

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 14, 2020**

AGENDA

- 3:00 Matters Presented by Board Members
- 3:00 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 **Pulled** Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Adult Day Care Centers
- 2 Additional Time to Commence Construction for Special Exception Amendment SEA 83-V-083, SEJ Management and Investment Company (Mount Vernon District)
- 3 Installation of Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine Signs
- 4 Additional Time to Commence Construction for Special Exception SEA 2002-HM-046-02, JLB Dulles Tech LLC and the Fairfax County Park Authority (Dranesville District)
- 5 Additional Time to Commence Construction for Special Exception SE 2014-PR-001, 7799 Leesburg Pike, LLLP (Providence District)
- 6 Reappointment of Private Provider Member to the Fairfax-Falls Church Community Policy and Management Team
- 7 Supplemental Appropriation Resolution AS 21010 for the Fairfax County Police Department to Accept Grant Funding from the U.S. Department of Justice, Office of Justice Programs for the Coronavirus Emergency Supplemental Funding Program
- 8 Authorization to Advertise a Public Hearing on the Removal, Relocation, Contextualization, or Covering of Publicly-Owned Civil War Related Monuments or Memorials at the Fairfax County Judicial Complex (Providence District)

ACTION ITEMS

- 1 Adoption of a Resolution of Support for a Break of the Limited Access Line to Provide a Direct Pedestrian and Bicycle Connection Adjacent to the Jones Branch Connector (Providence District)

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**ACTION ITEMS
(continued)**

- | | |
|---|--|
| 2 | Authorization of Design and Construction Agreement with the Town of Vienna for Redevelopment of the Patrick Henry Library and Additional Public Parking (Hunter Mill District) |
| 3 | Authorization to Add Funding to the Fairfax RISE: COVID-19 Small Business and Non-Profit Relief Grant Program |

**CONSIDERATION
ITEMS**

- | | |
|---|---|
| 1 | <u>Withdrawn</u> Revisions to Bylaws of the Fairfax-Falls Church Community Policy and Management Team (CPMT) |
|---|---|

**PUBLIC
HEARINGS**

- | | |
|------|--|
| 3:30 | Public Hearing to Consider Adoption of an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the Novel Coronavirus Disease 2019 (COVID-19) Emergency by Temporarily Approving Outdoor Dining and Outdoor Fitness and Exercise Activities Subject to Certain Conditions, Thereby Suspending Any Requirement for Individualized Approvals of Such Activities, and to Repeal the Emergency Uncodified Ordinance on the Same Subject, Which Was Adopted on May 28, 2020, and Is Hereby Replaced |
| 3:30 | Public Hearing on SE 2019-LE-021 (Muna Barkhadle D/B/A Daffodils Childcare) (Lee District) |
| 3:30 | Public Hearing on PCA-C-491-03 (T&M McLean Venture, LLC) (Dranesville District) |
| 3:30 | Public Hearing on PCA/CDPA 2010-PR-021-03 (Capital One Bank (USA), National Association) and SE 2020-PR-002 (Capital One Bank (USA), National Association; Capital One, National Association; Capital One Tysons Block C Owner, LLC) (Providence District) |
| 4:00 | Public Hearing on a Proposal to Prohibit Through Truck Traffic on Popes Head Road (Springfield District) |
| 4:00 | To Be Deferred to 9/15/20 at 4:30 p.m. Public Hearing on a Proposal to Vacate and Abandon a Portion of Brecknock Street / Route 5443 (Sully District) |

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**PUBLIC
HEARINGS
(continued)**

- | | |
|------|--|
| 4:00 | Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Hunter Village Dr Walkway (Wentworth to Flax) (Springfield District) |
| 4:30 | Public Hearing on Proposed Amendments to the Police Officers Retirement System Ordinance |
| 4:30 | Public Hearing to Consider an Ordinance to Amend the Fairfax County Code by Adopting Article 3 to Chapter 7 Relating to Establishing Voter Satellite Offices for Absentee in Person Voting Under Virginia Code Section 24.2-701.2 |
| 4:30 | Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 |
| 4:30 | Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Code Relating to Animal Control and Care |
| 4:30 | Closed Session |

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3:00 p.m.

Matters Presented by Board Members

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July 14, 2020

3:00 p.m.

Items Presented by the County Executive

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ADMINISTRATIVE - 1

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance
Amendment Re: Adult Day Care Centers

ISSUE:

On January 28, 2020, the Board directed staff to review the regulations for adult day care centers and to develop an approach to appropriately align adult day care center requirements with the current requirements for child care centers to include restoring adult day care centers as a by-right use in Industrial Districts, evaluate the requirement to provide outdoor recreation space and maintain a mechanism that will allow the Health Care Advisory Board (HCAB) to review the adult day care centers before the center becomes operational.

RECOMMENDATION:

The County Executive recommends authorization of the proposed amendment by adopting the Resolution set forth in Attachment 2.

TIMING:

Board action is requested on July 14, 2020, to provide sufficient time to advertise the proposed Planning Commission public hearing on September 16, 2020, at 7:30 p.m., and the proposed Board public hearing on October 6, 2020 at 4:00 p.m.

BACKGROUND:

In December 2018, the Board of Supervisors (Board), in response to recommendations outlined in the Fairfax County's 50+ Community Action Plan, enacted significant amendments to the Zoning Ordinance addressing the needs of Fairfax County's older adults and residents with disabilities. These amendments established a new continuing care facility use and created a new Planned Continuing Care Facility (PCC) Zoning District to encourage planned and coordinated developments that provide a continuum of accommodations and services designed to assist with aging in place. In addition, the amendment established new zoning regulations for adult day care centers. Prior to that amendment, the Zoning Ordinance, through interpretation, treated adult day care centers similar to child care centers and were subject to the same location permissions and use standards as child care centers. The December 2018 amendment established and defined a new adult day care center use and established the use as a special exception use in all zoning districts where previously the use was permitted by-right in

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the industrial and certain commercial zoning districts. The amendment also established additional standards for adult day care centers including the provision of a safe, appropriately sized and conveniently located outdoor area for use by adults receiving services, road access standards as well as a requirement for a review by the Health Care Advisory Board (HCAB).

Since the adoption of the 2018 provisions, providers of adult day care services, particularly those that provide day support services to adults with intellectual and developmental disabilities, have reached out to staff and Board members with concerns that the new regulations create barriers within the real estate market to find appropriate locations for their programs within the County. Of particular concern is the requirement for special exception approval in the industrial districts and the requirement to provide outdoor recreation space. This use, similar to child care centers, private schools and places of worship, was previously allowed by-right when located in an office or industrial park and where vehicle access is provided via the internal circulation system of the park. Adult day care providers indicated that the special exception requirement puts them at a disadvantage when trying to lease space, particularly industrial flex space, as other uses with similar land use impacts are allowed by-right, like child care centers, private schools, and places of worship.

The proposed amendment will revise the regulations for adult day care centers, as follows:

- 1) Revise the definition of adult day care centers to clarify that day support programs for adults with intellectual and developmental disabilities licensed by the Virginia Department of Behavioral Health and Developmental Services (VDBHDS) are deemed to be adult day care centers.
- 2) Allow adult day care centers by-right in the C-1 through C-8 and I-1, I-2 through I-6 Districts.
- 3) Require the following use limitations for adult day care centers permitted by-right in the C-1 through C-8 Districts:
 - A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.
 - B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.
 - C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.

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- D. Prior to issuance of a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.
- 4) In the I-1, I-2 through I-6 Districts adult day care centers will be subject to the same use limitations in A through D above and the following:
 - E. The center must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.
 - F. Vehicular access to the adult day care center must be provided via the internal circulation system of the office or industrial complex where it is located, and not from a collector or arterial street that borders the complex.

Adult day care centers that are not located within an office or industrial complex may be allowed in the industrial districts with special exception approval.

- 5) Adult day care centers will continue to be permitted in the PDH, PDC, PRC, PRM, PTC, and PCC Districts when shown on an approved development plan and will be subject to the same use limitations 3 A through D above.
- 6) The current additional standards for adult day care centers that require a special exception will be modified as follows:
 - A. The adult day care center must have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.
 - B. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.
 - C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.
 - D. No such facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.
 - E. All applications for an adult day care center will be referred to the Health Care Advisory Board for its review in accordance with the standards in Sect. 9-308 for medical care facilities.

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REGULATORY IMPACT:

None.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – January 28, 2020 Board Matter
Attachment 2 – Resolution
Attachment 3 – Staff Report

STAFF:

Rachel Flynn, Deputy County Executive
Barbara A. Byron, Director, Department of Planning and Development (DPD)
Leslie B. Johnson, Zoning Administrator, DPD
William Mayland, Deputy Zoning Administrator, DPD
Sara Morgan, Senior Planner, DPD

ASSIGNED COUNSEL:

Cherie L. Halyard, Assistant County Attorney

Kathy L. Smith
Board of Supervisors, Sully District
4900 Stonecroft Boulevard
Chantilly, VA 20151



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Sully District

Board of Supervisors Meeting January 28, 2020

Joint Board Matter Regarding Adult Day Care Centers *Supervisor Kathy Smith & Chairman Jeff McKay*

As part of Fairfax County's 50+ Community Action Plan, the Board has enacted significant changes addressing the needs of Fairfax County's older adults and residents with disabilities. One of those changes was the adoption on December 4, 2018 of zoning ordinance amendments that addressed, among other items, adult day care centers. Prior to that amendment, the County's zoning ordinance, through interpretation, treated adult day care centers in the same way as child care centers. Adult day care centers were subject to the same location permissions and use standards as child care centers.

The December 2018 amendment established and defined a new Adult Day Care Center use and established the use as a special exception use in zoning districts where the use was previously permitted by right, particularly in the industrial zoning districts. The amendment also established additional standards for adult day care centers including the provision of a safe, appropriately sized and conveniently located outdoor area for use by adults receiving services, access and trip generation standards as well as a requirement for a review by the Health Care Advisory Board.

Adult day care uses are a necessity in our community and provide a vital service for older adults and those with a disability. We as a Board have an obligation to ensure adult day care uses are being provided and that our regulations encourage establishment of more adult day care uses, while balancing life safety issues and land use impacts.

Members of the Board have heard from adult day care providers, particularly those that provide services to adults with intellectual and developmental disabilities, that there are barriers to entry caused by the amendment, which do not impact life safety issues.

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Board of Supervisors, Sully District
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Sully District

Of particular concern is the requirement for special exception approval in the industrial districts and the requirement for the provision of outdoor recreation space. This use was previously allowed by right, as child care centers currently are, when located in an office or industrial park and vehicle access is provided via the internal circulation system of the park. We have heard that this puts providers of adult day care services at a disadvantage when trying to lease space that can accommodate the use, when other uses with similar land use impacts are allowed by right, like child care centers and places of worship.

Therefore, I move that the Board direct staff in the Department of Planning and Development to review the current zoning ordinance provisions related to adult day care centers and align those requirements, where appropriate, with the current requirements for child care centers, including but not limited to restoring them as a by-right use in industrial districts and to re-evaluate the need for outdoor recreation space.

With regard to the existing standard requiring review by the Health Care Advisory Board, **I move that any revised provisions brought forward for public hearing, continue to include a mechanism that will allow the Health Care Advisory Board an opportunity to review the proposal prior to the center becoming operational.**

I also move that this item be added to the 2019 Zoning Ordinance Work Program as a first tier item for authorization in the Spring of 2020.

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 14, 2020, at which meeting a quorum was present and voting, and the following resolution was adopted:

WHEREAS, at a Board Meeting on January 28, 2020, the Board directed staff, to appropriately align adult day care center requirements with the current requirements for child care centers including but not limited to restoring them as a by-right use in industrial districts, to re-evaluate the need for outdoor recreation space, and to allow the Health Care Advisory Board an opportunity to review the proposal prior to the center becoming operational; and

WHEREAS, the current special exception requirement for adult day care centers creates a barrier to entry for day service providers, particularly those providing services to individuals with intellectual and developmental disabilities, within the real estate market to find appropriate locations for their programs within the County compared to child care centers that are permitted by right; and

WHEREAS, the definition of adult day care centers was established in 2018 with the intention of including Virginia Department of Behavioral Health and Developmental Services licensed adult day care centers that provide services to individuals with disabilities therefore the definition needs to be clarified; 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 relating to adult day care centers identified in the accompanying Staff Report.

NOW, THEREFORE, BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the public hearing during which the Planning Commission and the Board will consider the proposed Zoning Ordinance and County Code amendments as recommended by staff.

Given under my hand this 14th day of July, 2020.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Adult Day Care Centers

PUBLIC HEARING DATES

Planning Commission

September 16, 2020 at 7:30 p.m.

Board of Supervisors

October 6, 2020 at 4:00 p.m.

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

July 14, 2020

SM



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

Background

In December 2018, the Board of Supervisors (Board), in response to recommendations outlined in the Fairfax County's 50+ Community Action Plan, enacted significant amendments to the Zoning Ordinance addressing the needs of Fairfax County's older adults and residents with disabilities. These amendments established a new continuing care facility use and created a new Planned Continuing Care Facility (PCC) Zoning District to encourage planned and coordinated developments that provide a continuum of accommodations and services designed to assist with aging in place. In addition, the amendment established new zoning regulations for adult day care centers. Prior to that amendment, the Zoning Ordinance, through interpretation, treated adult day care centers similar to child care centers and were subject to the same location permissions and use standards as child care centers. The December 2018 amendment established and defined a new adult day care center use and established the use as a special exception use in all zoning districts where previously the use was permitted by-right in the industrial and certain commercial zoning districts. The amendment also established additional standards for adult day care centers including the provision of a safe, appropriately sized and conveniently located outdoor area for use by adults receiving services, road access standards as well as a requirement for a review by the Health Care Advisory Board (HCAB).

Since the adoption of the 2018 provisions, providers of adult day care services, particularly those that provide day support services to adults with intellectual and developmental disabilities, have reached out to staff and Board members with concerns that the new regulations create barriers within the real estate market to find appropriate locations for their programs within the County. Of particular concern is the requirement for special exception approval in the industrial districts and the requirement to provide outdoor recreation space. This use, similar to child care centers, private schools and places of worship, was previously allowed by-right when located in an office or industrial park and where vehicle access is provided via the internal circulation system of the park. Adult day care providers indicated that the special exception requirement puts them at a disadvantage when trying to lease space, particularly industrial flex space, as other uses with similar land use impacts are allowed by-right, like child care centers, private schools, and places of worship.

In response to these concerns, the Board, on January 28, 2020, directed staff to review the current regulations for adult day care centers and to develop an approach to appropriately align adult day care center requirements with the current requirements for child care centers. The Board requested that staff evaluate restoring adult day care centers as a by-right use in Industrial Districts and re-evaluate the need for outdoor recreation space. Regarding the existing standard requiring review by HCAB, the Board directed staff to continue to include a mechanism that will allow the HCAB to review the adult day care centers before the center becomes operational.

Proposed Amendment

Definition

The definition of adult day care center will be revised with this amendment. Currently an adult day care center is defined as:

ADULT DAY CARE CENTER:** A facility licensed by the State of Virginia where four or more adults who are aged, infirm or who have a disability (handicap) receive supportive services, health monitoring, protection, and supervision on a regular basis during part of a 24-hour day. **This use does not include any licensed facility that provides for the primary diagnosis or treatment of a medical or mental health condition or any facility licensed by the Virginia Departments of Health Professions or Behavioral Health and Developmental Services. This use also does not include ASSISTED LIVING FACILITY or NURSING FACILITY OR HOME.

The current definition includes adult day care centers that provide services for older adults who need supervision during all or a portion of the day and who may suffer from physical infirmities and dementia and are licensed by the Virginia Department of Social Services (VDSS) but as currently written specifically excludes facilities licensed by the Virginia Department of Behavioral Health and Developmental Services (VDBHDS). VDBHDS licenses facilities that provide day support programs for individuals with intellectual and/or developmental disabilities, such as the community integration programs provided by Service Source and other providers. The 2018 Zoning Ordinance amendment that established the current definition only intended to exclude facilities such as group homes or mental health treatment facilities which are licensed by VDBHDS, and not the day support programs provided for adults with intellectual and/or developmental disabilities “*who receive supportive services, health monitoring, protection and supervision on a regular basis during part of a 24-hour day.*” However, the Zoning Administrator has determined that until the definition of adult day care center is revised, facilities that provide day care services for adults with intellectual or developmental disabilities and licensed by VDBHDS are most similar to a child care center. The definition of adult day care center will be revised with this amendment and will clarify that both day support programs for adults with intellectual and developmental disabilities licensed by VDBHDS and adult day programs licensed by VDSS are deemed to be adult day care centers.

Zoning Districts

The draft use standards currently being proposed as part of the Zoning Ordinance Modernization project (zMOD) will allow child care centers as a by-right use in all of the Commercial and Industrial Districts, with certain use limitations. Currently, child care centers require special exception approval in the C-5 through C-8 Commercial Retail Districts. While the Board’s directive focused primarily on allowing adult day care centers as a by-right use in the Industrial Districts, they also directed staff to align the requirements for adult day care centers to be consistent with child care centers. Therefore, staff is proposing to amend the Zoning Ordinance to permit adult day care centers by-right in all Commercial and Industrial Districts¹ in advance of the

¹ The zMOD draft proposes to delete the R-P District and the I-1 District as there is no land currently zoned to those Districts. Therefore, the adult day care center use will not be added to those Districts in the current Zoning Ordinance.

changes proposed as part of zMOD. Adult day care centers would require special exception approval in the Industrial Districts if they did not meet the use limitations. Similar to child care centers, adult day care centers would continue to be permitted by-right in the Planned Districts when shown on an approved development plan and require special exception approval in the Residential Districts.

| CURRENT PROVISIONS | | | | | | | | | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 |
| Child Care Centers | P | P | P | P | SE | SE | SE | SE | P | P | P | P | P | P |
| Adult Day Care Centers | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE |

P – Permitted by-right SE – Special Exception

| PROPOSED AMENDMENT | | | | | | | | | | | | | | |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-------|-------|-------|-------|-------|-------|
| | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 |
| Child Care Centers (zMOD Proposal) | P | P | P | P | P | P | P | P | P/ SE | P/ SE | P/ SE | P/ SE | P/ SE | P/ SE |
| Adult Day Care Centers | P | P | P | P | P | P | P | P | P/ SE | P/ SE | P/ SE | P/ SE | P/ SE | P/ SE |

P – Permitted by-right SE – Special Exception

Use Limitations/Additional Standards

Currently adult day care centers are subject to additional standards that are applied during the special exception process. Staff is proposing to revise the existing set of additional standards and add as use limitations to the Commercial, Industrial and Planned Districts where the use is proposed to be permitted by-right. The proposed use limitations include the following:

- A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.
- B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.
- C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.
- D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.

Staff is also proposing that adult day care centers located in the Industrial Districts be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and have vehicular access provided via the internal circulation system of the office or industrial complex. If an adult day care center cannot meet this location requirement special exception approval would be required.

The proposed use limitations for by-right adult day care centers in the commercial and industrial districts will continue to require review by the Health Care Advisory Board (HCAB). Currently, since special exception approval is required for all adult day care centers, the additional standards require all applications for an adult day care center to be referred to the Health Care Advisory Board for its review in accordance with the standards in Sect. 9-308 for medical care facilities. The Health Care Advisory Board may submit a recommendation to the Planning Commission and Board of Supervisors at the public hearings. However, because as a by-right use there is no review by the Planning Commission and Board, staff is recommending a use limitation that requires the applicant to submit their request to HCAB and provide documentation of HCAB review of the facility before issuance of the Non-Residential Use Permit (Non-RUP) to permit occupancy of the facility. HCAB could provide any concerns or recommendations directly to the appropriate state licensing agency, either VDSS or VDBHDS.

In the residential districts and in the industrial districts when the location of the proposed facility is not within an office or industrial complex, an adult day care center would still require special exception approval. Staff is proposing to amend the additional standards consistent with the proposed changes being anticipated as part of zMOD. The current additional standard restricting the number of persons permitted in a child care center based on the street type, as shown in the table below, is proposed to be removed as part of zMOD.

| Number of Persons* | Street Type |
|---------------------------|--------------------|
| 1-60 | Local |
| 61-660 | Collector |
| More than 660 | Arterial |

*Includes employees and persons receiving services at any one time.

When evaluating a special exception application for a child care center, staff determined that it typically focuses on the locational guidance in the Comprehensive Plan, rather than this road type chart. Therefore, staff is recommending that this chart, which was included with the 2018 adult day care amendment, be deleted to be consistent with the proposed use standards for child care centers proposed as part of zMOD as the land use impacts are similar. However, an adult day care center requiring special exception approval would be required to have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.

Both the by-right use limitations and the special exception standards will continue to provide that the adult day care center must be located to facilitate the safe drop-off and pick-up of all persons attending the adult day care center, to include step-free access. The additional standards and use limitations continue to provide that no facility may operate until a license has been granted for the facility by the appropriate state licensing agency. Based on additional review of licensing requirements and in conversations with adult day support service providers, staff determined that

the requirement to provide outdoor space for use by individuals attending the facility differs depending on the state agency issuing the license. The VDSS requires an outdoor area while the VDBHDS does not have such a requirement. Therefore, for consistency, both the by-right use limitations and the special exception standards have been revised to state that any “outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.” This revision makes the provision of an outdoor space discretionary on the part of the adult day care provider, unless required by the licensing agency or by the Board in conjunction with the approval of a special exception.

Outreach

Staff presented the proposed amendment in concept to the Northern Virginia Coalition of Service Providers (Coalition) at the Coalition’s March 17, 2020, virtual meeting. The Coalition membership includes representatives of the County’s Long-Term Coordinating Care Council, the Area Agency on Aging, and providers of adult day support services for individuals with intellectual and developmental disabilities like Service Source. The proposed amendment was generally well received, but there was some concern expressed among providers of adult day support services for adults with disabilities concerning the requirement for HCAB review. This would be a new requirement for the providers of these types of services. On May 6, 2020, staff presented the proposed amendment to the Planning Commission’s Land Use Process Review Committee. The Committee stated they want to ensure the HCAB continues to have a role in the review of these facilities. Lastly, on May 11, 2020, staff virtually met with HCAB and presented the proposed amendment. During the HCAB meeting, members expressed concern over the effectiveness of their review moving from a special exception use to a by-right use. Additionally, the HCAB continues to support a requirement that an outdoor area be provided for adult day care centers.

Conclusion

The proposed Zoning Ordinance amendment revises the provisions for adult day care centers to align with that of child care centers proposed as part of the zMOD recommendations. Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of July 14, 2020, 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.

1 Amend Article 4, Commercial District Regulations, as follows:

2
3 - Amend the C-1, C-2, C-3, and C-4 Districts as follows:

- 4
5 - Add a new paragraph 11, 19 or 21 in Section 4-102, 4-202, 4-302, and 4-402, Permitted Uses, as
6 appropriate, to read as follows:

7
8 11. 19. or 21. Adult day care center, limited by the provisions of [insert Section number as
9 either Sect. 105, 205, 305 or 405 based on the appropriate zoning district] below.

- 10
11 - Delete Paragraph 2A. Adult day care center, in Sections 4-104, 4-204, 4-304, and 4-404 Special
12 Exception Uses, and re-letter the subsequent paragraphs accordingly.

- 13
14 - Add a new paragraph 6, 8, or 13 to Section 4-105, 4-205, 4-305, and 4-405 Use Limitations, as
15 appropriate, to read as follows:

16
17 6. 8. 13. Adult day care centers are permitted by-right in accordance with the following:

18
19 A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons
20 on the site, to include step-free access.

21
22 B. No facility may operate until such time as a license has been granted by the appropriate agency
23 of the Commonwealth of Virginia.

24
25 C. Any outdoor area provided for use by persons receiving adult day care services must be safe,
26 appropriately sized, and conveniently located.

27
28 D. Prior to obtaining a Non-Residential Use Permit, the applicant must submit the proposed request
29 to the Health Care Advisory Board for its review. Written documentation of such review must
30 accompany the application for a Non-Residential Use Permit.

31
32 - Amend the C-5, C-6, C-7, and C-8 Districts as follows:

- 33
34 - Add a new paragraph 32, 38, 44, or 46 in Sections 4-502, 4-602, 4-702, and 4-802, Permitted

Uses, as appropriate, to read as follows:

32. 38. 44. or 46. Adult day care center, limited by the provisions of [insert Section number as either Sect. 505, 605, 705 or 805 based on the appropriate zoning district] below.

- Delete Paragraph 2A. Adult day care centers, in Sections 4-504, 4-604, 4-704 and 4-804, Special Exception Uses, and re-letter the subsequent paragraphs accordingly.
- Add a new paragraph 15, 17 or 19 in Section 4-505, 4-605, 4-705, 4-805, Use Limitations, as appropriate, to read as follows:

15. 17. 19. Adult day care centers are permitted by-right in accordance with the following:

- A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.
- B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.
- C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.
- D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.

Amend Article 5, Industrial District Regulations, as follows:

- Amend the I-I, I-2, I-3, I-4, I-5 and I-6 Districts, as follows:

- Add a new paragraph 13, 14, 19, 25, 32, or 33 in Section 5-I02, 5-202, 5-302, 5-402, 5-502 and 5-602, Permitted Uses, as appropriate, to read as follows:

13. 14. 19. 25. 32. or 33. Adult day care centers, limited by the provisions of [Insert either Sect. 105, 205, 305, 405, 505 or 605 based on the respective zoning district] below.

- Add a new paragraphs 6, 7, 10, or 11 in Sections 5-105, 5-205, 5-305, 5-405, 5-505 and 5-605, Use Limitations, as appropriate, to read as follows:

6. 7. 10. or 11. Adult day care centers are permitted by-right in accordance with the following:

- A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.
- B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.

C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.

D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.

E. The center must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.

F. Vehicular access to the adult day care center must be provided via the internal circulation system of the office or industrial complex where it is located. and not from a collector or arterial street that borders the complex.

Amend Article 6, Planned Development District Regulations, as follows:

- Amend the PDH District, as follows:

- Add a new paragraph 13 in Section 6-106, Use Limitations, to read as follows:

13. Adult day care centers are permitted in accordance with the following:

A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.

B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.

C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.

D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.

- Amend the PDC District, as follows:

- Add a new paragraph 19 in Section 6-206, Use Limitations, to read as follows:

19. Adult day care centers are permitted in accordance with the following:

A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step free access.

B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.

C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.

D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit. The Health Care Advisory Board may submit comments to the appropriate licensing agency of the Commonwealth of Virginia.

- **Amend the PRC District, as follows:**

- **Add a new paragraph 18 in Section 6-305, Use Limitations, to read as follows:**

18. Adult day care centers are permitted in accordance with the following:

A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.

B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.

C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.

D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.

- **Amend the PRM District, as follows:**

- **Add a new paragraph 17 in Section 6-406, Use Limitations, to read as follows:**

17. Adult day care centers are permitted in accordance with the following:

A. The adult day care center must be located to safely facilitate the drop-off and pick up of persons on the site, to include step-free access.

B. No facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.

C. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located.

D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed request to the Health Care Advisory Board for its review. Written documentation of such review must accompany the application for a Non-Residential Use Permit.

1 - **Amend the PTC District, as follows:**

2
3 - **Add a new paragraph 22 in Section 6-505, Use Limitations, to read as follows:**

4
5 22. Adult day care centers are permitted in accordance with the following:

- 6
7 A. The adult day care center must be located to safely facilitate the drop-off and pick up of
8 persons on the site, to include step-free access.
9
10 B. No facility may operate until such time as a license has been granted by the appropriate agency
11 of the Commonwealth of Virginia.
12
13 C. Any outdoor area provided for use by persons receiving adult day care services must be safe,
14 appropriately sized, and conveniently located.
15
16 D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed
17 request to the Health Care Advisory Board for its review. Written documentation of such
18 review must accompany the application for a Non-Residential Use Permit.
19

20 - **Amend the PCC District, as follows:**

21
22 - **Add a new paragraph 10 in Section 6-606, Use Limitations, to read as follows:**

23
24 10. Adult day care centers are permitted in accordance with the following:

- 25
26 A. The adult day care center must be located to safely facilitate the drop-off and pick up of
27 persons on the site, to include step-free access.
28
29 B. No facility may operate until such time as a license has been granted by the appropriate agency
30 of the Commonwealth of Virginia.
31
32 C. Any outdoor area provided for use by persons receiving adult day care services must be safe,
33 appropriately sized, and conveniently located.
34
35 D. Prior to obtaining a Non-Residential Use Permit, the applicant must present the proposed
36 request to the Health Care Advisory Board for its review. Written documentation of such
37 review must accompany the application for a Non-Residential Use Permit.
38

39 **Amend Article 9, Special Exceptions, as follows:**

40
41 - **Amend Sect. 9-302, Districts in Which Category 3 Uses May be Located, by revising Par. 1 to add**
42 **Par. 16 Adult day care center, as a by-right use in the PDH, PDC, PTC, and PRM Districts, C-1**
43 **through C-8 Districts, and the I-I and I-2 through I-6 Districts, to read as follows:**

- 44
45 1. Category 3 uses may be permitted by-right in the following districts:
46

PDH, PDC, PTC Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, ~~and 15 and 16~~ when represented on an approved development plan

PRC District: All uses when represented on an approved development plan

PRM District: Limited to uses 1, 3, 4, 5, 6, 7, 10, 11, 12, ~~and 15 and 16~~ when represented on an approved development plan

PCC District: Limited to uses 3, 5, 6, 7, 12 and 16 when represented on an approved development plan

C-1, C-2 Districts: Limited to quasi-public athletic fields, uses 10, 11, 12, ~~and 15 and 16~~

C-3 District: Limited to uses 3, quasi-public athletic fields, 10, 11, 12, ~~and 15 and 16~~

C-4 District: Limited to uses 1, 3, quasi-public athletic fields, 10, 11, 12, ~~and 15 and 16~~

C-5, C-6, C-7, C-8 Districts: Limited to uses 1, 3, 7, quasi-public athletic fields, 11, ~~and 12 and 16~~

I-I District: Limited to uses 10, ~~and 11 and 16~~

~~I-1, I-2, I-3, I-4, I-5 Districts: Limited to quasi-public athletic fields, uses 10, 11 and 12~~

I-1, I-2, I-3, I-4, I-5 Districts: Limited to quasi-public athletic fields, uses 10, 11, 12, and 16

I-6 District: Limited to quasi-public athletic fields, uses 10, ~~and 11, and 16~~

- Amend Section 9-315, Additional Standards for Adult Day Care Center, to read as follows:

1. The adult day care center use must have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center. ~~use as determined by the Director. The special exception application must include an estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center. As a general guideline, the size of the use in relation to the appropriate street type should be as follows, subject to any modification and conditions the Board deems to be necessary or advisable:~~

| Number of Persons* | Street Type |
|--------------------|-------------|
| 1-60 | Local |
| 61-660 | Collector |
| More than 660 | Arterial |

~~*Includes employees and persons receiving services at any one time.~~

2. The use must be located to readily and safely facilitate the drop-off and pick-up of all persons attending the adult day care center, to include step-free access.
3. Any outdoor area provided for use by persons receiving adult day care services must be safe, appropriately sized, and conveniently located. ~~The special exception application must identify a safe, appropriately sized, and conveniently located outdoor area for use by persons receiving adult day care services.~~
4. No such facility may operate until such time as a license has been granted by the appropriate agency of the Commonwealth of Virginia.
5. All applications for an adult day care center will be referred to the Health Care Advisory Board for its

review in accordance with the standards in Sect. 9-308 for medical care facilities. The Health Care Advisory Board may submit a recommendation to the Planning Commission and Board of Supervisors at the public hearings.

