and notwithstanding the fence/wall height limitations of Sect. 10-104shall must be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of at least eight (8) feet and a planted height of at least forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination., except that equipment cabinets or structures associated with antennas mounted on existing monopoles or towers located outside of a utility transmission easement shall be subject to the transitional screening provisions of Article 13 for a light public utility use. If a new equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

M Associated equipment that is located within an existing principal or accessory structure shall not be subject to the above provisions.

N. If any additions, changes or modifications are to be made to monopoles or towers, the Director shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the Virginia Uniform Statewide Building Code.

O. All antennas and related equipment cabinets or structures shall be removed within 120 days after such antennas or related equipment cabinets or structures are no longer in use.

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

A. Omnidirectional/whip antennas not exceeding eight and one half (8 ½) feet in height or three (3) inches in diameter and panel antennas not exceeding five (5) feet in height or one (1) foot in width shall be permitted on a pole or standard located in any street right-of-way or any utility easement subject to the following and Paragraphs 2D through 2I below:

(1) Except for antennas totally enclosed within an extension of a new or replacement pole or standard, there shall be a maximum of no more than three (3) omnidirectional /whip antennas or four (4) panel antennas are permitted. Such extension shall be of a material or color which closely matches and blends with the pole or standard.

~~(2) Antennas shall be flush mounted so that the antenna with supporting mount does not extend more than eight and one half (8 ½) feet above the pole or standard or one (1) foot from the pole or standard.~~

~~(3) An equipment cabinet or structure not exceeding fifty (50) cubic feet in volume or eight (8) feet in height shall be located on or adjacent to the same pole or standard. Such cabinet shall be located so as not to obstruct any applicable sight distance and/or visibility standards required by Fairfax County or the Virginia Department of Transportation.~~

~~(4) The height of a replacement pole or standard, including antennas, shall not exceed sixty four (64) feet in height. The diameter of a replacement pole or standard shall not exceed eighteen (18) inches.~~

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

~~(1) Omnidirectional/whip antennas, not exceeding eight and one half (8 ½) feet in height or three (3) inches in diameter.~~

~~(2) Directional or panel antennas, not exceeding eight and one half (8½) feet in height or two (2) feet in width.~~

~~(3) Cylinder type antennas, not exceeding six (6) feet in height or twelve (12) inches in diameter.~~

~~(4) Dish antennas, not exceeding two (2) feet in diameter.~~

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

~~(1) In districts that are zoned for single family detached or attached dwellings and are residentially developed, vacant or common open space, antennas shall be limited to poles or standards located in the right-of-way of a major thoroughfare or located no more than ten (10) feet from the lot line abutting the major thoroughfare, and the following:~~

~~(a) When the related equipment cabinet or structure is located on the ground in a front yard or street right-of-way, each provider shall be limited to a cabinet or structure which shall not exceed five (5) feet in height or a total of seventy (70) cubic feet in volume and the cabinet or structure shall be located a minimum of ten (10) feet from all lot lines when located outside of a street right-of-way. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground mounted equipment cabinets or structures shall be screened by a solid fence, wall or berm five (5) feet in height, an evergreen hedge with an ultimate height of five (5) feet and a planted~~

~~height of forty-eight (48) inches, or a five (5) foot tall fence, wall, berm and/or landscaping combination.~~

~~When located on a pole or standard in the front yard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed thirty-two (32) cubic feet in volume.~~

~~When the related equipment cabinet or structure is located on the ground in a side or rear yard, each provider shall be limited to a cabinet or structure which shall not exceed 12 feet in height or a total of 200 square feet in gross floor area and the cabinet or structure shall be~~ is ~~located a minimum of 10 feet from all lot lines. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination.~~

~~If a new equipment cabinet or structure is added to an existing fenced or screened enclosure that contains ground mounted telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.~~

~~When located on a pole or standard in a side or rear yard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed thirty-two (32) cubic feet in volume.~~

~~Equipment located within an existing principal or accessory structure shall not be subject to the provisions of this paragraph.~~

~~(b) The height of a replacement pole or standard, including antennas, shall not exceed eighty (80) feet. The diameter of a replacement pole or standard shall not exceed thirty (30) inches.~~

~~(2) In districts that are zoned for multiple family dwellings and are residentially developed with buildings that are thirty-five (35) feet or less in height, vacant or common open space, to include street right-of-ways, the following shall~~ will ~~apply:~~

~~(a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area. In addition, ground-mounted equipment cabinets shall be located a minimum of ten (10) feet from all lot lines when located outside of a street right-of-way. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If~~

~~a new ground mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.~~

~~When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be~~ is ~~permitted that does not exceed thirty-two (32) cubic feet in volume~~

~~Equipment located within an existing principal or accessory structure shall not be subject to the provisions of this paragraph.~~

~~(b) The height of a replacement pole or standard, including antennas, shall not exceed 100 feet, provided however, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.~~

(3) ~~In commercial or industrial districts; in commercial areas of PDH, PDC, PRC PRM, and PTC Districts; in districts zoned for multiple family dwellings and residentially developed with buildings that are greater than thirty-five (35) feet in height; in any zoning districts on lots containing: Group 3 special permit uses, except home child care facilities and group housekeeping units, Group 4, 5 or 6 special permit uses, Category 1, 2, 3 or 4 special exception uses, or Category 5 special exception uses of country clubs, golf clubs, commercial golf courses, golf driving ranges, miniature golf ancillary to golf driving ranges, baseball hitting and archery ranges, or kennels and veterinary hospitals ancillary to kennels; or in any zoning district on property owned or controlled by a public use or Fairfax County governmental unit, to include street right-of-ways, the following shall will apply:~~

~~(a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground mounted related equipment cabinets or structures shall be screened from view of all residentially zoned and developed or residentially zoned and vacant property which abuts or is directly across the street from the structure or cabinet. Such screening shall consist of a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. In addition to the above, screening for ground mounted equipment cabinets located on property used for athletic fields and owned or controlled by a public use or a Fairfax County governmental unit may consist of an eight (8) foot tall chain link fence when such cabinets are located entirely or partially under bleachers. If a new ground mounted equipment cabinet or structure is~~

~~added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.~~

~~When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed thirty-two (32) cubic feet in volume.~~

~~Equipment located within an existing principal or accessory structure shall not be subject to the provisions of this paragraph.~~

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

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

~~(4) In the rights-of-way for interstates highways, the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road, the following shall apply:~~

~~(a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area and shall be located a minimum of 20 feet from the street right-of-way line. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.~~

~~When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed thirty-two (32) cubic feet in volume.~~

~~(b) The height of a replacement pole or standard, including antennas, shall not exceed 100 feet. However, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.~~

~~(5) In any zoning district, in a utility transmission easement, the following shall apply:~~

~~(a) When located on the ground, each provider shall be~~ is ~~limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area and shall be located a minimum of 20 feet from the utility transmission easement line. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for a new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.~~

~~When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be~~ is ~~permitted that does not exceed thirty-two (32) cubic feet in volume.~~

~~(b) The height of a replacement pole or standard, including antennas, shall not exceed eighty (80) feet in zoning districts that are zoned for single family detached or attached dwellings and are residentially developed, vacant or common open space. However if the height of the existing pole or standard exceeds eighty (80) feet, the replacement pole or standard, including antennas shall be no more than fifteen (15) feet higher. The diameter of a replacement pole or standard shall not exceed thirty (30) inches.~~

~~In all other instances, the height of a replacement pole or standard, including antennas, shall not exceed 100 feet. However, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas shall be is no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.~~

~~D. Except for antennas completely enclosed within a structure, antennas and their supporting mounts shall be of material or color which closely matches and blends with the pole or standard.~~

~~E. Replacement or new cross bars may be permitted on poles and standards provided the cross bar is the same color as that of the existing pole or standard and the width of the cross bar does not exceed ten (10) feet.~~

~~F. No commercial advertising or signs shall be allowed on any antenna, antenna support structure, pole, standard, or related equipment cabinet or structure.~~

~~G. No signals, lights or illumination shall be permitted on an antenna unless required by the Federal Communications Commission, the Federal Aviation Administration or the County, provided, however, that on all antenna structures which exceed 100 feet in height, a steady red marker light shall be installed and operated at all times, unless the Zoning Administrator waives the red marker light requirement upon a determination by the Police Department that such marker light is not necessary for flight safety requirements for police and emergency helicopter operations. All such lights shall must be shielded to prevent the downward transmission of light.~~

~~H. Placement of all antennas on poles and standards including the placement of related equipment shall be subject to approval of the owner of the property on which the pole or standard or related equipment is located.~~

~~I. All antennas and related equipment cabinets or structures shall be removed within 120 days after such antennas or related equipment cabinets or structures are no longer in use.~~

1. Administrative Review-Eligible Projects

The installation or construction of an administrative review-eligible project, as defined in Sect. 15.2-2316.3 of the *Code of Virginia*, requires approval by the Zoning Administrator of an administrative review-eligible project permit, compliance with the provisions below, and payment of the applicable fees in Sect. 18-106. Administrative review-eligible projects include certain new structures that do not exceed 50 feet in height and the co-location on existing structures of non-small cell facilities.

A. New Structures are subject to the following provisions, as well as the other provisions of this section:

(1) Must be located within the public right-of-way or within an existing line of utility poles.

(2) May not exceed fifty 50 feet in height and the structure with attached wireless facilities may not exceed 50 feet in height and also may not extend more than 10 feet above the tallest existing utility pole within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles.

(3) Any wireless facilities proposed to be attached to a new structure are subject to a separate application under this Ordinance.

(4) May not be located within any local, state, or historic district, including Historic Overlay Districts under Article 7.

(5) Wiring, Cables, and Conduit Requirements

(a) All wiring and cables must be firmly secured to the support structure.

(b) All mounting brackets and wiring, cables, and conduits that are not located in a fully enclosed structure must be of a color that matches or blends with the existing structure.

(c) Spools or coils of excess fiber optic or cables or any other wires may not be stored on the pole except completely within approved enclosures or cabinets.

(6) Equipment

(a) All equipment and support structures must be the same color as the pole and covered by rust-proof treatment or materials.

(b) All equipment must be flush mounted to the pole or supported by mounting brackets.

(c) The equipment and support brackets may not extend beyond the pole by more than eight (8) inches.

(7) Pole specifications

(a) All new wireless support structures must be constructed of materials designed to match or closely replicate existing utility poles within the same right-of-way or line of poles.

(b) All poles must be designed to support small cell facilities.

(8) Applicants must provide documentation of the property owner's permission to install a new structure.

(9) Any proposed new structure is subject to the undergrounding restriction in Par. 1D below.

B. Co-locations: Wireless facilities that are not small cell facilities may be co-located on any existing structure subject to the following provisions, as well as the other provisions of this section::

(1) The antennas and associated mounting must be enclosed in a canister or other enclosure, be flush mounted, or be fully screened by a wall, vegetation, or other existing structure.

(2) The related equipment cabinet or structure must be fully enclosed in an existing structure or designed to match or blend with the structure on which it is located.

(3) Each provider may have no more than one equipment cabinet or shelter located on the ground.

(4) The cumulative volume of the wireless facilities may exceed the limitations of Sect. 2-519, otherwise, the provisions of this Section apply.

(5) Any proposed co-location is subject to the undergrounding restriction in Par.1D below.

(6) Applicants must provide documentation of the existing structure owner's permission to co-locate wireless facilities on that structure.

C. Any equipment associated with an administrative review-eligible project may not exceed 12 feet in height or 500 square feet in gross floor area when located on the ground. In addition, ground-mounted equipment cabinets must be located a minimum of ten (10) feet from all lot lines when located outside of a street right-of-way. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures must be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. Equipment located within an existing principal or accessory structure is not subject to the provisions of this paragraph.

D. The Zoning Administrator will disapprove an application submitted under this section if it is proposed to be located in an area where all cable and public utility facilities are encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in the Comprehensive Plan objectives and:

(1) The undergrounding requirement or objective existed at least three (3) months before submission of the application;

(2) Co-location of wireless facilities is still permitted on existing utility poles, government-owned structures with government consent, existing wireless support structures, or a building within that area;

(3) Replacement of existing utility poles and wireless support structures with poles or support structures of the same or smaller size within that area is permitted; and

(4) Disapproval does not unreasonably discriminate between the applicant and other wireless service providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.

~~3~~2. ~~Mobile and land based telecommunication~~ Wireless telecommunication hub sites are subject to the following:

A. ~~Shall be~~ Hub sites are permitted:

(1) In all C Districts, I-1, 1-2, I-3, I-4, I-5 and I-6 Districts, and in the commercial areas of PDH, PDC, PRC, PRM and PTC Districts.

(2) ~~In any zoning district on lots containing: Group 3 special permit uses, except home child care facilities and group housekeeping units, Group 4, 5 or 6 special permit uses, Category 1, 2, 3 or 4 special exception uses, or Category 5 special exception uses, except for bed and breakfasts~~. In all R districts on lots that are not residentially developed, vacant, or open space.

~~(3) In any zoning district on property owned or controlled by a public use or Fairfax County governmental unit.~~

B. The hub site ~~shall~~ must not exceed 12 feet in height or 750 square feet of gross floor area.

C. The maximum permitted floor area ratio for the zoning district ~~shall~~ must not be exceeded.

D. The hub site ~~shall~~ must meet the minimum yard requirements of the district in which it is located, except that hub sites located in a utility transmission easement or street right-of-way ~~shall~~ may be located a minimum of twenty (20) feet from the utility transmission easement or street right-of-way.

E. ~~Notwithstanding the fence/wall height limitations of Sect. 10-104,~~ Hub sites ~~shall~~ are not subject to the fence/wall height limitations of Sect. 10-104. Hub sites located within a utility easement must be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of at least eight (8) feet and a planted height of at least forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and or landscaping combination~~, except that~~ Hub sites located outside of a utility transmission easement ~~shall be~~ are subject to the transitional requirements of Article 13 for a light public utility use. If a hub site is added to an existing fenced or screened enclosure that contains wireless

telecommunication equipment structures, the screening requirement for the hub site may be satisfied with the existing screening, provided that the screening meets the requirements listed above.

F. A mobile and land based telecommunication facility hub site that is located within an existing or principal or accessory structure ~~shall~~ are not ~~be~~ subject to the Paragraphs ~~3B~~ 2B through ~~3E~~ 2E above.

~~4. For the purposes of this section, a Fairfax County governmental unit shall include, but not limited to, the Fairfax County Water Authority and Redevelopment and Housing Authority.~~

~~5~~3. For the purposes of this section, the height of ~~related~~ ground-mounted equipment cabinets or structures ~~and utility distribution and transmission poles (poles) and light/camera standards (standards) shall be measured as follows~~ is the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and the ridge for gable, hip and gambrel roofs.

~~A. Ground-mounted equipment structure height shall be the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and the ridge for gable, hip and gambrel roofs.~~

~~B. Rooftop-mounted equipment structure height shall be measured from the rooftop on which the structure is mounted to the highest point of the equipment cabinet or structure.~~

~~C. Replacement poles and standards shall be measured as the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the structure, including antennas.~~

3. ~~Mobile and land based telecommunication facilities other than as permitted above shall require the approval of a special exception in those district where permitted~~. New structures that do not meet the provisions of Par. 1A above are Standard Process Projects under Sect. 15.2-2316.4:1 of the *Code of Virginia* and require special exception approval by the Board.

4. Commercial advertising is not allowed on any portion of a wireless telecommunication facility.

5. Except for co-location on a light pole, signals, lights or illumination are not permitted on wireless telecommunication facilities up to 100 feet in height unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County. On wireless telecommunication facilities greater than 100 feet in height, a steady red marker light must be installed and operated at all times, unless the Zoning Administrator waives

the red marker light requirement upon a determination by the Police Department that such marker light is not necessary for flight safety requirements for police and emergency helicopter operations. All steady red marker lights must be shielded to prevent the downward transmission of light.

6. All applications involving wireless facilities, to include without limitation small cell facilities, standard process projects, administrative review-eligible projects, and eligible facility requests under the Spectrum Act, that are submitted electronically outside of the Department of Planning and Zoning's regular business hours will be deemed received by the Department on the next business day.

- **Amend Sect. 2-519, Small Cell Facilities, by revising the introductory paragraphs to read as follows:**

The installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure may be permitted on any lot in any zoning district subject to approval by the Zoning Administrator of a small cell facility zoning permit and compliance with the provisions below. The installation of a small cell facility on a new structure is subject to approval by the Zoning Administrator of a zoning permit and compliance with the provisions below.

~~For the purposes of this provision, an existing structure will be deemed any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider (provider) provides notice to the County or the Virginia Department of Transportation of an agreement with the owner of the structure to co-locate equipment on that structure. It includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, freestanding signs, and water towers. It also includes, without limitation, any structure located within the right-of-way~~

~~A wireless infrastructure provider means any person that builds or installs transmission equipment, wireless facilities, or structures designed to support or capable of supporting wireless facilities, but that is not a wireless services provider.~~

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising the Category 1 special exception fee in Par. 1 and revising Par. 12 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

14. Reviews required to comply with Sect. 15.2-2316.4:1 of the Code of Virginia, as provided for in this Ordinance, and Sect. 15.2-2232 of the Code of Virginia:

Administrative Review-Eligible Project:	$500
Standard Process Project:	$8180

[Advertised to allow the Board to consider a Standard Process Project application fee up to $16,375]

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3 Definitions, by adding new Co-Locate, Existing Structure, New Structure, Project, Wireless Facility and Wireless Support Facility definitions in their correct alphabetical sequence; deleting the Mobile and Land Based Telecommunication Facility definition; by revising the Small Cell Facility definition; and renaming and revising the Mobile and Land Based Telecommunication Hub Site definition to be a Wireless Telecommunication Hub, all to read as follows:

CO-LOCATE: The installation, mounting, maintenance, modification, operation, or replacement of a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. Co-location has a corresponding meaning.

EXISTING STRUCTURE: Any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Virginia Department of Transportation of an agreement with the owner of the structure to co-locate equipment on that structure. It includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

~~MOBILE AND LAND BASED TELECOMMUNICATION FACILITY: Omnidirectional and directional antennas such as whip antennas, panel antennas, cylinder antennas, microwave dishes, and receive-only satellite dishes and related equipment for wireless transmission with low wattage transmitters not to exceed 500 watts, from a sender to one or more receivers, such as for mobile cellular telephones and mobile radio system facilities. Such antennas and equipment, due to cumulative volume on a single structure or in a single location, exceed the limits set forth in Sect. 2-519. For the purposes of this Ordinance, a mobile and land based telecommunication facility shall include those facilities subject to the provisions of Sect. 2-514 of this Ordinance and/or Sect. 15.2-2232 of the *Code of Virginia*, including, monopoles and telecommunication towers. A mobile and land based telecommunication facility does not include a SMALL CELL FACILITY.~~

~~MOBILE AND LAND BASED~~ WIRELESS TELECOMMUNICATION HUB SITE: An equipment cabinet or structure that serves a ~~mobile and land based telecommunication~~ wireless facility system when there are no antennas located on the same lot as the equipment cabinet or structure.

NEW STRUCTURE: A wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

PROJECT: The (i) installation or construction by a wireless services provider or wireless infrastructure provider of a new structure; or (ii) co-location on any existing structure of a wireless facility that is not a small cell facility. It does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 of the Code of Virginia apply.

SMALL CELL FACILITY: A type of WIRELESS FACILITY, as defined in Sect. 15.2-2316.3 of the Code of Virginia, that includes antennas and associated equipment installed on an existing structure. The antennas and equipment associated with a small cell facility may be of the same type as a Mobile and Land Based Telecommunication Facility under this Ordinance, but must meet all cumulative volume and other requirements of Sect. 2-519.-Any wireless facility that does not meet all of the provisions contained in Sect. 2-519 will not be deemed a small cell facility, but will be deemed a ~~MOBILE AND LAND BASED TELECOMMUNICATION~~ WIRELESS FACILITY and subject to Sect. 2-514.

WIRELESS FACILITY: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternate structure designed to support or capable of supporting a WIRELESS FACILITY.

Amend Article 7, Overlay and Commercial Revitalization District Regulations, Part 2, Historic Overlay Districts, Sect. 7-204, Administration of Historic Overlay District Regulations, by revising Par. 3D to read as follows:

3. ARB approval shall be required prior to the issuance of Building Permits by the Director and approval of sign or small cell facility permits by the Zoning Administrator for the following:

   D. Small Cell Facility Permits for the installation of any small cell facility, as defined in Sect. 2-519, on an existing structure located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property in a Historic Overlay District. The ARB will recommend approval or denial of any such small cell facility permit application no later than forty-five (45) days after ~~it~~ a complete application is filed with the Department of Planning and Zoning. If such recommendation is not rendered within forty-five (45) days, the Zoning Administrator ~~will make the decision without a~~

~~recommendation from the ARB~~. may consider the recommendation of the ARB in making the final decision on the permit, provided that the recommendation is made within the initial sixty (60) days or an extended thirty (30) day period from the filing of a complete application.

Board Agenda Item
July 31, 2018

ACTION - 1

Approval of FY 2018 Year-End Processing

ISSUE:
Board approval to allow staff to process payment vouchers for items previously approved and appropriated in FY 2018. In addition, this item is to inform the Board that no General Fund agencies, County other funds, or School Board funds require an additional appropriation for FY 2018.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize staff to process payment vouchers for items previously approved and appropriated in FY 2018 for the interim period from July 1 until the Board approves the *FY 2018 Carryover Review*, which is scheduled for action on September 25, 2018.

TIMING:
Board approval is required on July 31, 2018, since the *FY 2018 Carryover Review* is not scheduled for Board action until September 25, 2018.

BACKGROUND:
The *FY 2018 Carryover Review* is scheduled for final action on September 25, 2018, following a public hearing. In the interim, Board approval is requested to allow staff to process payment vouchers for items previously approved and appropriated in FY 2018 such as capital construction projects and grant-funded programs for the period of July 1 to September 25, 2018, or until final action is taken on the *FY 2018 Carryover Review*. Similar action has been taken in prior years as part of the year-end closeout.

It should be emphasized that no County agency or fund or School Board fund exceeded its appropriation authority in FY 2018. This is directly attributable to the outstanding efforts of all department heads in managing their approved allocation.

FISCAL IMPACT:
This item relates to funding for previously appropriated items approved in FY 2018 and carried forward to FY 2019 for payment.

Board Agenda Item
July 31, 2018

ENCLOSED DOCUMENTS:
None.

STAFF:
Joe Mondoro, Chief Financial Officer
Christina Jackson, Deputy Director, Department of Management and Budget

Board Agenda Item
July 31, 2018

ACTION – 2

Approval of a Memorandum of Understanding and Cost Reimbursement Agreement Between the Fairfax County Police Department and the Federal Bureau of Investigation Washington DC Metro Safe Streets Task Force

ISSUE:
Board approval of a Memorandum of Understanding and Cost Reimbursement Agreement between the Fairfax County Police Department and the Federal Bureau of Investigation, Washington DC Metro Safe Streets Task Force.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the MOU and Cost Reimbursement Agreement.

TIMING:
Board action is requested on July 31, 2018.

BACKGROUND:
In supporting the regional effort toward intervention and suppression of trafficking in narcotics and dangerous drugs, the Fairfax County Police Department recognizes the need to continue to be a lead agency within Northern Virginia area. The new MOU is due to FCPD reallocating detectives to better combat the opioid crisis in Fairfax County. The Department will assign one full time detective to the Washington DC Metro Safe Streets Task Force/Northern Virginia Safe Streets Task Force (SSTF).

The purpose of this MOU is to delineate the responsibilities of SSTF personnel; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.

The mission of the SSTF is to identify and target for prosecution criminal enterprise groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence such as murder and aggravated assault, robbery, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The SSTF will enhance the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigative/prospective avenues by which to convict and incarcerate dangerous offenders.

A determination will be made on a case-by-case basis whether the prosecution of SSTF cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the SSTF.

SSTF personnel will report to his or her respective agency for personnel and administrative matters. Each participating agency shall be responsible for the pay, overtime, leave, performance appraisals, and other personnel matters relating to its employees detailed to the SSTF. The FBI and the participating agency may provide for overtime reimbursement by the FBI by separate written agreement.

Participating in a partnership with the Task Force will allow the Department to recoup some fixed expenses. Subject to funding availability and legislative authorization, the FBI will reimburse to participating agencies the cost of overtime worked by non-federal SSTF personnel assigned full-time to SSTF, provided overtime expenses were incurred as a result of SSTF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and participating agencies for full-time employee(s) assigned to SSTF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable participating agency overtime provisions and shall be subject to the prior approval of appropriate personnel.

FISCAL IMPACT:
None

ENCLOSED:
Attachment 1: Memorandum of Understanding between the Fairfax County Police Department and the Federal Bureau of Investigation Washington DC Metro Safe Streets Task Force Northern Virginia
Attachment 2: Federal Bureau of Investigation Washington DC Metro Safe Streets Task Force Northern Virginia Cost Reimbursement Agreement

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:
Karen L. Gibbons, Deputy County Attorney

ATTACHMENT 1

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON DC METRO SAFE STREETS TASK FORCE
NORTHERN VIRGINIA
MEMORANDUM OF UNDERSTANDING

PARTIES

1. This Memorandum of Understanding (MOU) is entered into by and between the **Federal Bureau of Investigation (FBI)** and the Fairfax County Police Department (participating agency(ies)) (collectively: the Parties). Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between these agencies.

AUTHORITIES

2. Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines. Fairfax County has the authority to enter into this agreement pursuant Va. Code Ann. § 15.2-1726.

PURPOSE

3. The purpose of this MOU is to delineate the responsibilities of the Washington DC Metro Safe Streets Task Force/Northern Virginia Safe Streets Task Force (SSTF) personnel; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

MISSION

4. The mission of the SSTF is to identify and target for prosecution criminal enterprise groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence such as murder and aggravated assault, robbery, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The SSTF will enhance the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

SUPERVISION AND CONTROL

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A. **Supervision**

5. Overall management of the SSTF shall be the shared responsibility of the FBI and participating agency heads and/or their designees.

6. The Special Agent in Charge (SAC) of the FBI Washington Field Office shall designate one Supervisory Special Agent (SSTF Supervisor) to supervise the SSTF. The SSTF Supervisor may designate a Special Agent to serve as the SSTF Coordinator. Either the SSTF Supervisor or the SSTF Coordinator shall oversee day-to-day operational and investigative matters pertaining to the SSTF.

7. Conduct undertaken outside the scope of an individual's SSTF duties and assignments under this MOU shall not fall within the oversight responsibility of the SSTF Supervisor or SSTF Coordinator. As stated in paragraph 75, below, neither the United States nor the FBI shall be responsible for such conduct.

8. SSTF personnel will report to his or her respective agency for personnel and administrative matters. Each participating agency shall be responsible for the pay, overtime, leave, performance appraisals, and other personnel matters relating to its employees detailed to the SSTF. The FBI and the participating agency may provide for overtime reimbursement by the FBI by separate written agreement.

9. All FBI personnel will adhere to the FBI's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical conduct for employees of the DOJ.

10. All SSTF personnel, which includes Task Force Officers, Task Force Members, and Task Force Participants, must adhere to the applicable U.S. Attorney General's Guidelines and Domestic Operations Investigative Guidelines (DIOG).

11. SSTF personnel will continue to report to their respective agency heads for non-investigative administrative matters not detailed in this MOU.

12. Continued assignment of personnel to the SSTF will be based on performance and at the discretion of appropriate management. The FBI SAC and SSTF Supervisor will also retain discretion to remove any individual from the SSTF.

B. **Case Assignments**

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13. The FBI SSTF Supervisor will be responsible for opening, monitoring, directing, and closing SSTF investigations in accordance with existing FBI policy and the applicable U.S. Attorney General's Guidelines.
14. Assignments of cases to personnel will be based on, but not limited to, experience, training, and performance, in addition to the discretion of the SSTF Supervisor.

15. For FBI administrative purposes, SSTF cases will be entered into the relevant FBI computer system.

16. SSTF personnel will have equal responsibility for each case assigned. SSTF personnel will be responsible for complete investigation from predication to resolution.

C. **Resource Control**

17. The head of each participating agency shall determine the resources to be dedicated by that agency to the SSTF, including personnel, as well as the continued dedication of those resources. The participating agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

OPERATIONS

A. **Investigative Exclusivity**

18. It is agreed that matters designated to be handled by the SSTF will not knowingly be subject to non-SSTF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the SSTF's existence and areas of concern.

19. It is agreed that there is to be no unilateral action taken on the part of the FBI or any participating agency relating to SSTF investigations or areas of concern as described in paragraph 3. All law enforcement actions will be coordinated and cooperatively carried out.

20. SSTF investigative leads outside of the geographic areas of responsibility for the FBI Washington Field Office will be communicated to other FBI offices for appropriate investigation.

B. **Confidential Human Sources**

21. The disclosure of FBI informants, or Confidential Human Sources (CHSs), to non-SSTF personnel will be limited to those situations where it is essential to the effective performance of the SSTF. These disclosures will be consistent with applicable FBI guidelines.

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22. Except as otherwise ordered by a court of competent jurisdiction, non-FBI SSTF personnel may not make any further disclosure of the identity of an FBI CHS, including to other individuals assigned to the SSTF. No documents which identify, tend to identify, or may indirectly identify an FBI CHS may be released without prior FBI approval.

23. In those instances where a participating agency provides a CHS, the FBI may become solely responsible for the CHS's continued development, operation, and compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

24. The U.S. Attorney General's Guidelines and FBI policy and procedure for operating FBI CHSs shall apply to all FBI CHSs opened and operated in furtherance of SSTF investigations. Documentation of, and any payments made to, FBI CHSs shall be in accordance with FBI policy and procedure.

25. Operation, documentation, and payment of any CHS opened and operated in furtherance of an SSTF investigation must be in accordance with the U.S. Attorney General's Guidelines, regardless of whether the handling agency is an FBI SSTF participating agency. Documentation of state, county, or local CHSs opened and operated in furtherance of SSTF investigations shall be maintained at an agreed upon location.

C. **Reports and Records**

26. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by SSTF personnel will be made available for inclusion in the respective investigative agencies' files as appropriate.

27. SSTF reports prepared in cases assigned to SSTF personnel will be maintained at an FBI approved location; original documents will be maintained by the FBI.

28. Records and reports generated in SSTF cases which are opened and assigned by the SSTF Supervisor with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for SSTF.

29. SSTF investigative records maintained at the Washington Field Office of the FBI will be available to all SSTF personnel, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.

30. All evidence and original tape recordings (audio and video) acquired by the FBI during the course of the SSTF investigations will be maintained by the FBI. The FBI's rules and

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policies governing the submission, retrieval, and chain of custody will be adhered to by SSTF personnel.

31. All SSTF investigative records will be maintained at an approved FBI location. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies, subject to SSTF Supervisor approval.

32. Classified information and/or documents containing information that identifies or tends to identify an FBI CHS shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

33. The Parties acknowledge that this MOU may provide SSTF personnel with access to information about U.S. persons which is protected by the Privacy Act of 1974 and/or Executive Order 12333. The Parties expressly agree that all such information will be handled lawfully pursuant to the provisions thereof. The Parties further agree that if this access to information by SSTF personnel requires a change in privacy compliance documents, those changes will be accomplished prior to access being granted.

INFORMATION SHARING

34. No information possessed by the FBI, to include information derived from informal communications between SSTF personnel and FBI employees not assigned to the SSTF, may be disseminated by SSTF personnel to non-SSTF personnel without the approval of the SSTF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the participating agencies that would permit the participating agencies to receive that information directly. Likewise, SSTF personnel will not provide any participating agency information to the FBI that is not otherwise available to it unless authorized by appropriate participating agency officials.

35. Each Party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.

36. The FBI is providing access to information from its records with the understanding that in the event the recipient becomes aware of any inaccuracies in the data, the recipient will promptly notify the FBI so that corrective action can be taken. Similarly, if the FBI becomes aware that information it has received pursuant to this MOU is inaccurate, it will notify the contributing Party so that corrective action can be taken.

37. Each Party is responsible for ensuring that information it discloses was not knowingly obtained or maintained in violation of any law or policy applicable to the disclosing Party, and that information is only made available to the receiving Party as may be permitted by laws, regulations, policies, or procedures applicable to the disclosing Party.

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38. Each Party will immediately report to the other Party each instance in which data received from the other Party is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).

39. The Parties agree that either or both may audit the handling and maintenance of data in electronic and paper recordkeeping systems to ensure that appropriate security and privacy protections are in place.

PROSECUTIONS

40. SSTF investigative procedures, whenever practicable, are to conform to the requirements which would allow for either federal or state prosecution.

41. A determination will be made on a case-by-case basis whether the prosecution of SSTF cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the SSTF.

42. In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a SSTF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities in accordance with all applicable legal limitations.

A. Investigative Methods/Evidence

43. For cases assigned to an FBI Special Agent or in which FBI CHSs are utilized, the Parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance. However, in situations where the investigation will be prosecuted in the State Court where statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by FBI case agents shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

44. In all cases assigned to state, county, or local law enforcement participants, the Parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities as outlined in the DIOG to the greatest extent possible. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

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45. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policies and procedures of the FBI.

B. Undercover Operations

46. All SSTF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the U.S. Attorney General's Guidelines on FBI Undercover Operations. All participating agencies may be requested to enter into an additional agreement if an employee of the participating agency is assigned duties which require the officer to act in an undercover capacity.

USE OF LESS-THAN-LETHAL-DEVICES[1]

47. The parent agency of each individual assigned to the SSTF will ensure that while the individual is participating in FBI-led task force operations in the capacity of a task force officer, task force member, or task force participant, only less-lethal devices that the parent agency has issued to the individual and that the individual has been trained in accordance with the agency's policies and procedures will be carried.

48. The parent agency of each individual assigned to the SSTF will ensure that the agency's policies and procedures for use of any less-lethal device that will be carried by the task force officer, task force member, or task force participant are consistent with the DOJ policy statement on the Use of Less-Than-Lethal Devices.[2]

DEADLY FORCE AND SHOOTING INCIDENT POLICIES

[1] Pursuant to Section VIII of the DOJ Less-Than-Lethal Devices Policy dated May 16, 2011, all state/local officers participating in joint task force operations must be made aware of and adhere to the policy and its limits on DOJ officers.

[2] Less-lethal – When use of force is required, but deadly force may not be appropriate, law enforcement officers may employ less-lethal weapons to gain control of a subject. Less-lethal weapons are designed to induce a subject to submit or comply with directions. These weapons give law enforcement officers the ability to protect the safety of officers, subjects, and the public by temporarily incapacitating subjects. While less-lethal weapons are intended to avoid causing any serious harm or injury to a subject, significant injuries and death can occur from their use.

The term "less-than-lethal" is synonymous with "less-lethal", "non-lethal", "non-deadly", and other terms referring to devices used in situations covered by the DOJ Policy on the Use of Less-Than-Lethal Devices. "Less-lethal" is the industry standard and the terminology the FBI has elected to utilize in reference to this policy.

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49. SSTF personnel will follow their own agencies' policies concerning firearms discharge and use of deadly force.

DEPUTATIONS

50. Local and state law enforcement personnel designated to the SSTF, subject to a limited background inquiry, shall be sworn as federal task force officers either by acquiring Title 21 or Title 18 authority (via the United States Marshals), with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the SSTF or until the termination of the SSTF, whichever comes first.

51. Deputized SSTF personnel will be subject to the rules and regulations pertaining to such deputation. Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

VEHICLES

52. In furtherance of this MOU, employees of participating agencies may be permitted to drive FBI owned or leased vehicles for official SSTF business and only in accordance with applicable FBI rules and regulations, including those outlined in the FBI Government Vehicle Policy Directive (0430D) and the Government Vehicle Policy Implementation Guide (0430PG). The assignment of an FBI owned or leased vehicle to participating agency SSTF personnel will require the execution of a separate Vehicle Use Agreement.

53. The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to SSTF business.

54. The FBI and the United States will not be responsible for any tortious act or omission on the part of each participating agency and/or its employees or for any liability resulting from the use of an FBI owned or leased vehicle utilized by participating agency SSTF personnel, except where liability may fall under the provisions of the Federal Tort Claims Act (FTCA), as discussed in the Liability Section herein below.

55. The FBI and the United States shall not be responsible for any civil liability arising from the use of an FBI owned or leased vehicle by participating agency SSTF personnel while engaged in any conduct other than their official duties and assignments under this MOU.

SALARY/OVERTIME COMPENSATION

56. The FBI and each participating agency remain responsible for all personnel costs for their SSTF representatives, including salaries, overtime payments, and fringe benefits consistent with their respective agency, except as described in paragraph 57 below.

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57. Subject to funding availability and legislative authorization, the FBI will reimburse to participating agencies the cost of overtime worked by non-federal SSTF personnel assigned full-time to SSTF, provided overtime expenses were incurred as a result of SSTF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and participating agencies for full-time employee(s) assigned to SSTF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable participating agency overtime provisions and shall be subject to the prior approval of appropriate personnel.

PROPERTY AND EQUIPMENT

58. Property utilized by the SSTF in connection with authorized investigations and/or operations and in the custody and control and used at the direction of the SSTF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment. Property damaged or destroyed which was utilized by SSTF in connection with authorized investigations and/or operations and is in the custody and control and used at the direction of SSTF, will be the financial responsibility of the agency supplying said property.

FUNDING

59. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the Parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each Party shall bear its own costs in relation to this MOU. Expenditures by each Party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The Parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

FORFEITURES

60. The FBI shall be responsible for processing assets seized for federal forfeiture in conjunction with SSTF operations.

61. Asset forfeitures will be conducted in accordance with federal law and the rules and regulations set forth by the FBI and DOJ. Forfeitures attributable to SSTF investigations may be equitably shared with the agencies participating in the SSTF.

DISPUTE RESOLUTION

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62. In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the SSTF's objectives.

63. The participating agencies agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

MEDIA RELEASES

64. All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

65. Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

SELECTION TO SSTF AND SECURITY CLEARANCES

66. If a participating agency candidate for the SSTF will require a security clearance, he or she will be contacted by FBI security personnel to begin the background investigation process prior to the assigned start date.

67. If, for any reason, the FBI determines that a participating agency candidate is not qualified or eligible to serve on the SSTF, the participating agency will be so advised and a request will be made for another candidate.

68. Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policies and procedures. During the briefing, each candidate will execute non-disclosure agreements (SF-312 and FD-868), as may be necessary or required by the FBI.

69. Before receiving unescorted access to FBI space identified as an open storage facility, SSTF personnel will be required to obtain and maintain a "Top Secret" security clearance. SSTF personnel will not be allowed unescorted access to FBI space unless they have received a Top Secret security clearance.

70. Upon departure from the SSTF, each individual whose assignment to the SSTF is completed will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement to which he or she previously agreed.

LIABILITY

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71. The Parties acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the SSTF.

72. Each participating agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the SSTF or otherwise relating to the SSTF. Each participating agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the SSTF remains vested with his or her employing agency. In the event that a civil claim or complaint is brought against a state or local officer assigned to the SSTF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.

73. For the limited purpose of defending against a civil claim arising from alleged negligent or wrongful conduct under common law under the FTCA, 28 U.S.C. § 1346(b) and §§ 2671-2680: an individual assigned to the SSTF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request to be certified by the U.S. Attorney General or his designee as having acted within the scope of federal employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). Upon such certification, the individual will be considered an "employee" of the United States government for the limited purpose of defending the civil claim under the FTCA, and the claim will proceed against the United States as sole defendant. 28 U.S.C. § 2679(d)(2). Once an individual is certified as an employee of the United States for purposes of the FTCA, the United States is substituted for the employee as the sole defendant with respect to any tort claims. Decisions regarding certification of employment under the FTCA are made on a case-by-case basis, and the FBI cannot guarantee such certification to any SSTF personnel.

74. For the limited purpose of defending against a civil claim arising from an alleged violation of the U.S. Constitution pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971): an individual assigned to the SSTF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request individual-capacity representation by DOJ to defend against the claims. 28 C.F.R. §§ 50.15, 50.16. Any such request for individual-capacity representation must be made in the form of a letter from the individual defendant to the U.S. Attorney General. The letter should be provided to Chief Division Counsel (CDC) for the FBI Washington Field Office, who will then coordinate the request with the FBI Office of the General Counsel. In the event of an adverse judgment against the individual, he or she may request indemnification from DOJ. 28 C.F.R. § 50.15(c)(4). Requests for DOJ

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representation and indemnification are determined by DOJ on a case-by-case basis. The FBI cannot guarantee the United States will provide legal representation or indemnification to any SSTF personnel.

75. Liability for any conduct by SSTF personnel undertaken outside of the scope of their assigned duties and responsibilities under this MOU shall not be the responsibility of the FBI or the United States and shall be the sole responsibility of the respective employee and/or agency involved.

DURATION

76. The term of this MOU is for the duration of the SSTF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

77. Any participating agency may withdraw from the SSTF at any time by written notification to the SSTF Supervisor with designated oversight for investigative and personnel matters or program manager of the SSTF at least 30 days prior to withdrawal.

78. Upon termination of this MOU, all equipment provided to the SSTF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any SSTF participation.

MODIFICATIONS

79. This agreement may be modified at any time by written consent of all involved agencies.

    Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

SIGNATORIES

_____ _____

Special Agent in Charge Date
Federal Bureau of Investigation

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_____ _____

Chief/ Date
Fairfax County Police Department

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FEDERAL BUREAU OF INVESTIGATION
Washington DC Metro Safe Streets Task Force-Northern Virginia
Cost Reimbursement Agreement

File No.: 281D-WF-179889-NOVA

Pursuant to Congressional appropriations, the Federal Bureau of Investigation (FBI) receives authority to pay overtime for police officers assigned to the formalized Washington DC Metro Safe Streets Task Force-Northern Virginia, as set forth below, for expenses necessary for detection, investigation, and prosecution of crimes against the United States. It is hereby agreed between the FBI and Fairfax County Police Department, located at 12099 Government Center Parkway, Fairfax, Virginia, 22035, Taxpayer Identification Number: 54-6043690, and Telephone Number: (703) 246-2195, that:

1. This Agreement is entered into pursuant to, and as an annex to, the FBI Washington DC Metro Safe Streets Task Force-Northern Virginia Memorandum of Understanding (MOU) signed by the Chief of Fairfax County Police Department on _____(Date), and must be read and interpreted in conformity with all terms of that document.

2. Commencing upon execution of this Agreement, the FBI will, subject to availability of required funding, reimburse Fairfax County Police Department for overtime payments made to officers assigned to and working full time on Washington DC Metro Safe Streets Task Force-Northern Virginia related matters.

3. Requests for reimbursement will be made on a monthly basis and should be forwarded to the FBI Washington Field Office as soon as practical after the first of the month which follows the month for which reimbursement is requested. Such requests should be forwarded by a Supervisor at Fairfax County Police Department to the FBI Washington DC Metro Safe Streets Task Force-Northern Virginia Squad Supervisor and FBI Washington Field Office Special Agent in Charge for their review, approval, and processing for payment.

4. Overtime reimbursement payments from the FBI will be made via electronic funds transfer (EFT) directly to Fairfax County Police Department using the FBI's Unified Financial Management System (UFMS). To facilitate EFT, Fairfax County Police Department must establish an account online in the System for Award Management (SAM) at www.sam.gov. Each request for reimbursement will include an invoice number, invoice date, and a taxpayer identification number (TIN). Verification of Fairfax County Police Department banking information is required on an annual basis in order to keep payment information current. For additional information regarding the UFMS and SAM, contact the FBI Washington Field Office Financial Manager.

5. Overtime reimbursements will be calculated at the usual rate for which the individual officer's time would be compensated in the absence of this Agreement. However, said reimbursement, per officer, shall not exceed monthly and/or annual limits established annually by the FBI. The limits, calculated using Federal pay tables, will be in effect for the Federal fiscal year running from October 1st of one year through September 30th of the following year, unless changed during the period. The FBI reserves the right to change the reimbursement limits, upward or downward, for subsequent periods based on fiscal priorities and appropriations limits. The FBI will notify Fairfax County Police Department of the applicable annual limits prior to October 1st of each year.

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6. The number of Fairfax County Police Department deputies assigned full-time to the Washington DC Metro Safe Streets Task Force-Northern Virginia and entitled to overtime reimbursement by the FBI shall be approved by the FBI in advance of each fiscal year. Based on the needs of Washington DC Metro Safe Streets Task Force-Northern Virginia, this number may change periodically, upward or downward, as approved in advance by the FBI.

7. Prior to submission of any overtime reimbursement requests, Fairfax County Police Department must prepare an official document setting forth the identity of each officer assigned full-time to Washington DC Metro Safe Streets Task Force-Northern Virginia, along with the regular and overtime hourly rates for each officer. Should any officers change during the year, a similar statement must be prepared regarding the new officers prior to submitting any overtime reimbursement requests for the officers. The document should be sent to the Washington Field Office for FBI review and approval.

8. Each request for reimbursement will include the name, rank, identification number, overtime compensation rate, number of reimbursable hours claimed, and the dates of those hours for each officer for whom reimbursement is sought. The request must be accompanied by a certification and signed by an appropriate Supervisor at Fairfax County Police Department that the request has been personally reviewed, the information described in this paragraph is accurate, and the personnel for whom reimbursement is claimed were assigned full-time to the Washington DC Metro Safe Streets Task Force-Northern Virginia.

9. Requests for reimbursement must be received by the FBI no later than December 31st of the next fiscal year for which the reimbursement applies. For example, reimbursements for the fiscal year ending September 30, 2018, must be received by the FBI by December 31, 2018. The FBI is not obligated to reimburse any requests received after that time.

10. This Agreement is effective upon signatures of the parties and will remain in effect for the duration of Fairfax County Police Department's participation on the Washington DC Metro Safe Streets Task Force-Northern Virginia, contingent upon approval of necessary funding, and unless terminated in accordance with the provisions herein. This Agreement may be modified at any time by written consent of the parties. It may be terminated at any time upon mutual consent of the parties, or unilaterally upon written notice from the terminating party to the other party at least 30 days prior to the termination date.

Signatories:

_____	_____
Special Agent in Charge Federal Bureau of Investigation	Chief Fairfax County Police Department
Date: _____	Date: _____
_____	Date: _____
Financial Manager Federal Bureau of Investigation	

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Headquarters.

Board Agenda Item
July 31, 2018

ACTION – 3

Approval of a Renewal of a Reciprocal Agreement Between George Mason University and the Fairfax County Police Department

ISSUE:
Board approval of a Reciprocal Agreement between George Mason University and the Fairfax County Police (FCPD) authorizing the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401) and enforcement of laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the Reciprocal Agreement between George Mason University and the Police Department.

TIMING:
Board action is requested on July 31, 2018.

BACKGROUND:
This is an administrative housekeeping measure to update the existing agreement. The Board approved the current Memorandum of Understanding in July 2010. The updated agreement provides additional information regarding the sharing of forfeited assets. Participating in a partnership with George Mason University will work to facilitate sharing information to suppress and disrupt drug trafficking, gather and report intelligence data relative to narcotics activities, and conduct undercover operations associated with the culture of illegal narcotics and drug trafficking.

FISCAL IMPACT:
None

ENCLOSED:
Attachment 1 Reciprocal Agreement between George Mason University and the Fairfax County Police Department (2018)
Attachment 2: Memorandum of Understanding between George Mason University and the Fairfax County Police Department (2010)

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:
Kimberly P. Baucom, Senior Assistant County Attorney

RECIPROCAL AGREEMENT

BETWEEN

GEORGE MASON UNIVERSITY
AND
THE COUNTY OF FAIRFAX, VIRGINIA

FOR THE ENFORCEMENT OF LAWS AND DESIGNED TO CONTROL OR PROHIBIT THE USE OR SALE OF CONTROLLED DRUGS AS DEFINED IN THE DRUG CONTROL ACT AND THE ENFORCEMENT OF LAWS CONTAINED IN ARTICLE 3, CHAPTER 8 OF TITLE 18.2 (§ 18.2-344 *et seq*.) OF THE CODE OF VIRGINIA

By the virtue of the authority contained in Article 2, Chapter 17 of Title 15.2 of the Code of Virginia, 1950, as amended, this Reciprocal Agreement between George Mason University and the County of Fairfax, Virginia for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401) and enforcement of laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia ("Reciprocal Agreement") is entered into this ____ day of _____ 2018, by and between George Mason University and the County of Fairfax.

WITNESSETH:

WHEREAS, pursuant to Va. Code Ann. § 15.2-1724, narcotics detectives and vice detectives are authorized to go or be sent beyond the territorial limits of George Mason University and/or County of Fairfax on a routine, non-emergency basis for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401), or laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia (vice crimes); and

WHEREAS, pursuant to Va. Code Ann. § 15.2-1726, George Mason University and the County of Fairfax (partner agencies) may enter into a reciprocal agreement with each other for joint cooperation in the furnishing of police services; and

WHEREAS, George Mason University and County of Fairfax agree that illegal narcotics trafficking and vice crimes have a substantial and detrimental effect on the health and welfare of their communities and that cooperative effort between the George Mason University Police Department and County of Fairfax Police Department would be advantageous in disrupting illicit drug activities and vice crimes; and

WHEREAS, any George Mason University Police narcotics detective, while on assignment with the Organized Crime and Narcotics Division, Fairfax County Police Department, in the interest of safe and efficient law enforcement practices, needs the ability to exercise police authority and jurisdiction while in the performance of duties associated with the enforcement of laws concerning controlled drugs and vice crimes in Fairfax County; and

WHEREAS, any member of the Fairfax County Police, while on assignment with the

Organized Crime and Narcotics Division, Fairfax County Police Department, in the interest of safe and efficient law enforcement practices, needs the ability to exercise police authority and jurisdiction while in the performance of duties associated with the enforcement of laws concerning controlled drugs and vice crimes on the properties of George Mason University.

NOW, THEREFORE, the parties hereto jointly resolve and agree:

1. The parties wish to maintain the integrity and independence of their respective police forces, however; they wish to enter into this Reciprocal Agreement which will provide mutual aid for more efficient enforcement of the above-referenced laws prohibiting narcotics crimes and vice crimes.

2. Any George Mason University police officer, while on assignment to the Organized Crime and Narcotics Division of the Fairfax County Police Department for the performance of duties associated with the enforcement of laws concerning controlled drugs and vice crimes in Fairfax County and any Fairfax County police officer while on assignment with the Organized Crime and Narcotics Division of the Fairfax County Police Department for the performance of his/her duties associated with the enforcement of laws concerning controlled drugs and vice crimes on the properties of George Mason University, shall operate with the same powers, rights, benefits, privileges and immunities, including, but not limited to, the authority to make arrests, as the police officer has within his or her respective jurisdiction to enforce laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401), or laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia.

3. Any George Mason University police narcotics detective assigned to the Organized Crime and Narcotics Division of the Fairfax County Police Department shall report to the Commander of the Fairfax County Organized Crime and Narcotics Division or his designee.

4. George Mason University and the County of Fairfax shall provide for the salary of their respective narcotics detectives performing duties pursuant to the terms of this Reciprocal Agreement regardless of the jurisdiction where the detectives or police officers are performing such duties. Pursuant to Va. Code Ann. §§ 15.2-1724 and 15.2-1726 all immunities from liability and exemptions from laws, ordinances and regulations and all pensions, relief, disability, worker's compensation and other benefits enjoyed by said officers while performing their duties in their respective jurisdictions shall extend to any services such officer perform under this Reciprocal Agreement outside of their respective jurisdictions.

5. The services rendered under this Reciprocal Agreement shall be deemed for public and governmental purposes and all immunities from liability enjoyed by George Mason University or County of Fairfax within its boundaries shall extend to George Mason University or Fairfax County's participation in rendering police aid outside its boundaries under the terms of this Reciprocal Agreement.

6. It is the intent and purpose of this Reciprocal Agreement that there be the fullest cooperation between the Fairfax County Police Department and the George Mason University Police Department. The respective Chiefs of Police mutually shall agree upon the number of narcotics detective(s) to be exchanged. The equipment required under the terms of this Reciprocal Agreement shall be provided by the Fairfax County Police Department. All detectives assigned

to the Organized Crime and Narcotics Division must be provided a vehicle. In cases involving a partner agency for which Fairfax County supplies a rental vehicle, the partner agency agrees to reimbursement for the total costs of the vehicle.

7. No amendment or enlargement of this Reciprocal Agreement shall be effective unless executed in writing and agreed to by the parties hereto. This Reciprocal Agreement shall not supersede or modify prior agreements between George Mason University and the County of Fairfax concerning the provisions of police services not otherwise addressed by this MOU.

Both parties HEREBY AGREE that all property seized by the Fairfax County Police Department and the George Mason University Police law enforcement personnel in accordance with the asset forfeiture statutes of Virginia, Va. Code Ann. § 19.2-386.1 et seq., will be shared after a proper court order has been entered and after all expenses have been paid, in accordance with this agreement. Of the monies returned by DCJS following the deduction of the DCJS statutory share and the agreed 20% to Fairfax County Office of the Commonwealth's Attorney, it is agreed that the parties shall abide by the following asset-sharing and cost-sharing provisions:

(1) Sharing of forfeited assets shall be distributed based on the amount of work performed by each detective on any given case. The minimum amount that the George Mason University Police Department will receive shall be 5% of all asset sharing requests processed by the Fairfax County Police Department's Organized Crime and Narcotics Division, Narcotics Section. The maximum amount that the George Mason University Police Department will receive shall be no more than 70% of all asset sharing requests processed by the Fairfax County Police Department's Organized Crime and Narcotics Division, Narcotics Section. In addition, the following factors will be taken into consideration to determine percentage assignments:

a) 70% to be returned to the George Mason University Police Department involving those cases investigated by the assigned Fairfax County Police, Organized Crime and Narcotics Division, Narcotics Section Detective of the George Mason University Police Department within the territorial limits of George Mason University.

OR:

b) 27.5% to be returned to the George Mason University Police Department involving those cases investigated by the assigned Fairfax County Police, Organized Crime and Narcotics Division, Narcotics Section Detective of the George Mason University Police Department within the territorial limits of Fairfax County.

OR:

c) 5% to be returned to the George Mason University Police Department involving those cases investigated by any law enforcement personnel currently assigned to the Fairfax County Police, Organized Crime and Narcotics Division, Narcotics Section while a George Mason University Detective is assigned to Fairfax County.

(2) Seized vehicles will be distributed on a case by case basis. Information summaries on seized vehicles will be provided to other agencies on a regular basis to ensure equitability.

(3) Each partner agency will make application for inclusion in the equitable sharing programs of

the VA, DCJS, U.S. Department of Justice and U.S. Department of the Treasury. The administrative and financial requirements of each of the sharing programs will be met by the respective agencies involved.

(4) All shared assets will be deposited directly to the participating partner agencies by DCJS. Fairfax County will not be involved in the actual distribution of shared assets.

(5) Exceptions may be made on a case-by-case basis by mutual agreement of all parties involved.

This Reciprocal Agreement may be terminated at any time by either party hereto by giving thirty (30) days prior written notice of the desire to terminate this Reciprocal Agreement to the respective Chiefs of Police.

IN WITNESS WHEREOF, the President of George Mason University and Police Chief of the George Mason University and the Police Chief of Fairfax County have executed this Reciprocal Agreement, all being duly authorized to do so by their respective governing bodies.

The President of
George Mason University, Virginia

By:_____
Angel Cabrera
President

By: _____
Carl Rowan, Chief
George Mason University Police Department

By: _____
Edwin C. Roessler, Chief
Fairfax County Police Department

Memorandum of Understanding

For Cross-Jurisdictional Narcotics Enforcement and Investigation

Between

Fairfax County Police Department
and
George Mason University Police Department

This Memorandum of Understanding (MOU) is made this 14 day of July 2010, between the Fairfax County Police Department and the George Mason University Police Department (collectively "the parties").

Whereas there is evidence that trafficking in narcotics and dangerous drugs exist in Fairfax County and that such illegal activity has a substantial and detrimental effect of the health and general welfare of the people of these communities, the parties hereto agree to the following:

1. The George Mason University Police Department will assign a narcotics investigator to the Fairfax County Police Department's Organized Crime and Narcotics Division to perform the activities and duties described below:

    A. Disrupt the illicit drug traffic within Fairfax County area by immobilizing targeted violators and trafficking organizations.

    B. Gather and report intelligence data relating to trafficking in narcotics and dangerous drugs.

    C. Conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Fairfax County activities will result in effective prosecution before the courts in the State of Virginia.

    D. Coordinate efforts and provide information between these agencies to enhance enforcement efforts in Northern Virginia.

2. To accomplish these objectives the George Mason University Police Department agrees to detail one (1) George Mason University police officer to the Fairfax County Police Department for a period of not less than three (3) months from the date of this agreement. During this period of assignment, the George Mason University police officer will be under the direct supervision and control of the Fairfax County Police Department supervisory personnel assigned to the Fairfax County Organized Crime and Narcotics Division.

3. The George Mason University officer assigned to the Fairfax County Police Department's Organized Crime and Narcotics Division shall adhere to all Fairfax County Police Department policies and procedures while operating under this MOU.

4. The Fairfax County Police Department will provide to the George Mason University police officer the necessary funds and equipment to support the agent while assigned to the Fairfax County Police Department's Organized Crime and Narcotics Division. This support will include: office space, office supplies, training, travel funds, funds for purchase of evidence and information, investigative equipment, training, telephone, and other support.

5. During this period of assignment to the Fairfax County Police Department's Organized Crime and Narcotics Division, the George Mason University Police Department will remain responsible for establishing the salaries and benefits, including but not limited to overtime, of the George Mason University officer, as well as being financially responsible for such salaries and benefits. The parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees.

6. The George Mason University Police Department will share in any seizures of money or property made while this MOU is in effect. In accordance with the asset forfeiture statutes of Virginia, Va. Code Ann. § 19.2-368.1 et seq., after a proper court order has been filed, forfeited money or property will be shared after all expenses have been paid in accordance with this agreement. Of the monies returned by DCJS following the deduction of the DCJS statutory share and the agreed 20% to the County of Fairfax Commonwealth's Attorney's Office, it is agreed that the parties shall abide by the following asset-sharing and cost-sharing provisions:

    A. Sharing of forfeited assets shall be distributed based on the amount of work performed by each detective/officer on any given case. The minimum amount that a partner agency will receive shall be 5% of all asset sharing requests processed by the Fairfax County Police Department's Organized Crime and Narcotics Division, Narcotics Squad. The maximum amount that a partner agency will receive shall be no more than 27.5% of all asset sharing requests processed by the Fairfax County Police Department's Organized Crime and Narcotics Division, Narcotics Squad.

    B. Seized vehicles will be distributed on a case by case basis. Information summaries on seized vehicles will be provided to other agencies per request to ensure equability.

    C. Each partner agency will make application for inclusion in the equitable sharing programs of, DCJS, U.S. Department of Justice, and U.S. Department of Treasury. The administrative and financial requirements of

each of the sharing programs will be met by the respective agencies involved.

D. All shared assets will be deposited directly to the participating partner agencies. Fairfax County will not be involved in the actual distribution of shared assets.

E. Exceptions may be made on a case-by-case basis by mutual agreement of all parties involved.

7.19.

This MOU shall be effective upon the signatures of both parties' respective authorized representatives and shall thereafter continue until terminated as set forth in this paragraph by either party. The assignment of the George Mason University police officer to the Fairfax County Police Department's Organized Crime and Narcotics Division will be reviewed in three (3) months to determine the effectiveness of the assignment. This MOU may be terminated at any time, including before the three month review period, by either party upon thirty (30) days advance written notice to the other party.

For the Fairfax County Police Department

M. M. R — 7-13-10

Colonel David M. Rohrer — Date
Chief, Fairfax County Police Department

Title

For the George Mason University Police Department

Michael F. Cyrul — 7/15/2010

Name — Date

Chief of Police

Title

Board Agenda Item
July 31, 2018

ACTION - 4

Approval of a Renewal of a Reciprocal Agreement Between the Town of Vienna and the Fairfax County Police Department

ISSUE:
Board approval of a Reciprocal Agreement between the Town of Vienna and the Fairfax County Police (FCPD) authorizing the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401) and enforcement of laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the Reciprocal Agreement between the Town of Vienna and the Police Department.

TIMING:
Board action is requested on July 31, 2018.

BACKGROUND:
This is an administrative housekeeping measure to update the existing agreement. The Board approved the current Reciprocal Agreement between the Town of Vienna and the FCPD in July 1990. The updated agreement provides additional information regarding the sharing of forfeited assets. Participating in a partnership with the Town of Vienna will work to facilitate sharing information to suppress and disrupt drug trafficking, gather and report intelligence data relative to narcotics activities, and conduct undercover operations associated with the culture of illegal narcotics and drug trafficking.

FISCAL IMPACT:
None

ENCLOSED:
Attachment 1 Reciprocal Agreement between the Town of Vienna and the Fairfax County Police Department (2018)
Attachment 2: Reciprocal Agreement between the Town of Vienna and the Fairfax County Police Department (1990)

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:
Kimberly P. Baucom, Senior Assistant County Attorney

RECIPROCAL AGREEMENT

BETWEEN

THE TOWN OF VIENNA, VIRGINIA
AND
THE COUNTY OF FAIRFAX, VIRGINIA

FOR THE ENFORCEMENT OF LAWS AND DESIGNED TO CONTROL OR PROHIBIT THE USE OR SALE OF CONTROLLED DRUGS AS DEFINED IN THE DRUG CONTROL ACT AND THE ENFORCEMENT OF LAWS CONTAINED IN ARTICLE 3, CHAPTER 8 OF TITLE 18.2 (§ 18.2-344 *et seq*.) OF THE CODE OF VIRGINIA

By the virtue of the authority contained in Article 2, Chapter 17 of Title 15.2 of the Code of Virginia, 1950, as amended, this Reciprocal Agreement between The Town of Vienna, and the County of Fairfax, Virginia for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401) and enforcement of laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia ("Reciprocal Agreement") is entered into this ____ day of _____ 2018, by and between the Town of Vienna and the County of Fairfax.

WITNESSETH:

WHEREAS, pursuant to Va. Code Ann. § 15.2-1724, narcotics detectives and vice detectives are authorized to go or be sent beyond the territorial limits of the Town of Vienna and/or County of Fairfax on a routine, non-emergency basis for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401), or laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia (vice crimes); and

WHEREAS, pursuant to Va. Code Ann. § 15.2-1726, the Town of Vienna and the County of Fairfax (partner agencies) may enter into a reciprocal agreement with each other for joint cooperation in the furnishing of police services; and

WHEREAS, Town of Vienna and County of Fairfax agree that illegal narcotics trafficking and vice crimes have a substantial and detrimental effect on the health and welfare of their communities and that cooperative effort between the Town of Vienna Police Department and County of Fairfax Police Department would be advantageous in disrupting illicit drug activities and vice crimes; and

WHEREAS, any Town of Vienna Police narcotics detective, while on assignment with the Organized Crime and Narcotics Division, Fairfax County Police Department, in the interest of safe and efficient law enforcement practices, needs the ability to exercise police authority and jurisdiction while in the performance of duties associated with the enforcement of laws concerning controlled drugs and vice crimes in Fairfax County; and

WHEREAS, any member of the Fairfax County Police, while on assignment with the

Organized Crime and Narcotics Division, Fairfax County Police Department, in the interest of safe and efficient law enforcement practices, needs the ability to exercise police authority and jurisdiction while in the performance of duties associated with the enforcement of laws concerning controlled drugs and vice crimes in the Town of Vienna.

NOW, THEREFORE, the parties hereto jointly resolve and agree:

1. The parties wish to maintain the integrity and independence of their respective police forces, however; they wish to enter into this Reciprocal Agreement which will provide mutual aid for more efficient enforcement of the above-referenced laws prohibiting narcotics crimes and vice crimes.

2. Any Town of Vienna police officer, while on assignment to the Organized Crime and Narcotics Division of the Fairfax County Police Department for the performance of duties associated with the enforcement of laws concerning controlled drugs and vice crimes in Fairfax County and any Fairfax County police officer while on assignment with the Organized Crime and Narcotics Division of the Fairfax County Police Department for the performance of his/her duties associated with the enforcement of laws concerning controlled drugs and vice crimes on the Town of Vienna, shall operate with the same powers, rights, benefits, privileges and immunities, including, but not limited to, the authority to make arrests, as the police officer has within his or her respective jurisdiction to enforce laws designed to control or prohibit the use or sale of controlled drugs as defined in the Drug Control Act (Va. Code Ann. § 54.1-3401), or laws contained in Article 3, Chapter 8 of Title 18.2 (Va. Code Ann. § 18.2-344, *et seq*.) of the Code of Virginia.

3. Any Town of Vienna police narcotics detective assigned to the Organized Crime and Narcotics Division of the Fairfax County Police Department shall report to the Commander of the Fairfax County Organized Crime and Narcotics Division or his designee.

4. The Town of Vienna and the County of Fairfax shall provide for the salary of their respective narcotics detectives performing duties pursuant to the terms of this Reciprocal Agreement regardless of the jurisdiction where the detectives or police officers are performing such duties. Pursuant to Va. Code Ann. §§ 15.2-1724 and 15.2-1726 all immunities from liability and exemptions from laws, ordinances and regulations and all pensions, relief, disability, worker's compensation and other benefits enjoyed by said officers while performing their duties in their respective jurisdictions shall extend to any services such officer perform under this Reciprocal Agreement outside of their respective jurisdictions.

5. The services rendered under this Reciprocal Agreement shall be deemed for public and governmental purposes and all immunities from liability enjoyed by the Town of Vienna or County of Fairfax within its boundaries shall extend to the Town of Vienna or Fairfax County's participation in rendering police aid outside its boundaries under the terms of this Reciprocal Agreement.

6. It is the intent and purpose of this Reciprocal Agreement that there be the fullest cooperation between the Fairfax County Police Department and the Town of Vienna. The respective Chiefs of Police mutually shall agree upon the number of narcotics detective(s) to be exchanged. The equipment required under the terms of this Reciprocal Agreement shall be provided by the Fairfax County Police Department. All detectives assigned to the Organized Crime and

Narcotics Division must be provided a vehicle. In cases involving a partner agency for which Fairfax County supplies a rental vehicle, the partner agency agrees to reimbursement for the total costs of the vehicle.

7. No amendment or enlargement of this Reciprocal Agreement shall be effective unless executed in writing and agreed to by the parties hereto. This Reciprocal Agreement shall not supersede or modify prior agreements between the Town of Vienna and the County of Fairfax concerning the provisions of police services not otherwise addressed by this MOU.

Both parties HEREBY AGREE that all property seized by the Fairfax County Police Department and the Town of Vienna Police law enforcement personnel in accordance with the asset forfeiture statutes of Virginia, Va. Code Ann. § 19.2-386.1 et seq., will be shared after a proper court order has been entered and after all expenses have been paid, in accordance with this agreement. Of the monies returned by DCJS following the deduction of the DCJS statutory share and the agreed 20% to Fairfax County Office of the Commonwealth's Attorney, it is agreed that the parties shall abide by the following asset-sharing and cost-sharing provisions:

(1) Sharing of forfeited assets shall be distributed based on the amount of work performed by each detective on any given case. The minimum amount that the Town of Vienna Police Department will receive shall be 5% of all asset sharing requests processed by the Fairfax County Police Department's Organized Crime and Narcotics Division, Narcotics Section. The maximum amount that the Town of Vienna Police Department will receive shall be no more than 70% of all asset sharing requests processed by the Fairfax County Police Department's Organized Crime and Narcotics Division, Narcotics Section. In addition, the following factors will be taken into consideration to determine percentage assignments:

a) 70% to be returned to the Town of Vienna Police Department involving those cases investigated by the assigned Fairfax County Police, Organized Crime and Narcotics Division, Narcotics Section Detective of the Town of Vienna Police Department within the territorial limits of the Town of Vienna.

OR:

b) 27.5% to be returned to the Town of Vienna Police Department involving those cases investigated by the assigned Fairfax County Police, Organized Crime and Narcotics Division, Narcotics Section Detective of the Town of Vienna Police Department within the territorial limits of Fairfax County.

OR:

c) 5% to be returned to the Town of Vienna Police Department involving those cases investigated by any law enforcement personnel currently assigned to the Fairfax County Police, Organized Crime and Narcotics Division, Narcotics Section while a Town of Vienna Detective is assigned to Fairfax County.

(2) Seized vehicles will be distributed on a case by case basis. Information summaries on seized vehicles will be provided to other agencies on a regular basis to ensure equitability.

(3) Each partner agency will make application for inclusion in the equitable sharing programs of

the VA, DCJS, U.S. Department of Justice and U.S. Department of the Treasury. The administrative and financial requirements of each of the sharing programs will be met by the respective agencies involved.

(4) All shared assets will be deposited directly to the participating partner agencies by DCJS. Fairfax County will not be involved in the actual distribution of shared assets.

(5) Exceptions may be made on a case-by-case basis by mutual agreement of all parties involved.

This Reciprocal Agreement may be terminated at any time by either party hereto by giving thirty (30) days prior written notice of the desire to terminate this Reciprocal Agreement to the respective Chiefs of Police.

IN WITNESS WHEREOF, the Town Manager and Police Chief of the Town of Vienna and the Police Chief of Fairfax County have executed this Reciprocal Agreement, all being duly authorized to do so by their respective governing bodies.

The Town Council of
Vienna, Virginia

By:_____
Mercury Payton
Town Manager

By: _____
James Morris, Chief
Town of Vienna Police Department

By: _____
Edwin C. Roessler, Chief
Fairfax County Police Department

RECIPROCAL AGREEMENT

Between

THE TOWN COUNCIL OF VIENNA, VIRGINIA
AND
THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By virtue of the authority contained in 15.1-131 of the Code of Virginia, 1950, as amended, this Reciprocal Agreement, entered into this 23rd day of July, 1990, by and between the Town Council of Vienna, Virginia and the Board of Supervisors of Fairfax County, Virginia,

WITNESSETH:

WHEREAS, narcotics investigators are authorized to cross jurisdictional lines on a routine, non-emergency basis for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs;

WHEREAS, the Town of Vienna and the County of Fairfax agree that illegal narcotics trafficking has a substantial and detrimental effect on the health and welfare of their communities and that a cooperative effort between the Town Police and the Fairfax County Police would be advantageous in disrupting illicit drug traffic; and

WHEREAS, any Town Police narcotics investigator, while on assignment with the Fairfax County Police Department, in the interest of safe efficient law enforcement practices, needs the ability to exercise police authority and jurisdiction while in the performance of duties associated with the enforcement of controlled drugs in Fairfax County.

NOW, THEREFORE, the parties hereto jointly resolve and agree:

1. The parties wish to maintain the integrity and independence of their respective police forces, however, they wish to enter into an agreement which will provide more efficient narcotics law enforcement services.

2. Any town police officer, while on assignment to the Fairfax County Police Department as specified in this agreement, shall operate with the same powers, rights, benefits, privileges and immunities as the officer has within their Town to enforce laws associated with the Drug Control Act, including but not limited to the authority to make arrests. The Town of Vienna shall provide for the salary of any narcotics investigator assisting Fairfax County and shall supply equipment required to successfully perform their duties.

3. The assisting narcotics investigator shall report to the Commander of the Fairfax County Organized Crime Division or his designee.

4. All pensions, relief, disability, workers compensation and other benefits enjoyed by said officers shall extend to the services they perform under this Reciprocal Agreement outside their respective jurisdiction.

5. The services rendered under this Reciprocal Agreement shall be deemed for public governmental purposes and all immunities from liability enjoyed by the local government within its boundaries shall extend to its participation in rendering police aid outside its boundaries. Each party shall indemnify and save harmless the other party to this Reciprocal Agreement from all claims by third parties for property damage or personal injury which may arise out of the activities outside its jurisdiction while rendering aid under this Reciprocal Agreement.

6. It is the intent and purpose of this Reciprocal Agreement that there be the fullest cooperation between the County Police and the Town Police. The respective Chiefs of Police shall mutually agree upon the number of narcotics investigators exchanged and the equipment required.

7. No amendment or enlargement of this Reciprocal Agreement shall be effective unless executed in writing and agreed to by the parties hereto.

8. This Reciprocal Agreement shall remain in full force and effect until terminated by either party hereto upon thirty days written notice to the respective Chiefs of Police.

IN WITNESS WHEREOF THE PARTIES hereto have executed this Reciprocal Agreement.

J. Hamilton Lambert
County Executive
on behalf of the
Fairfax County Board of Supervisors

Witness: Gale L. Thomas
Date: July 23, 1990

John Schoeberlein
Town Manager
on Behalf of the
Town Council of Vienna

Witness: W. D. D. Ranger
Date: 3-9-90

BDS/gjw

Board Agenda Item
July 31, 2018

ACTION - 5

Approval of a Parking Reduction for Novus Kings Crossing (Mount Vernon District)

ISSUE:
Board of Supervisors (Board) approval of parking reduction of up to 12.5 percent in required parking for Novus Kings Crossing, Tax Map Numbers 083-3-01-18, 19 and 20, Mount Vernon District.

RECOMMENDATION:
The County Executive recommends that the Board approve a parking reduction, #17636-PKS-002-2, of up to 12.5 percent in required parking for Novus Kings Crossing pursuant to Paragraphs 5C and 5D of Sect. 11-102 of Chapter 112 (Zoning Ordinance) of the *Code of the County of Fairfax, Virginia (Code)* based on the walking distance from the site to bus stops for the Richmond Highway Express bus service and three Fairfax County Connector bus routes subject to the following conditions:

1. A minimum of one and four-tenths (1.4) parking spaces per unit shall be maintained on-site at all times to serve up to 350 multi-family residential dwelling units. The unit mix shall consist of studio, one-bedroom, and two-bedroom units.

2. Any additional uses not listed in Condition #1 shall provide parking at rates required by the Zoning Ordinance.

3. Ten percent of the minimum required parking spaces shall be clearly designated or accounted for as parking for guests, on-site staff, car-share vendors and/or residential vanpools. The number of such spaces may be reduced by the Director of Land Development Services (Director) based on a parking space utilization study.

4. The conditions of approval for this parking reduction shall be incorporated into any site plan submitted to the Director for approval.

5. The current owners, their successors, or assigns of the parcels identified as Tax Map Numbers 083-3-01-18, 19 and 20, shall submit a parking space utilization study for review and approval by the Director at any time in the future that the Zoning Administrator or the Director so requests. Following review of that study, or if a study is not submitted within 90 days after being requested, the Director

may require alternative measures to satisfy the property's on-site parking needs, which may include, but not be limited to, compliance with the full parking space requirements of the Zoning Ordinance.

6. All parking utilization studies prepared in response to such a request shall be based on applicable requirements of the Code and the Zoning Ordinance in effect at the time of its submission.

7. All parking provided shall comply with the applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act (ADA) and the Virginia Uniform Statewide Building Code.

8. These conditions of approval shall be binding on the current owners, successors, assigns and/or other applicants and shall be recorded in the Fairfax County Land Records in a form acceptable to the County Attorney. If these conditions have not been recorded and an extension has not been approved by the Director, approval of this parking reduction request shall expire without notice six months from its approval date.

TIMING:
Board action is requested on July 31, 2018.

BACKGROUND:
The proposed Novus Kings crossing development is located in the N.E. quadrant of the intersection of Richmond Highway (Route 1) and Fairview Drive (Route 1409), on approximately 5.29 acres of land. The site is in the Embark Richmond Highway corridor approximately one mile from the Huntington Metro Station but is outside of the Huntington Transit Station Area designated in the Comprehensive Plan. The applicant is proposing to build a four to six story multi-family building with up to 350 rental units. The planned unit mix is 34 studio units, 216 one-bedroom units, and 100 two-bedroom units. The number of units and unit mix may be adjusted with the final architectural design of the building. Parking will be provided in a centralized parking structure that is surrounded by the residential building on three sides. The site is subject to RZ/FDP 2016-MV-002 approved by the Board on July 25, 2017, which rezoned the property to the Planned Residential Mixed Use (PRM), H-C (Highway Corridor Overlay District), and Commercial Revitalization District (CRD) districts, subject to the proffers dated

July 20, 2017. In Proffer #6, the applicant reserved the right to request a parking reduction pursuant to Article 11 of the Zoning Ordinance and also to provide more parking than the minimum required.

The applicant has requested a parking reduction from the required rate of 1.6 spaces per unit to a rate of 1.4 spaces per unit, which equates to a reduction of 12.5 percent in required parking for the proposed 350 multi-family units. At 1.4 spaces per unit, 490 parking spaces will be provided. If fewer units are constructed, parking will be provided at the minimum rate of 1.4 spaces per unit. Additional parking spaces above the minimum required may be provided based on the final design of the parking structure. Staff is recommending that ten percent of the required parking be designated for guests, on-site staff, car-share vendors and/or residential vanpools. A comparison of the required parking by Code and proposed parking, assuming all 350 units are built, is summarized in the table below.

Comparison Table of the Code Required and Proposed Parking

Number of Units	Rate Required by Code	Number of Spaces Required by Code	Proposed Rate	Proposed Number of Spaces	Proposed Reduction
350	1.6 spaces per unit	560	1.4 spaces per unit	490	12.5%

The reduction request is based on the proximity of existing bus service. Pursuant to Paragraphs 5B and 5C of Sect. 11-102 of the Zoning Ordinance, the Board may reduce the number of parking spaces otherwise required by the strict application of the Zoning Ordinance when the development is within a reasonable walking distance to: an existing express bus service providing high-frequency service; or bus stops when service to the stops consist of more than three routes and at least one route serves a mass transit station or transportation facility and provides high-frequency service. Bus stops for the Richmond Highway Express and four Fairfax County Connector bus routes (Routes 151, 152, 161/162, and 171), all of which provide service to the Huntington Metro Station, are located approximately 700 feet from the proposed development. Bus service is provided seven days a week with wait times of approximately 10-30 minutes between buses. Therefore, the reduction request meets the basic requirements for consideration under provisions for express bus service and bus service with three or more routes.

Staff has determined the proposed parking rate of 1.4 spaces per unit should meet the development's parking demand with no adverse impact to either the site or adjacent areas based on the following factors as further detailed in the applicant's parking study:

- The planned unit mix is approximately seventy percent efficiency and one-bedroom units and no three-bedroom units are proposed;
- The frequency and routes of available bus service provides access to the Huntington Metro Station, Mount Vernon, Fort Belvoir, Hybla Valley, Groveton, and Engleside;
- Community-serving retail and services are available within walking distance of the site in the Kings Crossing Shopping Center and the South Kingsway Shopping Center; and
- Dedicated visitor parking is provided.

This recommendation reflects a coordinated review by the Fairfax County Department of Transportation (FCDOT), Department of Planning and Zoning, Office of the County Attorney and Land Development Services (LDS).

FISCAL IMPACT:
None.

ENCLOSED DOCUMENT:
Attachment A – Parking reduction request and study (17636-PKS-002-2) from Wells and Associates dated June 6, 2018.

STAFF:
Robert A. Stalzer, Deputy County Executive
Thomas P. Biesiadny, Director, Department of Transportation
William D. Hicks, P.E., Director, Land Development Services

ASSIGNED COUNSEL:
Cherie L. Halyard, Assistant County Attorney

ATTACHMENT A

WELLS + ASSOCIATES

MEMORANDUM

To: Jan Leavitt, P.E., Chief
Site Code Research & Development Branch
Department of Public Works and Environmental Services

From: Michael R. Pinkoske, PTP
John F. Cavan, PE, PTOE
Grady Vaughan, EIT

Re: RZ/FDP 2016-MV-002, Kings Crossing
Fairfax County Tax Map: 83-3 ((1)) Parcels 18, 19, 20
Fairfax County, Virginia

Subject: Parking Reduction Request (#17636-PKS-002-1)

Date: January 9, 2018
Updated June 6, 2018

COMMONWEALTH OF VIRGINIA
JOHN F. CAVAN IV
Lic. No. 047522
6/6/2018
PROFESSIONAL ENGINEER

INTRODUCTION

This updated memorandum presents the results of a parking reduction study conducted in support of a parking reduction request for the planned Kings Crossing residential development and addresses comments received from DPWES staff dated April 18, 2018 on the first submission. The project site is identified as Fairfax County 2017 Tax Map Parcels 83-3 ((1)) 18, 19, and 20. The site is located in the northeast quadrant of Richmond Highway (U.S. Route 1) and Fairview Drive intersection, approximately two (2) miles south of the I-495 interchanges with Telegraph Road (Route 611) and Richmond Highway and within one (1) mile of the Huntington Metrorail Station (See Figure 1). The site is currently improved with four (4) retail stores/restaurants and surface parking which would be razed in conjunction with the redevelopment (see Figure 2). It is noted several of the existing uses are currently vacant.

The Kings Crossing residential development was the subject of the approved rezoning application (RZ/FDP 2016-MV-002) which rezoned the property from C-8 (Highway Commercial District) and R-4 (Residential at Four Dwelling Units per Acre) to PRM (Planned Residential Mixed-Use). The approved development includes a 350 rental unit multifamily residential building served by structured parking with a parking ratio of 1.6 spaces per unit, consistent with the Fairfax County Zoning Ordinance. Access to the parking garage would be provided by a new private street off of Fairview Drive. It is expected that the project

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Figure 1
Site Location

NORTH

Novus Kings Crossing
Fairfax County, Virginia



Figure 2
Site Area

NORTH
Novus Kings Crossing
Fairfax County, Virginia

171

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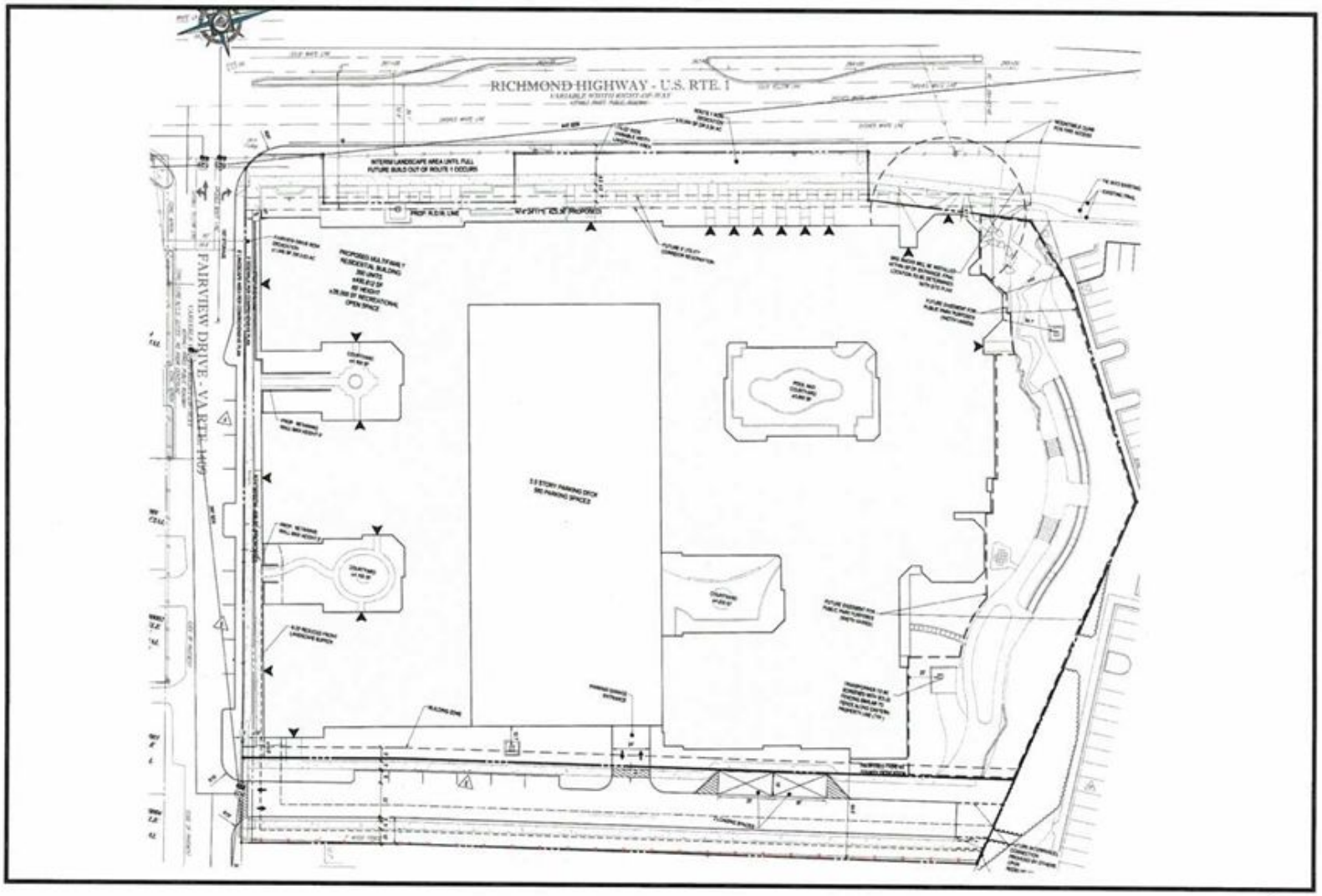

Figure 3
Conceptual Site Plan

NORTH

Novus Kings Crossing
Fairfax County, Virginia

would be constructed and occupied by 2020. The conceptual site plan is shown on Figure 3.

A full size copy of the plan is also provided for staff's convenience as **Attachment I**.

The subject parking reduction request is based on the site's proximity to an existing transit facility, a Metrorail station, and the future Bus Rapid Transit (BRT) planned on Richmond Highway adjacent to the site. Trends in auto ownership in such transit rich environments, Transportation Demand Management (TDM) program elements, and the target market for this type of housing further support the reduction requested.

In furtherance of this plan, the Applicant has requested a reduction in the number of parking spaces that would be required by a strict application of the Fairfax County Zoning Ordinance. Specifically based on the "...distance to bus stop(s)..." (Article 11. Section 11-102.5). **Specifically, a residential parking reduction of approximately 12.5 percent from the 560 spaces (1.6 per DU) as required by the County's Zoning ordinance to 490 spaces (1.4 per DU) resulting in a total reduction of 70 parking spaces is hereby requested.**

Sources of data for this analysis include, but are not limited to, the files and library of Wells + Associates (W+A), Bohler Engineering, Walsh, Colucci, Lubeley, and Walsh PC, Dwell Design Studios, Novus Property Holdings, LLC, the Institute of Transportation Engineers (ITE), Urban Land Institute (ULI), and Fairfax County.

FAIRFAX COUNTY PARKING REQUIREMENTS

Article 11 of the Fairfax County Zoning Ordinance establishes parking requirements for various land uses by providing parking rates per unit of land use (i.e., per residential dwelling unit, per 1,000 GSF of retail uses, etc.). According to the Ordinance, all required parking spaces shall be located on the same lot as the structure or uses to which they are accessory or on a lot contiguous thereto which has the same zoning classification, and is either under the same ownership, or is subject to arrangements satisfactory to the Director that will ensure the permanent availability of such parking spaces. A copy of the relevant Ordinance text is provided herein as **Attachment II**.

Article 11, Section 11-103 of the Ordinance outlines the parking requirements for multifamily residential uses as follows:

Dwelling, Multiple Family – "One and six-tenths (1.6) spaces per unit"

Based on a strict application of the Zoning Ordinance, 560 parking spaces would be required to accommodate the planned 350 rental unit multifamily residential building.

REQUESTED PARKING REDUCTION

As outlined above, the planned development would require a minimum of 560 parking spaces to meet a strict application of the Ordinance parking requirements for the project's maximum number of dwelling units. The Applicant is requesting a parking reduction of 12.5 percent reduction (or up to 70 fewer spaces) than would be required by the Ordinance. This represents an effective reduction in the minimum required parking rate from 1.6 spaces per unit (Zoning Ordinance requirement) to 1.4 spaces per unit (proposed). Based on 350 dwelling units, a minimum of 490 parking spaces would need to be provided.

The basis for such a request is the provision as established in the Ordinance of, the site's proximity to a "mass transit station or transportation facility or bus service" (Section 11-102.5). Copies of the relevant Ordinance text are also included in **Attachment III** for reference.

RESIDENTIAL PARKING REDUCTION ANALYSIS

The following sections evaluate the requested parking reduction with respect to this provision.

Provision: Proximity to a Mass Transit

The Fairfax County Zoning Ordinance ("the Ordinance") provides for a reduction in required off-street parking for sites located in proximity to transit service. Article 11, Section 11-102.5 states:

> *"Subject to conditions it deems appropriate, the Board may reduce the number of off-street parking spaces otherwise required by the strict application of the provisions of this Part when a proposed development is within:*
>
> *A. Reasonable walking distance to a mass transit station wherein the station either exists or is programmed for completion within the same time frame as the completion of the subject development; or*
>
> *B. An area designated in the adopted comprehensive plan as a Transit Station Area; or*
>
> *C. Reasonable walking distance to an existing transportation facility consisting of a streetcar, bus rapid transit, or express bus service or wherein such facility is programmed for completion within the same timeframe as*

the completion of the subject development and will provide high-frequency service; or

D. Reasonable walking distance to a bus stop(s) when service to this stop(s) consists of more than three routes and at least one route serves a mass transit station or transportation facility and provides high-frequency service.

Such reduction may be approved when the applicant has demonstrated to the Board's satisfaction that the spaces proposed to be eliminated are unnecessary based on the projected reduction in the parking demand resulting from the proximity of the mass transit station or transportation facility or bus service and such reduction in parking spaces will not adversely affect the site or the adjacent area, including potential impacts on existing overflow parking in nearby neighborhoods. For the purposes of this provision, a determination regarding the completion time frame for a mass transit station or transportation facility must include an assessment of the funding status for the transportation project."

The proposed residential use would be well served by both existing and planned public transportation infrastructure. As shown on Figure 4, the site is approximately one (1) mile from the Huntington Avenue Metrorail Station and approximately 1/8 to 1/4 mile from the future Bus Rapid Transit (BRT) station (straight line distances). Figure 5 also provides the location of the most proximate on-street bus stop and the pedestrian/bicyclist route to the existing and future transit hubs.

Embark Richmond Highway (Plan Amendment 2015-IV-MV1)

On May 12, 2015 the Board of Supervisors initiated Embark Richmond Highway which is an initiative focused on creating a multimodal future for the Richmond Highway Corridor. Embark responds to recommendations from the U.S. Route 1 Multimodal Alternatives Analysis, conducted by the Virginia Department of Rail and Public Transportation (DRPT), and intends to assess and refine the recommendations from the study by providing more detailed guidance in the Comprehensive Plan for the implementation of transit in the corridor.

The Board's action consisted of three (3) components:

1. An endorsement of the October 2014 recommendations of the U.S. Route 1 Multimodal Alternatives Analysis for improvements from Huntington to Woodbridge.

2. An authorization of a Comprehensive Plan amendment (PA 2015-IV-MV1) to assess and refine the recommendations of the U.S. Route 1 Multimodal Alternatives Analysis

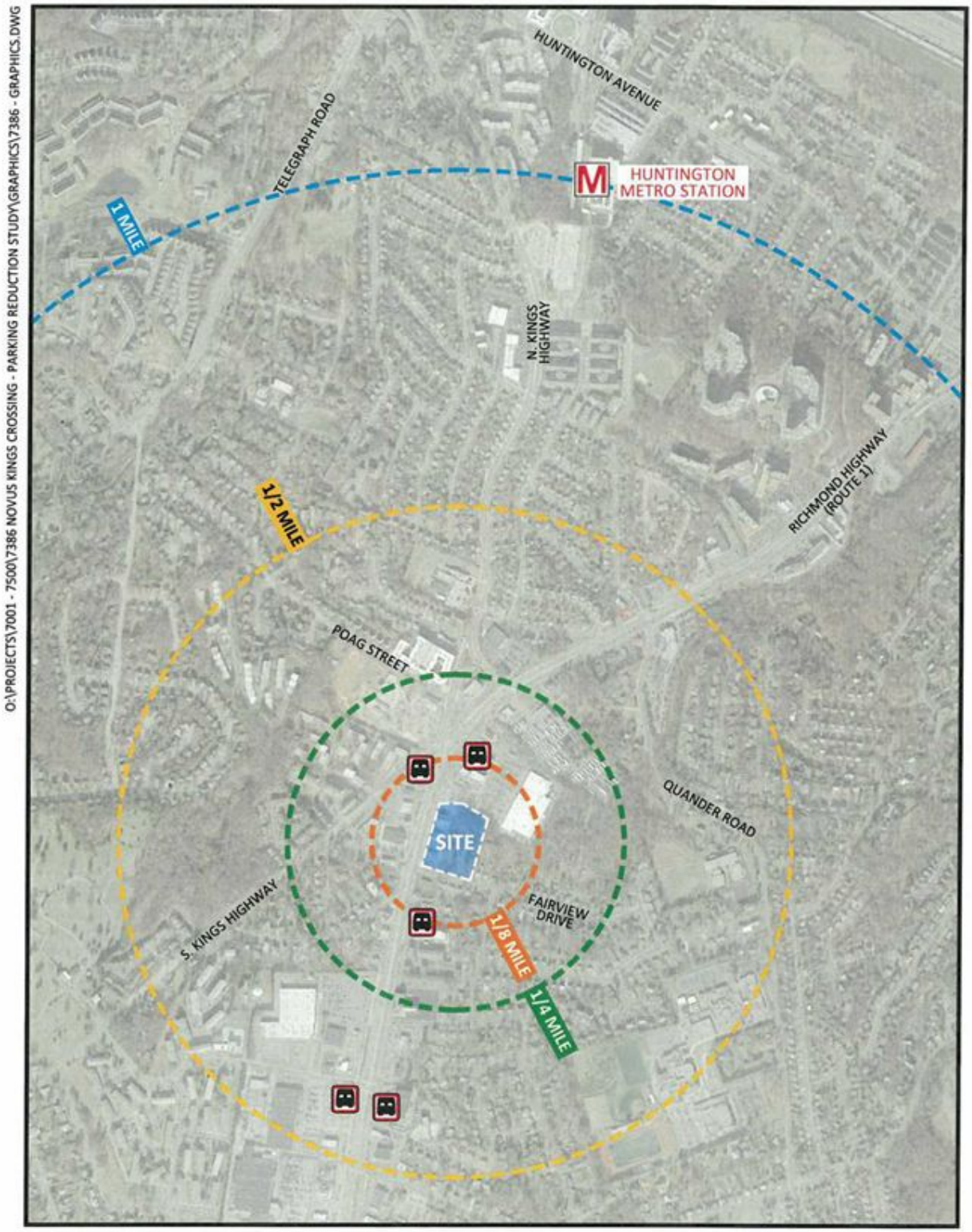

Figure 4
Transit Proximity Map

NORTH

Novus Kings Crossing
Fairfax County, Virginia

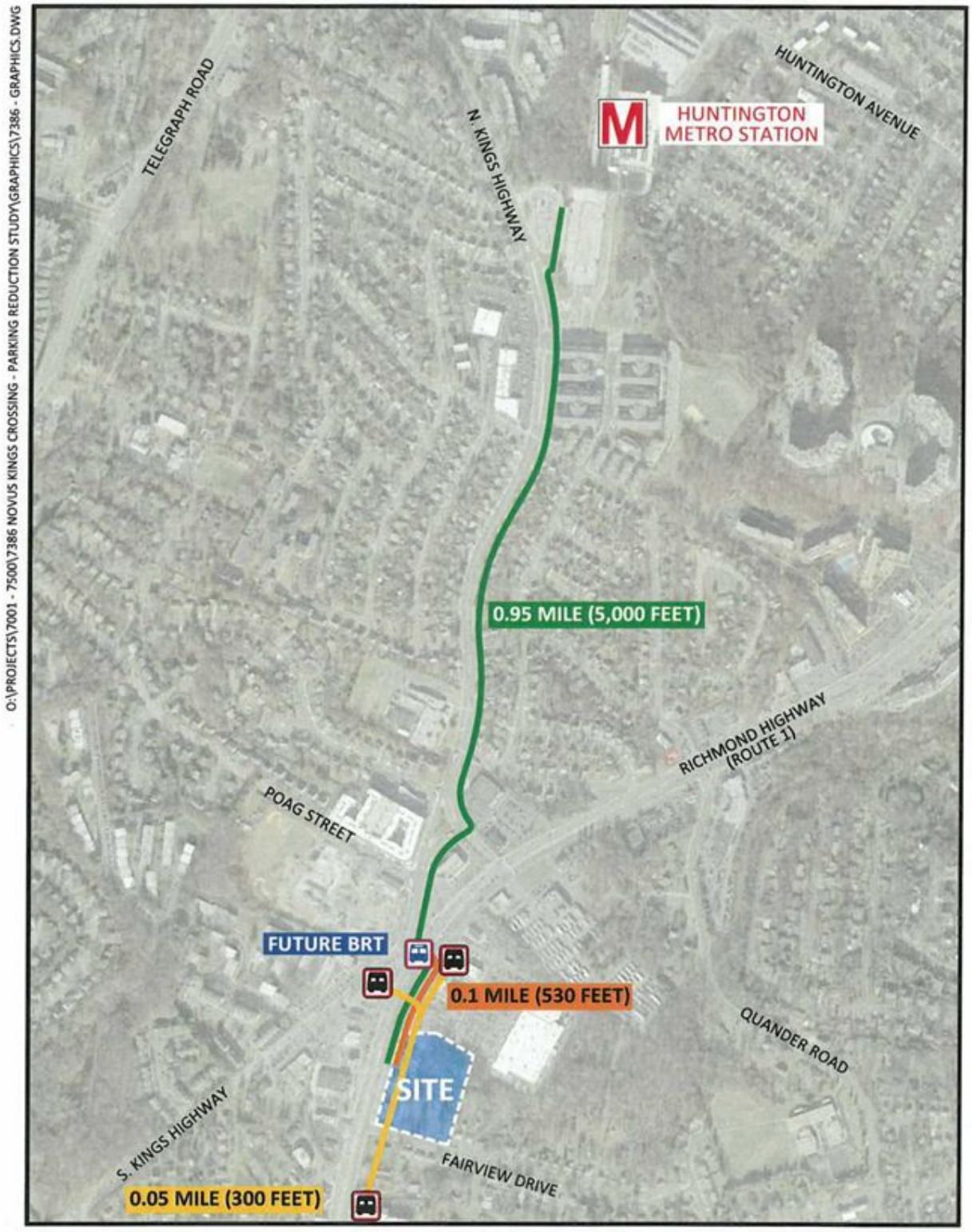

Figure 5
Walking and Bicycle Routes

Walking/Bike Distance to Metro
Walking/Bike Distance to Bus Stop
Walking/Bike Distance to Future BRT

NORTH

Novus Kings Crossing
Fairfax County, Virginia

while considering land use density, mix of uses within a one-half mile radius of proposed stations, corridor wide transportation systems, urban design, public facilities, and other elements supportive of Bus Rapid Transit (BRT), and policy guidance supporting future Metrorail extension from the Huntington Metrorail station to Hybla Valley.

3. Direction to proceed with actions necessary to conduct an Environmental Assessment (EA) for BRT from the Huntington Metrorail Station to Accotink Village and the associated road widening of U.S. Route 1, in conjunction with VDOT and other appropriate entities; and to initiate design for the road improvement and BRT projects.

A potential BRT system route connecting the nine (9) Community Business Centers (CBC) is shown on Figure 6. The route would pass the site on Richmond Highway (U.S. Route 1) and continue along N. Kings Highway to the Huntington Metrorail station.

On February 22, 2018, the Planning Commission recommended that the Board of Supervisors approve the staff recommendation on PA 2015-IV-MV1 with the proposed text revisions. Subsequently, on March 20, 2018, the Board of Supervisors adopted the Plan Amendment. It is noted that construction of the Embark Richmond Highway project is not scheduled to begin until 2025.

Metrorail Station

Huntington Avenue is the closest Metrorail station to the site and serves the Yellow Line. The Yellow Line connects to the Blue Line at the King St – Old Town station, the Orange, Silver, Green, and Blue Lines at the L'Enfant Plaza station, and the Red Line at the Gallery Place station. The Huntington Avenue station is the southern terminus of the existing Yellow Line. Multiple bus routes with stops proximate to the subject site connect with the Huntington Avenue Metrorail station.

Pedestrian/bicycle access to the Huntington Avenue Metrorail station is provided via connected sidewalks along Richmond Highway and N. Kings Highway. It is noted regional pedestrian and bicycle improvements are envisioned as part of the Embark Richmond Highway plan and the Applicant. Bike parking is provided at the Huntington Avenue Metrorail station via both bike racks and enclosed, secure lockers with a capacity for approximately 46 bicycles. Additionally, the station serves as a transit hub for multiple bus routes including the following ten (10) Fairfax Connector bus routes and three (3) WMATA routes. A map showing the existing bus routes serving the area is shown on Figure 7.

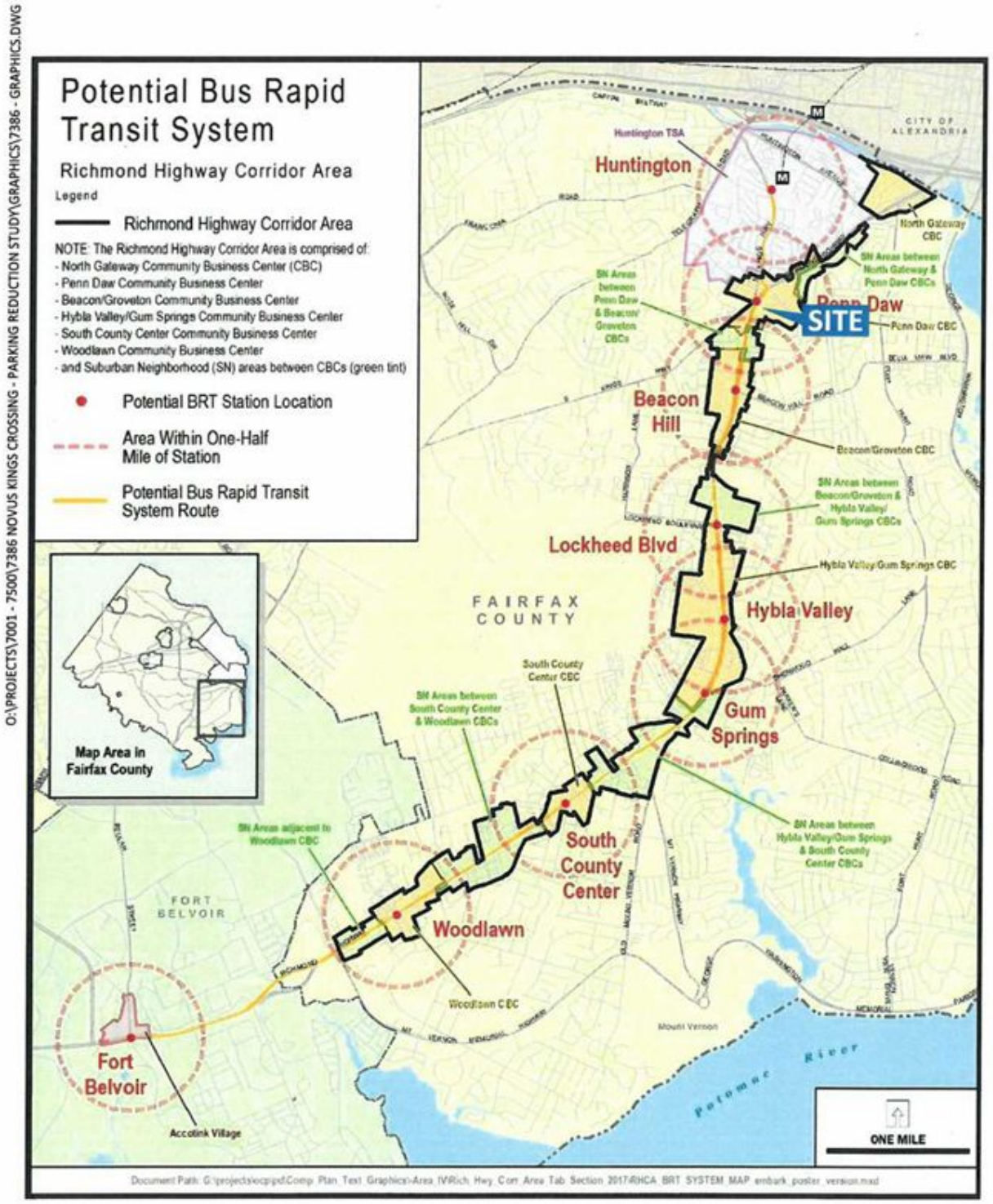

Figure 6
Future Bus Rapid Transit System

NORTH
Novus Kings Crossing
Fairfax County, Virginia

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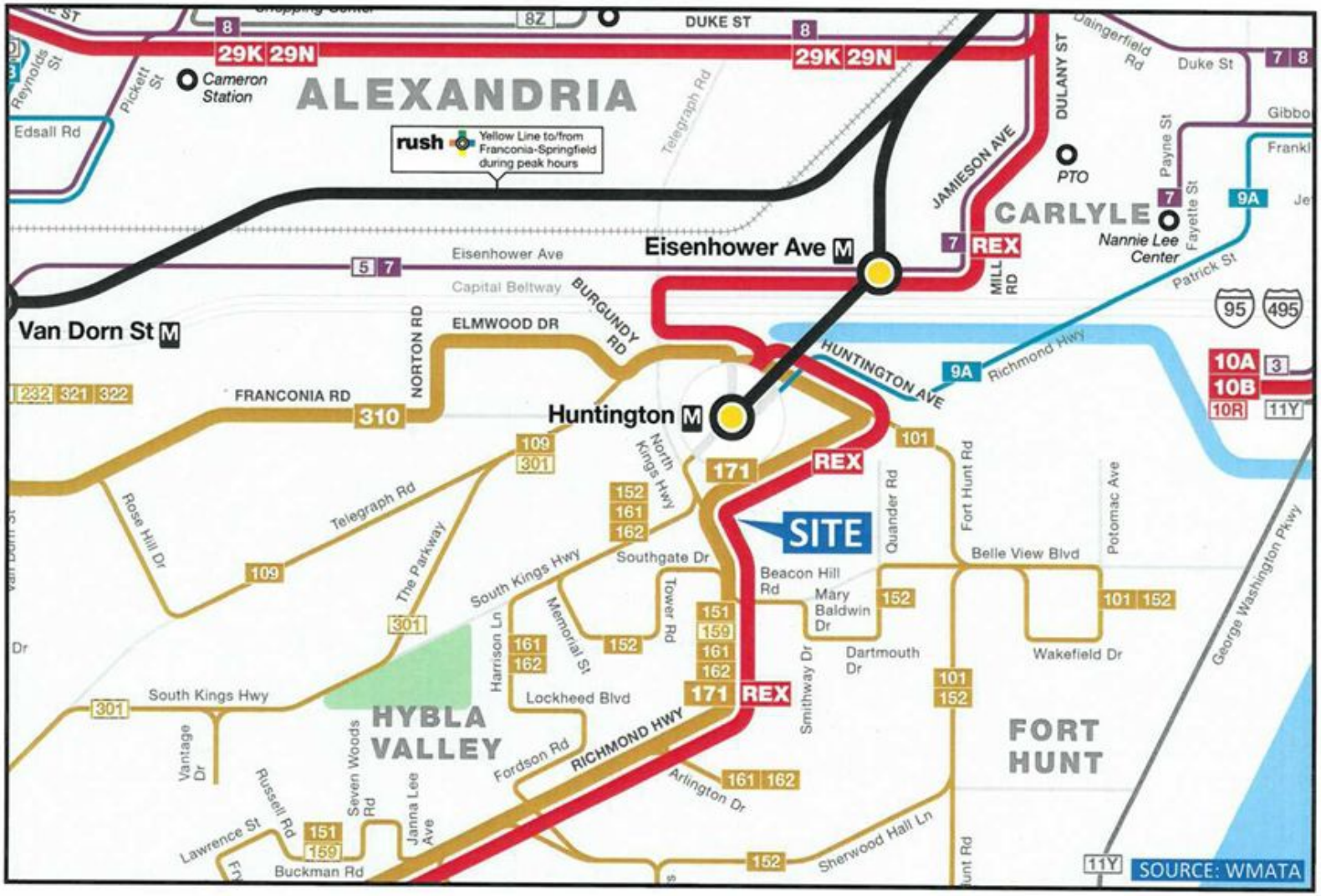

Figure 7
Bus Map

NORTH

Novus Kings Crossing
Fairfax County, Virginia

Fairfax Connector Routes

1. Fort Hunt Line (101)
2. Rose Hill Line (109)
3. Engleside-Mount Vernon Line (151)
4. Engleside Limited-Stop Line (159)
5. Groveton/Mount Vernon Line (152)
6. Hybla Valley Circulator Counter-Clockwise Loop (161)
7. Hybla Valley Circulator Clockwise Loop (162)
8. Richmond Highway Line (171)
9. Telegraph Road Line (301)
10. Franconia - Rolling Valley Line (310)

Metrobus Routes

1. Fort Belvoir (REX)
2. King St-Old Town (REX)
3. Pentagon (10A)

As mentioned previously, the proposed development is located within 1/8 to 1/4 mile of the future BRT station which will be located northwest of the site at the intersection of Richmond Highway and N. Kings Highway. The BRT route is planned to travel along Richmond Highway to the south and turn onto N. Kings Highway to continue north. Ultimately, the BRT system will provide nine (9) stations between the Huntington Metrorail station to the north and Fort Belvoir to the south. Potential future phases of the BRT would extend the route farther south.

Bus Transit Facilities

In the vicinity of the site, sheltered bus stops are located on both sides of Richmond Highway at the intersection with N. Kings Highway. Additionally, a signed bus stop is located just south of the site at Regan Street. These bus stops serve the following WMATA and Fairfax Connector routes and provide bus service to/from the site area to nearby mass transit facilities. Each bus line with stops proximate to the site is described below:

Richmond Highway Express Line (REX). The REX line provides service to the King Street-Old Town Metrorail station (Yellow and Blue Lines). These lines also service several locations including Eisenhower Ave Metrorail Station (Yellow Line), Huntington Station (Yellow Line), and Fort Belvoir. This route serves the stop just north of the site at the intersection of Richmond Highway and North/S. Kings Highway. The REX line operates with headways between 10 to 30 minutes, with the shortest headways during the AM and PM peak commute hours. The route operates during weekdays, Saturdays, and Sundays.

Engleside – Mt. Vernon Line (151 & 159). Fairfax Connector's Engleside – Mt. Vernon line services the Huntington Metrorail station. This route operates during the weekday AM and PM, Saturday, and Sunday peak hours with 30 minute headways. This route serves the stop just north of the site at the intersection of Richmond Highway and N./S. Kings Highway. The route operates during weekdays, Saturdays, and Sundays.

Hybla Valley Circulator (161 & 162). Fairfax Connector's Hybla Valley Circulator line services the Huntington Metrorail station. This route operates during the weekday AM and PM, Saturday, and Sunday peak hours with 30 to 60 minute headways. This route serves the stop just north of the site at the intersection of Richmond Highway and N./S. Kings Highway. The route operates during weekdays, Saturdays, and Sundays.

Richmond Highway (171). The Richmond Highway Line provides service to the Huntington Metro Station. Route 171 has six (6) stops and operates every 30 minutes during the AM and PM weekday peak hours. The closest stop is about 300 feet south of the site at Regan Street. The route operates during weekdays, Saturdays, and Sundays.

Given the proximity of the Huntington Metrorail station, the convenient bus connections to the Huntington Metrorail station, the surrounding mix of uses, and short walk to the future BRT station; the proposed reduction in the parking spaces would not adversely affect the adjacent residential neighborhood or commercial uses.

Access to Transit Services

As mentioned above and shown on Figure 4, the proposed development is located within one (1) mile (walking distance) from the Huntington Metrorail station. The shortest walking/biking route to the Huntington Metrorail station portal is approximately 0.95 mile (5,000 feet) in length as measured from the proposed building area, as shown on Figure 5. Connected sidewalks are provided on both sides of Richmond Highway (U.S. Route 1) and N. Kings Highway providing a walkable route to the Huntington Metrorail station. While marked crosswalks are not provided at some private driveways, pedestrian access should not be adversely impacted.

Crosswalks with signalized pedestrian heads are provided at the following nearby signalized intersections:

- Richmond Highway (U.S. Route 1)/N. Kings Highway/S. Kings Highway (East, South, and West Legs)
- N. Kings Highway/Fort Drive (North Leg)
- N. Kings Highway/Huntington Park Drive (All Legs)

The following crosswalks along the fastest walking/biking route lack pedestrian countdown infrastructure:

- N. Kings Highway/Shields Avenue
- N. Kings Highway/Fort Drive (East and West Legs)

The N. Kings Highway/Shields Avenue crossing could be avoided by using the existing pedestrian infrastructure at either the School Street/N. Kings Highway or the Richmond Highway (Route 1)/Shields Avenue intersections. Further, the eastern and western legs of N. Kings Highway/Fort Drive are minor approaches and do not anticipate high vehicle volumes. It is again noted that pedestrian facility improvements are imagined with the construction of the BRT system in the future.

Based on the connected system of pedestrian/bicycle facilities surrounding the site, residents would have convenient access to the transit facilities described herein.

Conditions of Bicycle and Pedestrian Amenities

The bicycle and pedestrian routes shown on Figure 5 were field verified to evaluate the conditions of travel paths between the site and local transit stations. All routes provide a continuous, uninterrupted route to their transit destinations from the site's building entrance. Pavement conditions vary from fair to very good, with a few small, existing sections of fair sidewalk conditions along N. Kings Highway. Sidewalk widths vary from four (4) to six (6) feet for the concrete and asphalt sidewalk sections. Most approaches of signalized intersections provide pedestrian signal heads, push button activation, accessible ramps, and high visibility marked crosswalks. The areas where recent redevelopment has occurred provide a higher quality of pedestrian and bicycle facilities. The Applicant proposes to improve all facilitates immediately surrounding the subject site.

Lighting throughout the routes varies. Roadways do not have pedestrian specific lighting but benefit from the overhead roadway lighting. The area immediately surrounding the Huntington Metrorail station provides additional pedestrian lighting along the sidewalks.

Residential Unit Mix

In harmony with the transit-oriented nature of the Kings Crossing project and taking advantage of existing transit services, the proposed residential units will be marketed toward a demographic inclined to use transit on a regular basis and to own fewer or no vehicles than a typical residential project. The Applicant is intending to provide the following unit type ratios:

- Studios 34 Units (9.7 percent)
- One (1) Bedroom Units: 216 Units (61.7 percent)
- Two (2) Bedroom Units: 100 Units (28.6 percent)

The current zoning ordinance parking requirement of 1.6 spaces per unit does not differentiate based on the number of bedrooms provided. As shown above, the proposed project would provide only studios and one or two-bedroom units. No three (3) bedroom units are currently proposed. The Applicant is proposing to provide a minimum parking supply of 1.4 parking spaces per unit.

Auto Ownership Based on Census Tract Information

Average auto ownership was determined based on data from the 2016 American Community Survey (ACS) published by the U.S. Census Bureau. The 2016 data for the Census Tracts and Block Groups that encompass the subject site and the immediately surrounding area indicates that the average auto ownership for rental units in the area was 1.29 vehicles per rental unit. The ACS data is summarized in Table 1.

Table 1
Residential Parking Reduction - Rental
2016 American Community Survey Data

	Households	Percent
No vehicle Available	249	7.37%
1 Vehicle Available	2,074	61.38%
2 Vehicles Available	925	27.37%
3 Vehicles Available	108	3.2%
4 vehicles available	17	0.5%
5 or more vehicles available	6	0.18%
Total Number of Households	**3,379**	**100%**
Average Auto Ownership		**1.29**

Based on Census Tracts 4204, 4205.01, 4205.02, 4205.03, 4151 Block Groups 1 & 2

The Census data indicates that approximately 69% of households own either one (1) or no vehicles. The data can be used to understand trends of development surrounding plentiful transit options in the area. The Census data suggests that a parking ratio of 1.4 parking spaces per unit would be adequate to serve the future residents' parking needs based on the rental unit type and transit-oriented development types in the area. The ACS data is provided as **Attachment IV**.

Recently Approved Nearby Parking Reductions

Recently within vicinity of the site a number of projects have been approved with parking ratios below the requirements of Fairfax County. Below is a summary of approved residential parking reductions including their planned parking ratios as shown on Figure 8.

Huntington Crossing. The residential building with 549 DUs was approved with a parking ratio of 1.3 spaces/DU. The building is approximately ¼ mile from the Huntington Metrorail Station.

Riverside Apartments. The residential building with 1,989 DUs was approved with a parking ratio of 1.3 spaces/DU. This property is located within ¾ mile to the Huntington Metrorail station, similar to the subject site.

A&R Huntington Avenue. The residential portion of the building with 139 DUs was approved with a parking ratio of 1.3 spaces/DU. This property is located within ¼ mile to the Huntington Metrorail station.

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Figure 8
Nearby Approved Parking Reductions

NORTH

Novus Kings Crossing
Fairfax County, Virginia

The Grande at Huntington. The residential portion of the building with 275 DUs was approved with a parking ratio of 1.4 spaces/DU. This property is located within one (1) mile to the Huntington Metrorail station, similar to the subject site.

Visitor Parking

According to ULI, the total residential visitor parking demand is approximately 0.15 spaces per DU. Based on the proposed 350 DUs, approximately 53 residential visitor parking spaces would be required absent any reductions. Assuming the requested 12.5 percent reduction, a total of 46 spaces would be required (53 x .875). It is anticipated the proposed parking supply would more than accommodate the estimated visitor demand and that a minimum of 46 visitor spaces could be provided.

Transportation Demand Management (TDM)

As part of the proposed residential development, the Applicant shall implement a TDM Plan to encourage the use of transit, high-occupant vehicle commuting modes, walking, biking, and teleworking, to reduce the automobile trips generated by the Application Property. While the implementation of a TDM program is not the basis of this parking reduction, these measures would help reduce the need for residents to own vehicles. A copy of the Applicant's draft TDM proffer is included as **Attachment V**. A TDM program, among other things, helps to reduce residential site-generated vehicle trips. Elements of the TDM program to reduce the number of household vehicles may include:

- Property-wide TDM Program Management with a goal of 20%
- Dissemination of County/Regional Program Information
- Bicycle facilities
- Metro Shuttle
- Regular monitoring/reporting
- Parking Management (e.g. unbundle the multi-family parking spaces by providing each new tenant an option to rent/own a parking space(s) at an additional cost)

Further, FCDOT has developed TDM guidelines for prospective developments to follow. This document speaks specifically to limiting the parking supply, pricing and unbundled parking for residential and office space, incorporating parking permit controls to ensure a convenient supply of appropriate parking, and preferential parking for high occupancy vehicles (HOV). These are several parking management techniques aimed to reduce vehicle trips through alternative mode choices and reducing the minimum parking requirements for uses located within TOD Districts and Non-TOD areas just outside the ½ mile radius from future rail.

Nearby Neighborhood Amenities

Numerous amenities are located in the immediate vicinity of the Kings Crossing site reducing the need for residents to own an automobile. The Walmart Supercenter is located immediately north of the site while retail establishments and restaurants are located approximately along Richmond Highway (U.S. Route 1) within ½ mile. Specifically, the following amenities and uses are provided near the site:

- Walmart
- Grocery
- Restaurants (ranging from quick service to sit-down)
- Gym/fitness facilities
- Pharmacy/drug store
- Banks/ATMs
- Coffee/Doughnut shops
- Other general retail uses

In order to provide an assessment of the site's access to pedestrian facilities and nearby amenities, the Walk Score was calculated for the site and is included in **Attachment VI**. The Walk Score is an analysis provided by the website www.walkscore.com and provides scores from 0 (worst) to 100 (best) for walkability. Based on its location, the subject site received a walkability score of 69 which was classified as "Somewhat Walkable – Some errands can be accomplished on foot". This score will improve as redevelopment occurs and the BRT is implemented along Richmond Highway (Route 1).

BASIS FOR THE PARKING REDUCTION REQUEST (Z.O. 11-102.5)

The following summarizes the basis for the parking reduction request:

- The site is served by existing established Fairfax Connector and WMATA bus routes along Richmond Highway and at the nearby Metrorail and transit stations.
- The site is located within a 1/8 to 1/4 mile of the future Bus Rapid Transit station and one (1) mile of the Huntington Avenue Metrorail station (straight line distance).
- The pedestrian/bicycle infrastructure existing in the vicinity of the site provides direct walking/biking routes to/from transit and area amenities. The approximate walking/biking distances to the Huntington Avenue Metrorail station, and Bus Rapid Transit station are approximately 5,000 feet and 530 feet, respectively.

- The majority (approximately 86 percent) of the proposed standard rental dwelling units would be one and two bedroom models. No three (3) bedroom units are currently proposed.
- Census Tract data supports the proposed parking ratio and indicates that rental households in the vicinity of public transit facilities own fewer vehicles than current code requirements.
- The proffers include a TDM plan that would include elements to help reduce the number of household vehicles. The proffers establish a trip reduction goal of 20%. The strategies would in turn reduce the need for a vehicle.
- The site's proximity to a mix of uses and multimodal amenities would allow residents convenient alternatives to driving.
- The methodologies and recommendations of the parking study are consistent with the guidance provided in the Comprehensive Plan.

IMPACT TO ADJACENT PROPERTIES (Z.O. 11-102.5)

The proposed residential project is located in close proximity to the existing Huntington Avenue Metrorail as well as various bus routes. The proposed site will predominantly offer one and two bedroom units whose parking supply will be provided through structured parking. The project is anticipated to attract one (1) and no car individuals and families based on its TDM program and proximity to mass transit. The project has TDM proffers that will reduce the need for vehicle ownership. Additionally, numerous nearby neighborhood amenities would allow residents to conduct daily errands without the use of an automobile. The adjacent parcels consist of retail and restaurant establishments which are parked to code and are not anticipated to be affected by the parking reduction request.

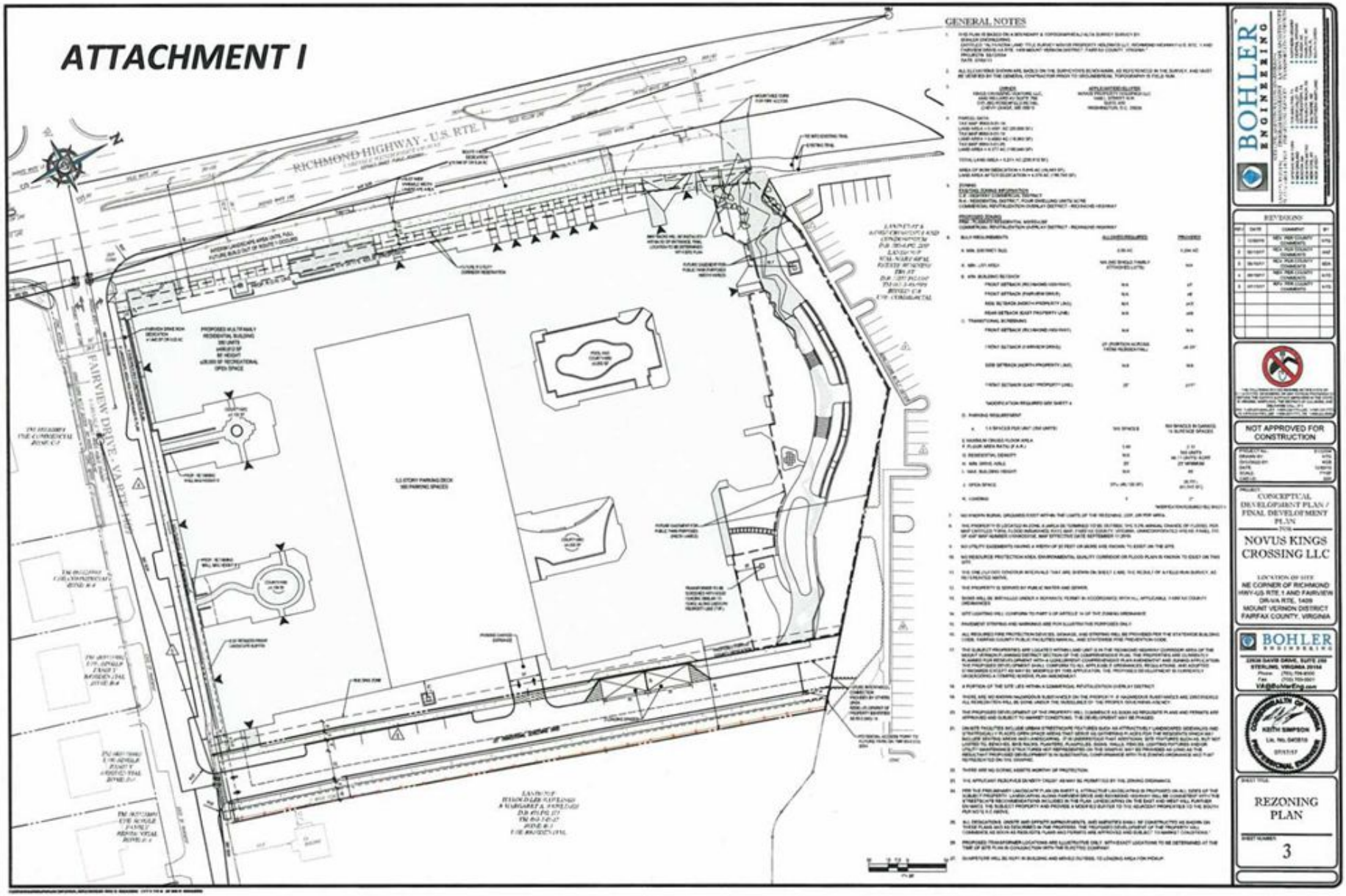
The nearby residential neighborhood along Fairview Drive would not be affected by the requested parking reduction. Overflow parking into the neighborhood is not anticipated for the subject development. In summary, if the parking reduction request were granted, there would be no impact on the site or surrounding areas.

CONCLUSIONS

Based on the documentation provided herein, the following can be concluded:

1. Under a strict application of the Zoning Ordinance, 560 parking spaces would be required to accommodate the proposed 350 multi-family rental dwelling units and their visitors.
2. Based on the proximity to transit, the **Applicant requests a residential parking reduction of approximately 12.5 percent from the 560 spaces (1.6 per DU) as required by the County's Zoning ordinance to 490 spaces (1.4 per DU) resulting in a total reduction of 70 parking spaces is hereby requested.**
3. The site is approximately 1/8 to 1/4 mile from the future Bus Rapid Transit (BRT) station and one (1) mile from the existing Huntington Avenue Metrorail station. The site is also served by multiple Fairfax Connector and WMATA bus routes.
4. The proposed 350 multi-family residential DUs would generally consist of approximately 9.7% studio DUs, approximately 61.7% one-bedroom DUs, and approximately 28.6% two-bedroom DUs with minor modifications based on final design. No three (3) bedroom DUs are currently proposed. The ultimate mix of units will be determined at the time of site plan submission and is to allow minor potential changes that would not reduce the parking ratio below the requested 1.4 parking spaces per DU.
5. Census tract data from 2016 shows an average auto ownership of 1.29 vehicles per rental unit suggesting that the proposed parking supply would adequately serve residents.
6. Several elements of the TDM program would also benefit the proposed residential multi-family dwelling units and assist in encouraging use of modes other than the automobile. The proffered TDM program complements the site's proximity to mass transit and reduces residential parking needs while supporting County goals to reduce those peak hour vehicle trips.
7. The proximity of neighborhood amenities would allow residents the conduct daily errands without driving, reducing the need for auto ownership.
8. The proposed residential parking reduction is consistent with the recommendations outlined in the Comprehensive Plan.

Questions regarding this document should be directed to Wells + Associates, Inc.


ATTACHMENT I
GENERAL NOTES
RICHMOND HIGHWAY - U.S. RTE 1
FAIRVIEW DRIVE - VARIABLE WIDTH
BOHLER ENGINEERING
REVISIONS
NOT APPROVED FOR CONSTRUCTION
CONCEPTUAL DEVELOPMENT PLAN / FINAL DEVELOPMENT PLAN
NOVUS KINGS CROSSING LLC
LOCATION OF SITE
NE CORNER OF RICHMOND HWY-US RTE 1 AND FAIRVIEW DR-VA RTE 1409
MOUNT VERNON DISTRICT
FAIRFAX COUNTY, VIRGINIA
BOHLER ENGINEERING
KEITH SIMPSON
REZONING PLAN
3

Two (2) spaces per single family dwelling, provided that only one (1) such space must have convenient access to a street, plus one (1) space per guest room in the bed and breakfast

2. Dormitory, Fraternity or Sorority House, or Other Residence Hall Located Off Campus:

   One (1) space per two (2) sleeping accommodations based on the occupancy load of the building, plus one (1) additional space for each housemother, manager or employee

3. Dwelling, Single Family Detached:

   Two (2) spaces per unit for lots with frontage on a public street and three (3) spaces per unit for lots with frontage on a private street, provided that only one (1) such space must have convenient access to a street

4. Dwelling, Single Family Attached:

   Two and seven-tenths (2.7) spaces per unit, provided, however, that only one (1) such space must have convenient access to the street

5. Dwelling, Multiple Family:

   One and six-tenths (1.6) spaces per unit

6. Hotel, Motel:

   One (1) space per rental unit, plus four (4) spaces per fifty (50) rental units, plus such spaces as are required for restaurants, assembly rooms and affiliated facilities as determined by the Director

7. Independent Living Facility

   One (1) space per four (4) dwelling units, plus one (1) space per one (1) employee or staff member on the major shift, or such greater number as the Board may require

8. Mobile Home:

   One and one-half (1.5) spaces per unit

9. Nursing, Convalescent, Assisted Living or Congregate Living Facility:

   One (1) space per three (3) residents, plus one (1) additional space for each employee

10. Tourist House, Boarding House, Rooming House:

ATTACHMENT III

ARTICLE 11

OFF-STREET PARKING AND LOADING, PRIVATE STREETS

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PART 2 11-200 OFF-STREET LOADING

SECTION

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11-202 General Provisions
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PART 3 11-300 PRIVATE STREETS

SECTION

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ATTACHMENT III

ARTICLE 11

OFF-STREET PARKING AND LOADING, PRIVATE STREETS

PART 1 11-100 OFF-STREET PARKING

11-101 Applicability

1. Except as provided for in a Commercial Revitalization District, in any R, C or I district, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations, and in the PDH, PDC, PRC and PRM Districts, the provisions of this Part shall have general application as determined by the Director. However, for the redevelopment of an existing property that includes the retention of some uses/structures and the elimination of some on-site parking during the redevelopment process, the Board, in conjunction with a rezoning or special exception, or the Director, in conjunction with a site plan, may approve a temporary reduction and/or relocation of the minimum required off-street parking spaces subject to a time limitation and demonstration by the applicant that adequate measures will be taken to ensure the continuation of safe and adequate utilization of the property.

   In the PTC District off-street parking shall be provided in accordance with Sect. 6-509, and Sect. 11-102 below shall have general application as determined by the Director. Additionally, subject to the approval of a parking redesignation plan pursuant to Par. 12 of Sect. 11-102, for an existing use located in the Tysons Corner Urban Center but not in the PTC District an owner may voluntarily elect to reduce the number of off-street parking spaces required pursuant to Sections 11-103, 11-104, 11-105 and 11-106 for the site to a number between what is currently approved for the site and the applicable minimum parking rate specified for the PTC District. However, this voluntary parking reduction is not an option if the currently approved number of parking spaces on the site is specified by a special permit, special exception or proffered condition.

2. The provision of off-street parking for a change in use and/or an expansion or enlargement of an existing structure and/or use shall be in accordance with the following:

   A. When there is a change in use to a use which has the same or lesser parking requirement than the previous use, no additional parking shall be required. When there is a change to a use which has a greater parking requirement than the previous use, the minimum off-street parking requirement in accordance with the provisions of this Article shall be provided for the new use.

   B. When an existing structure and/or use is expanded or enlarged, the minimum off-street parking requirements in accordance with the provisions of this Article shall be provided for the area or capacity of such expansion or enlargement. However, compliance with the minimum off-street parking requirements shall not be required for the expansion or enlargement when such expansion or enlargement is to provide an accessibility improvement.

   Notwithstanding the above, for special permit and special exception uses, the respective approving body may require the provision of off-street parking in accordance with this Article for the entire structure or use as expanded or enlarged.

ATTACHMENT III

3. The provisions of this Part shall not be deemed to apply to motor vehicle storage or display parking areas associated with a vehicle sale, rental and ancillary service establishment, except as may be qualified elsewhere in this Ordinance.

11-102 General Provisions

1. All required off-street parking spaces must be located on the same lot as the structure or use to which they are accessory or on a lot contiguous thereto which has the same zoning classification, and is either under the same ownership, or is subject to agreements or arrangements satisfactory to the Director that will ensure the continuing availability of such spaces in a manner that is sufficient to adequately serve the use(s) to which such parking is associated.

   Provided, however, where there are practical difficulties or if the public safety and/or public convenience would be better served by the location other than on the same lot or on a contiguous lot with the use to which it is accessory, the Board, acting upon a specific request, may authorize such alternative location subject to conditions it deems appropriate and the following:

   A. Such required space will be subject to agreements or arrangements satisfactory to the Board that will ensure the continuing availability of such spaces in a manner that is sufficient to adequately serve the use(s) to which such parking is associated, and

   B. The applicant must demonstrate to the Board's satisfaction that such required space is generally located within 500 feet walking distance of a building entrance to the use that such space serves or such space will be provided off-site with access via a valet or shuttle service subject to agreements or arrangements approved by the Board which will ensure the operation of such service and that there will not be any adverse impacts on the site of the parking spaces or the adjacent area, or

   C. Such required space will be accommodated in accordance with the provisions of Par. 6 below.

   In a Commercial Revitalization District, the Director may approve an alternative location in accordance with the above and the provisions of the Commercial Revitalization District.

2. When provided as an accessibility improvement, accessible off-street parking spaces and related access aisles and accessible routes shall be in accordance with the provisions of the VUSBC and the Public Facilities Manual. The number of accessible parking spaces shall be included in the required number of parking spaces. Each such accessible parking space shall be designated as reserved for persons with disabilities by an above grade sign in conformance with the design and content specifications of the Public Facilities Manual.

3. No off-street parking facilities for a structure or use permitted only in a C or I district shall be located in an R district except upon approval as a special exception by the Board as provided in Part 6 of Article 9.

ATTACHMENT III

4. Off-street parking spaces may serve two (2) or more uses; however, in such case, the total number of such spaces must equal the sum of the spaces required for each separate use except:

   A. As may be permitted under Paragraphs 5, 22, 26, 27, and 28 below and Par. 3 of Sect. 106 below, or a previously approved parking reduction based on a proffered transportation demand management program;

   B. That the Board may, subject to conditions it deems appropriate, reduce the total number of parking spaces required by the strict application of this Part when the applicant has demonstrated to the Board's satisfaction that fewer spaces than those required by this Part will adequately serve two (2) or more uses by reason of the sum of the hourly parking demand of such uses and such reduction will not adversely affect the site or the adjacent area.

   C. That the Director may, subject to appropriate conditions, reduce by up to thirty (30) percent the total number of parking spaces required by the strict application of this Part when the applicant has demonstrated to the Director's satisfaction that fewer spaces than those required by this Part will adequately serve two (2) or more uses by reason of the sum of the hourly parking demand of such uses and such reduction will not adversely affect the site or the adjacent area. Such reductions may not be approved if:

      (1) There is a pending rezoning, special exception, or proffered condition amendment application for the site; or

      (2) There is a Residential Permit Parking District within 1000 feet of the subject site; or

      (3) The number of parking spaces on the site is specified by an approved special permit, special exception, proffered condition, or a parking reduction approved by the Board, unless the approval allows such administrative reductions.

      (4) Any reduction not meeting the requirements for approval by the Director under this paragraph may be approved by the Board pursuant to Par. 4B above.

Required off-street parking spaces and their appurtenant aisles and driveways which are not fully utilized during the weekday may be used for a public commuter park-and-ride lot when such lot is established and operated in accordance with a public commuter park-and-ride lot agreement approved by the Board.

In addition, for a use where the minimum number of required parking spaces is provided on site in accordance with this Part, but additional off-site parking may be desired, the Director may, subject to conditions the Director deems appropriate, approve the use of a portion of an adjacent site's required parking spaces, when the applicant has demonstrated to the Director's satisfaction that the use of such spaces on the adjacent site will not adversely affect such site or the adjacent area by reason of the sum of the hourly parking demand of such uses.

ATTACHMENT III

5. Subject to conditions it deems appropriate, the Board may reduce the number of off-street parking spaces otherwise required by the strict application of the provisions of this Part when a proposed development is within:

   A. Reasonable walking distance to a mass transit station wherein the station either exists or is programmed for completion within the same time frame as the completion of the subject development; or

   B. An area designated in the adopted comprehensive plan as a Transit Station Area; or

   C. Reasonable walking distance to an existing transportation facility consisting of a streetcar, bus rapid transit, or express bus service or wherein such facility is programmed for completion within the same timeframe as the completion of the subject development and will provide high-frequency service; or

   D. Reasonable walking distance to a bus stop(s) when service to this stop(s) consists of more than three routes and at least one route serves a mass transit station or transportation facility and provides high-frequency service.

   Such reduction may be approved when the applicant has demonstrated to the Board's satisfaction that the spaces proposed to be eliminated are unnecessary based on the projected reduction in the parking demand resulting from the proximity of the mass transit station or transportation facility or bus service and such reduction in parking spaces will not adversely affect the site or the adjacent area, including potential impacts on existing overflow parking in nearby neighborhoods. For the purposes of this provision, a determination regarding the completion time frame for a mass transit station or transportation facility must include an assessment of the funding status for the transportation project.

6. Within areas designated as Community Business Centers on the adopted comprehensive plan, the Board may waive the requirement that all required off-street parking spaces be located on the same lot or on a contiguous lot as set forth in Par. 1 above, provided the following conditions are met:

   A. The developer shall apply to the Director stating the circumstances which make it impracticable to meet the requirements of this Part, and

   B. The developer shall agree to pay to the County a sum for each space so eliminated, such sum to be set by the Board in an annually adopted schedule, and

   C. The County has plans for the erection of a public parking facility in the immediate area of the request, and

   D. The County has provided for the development of such parking, at a time and in a quantity sufficient to meet the needs of the applicant's proposed use.

7. All required off-street parking spaces and their appurtenant aisles and driveways shall be deemed to be required space on the lot on which the same are situated and shall not be

U.S. Census Bureau

AMERICAN FactFinder

B25044

TENURE BY VEHICLES AVAILABLE
Universe: Occupied housing units
2012-2016 American Community Survey 5-Year Estimates

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Data and Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

Tell us what you think. Provide feedback to help make American Community Survey data more useful for you.

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

ATTACHMENT IV

	Census Tract 4204, Fairfax County, Virginia		Census Tract 4205.01, Fairfax County, Virginia		Census Tract 4205.02, Fairfax County, Virginia	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Total:	1,877	+/-92	1,031	+/-78	994	+/-49
Owner occupied:	472	+/-78	667	+/-94	358	+/-65
No vehicle available	14	+/-14	24	+/-25	29	+/-22
1 vehicle available	199	+/-64	394	+/-90	184	+/-57
2 vehicles available	212	+/-72	215	+/-55	129	+/-52
3 vehicles available	38	+/-33	34	+/-21	16	+/-21
4 vehicles available	9	+/-13	0	+/-12	0	+/-12
5 or more vehicles available	0	+/-12	0	+/-12	0	+/-12
Renter occupied:	1,405	+/-99	364	+/-87	636	+/-81
No vehicle available	148	+/-83	32	+/-26	26	+/-19
1 vehicle available	872	+/-113	222	+/-72	370	+/-72
2 vehicles available	366	+/-107	101	+/-64	211	+/-61
3 vehicles available	13	+/-15	9	+/-12	29	+/-30
4 vehicles available	0	+/-12	0	+/-12	0	+/-12
5 or more vehicles available	6	+/-9	0	+/-12	0	+/-12

	Census Tract 4205.03, Fairfax County, Virginia		Block Group 1, Census Tract 4151, Fairfax County, Virginia		Block Group 2, Census Tract 4151, Fairfax County, Virginia	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Total:	1,491	+/-103	451	+/-58	417	+/-52
Owner occupied:	526	+/-98	442	+/-58	350	+/-62
No vehicle available	18	+/-21	18	+/-21	9	+/-14
1 vehicle available	272	+/-91	102	+/-44	97	+/-59
2 vehicles available	108	+/-55	147	+/-43	139	+/-56
3 vehicles available	74	+/-42	157	+/-72	55	+/-38
4 vehicles available	21	+/-23	10	+/-15	7	+/-11
5 or more vehicles available	33	+/-33	8	+/-12	43	+/-27
Renter occupied:	965	+/-110	9	+/-17	67	+/-37
No vehicle available	43	+/-30	0	+/-12	0	+/-12
1 vehicle available	610	+/-106	0	+/-12	24	+/-22
2 vehicles available	238	+/-91	9	+/-17	35	+/-29
3 vehicles available	57	+/-47	0	+/-12	8	+/-12
4 vehicles available	17	+/-19	0	+/-12	0	+/-12
5 or more vehicles available	0	+/-12	0	+/-12	0	+/-12

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

While the 2012-2016 American Community Survey (ACS) data generally reflect the February 2013 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

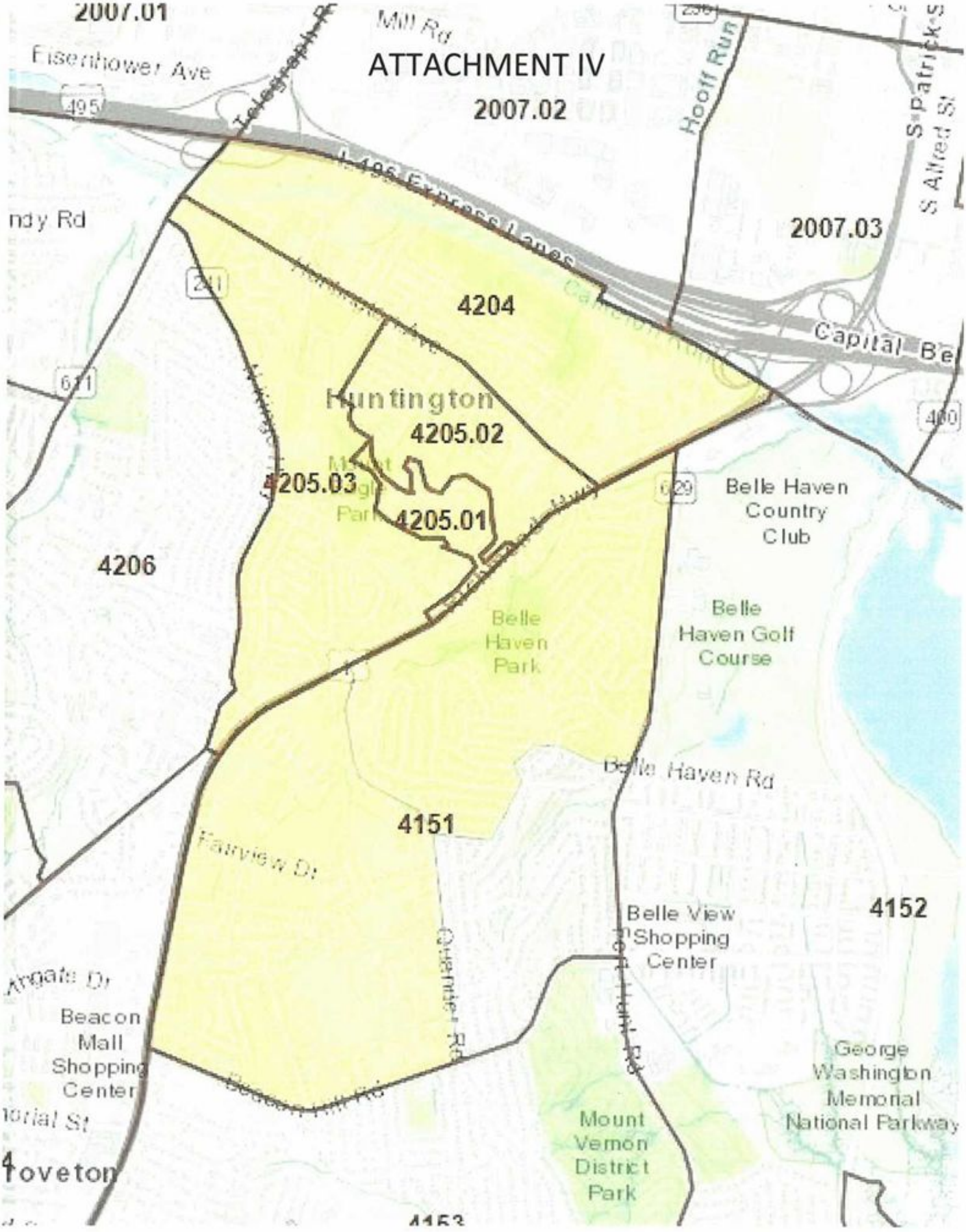
Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

Source: U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates

Explanation of Symbols:

1. An '**' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
2. An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
3. An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
5. An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
6. An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
7. An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
8. An '(X)' means that the estimate is not applicable or not available.

ATTACHMENT IV


ATTACHMENT IV
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Huntington
Belle Haven Country Club
Belle Haven Golf Course
Belle Haven Park
Belle View Shopping Center
Beacon Mall Shopping Center
George Washington Memorial National Parkway
Mount Vernon District Park
Fairview Dr
Belle Haven Rd
Mill Rd
Hooff Run
Eisenhower Ave
Capital Be
Loveton

County or VDOT whether such dedications occur prior to or at time of site plan approval.

4. TRANSPORTATION DEMAND MANAGEMENT

A. Transportation Demand Management. The Applicant shall implement a transportation demand management (TDM) program as set forth in a TDM Plan (the "TDM Plan") to encourage the use of transit, high-occupant vehicle commuting modes, walking, biking and teleworking, to reduce automobile trips generated by the Application Property.

(i) Definitions. For purposes of this Proffer, "Stabilization" shall be deemed to occur one (1) year following issuance of the last initial RUP for the final new dwelling unit to be constructed on the Application Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.

(ii) Transportation Demand Management Work Plan. The Applicant shall be responsible for submitting the Transportation Demand Management Work Plan (the "TDM Work Plan") to FCDOT for approval prior to site plan approval. It is the intent of this proffer that the TDM Work Plan will adapt over time to respond to the changing transportation related circumstances of the Application Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth in this proffer. Accordingly, modifications, revisions, and supplements to the TDM Work Plan as coordinated with FCDOT can be made without the need for a PCA, CDPA, and/or FDPA, provided that the TDM Work Plan continues to reflect the proffered elements of the TDM Program as set forth below.

(iii) Transportation Management Association. The Applicant shall participate in or otherwise become associated with a larger Transportation Management Association should one be established for this area.

(iv) Trip Reduction Goals. The objective of the TDM program shall be to reduce the number of weekday peak hour vehicle trips generated by the residential uses located within the Application Property through the use of mass transit, ridesharing and other strategies including but not limited to those outlined in the TDM Plan. The relocation of the existing bus shelter on the Application Property will provide safe and convenient access to nearby Metrorail and bus facilities, thereby encouraging commuting options other than the automobile to residents, employees and visitors to the Application Property.

a. Baseline. The baseline number of weekday peak hour residential vehicle trips for the proposed dwelling units within the Application Property against which the TDM Goals (as defined in subparagraph (iv)(b)) shall be estimated based upon the actual

number of residential units approved, constructed on the Application Property at the time traffic counts are conducted or as qualified below and using the trip generation rates/equations applicable to such residential uses as set forth in the Institute of Transportation Engineers, Trip Generation, 9th Edition.

b. TDM Goals. Prior to the implementation of the planned Bus Rapid Transit (BRT) for Richmond Highway, the TDM strategies shall be utilized to reduce the weekday peak hour vehicular trips by twenty percent (20%).

(v) Process of Implementation. The TDM Plan shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.

a. TDM Program Manager. The Applicant shall appoint and continuously employ, or cause to be employed, a TDM Program Manager (TPM) for the Application Property. If not previously appointed, the TPM shall be appointed no later than twelve (12) months after the issuance of the first building permit for the first new dwelling unit to be constructed on the Application Property. The TPM duties may be part of other duties assigned to the TPM. The TPM shall notify FCDOT in writing within 10 days of the appointment of the TPM. Thereafter the Applicant shall do the same within ten (10) days of any change in such appointment.

b. Annual Report. Every calendar year after the first issuance of RUP, but no later than March 1, the TPM shall submit an Annual Report, based on a report template provided by FCDOT, in order to incorporate any new construction on the Application Property. Any changes to the TDM Plan shall be highlighted in this report. The Annual Report shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the Annual Report, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. Thereafter, but in any event, no later than thirty (30) days after the meeting, the TPM shall submit such revisions to TDM Plan as discussed and agreed to with FCDOT and begin implementation of the approved program.

c. TDM Incentive Fund. The TDM Incentive Fund is an account into which the Applicant, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees within the Application Property. Such

contribution shall be made at the rate of $0.01 per gross square foot of new residential use to be constructed on the Application Property and provided prior to the issuance of the first RUP for the building. In addition to providing transit incentives, such contributions may also be used for enhancing/providing multimodal facilities within and proximate to the Application Property.

d. Monitoring. The TPM shall verify that the proffered trip reduction goals are being met through the completion of peak hour Vehicular Traffic Counts at the entrance to the parking garage or other such methods as may be reviewed and approved by FCDOT. The results of the peak hour Vehicular Traffic Counts shall be provided to FCDOT as part of the Annual Reporting process. Vehicular Traffic Counts shall be conducted for the Application Property beginning one year following issuance of the final initial RUP for the first new building to be constructed on the Application Property. Vehicular Traffic Counts shall be collected once every two (2) years until the results of three consecutive traffic counts show that the applicable trip reduction goals for the Application Property have been met. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend such Vehicle Traffic Counts if conditions warrant such. Notwithstanding the foregoing requirements associated with the TDM, these requirements shall expire after the sooner to occur of the project meeting its trip reduction goals for three (3) consecutive counts or 10 years following the issuance of the final RUP.

(vi) Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then FCDOT may require the TPM to conduct additional Vehicular Traffic Counts (pursuant to the methodology set forth in the TDM Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Traffic Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.

(vii) Continuing Implementation. The TPM shall bear sole responsibility for continuing implementation of the TDM Plan and compliance with this proffer. The TPM shall continue to administer the TDM Plan in the ordinary course in accordance with this proffer including submission of Annual Reports.

(viii) Notice to Owners. All owners of the Application Property shall be advised of the TDM Program set forth in this proffer. The Applicant shall advise all successor owners and/or developers of the requirements of the TDM Program, which shall be included in all initial and subsequent purchase documents.

5. TRAFFIC SIGNAL PREEMPTION EQUIPEMENT CONTRIBUTION

Prior to the issuance of the first RUP for the Application Property, the Applicant shall contribute the sum of twenty thousand dollars ($20,000.00) for the installation of signal pre-emption equipment at two (2) intersections to be determined by the Fairfax County Fire and Rescue Department, and located in proximity to the Application Property. The Applicant shall not be responsible for the installation, ongoing maintenance, or repair of the signal pre-emption equipment.

6. PARKING

Parking shall be provided in accordance with Article 11 of the Zoning Ordinance as determined by DPWES. However, the Applicant reserves the right to request a parking reduction pursuant to Article 11 of the Zoning Ordinance. Any modification to the required parking as approved by such parking reduction may be accommodated without requiring a PCA or FDPA provided the layout is in substantial conformance with the CDP/FDP. The number of parking spaces represented on the CDP/FDP is based on preliminary estimates; the final number of parking spaces provided at the time of site plan submission shall be consistent with any approved parking reduction, and the number of residential units developed. The Applicant reserves the right to provide parking in excess of the minimum required per code or approved parking reduction so long as it does not decrease open space or increase the height of the garage and is in substantial conformance with the CDP/FDP.

7. STORMWATER MANAGEMENT/BEST MANAGEMENT PRACTICES

A. The Applicant shall provide underground on-site stormwater management (SWM) and Best Management Practices (BMPs) facilities as shown on the CDP/FDP to satisfy detention and water quality requirements in accordance with the requirements of the Public Facilities Manual, DPWES, and Chapter 118 of the Fairfax County Code, subject to the approval of the Board of Supervisors.

B. The SWM/BMP facilities shall be maintained by the Applicant, its successors and assigns, in accordance with the regulations of DPWES. The maintenance responsibilities shall be incorporated in an agreement to be reviewed and approved as to form by the Fairfax County Attorney's Office and recorded among the Fairfax County land records. The maintenance responsibilities for the SWM/BMP facilities shall be disclosed in the homeowners' association documents, if any, established for the residential units.

6321 Richmond Highway

Alexandria (/VA/Alexandria), Virginia, 22306

Commute to **Downtown Rose Hill (/compare#edit-commutes)**

60+ min 60+ min 60+ min

Favorite **Map** **Nearby Apartments (/apartments/search/6321-richmond-hwy-alexandria-va-22306)**

Looking for a home for sale in Alexandria? (https://www.redfin.com/city/250/VA/Alexandria)

Walk Score 69

Somewhat Walkable

Some errands can be accomplished on foot.

Transit Score 47

Some Transit

A few nearby public transportation options.

About your score

Add scores to your site (/professional/badges.php?address=6321 Richmond Highway Alexandria, VA 22306)



About this Location



6321 Richmond Highway has a Walk Score of 69 out of 100. This location is Somewhat Walkable so some errands can be accomplished on foot.

This location is in Alexandria. Nearby parks include Fort Willard Park, Lenclair Park and Belle Haven Park.

Transit Score 47

Some Transit

6321 Richmond Highway has some transit which means a few nearby public transportation options. Car sharing is available

Rail lines:

Yellow Metrorail Yellow Line	1.0 mi

Bus lines:

Richmond Highway Express Bus	0.1 mi
159 Engleside Limited-Stop	0.1 mi
151 Engleside - Mt Vernon	0.1 mi
162 Hybla Valley Clockwise	0.1 mi
171 Richmond Hwy	0.1 mi
161 Hybla Valley Counter-Clockwise	0.1 mi
152 Groveton - Mt Vernon	0.1 mi

Car shares:

Zipcar: Huntington Metro	1.1 mi
Zipcar: Carlyle Mill (2201 Mill Rd)	1.5 mi

Alexandria Apartments for Rent

View all Alexandria apartments (/apartments/search/VA/Alexandria) on a map.

from **$1,741**

Carlyle Mill (/score/carlyle-mill-...
1 bed Walk Score 65

from **$1,516**

Town Square at Mark Center (/s...
1 bed Walk Score 48

from **$1,768**

The Reserve at Eisenhower (/sc...
1 bed Walk Score 43

Board Agenda Item
July 31, 2018

ACTION – 6

Approval of a Plain Language Explanation for the 2018 Bond Referendum for Public Safety Facilities

ISSUE:
Board approval of explanatory statement for the public safety bond referendum to be held in conjunction with the General Election on November 6, 2018.

RECOMMENDATION:
The County Executive recommends that the Board approve the plain language explanation and authorize staff to translate it, post it online, and print sufficient copies to make it available at County absentee voting sites and polling places.

TIMING:
Board action is recommended on July 31, 2018, so that staff can translate the explanation, post it on the County's website as soon as possible, and have it printed and available when absentee voting begins on September 21.

BACKGROUND:
On June 19, 2018, the Board of Supervisors adopted a resolution asking the Fairfax County Circuit Court to order a referendum on November 6, 2018, on the question whether the County should be authorized to issue general obligation bonds for public safety improvements. The County Attorney filed the resolution with a Petition asking the Circuit Court to order the election, and the court entered the order on June 26, 2018.

State law requires localities to provide for the preparation and printing of an explanation for each referendum question that involves the issuance of bonds by the locality. The statement must include the ballot question and a neutral explanation of not more than 500 words prepared by the locality's attorney. The Board approved the wording of the ballot question when it adopted the Resolution, and the Circuit Court's order requires the ballot question to be stated as approved by the Board. This Action Item presents only the explanation portion of the proposed statement for the Board's approval.

The explanatory statement will be provided in addition to the pamphlets the Board has already authorized staff to prepare and mail to all County households. The plain language explanatory statements are frequently referred to as "plain English"

statements, because State law requires them to be written in “plain English.” The law defines “plain English” to mean “written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.” However, Section 203 of the federal Voting Rights Act requires political subdivisions designated by the Director of the U.S. Bureau of the Census to make all voting materials available in the language of the designated minority group. The Director of the Census designated Fairfax County in 2011 and in 2016 as a jurisdiction required to provide all election-related materials in Spanish and Vietnamese, respectively. As in the past, staff also will prepare translations of other common, non-English languages.

FISCAL IMPACT:
Expenses associated with printing and translating the explanation will be paid out of existing appropriations in Fund 20000, Consolidated County and Schools Debt Service Fund.

ENCLOSED DOCUMENTS:
Attachment 1 – Virginia Code § 24.2-687
Attachment 2 – Draft Explanation for 2018 Public Safety Bond Referendum

STAFF:
Joseph M. Mondoro, Chief Financial Officer
Joseph LaHait, Debt Coordinator, Department of Management and Budget

ASSIGNED COUNSEL:
Erin C. Ward, Deputy County Attorney

Code of Virginia
Title 24.2. Elections
Chapter 6. The Election

§ 24.2-687. Authorization for distribution of information on referendum elections

A. The governing body of any county, city or town may provide for the preparation and printing of an explanation for each referendum question to be submitted to the voters of the county, city or town to be distributed at the polling places on the day of the referendum election. The governing body may have the explanation published by paid advertisement in a newspaper with general circulation in the county, city or town one or more times preceding the referendum.

The explanation shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county, city or town or, if there is no county, city or town attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

If the referendum question involves the issuance of bonds by a locality, the locality shall provide for such printed explanation. The explanation shall (i) state the estimated maximum amount of the bonds proposed to be issued, and (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used.