6. All services and facilities provided must be designed, located, and of a scale to support those persons receiving adult day care services.

~~7. Adult day care centers located in the I-4 through I-6 must be located in an office park and all vehicular access must be provided by way of the internal circulation system of the park. Such uses must be located within an office structure on the property and not as a freestanding building.~~

Amend Article 20, Ordinance Structure, Interpretations and Definitions, as follows:

- **Amend Section 20-300, Definitions, by revising the definition of ADULT DAY CARE, to read as follows:**

ADULT DAY CARE CENTER: A facility licensed by the Commonwealth of Virginia where four or more adults who are aged, infirm, or have intellectual or developmental disabilities ~~who have a disability (handicap)~~ receive supportive services, health monitoring, protection, and supervision on a regular basis during part of a 24-hour day. This use does not include any licensed facility that provides for the primary diagnosis or treatment of a medical or mental health condition or any facility licensed by the Virginia Departments of Health Professions ~~or Behavioral Health and Developmental Services~~. This use also does not include ASSISTED LIVING FACILITY, ~~or~~ NURSING FACILITY OR HOME or GROUP RESIDENTIAL FACILITY.

Board Agenda Item
July 14, 2020

ADMINISTRATIVE - 2

Additional Time to Commence Construction for Special Exception Amendment
SEA 83-V-083, SEJ Management and Investment Company (Mount Vernon District)

ISSUE:

Board consideration of additional time to commence construction for SEA 83-V-083, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve six (6) months additional time for SEA 83-V-083 to December 31, 2020.

TIMING:

Routine.

BACKGROUND:

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

On January 12, 2016, the Board of Supervisors approved Special Exception Amendment SEA 83-V-083, subject to development conditions. The application was filed in the name of SEJ Management and Investment Company, for the purpose of amending SE 83-V-083 previously approved for a service station and quick service food store to permit modifications to the existing service station and quick service food store including constructing a new fuel canopy, replacing the existing underground fuel storage tanks, replacing and adding gasoline pumps and permitting a reduction in yard requirements for an existing structure within the C-8 zoning district for the property located at 9402 Richmond Highway, Tax Map 107-4 ((1)) 22 and 23 (see Locator Map in Attachment 1). The service station and quick service food store are Category 5 special exception uses and are permitted pursuant to Section 4-804 of the Fairfax County Zoning Ordinance. SEA 83-V-083 was approved with a condition that the use has been

Board Agenda Item
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established or construction has commenced and been diligently prosecuted as evidenced by the issuance of a demolition permit for the underground fuel storage tanks within thirty (30) months of the approval date unless the Board grants additional time. The development conditions for SEA 83-V-083 are included as part of the Clerk to the Board's letter contained in Attachment 2.

As a result of the Virginia General Assembly action, the original expiration date of July 12, 2018 was extended until July 1, 2020. On April 28, 2020, the Department of Planning and Development (DPD) received a letter dated April 20, 2020, from Michael Vanderpool, agent for the Applicant, requesting six (6) months of additional time (see Attachment 3). While the current expiration date is July 1, 2020, the approved Special Exception Amendment will not expire pending the Board's action on the request for additional time.

Mr. Vanderpool states additional time is necessary to commence construction. According to Mr. Vanderpool's letter, the Applicant has not been able to obtain the underground fuel storage tanks due to lack of supply. He has also run into a multitude of additional design modifications that have resulted in construction plan and material delays. Furthermore, the impacts of the coronavirus pandemic on business operations as well as the state of emergency declaration for Virginia have impeded the commencement of construction. While the Applicant is working through these obstacles, it is clear the additional time of six (6) months is necessary to ensure the special exception amendment approval remains valid and will allow the requestor to commence construction.

Staff has reviewed Special Exception Amendment SEA 83-V-083 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit site modifications and modification of the development conditions to the service station and quick service food store within a C-8 zoning district. Further, staff knows of no change in land use circumstances that affects compliance of SEA 83-V-083 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception Amendment. Finally, the conditions associated with the Board's approval of SEA 83-V-083 are still appropriate and remain in full force and effect. Staff believes that approval of the request for six (6) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None.

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ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Clerk's Letter dated January 13, 2016, to Karen L. Cohen

Attachment 3: Letter dated April 20, 2020, to Leslie B. Johnson

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning and Development (DPD)

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPD

Suzanne Wright, Chief, Conformance Review & Acceptance Branch, ZED, DPD

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

Laura O'Leary, Staff Coordinator, ZED, DPD

Special Exception Amendment**SEA 83-V -083**

Applicant:

SEJ ASSET MANAGEMENT AND
INVESTMENT COMPANY

Accepted:

05/15/2014

Proposed:

AMEND SE 83-V-083 PREVIOUSLY APPROVED
FOR A SERVICE STATION AND QUICK
SERVICE FOOD STORE TO PERMIT SITE
MODIFICATIONS AND MODIFICATION OF
MINIMUM YARD REQUIREMENTS FOR CERTAIN
EXISTING STRUCTURES AND USES

Area:

30,856 SF

District:

MOUNT VERNON

Zoning Dist Sect:

4-804

Located:

9402 RICHMOND HIGHWAY
LORTON, VA 22079

Zoning:

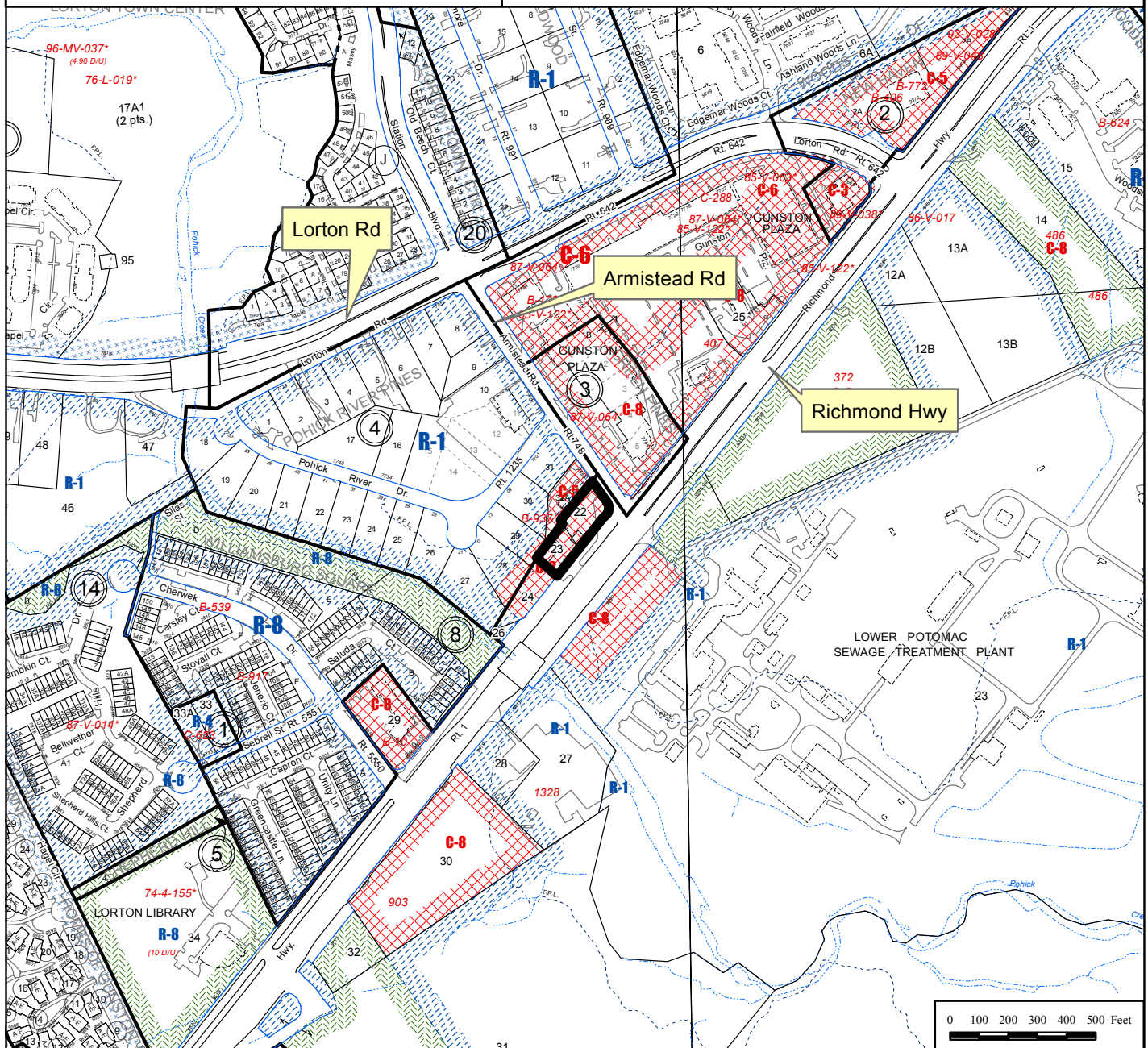
C - 8

Plan Area:

4

Map Ref Num:

107-4 ((1)) 22, 23





County of Fairfax, Virginia

ATTACHMENT 2

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

January 13, 2016

Karen L. Cohen
Vanderpool, Frostick & Nishanian, P.C.
9200 Church Street, Suite 400
Manassas, VA 20110

RECEIVED
Department of Planning & Zoning

MAR 23 2016

Zoning Evaluation Division

RE: Special Exception Amendment Application SEA 83-V-083

Dear Ms. Cohen:

At a regular meeting of the Board of Supervisors on January 12, 2016, the Board approved Special Exception Amendment Application SEA 83-V-083 in the name of SEJ Asset Management and Investment Company. The subject property is located at 9402 Richmond Highway, on approximately 30,856 square feet of land zoned C-8 in the Mount Vernon District [Tax Map 107-4 ((1)) 22 and 23]. The Board's action amends Special Exception Application SE 83-V-083 previously approved for a service station and quick service food store to permit modifications to minimum yard requirements for certain existing structures and uses. Previously approved conditions or those with minor modifications are marked with an asterisk (*).

1. This Special Exception Amendment (SEA) is granted for and runs with the land indicated in this application and is not transferable to other land. *
2. This SEA is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. *
3. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans as may be determined by the Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved SEA Plat entitled "Special Exception Plat Amendment | SEA 83-V-083 for 7-Eleven" prepared by Bohler Engineering, which is dated June 8, 2015 and revised through September 28, 2015 and these conditions. Minor modifications to the approved Special Exception Amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance. *

Office of the Clerk to the Board of Supervisors

12000 Government Center Parkway, Suite 533

Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 711

Email: clerktothebos@fairfaxcounty.gov

<http://www.fairfaxcounty.gov/bosclerk>

4. A copy of these Special Exception conditions shall be posted in a conspicuous place along with the Non-Residential Use Permit (Non-RUP) on the property of the use and be made available to all departments of the County of Fairfax during hours of operation for the permitted use. *
5. The applicant shall install a bus shelter pad on the Richmond Highway frontage as generally shown on the SEA Plat, subject to the review and approval of the Virginia Department of Transportation (VDOT). The design of the bus shelter pad shall meet the Fairfax County Bus Stop Guidelines.
6. Within 60 days of the approval of this Special Exception, the applicant shall install traffic barriers which prohibit vehicular access at the two locations shown on the SEA Plat bordering Tax Map 107-4 ((1)) 24 and the service drive, subject to the review and approval of VDOT for the barrier located within right-of-way.
7. Prior to site plan approval the applicant shall amend the interparcel access with Tax Map 107-4 ((4)) 32A to permit unrestricted access to the southwestern service drive access to Richmond Highway.
8. Within 90 days of a Residential Use Permit (RUP) or Non-RUP being issued for a use on the adjacent Tax Map 107-4 ((1)) 24, the applicant shall grant an interparcel access easement as depicted on the SEA Plat to the owners of Tax Map 107-4 ((1)) 24, subject to the applicant and each adjacent parcel owner entering into a mutually agreed upon maintenance agreement. Concurrent with granting this interparcel access easement, the applicant shall remove the traffic barriers prohibiting access to the adjacent property and service drive.
9. Notwithstanding the proposed landscaping shown on the SEA Plat, the location and species of the proposed plantings shall be subject to the review and approval of the Urban Forest Management Division (UFMD). The applicant's landscape plan shall include, but shall not be limited to, adjustments to the locations of the Category II trees to be planted near the corner of Richmond Highway and Armistead Road. The applicant shall determine, subject to the review and approval of UFMD, the appropriateness of retaining the existing 11-inch caliper maple tree on site and the potential for removing this tree and replanting of the vicinity with additional trees.
10. In accordance with Section 14-903 of the Zoning Ordinance, the fuel canopy lighting shall not exceed a maintained lighting level of 30 footcandles under the canopy as measured horizontally at grade. All underside canopy lighting shall consist of full cut-off lighting fixtures.
11. The applicant shall maintain the existing trench drain on site. The applicant may elect to replace and install an alternative stormwater management facility at a future date. Changes to stormwater management facilities shall be subject to the review and approval of DPWES.

12. Within 60 days of the approval of this Special Exception and prior to the issuance of a new Non-RUP, the applicant shall remove all signs installed without sign permits. All signs on site shall conform to the requirements of Article 12 of the Zoning Ordinance.
13. All parking shall be on site in accordance with Article 11 of the Zoning Ordinance. Within 90 days of the approval of this Special Exception and prior to the issuance of a new Non-RUP, the applicant shall petition VDOT to restrict on-street parking within the existing service drive between the subject property and the Richmond Highway travel lanes. The applicant shall provide a copy of the petition to Zoning Permit Review Branch (ZPRB) staff prior to the issuance of a Non-RUP.
14. Notwithstanding the improvements shown on the SEA Plat, the applicant may continue use of the Armistead Road access point in a manner acceptable to VDOT. Improvements to the Armistead Road access point, such as those required through an Access Management Exception review, shall be subject to the review and approval of VDOT and shall be incorporated into the applicant's site plan submission prior to final site plan approval.

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

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

The Board also:

- Modified the minimum rear yard requirement for the existing service station/quick service food store building in accordance with Sect. 9-625 of the Zoning Ordinance to permit the building to remain as shown on the SEA Plat
- Modified the frontage improvements requirement found in Sect. 17-201 of the Zoning Ordinance in favor of that shown on the SEA Plat

- Waived the transitional screening and barrier requirements in Sect. 13-302 of the Zoning Ordinance along the western property boundary

Sincerely,



Catherine A. Chianese
Clerk to the Board of Supervisors

cc: Chairman Sharon Bulova
Supervisor Daniel G. Storck, Mount Vernon District
Tim Shirocky, Acting Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Michael Davis, Section Chief, Transportation, Planning Division
Donald Stephens, Department of Transportation
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
Jill Cooper, Executive Director, Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



VANDERPOOL, FROSTICK & NISHANIAN, P.C.

Solutions from lawyers you trust



2020-0333

ATTACHMENT 3

April 20, 2020

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Leslie B. Johnson, Zoning Administrator
County of Fairfax, Virginia
Department of Planning and Development
Zoning Administration Division
12055 Government Center Parkway, Suite 250
Fairfax, Virginia 22035-5507

Re: Special Exception Amendment SEA- 83-V-083 – SEJ Asset Management and
Investment Company
9402 Richmond Highway, Lorton, Virginia
Tax Map Ref: 107-4(1) 22 & 23
Zoning District: C-8

Dear Ms. Johnson:

The law firm of Vanderpool, Frostick & Nishanian, P.C. is legal counsel for 7-Eleven, Inc., and an authorized agent of SEJ Asset Management and Investment Company ("SEJ"), and we are writing to you regarding the above-referenced special exception amendment. The Fairfax County Board of Supervisors adopted SEA 83-V-083 to permit, in part, a new fuel canopy, replacement of the existing underground fuel storage tanks, and replacement of the existing two gasoline pumps with four new pumps. Because of the circumstances provided herein, construction has not commenced in accordance with the special exception amendment. Therefore, SEJ is respectfully requesting additional time to commence construction in accordance with Code of Virginia Section 15.2-2209.1 and Fairfax County Zoning Ordinance Section 9-012.

The reasons for the extension request are as follows: 1) an inability to obtain the underground fuel storage tanks that are required to complete the project due the lack of an adequate supply; 2) the multitude of additional design modifications have caused obstacles regarding the construction plans and materials; 3) the negative impacts of the coronavirus pandemic on business operations; and 4) the state of emergency declaration and stay-at-home order imposed by the Governor of Virginia which is a substantial impediment to construction. As a result of the foregoing, SEJ is requesting an extension of the construction commencement date to December 31, 2020, subject to further extension due to the corona virus pandemic.

Leslie B. Johnson, Zoning Administrator
County of Fairfax, Virginia
April 20, 2020
Page Two

We greatly appreciate your consideration of our request, and we look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Michael R. Vanderpool". The signature is fluid and cursive, with a small "2020" written at the end.

Michael R. Vanderpool

cc: Paul Encinas

V:\Company\7-Eleven\Lorton #10794\7-11 Lorton - Special Exception Amendment, request for additional time - 4-20-20 atty rev.docx

ADMINISTRATIVE - 3

Installation of Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine Signs

ISSUE:

Board endorsement for the installation of Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine signs at 114 locations, as shown in Attachment I.

RECOMMENDATION:

The County Executive recommends that the Board endorse the installation of Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine signs at the 114 subject locations, as shown in Attachment I.

TIMING:

Board action is requested on July 14, 2020, to allow the installation of these signs to proceed as quickly as possible.

BACKGROUND:

Virginia Code Section 46.2-924 and Section 82-9-7 of *The Code of the County of Fairfax, Virginia*, authorize the Board to install and maintain highway signs at marked crosswalks specifically requiring motorists to yield the right-of-way to pedestrians crossing the highway at those signed locations. Any operator of a motor vehicle who fails to yield the right-of-way to pedestrians as required shall be guilty of a traffic infraction punishable by a fine of no less than \$100 or more than \$500.

The Board previously established the following criteria for selecting locations for the installation of Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine signs:

- At marked crosswalks where conditions or experience indicate that failure to yield is likely to result or has resulted in pedestrian injuries. For example, these signs could be installed at locations with unexpected crossings, poor sight distances, crosswalks with 35 mph or greater traffic speeds, and/or with a minimum number of three crashes involving pedestrians in the past five years.
- At marked crosswalks with a high number of crossings by children, elderly, or persons with disabilities (e.g., at a school zone or designated school crossing, or near elderly housing or a senior center).

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- To make drivers aware that failing to yield to pedestrians in Fairfax County can result in higher fines, at marked crosswalks at selected high profile and/or “gateway” locations on major roadways where there is significant pedestrian traffic.

The 114 subject locations meet one or more of the established criteria.

For the Board’s reference, Attachment II provides a listing of the 502 locations previously approved and installed.

FISCAL IMPACT:

The installation cost of each Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine sign is approximately \$170 each, usually with four signs per intersection. The cost for signs at the 114 locations is approximately \$77,500. The cost will be absorbed in the Department of Transportation’s FY 2021 General Fund budget.

ENCLOSED DOCUMENTS:

Attachment I: Locations Recommended for Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine Signs

Attachment II: Locations Previously Approved for Yield to Pedestrians in Crosswalk \$100–\$500 Violation Fine Signs

STAFF:

Rachel Flynn, Deputy County Executive

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

Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT

Valecia Witt, Acting Chief, Administration Section, FCDOT

Michael Guarino, Chief, Capital Projects Section, FCDOT

Chris Wells, Active Transportation Program Manager, FCDOT

Lauren Delmare, Pedestrian Program Manager, FCDOT

**Locations Recommended for
Yield to Pedestrians in Crosswalk \$100 - \$500 Violation Fine Signs**

Location, Magisterial District

1. Barkley Dr. and Cross County Trail, Providence.
2. Braddock Rd. (Rt. 620) and Campus Dr., Braddock/Springfield.
3. Braddock Rd. (Rt. 620) and Capital Beltway (I-495) ramps, Braddock.
4. Braddock Rd. (Rt. 620) and Colchester Rd., Springfield.
5. Braddock Rd. (Rt. 620) and Glen Park Rd., Braddock.
6. Braddock Rd. (Rt. 620) and Lincolnia Rd., Mason.
7. Braddock Rd. (Rt. 620) and Olley Ln., Braddock.
8. Braddock Rd. (Rt. 620) and Ravensworth Rd., Braddock.
9. Braddock Rd. (Rt. 620) and Shirley Gate Rd., Braddock/Springfield.
10. Braddock Rd. (Rt. 620) and Stone Haven Dr., Braddock.
11. Braddock Rd. (Rt. 620) and Willow Springs School Rd., Springfield.
12. Braddock Rd. (Rt. 620) and Witch Hazel Rd., Mason.
13. Burke Lake Rd. (Rt. 645) and Signal Hill Dr., Braddock.
14. Churchill Rd., 530ft north of Ingleside Ave., Dranesville.
15. Columbia Pike (Rt. 244) and Aqua Terrace, Mason.
16. Columbia Pike (Rt. 244) and Braddock Rd. (Rt. 620), Mason.
17. Columbia Pike (Rt. 244) and Downing St., Mason.
18. Columbia Pike (Rt. 244) and John Marr Dr., Mason.
19. Columbia Pike (Rt. 244) and Lacy Blvd., Mason.
20. Columbia Pike (Rt. 244) and Lincolnia Rd., Mason.
21. Columbia Pike (Rt. 244) and Maple Pl., Mason.
22. Columbia Pike (Rt. 244) and Maplewood Dr., Mason.
23. Columbia Pike (Rt. 244) and Mason District Park, Mason.
24. Columbia Pike (Rt. 244) and Powell Ln., Mason.
25. Columbia Pike (Rt. 244) and Spring Ln., Mason.
26. Graham Rd., 400 ft. south of Lee Hwy. (Rt.29), Providence.
27. Graham Rd. and Camp Alger Ave., Mason.
28. Graham Rd. and Oakland Ave., Providence.
29. Graham Rd. and Strathmore St., Mason.
30. Great Falls St. and Idylwood Rd. / Kirby Rd., Dranesville.
31. Guinea Rd. and Olley La. / Harford La., Braddock.
32. Holmes Pl. and Old Dominion Dr., Dranesville.
33. Idylwood Rd. and Hillside Dr., Dranesville.
34. Idylwood Rd. and Idylwood Ct., Dranesville.
35. Idylwood Rd. and Montview Ct. / Lemon Road Elementary School, Dranesville.
36. Kingstowne Village Pkwy. and Park Village Dr., Lee.
37. Kirby Rd. and Chesterbrook Elementary School Northern Driveway, Dranesville.
38. Kirby Rd. and Chesterbrook Elementary School Southern Driveway, Dranesville.
39. Lee Hwy. (Rt. 29) and Bisvey Dr., Providence.
40. Lee Hwy. (Rt. 29) and Braddock Rd., Sully.

41. Lee Hwy. (Rt. 29) and Buckleys Gate Dr., Springfield.
42. Lee Hwy. (Rt. 29) and Cedar Ln., Providence.
43. Lee Hwy. (Rt. 29) and Cedarest Rd., Providence.
44. Lee Hwy. (Rt. 29) and Centreville Rd. (Rt. 28), Sully.
45. Lee Hwy. (Rt. 29) and Ellenwood Dr., Providence.
46. Lee Hwy. (Rt. 29) and Fairview Park Dr., Providence.
47. Lee Hwy. (Rt. 29) and Federalist Way, Braddock.
48. Lee Hwy. (Rt. 29) and Forum Dr., Braddock.
49. Lee Hwy. (Rt. 29) and Graham Rd., Providence.
50. Lee Hwy. (Rt. 29) and Hartland Rd., Providence.
51. Lee Hwy. (Rt. 29) and Hollywood Rd., Providence.
52. Lee Hwy. (Rt. 29) and Hunters Glen Way, Providence.
53. Lee Hwy. (Rt. 29) and I-66, EB ramps, Sully.
54. Lee Hwy. (Rt. 29) and Legato Rd., Braddock/Springfield.
55. Lee Hwy. (Rt. 29) and Little Falls Pl., Providence.
56. Lee Hwy. (Rt. 29) and Meadow Estates Dr., Springfield.
57. Lee Hwy. (Rt. 29) and Merrilee Dr., Providence.
58. Lee Hwy. (Rt. 29) and Monument Dr., Braddock.
59. Lee Hwy. (Rt. 29) and Paddington Ln., Sully.
60. Lee Hwy. (Rt. 29) and Prosperity Ave. (Rt. 699), Providence.
61. Lee Hwy. (Rt. 29) and Ridge Top Rd., Braddock.
62. Lee Hwy. (Rt. 29) and Shreve Rd., Providence.
63. Lee Hwy. (Rt. 29) and Union Mill Rd. (Rt. 659), Sully.
64. Lee Hwy. (Rt. 29) and Vaden Dr., Providence.
65. Lee Hwy. (Rt. 29) and West St., Providence.
66. Lee Hwy. (Rt. 29) and West Ox Rd. / Fairfax County Pkwy Trail, Springfield/Braddock.
67. Lee Jackson Memorial Hwy. (Rt. 50) and Dorforth Dr./Alder Woods Dr.,
Springfield/Sully.
68. Lee Jackson Memorial Hwy. (Rt. 50) and Fair Ridge Dr., Springfield/Sully.
69. Lee Jackson Memorial Hwy. (Rt. 50) and Fairfax County Pkwy. Ramps,
Springfield/Braddock.
70. Lee Jackson Memorial Hwy. (Rt. 50) and Majestic Ln., Springfield/Sully.
71. Lee Jackson Memorial Hwy. (Rt. 50) and Rugby Rd., Springfield/Sully.
72. Little River Tpke. and Conwell Dr., Mason.
73. Little River Tpke. and Duncan Dr., Mason/Braddock.
74. Little River Tpke. and Guinea Rd., Mason/Braddock.
75. Little River Tpke. and I-495 Ramps, Mason/Braddock.
76. Little River Tpke. and Minor Ln., Mason.
77. Little River Tpke. and Old Columbia Pike, Mason.
78. Little River Tpke. and Wakefield Chapel Rd., Mason/Braddock.
79. Little River Tpke. and Willow Run Dr., Mason.
80. Little River Tpke. and Woodburn Rd., Mason/Braddock.
81. Magarity Rd. and Cherri Dr., Dranesville/Providence.
82. Magarity Rd. and Griffith Rd., Dranesville/Providence.
83. Magarity Rd. and Lusby Pl., Dranesville/Providence.
84. Magarity Rd. and Tremayne Pl., Dranesville/Providence.

85. Magarity Rd. and Ware Rd., Dranesville/Providence.
86. Middle Ridge Dr. and Point Pleasant Dr., Springfield.
87. Morning View Ln. and Thomas Grant Dr., Lee.
88. Mount Vernon Hwy. (Rt. 235) and Sunny View Dr., Mount Vernon.
89. New Dominion Pkwy. and Fountain Dr., Hunter Mill.
90. Old Keene Mill Rd. (Rt. 644) and Carrleigh Pkwy., Springfield.
91. Old Meadow Rd. and Old Meadow Ln., Providence.
92. Olley Ln., 200 ft. north of Shary Dr., Braddock.
93. Ox Rd. (Rt. 123) and Zion Dr. (Rt. 654), Braddock/Springfield.
94. Prosperity Ave (Rt. 699) and Halstead II Ln., Providence.
95. Richmond Hwy. (Rt. 1) and Belford Dr., Lee/Mount Vernon.
96. Richmond Hwy. (Rt. 1) and Belvoir Rd., Mount Vernon.
97. Richmond Hwy. (Rt. 1) and Buckman Rd./Mount Vernon Hwy., Lee/Mount Vernon.
98. Richmond Hwy. (Rt. 1) and Collard St./Popkins Ln., Lee/Mount Vernon.
99. Richmond Hwy., (Rt. 1) and Richmond Hwy Service Road at approximately 6027
Richmond Hwy, Mount Vernon.
100. Richmond Hwy., (Rt. 1) and Hybla Valley Center, Lee/Mount Vernon.
101. Richmond Hwy., (Rt. 1) and Janna Lee Ave., Lee/Mount Vernon.
102. Richmond Hwy., (Rt. 1) and North Kings Hwy., Mount Vernon.
103. Richmond Hwy., (Rt. 1) and Sacramento Dr., Mount Vernon.
104. Riverside Rd. and Rampart Dr., Mount Vernon.
105. Rolling Rd. (Rt. 638) and Roxbury Ave., Braddock/Springfield.
106. Shiplett Blvd. and Rockwell Ct., Springfield.
107. Sideburn Rd. and Commonwealth Rd., Braddock.
108. Sideburn Rd. and Robinson Secondary School, Braddock.
109. South Jefferson St. (Rt. 2503) and Goodwin House/Wildwood Towers, Mason.
110. Town Center Pkwy. and Cameron Glen Dr., Hunter Mill.
111. Vaden Dr. and Royal Victoria Dr., Providence.
112. Walker Rd. (Rt. 681), 200 ft. north of Columbine St., Dranesville.
113. West Ox Rd. (Rt. 608) and Ashburton Ave., Hunter Mill/Sully.
114. West Ox Rd. (Rt. 608) and Lawyers Rd. (Rt. 602), Hunter Mill/Sully.

**Locations Previously Approved for
Yield to Pedestrians in Crosswalk \$100 - \$500 Violation Fine Signs**

LEGEND:

EB = Eastbound
WB = Westbound
NB = Northbound
SB = Southbound

Location, Magisterial District

- Amherst Ave. (Rt. 1158) and Bland St. (Rt. 1155), Lee.
- Amherst Ave. and Calamo St. (Rt. 1134), Lee.
- Amherst Ave. and Commerce St. (Rt. 789), Lee.
- Amherst Ave. and Cumberland Ave., Lee.
- Amherst Ave. and Springfield Blvd. (Rt. 8760), Lee.
- Annandale Rd. (Rt. 649) and Gallows Rd./Hummer Rd. (Rt. 711), Mason/Providence.
- Arlington Blvd. (Rt. 50) and Annandale Rd. (Rt. 649), Mason/Providence.
- Arlington Blvd. and Graham Rd. (Rt. 1720), Providence/Mason.
- Arlington Blvd. and Olin Dr. Service Dr. (Rt. F712), Mason.
- Arlington Blvd. and Patrick Henry Dr. (Rt. 2327), Mason.
- Arlington Blvd. and Pedestrian Signal at Loehmann's Plaza, Providence/Mason.
- Arlington Blvd. and Stonehurst Dr., Providence.
- Arlington Blvd. (Rt. 50) and Williams Dr. (Rt. 5162), Providence.
- Backlick Rd. (Rt. 617) and Commerce St., Lee.
- Backlick Rd. and Cumberland Ave., Lee.
- Backlick Rd. and Franconia-Springfield Pkwy. (Rt. 7900) EB Ramps, Lee.
- Backlick Rd. and Hechinger Dr., Braddock/Mason.
- Backlick Rd. and John Marr Dr. (Rt. 2948), Mason.
- Backlick Rd. (Rt. 617) and Leesville Blvd. (Rt. 2459), Braddock, Mason.
- Baron Cameron Ave. (Rt. 606) and Bracknell Dr. (Rt. 7401), Hunter Mill.
- Baron Cameron Ave. and Village Rd. (Rt. 4725), Hunter Mill.
- Baron Cameron Ave. and Wiehle Ave. (Rt. 828), Hunter Mill.
- Belle View Blvd. (Rt. 1510) at Belle View Shopping Center, Mt. Vernon.
- Belle View Blvd. and Tenth St. (Rt. 1503), Mount Vernon.
- Belle View Blvd. and Thirteenth St. (Rt. 1505), Mt. Vernon.
- Belle View Blvd. and Potomac Ave. (Rt. 1501), Mount Vernon.
- Beulah St. (Rt. 613) and Kingstowne Village Pkwy. (Rt. 8690), Lee.
- Beulah Rd. (Rt. 675) and Talisman Dr. (Rt. 3996), Hunter Mill.
- Beverley Rd. (Rt. 1898) and Fleetwood Rd. (Rt. 1825), Dranesville.
- Blake La. (Rt. 5608) and Hibbard St. (Rt. 784), Providence.

- Blake La. (Rt. 655) and Edgelea Rd. (Rt. 783), Providence.
- Blake La. and Five Oaks Rd. (Rt. 4949), Providence.
- Blake La. (Rt. 655) and Sutton Rd. (Rt. 701), Providence.
- Bluemont Way (Rt. 7199) and Discovery St., Hunter Mill.
- Bluemont Way and Library St., Hunter Mill.
- Boone Blvd. (Rt. 786) and Aline Ave. (Rt. 3402), Providence.
- Boone Blvd. and Howard Ave. (Rt. 786), Providence.
- Bowman Towne Dr. (Rt. 6337) and Fountain Dr., Hunter Mill.
- Braddock Rd. (Rt. 620) and Backlick Rd., Mason.
- Braddock Rd. and Fairfax County Pkwy. (Rt. 7100) NB Ramps, Springfield.
- Braddock Rd. and Birch La. (Rt. 1142), Mason.
- Braddock Rd. and Burke Lake Rd. (Rt. 645), Braddock.
- Braddock Rd. and Burke Station Rd. (Rt. 652), Braddock.
- Braddock Rd. and Clifton Rd. (Rt. 645), Springfield.
- Braddock Rd. and Fairfax County Pkwy. SB Ramps, Springfield.
- Braddock Rd. and Guinea Rd. (Rt. 651), Braddock.
- Braddock Rd. and Kings Park Dr. (Rt. 3294), Braddock.
- Braddock Rd. at Parklawn Elementary School, Mason.
- Braddock Rd. and Pickwick Rd. (Rt. 1021), Sully.
- Braddock Rd. and Port Royal Rd. (Rt. 3090), Braddock.
- Braddock Rd. and Queensberry Ave. (Rt. 3247), Braddock.
- Braddock Rd. and Roanoke La., Braddock.
- Braddock Rd. and Roberts Rd. (Rt. 653), Braddock.
- Braddock Rd. and Sideburn Rd. (Rt. 653), Braddock.
- Braddock Rd. and Southampton Dr. (Rt. 3647), Braddock.
- Braddock Rd. and Sully Park Dr. (Rt. 7346), Sully.
- Braddock Rd. and Trinity Christian School Dr. way, Braddock/Springfield.
- Braddock Rd. and Twinbrook Rd. (Rt. 652), Braddock.
- Braddock Rd. and Wakefield Chapel Rd. (Rt. 710), Braddock.
- Braddock Rd. at Weyanoke Elementary School, Mason.
- Buckthorn Ln. (Rt. 5751) and W&OD Regional Park Trail, Hunter Mill.
- Burke Centre Pkwy. (Rt. 643) and Burke Commons Rd./Pond Spice La. (Rt. 6493), Braddock.
- Burke Centre Pkwy. (Rt. 643) and Fairview Elementary School, Braddock.
- Burke Centre Pkwy. and Marshall Pond Rd. (Rt. 6440), Braddock.
- Burke Centre Pkwy. and Oak Green Way (Rt. 6437), Braddock.
- Burke Centre Pkwy. and Oak Leather Rd. (Rt. 6416), Braddock.
- Burke Centre Pkwy. and Roberts Pkwy. (Rt. 6197), Braddock.
- Burke Rd. (Rt. 652) and VRE Station Entrance, Springfield.
- Burke Lake Rd. (Rt. 645) and Lake Braddock Dr. (Rt. 3647), Braddock.
- Burke Lake Rd. (Rt. 645) at Lake Braddock Secondary School, Braddock.
- Burke Lake Rd. (Rt. 645) and Rolling Rd. (Rt. 638), Braddock.
- Cedar La. (Rt. 2908) and Park St. (Rt. 675), Hunter Mill/Providence.
- Cedar La. and W&OD Regional Park Trail, Providence.

- Centreville Rd. (Rt. 28) and Compton Rd. (Rt. 658), Springfield/Sully.
- Centreville Rd. (Rt. 657) and Dulles Toll Rd. Eastbound Ramps (Rt. 267), Dranesville.
- Centreville Rd. (Rt. 657) and Frying Pan Rd. (Rt. 608), Hunter Mill.
- Centreville Rd. (Rt. 28) and Green Trails Blvd. (Rt. 8024), Sully.
- Centreville Rd. (Rt. 28) and New Braddock Rd. (Rt. 7783), Sully.
- Centreville Rd. (Rt. 657) and Sunrise Valley Dr. (Rt. 665), Hunter Mill
- Centreville Rd. (Rt. 28) and Upperridge Dr./Old Centreville Rd. (Rt. 898), Sully.
- Centreville Rd. (Rt. 657) and West Ox Rd. (Rt. 608), Hunter Mill.
- Chain Bridge Rd. (Rt. 3547) and Brawner St. (Rt. 1818), Dranesville.
- Chain Bridge Rd. (Rt. 3547) and Dolley Madison Blvd. (Rt. 123), Dranesville.
- Chain Bridge Rd. (Rt. 123) and Flint Hill Rd. (Rt. 2435), Hunter Mill/Providence.
- Chain Bridge Rd. (Rt. 3547) and Great Falls St. (Rt. 694), Dranesville.
- Chain Bridge Rd. (Rt. 123) and International Dr. (Rt. 6034), Providence.
- Chain Bridge Rd. and James Madison Dr., Hunter Mill/Providence.
- Chain Bridge Rd. and Jermantown Rd. (Rt. 655), Providence.
- Chain Bridge Rd. (Rt. 3547) and Laughlin Ave. (Rt. 1801), Dranesville.
- Chain Bridge Rd. (Rt. 123) and Old Courthouse Rd. (Rt. 677), Hunter Mill/Providence.
- Chain Bridge Rd. and Old Dominion Dr. (Rt. 309), Dranesville.
- Chain Bridge Rd. and Tysons Blvd. (Rt. 7648), Providence.
- Chain Bridge Rd. and Wasp La. (Rt. 1590), Dranesville.
- Chain Bridge Rd. and Westmoreland St. (Rt. 693), Dranesville.
- Chambliss St. (Rt. 2542) and Beauregard St. (Rt. 2532), Mason.
- Chapel Rd. (Rt. 641) by the Clifton Post Office, Springfield.
- Churchill Rd. (Rt. 687) and Raymond Ave. (Rt. 1879), Dranesville.
- Clermont Dr. (Rt. 997) and Dartmoor Ln. (Rt. 4286), Lee.
- Clifton Rd./Main St. (Rt. 645) and Chapel Rd., Springfield.
- Clifton Rd./Main St. and School St. (Rt. T2002), Springfield.
- Clydesdale Rd. (Rt. 3295) and Danbury Forest Dr. (Rt. 3806), Braddock.
- Clydesdale Rd. and Southampton Dr. (Rt. 3647), Braddock.
- Collingwood Rd. (Rt. 628) and Karl Rd. (Rt. 2095), Mount Vernon.
- Colts Neck Rd. (Rt. 4701) and Paddock Ln. (Rt. 4710), Hunter Mill.
- Columbia Pike (Rt. 244) and Blair Rd. (Rt. 902), Mason.
- Columbia Pike and Carlin Springs Rd. (Rt. 1845), Mason.
- Columbia Pike and Evergreen La. (Rt. 796), Mason.
- Columbia Pike and Gallows Rd., Mason.
- Columbia Pike and Moray Ln., Mason.
- Columbia Pike and Sleepy Hollow Rd. (Rt. 4001), Mason.
- Columbia Pike and Tyler St. (Rt. 795), Mason.
- Columbia Pike (Rt. 244) and Whispering Ln. (Rt. 2252), Mason.
- Commonwealth Blvd. (Rt. 4801) and Gainsborough Dr. (Rt. 4815), Braddock.
- Commonwealth Blvd. (Rt. 4801) and Roberts Rd. (Rt. 5498), Braddock.
- Coppermine Rd. (Rt. 665) and McNair Farms Dr. (Rt. 8728), Hunter Mill.
- Cottage St. (Rt. 2401) and Bucknell Dr. (Rt. 2415), Providence.
- Courthouse Rd. (Rt. 673) and Edgelea Rd., Providence.

- Courthouse Rd. (Rt. 673) and Pine Knot Dr. (Rt. 6883), Providence.
- Dolley Madison Blvd. and Anderson Rd. (Rt. 2718), Providence.
- Dolley Madison Blvd. and Churchill Rd./Old Chain Bridge Rd. (Rt. 687), Dranesville.
- Dolley Madison Blvd. and Colshire Dr. (Rt. 6471), Providence.
- Dolley Madison Blvd. and Old Dominion Dr., Dranesville.
- Dolley Madison Blvd. and Old Meadow Rd. (Rt. 3543), Providence.
- Edsall Rd. (Rt. 648) and Paula Rd. (Rt. 2625), Mason.
- Fair Lakes Pkwy. (Rt. 7700) and Fair Lakes Cir. (Rt. 7701), Springfield.
- Fairfax County Pkwy. (Rt. 7100) and Baron Cameron Ave., Dranesville/Hunter Mill.
- Fairfax County Pkwy. and Burke Centre Pkwy. (Rt. 643), Springfield.
- Fairfax County Pkwy. and Burke Lake Rd. (Rt. 645), Braddock/Springfield.
- Fairfax County Pkwy. and Franklin Farm Rd. (Rt. 6819), Sully.
- Fairfax County Pkwy. and Huntsman Blvd. (Rt. 4521), Springfield.
- Chain Bridge Rd. (Rt. 123) and Hunter Mill Rd. (Rt. 674), Providence.
- Chain Bridge Rd. and Miller Rd. (Rt. 663), Providence.
- Fairfax County Pkwy. and Lee Chapel Rd. (Rt. 643), Springfield.
- Fairfax County Pkwy. and Monument Dr. (Rt. 7969), Springfield.
- Fairfax County Pkwy. (Rt. 602) and New Dominion Pkwy (Rt. 6363), Hunter Mill.
- Fairfax County Pkwy. (Rt. 7100) and Old Keene Mill Rd. (Rt. 644), Springfield.
- Fairfax County Pkwy. and Reservation Dr. (Rt. 5853), Springfield.
- Fairfax County Pkwy. and Roberts Pkwy., Braddock/Springfield.
- Fairfax County Pkwy. and Rolling View Dr. (Rt. 5892), Springfield.
- Fairfax County Pkwy. and Rugby Rd. (Rt. 750), Sully.
- Fairfax County Pkwy. and Stringfellow Rd. (Rt. 645), Sully.
- Fairfax County Pkwy. and Sunrise Valley Dr. (Rt. 5320), Hunter Mill.
- Fairfax County Pkwy. NB Ramps and Sydenstricker Rd. (Rt. 620), Mt. Vernon.
- Fairfax County Pkwy. SB Ramps and Shady Palm Dr. (Rt. 6911), Mt. Vernon.
- Fairfax County Pkwy. and Tuckaway Dr. (Rt. 7140), Sully.
- Fairfax County Pkwy. and West Ox Rd. (Rt. 608), Hunter Mill/Sully.
- Fairfax County Pkwy. and Whitlers Creek Dr., Mt. Vernon/Springfield.
- Flint Hill Rd. (Rt. 2435) at Flint Hill Elementary School, Hunter Mill.
- Forrester Blvd. (Rt. 4183) and Oakford Dr. (Rt. 4180), Braddock/Springfield.
- Fort Hunt Rd. (Rt. 629) and Collingwood Rd. (Rt. 628), Mount Vernon.
- Fort Hunt Rd. (Rt. 629) at Sandburg Middle School, Mount Vernon.
- Fort Hunt Rd. and Shenandoah Rd. (Rt. 848), Mount Vernon.
- Franconia Rd. (Rt. 644) and Beulah St. (Rt. 675), Lee.
- Franconia Rd. (Rt. 644) and Craft Rd. (Rt. 3290), Lee.
- Franconia Rd. at Franconia Forest La. (Rt. 6000), Lee.
- Franconia Rd. and Frontier Dr. (Rt. 2677), Lee.
- Franconia Rd. and Japonica St. (Rt. 1100), Lee.
- Franconia Rd. and Loisdale Rd./Commerce St. (Rt. 789), Lee.
- Franconia Rd. (Rt. 644) and Ridge View Dr. (Rt. 1670), Lee.
- Franconia Rd. and S. Van Dorn St. (Rt. 613), Lee.
- Franconia Rd. (Rt. 644) and Saint John Dr. (Rt. 1218), Lee.

- Franconia Rd. at Thomas Edison High School, Lee.
- Franconia Rd. and Westchester St. (Rt. 782), Lee.
- Franconia Rd. and Wilton Rd. (Rt. 819), Lee.
- Franconia-Springfield Pkwy. (Rt. 7900) and Beulah St., Lee.
- Franconia-Springfield Pkwy. and Bonniemill La. (Rt. 7060), Lee.
- Franklin Farm Rd. (Rt. 6819) and Colonial Pipeline Trail Crossing, Sully.
- Franklin Farm Rd. and Nestlewood Drive (Rt. 7275), Sully.
- Franklin Farm Rd. (Rt. 6819) and Old Dairy Rd. (Rt. 6859), Sully.
- Franklin Farm Rd. and Pond Crest La. (Rt. 6847), Sully.
- Franklin Farm Rd. and Stone Heather Dr. (Rt. 7283), Sully.
- Franklin Farm Rd. and Thorngate Dr. (Rt. 6849), Sully.
- Franklin Farm Rd. and Tranquility La. (Rt. 6858), Sully.
- Franklin Farm Rd. and Tuckaway Dr. (Rt. 7292), Sully.
- Frontier Dr. (Rt. 2677) and Deepford St. (Rt. 2178), Lee.
- Frontier Dr. and Franconia-Springfield Pkwy. EB Ramps, Lee.
- Frontier Dr. and Franconia-Springfield Pkwy WB Ramps, Lee.
- Frontier Dr. and Spring Mall Dr. (Rt. 4214), Lee.
- Frontier Dr. at Springfield Mall Entrance, Lee.
- Gallows Rd. (Rt. 650) and Belleforest Dr. (Rt. 2946), Providence.
- Gallows Rd. and Boone Blvd. (Rt. 786), Providence.
- Gallows Rd. (Rt. 650) and Cottage St. (Rt. 2401), Providence.
- Gallows Rd. and Gatehouse Rd. (Rt. 4037), Providence.
- Gallows Rd. and Idylwood Rd. (Rt. 695), Providence.
- Gallows Rd. and Old Courthouse Rd., Providence.
- Gallows Rd. and Prosperity Ave. (Rt. 8700), Providence.
- Gallows Rd. and W&OD Regional Park Trail, Providence.
- George Mason Dr. (Rt. 3449) and Skyline Center, Mason.
- Georgetown Pike (Rt. 193) and Douglas Dr. (Rt. 937), Dranesville.
- Georgetown Pike (Rt. 193) and Walker Rd. (Rt. 681), Dranesville.
- Glade Dr. (Rt. 4721) and Charterhouse Cir. East Int. (Rt. 5328), Hunter Mill.
- Glen Carlyn Dr. (Rt. 981) and Knollwood Dr. (Rt. 943), Mason.
- Glen Carlyn Rd. (Rt. 714) and Munson Hill Rd. (Rt. 984)/Hardwick Pl.(Rt. 5619), Mason.
- Gosnell Rd. (Rt. 939) and Tyspring St. (Rt. 4018), Hunter Mill.
- Government Center Pkwy. (Rt. 7436) and East Government Center driveway, Springfield.
- Government Center Pkwy. and Middle Government Center driveway, Springfield.
- Government Center Pkwy. and Herrity Government Center driveway, Springfield.
- Government Center Pkwy. and Monument Dr. (Rt. 6751) (East intersection), Springfield.
- Government Center Pkwy. and Post Forest Dr. (Rt. 7435), Springfield.
- Great Falls St. (Rt. 694) and Haycock Rd. (Rt. 703), Dranesville.
- Green Trails Blvd. (Rt. 8024) and Rock Canyon Dr. (Rt. 8612), Sully.
- Greensboro Dr. (Rt. 5063) and Mid-Block Crosswalk East of Solutions Dr. (Rt. 6054), Providence.

- Greensboro Dr. and Mid-Block Crosswalk West of Solutions Dr., Providence.
- Greensboro Dr. (Rt. 5063) and Pinnacle Dr. (Rt. 5064), Providence.
- Greensboro Dr. and Westpark Dr. (Rt. 5061), Providence.
- Guinea Rd. (Rt. 651) and Long Branch Trail, Braddock.
- Harrison Ln. (Rt. 723) and Groveton St. (Rt. 1402), Lee.
- Haycock Rd. (Rt. 703) at George Mason High School, Dranesville.
- Haycock Rd. and Metro (East Entrance), Dranesville.
- Haycock Rd. and Metro (West Entrance), Dranesville.
- Hayfield Rd. (Rt. 4193) and Manchester Blvd. (Rt. 8113), Lee.
- Heming Ave. (Rt. 2652) and Leesville Blvd. (Rt. 2459), Braddock.
- Hinson Farm Rd. and Tis Well Dr. (Rt. 6008), Mt. Vernon.
- Hooes Rd. (Rt. 636) and Fairfax County Pkwy. SB Ramps, Mt. Vernon/Springfield.
- Hooes Rd. (Rt. 636) and South Run Trail Crossing, Mount Vernon/Springfield.
- Hunter Mill Rd. and Lynnhaven Pl. (Rt. 10349)/Oakton Library, Providence.
- Hunter Mill Rd. (Rt. 674) and W&OD Regional Park Trail, Hunter Mill.
- Huntington Ave. (Rt. 1332) and Fenwick Dr. (Rt. 1346), Mt. Vernon.
- Huntington Ave. and Metroview Pkwy. (Rt. 8750), Mt. Vernon.
- Huntsman Blvd. (Rt. 4521) and Dorothy Ln. (Rt. 6455), Springfield.
- Huntsman Blvd. (Rt. 4521) and Spelman Dr. (Rt. 5530), Springfield.
- International Dr. (Rt. 6034) and Greensboro Dr. (Rt. 5063), Providence.
- International Dr. and Jones Branch Dr. (Rt. 5062), Providence.
- International Dr. and Tysons Blvd. (Rt. 7648), Providence.
- International Dr. (Rt. 5064) and Tysons Corner Center (North), Providence.
- International Dr. and Westpark Dr. (Rt. 5061), Providence.
- Jones Branch Dr. and Lincoln Way, Providence.
- Jones Branch Dr. and Park Run Dr. (Rt. 6062), Providence.
- Kingstowne Blvd. (Rt. 7900) and Kingstowne Village Pkwy. (Rt. 8690), Lee
- Kingstowne Blvd. and Sir Viceroy Dr. (Rt. 8698)/Kingstowne Center, Lee.
- Knollwood Dr. (Rt. 943) and Freedom Pl. (Rt. 2940), Mason.
- Lake Newport Rd. (Rt. 7675) at Armstrong Elementary School, Hunter Mill.
- Lake Newport Rd. (Rt. 7675) and Autumn Ridge Cir. (Rt. 7421), Hunter Mill.
- Lee Hwy. (Rt. 29) and Blake La. (Rt. 655), Providence.
- Lee Hwy. and Centrewood Dr. (Rt. 6287), Sully.
- Lee Hwy. and Gallows Rd., Providence.
- Lee Hwy. (Rt. 29) and Graham Rd. (Rt. 720), Providence.
- Lee Hwy. and Hollywood Rd. (Rt. 704), Providence.
- Lee Hwy. (Rt. 29) and I-66 ramps, Sully.
- Lee Hwy. and Machen Rd. (Rt. 5401), Sully.
- Lee Hwy (Rt. 29) and Monument Dr. (Rt. 6751), Springfield.
- Lee Hwy. and Nutley St. (Rt. 243), Providence.
- Lee Hwy and Pickwick Rd. (Rt. 1021), Sully.
- Lee Hwy. and Pleasant Valley Rd. (Rt. 609), Sully.
- Lee Hwy. and Shirley Gate Rd. (Rt. 655), Braddock/Springfield.
- Lee Hwy and Stone Rd. (Rt. 662), Sully.

- Lee Hwy. and Stringfellow Rd., Sully/Springfield.
- Lee Chapel Rd. (Rt. 643) and Covered Bridge Rd. (Rt. 5870), Springfield.
- Lee-Jackson Memorial Hwy. (Rt. 50) and Centreville Rd., Sully.
- Lee-Jackson Memorial Hwy. and Chantilly Plaza, Sully.
- Lee-Jackson Memorial Hwy. and Chantilly Rd. (Rt. 954), Sully.
- Lee-Jackson Memorial Hwy. and Lees Corner Rd. (Rt. 645), Sully.
- Lee-Jackson Memorial Hwy. and Majestic La. (Rt. 4840), Springfield/Sully.
- Lee-Jackson Memorial Hwy. and Metrotech Dr. (Rt. 8390), Sully.
- Lee-Jackson Memorial Hwy. and Muirfield La., Springfield/Sully.
- Lee Jackson Memorial Hwy. and Rugby Rd. (Rt. 750), Sully/Springfield.
- Lee Jackson Memorial Hwy. and Stonecroft Blvd. (Rt. 8460), Sully.
- Lee-Jackson Memorial Hwy. and Stringfellow Rd., Springfield/Sully.
- Lee-Jackson Memorial Hwy. and Waples Mill Rd. (Rt. 665), Providence/Springfield.
- Lees Corner Rd. (Rt. 4646) at Brookfield Elementary School (North), Sully.
- Lees Corner Rd. at Brookfield Elementary School (South), Sully.
- Lees Corner Rd. (Rt. 645) and Thorngate Dr. (Rt. 6849), Sully.
- Leesburg Pike (Rt. 7) and Bailey's CrossRd.s Shopping Center, Mason.
- Leesburg Pike and Carlin Springs Rd., Mason.
- Leesburg Pike and Castle Rd. (Rt. 1736), Mason.
- Leesburg Pike and Chain Bridge Rd., Providence.
- Leesburg Pike and George C. Marshall Dr. (Rt. 9129), Dranesville/Providence.
- Leesburg Pike and George Mason Dr., Mason.
- Leesburg Pike and Glen Carlyn Rd. (Rt. 714), Mason.
- Leesburg Pike and Gosnell Rd. (Rt. 677), Providence/Hunter Mill.
- Leesburg Pike and Idylwood Rd. (Rt. 695), Dranesville/Providence.
- Leesburg Pike and International Dr., Providence.
- Leesburg Pike and Lisle Ave. (Rt. 2724), Dranesville/Providence.
- Leesburg Pike and Nevius St. (Rt. 1888), Mason.
- Leesburg Pike and Patrick Henry Dr., Mason.
- Leesburg Pike and Patterson Rd. (Rt. 2704), Providence/Dranesville.
- Leesburg Pike and Pimmit Dr. (Rt. 2707), Dranesville/Providence.
- Leesburg Pike and Row St. (Rt. 2379), Mason.
- Leesburg Pike and Seven Corners Shopping Center (East), Mason.
- Leesburg Pike and Shreve Rd./Haycock Rd. (Rt. 703), Dranesville/Providence.
- Leesburg Pike and Skyline Shopping Center Dr. (West), Mason.
- Leesburg Pike and South Jefferson St. (Rt. 2503), Mason.
- Leesburg Pike at Tyson's Corner Center Entrance, Providence.
- Lewinsville Rd. (Rt. 694) and Falstaff Rd. (Rt. 5742), Dranesville.
- Lewinsville Rd. and Spring Hill Elementary School, Dranesville
- Little River Tnpk. (Rt. 236) and Annandale Rd., Braddock/Mason.
- Little River Tnpk. and Backlick Rd., Mason.
- Little River Tnpk. and Beauregard St., Mason.
- Little River Tnpk. and Braddock Rd., Mason.
- Little River Tnpk. and Evergreen La. (Rt. 796), Mason.

- Little River Tnpk. and Hummer Rd. (Rt. 649)/Heritage Dr., Braddock/Mason.
- Little River Tnpk. and John Marr Dr., Mason.
- Little River Tnpk. and Lake Dr. (NVCC Entrance), Braddock/Mason.
- Little River Tnpk. and Markham St. (Rt. 756), Braddock/Mason.
- Little River Tnpk. and Medford Dr. (Rt. 3087), Braddock/Mason.
- Little River Tnpk. and Oasis Dr., Mason.
- Little River Tnpk. and Olley La. (Rt. 787), Braddock/Providence.
- Little River Tnpk. and Prince William Dr. (Rt. 3412), Braddock/Providence.
- Little River Tnpk. and Woodland Rd. (Rt. 765), Braddock/Mason.
- Lockheed Blvd. (Rt. 723) and Tavenner Ln., Lee.
- Lorton Rd. (Rt. 642) and Armistead Rd. (Rt. 748)/Lorton Station Blvd. (Rt. 7768), Mount Vernon.
- Lorton Rd. (Rt. 642) and Silverbrook Rd. (Rt. 600), Mount Vernon.
- Magarity Rd. (Rt. 650) and Anderson Rd. (Rt. 2718), Dranesville/Providence.
- Magarity Rd. and Great Falls St. (Rt. 694), Dranesville.
- Magarity Rd. and Peabody Dr. (Rt. 2726), Dranesville/Providence.
- Majestic Ln. (Rt. 4840) and Point Pleasant Dr. (Rt. 4820), Springfield.
- Manchester Blvd. (Rt. 7900) and Manchester Lakes Blvd. (Rt. 8114), Lee.
- Manchester Blvd. and Silver Lake Blvd., Lee.
- Michael Faraday Ct. (Rt. 6331) and W&OD Regional Park Trail, Hunter Mill.
- Miller Rd. and Oakton Elementary School Entrance, Providence.
- Monument Dr. (Rt. 6751) and Fair Lakes Pkwy. (Rt. 7700), Springfield.
- Monument Dr. (Rt. 7969) and Fair Ridge Dr. (Rt. 7960), Springfield.
- Monument Dr. (Rt. 6751) and Government Center Pkwy. (Rt. 7436) (West Intersection), Springfield.
- Mount Vernon Hwy. (Rt. 235) and Battersea Ln. (Rt. 3159), Mount Vernon.
- New Braddock Rd. (Rt. 620) and Union Mill Rd. (Rt. 8285), Springfield/Sully.
- New Guinea Rd. (Rt. 7137) and Roberts Rd. (Rt. 5498), Braddock.
- Newington Forest Ave. (Rt. 6100) at Newington Forest Elementary School, Mount Vernon.
- N. Kings Hwy. (Rt. 241) and Metro/Jefferson Dr. (Rt. 1617), Lee/Mt. Vernon.
- N. Kings Hwy. and Metro/Huntington Station Shopping Ctr., Lee/Mt. Vernon.
- N. Kings Hwy. at Mount Eagle Elementary School, Lee/Mount Vernon.
- N. Kings Hwy. and Telegraph Rd. (Rt. 611), Lee/Mt. Vernon.
- North Shore Dr. (Rt. 4726) and Beacontree Ln., Hunter Mill.
- North Shore Dr. at Golf Course (East crossing), Hunter Mill.
- North Shore Dr. at Golf Course (West crossing), Hunter Mill.
- North Shore Dr. at Lake Anne Elementary School, Hunter Mill.
- Nutley St. (Rt. 243) and Metro/Swanee La. (Rt. 3238), Providence.
- Nutley St. and Virginia Center Blvd. (Rt. 6154), Braddock/Springfield.
- Old Courthouse Rd. (Rt. 677) and Howard Ave. (Rt. 786), Providence.
- Old Courthouse Rd. and Lord Fairfax Rd. (Rt. 837), Providence.
- Old Courthouse Rd. and Pine Valley Dr. (Rt. 3875), Hunter Mill.
- Old Dominion Dr. (Rt. 309) and Beverly Rd. (Rt. 1807), Dranesville.

- Old Dominion Dr. and Chesterbrook Pedestrian Signal, Dranesville.
- Old Dominion Dr. (Rt. 309) and Park Rd. (Rt. 690), Dranesville.
- Old Keene Mill Rd. (Rt. 644) and Ainsworth Ave. (Rt. 3315), Springfield.
- Old Keene Mill Rd. (Rt. 644) and Bauer Dr. (Rt. 934), Springfield.
- Old Keene Mill Rd. and Commerce St., Lee.
- Old Keene Mill Rd. and Hanover Ave. (Rt. 1193), Lee.
- Old Keene Mill Rd. and Hunter Village Dr. (Rt. 6945), Springfield/Braddock.
- Old Keene Mill Rd. and Huntsman Blvd. (Rt. 4521), Springfield.
- Old Keene Mill Rd. and Lee Chapel Rd. (Rt. 643), Springfield.
- Old Keene Mill Rd. and Rolling Rd. (Rt. 638), Braddock/Springfield.
- Old Keene Mill Rd. and Shiplett Blvd. (Rt. 5236), Springfield.
- Old Keene Mill Rd. and Spring Rd. (Rt. 1132), Lee.
- Old Keene Mill Rd. and Sydenstricker Rd. (Rt. 640), Springfield.
- Old Mt. Vernon Rd. (Rt. 623) at Riverside Elementary School/Mount Vernon High School, Mount Vernon.
- Old Telegraph Rd. (Rt. 634) and Hayfield Rd. (Rt. 635), Lee.
- Ox Rd. (Rt. 123) and Braddock Rd., Braddock/Springfield.
- Ox Rd. and Burke Centre Pkwy., Braddock/Springfield.
- Ox Rd. (Rt. 123) and Canterbury Rd. (Rt. 6706), Springfield.
- Ox Rd. and Fairfax County Pkwy. SB Ramps/Robert Carter Rd., Mt. Vernon/Springfield.
- Ox Rd. and Occoquan Regional Park Entrance, Mount Vernon.
- Ox Rd. and University Dr. (Rt. 383), Braddock.
- Paul Spring Rd. (Rt. 2999) and Rippon Rd. (Rt. 805), Mt. Vernon.
- Pleasant Valley Rd. (Rt. 609) and Martins Hundred Dr. (Rt. 8566)/Smithfield Pl. (Rt. 7372), Sully.
- Pleasant Valley Rd. and Wetherburn Dr. (Rt. 8303), Sully.
- Pohick Rd. (Rt. 641) and Fairfax County Pkwy. SB Ramps, Mt. Vernon/Springfield.
- Pohick Rd. (Rt. 641) and Pohick Creek View (Rt. 10227), Mount Vernon.
- Poplar Tree Rd. (Rt. 4831) at Greenbriar West Elementary School, Springfield.
- Poplar Tree Rd. (Rt. 662) and Sully Park Dr. (Rt. 7021), Sully.
- Poplar Tree Rd. (Rt. 4831) and Walney Rd. (Rt. 657), Sully.
- Prosperity Ave. (Rt. 699) and Cross County Trail, Providence.
- Prosperity Ave. (Rt. 6066) at the Dunn Loring Metro Entrance, Providence.
- Prosperity Ave. (Rt. 6066) and Hilltop Rd. (Rt. 744), Providence.
- Prosperity Ave. at Prosperity Business Center (North crossing), Providence.
- Prosperity Ave. at Prosperity Business Center (South crossing), Providence.
- Quander Rd. (Rt. 630) at West Potomac High School, Mount Vernon.
- Reston Pkwy. (Rt. 602) and Baron Cameron Ave. (Rt. 606), Hunter Mill.
- Reston Pkwy. (Rt. 602) and Bluemont Way (Rt. 7199), Hunter Mill.
- Reston Pkwy. and Bowman Towne Dr., Hunter Mill.
- Reston Pkwy. and Center Harbor Rd. (Rt. 7410), Hunter Mill.
- Reston Pkwy. and Dulles Toll Rd. (Rt. 267) North Ramps, Hunter Mill.
- Reston Pkwy. and Dulles Toll Rd. South Ramps, Hunter Mill.
- Reston Pkwy. and Fox Mill Rd. (Rt. 665), Hunter Mill.