B. Nothing in this section shall be construed to limit a county, city or town from disseminating other neutral materials or advertisements concerning issues of public concern that are the subject of a referendum; however, the materials or advertisements shall not advocate the passage or defeat of the referendum question.

C. This section shall not be applicable to statewide referenda.

D. Any failure to comply with the provisions of this section shall not affect the validity of the referendum.

1996, c. 297;2004, cc. 21, 399;2006, c. 302;2011, c. 590.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

PUBLIC SAFETY FACILITIES BONDS EXPLANATION

Ballot Question

PUBLIC SAFETY BONDS

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds in the maximum aggregate principal amount of $182,000,000 to provide funds, in addition to funds from public safety facilities bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of public safety facilities, including the construction, reconstruction, enlargement, renovation and equipment of civil and criminal justice facilities, police training and operational facilities and stations, fire and rescue training facilities and stations, including fire and rescue stations owned by volunteer organizations, and the acquisition of necessary land?

Explanation

Virginia law permits the Fairfax County government to borrow money to buy land and construct projects by issuing general obligation bonds. General obligation bonds are sold to investors and the bonds are repaid over time with future County revenues. Money received from the sale of the bonds is a source of funding for many County facilities. Bond financing permits the costs of those County facilities to be repaid over a period of years. However, before incurring such a County general obligation debt, County voters must authorize the County to borrow those funds.

This referendum asks Fairfax County voters whether the County government should be authorized to contract a debt and issue bonds in the maximum amount of $182 million to fund the construction, reconstruction, improvement, and acquisition of public safety facilities. If a majority of voters approves the question, the County would be allowed to issue bonds to fund public safety facilities. The County's current plans for the proceeds of bonds that may be authorized by this referendum are set forth below. The County may in the future alter these specific plans, but in such a case the County would have to use the funds for a purpose described in the ballot question.

For the Fire and Rescue Department, plans include $73 million to renovate or replace five aging fire stations: Mount Vernon (Fire Station 9), Fairview (Fire Station 32), Gunston (Fire Station 20), Seven Corners (Fire Station 28), and one station operated by volunteers. These fire stations are between 37 and 49 years old and require building systems and infrastructure upgrades to replace equipment that is beyond the end of its life cycle. In addition, apparatus bays are undersized, living facilities for firefighters are inadequate, and space is needed to conduct field operations, management, and support functions.

For the Police Department, plans include $59 million to renovate, upgrade, or replace one police station and two specialized operational facilities. Bond funds would enable the renovation and

upgrading of the Mason District Police Station, which is 43 years old and does not have adequate office, storage, workout, or interview spaces. This facility must operate 24/7 and does not currently support operations. Bond funds also would provide for the renovation/expansion or replacement of the Police Evidence Storage Annex, built 58 years ago, and the renovation and upgrade of the Criminal Justice Academy, which the County acquired in 1995. The Police Evidence Storage Annex houses the Warrant Desk, the Victim Services Section, and the main Property and Evidence Section. The Criminal Justice Academy provides training for 2,300 recruits annually, as well as for current employees from the Fairfax County Police and Sheriff, and the Police Departments for the towns of Herndon and Vienna.

For the Courts and the Adult Detention Center, plans include $5 million to complete the next set of courtroom renovations at the Jennings Judicial Center, and $45 million to support infrastructure replacement/upgrades and a full renovation of the Adult Detention Center.

This explanation was prepared, printed, and made available at election polling places in accordance with Virginia Code § 24.2-687

Board Agenda Item
July 31, 2018

ACTION – 7

Approval for the Development and Implementation of a Public Safety Unmanned Aircraft Systems (UAS) Program

ISSUE:
Board Approval for the development and implementation of a public safety Unmanned Aircraft Systems (UAS) program.

RECOMMENDATION:
The County Executive recommends approval by the Board of Supervisors.

TIMING:
Board approval is requested on July 31, 2018.

BACKGROUND:
Staff from the Office of Emergency Management, Fire and Rescue Department, Police Department, Sheriff's Office, Office of the County Attorney, Office of Public Affairs, and Risk Management began meeting in May 2017 to develop a conceptual design for a public safety Unmanned Aircraft Systems (UAS) program. This concept was presented and discussed at the January 30, 2018, Public Safety Committee meeting. Staff had planned to bring a program forward for Board approval by May 1, but preliminary discussions, policy drafts, and reviews by multiple agencies and stakeholders have taken longer than anticipated.

If the UAS program is approved by the Board staff will then apply for a required Federal Aviation Administration (FAA) Certificate of Authority (COA) to ensure strict compliance with federal requirements before any UAS program implementation.

A UAS program would provide enhanced operational capability, safety, and situational awareness for first responders, other staff or volunteers, affiliated partners, and the community. Unmanned aircraft are able to operate in many types of environments or critical incidents, natural or manmade, which might be hazardous to the safety of first responders or others. UAS also have a cost benefit compared to manned aircraft. UAS is not a replacement for manned aircraft which have unique and fuller capabilities, but for some missions it provides a reliable, safe, versatile, supplemental tool for incident

commanders and first responders. Public safety agencies in other localities, including in the Commonwealth, have implemented UAS programs, as has the Virginia Department of Emergency Management.

The program is designed to support a variety of mission types, with a focus for public safety on life safety. Identified mission types include, but are not limited to, search and rescue, operational planning, emergency management, flooding assessment, pre- and post-disaster damage assessment, transportation management, crash reconstruction, fire incident/scene management and investigations, hazardous materials responses, wildlife estimation, and terrain mapping.

A draft UAS Program Manual (Attachment 1) has been developed to provide a set of operational policies and procedures to promote safe, effective, efficient, responsible, and lawful UAS operations and to maintain community trust. Important aspects of this manual are the focus on the safety of the public and UAS flight crews; protecting individuals' privacy, civil rights and civil liberties; compliance with all applicable federal, state, and local laws, regulations, and policies; public information; data management; and operational and training requirements. The manual outlines an administrative framework for the program, to include a program manager, agency program coordinators, and a steering committee, and it describes operational positions, to include pilots, visual observers, and safety officers. The manual will be reviewed routinely and revised as required due to any legislative, regulatory, or policy revisions, best practices, or any change in the concept of operations.

The program will comply with all applicable federal, state, and local laws and regulations, including all applicable FAA regulations pertaining to the operations and certification of small Unmanned Aircraft Systems. UAS pilots are required to possess a FAA Part 107 remote pilot airman certificate with a small UAS rating or, if in training, be under the direct supervision of a person who holds such a certificate. The UAS training program will include required segments on not only flight or observer training and safety protocols, but also, importantly, the protection of individuals' privacy, civil rights, and civil liberties, FOIA, and data dissemination, storage, retention, and security requirements.

Program participants, particularly law enforcement or any regulatory agencies or entities with jurisdiction over criminal law violations or regulatory violations, shall strictly comply with the requirements of Virginia Code Ann. § 19.2-60.1 (Supp. 2018), Use of unmanned aircraft systems by public bodies; search warrant required. This code section imposes specific warrant requirements with certain allowable exceptions, and has been specifically highlighted in the draft program manual, and will be a focus for training.

UAS will be used to capture imagery and video data only to the extent necessary to assist or support the flight crew or affiliated personnel in planning, response, and recovery efforts, or for training purposes. The more important function for most UAS missions is the live video feed capability for the flight crew or other personnel to view. Any images and video collected using unmanned aircraft will be managed in compliance with County data collection and dissemination policies. County record retention procedures are derived from the requirements outlined in the Library of Virginia archives, records and collections services records retention and disposition schedule under General Schedule No. GS- 17, as they relate to county and municipal governments' law enforcement and fire and emergency services. The Library of Virginia publishes this schedule pursuant to the Virginia Public Records Act, Va. Code Ann. §§ 42.1-76 through -91 of the Code of Virginia.

Safety will be an overarching priority and philosophy for the UAS program. To mitigate risks, there will be mandated flight and observer training (initial and recurring), risk assessment and mitigation training, compliance with FAA regulations, required number and type of personnel for any mission deployment, required safety audits, and a continuing assessment of practices by all involved. All operations are expected to be performed in a safe, responsible, lawful, and ethical manner.

To be transparent and maintain community trust, the public will be educated and informed about the UAS program, including purpose of the program and equipment, capabilities, and policies, including safety protocols and safeguards to protect individuals' rights to privacy, civil rights, and civil liberties. A UAS program will include, at a minimum, initial presentations and demonstrations for the public and the media, ongoing community presentations as requested, a UAS specific County website for program information and updates, an email account for information, questions, or complaints, reporting requirements, and a flight alerting/notification system for the public.

FISCAL IMPACT:
There is an anticipated initial procurement of six to eight UAS, with an estimated cost of approximately $3,500 each for equipment and required accessories, by the Office of Emergency Management, the Fire and Rescue Department, and the Police Department. These costs will be absorbed by the respective agencies within existing budgets. Grant opportunities are also being explored and evaluated for equipment procurement. Participating agencies will also absorb the fees for FAA Part 107 examinations required every two years for UAS pilots, with a current cost of $150 per pilot. Risk Management has estimated that initial annual insurance costs for a UAS program would be approximately $5,000-10,000 per year using the existing aviation policy, which will also

be absorbed. Data storage requirements are anticipated to be minimal as there is no requirement or purpose to retain data for most types of UAS missions.

CREATION OF NEW POSITIONS:
There are no positions being requested.

ENCLOSED DOCUMENTS:
Attachment 1 – Draft Fairfax County UAS Program Manual

STAFF:
David Rohrer, Deputy County Executive
Seamus Mooney, Coordinator, Office of Emergency Management
John J. Caussin Jr., Acting Chief, Fire and Rescue Department
Edwin C. Roessler Jr., Chief, Police Department
Roy Shrout, Deputy Coordinator, Office of Emergency Management

ASSIGNED COUNSEL:
John W. Burton, Assistant County Attorney

Fairfax County Government

PROGRAM MANUAL

UNMANNED AIRCRAFT SYSTEMS (UAS)

Draft

Date: TBD

No part of this document may be reproduced in any written, electronic, recording, or photocopying without written permission of Fairfax County Government Office of Emergency Management for purposes other than the express use of Fairfax County Government and its personnel.

PROGRAM MANUAL PURPOSE

The purpose of this program manual for the Fairfax County Unmanned Aircraft Systems program is to provide a set of operational policies and procedures to promote the safe, effective, efficient, responsible, and lawful operation of Unmanned Aircraft Systems (UAS) and maintain community trust. This manual will be considered a living document and will be revised as required due to any legislative, regulatory, or policy revisions, best practices, or any change in the concept of operations.

Important aspects of this manual are the focus on the safety of the public and UAS flight crews; protecting individuals' privacy, civil rights and civil liberties; compliance with all applicable federal, state, and local laws, regulations, and policies; public information; data management; and operational and training requirements.

To demonstrate transparency and maintain community trust the Fairfax County UAS program will provide information about the program and missions on a dedicated County UAS website and notification to the public for any flights.

All Fairfax County UAS certified employees and volunteers shall adhere to the guidelines in this program manual and any respective participating agency requirements and maintain the highest standards while operating a UAS.

MISSION STATEMENT

The Fairfax County UAS program will provide an enhanced level of operational capability, safety, and situational awareness for first responders, other approved participating agencies, and decision-makers with high quality imagery, data, and customized geospatial solutions using unmanned aircraft while continuing to maintain the public trust.

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SECTION 1: OVERVIEW

UNMANNED AIRCRAFT SYSTEMS PURPOSE

Unmanned Aircraft Systems (UAS) provide enhanced operational capability, safety, and situational awareness for first responders, other staff or volunteers, affiliated partners, and the community. They are able to operate in many types of environments or critical incidents, natural or manmade, which might be hazardous to the safety of first responders or others. UAS provide a unique, viable, safe, versatile, supplemental tool for incident commanders and first responders. UAS also have a cost benefit compared to manned aircraft. UAS is not a replacement for manned aircraft which have unique and fuller capabilities, but for some missions UAS provide a viable, safe, or supplemental asset to other manned aircraft assets.

ANNUAL EXECUTIVE SUMMARY

The Fairfax County UAS Program Manager, in coordination with the UAS Steering Committee, will develop an annual executive summary to highlight program accomplishments, outline mission summaries, and provide information about the number of deployments, hours flown, support for other localities or partner agencies. Any significant revisions to this manual or other relevant policies will also be identified in the summary. This summary will be posted to the County website.

PUBLIC EDUCATION AND INVOLVEMENT

To be transparent and maintain community trust, the public must be educated and informed about the UAS program, including purpose of the program and equipment, capabilities, and policies, including safety protocols and safeguards to protect individuals' privacy, civil rights, and civil liberties. This program will include the following:

- Provide presentations at community meetings, town halls or special events. Invite media representation as possible.
- Provide public demonstrations to showcase the County's capability and provide public information and education on the UAS program.
- Establish and maintain a UAS web page for transparency and to provide the public information on policy, equipment, training, mission types, and FAQs.
- Fairfax County Park Authority sponsored classes with hands on use of the aircraft.
    - Special Events and programs focusing on safety and UAS philosophy.
    - Both indoor and outdoor flight opportunities.

COUNTY UAS WEBSITE

A key County principle is to provide transparency and information to the public. As part of a multi-tiered approach to ensure program information is provided to the public the UAS program will maintain a dedicated County website for program information and updates to be posted.

Website: http://fairfaxcounty.gov/uas

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PUBLIC COMMENT / REQUESTS

An email account has been created to provide access to the County UAS program for the public to ask questions about the program, offer feedback or suggestions, or notify of a complaint. The UAS Program Manager will be responsible for monitoring this email account and responding or coordinating responses with appropriate agencies.

Email address: UAS@fairfaxcounty.gov

PUBLIC ALERTING / NOTIFICATION

A UAS notification group has been created in Fairfax Alerts that will provide the public the opportunity to sign up for notifications for missions or training flights. These alerts will be sent out geo-coded only to the immediate area in which flight operations will be taking place. Other existing alternative alert/notification methods may be used in certain instances, particularly if an emergency or critical incident is occurring. The respective Agency Program Coordinator or incident commander will be responsible for ensuring timely public notification.

MISSION PROFILES

Listed below are examples of the types of missions for which UAS systems may be deployed. This list is not exhaustive, and other types of missions may be flown provided they are in compliance with County and respective agency policies, and approved.

- Damage Assessment (Natural or Man-made event)
    - Structural, flood related, environment, transportation, pipeline breaks, and rail incidents.
    - Enhanced search grids through onboard software.
- Dive Team Support
    - Reconnaissance of the water feature for best access points.
    - Potentially identify the location of a missing vehicle/person (shadows, tire marks).
    - Scene awareness to identify potential hazards to responders.
- Search and Rescue Missions (individuals, aircraft, vehicles and objects)
    - Search for endangered or critical missing individuals.
    - Provide a large-scale overview of the search area.
    - Identify potential hazards for search teams and vehicles.
    - Allow for limited tracking of search teams in an area.
    - Provide photographic and video capability and analysis.
    - Scene awareness to identify potential hazards to responders.
- Fire Scene Management
    - Overflight of structure (residential and commercial) fires by providing a 360-degree view for the incident commander.
    - Aerial management and coordination for large outside fires to help determine the extent of coverage and identify structures, exposures or another infrastructure that may be impacted.
    - Assist in helping account for personnel on the fire ground.
    - Provide real-time aerial video footage of large scale incidents.

- Assist in evaluating hazards, structure integrity and helping to ensure scene safety.

- Fire / Explosives Investigations
  - Assist fire investigators in assessing and documenting fire scenes for an overall scope of the scene.
  - The UAS can provide detailed overhead views of large fire scenes from multiple angles and is safer than placing aerial ladders in multiple locations to get aerial photos. This is both a time saving and safety issue. The UAS can also zoom in or fly in to get extreme close-up photos and distant scene photos that would normally require the use of the County Police's helicopter unit or other aviation assets.
  - Assist Blasting Enforcement Officer in developing requirements for blast site safety zones for commercial blasting projects.
  - Assist in post blast investigations in locating blast scene radius and areas impacted by an explosion.
  - Explosive ordinance detection (EOD) and security.
- Hazardous Materials
  - Infrared (IR) Forward-Looking Infrared (FLIR) capabilities of the UAS in tracking flows of hazardous materials on waterways during a hazardous materials incident.
  - Assist with hazard identification and development of safety measures.
  - Provide area reconnaissance information without placing personnel in potentially hazardous locations:
    - Assist in determining hazardous materials involvement.
    - Determine potential run-off/movement of hazardous materials.
    - Ensure area is clear of the public.
- Urban Search and Rescue
  - Assist with area reconnaissance including urban, suburban and rural locations.
  - Assist with personnel tracking and accountability in wide area search.
  - Provide real-time aerial video footage of rescue operations including:
    - Trench rescue.
    - Structural collapse.
    - Swift water rescue.
- Plan Development
  - Assist the Fairfax Joint Local Emergency Planning Committee (FJLEPC) staff in developing site specific Hazardous materials emergency response plans (HMERP) for large critical hazard facilities and surrounding communities. Examples are waste and fresh water treatment facilities, and petroleum tank farms that cover many acres and are adjacent to residential and/or commercial communities and environmentally sensitive areas.
- Infrastructure
  - Assess hazardous pipeline infrastructure within Fairfax County to evaluate possible leaks and impacts during incidents or pipeline repair projects. This will assist in locating possible critical areas, communities, and sensitive environmental areas that could be impacted by hazardous chemicals leaks or be impacted by normal repairs and inspections of the pipelines.

    - Critical Infrastructure Assessment (Bridges, antenna towers, stream and water management).
- Public Safety
    - Provide aerial mapping support to assist in crash reconstruction.
    - Provide aerial mapping, photographing and analyzing serious/violent crime scenes.
    - Provide real-time traffic impact assessment and 3D mapping due to vehicle crashes or significant events (such as road backups/alternate routes of travel, weather, or evacuations).
    - Provide real-time situational awareness during managed deer hunts to help provide an additional layer of protection for those involved and surrounding properties and residents.
    - Enhanced non-surveillance operations that will provide officer safety during crime scene searches, or critical incidents such as hostage or barricade events.
    - Perimeter security
- Geospatial Data Acquisition
    - Orthomosaics
    - Elevation Surfaces
    - Digital Surface Models
    - 3D Point Clouds
- Public recreational and business programs, training and clinics
    - Fairfax County Park Authority hosted classes/events/programs.
    - Multiple venue opportunities for County residents to fly (indoor/outdoor).
    - Virtual reality, children's camps and UAS racing.
- Public Relations
    - High definition video and photographic capability for media events.
    - Enhancements to brochure and other marketing tools.

UAS EQUIPMENT CAPABILITIES

Each of the aircraft used in the UAS program brings a variety of technology and flight capabilities. Some are for more specialized missions, to include having the capability to fly at night. Enhanced capabilities include:

- Operate in environments that are hazardous or potentially hazardous to personnel
- Provide High Definition video and photographs
- Thermal imaging (FLIR)
- Carry an external payload (flotation device, radio, medication, AED)
- Operate in virtually all weather conditions
- Take off and land autonomously
- Onboard passive collision detection
- Autonomous return to home during loss of signal or reduced battery

PROHIBITED USES
The UAS program shall not be used for the following:

- To conduct random surveillance activities.
- To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, gender, national origin, religion, or disability.
- To harass, intimidate or discriminate against any individual or group.
- To conduct personal business or any other unauthorized use

CONCERNS / COMPLAINTS
If a member of the public has a concern or would like further information about the program or a specific flight or UAS operator, that request will be handled first through the UAS Program Manager and then followed up with the respective Agency Program Coordinator as needed.

Any complaint that alleges a privacy, civil rights, or civil liberties violation, or other type of complaint, will be handled in accordance with established County or respective agency policy. Efforts will be made to respond to a complaint within 24 hours of notification unless the initial contact falls during a weekend or holiday. It is imperative that any resident concern be handled appropriately, following established County or respective policy.

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SECTION 2: REGULATORY

All flights, regardless if operational or training, shall comply with all applicable federal, state, and local laws and regulations. All flights will be conducted following all applicable FAA regulations pertaining to the operations and certification of small Unmanned Aircraft Systems including CFR Parts 21, 43, 61, and Title 14 CFR Part 107.

Fairfax County will conduct all UAS flight operations under a Federal Aviation Administration (FAA) Certificate of Authorization (COA). This COA grants permission to fly within specific boundaries and parameters established by the FAA.

All Federal Aviation Administration (FAA) advisories, circulars, orders, bulletins or notices will be reviewed by the program manager. Any changes that may impact the Fairfax County program will be updated to this program manual and the changes distributed per the record of manual changes section.

ADDITIONAL FAA COMPLIANCE

The program will also comply with any additional information or regulatory requests from the Federal Aviation Administration (FAA) to include, for example:

- Any document, record, or report on
  - Aircraft registration
  - Flight records
  - Incident reports
  - Deviation from regulations
  - Authorization from air traffic control (ATC)
  - Waiver from specific provisions (as appropriate)
- FAA may require upon request, to test or inspect:
  - Aircraft
  - The remote pilot-in-command or person manipulating the flight controls
  - Visual observer
- Report any accident within 10 days that meets the following criteria:
  - Causes serious injury to any person or who has a loss of consciousness
  - Damage to any property, other than the aircraft, greater than $500

Under every circumstance in which the FAA becomes involved, the Pilot-In-Command shall notify their respective Agency Program Coordinator within 24 hours. The Agency Program Coordinator must make appropriate notification to their agency chain of command and the UAS Program Manager.

In the event of any UAS accident, regardless if it meets the FAA threshold for a reportable accident, the Pilot-In-Command must notify their Agency Program Coordinator, UAS Program Manager, and Risk Management immediately.

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SECTION 3: ADMINISTRATION

STEERING COMMITTEE

A Fairfax County UAS Steering Committee will be formed and meet at least once every three (3) months. The committee will report to the Coordinator, Office of Emergency Management, and the Deputy County Executive for Public Safety, and will include representatives from the Office of Emergency Management, Fire and Rescue Department, Police Department, Sheriff's Office, Office of the County Attorney, Risk Management, Department of Information Technology, Office of Public Affairs, Park Authority, and any other participating county agency possessing or using UAS technology.

The committee will be responsible for supporting the UAS Program Manager, administering the County UAS program, developing the annual executive summary, ensuring that the program complies with all applicable federal, state, and local laws, regulations, and policies, ensuring coordination among participating agencies, updating the program manual, and reviewing best practices and new technology.

UAS PROGRAM MANAGER

The UAS Program Manager is selected by the UAS Steering Committee, serves for a period of 2 years, and is responsible for the daily program management, operation, administration and coordination. The Program Manager works closely with all the agency program coordinators.

Position Requirements

- Current Fairfax County government employee.
- Remote Pilot Certificate with small UAS rating

Duties

- Member of the UAS Steering Committee
- Develop the annual Executive Summary
- Coordinate all County UAS training
- Manage and update the UAS Program Manual
- Provide updated information to all agency program coordinators
- Manage the County UAS email account and website
- Maintain FAA certifications
- Liaison with FAA, Virginia Public Safety UAS Council, and Council of Governments (COG)
- Participate in local/regional committee meetings
- Coordinate with external partners
- Work closely with County senior leadership
- Maintain flight proficiency as prescribed in this program manual
- Maintain and update the County FAA Certificate of Authorization (COA).

AGENCY PROGRAM COORDINATORS

Each participating agency shall designate an Agency Program Coordinator to support the UAS Program Manager and coordinate an agency's UAS operations, training, documentation, resource management, and data management. The UAS Program Manager shall maintain a list of current Agency Program Coordinators.

Position Requirements

- Current Fairfax County government employee.
- Designated by the agency director or designee.

Duties

- Member of the UAS Steering Committee
- Manage an agency's UAS program in coordination with the UAS Program Manager
- Coordinate agency training and all ensure operational guidelines are followed
- Disseminate revisions to the UAS Program Manual to all agency flight crews and revise any respective agency policies as needed.
- Keep current on best practices and technology and make appropriate recommendations
- Ensure that all aircraft updates and enhancements are downloaded
- Ensure that data management and retention guidelines are being followed
- Ensure preventive/operational maintenance is performed to standards and documented
- Maintain copies of all training certificates, flight logs and maintenance logs
- Respond to County program email as applicable
- Responsible to ensure any respective agency standards of operating procedures, general orders, or other policy is updated
- Conduct indoctrination training to new UAS members
- Oversee procurement of UAS equipment
- Conduct audits of agency flight and maintenance logs semiannually

PROGRAM MANUAL REVISIONS

The UAS Program Manual will be reviewed periodically as required to incorporate any revisions due to federal, state, or local legislative, regulatory, or policy revisions, operational assessments, or best practices. At a minimum, the UAS Program Manual will be reviewed and updated, as needed, annually. Revisions will include additions of new or supplementary material, deletions of outdated information or changes in industry best practices. No proposed revision should contradict or override authorities or other plans contained in statute or regulation. All requests for revisions will be submitted to the Fairfax County UAS Steering Committee for coordination, approval, and distribution. Any department or agency may also propose revisions to the UAS Program Manual.

Program manual revisions shall be reviewed and approved by the Deputy County Executive for Public Safety.

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NOTICE OF REVISION

Notices of revision to the UAS Program Manual will be prepared and distributed by the UAS Steering Committee for all revisions made outside of the scheduled revision process. The notice of revision will include the effective date, revision number, subject, purpose, and action required by the UAS program team. The notice of revision will include revised pages for replacement within the UAS Program Manual.

Sample Record of Revision Form

Number	Date	Date Entered	Entered By
1.1	DD/MM/YEAR	DD/MM/YEAR	First Last

REQUIRED REPORTS / CERTIFICATIONS

The Fairfax County UAS program has specific reporting and certification requirements, to include:

- Annual review of the pilot and maintenance logs
- Annual maintenance review of all aircraft, controllers, and spare parts
- Annual Executive Summary
- Applicable FAA and National Capitol Region waivers
- Annual review and update of the UAS Operations Manual
- Annual review of all training conducted
- Quarterly update to county website
- Biennial FAA Remote Pilot knowledge test renewal

The UAS Program Manager shall have the responsibility, in coordination with the Steering Committee, to ensure the timely completion of these reporting requirements.

SECTION 4: PROTECTION OF PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES

UAS technology is an emerging field, particularly for use in public safety. Although the potential benefits and enhanced capabilities are substantial, it is acknowledged that concerns exist that UAS may be misused or abused, particularly by law enforcement agencies. UAS operators, observers, and support staff shall ensure the protection of individuals' civil rights, civil liberties and reasonable expectations of privacy in any UAS deployment. To accomplish this primary goal:

- All personnel operating a County UAS shall be knowledgeable of individual privacy rights, civil rights, and civil liberties and unless under exigent circumstances, shall not intentionally record or transmit images in any location where a person would have a reasonable expectation of privacy without a search warrant. Pilots and observers will take every reasonable precaution to avoid inadvertently recording or transmitting images in violation of privacy rights.
- When the UAS is being flown, the onboard cameras will be turned facing away from occupied structures, or will be faced in a manner to keep the area of interest in sight, and minimize inadvertent video or still images of uninvolved persons or property.
- In most cases, unless required by an articulable operational purpose, the recording of any imagery will not begin until the UAS is at the designated location.
- At the discretion of the requesting agency / incident commander, it may be prudent to not use any of the video or camera capability during an operation, but use only the UAS live feed transmit capability to the on-scene commander, incident command post, Emergency Operations Center, or other Department Operation Center (DOC).
- All video and still images will be maintained in strict compliance with Fairfax County and the Library of Virginia policies and procedures.
- All persons who have access to any County UAS storage medium must have passed a County approved background check.
- The video is stored on board the aircraft. The video transmission from the aircraft uses an encrypted data link. The video is viewable by the operator of the UAS utilizing a monitor at the ground control station.
- The UAS Program will employ reasonable technological or administrative safeguards to ensure that images incidentally or inadvertently recorded are not misused or disseminated or viewed unnecessarily to protect individual rights. Such safeguards include, but are not limited to, immediate deletion or redaction.
- The County UAS training program shall include topics in the protection of individuals' privacy, civil rights, and civil liberties, FOIA, and data dissemination, storage, retention, and security requirements.
- Recorded data should not be retained beyond any period required by Virginia law.
- The users of UAS recorded data are responsible for ensuring dissemination of data is authorized, in compliance with County policies, and consistent with the recipients' legitimate need to know and authority to receive such data; any further dissemination by a data recipient will require the data owner's prior consent.

- Collected data will not be indexed or otherwise arranged so as to be searchable by an individual's name, personal number or other identifiable particulars, nor will the information systems storing collected data contain individual names, personal numbers or other identifiable particulars.
- The UAS website and program email account will be maintained and monitored to provide information, and address any public questions, concerns or recommendations.
- The UAS Steering Committee has been established to review and update UAS procedures and training, identify new technologies, review best practices, revisions to UAS related laws and regulations, and any emerging case law or court decisions.
- The County UAS program will operate strictly in compliance with all applicable federal, state, and local laws, regulations, and policies, and in a responsible and ethical manner. All operations will be balanced to accomplish the mission (e.g. emergency or life safety) while protecting privacy rights, civil rights, and civil liberties.
- The County UAS program will not use, retain, or disseminate collected data in any manner that would violate any Constitutional rights or in any manner that would discriminate against persons based upon, but not limited to, race, ethnicity, gender, national origin, or religion.
- No video or photographs taken by a County owned and operated UAS will be used for personal use. Any requests for appropriate County use, such as presentations or publications, must be approved by the UAS Program Manager and the data owner (respective County agency). The Program Manager may seek guidance, if needed, from the Office of the County Attorney. No inadvertent or incidental personal images or information will be permitted to be used under this section.

CODE OF VIRGINIA

During the 2013 General Assembly Session, House Bill 2012 imposed a moratorium on the use of unmanned aircraft systems by law-enforcement agencies until July 1, 2015, with certain exceptions. This legislation also required the Department of Criminal Justice Services, in consultation with the Office of the Attorney General and other agencies, to develop model protocols for the use of unmanned aircraft systems by law-enforcement agencies, resulting in House Document No. 12, Protocols for the Use of Unmanned Aircraft Systems by Law-Enforcement Agencies, published in 2013. Although the moratorium for use by law-enforcement has been lifted, House Document 12 was one of the foundational pillars to inform this program manual.

All agency use under the County UAS program will comply with the Code of Virginia, to expressly include § 19.2-60.1., listed below. Prior to implementing an agency UAS program, the Police Department will develop and maintain training for supervisors and commanders relevant to this code section to ensure compliance. Other participating entities with authority to enforce criminal law or regulatory violations, such as Fire Marshals, will also develop and maintain relevant training, and be required to also comply with the provisions of § 19.2-60.1. Any allegations or violations will be reported and investigated in accordance with County and department policies.

§ 19.2-60.1. Use of unmanned aircraft systems by public bodies; search warrant required.

A. As used in this section, unless the context requires a different meaning:

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.

B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3; (ii) when a Senior Alert is activated pursuant to § 52-34.6; (iii) when a Blue Alert is activated pursuant to § 52-34.9; (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person; (v) by a law-enforcement officer following an accident where a report is required pursuant to § 46.2-373, to survey the scene of such accident for the purpose of crash reconstruction and record the scene by photographic or video images; (vi) by the Department of Transportation when assisting a law-enforcement officer to prepare a report pursuant to § 46.2-373; (vii) for training exercises related to such uses; or (viii) if a person with legal authority consents to the warrantless search.

D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth or any locality for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.

E. Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.

F. In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement

in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.

G. Nothing herein shall apply to the Armed Forces of the United States or the Virginia National Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its federal mission or when facilitating training for other U.S. Department of Defense units.

2015, cc. 764, 774; 2018, cc. 419, 546, 654.

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SECTION 5: DATA MANAGEMENT

POLICY

Fairfax County would use unmanned aircraft to capture imagery and video data only to the extent necessary to assist or support the flight crew or affiliated personnel in planning, response, and recovery efforts, or for training purposes. The method of acquisition may include the utilization of commercial off-the-shelf camera payloads, advanced thermal imaging devices, multi-spectral sensor technologies and video capture equipment that are placed, as part of a UAS, for remote sensing purposes. The more important function for most UAS missions is the live video feed capability for the flight crew or other personnel to view.

All images and video collected using unmanned aircraft will be managed in compliance with County data collection and dissemination policies. County record retention procedures are derived from the requirements outlined in the Library of Virginia archives, records and collections services records retention and disposition schedule under General Schedule No. GS-17, as they relate to county and municipal governments' law enforcement and fire and emergency services. The Library of Virginia publishes this schedule pursuant to the Virginia Public Records Act, Va. Code Ann. §§ 42.1-76 through -91 of the Code of Virginia.

METHODS

IMAGES – Any images captured during flight are stored as data in the UAS internal storage medium. The storage medium is inserted or enabled during the pre-flight process, securely attached to the aircraft while in flight, and removed or disabled after each flight.

VIDEO – Real time or near real time video, captured and or distributed via electronic means, is stored on board the aircraft. The video transmission from the aircraft uses an encrypted data link. The video is viewable by the operator of the UAS utilizing a monitor at the ground control station. The video is also distributed to external monitors by cable or other methods to on-scene personnel.

PROTECTION

To further safeguard any imagery data collected during a flight operation the following will be strictly adhered to:

- The storage medium will be handled only by the UAS pilot or observer.
- The UAS pilot or observer will secure the storage medium.
- Should the storage medium need to be transferred to another County agency, a transfer document will be signed by both the UAS pilot or observer and the requestor. The storage medium protection requirements then transfer to the requesting/receiving agency.
- Only authorized Fairfax County personnel will be granted permission and access to view any live video stream. In the event of an EOC operation, those County agencies and affiliated trusted partners, such as VDOT, the Virginia Department of Emergency

Management (VDEM), the Red Cross, or other agencies during an EOC activation will be permitted to view the live video.

- At no time will the public be allowed to view or record the live streaming imagery unless there has been consent by the on-scene incident commander and UAS Pilot-In-Command.
- Viewers of the live video stream in an EOC or other operations environment are not authorized to record, distribute or disclose information gained from viewing the video stream without prior approval by the UAS Program Manager, who may consult as needed with the Deputy County Executive for Public Safety or the Office of the County Attorney.

FREEDOM OF INFORMATION REQUESTS

The Virginia Freedom of Information Act, Va. Code Ann. §§ 2.2-3700 through 3714, allows residents of Virginia open access to public records in the custody of a public body or its officers and employees, and open entry to meeting of public bodies where the business of the people is being conducted. Requests for UAS data will be forwarded to the Office of Public Affairs and treated as a public records request.

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SECTION 6: OPERATIONS POSITIONS

CHIEF PILOT

The UAS program Chief Pilot is responsible for the development and performance of the training program for all UAS operations. The Chief Pilot shall have authority over the pilot and visual observer programs and ensure that all team members are trained, licensed, and operational as needed.

Position Requirements

- Current Fairfax County government employee.
- Remote Pilot Certificate with small UAS rating

Duties

- Member of the UAS Steering Committee.
- Oversee the Fairfax County UAS training program
- Perform proficiency check flights of all pilots and visual observers
- Maintain all training records for flight crews
- Responsible for disseminating any legislative or regulatory revisions to flight crews countywide
- Provide ground school and flight training
- Coordinate after action conferences as needed
- Coordinate any manufacturer updates to aircraft or software version enhancements
- Ensure that all flight plans and other documentation is filled out and maintained

PILOT-IN-COMMAND (PIC)

The agency director must approve any request for an agency employee to become trained as an FAA Part 107 pilot. Once approved, the candidate will work directly with the UAS Chief Pilot to participate in both ground and flight school and familiarization training. The Pilot-In-Command will be responsible for flying the aircraft in a safe and approved manner and will assume overall responsibility for all safety related matters.

Position Requirements

- Current Fairfax County government employee.
- Remote Pilot Certificate with small UAS rating

Duties

- Member of the UAS Steering Committee
- Available to respond to fly agency approved missions
- Responsible for ensuring safety of each flight operations
- Final authority in determining if flight operations will take place

- Ensuring that pilot log book, aircraft logbook and other paperwork is completed for each mission
- Follow checklists for each flight regardless if training or actual mission
- In the absence of a safety officer on the scene, the PIC will be responsible for ensuring that all safety protocols are followed prior to, during, and after each flight

VISUAL OBSERVER (VO)

The Visual Observer is responsible for supporting the Pilot-In-Command to help ensure all UAS operations are done in a safe, protected, and effective manner. All flight operations, operational or training, shall, at a minimum, have both a Pilot-In-Command and a Visual Observer.

Position Requirements

- Current Fairfax County government employee.
- Remote Pilot Certificate with small UAS rating

Duties

- Member of the UAS Steering Committee
- Maintain an unaided visual line of sight any time the aircraft is airborne
- Ensure the takeoff and landing zones, and surrounding area, are clear and safe of any public or other hazards
- Coordinate as needed with the Incident Commander via in-person, voice, or other communication modes
- Focus 100% of attention on the aircraft once airborne.
- Ensure that there are no potential conflicts in the sky such as birds, aircraft, wires or trees

SAFETY OFFICER (SO)

If available, a Safety Officer is also responsible for UAS mission safety. In coordination with the Pilot-In-Command, and after evaluating safety risk factors, the Safety Officer shall have the final determination as to a fly or no fly situation. The Safety Officer will continue to monitor safety for the duration of a mission.

If no Safety Officer is available or assigned to a mission the Pilot-In-Command will assume the role. Regardless of any of the duties outlined, any crew member participating in the mission has the authority to stop a flight.

Position Requirements

- Current Fairfax County government employee
- Safety Officer Course

Duties

- Member of the UAS Steering Committee
- Responsible for ensuring safe UAS operations
- Assist in conducting a hazard risk assessment prior to any flight
- Assist in debriefing missions and training sessions with emphasis on safety concerns and issues
- Serve as a crew member as needed

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SECTION 7: SAFETY

POLICY

Safety first shall be an overarching priority and philosophy for the County UAS program. This program is committed to providing a safe environment for the public and flight crews and to ensure flight operations are performed in a safe, secure, responsible, lawful, and ethical manner. To mitigate risks, each flight crew shall comply with the requirements of this program manual, safety protocols, all applicable federal, state, and local laws, regulations, and policies, and follow all recommended manufacturer guidelines for each operation. The goal is to have zero accidents or injuries. Guiding safety principles include:

- All flight crew members must recognize that there is still an element of risk during each mission, and focus on risk assessment and mitigation.
- Regardless of assigned duties, all crew members have a primary duty to safety considerations, and the authority and responsibility to act immediately to notify and warn others and to suspend operations.
- All flight operations are to comply with the UAS program guidance, applicable laws, regulations, or policies, and any agency specific policies.
- Risk assessment and mitigation are not just pre-flight activities, but must continue during a mission.
- Unnecessary risks shall not be taken.
- Any identified safety hazard, whether procedural, operational, or maintenance related shall be corrected as soon as possible.
- Additional safety suggestions or recommendations may be made to the UAS Chief Pilot or Program Manager for consideration.
- Performance of regular audits of safety policies, procedures, and practices.
- Research, monitor, review, and incorporate, as appropriate, any emerging UAS safety best practices.

MEDICAL FACTORS

Every member of the flight crew shall adhere to the following guidelines as outlined by the FAA (Illness, Medication, Stress, Alcohol, Fatigue and Eating - IMSAFE).

- Pilots and observers shall only deploy the UAS when rested and emotionally prepared for the tasks at hand.
- The safety rule is to not act as a pilot or observer when suffering from any physical illness, exhaustion, or emotional problems which can seriously impair judgment, memory and alertness. All crew members are expected to “stand down” when these or any other factors could reasonably be expected to adversely affect their ability to perform flight duties.
- A self-assessment of physical condition shall be made by all members during pre-flight activities.
- Performance can be seriously impacted by prescription and over the counter drugs. All flight crew members are responsible to self-monitor their condition and to report to their

respective Agency Program Coordinator or the Program Manager when they are unable to participate safely. If it is determined that any medication taken could hamper a pilot or observer that member shall be prohibited from the deployment or exercise.

- No member shall act as a pilot or observer within eight hours after consumption of any alcoholic beverages, while under the influence of alcohol, or while having an alcohol concentration of 0.04 as per FAR 91.17.

RISK ASSESSMENT AND MITIGATION

Safety requires effective practices in managing multiple risk factors to include, but not limited to, the aircraft, environment, and the human component. The use of small unmanned aircraft being placed into service will always have some level of risk. However, it is important to always promote a zero-accident and safety-first philosophy and reduce and mitigate risks by doing the following:

- All UAS crew members shall review safety and operations checklists prior to operations.
- All UAS crew members shall be briefed before each flight.
- Ensure that all pilots have the required training and the necessary skill level to safely execute the mission assignment.
- Follow all preflight procedures to include:
    - Weather assessment
    - Airspace assessment
    - Aircraft assessment and preflight checklist
    - Assessment and accounting of personal condition
- Operate to the extent possible in open and clear areas.
- After each flight, ensure the following:
    - Post flight check lists are completed
    - Aircraft and pilot flight logs are completed
    - Maintenance of the aircraft is documented
    - Conduct a hot-wash of the mission to identify potential issues and highlight positive actions
- Ensure that the necessary safety equipment is on hand prior to flight departure:
    - Fire extinguisher and/or sand
    - First aid kit
    - Appropriate clothing to include a reflective vest
- Additional factors to consider prior to flight departure:
    - Flights over people with the emphasis on the right to privacy.
    - Flights over sensitive areas.
    - Any adverse impact to wildlife

SAFETY TRAINING

NEW CREW MEMBER

Safety training for all new UAS crew members will take place prior to any hands on operation with aircraft or any mission flights. This training will ensure the crew member has the latest

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information about the program and safety guidance, and understands the process to report potential conflicts. All training will be documented in the crew members' training folders.

ANNUAL

All Fairfax County UAS crew members will participate in an annual safety training program. This training program will cover topics that include updates to federal, state or local legislation, regulations, or policies, best practices from previous missions flown, review of updates to the UAS program manual, and a review of safety information regarding aircraft and position assignments.

SAFETY TRAINING MATERIALS / DOCUMENTATION

The UAS Program Manager and Steering Committee, in coordination with the Agency Program Coordinators, will be responsible for developing, maintaining, and updating UAS related safety and risk assessment and mitigation training materials and documentation.

SUMMARY

It is the duty of every member within the UAS flight crew to contribute to the goal of safety-first operations and zero accidents. The process of assessment is not just for preflight, but a continual effort that needs to be second nature for every member of the flight crew during every aspect of each mission.

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SECTION 8: OPERATIONAL TRAINING

OBJECTIVE

The key to safe and effective operations is maintaining a professional level of knowledge and competency through training.

The Fairfax County UAS program is comprised of three formal training programs. The first is the 16-hour ground school that will be used to help prepare all new program crew to take the FAA Part 107 exam. Training will include topics in meteorology, flight standards, aeronautical chart interpretation, communications and flight safety. If a candidate has an existing FAA private or commercial pilot's license they will not be required to take the ground school.

The second program is flight school. During this training, each pilot and observer will be exposed to the basics of flight characteristics for the aircraft, maintenance procedures, safety and hands on flying the aircraft. Each pilot prior to flying an actual mission must have a minimum of 10 documented hours of flight time. Once the 10 hours has been met, the Chief Pilot will test and certify that the pilot-in-training has met all the training requirements and is a certified Fairfax County UAS pilot.

The third program is recurring flight training. To maintain both the skills and qualification as a pilot each crew member must fly a minimum of three qualifying events in the preceding 90 days. A qualifying event can be either a live mission or training session.

The Fairfax County Park Authority has provided the UAS program a site where flight training may be conducted.

All flight hours and training will be maintained in the individual pilot's logbook.

INITIAL TRAINING

- Any new member shall successfully complete the required initial training before deployment as a member of a UAS flight crew.
- Pilots and observers must have completed sufficient safety training, to include communicating any instructions or information required to remain clear of conflicting traffic.
- In conjunction with fulfilling all training requirements for pilot/observer duties, the new member must also become familiar with UAS program operations, aircraft, and equipment.
- Before a member can operate as a pilot they must complete a period of flight training with the UAS instructors to demonstrate proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.
- The protection of individuals' privacy, civil rights, and civil liberties
- FOIA, and data dissemination, storage, retention, and security requirements.

RECURRING TRAINING

- The protection of individuals' privacy, civil rights, and civil liberties
- FOIA, and data dissemination, storage, retention, and security requirements**.**
- All members within a participating agency shall maintain proficiency in their pilot/observer abilities.
- Pilots and observers will be required to fly a minimum of three actual or training missions every 90 days to maintain proficiency.
- Recurrent training is not limited to actual operating/observer skills, but includes knowledge of all pertinent UAS/aviation matters.
- Failure to prove proficiency can result in removal from UAS responsibilities.

TRAINING MATERIALS / DOCUMENTATION

The UAS Program Manager and Steering Committee, in coordination with the Agency Program Coordinators, will be responsible for developing, maintaining, and updating UAS related training materials and documentation.

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SECTION 9: GENERAL OPERATING PROCEDURES

REQUEST FOR SUPPORT

All requests for UAS support shall be made directly to a respective agency program coordinator or through the Department of Public Safety Communication Center (DPSC) supervisor. DPSC will maintain the current list of certified UAS operators and supervisors to contact.

MISSION PRIORITIES

If more than one request is received for UAS support, the UAS Agency Program Coordinator in collaboration with the requestors will evaluate and determine the priority mission. If there is a determined need for a second crew the UAS Agency Program Coordinator will review the lineup and on call notification list or request support from another participating agency. In general terms, requests for UAS support will be prioritized as follows:

- Life or Public Safety
- Investigation / Documentation
- Damage Assessment / Situational Awareness

MISSION APPROVAL CRITERIA

The on call UAS Agency Program Coordinator will make the determination as to the approval of the mission request. Important approval decision factors include, but are not limited to:

- Is the mission request justified and necessary?
- Is the mission request within the capabilities of the equipment, program and personnel?
- Does the mission fall within federal, state, and local laws, regulations, and policies?
- Can the UAS be deployed safely based on current and forecast weather conditions?
- Are there sufficiently trained and qualified personnel available to safely operate the UAS?
- If the UAS deployment requires a search warrant, has one been requested and approved?
- Is there enough information available to make the decision or will a follow up call need to be made to the requestor?
- Determine proximity of critical infrastructure or restricted airspace.

If a mission is approved, once deployed, the assigned UAS Pilot-In-Command (PIC) retains final approving authority, and may alter or cancel the mission. If a mission is altered or canceled notification will be made to the requestor and PIC's Agency Program Coordinator.

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CALL-OUT PROCEDURES

Agencies will develop or follow existing call-out procedures and protocols. Agency Program Coordinators will be responsible for ensuring any respective agency call-out rosters are maintained, updated, and shared, if needed, with the Department of Public Safety Communications.

MISSION MINIMUM PERSONNEL REQUIREMENTS

All UAS missions, operational or training, require a minimum of a Pilot-In-Command (PIC) and Visual Observer (VO). Under no circumstances will a mission be approved or flown with only a PIC. A Safety Officer is a preferred addition if available, but not required.

In the event a pilot is still in training and has not been approved to fly missions as a solo operator the Chief Pilot or another certified PIC must be present to observe, monitor, and evaluate the trainee. For more complex missions that require a second or third crew and UAS there must also be a UAS Agency Program Coordinator on-scene to coordinate with the incident commander.

FLIGHT BOUNDARIES

Fairfax County is located with multiple layers of airspace, much of which is classified as restricted, with one international airport, one Department of Defense airport, and multiple designated helicopter landing areas. With more than sixty percent of Fairfax County falling into the Flight Restricted Zone (FRZ) it is imperative that the PIC evaluates the location they will be taking off from and the area they will be traversing to get to the scene, and the area of operation to ensure they can operate without any FAA consent. The following basic guidelines will be followed:

- Flight crews are authorized to fly anywhere in Fairfax County to include the Towns of Vienna, Herndon, and Clifton and the City of Fairfax. Missions will only be flown in other localities based on appropriate request and approval protocols.
- If a surrounding jurisdiction requests assistance of the UAS team, that request must first go to the UAS Agency Program Coordinator for review. In many cases the requesting agency may be referred to the Virginia Department of Emergency Management (VDEM) first as they have a team that is available 24/7.
- If VDEM is not available, an assessment will be made to determine availability of a County flight crew. Approval by the crew's Agency Program Coordinator will need to be done first and if approved, the UAS team will need to submit an emergency FAA COA to get access to the other jurisdiction.
- County UAS program flight operations will be in compliance with the flight parameters of the FAA approved Certificate of Authorization (COA).
- The maximum altitude for UAS flight operations shall not exceed 400' per FAA regulations.

PERSONAL EQUIPMENT

Each member of the flight crew will be responsible for wearing appropriate clothing and having the correct equipment with them while on duty. The following are some of the guidelines that should be followed:

- The UAS flight crew shall wear eye protection always while the UAS is in flight.
- Although there is no specific uniform the UAS unit is required to use for proper operation of the UAS, the flight crew should take necessary measures to deploy in a professional manner and take into consideration that all deployments are subject to viewing by the public or media at deployment locations.
- While on the scene of any incident, the UAS flight crew will wear their County issued identification.
- Equipment such as a County issued portable radio or cellular phone should be brought to a mission.
- Snacks and other limited food items should become a part of flight crew flight bag. Missions may only last an hour, but others may last multiple hours. Any dietary or special allergies needs should be included in the flight bag.

EMERGENCY PROCEDURES

Personnel flying the UAS will be trained that in any emergency, the safety of persons on the ground and in the air is the number one priority. The following are the emergency procedures and each will be documented with an emergency checklist for flight crew to review.

- Fire - UAS will be flown away from people and property until a safe landing location can be found. A fire extinguisher and first aid kit will be located at the mission site.
- Loss of Link - Onboard system will be established to execute lost link protocol by either landing immediately or returning to launch point to land, depending on conditions, operational and safety requirements. In the event the lost link happens near an airport or helicopter landing area, a call to the appropriate airport tower will be immediately made. If the airport tower cannot be reached by phone, as a last resort, the Pilot-In-Command may utilize the aircraft two-way radio to contact the airport on the prescribed frequencies. The phone numbers and frequencies are all located on the aeronautical chart. The use of the two-way radio will only be used as a last resort if the UAS is close to aircraft landing or departing a runway.
- Loss of Line of Sight - If flight crew members lose sight of the aircraft, the pilot will initiate a 'Go-Home' on the remote control. The 'Go-Home' protocol is identical to the Loss of Link protocol. Once visual contact with the aircraft is re-established the pilot will take back the aircraft using the remote control.
- Loss of Propulsion - During propulsion failure coordinated flight cannot be maintained effectively in the most common configurations. An announcement will be made to all personnel on-scene advising them of the emergency. If the aircraft fails to successfully land at a predetermined location a recovery operation will be initiated.
- Personal Injury - In the unlikely event of an emergency involving the aircraft and person(s) on the ground, the flight crew shall maintain a list of applicable numbers (EMS, Dispatch) for emergency contact.
- Lost Communications - the PIC and VO will be ideally physically collocated during operations and communications will be through direct verbal communication. However,

if the PIC and VO are not collocated and direct verbal communication is not possible, the following communication tools can be utilized:

- Handheld radio.
- Voice actuated headsets.
- Cellular phone.
- Hand Signals (used solely or in conjunction with the communication equipment).
- If communication is lost and cannot be re-established the UAS will immediately land.

PRE-FLIGHT/ POST-FLIGHT ACTIONS

- Inspections
  - All flight crew members are responsible for a thorough preflight inspection of the UAS.
  - Before and after each deployment (whether a mission or training), the flight crew shall conduct a thorough inspection of the UAS in accordance with the instructions contained in the manufacturer's user manual.
  - Any issues found that will put in jeopardy the safe operation of the UAS shall be documented and resolved immediately prior to flight.
  - Any physical damage to equipment that cannot be resolved on-site, and which have an impact on safety or the mission, will override the deployment. These issues must be resolved before flight.
- Weather
  - Before each deployment, the flight crew will ensure the gathering of weather related information forecast for the area and duration of deployment. The flight crew shall utilize FAA approved weather resources to obtain the latest and most current weather conditions. The weather evaluation will include current weather and projected weather moving into the area within the next 6 hours.
  - If available, an anemometer should be utilized to better estimate the wind speed and determine if it is within the capabilities of the airframe being flown.
  - The weather conditions reported for the operation shall be recorded in the pre-flight checklist.
- Documentation
  - Inspection and weather checks will be documented prior to flight within the flight log book.
  - After each flight, the pilot will complete a statement documenting the UAS operations and log appropriate flight/equipment usage times.
- Planning
  - The flight crew shall familiarize themselves with all available information concerning the deployment including, but not limited to, the weather conditions, hazards, description of the incident, deployment goals, etc.
  - The flight crew will ensure that the location for take-off and emergency landing is adequate for a safe deployment.
  - The take-off/landing area should be clearly marked and identifiable with easily

seen markers.
    - At least one emergency landing area should be identified per deployment.
    - The flight crew will ensure that they are aware of their surroundings in the event an emergency landing is necessary. This includes the ability to recover the UAS.
- Checklists
    - The flight crew shall utilize pre-flight checklists to ensure the highest level of safety for deployment.
    - Prior to flight, the flight log shall be initiated.
- Maintenance
    - Although there are few parts on the UAS that need servicing, it is necessary that the manufacturer's maintenance schedule is followed and properly documented.
    - Any issues that arise during maintenance that cannot be resolved by routine methods shall be forwarded to the manufacturer/approved dealer for further technical support.
- Other
    - The flight crew will ensure that no items are attached to the UAS prior to flight that are not required for safe operation or to complete the mission goal.
- Pre-Flight Briefing
    - Review of mission goals and methods to achieve goals, including handoff procedures. This will be done with the incident commander and all UAS crew members prior to launch.
    - Review of current and forecasted weather conditions and weather limitations
    - Review of current Notice to Airmen (NOTAM) and Temporary Flight Restrictions (TFR) that have been issued for the proposed flight area.
    - Identification of mission limitations and safety issues such as battery charge, GPS strength, and potential for radio interference.
    - Review of proposed flight area, including maximum celling and floor and applicable airspace restrictions.
    - Review of communication procedures between flight crew members, including the availability of cell phones and portable air band radio to communicate with air traffic control in the event of a fly-away or lost link.
    - Review of emergency/contingency procedures including aircraft system failure, flight termination, divert, and lost link procedures.
    - Review of required video or digital images requirements.
    - Contents of the COA.
    - Frequencies to be used.
- Post Flight Briefing
    - After all flights, the Pilot-In-Command will perform a post flight review with their team and incident commander / designee.
    - Opportunities for improvement will be documented.
    - Protocols for the memory card will be followed.
    - An inspection of all equipment will be done and any damage or other deficiency found will be noted in the maintenance logbook.
    - Pilot flight hours will be added to the logbook.

GLOSSARY OF TERMS

Above Ground Level (AGL): AGL is the altitude expressed in the actual number of feet measured above the ground.

Air Traffic Control (ATC): Managed traffic from the airport to a radius of 3 to 30 miles. Provide pilots taxiing and take off instructions, air traffic clearance, and advice based on their own observations and experience. Maintains separation between landing and departing aircraft, transfers control of aircraft to the en-route controllers when the aircraft leave their airspace, and receives control of the aircraft on flights coming into their airspace.

Area Command (Unified Area Command): An organization established (1) to oversee the management of multiple incidents that are each being handled by an ICS organization or (2) to oversee the management of large or multiple incidents to which several Incident Management Teams have been assigned. Area Command has the responsibility to set overall strategy and priorities, allocate critical resources per priorities, ensure that incidents are properly managed, and ensure that objectives are met and strategies followed. Area Command becomes Unified Area Command when incidents are multi-jurisdictional. Area Command may be established at an EOC facility or at some location other than an ICP.

Available Resources: Resources assigned to an incident, checked in, and available for use.

Certificate of Authorization (COA): Issued by the FAA and grants permission to fly within specific boundaries and parameters.

Civil Morning Twilight: Begins when the Sun is 6 degrees below the horizon and ends at sunrise.

Civil Evening Twilight: Begins at sunset and ends when the Sun reaches 6 degrees below the horizon

Command Staff: In an incident management organization, the Command Staff consists of the Incident Commander and the special staff positions of Public Information Officer, Safety Officer, Liaison Officer, and other positions as required, who report directly to the Incident Commander. They may have an assistant or assistants, as needed.

Declaration of Emergency: Whenever, in the opinion of the governing official, the safety and welfare of the people of the jurisdiction require the exercise of extreme emergency measures due to a threatened or actual disaster, they may declare a state of emergency to exist.

Disaster Recovery Center (DRC): A facility established in a centralized location within or near the disaster area at which disaster victims (individuals, families, or businesses) apply for disaster aid. Commonwealth and federal officials may establish one or more DRC within federally declared jurisdiction where 0ne-on-one assistance can be provided to disaster survivors.

Emergency/Disaster: An event that demands a crisis response beyond the scope of any single line agency or service and that presents a threat to a community or larger area. An emergency is usually an event that can be controlled within the scope of local capabilities; a major emergency or disaster usually requires resources beyond what is available locally.

Emergency Operations Center (EOC): The physical location at which the coordination of information and resources to support domestic incident management activities normally takes place. An EOC may be a temporary facility or may be in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOCs may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., Federal, State, regional, County, city, tribal), or by some combination thereof.

Emergency Operations Plan (EOP): A document which provides for a preplanned and coordinated response in the event of an emergency or disaster situation.

Emergency Support Function (ESF): A function which tasks agencies to provide or to coordinate certain resources in response to emergencies or disasters.

Exigent Circumstances: An emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect, or destruction of evidence.

Flight Observer (FO): The individual trained to maintain the line-of-sight and 360-degree hazard awareness with the aircraft in direction support of the pilot in command. They are responsible for the safe operations of the immediate area.

Geographic Information System (GIS): A computer system capable of assembling, storing, manipulating, and displaying geographically referenced information, i.e. data identified per their locations.

Incident: An occurrence or event, natural or human caused, that requires an emergency response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, wild land and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

Incident Action Plan (IAP): An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods.

Incident Command Post (ICP): The field location at which the primary tactical-level, on-scene incident command functions are performed. The ICP may be collocated with the incident base or other incident facilities and is normally identified by a green rotating or flashing light.

Incident Command System (ICS): A model for disaster response that uses common terminology, modular organization, integrated communications, unified command structure, action planning, manageable span-of-control, predesignated facilities, and comprehensive resource management. In ICS there are five functional elements: Command, Operations, Logistics, Planning and Finance/Administration.

Incident Commander (IC): The individual responsible for the management of all incident operations.

Initial Damage Assessment Report: A report that provides information regarding overall damage to public and private property, thereby providing a basis for an emergency declaration and/or disaster assistance.

Instrument Flight Rules (IFR): Under IFR, ATC exercises positive control of all aircraft within designated airspace. Any pilot operating in this environment must meet minimum equipment requirements and have special certification in order to fly.

Joint Field Office (JFO): An administrative office established by FEMA and staffed by appropriate federal/state personnel following a disaster declaration by the president. The Disaster Field Office is the primary field location for the coordination of response and recovery operations.

Joint Information Center (JIC): Is a facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating agencies should collocate at the JIC.

Joint Information System (JIS): The JIS refers to processes, procedures, and systems for communicating timely and accurate information to the public during crisis or emergency situations.

Jurisdiction: A range or sphere of authority. Public agencies have jurisdiction at an incident related to their legal responsibilities and authorities. Jurisdictional authority at an incident can be political or geographical (e.g., city, County, tribal, state, or federal boundary lines) or functional (e.g., law enforcement, public health).

Landing Zone (LZ): A place designated and intended to be used for the takeoff and landing of the UAS aircraft.

Liaison Officer (LOFR): A member of the Command Staff responsible for coordinating with representatives from cooperating and assisting agencies.

Local Emergency: The condition declared by the local governing body when, in its judgment, the threat or actual occurrence of a disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate loss of life, property damage, or hardship. A local emergency arising wholly or substantially out of a resource shortage may be declared only by the Governor, upon petition of a local governing body, when he deems the situation to be of sufficient magnitude to warrant coordinated local government action to prevent or alleviate the hardship or suffering threatened or caused thereby.

Major Disaster Declaration: Any natural or man-made disaster in any part of the United States which, in the determination of the President of the United States, is or thereafter determined to be of sufficient severity and magnitude to warrant disaster assistance above and beyond emergency services by the federal government to supplement the efforts and available resources of local and state governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused.

Mitigation: Mitigation is any activity taken to eliminate or reduce the degree of long-term risk to human life and property from natural, technological, and human-caused hazards.

Mutual Aid Agreement (MAA): A written agreement between agencies and/or jurisdictions in which they agree to assist one another, upon request, by furnishing personnel and equipment in an emergency.

National Airspace (NAS): The NAS is made up of a network of air navigation facilities, ATC facilities, airports, technology, and appropriate rules and regulations that are needed to operate the system.

National Incident Management System (NIMS): A system mandated by HSPD-5 that provides a consistent, nationwide approach for Federal, State, local, and tribal governments; the private sector; and NGOs to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among Federal, State, local, and tribal capabilities, the NIMS includes a core set of concepts, principles, and terminology. HSPD-5 identifies these as the ICS; multiagency coordination systems; training; identification and management of resources (including systems for classifying types of resources); qualification and certification; and the collection, tracking, and reporting of incident information and incident resources.

National Response System: Pursuant to the NRF, the mechanism for coordinating response actions by all levels of government (40 CFR § 300.21) for oil and hazardous substances spills and releases.

National Weather Service (NWS): The federal agency which provides localized weather information to the population, and during a weather-related emergency, to state and local emergency management officials.

Nongovernmental Organization (NGO): A nonprofit entity that is based on interests of its members, individuals, or institutions and that is not created by a government, but may work cooperatively with government. Such organizations serve a public purpose, not a private benefit. Examples of NGOs include faith-based charity organizations and the American Red Cross.

Notice to Airmen (NOTAM): A NOTAM is time critical information concerning the establishment, condition, or change in any component of the NAS. The NOTAM provides knowledge that is essential to personnel concerned with flight operations in a designated area.

Pilot-in-Command (PIC): The individual responsible for the overall flight operations of a specific mission.

Presidential Declaration: A presidential declaration frees up various sources of assistance from the Federal government based on the nature of the request from the governor.

Public Assistance: Aid available to state or local governments to pay part of the costs of rebuilding a community's damaged infrastructure. Public Assistance may include debris removal, emergency protective measures and public services, repair of damaged public property, loans needed by communities for essential government functions and grants for public schools.

Recovery: Recovery in the short-term is any activity to return vital life-support systems and critical infrastructure to minimum operating standards; and in the long-term any activity designed to return life to normal or an improved state.

Response: Response is any action taken immediately before, during, or after an emergency situation to reduce casualties, save lives, minimize damage to property, and enhance the effectiveness and speed of recovery.

Search and Rescue: The employment of available personnel, equipment and facilities in rendering aid to persons and property in distress, or potential distress, in the air, water or on the land.

Service Information Center: A SIC is an information and resource facility established by the County to effectively communicate response and recovery information to the public, provide recovery services to the public, streamline the recovery process, and alleviate the burdens of recovery for impacted populations.

Standard Operating Procedures (SOP): Guidelines for operating procedures in an emergency; includes equipment, processes and methods.

State of Emergency: The condition declared by the Governor when, in his judgment, a threatened or actual disaster in any part of the State is of sufficient severity and magnitude to warrant disaster assistance by the State to supplement local efforts to prevent or alleviate loss of life and property damage.

Unaffiliated Volunteer: An individual who is not formally associated with a recognized voluntary disaster relief organization or assigned to an agency; also, known as a spontaneous or emergent volunteer.

Unmanned Aircraft System (UAS): An aircraft that is operated without a physical human presence within or on the aircraft which, in the way it is used or the manner in which it is equipped, is capable of performing audio or visual surveillance and guided by remote control.

Unified Command: An application of ICS used when there is more than one agency with incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the Unified Command to establish their designated Incident Commanders at a single Incident Command Post and to establish a common set of objectives and strategies and a single Incident Action Plan.

Virginia Department of Emergency Management (VDEM): Commonwealth of Virginia Department of Eminency Management.

Visual Observer (VO): The VO is equally responsible for the visual observation of the UAS while in-flight. They are responsible for notifying the Pilot-In-Command of any obstructions, terrain, structures, air traffic, weather or any circumstance that may impact the aircraft. They manage communications and integration with the person in charge.

Volunteer: Any individual accepted or assigned to perform services by an agency that has authority to accept volunteer services when the individual performs services without promise, expectation, or receipt of compensation for services performed.

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ACRONYMS

CERT - Community Emergency Response Team

COOP – Continuity of Operations Plan

COG - Continuity of Government

DHS - Department of Homeland Security

DOC - Department Operation Centers

DoD - Department of Defense

DMORT - Disaster Mortuary Operation Response Teams

DPSC - Department of Public Safety Communications

DRC - Disaster Recovery Centers

EAN - Employee Alert Network

EAS - Emergency Alert System

EMAC - Emergency Management Assistance Compact

EMnet - Emergency Management Notification Network

EOC - Emergency Operations Center

ESF - Emergency Support Function

FAC - Family Assistance Center

FCRC - Fairfax County Recovery Center

FEMA - Federal Emergency Management Agency

GIS - Geographic Information Systems

IAP - Incident Action Plan

IC - Incident Command

ICS - Incident Command System

IMT - Incident Management Team

IT - Information Technology

JFO - Joint Field Office

JIC - Joint Information Center

LEPC - Local Emergency Planning Committee

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LOFR - Liaison Officer

MACC - Multi-Agency Coordination Center

MCS - Multi-Agency Coordination System

MDW - Military District of Washington

MWCOG - Metropolitan Washington Council of Governments

NCR - National Capital Region

NDMS - National Disaster Medical System

NGO - Non-Governmental Organizations

NIMS - National Incident Management System

NOAA - National Oceanic and Atmospheric Administration

NVHA – Northern Virginia Hospital Alliance

NRF - National Response Framework

NVRC - Northern Virginia Regional Commission

OSC - On-Scene-Coordinator

PDA - Preliminary Damage Assessment

PIO - Public Information Officer

PSA - Public Service Announcements

RECP - Regional Emergency Coordination Plan

RHCC - Regional Healthcare Coordination Center

NVRIC – Northern Virginia Regional Intelligence Center

RICCS - Regional Incident Communication and Coordination System

SARA - Superfund Amendments and Reauthorization Act

SHMO - State Hazard Mitigation Officer

SIC - Service and Information Centers

SNS - Strategic National Stockpile

SOFR - Safety Officer

SUAS – Small Unmanned Aircraft System

VADEQ- Virginia Department of Environmental Quality

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VCMC - Volunteer Coordination and Mobilization Center

VDEM - Virginia Department of Emergency Management

VDOT - Virginia Department of Transportation

VIPS - Volunteers in Police Service

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Board Agenda Item
July 31, 2018

ACTION – 8

Approval of an Agreement between the Town of Vienna and Fairfax County to Design and Construct the Hunter's Branch Phase II Stream Restoration Project (Hunter Mill District)

ISSUE:
Board of Supervisors authorization is requested for the County to execute an agreement with the Town of Vienna (Town) that provides funding for the design and construction of the Hunter's Branch Phase II Stream Restoration project (Project), which is located in the Town and the Accotink Creek watershed.

RECOMMENDATION:
The County Executive recommends that the Board approve and authorize the County Executive or his designee to sign an agreement with the Town to provide funding for the design and construction of the Project.

TIMING:
Board approval is requested on July 31, 2018.

BACKGROUND:
The Project is located in the Town and Accotink Creek watershed. The Project will restore approximately 1,800 linear feet of stream on Hunter's Branch, providing nutrient reduction and improved water quality in the Accotink Creek watershed.

Under the Cooperative Agreement between the Fairfax County Board of Supervisors, the Town of Vienna, and the Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects, the parties will use the Project benefits towards compliance with their respective Municipal Separate Storm Sewer System permits and Chesapeake Bay Total Maximum Daily Load reduction requirements. Consistent with the framework of the Cooperative Agreement, the Town has asked the County to fund the design and construction costs. The Town will administer the design and construction of the Project. Partnering with the Town on this Project will save the County the time and administrative costs that would be incurred if the County were to implement the Project under its stormwater program.

FISCAL IMPACT:
The estimated total cost of the Project is $1,920,000. The County will fund $400,000 in fiscal year 2019 for the design of the Project. Upon completion of the design, the County will grant the Town an additional $1,520,000 for the construction of the Project. If those funds are unavailable in the stormwater budget at the time of the completion of design, they will be paid when they become available. The County has the discretion to pay construction cost overruns, but in an amount not to exceed ten percent of the total estimated project cost. The Town can use County funds only for the design and construction of the Project. The Town will reimburse the County funds that are not expended in accordance with the terms of the attached agreement. Funding is currently available in Project SD-000031, Stream & Water Quality Improvements, Fund 40100, for the County's obligation to this Project.

CREATION OF POSITIONS:
No positions will be created.

ENCLOSED DOCUMENTS:
Attachment 1 - Agreement between the Board of Supervisors of Fairfax County, Virginia and the Town of Vienna

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Randolph W. Bartlett, Deputy Director, DPWES, Stormwater & Wastewater Programs

ASSIGNED COUNSEL:
Marc Gori, County Attorney

HUNTER'S BRANCH PHASE II (AC82-0007)
STREAM RESTORATION PROJECT
FUNDING AGREEMENT

This Agreement ("Agreement") made and entered into this _____ day of _____, 2018, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "County")**,** a body politic, and the **TOWN OF VIENNA** (the "Town") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Town has requested funds to design and implement the Hunter's Branch Phase II (AC82-007) Stream Restoration Project (the "Project"), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Hunter's Branch and

WHEREAS, the location of the Project is located between Longitude 38.88625N and Latitude 77.26973W and 38.88310N and 77.26831W, and is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map Numbers; 48-2((22)) parcel A; and

WHEREAS, the Project is within the Chesapeake Bay, Potomac River, and Accotink Creek watersheds;

WHEREAS, the Town is part of the County's Stormwater Service District and the County, Town, and the Town of Herndon have entered into an agreement known as the "Cooperative Agreement Between the Fairfax County Board of Supervisors, the Town of Vienna, and Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects" (the "Cooperative Agreement") to share funds and responsibility to maintain, operate, and improve stormwater systems to meet the Chesapeake Bay Total Maximum Daily Load ("TMDL") and other water quality goals. Cooperative Agreement is attached hereto as Attachment 1 and is incorporated herein by reference; and

WHEREAS, under the Cooperative Agreement, annually, the County pays the Town a percentage of the Stormwater Service District Fees that are collected from residents of the Town (the "Paid Vienna Revenues"); and

WHEREAS, the Town and County agree that under the Cooperative Agreement, Stormwater Service District funds can be used for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and

WHEREAS, the Project is estimated to cost one million, nine hundred and twenty thousand dollars ($1,920,000) (the "Total Project Cost"); and

WHEREAS, that County intends to fund the design and construction of the Project from its Stormwater Budget; and

WHEREAS, the Town intends to dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if restated as binding provisions of this agreement, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto further agree as follows:

1. Upon execution of this Agreement, the County will grant to the Town funds in the amount of four hundred thousand dollars ($400,000) (the "Design Funds") in Fiscal Year 2019 for the design of the Project, to be paid with monies from the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services).

2. Upon completion of the design of the Project, the County will grant to the Town an additional one million five hundred twenty thousand dollars ($1,520,000) for the construction of the Project, as designed (the "Construction Funds"), except that if those funds are unavailable in the Stormwater Budget at the time of completion, they will be paid at such time as they become available. The Design Funds plus the Construction Funds are hereinafter referred to as the "County Contribution." Completion of the design of the Project occurs when the Town informs the County that all construction documents are completed and approved, and all permits for the construction have been obtained.

3. The County Contribution will not be charged against the PAID VIENNA REVENUES as set forth in the Cooperative Agreement, but rather, are a separate grant to the Town from the County.

4. The Town will dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

5. The Town will expend the County Contribution solely for the purpose of supporting the design and construction of the Project, and not for the cost of any feasibility study or acquisition of any land or easements necessary for the completion of the Project.

6. The Town will provide to the County a copy of the final site plan (the "Plan") for the Project.

7. The Town will acquire, at its sole expense, any and all land or easements, or other interests in real property, if any, that are necessary to complete the Project.

8. The Town, at its sole expense, will administer the design and construction contracts, obtain approval of all plans, and obtain all permits necessary for the completion of the Project.

9. The Town will notify the County if the Town, at any time, modifies the scope of the Project, which is generally described herein above. If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town must, within 30 days after notification by the County of such deviation, reimburse to the County the amount of the Total Contribution.

10. The Town must retain all invoices and all records of payments for any and all services rendered for the design, construction, and any related expenses for completion of the Project, and copies of any such invoices and records of payments shall be provided to the County upon request within three business days after such a request.

11. If at any time the Town abandons or otherwise ceases the Project for any reason, the Town must immediately return any amount of the County Contribution not expended in accordance with this agreement and all invoices and records of payments. "Abandon," as used herein, includes, but is not limited to, the failure to initiate or the termination of the design or construction before the Project's completion.

12. The County, in its sole discretion, may agree to pay cost overruns that exceed the Total Project Cost, including construction costs that exceed the current estimate, change orders and/or related costs that arise during construction of the Project, but only to the extent that funds are available in the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services) and are not more than 10% of the estimated Project Cost.

13. The Town must complete the Project not later than four years after this agreement is executed.

14. The Project is subject to the Cooperative Agreement, and, as such, the total pollutant load reduction credits for the Project will be apportioned among the parties as established pursuant to the terms of the Cooperative Agreement or any amendments or attachments thereto.

15. This agreement can only be modified in writing and signed by both parties.

[Signatures appear on following page]

ATTACHMENT 1

TOWN OF VIENNA, Virginia

By:_____
Laurie A. Di Rocco
Mayor

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Laurie A. DiRocco of the Town of Vienna, this _____ day of _____ 2018, on behalf of the Town of Vienna.

_____
Notary Public

My commission expires: _____

Notary Registration Number: _____

ATTACHMENT 1

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By:_____
Bryan J. Hill, County Executive
Fairfax County, Virginia

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Bryan J. Hill, County Executive of Fairfax County, Virginia, on behalf of the Board of Supervisors of Fairfax County, Virginia this _____ day of _____ 2018.

_____
Notary Public

My commission expires: _____

Notary Registration Number: _____

Board Action Item
July 31, 2018

ACTION - 9

Approval of a Minor Variation Request for RZ 2005-SP-019, The Ridgewood by Windsor II LLC, to Add a Private School of Special Education Use to the List of Secondary Uses Permitted in Proffer 13 (Braddock District)

ISSUE:
Board approval of a minor variation to add a Private School of Special Education to the list of Secondary Uses permitted by Proffer 13 for RZ 2005-SP-019, under the provisions of Sect. 18-204 of the Zoning Ordinance.

RECOMMENDATION:
In accordance with Zoning Ordinance Sect. 18-204(5) and Virginia Code Sect. 15.2-2302, the County Executive recommends that the Board waive the requirement of a public hearing and approve the addition of a Private School of Special Education Use to the list of Secondary Uses permitted by Proffer 13 for RZ 2005-SP-019.

TIMING:
Routine.

BACKGROUND:
Under Par. 5 of Sect. 18-204 of the Zoning Ordinance, the Board may approve certain minor variations to proffered conditions and the associated conceptual development plan and final development plan when such requests do not materially affect proffered conditions of use, density, or intensity. Specifically, Par. (5)(A)(1) permits the addition or modification of a use, if the existing proffered conditions do not specifically preclude the use and the new use would have no materially greater land use impacts than the approved uses, based on factors such as parking, trip generation, vehicular circulation, or hours of operation.

On June 26, 2006, the Board of Supervisors approved Rezoning RZ 2005-SP-019, subject to proffers, to rezone 18.01 acres from I-5 (General Industrial District) to the PRM (Planned Residential Mixed-Use District). The Planning Commission approved Final Development Plan FDP 2005-SP-019, subject to development conditions, on June 14, 2006. The property is located within the PRM zoning district, in the southeastern quadrant of the intersection of Ridge Top Road and Government Center Parkway, Tax Map 56-2 ((1)) 37F (see Locator Map in Attachment 1). The approved proffers,

CDP/FDP, and development conditions for RZ 2005-SP-019, and CDP/FDP 2005-SP-019 are available at: http://ldsnet.fairfaxcounty.gov/ldsnet/ZAPSMain.aspx?cde=FDP&seq=4056927

On May 25, 2018, the Department of Planning and Zoning (DPZ) received a letter dated May 24, 2018, from Zachary G. Williams, agent for The Ridgewood by Windsor II LLC, the applicant and property owner ("Applicant"), requesting a minor variation to add Private School of Special Education Use to the list of Secondary Uses permitted in Proffer 13 for RZ 2005-SP-019 (see Attachments 2 and 4). The Applicant is proposing the addition of a Taekwondo Studio, which is classified as a Private School of Special Education in the Zoning Ordinance, to be established in an existing ground floor retail bay. Proffer 13 states:

> Secondary Uses. All secondary uses referenced below shall be deemed to be "specifically designated on the FDP" such that approval of a separate special exception shall not be required to initiate such a use pursuant to Section 6-405 of the Zoning Ordinance. Other principal and secondary uses permitted in the PRM Zoning District that are not specifically listed in this Proffer may be permitted with the approval of a FDPA and/or a special exception or special permit as required. A PCA shall not be required as long as the proposal remains in substantial conformance with the CDP.
>
> (A) Affordable dwelling units.
>
> (B) Bank teller machines, unmanned (not drive-through).
>
> (C) Business service and supply service establishments.
>
> (D) Fast food restaurants (not drive-through).
>
> (E) Eating Establishments.
>
> (F) Commercial Recreational Uses. Such uses may include billiard and pool halls; health clubs; and other similar commercial recreational uses.
>
> (G) Financial institutions (not drive-through).
>
> (H) Garment cleaning establishments (not drive-through).
>
> (I) Hotels. As shown on the CDP/FDP, and at the option of the Applicant one such use may be located in Building 4, and shall total a minimum of 50,000 square feet and a maximum of 100,000 square feet of GFA.
>
> (J) Offices. As shown on the CDP/FDP, such use shall be located in Building 1 and, at the option of the Applicant, in Building 4, and shall total a minimum of 150,000 square feet and a maximum of 200,000 square feet of GFA.
>
> (K) Personal service establishment.

(L) Quasi-Public Uses. Such uses shall include cultural center, museums and similar facilities; and private clubs and public benefit associations.

(M) Repair service establishments.

(N) Accessory Uses and Home Occupations as permitted by Article 10 of the Zoning Ordinance. Such uses shall include ground-floor areas of the buildings devoted to business centers, lobbies, fitness centers, leasing/sales/management offices, recreational/party rooms or other similar uses devoted primarily to supporting the residential buildings.

(O) Quick-service food stores.

(P) Light Public Utility uses.

(Q) Retail sales establishments. As shown on the CDP/FDP, such use shall be located in Building 2 and, at the option of the Applicant, in Building 1 and/or Building 4, and shall total a minimum of 20,000 square feet and maximum of 42,100 square feet of GFA. In such areas labeled "Retail" on the CDP/FDP, additional permitted uses shall include uses B, C, D, E, F, G, H, J, K, M, O and P, as identified in this proffer.

The Private School of Special Education use is permitted as a secondary use in the PRM District by the Zoning Ordinance; however, it was not listed specifically in the approved proffers. The total size of the space occupied by the Taekwondo studio will be 3,373 square feet as shown on Attachment 3. Mr. Williams states the proposed use "will be a community-serving use that is compatible with the multi-family residential units and other retail uses on the property."

Staff has reviewed RZ 2005-SP-019 and the request to add this secondary uses and has determined that the Private School of Special Education use would have no materially greater land use impacts than the approved uses, based on factors such as parking, trip generation, vehicular circulation, or hours of operation. Given that conclusion and the current proffer's contemplation of additional uses without the need for a PCA, staff believes that approval of this minor variation request meets the requirements of the Zoning Ordinance and recommends its approval.

FISCAL IMPACT:
None

Board Action Item
July 31, 2018

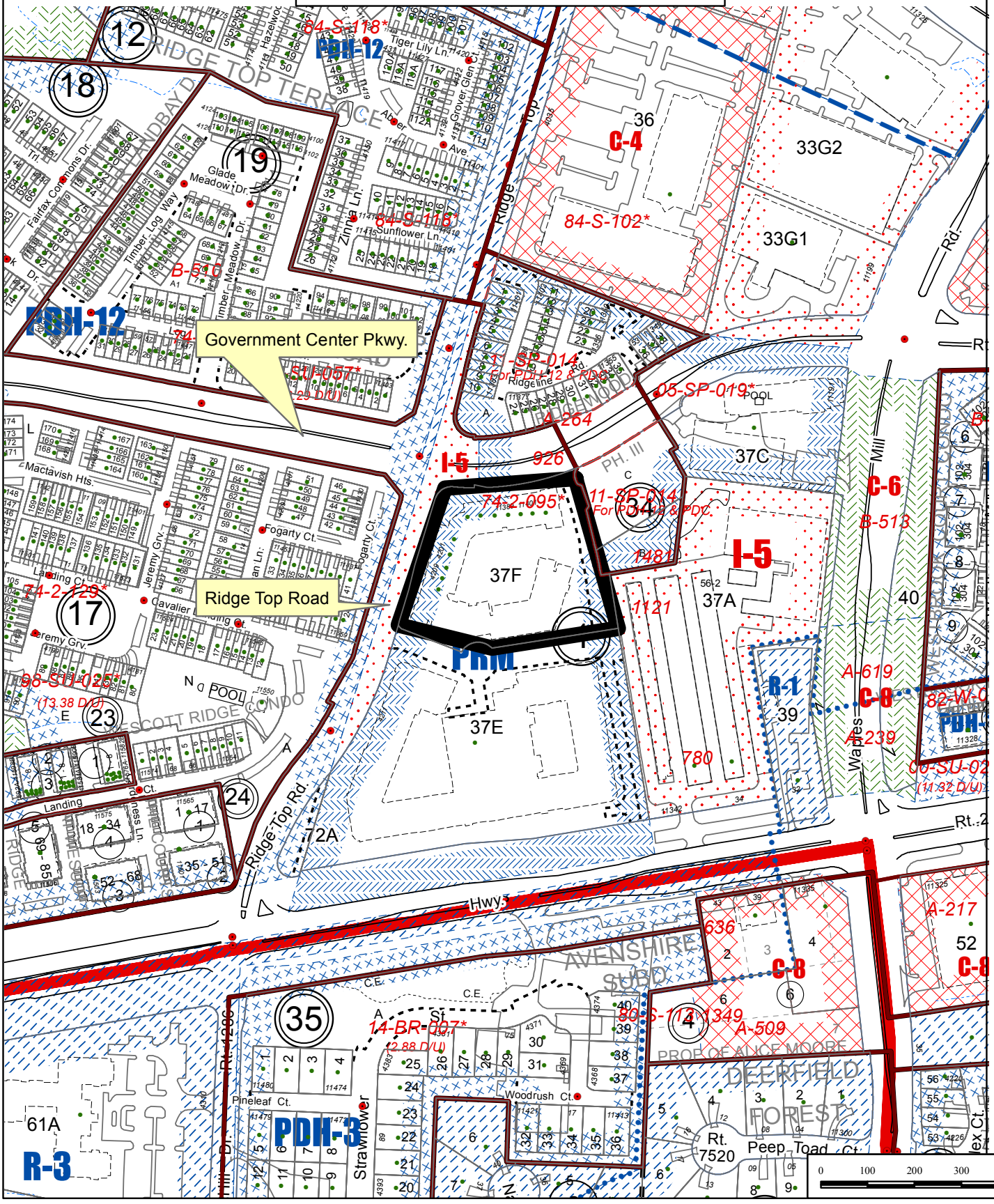
ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Excerpt of Approved Proffers for RZ 2005-SP-019
Attachment 3: Taekwondo Studio location
Attachment 4: Letter dated May 24, 2018, to Zoning Evaluation Division
Attachment 5: Minor Variation Statement
Attachment 6: Affidavit available online at:
(https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning/minorvariations/2018minorvariations.pdf)

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPZ
Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ
Jerrell Timberlake, Staff Coordinator, ZED, DPZ

ASSIGNED COUNSEL:
Sara Silverman, Assistant County Attorney, Office of the County Attorney

Request for Minor Variation

Attachment 1



signs or blade signs, as limited below. For purposes of this Proffer 12, channel letter signs shall consist of individual letters mounted directly to the building or to a sign band. All channel letter signs shall be of a consistent scale with others in the development, shall be generally located on a consistent elevation with other channel letter signs. Channel letter signs, if externally lit, shall only be down lit, with lighting provided from above the channel letters. For purposes of this Proffer 12, blade signs shall be flat signs hung perpendicular to the building façade. Blade signs shall not exceed four (4) square feet and shall only be located under an awning. Open face neon signs and box signs with flat, plexiglass faces shall not be permitted.

II. USES

13. Secondary Uses. All secondary uses referenced below shall be deemed to be "specifically designated on the FDP" such that approval of a separate special exception shall not be required to initiate such a use pursuant to Section 6-405 of the Zoning Ordinance. Other principal and secondary uses permitted in the PRM Zoning District that are not specifically listed in this Proffer may be permitted with the approval of a FDPA and/or a special exception or special permit as required. A PCA shall not be required as long as the proposal remains in substantial conformance with the CDP.

    (A) Affordable dwelling units.

    (B) Bank teller machines, unmanned (not drive-through).

    (C) Business service and supply service establishments.

    (D) Fast food restaurants (not drive-through).

    (E) Eating establishments.

    (F) Commercial Recreational Uses. Such uses may include billiard and pool halls; health clubs; and other similar commercial recreational uses.

(G) Financial institutions (not drive-through).

(H) Garment cleaning establishments (not drive-through).

(I) Hotels. As shown on the CDP/FDP, and at the option of the Applicant, one such use may be located in Building 4, and shall total a minimum of 50,000 square feet and a maximum of 100,000 square feet of GFA.

(J) Offices. As shown on the CDP/FDP, such use shall be located in Building 1 and, at the option of the Applicant, in Building 4, and shall total a minimum of 150,000 square feet and a maximum of 200,000 square feet of GFA.

(K) Personal service establishments.

(L) Quasi Public Uses. Such uses shall include cultural centers, museums and similar facilities; and private clubs and public benefit associations.

(M) Repair service establishments.

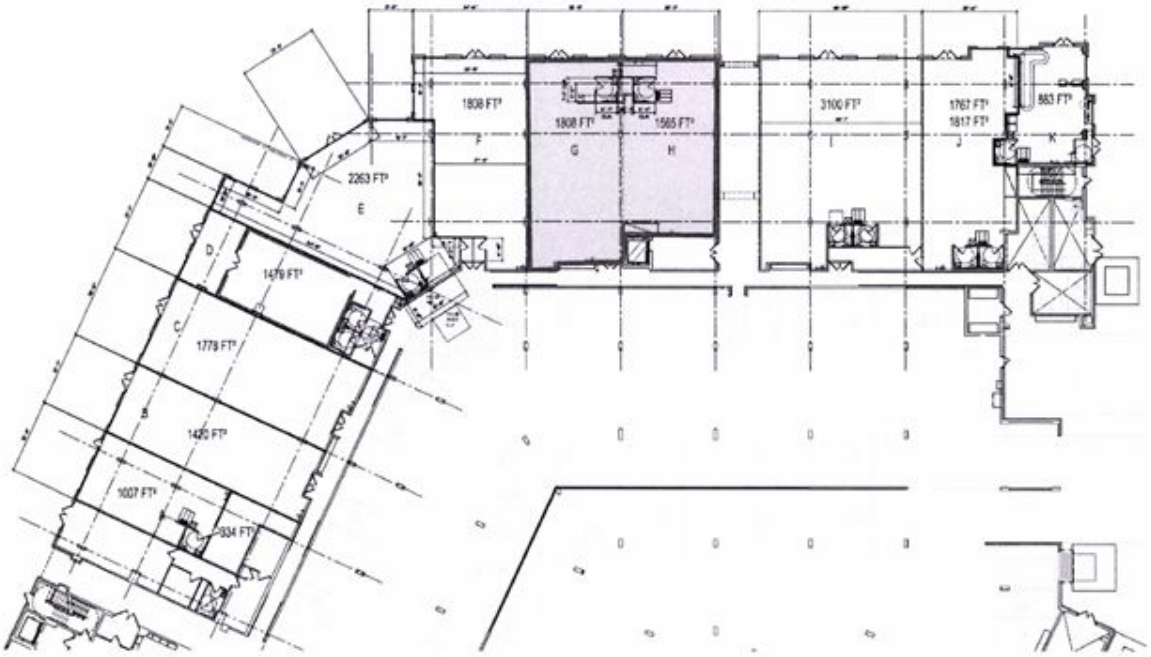
(N) Accessory Uses and Home Occupations as permitted by Article 10 of the Zoning Ordinance. Such uses shall include ground-floor areas of the buildings devoted to business centers, lobbies, fitness centers, leasing/sales/management offices, recreational/party rooms or other similar uses devoted primarily to supporting the residential buildings.

(O) Quick-service food stores.

(P) Light public utility uses.

(Q) Retail sales establishments. As shown on the CDP/FDP, such use shall be located in Building 2 and, at the option of the Applicant, in Building 1 and/or Building 4, and shall total a minimum of 20,000 square feet and a maximum of 42,100 square feet of GFA. In such areas labeled "Retail" on the CDP/FDP, additional permitted uses shall include uses B, C, D, E, F, G, H, J, K, M, O and P, as identified in this proffer.

14. Residential Building Amenities. In addition to the amenity courtyards shown on the CDP/FDP, the Residential Buildings shall contain interior amenities for the residents of each respective building. These interior amenity uses shall include, but not be limited to, a fitness center, conference/business center, theater and game/billiards room. At least 6,000 sq. ft. of GFA in Building 3 shall be devoted to such interior amenities. A total of



RECEIVED
Department of Planning & Zoning
MAY 25 2018
Zoning Evaluation Division

BEAN KINNEY & KORMAN PC
ATTORNEYS

2300 WILSON BOULEVARD
7TH FLOOR
ARLINGTON, VA 22201
PHONE 703.525.4000
FAX 703.525.2207

Zachary G. Williams
Admitted: VA, DC, and MD
zwilliams@beankinney.com

May 24, 2018

By Hand Delivery
Fairfax County Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509

RECEIVED
Department of Planning & Zoning
MAY 25 2018
Zoning Evaluation Division

Re: Applicant: The Ridgewood by Windsor II LLC
Application: Minor Variation of Proffered Conditions
Property: 4209 Ridge Top Road, Fairfax, VA 22030
Tax Map No.: 0562 01 0037F

Dear Zoning Evaluation Division:

On behalf of The Ridgewood by Windsor II LLC (the "Applicant"), we respectfully request a minor variation of the approved proffers on the above referenced property located at 4209 Ridge Top Road, Fairfax, VA 22030 (the "Property"). The purpose of this request is to allow a Taekwondo studio to be located in an existing retail space on the Property.

The Property is currently zoned to the PRM district. The Board of Supervisors approved a rezoning of the Property from I-5 to PRM on June 26, 2006 to allow a mixed-use development to include multi-family residential, office, and retail uses with an option for a hotel. (*See* enclosed Ex. 1, Clerk's Letter, dated June 29, 2006.) The approved rezoning application included proffers, dated June 20, 2006, which set forth in Proffer No. 13 the secondary uses that are permitted to be developed by-right on the Property. (Proffer Statement enclosed with Ex. 1). The Property is currently improved with a six story mixed-use building with retail bays and parking at ground level, parking on level two, and 191 multi-family residential units on levels four through six. The two-level parking structure includes 417 parking spaces, of which 201 are behind gate access for apartment residents and 216 are open for retail and short-term apartment tenant parking. An ALTA survey of the Property is enclosed as Exhibit 2.

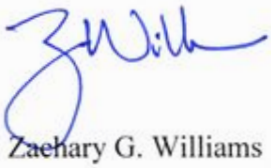
The Applicant now seeks a minor variation of the approved proffer conditions on this Property to allow a Taekwondo studio to be established in an existing retail bay on the ground floor of the Property. The proposed location of the Taekwondo studio is depicted in the shaded area on Exhibit 3, enclosed. We understand that the County classifies the Taekwondo studio as a "private school of special education" under the Zoning Ordinance. This use is a permitted secondary use in the PRM District (*see* Zoning Ordinance Section 6-403). The approved proffers, however, do not specifically authorize this use on the Property.

The minor variation requested for the Taekwondo studio is appropriate for this Property. The Taekwondo studio will be a community-serving use that is compatible with the multi-family

residential units on the Property. The Taekwondo studio will provide classes for young children, teens, and adults of all ages. It is expected that the Taekwondo studio will operate from the hours of 12:00 p.m. through 8:00 p.m., Monday through Friday, and from 10:00 a.m. to 12:30 p.m. on Saturday. The Taekwondo studio will employ approximately 3 employees at this location. The total size of the space occupied by the Taekwondo studio will be 3,374 square feet. There is more than sufficient parking available on site for this proposed new use.

For all of the above reasons, we respectfully request a minor variation of the approved proffers on the Property to allow a Taekwondo studio to be established within an existing retail bay on the ground floor. Enclosed with this letter is a completed affidavit, owner authorization letter, tax map outlining the tax map parcel in red, and $520.00 application fee check. Please advise us if any further documentation or information is necessary to process this request. I may be reached by telephone at 703-525-4000 or by e-mail at zwilliams@beankinney.com.

Sincerely,



Zachary G. Williams

cc:

Via E-mail and Federal Express
Marcia M. Pape
Senior Legislative Aide
Braddock District Supervisor John C. Cook
9002 Burke Lake Road
Burke, VA 22015
Marcia.PapeDaniels@fairfaxcounty.gov

01147939-1

MINOR VARIATION STATEMENT

The Ridgewood by Windsor II LLC

RZ 2005-SP-019 / CDP/FDP 2005-SP-019

June 6, 2018

Pursuant to Section 18-204 of the Zoning Ordinance, the property owner, The Ridgewood by Windsor II LLC, hereby requests approval of a Minor Variation to the proffers governing Tax Map 0562 01 0037F to allow the addition of a "Private School of Special Education" to the list of "Secondary Uses" permitted in Proffer No. 13 of RZ 2005-SP-019, and commits that any such use will be located within the approved building footprints shown on the CDP/FDP, will meet the use limitations contained in the Zoning Ordinance, and will be developed in substantial conformance with the governing proffers.

The Ridgewood by Windsor II LLC

By: _____
Name: Matthew S. Tisdale
Title: Vice President

01158545-1

Board Agenda Item
July 31, 2018

ACTION - 10

Endorsement of Design Plans for the Rolling Road Widening Phase I – Intersection Improvements at Rolling Road and Old Keene Mill Road (Braddock and Springfield Districts)

ISSUE:
Board endorsement of the Virginia Department of Transportation's (VDOT) Phase I design plans for the Rolling Road and Old Keene Mill Road intersection that include the following interim improvements: adding a second left turn lane from northbound Rolling Road to westbound Old Keene Mill Road and a dedicated right turn lane from northbound Rolling Road to eastbound Old Keene Mill Road, upgrading the signal and improving the intersection alignment.

RECOMMENDATION:
The County Executive recommends that the Board endorse the design plans for the Rolling Road and Old Keene Mill Road intersection that include interim improvements by adding a second left turn lane from northbound Rolling Road to westbound Old Keene Mill Road and a dedicated right turn lane from northbound Rolling Road to eastbound Old Keene Mill Road, upgrading the signal and improving the intersection alignment, generally as presented at the February 27, 2018, public hearing, and authorize the director of Fairfax County Department of Transportation to transmit the Board's endorsement to VDOT.

TIMING:
The Board should take action on this matter on July 31, 2018, to allow the Virginia Department of Transportation to proceed with final design plans.

BACKGROUND:
Rolling Road is classified as an urban minor arterial road that extends from I-95 in the south to Braddock Road in the north and connects two principal roads, the Fairfax County Parkway and Old Keene Mill Road within these project limits. The widening of Rolling Road has been a part of the Fairfax County Comprehensive Plan, as well as regional transportation plans, for several decades.

The entire project to widen Rolling Road from a two-lane roadway to a four-lane divided roadway with curb and gutter (Phases I and II) is estimated to be $51.6 million. This

includes a wide curb lane to accommodate bicyclists and to provide an additional buffer area for parked cars. Other features shown on the public hearing plans include a raised grass median with landscaping, an 8-foot asphalt shared-use path on the west side, a 5-foot concrete sidewalk on the east side, turn lanes at intersecting streets, and preservation of existing on-street parking where possible. If determined to be cost-effective according to federal criteria, noise barriers may be constructed after investigation of potential locations.

Rolling Road is designated as one of the top priorities in the VDOT Secondary Six-Year Plan for Fairfax County. It was included in the Board of Supervisors priorities for improvements to the Secondary Road System in 1986. This project is intended to relieve the congested conditions that regularly occur during hours of peak usage, accommodate future increases in traffic, and improve safety along the corridor. In addition to the new lanes and pedestrian facilities, improvements will be made to both vertical and horizontal curves.

The project is split into two phases, each with independent utility: Phase I consists of the intersection improvements at Old Keene Mill Road, and Phase II consists of the widening between Viola Street and Old Keene Mill Road. This item provides information for the Phase I design. The advancement of Phase I is a result of public comments received at the project's initial Public Information Meeting, held June 22, 2016. Phase I improvements at the Old Keene Mill Road intersection include dual left turn lanes on northbound Rolling Road, as well as dedicated right turn lane northbound on Rolling Road, which will alleviate existing congestion at this intersection before the Phase II improvements are implemented. The limits of Phase I of this project are from Kenwood Avenue northerly to Old Keene Mill Road intersection, for a length of 0.152 mile (790 feet).

The design plans for both phases were presented at a public hearing held on February 27, 2018, at Irving Middle School, Springfield. A copy of the public hearing brochure is attached (Attachment I).

PUBLIC HEARING COMMENTS:
At the Design Public Hearing, the public received a project brochure, had the opportunity to view project display boards, and listened to a presentation on the project. This was followed by a questions and answer session. The following information was presented:

- The project purpose is to decrease congestion, increase capacity, improve safety and expand mobility for all users.

- The displays at the meeting showed the extent of right-of-way impacts on the adjacent properties along the roadway corridor that may be needed as the project is currently proposed. As the design is further developed, additional easements and/or right-of-way may be required beyond what is shown on the displayed preliminary plans.
- The design-bid-build delivery method will be used to deliver this project.
- The draft Environmental Assessment, including the finalized preliminary noise study for the project, was available to review and comment. Exhibits showing the results of the preliminary noise study were also provided.

Eighty-seven members of the public attended the hearing. For Phase I, a total of 21 written comments were received, with nine supporting the project and six opposing the project. Six members of the public did not say they supported or opposed the project. In addition to the written comments, a total of 59 oral comments were received for Phases I and II.

PROJECT SCHEDULE:
The project is being financed with federal, state, and Revenue Sharing funds, and the total cost for Phase I, as presented at the Design Public Hearing, is $3.6 million.

The following Project Development and Delivery Schedule is anticipated for Phase I:

Design Public Hearing	2/27/2018
Right of Way	Fall 2018
Utility Relocation	Spring 2019
Advertise for Construction	Fall 2019
Construction Begins	Fall 2019/Winter 2020
Construction Ends	Fall 2020

FISCAL IMPACT:
The total project estimate for both Phase I and Phase II is $51.6 million and is secured through a combination of local, federal, state and regional funding. These funding sources are as follows:

- $16.40 million in federal Regional Surface Transportation Program (RSTP) funds.
- $9.75 million in FY 2016 state Revenue Sharing funds
- $16.11 million in NVTA regional funds which satisfies the Local Cash Match for the FY 2016 Revenue Sharing funds.

- $1.53 million in other state and federal funding (e.g. legacy construction formula funds).
- $7.80 million in local funds in Fund 40010 (County and Regional Transportation Projects; Project 2G40-109-000).

The County will oversee and authorize $16.11 million in funding to be paid to VDOT directly by NVTA on a reimbursement basis to support final design for the project. In addition, the County will provide a total of $7.8 million (VDOT has received a total of $6.25 million as of the close of FY 2018) to VDOT from Fund 40010 through Project 2G40-109-000. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:
Attachment I: Letter for Signature by Tom Biesiadny, Board Endorsement of Rolling Road widening project
Attachment II: Design Public Hearing Brochure

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 L. Moreland, Chief, Capital Projects Section, FCDOT
Michael J. Guarino, Capital Projects Section, FCDOT
Smitha L. Chellappa, Capital Projects Section, FCDOT
Ray Johnson, Coordination and Funding Division, FCDOT

County of Fairfax, Virginia

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

Ms. Helen L. Cuervo, P.E.
District Administrator
Northern Virginia District
Virginia Department of Transportation
4975 Alliance Drive
Fairfax, Virginia 22030

Subject: Rolling Road Widening Phase I – Intersection Improvements at Rolling Road and Old Keene Mill Road, UPC 109814

Dear Ms. Cuervo:

On July 31, 2018, the Fairfax County Board of Supervisors endorsed the design plans for the Rolling Road and Old Keene Mill Road intersection that include interim improvements by adding a second left turn lane from northbound Rolling Road to westbound Old Keene Mill Road, adding a dedicated right turn lane from northbound Rolling Road to eastbound Old Keene Mill Road, upgrading the signal and improving the intersection alignment, as presented at the February 27, 2018, public hearing.

Please call Smitha Chellappa at (703) 877-5761 or me at (703) 877-5663, if you have any questions or need additional information. Thank you for your assistance with this important project.

Sincerely,

Tom Biesiadny
Director

cc: Members, Fairfax County Board of Supervisors
Bryan J. Hill, County Executive
Robert A. Stalzer, Deputy County Executive
Catherine A. Chianese, Assistant County Executive
Hamid Misaghian, P.E., Project Manager, VDOT
Andrew Beacher, Manager, Preliminary Engineering, VDOT
Eric M. Teitelman, Chief, Capital Projects and Operations Division

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot

VDOT Virginia Department of Transportation

www.VirginiaDOT.org

Design Public Hearing

Rolling Road Widening

Fairfax County

Tuesday, Feb. 27, 2018

6:30 p.m. to 8:30 p.m.

Presentation 7 p.m.

Irving Middle School, Lecture Hall

8100 Old Keene Mill Road, Springfield, VA 22152

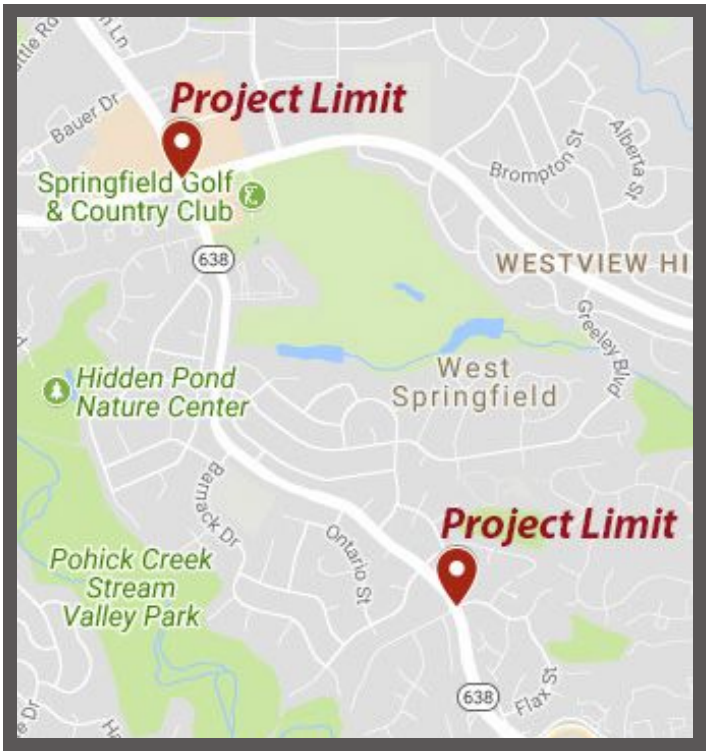
Design Public Hearing

Welcome to the Virginia Department of Transportation's (VDOT) design public hearing on proposed improvements to Rolling Road (Route 638). We look forward to your active participation.

This design public hearing is being held to provide an opportunity for citizens and organizations to give VDOT comments and/or suggestions on the proposed project. VDOT strives to ensure that all members of the community have the opportunity to participate in public decisions on transportation projects and programs affecting them.

VDOT representatives are present to discuss the project and answer your questions. A comment sheet is included in this brochure and your input is encouraged. All written comments received on this project will be reviewed by the design team, summarized and made available on the VDOT project website.

Project Overview



Purpose:
Relieve congestion and improve safety for all users

Project Length:
Viola Street to Old Keene Mill Road

Improvements:
Widen Rolling Road from two to four lanes between Viola Street and Old Keene Mill Road, including pedestrian and bicycle accommodations

State Project: 0638-029-156, P104, R204, C504 / UPC: 5559 / Federal: STP-5401 (691)

Project Description

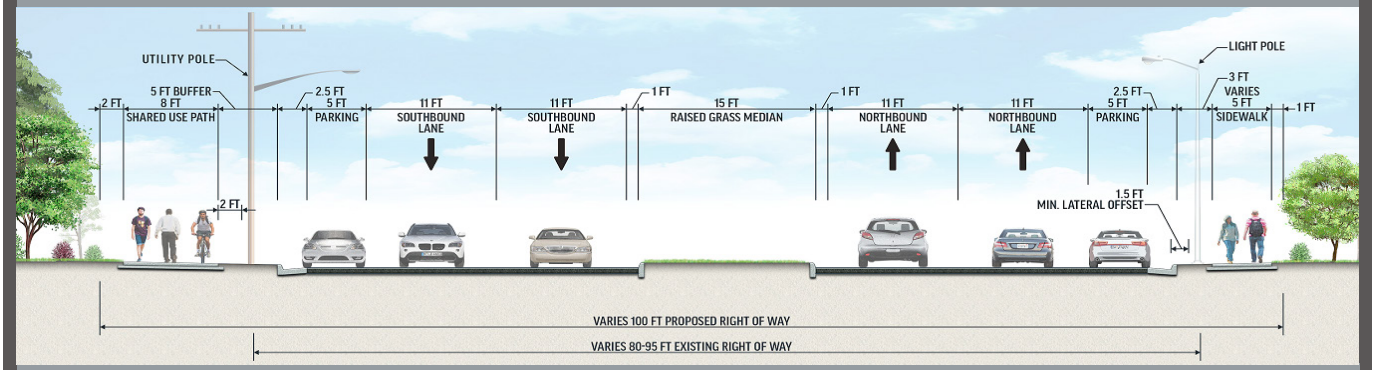
This project aims to reduce congestion and improve safety by widening Rolling Road (Route 638) from two to four lanes between Viola Street and Old Keene Mill Road. The project also includes a shared-use path for bicyclists, pedestrians, and other non-motorized users.

The project is approximately 1.4 miles in length and once completed will decrease congestion, increase capacity, improve safety and expand mobility for all users. On-street parking will be maintained in areas where driveways have direct access to Rolling Road.

The project includes a new traffic signal at Greeley Boulevard, an additional left turn lane, and right lane at Old Keene Mill Road.

The project team continues to move forward with the current design and typical section as seen below.

Typical Section for Viola Street to Birmingham Lane



Phase I and Phase II

The Rolling Road Widening project is being designed and constructed in two phases.

Phase I: Improvements to Old Keene Mill Road intersection

These improvements include dual left turn lanes, as well as a dedicated right turn lane northbound on Rolling Road, which will alleviate existing congestion at this intersection before the Phase II improvements are implemented.

Phase II: Widening and other improvements

Includes widening Rolling Road from two to four lanes between Viola Street and Old Keene Mill Road, signal upgrades, pedestrian and bike facilities and improvements to access management.

The project will be split into three segments for the road widening and includes the following:

Viola Street to Birmingham Lane
- On-street parking along the northbound and southbound sides
- Raised 15-foot wide grass median

Birmingham Lane to Barnack Drive
- On-street parking along the southbound side
- Raised 4-foot wide concrete median
- Noise walls along the northbound side

Barnack Drive to Old Keene Mill Road
- Raised 15-foot wide grass median
- Noise walls along both sides to Rivington Road

Estimated Project Cost

Preliminary Engineering: $5.9 million

Right of Way Acquisition/Utility Relocation: $17.4 million

Construction: $28.3 million

Total Cost: **$51.6 million**

This project is being financed with federal, state, local and Northern Virginia Transportation Authority funds.

Anticipated Schedule

Design Public Hearing
Feb. 27, 2018

Comment period ends
March 9, 2018

	Phase I	Phase II
Begin Right of Way	Fall 2018	Winter 2019
Begin Utility Relocation	Spring 2019	Winter 2020
Begin Construction	Fall 2019 - Winter 2020	Fall 2022

Civil Rights

VDOT ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you need more information or special assistance for persons with disabilities or limited English proficiency, contact VDOT's Civil Rights Division at 703-259-1775 or TTY/TDD 711.

Right of Way

Preliminary right of way impacts presented on the displays are conceptual in nature and may change as the design is refined. The property owners will be informed of the exact location of the easements during the right of way acquisition process and prior to construction.

Information about right of way purchase is discussed in VDOT's brochure, "Right of Way and Utilities: Guide for Property Owners and Tenants." Copies of this brochure are available here from VDOT personnel.

After this meeting, information regarding right of way may be obtained from the right of way contact listed on the back of this brochure.

Environmental Review

In compliance with the National Environmental Policy Act (NEPA), 23 CFR Part 771, a Categorical Exclusion (CE) was approved by the Federal Highway Administration for public availability at a previous Design Public Hearing (DPH) on June 12, 2008. In accordance with the National Historic Preservation Act, Section 106 and 36 CFR 800, information concerning the potential effects of the proposed improvements on properties listed in or eligible for listing in the National Register of Historic Places was included in the CE.

Pursuant to 23 CFR 771.129, a NEPA Reevaluation was conducted to determine what effects any changes in the project design, laws and regulations or the affected environment might have on the validity of the approved CE. The Reevaluation document, including the updated Preliminary Noise Study, is now available for public review and comment at the project website (www.virginiadot.org/projects) or during business hours at VDOT's Northern Virginia District Office, 4975 Alliance Drive, Fairfax, VA 22030. Please call ahead at 703-259-2774 or TTY/TDD 711 to ensure appropriate personnel are available to answer your questions. The Reevaluation document will also be available for review tonight.

Get Involved

VDOT representatives will review and evaluate information received as a result of this meeting. Please fill out the comment sheet provided in this brochure if you have any comments or questions. You may leave the sheet or any other written comments in the comment box, or mail/email your comments.

Comments must be postmarked, emailed or delivered to VDOT by **March 9, 2018**.

Mail comments to Mr. Hamid Misaghian at the address below or email **meetingcomments@vdot.virginia.gov**. Please include "Rolling Road Widening" in the subject line.

Project information shared at this meeting will be available online at **www.virginiadot.org/projects** and at VDOT's Northern Virginia Office.

Contact Information

Primary Contact: **Hamid Misaghian, P.E.** h.misaghian@vdot.virginia.gov	Location & Design	4975 Alliance Drive Fairfax, VA 22030	703-259-1795
Andrew Beacher, P.E. andrew.beacher@vdot.virginia.gov	Preliminary Engineering	4975 Alliance Drive Fairfax, VA 22030	703-259-2239
Brian Costello brian.costello@vdot.virginia.gov	Right of Way & Utilities	4975 Alliance Drive Fairfax, VA 22030	703-259-2986
Jennifer McCord jennifer.mccord@vdot.virginia.gov	Communications	4975 Alliance Drive Fairfax, VA 22030	703-259-1779

TTY/TDD Dial 711

VDOT Virginia Department of Transportation

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Design Public Hearing

Rolling Road Widening

Fairfax County

Tuesday, Feb. 27, 2018

6:30 p.m. to 8:30 p.m.

Presentation 7 p.m.

Irving Middle School, Lecture Hall

8100 Old Keene Mill Road, Springfield, VA 22152

COMMENT SHEET

State Project: 0638-029-156, P104, R204, C504 / UPC: 5559 / Federal: STP-5401 (691)

All comments are subject to public disclosure.

Name (optional): _____

Address (optional): _____

Email (optional): _____

1. Which of the following best applies to you?

_____ I live on Rolling Road. If so, where: _____

_____ I live in a neighborhood adjacent to Rolling Road.

_____ I commute on Rolling Road.

_____ Other _____

2. Please give feedback on Phase I or Phase II improvements.

3. Please provide us with any additional information or suggestions that you think will assist in the completion of this project.

4. How did you hear about this meeting?

_____Newspaper _____Social Media _____Website _____Other _____

Please leave this comment sheet at the designated location, mail your comments (postmarked by March 9, 2018) to the addressee on the reverse side, or email them to meetingcomments@vdot.virginia.gov.
Please include "Rolling Road Widening" in the email subject line.

Board Agenda Item
July 31, 2018

ACTION - 11

Endorsement of Design Plans for the Widening of Rolling Road from Viola Street to Old Keene Mill Road – Phase II (Springfield District)

ISSUE:
Board endorsement of the Virginia Department of Transportation's (VDOT) Phase II design plans for the 1.4 mile widening of Rolling Road from Viola Street to Old Keene Mill Road from two to four lanes that include the following improvements: 8-foot asphalt shared-use path on the west side, 5-foot concrete sidewalk on the east side, signal upgrades, and improvements to access management.

RECOMMENDATION:
The County Executive recommends that the Board endorse the design plans for the 1.4 mile widening of Rolling Road from Viola Street to Old Keene Mill Road from two to four lanes that include the following improvements: 8-foot asphalt shared-use path on the west side, 5-foot concrete sidewalk on the east side, signal upgrades, and improvements to access management, generally as presented at the February 27, 2018, public hearing, and authorize the director of Fairfax County Department of Transportation to transmit the Board's endorsement to VDOT.

TIMING:
The Board should take action on this matter on July 31, 2018, to allow the Virginia Department of Transportation to proceed with final design plans.

BACKGROUND:
Rolling Road is classified as an urban minor arterial road that extends from I-95 in the south to Braddock Road in the north and connects two principal roads, the Fairfax County Parkway and Old Keene Mill Road within these project limits. The widening of Rolling Road has been a part of the Fairfax County Comprehensive Plan, as well as regional transportation plans, for several decades.

The entire project to widen Rolling Road from a two-lane roadway to a four-lane divided roadway with curb and gutter (Phases I and II) is estimated to be $51.6 million. This includes a wide curb lane to accommodate bicyclists and to provide an additional buffer area for parked cars. Other features shown on the public hearing plans include a raised grass median with landscaping, an 8-foot asphalt shared-use path on the west

side, a 5-foot concrete sidewalk on the east side, turn lanes at intersecting streets, and preservation of existing on-street parking where possible. If determined to be cost-effective according to federal criteria, noise barriers may be constructed after investigation of potential locations.

Rolling Road is designated as one of the top priorities in the VDOT Secondary Six-Year Plan for Fairfax County. It was included in the Board of Supervisors priorities for improvements to the Secondary Road System in 1986. This project is intended to relieve the congested conditions that regularly occur during hours of peak usage, accommodate future increases in traffic, and improve safety along the corridor. In addition to the new lanes and pedestrian facilities, improvements will be made to both vertical and horizontal curves.

The project is split into two phases, each with independent utility: Phase I consists of the intersection improvements at Old Keene Mill Road, and Phase II consists of the widening of Rolling Road from two to four lanes between Viola Street and Old Keene Mill Road. This item provides information for the Phase II design. Phase II improvements include widening Rolling Road from two to four lanes for a length of 1.4 miles between Viola Street and Old Keene Mill Road, an 8-foot asphalt shared-use path on the west side and 5-foot concrete sidewalk on the east side, signal upgrades and improvements to access management.

The design plans for both phases were presented at a public hearing held on February 27, 2018, at Irving Middle School, Springfield. A copy of the public hearing brochure is attached (Attachment I).

PUBLIC HEARING COMMENTS:
At the Design Public Hearing, the public received a project brochure, had the opportunity to view project display boards, and listened to a presentation on the project. This was followed by a questions and answer session. The following information was presented:

- The project purpose is to decrease congestion, increase capacity, improve safety and expand mobility for all users.
- The displays at the meeting showed the extent of right-of-way impacts on the adjacent properties along the roadway corridor that may be needed as the project is currently proposed. As the design is further developed, additional easements and/or right-of-way may be required beyond what is shown on the displayed preliminary plans.
- The design-bid-build delivery method will be used to deliver this project.
- The draft Environmental Assessment, including the finalized preliminary noise

study for the project, was available to review and comment. Exhibits showing the results of the preliminary noise study were also provided.

Eighty-seven members of the public attended the hearing. For Phase II, a total of 26 written comments were received, with 12 supporting the project and six opposing the project. Eight members of the public did not say they supported or opposed the project. In addition to the written comments, a total of 59 oral comments were received for Phases I and II.

PROJECT SCHEDULE:
The project is being financed with federal, state, and Revenue Sharing funds, and the cost for Phase II, as presented at the Design Public Hearing, is $48.04 million.

The following Project Development and Delivery Schedule is anticipated for Phase II:

Design Public Hearing	2/27/2018
Right of Way	Winter 2019
Utility Relocation	Winter 2020
Advertise for Construction	Summer 2022
Construction Begins	Fall 2022
Construction Ends	Fall 2024

FISCAL IMPACT:
The total project estimate for both Phase I and Phase II is $51.6 million and is secured through a combination of local, federal, state and regional funding. These funding sources are as follows:

- $16.40 million in federal Regional Surface Transportation Program (RSTP) funds.
- $9.75 million in FY 2016 state Revenue Sharing funds
- $16.11 million in NVTA regional funds which satisfies the Local Cash Match for the FY 2016 Revenue Sharing funds.
- $1.53 million in other state and federal funding (e.g. legacy construction formula funds)
- $7.80 million in local funds in Fund 40010 (County and Regional Transportation Projects; Project 2G40-109-000).

The County will oversee and authorize $16.11 million in funding to be paid to VDOT directly by NVTA on a reimbursement basis to support final design for the project. In

addition, the County will provide a total of $7.8 million (VDOT has received a total of $6.25 million as of the close of FY 2018) to VDOT from Fund 40010 through Project 2G40-109-000. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:
Attachment I: Letter for Signature by Tom Biesiadny, Board Endorsement of Rolling Road widening project
Attachment II: Design Public Hearing Brochure

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 L. Moreland, Chief, Capital Projects Section, FCDOT
Michael J. Guarino, Capital Projects Section, FCDOT
Smitha L. Chellappa, Capital Projects Section, FCDOT
Ray Johnson, Coordination and Funding Division, FCDOT

County of Fairfax, Virginia

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

Ms. Helen L. Cuervo, P.E.
District Administrator
Northern Virginia District
Virginia Department of Transportation
4975 Alliance Drive
Fairfax, Virginia 22030

Subject: Rolling Road Widening Phase II, UPC 5559

Dear Ms. Cuervo:

On July 31, 2018, the Fairfax County Board of Supervisors endorsed the design plans for the 1.4 mile widening of Rolling Road from Viola Street to Old Keene Mill Road from two to four lanes (Phase II), as presented at the February 27, 2018, public hearing.

Please call Smitha Chellappa at (703) 877-5761 or me at (703) 877-5663, if you have any questions or need additional information. Thank you for your assistance with this important project.

Sincerely,

Tom Biesiadny
Director

cc: Members, Fairfax County Board of Supervisors
Bryan J. Hill, County Executive
Robert A. Stalzer, Deputy County Executive
Catherine A. Chianese, Assistant County Executive
Hamid Misaghian, P.E., Project Manager, VDOT
Andrew Beacher, Manager, Preliminary Engineering, VDOT
Eric M. Teitelman, Chief, Capital Projects and Operations Division

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot

VDOT Virginia Department of Transportation

www.VirginiaDOT.org

Design Public Hearing

Rolling Road Widening

Fairfax County

Tuesday, Feb. 27, 2018

6:30 p.m. to 8:30 p.m.

Presentation 7 p.m.

Irving Middle School, Lecture Hall

8100 Old Keene Mill Road, Springfield, VA 22152

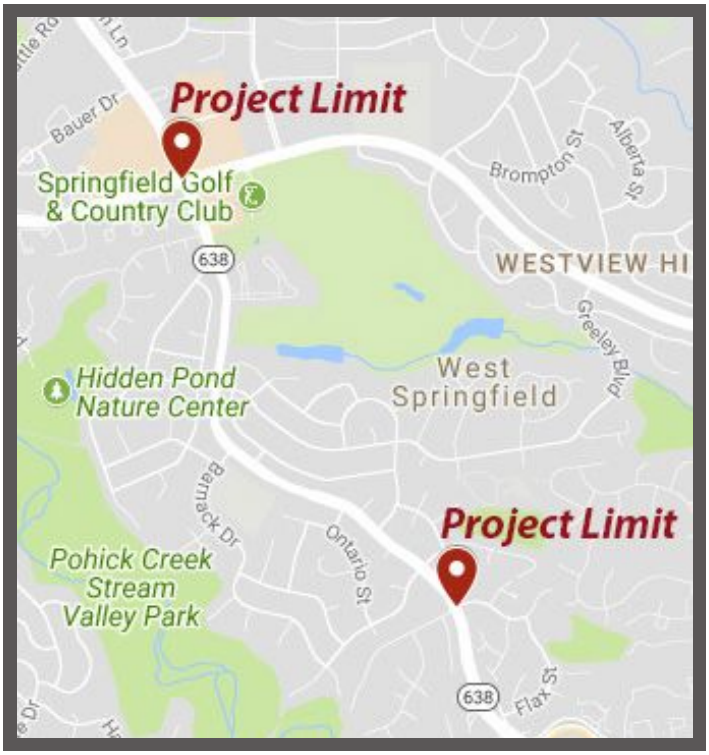
Design Public Hearing

Welcome to the Virginia Department of Transportation's (VDOT) design public hearing on proposed improvements to Rolling Road (Route 638). We look forward to your active participation.

This design public hearing is being held to provide an opportunity for citizens and organizations to give VDOT comments and/or suggestions on the proposed project. VDOT strives to ensure that all members of the community have the opportunity to participate in public decisions on transportation projects and programs affecting them.

VDOT representatives are present to discuss the project and answer your questions. A comment sheet is included in this brochure and your input is encouraged. All written comments received on this project will be reviewed by the design team, summarized and made available on the VDOT project website.

Project Overview



Purpose:
Relieve congestion and improve safety for all users

Project Length:
Viola Street to Old Keene Mill Road

Improvements:
Widen Rolling Road from two to four lanes between Viola Street and Old Keene Mill Road, including pedestrian and bicycle accommodations

State Project: 0638-029-156, P104, R204, C504 / UPC: 5559 / Federal: STP-5401 (691)

Project Description

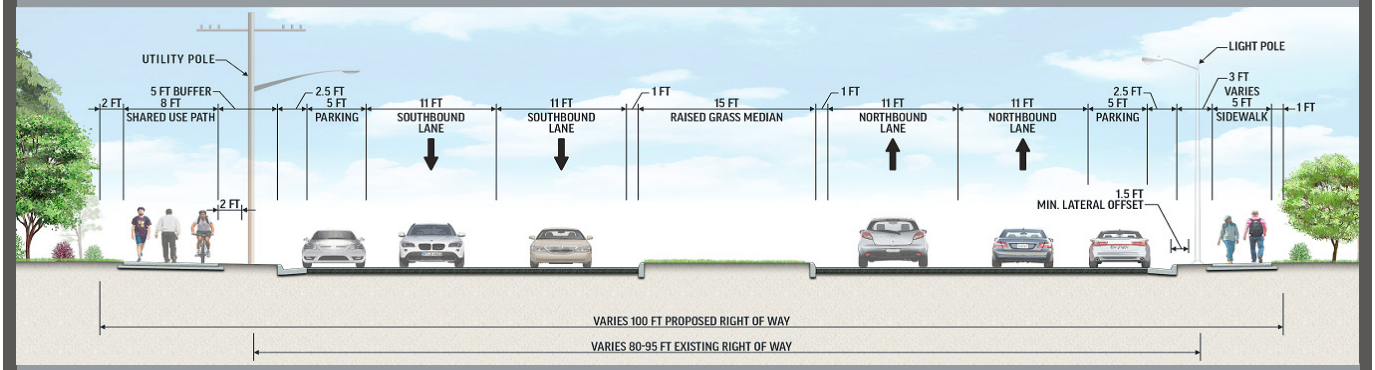
This project aims to reduce congestion and improve safety by widening Rolling Road (Route 638) from two to four lanes between Viola Street and Old Keene Mill Road. The project also includes a shared-use path for bicyclists, pedestrians, and other non-motorized users.

The project is approximately 1.4 miles in length and once completed will decrease congestion, increase capacity, improve safety and expand mobility for all users. On-street parking will be maintained in areas where driveways have direct access to Rolling Road.

The project includes a new traffic signal at Greeley Boulevard, an additional left turn lane, and right lane at Old Keene Mill Road.

The project team continues to move forward with the current design and typical section as seen below.

Typical Section for Viola Street to Birmingham Lane



Phase I and Phase II

The Rolling Road Widening project is being designed and constructed in two phases.

Phase I: Improvements to Old Keene Mill Road intersection

These improvements include dual left turn lanes, as well as a dedicated right turn lane northbound on Rolling Road, which will alleviate existing congestion at this intersection before the Phase II improvements are implemented.

Phase II: Widening and other improvements

Includes widening Rolling Road from two to four lanes between Viola Street and Old Keene Mill Road, signal upgrades, pedestrian and bike facilities and improvements to access management.

The project will be split into three segments for the road widening and includes the following:

Viola Street to Birmingham Lane
- On-street parking along the northbound and southbound sides
- Raised 15-foot wide grass median

Birmingham Lane to Barnack Drive
- On-street parking along the southbound side
- Raised 4-foot wide concrete median
- Noise walls along the northbound side

Barnack Drive to Old Keene Mill Road
- Raised 15-foot wide grass median
- Noise walls along both sides to Rivington Road

Estimated Project Cost

Preliminary Engineering: $5.9 million

Right of Way Acquisition/Utility Relocation: $17.4 million

Construction: $28.3 million

Total Cost: **$51.6 million**

This project is being financed with federal, state, local and Northern Virginia Transportation Authority funds.

Anticipated Schedule

Design Public Hearing
Feb. 27, 2018

Comment period ends
March 9, 2018

	Phase I	Phase II
Begin Right of Way	Fall 2018	Winter 2019
Begin Utility Relocation	Spring 2019	Winter 2020
Begin Construction	Fall 2019 - Winter 2020	Fall 2022

Civil Rights

VDOT ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you need more information or special assistance for persons with disabilities or limited English proficiency, contact VDOT's Civil Rights Division at 703-259-1775 or TTY/TDD 711.

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Get Involved

VDOT representatives will review and evaluate information received as a result of this meeting. Please fill out the comment sheet provided in this brochure if you have any comments or questions. You may leave the sheet or any other written comments in the comment box, or mail/email your comments.

Comments must be postmarked, emailed or delivered to VDOT by **March 9, 2018**.

Mail comments to Mr. Hamid Misaghian at the address below or email **meetingcomments@vdot.virginia.gov**. Please include "Rolling Road Widening" in the subject line.

Project information shared at this meeting will be available online at **www.virginiadot.org/projects** and at VDOT's Northern Virginia Office.

Contact Information

Primary Contact: **Hamid Misaghian, P.E.** h.misaghian@vdot.virginia.gov	Location & Design	4975 Alliance Drive Fairfax, VA 22030	703-259-1795
Andrew Beacher, P.E. andrew.beacher@vdot.virginia.gov	Preliminary Engineering	4975 Alliance Drive Fairfax, VA 22030	703-259-2239
Brian Costello brian.costello@vdot.virginia.gov	Right of Way & Utilities	4975 Alliance Drive Fairfax, VA 22030	703-259-2986
Jennifer McCord jennifer.mccord@vdot.virginia.gov	Communications	4975 Alliance Drive Fairfax, VA 22030	703-259-1779

TTY/TDD Dial 711

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Design Public Hearing

Rolling Road Widening

Fairfax County

Tuesday, Feb. 27, 2018

6:30 p.m. to 8:30 p.m.

Presentation 7 p.m.

Irving Middle School, Lecture Hall

8100 Old Keene Mill Road, Springfield, VA 22152

COMMENT SHEET

State Project: 0638-029-156, P104, R204, C504 / UPC: 5559 / Federal: STP-5401 (691)

All comments are subject to public disclosure.

Name (optional): _____

Address (optional): _____

Email (optional): _____

1. Which of the following best applies to you?

_____ I live on Rolling Road. If so, where: _____

_____ I live in a neighborhood adjacent to Rolling Road.

_____ I commute on Rolling Road.

_____ Other _____

2. Please give feedback on Phase I or Phase II improvements.

3. Please provide us with any additional information or suggestions that you think will assist in the completion of this project.

4. How did you hear about this meeting?

_____Newspaper _____Social Media _____Website _____Other _____

Please leave this comment sheet at the designated location, mail your comments (postmarked by March 9, 2018) to the addressee on the reverse side, or email them to meetingcomments@vdot.virginia.gov.
Please include "Rolling Road Widening" in the email subject line.

Board Agenda Item
July 31, 2018

ACTION - 12

Approval of an Agreement Between the Town of Vienna and Fairfax County to Design and Construct the Tapawingo/Kingsley Urban Bioretention Project (Hunter Mill District)

ISSUE:
Board of Supervisors authorization is requested for the County to execute an agreement with the Town of Vienna (Town) that provides funding for the design and construction of the Tapawingo/Kingsley Urban Bioretention project (Project), which is located in the Town and the Accotink Creek watershed.

RECOMMENDATION:
The County Executive recommends that the Board approve and authorize the County Executive or his designee to sign an agreement with the Town to provide funding for the design and construction of the Project.

TIMING:
Board approval is requested on July 31, 2018.

BACKGROUND:
The proposed Project is located in the Town and Accotink Creek watershed. The Project will provide nutrient reduction and improved water quality in the Accotink Creek watershed.

Under the Cooperative Agreement between the Fairfax County Board of Supervisors, the Town of Vienna, and the Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects, the parties will use the Project benefits towards compliance with their respective Municipal Separate Storm Sewer System permits and Chesapeake Bay Total Maximum Daily Load reduction requirements. Consistent with the framework of the Cooperative Agreement, the Town has asked the County to fund the design and construction costs. The Town will administer the design and construction of the Project. Partnering with the Town on this Project will save the County the time and administrative costs that would be incurred if the County were to implement the Project under its stormwater program.

FISCAL IMPACT:
The estimated total design and construction cost of the Project is $200,000. The County will fund $200,000 of the Project. The County has the discretion to pay construction cost overruns, but in an amount not to exceed ten percent of the total estimated project cost. The Town can use County funds only for the design and construction of the Project. The Town will reimburse the County funds that are not expended in accordance with the terms of the attached agreement. Funding is currently available in Project SD-000031, Stream & Water Quality Improvements, Fund 40100, for the County's obligation to this Project.

CREATION OF POSITIONS:
No positions will be created.

ENCLOSED DOCUMENTS:
Attachment 1: Agreement between the Board of Supervisors of Fairfax County, Virginia and the Town of Vienna

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Randolph W. Bartlett, Deputy Director, DPWES, Stormwater & Wastewater Programs

ASSIGNED COUNSEL:
Marc Gori, County Attorney

TAPAWINGO/KINGSLEY URBAN BIORETENTION PROJECT
FUNDING AGREEMENT

This Agreement ("Agreement") made and entered into this _____ day of _____, 2018, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "County")**,** a body politic, and the **TOWN OF VIENNA** (the "Town") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Town has requested funds to design and implement the Tapawingo/Kingsley Urban Bioretention Project (the "Project"), which will be located within the boundaries of the Town and will construct two bioretention areas to treat stormwater runoff into Hunter's Branch in the Accotink Creek watershed and

WHEREAS, the location of the Project is located within the Vienna Right-of-Way at the intersections of Tapawingo Road Southwest and Meadow Lane Southwest, and Kingsley Road Southwest and Meadow Lane Southwest, respectively at Longitude 38.887060N and Latitude 77.267808W and 38.884836N and 77.265991W and as shown on the Fairfax County Tax Map No. 48-2 and

WHEREAS, the Project is within the Chesapeake Bay, Potomac River, and Accotink Creek watersheds;

WHEREAS, the Town is part of the County's Stormwater Service District and the County, Town, and the Town of Herndon have entered into an agreement known as the "Cooperative Agreement Between the Fairfax County Board of Supervisors, the Town of Vienna, and Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects" (the "Cooperative Agreement") to share funds and responsibility to maintain, operate, and improve stormwater systems to meet the Chesapeake Bay Total Maximum Daily Load ("TMDL") and other water quality goals. Cooperative Agreement is attached hereto as Attachment 1 and is incorporated herein by reference; and

WHEREAS, under the Cooperative Agreement, annually, the County pays the Town a percentage of the Stormwater Service District Fees that are collected from residents of the Town (the "Paid Vienna Revenues"); and

WHEREAS, the Town and County agree that under the Cooperative Agreement, Stormwater Service District funds can be used for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and

WHEREAS, the Project is estimated to cost two hundred thousand dollars ($200,000) (the "Total Project Cost"); and

WHEREAS, that County intends to fund the design and construction of the Project from the Stormwater Budget; and

WHEREAS, the Town intends to dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if restated as binding provisions of this agreement, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto further agree as follows:

1. Upon execution of this Agreement, the County will grant to the Town funds in the amount of two hundred thousand dollars ($200,000) (the "County Contribution") in Fiscal Year 2019 for the design and construction of the Project, to be paid with monies from the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services).

2. The County Contribution will not be charged against the PAID VIENNA REVENUES as set forth in the Cooperative Agreement, but rather, are a separate grant to the Town from the County.

3. The Town will dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

4. The Town will expend the County Contribution solely for the purpose of supporting the design and construction of the Project, and not for the cost of any feasibility study or acquisition of any lands or easements necessary for the completion of the Project.

5. The Town will provide to the County a copy of the final site plan (the "Plan") for the Project.

6. The Town will acquire, at its sole expense, any and all land or easements, or other interests in real property, if any, that are necessary to complete the Project.

7. The Town, at its sole expense, will administer the design and construction contracts, obtain approval of all plans, and obtain all permits necessary for the completion of the Project.

8. The Town will notify the County if the Town, at any time, modifies the scope of the Project, which is generally described herein above. If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town must, within 30 days after notification by the County of such deviation, reimburse to the County the amount of the Total Contribution.

9. The Town must retain all invoices and all records of payments for any and all services rendered for the design, construction, and any related expenses for completion of the Project, and copies of any such invoices and records of payments shall be provided to the County upon request within three business days after such a request.

10. If at any time the Town abandons or otherwise ceases the Project for any reason, the Town must immediately return any amount of the County Contribution not expended in accordance with this agreement and all invoices and records of payments. "Abandon," as used herein, includes, but is not limited to, the failure to initiate or the termination of the design or construction before the Project's completion.

11. The County, in its sole discretion, may agree to pay cost overruns that exceed the Total Project Cost, including construction costs that exceed the current estimate, change orders and/or related costs that arise during construction of the Project, but only to the extent that funds are available in the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services) and are not more than 10% of the estimated Project Cost.

12. The Town must complete the Project not later than four years after this agreement is executed.

13. The Project is subject to the Cooperative Agreement, and, as such, the total pollutant load reduction credits for the Project will be apportioned among the parties as established pursuant to the terms of the Cooperative Agreement or any amendments or attachments thereto.

14. This agreement can only be modified in writing and signed by both parties.

[Signatures appear on following page]

ATTACHMENT 1

TOWN OF VIENNA, Virginia

By:_____
Laurie A. Di Rocco
Mayor

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Laurie A. DiRocco of the Town of Vienna, this _____ day of _____ 2018, on behalf of the Town of Vienna.

_____
Notary Public

My commission expires: _____

Notary Registration Number: _____

ATTACHMENT 1

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By:_____
Bryan J. Hill, County Executive
Fairfax County, Virginia

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Bryan J. Hill, County Executive of Fairfax County, Virginia, on behalf of the Board of Supervisors of Fairfax County, Virginia this _____ day of _____ 2018.

_____
Notary Public

My commission expires: _____

Notary Registration Number: _____

Board Agenda Item
July 31, 2018

ACTION – 13

Adoption of the 2018 Comprehensive Plan Amendment Work Program, Including the Proposed 2017 North County Site-Specific Plan Amendment Nominations

ISSUE:
Board of Supervisors action is required to adopt the proposed revisions to the Comprehensive Plan Amendment Work Program, a document that schedules all authorized Plan amendments and planning studies. The revisions would add four 2017 North County Site-Specific Plan Amendment (SSPA) nominations to the work program, thereby authorizing the evaluation of these nominations, and remove nine inactive Plan amendments, thereby rescinding the authorizations for these amendments.

PLANNING COMMISSION RECOMMENDATION:
On June 28, 2018, the Planning Commission voted 11-0-1 (Commissioner Strandlie abstained from the vote) to recommend to the Board of Supervisors the adoption of the revised Comprehensive Plan Amendment Work Program, as found on Pages 137 to 141 of the staff report dated June 7, 2018. This would forward for further consideration four Site-Specific Plan Amendment (SSPA) nominations submitted in the 2017 North County SSPA Process with PC17-PR-001 and PC17-PR-002 grouped into a study of the Merrifield Suburban Center:

- PC17-DR-001;
- PC17-PR-001;
- PC17-PR-002; and,
- PC17-SU-001.

The Planning Commission also recommended that nine previously authorized Plan amendments would be rescinded.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation to amend the Comprehensive Plan Amendment Work Program as shown in Attachment I of the Board Item.

TIMING:
Planning Commission public hearings on the SSPA nominations – June 21, 2018.
Planning Commission mark-up and decision-only on the revised Comprehensive Plan Amendment Work Program – June 28, 2018.
Board action is requested on July 31, 2018.

BACKGROUND:
On June 20, 2017, the Board of Supervisors adopted the SSPA process to increase public participation in the development of the Comprehensive Plan Amendment Work Program. The SSPA process allows anyone to nominate site-specific land use changes to the Comprehensive Plan. The SSPA process consists of a two-year review of the North County districts of Dranesville, Hunter Mill, Providence, and Sully and a subsequent two-year review of the South County districts of Braddock, Lee, Mason, Mount Vernon, and Springfield. Of the ten nominations that the county accepted into the 2017 North County SSPA review cycle, five nominations remain pending: three in the Providence District, one in the Dranesville District, and one in the Sully District. The nominations are published online at www.fairfaxcounty.gov/planning-zoning/site-specific-plan-amendment-process/tracknomination.

Board action on the work program is the final step in the screening process of the SSPA nominations. The purpose of the screening process is to determine which nominations should be placed on the work program. During the nomination screening phase, community task forces for each supervisor district were appointed by their respective Board member. During April and May 2018, the task forces worked in partnership with county staff at five community meetings to hold discussions with the nominators, compare the nominations with county policy, and assess the merits and urgency of the nominations. Both task forces and staff formulated recommendations as to whether the nomination(s) should be added to the work program as proposed or modified.

The 2017 North County SSPA screening process resulted in recommendations for four nominations to be added to the work program, based on the staff recommendations, or five, based on the task force recommendations. Staff further recommended that SSPA nominations PC17-PR-001 and PC17-PR-002, which are proximate to each other, be grouped into one study of the Merrifield Suburban Center to allow for a comprehensive review of the benefits and impacts.

Staff also recommended that nine, inactive plan amendments be rescinded:

- Plan Amendment (PA) S11-CW-T1 (Giles Run);
- PA S13-II-M2 (McLean Community Business Center, Subarea 29);
- PA 2013-CW-1CP (Suburban Center Classification Study);
- PA S11-IV-MV2 (Woodlawn CBC, Subunits B1 and B2);
- Plan Map: Residential Planned Community;
- PA 2015-IV-T1 (Newington Road);
- PA 2016-III-T1 (Shirley Gate Road Extension);
- PA 2017-CW-3CP (Economic Success); and,
- PA S11-IV-RH2 (Oakwood Road, Van Dorn Transit Station Area, Land Unit E).

FISCAL IMPACT:
None

Board Agenda Item
July 31, 2018

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt

The 2017 North County Site-Specific Plan Amendment Planning Commission Nomination Screening Staff Report has been previously furnished and is available online at:
www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/compplanamend/sspa/staff_report_final.pdf

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne Gardner, Director, Planning Division (PD), DPZ
Leanna O'Donnell, Chief, Policy & Plan Development Branch, PD, DPZ
Meghan Van Dam, Chief, Policy & Plan Development Branch, PD, DPZ
Michelle Stahlhut, Chief, Facilities Planning Branch, PD, DPZ
Bernard S. Suchicital, Planner III, Policy & Plan Development Branch, PD, DPZ
Aaron Klibaner, Planner II, Policy & Plan Development Branch, PD, DPZ
Michael Lynskey, Planner II, Policy & Plan Development Branch, PD, DPZ
Natalie Knight, Planner II, Facilities Planning Branch, PD, DPZ
David Stinson, Planner II, Facilities Planning Branch, PD, DPZ
Roger Dindyal, Planner II, Policy & Plan Development Branch, PD, DPZ

County of Fairfax, Virginia
Planning Commission Meeting
June 28, 2018
Verbatim Excerpt

SITE-SPECIFIC PLAN AMENDMENTS – 2017 NORTH COUNTY – To consider nominations that propose to revise the Comprehensive Plan Amendment Work Program for Fairfax County, VA. At these public hearings, the PC will screen the following proposed nominations submitted as part of the 2017 North County Site-Specific Plan Amendment (SSPA) process. (Note: AP = Adopted Plan; NP = Nominated Plan; res. = residential; du/ac = dwelling units per acre, FAR = floor area ratio; ac = acres; sf = square feet.): (Dranesville, Hunter Mill, Providence and Sully Districts)

DRANESVILLE:

PC17-DR-001 – West Falls Church Metro Station: S of I-66, N of Falls Church Dr, W of Haycock Rd on 24 ac. AP: Public facilities, governmental, and institution/mixed-use; option for res. use at a density of 30 du/ac. NP: Mixed-use with office, retail, multifamily, and townhouses up to an intensity of 0.96 FAR.

PROVIDENCE:

PC17-PR-001 – INOVA/Exxon-Mobil: S of Rt 50, E of Gallows Rd, W of I-495 on 116.78 ac. AP: Office use, planned for up to an intensity of 0.35 FAR. NP: Two options for an office/institution/res. mixed-use development up to 1.0 FAR (Option 1) and up to 3.0 FAR (Option 2).

PC17-PR-002 – Fairview Park: S of Rt 29, E of I-495, N and S of Rt 50 on 86.5 ac. AP: Planned for high quality office park. Area N of Rt 50 – majority planned for office, accessory retail, and public park. Area south of Rt 50 – planned for office uses. NP: Mixed-use office, hotel, res., retail, and other uses with an intensity range of 0.80 FAR to 1.0 FAR.

PC17-PR-005 – Merrifield at Dunn Loring Station: S of I-66, W of I-495, E of Gallows Rd, N of Harte Pl on 38.24 ac. AP: Res. use at a density of 16-20 du/ac. Option for res. use at 30-40 du/ac with supporting retail and service uses and limited office use. NP: Res./Mixed-use res up to 1.9 FAR.

PC17-PR-006 – 2817 & 2832 Dorr Avenue: N of Hilltop Rd, E and W of Dorr Av on 2.53 ac. AP: Warehouse and industrial use at current intensities. NP: Mixed-use or res. use up to 1.35 FAR. - (Withdrawn)

PC17-PR-007 – Valo Park: S of Rt 267, N of Jones Branch Dr, W of I-495 on 16.74 ac. AP: Office use up to 1.0 FAR and potential supporting retail and service uses. NP: Office/res. mixed-use with ground-floor retail use up to 1.75 FAR.

SULLY:

PC17-SU-001 – S of Stonecroft BV, E of Westfields BV, N of Sequoia Farms Dr on 17.43 ac. AP: Retail use up to 0.25 FAR. NP: Incorporate into the Dulles Suburban Center, and add an option for mixed-use retail, office, hotel, assisted living, and private recreation uses up to 0.75 FAR.

Decision Only During Commission Matters
(Public Hearing held on June 21, 2018)

Commissioner Migliaccio: Thank you, Mr. Chairman. Last week, we held the public hearing for the five remaining North County Site-Specific Plan Amendment nominations. Tonight, we will be using the staff report recommendation to mark up the amendments and move it forward to the Board of Supervisors.

Chairman Murphy: Ulfelder wants to make a statement at some time.

Commissioner Migliaccio: Oh, yeah. This will be very – very brief and then the three North County nominator district Commissioners…

Chairman Murphy: Okay.

Commissioner Migliaccio: This all started one year ago when the Board adopted this new Site-Specific Plan Amendment process with the expectation that it would provide an easy-to-track, predictable process for stakeholders and would increase public participation compared to previous methods. Hopefully, this has proven to be true. Planning staff and the three district task force worked together to analyze the 10 nominations and came to the same conclusions on all but one item. They differed on PC17-PR-005. Tonight, I will be advancing the staff's position in my motion because the adopted Comprehensive Plan provides a sufficient alternative and I think that the proposed nomination does not raise – rise to the level of being added to the work program. Before I proceed to the motion, I do have one question of staff for clarification. Last week, we focused on the five remaining nominations. Attachment 2, starting on page 137, indicates that there will be some items removed from the work program, including some that are not in North County. Can you briefly just tell me the staff process that went into that – any outreach that happened with either the Planning Commission or a district office or citizens in South County?

Bernard Suchicital, Planning Division, Department of Planning and Zoning: Yes. Thank you, Commissioner. Bernie Suchicital with the Department of Planning and Zoning. Staff did reach out with the district Supervisors and some of the Planning Commissioners to – as well as other County staff and department agencies to review and identify a number of Plan Amendments that have gone inactive due to either the incorporation or review of other subsequent studies or due to shifting priorities in the County.

Commissioner Migliaccio: Okay, so there were no active nominations that you're stopping and taking off the board?

Mr. Suchicital: That is correct.

Commissioner Migliaccio: Okay, thank you. Okay, Mr. Chairman, I do have one motion to start this. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE REVISED COMPREHENSIVE PLAN AMENDMENT WORK PROGRAM, AS FOUND ON PAGES 137 TO 141 OF THE STAFF REPORT DATED JUNE 7TH, 2018. THIS WOULD FORWARD FOR FURTHER CONSIDERATION FOUR SITE-SPECIFIC PLAN AMENDMENT NOMINATIONS SUBMITTED IN THE 2017 NORTH COUNTY SSPA PROCESS:

- PC17-DR-001;
- PC17-PR-001;
- PC17-PR-002; AND
- PC17-SU-001, WITH PC17-PR-001 AND 002 GROUPED INTO A STUDY OF THE MERRIFIELD SUBURBAN CENTER.

Commissioners Hart and Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Niedzielski. Is there a – Eichner – is there a discussion of the motion? Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. Last week, just prior to our public hearing on these nominations, we received a letter from Virginia Tech asking us to consider including in the Comprehensive Plan Work Program a nine-plus-acre site adjacent to the WMATA West Falls Church Metro Station proposal, PA17-DR-001, the Virginia Tech and the University of Virginia jointly own in part and lease in part. At the time, it was noted that we had not heard from the University of Virginia, the joint owner and leasee. Well, this week, the University of Virginia submitted a letter indicating its agreement with Virginia Tech's request. Since the joint request was submitted very late in the SSPA process, we are still considering it and how to appropriately respond. In the meantime, I support Commissioner Migliaccio's motion recommending the inclusion of WMATA's nomination in the Comprehensive Work Plan Program.

Chairman Murphy: Thank you very much. Is there further discussion of the motion? Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. Three Providence District sites are nominated to be added to the Comprehensive Plan Amendment Work Program under this process. The Commission convened a public hearing last week to hear from the community about whether or not these sites should be added the Work Program. I want to thank those who nominated their sites for consideration, the Providence District Task Force members who took the time to develop their recommendations, the staffs for – the staff for its diligent efforts, and to those members of the community who shared their perspectives and concerns with us last week. You may recall, Mr. Chairman, we had some confusion as to the Providence Task Force recommendation regarding the Merrifield at Dunn Loring Station nomination. At the public hearing, I asked staff to explain the task force recommendation for PC17-PR-005, as it relates to the redevelopment option in the adopted Plan. As I understand it, a redevelopment proposal on the subject area may seek an intensity in excess of the adopted Plan option, based on bonus density associated with provisions of affordable units, and that it may include some limited non-residential supporting uses. The intensity could approach the task force recommended intensity. However, the proposal would not be relieved of the championing the other Plan recommendations, such as those about building heights, open space, buffering, and noise mitigation. Mr. Chairman, I will be supporting Commissioner Migliaccio's motion. Specific to the Providence site, I support not adding the Merrifield at Dunn Loring Station to the Amendment Work Program at this time. I believe the adopted Plan remains viable and is in line with the community's vision and prefer the consideration for changing the designation from an area adjacent to the core area of the Dunn Loring Transit Station Area, thereby permitting a higher-density mixed-use development – redevelopment be considered more comprehensively, along with the overall TSA. My view is that there will be a time when such a study will be

needed to be undertaken. Regarding the INOVA and Fairview Park nominations, I do support adding both sites to the 2018 Comprehensive Plan Amendment Work Program and conducting an area-wide study of the Merrifield Suburban Center that considers both sites in tandem. This study will need to first include an existing conditions analysis inclusive of the transportation network, the schools, human services, parks, recreation, and other public facility and service needs. And with regard to the transportation network, once the existing conditions analysis is completed, we need to consider options that will reduce the Beltway as a barrier to achieving the synergies I believe are possible to further strengthening – excuse me – Merrifield as one of our premier activity centers. We know the traffic is the key barrier to success in this regard and I hope that the study, if added by the Board, will include the same detailed analysis, as was achieved for the award-winning EMBARK process, to include possible mass transit, the vehicle, bicycle, and pedestrian options, and connections over the Beltway. Finally, Mr. Chairman, a successful study must include inviting participation from the community. I know that there will be an open invitation to participate through the work of a task force that will be set up specific to the Merrifield Suburban Center Study, which will be chaired by Tom Flurry, who I believe is in the audience. Tom, thanks. And I intend to stay active and engaged as the study progresses – and invite any interested or concerned parties to reach out to me and/or Supervisor Smyth for assistance, if necessary. Thank you, Mr. Chairman.

Chairman Murphy: Thank you very much. Is there further discussion of the motion? All those in favor of the motion, as articulated by Commissioner Migliaccio, say aye.

Commissioners: Aye.

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

Vice Chairman Hart: Mr. Chairman.

Commissioner Strandlie: Mr. Chairman, if I can be recorded as – abstain.

Chairman Murphy: Abstain. Ms. Strandlie abstains.

The motion carried by a vote of 11-0-1. Commissioner Strandlie abstained from the vote.

JLC

Board Agenda Item
July 31, 2018

ACTION - 14

Approval of an Agreement Between the Town of Herndon and Fairfax County to Design and Construct the Sugarland Run (South) SU9207-A Stream Restoration Project (Dranesville District)

ISSUE:
Board of Supervisors' authorization is requested for the County to execute an agreement with the Town of Herndon (Town) that provides funding for the design and construction of the Sugarland Run (South) SU9207-A Stream Restoration Project, which is located in the Town and the Sugarland Run watershed.

RECOMMENDATION:
The County Executive recommends that the Board approve and authorize the County Executive or his designee to sign an agreement with the Town to provide funding for the design and construction of the Sugarland Run (South) SU9207-A Stream Restoration Project (Project).

TIMING:
Board approval is requested on July 31, 2018.

BACKGROUND:
The Project is located in the Town and Sugarland Run watershed. The Project will restore approximately 1,200 linear feet of stream on Sugarland Run, providing nutrient reduction and improved water quality in the Sugarland Run watershed.

Under the Cooperative Agreement between the Fairfax County Board of Supervisors, the Town of Vienna, and the Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects, the parties will use the project benefits towards compliance with their respective Municipal Separate Storm Sewer System permits and Chesapeake Bay Total Maximum Daily Load reduction requirements. Consistent with the framework of the Cooperative Agreement, the Town has asked the County to fund the design and construction costs. The Town will administer the design and construction of the Project. Partnering with the Town on this project will save the County the time and administrative costs that would be incurred if the County were to implement the Project under its stormwater program.

FISCAL IMPACT:
The estimated total cost of the Project is $1,200,000. The County will fund $200,000 in fiscal year 2019 for the design of the Project. Upon completion of the design, the County will grant the Town an additional $1,000,000 for the construction of the project. If those funds are unavailable in the stormwater budget at the time of the completion of design, they will be paid when they become available. The County has the discretion to pay construction cost overruns, but in an amount not to exceed ten percent of the total estimated project cost. The Town can use County funds only for the design and construction of the Project. The Town will reimburse the County funds that are not expended in accordance with the terms of the attached agreement. Funding is currently available in Project SD-000031, Stream & Water Quality Improvements, Fund 40100, for the County's obligation to this Project.

ENCLOSED DOCUMENTS:
Attachment 1: Agreement between the Board of Supervisors of Fairfax County, Virginia and the Town of Herndon

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Randolph W. Bartlett, Deputy Director, DPWES, Stormwater & Wastewater Programs

SUGARLAND RUN (SOUTH) SU9207-A
STREAM RESTORATION FUNDING AGREEMENT

This Agreement ("Agreement") made and entered into this _____ day of _____, 2018, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "County"), a body politic, and the **TOWN OF HERNDON** (the "Town") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Town has requested funds to design and implement the Sugarland Run (South) Stream Restoration Project (the "Project"), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Sugarland Run South and

WHEREAS, the location of the Project is located between Longitude 38.959829N and Latitude 77.370957W and 38.962110N and 77.369328W is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 17-1((6)) parcel J4; and

WHEREAS, the Project is within the Chesapeake Bay, Potomac River, and Sugarland Run watersheds;

WHEREAS, the Town is part of the County's Stormwater Service District and the County, Town, and the Town of Vienna have entered into an agreement known as the "Cooperative Agreement Between the Fairfax County Board of Supervisors, the Town of Vienna, and Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects" (the "Cooperative Agreement") to share funds and responsibility to maintain, operate, and improve stormwater systems to meet the Chesapeake Bay Total Maximum Daily Load ("TMDL") and other water quality goals. Cooperative Agreement is attached hereto as Attachment 1 and is incorporated herein by reference; and

WHEREAS, under the Cooperative Agreement, annually, the County pays the Town a percentage of the Stormwater Service District Fees that are collected from residents of the Town (the "Paid Herndon Revenues"); and

WHEREAS, the Town and County agree that under the Cooperative Agreement, Stormwater Service District funds can be used for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and

WHEREAS, the Project is estimated to cost one million, two hundred thousand dollars ($1,200,000) (the "Total Project Cost"); and

WHEREAS, that County intends to fund the design and construction of the Project from the Stormwater Budget; and

WHEREAS, the Town intends to dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if restated as binding provisions of this agreement, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto further agree as follows:

1. Upon execution of this Agreement, the County will grant to the Town funds in the amount of two hundred thousand dollars ($200,000) (the "Design Funds") in Fiscal Year 2019 for the design of the Project, to be paid with monies from the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services).

2. Upon completion of the design of the Project, the County will grant to the Town an additional one million dollars ($1,000,000) for the construction of the Project, as designed (the "Construction Funds"), except that if those funds are unavailable in the Stormwater Budget at the time of completion, they will be paid at such time as they become available. The Design Funds plus the Construction Funds are hereinafter referred to as the "County Contribution". Completion of the design of the Project occurs when the Town informs the County that all construction docs are complete and all permits for the construction have been obtained.

3. The County Contribution will not be charged against the PAID HERNDON REVENUES as set forth in the Cooperative Agreement, but rather, are a separate grant to the Town from the County.

4. The Town will dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

5. The Town will expend the County Contribution for the purpose of supporting the design and construction of the Project.

6. The County Contribution must be used and expended solely for the purpose of design and constructing the Project and not for the cost of any feasibility study or acquisition of any lands or easements necessary for the completion of the Project.

7. The Town will acquire, at its sole expense, any and all land or easements, or other interests in real property, if any, that are necessary to complete the Project.

8. The Town, at its sole expense, will administer the design and construction contracts, obtain approval of all plans, and obtain all permits necessary for the completion of the Project.

9. The Town will notify the County if the Town, at any time, modifies the scope of the Project, which is generally described herein above. If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town must, within 30 days after notification by the County of such deviation, reimburse to the County the amount of the Total Contribution.

10. The Town will provide to the County a copy of the final site plan for the Project.

11. The Town must retain all invoices and all records of payments for any and all services rendered for the design, construction, and any related expenses for completion of the Project, and copies of any such invoices and records of payments shall be provided to the County upon request within three business days after such a request.

12. If at any time the Town abandons or otherwise ceases the Project for any reason, the Town must immediately return any amount of the County Contribution not expended in accordance with this agreement and all invoices and records of payments. "Abandon," as used herein, includes, but is not limited to, the failure to initiate or the termination of the design or construction before the Project's completion.

13. The County, in its sole discretion, may agree to pay cost overruns that exceed the Total Project Cost, including construction costs that exceed the current

estimate, change orders and/or related costs that arise during construction of the Project, but only to the extent that funds are available in the County's Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services) and are not more than 10% of the estimated Project Cost.

14. The Town must complete the Project not later than four years after this agreement is executed.

15. The Project is subject to the Cooperative Agreement, and, as such, the total pollutant load reduction credits for the Project will be apportioned among the parties as established pursuant to the terms of the Cooperative Agreement or any amendments or attachments thereto.