- Reston Pkwy. and Glade Dr. (Rt. 4721), Hunter Mill.
- Reston Pkwy. and Lake Newport Rd. (Rt. 7675), Hunter Mill.
- Reston Pkwy. and Lawyers Rd. (Rt. 673), Hunter Mill.
- Reston Pkwy. and New Dominion Pkwy. (Rt. 6363), Hunter Mill.
- Reston Pkwy. and South Lakes Dr. (Rt. 5329), Hunter Mill.
- Reston Pkwy. and Sunrise Valley Dr. (Rt. 5320), Hunter Mill.
- Reston Pkwy. and Sunset Hills Rd. (Rt. 675), Hunter Mill.
- Reston Pkwy. and Wiehle Ave. (Rt. 828), Hunter Mill.
- Richmond Hwy. (Rt. 1) and Arlington Dr. (Rt. 4293), Lee/Mt. Vernon.
- Richmond Hwy. (Rt. 1) and Armistead Rd. (Rt. 748), Mount Vernon.
- Richmond Hwy. and Backlick Rd., Mt. Vernon.
- Richmond Hwy. and Beacon Hill Rd. (Rt. 1510), Lee/Mt. Vernon.
- Richmond Hwy. and Cooper Rd. (Rt. 3105), Mount Vernon.
- Richmond Hwy. and Dutchman Dr. (Rt. 7672)/Lorton Library, Mt. Vernon.
- Richmond Hwy. and Fordson Rd. (Rt. 779), Lee/Mt. Vernon.
- Richmond Hwy. and Fordson Rd./Boswell Rd., Lee/Mt. Vernon.
- Richmond Hwy. and Fort Hunt Rd. (Rt. 629), Mount Vernon.
- Richmond Hwy. and Frye Rd. (Rt. 3191), Lee/Mount Vernon.
- Richmond Hwy. and Huntington Ave. (Rt. 1332), Mt. Vernon.
- Richmond Hwy. and Ladson La. (Rt. 921), Lee/Mt. Vernon.
- Richmond Hwy. and Lockheed Blvd. (Rt. 723), Lee/Mt. Vernon.
- Richmond Hwy. and Lorton Rd., Mount Vernon.
- Richmond Hwy. and Lukens La. (Rt. 624), Mount Vernon.
- Richmond Hwy. and Memorial St. (Rt. 1401), Lee/Mt. Vernon.
- Richmond Hwy. and Mohawk La. (Rt. 1039), Lee/Mount Vernon.
- Richmond Hwy. and Mt. Vernon Memorial Hwy. (Rt. 235), Mt. Vernon.
- Richmond Hwy. and N. & S. Kings Hwy. (Rt. 241), Lee/Mt. Vernon.
- Richmond Hwy. and Quander Rd. (Rt. 630), Mt. Vernon.
- Richmond Hwy. and Reddick Ave./Russell Rd., Lee/Mount Vernon.
- Richmond Hwy. and Sherwood Hall La. (Rt. 626), Lee/ Mt. Vernon.
- Richmond Hwy. and Southgate Dr. (Rt. 1779), Lee/Mt. Vernon.
- Riverside Rd. (Rt. 627 at Stratford Landing Elementary School, Mount Vernon.
- Roberts Rd. (Rt. 5498) and Nellie White Ln. (Rt. 5191), Braddock.
- Roberts Rd. (Rt. 5498) and Premier Ct. (Rt. 651), Braddock.
- Rolling Rd. (Rt. 638) and Franconia-Springfield Pkwy. EB Ramps, Springfield.
- Rolling Rd. (Rt. 638) and Greeley Blvd. (Rt. 3332), Springfield.
- Rolling Rd. (Rt. 638) and Grigsby Dr. (Rt. 4179), Braddock/Springfield.
- Rolling Rd. (Rt. 638) and Hillside Rd. (Rt. 1031)/Forrester Blvd. (Rt. 4183), Braddock/Springfield.
- Rolling Rd. and Hunter Village Dr. (Rt. 6945), Springfield.
- Rolling Rd. and Pohick Rd. (Rt. 641)/Alban Rd. (Rt. 750), Mount Vernon.
- Rolling Rd. and Tuttle Rd. (Rt. 824), Springfield/Braddock.
- Rose Hill Dr. (Rt. 1635) at Rose Hill Elementary School, Lee.
- Sandburg St. (Rt. 936) and W&OD Regional Park Trail, Providence.

- Seminary Rd. (Rt. 716) and Skyline Towers, Mason.
- Shreve Rd. (Rt. 703) and W&OD Regional Park Trail, Providence.
- Sideburn Rd. (Rt. 653) and Nellie White Ln., Braddock.
- Silverbrook Rd. (Rt. 600) and Laurel Crest Dr., Mount Vernon.
- Silverbrook Rd. and Sweet Pecan Dr./South County High School, Mount Vernon.
- Sleepy Hollow Rd. (Rt. 613) and Dearborn Dr. (Rt. 2276), Mason.
- Sleepy Hollow Rd. (Rt. 613) and Kerns Rd. (Rt. 708), Mason.
- Sleepy Hollow Rd. and Goldsboro Rd. (Rt. 4030), Mason.
- Soapstone Dr. (Rt. 4720) and Glade Dr. (Rt. 7649), Hunter Mill.
- Soapstone Dr. and Mid-block Crosswalk North of Snakeden Branch, Hunter Mill.
- Soapstone Dr. and Ridge Heights Rd. (Rt. 5373), Hunter Mill.
- Soapstone Dr. and South Lakes Dr. (Rt. 5329), Hunter Mill.
- South George Mason Dr. (Rt. 420) and Seminary Rd., Mason.
- South George Mason Dr. and Skyline Plaza, Mason.
- South Jefferson St. (Rt. 2503) at Burlington Plaza, Mason.
- South Lakes Dr. (Rt. 5329) and Tanbark Dr. (Rt. 5958), Hunter Mill.
- South Van Dorn St. (Rt. 613) and Oakwood Rd. (Rt. 843), Lee.
- Spring Hill Rd. (Rt. 684) and Lewinsville Rd. (Rt. 694), Dranesville.
- Spring Mall Rd. (Rt. 4214) and Junction Blvd., Lee.
- Stone Rd. (Rt. 662) at London Towne Elementary School, Sully.
- Stringfellow Rd. (Rt. 645) at Chantilly High School, Springfield/Sully.
- Stringfellow Rd. (Rt. 645) and Fair Lakes Pkwy. (Rt. 7700), Springfield, Sully.
- Stringfellow Rd. and Oxlick Branch Trail Crossing, Sully.
- Stringfellow Rd. (Rt. 645) and Point Pleasant Dr. (Rt. 4820), Sully/Springfield.
- Stringfellow Rd. and Poplar Tree Rd. (Rt. 4831), Sully.
- Stringfellow Rd. at Rocky Run Middle School, Springfield/Sully.
- Stone Heather Dr. (Rt. 7283) and Ladybank La. (Rt. 6470), Sully.
- Sunrise Valley Dr. (Rt. 5320) and Cross School Rd. (Rt. 6325), Hunter Mill.
- Sunrise Valley Dr. and Monroe St. (Rt. 1722), Hunter Mill.
- Sunrise Valley Dr. and W&OD Regional Park Trail, Hunter Mill.
- Sunset Hills Rd. and W&OD Regional Park Trail, Hunter Mill.
- Sydenstricker Rd. (Rt. 640) and Arley Dr. (Rt. 4558), Mount Vernon/Springfield.
- Telegraph Rd. (Rt. 611) and Beulah St., Lee/Mount Vernon.
- Telegraph Rd. and BRd.moor St. (Rt. 4129), Lee.
- Telegraph Rd. and Fairfax County Pkwy. (Rt. 7100), Mount Vernon.
- Telegraph Rd. and Hayfield Rd. (Rt. 635), Lee.
- Telegraph Rd. at Hayfield Secondary School, Lee.
- Telegraph Rd. and Huntington Ave. (Rt. 1332), Lee/Mt. Vernon.
- Telegraph Rd. (Rt. 611) and Lockport Pl., Mount Vernon.
- Towlston Rd. (Rt. 676) at Colvin Run Elementary School, Dranesville.
- Town Center Pkwy. (Rt. 7414) and Baron Cameron Ave. (Rt. 606), Hunter Mill.
- Town Center Pkwy. and Bluemont Way (Rt. 7199)/Crescent Park Dr., Hunter Mill.
- Town Center Pkwy. (Rt. 7414) and Market St., Hunter Mill.
- Town Center Pkwy. and New Dominion Pkwy. (Rt. 6363), Hunter Mill.

- Town Center Pkwy. and Town Center Dr./Bowman Towne Dr. (Rt. 6337), Hunter Mill.
- Tysons Blvd. (Rt. 7648) and Galleria Dr. (Rt. 7649), Providence.
- Tysons Blvd. at the Galleria Parking Garage, Providence
- Union Mill Rd. (Rt. 659) and Laurel Rock Dr. (Rt. 8365), Springfield.
- Union Mill Rd. and Union Village Circle (Rt. 7825), Springfield.
- University Dr. (Rt. 383) and George Mason Blvd., Braddock.
- Vaden Dr. (Rt. 6731) and Saintsbury Dr., Providence.
- Vale Rd. (Rt. 672) and Flint Hill Rd. (Rt. 2435), Hunter Mill.
- Van Dorn St. (Rt. 613) and Castlewellan Dr. (Rt. 8693)/Lake Village Dr. (Rt. 8692), Lee.
- Van Dorn St. and King Centre Dr. (Rt. 8699)/Greendale Village Dr., Lee.
- Van Dorn St. and Kingstowne Blvd., Lee.
- Van Dorn St. and Kingstowne Village Pkwy. (Rt. 8690), Lee.
- Virginia Center Blvd. (Rt. 6154) and Centerboro Dr., Providence.
- Virginia Center Blvd. at Metro Entrance, Providence.
- Virginia Center Blvd./Country Creek Rd. and Vaden Dr., Providence.
- Wakefield Chapel Rd. (Rt. 710) and Virginia St. (Rt. 905), Braddock.
- Waples Mill Rd. (Rt. 665) and Random Hills Rd (Rt. 7230), Springfield.
- Waterline Dr. (Rt. 5880) and Bestwicke Rd. (Rt. 5884), Springfield.
- West St. (Rt. 705) and Fairwood La. (Rt. 3260), Providence.
- West Ox Rd. (Rt. 608) and Fair Lakes Pkwy., Springfield.
- West Ox Rd. and Legato Rd. (Rt. 656), Springfield.
- West Ox Rd. and Monument Dr. (Rt. 6751), Springfield.
- West Ox Rd. and Post Forest Dr. (Rt. 7435), Springfield.
- West Ox Rd. and Price Club Plaza, Springfield.
- Westfields Blvd. (Rt. 662) and Sully Station Dr. (Rt. 6981), Sully.
- Westmoreland St. (Rt. 693) and Bonheim Ct. (Rt. 8913), Dranesville.
- Westmoreland St. (Rt. 693) and Haycock Rd. (Rt. 703), Dranesville.
- Westmoreland St. (Rt. 693) and Kirby Rd. (Rt. 695), Dranesville.
- Westmoreland St. and Lemon Rd. (Rt. 2672), Dranesville.
- Westmoreland St. and McLean High School Entrance, Dranesville.
- Westmoreland St. and Poole La. (Rt. 2838), Dranesville.
- Westmoreland St. and Rosemont Dr. (Rt. 1960), Dranesville.
- Westmoreland St. and Southridge Dr. (Rt. 3286), Dranesville.
- Westpark Dr. and Jones Branch Dr., Providence.
- Westpark Dr. and Park Run Dr., Providence.
- Wiehle Ave. (Rt. 828) and Isaac Newton Square South/Roger Bacon Dr. (Rt. 5339), Hunter Mill.
- Wiehle Ave. (Rt. 828) and North Shore Dr. (Rt. 4726), Hunter Mill.
- Wiehle Ave. and Sunrise Valley Dr. (Rt. 5320), Hunter Mill.
- Wiehle Ave. and Sunset Hills Dr., Hunter Mill.
- Wiehle Ave. and W&OD Regional Park Trail, Hunter Mill.
- Wilson Blvd. (Rt. 613) and Peyton Randolph Dr. (Rt. 2325), Mason.
- Zion Dr. (Rt. 620) and Concordia St. (Rt. 4893), Braddock.

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ADMINISTRATIVE - 4

Additional Time to Commence Construction for Special Exception SEA 2002-HM-046-02, JLB Dulles Tech LLC and the Fairfax County Park Authority (Dranesville District)

ISSUE:

Board consideration of additional time to commence construction for SEA 2002-HM-046-02, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve thirty (30) months additional time for SEA 2002-HM-046-02 to January 1, 2023.

TIMING:

Routine.

BACKGROUND:

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

On July 28, 2015, the Board of Supervisors approved Special Exception Amendment SEA 2002-HM-046-02 subject to development conditions. The application was filed in the name of JLB Dulles Tech, LLC and the Fairfax County Park Authority, to amend SE 2002-HM-046, which had permitted uses in a floodplain, in order to permit the deletion of approximately 2.77 acres from the application area, permit site modifications related to the southern portion of the stormwater management pond and allow the construction of an extension of McNair Farms Drive on the property. The property is zoned PRM (Planned Residential Mixed-Use District and is located at 13391 Sunrise Valley Dr, Tax Map 16-3 ((1)) 5D (see Locator Map in Attachment 1).

The Special Exception was approved with a provision that the use be established, or

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construction be commenced and diligently prosecuted within 30 months of the approval date unless the Board grants additional time. The development conditions for SEA 2002-HM-046-02 are included as part of the Clerk to the Board's letter contained in Attachment 2.

On April 19, 2020, the Department of Planning and Development (DPD) received a letter dated April 17, 2020, from Mark C. Looney, agent for the Applicant, requesting thirty (30) months of additional time (see Attachment 3). While the current expiration date is July 1, 2020, the approved Special Exception will not expire pending the Board's action on the request for additional time.

A related application PCA/FDPA/CDPA 2017-DR-014 (the "2018 Approval") was approved in 2018 and proffered the construction of the onsite portion of the McNair Farms Drive extension, while SEA 2002-HM-046-02 addresses the offsite portion of the road extension across property owned by the Fairfax County Park Authority. Mr. Looney states that the 2018 approval is the subject of an appeal *Dulles Professional Center Condominium Unit Owners Association, et al., V Board of Supervisors of Fairfax County, et al.*, filed by adjacent property owners seeking to overturn the 2018 approval. This case was dismissed, and the adjacent property owners have now appealed to the Supreme Court of Virginia to consider the case and the Court has not yet acted on the appeal request. Mr. Looney states that given the uncertainty caused by the years of litigation over the 2018 approval, the applicant cannot proceed with construction approved by SEA 2002-HM-046-02 absent resolution of the pending appeal. Mr. Looney further states that this uncertainty is further exacerbated by the current health pandemic that stands to disrupt judicial and government operations, as well as market conditions, for an uncertain amount of time.

Staff has reviewed Special Exception SEA 2002-HM-046-02 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance. Further, staff knows of no change in land use circumstances that affects compliance of SEA 2002-HM-046-02 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. Finally, the conditions associated with the Board's approval of SEA 2002-HM-046-02 are still appropriate and remain in full force and effect. Staff believes that approval of the request for thirty (30) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None.

Board Agenda Item
July 14, 2020

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Clerk's Letter dated July 29, 2015, to Ben I. Wales

Attachment 3: Letter dated April 17, 2020, to Leslie Johnson

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning and Development (DPD)

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPD

Suzanne Wright, Chief, Conformance Review & Acceptance Branch, ZED, DPD

Jeffery C. Hermann, Chief, Site Analysis Section, FCDOT

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

Jerrell Timberlake, Staff Coordinator, ZED, DPD

Special Exception Amendment

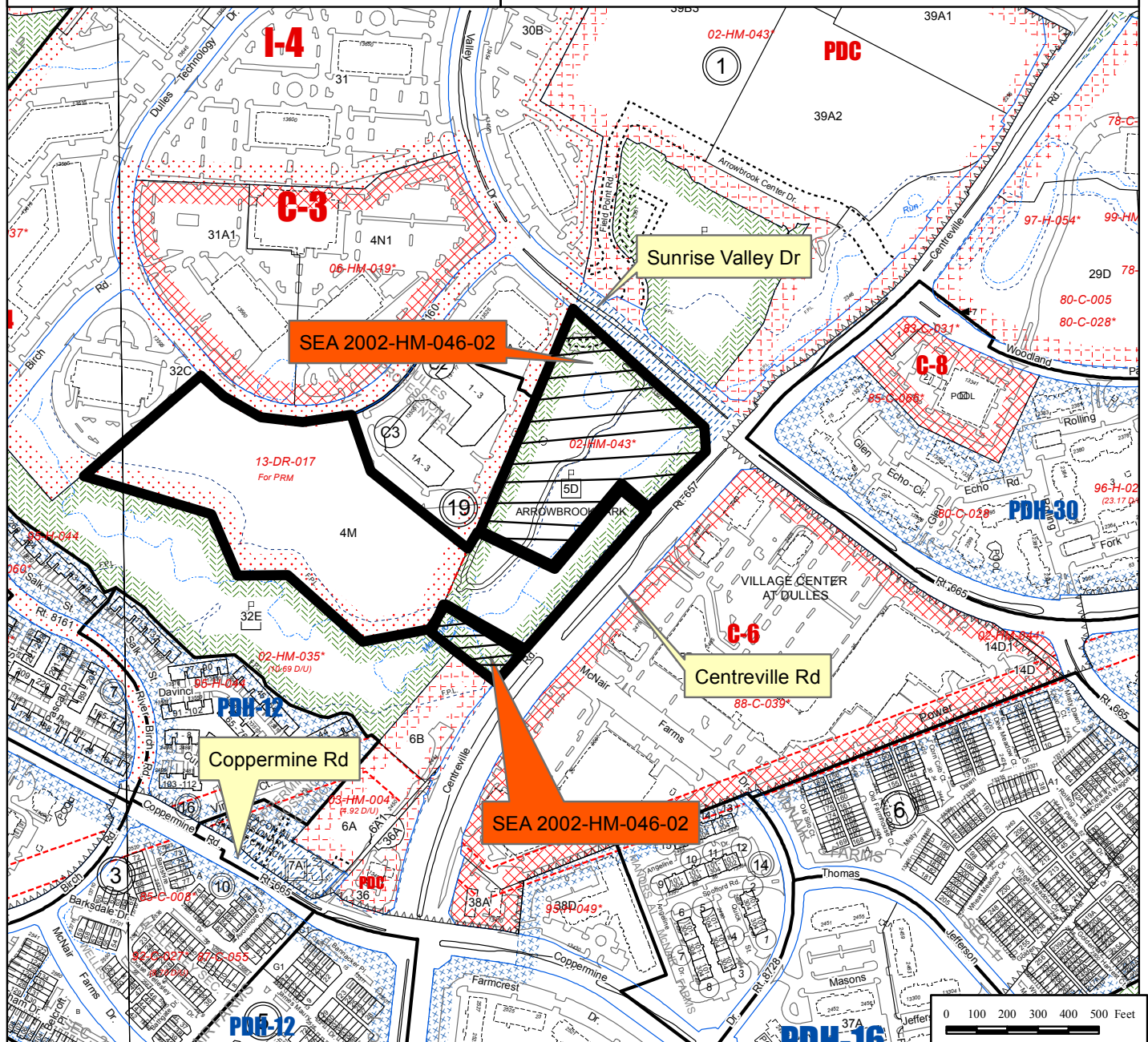
SEA 2002-HM-046-02



Applicant: JLB DULLES TECH LLC & FAIRFAX COUNTY PARK AUTHORITY
 Accepted: 10/09/2014
 Proposed: AMEND SE 2002-HM-046 TO DELETE LAND AREA

Area: 8.1 AC OF LAND; DISTRICT - DRANESVILLE
 Zoning Dist Sect: 02-0904
 Located: S.W. QUADRANT OF THE INTERSECTION OF SUNRISE VALLEY DR AND CENTREVILLE RD

Zoning: PDC
 Plan Area: 3
 Overlay Dist:
 Map Ref Num: 016-3- /01/ /0005D





County of Fairfax, Virginia

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

July 29, 2015

Ben I. Wales
Cooley LLP
One Freedom Square
Reston Town Center
11951 Freedom Drive, Suite 1500
Reston, VA 20190

RE: Special Exception Amendment Application SEA 2002-HM-046-02
(Concurrent with Rezoning Application RZ 2013-DR-017, Proffered Condition Amendment Applications PCA 79-C-037-07 and PCA 2002-HM-043, and Special Exception Amendment Application SEA 85-C-119)

Dear Mr. Wales:

At a regular meeting of the Board of Supervisors on July 28, 2015, the Board approved Special Exception Amendment Application SEA 2002-HM-046-02 in the name of JLB Dulles Tech LLC/Fairfax County Park Authority. The subject property is located in in the S.W. quadrant of the intersection of Sunrise Valley Drive and Centreville Road on approximately 8.10 acres of land zoned PDC in the Dranesville District [Tax Map 16-3 ((1)) 5 D pt]. The Board's action amends Special Exception Application SE 2002-HM-046 previously approved for uses in a floodplain, to permit the deletion of land area and associated modifications to site design and development conditions for the construction of a public road. Previously approved conditions or those with minor modifications are marked with an asterisk (*).

1. This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.*
2. This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception amendment plat approved with the application, as qualified by these development conditions.* Where there is a conflict between the SEA Plat (including the notes thereon) and these conditions, these conditions shall govern the development.

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

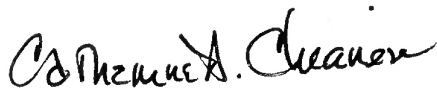
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov

3. This Special Exception Amendment is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception amendment for the uses in a floodplain shall be in substantial conformance with the special exception amendment (SEA) plat entitled "Dulles Technology Center," prepared by William H. Gordon Associates, Inc., dated September 3, 2013, and revised through June 5, 2015, consisting of thirty-eight (38) sheets, and these conditions. Minor modifications to the approved special exception amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. No additional encroachment into the floodplain shall be permitted other than that shown on the special exception amendment plat.*
5. Clearing within the 100-year floodplain shall be minimized to the maximum extent feasible, as determined by the Department of Public Works and Environmental Services (DPWES).*
6. Hold harmless and indemnification agreements shall be executed with the County for all adverse effects which may arise as a result of the location of the site within a floodplain area.*
7. A 2x2 foot sign shall be placed near the travelway located in the floodplain that states: "Warning: High Water and Flooding during Heavy Rains."*

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

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

Sincerely,



Catherine A. Chianese
Clerk to the Board of Supervisors

cc: Chairman Sharon Bulova
Supervisor John Foust, Dranesville District
Tim Shirocky, Acting Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Michael Davis, Section Chief, Transportation, Planning Division
Donald Stephens, Department of Transportation
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
Jill Cooper, Executive Director, Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



Mark C. Looney
T: +1 703 456 8652
mlooney@cooley.com

April 17, 2020

Ms. Leslie Johnson
Zoning Administrator
Fairfax County Department of Planning and Development
12055 Government Center Parkway, 8th Floor
Fairfax, VA 22035

RE: Dulles Tech - Extension of SEA 2002-HM-046-02

Dear Leslie:

We received the attached notice from DPD indicating that SEA 2002-HM-046-02 granted to JLB Dulles Tech LLC is set to expire in July 2020 unless construction commences on the McNair Farms Drive extension to Dulles Technology Drive. As you know, a companion/related application, CDPA/FDPA/PCA 2017-DR-014, was approved by the Board of Supervisors in 2018 (the "2018 Approval"). The 2018 Approval proffers the construction of the onsite portion of the McNair Farms Drive extension, while the 2017 SEA noted in the attached letter addresses the offsite portion of the road extension across property owned by the Fairfax County Park Authority.

The 2018 Approval is the subject of an appeal filed by adjacent property owners seeking to overturn the 2018 Approval. That appeal is captioned *Dulles Professional Center Condominium Unit Owners Association, et al., v. Board of Supervisors of Fairfax County, et al.* Although the Fairfax County Circuit Court dismissed the appeal brought by the adjacent property owners, the appellants nonetheless have asked the Supreme Court of Virginia to consider whether the Circuit Court erred in dismissing their claims. The Virginia Supreme Court has not yet acted on the appeal request.

Given the uncertainty caused by the nearly two years of litigation over the 2018 Approval, JLB Dulles Tech LLC cannot proceed with the construction authorized by SEA 2002-HM-046-02 absent resolution of the pending appeal. This uncertainty is further exacerbated by the ongoing Covid-19 pandemic that stands to disrupt judicial and government operations, as well as market conditions, for an uncertain amount of time. Accordingly, we respectfully request that the Board of Supervisors extend the validity of SEA 2002-HM-046-02 for an additional thirty (30) months to allow for the pending appeal to be fully resolved and to allow the region's economy time to absorb the impacts of the pandemic.

Thanks in advance for your assistance with this matter. Please let me know if you have any questions or need additional information. Thanks.

Sincerely,

Mark C. Looney

Cooley

Ms. Leslie Johnson

April 17, 2020

Page 2

MCL

cc: Ms. Tracy Strunk, Director of Zoning Evaluation, DPD
Mr. Benjamin Wiles, Office of Supervisor John Foust

224206912 v1

Board Agenda Item
July 14, 2020

ADMINISTRATIVE - 5

Additional Time to Commence Construction for Special Exception SE 2014-PR-001,
7799 Leesburg Pike, LLLP (Providence District)

ISSUE:

Board consideration of additional time to commence construction for SE 2014-PR-001, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve twenty-four (24) months additional time for SE 2014-PR-001, to July 1, 2022.

TIMING:

Routine.

BACKGROUND:

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

On April 7, 2015, the Board of Supervisors approved Special Exception SE 2014-PR-001, subject to development conditions (see Clerk's Letter, Attachment 2). The application was filed in the name of 7799 Leesburg Pike, LLLP, to permit a hotel at 7799 Leesburg Pike (Tax Map: 39-2 ((1)) 45D) in Tysons (see locator map, Attachment 1). The SE was approved concurrent with Rezoning RZ 2014-PR-025, which rezoned a 0.35-acre C-2 portion of the subject property to C-4, so that the entire overall 1.62-acre site would be zoned C-4, thereby facilitating its development as a hotel. The special exception was approved subject to development conditions and the rezoning was approved without proffers. As approved, SE 2014-PR-001 permitted a 155-room, 10-story hotel (maximum 120 feet in height), with a 1.65 floor area ratio.

Board Agenda Item
July 14, 2020

The hotel, a Category 5 special exception use, was permitted pursuant to Sect. 4-404 of the Fairfax County Zoning Ordinance. In conformance with Sect 9-015, the approved use was required to be established or construction commenced and diligently be prosecuted within thirty (30) months of the approval date unless the Board grants additional time, or in this specific case, by October 7, 2017. However, §15.2-2209.1 of the *Code of Virginia* permitted an automatic extension of this deadline to July 1, 2020.

On May 8, 2020, the Department of Planning and Development (DPD) received a letter from Alice G. Haas, agent for the applicant, requesting twenty-four (24) months of additional time (see request letter, Attachment 3). While the current expiration date is July 1, 2020, the approved Special Exception will not expire pending the Board's action on the request for additional time.

In the additional time request letter, Ms. Haas states that that the applicant has entered into a purchase agreement for the sale of the property and that the contract purchaser has requested an interpretation of the approved SE. Ms. Haas notes that pending the County's response to that interpretation request, the contract purchaser will either proceed to preparation and submission of a site plan or request amendment of the approved SE. Additionally, Ms. Haas explained that while the contract purchaser intends to move forward with development of the hotel, an addition 24 months to initiate construction will be required during current economic conditions.

Since the filing of this additional time request, the County has issued its determination that the modifications proposed by the requested interpretation (façade and parking garage layout) would be in substantial conformance with the approved SE. Further, staff has reviewed Special Exception SE 2014-PR-001 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a hotel within the C-4 zoning district. Further, staff knows of no change in land use circumstances that affect compliance of SE 2014-PR-001 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the special exception. Finally, the conditions associated with the Board's approval of SE 2014-PR-001 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twenty-four (24) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None.

Board Agenda Item
July 14, 2020

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Clerk's Letter dated April 8, 2015, to G. Evan Pritchard

Attachment 3: Letter dated May 8, 2020, to Leslie B. Johnson

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning and Development (DPD)

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPD

Suzanne Wright, Chief, Conformance Review & Acceptance Branch, ZED, DPD

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

Jeffrey Hermann, Chief, Site Analysis Section, Transportation Planning Division, Fairfax
County Department of Transportation

Bobby Katai, Staff Coordinator, ZED, DPD

Special Exception

SE 2014-PR-001



Applicant:

7799 LEESBURG PIKE, I

ATTACHMENT 1

Accepted:

01/07/2014

Proposed:

HOTEL AND INCREASE IN BUILDING HEIGHT

Area:

1.62 AC OF LAND; DISTRICT - PROVIDENCE

Zoning Dist Sect:

04-040409-0607 Art 9

Group and Use:

5-14 6-03

Located:

7799 LEESBURG PIKE

Zoning:

C-4

Plan Area:

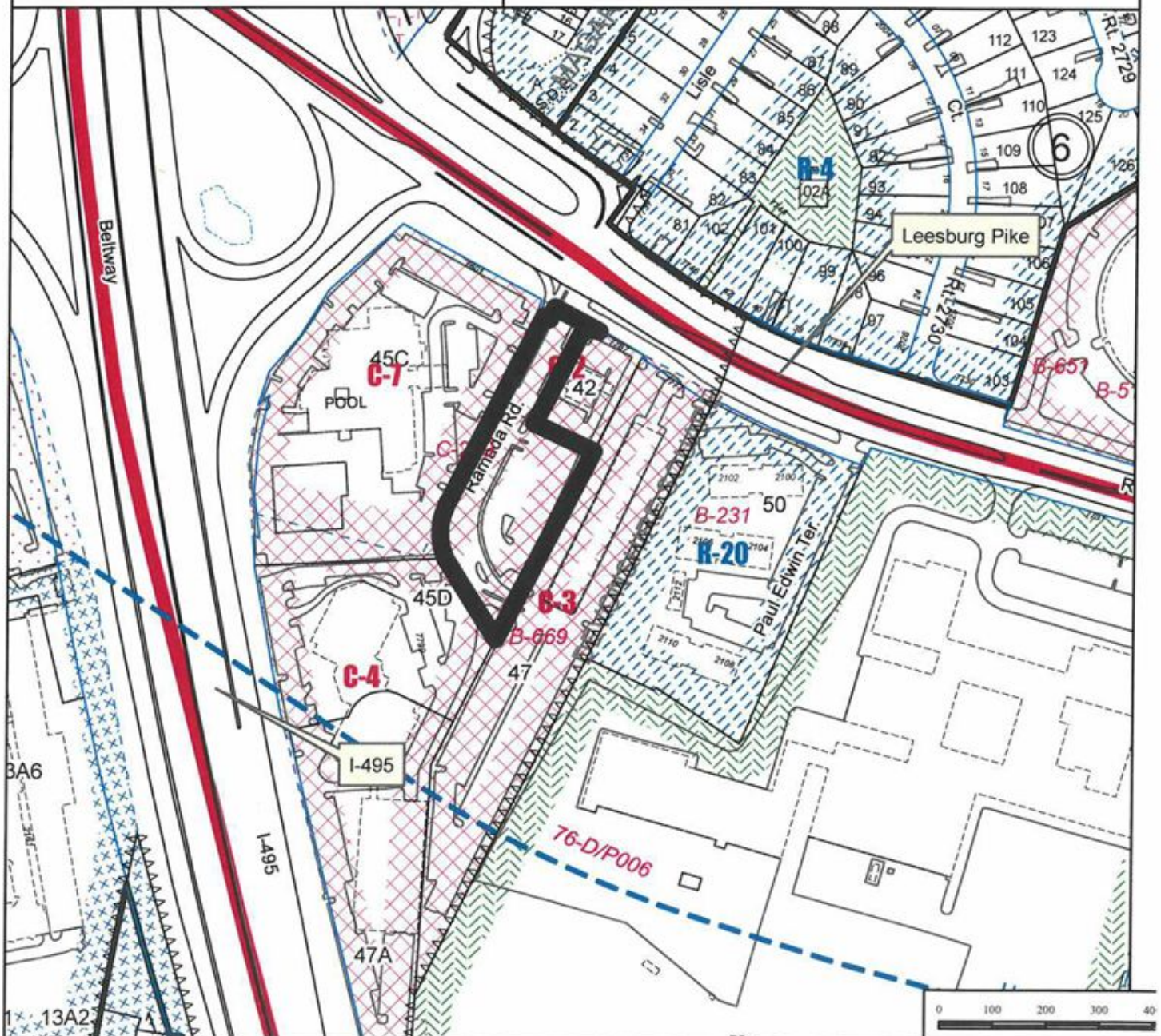
1,

Overlay Dist:

HC

Map Ref Num:

039-2- /01/ /0045D (pt)





County of Fairfax, Virginia

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

April 8, 2015

G. Evan Pritchard
Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201

RECEIVED
Department of Planning & Zoning

AUG 05 2015

Zoning Evaluation Division

Re: Special Exception Application SE 2014-PR-001
(Concurrent with Rezoning Application RZ 2014-PR-025)

Dear Mr. Pritchard:

At a regular meeting of the Board of Supervisors held on April 7, 2015, the Board approved Special Exception Application SE 2014-PR-001 in the name of 7799 Leesburg Pike, LLLP. The subject property is located at 7799 Leesburg Pike, on approximately 1.62 acres of land, zoned C-4 and HC, in the Providence District [Tax Map 39-2 ((1)) 45D pt.]. The Board's action permits a hotel, pursuant to Section 4-404 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. A copy of the Special Exception conditions and the Non-Residential Use Permit (Non-RUP) shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
3. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.
4. This Special Exception (SE) is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this SE shall be in substantial conformance with the approved SE Plat/GDP entitled "Residence Inn at Tysons Special Exception Plat", prepared by Gordon and Greenberg Architects, dated August 13, 2013 and revised through December 4, 2014 and these conditions. Minor modifications to the approved SE may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

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

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

5. In an effort to reduce bird injury and death due to in-flight collisions with buildings, the applicant may include one or more bird friendly design elements, as determined by the applicant, in the architectural plans of the building. The bird friendly design elements may include, but not be limited to, the use of color, texture, opacity, fritting, frosting, patterns, louvers, screens, interior window treatments, or ultraviolet materials that are visible to birds, the angling of outside lights, curbing of excessive or unnecessary night-time illumination in commercial buildings, reduction of bird attracting vegetation, the use of decoys, and breaking of glass swaths. Nothing herein shall require the applicant to obtain a bird-friendly LEED credit.
6. The applicant will include, as part of the site plan/ submission and building plan submission, a list of specific credits within the most current version at the time of the project's registration of the U.S. Green Building Council's Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, or other LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council (USGBC), that the applicant anticipates attaining. A LEED-accredited professional (LEED-AP) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver certification of the project.

In addition, prior to site plan approval, the applicant will designate the Chief of the Environment and Development Review Branch (EDRB) of the Department of Planning and Zoning (DPZ) as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

Prior to the final building plan approval, the applicant will submit documentation, to the EDRB of DPZ, regarding the U.S. Green Building Council's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Gold certification. Prior to release of the bond for the project, the applicant shall provide documentation to the EDRB of DPZ demonstrating the status of attainment of LEED Silver or a higher level of certification from the U.S. Green Building Council for each building on the property. If the applicant is unable to provide the preliminary review of the design-related credit documentation prior to the final building permit approval but does anticipate receiving the documentation prior to the attainment of the certification, the applicant may, prior to the issuance of the final building permit, post an escrow identical to the one described in the following paragraph. This escrow will be released upon submission of the documentation to the EDRB of

DPZ from the U.S. Green Building Council demonstrating that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Gold certification.

As an alternative to the actions outlined in the above paragraphs, or if the U.S. Green Building Council review of design-oriented credits indicates that the project is not anticipated to attain a sufficient number of design-related credits to support attainment of LEED Gold certification, the applicant will post, a "green building escrow," in the form of cash or a letter of credit from a financial institute acceptable to DPWES as defined in the Public Facilities Manual, in the amount of \$234,000. This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED Silver or a higher level of certification, by the U.S. Green Building Council, under the most current version of the LEED-NC rating system or other LEED rating system determined, by the U.S. Green Building Council. The provision to the EDRB of DPZ of documentation from the U.S. Green Building Council that the building has attained LEED Silver certification will be sufficient to satisfy this commitment.

If the applicant provides to the EDRB of DPZ, within three years of issuance of the final non-RUP for the building, documentation demonstrating that LEED Silver certification for the building has not been attained but that the building has been determined by the U.S. Green Building Council to fall within three points of attainment of LEED Silver certification, 50% of the escrow will be released to the applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.

If the applicant fails to provide, within three years of issuance of the final non-RUP for the building, documentation to the EDRB of DPZ demonstrating attainment of LEED Silver certification or demonstrating that the building has fallen short of LEED Silver certification by three points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.

If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the EDRB of DPZ, that USGBC completion of the review of the LEED Silver certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

7. At the time of issuance of the first Non-RUP, the applicant shall contribute \$4.19 for each new square foot of non-residential space to the Tysons Corner Transportation Fund in accordance with the Board of Supervisors' policy adopted on January 28, 2014. These payments may be made earlier than required pursuant to this paragraph.
8. The hotel shall provide no less than 134 parking spaces.
9. The hotel shall provide shuttle service as a means to reduce on-site parking demand. At a minimum, the shuttle shall provide service to hotel guests, upon demand, to nearby Metro stations and business/tourist centers (within three miles), between the hours of 6:00 a.m. and 7:00 p.m.

If/as a Tysons shuttle group (such as a co-operative) is formed, which can furnish non-polluting vehicles for use throughout Tysons as shuttles, and the vehicles provide acceptable performance at no significant increase in lease acquisition, operating or maintenance costs, the applicant shall participate in such a group in fulfilling this condition.
10. Approval of the SE in no way grants approval to any sign depicted on the SE Plat. All signs shall comply with all applicable provisions of Article 12, Signs, of the Zoning Ordinance.
11. The hotel shall comply with all applicable provisions of Article 14, Performance Standards, of the Zoning Ordinance.
12. Stormwater Management and Best Management Practices (SWM/BMPs) shall be provided in accordance with the Public Facilities Manual (PFM) as indicated on SE Plat/GDP, subject to the approval of DPWES. If SWM/BMP requirements cannot be met by facilities in substantial conformance with that shown on the plan, or other facilities or SWM/BMP methods as approved by DPWES, a special exception amendment will be required.
13. Landscaping shall be provided in general as shown on the SE Plat/GDP. The exact number, size, and spacing of trees and other plant materials shall be submitted at the time of final site plan review shall be subject to the review and approval by Urban Forest Management (UFM).
14. To the satisfaction of UFM, all trees planted in the bio-retention tree pits shall be maintained. Should said trees be damaged or removed, they shall be replaced.
15. The sidewalk along the hotel's Ramada Road frontage shall maintain consistent material and grade as it crosses any driveways into the site.
16. The architecture of the hotel shall be in substantial conformance with that depicted on the SE Plat/GDP.

17. Parcels 45D and 47A shall be considered a single unit for purpose of application of the Fairfax County Zoning Ordinance until such time as any portions of these parcels are rezoned from C-4. Any subdivision or site plan filed in the future on these parcels shall include this notation.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

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

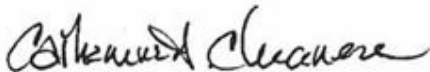
The approval of this special exception does not interfere with abrogate or amend any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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

The Board also approved:

- Waiver to permit loading spaces for the hotel to be located at the front of the building as shown on the SE Plat
- Modification to allow trees located above any proposed percolation trench or bio-retention areas to count toward County tree cover requirements as depicted on the SE Plat

Sincerely,



Catherine A. Chianese
Clerk to the Board of Supervisors

April 8, 2015

cc: Chairman Sharon Bulova
Supervisor Linda Smyth, Providence District
Tim Shirocky, Acting Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Thomas Conry, Dept. Manager, GIS, Mapping/Overlay
Michael Davis, Section Chief, Transportation Planning Division
Donald Stephens, Transportation Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
Jill Cooper, Executive Director, Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



2001 L Street NW
Suite 75f
Washington, DC 20036
castrohaase.com

Via Electronic Delivery

May 8, 2020

Leslie Johnson, Zoning Administrator
Fairfax County Department of Planning & Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

Re: SE 2014-PR-001 / Request for Additional Time
7799 Leesburg Pike
Tax Map Reg: #39-2((1)) 45 D pt.

Dear Ms. Johnson:

Please accept this request for additional time pursuant to the provisions of the Zoning Ordinance, §9-015 ("Zoning Ordinance").

On April 7, 2015, SE 2014-PR-001 was approved by the Board of Supervisors (the "Approved SE"). The Approved SE was to expire thirty (30) months following the date of approval, or October 7, 2017, unless construction had commenced and diligently prosecuted. Subsequently the 2017 Virginia General Assembly adopted House Bill 1697 which amended §15.2-2209.1 of the Code of Virginia so that "any valid special exception outstanding as of January 1, 2017...and related to new residential or commercial development, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project...with a certain time, shall be extended until July 1, 2020."

Currently, the Applicant has entered into a purchase agreement for the sale of the property and on March 19, 2020, the contract purchaser requested an interpretation of the Approved SE. Pending the County's response to the Interpretation Request, the contract purchaser will either proceed to preparation of the site plan submission preparation or to amendment of the Approved SE. In either event, construction cannot commence with diligent pursuit by July 1, 2020. Furthermore, the recent developments with COVID-19, which were unforeseen only a few weeks ago, and certainly not on April 7, 2015, have created dire economic impacts on the hospitality industry and the economy as a whole. Thus, while the contract purchaser intends to move forward with development of a hotel pursuant to the Approved SE, extra time to initiate construction will be required during the current economic conditions.

Accordingly, we will greatly appreciate your consideration of this request for twenty-four (24 months) of additional time to initiate construction activities. This time will ensure the contract purchaser has requisite time to submit for site plan approval, the County's approval thereof, and commencement of construction associated with the approved site plan. Under the current economic climate, granting the additional time will not be inconsistent with the public interest.

Attached is a copy of the Approved SE Conditions. Should you have any further questions or wish to discuss, please contact me at [ahaase](mailto:ahaase@castrohaase.com) castrohaase.com or 202-846-7478.

Respectfully,

CastroHaase pllc



Alice G. Haas
Attachment

cc: Suzanne Wright
Ken Martin
James D. Policaro

Board Agenda Item
July 14, 2020

ADMINISTRATIVE - 6

Reappointment of Private Provider Member to the Fairfax-Falls Church Community Policy and Management Team

ISSUE:

In order to fulfill Virginia Code requirements, Fairfax-Falls Church Community Policy and Management Team (CPMT) Bylaws provide for two representatives of private organizations or associations of providers for children's or family services, to be approved by the CPMT and the Board of Supervisors for terms of up to two years. Re-appointments may be made for additional consecutive terms upon approval of the CPMT and the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board re-appoint Richard Leichtweis of Inova Kellar Center in Fairfax for a term to expire on June 30, 2022 as a provider representative member of the CPMT.

TIMING:

Board action is requested on July 14, 2020.

BACKGROUND:

As required under the Virginia Children's Services Act (CSA), the Fairfax County Board of Supervisors and the Fairfax and Falls Church City Councils established a joint Community Policy and Management Team and appointed original members in October 1992. Members include the Deputy County Executive for Human Services, one representative each from the Cities of Fairfax and Falls Church, the Directors of the Fairfax-Falls Church Community Services Board, Juvenile and Domestic Relations District Court, Department of Health, Department of Family Services, Department of Neighborhood and Community Services, three representatives of the Fairfax County Public Schools, one representative of the Falls Church City Public Schools, two representatives of private providers of children's and family's services, and five parent representatives. Private provider representatives are recommended to the CPMT by NOVACO, the private provider association in Northern Virginia.

Board Agenda Item
July 14, 2020

On May 29, 2020, the CPMT recommended to nominate to the Board of Supervisors Richard Leichtweis, Senior Director of Inova Kellar Center, for re-appointment as a provider representative member of the CPMT. It is requested that Dr. Leichtweis' term expire on June 30, 2022.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
None.

STAFF:
Tisha Deeghan, Deputy County Executive
Janet Bessmer, Program Manager, Children's Services Act, Department of Family Services

Board Agenda Item
July 14, 2020

ADMINISTRATIVE - 7

Supplemental Appropriation Resolution AS 21010 for the Fairfax County Police Department to Accept Grant Funding from the U.S. Department of Justice, Office of Justice Programs for the Coronavirus Emergency Supplemental Funding Program

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 21010 for the Fairfax County Police Department (FCPD) to grant accept funding from the U.S. Department of Justice, Office of Justice Programs for the Coronavirus Emergency Supplemental Funding (CESF) grant in the amount of \$402,297. Funding will be used for personnel reassignment in response to prevention, preparation, and response efforts during the Coronavirus pandemic as well by George Mason University to conduct a case study on preventing, preparing, and responding to COVID-19 and the impacts on Fairfax County Police Department. The grant period is January 20, 2020 to January 31, 2022. No Local Cash Match is required. 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 approve Supplemental Appropriation Resolution AS 21010 to accept funding from the U.S. Department of Justice, Office of Justice Programs for the CESF grant in the amount of \$404,297. Fairfax County Police Department will use the CESF funds for personnel costs related to the reassignment of officers to assist in prevention, preparation, and response efforts to coronavirus. Additionally, grant funding will be used for a case study by George Mason University on preventing, preparing, and responding to COVID-19 and the impacts on Fairfax County Police Department. No new positions will be created with this grant and no Local Cash Match is required.

TIMING:

Board action is requested on July 14, 2020.

BACKGROUND:

The CARES Act (H.R. 748), the third COVID-19 stimulus package, included \$850 million for the Bureau of Justice Assistance (BJA) to assist state and local entities with preventing, preparing for, and responding to COVID-19. This funding is being distributed via the Coronavirus Emergency Supplemental Funding (CESF) Program. The full CESF

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grant solicitation can be found here:

<https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf>.

The Coronavirus Emergency Supplemental Funding (CESF) Program will provide funding to assist eligible states, local units of government, and tribes in preventing, preparing for, and responding to the coronavirus. Funds awarded under the CESF Program must be utilized to prevent, prepare for, and respond to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

As part of the grant application process and in accordance with the special conditions of the Justice Assistance Grant program, the grant application must be made available for review by the governing body of the local government during a scheduled meeting open to the public. The application must also be made available to provide an opportunity for citizens to comment. The grant will be made available to the public at the Board meeting as part of this administrative item to comply with the above requirement.

FISCAL IMPACT:

Grant funding in the amount of \$404,297 is being requested to provide Coronavirus Emergency Supplemental funding for personnel expenditures for reassignment of officers in response to COVID-19 incidents and for a case study on the impact on Fairfax County Police Department during the pandemic. No Local Cash Match is required. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2021. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Fairfax County Police Department has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

No positions will be created by this grant award.

ENCLOSED DOCUMENTS:

Attachment 1 – Award Notification

Attachment 2 – Supplemental Appropriation Resolution AS 21010

STAFF:

David M. Rohrer, Deputy County Executive for Public Safety
Colonel Edwin C. Roessler Jr., Chief of Police



Department of Justice (DOJ)
Office of Justice Programs

Attachment 1

Office of the Assistant Attorney General

Washington, D.C. 20531

June 6, 2020

Mr. Bryan Hill
Fairfax County Virginia
12000 Government Center Parkway, Suite 214
Fairfax, VA 22035-0001

Dear Mr. Hill:

On behalf of Attorney General William P. Barr, it is my pleasure to inform you that the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), has approved the application by Fairfax County Virginia for an award under the OJP funding opportunity entitled "BJA FY 20 Coronavirus Emergency Supplemental Funding Program." The approved award amount is \$402,297. These funds are for the project entitled Fairfax County Coronavirus Emergency Supplemental Funding Program.

The award document, including award conditions, is enclosed. The entire document is to be reviewed carefully before any decision to accept the award. Also, the webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm) is to be consulted prior to an acceptance. Through that "Legal Notices" webpage, OJP sets out -- by funding opportunity -- certain special circumstances that may or will affect the applicability of one or more award requirements. Any such legal notice pertaining to award requirements that is posted through that webpage is incorporated by reference into the award.

Please note that award requirements include not only award conditions, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. Because these requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds), it is vital that all key staff know the award requirements, and receive the award conditions and the assurances and certifications, as well as the application as approved by OJP. (Information on all pertinent award requirements also must be provided to any subrecipient of the award.)

Should Fairfax County Virginia accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Please direct questions regarding this award as follows:

- For program questions, contact Kathy Manning, Program Manager at (202) 616-1722; and
- For financial questions, contact the Customer Service Center of OJP's Office of the Chief Financial Officer at (800) 458-0786, or at ask.ocfo@usdoj.gov.

We look forward to working with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Sullivan", is written over a horizontal line.

Katharine T. Sullivan
Principal Deputy Assistant Attorney General

Encl.



Department of Justice (DOJ)
Office of Justice Programs
Office of Civil Rights

Washington, DC 20531

June 6, 2020

Mr. Bryan Hill
Fairfax County Virginia
12000 Government Center Parkway
Suite 214
Fairfax, VA 22035-0001

Dear Mr. Hill:

Congratulations on your recent award. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, require recipients of federal financial assistance to give assurances that they will comply with those laws. In addition to those civil rights laws, many grant program statutes contain nondiscrimination provisions that require compliance with them as a condition of receiving federal financial assistance. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with OJP and other DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a non-discriminatory manner to their service population or have employment practices that meet equal-opportunity standards.



If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5). Please submit information about any adverse finding to the OCR at the above address.

We at the OCR are available to help you and your organization meet the civil rights requirements that are associated with OJP and other DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to let us know.

Sincerely,

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

| | | | | |
|---|--|--|----------------------|--------------|
|  <p>Department of Justice (DOJ) Office of Justice Programs Bureau of Justice Assistance</p> | | Grant | | PAGE 1 OF 16 |
| 1. RECIPIENT NAME AND ADDRESS (Including Zip Code) Fairfax County Virginia 12000 Government Center Parkway Suite 214 Fairfax, VA 22035-0001 | | 4. AWARD NUMBER: 2020-VD-BX-1817 | | |
| | | 5. PROJECT PERIOD: FROM 01/20/2020 TO 01/31/2022 BUDGET PERIOD: FROM 01/20/2020 TO 01/31/2022 | | |
| | | 6. AWARD DATE 06/06/2020 | 7. ACTION Initial | |
| 2a. GRANTEE IRS/VENDOR NO. 540787834 | | 8. SUPPLEMENT NUMBER 00 | | |
| 2b. GRANTEE DUNS NO. 074837626 | | 9. PREVIOUS AWARD AMOUNT \$ 0 | | |
| 3. PROJECT TITLE Fairfax County Coronavirus Emergency Supplemental Funding Program | | 10. AMOUNT OF THIS AWARD \$ 402,297 | | |
| | | 11. TOTAL AWARD \$ 402,297 | | |
| 12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S). | | | | |
| 13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY20(BJA - CESF) Pub. L. No. 116-136, Div. B; 28 U.S.C. 530C | | | | |
| 14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.034 - Coronavirus Emergency Supplemental Funding Program | | | | |
| 15. METHOD OF PAYMENT GPRS | | | | |
| AGENCY APPROVAL | | GRANTEE ACCEPTANCE | | |
| 16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Katharine T. Sullivan Principal Deputy Assistant Attorney General | | 18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Bryan Hill County Executive | | |
| 17. SIGNATURE OF APPROVING OFFICIAL  | | 19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL | 19A. DATE | |
| AGENCY USE ONLY | | | | |
| 20. ACCOUNTING CLASSIFICATION CODES FISCAL YEAR FUND CODE BUD. ACT. OFC. DIV. REG. SUB. POMS AMOUNT X B VD 80 00 00 402297 | | 21. VVDUGT1696 | | |

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)



Department of Justice (DOJ)
Office of Justice Programs
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**AWARD CONTINUATION
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PROJECT NUMBER 2020-VD-BX-1817

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SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.



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SPECIAL CONDITIONS

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.



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SPECIAL CONDITIONS

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



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SPECIAL CONDITIONS

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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SPECIAL CONDITIONS

9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or



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SPECIAL CONDITIONS

any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.



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SPECIAL CONDITIONS

13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.



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SPECIAL CONDITIONS

14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



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19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



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24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



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27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

31. Signing Authority

This award must be signed by an authorized official of the applicant State, local, or tribal government, on behalf of that applicant State, unit of local government, or Tribe, unless the applicant designates an organizational unit to apply on its behalf. For example, if designated by a unit of local government, a Police Department or Sheriff's Office (or similar agency) may apply on behalf of the applicant jurisdiction, as long as the department, office, or agency is listed as the organizational unit on the SF-424. In that case, the head of the designated organizational unit (such as a Police Chief or Sheriff) may sign the award. Documentation of the designation by the appropriate governing body must be retained by the grant recipient.

32. The "Emergency Appropriations for Coronavirus Health Response and Agency Operations" law (Public Law 116-136) includes definitions, reporting requirements, and certain other provisions that apply (whether in whole or in part) to this award. In addition, consistent with the CESF Program's purposes, which involve preparing for, preventing, and responding to the coronavirus national emergency, OJP will provide notice of any additional CESF program-specific grants administrative requirements on an award page, accessible at <https://www.ojp.gov/funding/explore/CESF-program-specific-condition>, that is incorporated by reference here.



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33. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

34. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

35. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

36. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

37. Justice Information Sharing

Recipients are encouraged to comply any information-sharing projects funded under this award with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) is encouraged to conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://ft.ojp.gov/gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information.

38. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity.



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39. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA. The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are: a. New construction; b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places; c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories. The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations. Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

40. Establishment of interest-bearing account

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish an interest-bearing account dedicated specifically to this award. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The award funds, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Coronavirus Emergency Supplemental Funding (CESF) program. The recipient also agrees to obligate the award funds in the account (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

41. Expenditures requiring prior approval

No funds under this award may be expended on individual items costing \$500,000 or more, or to purchase Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA), and/or Unmanned Aerial Vehicles (UAV) without prior written approval from BJA. Prior approval must be obtained post-award, through the submission and approval of a Grant Adjustment Notice (GAN) through OJP's Grant Management System (GMS).



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42. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after January 20, 2020

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (January 20, 2020), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds.

43. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

44. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.



Department of Justice (DOJ)

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Categorical Exclusion for Fairfax County Virginia

The Coronavirus Emergency Supplemental Funding (CESF) Program allows eligible states, local units of government, and tribes to support a broad range of activities including preventing, preparing for, and responding to the coronavirus.

All recipients of CESF funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a sub-grantee or third party.


BJA's expectation is that none of the following activities will be conducted whether under this federal award or a related third party action:

- (1) New construction
- (2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species
- (3) A renovation that will change the basic prior use of a facility or significantly change its size
- (4) Research and technology whose anticipated and future application could be expected to have an effect on the environment
- (5) Implementation of a program involving the use of chemicals (including the identification, seizure, or closure of clandestine methamphetamine laboratories) other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments.

Consequently, the subject federal action meets the Office of Justice Programs' criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.

If, however, award funds are proposed to be used for any of the enumerated projects or activities above, grant recipients must contact their grant manager, and receive written approval prior to commencing that project or activity.

Questions about this determination may be directed to your grant manager or Orbin Terry, Environmental Coordinator for BJA.

| | | |
|---|--|--|
|  <p>Department of Justice (DOJ) Office of Justice Programs Bureau of Justice Assistance</p> | <p align="center">GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY</p> <p align="center">Grant</p> | |
| | <p>PROJECT NUMBER 2020-VD-BX-1817</p> | <p>PAGE 1 OF 1</p> |
| <p>This project is supported under FY20(BJA - CESF) Pub. L. No. 116-136, Div. B; 28 U.S.C. 530C</p> | | |
| <p>1. STAFF CONTACT (Name & telephone number)</p> <p>Kathy Manning (202) 616-1722</p> | <p>2. PROJECT DIRECTOR (Name, address & telephone number)</p> <p>Raymond Liu Grants Coordinator 12099 Government Center PKWY Fairfax, VA 22035-5501 (703) 246-7525</p> | |
| <p>3a. TITLE OF THE PROGRAM</p> <p>BJA FY 20 Coronavirus Emergency Supplemental Funding Program</p> | | <p>3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)</p> |
| <p>4. TITLE OF PROJECT</p> <p>Fairfax County Coronavirus Emergency Supplemental Funding Program</p> | | |
| <p>5. NAME & ADDRESS OF GRANTEE</p> <p>Fairfax County Virginia 12000 Government Center Parkway Suite 214 Fairfax, VA 22035-0001</p> | <p>6. NAME & ADDRESS OF SUBGRANTEE</p> | |
| <p>7. PROGRAM PERIOD</p> <p>FROM: 01/20/2020 TO: 01/31/2022</p> | <p>8. BUDGET PERIOD</p> <p>FROM: 01/20/2020 TO: 01/31/2022</p> | |
| <p>9. AMOUNT OF AWARD</p> <p>\$ 402,297</p> | <p>10. DATE OF AWARD</p> <p>06/06/2020</p> | |
| <p>11. SECOND YEAR'S BUDGET</p> | <p>12. SECOND YEAR'S BUDGET AMOUNT</p> | |
| <p>13. THIRD YEAR'S BUDGET PERIOD</p> | <p>14. THIRD YEAR'S BUDGET AMOUNT</p> | |
| <p>15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)</p> <p>The Coronavirus Emergency Supplemental Funding (CESF) Program allows States, U.S. Territories, the District of Columbia, units of local government, and federally recognized tribal governments to support a broad range of activities to prevent, prepare for, and respond to the coronavirus. Funded projects or initiatives may include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.</p> <p>NCA/NCF</p> | | |

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 21010

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on July 14, 2020, 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 2021, the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: G9090, Police Department

Grants: 1CV9001-2020, Coronavirus Emergency Supplemental Funding \$402,297

Reduce Appropriation to:

Agency: G8787, Unclassified Administrative Expenses \$402,297

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Department of Justice, Office of Justice Programs \$402,297

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
July 14, 2020

ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing on the Removal, Relocation, Contextualization, or Covering of Publicly-Owned Civil War Related Monuments or Memorials at the Fairfax County Judicial Complex (Providence District)

ISSUE:

Whether the Board wishes to authorize advertisement of a public hearing on the question of whether the Board should direct staff to remove, relocate, contextualize, or cover any or all of the publicly-owned Civil War related monuments or memorials located at the Fairfax County Judicial Complex.

RECOMMENDATION:

If the Board wishes to consider the removal, relocation, contextualization, or covering of any or all of the publicly-owned Civil War related monuments or memorials at the Judicial Complex, then the County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing for September 15, 2020, at 4:30 p.m.

TIMING:

Board action is requested on July 14, 2020, to provide sufficient time to advertise the proposed public hearing in accordance with the applicable law.

BACKGROUND:

Chapter 1101 of the 2020 Acts of Assembly amended Va. Code § 15.2-1812 to provide localities with additional rights over monuments and memorials commemorating wars and veterans of wars. The amendments took effect on July 1, 2020. Prior to July 1, 2020, Va. Code § 15.2-1812 prohibited localities from disturbing, interfering, removing, damaging, or defacing any such monument or memorial after it was erected. Chapter 1101 gives localities the authority to remove, relocate, contextualize, or cover such monuments located on County owned property, provided that the local governing body takes certain actions prescribed in the new law.

Before the County may remove, relocate, contextualize, or cover any publicly-owned monuments or memorials on its property, Va. Code § 15.2-1812 requires the Board to advertise notice of its intent at least 30 days in advance of the scheduled public hearing. At this hearing, interested persons may present their views. After the public

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hearing, the Board must vote on whether any such actions should be taken by County staff. If a monument or memorial is privately owned, then the statute does not require a public hearing. Rather, the County may work directly with the private owner of the item to effect its removal or relocation.

According to the recent amendments to Va. Code § 15.2-1812, if the Board votes to remove, relocate, contextualize, or cover a publicly-owned monument or memorial, it must offer such monument or memorial for relocation and placement to any museum, historical society, government, or military battlefield for a period of 30 days. After the 30-day period has expired, the Board has the sole authority to determine the final disposition of all publicly-owned monuments or memorials.