16. This agreement can only be modified in writing and signed by both parties.

[Signatures appear on following page]

ATTACHMENT 1

TOWN OF HERNDON, Virginia

By:_____
Lisa C. Merkel
Mayor

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Lisa C. Merkel of the Town of Herndon, this _____ day of _____ 2018, on behalf of the Town of Herndon.

_____
Notary Public

My commission expires: _____

Notary Registration Number: _____

ATTACHMENT 1

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By:_____
Bryan J. Hill, County Executive
Fairfax County, Virginia

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Bryan J. Hill, County Executive of Fairfax County, Virginia, on behalf of the Board of Supervisors of Fairfax County, Virginia this _____ day of _____ 2018.

_____
Notary Public

My commission expires: _____

Notary Registration Number: _____

Board Agenda Item
July 31, 2018

ACTION - 15

Approval of Resolutions Endorsing Projects Being Submitted for State Funding through the Commonwealth Transportation Board's Smart Scale Program (Braddock, Dranesville, and Providence Districts)

ISSUE:
Board approval of a resolution (Attachment 1) endorsing a City of Fairfax project approved for funding through the Commonwealth Transportation Board's (CTB) Smart Scale Program in FY 2017 and a resolution (Attachment 2) endorsing applications submitted by the Town of Herndon and City of Falls Church for the FY 2020–FY 2025 Smart Scale Program. (Projects submitted by the County for the FY 2020-2025 Smart Scale process were endorsed by the Board on July 10, 2018.)

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve a Resolution (Attachment 1) endorsing a City of Fairfax project and requesting that the City coordinate the implementation of this project with Fairfax County and the affected Fairfax County supervisors. The County Executive also recommends that the Board of Supervisors approve a Resolution (Attachment 2) endorsing Town of Herndon and City of Falls Church projects for the FY 2020-FY 2025 Smart Scale process.

TIMING:
Board approval is requested on July 31, 2018, to meet the submission deadlines of August 1, 2018, for the FY 2020-FY 2025 Smart Scale process.

BACKGROUND:
The Commonwealth Transportation Board utilizes a prioritization process (called Smart Scale) to help select projects for the development of the Six-Year Improvement Program (SYIP).

The Smart Scale process considers congestion mitigation, economic development, accessibility, safety, land use, and environmental quality to rank candidate projects. The CTB can weigh these factors differently in each of the Commonwealth's transportation districts. Smart Scale requires congestion mitigation to be weighted highest in Northern Virginia. The Weighting Framework for Northern Virginia, as well as the Hampton Roads and Fredericksburg areas, is:

- Congestion Mitigation (45%)
- Land Use Coordination (20%)
- Accessibility (15%)

- Environmental Quality (10%)
- Economic Development (5%)
- Safety (5%)

City of Fairfax Request for Support for Smart Scale Re-score
During the first round of Smart Scale in FY 2017, the City of Fairfax submitted an application for the Government Center Parkway Extension, which constructs the missing link from Stevenson Street to Jermantown Road. The project involves the construction of two eastbound through lanes to provide right and left turn lanes to Jermantown Road, one westbound through lane, turn lanes to Stevenson Street and the shopping center, sidewalks, pedestrian crossings, on-road bicycle lanes, and lighting and landscaping. The project also includes traffic signal reconstruction at the Jermantown Road/Government Center Parkway intersection.

The City was successful in receiving $3.14 million to construct the Government Center Parkway Extension. Due to increases in right-of-way costs since the submission of the Smart Scale application, the City has requested additional state funds for the project, which requires the project to be re-scored per Smart Scale Policy. As part of the re-scoring process, the Virginia Department of Transportation (VDOT) noted that Fairfax County did not provide a supporting document for this project as part of the original application. VDOT is now asking for project endorsement. The City is awaiting VDOT's decision on the rescoring and associated additional funding.

Since the Government Center Parkway Extension project extends into Fairfax County and due to the fact that it has been a long-standing goal of the County to implement this roadway connection, staff recommends that the Board support the efforts of the City of Fairfax in requesting a re-score for the Smart Scale application. As part of the recommendation, County staff believes it is important that the City of Fairfax coordinate the implementation of this project with the County and affected Fairfax County supervisors.

Town of Herndon and City of Falls Church Requests for Support for FY 2020- FY 2025 Smart Scale Submissions
At its July 10, 2018, meeting, the Board of Supervisors adopted a resolution endorsing ten projects to be submitted by Fairfax County for the FY 2020-FY 2025 Smart Scale process. During the preparation of applications by the County and jurisdictional partners, the Town of Herndon and the City of Falls Church requested support for projects in or near Fairfax County that they are submitting for Smart Scale consideration.

The Town of Herndon has requested support for the South Elden Street Improvements (Herndon Parkway to Sterling Road) project. The project scope includes signalization and capacity improvements at each intersection, as well as Americans with Disabilities Act (ADA) compliant streetscape, bike, pedestrian and transit access improvements. The project will add a 10-foot shared-use path and provide access management measures to convert an existing 5-lane undivided section to a 4-lane section with raised medians and dedicated turning lanes. The purpose of this project is to improve safety

and multi-modal circulation for drivers, pedestrians, bicyclists, and transit riders for local and regional destinations. The Town's South Elden Street project is included in the Town's comprehensive plan and capital improvement program, as well as the regional Constrained Long Range Plan (CLRP) and the Northern Virginia Transportation Authority's (NVTA) TransAction 2040 Update.

The City of Falls Church has requested support for the South Washington Multimodal Improvements project. The project will create a transit plaza at South Washington Street and Hillwood Avenue to encourage multi-modal transportation options, increase pedestrian accessibility, and connect the area to the City Center and Metrorail stations. The City plans to install new traffic signals at the intersection of South Washington Street and Hillwood Avenue, three crosswalks with pedestrian push buttons, and remove the "free flow right" turn lane from northbound South Washington Street onto Hillwood Avenue. There will be streetscape improvements along both sides of South Washington Street from Annandale Road to Tinner Hill including brick pavers, street lighting and trees, ADA curb ramps, landscaping and rain gardens, and interpretive signage to draw attention to the historic sites in the area. The project provides a link to the City Center and the two Metrorail stations. The project is expected to provide enhanced transit, bicycle and pedestrian facilities along South Washington Street (U.S. Route 29) and will improve access to the East Falls Church and West Falls Church Metrorail Stations.

As the Town of Herndon is within Fairfax County and the City of Falls Church project is adjacent to Fairfax County border with the City of Falls Church, staff recommends that the Board supports the efforts of the Town of Herndon and the City of Falls Church to apply to the FY 2020- FY 2025 Smart Scale process for their projects.

FISCAL IMPACT:
There is no direct fiscal impact associated with this action.

ENCLOSED DOCUMENTS:
Attachment 1 – Resolution Endorsing Project Submitted by the City of Fairfax for Smart Scale Funding in FY 2017
Attachment 2 – Resolution Endorsing Projects Being Submitted by the Town of Herndon and City of Falls Church for FY 2020-FY 2025 Funding through the Commonwealth Transportation Board's Smart Scale process

STAFF:
Robert A. Stalzer, Deputy County Executive
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
Ray Johnson, Senior Transportation Planner, Coordination and Funding, FCDOT
Noelle Dominguez, Senior Transportation Planner, Coordination and Funding, FCDOT

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 31, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby supports the efforts of the City of Fairfax in receiving funds from the Commonwealth of Transportation Board's Six-Year Improvement Program through the FY 2017 Smart Scale process for the following project located in and near Fairfax County; and requests that the City of Fairfax coordinate the implementation of this project with Fairfax County and the affected Fairfax County supervisors:

- Government Center Parkway Extension

Adopted this 31st day of July 2018, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

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 31, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby endorses the efforts of the Town of Herndon in submitting an application for the Commonwealth of Transportation Board's Six-Year Improvement Program for the FY 2020-FY 2025 Smart Scale process for the following project located in Fairfax County:

- South Elden Street Improvements (Herndon Parkway to Sterling Road)

BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby endorses the efforts of the City of Falls Church in submitting an application for the Commonwealth of Transportation Board's Six-Year Improvement Program for the FY 2020-FY 2025 Smart Scale process for the following project located in or near Fairfax County, and requests that the City work with the Virginia Department of Transportation (VDOT) should components of the project cause additional congestion or increase delays on VDOT facilities within Fairfax County:

- South Washington Multimodal Improvements

Adopted this 31st day of July 2018, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
July 31, 2018

ACTION - 16

Approval of Standard Project Agreements with the Virginia Department of Transportation for Design of Braddock Road Multimodal Improvements from Humphries Drive to Ravensworth Road (Braddock and Mason Districts)

ISSUE:
Board of Supervisors approval of, and authorization for the Director of the Department of Transportation to execute Standard Project Agreements (SPAs) with the Virginia Department of Transportation (VDOT), substantially in the form of Attachments 2 and 3, for the design of Braddock Road Multimodal Improvements from Humphries Drive to Ravensworth Road (Projects).

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1), authorizing the Director of the Department of Transportation to execute SPAs with VDOT substantially in the form of Attachment 2 and 3, for the design of the Projects.

TIMING:
The Board should act on this item on July 31, 2018, so that VDOT can begin design of the Projects.

BACKGROUND:
The Braddock Road Multimodal Study was undertaken by the Fairfax County Department of Transportation (FCDOT) to evaluate potential improvements along the corridor from just west of Guinea Road (Humphries Drive) to the Ravensworth Road intersection (https://www.fairfaxcounty.gov/transportation/study/braddock-multimodal). The intersection and corridor improvements alternative recommended by the study serves as the basis for the access management improvements and bicycle/pedestrian improvements to be implemented by the Projects.

Braddock Road (Route 620) is classified as a Minor Arterial and generally travels in an east-west direction. It supports commercial, retail, institutional, commuter, and residential traffic. Within the study corridor, Braddock Road intersects with numerous side streets that range from arterials to local/neighborhood streets. In the eastern section of the study area, Braddock Road intersects with Interstate 495 (Capital Beltway), including direct north serving access to the I-495 Express Lanes facility. This study was focused on various goals to improve both the vehicular traffic flow, bicycle/pedestrian safety, and access to transit.

A citizen advisory group (Task Force) was appointed by the Braddock District Supervisor's office to represent the communities contained within the study area. The Task Force met with the study team for more than two years and reviewed the current study progress and the next steps. Throughout the study, the study team met with various public/community groups to present the study (improvements) data, analysis, and recommendations and addressed any public comments/concerns. The most substantial public outreach took place at four Community meetings held during the study. There were also numerous neighborhood/church meetings held to discuss the study and the impacts for that specific neighborhood/church.

After the alternatives were developed and reviewed, both the Technical Team and Task Force provided recommendations for the roadway. Based on the Measures of Effectiveness (MOE) scores and cost estimates, the Task Force and Technical Team recommended the "Intersection and Corridor Improvements" alternative for the Braddock Road Corridor. These improvements will decrease congestion, increase capacity, improve safety, expand mobility for bicyclists and pedestrians, and provide better and safer access to transit stops along the corridor. Improvements include new/upgraded shared use paths and sidewalks, pedestrian overpass bridge(s), and improvements to intersections along the corridor such as: intersection realignment, restriction of turning movements, new turn lanes, traffic signals and crosswalks, and modification of ramps to I-495. Due to the ramp modifications at the Beltway, VDOT is in the best position to implement these improvements.

VDOT has split the improvements into two Projects for administration of design, using the recommended intersection and corridor improvements alternative as the basis for the Projects.

- VDOT Project Number 0620-029-425, UPC T21735, Braddock Road from Humphries Drive to Southampton Drive.
- VDOT Project Number 0620-029-426, UPC T21736, Braddock Road from Southampton Drive to Ravensworth Road, including interchange modifications at I-495.

Total estimate for design of the Projects is $11.3 million. ($5.5 million for the section between Humphries Drive and Southampton Drive and $5.8 million for the section between Southampton Drive and Ravensworth Road).

In January 2014, the Board had approved a Transportation Priorities Plan that included $55.5 million for improvements along Braddock Road for the following projects:

- Park and Ride Lot,
- Study for widening between Burke Lake Road and Guinea Road, and
- Widening between Burke Lake Road and I-495.

Staff is recommending the reallocation of funds from these approved projects to support the cost of the Projects recommended by the Braddock Road Multimodal Study.

FISCAL IMPACT:
Funding in the amount of $11,300,000 is available in Fund 40010 (County and Regional Transportation Projects) for the design phases of the Projects. Staff will pursue funding through alternative sources of funding (e.g., Northern Virginia Transportation Authority regional funds, and state Smart Scale funds) for the right-of-way, and construction phases of the Projects. Provided the Board approves this request, and after execution of the agreements, funding will be transferred to VDOT, so VDOT can begin design. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:
Attachment 1 - Resolution to Execute a Standard Project Agreement with the Virginia Department of Transportation
Attachment 2 - Standard Project Agreement (including Related Appendices) with the Virginia Department of Transportation for Braddock Road Multimodal Improvements from Humphries Drive to Southampton Drive UPCT21735
Attachment 3 - Standard Project Agreement (including Related Appendices) with the Virginia Department of Transportation for Braddock Road Multimodal Improvements from Southampton Drive to Ravensworth Road UPCT21736

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Minnix, Chief, Transportation Design Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division (CPTED), FCDOT
Karyn Moreland, Section Chief, Capital Projects Section, FCDOT
Michael Guarino, Senior Transportation Planner, CPTED, FCDOT
Tad Borkowski, Senior Transportation Planner, CPTED, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT
Ray Johnson, Senior Transportation Planner, CFD, FCDOT
Janet Nguyen, Transportation Planner, CFD, FCDOT

ASSIGNED COUNSEL:
Joanna Faust, 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 in Fairfax, Virginia, on Tuesday, July 31, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

AGREEMENT EXECUTION RESOLUTION

A RESOLUTION FOR THE BOARD OF SUPERVISORS OF THE COUNTY OF FAIRFAX, VIRGINIA
AS AN ENDORSEMENT OF THE

Braddock Road Multimodal Improvements from Humphries Drive to Ravensworth Road Project

WHEREAS, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

NOW, THEREFORE, BE IT RESOLVED, that the County of Fairfax requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the implementation of, Braddock Road Improvements from Humphries Drive to Ravensworth Road project ("Project").

BE IT FURTHER RESOLVED THAT, the County of Fairfax hereby agrees to provide its share of the local contributions, in accordance with the Project Administration Agreements ("PAAs", attached) and associated financial documents (Appendix A), executed pursuant to this Resolution.

BE IT FURTHER 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, the PAAs with the Virginia Department of Transportation for the implementation of the Project to be administered by VDOT.

Adopted this 31st day of July 2018, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

VDOT ADMINISTERED – LOCALLY FUNDED
PROJECT ADMINISTRATION AGREEMENT

FAIRFAX COUNTY
PROJECT NUMBER 0620-029-425 UPC _T21735___

THIS AGREEMENT, made and executed in triplicate on this the ____ day of _____, 2018, between the COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT" and the COUNTY OF FAIRFAX, hereinafter referred to as the "COUNTY."

WITNESSETH

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

WHEREAS, the funds as shown in Appendix A have all been allocated by the COUNTY to finance the project; and

WHEREAS, the COUNTY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the County's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-338 of the Code of Virginia authorizes both the DEPARTMENT and the COUNTY to enter into this Agreement;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

A. The DEPARTMENT shall:

1. Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.

2. Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract administration, and inspection services activities for the project(s) as required.

3. Provide a summary of project expenditures to the COUNTY for charges of actual DEPARTMENT cost.

4. Notify the COUNTY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to contact the COUNTY prior to performing those activities.

5. Return any unexpended funds to the COUNTY no later than 90 days after the project(s) have been completed and final expenses have been paid in full.

B. The COUNTY shall:

1. Provide funds to the Department for Preliminary Engineering (PE), Right of Way (ROW) and/or Construction (CN) in accordance with the payment schedule outlined in Appendix A.

2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the COUNTY and modification of this Agreement.

C. Funding by the COUNTY shall be subject to annual appropriation or other lawful appropriation by the Board of Supervisors.

D. 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.

E. 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 County or the Department shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the

County or the Department has, in writing, received a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

F. Nothing in this Agreement shall be construed as a waiver of the COUNTY's or the Commonwealth of Virginia's sovereign immunity.

G. Should funding be insufficient and county funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.

H. Should the project be cancelled as a result of the lack of funding by the COUNTY, the COUNTY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.

I. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THE COUNTY 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 upon 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:

_____ _____
Date

_____ _____
Typed or Printed Name of Signatory Date

_____ _____
Signature of Witness Date

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

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

_____ _____
Chief of Policy Date
Commonwealth of Virginia
Department of Transportation

_____ _____
Signature of Witness Date

Attachments: Appendix A (UPC)
Appendix B (UPC)

VDOT Administered, Locally Funded Appendix A **Date:** DRAFT

Project Num 0620-029-425 UPC: T21735 CFDA# 20.205 Locality: Fairfax County

Project Location ZIP+4: 22151-1009	Locality DUNS #074837626	Locality Address (incl ZIP+4): 4050 Legato Rd,Suite 400, Fairfax, VA 22033-2895

Project Narrative

Scope:	Multimodal improvements (including intersection improvements, access management, and bike/ped paths) on Braddock Road to include alternative analysis, preliminary design and plan development.
From:	Humphries Drive
To:	Southampton Drive

Locality Project Manager Contact info: :	Tad Borkowski	tad.borkowski@fairfaxcounty.gov	703-877-5757
Department Project Coordinator Contact Info:	Andrew Beacher	andrew.beacher@vdot.virginia.gov	703-259-2239

Project Estimates

Phase	Estimated Project Costs
Preliminary Engineering	$5,500,000
Right of Way & Utilities	n/a
Construction	n/a
Total Estimated Cost	$5,500,000
Estimate for Current Billing	$5,500,000

Project Cost

Phase	Project Allocations	Funds type *(Choose from drop down box)*	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering	$5,500,000	Local Funds	100%	$5,500,000
				$0
Total PE	$5,500,000			$5,500,000
Right of Way & Utilities				
Total RW				
Construction				
Total CN				
Total Estimated Cost	$5,500,000			$5,500,000

Total Maximum Reimbursement / Payment by Locality to VDOT	$5,500,000

Project Financing

Local Funds					**Aggregate Allocations**
$5,500,000	$0	$0	$0	$0	$5,500,000

Payment Schedule

FY 2019			
$5,500,000			

Program and project Specific Funding Requirements

- This is a limited funds project. The locality shall be responsible for any additional funding in excess of $0 (if applicable)
- The locality will be billed the locality share above beginning at the project scoping phase for the estimated PE costs.
- This Appendix A supersedes any previously listed funding schedule.
- VDOT has billed $0.00 (dollar amount) the locality for this project as of 6/20/2018 (date)
- VDOT has received $0.00 (dollar amount) from the locality for this project as of 6/20/2018 (date)
- The locality shall make a one time payment of $5,500,000 no later than 60 days after agreement execution.

This attachment is certified and made an official attachment to this document by the parties to this agreement

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Typed or printed name of person signing

Revised: June 15, 2016

Appendix B

Project Number: 0620-029-425 **(UPC T21735)** **Locality:** Fairfax County

Project Scope	
Work Description:	Multimodal improvements on Braddock Road from Humphries Drive to Southampton Drive to include alternative analysis, preliminary design and plan development
From:	Humphries Drive
To:	Southampton Drive

Locality Project Manager Contact Info:	Tad Borkowski	tad.borkowski@fairfaxcounty.gov	703-877-5757
Department Project Coordinator Contact Info:	Andy Beacher	Andrew.beacher@vdot.virginia.gov	703-259-2239

Detailed Scope of Services

Design access management improvements and bicycle/pedestrian improvements within the corridor, using the Multimodal Study developed by Fairfax County DOT as a basis. The physical improvements to be designed will include:

- Measures to restrict turning movements at intersections identified in the Study;
- The elimination of selected bus stops, relocation of others, and the construction of new bus stops;
- Shared use paths and sidewalks;
- Traffic signals and crosswalks;
- Two (2) pedestrian overpass bridges over Braddock Road in the general locations identified in the Study (final locations to be determined during preliminary design);
- Improvements to horizontal and vertical geometry of Braddock Road on each approach of Guinea Road;
- The construction of a right turn lane on westbound Braddock Road at the Guinea Road intersection;

The project will also include storm drainage and storm water management improvements required by and associated with the transportation improvements indicated above. Subject to final cost analyses, utilities on the south side of Braddock Road between Guinea Road and Bradfield Drive may be relocated underground when the project is constructed.

VDOT will undertake and be responsible for all preliminary engineering activities needed to advance the project to construction, including surveys, mapping, environmental work, traffic counts and analyses, geotechnical investigations and engineering, preliminary and final civil and structural design, and public involvement.

For purposes of this agreement, it is assumed that a traditional design-bid-build procurement model will be followed. The project will be developed following a federal process, i.e. in a manner which will not preclude the use of federal funds, if a decision is made at some point during project development to make use of such.

These improvements are being done in conjunction with Project 0620-029-426/UPC T21736 (Braddock Road East of Southampton Drive).

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official and date	Residency Administrator/PE Manager/District Construction Engineer Recommendation and date
_____	_____
Typed or printed name of person signing	Typed or printed name of person signing

VDOT ADMINISTERED – LOCALLY FUNDED
PROJECT ADMINISTRATION AGREEMENT

FAIRFAX COUNTY
PROJECT NUMBER 0620-029-426 UPC _T21736__

THIS AGREEMENT, made and executed in triplicate on this the ____ day of _____, 2018, between the COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT" and the COUNTY OF FAIRFAX, hereinafter referred to as the "COUNTY."

WITNESSETH

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

WHEREAS, the funds as shown in Appendix A have all been allocated by the COUNTY to finance the project; and

WHEREAS, the COUNTY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the County's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-338 of the Code of Virginia authorizes both the DEPARTMENT and the COUNTY to enter into this Agreement;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

A. The DEPARTMENT shall:

1. Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.

2. Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract administration, and inspection services activities for the project(s) as required.

3. Provide a summary of project expenditures to the COUNTY for charges of actual DEPARTMENT cost.

4. Notify the COUNTY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to contact the COUNTY prior to performing those activities.

5. Return any unexpended funds to the COUNTY no later than 90 days after the project(s) have been completed and final expenses have been paid in full.

B. The COUNTY shall:

1. Provide funds to the Department for Preliminary Engineering (PE), Right of Way (ROW) and/or Construction (CN) in accordance with the payment schedule outlined in Appendix A.

2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the COUNTY and modification of this Agreement.

C. Funding by the COUNTY shall be subject to annual appropriation or other lawful appropriation by the Board of Supervisors.

D. 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.

E. 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 County or the Department shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the

County or the Department has, in writing, received a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

F. Nothing in this Agreement shall be construed as a waiver of the COUNTY's or the Commonwealth of Virginia's sovereign immunity.

G. Should funding be insufficient and county funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.

H. Should the project be cancelled as a result of the lack of funding by the COUNTY, the COUNTY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.

I. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THE COUNTY 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 upon 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:

_____ _____
Date

_____ _____
Typed or Printed Name of Signatory Date

_____ _____
Signature of Witness Date

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

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

_____ _____
Chief of Policy Date
Commonwealth of Virginia
Department of Transportation

_____ _____
Signature of Witness Date

Attachments: Appendix A (UPC)
Appendix B (UPC)

VDOT Administered, Locally Funded Appendix A **Date:** DRAFT

Project Num 0620-029-426 UPC: T21736 CFDA# 20.205 Locality: Fairfax County

Project Location ZIP+4: 22151-1009	Locality DUNS #074837626	Locality Address (incl ZIP+4): 4050 Legato Rd,Suite 400, Fairfax, VA 22033-2895

Project Narrative

Scope:	Multimodal improvements (including intersection improvements, access management, and bike/ped paths) on Braddock Road to include alternative analysis, preliminary design and plan development.
From:	Southampton Drive
To:	Ravensworth Road

Locality Project Manager Contact info: :	Tad Borkowski	tad.borkowski@fairfaxcounty.gov	703-877-5757
Department Project Coordinator Contact Info:	Andrew Beacher	andrew.beacher@vdot.virginia.gov	703-259-2239

Project Estimates

Phase	Estimated Project Costs
Preliminary Engineering	$5,800,000
Right of Way & Utilities	n/a
Construction	n/a
Total Estimated Cost	$5,800,000
Estimate for Current Billing	$5,800,000

Project Cost

Phase	Project Allocations	Funds type *(Choose from drop down box)*	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering	$5,800,000	Local Funds	100%	$5,800,000
				$0
				$0
Total PE	$5,800,000			$5,800,000
Right of Way & Utilities				
Total RW				
Construction				
Total CN				
Total Estimated Cost	$5,800,000			$5,800,000

Total Maximum Reimbursement / Payment by Locality to VDOT	$5,800,000

Project Financing

Local Funds					**Aggregate Allocations**
$5,800,000	$0	$0	$0	$0	$5,800,000

Payment Schedule

FY 2019			
$5,800,000			

Program and project Specific Funding Requirements

- This is a limited funds project. The locality shall be responsible for any additional funding in excess of $0 (if applicable)
- The locality will be billed the locality share above beginning at the project scoping phase for the estimated PE costs.
- This Appendix A supersedes any previously listed funding schedule.
- VDOT has billed $0.00 (dollar amount) the locality for this project as of 6/20/2018 (date)
- VDOT has received $0.00 (dollar amount) from the locality for this project as of 6/20/2018 (date)
- The locality shall make a one time payment of $5,800,000 no later than 60 days after agreement execution.

This attachment is certified and made an official attachment to this document by the parties to this agreement

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Typed or printed name of person signing

Revised: June 15, 2016

Appendix B

Project Number: 0620-029-426 **(UPC T21736)** **Locality:** Fairfax County

Project Scope	
Work Description:	Multimodal improvements on Braddock Road from Southampton Drive to Ravensworth Road to include alternative analysis, preliminary design and plan development
From:	Southampton Drive
To:	Ravensworth Road

Locality Project Manager Contact Info:	Tad Borkowski	tad.borkowski@fairfaxcounty.gov	703-877-5757
Department Project Coordinator Contact Info:	Andy Beacher	Andrew.beacher@vdot.virginia.gov	703-259-2239

Detailed Scope of Services

Design access management improvements and bicycle/pedestrian improvements within the corridor, using the Multimodal Study developed by Fairfax County DOT as a basis. The physical improvements to be designed will include:

- Modifications to three ramps serving general-purpose lane traffic at the I-495 / Braddock Road interchange, as shown on the Study exhibits.
- Intersection improvements (turn lane and channelization) at Braddock Road and Ravensworth Road.
- Measures to restrict turning movements at intersections identified in the Study;
- Relocation of a portion of Danbury Forest Drive, to realign the intersection with Wakefield Road;
- A bicycle/pedestrian bridge over Accotink Creek parallel to the existing highway bridge;
- Stair and ramp access from Braddock Road to the Accotink Creek stream valley trail;
- The elimination of selected bus stops, relocation of others, and the construction of new bus stops;
- Shared use paths and sidewalks;
- Traffic signals and crosswalks;
- Improvements to the existing Accotink Creek stream valley trail underpass of Braddock Road;
- One (1) pedestrian overpass bridge over Braddock Road in the general location identified in the Study (final location to be determined during preliminary design).

Bike and pedestrian facilities will be extended from Braddock Road up Ravensworth Road to the approximate intersection with Greenfield Road, as depicted on the Study exhibits. The project will also include storm drainage and storm water management improvements required by and associated with the transportation improvements indicated above.

VDOT will undertake and be responsible for all preliminary engineering activities needed to advance the project to construction, including surveys, mapping, environmental work, traffic counts and analyses, preparation and processing of an Interchange Modification Report for improvements to the I-495 / Braddock Road interchange, geotechnical investigations and engineering, preliminary and final civil and structural design, and public involvement.

For purposes of this agreement, it is assumed that a traditional design-bid-build procurement model will be followed. The project will be developed following a federal process, i.e. in a manner which will not preclude the use of federal funds, if a decision is made at some point during project development to make use of such.

These improvements are being done in conjunction with Project 0620-029-425/UPC T21735 (Braddock Road West of Southampton Drive)

This attachment is certified and made an official attachment to this document by the parties of this agreement

Authorized Locality Official and date	Residency Administrator/PE Manager/District Construction Engineer Recommendation and date
_____	_____
Typed or printed name of person signing	Typed or printed name of person signing

Board Action Item
July 31, 2018

ACTION - 17

Approval of a Minor Variation Request for RZ 2003-LE-055 by The Evergreene Companies, LLC to Modify the Architectural Treatments Approved by Proffer B-7 on Proposed Single Family Detached Dwellings (Lee District)

ISSUE:
Board consideration of a minor variation to modify the permitted architectural treatments approved by Proffer B-7 for RZ 2003-LE-055, pursuant to the provisions of Sect. 18-204 of the Zoning Ordinance.

RECOMMENDATION:
In accordance with Zoning Ordinance Sect. 18-204(5) and Virginia Code §15.2-2302, the County Executive recommends that the Board waive the requirement of a public hearing and approve the addition of brick, stone, and/or cementitious facing, with brick and/or stone at-grade treatment, as architectural treatments permitted by Proffer B-7 for RZ 2003-LE-055.

TIMING:
Routine.

BACKGROUND:
Under Par. 5 of Sect. 18-204 of the Zoning Ordinance, the Board may approve certain minor variations to proffered conditions when the requests do not materially affect proffered conditions of use, density, or intensity. Specifically, Par. 5(A)(6) permits a request to modify architectural design, character, color, features, or materials for buildings and signs, if the modifications are of equivalent quality and would not have a materially adverse impact on adjacent properties.

On June 6, 2005, the Board of Supervisors approved RZ 2003-LE-055, subject to proffers dated May 18, 2005. The rezoning consisted of two distinct components. The commercial component involved rezoning property to the C-5 District to permit the expansion of an existing veterinary hospital. The residential component involved rezoning 3.02 acres to the R-3 District to permit the construction of seven new single-family detached dwellings and the retention of an existing dwelling, resulting in the creation of an eight-lot residential subdivision. This minor variation request involves the residential component of RZ 2003-LE-055.

The subject property is located on the south side of Old Telegraph Road, approximately 1,000 feet east of its intersection with Telegraph Road, on approximately 3.02 acres, on land identified by Tax Map Number 100-1((9)) 3A. (See Attachment 1, Locator Map.) The approved proffers and Generalized Development Plan for RZ 2003-LE-055 are available online at: http://ldsnet.fairfaxcounty.gov/ldsnet/ZAPSMain.aspx?cde=RZ&seq=4047512.

On May 11, 2018, the Department of Planning and Zoning (DPZ) received a letter, dated May 11, 2018, from Scott E. Adams, Esquire, agent for the applicants, The Evergreene Companies, LLC ("Applicants") requesting a minor variation to Proffer B-7 of RZ 2003-LE-055. (See Attachment 3, Letter dated May 11, 2018, to Tracy Strunk.) Specifically, the Applicants requested the addition of cementitious facing, with brick and/or stone at-grade treatment, to the architectural treatments permitted for the single family detached dwellings approved by RZ 2003-LE-055. Approved Proffer B-7 states:

> *"**Architectural Treatment.** The front facades of the new units shall have brick or stone facing. The side façade of the unit on Lot 1, facing Old Telegraph Road, shall also have a brick or stone facing. In the event that Lot 8 is redeveloped with a new dwelling, the front facade of the new dwelling and the side façade of the new dwelling facing Old Telegraph Road, shall also have a brick or stone facing."*

The Applicants have provided a Minor Variation Statement to permit the addition of cementitious facing, with brick and/or stone at-grade treatment, to the permitted architectural treatments outlined in Proffer B-7 of RZ 2003-LE-055, and commit that the proposed residential units will be developed otherwise in substantial conformance with the governing proffers dated May 18, 2005. (See Attachment 2, Minor Variation Statement.)

The minor variation request letter cites the benefits of cementitious facing, including its longevity, appearance, fire resistance, and storm resistance. The minor variation request included elevations depicting the proposed residential facades; the facades would consist predominantly of either shake or horizontal cementitious facing with stone at-grade treatment. (See Attachment 4, Proposed Elevations.)

Staff has reviewed RZ 2003-LE-055 and the request to add cementitious facing as a permitted siding material and has determined that cementitious facing is equivalent in quality to the brick and stone facing permitted as siding materials by the currently approved proffers. Staff has determined that, based on the appearance and durability of cementitious facing, adding it as a permitted building material will not have a materially adverse impact on adjacent properties. Further, committing the dwellings to incorporate

brick and/or stone at-grade treatments with the cementitious facing will also not have a materially adverse impact on adjacent properties. Staff believes that approval of this minor variation request meets the requirements of the Zoning Ordinance and recommends its approval.

FISCAL IMPACT:
None

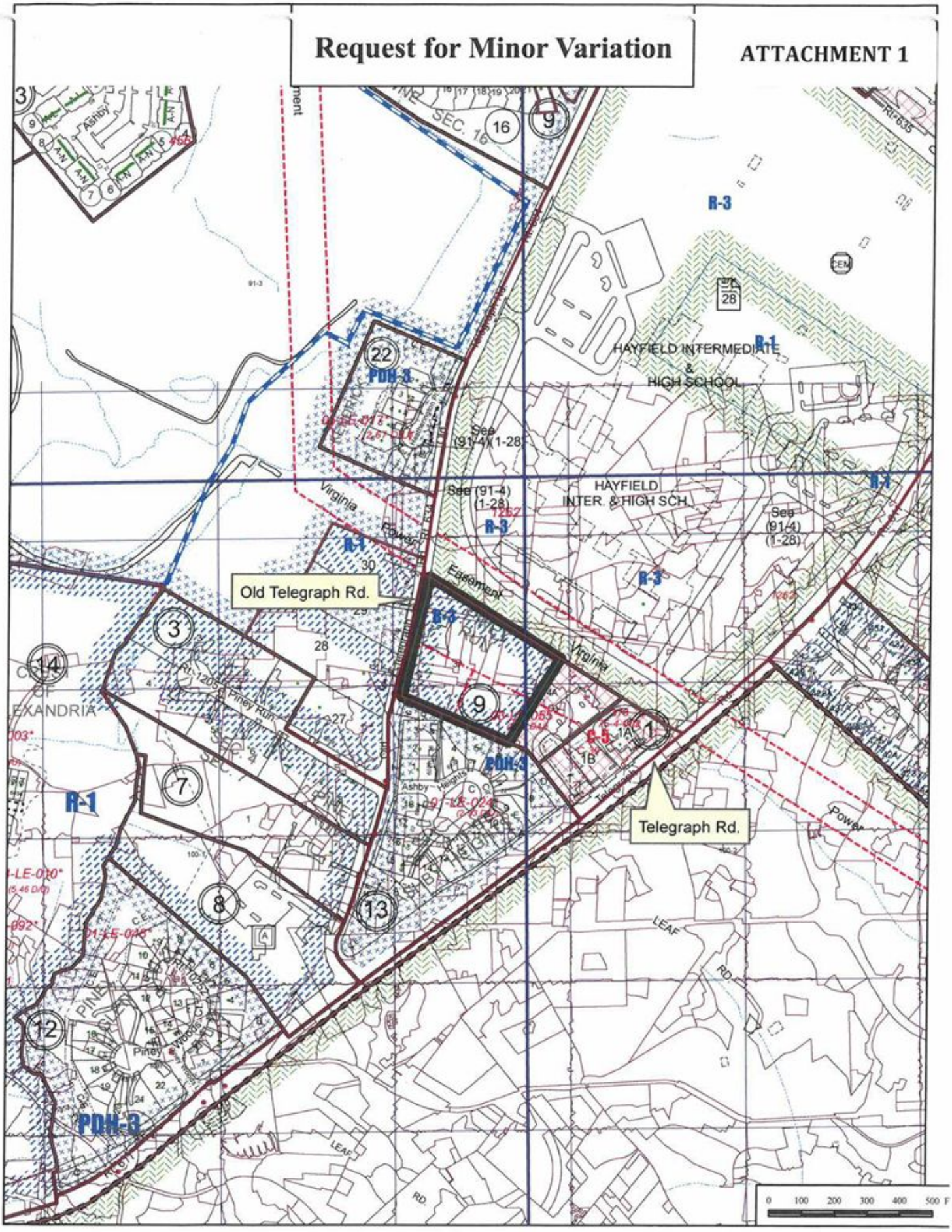
ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Minor Variation Statement
Attachment 3: Letter dated May 11, 2018, to Tracy Strunk
Attachment 4: Proposed Elevations
Attachment 5: Affidavit available online at:
https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning/minorvariations/2018minorvariations.pdf

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPZ
Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ
Bob Katai, Staff Coordinator, ZED, DPZ

ASSIGNED COUNSEL:
Sara Silverman, Assistant County Attorney, Office of the County Attorney

Request for Minor Variation

ATTACHMENT 1



MINOR VARIATION STATEMENT

Hayfield Animal Hospital - Evergreene
RZ 2003-LE-055

Tax Map No. 100-1-((9))-3A

June 20, 2018

Pursuant to Section 18-204 of the Zoning Ordinance, the property owners, Cynthia D. Armstrong and Ray Armstrong, Trustees, and the contract purchaser, The Evergreene Companies, LLC, hereby request approval of a Minor Variation to the Proffers governing Tax Map 100-1-((9))-3A to permit the addition of cementitious facing, with brick and/or stone at grade treatment, to the permitted architectural treatments outlined in Proffer B-7 of RZ 2003-LE-055, and commits that the proposed residential units will be developed otherwise in substantial conformance with the governing proffers dated May 18, 2005.

TITLE OWNER OF TAX MAP 100-1-((9))-3A:

_____
Ray Armstrong

_____
Cynthia D. Armstrong

CONTRACT PURCHASER:

THE EVERGREEN COMPANIES, LLC

By: _____
Its: _____

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McGuireWoods LLP
1750 Tysons Boulevard
Suite 1800
Tysons, VA 22102-4215
Phone: 703.712.5000
Fax: 703.712.5050
www.mcguirewoods.com

Scott E. Adams
Direct: 703.712.5461

McGUIREWOODS

sadams@mcguirewoods.com
Fax: 703.712.5278

ATTACHMENT 3

May 11, 2018

Ms. Tracy Strunk, Director
Zoning Evaluation Division
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

Re: Minor Variation Request - Revised
Hayfield Animal Hospital Rezoning
RZ 2003-LE-055
Tax Map No. 100-1-((9))-3A

Dear Ms. Strunk,

On behalf of our client, The Evergreene Companies, LLC, the property owner, we formally request a minor variation to permit the addition of cementitious facing with brick and/or stone at grade treatment to the permitted architectural treatments outlined in Proffer B-7 of the above-referenced rezoning. The proffer reads:

> ***Architectural Treatment.*** *The front facades of the new units shall have brick or stone facings. The side facade of the unit on Lot 1, facing Old Telegraph Road, shall also have a brick or stone facing. In the event that Lot 8 is redeveloped with a new dwelling, the front façade of the new dwelling and the side façade of the new dwelling facing Old Telegraph Road, shall also have a brick or stone facing.*

A. BACKGROUND

The Board of Supervisors approved the above-mentioned rezoning application on June 6, 2005. The Board's actions rezoned +/- 3.02 acres of land to the R-3 District to permit residential development at an overall density of 2.65 dwelling units per acre. The property is subject to the proffers dated May 18, 2005.

B. REQUEST FOR MINOR VARIATION – Additional façade material

Based upon today's market demand and preference for cementitious siding, the developer wishes to add this material, with brick and/or stone at grade treatment, to the façade options in addition to the brick or stone stated in the proffers.

Pursuant to Section 18-204(5) of the Zoning Ordinance, minor variations to proffered conditions and the associated Generalized Development Plan (GDP) may be approved by the Board of Supervisors without a public hearing provided that "such requests cannot materially affect proffered conditions of use, density or intensity, and are permissible only in one or more of the following circumstances", including:

> Section 18-204(5)(A)(6) To modify architectural design, character, color, features, or materials for buildings and signs provided such modifications are of equivalent quality and do not have a materially adverse impact on adjacent properties.

The Applicant is requesting a minor variation related to architectural design. At the time of the rezoning approval, Brick and Stone was the formula for an upgraded material. The new upgrade desired by the market now includes the Hardi premium option. The proffer's intent is to provide a finish material of higher quality than Vinyl siding and this minor variation continues to provide the same commitment. In addition, the developer will maintain the brick/stone to grade/base treatments.

In addition, the cementitious siding option fits into the character of the surrounding neighborhoods. It continues to respect the residential development criteria and is compatibility with other façade treatments of adjacent communities.

Further, market conditions have changed in the past 12 years. Cementitious siding is a rising trend in the industry as more homeowners request harder surfaces than brick/stone. It is a product that lasts and comes in a wide variety of textures and colors. Industry advantages include:

a) **Longevity**: Most cementitious siding comes with a 50-year, limited transferable warranty. This siding is completely rot and insect resistant.
b) **Appearance**: Cementitious siding can be made to mimic just about any other siding material, including wood lap boards, cedar shingles, and wood shake siding. Color options are virtually unlimited.
c) **Fire Resistance**: Cementitious siding is 90 percent sand and cement which makes it fire-resistant.
d) **Storm Resistance:** Cementitious siding is a proven commodity in the weather department.

C. CONCLUSION

Approval of this Minor Variation request will not substantially change or alter what was originally approved, and it continues to meet the design criteria of the development and its compatibility with the neighborhood context.

For the reasons set forth herein, the Applicant respectfully requests approval of this Minor Variation request.

Sincerely,

Scott E. Adams, Esquire

cc: Josh Marshall, PE, Land Design
Jason Moss, The Evergreene Companies, LLC

101450563_6.doc

Evergreene HOMES

HAYFIELD

7701 OLD TELEGRAPH ROAD
ALEXANDRIA, VA 22315

RECEIVED
Department of Planning & Zoning
MAY 11 2018
Zoning Evaluation Division



BURWELL
ELEVATION F SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



WOODSON
ELEVATION B SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



ADDISON
ELEVATION A SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



BARRETT
ELEVATION K SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



KEENE MILL
ELEVATION M SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



KEENE MILL
ELEVATION L SHOWN
CEMENTIOUS SIDING
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KEENE MILL
ELEVATION K SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



KEENE MILL
ELEVATION G SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.



KEENE MILL
ELEVATION A SHOWN
CEMENTIOUS SIDING
ELEVATIONS WITH
STONE TO GRADE.

Pricing, financing, and offers are subject to change without notice. Certain restrictions may apply. Photos shown may be for representative purposes only. Above information is believed to be accurate but should not be relied on without verification. See Sales Representative for complete details. Brokers Warmly Welcomed.

MYEVERGREENEHOME.COM | 703.667.7878 | SALES@EVERGREENEHOMES.COM

4-3-18 SHM

Evergreene HOMES

HAYFIELD

7701 OLD TELEGRAPH ROAD
ALEXANDRIA, VA 22315



KEENE MILL
ELEVATION M SHOWN



BARRETT
ELEVATION K SHOWN



BURWELL
ELEVATION F SHOWN



WOODSON
ELEVATION B SHOWN



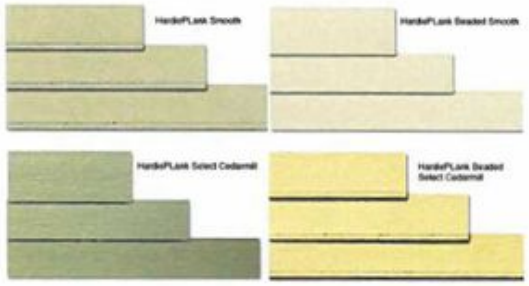
ADDISON
ELEVATION A SHOWN

CEMENTIOUS SIDING DETAIL AND PATTERN OPTIONS:









Board Action Item
July 31, 2018

ACTION - 18

Approval of a Permit Application and Review Criteria for Administrative Review-Eligible Projects and Direction to Process them Administratively for a $500 Fee

ISSUE:
Approval of a permit application and review criteria for administrative review-eligible projects and direction to process them administratively for a $500 fee.

RECOMMENDATION:
The County Executive recommends that the Board approve the proposed permit application and review criteria for administrative-review eligible projects to be processed administratively for a $500 fee.

TIMING:
Board of Supervisors' action is requested on July 31, 2018.

BACKGROUND:
On July 1, 2018, new telecommunications legislation took effect, including Virginia Code § 15.2-2316.3 and -2316.4:1. This legislation defined the term "administrative review-eligible project" (AREP) to include two types of projects: (1) the installation or construction of a new structure that is not more than 50 feet in height (and meets all other applicable criteria); and (2) the co-location on an existing structure of a wireless facility that is not a small cell facility. *See* Va. Code § 15.2-2316.3.

In Va. Code § 15.2-2316.4:1, the General Assembly prohibited localities from requiring a special exception for AREPs but allowed localities to require administrative review for the issuance of a zoning permit for those projects. Until July 1, Fairfax County did not require any zoning permit for co-locations of non-small cell facilities on existing structures, as long as they met the limitations of Sect. 2-514 of the Zoning Ordinance. Such co-locations were processed under a 2232 feature shown application for a $750 fee. The County did require a special exception (SE) and a companion 2232 application for all new structures, including 50-foot structures that now qualify as AREPs. As long as the SE and 2232 applications were processed concurrently, applicants were charged only the SE application fee of $16,375 and not the $1,500 2232 fee.

The new legislation did not include any changes to Virginia Code § 15.2-2232. However, it specifically authorizes localities to conduct an administrative (no public hearing) review of AREP applications. To harmonize the County's existing regulatory framework with the new legislation, staff has prepared a combined 2232 and zoning permit application for AREPs that is proposed to be processed administratively. *See* Attachment 3. The permit includes review criteria that will be used to determine

whether a project may be approved. These objective criteria are based on existing guidelines in the Comprehensive Plan and provisions in the Zoning Ordinance, and they include reasonable requirements for the presentation and appearance of projects.

The new legislation limits localities to charging only a reasonable fee for AREP applications not to exceed $500, with the cost basis to be made available upon request. The Board adopted 2232 and feature-shown application fees last year in the amount of $1,500 and $750, respectively. *See* Attachment 2. These fees represent a cost recovery rate of approximately one-half to two-thirds of the costs incurred in processing the applications. *See* Attachment 2. The fees were based on the amount of time and work involved in the different types of reviews, with a higher rate charged for the more time- and labor-intensive 2232 applications with a public hearing. By directing staff to accept only a $500 fee for the combined 2232/zoning permit application for AREPs—a reduction of $250-$1000 (depending on application type)—the Board would bring the County's fee structure in line with the new legislation.

In sum, staff recommends that the Board approve the combined 2232/zoning permit application for AREPs, including the review criteria in the permit; direct staff to accept a $500 application fee for this type of application; and direct staff and the Planning Commission not to hold a public hearing during the processing of any AREP application.

FISCAL IMPACT:
As of July 1, the County may charge only $500 for a permit review of AREP applications. Based on the patterns exhibited in FY 2018, it is estimated that this change could result in a small potential revenue loss of $5,500. There may be a more significant revenue impact if behavior regarding permit applications changes as a result of the legislation. Department of Planning and Zoning staff will work with staff from the Department of Management and Budget to monitor these fees and notify the Board if budgetary adjustments are needed to revenues.

ENCLOSED DOCUMENTS:
Attachment 1 - New legislation
Attachment 2 – June 20, 2017 Board item
Attachment 3 - Administrative review-eligible project permit application

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Lorrie Kirst, Senior Deputy Zoning Administrator, DPZ
Michelle K. Stahlhut, Branch Chief, Public Facilities Branch, Planning Division, DPZ

ASSIGNED COUNSEL:
Laura S. Gori, Senior Assistant County Attorney

VIRGINIA ACTS OF ASSEMBLY -- 2018 RECONVENED SESSION

CHAPTER 835

An Act to amend and reenact § 15.2-2316.3 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-2316.4:1, 15.2-2316.4:2, and 15.2-2316.4:3, relating to zoning for wireless communications infrastructure.

[H 1258]

Approved April 18, 2018

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2316.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-2316.4:1, 15.2-2316.4:2, and 15.2-2316.4:3 as follows:

§ 15.2-2316.3. Definitions.

As used in this article, unless the context requires a different meaning:

"Administrative review-eligible project" means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any existing structure of a wireless facility that is not a small cell facility.

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"New structure" means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

"Project" means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 apply.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Standard process project" means any project other than an administrative review-eligible project.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 15.2-2316.4:1. Zoning; other wireless facilities and wireless support structures.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for the installation or construction of an administrative review-eligible project but may require administrative review for the issuance of any zoning permit, or an acknowledgement that zoning approval is not required, for such a project.

B. A locality may charge a reasonable fee for each application submitted under subsection A or for any zoning approval required for a standard process project. The fee shall not include direct payment or reimbursement of third-party fees charged on a contingency basis or a result-based arrangement. Upon request, a locality shall provide the applicant with the cost basis for the fee. A locality shall not charge market-based or value-based fees for the processing of an application. If the application is for:

1. An administrative review-eligible project, the fee shall not exceed $500; and

2. A standard process project, the fee shall not exceed the actual direct costs to process the application, including permits and inspection.

C. The processing of any application submitted under subsection A or for any zoning approval required for a standard process project shall be subject to the following:

1. Within 10 business days after receiving an incomplete application, the locality shall notify the applicant that the application is incomplete. The notice shall specify any additional information required to complete the application. The notice shall be sent by electronic mail to the applicant's email address provided in the application. If the locality fails to provide such notice within such 10-day period, the application shall be deemed complete.

2. Except as provided in subdivision 3, a locality shall approve or disapprove a complete application:

a. For a new structure within the lesser of 150 days of receipt of the completed application or the period required by federal law for such approval or disapproval; or

b. For the co-location of any wireless facility that is not a small cell facility within the lesser of 90 days of receipt of the completed application or the period required by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).

3. Any period specified in subdivision 2 for a locality to approve or disapprove an application may be extended by mutual agreement between the applicant and the locality.

D. A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified in subdivision C 2 or any agreed extension thereof pursuant to subdivision C 3.

E. If a locality disapproves an application submitted under subsection A or for any zoning approval required for a standard process project:

1. The locality shall provide the applicant with a written statement of the reasons for such disapproval; and

2. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1. The locality's subsequent disapproval of an application

for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the locality's subsequent disapproval was arbitrary or capricious in any appeal of the locality's action.

F. A locality's action on disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project shall:

1. Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and

2. Be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

G. An applicant adversely affected by the disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of § 15.2-2285, or to § 15.2-2314 if the requested zoning approval involves a variance, within 30 days following delivery to the applicant or notice to the applicant of the record described in subdivision F 2.

§ 15.2-2316.4:2. Application reviews.

A. In its receiving, consideration, and processing of a complete application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project, a locality shall not:

1. Disapprove an application on the basis of:

a. The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;

b. The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or

c. The wireless facility technology selected by the applicant for use at the project;

2. Require an applicant to provide proprietary, confidential, or other business information to justify the need for the project, including propagation maps and telecommunications traffic studies, or information reviewed by a federal agency as part of the approval process for the same structure and wireless facility, provided that a locality may require an applicant to provide a copy of any approval granted by a federal agency, including conditions imposed by that agency;

3. Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application. A locality may adopt reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;

4. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other types of financial surety, to ensure that abandoned or unused wireless facilities can be removed, unless the locality imposes similar requirements on other permits for other types of similar commercial development. Any such instrument shall not exceed a reasonable estimate of the direct cost of the removal of the wireless facilities;

5. Discriminate or create a preference on the basis of the ownership, including ownership by the locality, of any property, structure, base station, or wireless support structure, when promulgating rules or procedures for siting wireless facilities or for evaluating applications;

6. Impose any unreasonable requirements or obligations regarding the presentation or appearance of a project, including unreasonable requirements relating to (i) the kinds of materials used or (ii) the arranging, screening, or landscaping of wireless facilities or wireless structures;

7. Impose any requirement that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by a locality, in whole or in part, or by any entity in which a locality has a competitive, economic, financial, governance, or other interest;

8. Condition or require the approval of an application solely on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project;

9. Impose a setback or fall zone requirement for a project that is larger than a setback or fall zone area that is imposed on other types of similar structures of a similar size, including utility poles;

10. Limit the duration of the approval of an application, except a locality may require that construction of the approved project shall commence within two years of final approval and be diligently pursued to completion; or

11. Require an applicant to perform services unrelated to the project described in the application, including restoration work on any surface not disturbed by the applicant's project.

B. Nothing in this article shall prohibit a locality from disapproving an application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project:

1. On the basis of the fact that the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds 50 feet above ground level, provided that the locality follows a local ordinance or regulation that does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent

services; or

2. That proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan, if:

a. The undergrounding requirement or comprehensive plan objective existed at least three months prior to the submission of the application;

b. The locality allows the co-location of wireless facilities on existing utility poles, government-owned structures with the government's consent, existing wireless support structures, or a building within that area;

c. The locality allows the replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller within that area; and

d. The disapproval of the application does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.

C. Nothing in this article shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of a new structure or facility.

D. Nothing in this article shall prohibit a locality from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

§ 15.2-2316.4:3. Additional provisions.

A. A locality shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller. However, a locality may require a permit to work within the right-of-way for the activities described in clause (i) or (ii), if applicable.

B. Nothing in this article shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.

2. That any publicly-owned or privately-owned wireless service provider operating within the Commonwealth or serving residents of the Commonwealth shall, by January 1, 2019, and annually thereafter until January 1, 2025, provide to the Department of Housing and Community Development a report detailing by county, city, and town enhanced service capacity in previously served areas and expansion of service in previously unserved geographic areas that are provided access to wireless services. Notwithstanding any other provision of law, the Department shall maintain the confidentiality of company-specific data but may publicly release aggregate data.

3. That the Secretariats of Commerce and Trade and Public Safety and Homeland Security shall convene a group of stakeholders, to include representatives from the Department of Housing and Community Development, the Virginia Economic Development Partnership, the Virginia Tobacco Region Revitalization Commission, and the Department of Emergency Management, industry representatives, and representatives of affected communities, to develop a plan for expanding access to wireless services in unserved and underserved areas of the Commonwealth. The plan shall be completed by December 15, 2018. The plan shall include the following components: a definition of unserved and underserved areas, identification of barriers to access to wireless services in such areas, a proposed expedited review process for such areas, identification of ways to encourage industry to locate in such areas, and consideration of a lower fee for such an expedited review process.

Board Agenda Item **REVISED**
June 20, 2017

4:00 p.m. -

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Public Facilities and Modifications to Existing Wireless Towers or Base Stations

ISSUE:
Fairfax County currently does not charge a fee for processing the review of public facilities under §15.2-2232 of the *Code of Virginia* ("2232 review") and modifications to existing wireless towers and base stations under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455). These reviews are chiefly for telecommunications facilities, monopoles, towers, and antennas that require a great deal of staff time and resources to process, although 2232 reviews also apply to non-telecommunication related public facilities. The FY 2018 budget includes the institution of fees in an effort to recoup some of the costs associated with these reviews. The fees proposed in this amendment are as follows:

2232 Review with other rezoning, special permit or special exception:	$0
2232 Review with Public Hearing:	$1,500
2232 Feature Shown Review without public hearing:	$750
2232 Feature Shown Review for Distributed Antenna Systems (DAS):	$750

Note: Feature Shown review fees for DAS: $750 fee for the first node, $100 fee for each node thereafter, with a maximum of 20 nodes per single application.

Reviews required to determine compliance with Section 6409 of the Spectrum Act: $500

This amendment also adds a new Sect. 2-520 that clarifies when an eligible facilities request for modification of a wireless tower or base station is subject to review under Section 6409 of the Spectrum Act and when such modification request is instead subject to 2232 review. This section also defines "eligible facilities request" and "base station" as used in this context. Additionally, the amendment creates a new Section 2-521 to clarify what is considered a "public facility" under the Zoning Ordinance and in the context of Sect. 15.2-2232 review. Sections 2-520 and 2-521 provide that the reviews described therein are subject to fees as provided for in Sect. 18-106 of the Zoning Ordinance.

PLANNING COMMISSION RECOMMENDATION:
On June 15, 2017, the Planning Commission voted 10-0 (Commissioner Sargeant recused himself from the vote and Commissioner Keys-Gamarra was absent from the meeting) to recommend to the Board of Supervisors that the Public Facilities and Modifications to Existing Wireless Towers or Base Stations Zoning Ordinance Amendment be adopted as advertised and contained in the staff report dated May 16, 2017, with an effective date of July 1, 2017 at 12:01 a.m. The Planning Commission further moved to recommend that applications for public facilities under Section 15.2-2232 of the *Code of Virginia* and applications for modifications to existing wireless facilities submitted under Section 6409 of the Spectrum Act, which were filed prior to the effective date of this amendment and are in compliance with the applicable submission requirements, shall be grandfathered from this amendment.

RECOMMENDATION**:**
The County Executive concurs with the Planning Commission's recommendation.

TIMING:
Board authorization to advertise - May 16, 2017; Planning Commission public hearing - June 15, 2017, at 8:15 p.m.; Board public hearing - June 20, 2017, at 4:00 p.m.

BACKGROUND:
As part of the FY 2018 budget process, the County Executive asked all departments to look for ways to reduce costs and to enhance revenues where appropriate. The Department of Planning and Zoning currently does not charge a fee for processing 2232 and Sect. 6409 reviews. The institution of application fees is an appropriate strategy to recoup some of the costs associated with these reviews and to treat these actions similar to how other zoning reviews and zoning actions are handled by the county.

REGULATORY IMPACT:
The proposed Zoning Ordinance would require applicants for 2232 review under §15.2-2232 of the *Code of Virginia*, and 6409 reviews under the Spectrum Act, to pay an application fee to cover some of the costs associated with these reviews. Under provisions already in the ordinance, these new fees would not be required where the applicant is the County or any agency, authority, commission or other body specifically created by the County, such as the Fairfax County School Board or Park Authority.

FISCAL IMPACT:
The proposed 2232 fees will vary based on the type of application. Based on recent experience we estimate that there will be approximately 90 applications next year that will be subject to these new fees and that collectively these applications will generate revenue on the order of $85,000 per year. This amendment proposes a set fee that will apply to Sect. 6409 reviews.

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

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Chris Caperton, Assistant Director, Planning Division

ASSIGNED COUNSEL:
Laura S. Gori, Senior Assistant County Attorney

ATTACHMENT 1

FAIRFAX COUNTY

V I R G I N I A

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

PUBLIC FACILITIES AND
MODIFICATIONS TO EXISTING WIRELESS TOWERS OR BASE STATIONS

PUBLIC HEARING DATES

Planning Commission — **June 15, 2017 at 8:15 p.m.**

Board of Supervisors — **June 20, 2017 at 4:00 p.m.**

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

May 16, 2017

FS/CC

Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

As part of the FY 2018 budget process the County Executive requested all departments to look for ways to reduce costs and to enhance revenues where appropriate. The Department of Planning and Zoning (DPZ) historically has processed reviews required under § 15.2-2232 of the *Code of Virginia* ("2232 reviews") without any type of application fee, whereas many other jurisdictions charge for this service. Therefore, DPZ identified the establishment of a 2232 review application fee as an appropriate strategy to recoup some of the costs associated with these reviews.

The proposed Zoning Ordinance amendment would add new sections to Part 5 of Article 2, General Regulations, addressing the review of public facilities under § 15.2-2232 of the *Code of Virginia* and modifications to existing wireless towers and base stations under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455). The amendment establishes an application fee requirement to cover the costs associated with these types of review. Under provisions already in the Zoning Ordinance, the new 2232 fee would not apply to County agencies seeking 2232 review for their projects.

In formulating this amendment to establish fees for 2232 applications, staff used the following as guiding principles:

- Establish different fees based on the types of 2232 review applications differentiating between those requiring a public hearing and those that are deemed to be a "Feature Shown" in the Comprehensive Plan where a public hearing is not required. There would also be an initial application fee and a lesser per node fee for Distributed Antenna Systems (DAS) where multiple antenna locations are reviewed under a single application. Lastly, there would be a separate fee for modifications to existing wireless facilities under Sect. 6409 of the Spectrum Act. This fee structure is based on the differing amounts of time and work involved, depending on the type of review.

- Represent a cost recovery rate of approximately one-half to two-thirds of the costs incurred in the processing of the various types of 2232 review applications.

- Be generally comparable to similar types of zoning application fees.

- Conform with Sect. 15.2-2286(A)(6) of the *Code of Virginia* which provides that the Zoning Ordinance may include reasonable provisions "[f]or the collection of fees to cover the costs of making inspections, issuing permits, advertising of notices, and other expenses incident to the administration of a zoning ordinance or to the filing and processing of an appeal or amendment thereto.

The proposed amendment will establish the following fees for 2232 review applications and applications submitted for review under Sect. 6409 of the Spectrum Act:

2232 applications with a public hearing:	$1500
2232 Feature Shown without a public hearing:	$750

2232 Review with other rezoning, special permit or special exception: $0

2232 Feature Shown for DAS: $750

Sect. 6409 of the Spectrum Act Review: $500

Note: For purposes of computing fees for DAS, there will be a $750 fee for the first node, a $100 fee for each node thereafter, and a maximum of 20 nodes per single application**.**

These fees are being proposed based on the staff resources required to process a typical 2232 review or Spectrum Act request.

Staff recommends approval of the proposed amendment with an effective date of 12:01 A.M. on July 1, 2017.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of May 16, 2017 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 2, General Regulations, Part 5, Qualifying Use, Structure Regulations, as follows:

- **Add a new Sect. 2-520 to read as follows:**

2-520 Modifications to Existing Wireless Towers or Base Stations

Once wireless facilities are approved in accordance with this Ordinance, any eligible facilities request for a modification of a wireless tower or base station that does not substantially change the physical dimensions of such tower or base station must be submitted to the Zoning Administrator for review and decision under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455). An eligible facilities request for a modification that would substantially change the physical dimensions of a wireless tower or base station is subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Any application for Sect. 6409 review or 15.2-2232 review is subject to the fee provided for in Sect. 18-106.

An eligible facilities request includes any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

A base station is a structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

- **Add a new Sect. 2-521 to read as follows:**

2-521 Public Facilities

A public facility is any use, facility, or other feature that is subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Any application for such review is subject to the fee provided for in Sect. 18-106.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by adding new Paragraphs 12 and 13 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

12. Reviews required to comply with Sect. 15.2-2232 of the Code of Virginia, as provided for in this Ordinance:

2232 Review with public hearing:	$1500
2232 Feature Shown without public hearing:	$750
2232 Review with other rezoning, special permit or special exception:	$0
2232 Feature Shown for Distributed Antenna Systems (DAS):	$750

Note: For purposes of computing fees for DAS, there shall be a $750 fee for the first node, a $100 fee for each node thereafter, and a maximum of 20 nodes per single application.

13. Reviews required to determine compliance with Sect. 6409 of the Spectrum Act $500

County of Fairfax, Virginia
Planning Commission Meeting
June 15, 2017
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT – PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING WIRELESS TOWERS OR BASE STATIONS – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Add a new Sect. 2-520, Modifications to Existing Wireless Tower or Base Station, that requires any eligible facilities request for a modification of a wireless tower or base station that does not substantially change the physical dimensions of such tower or base station to be submitted to the Zoning Administrator for review and decision under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455) and any eligible facilities request for a modification that would substantially change the physical dimensions would be subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Applications for review under Sect. 2-520 will be subject to the fee provided for in Sect. 18-106. Sect. 2-520 defines the terms eligible facilities request and base station as they are used in the context of Sect. 6409 review.

1. *Add a new Sect. 2-521, Public Facilities, which states that a public facility is any use, facility, or other feature that is subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Sect. 2-521 further provides that any application for such review is subject to the fee provided for in Sect. 18-106;*

2. *Pursuant to authority granted by Section 15.2-2286(A)(6) of the Code of Virginia, add the following filing fees to Sect. 18-106:*

   (a) Reviews required to comply with Sect. 15.2-2232 of the Code of Virginia:

   - *2232 Review with public hearing: $1,500*
   - *2232 Feature Shown without public hearing: $750*
   - *2232 Review with other rezoning, special permit or special exception: $0*
   - *2232 Feature shown for Distributed Antenna Systems (DAS): $750.*

   There will be a $750 fee for the first DAS node, a $100 fee for each node thereafter, and a maximum of 20 nodes per single application.

Reviews required under Sect. 6409 of the Spectrum Act - $500 (Countywide)

After Close of the Public Hearing

Commissioner Hart: Thank you Mr. Chairman. This amendment is…is relatively straightforward and, I assumed, would be easier than the first one. It has staff's favorable recommendation and I support that. I…I THEREFORE MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING WIRELESS TOWERS AND THE BASE STATIONS ZONING ORDINANCE AMENDMENT BE ADOPTED, AS ADVERTISED AND CONTAINED IN THE STAFF REPORT DATED MAY 16, 2017, WITH AN EFFECTIVE DATE OF JULY 1, 2017 AT 12:01 A.M.

Commissioners Hedetniemi and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Public Facilities and Modifications to Existing Wireless Towers and Base Stations Zoning Ordinance Amendment, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I FURTHER MOVE THAT APPLICATIONS FOR PUBLIC FACILITIES UNDER SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AND APPLICATIONS FOR MODIFICATIONS TO EXISTING WIRELESS FACILITIES SUBMITTED UNDER SECTION 6409 OF THE SPECTRUM ACT, WHICH WERE FILED PRIOR TO THE EFFECTIVE DATE OF THIS AMENDMENT AND ARE IN COMPLIANCE WITH THE APPLICABLE SUBMISSION REQUIREMENTS, SHALL BE GRANDFATHERED FROM THIS AMENDMENT.

Commissioner Ulfelder: Second.

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

Commissioners: Aye.

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

Each motion carried by a vote of 10-0. Commissioner Sargeant recused himself from the vote. Commissioner Keys-Gamarra was absent from the meeting.

JLC

Administrative Review Eligible Project (AREP)
Telecommunications Application Instructions

Overview

AREP applications are reviewed in accordance with Virginia Code §§ 15.2-2316.3, -2316.4:1, 15.2-2232, and Fairfax County Zoning Ordinance § 2-514.

AREP applications proposing a new structure must meet the below criteria:

- New wireless support structures must be located in the public right-of-way or within an existing line of utility poles.
- New wireless support structures may not exceed 50 feet above ground level.
- New wireless support structure with attached wireless facilities also may not be more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles.
- New wireless support structures may not be located within the boundaries of a local, state, or federal historic district. For further information about Historic Overlay Districts please see the Fairfax County Department of Planning and Zoning Historic and Heritage Resources page.
- Wiring, Cables, and Conduit Requirements
    - All wiring and cables should be firmly secured to the support structure.
    - All mounting brackets and wiring, cables, and conduits that are not located in a fully enclosed structure should be of a color that matches or blends with the existing structure.
    - Spools or coils of excess fiber optic or cables or any other wires may not be stored on the pole except completely within approved enclosures or cabinets.
- Equipment
    - All equipment and support structures must be the same color as the pole and covered by rust-proof treatment or materials.
    - All equipment must be flush mounted to the pole or supported by mounting brackets. The equipment and support brackets should not extend beyond the pole by more than 8 inches.
- Pole specifications
    - All new wireless support structures must be constructed of materials designed to match or closely replicate existing utility poles within the same right-of-way or line of poles.
    - All poles must be designed to support small cell facilities.
- Applicants must provide documentation of the property owner's permission to install a new structure.

AREP applications proposing co-location must meet the below criteria:

- Must propose co-location on an existing structure.
- The wireless facility to be installed or mounted may not be a small cell facility.
- Antennas must be enclosed in a canister or other enclosure, be flush mounted, or be fully screened by a wall, vegetation or other existing structure
- All facilities must be of a material or color that closely matches or blends with the exterior of the building or structure on which they are mounted.
- The related equipment cabinet or structure must be fully enclosed in an existing structure or designed to match or blend with the structure on which it is located.
- Applicants must provide documentation of the existing structure owner's permission to co-locate wireless facilities on that structure.

AREP applications will also be reviewed in accordance with applicable Policy Plan guidance. In accordance with state law, they may be disapproved if they propose installation of a new structure or co-location on an existing structure in an area of the County where all cable and public utility facilities are encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in the objectives contained in the Comprehensive Plan A list of these areas is available upon request.

For AREPs located on Fairfax County Park Authority properties, contact the Park Planning & Development Division at 703-324-8741 for Pre-Application, prior to submitting telecommunications applications.

For AREPs located on Fairfax County Public Schools (FCPS) properties, contact FCPS at 571-423-2303 prior to submitting telecommunications applications.

Fee Schedule

AREP applications must be accompanied by a fee of $500 per application paid by cash, check, or money order payable to the County of Fairfax.

Submission Requirements

A. Completed Permit Application
Two (2) completed copies of application (including photosims, tax record, etc.)

B. Property Identification Map: Provide the official tax record and map for the subject property available online at **http://icare.fairfaxcounty.gov/Main/Home.aspx.**

C. Proposed Facility / Site Plan (Scale of 1"= not more than 50'):
1. One (1) 24" x 36" copy to correct scale
2. Two (2) 11" x 17" copies to correct scale
3. One (1) 8½" x 11" copy
   Note: County Staff may request additional copies.

D. Relevant Information
1. Scale and north arrow.
2. Subject and adjoining property boundaries.
3. Public right(s)-of-way and names.
4. Locations, dimensions, and maximum heights of all existing and proposed structures and equipment.
5. Distance of proposed structures and equipment to all lot lines.
6. When located in a utility easement or road right-of-way, distance of structures and equipment to all utility easement lines or road right-of-way lines.
7. Any features of the proposed use such as fencing, screening and landscaping.
8. Antenna and mounting detail with dimensions. Provide catalog cut sheets.
9. Equipment cabinet or shelter detail with dimensions. Equipment cabinets include generators and telco cabinets. Provide catalog cut sheets for equipment cabinets (except if within a shelter) and generators.

E. Photographs of Site: Photographs of the existing structure, building, and site as applicable.

F. Photo Simulations: Provide photo simulations of the proposed facility. Clearly identify the location of existing and new structures, and show the relationship to existing site features such as buildings, trees, and other physical features.

G. Schematic Drawings: Provide schematic drawings of the facility showing the color, proposed material and scale of the proposed facility relative to the existing structure.

H. Property Owner or Existing Structure Owner Consent Letter: As indicated on the application form, the applicant must submit a statement from the owner of the property consenting to the installation of a new structure or a statement from the owner of the existing structure consenting to the co-location of a wireless facility that is not a small cell facility on the structure.

Submit completed application and supporting application materials to:
The Facilities Planning Branch
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, Suite 730
Fairfax, Virginia 22035-5507

For questions, call **(703) 324-1380**

Form created on July 17, 2018

ADMINISTRATIVE REVIEW-ELIGIBLE PROJECT PERMIT APPLICATION
County of Fairfax, Virginia

**** This area to be completed by County staff ****

PROJECT APPLICATION NUMBER _____

PROJECT APPLICATION FEE _____

New Submission ____ **Resubmission/Revision** ____

LOCATION OF PROPOSED USE
Address (or closest address)

_____

City/Town _____ Zip Code _____

Place Name (if any) _____

Tax Map I.D. Number(s) or closest tax map I.D. _____

Facility latitude/longitude (Decimal Degrees): _____

Is documentation of the property owner or existing structure owner's consent to this proposed use attached?
Yes _____ No _____

Would the project facility be located within the boundaries of a local, state, or federal historic district?
Yes _____ No _____

Is the project structure designed to support small cell facilities? Yes _____ No _____

What is the project structure height, including any attached antennas/equipment? _____ ft.

What is the height of the highest utility pole within 500 feet of the project facility in the same public right of way or line of utility poles? _____ ft.

Is the project location in an area where all cable and public utility facilities are encouraged to be undergrounded as part of a rezoning proceeding as set forth in the Comprehensive Plan?
Yes _____ No _____

Would the project facility be located on public property? Yes _____ No _____
If yes, indicate public entity: _____
If yes, is the existing structure privately owned? If yes, indicate owner: _____

PROPERTY OWNER(S) OF RECORD

Owner _____

Street Address _____

City/Town _____ State _____ Zip Code _____

DESCRIPTION OF PROPOSED USE

NEW ANTENNA(S) Carrier _____

Model # or name	**Type** Panel, Dish, Omni	**QTY**	**Height**	**Width/ Diameter**	**Depth**	**Cubic Feet**	**RAD Center**

NEW EQUIPMENT

Model # or name	**Type** Cabinet, shelter, or telco	**QTY**	**Height**	**Width**	**Depth**	**Cubic Feet**	**RAD Center**

APPLICANT

Carrier _____

Agent Name _____

Company or Agency _____

Mailing Address _____

City/Town _____ **State** _____ **Zip Code** _____

Telephone Number (____) _____

E-mail _____

Secondary Contact (Must Be Provided) _____

Telephone Number (____) _____ **E-mail** _____

The undersigned acknowledges that additional Fairfax County land use and/or telecommunication review requirements may be identified during the review of this small cell telecommunication permit application and the fulfillment of such requirements is the responsibility of the applicant.

Signature of Applicant or Agent _____

Date _____

Board Agenda Item **REVISED**
July 31, 2018

ACTION – 19

Approval of a Memorandum of Understanding Between the Fairfax County Public Schools and the Fairfax County Police Department For the School Liaison Commander and the School Resource Officer Program

ISSUE:
Board approval of a Memorandum of Understanding (MOU) between the Fairfax County Public Schools (FCPS) and the Fairfax County Police Department (FCPD).

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the MOU.

TIMING:
Board action is requested on July 31, 2018.

BACKGROUND:
Fairfax County Board of Supervisors Chairman, Sharon Bulova, assembled a School Resource Officers (SRO) Community Review Committee. The group provided their perspective on what the new MOU should include. The committee was comprised of community members representing FCPS and community-based organizations with interests in ensuring a safe learning environment within our schools. Ms. Shirley Ginwright, Chair of the Fairfax County Communities of Trust Committee, served as the chair of the SRO Community Review Committee which met on July 2, 2018, July 9, 2018, and July 19, 2018. The School Board **approved** ~~**is scheduled to consider**~~ the MOU on July 26, 2018.

The purpose of this MOU is to establish a mutually beneficial framework so that both the FCPS and the FCPD can provide a safe learning environment for all members of the school community. The MOU clarifies the roles of key members in the program, the scope of responsibilities of the FCPS and the FCPD, and addresses information exchange.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Memorandum of Understanding between the Fairfax County Public Schools and the Fairfax County Police Department (2014)
Attachment 2: ~~**Available Following School Board Action**~~ - Memorandum of Understanding between the Fairfax County Public Schools and the Fairfax County Police Department (2018), **as adopted by the School Board on July 26, 2018 (clean and marked-up version)**

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:
Karen L. Gibbons, Deputy County Attorney

SCHOOL LIAISON COMMANDER (SLC), SCHOOL RESOURCE OFFICER (SRO) AND PROCEDURES FOR THE EXCHANGE OF INFORMATION

MEMORANDUM OF UNDERSTANDING
between
THE FAIRFAX COUNTY SCHOOL BOARD
and
THE FAIRFAX COUNTY POLICE DEPARTMENT
Revised July 1, 2014

INTRODUCTION

School systems throughout the United States are faced with an increasing demand on time and resources to plan for, respond to, and resolve issues relating to the safety and security of students, employees, and facilities. A prosperous future for Fairfax County depends greatly upon the ability to properly educate children. Effective schooling requires a safe and peaceful environment to encourage learning. Consequently, the Fairfax County Police Department, in collaboration with the Fairfax County School Board, conducts the School Liaison Commander (SLC) and School Resource Officer (SRO) Program to provide school administrators and staff with the law enforcement resources and expertise they need to maintain safety, order, and discipline throughout the school environment. This program is intended to ensure that no student's right to receive an education is abridged by violence or disruption and to provide relevant safety education programs to Fairfax County Public Schools (FCPS) students.

A Command Staff Officer will serve as the School Liaison Commander assigned to the school system. This commander ensures the coordination of resources, responses, and effective information sharing/notification between the Office of Safety and Security, affected Station Commanders, SROs and Patrol Bureau.

This Memorandum of Understanding clarifies the roles of the SLC, SRO, and School Administrators, and the scope of the responsibilities of Fairfax County School Board and the Fairfax County Police Department in this collaboration. As the success of the program relies upon effective communication between the SLC, SRO, school principals, and staff members of both agencies, this Memorandum of Understanding also clarifies the procedures pertaining to the exchange of information between the agencies. While refinements to this Memorandum of Understanding may become necessary in the future, they may not be implemented without the written concurrence of both parties.

DUTIES AND RESPONSIBILITES

School Liaison Commander

- The School Liaison Commander (SLC) will establish and maintain a working knowledge of, and adhere to, all laws, ordinances, and regulations of county, state, and federal government, general orders, report writing manual, applicable Fairfax County personnel regulations, written policies, and procedural directives, as well as possess knowledge of school rules, regulations, and laws regarding student safety and conduct.

- The SLC will be a Command Staff Officer assigned to, and tasked to work in coordination with, the Office of Safety and Security of the Fairfax County Public Schools. As a sworn Fairfax County Police Officer, the SLC's definitive chain of command is a Patrol Bureau Commander of the Fairfax County Police Department. However, for day-to-day operations, directives, and general duties and responsibilities, the SLC's reporting authority will be the Director of the Office of Safety and Security. The SLC will be assigned to Fairfax County Public Schools for a period of one to three years, or a term mutually agreed upon. At that time, another Command Staff Officer will be rotated into the assignment at the discretion of the Deputy Chief of Patrol. Additionally, the SLC will have a combination of education and experience in law enforcement or related fields necessary to fulfill this Memorandum of Understanding.

- The SLC will serve in a consultant capacity as the direct point of contact between the Police Department and the school system for operational and administrative school safety and security issues that are outside the established scope of control of the Police Department structure. The SLC will manage and coordinate school security safety issues and attempt to anticipate problems before they occur by providing research, analyses, and recommendations to the Office of Safety and Security. A Fairfax County Police Patrol Bureau Commander will retain ultimate command of the School Resource Officer program.

- The SLC will establish and maintain effective relationships with school personnel and law enforcement agencies to ensure a continued commitment to keep schools safe for all students to reach their learning potential in an environment that leaves teachers free to help accomplish this goal.

- The SLC will assist the Office of Safety and Security in developing policies, procedures, and training programs to enhance the professional development of the School Security Officers, Safety and Security Specialists, and other school personnel. The SLC may make recommendations regarding the assignment of staff to ensure the security and safety of the Fairfax County Public Schools. The SLC may participate in new employee selection for the

Office of Safety and Security personnel and promotional processes, and provide information for performance evaluations.

- The SLC will coordinate with the Department of Facilities and Transportation Services concerning Crime Prevention through Environmental Design (CPTED) and its application in the design of both new construction and proposed renovations of school facilities. The SLC will analyze current technology and equipment in the security field and make recommendations based on thorough analysis and research. The SLC will investigate facility safety issues and make recommendations to address deficiencies. The SLC will coordinate plans to ensure timely completion of corrective actions.