The Board of Supervisors owns the land area comprising the Fairfax County Judicial Complex. These parcels are identified on the Fairfax County Real Property Identification Map as Tax Map Numbers 57-4((1)) parcel 14 and 57-3((1)) parcel 17.

The public hearing on this item will include the potential removal, relocation, contextualization, or covering of any or all of the publicly-owned Civil War related monuments or memorials located at the Judicial Complex. These include the Marr monument, two howitzer cannons, and a memorial marker. More specifically, according to staff at the Fairfax County Circuit Court's Historic Records Center, in 1904, a granite monument commemorating the death of a Confederate soldier, John Quincy Marr, was unveiled on the lawn in front of the historic courthouse near the intersection of Routes 123 and 236, where it currently remains. The inscription on a plaque affixed to the monument states that it was constructed by the Marr Camp of Confederate Veterans, an organization that reportedly had its last reunion in 1929. Two brass howitzer cannons, which were donated to the County by the federal government in 1910, and an ammunition pad rest near the Marr monument. Further, a Virginia Department of Historic Resources memorial in the form of a marker, which is entitled "First Confederate Officer Killed," is located at the Judicial Complex.

Based on the evidence currently available, it appears that the Marr monument, cannons, and the "First Confederate Office Killed" memorial marker are publicly owned. A Civil War Trails memorial also is located at the Judicial Center, but it is privately owned by Civil War Trails, Inc., and its potential relocation or removal does not require a public hearing. If it is determined during the course of these proceedings that any of the other Civil War related monuments or memorials at the Judicial Complex are privately owned, then any such monument or memorial may be returned to the lawful owner at its request if the Board is so inclined, without the need for a public hearing as to that particular item.

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FISCAL IMPACT:

Undetermined at this time, pending a decision as to the disposition of the monuments or memorials.

ENCLOSED DOCUMENTS:

Attachment 1 - Copy of Chapter 1101 of the 2020 Acts of the General Assembly

ASSIGNED COUNSEL:

Elizabeth D. Teare, County Attorney
Daniel Robinson, Assistant County Attorney

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1101

An Act to amend and reenact §§ 15.2-1812, 15.2-1812.1, and 18.2-137 of the Code of Virginia and to repeal Chapter 119 of the Acts of Assembly of 1890, relating to war memorials for veterans.

[H 1537]

Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1812, 15.2-1812.1, and 18.2-137 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1812. Memorials for war veterans.

A. A locality may, within the geographical limits of the locality, authorize and permit the erection of monuments or memorials for *the veterans of* any war or conflict, or ~~for any engagement of such war or conflict,~~ to include the following ~~monuments or memorials~~: Algonquin (1622), French and Indian (1754-1763), Revolutionary (1775-1783), War of 1812 (1812-1815), Mexican (1846-1848), ~~Confederate or Union monuments or memorials of the Civil War Between the States~~ (1861-1865), Spanish-American (1898), World War I (1917-1918), World War II (1941-1945), Korean (1950-1953), Vietnam (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000-), Operation Enduring Freedom (2001-), and Operation Iraqi Freedom (2003-). ~~If such are erected, it shall be unlawful for the authorities of the locality, or any other person or persons, to disturb or interfere with any monuments or memorials so erected, or to prevent its citizens from taking proper measures and exercising proper means for the protection, preservation and care of same. For purposes of this section, "disturb or interfere with" includes removal of, damaging or defacing monuments or memorials, or, in the case of the War Between the States, the placement of Union markings or monuments on previously designated Confederate memorials or the placement of Confederate markings or monuments on previously designated Union memorials. Notwithstanding any other provision of law, general or special, a locality may remove, relocate, contextualize, or cover any such monument or memorial on the locality's public property, not including a monument or memorial located in a publicly owned cemetery, regardless of when the monument or memorial was erected, after complying with the provisions of subsection B.~~

B. Prior to removing, relocating, contextualizing, or covering any such publicly owned monument or memorial, the local governing body shall publish notice of such intent in a newspaper having general circulation in the locality. The notice shall specify the time and place of a public hearing at which interested persons may present their views, not less than 30 days after publication of the notice. After the completion of the hearing, the governing body may vote whether to remove, relocate, contextualize, or cover the monument or memorial. If the governing body votes to remove, relocate, contextualize, or cover the monument or memorial, the local governing body shall first, for a period of 30 days, offer the monument or memorial for relocation and placement to any museum, historical society, government, or military battlefield. The local governing body shall have sole authority to determine the final disposition of the monument or memorial.

C. A locality may, prior to initiating the provisions of subsection B, petition the judge of a circuit court having jurisdiction over the locality for an advisory referendum to be held on the question of the proposal to remove, relocate, contextualize, or cover any monument or memorial located on the locality's public property. Upon the receipt of such petition, the circuit court shall order an election to be held thereon at a time that is in conformity with § 24.2-682. The ballots shall be prepared, distributed, and voted, and the results of the election shall be ascertained and certified, in the manner prescribed by § 24.2-684.

D. The governing body may appropriate a sufficient sum of money out of its funds to complete or aid in the erection, *removal, relocation, contextualizing, or covering* of monuments or memorials to the veterans of such wars *or conflicts, or any engagement of such wars or conflicts*. The governing body may also make a special levy to raise the money necessary for the erection or completion of any such monuments or memorials, or to supplement the funds already raised or that may be raised by private persons, Veterans of Foreign Wars, the American Legion, or other organizations. It may also appropriate, out of any funds of such locality, a sufficient sum of money to permanently care for, protect, and preserve such monuments or memorials and may expend the same thereafter as other funds are expended.

§ 15.2-1812.1. Action for damage to memorials for war veterans.

A. If any monument, ~~marker~~ or memorial for war veterans as designated in §§ § 15.2-1812 ~~and 18.2-137 is violated or encroached upon~~ *damaged or defaced*, an action for the recovery of damages may be commenced ~~by the following as follows~~:

1. For a publicly owned monument, ~~marker~~ or memorial, *such action may be commenced against a person other than a locality or its duly authorized officers, employees, or agents* by the attorney for the locality in which it is located; ~~or, if no such action has commenced within sixty days following any such violation or encroachment, by any person having an interest in the matter with the consent of the governing body or public officer having control of the monument or memorial; and~~

2. For a privately owned monument, ~~marker~~ or memorial *on a locality's public property, such action may be commenced* by the private organization, society or museum that owns it or any member of such organization, society or museum owner of such monument or memorial. No locality or its officers, employees, or agents shall be liable for damages pursuant to this section when taking action pursuant to § 15.2-1812 except for gross negligence by a duly authorized officer, employee, or agent of the locality.

Damages may be awarded in such amounts as necessary for the purposes of rebuilding, repairing, preserving, and restoring such memorials or monuments ~~to preencroachment condition~~. Damages other than those litigation costs recovered from any such action shall be used exclusively for said purposes.

B. Punitive damages may be recovered for reckless, willful, or wanton conduct resulting in the defacement of, malicious destruction of, unlawful removal of, or placement of improper markings, monuments, or statues on memorials for war veterans.

C. The party who initiates and prevails in an action authorized by this section shall be entitled to an award of the cost of the litigation, including reasonable ~~attorney's~~ attorney fees. The provisions of this section shall not be construed to limit the rights of any person, organization, society, or museum to pursue any additional civil remedy otherwise allowed by law.

§ 18.2-137. Injuring, etc., any property, monument, etc.

A. If any person unlawfully destroys, defaces, damages, or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages, or removes without the intent to steal, any monument or memorial for war veterans, *not his own*, described in § 15.2-1812; any monument erected ~~for the purpose of marking to mark~~ the site of any engagement fought during the Civil War between the States, or ~~for the purpose of designating~~ *any memorial to designate* the boundaries of any city, town, tract of land, or any tree marked for that purpose, he shall be guilty of a Class 3 misdemeanor, provided that the court may, in its discretion, dismiss the charge if the locality or organization *that owns or is* responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

B. If any person *who is not the owner of such property* intentionally causes such injury, he ~~shall be~~ is guilty of (i) a Class 1 misdemeanor if the value of or damage to the property, memorial, or monument is less than \$1,000 or (ii) a Class 6 felony if the value of or damage to the property, memorial, or monument is \$1,000 or more. The amount of loss caused by the destruction, defacing, damage, or removal of such property, memorial, or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.

2. That Chapter 119 of the Acts of Assembly of 1890 is repealed.

3. That nothing in this act shall apply to a monument or memorial located on the property of a public institution of higher education within the City of Lexington.

4. That the Board of Historic Resources shall promulgate regulations governing the manner in which any monument or memorial may be contextualized pursuant to the provisions of this act.

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ACTION - 1

Adoption of a Resolution of Support for a Break of the Limited Access Line to Provide a Direct Pedestrian and Bicycle Connection Adjacent to the Jones Branch Connector (Providence District)

ISSUE:

Board adoption of the attached resolution supporting a break of the limited access line adjacent to the Jones Branch Connector.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the attached resolution (Attachment I) supporting a break of the limited access line adjacent to the Jones Branch Connector to facilitate a direct pedestrian and bicycle connection.

TIMING:

Routine.

BACKGROUND:

Tysons Park Place II, LLC, has filed rezoning, final development plan, and special exception applications (RZ 2018-PR-017, FDP 2019-PR-017, SE 2018-PR-012) to redevelop an existing office building along Jones Branch Drive south of the Jones Branch Connector (Scotts Crossing Road). The Tysons Comprehensive Plan envisions a redesigned transportation system with enhanced pedestrian and bicycle routes and connections. In keeping with the vision of Tysons, the applicant is committing to provide multimodal transportation options for users of the proposed office buildings, including a proposed pedestrian/bicycle connection to the existing structured parking garage along the Jones Branch Connector. This connection would provide pedestrians and bicyclists with a more direct site access to/from the Tysons East area and the McLean Metrorail Station when compared to the existing connections from Jones Branch Drive.

The location of the proposed multimodal connection crosses a limited access line which restricts its implementation. The objective of a limited access line is to restrict access to a freeway or primary arterial roadway. This avoids interfering with the throughput functionality of the facility. The Jones Branch Connector was constructed with the intent to serve all modes of transportation, including pedestrian and bicycle travel as they

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cross the Beltway (I-495). To encourage multi-modal transportation and permit this connection, a 19-foot break in the limited access line is proposed.

According to Section 24VAC30-401-20 of the Virginia Administrative Code, a request for a change in limited access requires a resolution, letter of support or formal request, or any combination of these, from the locality within which the changes in limited access are proposed.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Resolution
Attachment II: Applicant Letter to VDOT
Attachment III: Location of Limited Access Break
Attachment IV: Proposed Pedestrian Connection

STAFF:
Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Jeff Hermann, AICP, Division Chief, Site Analysis and Transportation Planning, FCDOT
Greg Fuller, Transportation Planner IV, FCDOT
Jeremy Ko, Transportation Planner III, FCDOT

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 14, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, Tysons Park, Inc. and Tysons Park Place II LLC (collectively, the “Applicant”) have submitted a rezoning and final development plan application, identified as RZ/FDP 2018-PR-017, and a special exception application, identified as SE 2018-PR-012, for the properties located at 7926 and 7930 Jones Branch Drive (collectively, the “Property”); and

WHEREAS, development of a new grid of connected streets providing alternative pathways for traffic flow and the addition of pedestrian and bicycle facilities are key elements of the Comprehensive Plan for Tysons; and

WHEREAS, a limited access line for the Jones Branch Connector is located on the Property’s frontage; and

WHEREAS, the Applicant proposes to establish a pedestrian connection facility for building tenants and guests from the existing structured parking garage located on the Property to the Jones Branch Connector; and

WHEREAS, the proposed pedestrian connection facility requires approval of a break in the limited access line adjacent to the Jones Branch Connector by the Commonwealth Transportation Board; and

WHEREAS, to process these requests, the Virginia Department of Transportation requires a resolution of support from the locality within which the changes in limited access are proposed.

NOW, THEREFORE, BE IT RESOLVED, that this Board supports the aforementioned changes to the limited access controls along the Jones Branch Connector; and

BE IT FURTHER RESOLVED, that this Board hereby requests, pursuant to 24VAC30-401-20 of the Virginia Administrative Code, that the Commonwealth Transportation Board approve the proposed changes to the aforementioned limited access controls.

A Copy – Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



1420 Spring Hill Road,
Suite 610,
Tysons, VA 22102
703-917-6620
WellsandAssociates.com

February 25, 2020

Ms. Helen Cuervo, P.E.
Northern Virginia District Administrator
Virginia Department of Transportation
4975 Alliance Drive
Fairfax, VA 22030

RE: Request for a Break in Limited Access Line
VDOT Project # : 2019-1202 (Tysons Park Place)
VDOT Cost Code : 12070020
RZ 2018-PR-017, FDP 2019-PR-017, SE 2018-PR-012

Dear Ms. Cuervo,

The Applicant, Tysons Park Place II, LLC, filed the referenced Rezoning, Final Development Plan, and Special Exception Applications in order to raze and redevelop a new office building east of Jones Branch Drive and south of the Jones Branch Connector in the Tysons area of Fairfax County, Virginia. More specifically, the 7.64 acre Property is identified as Tax Map 29-4-07 Parcels 5B and 5C. The proposal would retain one (1) of the existing two (2) office buildings and the shared structured parking garage.

In support of this new development, the Applicant is committed to providing enhanced multimodal facilities and transportation options to future tenants and employees. In order to provide a more convenient trip for pedestrians and bicyclists to the McLean Metrorail station, the Applicant is proposing a pedestrian connection via the structured parking garage to the Jones Branch Connector. Specifically, the Applicant proposes an 18.73 foot break in the Limited Access line to provide a direct pedestrian and bicycle connection. The location of the Limited Access break is shown on Exhibit 1.

In addition to the proposed pedestrian and bicycle connection, the Applicant proposed to enhance the existing streetscape on the south side of the Jones Branch Connector with additional landscaping, benches, and screening from the buildings. The benches will provide a rest area for pedestrians and bicyclists traversing the bridge to and from the Metrorail station. The relationship of the Limited Access break and the proposed improvements are shown graphically on Exhibit 2.

The Jones Branch Connector (State Project ID 8102-029-065, P101, R201, C501, B627, B628, B629, D610) is being completed through a combination of federal, state, and county funds. Fairfax County led the design and development while VDOT is administering the construction. The Jones Branch Connector will provide an alternative route across the Beltway and a link between the Tysons East and Central areas. The Jones Branch Connector is anticipated to provide

relief to traffic along Route 123 at the I-495 interchange and at other congested intersections throughout Tysons. The roadway is anticipated to carry approximately 32,000 vehicles per day by 2040. The Jones Branch Connector is identified as an “Avenue” in the Tysons Urban Design Guidelines, dated February 24, 2017.

Sight distances were evaluated for pedestrians and bicyclists on the sidewalk on the south side of the Jones Branch Connector. The sight distance triangle was based on the intersection of a shared use path with a walkway as summarized in AASHTO’s *Guide for Development of Bicycle Facilities, Fourth Edition*. Although the Jones Branch Connector provides a separated bicycle lane, the sidewalk was considered as a walkway since some bicyclists will prefer to ride on the sidewalk for added safety. Therefore, the sight distance analysis should be considered conservative. As shown in Exhibit 3, the proposed connection will exceed all sight distance requirements. Therefore, no easements or special treatment of the streetscape would be required.

Plans for the final design of the Jones Branch Connector indicate that the Limited Access break would have no impact on storm water drainage or other utilities. All construction or relocation proposed with the Development Plan will be made outside of the Limited Access Zone.

The Applicant will pursue all necessary construction and grading permits and agreements through both VDOT and Fairfax County for the construction of the pedestrian and bicycle connection. However, it should be made clear that the Applicant will not request Rezoning of and/or density credit for the area for purposes of calculating the intensity and/or density of the Application Property. The Applicant will not include any portion of the Existing Right-of-Way to be Vacated and Abandoned in relation to this request.

The Applicant, therefore, hereby submits this **Request for a Break in the Limited Access Line**.

In accordance with 24VAC30-401-20, the Applicant understands that any proposed change or break in the Limited Access control shall be made in writing to your office and must be accompanied with information outlined in the VDOT checklist as follows:

- A written request to the District Administrator for a Break in Limited Access (Item 1, enclosed)
- A Resolution of Support from Fairfax County. (Item 2)
A letter of Request for Resolution of Support addressed to Dalia Palchik and a Draft Resolution, prepared by Bean Kinney & Korman dated January 7, 2020 has been submitted to FCDOT. (Copy Enclosed) The Resolution of Support will be furnished once County staff has secured action by the BOS.
- A Global Traffic Analysis (Item 3, enclosed)
- An environmental analysis of the proposed break in Limited Access (Item 4, enclosed)
- Payment and deposit to VDOT (Item 5, receipt confirmed on November 27, 2019)

WELLS + ASSOCIATES

- A written summary of the proposed activities (Item 9, enclosed)
- Copies of plans for the LA Break (Item 10, enclosed as Exhibits 1, 2, and 3)
- Copies of most recent VDOT acquisition plan (Item 11, VDOT to provide)
- Copies of deeds, certificates or final orders (Item 13, VDOT to provide)

The Applicant feels the application is complete per the VDOT checklist items as referenced above. Please feel free to contact me at (703) 917-6620 with any questions, or if you need any additional information.

Sincerely,

WELLS + ASSOCIATES, INC.



Grady Vaughan, P.E.

Senior Associate

GPV/mrp/ddc

Encl: Exhibits 1, 2, and 3

cc: Dalia Palchik, Supervisor, Fairfax County Board of Supervisors
Thomas Biesiadny, Director, Fairfax County Department of Transportation
Abraham Lerner, P.E., Virginia Department of Transportation
Lee Ann Hall, Virginia Department of Transportation
Stephen Gardner, Fairfax County Department of Planning & Zoning
Carlos Heard, B.F. Saul Company
Mark Viani, Bean Kinney & Korman

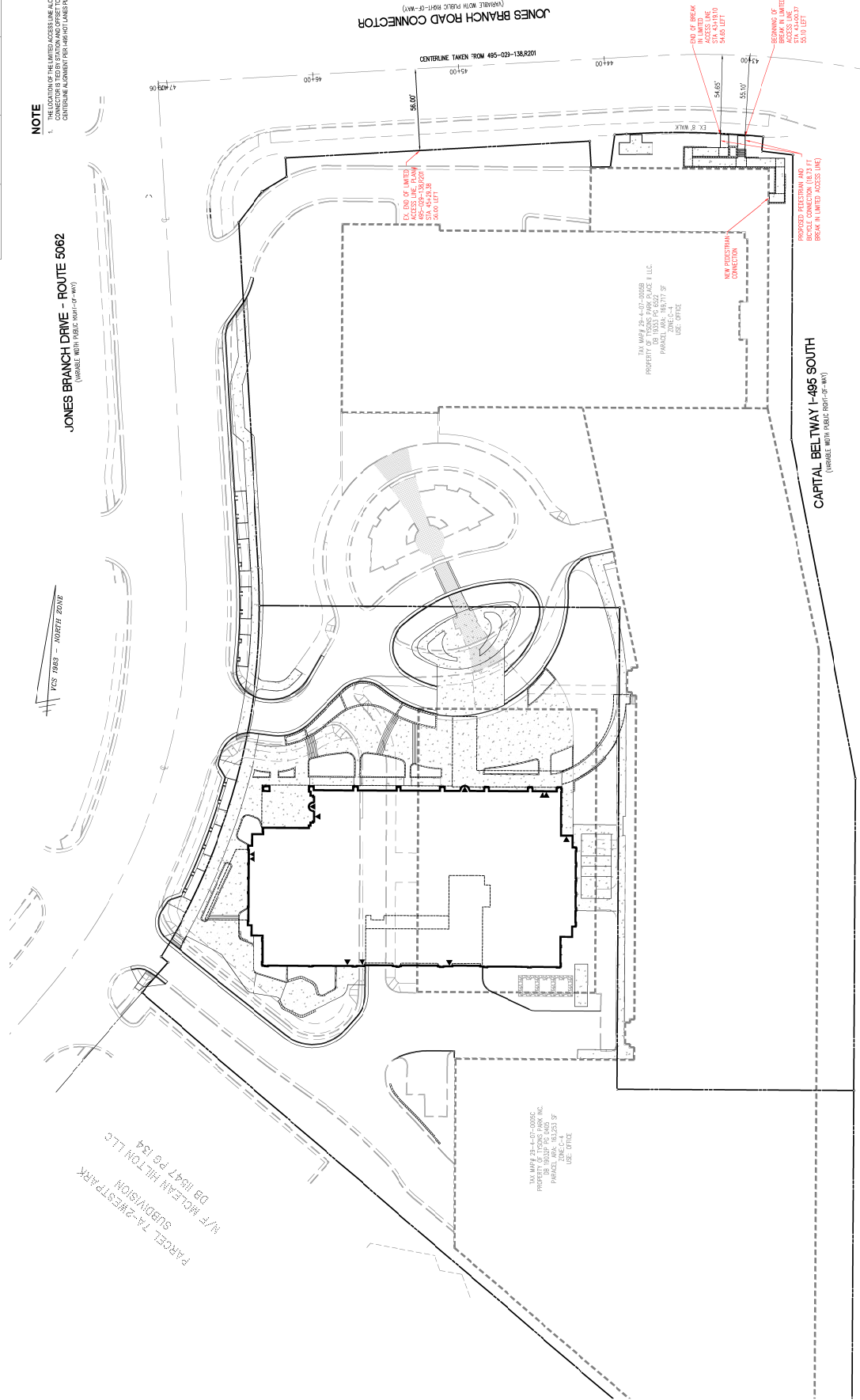
| | STATION START | STATION END | LENGTH OF BREAK (MEASURED ALONG C/A) |
|--------------------|---------------|-------------|--------------------------------------|
| PEDESTRIAN/BICYCLE | 43+08.37 | 43+18.00 | 18.73 |

NOTE

1. THE LOCATION OF THE LIMITED ACCESS LINE ALONG JONES BRANCH CONNECTOR IS TIED BY STATION AND OFFSET TO THE EXISTING CENTERLINE ALIGNMENT PER ADJUST LINES FROM BRIDGE 361. NORTH

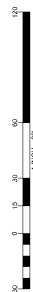
JONES BRANCH DRIVE - ROUTE 5062
(VARIABLE WITH PUBLIC RIGHT-OF-WAY)

1/2" 1/8"3 - NORTH ZONE



PREPARED BY
WALTER L. PHILLIPS
INCORPORATED
11400 S. GOLF COURSE RD.
ARLINGTON, VA 22204
TEL: 703.525.3881
FAX: 703.525.3881
WWW.WLP.COM

**EXHIBIT 1 - LOCATION OF LIMITED ACCESS BREAK
TYSONS PARK PLACE**



© WALTER L. PHILLIPS, INC. (WLP) Planning & Consulting (000224-0029) - Index/Map/Connection - Exhibit.dwg

SCALE: 1" = 30'
DATE: 2/24/2009

O:\PROJECTS\7001 - 7500\7274 TYSONS PARK PLACE \LIMITED ACCESS\TYSONS PARK PLACE LA BREAK\TABLES AND FIGURES\7274 - GRAPHICS LA BREAK.DWG



➡ NORTH
Tysons Park Place
Fairfax County, Virginia

Exhibit 2
Proposed Pedestrian Connection



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ACTION - 2

Authorization of Design and Construction Agreement with the Town of Vienna for
Redevelopment of the Patrick Henry Library and Additional Public Parking (Hunter Mill
District)

ISSUE:

The Board of Supervisors' authorization for the County Executive to execute a Design and Construction Agreement (Agreement) with the Town of Vienna (Town), substantially in the form of Attachment 1, to support the redevelopment of the existing Patrick Henry Library site, located at 101 Maple Avenue E., Vienna, Virginia (Tax Map 28-4 ((2)) 142), with a new library and jointly funded public parking structure.

RECOMMENDATION:

The County Executive recommends Board approval of the Agreement to redevelop the Patrick Henry Library site which would include a County library and separate parking structure to be jointly used and funded by the County and Town of Vienna. Approval of the Agreement is required to establish the framework to jointly fund the design and construction of the parking structure.

TIMING:

Board action is requested on July 14, 2020, in order to facilitate the development timeline.

BACKGROUND:

The Board of Supervisors owns and operates the Patrick Henry Library located at 101 Maple Avenue E., Vienna, Virginia 22180, in the Hunter Mill Magisterial District (Tax Map 38-4 ((2)) 142). The property is comprised of approximately 1.43 acres, upon which is located the Patrick Henry Library and associated surface parking. The current facility, which was built in 1971 and last renovated in 1995, totals 13,817 square feet, with 62 surface parking spaces. The Patrick Henry Library is one of the County's busiest community locations in the library system, operating at a level of a small regional library.

Redevelopment is required to replace building systems and infrastructure that are beyond the end of their life cycles, as well as to meet current and future operational

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needs of the library system. The building is one of the oldest County library structures and has an antiquated layout that does not adequately reflect modern design and usage. Due to the age and existing condition of the facility, it is extremely difficult to make significant changes to the overall layout or outfit the facility with the infrastructure necessary for energy efficiency, sustainability and to support the technology required by library customers. A new 21,000 SF library is recommended with a minimum of 125 parking spaces to meet the needs of library users into the future. This project is included in FY 2021-FY 2025 Advertised Capital Improvement Program (With Future Fiscal Years to 2030).

As part of the project scoping, an opportunity to partner with the Town of Vienna for additional parking was identified. The Town is seeking to increase the amount of downtown parking, specifically along their Church Street and Maple Avenue corridor, as identified in their Comprehensive Plan and Maple Avenue Commercial zoning. Partnering with The Town provides an opportunity for the County to address the need for structured parking to meet library user needs in a more cost-effective manner.

In January 2019, a committee was established for the feasibility study of the Patrick Henry Library site, which included the Library Director and representatives from the Department of Public Works and Environmental Services, Office of the County Attorney, Department of Economic Initiatives, and the Town of Vienna. The committee participated in the review of design options prepared by Grimm & Parker Architects which reflected the programming needs of both groups. The final concepts were submitted in June 2019. The final concepts selected for further analysis were:

- Option A: Library Only Project - Two-story library and 90 surface parking spaces.
- Option B1: Partnership - Library and Garage with 2-levels structured parking with 125 spaces designated for the Library and remaining 84 for the Town's use.
- Option B2: Partnership - Library and Garage with 3-levels structured parking with 125 spaces designated for the Library and remaining 188 for the Town's use.

Since June 2019, the County/Town joint committee has met regularly to solidify the terms and conditions of the Agreement. The Agreement outlines the partnership with the Town of Vienna to meet their Comprehensive Plan goal of addressing the downtown parking shortfall, while also meeting the parking needs for the County's Patrick Henry Library redevelopment.

Major terms of the Agreement include:

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- Project will be owned and operated by Fairfax County;
- Project costs for the parking structure will be allocated between County and Town at each phase of the project;
- Decision points at project phases and responsible party's financial impacts are specified;
- Town's funding to be split between two bond issuances - design (2020) and construction (2022); and
- Ongoing garage operation and maintenance costs will be shared.

The project design is scheduled to commence in January 2021 with construction completion at the end of 2024, contingent on the approval of the 2020 Library Bond Referendum. The library project will be designed to meet the pending Green Building Policy updates for LEED and energy performance improvements.

The Design and Construction Agreement, with Option B1 as the chosen option, was approved by the Town Council at their June 15, 2020, meeting. Option B2 was removed from further consideration. Option A remains the County's fall back option in the unlikely event the Agreement does not lead to successful completion of Option B1.

FISCAL IMPACT:

This action will enable the County to enter into the Agreement with the Town of Vienna to jointly fund the design and construction of a parking structure on the existing Patrick Henry Library site. The Town's contribution for the design phase will not exceed 30% (with a cap of \$850,000) of the total design costs, which will be paid to the County in a lump sum after appropriation from the Town's 2020 Bond Referendum, and prior to the start of the design phase.

In addition, the Town will be responsible for 19% (with a cap of \$4.2 million) of the total construction costs for a 2-level structured parking garage, payable in three equal payments to the County starting in calendar year 2022.

The upcoming fall 2020 Library Bond Referendum includes \$23 million in library bond funding for the Patrick Henry Library. This bond amount is sufficient to address the County's cost share for the design and construction of the library and either Option A or B1 for the parking structure.

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ENCLOSED DOCUMENTS:

Attachment 1 - Design and Construction Agreement

STAFF:

Rachel Flynn, Deputy County Executive

Christina Jackson, Director, Department of Management and Budget

Jessica A. Hudson, Director, Fairfax County Public Library

Scott Sizer, P3/Joint-Ventures Policy Coordinator, Department of Economic Initiatives

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

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

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

Allison Terzigni, Section Manager, DPWES, Building Design and Construction Division

ASSIGNED COUNSEL:

Cynthia Bailey, Deputy County Attorney

Susan Timoner, Assistant County Attorney

**DESIGN AND CONSTRUCTION AGREEMENT
by and between**

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

And

TOWN OF VIENNA

For the Redevelopment of

PATRICK HENRY LIBRARY

TAX MAP 38-4 ((2)) 142

Dated as of , 2020

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DESIGN AND CONSTRUCTION AGREEMENT

THIS DESIGN AND CONSTRUCTION AGREEMENT (this “Agreement”) is made and entered into as of this ____ day of _____, 2020 (the “Agreement Date”), by and among the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, acting in its proprietary capacity and not in its governmental or regulatory capacity (the “County”); and Town of Vienna (the “Town”). The County and the Town may each be referred to in this Agreement as a “Party,” and collectively as the “Parties.”

RECITALS

R-1 The County owns approximately 1.43 acres of land at 101 Maple Ave. E, Vienna, Virginia 22180 (the “Property”) on which is located the Patrick Henry Library (the “Library”). The Property is further described on the attached Exhibit A.

R-2 The County intends to redevelop the Library and has considered different design alternatives to address the Library’s future space needs.

R-3 The Town is seeking additional public parking and is working with the County to develop a proposed design that includes public parking in addition to Library parking.

R-4 The Parties desire to enter into this Agreement to outline each of their respective responsibilities for the design and construction of the Property to include the redesign of the Library with public parking in addition to parking needed by the Library (the “Project”).

In consideration of the mutual promises in this Agreement, and other valuable consideration, the receipt and legal sufficiency of which are acknowledged by the Parties, the Parties agree to the following:

Article I

Design and Construction Schedule; **Preliminary Budget**

Section 1.1 Design and Construction Schedule. The Parties have prepared a preliminary design and construction schedule (the “Development Schedule”), which is attached as Exhibit B. The dates set forth on Exhibit B are best estimates as of the date of this Agreement and the Parties acknowledge that the dates are subject to change throughout the Project.

Section 1.2 Budget

- (a) Budget. Attached as Exhibit C is a preliminary budget for the Project (the “Preliminary Budget”) setting forth the estimated costs, as of the Agreement Date, for each phase of the design and construction of the Project. For those line items that are to be a shared responsibility of the County and the Town, the Preliminary Budget shows the percentage for which each Party is responsible.

- (b) Budget Modifications. After the Agreement Date, the County will provide updates to the Preliminary Budget, as necessary, for each phase of the Project. These updates will be in the form of construction cost estimates.

Section 1.3 Funding. The funding of the Project will be divided into (i) funding for the costs associated with the design phase and (ii) funding for the construction costs. The Town's contributions for the design and construction are described in Articles II and III below.