- The SLC will assist in the preparation of the annual budget, identify needs and provide specifications and cost analysis, communicate and coordinate with vendors and suppliers, and assure proper use of equipment. The SLC will prepare letters, memoranda, and reports as required by the School Superintendent and the Chief of Police for areas affecting general school safety and security. The SLC will report to a Patrol Bureau Commander and the Director of the Office of Safety and Security on all general school safety and security issues that impact the respective agencies.

- The SLC will prepare, coordinate and review Fairfax County Public School generated critical incident response plans to address incidents that could occur in school facilities. This includes logistical considerations, communication needs, victim/witness processing requirements, and post incident debriefing. The SLC will coordinate with the Office of Emergency Management, the Police Department, and the Fairfax County Public Schools for the preparation of tabletop exercises and school safety drills.

- To ensure this cooperative arrangement operates in the best possible manner, the Deputy Chief of Patrol should meet periodically with the Assistant Superintendent of the Department of Facilities and Transportation Services, or his/her designee.

Financial Considerations

It is agreed by both parties in this Memorandum of Understanding, that the Fairfax County Public Schools will bear the cost of salary, overtime, and fringe benefits for the School Liaison Commander. The Police Department's in-kind contribution will be all necessary capital equipment and associated costs related to the SLC's police vehicle. The operating costs associated with the SLC position will be shared by both agencies.

SRO Supervisors

The School Liaison Commander shall be responsible for the overall command of the SRO Program. SRO Supervisors provide first line leadership and are tasked with specific duties, which include, but are not limited to:

- Provide timely notifications to the School Liaison Commander and District Station Commanders regarding matters related to Fairfax County Public Schools.
- Provide supervision, assistance with problem solving and development opportunities for SROs.
- Planning, budget, management, and agency leadership for the SRO Program.
- SRO Supervisors shall meet with their SROs on a continual basis at their schools to observe their performance of duty.
- SRO Supervisors shall meet with school principals before the start of, and throughout the school year.
- SRO Supervisors shall mitigate conflicts and/or clarify expectations in situations where there are ambiguous or overlapping policies or practices.
- SRO Supervisors shall periodically inspect storage areas in schools where he or she supervises an SRO to ensure compliance with Police Department General Orders.
- Provide initial and relevant recurrent training for SROs.
- Coordinate between Patrol Bureau Command, Station Command, School Administration, and School Resource Officers to ensure an effective program.
- Provide Station Command with assistance on SRO selection as needed.
- Act as a resource consistent with the Fairfax County Public Schools System-wide Emergency Response Plan.
- Ensure staffing for each school is assigned should the permanent SRO be absent more than two consecutive days.

School Resource Officer

- The School Resource Officer (SRO) is a sworn Fairfax County Police Officer assigned to provide the law enforcement expertise and resources required to assist the School Administrators in maintaining safety, order and discipline within their assigned school. The SRO comes under the supervision of a Police Supervisor. The SRO will be considered an active member of the administrative team of his or her assigned school. As such, administrative punishments normally imposed upon students for violations of law or school policy committed against a staff member, such as insubordination or assault, will be equally applied by school administrators to similar situations involving a student and a SRO. The designation of an SRO as a member of the administrative team is meant to facilitate the effective delivery of police service, assistance with matters related to safety and security, and to facilitate the exchange of information. SROs should not become involved in routine school matters unrelated to any law enforcement or security function.

- The SROs assigned school buildings, grounds and surroundings will be the equivalent of the SRO's police service area, and he or she assumes primary responsibility for handling all calls for service and coordinating the response of other police resources to the school. Pursuant to Section 22.1-279.3:1 of the Code of Virginia, certain types of criminal activity that comes to the attention of the principal or school staff shall be reported immediately to the Police Department. In an emergency situation, the school shall call 911 and also notify the SRO. In a non-emergency situation, the school should notify the SRO or call the non-emergency Police Department number, 703-691-2131, if the SRO is unavailable. Information that is not of an emergency or urgent nature may be held for action by the SRO upon his or her return.

- The SRO's duty schedule will be determined by the SRO's Supervisor but generally will be arranged to provide coverage throughout the school day including peak arrival and departure times before and after school. Whenever possible, SROs will be visible patrolling the exterior and interior grounds, particularly during the opening or closing of school and during lunch periods.

- The SRO shall wear the regulation police uniform and operate a marked police cruiser while on duty unless otherwise authorized by a supervisor for a specific purpose. The SRO provides a visible deterrent to crime while bringing a positive impression of the Police Department to students, staff and parents in a non-confrontational setting.

- The SRO shall also be responsible to assist with training for the school administration in law enforcement and related areas. Information about crime trends and changes to the Code of Virginia shall be disseminated to the school administrative staff to assist them in effectively providing safe school environments.

- As coordinated through the School Liaison Commander, SROs may become involved in the school's curriculum and provide instruction that will enhance the students' understanding of the police mission. However, responding to incidents or conducting investigations will always take precedence over instructing in the classroom. Lesson plans for all formal organized presentations shall be forwarded to the School Liaison Commander for review and approval prior to presentation.

- SROs shall be responsible for monitoring cultural and social influences and activities in an effort to identify emerging youth gangs. All information concerning gangs shall be provided to the affected station's gang coordinator and the Gang Investigation Unit. Gang prevention or early intervention strategies will be coordinated with the Criminal Investigations Bureau and the affected Station Command.

- When it is in the best interest of the Department and the school, SROs shall make formal presentations to, or participate in, school based community organization meetings such as Parent Teacher Association meetings or School Community Coalitions. All such participation must be approved by the SRO's Supervisor. Similar requests to participate in focus groups, panel discussions, camps, mentoring programs, must be approved by the SRO's Supervisor. The School Liaison Commander and the SRO's District Station Commander shall be kept informed of any such approved additional activities.

- Programs conducted in schools by other entities of the Police Department shall be coordinated with the School Liaison Commander to avoid redundant services and ensure equitable distribution of such programs. The SRO shall be notified in advance of any Police Department activities scheduled for his or her assigned school.

- A critical element of the SRO program is an open relationship and strong communication between the school principal and the SRO. Each SRO shall meet weekly or more frequently if necessary, with the assigned school principal(s) for the purpose of exchanging information about current crime trends, problem areas, cultural conflicts, or other areas of concern that may cause disruption at the school(s), or within the community. Information shall be shared by the SRO in compliance with Section 22.1-279.3: 1 of the Code of Virginia.

- Other duties and responsibilities of the SRO include:

    - Proper disposal of illegal substances recovered by the school not needed for criminal prosecution.
    - Maintaining familiarity with the current version of Fairfax County Public School's - Student Rights and Responsibilities.

- Maintaining the confidentiality of student records consistent with this Memorandum of Understanding's provisions relating to the Release of Student Information.
- Attending and providing testimony at school expulsion/reassignment hearings, upon request.
- All police reports involving middle and high schools, students and staff, to include arrests of FCPS employees shall be forwarded to the School Liaison Commander.

District Station Commander

The Station Commander shall ensure that open lines of communication are in place between the schools in their district and the Police Department. Station Commanders should meet with school principals periodically. Station Commanders and SRO Supervisors are encouraged to consult with the school principal prior to the selection of a new SRO to determine any special needs or concerns for that particular school.

The Station Commander retains the authority to require minimum staffing levels at school events in addition to the SRO to properly maintain public safety. An example of this would be a sporting event between rival schools that has a history of generating public disorder.

Station Commanders shall regularly communicate with the School Liaison Commander and SRO Supervisors to stay informed of the performance of personnel assigned as SROs and activity occurring in schools in their district. Any concerns regarding the performance of an SRO by the principal or school staff shall be addressed by the Station Commander through the SRO Supervisor.

School Principal

It is the responsibility of the principal to facilitate effective communication between the SRO and the school staff. The principal of the school shall meet on a weekly basis with the assigned SRO. This meeting shall not be delegated to other administrative staff on a regular basis.

Pursuant to Section 22.1-279.3:1 of the Code of Virginia, certain types of criminal activity that comes to the attention of the principal or school staff shall be reported immediately to the Police Department. In an emergency situation, the school shall call 911 and also notify the SRO if present at the school. In a non-emergency situation, the school should notify the SRO or call the non-emergency Police Department number, 703-691-2131, if the SRO is unavailable. Information that is not of an emergency or urgent nature may be held for action by the SRO upon his or her return to duty.

In any criminal enforcement action taken by the SRO which results in the charging of a student with a crime, the principal and/or school employees will appear in court, when necessary, to provide testimony relevant to the case. Consistent with the Release of Student Information provisions of this Memorandum of Understanding, a subpoena or legal equivalent shall be provided to the principal and/or school employee for any testimony requiring the disclosure of student records of the information contained therein.

The school shall provide a work area for the SRO that is equipped with a telephone and computer. It is recommended that the area accommodate seating for a minimum of three people in privacy for interviewing purposes. The school shall also provide the SRO a locked storage area for securing contraband recovered in the school by staff.

The computer assigned to the SRO shall be capable of running software applicable to the SRO's duties, such as the School Administrative Student Information (SASI) System, or its equivalent replacement application. The SRO's student record access shall be limited to student information specific to the school to which the SRO is assigned, as well as a system-wide district look up of directory information. The SRO may have access to other student record information only when needed to carry out his or her duties in the school environment and only as approved by the school principal.

The principal shall meet periodically with the District Station Commander and at other times at the request of either party, when needed to facilitate communications between the school and the district station. Upon request, the school shall provide information to the District Station Commander and the SRO Sergeant to assist in preparing the annual personnel evaluation of the assigned SRO. Principals are also encouraged to consult with the Station Commander and the SRO Sergeant prior to the selection of new SROs to share any special needs or concerns for that particular school.

The school system shall provide in-service training to the SROs, when available, in areas that will increase the effectiveness of the officers and their ability to accomplish their respective duties and responsibilities.

SELECTION AND ASSIGNMENT OF THE SCHOOL RESOURCE OFFICER

The selection of the SRO is the most critical aspect of the program. Commanders shall select officers who have demonstrated the ability, interest, and skills necessary to work with youth, school staff, and the public. The following criteria should be considered by commanders when selecting officers for the program:

- Police Officer First Class (P-II) or Master Police Officer (P-III)

- Ability to work with diverse groups
- Ability to work cooperatively in a non-law enforcement environment with limited direct supervision
- Knowledge of Departmental policies that pertain to juveniles and schools
- Knowledge and familiarity with available Departmental resources
- Creative problem solver
- Conflict resolution skills
- Knowledge of the Juvenile Code and Juvenile Court procedures
- Ability to effectively provide instruction to youths
- Ability to communicate professionally and deliver presentations effectively to various groups including parents, educators and community members.
- Organization and communication skills
- Completion of Instructor Development Training before or after selection
- Supervisory recommendation

SCHOOL RESOURCE OFFICER OVERTIME

SROs are non-exempt employees who are compensated when they work overtime. Overtime compensation will originate from the Police Department for SROs who work beyond their regularly scheduled hours on a law enforcement matter, e.g., a police investigation or processing of an arrest occurring late in the workday. Overtime compensation will originate from the school for SROs who work beyond their regularly scheduled hours on a school event, e.g., sporting event, social, event, and after-school activity.

POLICE INVESTIGATION AND QUESTIONING

The SRO has been given the authority to stop, question, interview, and take police action without the prior authorization of the principal or contacting parents (see General Order 601.5, F. for specific authorization and limitations). With certain exceptions, the investigation and questioning of students during school

hours or at school events should be limited to situations where the investigation is related to the school. Investigations and questioning of students for offenses not related to the operation of, or occurring at the school would occur in such situations where, for example, delay might result in danger to any person, flight from the jurisdiction by a person suspected of a crime, or destruction of evidence.

The principal shall be notified as soon as practical of any significant enforcement events. SROs should coordinate their activities so that action between the agencies is cooperative and in the best interests of the school and public safety.

The SRO shall provide information to the appropriate investigative sections of any crime(s) or leads that come to the attention of the SRO consistent with the Release of Student Information provisions of this Memorandum of Understanding. The SRO should be kept advised of all investigations that involve students from his/her assigned school.

ARREST PROCEDURES

SROs are expected to be familiar with school rules and their application within the school system. Routine rule infractions will not be handled as violations of law, but rather referred to the principal for administrative action. Any questions related to the enforcement of rules versus laws within schools should be discussed with the principal and SRO Supervisor. This specifically applies to general standards of conduct.

The following procedures will be adhered to where arrests of students or staff become necessary:

- The arrest of a student or employee of the school with a warrant or petition should be coordinated through the principal and accomplished after school hours, whenever practical.

- Persons whose presence on school grounds has been restricted or forbidden or whose presence is in violation of the Code of Virginia should be arrested for trespassing.

- Arrest of students or staff during school hours or on school grounds shall be reported to the principal as soon as practical.

SEARCH AND SEIZURE

School officials may conduct searches of student's property and person under their jurisdiction when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. The standard for the search is reasonable suspicion.

The SRO shall not become involved in administrative (school related) searches unless specifically requested by the school to provide security, protection, or for the handling of contraband. These searches must be at the direction and control of the school official. At no time shall the SRO request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

Any search initiated by an officer shall be based upon probable cause and, when required, a search warrant should be obtained. Stop and frisk will remain an option when there is reasonable suspicion that a criminal offense has been committed or may be committed, and that the suspect may be armed.

ADMINISTRATIVE HEARINGS

SROs are often privy to both a student's conduct in school and out of school. SROs may be requested to attend hearings related to a student's potential suspension or expulsion. If there is a concern as to the nature of the testimony and how providing information at a hearing may impact future judicial proceedings, the SRO should seek direction from their chain of command and the office of the Commonwealth's Attorney. The presence of an officer may be requested to augment security if a hearing involves a student or parent whose behavior could be potentially volatile.

Officers attending hearings shall be prepared to provide accurate testimony on actions that were taken by the officer and any personally observed conduct witnessed by the officer. The officer shall not provide any official police document or juvenile record to the school or expulsion hearing officer. As a general rule, release of such information is prohibited by the Code of Virginia unless such documents are subpoenaed by the school through the appropriate court. Upon receiving a subpoena for official records, reports, or documents for an administrative school hearing, the Internal Affairs Bureau shall be notified and provided a copy of the subpoena before close of business that day. Any action on the subpoena shall be coordinated between the Internal Affairs Bureau, County Attorney, and the SRO.

RELEASE OF STUDENT INFORMATION

The release of student records is governed by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g. "School officials" may access and disclose student records only as authorized by FERPA.

School Resources Officers

For purposes of access to student records, the SLC and SROs are considered "school officials" and may be provided student information as needed to carry out their duties related to the school environment. On a routine basis, the SLC's and SROs' access to student record information shall be limited to a system-wide district look up of directory information (defined below) that will include information on all students in the school system who have not opted-out of the disclosure of directory information. In addition to this system-wide district look up of directory information, SROs also will be granted access to a school-wide look up for students in the school to which the SRO is assigned. This school-wide look up will include additional items of information, such as class schedule, that an SRO may need to perform his or her duties, but which are not designated as directory information. The SLC and the SROs may have access to other student record information only when needed to carry out his or her duties in the school environment and only as approved by the school principal.

The SLC and the SROs may only disclose student records and information contained therein to the Police Department and to other law enforcement officials as described below. The SLC and the SROs may disclose "law enforcement records" to Fairfax County Police Department and other law enforcement officials. "Law enforcement records" are those records, files, documents, and other materials that are created and maintained by the SLC or an SRO for the purpose of ensuring the physical safety and security of people and property in Fairfax County Public Schools and/or the enforcement of any local, state or federal law even if such records also serve the dual purpose of investigating and enforcing school disciplinary rules. Because "law enforcement records" are not student records, they are not subject to the disclosure restrictions of FERPA.

Copies of law enforcement records that are provided to school administrators for the purpose of school discipline become student records that may be maintained in student files and are subject to the disclosure restrictions of FERPA. The original law enforcement record maintained by the SLC or the SRO, however, remains exempt from the disclosure restrictions of FERPA.

Any record that is created and maintained by the SLC or an SRO exclusively for the purpose of a possible school disciplinary action against the student would fall outside the definition of "law enforcement records." Such records would be subject to the disclosure restrictions of FERPA.

Fairfax County Police Department and Other Law Enforcement Officials

Fairfax County Police Department officials who are not part of the SRO Program and other law enforcement officials may have access to student record information without parent permission and consent only if:
(1) the School Board has designated the information as "directory information", or
(2) the knowledge of student record information is needed to protect the health and safety of a student or other person in an emergency situation, or
(3) the School Board is presented with a search warrant, subpoena, or other valid court order requiring the release of student records to the law enforcement official or agency.

Directory Information

The information items designated as "directory information" are determined by the School Board and are published in its Annual Notice of Survey, Records, Curriculum, Privacy and Related Rights. The information of students whose parents have opted out of the disclosure of such student information will be withheld.

Directory information that may be disclosed to the Police Department may include:

- The student's name, including nickname(s)
- Participation in officially recognized activities and sports
- Height and weight, if a member of an athletic team
- Birth date
- Attendance record
- Awards and honors received
- School and grade
- Photographs and other images
- Name of parent/guardian/individual with whom student lives
- Student gender, primary or home language
- Address and telephone number

The information items designated as "directory information" are subject to change. In case of conflict between the definition above and the definition contained in the Annual Notice of Survey, Records, Curriculum, Privacy, and Related Rights and Opt-Out Forms, the Annual Notice version will control.

The School Board will provide the Police Department's Child Services Unit with direct access to a system-wide district look up of directory information. The Police Department will be responsible for supplying any computer hardware necessary for this access.

Law enforcement officials seeking access to directory information may also request such information from the school principal, if the student's school location is known, or from the School Liaison Commander.

Health and Safety Emergency

School officials may disclose any information from student records to appropriate parties, including law enforcement officials, whose knowledge of the information is needed to protect the health or safety of a student or another individual if there is a significant and articulable threat to the health or safety of a student or other individual, considering the totality of the circumstances.

Law enforcement officials seeking access to records under the health and safety emergency exception should contact the student's school principal and must present sufficient information for the principal to make the determination that a health and safety emergency, within the requirements of FERPA, exists. If the request is made outside of school hours when the school principal is not available, the request may be directed to the Office of Security, who will coordinate a response.

If student information is disclosed under this exception, the student's file must contain a description of the articulable and significant threat that formed the basis for the disclosure and the parties to whom the information was disclosed.

Court Orders, Subpoenas, and Search Warrants

School officials may disclose student records in response to lawfully-issued court orders, subpoenas and search warrants. Law enforcement officials seeking to obtain student records pursuant to a court order, subpoena or search warrant should contact the FCPS Department of Special Services' Office of Operations and Strategic Planning, who will coordinate a response.

FERPA requires that school officials take reasonable steps to provide notice to the parent(s) or the student (if the student is an adult) before any records are disclosed pursuant to a court order, subpoena or search warrant. Such notice will not be provided if the court order, subpoena or search warrant indicates that

it has been issued ex parte or if it contains direction that the subject of the records should be not notified. As a result of the notification requirement, law enforcement officials should take into account that their access to such records may be delayed while school officials satisfy this requirement and gather responsive records. School officials will expedite law enforcement requests for records under this exception whenever necessary.

School officials will retain original school records and will provide copies in response to any court order, subpoena or search warrant. If original records are required, notice should also be provided to the FCPS Division Counsel's Office, who will coordinate with law enforcement and the Commonwealth Attorney's office, as appropriate.

Except for situations where the court order, subpoena or search warrant indicates that it has been issued ex parte or if it contains direction that the subject of the records should be not notified, a record of any disclosure under this exception will be made in the student's file.

FCPS will provide to the SLC current contact information for the offices referenced above. The SLC will be responsible for communicating this information to the Police Department.

RELEASE OF POLICE INFORMATION

Consistent with the basic tenants of the relationship between the School Principal and the SRO described in this understanding, open communication is essential to its effectiveness. SROs should exchange information with the principal regarding students' involvement in criminal activity in and around the school. This shall be limited to that which directly relates to and contributes to the safe school environment compliant with Section 22.1-279.3:1 of the Code of Virginia. SROs shall not make any official document, police report, or record available to the school or its staff. A subpoena or legal equivalent for official documents, reports, or records shall be immediately referred to the Internal Affairs Bureau as previously described. In compliance with the Code of Virginia, the Juvenile Court notifies the School Superintendent of Petitions against school students for selected offenses. The School Hearing Officer, in turn, notifies the appropriate school principal in each case.

CERTIFICATION REGARDING CRIMINAL CONVICTIONS

By the signature of its authorized official on this Memorandum of Understanding the Police Department certifies pursuant to Section 22.1-296.1 of the Code of Virginia that neither the contracting official nor any of the Police Department employees who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. The Police Department agrees to remove from this program any employee who has been determined by the School Board to be disqualified from service due to such convictions or the failure to truthfully report such convictions.

CONCLUSION

This policy represents mutually agreed goals and objectives of the Fairfax County Police Department and the Fairfax County School Board for the School Liaison Commander and School Resource Officer Programs.

This endeavor is a partnership between education and law enforcement to support a collaborative, problem-solving approach to ensure a safe and secure educational environment and effective/timely coordination and communication of information which effects the operation of both parties. Regular meetings shall be conducted between the Police Department's Patrol Bureau and the FCPS Office of Safety and Security to support this partnership.

This Memorandum of Understanding will remain in force until such time as either party withdraws from the agreement by delivering a written notification of such rescission to the other party. It shall be reviewed annually and amended as necessary to meet the needs of the signatory agencies. This Memorandum of Understanding shall not be construed to create or substantiate any right or claim on the part of any person or entity which is not a party hereto.

SCHOOL LIAISON COMMANDER, SCHOOL RESOURCE OFFICER PROGRAM and PROCEDURES FOR THE EXCHANGE OF INFORMATION

MEMORANDUM OF UNDERSTANDING
between
THE FAIFAX COUNTY SCHOOL BOARD
and
THE FAIRFAX COUNTY POLICE DEPARTMENT
Revised July 1, 2014

Colonel Edwin C. Roessler Jr.
Chief of Police

August 4th, 2014
Date

Dr. Karen K. Garza
Superintendent of Schools

September 8, 2014
Date

MEMORANDUM OF UNDERSTANDING

between

THE FAIRFAX COUNTY PUBLIC SCHOOLS

and

THE FAIRFAX COUNTY POLICE DEPARTMENT

For the School Liaison Commander and the School Resource Officer Program

07/23/2015 DRAFT

PREAMBLE

The Fairfax County Public Schools (FCPS) and Fairfax County Police Department (FCPD) hereby enter into the School and Law Enforcement Partnership (SLEP) to foster relations of mutual respect and understanding in order to build a positive and safe school environment. The parties agree the vast majority of student misconduct can be best addressed through classroom and in-school strategies, as outlined in the Student Rights and Responsibilities ("SRR"). The parties acknowledge that students are generally less mature and responsible than adults; they often lack the maturity, experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them; and they are more susceptible to outside pressures than adults.

All responses to school misconduct shall be reasonable, consistent, and fair, with appropriate consideration of mitigating factors, and of the nature and severity of the incident. Furthermore, the FCPD will emphasize Restorative Justice programs (e.g. Alternative Accountability Program) and in an effort to avoid arrest situations while balancing the right of victims. This document is meant to be an accompaniment to the School and Law Enforcement Partnership Guide. For further information please see the Virginia School Law Enforcement Partnership Guide.

This Memorandum of Understanding (MOU) clarifies the following three items:

1. Roles of key members in the Program:

    a. School Administrators,
    b. FCPS Counselors,
    c. School Resource Officers (SRO),
    d. School Liaison Commander (SLC), and
    e. FCPS Special Education Program staff.

2. Scope of responsibilities of the FCPS and the FCPD.

3. Procedures to exchange information among key members and between the parties:

    a. FCPS Office of School Security (OSS),
    b. FCPD Station Commanders,
    c. SROs, and
    d. Patrol Bureau.

PURPOSE

The purpose of this MOU is to establish a mutually beneficial framework so that both FCPS and FCPD can provide a safe learning environment for all members of the school community.

GOALS

The primary goals of the SLEP are:

1. To provide a safe and positive learning environment and
2. To promote mutual respect between law enforcement, school security staff, school administrative staff, students and their families.

To accomplish these goals, all will collaborate to increase law-related education, expand school safety and crime prevention efforts, reduce conflict, and support effective interventions for students.

EVALUATION OF THE SCHOOL-LAW ENFORCEMENT PARTNERSHIP

The SLC shall track all measurable objectives of the SLEP which will be developed jointly using:

- Student discipline data,
- Incident reports and crime data,
- Fairfax County Youth Survey data, and
- Other data deemed to be relevant.

Progress towards achieving objectives shall be jointly reviewed at least quarterly and at the end of the school year by all parties and stakeholders.

07/23/2018 DRAFT

ROLES AND RESPONSIBILITIES OF PARTNER ORGANIZATIONS

FAIRFAX COUNTY PUBLIC SCHOOLS RESPONSIBILITIES

The FCPS will designate a primary division-level point of contact to implement the SLEP and to maintain ongoing communications with FCPD personnel.

It is the responsibility of school administrators to facilitate effective communication between the SRO and school staff and to support the goals of the SLEP.

Each school with an assigned SRO will provide work area(s) for the SRO that allow access to technologies, private interviewing of several persons, and locking storage space for securing physical evidence.

The FCPS will handle discipline within the school disciplinary process without involving SROs. FCPS policies, administrative guidance, training, and ongoing oversight will clearly communicate that school administrators and teachers are responsible for school discipline and that law enforcement is not to be involved with disciplinary action. The FCPS is responsible for communicating the role and responsibilities of the SRO to all school administration, staff, and students.

The FCPS will ensure that school administrators with an assigned SRO will receive relevant training prior to or within 60 days of the SRO's assignment in a school and ongoing joint training with SROs. The training shall be aligned with the SLEP and DCJS curriculum and in consultation with the FCPD.

School Principal Roles and Responsibilities

Consistent with Virginia Standards of Accreditation (2018), Section 8 VAC 20-131-210, the school administrator is recognized as the instructional leader of the school and is responsible for effective school management that promotes positive student success , a safe environment in which to teach and learn, and efficient use of resources. Under 8 VAC 20-131-210, the school administrator also ensures that the school division's student code of conduct is disseminated and seeks to maintain a safe and secure school environment. (Section B.2) Additionally, consistent with Section 8 VAC 20-131-260.D.3., the school administration ensures "a written procedure, in accordance with guidelines established by the local board, for responding to violent, disruptive or illegal activities by students on school property or during a school-sponsored activity."

School Principals shall review the SLEP MOU with SROs and establish school-specific operational and communications procedures to support goals of the SLEP.

Pursuant to Va. Code Ann. § 22.1-279.3: 1, certain types of criminal activity (to include threats of active violence) that come to the attention of the principal or school staff must be reported immediately to the FCPD. In an emergency situation, school staff shall call

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911 and also notify the SRO if present at the school. In a non-emergency situation, school staff should notify the SRO or call the non-emergency FCPD number, 703-691-2131, if the SRO is unavailable. Information that is not of an emergency or urgent nature may be held for action by the SRO upon his or her return to duty.

In any criminal enforcement action taken by the SRO which results in the charging of a student with a crime, the principal and/or school employees will appear in court, when necessary, to provide testimony relevant to the case. Consistent with the Release of Student Information provisions of this MOU, a subpoena or legal equivalent shall be provided to the principal and/or school employee for any testimony requiring the disclosure of student records of the information contained therein.

The school shall provide a work area for the SRO that is equipped with a telephone and computer. It is recommended that the area accommodate seating for a minimum of three people in privacy for interviewing purposes. The school shall also provide the SRO a locked storage area for securing contraband recovered in the school by staff.

The computer assigned to the SRO shall be capable of running software applicable to the SRO's duties, but shall not afford the SRO direct access to student record information. School principals or their school administrator designees shall furnish student record information to SROs only to the extent that school record information is:

(1) Directly relevant to a criminal investigation in a matter that cannot be resolved through school disciplinary procedures, or

(2) The SRO requires the information to protect the health or safety of a student or other person in an emergency situation, as described in the MOU under Health and Safety Emergency, such as the School Administrative Student Information System (SIS), or its equivalent replacement application.

The SRO may have access to other student record information only when needed to carry out their duties in the school environment and only as approved by the school principal.

The principal shall meet periodically with the district station commander and at other times at the request of either party, when needed to facilitate communications between school officials and the district station. All principals shall confirm annually that they have not asked the SRO to provide, or agreed to allow the SRO to provide, assistance with administrative functions outside the scope of SRO assistance authorized by the MOU. Upon request, the principal shall also provide information to the District Station Commander and the SRO Supervisor to assist in preparing the annual personnel evaluation of the assigned SRO. Principals are also encouraged to consult with the station commander and the SRO Sergeant prior to the selection of new SROs to share any special needs or concerns for that particular school.

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The school system shall provide in-service training to the SROs when available in areas that will increase the effectiveness of the officers and their ability to accomplish their respective duties and responsibilities. In schools with a large and/or specific population of disabled students, the school system shall provide training to SROs regarding those disabilities represented.

FAIRFAX COUNTY POLICE DEPARTMENT'S RESPONSIBILITIES

The FCPD SLC is the direct point of contact between the FCPD and the FCPS. The SLC will address any operational and administrative issues and will serve as a consultant for school safety and security issues including assessments and critical incident response planning. The SLC will maintain a working knowledge of school rules, regulations, and laws regarding student safety and conduct. The SLC will establish and maintain effective relationships with school personnel at the division and school levels.

Selection, assignment, scheduling, training, supervision, and evaluation of SROs will be the responsibility of the FCPD. However, each of these actions will consider the input of school personnel and identified needs of schools. The SRO shall remain at all times under the control, through the chain of command, of the FCPD.

In developing and implementing law enforcement policies and practices that may affect schools, the FCPD will consult with and take into consideration the views of the FCPS and the school community.

The FCPD will ensure the SRO receives relevant training prior to or within 60 days of assignment in a school and ongoing joint training with school administrators. The training shall be aligned with the SLEP and DCJS curriculum and in consultation with the FCPS.

SROs are merit employees who are compensated by the FCPD. Overtime compensation will originate from the FCPD for SROs who work beyond their regularly scheduled hours on a law enforcement matter, e.g., a police investigation or processing of an arrest occurring late in the workday. Overtime compensation will originate from the school for SROs who work beyond their regularly scheduled hours on a school event, e.g., sporting event, social event, or other after-school activity.

Selection and Assignment of the SRO

The selection of the SRO is the most critical aspect of the program. Commanders shall select officers who have demonstrated the ability, interest, and skills necessary to work with youth, school staff, and the public. The following criteria should be considered by commanders when selecting officers for the program:

- Police Officer First Class (P-II) or Master Police Officer (P-III).

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- Ability to work with diverse groups.
- Ability to work cooperatively in a non-law enforcement environment with limited direct supervision.
- Knowledge of FCPD's policies that pertain to juveniles and schools.
- Knowledge and familiarity with available FCPD resources.
- Creative problem solver.
- Conflict resolution skills.
- Knowledge of the Juvenile Code and Juvenile Court procedures.
- Ability to effectively provide instruction to youths.
- Ability to communicate professionally and deliver presentations effectively to various groups including parents, educators and community members.
- Organization and communication skills.
- Completion of Instructor Development Training before or after selection.
- Supervisory recommendation.

Training of the SRO

Officers selected for the SRO program shall, within the first 6 months after receiving their assignments, and at least every two years thereafter, receive the following training after being selected for the program:

- Mental Health Specific Training and Crisis Intervention Training in accordance with established and certified state standards.
- Disability awareness training.
- Implicit bias/racial bias training outlining attitudes and stereotypes that affect our understanding, actions, and decisions in an unconscious manner.
- Restorative justice techniques and the Alternative Accountability Program as outlined in General Order 605, Juvenile Procedures.
- Cultural Competency Training that is provided to FCPS staff.

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SRO Roles and Responsibilities

SROs are school officials and will be considered an active member of their assigned school's community. The SRO will assist with matters related to safety, security, and the exchange of information while providing law enforcement services.

SROs shall not become involved in routine school matters such as administrative actions or actions not directly related to the safety of the students and staff. The SRO shall refrain from functioning as a school disciplinarian and shall not intervene in school discipline matters. The discipline of students will remain the responsibility of the school faculty and administrators. At any time, the SRO may become involved when a school administrator has a safety concern that cannot be addressed by the school's safety and security staff.

As a general practice, unless there is a clear and imminent threat to safety, requests from school staff for SRO or other law enforcement assistance are to be channeled through a school administrator.

SROs' duty schedules should be organized to provide coverage throughout the school day, which may vary by school. SROs provide a visible deterrent to crime and shall be visible patrolling the exterior and interior grounds. The SRO shall wear the regulation uniform and operate a marked police vehicle while on duty unless otherwise authorized by the SRO's supervisor for a specific purpose.

Additionally, SROs shall assist school administrators in developing school crisis, emergency management, and response plans. They will work with administrators in problem-solving to prevent crime and promote safety in the school environment. SROs are expected to collaborate with school administrators and other school personnel to support positive school climates that focus on resolving conflicts, reducing student engagement with the juvenile and criminal justice systems, and diverting youth from courts when possible.

SROs serve multiple roles in schools. The roles are interrelated but all are carried out with the aim to contribute to school safety and security and to promote positive and supportive school climates. Key roles are:

<u>Law Enforcement Officer</u>

SROs' primary role in schools is as a law enforcement officer. SROs assume primary responsibility for responding to requests for assistance from administrators and coordinating the response of other law enforcement resources to the school. SROs shall work with school administrators in problem solving to prevent crime and promote safety in the school environment. SROs shall also collaborate with school personnel to reduce student engagement with the juvenile justice systems and divert students from the courts when possible. Although SRO's coordinate day-to-day with FCPS staff, SRO's

are not school administrators. The Chief of Police shall ensure through policies and training, that an arrest of a student is the last resort and that all reasonable efforts are made to divert the student from entry into the justice system. However, it is recognized that victims of crimes committed by students have legal rights to pursue justice. Additionally, certain crimes (i.e. assaults with serious bodily injury) are not appropriate for restorative justice alternatives.

As a law enforcement officer, the SRO shall adhere to federal, state and department guidelines to protect the school against violence.

Provide a course of training for school personnel in handling crisis situations, which may arise at the school.

Apply alternative means to resolving conflict in lieu of arrest, when appropriate.

Develop positive relationships with students to reduce the risk of criminal behavior.

Document any activity of a criminal nature (i.e. Field Contacts).

Law – Related Educator

As resources permit, SROs should strive to assist with presentations for school personnel on law-related topics such as law enforcement practices, changes in relevant laws, crime trends, crime prevention, school safety strategies, and crisis response procedures. SROs may also deliver law-related education with students using lessons/curricula approved in advance by the SRO Supervisor. In all cases, responding to incidents or conducting investigations will take precedence over delivery of presentations.

As coordinated through the SLC, and approved by the principal, SROs may become involved in the school's curriculum as a guest lecturer through an elective course of instruction that may enhance the students' understanding of legal concepts and information about law enforcement. However, responding to incidents or conducting investigations will always take precedence over instructing in the classroom. Lesson plans for all formal organized presentations shall be forwarded to the SLC for review and approval prior to presentation.

SROs shall make formal presentations to, or participate in school and community based organization meetings such as Parent Teacher Association meetings or School Community Coalitions on an as needed basis. All such participation must be approved by the SRO's Supervisor. Similar requests to participate in focus groups, panel discussions, camps, mentoring programs, must be approved by the SRO's Supervisor. The SLC and the SRO's District Station Commander shall be kept informed of any such approved additional activities.

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Programs conducted in schools by other sections of the FCPD shall be coordinated with the SLC to avoid redundant services and ensure equitable distribution of such programs. The SRO shall be notified in advance of any FCPD activities scheduled for his or her assigned school.

Informal Mentor and Role Model

Students often seek approval, direction, and guidance from adults in the school setting about various problems. Through formal and informal interaction with students, SROs serve as informal mentors and role models. SROs are expected to communicate clearly to students about acceptable and unacceptable behavior, to set a positive example in handling stressful situations and resolving conflicts, to show respect and consideration of others, and to express high expectations for student behavior. Students who may need additional assistance shall be referred to a school based resource.

SRO Supervisors

The SLC shall be responsible for the overall command of the SRO Program. SRO Supervisors provide first line leadership and are tasked with specific duties, which include, but are not limited to:

- Provide timely notifications to the SLC and their District Station Commanders regarding matters related to FCPS.
- At the request of a school principal, SRO supervisors should attend Parent Teacher Association meetings, on a case by case basis to discuss significant issues effecting the school community.
- Provide supervision and assistance with problem solving and development opportunities for SROs.
- Provide planning, budget, management, and agency leadership for the SRO Program.
- SRO Supervisors shall meet with their SROs on a continual basis at their schools to observe their performance of duty.
- SRO Supervisors shall meet with school principals before the start of, and throughout the school year.
- SRO Supervisors shall mitigate conflicts and/or clarify expectations in situations where there are ambiguous or overlapping policies or practices.
- Ensure initial and relevant recurrent training for SROs.
- Provide Station Command with assistance on SRO selection as needed.

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- Act as a resource consistent with the FCPS System-Wide Emergency Response Plan.

- Ensure staffing for each school is provided in the event that the assigned SRO is absent more than two consecutive days.

- SRO Supervisors shall undergo training in cultural competence, mental health and disability awareness.,

SLC Roles and Responsibilities

A Command Staff Officer will serve as the SLC assigned to the school system. This commander will ensure the coordination of resources, responses, and effective information sharing/notification between the OSS, affected Station Commanders, SROs and Patrol Bureau. In no event, shall the Director of OSS expand the SLC's or SRO's duties and responsibilities for school administrative functions beyond those expressly provided in the MOU.

The SLC will establish and maintain a working knowledge of, and adhere to, all laws, ordinances, and regulations of all appropriate government agencies, general orders, report writing manual, applicable Fairfax County personnel regulations, written policies, and procedural directives, as well as possess knowledge of school rules, regulations, and laws regarding student safety and conduct.

As a sworn Fairfax County Police Officer, the SLC's definitive chain of command is a Patrol Bureau Commander of the FCPD. However, for day-to-day operations, directives, and general duties and responsibilities, the SLC will work in conjunction with the Director of OSS. The SLC will be assigned to FCPS for a period of one to three years, or a term mutually agreed upon. At that time, another Command Staff Officer will be rotated into the assignment at the discretion of the Chief or his designee. Additionally, the SLC will have a combination of education and experience in law enforcement or related fields necessary to fulfill this MOU.

The SLC will serve as the direct point of contact between the FCPD and FCPS for operational and administrative school safety and security issues. The SLC will manage and coordinate school security safety issues and attempt to anticipate problems before they occur by providing research, analyses, and recommendations to the OSS.

The SLC will establish and maintain effective relationships with school personnel and appropriate county agencies to ensure a continued commitment to keep schools safe for all students to reach their learning potential.

The SLC will assist the OSS in developing policies, procedures, and training programs to enhance the professional development of the School Security Officers, Safety and Security Specialists, and other school personnel.

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The SLC shall compile real-time data on all SRO actions to include but not limited to arrests, field contacts, all police reports, all related Juvenile Court data and Intake reports, all Restorative Justice Program data and reports, all student demographic data, and all use of force events. The data shall be a matter of public record and accessible under Virginia FOIA regulations. The SLC will compile an annual report that summarizes FCPD actions. Personally identifiable information will not be disclosed. The yearly data report shall be published annually on the FCPD and FCPS sites.

It is agreed by both parties in this MOU, that the FCPS will bear the cost of salary, overtime, and fringe benefits for the SLC. The FCPD's in-kind contribution will be all necessary capital equipment and associated costs related to the SLC's police vehicle. The operating costs associated with the SLC position will be shared equally by both parties.

District Station Commander

The Station Commander shall ensure that open lines of communication are in place between the schools in their district and the FCPD. Station Commanders shall meet with school principals during the school year. Station Commanders and SRO Supervisors are encouraged to consult with the school principal prior to the selection of a new SRO to determine any special needs or concerns for that particular school.

The Station Commander retains the authority to require minimum staffing levels at school events in addition to the SRO to properly maintain public safety. An example of this would be a sporting event between rival schools that has a history of generating public disorder. Station Commanders and SRO Supervisors shall consult with the school principal prior to the selection of a new SRO to determine any special needs or concerns for that particular school.

Station Commanders shall regularly communicate with the SLC and SRO Supervisors to stay informed of the performance of personnel assigned as SROs and activity occurring in schools in their district. Any concerns regarding the performance of an SRO by the principal or school staff shall be addressed by the Station Commander through the SRO Supervisor.

OPERATIONAL PROCEDURES

Differentiating Disciplinary Misconduct from Criminal Offenses

School administrators and teachers are responsible for school discipline. SROs are expected to be familiar with the school division code of student conduct, the Fairfax County Student Rights and Responsibilities document, the rules of individual schools, and their application in day-to-day practice. However, SROs shall not be involved with

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the enforcement of school rules or disciplinary infractions that are not violations of law. SROs will consider alternatives to juvenile petitions.

Information Sharing

The release of student records is governed by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g. "School officials" may access and disclose student records only as authorized by FERPA.

When appropriate, and to the extent the law allows, the FCPS should notify SROs of any special needs of a student involved in a school-based infraction that is not routine discipline in order to assist the SRO in recognizing and accommodating behaviors that may be manifestations of the student's disability.

A critical element of the SRO program is an open relationship and strong communication between the school principal and the SRO. Each SRO shall meet regularly with the assigned school principal(s) for the purpose of exchanging information about current crime trends, problem areas, conflicts, or other areas of concern that may cause disruption at the school(s), or within the community. SROs shall share reports of certain acts to school authorities in compliance with Va. Code Ann. § 22.1-279.3: 1.

Consent Access: An SRO or other law enforcement officer may have access to a student's education records with written consent of the student's parent or of the student if the student is age 18 or older.

SRO Access: For purposes of access to student records, SROs may be provided student information as needed to carry out their duties related to the school environment. SROs may have access to directory information for all students in the school division. SROs may have access to information on students in their assigned schools that include directory information and additional items needed to carry out their duties (such as class schedules) as approved by the school administrator.

Health and Safety Emergency Exception: In the event of a significant and articulable threat to health or safety, school officials may disclose any information from student records to appropriate parties, including law enforcement officials, whose knowledge of the information is needed to protect the health and safety of a student or another individual.

Law enforcement officials seeking access to records under the health and safety emergency exception shall contact the student's school principal and must present sufficient information for the principal or their designee to make the determination that a health and safety emergency exists, within the requirements of FERPA. If the request is made outside of school hours when the school principal is not available, the request may be directed to OSS, to coordinate a response.

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If student information is disclosed under this exception, the student's file must contain a description of the articulable and significant threat that formed the basis for the disclosure and the parties to whom the information was disclosed.

SRO Disclosure of Law Enforcement Records: SROs may disclose only law enforcement records created and maintained by the SRO for the purpose of ensuring the physical safety and security of people and property in schools and/or enforcement of laws. Because law enforcement records are not student records, they are not subject to the disclosure restrictions of FERPA.

Consistent with the basic tenants of the relationship between the School Principal and the SRO described in this MOU, open communication is essential to its effectiveness. SROs shall exchange information with the principal regarding students' involvement in criminal activity that may impact the safety of the school environment. SROs shall not make any official document, police report, or record available to the school or its staff. A subpoena or legal equivalent for official documents, reports, or records shall be immediately referred to the Internal Affairs Bureau as previously described. In compliance with the Code of Virginia, the Juvenile Court notifies the Division Superintendent of Petitions against school students for selected offenses (enumerated in Va. Code Ann. § 16.1-260.G). The Superintendent's Hearing Officer, in turn, notifies the appropriate school principal in each case.

Release of Student Information

The release of student records is governed by the FERPA. School officials may access and disclose student records only as authorized by FERPA.

School Resource Officers

For purposes of access to student records, the SLC and SROs may be provided student information if the SLC or SRO requires the information to protect the health or safety of a student or other person in an emergency situation, as described in the MOU under Health and Safety Emergency.

SROs may be provided student information to the extent that school record information is directly relevant to a criminal investigation in a matter that cannot be resolved through school disciplinary procedures, or

On a routine basis, the SLC's and SROs' access to student record information shall be limited to a system-wide district look up of directory information (defined below) that will include information on all students in the school system who have not opted-out of the disclosure of directory information. In addition to this system-wide district look up of directory information, SROs will also be granted access to a school-wide look up for students in the school to which the SRO is assigned.

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This school-wide look up will include additional items of information, such as class schedule, that an SRO may need to perform his or her duties, but which are not designated as directory information. The SLC and the SROs may have access to other student record information only when needed to carry out their duties in the school environment and only as approved by the school principal.

The SLC and the SROs may only disclose student records and information contained therein to the FCPD and to other law enforcement officials as described below. The SLC and the SROs may disclose "law enforcement records" to FCPD and other law enforcement officials. "Law enforcement records" are those records, files, documents, and other materials that are created and maintained by the SLC or an SRO for the purpose of ensuring the physical safety and security of people and property in FCPS and/or the enforcement of any local, state or federal law even if such records also serve the dual purpose of investigating and enforcing school disciplinary rules. Because "law enforcement records" are not student records, they are not subject to the disclosure restrictions of FERPA.

Copies of law enforcement records that are provided to school administrators for the purpose of school discipline become student records that may be maintained in student files and are subject to the disclosure provisions of FERPA. The original law enforcement record maintained by the SLC or the SRO, however, remains exempt from the disclosure provisions of FERPA.

Any record that is created and maintained by the SLC or an SRO exclusively for the purpose of a possible school disciplinary action against the student would fall outside the definition of law enforcement record. Such records would be subject to the disclosure provisions of FERPA.

Va. Code Ann. §19.2-11.2 requires written consent from a victim of sexual assault, sexual abuse, or family abuse, before law enforcement personnel may publicly release any information that directly or indirectly identifies that victim. Additionally, a 2017 amendment to the statute requires written consent of the next of kin of a child who dies as a result of a crime before law enforcement personnel may publicly release any information that directly or indirectly identifies that victim. There are exceptions to this prohibition, which permit the release of information if the information is of the site of a crime, is required by law, is necessary for law enforcement purposes, or is permitted by the court.

Fairfax County Police Department Access to FCPS Information

FCPD officials who are not part of the SRO Program may have access to student record information without parent permission and consent only if the following conditions are met and the FCPS has reviewed and approved the request(s) for information:

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1. The Fairfax County School Board (FCSB) has designated the information as "directory information", and the parent or eligible student has not opted out of the disclosure, or

2. The knowledge of student record information is needed to protect the health and safety of a student or other person in an emergency situation, or

3. The FCSB is presented with a search warrant, subpoena, or other valid court order requiring the release of student records.

Directory Information

The information items designated as "directory information" are determined by the FCSB and are published in its Annual Notice of Survey, Records, Curriculum, Privacy and Related Rights. The information of students whose parents have opted out of the disclosure of such student information will be withheld.

Directory information that may be disclosed to the FCPD may include:

- The student's name, including nickname(s)
- Participation in officially recognized activities and sports
- Height and weight, if a member of an athletic team
- Birth date
- Attendance record, defined as beginning and end dates of enrollment, not daily record of attendance
- Degrees, awards and honors received
- School and grade
- Photographs and other images
- Name of parent/guardian/individual with whom student lives
- Parent e-mail address(es).

The information items designated as "directory information" are subject to change. In case of conflict between the definition above and the definition contained in the current school year's Annual Notice of Survey, Records, Curriculum, Privacy, and Related Rights and Opt-Out Forms, the Annual Notice version will control.

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Law enforcement officials seeking access to directory information may request such information from the school principal, if the student's school location is known, or from the SLC.

Court Orders, Subpoenas, and Search Warrants

School officials may only disclose student records in response to lawfully-issued court orders, subpoenas and search warrants. Law enforcement officials seeking to obtain student records pursuant to a court order, subpoena or search warrant shall contact the FCPS Department of Special Services' Office of Operations and Strategic Planning, which will coordinate a response. FCPD officers are not agents of the Immigration and Customs Enforcement agency and as such they shall not participate in any request for assistance that is not of a criminal nature within the FCPS.(General Order 601, VIII, C). FERPA requires that school officials take reasonable steps to provide notice to the parent(s) or the student (if the student is an adult) before any records are disclosed pursuant to a court order, subpoena or search warrant. Such notice will not be provided if the court order, subpoena or search warrant indicates that it has been issued ex parte or if it contains direction that the subject of the records shall not be notified. As a result of the notification requirement, law enforcement officials shall take into account that their access to such records may be delayed while school officials satisfy this requirement and gather responsive records. School officials will expedite law enforcement requests for records under this exception whenever necessary.

School officials will retain original school records and will provide copies in response to any court order, subpoena or search warrant. If a records request is related to an immigration matter, it shall be coordinated through the FCPS Division Counsel. Notice shall be provided to the FCPS Division Counsel's Office, including on all immigration matters, who will coordinate with law enforcement and the Commonwealth Attorney's Office.

Except for situations where the court order, subpoena or search warrant indicates that it has been issued ex parte or if it contains direction that the subject of the records shall not be notified, a record of any disclosure under this exception will be made in the student's file.

FCPS will provide to the SLC current contact information for the offices referenced above. The SLC will be responsible for communicating this information to the FCPD.

Certification Regarding Criminal Convictions

By the signature of its authorized officials on this MOU the FCPD certifies pursuant to Va. Code Ann. § 22.1-296.1 that neither the FCPS nor any of the FCPD employees who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. Both parties agree to remove from this program any employee who has been determined to

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be disqualified from service due to such convictions or the failure to truthfully report such convictions.

Investigation and Questioning

As law enforcement officers, SROs have the authority to question students who may have information about criminal activity (see General Order 605, Juvenile Procedures for specific authorization and limitations). However, the investigation and questioning of students during school hours or at school events regarding criminal activity in the community should be avoided unless immediate action is required to prevent an act of violence.

Unless exigent circumstances exist (.e.g. crime of active violence in progress which threatens lives in the school), the SRO shall take immediate steps to contact parent(s) or guardian(s) before any questioning of a student about possible involvement in criminal activity. The SRO shall fully inform both the student and legal guardian of the entitlement of Miranda warnings before any questioning takes place. SRO's shall seek the consent authorization (approval or denial) of the legal guardian before conducting any interview of the student. The SRO shall make reasonable attempts to have the legal guardian present when fully informing them of their Miranda warnings. Additionally, the SRO shall through conversation with the legal guardian, determine if the student has the cognitive ability to submit to questioning. SRO's shall document these steps in their police report.

Searches

All searches shall be conducted in accordance with the United States Constitution, state laws, and applicable FCPS and FCPD policies and guidelines.

School Administrator Searches

School officials may conduct searches of student's property and person under their jurisdiction when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school.

SRO searches

Any search initiated by SROs or other law enforcement officers shall be based upon probable cause and, when required, a search warrant shall be obtained. All searches shall be reasonable in scope. All searches should occur outside the presence of students and school staff, with the exception of school administrators, unless there is a clear and immediate threat to physical safety.

The SRO shall not become involved in administrative (school related) searches unless specifically requested by the school to provide security, protection, or for the handling of contraband. These searches must be at the direction and control of the school official.

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At no time shall the SRO request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

Arrests

Whenever practical, arrests of a student or staff member should be accomplished outside of school hours in order to not disrupt the educational process or school setting. Arrests that must occur during school hours or on school grounds shall be compliant with all applicable laws and shall be coordinated through the school administrator to minimize potential disruption. When circumstances do not allow for prior coordination through the school administrator, arrests will be reported to the school administrator as soon as possible.

In accordance with General Order 605.2, Section 1, Subsection G – Notification to Parents, the SRO shall take immediate steps to notify the juvenile's parent, guardian, or a responsible adult that the juvenile is in custody.

SROs are expected to be familiar with school rules and their application within the school system. Routine rule that can be handled administratively through the disciplinary process will not be handled as violations of law, but rather be referred to the principal for administrative action. Any questions related to the enforcement of rules versus laws within schools shall be discussed with the principal and SRO Supervisor. This specifically applies to general standards of conduct.

Physical Intervention by School Resource Officers

An SRO should not be involved in the physical restraint of a student initiated by school staff unless there is imminent danger of serious physical harm to self or others. SROs may intervene to deescalate situations to prevent an act of violence. All such activity by the SRO shall be documented appropriately.

Physical restraint is a personal restriction that immobilizes or reduces the ability of a student to move their torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

Administrative Hearings

SROs may be requested by FCPS to attend hearings related to a student's potential suspension, expulsion, or school reassignment. If there is a concern as to the nature of the testimony and how providing information at a hearing may impact future judicial proceedings, the SRO shall seek direction from their chain of command and the Office of the Commonwealth's Attorney. The presence of an officer may be requested to augment security if a hearing involves a student or parent whose behavior could pose a serious threat to safety.

The testimony of and evidence presented by officers attending hearings shall be limited to actions taken by law enforcement officials, and any personally observed conduct witnessed by the officers.

The SRO shall not provide any official police document(s) or juvenile record(s) to the school or the Superintendent's Hearings Office. Generally, release of such information is prohibited by the Code of Virginia unless such documents are subpoenaed by the school through the appropriate court. Upon receiving a subpoena for official records, reports, or documents for an administrative school hearing, the FCPD Internal Affairs Bureau shall be notified and provided a copy of the subpoena before close of business that day. Any action on the subpoena shall be coordinated between the FCPD Internal Affairs Bureau, County Attorney's Office, and the SRO.

KEY STATUTORY RESPONSIBILITIES

Crime Reporting

Pursuant to the Va. Code Ann. §22.1-279.3:1.B, law enforcement agencies are required to notify a division superintendent, a principal, or a designee when a student in their school commits certain offenses that would be a felony if committed by an adult or would be a violation of the Drug Control Act, and occurred on a school bus, school, property, or at a school-sponsored activity, and the release status of the student. School superintendents who receive such reports are required to report the information to the principal of the school in which the students is enrolled. As a general practice, SROs shall notify the principal as soon as practical of any significant law enforcement events occurring at or in association with the school.

Pursuant to Va. Code Ann. §22.1-279.3:1.D, certain types of criminal activity that come to the attention of the principal or school staff shall be reported immediately to the SRO as specified in FCPS policy. No SRO or school administrator shall be required to file delinquency charges. After such notification is made to an SRO, the FCPS will ascertain the disposition of the incident made by the SRO in order to complete the School/Law Enforcement Reporting form. Schools and SROs shall be encouraged to deal with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Threat Assessment

Threat assessments shall be conducted in accordance with local school board policies adopted as required by Va. Code Ann. §22.1-79.4., and consistent with model procedures and guidelines published by the Virginia Department of Criminal Justice Services.

SROs may serve as members of threat assessment teams and assist in monitoring of students as well as determining the need, if any, for law enforcement action.

School Safety Audits

If requested, SROs will assist school administrators with conducting school inspection walkthroughs using a prescribed checklist and will collaborate in other school safety audit mandates including school crisis and emergency management and response planning and preparation.

PROGRAM ASSESSMENT

The School Resource Officer Program will be assessed annually, and the evaluation will be conducted jointly between the FCPS and FCPD. The following metrics and personnel resources will be used to assess the program in a co-produced annual report written by the FCPS and FCPD:

1. Success of established goals and objectives as defined by this MOU.

2. Accomplishment of tasks agreed upon as part of any work plan written in conjunction with a principal.

3. All available data related to student discipline and contacts with the justice system. This shall include student demographics, all police data and reports, restorative justice program data, and all other available data to study police-student contact trends.

4. Input from identified stakeholders such as students, parents, and formal school-community organizations.

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CONCLUSION

This endeavor is a partnership between education and law enforcement to support a collaborative, problem-solving approach to ensure a safe and secure educational environment and effective/timely coordination and communication of information which effects the operation of both parties. Regular meetings shall be conducted between the FCPS and the FCPD to support this partnership.

This MOU will remain in force until such time as either party withdraws from the agreement by delivering a written notification of such rescission to the other party. It shall be reviewed annually and amended as necessary to meet the needs of the signatory agencies. This MOU shall not be construed to create or substantiate any right or claim on the part of any person or entity which is not a party hereto.

Signed:

_____	_____
Colonel Edwin C. Roessler Jr.	Dr. Scott Brabrand
Chief of Police	Superintendent of Schools
_____	_____
Date	Date

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Attachment 2
MARKED-UP VERSION

MEMORANDUM OF UNDERSTANDING

between

THE FAIRFAX COUNTY PUBLIC SCHOOLS

and

THE FAIRFAX COUNTY POLICE DEPARTMENT

For the School Liaison Commander and the School Resource Officer Program

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PREAMBLE

The Fairfax County Public Schools (FCPS) and Fairfax County Police Department (FCPD) hereby enter into the School and Law Enforcement Partnership (SLEP) to foster relations of mutual respect and understanding in order to build a positive and safe school environment. The parties agree the vast majority of student misconduct can be best addressed through classroom and in-school strategies, as outlined in the Student Rights and Responsibilities ("SRR"). The parties acknowledge that students are generally less mature and responsible than adults; they often lack the maturity, experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them; and they are more susceptible to outside pressures than adults.

All responses to school misconduct shall be reasonable, consistent, and fair, with appropriate consideration of mitigating factors, and of the nature and severity of the incident. Furthermore, the FCPD will emphasize Restorative Justice programs (e.g. Alternative Accountability Program) and in an effort to avoid arrest situations while balancing the right of victims. This document is meant to be an accompaniment to the School and Law Enforcement Partnership Guide. For further information please see the Virginia School Law Enforcement Partnership Guide.

This Memorandum of Understanding (MOU) clarifies the following three items:

1. Roles of key members in the Program:

    a. School Administrators,
    b. FCPS Counselors,
    c. School Resource Officers (SRO),
    d. School Liaison Commander (SLC), and
    e. FCPS Special Education Program staff.

2. Scope of responsibilities of the FCPS and the FCPD.

3. Procedures to exchange information among key members and between the parties:

    a. FCPS Office of School Security (OSS),
    b. FCPD Station Commanders,
    c. SROs, and
    d. Patrol Bureau.

PURPOSE

The purpose of this MOU is to establish a mutually beneficial framework so that both FCPS and FCPD can provide a safe learning environment for all members of the school community.

GOALS

The primary goals of the SLEP are:

1. To provide a safe and positive learning environment and
2. To promote mutual respect between law enforcement, school security staff, school administrative staff, students and their families.

To accomplish these goals, all will collaborate to increase law-related education, expand school safety and crime prevention efforts, reduce conflict, and support effective interventions for students.

EVALUATION OF THE SCHOOL-LAW ENFORCEMENT PARTNERSHIP

The SLC shall track all measurable objectives of the SLEP which will be developed jointly using:

- Student discipline data,
- Incident reports and crime data,
- Fairfax County Youth Survey data, and
- Other data deemed to be relevant.

Progress towards achieving objectives shall be jointly reviewed at least quarterly and at the end of the school year by all parties and stakeholders.

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ROLES AND RESPONSIBILITIES OF PARTNER ORGANIZATIONS

FAIRFAX COUNTY PUBLIC SCHOOLS RESPONSIBILITIES

The FCPS will designate a primary division-level point of contact to implement the SLEP and to maintain ongoing communications with FCPD personnel.

It is the responsibility of school administrators to facilitate effective communication between the SRO and school staff and to support the goals of the SLEP.

Each school with an assigned SRO will provide work area(s) for the SRO that allow access to technologies, private interviewing of several persons, and locking storage space for securing physical evidence.

The FCPS will handle discipline within the school disciplinary process without involving SROs. FCPS policies, administrative guidance, training, and ongoing oversight will clearly communicate that school administrators and teachers are responsible for school discipline and that law enforcement is not to be involved with disciplinary action. The FCPS is responsible for communicating the role and responsibilities of the SRO to all school administration, staff, and students.

The FCPS will ensure that school administrators with an assigned SRO will receive relevant training prior to or within 60 days of the SRO's assignment in a school and ongoing joint training with SROs. The training shall be aligned with the SLEP and DCJS curriculum and in consultation with the FCPD.

School Principal Roles and Responsibilities

Consistent with Virginia Standards of Accreditation (20~~00~~18), Section 8 VAC 20-131-210, ~~"~~the school administrator is recognized as the instructional leader of the school and is responsible for effective school management that promotes positive student success ~~achievement~~, a safe ~~and secure~~ environment in which to teach and learn, and efficient use of resources.~~" (Section A).~~ Under 8 VAC 20-131-210, ~~"T~~the school administrator also ensures that the school division's student code of conduct is ~~enforced~~ disseminated and seeks to maintain a safe and secure school environment. ~~"~~(Section B.2) Additionally, consistent with Section 8 VAC 20-131-260.~~C.~~D.3., the school administration ensures "a written procedure, in accordance with guidelines established by the local board, for responding to violent, disruptive or illegal activities by students on school property or during a school-sponsored activity."

School Principals shall review the SLEP MOU with SROs and establish school-specific operational and communications procedures to support goals of the SLEP.

Pursuant to Va. Code Ann. § 22.1-279.3: 1, certain types of criminal activity (to include threats of active violence) that come to the attention of the principal or school staff must

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be reported immediately to the FCPD. In an emergency situation, school staff shall call 911 and also notify the SRO if present at the school. In a non-emergency situation, school staff should notify the SRO or call the non-emergency FCPD number, 703-691-2131, if the SRO is unavailable. Information that is not of an emergency or urgent nature may be held for action by the SRO upon his or her return to duty.

In any criminal enforcement action taken by the SRO which results in the charging of a student with a crime, the principal and/or school employees will appear in court, when necessary, to provide testimony relevant to the case. Consistent with the Release of Student Information provisions of this MOU, a subpoena or legal equivalent shall be provided to the principal and/or school employee for any testimony requiring the disclosure of student records of the information contained therein.

The school shall provide a work area for the SRO that is equipped with a telephone and computer. It is recommended that the area accommodate seating for a minimum of three people in privacy for interviewing purposes. The school shall also provide the SRO a locked storage area for securing contraband recovered in the school by staff.

The computer assigned to the SRO shall be capable of running software applicable to the SRO's duties, but shall not afford the SRO direct access to student record information. School principals or their school administrator designees shall furnish student record information to SROs only to the extent that school record information is:

(1) Directly relevant to a criminal investigation in a matter that cannot be resolved through school disciplinary procedures, or

(2) The SRO requires the information to protect the health or safety of a student or other person in an emergency situation, as described in the MOU under Health and Safety Emergency, such as the School Administrative Student Information System (SIS), or its equivalent replacement application.

The SRO may have access to other student record information only when needed to carry out their duties in the school environment and only as approved by the school principal.

The principal shall meet periodically with the district station commander and at other times at the request of either party, when needed to facilitate communications between school officials and the district station. All principals shall confirm annually that they have not asked the SRO to provide, or agreed to allow the SRO to provide, assistance with administrative functions outside the scope of SRO assistance authorized by the MOU. Upon request, the principal shall also provide information to the District Station Commander and the SRO Supervisor to assist in preparing the annual personnel evaluation of the assigned SRO. Principals are also encouraged to consult with the station commander and the SRO Sergeant prior to the selection of new SROs to share any special needs or concerns for that particular school.

The school system shall provide in-service training to the SROs when available in areas that will increase the effectiveness of the officers and their ability to accomplish their respective duties and responsibilities. In schools with a large and/or specific population of disabled students, the school system shall provide training to SROs regarding those disabilities represented.

FAIRFAX COUNTY POLICE DEPARTMENT'S RESPONSIBILITIES

The FCPD SLC is the direct point of contact between the FCPD and the FCPS. The SLC will address any operational and administrative issues and will serve as a consultant for school safety and security issues including assessments and critical incident response planning. The SLC will maintain a working knowledge of school rules, regulations, and laws regarding student safety and conduct. The SLC will establish and maintain effective relationships with school personnel at the division and school levels.

Selection, assignment, scheduling, training, supervision, and evaluation of SROs will be the responsibility of the FCPD. However, each of these actions will consider the input of school personnel and identified needs of schools. The SRO shall remain at all times under the control, through the chain of command, of the FCPD.

In developing and implementing law enforcement policies and practices that may affect schools, the FCPD will consult with and take into consideration the views of the FCPS and the school community.

The FCPD will ensure the SRO receives relevant training prior to or within 60 days of assignment in a school and ongoing joint training with school administrators. The training shall be aligned with the SLEP and DCJS curriculum and in consultation with the FCPS.

SROs are merit employees who are compensated by the FCPD. Overtime compensation will originate from the FCPD for SROs who work beyond their regularly scheduled hours on a law enforcement matter, e.g., a police investigation or processing of an arrest occurring late in the workday. Overtime compensation will originate from the school for SROs who work beyond their regularly scheduled hours on a school event, e.g., sporting event, social event, or other after-school activity.

Selection and Assignment of the SRO

The selection of the SRO is the most critical aspect of the program. Commanders shall select officers who have demonstrated the ability, interest, and skills necessary to work with youth, school staff, and the public. The following criteria should be considered by commanders when selecting officers for the program:

- Police Officer First Class (P-II) or Master Police Officer (P-III).

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- Ability to work with diverse groups.
- Ability to work cooperatively in a non-law enforcement environment with limited direct supervision.
- Knowledge of FCPD's policies that pertain to juveniles and schools.
- Knowledge and familiarity with available FCPD resources.
- Creative problem solver.
- Conflict resolution skills.
- Knowledge of the Juvenile Code and Juvenile Court procedures.
- Ability to effectively provide instruction to youths.
- Ability to communicate professionally and deliver presentations effectively to various groups including parents, educators and community members.
- Organization and communication skills.
- Completion of Instructor Development Training before or after selection.
- Supervisory recommendation.

~~Initial~~ Training of the SRO

Officers selected for the SRO program ~~will~~ shall, within the first 6 months after receiving their assignments, and at least every two years thereafter, receive the following training after being selected for the program:

- Mental Health Specific Training and Crisis Intervention Training in accordance with established and certified state standards.
- Disability awareness training.
- Implicit bias/racial bias training outlining attitudes and stereotypes that affect our understanding, actions, and decisions in an unconscious manner.
- Restorative justice techniques and the Alternative Accountability Program as outlined in General Order 605, Juvenile Procedures.
- Cultural Competency Training that is provided to FCPS staff.

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SRO Roles and Responsibilities

SROs are school officials and will be considered an active member of their assigned school's community. The SRO will assist with matters related to safety, security, and the exchange of information while providing law enforcement services.

SROs shall not become involved in routine school matters such as administrative actions or actions not directly related to the safety of the students and staff. The SRO shall refrain from functioning as a school disciplinarian and shall not intervene in school discipline matters. The discipline of students will remain the responsibility of the school faculty and administrators. At any time, the SRO may become involved when a school administrator has a safety concern that cannot be addressed by the school's safety and security staff.

As a general practice, unless there is a clear and imminent threat to safety, requests from school staff for SRO or other law enforcement assistance are to be channeled through a school administrator.

SROs' duty schedules should be organized to provide coverage throughout the school day, which may vary by school. SROs provide a visible deterrent to crime and shall be visible patrolling the exterior and interior grounds. The SRO shall wear the regulation uniform and operate a marked police vehicle while on duty unless otherwise authorized by the SRO's supervisor for a specific purpose.

Additionally, SROs shall assist school administrators in developing school crisis, emergency management, and response plans. They will work with administrators in problem-solving to prevent crime and promote safety in the school environment. SROs are expected to collaborate with school administrators and other school personnel to support positive school climates that focus on resolving conflicts, reducing student engagement with the juvenile and criminal justice systems, and diverting youth from courts when possible.

SROs serve multiple roles in schools. The roles are interrelated but all are carried out with the aim to contribute to school safety and security and to promote positive and supportive school climates. Key roles are:

Law Enforcement Officer

SROs' primary role in schools is as a law enforcement officer. SROs assume primary responsibility for responding to requests for assistance from administrators and coordinating the response of other law enforcement resources to the school. SROs shall work with school administrators in problem solving to prevent crime and promote safety in the school environment. SROs shall also collaborate with school personnel to reduce student engagement with the juvenile justice systems and divert students from the courts when possible. Although SRO's coordinate day-to-day with FCPS staff, SRO's

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are not school administrators. The Chief of Police shall ensure through policies and training, that an arrest of a student is the last resort and that all reasonable efforts are made to divert the student from entry into the justice system. However, it is recognized that victims of crimes committed by students have legal rights to pursue justice. Additionally, certain crimes (i.e. assaults with serious bodily injury) are not appropriate for restorative justice alternatives.

As a law enforcement officer, the SRO shall adhere to federal, state and department guidelines to protect the school against violence.

Provide a course of training for school personnel in handling crisis situations, which may arise at the school.

Apply alternative means to resolving conflict in lieu of arrest, when appropriate.

Develop positive relationships with students to reduce the risk of criminal behavior.

Document any activity of a criminal nature (i.e. Field Contacts).

Law – Related Educator

As resources permit, SROs should strive to assist with presentations for school personnel on law-related topics such as law enforcement practices, changes in relevant laws, crime trends, crime prevention, school safety strategies, and crisis response procedures. SROs may also deliver law-related education with students using lessons/curricula approved in advance by the SRO Supervisor. In all cases, responding to incidents or conducting investigations will take precedence over delivery of presentations.

As coordinated through the SLC, and approved by the principal, SROs may become involved in the school's curriculum as a guest lecturer through an elective course of instruction that may enhance the students' understanding of legal concepts and information about law enforcement. However, responding to incidents or conducting investigations will always take precedence over instructing in the classroom. Lesson plans for all formal organized presentations shall be forwarded to the SLC for review and approval prior to presentation.

SROs shall make formal presentations to, or participate in school and community based organization meetings such as Parent Teacher Association meetings or School Community Coalitions on an as needed basis. All such participation must be approved by the SRO's Supervisor. Similar requests to participate in focus groups, panel discussions, camps, mentoring programs, must be approved by the SRO's Supervisor. The SLC and the SRO's District Station Commander shall be kept informed of any such approved additional activities.

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Programs conducted in schools by other sections of the FCPD shall be coordinated with the SLC to avoid redundant services and ensure equitable distribution of such programs. The SRO shall be notified in advance of any FCPD activities scheduled for his or her assigned school.

Informal Mentor and Role Model

Students often seek approval, direction, and guidance from adults in the school setting about various problems. Through formal and informal interaction with students, SROs serve as informal mentors and role models. SROs are expected to communicate clearly to students about acceptable and unacceptable behavior, to set a positive example in handling stressful situations and resolving conflicts, to show respect and consideration of others, and to express high expectations for student behavior. Students who may need additional assistance shall be referred to a school based resource.

SRO Supervisors

The SLC shall be responsible for the overall command of the SRO Program. SRO Supervisors provide first line leadership and are tasked with specific duties, which include, but are not limited to:

- Provide timely notifications to the SLC and their District Station Commanders regarding matters related to FCPS.
- At the request of a school principal, SRO supervisors should attend Parent Teacher Association meetings, on a case by case basis to discuss significant issues effecting the school community.
- Provide supervision and assistance with problem solving and development opportunities for SROs.
- Provide planning, budget, management, and agency leadership for the SRO Program.
- SRO Supervisors shall meet with their SROs on a continual basis at their schools to observe their performance of duty.
- SRO Supervisors shall meet with school principals before the start of, and throughout the school year.
- SRO Supervisors shall mitigate conflicts and/or clarify expectations in situations where there are ambiguous or overlapping policies or practices.
- Ensure initial and relevant recurrent training for SROs.
- Provide Station Command with assistance on SRO selection as needed.

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- Act as a resource consistent with the FCPS System-Wide Emergency Response Plan.
- Ensure staffing for each school is provided in the event that the assigned SRO is absent more than two consecutive days.
- SRO Supervisors shall undergo training in cultural competence, mental health and disability awareness.,

SLC Roles and Responsibilities

A Command Staff Officer will serve as the SLC assigned to the school system. This commander will ensure the coordination of resources, responses, and effective information sharing/notification between the OSS, affected Station Commanders, SROs and Patrol Bureau. In no event, shall the Director of OSS expand the SLC's or SRO's duties and responsibilities for school administrative functions beyond those expressly provided in the MOU.

The SLC will establish and maintain a working knowledge of, and adhere to, all laws, ordinances, and regulations of all appropriate government agencies, general orders, report writing manual, applicable Fairfax County personnel regulations, written policies, and procedural directives, as well as possess knowledge of school rules, regulations, and laws regarding student safety and conduct.

As a sworn Fairfax County Police Officer, the SLC's definitive chain of command is a Patrol Bureau Commander of the FCPD. However, for day-to-day operations, directives, and general duties and responsibilities, the SLC will work in conjunction with the Director of OSS. The SLC will be assigned to FCPS for a period of one to three years, or a term mutually agreed upon. At that time, another Command Staff Officer will be rotated into the assignment at the discretion of the Chief or his designee. Additionally, the SLC will have a combination of education and experience in law enforcement or related fields necessary to fulfill this MOU.

The SLC will serve as the direct point of contact between the FCPD and ~~the~~ FCP~~D~~DS for operational and administrative school safety and security issues. The SLC will manage and coordinate school security safety issues and attempt to anticipate problems before they occur by providing research, analyses, and recommendations to the OSS.

The SLC will establish and maintain effective relationships with school personnel and appropriate county agencies to ensure a continued commitment to keep schools safe for all students to reach their learning potential.

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The SLC will assist the OSS in developing policies, procedures, and training programs to enhance the professional development of the School Security Officers, Safety and Security Specialists, and other school personnel.

The SLC shall compile real-time data on all SRO actions to include but not limited to arrests, field contacts, all police reports, all related Juvenile Court data and Intake reports, all Restorative Justice Program data and reports, all student demographic data, and all use of force events. The data shall be a matter of public record and accessible under Virginia FOIA regulations. The SLC will compile an annual report that summarizes FCPD actions. Personally identifiable information will not be disclosed. The yearly data report shall be published annually on the FCPD and FCPS sites.

It is agreed by both parties in this MOU, that the FCPS will bear the cost of salary, overtime, and fringe benefits for the SLC. The FCPD's in-kind contribution will be all necessary capital equipment and associated costs related to the SLC's police vehicle. The operating costs associated with the SLC position will be shared equally by both parties.

District Station Commander

The Station Commander shall ensure that open lines of communication are in place between the schools in their district and the FCPD. Station Commanders shall meet with school principals during the school year. Station Commanders and SRO Supervisors are encouraged to consult with the school principal prior to the selection of a new SRO to determine any special needs or concerns for that particular school.

The Station Commander retains the authority to require minimum staffing levels at school events in addition to the SRO to properly maintain public safety. An example of this would be a sporting event between rival schools that has a history of generating public disorder. Station Commanders and SRO Supervisors shall consult with the school principal prior to the selection of a new SRO to determine any special needs or concerns for that particular school.

Station Commanders shall regularly communicate with the SLC and SRO Supervisors to stay informed of the performance of personnel assigned as SROs and activity occurring in schools in their district. Any concerns regarding the performance of an SRO by the principal or school staff shall be addressed by the Station Commander through the SRO Supervisor.

OPERATIONAL PROCEDURES

Differentiating Disciplinary Misconduct from Criminal Offenses

School administrators and teachers are responsible for school discipline. SROs are expected to be familiar with the school division code of student conduct, the Fairfax

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County Student Rights and Responsibilities document, the rules of individual schools, and their application in day-to-day practice. However, SROs shall not be involved with the enforcement of school rules or disciplinary infractions that are not violations of law. SROs will consider alternatives to juvenile petitions.

Information Sharing

The release of student records is governed by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g. "School officials" may access and disclose student records only as authorized by FERPA.

When appropriate, and to the extent the law allows, the FCPS should notify SROs of any special needs of a student involved in a school-based infraction that is not routine discipline in order to assist the SRO in recognizing and accommodating behaviors that may be manifestations of the student's disability.

A critical element of the SRO program is an open relationship and strong communication between the school principal and the SRO. Each SRO shall meet regularly with the assigned school principal(s) for the purpose of exchanging information about current crime trends, problem areas, ~~cultural~~ conflicts, or other areas of concern that may cause disruption at the school(s), or within the community. SROs shall share reports of certain acts to school authorities in compliance with Va. Code Ann. § 22.1-279.3: 1.

Consent Access: An SRO or other law enforcement officer may have access to a student's education records with written consent of the student's parent or of the student if the student is age 18 or older.

SRO Access: For purposes of access to student records, SROs may be provided student information as needed to carry out their duties related to the school environment. SROs may have access to directory information for all students in the school division. SROs may have access to information on students in their assigned schools that include directory information and additional items needed to carry out their duties (such as class schedules) as approved by the school administrator.

Health and Safety Emergency Exception: In the event of a significant and articulable threat to health or safety, school officials may disclose any information from student records to appropriate parties, including law enforcement officials, whose knowledge of the information is needed to protect the health and safety of a student or another individual.

Law enforcement officials seeking access to records under the health and safety emergency exception shall contact the student's school principal and must present sufficient information for the principal or their designee to make the determination that a health and safety emergency exists, within the requirements of FERPA. If the request is

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made outside of school hours when the school principal is not available, the request may be directed to OSS, to coordinate a response.

If student information is disclosed under this exception, the student's file must contain a description of the articulable and significant threat that formed the basis for the disclosure and the parties to whom the information was disclosed.

SRO Disclosure of Law Enforcement Records: SROs may disclose only law enforcement records created and maintained by the SRO for the purpose of ensuring the physical safety and security of people and property in schools and/or enforcement of laws. Because law enforcement records are not student records, they are not subject to the disclosure restrictions of FERPA.

Consistent with the basic tenants of the relationship between the School Principal and the SRO described in this MOU, open communication is essential to its effectiveness. SROs shall exchange information with the principal regarding students' involvement in criminal activity that may impact the safety of the school environment. SROs shall not make any official document, police report, or record available to the school or its staff. A subpoena or legal equivalent for official documents, reports, or records shall be immediately referred to the Internal Affairs Bureau as previously described. In compliance with the Code of Virginia, the Juvenile Court notifies the Division Superintendent of Petitions against school students for selected offenses (enumerated in Va. Code Ann. § 16.1-260.G). The Superintendent's Hearing Officer, in turn, notifies the appropriate school principal in each case.

Release of Student Information

The release of student records is governed by the FERPA. School officials may access and disclose student records only as authorized by FERPA.

School Resource Officers

For purposes of access to student records, the SLC and SROs may be provided student information if the SLC or SRO requires the information to protect the health or safety of a student or other person in an emergency situation, as described in the MOU under Health and Safety Emergency.

SROs may be provided student information to the extent that school record information is directly relevant to a criminal investigation in a matter that cannot be resolved through school disciplinary procedures, or

On a routine basis, the SLC's and SROs' access to student record information shall be limited to a system-wide district look up of directory information (defined below) that will include information on all students in the school system who have not opted-out of the disclosure of directory information. In addition to this system-wide district look up of

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directory information, SROs will also be granted access to a school-wide look up for students in the school to which the SRO is assigned.

This school-wide look up will include additional items of information, such as class schedule, that an SRO may need to perform his or her duties, but which are not designated as directory information. The SLC and the SROs may have access to other student record information only when needed to carry out their duties in the school environment and only as approved by the school principal.

The SLC and the SROs may only disclose student records and information contained therein to the FCPD and to other law enforcement officials as described below. The SLC and the SROs may disclose "law enforcement records" to FCPD and other law enforcement officials. "Law enforcement records" are those records, files, documents, and other materials that are created and maintained by the SLC or an SRO for the purpose of ensuring the physical safety and security of people and property in FCPS and/or the enforcement of any local, state or federal law even if such records also serve the dual purpose of investigating and enforcing school disciplinary rules. Because "law enforcement records" are not student records, they are not subject to the disclosure restrictions of FERPA.

Copies of law enforcement records that are provided to school administrators for the purpose of school discipline become student records that may be maintained in student files and are subject to the disclosure provisions of FERPA. The original law enforcement record maintained by the SLC or the SRO, however, remains exempt from the disclosure provisions of FERPA.

Any record that is created and maintained by the SLC or an SRO exclusively for the purpose of a possible school disciplinary action against the student would fall outside the definition of law enforcement record. Such records would be subject to the disclosure provisions of FERPA.

Va. Code Ann. §19.2-11.2 requires written consent from a victim of sexual assault, sexual abuse, or family abuse, before law enforcement personnel may publicly release any information that directly or indirectly identifies that victim. Additionally, a 2017 amendment to the statute requires written consent of the next of kin of a child who dies as a result of a crime before law enforcement personnel may publicly release any information that directly or indirectly identifies that victim. There are exceptions to this prohibition, which permit the release of information if the information is of the site of a crime, is required by law, is necessary for law enforcement purposes, or is permitted by the court.

Fairfax County Police Department Access to FCPS Information

FCPD officials who are not part of the SRO Program may have access to student record information without parent permission and consent only if the following conditions are met and the FCPS has reviewed and approved the request(s) for information:

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1. The Fairfax County School Board (FCSB) has designated the information as "directory information", and the parent or eligible student has not opted out of the disclosure, or

2. The knowledge of student record information is needed to protect the health and safety of a student or other person in an emergency situation, or

3. The FCSB is presented with a search warrant, subpoena, or other valid court order requiring the release of student records.

Directory Information

The information items designated as "directory information" are determined by the FCSB and are published in its Annual Notice of Survey, Records, Curriculum, Privacy and Related Rights. The information of students whose parents have opted out of the disclosure of such student information will be withheld.

Directory information that may be disclosed to the FCPD may include:

- The student's name, including nickname(s)
- Participation in officially recognized activities and sports
- Height and weight, if a member of an athletic team
- Birth date
- Attendance record, defined as beginning and end dates of enrollment, not daily record of attendance
- Degrees, awards and honors received
- School and grade
- Photographs and other images
- Name of parent/guardian/individual with whom student lives
- ~~Address, telephone number, and parent email address(es)~~
- Parent e-mail address(es).

The information items designated as "directory information" are subject to change. In case of conflict between the definition above and the definition contained in the current school year's Annual Notice of Survey, Records, Curriculum, Privacy, and Related Rights and Opt-Out Forms, the Annual Notice version will control.

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~~The FCSB will provide the FCPD's Special Victims Division with direct access to a system-wide district look up of directory information. The FCPD will be responsible for supplying any computer hardware necessary for this access.~~

Law enforcement officials seeking access to directory information may ~~also~~ request such information from the school principal, if the student's school location is known, or from the SLC.

Court Orders, Subpoenas, and Search Warrants

School officials may only disclose student records in response to lawfully-issued court orders, subpoenas and search warrants. Law enforcement officials seeking to obtain student records pursuant to a court order, subpoena or search warrant shall contact the FCPS Department of Special Services' Office of Operations and Strategic Planning, which will coordinate a response. FCPD officers~~-~~ are not agents of the Immigration and Customs Enforcement agency and as such they shall not participate in any request~~s~~ for assistance that is not of a criminal nature within the FCPS.~~-~~(General Order 601, VIII, C).

Commented [KT1]: FCPD language added with hyperlink to GO.

FERPA requires that school officials take reasonable steps to provide notice to the parent(s) or the student (if the student is an adult) before any records are disclosed pursuant to a court order, subpoena or search warrant. Such notice will not be provided if the court order, subpoena or search warrant indicates that it has been issued ex parte or if it contains direction that the subject of the records shall not be notified. As a result of the notification requirement, law enforcement officials shall take into account that their access to such records may be delayed while school officials satisfy this requirement and gather responsive records. School officials will expedite law enforcement requests for records under this exception whenever necessary.

School officials will retain original school records and will provide copies in response to any court order, subpoena or search warrant. If a records request is related to an immigration matter, it shall be coordinated through the FCPS Division Counsel. ~~If original records are required, n~~Notice shall be provided to the FCPS Division Counsel's Office, including on all immigration matters, who will coordinate with law enforcement and the Commonwealth Attorney's Office~~, as appropriate~~.

Except for situations where the court order, subpoena or search warrant indicates that it has been issued ex parte or if it contains direction that the subject of the records shall not be notified, a record of any disclosure under this exception will be made in the student's file.

FCPS will provide to the SLC current contact information for the offices referenced above. The SLC will be responsible for communicating this information to the FCPD.

Certification Regarding Criminal Convictions

STAFF DRAFT

By the signature of its authorized officials on this MOU the FCPD certifies pursuant to Va. Code Ann. § 22.1-296.1 that neither the FCPS nor any of the FCPD employees who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. Both parties agree to remove from this program any employee who has been determined to be disqualified from service due to such convictions or the failure to truthfully report such convictions.

Investigation and Questioning

As law enforcement officers, SROs have the authority to question students who may have information about criminal activity (see General Order 605, Juvenile Procedures for specific authorization and limitations). However, the investigation and questioning of students during school hours or at school events regarding criminal activity in the community should be avoided unless immediate action is required to prevent an act of violence.

Unless exigent circumstances exist (.e.g. crime of active violence in progress which threatens lives in the school), the SRO shall take immediate steps to contact parent(s) or guardian(s) before any questioning of a student about possible involvement in criminal activity. The SRO shall fully inform both the student and legal guardian of the entitlement of Miranda warnings before any questioning takes place. SRO's shall seek the consent authorization (approval or denial) of the legal guardian before conducting any interview of the student. The SRO shall make reasonable attempts to have the legal guardian present when fully informing them of their Miranda warnings. Additionally, the SRO shall through conversation with the legal guardian, determine if the student has the cognitive ability to submit to questioning. SRO's shall document these steps in their police report.

Searches

All searches shall be conducted in accordance with the United States Constitution, state laws, and applicable FCPS and FCPD policies and guidelines.

School Administrator Searches

School officials may conduct searches of student's property and person under their jurisdiction when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school.

SRO searches

Any search initiated by SROs or other law enforcement officers shall be based upon probable cause and, when required, a search warrant shall be obtained. All searches shall be reasonable in scope. All searches should occur outside the presence of

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students and school staff, with the exception of school administrators, unless there is a clear and immediate threat to physical safety.

The SRO shall not become involved in administrative (school related) searches unless specifically requested by the school to provide security, protection, or for the handling of contraband. These searches must be at the direction and control of the school official. At no time shall the SRO request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

Arrests

Whenever practical, arrests of a student or staff member should be accomplished outside of school hours in order to not disrupt the educational process or school setting. Arrests that must occur during school hours or on school grounds shall be compliant with all applicable laws and shall be coordinated through the school administrator to minimize potential disruption. When circumstances do not allow for prior coordination through the school administrator, arrests will be reported to the school administrator as soon as possible.

In accordance with General Order 605.2, Section 1, Subsection G – Notification to Parents, the SRO shall take immediate steps to notify the juvenile's parent, guardian, or a responsible adult that the juvenile is in custody.

SROs are expected to be familiar with school rules and their application within the school system. Routine rule that can be handled administratively through the disciplinary process will not be handled as violations of law, but rather be referred to the principal for administrative action. Any questions related to the enforcement of rules versus laws within schools shall be discussed with the principal and SRO Supervisor. This specifically applies to general standards of conduct.

Physical Intervention by School Resource Officers

An SRO should not be involved in the physical restraint of a student initiated by school staff unless there is imminent danger of serious physical harm to self or others. SROs may intervene to deescalate situations to prevent an act of violence. All such activity by the SRO shall be documented appropriately.

Physical restraint is a personal restriction that immobilizes or reduces the ability of a student to move their torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

Administrative Hearings

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SROs may be requested by FCPS to attend hearings related to a student's potential suspension, expulsion, or school reassignment. If there is a concern as to the nature of the testimony and how providing information at a hearing may impact future judicial proceedings, the SRO shall seek direction from their chain of command and the Office of the Commonwealth's Attorney. The presence of an officer may be requested to augment security if a hearing involves a student or parent whose behavior could pose a serious threat to safety.

The testimony of and evidence presented by officers attending hearings shall be limited to actions taken by law enforcement officials, and any personally observed conduct witnessed by the officers.

The SRO shall not provide any official police document(s) or juvenile record(s) to the school or the Superintendent's Hearings Office. Generally, release of such information is prohibited by the Code of Virginia unless such documents are subpoenaed by the school through the appropriate court. Upon receiving a subpoena for official records, reports, or documents for an administrative school hearing, the FCPD Internal Affairs Bureau shall be notified and provided a copy of the subpoena before close of business that day. Any action on the subpoena shall be coordinated between the FCPD Internal Affairs Bureau, County Attorney's Office, and the SRO.

KEY STATUTORY RESPONSIBILITIES

Crime Reporting

Pursuant to the Va. Code Ann. §22.1-279.3:1.B, law enforcement agencies are required to notify a division superintendent, a principal, or a designee when a student in their school commits certain offenses that would be a felony if committed by an adult or would be a violation of the Drug Control Act, and occurred on a school bus, school, property, or at a school-sponsored activity, and the release status of the student. School superintendents who receive such reports are required to report the information to the principal of the school in which the students is enrolled. As a general practice, SROs shall notify the principal as soon as practical of any significant law enforcement events occurring at or in association with the school.

Pursuant to Va. Code Ann. §22.1-279.3:1.D, certain types of criminal activity that come to the attention of the principal or school staff shall be reported immediately to the SRO as specified in FCPS policy. No SRO or school administrator shall be required to file delinquency charges. After such notification is made to an SRO, the FCPS will ascertain the disposition of the incident made by the SRO in order to complete the School/Law Enforcement Reporting form. Schools and SROs shall be encouraged to deal with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

Threat Assessment

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Threat assessments shall be conducted in accordance with local school board policies adopted as required by Va. Code Ann. §22.1-79.4., and consistent with model procedures and guidelines published by the Virginia Department of Criminal Justice Services.

SROs may serve as members of threat assessment teams and assist in monitoring of students as well as determining the need, if any, for law enforcement action.

School Safety Audits

If requested, SROs will assist school administrators with conducting school inspection walkthroughs using a prescribed checklist and will collaborate in other school safety audit mandates including school crisis and emergency management and response planning and preparation.

PROGRAM ASSESSMENT

The School Resource Officer Program will be assessed annually, and the evaluation will be conducted jointly between the FCPS and FCPD. The following metrics and personnel resources will be used to assess the program in a co-produced annual report written by the FCPS and FCPD:

1. Success of established goals and objectives as defined by this MOU.
2. Accomplishment of tasks agreed upon as part of any work plan written in conjunction with a principal.
3. All available data related to student discipline and contacts with the justice system. This shall include student demographics, all police data and reports, restorative justice program data, and all other available data to study police-student contact trends.
4. Input from identified stakeholders such as students, parents, and formal school-community organizations.

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CONCLUSION

This endeavor is a partnership between education and law enforcement to support a collaborative, problem-solving approach to ensure a safe and secure educational environment and effective/timely coordination and communication of information which effects the operation of both parties. Regular meetings shall be conducted between the FCPS and the FCPD to support this partnership.

This MOU will remain in force until such time as either party withdraws from the agreement by delivering a written notification of such rescission to the other party. It shall be reviewed annually and amended as necessary to meet the needs of the signatory agencies. This MOU shall not be construed to create or substantiate any right or claim on the part of any person or entity which is not a party hereto.

Signed:

_____	_____
Colonel Edwin C. Roessler Jr.	Dr. Scott Brabrand
Chief of Police	Superintendent of Schools
_____	_____
Date	Date

07/23/2018 DRAFT

Board Agenda Item
July 31, 2018

INFORMATION – 1

Planning Commission Action on Application 2232-D18-2 – Pimmit Run Stream Valley Park

On Thursday, June 28, 2018, the Planning Commission voted 12-0 to approve application 2232-D18-2.

The Commission noted that the application met the criteria of character, location, and extent, and was in conformance with Section 15.2-2232 of the Code of Virginia and is substantially in accord with the provisions of the adopted Comprehensive Plan.

Application 2232-M17-43 sought to replace the existing Area 1 Maintenance Shop facility located at Pimmit Run Stream Valley Park, 1927 & 1929 Pimmit Drive, Falls Church, VA 22043.

ENCLOSED DOCUMENTS:
Attachment 1: Verbatim excerpt
Attachment 2: Vicinity map

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Michelle Stahlhut, Chief, Public Facilities Branch, DPZ
Jill Cooper, Executive Director, Planning Commission Office

ATTACHMENT 1

County of Fairfax, Virginia
Planning Commission Meeting
June 28, 2018
Verbatim Excerpt

2232-D18-2 – PIMMIT RUN STREAM VALLEY PARK – To consider the proposal by the Fairfax County Park Authority to replace the Area 1 Maintenance Shop facility, located at 1927 & 1929 Pimmit Drive, Falls Church, VA 22043. Tax Map Numbers: 40-1 ((13)) A, 40-1 ((15)) B, and 40-1 ((9)) A. (Dranesville District)

After Close of Public Hearing

Commissioner Ulfelder: Thank you, Mr. Chairman. In light of the fact that the – I'm going to – okay – I think the questions that we've had have been adequately answered. I think that the presentation has been thorough and I think that it represents and reflects a significant improvement and change at this site. I understand that some of the questions about whether this – another site would be better or whether there's things that could be done to – and further improve it, but I think that what we've had is a – a good plan presented to us to deal with a – an ongoing difficult maintenance facility that has been past ripe for change and improvement. And I'm – this is important to the Area 1 folks to have a good and operational facility to help take care of their parks and trails. And therefore, Mr. Chairman, I concur with staff's recommendation for application 2232-D18 – let me ask one thing first before I make my motion. I want to get a commitment from the Park Authority that they will revise the site plan exhibit to reflect the changes that we discussed tonight and that were discussed in some of the previous correspondence, including the pervious pavers, and so on, so that as it goes – as you go forward with the work, it's understood that when we concur with this, we're concurring with a – the site plan that includes those commitments from the Park Authority. Do you agree with that commitment? David, do you want to commit to it?

David Bowden, Planning and Development Division, Fairfax County Park Authority: Yes, I'm David Bowden, Director of Planning and Development at the Park Authority. Yes, we are certainly committed to all those items and in – to address one of Mary's questions, also. In our CIP projects, we typically set about three percent of our budget aside for natural resource mitigation for impacts from development. So that's one area where we can address the lack of vegetation in the stream valley also.

Commissioner Ulfelder: Okay, thank you. With that, Mr. Chairman, I CONCUR WITH STAFF'S RECOMMENDATION FOR APPLICATION 2232-D18-2, FOR THE PROPOSED REPLACEMENT OF THE AREA 1 MAINTENANCE SHOP LOCATED AT 1927 AND 1929 PIMMIT DRIVE, SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT OF THE COMPREHENSIVE PLAN, PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to approve 2232-D18-2, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.
Commissioner Ulfelder: Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION FIND SUBJECT APPLICATION 2232-D18-2 SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Sargeant: Second.

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

Commissioner: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 12-0.

JLC

PLANNING DETERMINATION

Section 15.2 -2232 of the Code of Virginia

Number: 2232-D18-2 **Acreage:** 7.3 Ac. **District:** Dranesville

Tax Map ID Number: 40-1((13))A, 40-1((15))B, 40-1((9))A

Address: 1927 & 1929 Pimmit Dr. Falls Church, VA 22043

Planned Use: Public Parks **Applicant:** Fairfax County Park Authority

Proposed Use: Park Maintenance Facility – Area 1 Maintenance Shop



Board Agenda Item
July 31, 2018

10:30 a.m.

Matters Presented by Board Members

Board Agenda Item
July 31, 2018

11:20 a.m.

CLOSED SESSION:

(a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).

(b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).

(c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).

1. *Barry McCabe v. Fairfax County Animal Shelter*, Case No, 1:18-cv-572 (E.D. Va.)

2. *Donyll Smith v. Fairfax County and Marcus Clark*, Case No. 1:18-cv-125 (E.D. Va.)

3. *Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, Trustee for Hilldale Trust v. Fairfax County Redevelopment and Housing Authority, Board of Supervisors of Fairfax County, Virginia, Tami J. Wynruit, Compton Village Homeowners Association, James Deboer, Trustee, and American Airlines Federal Credit Union*, Case No. CL-2018-0007324 (Fx. Co. Cir. Ct.) (Sully District)

4. Taxpayer Appeal to State Tax Commissioner Regarding Department of Tax Administration Determination of Taxpayer's Out-Of-State Business Deductions for Business, Professional, and Occupational License Receipts

5. *Simply Wireless Holdings, LLC v. Fairfax County, Virginia*, Case No. CL-2018-0007968 (Fx. Co. Cir. Ct.)

6. *Total Environmental Concepts, Inc., v. Fairfax County, Virginia*, Case No. CL-2018-0008778 (Fx. Co. Cir. Ct.)

7. *Zhihua He v. George Robbins*, Case No. CL-2017-0009356 (Fx. Co. Cir. Ct.)

8. *Sally McCrory v. Enrique A. Ruiz*, Case No. CL-2018-0003152 (Fx. Co. Cir. Ct.)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jiyao Wang and Hong Chai*, Case No. CL-2018-0010034 (Fx. Co. Cir. Ct.) (Braddock District)

10. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rangsinee Junloy*, Case No. GV18-014509 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rami Abu El Hawa*, Case No. GV18-014732 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Z Associates, LLC*, Case No. GV18-012150 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

13. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Larissa Omelchenko Taran*, Case No. CL-2017-0011715 (Fx. Co. Cir. Ct.) (Hunter Mill District)

14. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Alvaro A. Cestti and Gladys A. Caballero*, Case No. CL-2018-0006123 (Fx. Co. Cir. Ct.) (Lee District)

15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Manor House Investments, LLC, and Gino Ellis and Ms. Anna*, Case No. CL-2018-0010278 (Fx. Co. Cir. Ct.) (Lee District)

16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Brian K. Mason, Kenneth Norman Mason, and Bernice S. Mason*, Case No. GV18-007695 (Fx. Co. Gen. Dist. Ct.) (Lee District)

17. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Lamjam, LLC, and Tandoori Nights, LLC, d/b/a Tandoori Nights,* Case No. CL-2018-0009311 (Fx. Co. Cir. Ct.) (Mason District)

18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Muhammad Irfan Qureshi and Tayyaba Samina*, Case No. CL-2018-0007694 (Fx. Co. Cir. Ct.) (Mason District)

19. *In re: January 10, 2018, Decision of the Board of Zoning Appeals of Fairfax County, Virginia; Blake D. Ratcliff and Sara B. Ratcliff v. Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2018-0001836 (Fx. Co. Cir. Ct.) (Mason District)

20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mellinium Center, LLC*, Case No. CL-2018-0010208 (Fx. Co. Cir. Ct.) (Mason District)

21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Dadvar Sassan*, Case No. GV18-010783 (Fx. Co. Gen. Dist. Ct.) (Mason District)

22. *In re: January 10, 2018, Decision of the Board of Zoning Appeals of Fairfax County, Virginia; John A. McEwan and Mary Lou McEwan v. Board of Supervisors of the County of Fairfax, Virginia*, Case No. CL-2018-0002104 (Fx. Co. Cir. Ct.) (Mount Vernon District)

23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Richard L. McEntee and Virginia L. McEntee*, Case No. GV18-014956 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

24. *Eileen M. McLane, Fairfax County Zoning Administrator v. Lan N. Phan and Hon H. Luong*, Case No. CL-2007-0014491 (Fx. Co. Cir. Ct.) (Providence District)

25. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rehab Abou Zeid and Ahmed Mostafa*, Case No. CL-2018-0009783 (Fx. Co. Cir. Ct.) (Providence District)

26. *Elizabeth Perry, Property Maintenance Code Official v. Rosa C. Ferrufino and Lorenzo A. Hernandez*, Case No. CL-2018-0007573 (Fx. Co. Cir. Ct.) (Providence District)

27. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County v. Jorge Alberto Broide*, Case No. CL-2010-0017885 (Fx. Co. Cir. Ct.) (Providence District)

28. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Felix Rojas*, Case No. GV18-014168 (Fx. Co. Gen. Dist. Ct.) (Providence District)

29. *Board of Supervisors of Fairfax County, Virginia, and Leslie B. Johnson, Fairfax County Zoning Administrator v. Board of Zoning Appeals of Fairfax County, Virginia*, Case No. CL-2017-0015190 (Fx. Co. Cir. Ct.) (Springfield District)

30. *William Wiehe, Jr. - Vice Versa Corporation,* Appeal No. 17-9 (State Building Code Technical Review Board) (Springfield District)

31. *Leslie B. Johnson, Fairfax County Zoning Administrator v. CRA MAC Holdings, LLC*, Case No. CL-2018-0000145 (Fx. Co. Cir. Ct.) (Springfield District)

32. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia, and Leslie B. Johnson, Fairfax County Zoning Administrator v. Chom Sun Cholihan and Sidney Harris*, Case No. CL-2017-0009711 (Fx. Co. Cir. Ct.) (Sully District)

Board Agenda Item
July 31, 2018

3:00 p.m.

Decision Only on a Proposed Zoning Ordinance Amendment Re: Short-Term Lodging Uses (Residential Owner/Renter Operated Dwelling Only) and a Proposed Amendment to Chapter 4 of the Fairfax County Code

ISSUE:
The proposed Zoning Ordinance Amendment is on the 2017 Priority 1 Zoning Ordinance Amendment Work Program (ZOAWP), as part of the review of state code changes. In 2017, the General Assembly enacted Virginia Code § 15.2-983, affirming a locality's right to regulate the short-term rental of property through its general land use and zoning authority. As a result of this law, on March 14, 2017, the Board of Supervisors (Board) directed staff to form a workgroup to analyze the short-term rental of property in Fairfax County and recommend possible changes to the County Code and Zoning Ordinance.

PLANNING COMMISSION RECOMMENDATION:
On June 21, 2018, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the following actions:

- Adoption of the staff recommendation for the Zoning Ordinance Amendment titled "Short-Term Lodging for Residential Owner/Renter Operated Dwellings Only," as set forth in the staff report dated March 20, 2018, with the following changes to proposed Section 10-105:

    - Add a new Paragraph 2. E to read as follows:
      E. Have one designated parking space available for lodgers, which the Operator has the authority to reserve for Short-Term Lodging purposes.

    - Revise Paragraph 4. A to read as follows:
      A. A dwelling or mobile home may be used for Short-Term Lodging for no more than fifteen nights per year during which the operator is not present. Short-Term Lodging may also be conducted for an additional thirty nights, for a potential total of forty-five nights, if the

operator is present for all short-term lodging stays exceeding fifteen.

- Revise Paragraph 4. B to read as follows:
  B. The maximum number of lodgers per night may not exceed four adults except where the Virginia Uniform Statewide Building Code provides for a lower maximum occupancy.

- Revise Paragraph 4. E to read as follows:
  E. All advertisements for Short-Term Lodging posted on any platform online or in any other format must (1) include the Short-Term Lodging Permit Number and (2) identify the location of the parking space required by Paragraph 2. E and any other available parking or public transportation options.

- Support for the staff recommendation for the other options including:
  - Limiting the number of rental contracts to one;
  - Providing that a Short-Term Lodging Permit fee is $200 for a two-year permit; and
  - Reducing the fee for a bed and breakfast special exception application from $16,375 to $8,180.

- That the Zoning Ordinance Amendment have an effective date of 12:01 a.m., October 1, 2018. This delayed effective date will give staff time to notify the public about these new amendments, and give the public time to come into compliance.

In addition, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the following actions:

- That staff be directed to prepare an expedited follow-up Zoning Ordinance Amendment for authorization to permit the consideration of the following additional options:

  - Establishment of a special permit process to allow an operator to request additional nights per year with or without the operator present, and or increase the number of adult lodgers permitted per rental contract. The special permit option should be advertised to include a requirement for a fire

and safety inspection, including an appropriate fee for such an inspection and a special permit fee of not less than $910; and

- In accordance with *Virginia Code* Section 15.2-2286 (A) (4), limiting to ten days the appeal period for a notice of violation citing violations of the Short-Term Lodging Ordinance, rather than the thirty days currently authorized.

- That the Board of Supervisors direct staff to:

  - Require that any application for a Short-Term Lodging permit be notarized so that each operator affirms that the all of the information provided in the permit application is true and correct under penalty of perjury;

  - Monitor the Short-Term Lodging activity and recommend any necessary changes to the Board's current enforcement policy including, but not limited to, evaluating whether a special staff team should be tasked with investigating complaints and monitoring compliance;

  - Report to the Planning Commission and Board of Supervisors twelve or eighteen months after the effective date to recommend amendments to the ordinance or to the Board's enforcement policy, if such changes are necessary; and

  - Explore the possibility of entering into an agreement with the three major hosting platforms, Airbnb, VRBO, and Flip Key, to remove non-compliant operators from those platforms.

RECOMMENDATION:
The County Executive recommends the Board adopt a Short-Term Lodging Ordinance with a delayed effective date of 12:01 a.m. October 1, 2018. A comparison table that outlines the differences between the staff recommendation as set forth in the Staff Report dated March 20, 2018, the Commission's recommendation and the range of advertised options is enclosed for the Board's consideration. (See Attachment 3)

The County Executive further recommends approval of the proposed amendment to Chapter 4 of the County Code relating to Business, Professional and Occupational

License Tax and Transient Occupancy Tax as set forth in Attachment D of the Staff Report with a delayed effective date of 12:01 a.m. October 1, 2018.

TIMING:
Board of Supervisor's authorization to advertise – March 20, 2018; Planning Commission public hearing – May 3, 2018, decision deferred to May 17, 2018; May 24, 2018, June 14, 2018 and June 21, 2018; Board of Supervisor's public hearing – June 19, 2018, at 4:00 p.m., deferred to July 10, 2018, at 4:30 p.m.; at which time the public hearing was held, and the decision only was deferred to July 31, 2018 at 3:00 p.m.

BACKGROUND:
The rise in popularity of online hosting platforms such as AirBnB, Vacation Rental by Owner (VRBO), HomeAway, TripAdvisor, and FlipKey has encouraged many homeowners and renters to offer their homes for transient lodging. Individual rooms within a dwelling or entire dwellings are offered for a fee for periods of less than thirty days, and the search, booking, and fee collection components are typically handled by the hosting platform. This emergent economic model has presented regulatory challenges related to land use and other matters in many jurisdictions in Virginia and nationwide.

In 2017, the General Assembly enacted Virginia Code § 15.2-983, affirming a locality's right to regulate the short-term rental of property through its general land use and zoning authority. As a result of this law, on March 14, 2017, the Board of Supervisors (Board) directed staff to form a workgroup to analyze the short-term rental of property in Fairfax County and recommend possible changes to the County Code and Zoning Ordinance. Staff from the Department of Planning and Zoning (DPZ), the Department of Code Compliance (DCC), the Department of Tax Administration (DTA), the County Attorney's Office (OCA), the County Executive's Office (CEO) and the Office of Public Affairs (OPA) comprised the County's workgroup.

Beginning in June of 2017, staff conducted extensive public outreach and solicited input on a potential amendment to the Zoning Ordinance using a variety of outreach tools including an on-line survey, four County-wide community meetings held in the Community Centers in Reston, McLean, Mount Vernon and at the Government Center, and an open house. Staff also developed a dedicated website for the amendment. The proposed regulations reflect consideration of all the input and feedback received from these various sources.

Staff determined that there are different arrangements of transient housing offered by County businesses and residents. While staff may propose further ordinance changes, particularly with regard to transient occupancy in commercially managed multiple family

rental developments, **the Zoning Ordinance amendments presented in this Staff Report reflect only Short-Term Lodging (STL) conducted by an owner or renter in his or her permanent residence.**

These proposed amendments to the Zoning Ordinance and the County Code create regulations to address STL operations in terms of both zoning and taxation. Staff presented the general framework for the amendment to the Board's Development Process Committee (DPC) on July 18, October 3, and December 12, 2017, and to the Planning Commission's Land Use Process Review Committee (LUPRC) on June 22 and September 28, 2017. Additionally, the Planning Commission held a public workshop on November 1, 2017 to discuss that framework.

A more detailed discussion of the proposed amendment to the Zoning Ordinance is set forth in the Staff Report enclosed as Attachment 4.

The workgroup also determined that certain amendments will be required to Chapter 4 of the Fairfax County Code relating to taxation. Section 4-13-1 will be amended to clarify that any place that offers Short-Term Lodging, as defined in the proposed amendment to the Zoning Ordinance, is included within the definition of Hotel and the amendment reduces the definition's requirement that lodging be offered to four or more persons to simply require that the lodging be offered to one or more persons. The proposed amendment will also modify the definition of transient to ensure compliance with the Virginia Code. In addition, staff proposes that the Fairfax County Code be amended to require Hotels to report and remit their Transient Occupancy Tax on a monthly basis. The Fairfax County Code currently only requires that this tax be remitted on a quarterly basis. Finally, staff proposes certain formatting changes to the tax ordinance, all of which is set forth in Attachment D of the Staff Report dated March 20, 2018.

REGULATORY IMPACT:
The proposed regulations are intended to allow limited STL operations in Fairfax County, balancing the interests of residents in protecting the character of their neighborhoods with the interest of residents who want to operate STLs in their residences. In crafting the restrictions on STL use, staff took into consideration the particular concerns citizens and stakeholders voiced during the outreach process. Staff proposes to create an STL permit valid for a period of two years with a permit fee of $200. Staff originally proposed a grace period between 90 and 120 days from the date of adoption for STL Operators to obtain approval of an STL permit. However, given the

companion changes to Chapter 4, which has a proposed effective date of October 1, 2018, staff now recommends a delayed effective date of October 1, 2018.

FISCAL IMPACT:
Based on an average of 64 nights of occupancy at $72/night rental rate, and full compliance from the 1,549 currently active listings, staff estimates collecting $428,268 in annual Transient Occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors' Center, and the rest is used by the County to promote tourism. As a result, of the total projected $428,268, $142,756 will be allocated for regional transportation, $35,689 to Fairfax County Convention and Visitors' Center, and $249,823 to the County's General Fund. Additionally, based on the $200 STL permit fee, estimated revenue of approximately $150,000 could be generated annually. If the Board adopts the Planning Commission's recommendation, and average occupancy correspondingly diminishes, the total anticipated tax revenue will decrease. Compare:

	Current estimated average of 64 nights annually	**Commission's recommended 45 nights annually**
Average Nightly Rate	$72	$72
TOT Revenue	$428,268	$301,126
Regional Transportation	$142,756	$100,375
Convention/Visitors Center	$35,689	$25,094
General Fund	$249,823	$175,657

The estimated fiscal impacts has not been reflected in the FY 2019 Advertised Budget Plan estimates and will be included as part of a future budget review process, pending Board approval, along with associated implementation costs.

ENCLOSED DOCUMENT:
Attachment 1 – Verbatim Copy of Planning Commission Report
Attachment 2 – Text of Planning Commission Preferred Regulations
Attachment 3 – Comparison Table of staff's recommendation, advertised options and Planning Commission recommendation
Attachment 4 – Staff Report dated March 20, 2018

Board Agenda Item
July 31, 2018

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Donna Pesto, Deputy Zoning Administrator, DPZ
Lily Yegazu, Senior Assistant to the Zoning Administrator, DPZ
Jay Doshi, Director, Department of Tax Administration (DTA)
Juan Rengel, Director, Personal Property and Business License Assessments Division, DTA

ASSIGNED COUNSEL:
Sarah Hensley, Assistant County Attorney
Daniel Robinson, Assistant County Attorney

County of Fairfax, Virginia
Planning Commission Meeting
June 21, 2018
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT – SHORT TERM LODGING – NOTICE is hereby given that the Fairfax County Planning Commission will hold a PUBLIC HEARING on in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on the matter of an amendment to Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows:

(1) Amend Sect. 20-300 to include new definitions for short-term lodging (STL) and transient occupancy and to revise the existing definitions of dwelling and mobile home to include short-term lodging as the only transient occupancy allowed as an accessory use in a dwelling or mobile home.

(2) Amend Sect. 10-102 to include short-term lodging as a new permitted accessory use.

(3) Add a new Sect. 10-105 to include definitions and use limitations related to short-term lodging. Specifically:

a) Provide definitions for authorized agent, permanent resident, and short-term lodging operator.

b) Provide regulations applicable to the dwelling or mobile home including, but not limited to requiring it to be open for inspection by County personnel during reasonable hours, to comply with the life safety requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations.

c) Provide regulations applicable to the short-term lodging operator including, but not limited to, being a permanent resident of the property, obtaining written consent from the owner of the property (if short-term lodging operator is a renter), and designating an Authorized Agent. [Options: Require the short-term lodging operator to be present during any rental for transient occupancy; or to establish additional requirements related to the Authorized Agent's physical proximity or response time to any issues or emergencies that may arise at the STL when the Operator is not present.]

d) Provide regulations applicable to the short-term lodging use including but not limited to:

i. Limit the number of nights a dwelling or a mobile home may be rented to not more than 90 nights per calendar year. [Option: Allow a maximum of 180 nights per year and require any number of nights in which the STL Operator must be present during an STL rental from 0 to 180 per year.]

ii. Limit the number of lodgers per night to a maximum of 6 adults, except where the Virginia Uniform Statewide Building Code requires fewer occupants. [Option: Allow unlimited occupancy, except as limited by the Virginia Uniform Statewide Building Code.]

iii. Limit the number of rental contracts per night to a maximum of one. [Option: Allow up to 5 contracts per night.]

iv. Prohibit events and commercial activities in association with any short-term lodging.

v. Require advertisements, regardless of whether they are posted on any online platform to (i) include the short-term lodging permit number and (ii) identify where lodgers can legally park or state that parking is not available. [Option: Require up to 2 off-street parking spaces per contract.]

vi. Require a guest log to be maintained and made available upon request to any County employee enforcing the Zoning Ordinance and all other applicable County Codes.

vii. Prohibit short-term lodging in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.

e) Require issuance of a revocable short-term lodging permit by the Zoning Administrator, valid for a two year period and with a $200 permit fee. [Option: Permit fee from $50 to $250 and a range of permit validity from 1 to 2 years.]

(4) Amend Article 18 to add short-term lodging fee to the list of uses under Par. 5 and to reduce the existing special exception fee for a Bed and Breakfast application from $16,375 to $8,180. [Option: Bed and Breakfast fee from $4,085 to $16,375.] (Countywide)

Decision Only During Commission Matters
(Public Hearing held on May 3, 2018; Decision only from May 17, 2018; Decision only from May 24, 2018; Decision only from June 14, 2018)

Commissioner Hart: Thank you, Mr. Chairman. On May 3rd, the Commission held a public hearing on the Short-Term Lodging Zoning Ordinance Amendment and deferred decision three times. Tonight, we make our recommendations to the Board of Supervisors. We may not have reached complete agreement and we may not necessarily be finished with this topic, but I believe we've reached a point where we can pass the item along to the Board with several constructive suggestions. I've circulated this week two proposed motions to the Commission which went through several iterations. And tonight, I intend to move the first scenario, adoption in part, of a limited by-right use, coupled with a recommendation for advertisement of additional changes and follow-on motions. I intend to elaborate on some of the rationale for this motion. First, I wanna thank all the citizens who participated in this process over the past several months, responding to the online surveys, speaking at public meetings or public hearing and submitting correspondence. We generally want to engage the community in the Zoning Ordinance Work Program discussions and on this topic, we have received a great deal of input from a variety of perspectives. I also want to thank our staff team, and many of them are here tonight, particularly the Zoning Administrator, Leslie Johnson, also Donna Pesto, Lily Yegazu, Sara Morgan, Charles Fitzhugh and also Sarah Hensley in the County Attorney's office. Many of them worked very late hours on the various stages of this project. Staff did an unprecedented amount of citizen outreach, including meetings around the County. We also received responses and comments from over seven thousand residents. This was an extraordinary complicated project and to me it seemed to get more difficult the further we progressed. I wanna thank also my colleagues on the Commission for their comments and suggestions which are added much to the level of review. I

think all eleven of my colleagues have weighed in each adding something different to the discussion. And we certainly have a wide array of opinions and questions to consider. This amendment has also generated considerable opposition, and there may not be a consensus in the community either to allow a short-term rental use, or even if we allow it, what constraints on the use may be admissible or appropriate. The Commission's skepticism with this topic, to some extent, mirrors the division in the community and the difficulty with identifying appropriate or permissible language that would satisfactorily mitigate impacts on residential neighborhoods. I sympathize with many of the observations about protecting residential communities, and agree that we ought not simply introduce a boarding house use or motel use by-right across the board. At the same time, I agree that many County residents have successfully utilized and enjoyed short-term lodging elsewhere, and other communities have allowed them without destroying the character of residential districts. Many County residents will act responsibly, if allowed the opportunity to serve as STL hosts here, without bothering their neighbors. STLs also may allow some of our residents the opportunity to earn supplemental income and interact with interesting guests from all over the world, promote Fairfax County as a tourist destination among other benefits. With that in mind, the Board directed staff to evaluate this use and make appropriate recommendations. Identifying how a conceptual short-term lodging use should be specifically defined; however, has proven difficult. We have at least two groups of opposition. One group opposed to the use by-right in residential districts and another extreme opposed to any regulation of rentals at all. In the middle, we have other folks who either support the use or support it subject to certain limitations, some of which we've learned are impermissible from beyond the scope of the advertising. In my view, part of the difficulty with the proposed amendment is that we are attempting to craft a "one-size fits all" approach, allowing the same use with the same numbers for every type of residential unit, from studio apartments to five-acre lots. But the impacts of a short-term lodging unit on a five-acre lot with plenty of room for parking and separation from neighbors may be very different, compared to a townhouse community with party walls and limited parking, or a condominium with many neighbors in close proximity. I believe that through this process, the Commission has generally reached a consensus that the numbers that were advertised may be too high for a by-right use everywhere and that more modest numbers might help mitigate the impacts. Above this baseline, I believe a case-by-case review may be more appropriate to allow for a public hearing and imposition of development conditions, with a specific evaluation of the context. This approach would allow more flexibility for going above these base-line numbers on appropriate properties, without severely impacting neighborhoods. We also handled other analogous uses in residential neighborhoods, such as home child care or home professional office, for example a dentist or an accountant, through these procedures now. And that seems to me to be an appropriate methodology for evaluating the impacts, how they should be mitigated case by case. Some uses will work in some houses, but if the application property is a townhouse with limited parking, or house at the end of a court, all mailboxes and driveways with no parking and pie-shaped front yards, the impacts of comings and goings in a small space may be magnified, and neighbors may have more concerns. I will have a follow-on motion on that topic. I had hoped tonight to make an elegant motion neatly resolving all the loose ends which may be impossible, but; in a legislative process, perfection may be impossible to achieve. A number of years ago, in what might be described as a – a spirited discussion with our former Chairman, now Congressman Connolly, I felt compelled to point out, correctly, the numerous deficiencies in whatever the proposal on the table was. Nevertheless, paraphrasing Voltaire, the Chairman reminded me that we cannot let the perfect be the enemy of the good. That lesson may apply here. We may not have a perfect solution, but I think we can go forward to the Board with what we have at this point, monitor it, and make

adjustments if appropriate. Ultimately, I have concluded, with staff's guidance, that a limited by-right use across the board, could be implemented, coupled with several follow-on motions proposing additional options. My motion will propose limiting the by-right short-term lodging use to forty-five days, with a maximum of fifteen without the operator present, limiting the use to four adults with one contract only and requiring one parking space. I believe this an appropriate range for an initial by-right use at this time. I recognize the package is a compromise, but based on a logical vetting of the proposal. We may not all agree on these numbers, but if this baseline use can be adopted, we can evaluate it for twelve or eighteen months and make appropriate adjustments. I recognize also enforcement is a very difficult aspect of this amendment. At the outset, I wanna try and separate the issues of home – homeowner association covenants from zoning. We've been repeatedly urged to consider homeowners associations and their covenants or rules in some fashion, including specific requests that these permits be denied in any community, where the homeowners association rules prohibit short-term rentals. But the topic of covenants has come up many times before on Zoning Ordinance amendments, and we have never gone there. Fairfax County cannot get in the middle of private agreements between private parties, and cannot consider homeowners association covenants or rules in this context. The Commission, the Board of Supervisors and staff, are in no position to make any binding determinations whatsoever about the existence, validity, meaning or enforceability of purported covenants or rules. We leave those decisions to courts and judges where they belong. The County has no idea whether for a given community there are covenants or HOA rules, whether they've been amended, whether they were properly adopted, whether they applied to some or all of the lots. We have no idea whether any required procedures were followed, whether paperwork was properly prepared and signed. If there was a meeting, we don't know if there was a quorum, proper notice sent out in advance; whether the votes were properly conducted or how the arithmetic was handled. We don't know the number of votes required in a subdivision, whether you count the sections separately or together; whether both the husband and wife have to vote or sign; whether any of the original lots were subdivided and whether that changes the arithmetic. It would be highly inappropriate for us to wade into those issues, or even worse let staff at the counter try and puzzle through those questions. If the language of a restriction is disputed, a judge needs to make a ruling as to what means. And more importantly, the homeowners association or an affected resident needs to take the initiative on their own dime. It would be highly inappropriate for the County to spend taxpayer money taking sides in any homeowners association enforcement dispute. Nevertheless, this proposed ordinance in no way diminishes the right of any homeowners association or any individual resident to seek appropriate judicial relief, whether a binding determination about the existence, meaning or enforceability of a purported restriction or to enforce any such restriction. Nor does the ordinance limit in any way the ability of an association to modify its existing rules or adopt new ones in accordance with their procedures and existing laws. Homeowners associations and citizens remain free to exercise their rights in that regard and the County is not going to impair those rights. With respect to enforcement generally, there are limitations on what we can do. There will not be additional employees or funds budgeted in this Zoning Ordinance amendment. There will not be a weekend swat team or instant enforcement. Complaints will be handled according to our established procedures like any other zoning violation. If a complaint is received, staff will investigate and follow the existing protocol. If a complaint is determined to be founded, ordinarily a letter goes out and that starts the appeal deadlines running, like any other zoning violation. Our zoning enforcement team is very conscientious and works very hard to stay on top of the complaints that come in. We will continue to monitor the effectiveness of our enforcement. I do believe that consideration of a shorter appeal period, ten days rather than

thirty days, analogous to what we do on boarding houses, may be more appropriate and I will have a follow-on motion on that topic as well. Staff also has indicated, that through a contract with Host Compliance, Fairfax County now will have more helpful information to assist with enforcement in this regard. I do believe that Fairfax County probably can do more to facilitate effective enforcement and one of my follow-on motions also addresses that project. In addition, the execution of the application form under oath will assist staff and the County Attorney's office with enforcement. While this package as expressed in the first motion may not be a perfect solution and may not please everyone, I believe the Commission has done its job and given the topic a through vetting. I think this is a logical and appropriate recommendation to the Board at this time. Therefore, Mr. Chairman, I MOVE, FIRST, THAT THE PLANNING COMMISSION RECOMMEND ADOPTION OF STAFF'S RECOMMENDATION FOR THE ZONING ORDINANCE AMENDMENT TITLED "SHORT-TERM LODGING FOR RESIDENTIAL OWNER/RENTER OPERATED DWELLINGS ONLY," AS SET FORTH IN THE STAFF REPORT DATED MARCH 20, 2018, WITH THE FOLLOWING CHANGES TO PROPOSED SECTION 10-105:

1. IN PARAGRAPH 2 WHICH READS "A DWELLING OR MOBILE HOME USED FOR SHORT-TERM LODGING MUST" AND CONTINUES – ADD A NEW PARAGRAPH 2. E TO READ AS FOLLOWS:

   E. HAVE ONE DESIGNATED PARKING SPACE AVAILABLE FOR LODGERS, WHICH THE OPERATOR HAS THE AUTHORITY TO RESERVE FOR SHORT-TERM LODGING PURPOSES.

2. REVISE PARAGRAPH 4. A TO READ AS FOLLOWS:A. A DWELLING OR MOBILE HOME MAY BE USED FOR SHORT-TERM LODGING FOR NO MORE THAN FIFTEEN NIGHTS PER YEAR DURING WHICH THE OPERATOR IS NOT PRESENT. SHORT-TERM LODGING MAY ALSO BE CONDUCTED FOR AN ADDITIONAL THIRTY NIGHTS, FOR A POTENTIAL TOTAL OF FORTY-FIVE NIGHTS, IF THE OPERATOR IS PRESENT FOR ALL SHORT-TERM LODGING STAYS EXCEEDING FIFTEEN.

3. REVISE PARAGRAPH 4. B TO READ AS FOLLOWS:

   B. THE MAXIMUM NUMBER OF LODGERS PER NIGHT MAY NOT EXCEED FOUR ADULTS EXCEPT WHERE THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE PROVIDES FOR A LOWER MAXIMUM OCCUPANCY.

4. REVISE PARAGRAPH 4. E TO READ AS FOLLOWS:

   E.ALL ADVERTISEMENTS FOR SHORT-TERM LODGING POSTED ON ANY PLATFORM ONLINE OR IN ANY OTHER FORMAT MUST (1) INCLUDE THE SHORT-TERM LODGING PERMIT NUMBER AND (2) IDENTIFY THE LODGING – excuse me – IDENTIFY THE LOCATION OF THE PARKING SPACE REQUIRED BY PARAGRAPH 2. E AND ANY OTHER AVAILABLE PARKING OR PUBLIC TRANSPORTATION OPTIONS.

I MOVE THAT THE PLANNING COMMISSION SUPPORT THE STAFF RECOMMENDATION FOR THE OTHER OPTIONS INCLUDING:

- LIMITING THE NUMBER OF RENTAL CONTRACTS TO ONE;
- PROVIDING THAT A SHORT-TERM LODGING PERMIT FEE IS $200 FOR A TWO-YEAR PERMIT; AND
- REDUCING THE FEE FOR A BED AND BREAKFAST SPECIAL EXCEPTION APPLICATION FROM $16,375 TO $8,180.

I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THE ZONING ORDINANCE AMENDMENT HAVE AN EFFECTIVE DATE OF 12:01 A.M., OCTOBER 1, 2018. THIS DELAYED EFFECTIVE DATE WILL GIVE STAFF TIME TO NOTIFY THE PUBLIC ABOUT THESE NEW AMENDMENTS, AND GIVE THE PUBLIC TIME TO COME INTO COMPLIANCE.

Commissioner Hurley: Second.

Commissioner Hart: And then I will have some follow-on motions also.

Commissioners Hurley and Ulfelder: Second.

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

Commissioner Migliaccio: Thank you, Mr. Chairman. As with many of our fellow Commissioners, we've been struggling with this and I want to get to a "yes" and I'm still at this point struggling. I understand that this is a very complicated issue to – I mean it's very obvious after that lengthy discussion by Mr. Hart – motion. But what we have in place right now with the County is not workable. It penalizes good citizens who are simply trying to supplement their income and abide by the rules that right now do not exist so we need to get something in place. My concern is not with the good actors, is with the bad actors and how they impact our stable neighborhoods and how we can achieve – how we can enforce our rules. We're not able to do that right now – we never seem to be able to do that. Therefore, I have one simple amendment that I would like to add on to Commissioner Hart's is – I think will help with the enforcement especially during the twelve to eighteen-month period when we're starting out with this. And if we're starting out and we start out too big, we never can reign it back in, we can only go up that's the easier way to go. So, I think we should start out small and move up. Therefore, after discussing with some other Commissioners including Commissioner Strandlie, I would like to make an amendment to Mr. Hart's motion and it's regarding the onsite operator days from thirty to zero – fifteen days offsite. I would like to make that to zero and thirty days onsite, make that to forty-five. Therefore, Mr. Chairman, I MOVE TO AMEND PARAGRAPH 4. A TO STRIKE "FIFTEEN" AND REPLACE WITH "ZERO" AND TO STRIKE "THIRTY" AND REPLACE WITH "FORTY-FIVE." This effectively will allow somebody to come in to code compliance to come to a house and easily know if they're in compliance. It's not about noise, it's not about parking, it's not about lighting, it's not about some other quality of life issue that can be nebulous. It is something that they can look at either the operator is onsite or the operator is not

onsite. And normally if the operator is onsite they're not having all of these issues in the neighborhood.

Commissioner Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Niedzielski-Eichner.

Commissioner Strandlie: Second.

Chairman Murphy: Is there a discussion? And Ms. Strandlie.

Commissioner Tanner: Mr. Chairman.

Chairman Murphy: Yes.

Commissioner Tanner: Just a quick question to make sure I understand the motion. Are you stating that there should be a requirement for onsite – the owner of the property to be onsite during all – all contracts so to speak. Is that what you're saying.

Commissioner Migliaccio: They're under contract? Yes.

Commissioner Tanner: Okay.

Commissioner Migliaccio: Forty-five days. I don't want to upset the apple cart. I would go higher with days, but I understand it's been crafted to get to forty-five right now. I think if they're onsite we can go up to ninety at some point but, as I said earlier, I'd like to start out small and move up.

Commissioner Ulfelder: Quick clarification.

Chairman Murphy: And then Ms. Strandlie first and then Mr. Ulfelder.

Commissioner Strandlie: [Inaudible]

Chairman Murphy: Okay, Mr. Ulfelder.

Commissioner Ulfelder: I – I – what I heard Commissioner Tanner say was the owner has to be onsite. It's the operator. Because the – the owner can be the operator, but somebody who is a long-term leasing the property can be the operator as well, so long as they have owner's permission in order to have – to get the permit in order to proceed with STLs. So – so it's not always the owner but it's somebody who is – is an operator and under this proposed ordinance they would have to have the owner's permission in order to be in that position.

Commissioner Tanner: Thank you for the clarification. So – so if somebody were to step outside – or step out of town a while and wanted to lease their property while they were out of town, that would not be allowed according to your amendment. Is that correct?

Commissioner Migliaccio: What do you mean by out of town? Are the going out for a cup of coffee or are the leaving town for three weeks?

Commissioner Tanner: Three weeks.

Commissioner Migliaccio: Then no.

Commissioner Tanner: Got you. Thank you for clarify.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Thank – Thank you. I firmly support Commissioner Migliaccio's motion. This has been a very important issue in the Mason District. We've heard a lot from our constituents. One of the main things that we're concerned about is that our – our neighborhoods are residential and they're not a tourist destination. We've already seen real estate agents advertising for clients who are looking for investment properties to short-term – to rent out as short-term rentals. It's one thing. And we heard from a lot of constituents who were having good experiences by renting out a bedroom. In particular, I'm thinking about a woman from Reston who told us her story. I strongly believe that we should start with very restricted low numbers, see how that goes. The current situation is not working that well. We don't have any recourse to effectively enforce. So, having some rules will – should be a step forward. So, I would urge my fellow Commissioners to support this motion.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: I will vote against this amendment. It is unreasonable. If you're renting your place out for forty-five days that you can never leave home? You – it's just totally unreasonable. You've defined always present that means you can't go down the street to get a carton of milk. And if it hasn't been defined, can't they go way for a weekend, for a night on the town or whatever. It's – it's unreasonable to demand that the operator has to be always be present. I think along a couple of weeks that the operator and spouse can go have a weekend together someplace else, whatever, go to the beach. And in addition, you say you're concerned about the people with investment properties. But there are other protections that are set up in this that the operator has to be present for a hundred and eighty-five days a year. You can't – that means over half the year. You can't have more than one house that you can have a permit on because you can't be in more than one house more than a hundred and eighty-five days a year. So, we already have that protection. They can only have one house and they have to live in it for majority of the year. So, I think that's already protected and I don't see how that's at all would be improved by not allowing the operator ever to leave their house while they have a guest present. Including the case you mentioned in Reston.

Chairman Murphy: Mr. Migliaccio then Mr. Tanner.

Commissioner Migliaccio: Thank you, Mr. Chairman. I don't see how it's enforceable when you say forty-five days and there's a subset, be it one day or a thirty-eight days or twenty-three days how do you – how do you know that there are not there or they are there. So, if we're trying to get to a point where we are trying to keep the residential stable neighborhoods what we want them to be, stable residential neighborhoods, I think this is something that we can start off with

and if there's no issues, and we're always complaint-driven for our – on the code compliance, it should not be an issue. I'm not saying that they can't go down and go out. But if you're running essentially a motel in your neighborhood, then you probably should be onsite. Thank you.

Chairman Murphy: Ms. Strandlie. Oh, I'm sorry. Mr. Tanner then Ms. Strandlie. Go ahead.

Commissioner Strandlie: I just wanted to respond to that. There are – there are surely loopholes that people will be looking for. And to say that it would be against the ordinance to go out and get milk or coffee, that's just not the way this is written. It certainly envisions that you are there, you're not leaving your house to go stay in a hotel while you're renting out your own house for this purpose. That's the distinction and I think that's something that we have to look at.

Chairman Murphy: Mr. Tanner…

Commissioner Tanner: And…

Chairman Murphy: And then Mr. Hart.

Commissioner Tanner: Thank you, Commissioner Strandlie. I understand that – it's not for the cup of coffee or even going out for dinner that night. I understand that's not the case. But I agree with Commissioner Hurley with – that for a home owner, it's their – their prerogative. It's their right to choose how they want to rent out their property. And I should say I'm concerned in terms of enforcement, which is why we change the number of days. the number of times. That was – you know and thank you Commissioner Hart for really championing this and driving this forward. But when you start looking at number of days and enforcement that's always gonna be the question when it comes to short-term lodging. And I agree that with a shorter number of days, fifteen is what we agreed upon, forty-five is the – we came up with as well. That – that will start to answer the that question and we can still look forward going future. Personally, I don't think there should be an owner present at any point in time if they chose to rent out their property so long as it was in line with the rules we set in place. However, the compromise, being the understanding is that, when we start looking at the enforcement aspect of it and what we're really trying to do. Having the owner present for the majority of the time, still meets that need and that's gonna drive it forward. So, I am personally also against this amendment, as it's currently stated.

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I just wanted to add my voice in support of Commissioner Migliaccio and Strandlie's position on this. I think they articulated rationale well. The – particularly concerned about is we'll talk some more probably but – particularly concerned about the enforcement side of this. What I like about with Commissioner Migliaccio's proposing is that two things. One is – it will be easy – more easily enforced to have the – ensure that the operator is home – is – in on the premises. And second that we start slowly. This is a new initiative. We're not sure how it's gonna evolve. We in fact get learned through many other communities that have had these – this capability, that there've been problems. And so much with staff's good work was is to help ensure that we are minimizing or mitigating against the problems that have araised in other communities. But it doesn't mean that we should go full bore. It means that we should take our – not baby steps, this not a baby step, but take

reasonable first steps, do some assessment, evaluation and then come back and see where we are. In particular, to ensure that the bad actors are under some constraints and within control. Thank you.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. In the last couple of weeks, I've come to appreciate more how Congress never can get anything done. I made the motion with the thirty plus fifteen and I recognize those numbers are somewhat arbitrary. And that we have a range of disagreements about what those numbers should be. But the fifteen days, what I was thinking, fifteen days out of three hundred and sixty-five isn't very much. It's two weeks. And there may be reasonable situations where a family wants to rent a whole house for a wedding or a funeral or a family reunion or something like that. And an Airbnb might be an appropriate use for that. I think with fifteen days if we can – if we can handle it and also if we can see how it is for these twelve or eighteen months we can adjust those numbers. I think personally most of the people will be responsible and we can handle fifteen days of something like that. A use like that is probably a situation where somebody isn't going to be in their house. It's more difficult if they're just renting out a bedroom or a couple bedrooms, then it – the owner is not there for the whole house. I think we are starting small. I think this is a – it's a fairly compartmentalized and discrete number and we can try it. And if it's a flop, we'll find out or if there's problems and complaints resulting from that, I think we'll understand that better having a little bit of experience under our belt. The fifteen number isn't magic, but I think we can handle – I think fifteen is small enough that we can handle.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. The – the assumption seems to be that if the operator, whether it's the owner or someone who has the right to be an operator in this situation, is present meaning that they haven't left town, that they're probably gonna be staying in a bedroom somewhere in the house overnight. That the – that somehow, if we don't have that situation, then it's gonna be situations where the short-term leasing or the guest are gonna get out of hand. That the – that you want the operator there to – to make sure that people don't go out on the lawn and through beer cans at the fence or whatever they do, or might do, excuse me. However, I think there are a group of people who are doing short-term leasing, who do it in part while they are out of town and I think that's a legitimate situation. I guess the enforcement question is how do you after the fact determine whether they were – if they leased only for forty-five days, which is the restriction on an annual basis, that they were there for thirty of them and they were only away for fifteen. Well I agree that's gonna be difficult to prove one way or the other. But that's not the real issue. The real issue is how do people who are leasing the property act. How do they conduct themselves and is this designed to – this particular proposed amendment designed to add an extra layer to – of assurance that we're gonna have people leasing these properties who are behaving themselves and aren't doing anything that they shouldn't be doing and disturbing the neighbors in the neighborhood. So, I'm a little torn but at this point I would vote against the amendment and retain the current fifteen days and thirty days situation as proposed in the original amendment.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Just on that point Mr. Ulfelder, I agree on what you were saying but when you have fifteen days out of forty-five days, might as well make it forty-five. Because as you stated, how do we tell. So it's not zero, it's not one, it's forty-five is how I read it. Because that's what the people – and I'm not talking about the people that – looking at the rules and abiding by it, I'm talking about the bad actors that we can't seem to reign in. Be it the boarding house or other things, and this gets Code Compliance something that easily sink their teeth into, either the operator, the permittee is onsite or the are not. Not trying to determine were they here fourteen days, twenty-three days, what happened. So that's why I wanted to give it something so that Code Compliance has something to look at, rather than just parking or some other thing that we have to have the police call that night because there's a party and they're not coming out at – there's no task force at midnight coming out but this is something that the police can say, the permittee is not there on the report, therefore, we just move on.

Commissioner Ulfelder: Mr. Chairman.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: I understand but, I don't think it's any easier after the fact for us to determine whether the operator was present on the property the particular night or not. The only we we're gonna find out is if there's a complaint. The police arrive because of a noise complaint or something like that. Find out that it's the group of people who are there under an Airbnb listing on a short-term rental and they start looking around for the operator, and they say – the people who are leasing it say, "oh they're out of town." I mean that would be the way you catch it. I – I agree, you know, you go back and look at everybody, you know, they're gonna have a little box to say, "I was present – I was present," besides each short-term rental that they have, that they list in their log. So, for me it's either way, it's still an enforcement issue. It's still and enforcement problem, it's still a matter of putting together sufficient evidence to support a notice of violation. And if you – and God forbid you end up having to go to court with it and so on. So, I think – I mean I think that the enforcement problems exist either way and – but this way we have a class of people who feel for part of the time at least, they can go away for a weekend while they lease out their house and not be "in violation of their burden."

Chairman Murphy: Mr. Carter.

Commissioner Carter: I think the key word there is "operator." So, it doesn't necessarily have to be the owner. But I think what the motion is after is to have somebody onsite at all times who is responsible. When that code enforcement person comes, and responds to a complaint, somebody needs to be there that is responsible. And if the word "operator," I suppose could have a couple of different meanings but not necessarily the owner. So, I'm gonna support that motion because I think that we need somebody onsite at all times who is responsible for taking care.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: I agree with Commissioner Ulfelder that there's an enforcement issue. If you're saying they have to be onsite at all times, that means if the police happen to come and the guy when out to dinner, he's in violation. You're saying they have to be onsite at every moment, when the police show up they better darn well be standing there at the door, that is unreasonable. I really think that's totally unreasonable.

Commissioner Carter: I think you're right. I said all times but that's not exactly what was meant, so. [Inaudible] Going out for dinner and things like that are not covered. We want somebody there responsible.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Mr. Chairman, then I mean – I understand that and that's not the intent of the motion – the amendment. If it was, then it's a very poorly worded motion and I will change it but, I'm just looking what we're going off of in Paragraph 4. A. Well if you have fifteen nights, where they're not there but thirty nights they have to be there, so we already have that in there so we already have this discussion going on. It's not about did they go out to dinner, did they go out to get a cup of coffee, did they go across town to babysit during the day, it's about are they physically there at night are they there to oversee the operator they're essentially bed and breakfast. Thank you.

Chairman Murphy: Further discussion of the motion put forth by Mr. Migliaccio. If not, all those in favor of the motion, say aye.

Commissioners Niedzielski-Eichner and Migliaccio: Aye.

Commissioner Hurley: Are we voting on the amendment?

Chairman Murphy: That's the amendment.

Commissioner Hurley: Not the motion.

Commissioner Sargeant: We're voting on the amendment.

Chairman Murphy: The amendment. Yeah.

Commissioner Migliaccio: The amendment

Chairman Murphy: The amendment. Yeah, yeah, Mr. Migliaccio. Say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: No

Commissioner Hart: Division.

Chairman Murphy: Division.

Chairman Murphy: Mr. Clarke.

Commissioner Clarke: No.

Chairman Murphy: Ms. Cortina.

Commissioner Cortina: No.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Yes.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: No.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: No.

Chairman Murphy: Mr. Hart.

Commissioner Hart: No.

Chairman Murphy: Mr. Tanner.

Commissioner Tanner: No.

Chairman Murphy: Mr. Carter.

Commissioner Carter: Yes.

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Yes.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: No.

Chairman Murphy: And the Chair votes yes. Mr. Migliaccio, I …

Commissioner Migliaccio: I vote yes. But the motion failed.

Chairman Murphy: Motion fails.

Commissioner Hart: After five to seven, it failed.

Chairman Murphy: Five to seven.

Commissioner Hart: Go back to the main motion.

Chairman Murphy: Go back to the main motion. Is there further discussion of the main motion?

Commissioner Ulfelder: Sure.

Chairman Murphy: Okay. I wasn't encouraging it, I was just asking a question. Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. You know, I support this. My – my neck is too short to – to stick in the ground. And this is a problem and Fairfax County is too large, to diverse with too much of a large housing base – residential base to ignore this. So, I'm in favor of this particular proposed motion because I think it represents an appropriate first step. And, it will give people who are planning – who are planning on leasing out space to visitors. I mean we have people who come for business and who use short-term rentals in Fairfax County for conventions, for other meetings, for recreation, for tourism, for the entire area. I mean we've seen a lot of these applications around our TSAs near Metro stations, where people have easy access to downtown or other places outside of Fairfax County as well. And I think that this is what I call more of a minimalist approach. An approach that's designed to get us going and give us a platform in which to work with people who are doing short-term leasing or planning to do short-term leasing in a beneficial way. And to at the same time keep people who do what I would call industrial strength short-term leasing from buying up houses and doing – taking other steps to go into a wider scale business of short-term leasing with properties that they may own and be able to set up in Fairfax County. And, I think that we need some time and experience with an ordinance that has – that allows some level of short-term leasing in order for us to make some of the decisions we are – have been thinking about, have been sort of agonizing over but don't have answers for at this point. So, that we can look at this Zoning Ordinance Amendment in twelve to eighteen months and determine to what extent enforcement turned out to be a really big problem and to what extent people ignore the ordinance, and the extent of which short-term leasing actually results in problems within the neighborhoods. And, what type of neighborhoods and what situations are the ones where it turns out to be a bigger problem. So, I support the motion as an appropriate first step and hopefully we can then find out as we progress as to how further we might address this. And I know there is a follow-on motion to help starting to address some of those.

Chairman Murphy: Further discussion? Yes. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I am – have been reluctant, as Mr. Hart – Commissioner Hart knows, I've been a reluctant Commissioner to come to this table. But after Commissioner Hart's extensive work and interaction with the staff, I'm taken to heart the admonition that good is – perfect is the enemy of good. And, I think this is a good first step. But it's not a sufficient step for the longer run. And the only way to get to a sufficient step, I think is to do – have some experience under our belt. And – so, with the follow-on motion that Mr. Hart is going to be presenting later, I will – I'll be supportive of this particular motion. I want to emphasize my concern for two points. One is the matter of enforcement. And if I have understood the – the – Commissioner Hart's point of view on this, we should not expect any further – any additional enforcement effort beyond current practice. And I would recommend that the Board of Supervisors take this on as a challenge. I'm – I've always kind of been – the Chairman Bulova's concept of a booster shot has resonated with me. Particularly in this context of this major new effort is to bring into some regulatory control, a new concept – a new approach to lodging. When we have something new of so such significance, and when we're trying to

protect our neighborhoods while we roll this out, it makes sense to me to make sure that there is enforcement capability that we jump start or we put additional enforcement capability into play to ensure that this regulatory construct that we're creating is – is effectively implemented. So enforcement is critical. The second thing I'd note is that a twelve-to-eighteen-months study period is not gonna be valuable to us, unless we know our priority what it is we're studying. What are the variables that will be collecting data on, that will allow us then after twelve to eighteen months have sufficient data before us that will allow an effective evaluation of our progress or lack of progress. But I will be supporting this and I wanna express my appreciation to Commissioner Hart for his hard effort.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. As I mentioned earlier, what we have in place right now is not workable and we need something. My amendment got a hearing, it lost, so we move on. I will be supporting Commissioner Hart's main motion, just because we need something to look at, something to evaluate. I don't think the enforcement mechanism is strong enough, I don't think that it will be – I think in twelve to eighteen months, we may be revisiting if not sooner, the enforcement mechanism in it. But I'll be voting in favor of it.

Chairman Murphy: Further discussion. Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. This amendment proposal has come a long way since we started with the very high numbers for possible nights from a hundred and eighty nights per year to the fifteen, with the operator present. And an additional thirty without the operator present. These numbers come in actually lower than some recommendations that we received from our community and are in line with numbers that reluctantly – my preference would be operator present a hundred percent of the time. And unfortunately, that failed. With the follow-on motions and the changes, I'm gonna support this as well, because we do need something in place. And some of the follow-on motions include some enforcement enhancements that will encourage the Board to look at that. The notarization of the application. The - one thing that I think is extremely important and I hope that staff takes this very seriously, to work on agreements. With the hosting platforms to take anyone off that does not have a valid permit. It appears as though this will pass with or without my – my vote, or maybe not, if someone else says something maybe I'll change mind in the meantime.

Chairman Murphy: Please no one else.

Commissioner Strandlie: But, you know, this is – this has been one of the toughest things that we've worked on since I've been on the Planning Commission. This has – will have an impact on neighborhoods. And – but you know, it already is. We have people renting out full house rentals now in our – in our neighborhoods and we don't have any rules in place. So, that's where I'm coming from at this moment. And I look forward to hearing from other Commissioners' positions.

Chairman Murphy: Further discussion? I'll just take a whack at it. I really did not know how I was gonna vote on this and I made no commitment other than, my commitment was I might just abstain. But having said that, the reason I said that was that if notwithstanding the Planning Commission's recommendation to the Board, if the Board of Supervisors in its wisdom approves

this concept, this Zoning Ordinance Amendment, we're gonna have this for a very, very long time and it better be as close to right as it can be. I have full faith in our folks who go out and enforce the rules and regulations. And yet I hope this amendment if it goes before the Board and its approved, that work will not become too onerous because right now there is no plan to increase that staff. We may have to do that and that may be something we have to do in the future. But going off this perfect solution that Mr. Hart said, it's never going to be perfect, I don't think. There are still a lot of questions to be answered but I think this particular motion, with the follow-on motions that Mr. Hart is going to make, will get closer to that state where if it is approved by the Board, it will be fairly operational and it will be accepted as far as the procedure is concerned that we – we will look forward to in the future and how we can manage this type of housing in our communities. Because let's face it, this is going to have an impact in our stable residential communities. And that was my biggest concern. But I think we have to give it a shot and let's see what the Board does with it and we'll have a chance to come back and look at it again. So, I'm gonna continue to – I'm not going to continue to abstain, I'm going to support the motion. Further discussion? All those in favor of the motion as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. How about that?

Commissioner Hart: I don't believe my ears.

Chairman Murphy: This is – now this was just the rehearsal. This was the rehearsal dinner; the wedding hasn't happened.

Commissioner Hart: Let me thank everyone for having an open mind. I was not expecting that. I've been counting noses for three weeks. I have another motion, if I may, Mr. Chairman.

Chairman Murphy: Please. Good luck then.

Commissioner Hart: Yeah. This one is a tiny font here so. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT STAFF BE DIRECTED TO PREPARE AN EXPEDITED FOLLOW-UP ZONING ORDINANCE AMENDMENT FOR AUTHORIZATION TO PERMIT THE CONSIDERATION OF THE FOLLOWING ADDITIONAL OPTIONS:

1. ESTABLISHMENT OF A SPECIAL PERMIT PROCESS TO ALLOW AN OPERATOR TO REQUEST ADDITIONAL NIGHTS PER YEAR WITH OR WITHOUT THE OPERATOR PRESENT, AND OR INCREASE THE NUMBER OF ADULT LODGERS PERMITTED PER RENTAL CONTRACT. THE SPECIAL PERMIT OPTION SHOULD BE ADVERTISED TO INCLUDE A REQUIREMENT FOR A FIRE AND SAFETY INSPECTION, INCLUDING AN APPROPRIATE FEE FOR SUCH AN INSPECTION AND A SPECIAL PERMIT FEE OF NOT LESS THAN $910.

2. IN ACCORDANCE WITH *VIRGINIA CODE* SECTION 15.2-2286 (A) (4), LIMITING TO TEN DAYS THE APPEAL PERIOD FOR A NOTICE OF VIOLATION CITING VIOLATIONS OF THE SHORT-TERM LODGING ORDINANCE, RATHER THAN THE THIRTY DAYS CURRENTLY AUTHORIZED.

I FURTHER MOVE THAT THE BOARD DIRECT STAFF TO:

- REQUIRE THAT ANY APPLICATION FOR A SHORT-TERM LODGING PERMIT BE NOTARIZED SO THAT EACH OPERATOR AFFIRMS THAT THE ALL OF THE INFORMATION PROVIDED IN THE PERMIT APPLICATION IS TRUE AND CORRECT UNDER PENALTY OF PERJURY;

- MONITOR THE SHORT-TERM LODGING ACTIVITY AND RECOMMEND ANY NECESSARY CHANGES TO THE BOARD'S CURRENT ENFORCEMENT POLICY INCLUDING, BUT NOT LIMITED TO, EVALUATING WHETHER A SPECIAL STAFF TEAM SHOULD BE TASKED WITH INVESTIGATING COMPLAINTS AND MONITORING COMPLIANCE;

- REPORT TO THE PLANNING COMMISSION AND BOARD OF SUPERVISORS TWELVE OR EIGHTEEN MONTHS AFTER THE ENACTMENT DATE TO RECOMMEND AMENDMENTS TO THE ORDINANCE OR TO THE BOARD'S ENFORCEMENT POLICY, IF SUCH CHANGES ARE NECESSARY; AND

- EXPLORE THE POSSIBILITY OF ENTERING INTO AN AGREEMENT WITH THE THREE MAJOR HOSTING PLATFORMS, AIRBNB, VRBO, AND FLIP KEY, TO REMOVE NON-COMPLIANT OPERATORS FROM THOSE PLATFORMS.

Commissioners Ulfelder, Tanner and Strandlie: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Niedzielski-Eichner. Oh, Mr. Tanner. Did you second too?

Commissioner Niedzielski-Eichner: No.

Chairman Murphy: Oh, just the two. And…

Commissioner Strandlie: I seconded.

Chairman Murphy: You seconded? And, Ms. Strandlie. Ok, Samantha did you get that? Okay.

Commissioner Hart: She's gonna be typing very late.

Chairman Murphy: I was gonna say, we ought to take Samantha out to dinner after this is all over. All right. Is there a discussion of the motion? Yes.

Commissioner Strandlie: Thank you, Mr. Chairman. On the application that will be put together for the permit, we do have an opportunity to provide some input to staff. And I heard from

constituents today about some ideas and I have conveyed those and we'll be following up on those items.

Chairman Murphy: Further discussion of the motion. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you Mr. Chairman. I had in my earlier comments on the main motion, I had made note of the – my interest in having ahead of time, a design of an evaluation plan. So, that when we get to the twelve month or eighteen month in stay, that we have already know ahead of time generally what the staff's approach will be to evaluating the success for the improvements that need to be made. So, I wanted to see if the Mr. Hart would be open to either a friendly amendment or we could do this as a – as a actual amendment. In fact, I'll just put it on the floor for a motion and we can all take it for what it's worth, or not. But my motion would be to – for the third bullet of which is – starts with "report to the Planning Commission and Board of Supervisors" prior to the word "report," I MOVE THAT WE INCLUDE THE LANGUAGE "DESIGNED AND IMPLEMENT A DATA COLLECTION AND EVALUATION PLAN AND THEN REPORT TO THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS. Basically, it's staff's professional ethic if you're going to decide to – would like to make sure that we have a plan in place for studies – that knows what we're studying and what the logic – what likely evaluation outcome would look like.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Mr. Chairman, let me if I may jump in. I think it's fair to say that this wording was very heavily vetted with the County Attorney's office prior to tonight. And while I don't know that we can do this at the dais, my suggestion would be that it's appropriate to leave the bullet as flexible as it is. But I think I can get a commitment from the Zoning Administrator and the County Attorney's office that we can have a committee meeting as soon as appropriate. Don't make that face please. I think it's probably Land Use Process. But – excuse me.

Commissioner Niedzielski-Eichner: Don't look at me.

Commissioner Hart: No, no it was him. It was him. He made the face.

Commissioner Migliaccio: I know it's my committee, so….

Chairman Murphy: I haven't said a word.

Commissioner Hart: Where we can discuss with the Zoning Administrator and staff the kinds of things that I think obviously – I mean obviously, it's gonna be statistics. How many of them are there, how many permits have we had, how many people wanna apply for something else, how many violations have we had, how many people are – are asking about doing something else, how many people stop doing it when they get a letter. What are the – how many complaints have we received and I think we are probably on the same sheet of music on that. And I've seen staff here is all nodding and we're gonna have a committee meeting and hash this out. There's no

hidden agenda here. I'd prefer not to monkey with the wording or maybe it would take longer if we start asking questions about it. But I hope that with that commitment, to have that discussion, a purposeful and meaningful discussion, about these things we can get there without changing the wording.

Commissioner Hurley: Point of order.

Chairman Murphy: Yeah.

Commissioner Hurley: There was a – an amendment to the motion made. I did not hear a second so…

Chairman Murphy: He asked for a friendly motion. He gets to read…

Commissioner Hart: Oh yeah, no. I wasn't – I was saying not to do it…

Commissioner Niedzielski-Eichner: No, no I withdraw. I withdraw the motion. I recognize the points Commissioner Hart's making. I wanna have it on the record of my interest in assuring that there is a quality evaluation plan put in place before we go down this road. So that the end of this period, we have an outcome – the study outcome that we can all feel is informative and useful for evaluating whether we move forward or how we move forward in the future. Thank you.

Chairman Murphy: All right, is there further discussion of the motion as articulated… Oh, I'm sorry Mr. Ulfelder.

Commissioner Ulfelder: I hate to be the twelfth monkey here. I had a one word change in that same bullet where it says "enactment date." I was thinking of substituting "effective date" because in the main motion we've made the effective date October 1st, which would be beyond the enactment date.

Commissioner Hart: I have a thumbs up on that and I will accept that.

Chairman Murphy: Life is simple. Further discussion of the motion. All those in favor of the motion to recommend to the Board of Supervisors that it adopt the amendment as submitted – the motion as submitted by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Thank you. Thank you all for having an open mind and a constructive discussion.

The amendment to the main motion as dictated by Commissioner Migliaccio failed by a vote of 5-7. Commissioners Clarke, Cortina, Ulfelder, Sargeant, Hart, Tanner and Hurley voted in opposition.

The main motion carried by a vote of 12-0.

The follow-on motion carried by a vote of 12-0.

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ATTACHMENT 2

PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING ZONING ORDINANCE AMENDMENT

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the current definition of DWELLING and DWELLING, MOBILE HOME and to add new definitions for SHORT-TERM LODGING and TRANSIENT OCCUPANCY to read as follows:

DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term 'dwelling' ~~shall not be construed to~~ does not mean a motel, rooming house, hospital, or other accommodation used for more or less ~~transient occupancy~~ TRANSIENT OCCUPANCY, except a dwelling may be used for SHORT-TERM LODGING.

DWELLING, MOBILE HOME: A single family residential unit with all of the following characteristics: (a) designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; (b) designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels; (c) arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliance, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like; (d) designed for removal to and installation or erection on other sites.

A mobile home may include one ~~(1)~~ or more units, separately towable, which when joined together shall have the characteristics as described above. For the purposes of this Ordinance, a mobile home shall not be deemed a SINGLE FAMILY DETACHED DWELLING. A MOBILE HOME does not include TRANSIENT OCCUPANCY, except a mobile home may be used for SHORT-TERM LODGING.

SHORT-TERM LODGING: The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. Such use does not include ACCESSORY DWELLING UNIT, BED AND BREAKFAST, HOTEL/MOTEL, or TEMPORARY FAMILY HEALTH CARE STRUCTURE.

TRANSIENT OCCUPANCY: Use of a DWELLING or MOBILE HOME, or part thereof, for sleeping or lodging purposes for fewer than 30 consecutive nights.

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

- **Amend Sect. 10-102, Permitted Accessory Uses by revising the lead-in paragraph and adding a new Par. 35, as follows:**

  Accessory uses and structures ~~shall~~ may include, but are not limited to, the following uses and structures; ~~provided that~~ any such use or structure ~~shall~~ must be in accordance with the definition of Accessory Use contained in Article 20.

PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING ZONING ORDINANCE AMENDMENT

35. Short-Term Lodging, limited by the provisions of Sect. 105 below.

- **Add a new Sect. 10-105, Short-Term Lodging, to read as follows:**

10-105 Short-Term Lodging

Short-Term Lodging, as defined in Article 20, is permitted in a dwelling or mobile home only upon the Zoning Administrator's issuance of a permit and is subject to the following limitations:

1. For the purposes of this section, the following definitions apply:

   A. Authorized Agent: an adult designated by a Short-Term Lodging Operator who consents to be available to address issues or emergencies that may arise during any Short-Term Lodging stay.

   B. Permanent Resident: a person who occupies or intends to occupy a dwelling or mobile home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or mobile home as that person's primary residence. A person may have only one permanent residence.

   C. Short-Term Lodging Operator: an owner or tenant of a property who offers that property for Short-Term Lodging.

2. A dwelling or mobile home used for Short-Term Lodging must:

   A. Be open, upon request, for inspection by County personnel during reasonable hours; and

   B. Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations, as determined by the Building Official; and

   C. Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service); and

   D. Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or mobile home.

   E. Have one designated parking space available for lodgers, which the Operator has the authority to reserve for Short-Term Lodging purposes.