Article II **Design Phase**

Section 2.1 Preliminary Design Phase Termination. This Agreement may be terminated by either Party prior to the County awarding the design contract for the Project. If the Agreement is terminated under this Section 2.1, the Parties will be relieved from any and all further obligations under this Agreement, and the Town will not owe any payment under this Agreement.

Section 2.2 Design Funding. If this Agreement is not terminated under Section 2.1 above, the Town will make a lump sum payment for the design phase (the "Town Design Payment") upon the award of the design contract. The total cost of the design phase will be determined during the negotiation of the design contract. The Town Design Payment will be the lesser of 30% of the total design cost or \$850,000.

Section 2.3 Additional Termination Rights.

- (a) Concept Design Phase. For a period of approximately 6 months from the date the design contract is awarded, the Parties will work with the architect to select a Project design. The Town may elect to terminate this Agreement prior to the selection of a Project concept design. If the Agreement is terminated under this Section 2.3(a), the Town will be relieved from any and all further obligations under this Agreement, and the County will return to the Town 85% of the Town Design Payment.
- (b) Design Development Phase. For a period of approximately 6 months after selection of a Project design, the architect will prepare the schematic design of the Project and finalize the construction budget (the "Design Development Phase"). The Town may elect to terminate this Agreement within 5 days of the completion of the Design Development Phase. If the Agreement is terminated under this Section 2.3(b), the Town will be relieved from any and all further obligations under this Agreement, and the County will return to the Town 50% of the Town Design Payment.
- (c) Zoning Approvals. If the Project does not receive all necessary zoning approvals, then the County may elect to terminate this Agreement upon any such denial. If the Agreement is terminated under this Section 2.3(c), the Town will be relieved from any and all further obligations under this Agreement, and the County will return to the Town 50% of the Town Design Payment.

Section 2.4 A termination of this Agreement by the Town under Sections 2.1, 2.3(a), or 2.3(b) does not preclude the County from redeveloping the Property without the inclusion of additional public parking and funding for such additional parking by the Town.

Article III **Construction Document Phase**

Section 3.1 Construction Funding. The Town will pay its portion of the construction costs (the “Town Construction Payment”), as described in this Section 3.1. The total cost of construction will be determined during the negotiation of the construction documents. The Town Construction Payment will be the lesser of 19% of the total cost of construction or \$4,200,000. The Town’s maximum contribution of \$4,200,000 will be referred to in this Agreement as the “Maximum Town Construction Payment.” The Town Construction Payment will be paid by the Town in three equal installments at the following times:

- (1) Completion of 50% construction documents phase
- (2) Award of construction contract
- (3) One year after award of construction contract

Section 3.2 Construction Document Phase Termination. If, during the construction document phase, the updated construction estimate results in the Town’s percentage exceeding the Maximum Town Construction Payment, then the County may elect to terminate the Agreement. Upon such termination, any portion of the Town Construction Payment that has been paid will be returned by the County to the Town.

Article IV **Covenants, Duties, and Obligations of the Parties**

Section 4.1 Obligations of the County.

- (a) Supervision. The County will supervise, direct, and coordinate the design and construction of the Project. The Town acknowledges that the County or the County’s agents, contractors, and subcontractors will be responsible for all construction methods, techniques, and procedures employed in connection with the construction of the Project.
- (b) Architect/Engineer, Construction Contractor; Major Subcontractors; Approval of Project Contracts. The County will be responsible for the evaluation and recommendation of, and coordination, administration, monitoring and management of, an architect and a construction contractor for the Project, major subcontractors, and any other contractors engaged to perform services in connection with the design and construction of the Project. The Town, at its option, will have a voting member on the County’s selection advisory committee (SAC) for the Request for Qualifications for the Project’s architect selection.
- (c) Compliance with Laws. The County will cause the Project to be designed and constructed in compliance with all Applicable Laws and with all Development Approvals.
- (d) Licensing. All architects, engineers, contractors and subcontractors retained by the County to work on any aspect of the Project will be licensed in the Commonwealth of Virginia (to the extent required by Applicable Laws) and properly insured.

Section 4.2 Updates. The County will prepare and deliver updates to the Town upon completion of each Project phase. The updates will describe the progress of the County’s efforts to complete

the design and construction of the Project in accordance with this Agreement, the Construction Documents, the Development Schedule and the Budget, including any deviations from or proposed changes to any of the foregoing. The Town acknowledges that the updates may contain and be based upon information provided by third parties, such as the County's architect and contractor(s).

Section 4.3 True Up. After completion of construction but no later than one year after substantial completion, the County will determine the final actual construction costs, and will refund to the Town any overpayment of the Town Construction Payment.

Section 4.4 Cooperation Among the Parties. During the term of this Agreement, the Parties covenant and agree to cooperate with each other in good faith to review documents and materials which require approvals necessary to commence and complete the Project. Such cooperation will include good faith efforts by the Parties to respond to one another in an expeditious manner and within any time periods specifically set forth in this Agreement regarding requests for information or required approvals. If any materials or documents requiring approval are not approved as initially submitted, then the Parties will communicate as reasonably necessary under the circumstances to resolve the issues resulting in such disapproval. A spirit of good faith and a mutual desire to meet the dates and budgets set forth in the Exhibits B and C will govern the Parties' relationship under this Agreement.

Section 4.5 Use and Maintenance of the Project. Provided this Agreement is not terminated prior to completion of the Project, the parties will enter into an Operations and Maintenance Agreement (the "O&M Agreement") for the shared use of the parking garage. The Parties anticipate that O&M Agreement will address the terms set forth on Exhibit D.

Section 4.6 Other Considerations. The Parties acknowledge that the land value of the Property was not taken into consideration in determining the Town's share of the Project costs.

Article V **Force Majeure**

Section 5.1 Force Majeure. "Force Majeure Delays" means delays in either Party's performance of its obligations under this Agreement due to acts of God or of a public enemy; acts of terrorism; unusual or extraordinary governmental delays beyond those typically anticipated for any approval or permitting process (and in such event, only such unusual or extraordinary additional time shall constitute a Force Majeure Delay), provided that in each case the responsible Party proceeds with all reasonable due diligence to afford the government the opportunity to process approvals and permits in a timely and efficient manner; freight embargoes; inability to obtain supplies or materials or reasonably acceptable substitute supplies or materials (other than due to price) despite reasonable diligence; unusually severe weather; archeological finds on the Property or any portion thereof; unforeseen soil or environmental conditions on the Property or any portion thereof; governmental restriction; moratoria; enemy action; civil commotion; casualty; condemnation; sabotage; or events similar or related to the above which are not within the reasonable control of the Party asserting a delay or inability to perform (other than the failure to perform of a third party with whom the Party seeking the benefits of this provision has contracted). Except as may otherwise be provided in this

Section, neither Party will be considered in breach of or default in any obligation under this Agreement in the event of Force Majeure Delays. Neither Party may claim a Force Majeure Delay unless it has used all reasonable and diligent efforts to minimize the delay or perform the obligation being hindered by such Force Majeure Delay. Force Majeure Delays shall not include situations caused the gross negligence or willful misconduct of a Party. Upon the termination of any Force Majeure Delays, the Parties agree that, upon the request of either Party, they will enter into a memorandum agreement showing the effect of the Force Majeure Delays upon the Development Schedule.

Article VI **Defaults and Remedies**

Section 6.1 Default. Either Party will be in default of this Agreement if such Party fails to perform any material obligation or requirement under this Agreement or fails to comply with any material term or provision of this Agreement and such default remains uncured for 30 days after receipt of written notice of such failure from the non-defaulting Party. If the defaulting Party fails to timely cure any default, and the Parties have attempted to resolve the issue under Section 6.3 below, the non-defaulting Party will have the following remedies:

- (a) Cure the defaulting Party's default, at the defaulting Party's sole cost and expense. The defaulting Party will reimburse the non-defaulting Party its actual out-of-pocket costs for such cure within 30 days after written demand therefor with reasonable supporting documentation.
- (b) Terminate this Agreement.

Section 6.2 Legal Actions. Any legal actions under this Agreement must be instituted in the Circuit Court of Fairfax County and any other appropriate court in Fairfax County or, if appropriate, in the United States District Court for the Eastern District of Virginia.

Section 6.3 Dispute Resolution. In the event of a dispute between the County and the Town regarding any matters arising under this Agreement, the County and the Town agree to engage in good faith negotiations with the other in an attempt to promptly resolve such dispute.

Article VII **Miscellaneous**

Section 7.1 Recitals. The recitals to this Agreement are true and correct and are incorporated herein by reference.

Section 7.2 Final Agreement. This Agreement and its Exhibits embody the final agreement between the Parties, and to the extent that this Agreement and its Exhibits conflict or are inconsistent with prior agreements between the Parties regarding the Project, this Agreement and its Exhibits supersede and control over all such prior agreements. The terms of this Agreement may be amended or otherwise modified only by a written instrument duly executed by the Parties.

Section 7.3 Notices.

- (a) All notices, demands or other communications between the Parties (“Notice”) must be in writing. Any election to terminate this Agreement requires written notice to the other Party within the time frames described. Notices must be given by (i) personal delivery or (ii) a nationally-recognized, next-day courier service, addressed as follows:
 - (1) If to the County, to: Carey Needham,
Fairfax County Director of Building Design and
Construction Division, DPWES
Attn: Allison Terzigni
12000 Government Center Parkway, Suite 449
Fairfax, VA 22035

with a copy to: Fairfax County
Office of the County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, VA 22035-0064
Attention: County Attorney
 - (2) If to the Town, to: Mercury T. Payton, Town Manager
127 Center Street, South
Vienna, VA 22180

with a copy to: Steven D. Briglia, Town Attorney
127 Center Street, South
Vienna, VA 22180
- (b) A Notice given in accordance with this Agreement will be effective upon receipt or refusal by the Party to which it is given.
- (c) For convenience, Notices may be sent via email; however, such email Notice will not be considered effective until the original Notice is received by the Party to which it is given pursuant to one of the delivery methods described in subsection (a) above.
- (d) Either Party may change its Notice address from time to time by informing the other Party in writing of such new address.

Section 7.4 Points of Contact. The County and the Town will each designate a primary point of contact for day-to-day communications. The initial points of contact for the parties are:

Fairfax County: Allison Terzigni

Town of Vienna: Michael D’Orazio

If the designated point of contact resigns or is removed, then the Party will designate a new primary contact within 15 business days thereafter.

Section 7.5 Governing Law; Venue. This Agreement and any dispute, controversy or proceeding arising out of or relating to this Agreement (whether in contract, tort, common or statutory law, equity or otherwise) will be governed by Virginia law, without regard to conflict of law principles of Virginia or of any other jurisdiction that would result in the application of laws of any jurisdiction other than those of Virginia. All claims and litigation arising out of or related to this Agreement must be brought and resolved in the courts of the Commonwealth of Virginia located in the County of Fairfax, Virginia or U.S. District Court for the Eastern District of Virginia, Alexandria Division.

Section 7.6 Waivers. Each Party has the right by notice in writing to the other Party to waive any of the provisions of this Agreement that are for the sole benefit of the waiving Party. Any failure of a Party to insist upon strict compliance with any of the terms and conditions of this Agreement will not be construed as a waiver of such terms and conditions or of the right of such Party to insist at any time thereafter upon such strict compliance.

Section 7.7 Counterparts. This Agreement may be executed and delivered in any number of counterparts, in the original or by electronic transmission, each of which so executed and delivered will be deemed to be an original and all of which will constitute one and the same instrument.

Section 7.8 Severability. If any provision of this Agreement or its application to any party or circumstances is determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such provision to such party or circumstances, other than those as to which it is so determined invalid or unenforceable, will not be affected, and each provision of this Agreement will be valid and will be enforced to the fullest extent permitted by law.

Section 7.9 Dates for Performance. If the expiration of any time period set forth in this Agreement shall fall on a Saturday, Sunday or legal holiday in the Commonwealth of Virginia, such period shall be automatically extended to the next business day. All dates for performance (including cure) shall expire at 5:00 p.m. on the performance or cure date.'

Section 7.10 Headings. The headings of this Agreement are for reference only and do not describe the intent of this Agreement or otherwise alter the terms of this Agreement.

Section 7.11 Transfer of Title. This Agreement shall not be construed or considered to transfer any title to the Property, legal or equitable.

Section 7.12 Rights, Easements and Licenses. No rights, easements, or licenses are acquired by the Town under this Agreement by implication or otherwise except as and unless expressly set forth in this Agreement.

Section 7.13 Rules of Construction.

- (a) When a reference is made in this Agreement to an Article, a Section, or an Exhibit, such reference is to an Article of, a Section of, or an Exhibit to this Agreement unless otherwise indicated.
- (b) Whenever the words “include,” “includes,” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.”
- (c) The definitions contained in this Agreement are applicable to the singular as well as to the plural forms of such terms and to the masculine, feminine, and neuter genders and non-genders of such terms. Whenever the context requires, any pronouns used in this Agreement include the corresponding masculine, feminine, or non-gender forms.

Section 7.14 Recordation. This Agreement may not be recorded by either Party at any time.

Section 7.15 Litigation and Attorney’s Fees. If either Party is required to resort to litigation to enforce its rights hereunder, the Parties agree that any judgment awarded to the prevailing Party shall include all litigation expenses, including reasonable attorney’s fees and court costs.

Section 7.16 Third Parties. No person shall be deemed to be a third-party beneficiary of this Agreement or any portion hereof.

Section 7.17 No Partnership. Nothing contained in this Agreement will be construed to create a partnership or joint venture between the Parties or their successors or permitted assigns.

Section 7.18 Jury Trial. The County and the Town each waives all rights to a trial by jury in any claim, action, proceeding, or counterclaim arising out of or in any way connected with this Agreement.

Section 7.19 Funding Contingency. The Parties acknowledge and agree that the County’s financial obligations hereunder are subject to appropriations by the Fairfax County Board of Supervisors. To the extent this Agreement is construed to impose any financial obligations upon the County, any such financial obligations shall be binding to the extent of appropriations by the Fairfax County Board of Supervisors.

Section 7.20 Definition of the County. Whenever the term, the “County,” is used in this Agreement, unless the term is followed by, “in its governmental capacity,” “in its regulatory capacity,” or words of similar import, the term means, “the County, in its proprietary capacity.”

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above-written.

[Signatures on the following pages]

COUNTY:

**BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA**, a political subdivision of
the Commonwealth of Virginia, in its proprietary
capacity

By: _____
Bryan J. Hill
County Executive

TOWN:

TOWN OF VIENNA, VIRGINIA

By: _____
Mercury T. Payton
Town Manager

Exhibit A

Legal Description of the Property



County of Fairfax, Virginia

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

METES AND BOUNDS DESCRIPTION

of

Land being in the name of

THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

as recorded at D.B. 3191, PG. 556 among the land records of Fairfax County, Virginia,

shown on Tax Map # 38-4 ((2)) 142:

Commencing on the Southeast intersection of the Rights-of-Way of Maple Avenue- Route 123 and Center Street (No Route number), at the northwest corner of the property herein described;

Thence with the existing southerly Right-of-Way of Maple Avenue, N 49°40'00" E, 304.81', to the common corner of Vienna Professional Center Condominium, as recorded in D.B. 5913, PG. 1721;

Thence departing the existing easterly Right-of-Way of Maple Avenue and coincident with Vienna Professional Center Condominium, S 40°20'00" E 240.40', to the northerly line of County School Board of Fairfax County, Virginia as recorded in D.B. 1468, PG. 20;

Thence departing Vienna Professional Center Condominium, and coincident with County School Board of Fairfax County the following two courses:

- 214.02' along a curve to the left, having a radius of 453.30', a delta of 27°03'30", and a chord which bears S 62°01'29" W, 212.03';
- S 48°30'00" W 97.71', to the existing easterly Right-of-Way of Center Street;

Thence departing County School Board of Fairfax County and with the existing northerly Right-of-Way of Center Street, N 40°20'00" W, 197.01';

To the Point of Beginning containing 62,459 SQ. FT. as shown on a plat prepared by Patton, Harris and Foard, Fairfax County, Virginia, November 21st, 1968.

Department of Public Works and Environmental Services
Capital Facilities, Utilities Design and Construction Division, Land Survey Branch
12000 Government Center Parkway, Suite 147
Fairfax, VA 22035
Phone: 703-324-5111, TTY: 1-800-828-1120, Fax: 703-653-9570
www.fairfaxcounty.gov/dpwes



All bearings based on Deed North of the plat prepared by Patton, Harris and Foard, Fairfax County, Virginia, November 21st, 1968 and recorded in D.B. 3191. PG 556.



Exhibit B

Design and Construction Schedule













| PATRICK HENRY LIBRARY REDEVELOPMENT | | | | |
|--|---|--|------------------|------------------|
| ID |  | PATRICK HENRY LIBRARY REDEVELOPMENT | Note Start | Note Finish |
| 0 | | Overall Project Schedule | | |
| 1 |  | A/E Selection/ Negotiation/Award | Jan 2021 | Jun 2021 |
| 15 |  | Program Review/Concepts | Jun 2021 | Sept 2021 |
| 28 |  | Schematic Design | Sept 2021 | Nov 2021 |
| 42 |  | Zoning and 2232 Zoning Determination/ARB (Town) | Nov 2021 | Mar 2022 |
| 48 |  | Design Development (DD) | Nov 2021 | Mar 2022 |
| 60 |  | Site Permit (Town) | Mar 2022 | Jul 2022 |
| 77 |  | Construction Documents (CD) | Mar 2022 | Oct 2022 |
| 104 |  | Building Permit | May 2022 | Feb 2023 |
| 116 |  | Bidding (Prequal & Bid) | May 2022 | May 2023 |
| 127 |  | Construction | May 2023 | May 2025 |
| 137 |  | Warranty | Mar 2025 | Mar 2026 |
| <p>NOTE: Preliminary Schedule subject to change</p> <p>Tue 1/28/20</p> <p>2019-12-23_Overall Project Schedule (Agreement)</p> | | | | |

Exhibit C

Preliminary Budget

PRELIMINARY BUDGET

| | OPTION B1-Partnership (Garage with 2 Structured Parking Levels) | |
|-----------------------------|--|----------------------|
| | | TOTAL |
| DESIGN PHASE | | \$ 2,850,000 |
| A/E Fee | | \$ 2,300,000 |
| Other Soft Costs | | \$ 550,000 |
| | | |
| CONSTRUCTION PHASE | | \$ 23,225,495 |
| Library | ~20,490 SF | |
| Site | @ \$420/SF + add sustainability items+ contingencies | \$ 10,927,216 |
| | | \$ 3,200,381 |
| Garage | 2 Structured Parking Levels- Total Parking (125 spaces Library, 84 spaces Town) | \$ 6,962,898 |
| Other Construction Costs | | \$ 2,135,000 |
| | | |
| TOTAL PROJECT BUDGET | | \$ 26,100,000 |

**Based on 6/10/19 cost estimate prepared by Downey & Scott*

Exhibit D

Major Terms of Operations and Maintenance Agreement

Term Sheet

Patrick Henry Library Parking Facility Operations and Maintenance Agreement

Fairfax County and the Town of Vienna anticipate that the use, operations, and maintenance of the redeveloped Patrick Henry parking garage will include the following elements, the cost of which will be shared by the parties as outlined below:

1. Staffing and personnel
2. Annual operating costs
3. Capital costs

Garage Staffing and personnel

The Patrick Henry parking garage will be an unattended facility, with no proposed parking meters or cashier booths. Parking will be free to the public. Therefore, no parking lot attendants or cashiers will be required. However, personnel will be required for janitorial services, routine maintenance, and security.

| | Responsible Party | County Allocation % | Town Allocation % |
|-----------------------------|--------------------------|----------------------------|--------------------------|
| Janitorial/Routine cleaning | County | 50 | 50 |
| Routine maintenance | County | 50 | 50 |
| Security | County | 100 | 0 |

The Town of Vienna Police Department will act as the first responders to any incidents at the library and parking garage.

Annual Garage Operating Costs

| | Responsible Party | County Allocation % | Town Allocation % |
|------------------------------------|--------------------------|----------------------------|--------------------------|
| ANNUAL COSTS | | | |
| Insurance | County | 100 | 0 |
| Security monitoring | County | 100 | 0 |
| General maintenance/ Safety checks | County | 50 | 50 |
| Trash removal | County | Pro rata | Pro rata |
| Power washing | County | Pro rata | Pro rata |
| Cleaning/Sweeping | County | Pro rata | Pro rata |
| Elevator maintenance | County | 50 | 50 |
| Equipment maintenance | County | 50 | 50 |
| Striping/Signage/ Painting | County | Pro rata | Pro rata |
| Fire suppression | County | 50 | 50 |
| MEP/FP | County | 50 | 50 |
| Snow/ice removal | County | 50 | 50 |
| Utilities | County | 50 | 50 |

Capital Costs

Elements within the parking garage will deteriorate over time and will need repair/replacement. For so long as the garage is in operation, repair or replacement will be necessary when an element reaches the end of its useful life or damage/deterioration is evident. Repair and replacement requires a trained professional to observe and recommend repairs to these items as part of the regular condition assessment program.

| | Responsible Party | County Allocation % | Town Allocation % |
|---|--------------------------|----------------------------|--------------------------|
| LONG-TERM MAINTENANCE | | | |
| Structural repairs to concrete slabs and column | County | 50 | 50 |
| Waterproofing | County | 50 | 50 |
| Elevators | County | 50 | 50 |
| Fire suppression systems | County | 50 | 50 |
| Piping (domestic water) | County | 50 | 50 |
| Painting | County | 50 | 50 |
| Joint sealant and expansion joints | County | 50 | 50 |
| Signage and striping | County | 50 | 50 |
| Lighting | County | 50 | 50 |
| Stair nosings/treads | County | 50 | 50 |
| Railings and guards and bollards | County | 50 | 50 |
| Doors | County | 50 | 50 |
| Fire extinguishers | County | 50 | 50 |
| EXIT signs | County | 50 | 50 |
| Emergency call stations | County | 50 | 50 |

ACTION - 3

Authorization to Add Funding to the Fairfax RISE: COVID-19 Small Business and Non-Profit Relief Grant Program

ISSUE:

Board of Supervisors' authorization to add additional funding to the Fairfax RISE (Relief Initiative to Support Employers) grant program to provide relief to small businesses and non-profits impacted by the COVID-19 pandemic. The increase in program funds would be via an allocation of the Coronavirus Relief Funds provided through the federal CARES Act.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors (Board) approve the expenditure of \$20,000,000 to expand the Fairfax RISE: COVID-19 Small Business and Non-Profit Relief Grant Program (Grant Program) for businesses and non-profits affected by the COVID-19 pandemic.

TIMING:

Board action is requested on July 14, 2020, in order to allow the program to continue to serve the applicants who applied for the Fairfax RISE program during the open application period in June 2020.

BACKGROUND:

On May 12, 2020, the Board of Supervisors established the Grant Program to support eligible small businesses, including non-safety net non-profit organizations in Fairfax County, through grants to address costs of business interruptions caused by required closures. The Grant Program was funded with \$25,000,000 from Coronavirus Relief Funds provided through the federal CARES Act.

Under the Grant Program, funds will be delivered to eligible entities in the form of grants, which would not be repaid by the selected awardees. With the desired outcomes to include:

1. Helping businesses and organizations remain in business through the COVID-19 emergency.

Board Agenda Item
July 14, 2020

2. Addressing gaps that may exist among complementary programs at the County, state, and federal level (including the proposed Basic Needs Supplemental Funding and Nonprofit Sustainability Program, SBA programs, unemployment assistance, and Microloan Program).
3. As permitted by federal and state law, provide targeted funding to businesses that are historically less likely to be approved for small business financing and could be at-risk during this crisis, including women-owned, minority-owned, and veteran-owned businesses.
4. Make Fairfax County businesses aware of available assistance and resources at the federal, state and County level.

The size of the Grant Program awards was based upon the number of employees, with the following structure implemented:

- Employees, 1 - 10: \$10,000
- Employees, 11 – 25: \$15,000
- Employees, 26 – 49: \$20,000

The Grant Program application period was open between June 8 – June 15, 2020. During that period 6,280 applications were received. These applications were reviewed for preliminary disqualification criteria. The primary reasons for disqualifications were: located outside of Fairfax County, having 50 or more employees (as of March 1, 2020), having received a Fairfax County Non-profit Sustainability Grant, or being permanently closed.

In addition, applications were reviewed to ensure there was no duplication of applications due to multiple submissions for the same business/non-profit entity. Those entities that had multiple submissions for the same entity were reduced to one application.

Based upon the initial disqualification review, there are 6,038 applicants remaining. If all of these applicants were certified to meet the Grant Program criteria the total amount necessary to meet all applicants would be \$66,180,000.

As the Grant Program was oversubscribed, a random selection was used to determine the order of processing for all applicants. All applicants were assigned a unique computer-generated random ID, which were then used to determine the processing order.

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As a result, a total of 2,183 applicants were invited to participate in the second phase, Documentation and Certification Review. This number is 36% of all applications determined to meet the preliminary qualifications.

These 2,183 applicants are currently submitting their documentation and going through the certification process with the County's selected grant administrator, Community Business Partnership. It is expected that some of these applicants will not respond, will be found ineligible, and/or will not be able to meet the documentation requirements for the Grant Program. These applicants will then be determined ineligible and additional invitations for the second phase review will be extended to remaining Grant Program applicants.

While the total number of disqualified applicants cannot be known until the second phase reviews are completed, it is expected that the current program resources will cover approximately 36% - 46% of all applicants.

Given the large applicant pool and clear demand for assistance from our small business community, the County Executive recommends increasing funding for the Grant Program. An increase of \$20,000,000 would bring the County funding to a total of \$45,000,000. The Town of Vienna has contributed \$1,000,000 to the Grant program, bringing the total Grant Program resource pool to \$46,000,000. This amount would be expected to fund approximately 65% - 80% of all applicants. The percentage served may increase as applicants are disqualified as part of the second phase review.

Staff will continue to evaluate the most effective means of supporting small businesses during the COVID-19 pandemic and make recommendations to the Board whether to contribute additional funds into the Grant Program, to establish a similar relationship with other non-profit partner(s) to facilitate other small business loans, and/or with alternative options to deploy additional CARES Act funds to support economic recovery.

FISCAL IMPACT:

Funding of \$20 million for the expansion of Grant Program resources is recommended from the Federal Coronavirus Relief Fund CARES Act funding that has been provided to the County. Depending upon final guidance for the use of these funds, and the specific grants awarded per the Grant Guidelines, it may be necessary to utilize other funding sources for a portion of the awards. As staff reconciles the awards made from the program and receives updated guidance from the Federal Government for administration of the CARES Act funds, the exact allocation between funding sources will be identified. Staff will update the Board with recommendations and, as necessary, return to the Board for approvals.

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Program administration costs remain limited to no more than 3% of the total authorized Grant Program funding amount.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

Joe Mondoro, Chief Financial Officer

Christina Jackson, Director, Department of Management and Budget

Rebecca Moudry, Director, Department of Economic Initiatives

Scott Sizer, Department of Economic Initiatives

ASSIGNED COUNSEL:

Patricia McCay, Senior Assistant County Attorney

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CONSIDERATION - 1

Revisions to Bylaws of the Fairfax-Falls Church Community Policy and Management Team (CPMT)

ISSUE:

Approval of revised CPMT bylaws as proposed by the CPMT.

TIMING:

Board action is requested on July 14, 2020.

BACKGROUND:

The CPMT bylaws are updated periodically to reflect current Virginia Code, County policies and CPMT membership. The CPMT bylaws were last updated and approved by the Board of Supervisors on June 20, 2017. These proposed updates to the bylaws were approved by a unanimous vote of the CPMT on May 29, 2020.

Proposed changes include:

- Updating the Virginia Code sections referenced in Article I
- Adding duties to Article IV to reflect the Virginia Code
- Moving local government elected official or designee to Section 2: state mandated members
- Revise/remove Director of Department of Administration for Human Services from Section 3
- Optional members: Correct/amend number of private service providers from 2 to 1
- Adding sections related requirements for public meetings such as FOIA, record retention and notices

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed CPMT bylaws, clean
Attachment 2 – Proposed CPMT bylaws, red line

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STAFF:

Tisha Deeghan, Deputy County Executive
Janet Bessmer, Program Manager, Children's Services Act, Department of Family
Services

ASSIGNED COUNSEL:

Deborah C. Laird, Assistant County Attorney
Martin R. Desjardins, Assistant County Attorney

**BYLAWS OF
THE FAIRFAX-FALLS CHURCH
COMMUNITY POLICY AND MANAGEMENT TEAM**

ARTICLE I: PURPOSE

It is the purpose of the Community Policy and Management Team (CPMT) to implement the Children's Services Act pursuant to Va. Code Ann. § 2.2-5200 *et seq.*

ARTICLE II: MISSION

The Fairfax-Falls Church CPMT is committed to providing that all children, youth, and their families have equitable and easy access to a continuum of quality, integrated and/or coordinated services, supports, and opportunities that further their social, emotional, mental, and behavioral health and that promote resiliency.

ARTICLE III: PARTICIPATING JURISDICTIONS AND NAME

The governing bodies of Fairfax County and the cities of Fairfax and Falls Church have agreed to work jointly on implementing the Children's Services Act. Therefore, this body shall be known as the "Fairfax-Falls Church Community Policy and Management Team."

ARTICLE IV: RESPONSIBILITIES

As set forth in the *Code of Virginia*, the CPMT's authority and duties include, but are not limited to, the following:

1. Develop interagency policies and procedures to govern the provision of services to children and families;
2. Develop interagency fiscal policies governing access to the State pool of funds by the eligible populations including immediate access to funds for emergency services and sheltered care;
3. Establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services to be provided and, when not specifically prohibited by federal or state law, provide for appropriate parental or legal guardian financial contribution, utilizing a standard sliding fee scale based upon ability to pay;
4. Coordinate long range, community-wide planning which ensures the development of resources and services needed by children and families;

5. Establish policies governing referrals and reviews of children and families to the Family Assessment and Planning Teams and a process to review the teams' recommendations and requests for funding;
6. Establish Family Assessment and Planning Teams (FAPT) and/or collaborative, multidisciplinary teams (MDT) as needed;
7. Establish quality assurance and accountability procedures for program utilization and funds management;
8. Establish procedures for obtaining bids on the development of new services and enter into contracts for the provision or operation of services in accordance with the Fairfax County Purchasing Resolution;
9. Manage funds in the interagency budget allocated to the community from the state pools of funds, the trust fund, and any other source;
10. Authorize and monitor the expenditure of funds by each Family Assessment and Planning Team;
11. Submit grant proposals that benefit this community to the state trust fund and enter into contracts for the provision or operation of services upon approval of the participating governing bodies;
12. Serve as the community's liaison to the Office for Children's Services, reporting on its programmatic and fiscal operations and on its recommendations for improving the service system, including consideration of realignment of geographical boundaries for providing human services;
13. Collect and provide uniform data to the State Executive Council as requested by the Office for Children's Services in accordance with subdivision D 16 of §2.2-2648;
14. Review and analyze data in management reports provided by the Office of Children's Services in accordance with subdivision D 18 of § 2.2-2648 to help evaluate child and family outcomes and public and private provider performance in the provision of services to children and families through the Children's Services Act program, review local and statewide data provided in the management reports on the number of children served, children placed out of state, demographics, types of services provided, duration of services, service expenditures, child and family outcomes, and performance measures, and track the utilization and performance of residential placements using data and management reports to develop and implement strategies for returning children placed outside of the Commonwealth, preventing placements, and reducing lengths of stay in residential programs for children who can appropriately and effectively be served in their home, relative's homes, family-like setting, or their community;
15. Administer funds pursuant to § 16.1-309.3;

16. Have authority upon approval of the participating governing bodies, to enter into a contract with another community policy and management team to purchase coordination services, provided that funds described as the state pool of funds under § 2.2-5211 are not used;
17. Submit to the Department of Behavioral Health and Developmental Services information on children under the age of 14 and adolescents ages 14 through 17 for whom an admission to an acute care psychiatric or residential treatment facility licensed pursuant to § 37.2-403 et seq., exclusive of group homes, was sought but was unable to be obtained by the reporting entities. Such information shall be gathered from the family assessment and planning teams or participating community agencies authorized in § 2.2-5207;
18. Establish policies for providing intensive care coordination services for children who are at risk of entering, or are placed in, residential care through the Children's Services Act program, consistent with guidelines developed pursuant to subdivision D 22 of § 2.2-2648; and
19. Establish policies and procedures for appeals by youth and their families of decisions made by local family assessment and planning teams regarding services to be provided to the youth and family pursuant to an individual family services plan developed by the local family assessment and planning team. Such policies and procedures shall not apply to appeals made pursuant to § 63.2-915 or in accordance with the Individuals with Disabilities Education Act or federal or state laws or regulations governing the provision of medical assistance pursuant to Title XIX of the Social Security Act.