3. A Short-Term Lodging Operator must:

   A. Be a permanent resident of the property hosting the Short-Term Lodging Use. Permanent residency must be demonstrated at the time of application for a permit to operate Short-Term Lodging; and

   B. Obtain written consent from the owner of the property for the Short-Term Lodging Use; and

   C. Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or mobile home prohibit Short-Term Lodging; and

   D. Designate at least one person who consents to serve as an Authorized Agent for the Short-Term Lodging Operator. Contact information (name, address, telephone, and email address) for the Authorized Agent(s) must be provided on the application for a Short-Term Lodging permit, posted in a prominent location within the area made available for Short-Term Lodging, and provided in any written material given to lodgers during their overnight stay.
   [*Additionally advertised to allow the Board to require the Short-Term Lodging Operator to be present during any rental for transient occupancy; or to establish additional requirements related to the Authorized Agent's physical proximity and response time to any issues or emergencies that may arise at the STL when the Operator is not present.*]

4. The Short-Term Lodging Use is subject to the following use limitations:

   A. A dwelling or mobile home may be used for Short-Term Lodging for no more than 15 nights per calendar year, during which the Operator is not present. Short-term lodging may also be conducted for an additional 30 nights, for a potential total of 45 nights, if the Operator is present for all short-term lodging stays exceeding 15 nights.
   [Advertised to permit the Board to consider a maximum of 180 nights per year that a dwelling/mobile home could be used as an STL. Additionally, the advertisement allows the Board to consider any number of nights in which the STL Operator must to be present during an STL rental from 0 to 180 per year.]

   B. The maximum number of lodgers per night may not exceed 4 adults except where the Virginia Uniform Statewide Building Code provides for a lower maximum occupancy.

[Advertised to permit the Board to consider any occupancy limit up to an unlimited number of people, except as limited by the Virginia Uniform Statewide Building Code.]

C. All lodgers occupying a Short-Term Lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one. ***[Advertised to permit the Board to consider a range on the number of contracts per night from 1 to 5.]***

D. Events and activities—including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are prohibited in association with any Short-Term Lodging.

E. All advertisements for Short-Term Lodging, posted on any platform online or in any other format, must (i) include the Short-Term Lodging permit number and (ii) identify the location of the parking space required by paragraph 2E and any other available parking or public transportation options. ***[Advertised to allow the Board to consider requiring 1 to 2 parking space per contract, with staff recommending none.]***

F. A Short-Term Lodging Operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.

G. Short-Term Lodging is prohibited in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.

H. The Zoning Administrator's issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners association by-law.

5. Permit Required

A. An application for a Short-Term Lodging permit must be submitted to the Zoning Administrator on a form furnished by the County along with a filing fee of $200.

B. The permit will be valid for two years from the date of issuance. ***[Advertised to allow the Board to consider any permit fee from $50 to $250 and a range of permit validity from 1 to 2 years.]***

C. A permit for Short-Term Lodging may be revoked by the Zoning Administrator because of the failure of the Short-Term Lodging Operator to comply with all applicable regulations set forth in this Section or elsewhere in the Zoning Ordinance. The Zoning Administrator will give notice of any such revocation by letter to the Short-Term Lodging Operator and the property owner, where applicable, setting forth the grounds upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the Zoning Administrator's use of any other remedy prescribed by law with respect to violations of this Ordinance.

Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Sect. 106, Application and Zoning Compliance Letter Fees, to modify the Category 5 Special Exception fees in Par. 1, and to amend Par. 5, as follows:

1. Application for a variance, appeal, special permit or special exception:

Category 5 special exception	~~$16375~~
• Bed and Breakfast	$8180. ***[Advertised to permit the Board to consider any application fee from $4085 to $16375.]***
• All other uses	$16375

5. Fees for food trucks, small cell facilities, home occupations, short-term lodging, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, ~~respectively~~ as applicable.

Short Term Lodging (STL) Amendment - Residential Owner/Renter Operate Dwellings Only

Staff has proposed amendment requirements for the Board's consideration. However, the legal advertisement has provided flexibility so the Board has options when determining the appropriate regulations for this use. The following table details the proposed amendment requirement as well as the option provided to the Board and the proposed Planning Commission recommendation.

Topic	Proposed Amendment Requirement (Staff Recommendation)	Option Provided through Advertisement	Planning Commission Recommendation
Authorized Agent	• Designate at least one adult as an Authorized Agent when Operator is not available • Posted in a prominent location within the area made available for STL • Provided in any written material given to lodgers during their overnight stay.	• Establish additional requirements related to the Authorized Agent's Physical proximity and response • Option to require Operator to be present during any rental for transient occupancy	• Adopted Staff Recommendation
Number of Nights	• No more than 90 nights per calendar year • No limit on number of nights Operator must be present during 90 days of rentals	• Range of up to 180 nights per year • Range of 0-180 nights Operator must be present during rental	• No more than 45 nights per calendar year total • No more than 15 nights per calendar year without the Operator present
Number of Lodgers	• Not to exceed 6 adults (except where the Virginia Uniform Statewide Building Code allows fewer occupants)	• Range to allow unlimited persons (except as limited by the Virginia Uniform Statewide Building Code)	• Not to exceed 4 adults (except where the Virginia Uniform Statewide Building Code provides for a lower maximum occupancy)
Rental Contract	• Maximum number of one rental contract per night	• Range of 1 to 5 rental contracts per night	• Adopted Staff Recommendation
Advertisements	• Identify where lodgers can legally park or state that parking is not available.	• Requirement of 1 to 2 parking spaces per contract	• Require the designation of one parking space that the Operator has the authority to reserve/designate to be available for lodgers • Identify other available parking or public transportation options
Permit	• $200 permit that is valid for two years from date of issuance	• Fee range of $50 to $250 • Range of permit validity from 1 to 2 years	• Adopted Staff Recommendation
Bed and Breakfast Fee	• $8,180	• Range of $4,085 to $16,375	• Adopted Staff Recommendation

FAIRFAX COUNTY

VIRGINIA

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Articles 10, 18 and 20 of the Zoning Ordinance and Chapter 4 of the Code of Fairfax County Regarding

Short-Term Lodging

(Residential Owner/Renter Operated Dwellings Only)

PUBLIC HEARING DATES

Planning Commission May 3, 2018 at 7:30 p.m.

Board of Supervisors June 19, 2018 at 4:00 p.m.

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

March 20, 2018

LY

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

In 2017, the General Assembly enacted Virginia Code § 15.2-983 (Attachment B), affirming a locality's right to regulate the short-term rental of property through its general land use and zoning authority. As a result of this law, on March 14, 2017, the Board of Supervisors (Board) directed staff to form a workgroup to analyze the short-term rental of property in Fairfax County and recommend possible changes to the County Code and Zoning Ordinance. Staff from the Department of Planning and Zoning (DPZ), the Department of Code Compliance (DCC), the Department of Tax Administration (DTA), the County Attorney's Office (OCA), the County Executive's Office (CEO) and the Office of Public Affairs (OPA) comprised the County's workgroup.

Staff determined that there are different arrangements of transient housing offered by County businesses and residents. While staff may propose further ordinance changes, particularly with regard to transient occupancy in commercially managed multiple family rental developments **the Zoning Ordinance amendments presented in this Staff Report reflect only Short-Term Lodging (STL) conducted by an owner or renter in his or her permanent residence.**

These proposed amendments to the Zoning Ordinance and the County Code create regulations to address STL operations in terms of both zoning and taxation. Staff presented the general framework for the amendment to the Board's Development Process Committee (DPC) on July 18, October 3, and December 12, 2017, and to the Planning Commission's Land Use Process Review Committee (LUPRC) on June 22 and September 28, 2017. The Planning Commission held a public workshop November 1, 2017 to discuss that framework. Additionally, extensive public outreach has occurred, as discussed in more detail below.

Background

The rise in popularity of online hosting platforms such as AirBnB, Vacation Rental by Owner (VRBO), HomeAway, TripAdvisor, and FlipKey has encouraged many homeowners and renters to offer their homes for transient lodging. Individual rooms within a dwelling or entire dwellings are offered for a fee for periods of less than 30 days, and the search, booking, and fee collection components are typically handled by the hosting platform. This emerging economic model has presented regulatory challenges related to land use and other matters in many jurisdictions in Virginia and nationwide.

Existing STLs

Staff research indicates that there are more than 1,500 active STLs—that is, STLs that have been rented in the past year—currently operating in Fairfax County. Assuming there are 1,500 active STLs operating in the County, only 54, or less than 1%, have been the subject of complaints for the STL use. While these numbers do not discredit the concerns raised, they do reflect that there may be a significant number of STLs currently operating without any negative impacts on their communities. At the time of preparation of this Staff Report, the Department of Code Compliance has 13 open cases under investigation and has issued 6 Notices of Violations (NOVs). Of those 6 NOVS, 4 have resulted in compliance, while 2 were appealed and heard by the Board of Zoning

Appeals (BZA) on November 29, 2017, and January 10, 2018. The BZA upheld the Zoning Administrator's determination that these two homeowners were operating illegal STLs.

Stakeholder outreach

Beginning in June of 2017, staff conducted extensive public outreach and solicited input on a potential amendment to the Zoning Ordinance using a variety of outreach tools. First, staff distributed an on-line survey from June through August of 2017 (which was promoted on the DPZ and general County websites, as well as in various newspapers and televised news reports). The survey generated 7,671 responses in total. Responses ranged from suggesting the County entirely prohibit STLs to suggesting the County allow unlimited STL use. The survey included a comment section where respondents could provide a summary of their concerns. The main concerns expressed included: impacts on the character of the neighborhood; introduction of commercial uses to residential areas; parking and increased traffic on local streets; safety and security in the neighborhood (particularly for children); noise and trash associated with rentals and events/parties; and the enforceability of any STL ordinance. The comments in favor of STLs noted that STLs generated additional income for homeowners, making homeownership more affordable; offered a cheaper and alternative rental option to hotels; provided opportunities for hosts to engage with travelers from other states and countries; and enhanced the County tax base. Proponents also shared their belief that lodgers are better stewards of a property than long-term renters and that County regulations should not infringe on what a homeowner does within a dwelling.

From the comments on the survey, staff identified a number of common areas of concern: character of the neighborhood, parking, trash, taxes, inspections/complaints, safety/security, noise/events, affordability of housing, and homeowner/condo association regulations. These topics became the basis for community meetings held throughout the County to discuss potential changes to the Zoning Ordinance. Four Countywide community meetings were held in the Community Centers in Reston, McLean, and Mount Vernon and at the Government Center. DPZ also held an open house.

In addition to the survey and community meetings, staff also participated in multiple individual meetings with residents, neighborhood and civic group representatives, homeowner and condominium association representatives, tourism-related professionals, realtors, the hotel industry, Airbnb representatives, and others. Staff has briefed the standing Zoning Ordinance Modernization (zMOD) Citizens Advisory Group, the Land Use Aides, and the Land Use Attorneys Group. Staff also developed a dedicated website for the amendment. The proposed regulations reflect consideration of all the input and feedback received from these various sources.

Analysis of other jurisdictions' regulations

As a result of Virginia Code § 15.2-983, many jurisdictions throughout Virginia have been working toward amending their regulations regarding STLs. County staff participated in a multi-jurisdictional workgroup comprised of Fairfax County, Arlington County, City of Alexandria, Loudoun County, Tidewater area jurisdictions, the Virginia Association of Counties, and the Virginia Municipal League. Staff has also researched and reviewed the regulations of local jurisdictions in Virginia, as well as jurisdictions outside of Virginia. Brief descriptions of some of the regulations adopted by various jurisdictions are provided below with a more detailed summary table provided as Attachment C. While not exhaustive, it demonstrates the variety of regulatory mechanisms used throughout Virginia and the rest of the United States.

- *Arlington County, VA*:
  Defines use as "Accessory Homestay", a type of home occupation use
  Requires primary residency (defined as living in unit a minimum of 185 days per year)
  Can be operated by owner and renter
  Maximum occupancy is limited to the larger of 6 guests or 2 guests/bedroom
  All occupancy must comply with the applicable Building Code
  Commercial uses such as parties, weddings, meetings, etc. are prohibited
  Annual permit with a $63 filing fee
  Revocation of permit for 3 or more violations

- *Montgomery County, MD*:
  Defines use as "Short-Term Residential Rentals"
  Requires primary residency
  Can be operated by owner or renter
  Maximum occupancy is limited to 2 adults/bedroom and a maximum of 6 adults/unit
  No limit on the number of rentals per year when operator is on-site
  Limited to 90 days if the operator is not on-site
  Must keep and make available a record of all overnight visitors
  One off-street parking space per contract required or ad needs to prohibit vehicle parking

- *City & County of San Francisco, CA*:
  Defines use as "Short Term Rentals"
  Requires permanent residency (defined as living in unit at least 275 days/year)
  Can be operated by owner or renter
  Maximum occupancy is limited to 2 guests/unit
  Requires registration with the Office of Short-Term Rental's Registry
  No limit on rentals when operator is on-site
  Maximum of 90 days if operator is not on-site
  Submittal of quarterly reports of rental activity required
  Liability insurance >$500,000 is required by owner or hosting platform
  Registration is valid for two years with application fee of $250

Current Zoning Ordinance Provisions

Short-term lodging is not a currently defined use in the Zoning Ordinance; however, the use is understood to apply to the transient occupancy of a dwelling or a portion of a dwelling. Transient occupancy is also not currently defined in the Zoning Ordinance, but it is the Zoning Administrator's longstanding determination that transient occupancy means occupancy for less than 30 days. This is now consistent with the definition of "short-term rental" in Virginia Code § 15.2-983. The Zoning Ordinance definition of "dwelling" prohibits transient occupancy:

> *DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term 'dwelling' shall not be construed to mean a motel, rooming house, hospital, or other accommodation used for more or less transient occupancy"* (Emphasis added).

Zoning Ordinance Sect. 10-302, Par. 7 also limits transient occupancy. It allows "the letting for hire

of not more than two rooms for rooming or boarding use for not more than two persons, neither of whom is a transient." Transient occupancy of a dwelling is currently only permitted as a Bed and Breakfast, which is a Category 5 Special Exception use permitted on residential properties located within the R-A through R-2, PDH, and PRC Zoning Districts. The only other form of transient occupancy permitted under the provisions of the Zoning Ordinance is hotel/motel uses, which are commercial uses that are not permitted in a dwelling.

Proposed Zoning Ordinance Amendments

The proposed regulations are intended to allow limited STL operations, balancing the interests of residents in protecting the character of their neighborhoods with the interest of residents who want to operate STLs in their residences. In crafting the restrictions on STL use, staff took into consideration the particular concerns citizens and stakeholders voiced during the outreach process. A summary of how the proposed amendments specifically address these concerns follows.

Neighborhood character

Staff received multiple comments during the public outreach efforts from residents who had concerns related to the impacts of STLs on the existing neighborhood character and residential feel of their community. Residents indicated that a neighborhood made up of owners or long-term tenants has a very different character than a neighborhood frequented by short-term or transient occupants who may not have a vested interest in maintaining the quality of life of their neighbors. Residents consistently expressed that they did not want investors acquiring multiple properties to operate full-time, hotel-type commercial uses within residential neighborhoods. Staff believe the ordinance addresses preserving neighborhood character in a number of ways:

- **Accessory use**: The proposed amendment adds Short-Term Lodging as a permitted accessory use in any zoning district that permits residential uses, and in any type of dwelling or in a mobile home, except that STLs may not be conducted in workforce or affordable housing units, detached accessory structures, accessory dwelling units, or temporary family health care structures. These excluded structures are specifically intended for other purposes, such as an on-site unit for an aged parent or a unit equipped for providing medical care to a family member. In the case of a detached accessory structure, staff believes the use of such structures for lodging purposes could easily convert these structures into permanent second dwelling units, which is not generally permitted. Staff believes the operation of STLs within the main structure of the principal building on the property will help limit the impacts of the use on surrounding properties.
- **Permanent residents as STL Operators**: STL uses are proposed to be operated by a permanent resident of a dwelling or mobile home to dispel the concern that non-resident operators could negatively impact neighborhood character by having little or no interaction with the community and by not being consistently present to address issues of community concern. Two forms of verification—like a driver's license, vehicle registration, passport, or utility bill—are required to demonstrate permanent residency. This information will be reviewed and noted by staff at the time of application, but sensitive information will not be retained in the public records for security reasons.
- **Operator Presence/Authorized Agent**: Having the operator on-site may decrease the likelihood of issues arising with the STL use. Research and community input indicate, however, that many

STLs operate without the operator present, e.g., an owner may offer their home while away on vacation for a week. To address the absence concern, the proposed amendments require that the STL operator identify an Authorized Agent who will consent and agree to the proposed regulations and who will be available and responsible to address issues or emergencies in the absence of the STL Operator. *(The amendment has been advertised to also allow consideration of requiring the STL Operator to be on-site; and to require additional restrictions on the physical proximity and response time of the Authorized Agent to the STL. The requirement for the Authorized Agent is not contingent on operator presence.)*

- **Limitation on number of nights a STL use is permitted**: To keep the use truly accessory, staff proposes a maximum of 90 calendar days for STL use per year, or approximately 25% of a year. *(The amendment has been advertised to allow consideration of a maximum number of rental nights of up to 180 without an operator present or unlimited nights with an operator present.)*
- **Occupancy limitations**: The proposed amendment recommends not more than six adults per dwelling per night. This allows for families or groups of friends or colleagues to rent an STL and is consistent with other jurisdictions that have adopted provisions for an occupancy limit. Staff considered establishing a maximum number of persons per bedroom, but such a restriction would be virtually impossible to enforce, as it requires specific observation of the number of people in a bedroom. The Virginia Uniform Statewide Building Code further limits occupancy: as the proposed amendments reflect, it may impose stricter limits depending on the space being offered. (*The amendment is advertised to allow for any limit on occupancy, up to the maximums the Virginia Uniform Statewide Building Code imposes.)*
- **Limited contracts**: Staff propose restricting STL use to one contract; all persons lodging in the dwelling at one time must be associated with the same rental contract. This does not preclude a group of related/associated individuals from working out individual payment plans or having different durations of stay, but it will preclude the STL Operator from making the home available to multiple, unrelated/associated individuals, which would make the STL use more like a traditional hotel/motel. Additionally, parking, traffic on local streets, and the potential for negative interaction among lodgers are all issues that could be exacerbated by allowing multiple, unrelated groups or individuals to lodge at the same time. *(The amendment is advertised to allow flexibility to consider 1 to 5 contracts per night, with staff recommending one.)*

Safety

Safety measures to protect lodgers are important, as they would not be particularly familiar with the layout or safety features of a dwelling/mobile home in the event of an emergency. The proposed amendments require that dwellings used for STLs meet all applicable requirements related to building code or manufactured home safety regulations. The age of the structure generally determines what provisions are applicable.

- **Sleeping rooms**: Converting basements or other non-traditional spaces to sleeping rooms requires compliance with the most current building code, which would require a second means of egress from the room, such as an emergency egress window in an existing basement.
- **Safety Equipment**: The amendment proposes that a working fire extinguisher, interconnected smoke detectors, and interconnected carbon monoxide detectors (if there is a fireplace and/or gas service is provided to the home) must be present in every dwelling offering STL use. If these features are not present in the home due to the age of the structure, they must be added before

beginning an STL operation.

- **Exit plan**: Like hotels, STLs must have an exit plan posted on the door to each bedroom or sleeping space to outline a pathway out of the home in the event of an emergency.

Commercial event use

It is the Zoning Administrator's longstanding position that hosting events (e.g., parties, weddings, catered dinners) at a dwelling is prohibited except when the activity is directly hosted by the principal residents of the dwelling. For example, an owner could host a backyard wedding for their son or daughter, but could not make the property available as a wedding venue. The provisions prohibit all events and activities for persons other than authorized lodgers staying in the dwelling regardless of whether there is direct or indirect compensation for the event or activity.

Parking

Citizens claimed STL users often park vehicles in reserved spaces, block access to driveways and mailboxes, or use all the available public parking. In evaluating whether the ordinance should therefore require STL operators to provide parking, staff considered that home child care, home offices, and a variety of other home occupations are currently permitted under the Zoning Ordinance without a requirement for an additional off-street parking space. Staff also recognized that many visitors may opt to use public transport, taxis or ride-sharing services and would not need a parking space. In addition, staff could not draft the ordinance to place a blanket limitation on otherwise publicly available parking. Furthermore, most existing developments already have in place or have the ability to manage parking located on private streets and parking garages within the developments. Lastly, none of the other Virginia jurisdictions that specifically provide for short-term lodging uses in their regulations require that STL operators provide parking. Accordingly, staff does not currently believe a designated parking space is warranted.

To ensure that parking is managed appropriately, however, the amendment proposes to require all advertisements for STLs to indicate if and where on-site parking is available for the dwelling offering STL. If there is no on-site parking available, the advertisements must so state. This information will help lodgers manage their expectations and plan for their transportation needs. *(The amendment is advertised to allow flexibility to consider requiring 1 to 2 off-street parking spaces per contract, with staff recommending none.)*

Impact on Property Owners Associations

Staff understands the concerns of communities who, collectively, do not want STL operations in their development. However, Virginia Code § 15.2-110 prohibits the County from requiring consent from an HOA/COA prior to the issuance of any permit, certificate or license. HOA/COA covenants, bylaws and other regulations remain intact, even when a Zoning Ordinance has been amended, so if there is a current provision in an association's documents that would restrict the use of any homes for STL purposes, the proposed amendments will not negate those restrictions. The proposed amendments expressly state that they do not abrogate, nullify or invalidate any provisions applicable to the structure or use of the property. The STL operator is therefore on notice that his or her STL operation must comply with any restrictive covenants on his or her property.

Enforcement

Because this is a use that operates within a home, enforcement will pose difficulties particularly regarding the 90-night limit and 6-lodger limitations. Staff believes the proposed regulations have been crafted in a way to minimize (but not eliminate) enforcement challenges. The following tools and requirements will assist compliance staff with complaint investigations:

- **Permit**: STL operations will require a permit issued by the Zoning Administrator and valid for a period of two years. Home occupation uses generally require only an initial permit; however, staff believes requiring permit renewal will ensure STLs are operating in conformance with the use limitations. To help the Code Compliance Inspectors determine which STLs may be illegally operating, STL Operators will be required to include their permit number in their online listings. The Zoning Administrator may revoke a permit for failure to comply with the STL regulations. *(Advertised to allow a one- or two-year period of permit validity.)*
- **Guest Log**: STL Operators must maintain a record of lodgers and lodgers' contact information, and make available upon request to appropriate County staff. This will help staff ensure compliance with the limitations on number of nights of use and occupancy, as well as allow staff to contact lodgers if that becomes necessary during a complaint investigation.
- **Owner Consent**: The proposed amendment requires consent of the property owner if the STL Operator is a long-term tenant. Because property owners are ultimately responsible for any violations occurring on property they own and for any fines or penalties associated with those violations, staff considers this a critical requirement.
- **Outside Consultant**: To enhance enforcement efforts, staff proposes to use the services of an outside consultant. Other Virginia jurisdictions have contracted with Host Compliance LLC, which can track the exact address and rental activity of STLs across multiple online platforms, as well as provide screenshots of listings and contact information for operators. The County can enter into a purchase order based on the existing contract with the other Virginia jurisdictions for the next year or two.
- **Inspection**: Oftentimes, the biggest hurdle for DCC is the inability to gain access to a property to investigate a complaint of noncompliance. The proposed provisions are intended to eliminate that hurdle by requiring STL Operators to consent to inspection by County personnel during reasonable hours.

Changes and Additions to Ordinance Definitions

As noted, the Zoning Ordinance currently does not define transient occupancy or STL. The proposed regulations will introduce these as new definitions and will modify the "Dwelling" and "Dwelling, Mobile Home" definitions in Chapter 20 to accommodate the STL use. In addition, the proposed amendments introduce and define the STL-use specific terms "Authorized Agent," "Permanent Resident," and "Short-Term Lodging Operator," which apply only to STL use provisions.

Proposed Fees

Virginia Code § 15.2-2286(A)(6) provides that a Zoning Ordinance may include reasonable provisions for the collection of fees to cover the costs of making inspections, issuing permits, advertising notices, and other expenses incident to its administration. To keep fees in line with other permits/certifications staff proposes a $200/2-year permit application fee for STLs.

As part of this amendment, staff also proposes to reduce the special exception application fee for Bed and Breakfast use by 50%, from $16,375 to $8,180, but will advertise a fee ranging from $4,085 to the current fee of $16,375. Staff believes the high application fee may account for the fact that there are no approved Bed and Breakfasts currently operating in the County. The only Bed and Breakfast approved in the last two decades ceased operating. Unlike the STLs, Bed and Breakfasts may be operated by non-permanent residents and may be operated year-round. Staff believes that the Bed and Breakfast provisions may offer an additional business opportunity for some of the County's lodging entrepreneurs. No other changes are proposed to the Bed and Breakfast provisions regarding their location and other use limitations.

Fiscal Impacts and Tax Provisions of the County Code

The operation of STL in the County constitutes a transient occupancy use that is subject to a Transient Occupancy Tax or TOT. It is estimated that there are approximately 1,500 active listings in the County based on research and specific data provided by a third-party data collection company who provided information related to Airbnb listings. Airbnb representatives have confirmed this approximate number. The estimates obtained from the third-party data collection company also indicate that the average days of rental in the County are 64 days and the average income per night for the STL Operator is $72. Using these average assumptions of 64 rentals per year per STL Operator and a $72 per night, staff estimates collecting $428,268 in annual Transient Occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors' Center, and the rest is used by the County to promote tourism. As a result, of the total projected $428,268, $142,756 will be allocated for regional transportation, $35,689 to Fairfax County Convention and Visitors' Center, and $249,823 to the County's General Fund. Additionally, based on the proposed $200 STL permit fee, estimated revenue of approximately $150,000 could be generated annually.

Given these average rental night and rate figures, the revenue from the Business, Professional, and Occupations License tax (BPOL) is not likely to result in meaningful revenue, since gross receipts under $100,000 per year are subject to a license/tax of $50 or less and in instances of revenue of less than $10,000 the BPOL is zero. The average annual income for an STL host is estimated at less than $5,000 per year, and BPOL is not applicable at this level. As such, staff does not believe that a significant amount of income will be derived from the BPOL.

This amendment includes a companion amendment to Chapter 4 of the County Code. Those changes are set forth and described in Attachment D.

Implementation of Proposed Changes

Staff is developing an implementation plan to assist with the smooth initiation of the STL permit process. While not part of the Zoning Ordinance text, a new permit application form and STL permit will be developed in conjunction with this amendment. If the proposed amendment is adopted, staff is considering sending notification letters to the owners of addresses identified by the third-party

data collection company as currently advertising the availability of an STL in the County. Such notice would provide the new regulations and advise of the permit requirement and process. Staff also believes that the volume of potential STL applications that could be received warrants a delayed implementation to allow operators to obtain approval. This is similar to the grace period that was granted when the home child care amendment was adopted, in which existing operators were given a period of time to come into compliance by obtaining the require approval. Delayed implementation is also warranted because of the change in TOT remittance from a quarterly option to a monthly requirement. This change will impact current hotel operators as well as the new STLs and a delayed implementation will allow those hotels that currently remit the tax on a quarterly basis time to prepare for a monthly remittance process. Staff is recommending an effective date of October 1, 2018, which is the first day after the July quarter.

The proposed regulations are intended to achieve a balance between allowing STLs while maintaining the overall character of residential neighborhoods. As such, staff recommends approval of the proposed amendments with an effective date of 12:01 a.m. on the day following adoption, provided, however that STL Operators will have a grace period of between 90 and 120 days from the date of adoption to obtain approval of an STL permit.

Conclusion

The changes staff propose are intended to facilitate a limited STL use for the County's entrepreneurs, while preserving the character of the County's communities and safety of its residents. Because STL regulation is relatively new, not only in Fairfax County but nationwide, staff believe it appropriate to revisit these regulations in eighteen months and make any necessary regulatory changes. This, of course, does not limit the Board's ability to revisit this amendment sooner, should it see fit to do so.

Attachments:
A. Proposed Zoning Ordinance Amendments
B. Virginia Code § 15.2-983
C. Summary Table of Other Jurisdictions' Regulations
D. Amendment to Chapter 4 of the County Code

ATTACHMENT A

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of March 20, 2018. There may be other proposed amendments that could affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment. If any such other amendment is adopted before this amendment, any necessary renumbering or editorial revisions will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the current definition of DWELLING and DWELLING, MOBILE HOME and to add new definitions for SHORT-TERM LODGING and TRANSIENT OCCUPANCY to read as follows:

DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term 'dwelling' ~~shall not be construed to~~ does not mean a motel, rooming house, hospital, or other accommodation used for more or less ~~transient occupancy~~ TRANSIENT OCCUPANCY, except a dwelling may be used for SHORT-TERM LODGING.

DWELLING, MOBILE HOME: A single family residential unit with all of the following characteristics: (a) designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; (b) designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels; (c) arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliance, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like; (d) designed for removal to and installation or erection on other sites.

A mobile home may include one ~~(1)~~ or more units, separately towable, which when joined together shall have the characteristics as described above. For the purposes of this Ordinance, a mobile home shall not be deemed a SINGLE FAMILY DETACHED DWELLING. A MOBILE HOME does not include TRANSIENT OCCUPANCY, except a mobile home may be used for SHORT-TERM LODGING.

SHORT-TERM LODGING: The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. Such use does not include ACCESSORY DWELLING UNIT, BED AND BREAKFAST, HOTEL/MOTEL, or TEMPORARY FAMILY HEALTH CARE STRUCTURE.

TRANSIENT OCCUPANCY: Use of a DWELLING or MOBILE HOME, or part thereof, for sleeping or lodging purposes for fewer than 30 consecutive nights.

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

- **Amend Sect. 10-102, Permitted Accessory Uses by revising the lead-in paragraph and adding a new Par. 35, as follows:**

Accessory uses and structures ~~shall~~ may include, but are not limited to, the following uses and structures; ~~provided that~~ any such use or structure ~~shall~~ must be in accordance with the definition of Accessory Use contained in Article 20.

35. Short-Term Lodging, limited by the provisions of Sect. 105 below.

- **Add a new Sect. 10-105, Short-Term Lodging, to read as follows:**

10-105 Short-Term Lodging

Short-Term Lodging, as defined in Article 20, is permitted in a dwelling or mobile home only upon the Zoning Administrator's issuance of a permit and is subject to the following limitations:

1. For the purposes of this section, the following definitions apply:

   A. Authorized Agent: an adult designated by a Short-Term Lodging Operator who consents to be available to address issues or emergencies that may arise during any Short-Term Lodging stay.

   B. Permanent Resident: a person who occupies or intends to occupy a dwelling or mobile home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or mobile home as that person's primary residence. A person may have only one permanent residence.

   C. Short-Term Lodging Operator: an owner or tenant of a property who offers that property for Short-Term Lodging.

2. A dwelling or mobile home used for Short-Term Lodging must:

   A. Be open, upon request, for inspection by County personnel during reasonable hours; and

   B. Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations, as determined by the Building Official; and

C. Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service); and

D. Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or mobile home.

3. A Short-Term Lodging Operator must:

A. Be a permanent resident of the property hosting the Short-Term Lodging Use. Permanent residency must be demonstrated at the time of application for a permit to operate Short-Term Lodging; and

B. Obtain written consent from the owner of the property for the Short-Term Lodging Use; and

C. Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or mobile home prohibit Short-Term Lodging; and

D. Designate at least one person who consents to serve as an Authorized Agent for the Short-Term Lodging Operator. Contact information (name, address, telephone, and email address) for the Authorized Agent(s) must be provided on the application for a Short-Term Lodging permit, posted in a prominent location within the area made available for Short-Term Lodging, and provided in any written material given to lodgers during their overnight stay. **[*Additionally advertised to allow the Board to require the Short-Term Lodging Operator to be present during any rental for transient occupancy; or to establish additional requirements related to the Authorized Agent's physical proximity and response time to any issues or emergencies that may arise at the STL when the Operator is not present.*]**

4. The Short-Term Lodging Use is subject to the following use limitations:

A. A dwelling or mobile home may be used for Short-Term Lodging for no more than 90 nights per calendar year. ***[Advertised to permit the Board to consider a maximum of 180 nights per year that a dwelling/mobile home could be used as an STL. Additionally, the advertisement allows the Board to consider any number of nights in which the STL Operator must to be present during an STL rental from 0 to 180 per year.]***

B. The maximum number of lodgers per night may not exceed 6 adults, except where the Virginia Uniform Statewide Building Code allows fewer occupants. ***[Advertised to permit the Board to consider any occupancy limit up to an***

unlimited number of people, except as limited by the Virginia Uniform Statewide Building Code.]

C. All lodgers occupying a Short-Term Lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one. ***[Advertised to permit the Board to consider a range on the number of contracts per night from 1 to 5.]***

D. Events and activities—including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are prohibited in association with any Short-Term Lodging.

E. All advertisements for Short-Term Lodging, posted on any platform online or in any other format, must (i) include the Short-Term Lodging permit number and (ii) identify where lodgers can legally park or state that parking is not available. ***[Advertised to allow the Board to consider requiring 1 to 2 parking space per contract, with staff recommending none.]***

F. A Short-Term Lodging Operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.

G. Short-Term Lodging is prohibited in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.

H. The Zoning Administrator's issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners association by-law.

5. Permit Required

A. An application for a Short-Term Lodging permit must be submitted to the Zoning Administrator on a form furnished by the County along with a filing fee of $200.

B. The permit will be valid for two years from the date of issuance. ***[Advertised to allow the Board to consider any permit fee from $50 to $250 and a range of permit validity from 1 to 2 years.]***

C. A permit for Short-Term Lodging may be revoked by the Zoning Administrator because of the failure of the Short-Term Lodging Operator to comply with all applicable regulations set forth in this Section or elsewhere in the Zoning

Ordinance. The Zoning Administrator will give notice of any such revocation by letter to the Short-Term Lodging Operator and the property owner, where applicable, setting forth the grounds upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the Zoning Administrator's use of any other remedy prescribed by law with respect to violations of this Ordinance.

Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Sect. 106, Application and Zoning Compliance Letter Fees, to modify the Category 5 Special Exception fees in Par. 1, and to amend Par. 5, as follows:

1. Application for a variance, appeal, special permit or special exception:

Category 5 special exception	~~$16375~~
• Bed and Breakfast	$8180. ***[Advertised to permit the Board to consider any application fee from $4085 to $16375.]***
• All other uses	$16375

5. Fees for food trucks, small cell facilities, home occupations, short-term lodging, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, ~~respectively~~ as applicable.

§ 15.2-983. Creation of registry for short-term rental of property.

A. As used in this section:

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed $500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).

SUMMARY TABLE OF OTHER JURISDICTIONS' REGULATIONS

Jurisdiction	Arlington County, VA	Town of Blacksburg, VA
Definitions	**Accessory Homestay**: A home occupation in which an owner(s) or tenant(s) of a dwelling unit who uses such dwelling unit as his/her primary residence, rents to a lodger, either such dwelling unit, or any portion thereof. **Responsible party**: The owner or tenant, or an individual or business entity designated by the owner or tenant, of a dwelling unit in which an accessory homestay is permitted, who is available 24 hours a day, 7 days a week to respond to and resolve issues and complaints that arise during all times in which the dwelling unit is being used for an accessory homestay, so that a reasonably prompt, in-person response can be made at the accessory homestay when necessary.	**Homestay**: accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for a short term transient rental purposes in exchange for a charge for the occupancy. The primary use of the homestay unit shall remain residential. For each booking transaction, all applicable taxes must be collected and remitted to the town as required by Chapter 22 by either the host or the associated hosting platform. Such accessory or secondary use shall not create a landlord/tenant relationship.
Primary residency	Required and established with minimum of 185 days/year	Required
Tenancy of operator	Both owners and renters can participate provided primary residency is established	Only owner that lives at the homestay can participate provided primary residency is established
Authorized Agent	Required	N/A (during each stay, a principal guest is required to be designated as the contact person to respond to issues at the unit)
Guest Log		N/A
Allowable dwelling type	All dwelling types	All dwelling types
Life safety measures	Smoke detectors, fire extinguishers and carbon monoxide detectors (where applicable) required	Smoke and carbon monoxide detectors in all sleeping areas, in every room in the path of the means of egress from sleeping area and in each story including basements and second means of egress in each sleeping area required

Not an exhaustive list of regulations

Jurisdiction	Arlington County, VA	Town of Blacksburg, VA
Permit type	Annually renewable Accessory Homestay Permit (revocable for 3 or more violations, non-compliance or failure to allow inspections) and a business license	Annually renewable Homestay Permit (only one permit per host allowed) and revocable for 3 or more substantiated complaints, non-compliance and failure to allow inspections
Application fee	$63 (permit fee)	N/A
TOT remittance	Required	Required
Limit on # of days per year	N/A	Type A: 90 days/year with host present Type B: 30 days out of 90 days total without host present
Events & commercial activities	Prohibited	N/A
Limit on # of contracts per day	One/night	N/A
Limit on # of bedrooms available for rent per day	Determined by limits on occupants	Type A: 2 bedrooms maximum Type B: No limit
Limit on occupancy	Larger of either 6 guests or 2 guests/bedroom (not to exceed that allowed by Building Code)	No more than 6 guests total per night per unit
Adjacent property notification	N/A	Required
Parking	N/A	N/A
Include license/permit number on advertisement	N/A	N/A

Jurisdiction	City of Charlottesville, VA	Montgomery County, MD
Definitions	**Bed and Breakfast (Homestay)**: a temporary lodging facility operated within a single family residence which is owner occupied and managed; having no more than two (2) guest rooms; and wherein food service shall be limited to breakfast and light fare for guests only. **Responsible Party**: Individual or business entity located within 30 miles who will be available 24 hours a day, 7 days a week, to respond to resolve issues and complaints (in person, if necessary) that arise during the period of time in which the dwelling is being used as a homestay.	**Short-Term Residential Rental**: the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast (record of all overnight visitors must be maintained and readily available for inspection)
Primary residency	Required and established with minimum of 180 days/year	Required
Tenancy of operator	Owner or resident manager provided primary residency is established	Both owners and owner-authorized residents can participate provided primary residency is established
Authorized Agent	Responsible party located not more than 30 miles from rental unit required	Required when primary resident is not present and must reside within 15 miles of the unit (contact information of authorized agent must be posted inside the unit along with rules and regulations)
Guest Log	N/A	Record of all overnight visitors required to be maintained and be readily available for inspection
Allowable dwelling type	All dwelling types	Prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Apartment
Life safety measures	Working smoke and carbon monoxide detectors and fire extinguishers required	Working smoke and carbon monoxide detectors and fire extinguishers required

Jurisdiction	City of Charlottesville, VA	Montgomery County, MD
Permit type	Annually renewable Home Occupation Provisional Use Permit / Homestay (revocable for 3 or more substantiated complaints within a calendar year)	Annually renewable license
Application fee	$100 permit fee	$44 (license fee)
TOT remittance	Required	Required
Limit on # of days per year	14 days in any 30-day period	No limit with host present 120 days/year without host present
Events & commercial activities	N/A	N/A
Limit on # of contracts per day	N/A	N/A
Limit on # of bedrooms available for rent per day	N/A	N/A
Limit on occupancy	No more than 6 adults per night per tax map parcel	2 adults (over 18 years old) per bedroom, and a maximum of 6 adults per night per unit
Adjacent property notification	N/A	Required
Parking	N/A	One off-street parking space per contract unless the online listing indicates that vehicle parking is prohibited
Include license/permit number on advertisement	N/A	Required

Jurisdiction	City of Santa Monica CA	City & County of San Francisco CA
Definitions	**Short-Term Rental:** Any rental of any living accommodation that is 30 consecutive days or less, including hotels, motels, bed and breakfasts, home- sharing and vacation rentals. **Home-Sharing**: The rental of a person's private residence while the primary occupant is present during the rental and whereby the person is hosting the visitor. PERMITTED CITYWIDE. **Vacation Rental**: The exclusive rental of a private residence for transient use. In such cases the resident is either not present or there is no full time resident that lives in the unit. PROHIBITED CITYWIDE.	**Short-Term Residential Rental**: A Tourist or Transient Use where all of the following conditions are met: (a) the Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit; (b) the Permanent Resident is a natural person; (c) the Permanent Resident has registered the Residential Unit and maintains good standing on the Department's Short-Term Residential Rental Registry; and (d) the Residential Unit: is not subject to the Inclusionary Affordable Housing Program.
Primary residency	Required (a host may not have more than one residence within the city of Santa Monica)	Required and established with minimum of 275 days/year (new residents must have occupied the unit for at least 60 consecutive days prior to application.)
Tenancy of operator	Both owners and renters can participate provided primary residency is established	Both owners and renters can participate provided primary residency is established
Authorized Agent	N/A (operator required to be on-site at all times)	N/A
Guest Log	N/A	N/A
Allowable dwelling type	All dwelling types except Rent Control Bootleg Units	All dwelling types where residential use is permitted except in RV, Camper Vans, temporary structures, commercial or industrial buildings
Life safety measures	Emergency exist route information required to be provided	Unit must not have any outstanding Planning, Building, Housing, Fire, Health, Police, or other applicable City code violations

Jurisdiction	City of Santa Monica CA	City & County of San Francisco CA
Permit type	Home-Sharing Permit and business license	Registration and Certifications as a Host by the Office of STR every two years (submittal of a quarterly report affirming compliance required)
Application fee	N/A (only business license fee applies)	$250 every two years
TOT remittance	Required	Required.
Limit on # of days per year	No limit when host present. Not permitted without host present.	No limit with host present 90 days/year without host present
Events & commercial activities	Prohibited	Prohibited
Limit on # of contracts per day	N/A	Maximum of five/night
Limit on # of bedrooms available for rent per day	N/A	N/A
Limit on occupancy	N/A	Not more than 5 guests per unit
Adjacent property notification	N/A	N/A
Parking	N/A	N/A
Include license/permit number on advertisement	Required	Required

ATTACHMENT D

AN ORDINANCE AMENDING ARTICLES 7.2 AND 13 OF CHAPTER 4 OF THE FAIRFAX COUNTY CODE, RELATING TO BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX AND TRANSIENT OCCUPANCY TAX

Draft of February 16, 2018

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 4-7.2-25, 4-13-1, 4-13-2 and 4-13-5, relating to Business, Professional and Occupational License Tax and Transient Occupancy Tax.

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

1. **That Sections 4-7.2-25, 4-13-1, 4-13-2 and 4-13-5 are amended and readopted as follows:**

Article 7.2 – Business, Professional and Occupational License Tax.

Section 4-7.2-25. – Hotels and motels; license tax rate.

Every person operating a hotel ~~or motel~~ as defined in Section 4-13-1 ~~4-17-1~~ of the Fairfax County Code or similar business which rents rooms or space to transients shall pay an annual business license tax of Twenty-six Cents for each One Hundred Dollars of gross receipts.

Article 13. – Transient Occupancy Tax.

Section 4-13-1. -Definitions.

The following words and phrases when used in this Article shall, for the purposes of this Article, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

County means the County of Fairfax, Virginia.

Director means Director of the Department of Tax Administration or any of duly authorized deputies or agents of the Director.

Hotel means any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, rooming house, any place that offers Short-Term Lodging as defined in Article 20, Part 3 of the Fairfax County Zoning Ordinance, or other lodging place within the County offering lodging for one~~four~~ or more persons at any one time, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients as hereinafter defined.

Person means individuals, firms, partnerships, associations, corporations, persons acting in representative capacity and combinations of individuals of whatever form and character.

Room rental means the total charge made by any such hotel for lodging and/or space furnished any such transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging and/or the use of space, then such portion of the total charge as represents only room and/or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Transient means any person who, for any period of less~~not more~~ than thirty consecutive days either at his own expense or at the expense of another, obtains lodging or the use of any space in any hotel as hereinabove defined, for which lodging or use of space a charge is made.

Section 4-13-2. – Levy; amount of tax.

(a)~~A.~~ Pursuant to Virginia Code § 58.1-3819, in addition to all other taxes, there is hereby imposed and levied on each and every transient a tax equivalent to two percent of the total amount paid for room rental by or for any such transient to any hotel; provided however, that the tax imposed by this subsection shall not be imposed on any transient occupancy in any hotel that is located within any town that has imposed a tax on transient occupancy.

(b)~~B.~~ Pursuant to Virginia Code § 58.1-3824, and in addition to the tax imposed by subsection A of this Section, in addition to all other taxes, there is hereby imposed and levied on each and every transient a tax equivalent to two percent of the total amount paid for room rental by or for any such transient to any hotel regardless of whether the hotel is located within any town that has imposed a tax on transient occupancy. The tax imposed pursuant to this subsection shall be collected and appropriated for those purposes set forth in ~~Virginia Code § 58.1-3825~~ Virginia Code § 58.1-3824.

Section 4-13-5. - Report and remittance of tax.

(a) The person collecting any such tax shall make out a report on such forms and setting forth such information as the Director may prescribe and require, showing the amount of room rental charges collected, and the tax required to be collected, and shall sign and deliver the same to the Director with a remittance of such tax.

(b) Such reports and remittances shall be made monthly on or before the last day of the month ~~following each quarter~~ and covering the amount of tax collected during the preceding month.~~quarter. Such quarterly reports and remittances shall be made on or before the last day of April, July, October and January in each year.~~ If the remittance is by check or money order, it shall be payable to the County and all remittances received hereunder by the Director shall be promptly delivered to the Director of the Department of Finance. ~~Any person operating a hotel may make reports and remittances on a monthly basis in lieu of the quarterly basis hereinbefore provided.~~

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other

provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. That this Ordinance will become effective on October 1, 2018.

GIVEN under my hand this _____ day of _____, 2018

_____

Clerk to the Board of Supervisors

Board Agenda Item
July 31, 2018

3:00 p.m.

Public Hearing on RZ 2017-HM-032 (Coresite Real Estate Sunrise Technology Park, LLC) to Rezone from I-4 to I-5 to Permit Data Center and Associated Office Development with an Overall Floor Area Ratio up to 1.0, Located on Approximately 21.73 Acres of Land (Hunter Mill District) (Concurrent with SE 2017-HM-030)

and

Public Hearing on SE 2017-HM-030 (Coresite Real Estate Sunrise Technology Park, LLC) to Permit an Increase in Floor Area Ratio from 0.5 up to a Maximum of 1.0, Located on Approximately 21.73 Acres of Land Zoned I-5 (Hunter Mill District) (Concurrent with RZ 2017-HM-032)

This property is located on the South side of Sunrise Valley Drive, approximately 600 feet East of its interection with Fairfax County Parkway. Tax Map 17-3 ((1)) 17B, 23 and 32A.

This property is located at 12343 and 12379 Sunrise Valley Drive, Reston, 20191. Tax Map 17-3 ((1)) 17B, 23, and 32A.

PLANNING COMMISSION RECOMMENDATION:
On June 28, 2018, the Planning Commission voted 10-0 (Commissioners Hart and Sargeant recused themselves from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2017-HM-032, subject to the execution of proffered conditions consistent with those dated June 11, 2018, amended as follows:
    - Include Green Building Practices in Phase 2 which, as provided for Phases 3 and 4, meet the LEED-NC rating system requirements or an equivalent, as determined by the applicant and Fairfax County; and
    - Add a proffer to state that the applicant will ensure that any security cameras located along the southern property boundary will be directed such that the surveillance will only include the subject property.
- Approval of SE 2017-HM-030, subject to the development conditions dated June 12, 2018; and

Board Agenda Item
July 31, 2018

- Approval of a modification of Section 13-304 and Section 13-305 of the Zoning Ordinance to permit the transitional barrier and screening as shown on the GDP/SE Plat.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Wanda Suder, Planner, DPZ

Board Agenda Item
July 31, 2018

3:00 p.m.

Public Hearing on PCA 82-L-030-13 (White Horse Four, LLC) to Amend the Proffers for RZ 82-L-030, Previously Approved for Commercial Development, to Permit a Car Wash and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.23, Located on Approximately 16.13 Acres of Land Zoned C-8 (Lee District) (Concurrent with PCA 87-L-031-03 and SE 2015-LE-031)

and

Public Hearing on PCA 87-L-031-03 (White Horse Four, LLC) to Amend the Proffers for RZ 87-L-031, Previously Approved for Commercial Development, to Permit a Car Wash and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.23, Located on Approximately 17.14 Acres of Land Zoned C-8 (Lee District) (Concurrent with PCA 82-L-030 and SE 2015-LE-031)

and

Public Hearing on SE 2015-LE-031 (White Horse Four, LLC) to Permit a Car Wash, Located on Approximately 17.14 Acres of Land Zoned C-8 (Lee District) (Concurrent with PCA 82-L-030 and PCA 87-L-031-03)

This property is located on the South side of Charles Arrington Drive, East of its intersection with Beulah Street. Tax Map 91-1 ((12)) N.

This property is located on the South side of Charles Arrington Drive, East of its intersection with Beulah Street. Tax Map 91-1 ((1)) 67 and 67E; and 91-1 ((12)) N.

This property is located at 6912 Manchester Boulevard, Alexandria, 22310. Tax Map 91-1 ((1)) 67 and 67E; and 91-1 ((12)) N.

PLANNING COMMISSION RECOMMENDATION:
On June 14, 2018, the Planning Commission voted 7-0-3 (Commissioners Cortina, Hart, and Sargeant abstained from the vote; Commissioner Strandlie was not present for the vote; and Commissioner Clarke was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 82-L-030-13 and PCA 87-L-031-03, subject to the execution of proffers dated June 14, 2018;

- Approval of SE 2015-LE-031, subject to the proposed development conditions dated June 8, 2018; and

- Approval of a modification of the barrier requirement along the northern lot line, in favor of that shown on the GDP/SE Plat.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Casey Judge, Planner, DPZ

Board Agenda Item
July 31, 2018

3:00 p.m.

Public Hearing on RZ 2016-HM-007 (One Reston Co. LLC and Two Reston Co. LLC) to Rezone from I-4 to PDC to Permit Mixed Use Development with an Overall Floor Area Ratio of 2.62 and Approval of the Conceptual Development Plan, Located on Approximately 36.1 Acres of Land (Hunter Mill District)

This property is located on the West side of Reston Parkway, North side of Sunrise Valley Drive, East side of Edmund Halley Drive and South side of Dulles Airport Access and Toll Road. Tax Map 17-3 ((8)) 1A1 and 1B.

PLANNING COMMISSION RECOMMENDATION:
On July 12, 2018, the Planning Commission voted 8-0 (Commissioners Clarke, Cortina, Strandlie and Murphy were absent from the public hearing) to recommend the following actions:

- Approval of RZ 2016-HM-007 and the associated Conceptual Development Plan, subject to the execution of proffers consistent with those dated July 11, 2018;

- Approval of a modification of Paragraph 1 of Section 2-505 of the Zoning Ordinance to permit development of corner lots to that shown on the CDP;

- Approval of a waiver of Paragraph 2 of Section 2-506 of the Zoning Ordinance to permit a parapet wall, cornice, or similar projection to exceed three feet in height and extend more than three feet above the roof level of any building;

- Approval of a waiver of Paragraph 5 of Section 6-206 of the Zoning Ordinance to permit secondary uses in the PDC District to exceed 50 percent of the gross floor area of all principal uses in the development and all other secondary uses to exceed 25 percent of the gross floor area of all principal uses in the development;

- Approval of a modification of Paragraph 4 of Section 11-202 of the Zoning Ordinance to permit loading spaces or berths within 40 feet of the nearest point of intersection of the edges of the travelway or the curbs of any two streets to that shown on the CDP/FDP;

- Approval of a modification of Section 11-203 of the Zoning Ordinance for a reduction in the number of required loading spaces to that shown on the CDP;

Board Agenda Item
July 31, 2018

- Approval of a waiver of Section 13-202 of the Zoning Ordinance for the interior parking lot landscaping on the top level of parking structures;

- Approval of a modification of Sections 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the CDP; and

- Approval of a modification of Paragraph 2 of Section 17-201 of the Zoning Ordinance to permit the streetscape and on-road bicycle lanes as shown on the CDP in lieu of that shown in the Comprehensive Plan.

In a related action, on July 12, 2018, the Planning Commission voted 8-0 (Commissioners Clarke, Cortina, Strandlie and Murphy were absent from the public hearing) to approve FDP 2016-HM-007, subject to the conditions dated June 21, 2018 and subject to the Board of Supervisors' approval of RZ 2016-HM-007 and the associated Conceptual Development Plan.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

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

Board Agenda Item **REVISED**
July 31, 2018

3:30 p.m.

Public Hearing on PCA 86-C-119-07/DPA 86-C-119-03 (Boston Properties LP) to Amend the Proffers and Development Plan for RZ 86-C-119 Previously Approved for Office to Permit Mixed Use Development and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 3.22, Located on Approximately 33.13 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PRC 86-C-119-02, PCA 86-C-121-08 and DPA 86-C-121-05)

and

Public Hearing on PRC 86-C-119-02 (Boston Properties LP) to Amend the PRC Plan Associated with RZ 86-C-119 to Modify Site and Development Conditions and Land Area, Located on Approximately 33.13 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA 86-C-119-07, DPA 86-C-119-03, PCA 86-C-121-08 and DPA 86-C-121-05)

and

Public Hearing on PCA 86-C-121-08/DPA 86-C-121-05 (Boston Properties LP) to Delete Land Area from RZ 86-C-121, Located on Approximately 5.81 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA 86-C-119-07, DPA 86-C-119-03 and PRC 86-C-119-02)

This property is located on the North side of Sunset Hills Road, East side of the Town Center Parkway, South side of the Washington and Old Dominion Trail. Tax Map 17-3 ((1)) 5, 5H1, 29A and 29B.

This property is located on the North side of Sunset Hills Road, East side of Town Center Parkway, South side of the Washington and Old Dominion Trail. Tax Map 17-3 ((1)) 5, 5H1, 29A and 29B.

This property is located on the North Side of Sunset Hills Road, West side of Reston Parkway, South side of the Washinton and Old Dominion Trail. Tax Map 17-3 ((1)) 5 and 5H1.

PLANNING COMMISSION RECOMMENDATION:
On July 26, 2018, the Planning Commission voted 8-1-3 (Commissioner Hurley voted in opposition; Commissioners Cortina, Murphy, and Strandlie abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 86-C-119-07, subject to the execution of proffers consistent with those dated July 26, 2018;

- Approval of DPA 86-C-119-03, subject to the execution of proffers consistent with those dated July 26, 2018;

- Approval of PRC 86-C-119-02, subject to the development conditions dated June 26, 2018;

- Approval of PCA 86-C-121-08, subject to the execution of proffers consistent with those dated July 26, 2018; and

- Approval of DPA 86-C-121-05, subject to the execution of proffers consistent with those dated July 26, 2018.

In a related action, on July 26, 2018, the Planning Commission voted 9-3 (Commissioners Cortina, Murphy, and Strandlie abstained from the vote) to recommend the approval of the following waivers and modifications:

- Modification of Paragraph 1 of Section 2-505 of the Zoning Ordinance to permit development of corner lots to that shown on the DPA/PRC Plan for Phase 1;

- Modification of Section 11-203 of the Zoning Ordinance for a reduction in the number of required loading spaces to that shown on the DPA/PRC Plan for Phase 1;

- Modification of Sections 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the DPA/PRC Plan for Phase 1;

- Modification of Paragraph 2 of Section 17-201 of the Zoning Ordinance to permit the streetscape and on-road bicycle lanes to that shown on the DPA/PRC Plan in lieu of a minor paved trail;

- Modification of Section 8-0201.3 of the Public Facilities Manual to permit onstreet bicycle lanes as shown on the DPA/PRC Plan in lieu of the minor paved trail as shown on the Countywide Trails Plan;

- Modification of Section 8-0201.3 of the Public Facilities Manual to permit on-street bicycle lanes as shown on the DPA/PRC Plan for Phase 1 in lieu of the minor paved trail shown on the Countywide Trails Plan;

- Modification of Section 12-0510.4E (5) to permit the use of structural cells to allow a reduction of the minimum planting area for Phase 1;

- Modification of Section 12-0515.6B of the Public Facilities Manual to allow landscaping trees to be located within five feet of a stormwater easement;

- Modification of Section 12-0515.6E of the Public Facilities Manual to permit trees to be planted within the Virginia Department of Transportation's right-of-way to be counted towards the 10-year tree canopy requirement; and

- Approval of a parking reduction request for Reston Gateway, Number 5468-PKS-004-1, pursuant to Paragraph 5.A, Section 11-102 of the Zoning Ordinance, based on the proximity of a mass transit station, subject to the conditions recommended by staff dated, July 26, 2018.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

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

Board Agenda Item
July 31, 2018

3:30 p.m.

Public Hearing on SEA 1997-Y-035-02 (The Woodlands Retirement Community, LLC) to Amend SE 97-Y-035 Previously Approved for an Independent Living Facility to Permit Additional Surface Parking and Reduce the Minimum Age Requirement from 62 to 55 and Associated Modifications to Site Design and Development Conditions, Located on Approximately 8.46 Acres of Land Zoned R-3 (Braddock District) (Concurrent with PCA 1997-SU-027-02)

and

Public Hearing on PCA 1997-SU-027-02 (The Woodlands Retirement Community, LLC) to Amend the Proffers for RZ 1997-SU-027 Previously Approved for an Independent Living Facility to Permit Additional Surface Parking and Reduce Minimum Age Requirements from 62 to 55 with no Change to the Previously Approved Density of 12.24 Dwelling Units per Acre, Located on Approximately 8.46 Acres of Land Zoned R-3 (Braddock District) (Concurrent with SEA 1997-Y-035-02)

This property is located at 4320 Forest Fill Drive, Fairfax, 22030. Tax Map 56-2 ((1)) 61.

This property is located on the South side of Lee Highway and West side of Forest Hill Drive. Tax Map Map 56-2 ((1)) 61.

PLANNING COMMISSION RECOMMENDATION:
On July 12, 2018, the Planning Commission voted 8-0 (Commissioners Clarke, Cortina, Strandlie, and Murphy were absent from the public hearing) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 1997-SU-027-02, subject to the proffers dated June 26, 2018;
- Approval of SEA 97-Y-035-02, subject to the development conditions dated June 27, 2018;
- Approval of a waiver of Paragraph 4 of Section 17-201 of the Zoning Ordinance to waive future right-of-way dedication along Forest Hill Drive;
- Approval of a modification of Paragraph 1 of Section 17-201 of the Zoning Ordinance to permit the construction of a sidewalk along the frontage of Forest Hill Drive in favor of the proposed temporary design/orientation described in the development conditions;

Board Agenda Item
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- Approval of a modification of Paragraph 1 of Section 9-306 of the Zoning Ordinance to permit a reduction in the age limitation of occupants from 62 years and older to 55 years and older, as conditioned; and

- Approval of a modification of Paragraph 1 of Section 13-304 of the Zoning Ordinance to permit the location of the proposed barrier as depicted on the SEA Plat/GDP.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Zach Fountain, Planner, DPZ

Board Agenda Item
July 31, 2018

3:30 p.m.

Public Hearing on SEA 95-P-008 (Starbucks Coffee Company) to Amend SE 95-P-008 Previously Approved for a Drive-In Financial Institution to Redevelop as a Restaurant with a Drive-Through and Associated Modifications to Site Design and Development Conditions, Located on Approximately 8.39 Acres of Land Zoned C-6 (Providence District)

This property is located at 3046 Gate House Plaza, Falls Church, 22042. Tax Map 49-3 ((1)) 142A.

PLANNING COMMISSION RECOMMENDATION:
On July 19, 2018, the Planning Commission voted 12-0 to recommend the following actions to the Board of Supervisors:

- Approval of SEA 95-P-008, subject to the development conditions dated July 3, 2018; and

- Approval of a modification of the peripheral parking lot landscaping requirements, pursuant to Section 13-203 of the Zoning Ordinance in favor of the original rezoning approval and as conditioned.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Zach Fountain, Planner, DPZ

Board Agenda Item **REVISED**
July 31, 2018

3:30 p.m.

Public Hearing on PCA 84-D-049-06 (Tysons Galleria Anchor Acquisition, LLC) to Amend the Proffers for RZ 84-D-049 Previously Approved for Mixed Use Development to Permit an Increase in Maximum Height of an Existing Building and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 1.47, Located on Approximately 2.57 Acres of Land Zoned PDC and SC (Providence District)

This property is located on the East side of International Drive and South side of Tysons Boulevard. Tax Map 29-4 ((10)) 1A.

PLANNING COMMISSION RECOMMENDATION:
On July 25, 2018, the Planning Commission voted 10-0 (Commissioners Strandlie and Sargeant were absent from the public hearing) to recommend to the Board of Supervisors approval of PCA 84-D-049-06, subject to the execution of proffered conditions consistent with those dated June 14, 2018.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Katie Antonucci, Planner, DPZ

Board Agenda Item **REVISED**
July 31, 2018

3:30 p.m.

Public Hearing on RZ 2017-HM-006 (RP 11111 Sunset Hills LLC) to Rezone from I-4 to PDC to Permit Mixed Use Development with an Overall Floor Area Ratio of 1.50 and Approval of the Conceptual Development Plan, Located on Approximately 9.72 Acres of Land (Hunter Mill District)

This property is located on the South side of Sunset Hill Drive, approximately 980 feet East of its intersection with Michael Faraday Drive. Tax Map 18-3 ((6)) 8.

PLANNING COMMISSION RECOMMENDATION:
On July 26, 2018, the Planning Commission voted 12-0 to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2017-HM-006 and the Conceptual Development Plan, subject to the execution of proffers consistent with those dated July 26, 2018;

- Approval of a modification of Paragraph 1 of Section 2-414 of the Zoning Ordinance to reduce the residential building setback requirement from the Dulles Toll Road from 200 feet to 100 feet;

- Approval of a modification of Paragraph 5 of Section 6-206 of the Zoning Ordinance to permit residential uses as a secondary use up to 257,000 square feet, including workforce dwelling units and independent living units and permit other secondary non-residential uses up to 226,678 square feet, subject to not exceeding the use limits listed in the proffers;

- Approval of a waiver of Section 6-207 of the Zoning Ordinance requiring minimum 200 square-foot privacy yards on single-family attached dwelling units;

- Approval of a modification of Section 11-203 of the Zoning Ordinance for the loading space requirements for the multi-family from three to two spaces;

- Approval of a waiver of Section 13-202 of the Zoning Ordinance and Section 12-0514 of the Public Facilities Manual for required interior parking landscaping on the structured parking;

- Approval of a modification of Section 13-303 of the Zoning Ordinance for the transitional screening and barrier requirements as shown on the CDP/FDP and waiver of Section 13-304 for the barrier requirement;

- Approval of a modification of Section 12-0510.4e (5) of the Public Facilities Manual to allow a minimum planting width of six feet in favor of the proposed planting areas and methods as detailed in the proffers and CDP/FDP;

- Approval of a modification of Section 7-0100 PFM Plate TS-5A of the Public Facilities Manual to reduce the minimum pavement width from 24 feet to 20 feet for the private street shown on the CDP/FDP; and

- Approval of a parking reduction request for 11111 Sunset Hills Road, Number 9867-PKS-001-1, pursuant to Paragraph 5A, Section 11-102 of the Zoning Ordinance, based on the proximity of a mass transit station, subject to the conditions recommended by staff, as outlined in the memorandum dated May 25, 2018, and revised May 29, 2018, and contained in Appendix 17 of the staff report.

In a related action, on July 26, 2018, the Planning Commission voted 12-0 to approve FDP 2017-HM-006, subject to the proposed final development plan conditions contained in Appendix 2 of the staff report and dated July 10, 2018, with a correction to condition number 1 to reflect 41 sheets instead of 28 sheets in the CDP/FDP.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Bill Mayland, Planner, DPZ

Board Agenda Item
July 31, 2018

4:00 p.m.

Public Hearing on RZ 2017-LE-022 (Springfield Gateway, LLC) to Rezone from C-5, C-8, CRD, SC and HC to PDC, CRD, SC and HC to Permit a Hotel with an Overall Floor Area Ratio of 1.50 and Approval of the Conceptual Development Plan, Located on Approximately 1.54 Acres of Land (Lee District)

This property is located on the South side of Franconia Road at its intersection with Backlick Road. Tax Map 80-4 ((1)) 17, 18 and 19.

PLANNING COMMISSION RECOMMENDATION:
On July 12, 2018, the Planning Commission voted 8-0 (Commissioners Clarke, Cortina, Strandlie, and Murphy were absent from the public hearing) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2017-LE-022, subject to the execution of proffers dated July 9, 2018;
- Approval of a modification to Section 11-203 of the Zoning Ordinance to reduce the loading space requirement to from two to one loading space for a hotel;
- Approval of a modification of the trail requirement along Backlick Road in favor of the sidewalks as shown on the CDP/FDP;
- Approval of a waiver of the service drive requirement along Backlick Road;
- Approval of a modification to Section 13-203 of the Zoning Ordinance for the peripheral parking lot landscaping to allow parking spaces within a parking garage at the property line, as shown on the CDP/FDP;
- Approval of a deviation from the tree preservation target to that shown on the CDP/FDP; and
- Approval of a reduction of the parking requirement by 20 percent, in accordance with Paragraph 3A of Section A7-509 of the Zoning Ordinance.

In a related action, on July 12, 2018, the Planning Commission voted 8-0 (Commissioners Clarke, Cortina, Strandlie, and Murphy were absent from the public hearing) to approve FDP 2017-LE-022, subject to the development conditions dated June 26, 2018, and subject to the Board of Supervisors' approval of RZ 2017-LE-022.

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ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Heath Eddy, Planner, DPZ

Board Agenda Item
July 31, 2018

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2017-CW-4CP, 2017 Heritage Resources Plan Update

ISSUE:
Plan Amendment (PA) 2017-CW-4CP proposes to amend the Comprehensive Plan to update information pertaining to Heritage Resources. The amendment will update the Fairfax County Inventory of Historic Sites (Inventory) tables and maps to reflect actions taken by the Fairfax County History Commission and will incorporate other editorial revisions.

PLANNING COMMISSION RECOMMENDATION:
On June 14, 2018, the Planning Commission voted 11-0 (Commissioner Clarke was absent from the meeting) to recommend to the Board of Supervisors the adoption of the staff recommendation for Plan Amendment 2017-CW-4CP, found in Appendix 1 of the staff report dated May 16, 2018.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:
Planning Commission public hearing and decision – June 14, 2018
Board of Supervisors' public hearing – July 31, 2018

BACKGROUND:
On July 9, 2013, through the approval of the 2013 Comprehensive Plan Work Program, the Board of Supervisors authorized annual consideration, if needed, of a Comprehensive Plan amendment to update information pertaining to Heritage Resources in the Comprehensive Plan. The amendment will primarily incorporate current information relating to historic properties in Fairfax County. Heritage Resources information in the Comprehensive Plan was last updated in September 2016 to reflect updates through 2015.

Since that time, two properties have been added to the Inventory, and are now proposed to be added to the Comprehensive Plan Inventory tables and maps: 1)

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Hannah P. Clark/Enyedi House (c. 1876), a vernacular farm house in the Mount Vernon Supervisor District; and 2) the Fort Belvoir Military Railroad Historic Corridor (1810-1993), also in the Mount Vernon Supervisor District.

Notations are proposed to indicate a change in the historic status for three properties previously listed on the Inventory.

Seventeen previously demolished sites were removed from the Inventory by the History Commission on February 7, 2018, after being determined to no longer have either architectural or archaeological integrity, and are therefore now proposed to be removed from the Comprehensive Plan Inventory tables and maps.

The amendment also proposes editorial revisions to language which describes Historic Overlay Districts, and updates to references to county departments.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I: Planning Commission Verbatim Excerpt

The Staff Report for 2017-CW-4CP has been previously furnished and is available online at: https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/compplanamend/2017heritageresources/pa-2017-cw-4cp_staff_report_final.pdf

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Leanna H. O'Donnell, Branch Chief, Planning Division (PD), DPZ
Denice Dressel, Planner II, Policy and Plan Development Branch, PD, DPZ

County of Fairfax, Virginia
Planning Commission Meeting
June 14, 2018
Verbatim Excerpt

PA 2017-CW-4CP – COMPREHENSIVE PLAN AMENDMENT (HERITAGE RESOURCES) – To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. Plan Amendment 2017-CW-4CP proposes an amendment to the Comprehensive Plan for Fairfax County, Virginia to update the Inventory of Historic Sites tables and maps that appear in the Area plans; to revise heritage resources language in the Area Plans to reflect changes that have taken place, such as editorial revisions to language which describes Historic Overlay Districts, and references to county departments; remove seventeen sites previously noted as demolished having been determined to no longer have either architectural or archaeological integrity; and to add two new historic sites. (Countywide)

After close of the Public Hearing

Commissioner Sargeant: Well, thank you, Mr. Chairman. In terms of the follow-on motion for a recommendation, I think we've taken that from the vague to the indefinite at this point. I'm a little concerned and perhaps we should, at this point, consider in a committee session and follow up with what we can more precisely do to make it work for the benefit of staff, for the History Commission, and for the citizens. So I'm going to hold off on that motion for this moment and then when we get to a committee – an appropriate committee – we'll follow up with staff to see what works best and that would be fine. So with that, Mr. Chairman, I would very much like to thank Denice Dressel – and welcome for a very easy first reference Denice Dressel, Leanne O'Donnell, and…and Amy Wells from the Park Authority for being with us and for their – their assistance in making this happen. And also, a thanks to the History Commission for constantly working to ensure the integrity and accuracy of our County's historic record. It is not an easy feat in a county as busy and as complex and as historic as ours. As we've seen in tonight's presentation, what has happened with this update for the countywide plan amendment, it will quite simply update the information in the plan's inventory of historic sites, tables, and maps, including the addition of two new sites and the removal of 17 demolished sites. It will update the definition of the asterisk notation in the Plan's inventory of historic site tables for accuracy and clarity. It will reflect changes to the status of properties, such as listing in the National Register or demolition. It will revise references to the Cultural Resources Management and Protection Branch of the Fairfax County Park Authority to reflect a more generalized reference to archeology staff. And it revises language for all historic overlay districts for consistency to refer to the directives in the respective sections of the Zoning Ordinance. With that, Mr. Chairman, I WOULD MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2017-CW-4CP, FOUND IN APPENDIX 1 OF THE STAFF REPORT DATED MAY 16TH, 2018.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by…

Commissioner Hart: Donté.

Chairman Murphy: Yes, Mr. Tanner. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Comprehensive Plan Amendment on Heritage Resources, PA 2017-CW-4CP, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 11-0. Commissioner Clarke was absent from the meeting.

JLC

Board Agenda Item
July 31, 2018

4:00 p.m.

Public Hearing on Amendments to Fairfax County Code Appendix D – Industrial Development Authority

ISSUE:
Public hearing on amendments to Fairfax County Code Appendix D – Industrial Development Authority, to update references to state law and remove obsolete provisions.

RECOMMENDATION:
The County Executive recommends that the Board adopt the proposed amendments to Appendix D of the Fairfax County Code.

TIMING:
On June 19, 2018, the Board of Supervisors authorized a public hearing to take place on July 31, 2018, to consider amendments to the Fairfax County Code, Appendix D. The ordinance would become effective upon adoption.

BACKGROUND:
Appendix D was originally enacted on October 28, 1974. It has not been updated since that date. As a result, it contains outdated references to the Virginia Code and obsolete information regarding initial Board membership and acquisition of the Commonwealth Doctors Hospital. The proposed amendments update references to state law and remove the obsolete information. The proposed revisions make no substantive changes to the existing ordinance. The Industrial Development Authority is used primarily as a financing conduit for the Inova Hospital network to issue revenue bonds to finance and refinance debt issued for its various facilities.

FISCAL IMPACT:
No impact.

ENCLOSED DOCUMENTS:
Attachment 1 – Va. Code Ann. §§ 15.2-4903 and -4904
Attachment 2 – Proposed Ordinance

STAFF:
Joe LaHait, Debt Coordinator, Department of Management and Budget

ASSIGNED COUNSEL:
Martin R. Desjardins, Assistant County Attorney, Office of the County Attorney

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 49. Industrial Development and Revenue Bond Act

§ 15.2-4903. Creation of industrial development authorities

A. The governing body of any locality in the Commonwealth is hereby authorized to create by ordinance a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Any such ordinance may limit the type and number of facilities that the authority may otherwise finance under this chapter, which ordinance of limitation may, from time to time, be amended. Louisa County may, by ordinance, authorize an authority created or established under this chapter to acquire, own, operate, and regulate the use of airports, landing fields, and facilities, and other property incident thereto, including such facilities and property necessary for the servicing of aircraft. In the absence of any such limitation, an authority shall have all powers granted under this chapter.

B. The name of the authority shall be the Industrial Development Authority of (the blank spaces to be filled in with the name of the locality which created the authority, including the proper designation thereof as a county, city or town).

C. Notwithstanding subsection B, for any authority authorized by this section, the name of the authority may be the Economic Development Authority of (the blank space to be filled in with the name of the locality that created the authority), if the governing body of such locality so chooses.

D. The authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916 may be named the Economic Development Authority of Halifax, Virginia, or such other name as the governing bodies of the Town of South Boston and Halifax County shall choose in the concurrent resolutions creating such authority.

1966, c. 651, § 15.1-1376; 1975, c. 254; 1997, c. 587;1999, c. 157;2000, c. 398;2001, cc. 5, 6, 730; 2002, cc. 169, 680, 725;2003, cc. 159, 343, 345, 350, 357;2004, cc. 292, 782, 933;2016, cc. 164, 312; 2017, c. 560.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow $2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority, the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs, and one at-large member, with terms staggered as agreed upon by the city council, the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half

terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed $200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

1966, c. 651, § 15.1-1377; 1979, c. 35; 1980, c. 304; 1982, c. 463; 1983, c. 514; 1984, c. 750; 1987, c. 368; 1990, c. 87; 1993, c. 896; 1996, cc. 589, 599;1997, c. 587;1999, cc. 337, 408, 414;2000, c. 963;2001, c. 121;2003, cc. 347, 357;2006, c. 687;2007, cc. 283, 338;2008, c. 619;2009, cc. 199, 200, 460, 597;2012, cc. 337, 352;2013, c. 482;2014, cc. 381, 382;2016, c. 414;2017, cc. 541, 557, 560.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

PROPOSED ORDINANCE TO AMEND AND READOPT APPENDIX D – INDUSTRIAL DEVELOPMENT AUTHORITY – OF THE FAIRFAX COUNTY CODE TO INCORPORATE CHANGES IN THE RELEVANT CODE PROVISIONS UNDER VA. CODE § 15.2-4900, *et seq.* AND REMOVE OBSOLETE PROVISIONS

AN ORDINANCE to amend and readopt Appendix D – Industrial Development Authority – of the Fairfax County Code to incorporate changes in the relevant code provisions under Virginia Code § 15.2-4900, *et seq.* and remove obsolete provisions.

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

1. That Appendix D of the Fairfax County Code is amended and readopted:

Section 1. - There is hereby created the "Industrial Development Authority of Fairfax County, Virginia."

Section 2.

The members of the Board of Directors of the Authority shall be residents of Fairfax County, to be appointed, qualified, and serve for such terms~~composed~~ as required under Virginia law. ~~of seven (7) members, who shall be residents of Fairfax County . The members shall be appointed by the Board of Supervisors. The initial members of the Board of Directors and the expiration of their respected terms of office shall be as follows:~~

~~Member~~	~~Expiration of Term~~
~~Frank C. Watters~~	~~October 28, 1975~~
~~Joseph T. Flakne~~	~~October 28, 1975~~
~~Thomas M. Stanners~~	~~October 28, 1976~~
~~Virginia E. McEnearney~~	~~October 28, 1976~~
~~Jeane Brockway~~	~~October 28, 1977~~
~~Robert MacCallum~~	~~October 28, 1977~~
~~Charles E. Crouch~~	~~October 28, 1978~~

~~Subsequent appointments shall be for terms of four (4) years, except appointments to fill vacancies which shall be for the unexpired terms.~~

Section 3.

The Authority is hereby authorized to exercise all the powers granted by the Industrial Development and Revenue Bond Act, ~~being~~ Chapter ~~33~~49, Title ~~15.1~~15.2 of the Code of Virginia; ~~including the power to issue revenue bonds of the Authority for the purpose of providing funds to pay the cost, as defined in said Act, of acquiring all the business, assets, properties and good will of Commonwealth Doctors Hospital, Inc., and its two~~

~~subsidiaries, subject to certain liabilities;~~ provided, however, that the Authority may not issue ~~other revenue~~ bonds without the approval of a majority of the members of the Board of Supervisors. ~~When the revenue bonds and all other obligations of the Authority with respect to Commonwealth Doctors Hospital have been fully paid or met, the title of all funds and properties of Commonwealth Doctors Hospital shall vest in Fairfax County. The Authority is hereby authorized and directed to lease Commonwealth Doctors Hospital to the Fairfax Hospital Association upon such terms and conditions as are mutually acceptable to the Authority, the Board of Supervisors and the Association.~~

2. That this ordinance shall become effective upon adoption.

GIVEN under my hand this _____ day of _____, 2018.

_____
Catherine A. Chianese
Clerk to the Board of Directors

Board Agenda Item
July 31, 2018

4:30 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the West Potomac Residential Permit Parking District, District 36 (Mount Vernon District)

ISSUE:
Public Hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax*, *Virginia* (Fairfax County Code), to expand the West Potomac Residential Permit Parking District (RPPD), District 36.

RECOMMENDATION:
The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of the Fairfax County Code, to expand the West Potomac RPPD, District 36.

TIMING:
On June 19, 2018, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of the Fairfax County Code, to take place on July 31, 2018, at 4:30 p.m.

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

Staff has verified that the petitioning blocks are within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundary of West Potomac High School, and all other requirements to expand the RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated to be $3,000. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to the Fairfax County Code
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Henri Stein McCartney, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNCIL:
F. Hayden Codding, Assistant County Attorney

Attachment I

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following street in Appendix G-36, Section (b), (2), West Potomac Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

Cavalier Drive (Route 1334):

From Harvard Drive to Belle View Boulevard

Olmi Landrith Drive (Route 1337):

From Cavalier Drive to Fordham Drive

Attachment II



Board Agenda Item
July 31, 2018

4:30 p.m.

Public Hearing on RZ 2006-HM-004 (Daniel W. McKinnon) to Rezone from R-1 to R-3 to Permit Residential Development with a Total Density of 2.27 Dwelling Units per Acre, Located on Approximately 1.76 Acres of Land (Hunter Mill District)

This property is located on SouthWest side of Old Courthouse Road and East side of Beulah Road. Tax Map 28-3 ((5)) 36 (pt.).

PLANNING COMMISSION RECOMMENDATION:
On July 19, 2018, the Planning Commission voted 11-0 (Commissioner Hurley recused herself from the vote) to recommend to the Board of Supervisors approval of RZ 2006-HM-004, subject to the execution of proffered conditions consistent with those set forth in Appendix 1 of the staff report and dated June 27, 2018.

ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors

STAFF:
Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Harold Ellis, Planner, DPZ

Board Agenda Item
July 31, 2018

4:30 p.m.

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