ARTICLE V: MEMBERSHIP, APPOINTMENTS AND TERM OF OFFICE

Section 1. Memberships.

The CPMT shall have no more than twenty-one (21) members. Eleven (11) members have legally mandated status under the Code of Virginia. Four (4) members are locally mandated by the Fairfax County Board of Supervisors. (took out cities). Six (6) additional members may be appointed by the Fairfax County Board of Supervisors. Of the twenty-one CPMT members, eight (8) members shall serve on a limited term basis.

Section 2. Legally Mandated Members.

The following representatives are mandated under *Virginia Code* to serve as members of the CPMT:

- Deputy County Executive, Human Services
- Director of Court Services for the Fairfax County Juvenile and Domestic Relations Court
- Director of the Department of Family Services
- Executive Director of the Fairfax-Falls Church Community Services Board
- Director of the Department of Health
- Assistant Superintendent, Department of Special Services, Fairfax County Public Schools

- One (1) representative of the Falls Church City Public Schools
- One (1) human services representative appointed by the Fairfax City Council
- One (1) human services representative appointed by the Falls Church City Council
- One (1) representative of private service providers (Limited Term Member)
- One (1) parent representative who is not an employee of any public or private provider of services to youth (Limited Term Member)

Section 3. Locally Mandated Members.

The following representatives are designated by the Fairfax County Board of Supervisors to serve as members of the CPMT:

- Director of the Office of Strategy Management
- Director of the Department of Neighborhood and Community Services
- Director of Special Education Procedural Support, Fairfax County Public Schools
- Director of Intervention and Prevention Services, Fairfax County Public Schools

Section 4. Optional Members.

The Fairfax County Board of Supervisors may appoint the following limited term members to the CPMT after all participating jurisdictions have had the opportunity to submit nomination recommendations:

- One (1) representative of private service providers
- Up to four (4) parent representatives who are not employees of any public or private provider of services to youth
- One (1) community representative

Section 5. Appointments and Terms for Limited Term Members

Term of Appointment: The private service provider and parent representative legally mandated to serve on the CPMT and any appointed optional members (up to six members) shall serve two (2) year limited term appointments.

Appointment: Fairfax County, the City of Fairfax, and the City of Falls Church shall be afforded the opportunity to nominate persons for limited term appointments. The Chair of the CPMT shall appoint a Nominating Committee of at least three (3) members who, after consideration of all nominations, shall make recommendations to the CPMT. If the CPMT approves the Nominating Committee's recommended candidate(s) for limited term membership, it shall forward the recommended candidate(s) to the Fairfax County Board of Supervisors for approval. The Chair shall appoint at least one parent representative to the Nominating Committee when the appointment of a parent representative is being considered.

Re-Appointment: Re-appointments may be made for additional consecutive terms by currently serving, limited term members upon approval by the Fairfax County Board of Supervisors after

CPMT consideration of recommendations from all participating jurisdictions. The terms of private service provider representatives shall expire in alternating years.

ARTICLE VI: OFFICERS AND THEIR DUTIES

Section 1. Officers.

The officers of the CPMT shall consist of a Chair and Vice Chair. The Chair shall be the Fairfax County Deputy Executive County for Human Services.

Section 2. Duties of the Chair.

The duties of the Chair shall be:

- a. To set the agenda for and preside at all meetings of the CPMT.
- b. To appoint committees as needed to support the work of the CPMT.
- c. To keep the State Management Team, the Fairfax County Board of Supervisors, and the Councils of the participating cities informed of the activities of the CPMT.
- d. To perform other duties as determined by the CPMT.

Section 3. Duties of the Vice Chair.

The Vice Chair shall, in the absence of the Chair, perform the duties of the Chair and other duties determined by the CPMT.

ARTICLE VI: ELECTION OF THE OFFICERS AND TERM OF OFFICE

Section 1. Elections.

Election of officers shall be conducted by the CPMT acting as a Nominating Committee of the Whole. The election shall be held at the last meeting of the County fiscal year or as needed, and in accordance with the voting provisions of Article IX of these bylaws.

Section 2. Term of Office.

The term shall be for the County fiscal year. There is no term limit on the number of terms which a person may serve.

Section 3. Replacement of Officers.

If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all

members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE VII: MEETINGS

Section 1. Meetings.

The CPMT shall hold a sufficient number of meetings to properly conduct its business.

Section 2. Absences.

Absences shall be managed in accordance with Fairfax County Procedural Memorandum 01-02, which states that upon notification by staff, the Clerk will communicate with the Board of Supervisors regarding members who are absent from three or more consecutive meetings.

Any Limited Term member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the CPMT without good cause acceptable to a majority of the other CPMT members may be subject to removal from the CPMT in accordance with Article XII of these bylaws.

Upon notification by staff, the Clerks of the Cities will inform their respective City Council about members representing the Cities who are absent from three (3) or more consecutive meetings.

Section 3. VFOIA.

All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Section 4. Notice and Agenda.

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

Section 5. Public Access.

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

Section 6. Records.

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

Section 7. Staff Support.

The Fairfax County Deputy Executive for Human Services shall designate staff to provide administrative support including preparation and distribution of agendas and meeting minutes.

ARTICLE VIII: QUORUM

A majority of the members of the CPMT including the Chair or Vice-Chair, present in person, constitutes a quorum at all meetings of the CPMT for the transaction of business.

ARTICLE IX: RULES OF ORDER

Section 1. Voting.

Both officially appointed members and their designees may participate in discussions. However, only the officially appointed members may vote.

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

Section 2. Conduct and Procedure.

The CPMT shall generally work by consensus. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly*

Revised, and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business. All issues of parliamentary procedure shall be referred to the Chair or presiding officer, whose decisions shall be final.

ARTICLE X: COMMITTEES

Committees may be established as needed. Committee membership is not limited to members of the CPMT.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE XI: CONFIDENTIALITY

All information about specific youth and families obtained by CPMT members in discharge of their responsibilities shall be confidential under all applicable laws, mandates, and licensing requirements.

ARTICLE XII: REMOVAL OF MEMBERS

The CPMT may recommend to the Fairfax County Board of Supervisors removal of any Limited Term member(s) from the CPMT for cause, including but not limited to cause as set forth in Article VII, Section 2, by a two-thirds majority vote of all the CPMT members. Prior to the CPMT vote to remove a Limited Term member, the CPMT shall inform the representatives of the City of Falls Church Council and the City of Falls Church Council of its intention to remove a Limited Term member. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the CPMT as provided by law.

ARTICLE XIII: COMPLIANCE WITH LAW AND COUNTY POLICY

The CPMT shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County and City ordinances, and with all County and City policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XIV: AMENDMENTS

These bylaws may be amended by adopting the proposed amendment or amendments at any regular meeting of the CPMT by a two-thirds (2/3) vote of those present and voting; provided, however, that notice of the proposed changes have been submitted to the members of the CPMT thirty (30) days prior to the meeting. Proposed amendments to these bylaws may also be adopted at any time without advance notice by unanimous vote of all members of the CPMT. Any proposed amendments are subject to, and shall not become effective until, approval by the Fairfax County Board of Supervisors, the Falls Church City Council, and the Fairfax City Council.

These bylaws were last approved by the Board of Supervisors on July 14, 2020.

GIVEN under my hand this _____ day of _____, 2020.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

BYLAWS OF THE FAIRFAX-FALLS CHURCH COMMUNITY POLICY AND MANAGEMENT TEAM

ARTICLE I: PURPOSE

It is the purpose of the Community Policy and Management Team (CPMT) to implement the Children's Services Act ~~as specified in Sections 2.1 745 through 2.1 759 of the~~ pursuant to Va. Code of Virginia Ann. § 2.2-5200 et seq.

ARTICLE II: MISSION

The ~~mission of the~~ Fairfax-Falls Church ~~Community Policy and Management Team~~ (CPMT) is committed to provide leadership in the development of new concepts and approaches in the provision of services to providing that all children, youth ~~and families of Fairfax County, and their families have equitable and easy access to a continuum of quality, integrated and/or coordinated services, supports, and the cities of Fairfax and Falls Church. The primary focus of the CPMT is to lead the way to effective services to children already at risk of experiencing opportunities that further their social, emotional, mental, and behavioral problems, especially those at risk or in need of out of home placements, and their families health and that promote resiliency.~~

ARTICLE III: PARTICIPATING JURISDICTIONS AND NAME

The governing bodies of Fairfax County and the cities of Fairfax and Falls Church have agreed to work jointly ~~in~~ on implementing the Children's Services Act. Therefore, this body shall be known as the "Fairfax-Falls Church Community Policy and Management Team."

ARTICLE ~~TV~~IV: RESPONSIBILITIES

As set forth in the *Code of Virginia*, the ~~CPMT has~~ CPMT's authority and duties include, but are not limited to, the following ~~duties and authority~~:

1. Develop interagency policies and procedures to govern the provision of services to children and families;
2. Develop interagency fiscal policies governing access to the State pool of funds by the eligible populations including immediate access to funds for emergency services and sheltered care;

3. Establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services to be provided and, when not specifically prohibited by federal or state law, provide for appropriate parental or legal guardian financial contribution, utilizing a standard sliding fee scale based upon ability to pay;
- 3.4. Coordinate long range, community-wide planning which ensures the development of resources and services needed by children and families;
- 4.5. Establish policies governing referrals and reviews of children and families to the Family Assessment and Planning Teams and a process to review the teams' recommendations and requests for funding;
- 5.6. Establish Family Assessment and Planning Teams (FAPT) and/or collaborative, multidisciplinary teams (MDT) as needed;
- 6.7. Establish quality assurance and accountability procedures for program utilization and funds management;
- 7.8. ~~Obtain bids~~ Establish procedures for obtaining bids on the development of new services and enter into contracts for the provision or operation of services in accordance with the Fairfax County ~~Public Procurement Act;~~ Purchasing Resolution;
- 8.9. ~~Establish procedures for the management of~~ Manage funds in the interagency budget allocated to the community from the ~~State pool~~ state pools of funds, the ~~Trust~~ trust fund, and any other source;
- 9.10. Authorize and monitor the expenditure of funds by each Family Assessment and Planning Team;
- 10.11. Submit grant proposals ~~that benefit this community to the state trust fund and enter into contracts for the provision or operation of services upon approval by the Fairfax County Board of Supervisors; and,~~ of the participating governing bodies;
- 11.12. Serve as ~~its~~ the community's liaison to the ~~State Management Team~~ Office for Children's Services, reporting on its programmatic and fiscal operations and on its recommendations for improving the service system, including consideration of realignment of geographical boundaries for providing human services;
13. Collect and provide uniform data to the State Executive Council as requested by the Office for Children's Services in accordance with subdivision D 16 of §2.2-2648;
14. Review and analyze data in management reports provided by the Office of Children's Services in accordance with subdivision D 18 of § 2.2-2648 to help evaluate child and family outcomes and public and private provider performance in the provision of services to children and families through the Children's Services Act program, review local and statewide data provided in the management reports on the number of children served, children placed out of state, demographics, types of services provided, duration of

services, service expenditures, child and family outcomes, and performance measures, and track the utilization and performance of residential placements using data and management reports to develop and implement strategies for returning children placed outside of the Commonwealth, preventing placements, and reducing lengths of stay in residential programs for children who can appropriately and effectively be served in their home, relative's homes, family-like setting, or their community;

15. Administer funds pursuant to § 16.1-309.3;

16. Have authority upon approval of the participating governing bodies, to enter into a contract with another community policy and management team to purchase coordination services, provided that funds described as the state pool of funds under § 2.2-5211 are not used;

17. Submit to the Department of Behavioral Health and Developmental Services information on children under the age of 14 and adolescents ages 14 through 17 for whom an admission to an acute care psychiatric or residential treatment facility licensed pursuant to § 37.2-403 et seq., exclusive of group homes, was sought but was unable to be obtained by the reporting entities. Such information shall be gathered from the family assessment and planning teams or participating community agencies authorized in § 2.2-5207;

18. Establish policies for providing intensive care coordination services for children who are at risk of entering, or are placed in, residential care through the Children's Services Act program, consistent with guidelines developed pursuant to subdivision D 22 of § 2.2-2648; and

19. Establish policies and procedures for appeals by youth and their families of decisions made by local family assessment and planning teams regarding services to be provided to the youth and family pursuant to an individual family services plan developed by the local family assessment and planning team. Such policies and procedures shall not apply to appeals made pursuant to § 63.2-915 or in accordance with the Individuals with Disabilities Education Act or federal or state laws or regulations governing the provision of medical assistance pursuant to Title XIX of the Social Security Act.

ARTICLE V: MEMBERSHIP, APPOINTMENTS AND TERM OF OFFICE

Section 1. Memberships.

The CPMT shall have no more than twenty-one (21) members. ~~Ten (10)~~Eleven (11) members have legally mandated status under the Code of Virginia. ~~Five (5)~~Four (4) members are locally mandated by the Fairfax County Board of Supervisors. ~~Seven (7)~~(took out cities). Six (6) additional members may be appointed by the Fairfax County Board of Supervisors ~~on an optional basis.~~ Of the twenty-one CPMT members, eight (8) ~~are filled~~members shall serve on a limited term basis ~~by the Board of Supervisors.~~

Section 2. ~~State~~Legally Mandated Members.

The following representatives are mandated under *Virginia Code* to serve as members of the CPMT:

- Deputy County Executive, Human Services
- Director of Court Services for the Fairfax County Juvenile and Domestic Relations Court
- Director of the Department of Family Services
- Executive Director of the Fairfax-Falls Church Community Services Board
- Director of the Department of Health
- ~~Director~~Assistant Superintendent, Department of Special Services, Fairfax County Public Schools
- One (1) representative of the Falls Church City Public Schools
- One (1) human services representative appointed by the Fairfax City Council
- One (1) human services representative appointed by the Falls Church City Council
- One (1) representative of private service providers* (Limited Term Member)
- One (1) parent representative who is not an employee of any public or private provider of services to youth* (Limited Term Member)

Section 3. Locally Mandated Members.

The following representatives are designated by the Fairfax County Board of Supervisors to serve as members of the CPMT:

- ~~Deputy County Executive, Human Services~~
- Director of the ~~Department~~Office of ~~Administration for Human Services~~Strategy Management
- Director of the Department of Neighborhood and Community Services
- Director of Special Education Procedural Support, Fairfax County Public Schools
- Director of Intervention and Prevention Services, Fairfax County Public Schools

Section 4. Optional Members.

The Fairfax County Board of Supervisors may appoint the following ~~positions as~~limited term members ~~of~~to the CPMT after all participating jurisdictions have had the opportunity to submit nomination recommendations:

- ~~Two (2) representatives~~One (1) representative of private service providers*
- Up to four (4) parent representatives who are not employees of any public or private provider of services to youth*
- One (1) community representative*

Section 5. Appointments and Terms for Limited Term Members

Term of Appointment: The ~~eight (8)~~ private service provider and parent representative legally mandated to serve on the CPMT and any appointed optional members identified by an asterisk (*) in Sections 2, 3, and 4 above (up to six members) shall serve two (2) year limited term appointments. The term shall be for two (2) years and re-appointments may be made for additional consecutive terms upon approval by the CPMT and Board of Supervisors. The terms

Appointment: Fairfax County, the City of ~~private service provider representatives shall expire in alternating years.~~

All jurisdictions ~~Fairfax, and the City of Falls Church~~ shall be afforded the opportunity to nominate persons for limited term appointments. The Chair of the CPMT shall ~~forward the CPMT's~~ appoint a Nominating Committee of at least three (3) members who, after consideration of all nominations, shall make recommendations to the CPMT. If the CPMT approves the Nominating Committee's recommended ~~nominee~~ candidate(s) for limited term membership, it shall forward the recommended candidate(s) to the Fairfax County Board of Supervisors ~~or other appointing authority~~ for approval. ~~For the parent representatives,~~ The Chair ~~will~~ shall appoint a Nominating Committee ~~of three members with~~ at least one parent representative to ~~assist in obtaining nominations for these limited term members.~~ the Nominating Committee when the appointment of a parent representative is being considered.

Re-Appointment: Re-appointments may be made for additional consecutive terms by currently serving, limited term members upon approval by the Fairfax County Board of Supervisors after CPMT consideration of recommendations from all participating jurisdictions. The terms of private service provider representatives shall expire in alternating years.

ARTICLE VI: OFFICERS AND THEIR DUTIES

Section 1. Officers.

The officers of the CPMT shall consist of a Chair and Vice Chair. The Chair shall be the Fairfax County Deputy Executive County for Human Services.

Section 2. Duties of the Chair.

The duties of the Chair shall be:

- a. To set the agenda for and preside at all meetings of the CPMT.
- b. To appoint committees as needed to support the work of the CPMT.
- c. To keep the State Management Team, the Fairfax County Board of Supervisors, and the Councils of the participating cities informed of the activities of the CPMT.
- d. To perform other duties as determined by the CPMT.

Section 3. Duties of the Vice Chair.

The Vice Chair shall, in the absence of the Chair, perform the duties of the Chair and other duties determined by the CPMT.

ARTICLE ~~V~~VI: ELECTION OF THE OFFICERS AND TERM OF OFFICE

Section 1. Elections.

Election of officers shall be conducted by the CPMT acting as a Nominating Committee of the Whole. The election shall be held at the last meeting of the County fiscal year or as needed-, and in accordance with the voting provisions of Article IX of these bylaws.

Section 2. Term of Office.

The term shall be for the County fiscal year. There is no term limit on the number of terms which a person may serve.

Section 3. Replacement of Officers.

If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE ~~VIII~~VII: MEETINGS

Section 1. Meetings.

The CPMT shall hold a sufficient number of meetings to properly conduct its business.

Section 2. Absences.

Absences shall be managed in accordance with Fairfax County Procedural Memorandum ~~Number 9901-02~~, which states that ~~the names of the~~upon notification by staff, the Clerk will communicate with the Board of Supervisors regarding members who are absent ~~for~~from three or more consecutive ~~regularly scheduled meetings are to be transmitted to the Clerk to the Board of Supervisors or other appointing authority for appropriate action.~~

Any Limited Term member who misses three consecutive meetings or more than half of the scheduled meetings within a 12-month period, or who fails to participate in the work of the CPMT without good cause acceptable to a majority of the other CPMT members may be subject to removal from the CPMT in accordance with Article XII of these bylaws.

Upon notification by staff, the Clerks of the Cities will inform their respective City Council about members representing the Cities who are absent from three (3) of more consecutive meetings.

Section 3. VFOIA.

All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2 3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Section 4. Notice and Agenda.

Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to CPMT members. Notices of all meetings shall

be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site as well as to the Office of Communications at the City of Falls Church and the City of Fairfax for posting at their respective City Hall and their City website. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Section 5. Public Access.

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

Section 6. Records.

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

Section 7. Staff Support.

The ~~Chair shall assign~~ Fairfax County ~~staff designated by the~~ Deputy Executive for Human Services ~~to maintain the minutes of all meetings, to prepare~~ shall designate staff to provide administrative support including preparation and distribution of agendas; and ~~to distribute~~ meeting minutes.

ARTICLE ~~IX~~VIII: QUORUM

A majority of the members of the CPMT including the Chair or Vice-Chair, present in person, constitutes a quorum at all meetings of the CPMT for the transaction of business.

ARTICLE ~~XIX~~: RULES OF ORDER

Section 1. Voting.

Both officially appointed members and their designees may participate in discussions. However, only the officially appointed ~~member~~members may vote.

A quorum is necessary for a vote. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of the CPMT members present and voting. Upon the request of any member, the vote of each member on any issue shall be

recorded in the minutes. All votes of CPMT members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Section 2. —~~Decisions~~ Conduct and Procedure.

The CPMT shall generally work by consensus. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, shall be used as a guide in conducting Management Team and except as specifically authorized by the VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business. All issues of parliamentary procedure shall be referred to the ~~Chairman~~ Chair or presiding officer ~~where, whose~~ decisions shall be final ~~or binding~~.

ARTICLE ~~XIX~~: COMMITTEES

Committees may be established as needed. ~~Membership~~ Committee membership is not limited to members of the CPMT.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE ~~XXI~~: CONFIDENTIALITY

All information about specific youth and families obtained by CPMT members in discharge of their responsibilities shall be confidential under all applicable laws, mandates, and licensing requirements.

ARTICLE XII: REMOVAL OF MEMBERS

The CPMT may recommend to the Fairfax County Board of Supervisors removal of any Limited Term member(s) from the CPMT for cause, including but not limited to cause as set forth in Article VII, Section 2, by a two-thirds majority vote of all the CPMT members. Prior to the CPMT vote to remove a Limited Term member, the CPMT shall inform the representatives of the City of Falls Church Council and the City of Falls Church Council of its intention to remove a Limited Term member. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the CPMT as provided by law.

ARTICLE XIII: COMPLIANCE WITH LAW AND COUNTY POLICY

The CPMT shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 et seq., as amended, with all County and City ordinances, and with all County and City policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XIV: AMENDMENTS

These bylaws may be amended by adopting the proposed amendment or amendments at any regular meeting of the CPMT by a two-thirds (2/3) vote of those present and voting; provided, however, that notice of the proposed changes have been submitted to the members of the CPMT thirty (30) days prior to the meeting. ~~These~~Proposed amendments to these bylaws may also be ~~amended~~adopted at any time without advance notice by unanimous vote of all members of the CPMT. Any proposed amendments are subject to, and shall not become effective until, approval by the Fairfax County Board of Supervisors, the Falls Church City Council, and the Fairfax City Council.

These bylaws were last ~~amended at a regular meeting of the CPMT held on March 24, 2017~~ and approved by the Board of Supervisors on ~~June 20, 2017~~.[INSERT DATE OF APPROVAL HEARING WITH BOS].

GIVEN under my hand this _____ day of _____, 2020.

Jill G. Cooper

Clerk for the Board of Supervisors

Department of Clerk Services

Board Agenda Item
July 14, 2020

3:30 p.m.

Public Hearing to Consider Adoption of an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the Novel Coronavirus Disease 2019 (COVID-19) Emergency by Temporarily Approving Outdoor Dining and Outdoor Fitness and Exercise Activities Subject to Certain Conditions, Thereby Suspending Any Requirement for Individualized Approvals of Such Activities, and to Repeal the Emergency Uncodified Ordinance on the Same Subject, Which Was Adopted on May 28, 2020, and Is Hereby Replaced

ISSUE:

Virginia Code § 15.2-1413 authorizes the County to adopt ordinances that “provide a method to assure continuity in its government” in the event of a disaster. The COVID-19 emergency is a type of disaster contemplated by this statute. This ordinance temporarily approves outdoor dining and outdoor fitness and exercise activities subject to certain conditions, thereby temporarily suspending the need for individualized approvals for such activities, and thus enables County agencies and deliberative bodies to devote their limited resources to maintaining continuity in government.

RECOMMENDATION:

The County Executive and County Attorney recommend that the Board adopt the ordinance provided as Attachment 1.

TIMING:

Board action is requested on July 14, 2020, to assure the continued validity of emergency approvals that would otherwise expire, to the detriment of the County’s economy, or require time-consuming, individualized attention to a potentially overwhelming number of applications, at the expense of operations to assure continuity in those aspects of Fairfax County government conducted by various County agencies and deliberative bodies.

BACKGROUND:

At a special meeting on May 28, 2020, the Board of Supervisors adopted an emergency ordinance to establish methods to assure continuity in Fairfax County government by temporarily approving outdoor dining and outdoor fitness and exercise activities subject to certain conditions, thereby temporarily suspending the need for individualized approvals for such activities. State law allows county governing bodies to adopt

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emergency ordinances without prior notice, but the emergency ordinance was posted on the County's website on May 22, 2020, to provide the best notice possible to the public under the circumstances. An emergency ordinance cannot be enforced for more than 60 days unless it is readopted in conformity with the usual provisions of law. The ordinance currently before the Board would repeal and replace the emergency ordinance.

As this Board is aware, on March 12, the Governor declared a State of Emergency due to COVID-19, and on March 30, he ordered all individuals in Virginia to remain at their place of residence until June 10. He also extended prior orders limiting gatherings to no more than ten people and closing certain businesses until that same date. The Governor later extended the State of Emergency indefinitely.

On May 8, 2020, the Governor issued Executive Order 61, introducing Phase One in the state's strategy to ease some of the temporary restrictions instituted in Second Amended Executive Order 53 and Executive Order 55 (orders referred to collectively as Phase Zero). On May 12, 2020, the Governor issued Executive Order 62 extending Phase Zero for Northern Virginia through May 28, 2020. That order was amended on May 14, 2020, to extend Phase Zero for certain other jurisdictions.

As part of Phase One, restaurants are permitted to reopen to the extent they have seating in outdoor spaces with limited capacity and adequate spacing. Phase One also allows fitness and exercise facilities to reopen for outdoor activities only. The Governor's executive orders have provided additional procedural and regulatory discretion to the Virginia Alcoholic Beverage Control Authority, which has issued guidance for outdoor dining in Topic 16.

With the impending expiration of Phase Zero in Northern Virginia, the Board held a special meeting on May 28 to consider an uncodified emergency ordinance to provide a method to assure continuity in Fairfax County government during the COVID-19 emergency by temporarily approving outdoor dining and outdoor fitness and exercise activities subject to certain conditions, thereby suspending any requirement for individualized approvals of such activities. The Board adopted the emergency ordinance, which will expire after 60 days unless repealed or readopted.

The Governor allowed Amended Executive Order 62 to expire, moving Northern Virginia into Phase One on May 28, 2020. In Executive Order 65, issued on June 2, the Governor ordered that most of the Commonwealth, but not including Northern Virginia, would move into Phase Two on June 5. Under Phase Two, among other things, indoor

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dining and indoor fitness and exercise activities are allowed subject to capacity limits; given these limits, the continued allowance for outdoor dining and outdoor fitness and exercise activities remains critical to sustain these businesses. On June 9, 2020, the Governor amended Executive Order 65 to order Northern Virginia's entry into Phase Two on June 12.

But for the emergency ordinance, under current County ordinances and regulations, business owners would typically be required to pursue a range of applications to allow outdoor dining and outdoor fitness and exercise activities. In the midst of the COVID-19 emergency, the cost and time to meet such requirements would compound the stress on economically challenged businesses, hinder the opportunity presented by Phases One and Two, and beyond, to revitalize the County's economy, and likely result in a continued de facto closure of such businesses. At the same time, processing and deciding such a multitude of applications on an urgent basis would be extremely difficult, if not impossible, for the County government and would consume extraordinary amounts of time and attention on the part of the County's staff and its deliberative bodies, at a time when they are also strained by the emergency. These factors, separately and collectively, would threaten the County's continuity in government if the emergency ordinance were to expire and not be replaced.

Virginia Code § 15.2-1413 expressly authorizes the adoption of the attached ordinance, which provides a means for assuring continuity in the operations of various County agencies and deliberative bodies that would otherwise be involved in processing and deciding individualized applications to allow the outdoor uses the ordinance would automatically allow. An ordinance providing for continuity in government must be limited in its effect for no more than six months after the disaster and must provide a method for the resumption of normal government authority by the end of the six-month period. The proposed ordinance provides that it will remain in effect no longer than six months after the Board of Supervisors terminates the local Declaration of Emergency. Within that six-month period, the Board will restore normal governmental authority by repealing the ordinance.

FISCAL IMPACT:

There is no anticipated direct fiscal impact on the FY 2020 or 2021 County budget; however, it is likely that failure to replace the emergency ordinance, and thus extend the temporary approval of outdoor dining and outdoor fitness and exercise activities, would adversely affect those businesses and subject various County agencies and deliberative bodies to extraordinary demands.

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ENCLOSED DOCUMENTS:

Attachment 1— Proposed Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the Novel Coronavirus Disease 2019 (COVID-19) Emergency by Temporarily Approving Outdoor Dining and Outdoor Fitness and Exercise Activities Subject to Certain Conditions, Thereby Suspending Any Requirement for Individualized Approvals of Such Activities, and to Repeal the Emergency Uncodified Ordinance on the Same Subject, Which Was Adopted on May 28, 2020, and Is Hereby Replaced

STAFF:

Barbara A. Byron, Director, Department of Planning and Development (DPD)
William D. Hicks, P.E., Director, Department of Land Development Services (LDS)
John L. Walser, Battalion Chief, Fire and Rescue Department
Brian F. Foley, P.E., C.B.O., Building Official, LDS
Leslie B. Johnson, Zoning Administrator, DPD

ASSIGNED COUNSEL:

Elizabeth D. Teare, County Attorney
T. David Stoner, Deputy County Attorney

**AN UNCODIFIED ORDINANCE TO PROVIDE A METHOD TO ASSURE
CONTINUITY IN FAIRFAX COUNTY GOVERNMENT DURING THE NOVEL
CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY BY
TEMPORARILY APPROVING OUTDOOR DINING AND OUTDOOR FITNESS
AND EXERCISE ACTIVITIES SUBJECT TO CERTAIN CONDITIONS,
THEREBY SUSPENDING ANY REQUIREMENT FOR INDIVIDUALIZED
APPROVALS OF SUCH ACTIVITIES, AND TO REPEAL THE EMERGENCY
ORDINANCE ON THE SAME SUBJECT ADOPTED ON MAY 28, 2020, WHICH
IS HEREBY REPLACED**

AN UNCODIFIED ORDINANCE to provide a method to assure continuity in Fairfax County government during the COVID-19 Emergency, as authorized by Virginia Code § 15.2-1413, by temporarily approving outdoor dining and outdoor fitness and exercise activities subject to certain conditions, thereby temporarily suspending the need for individualized approvals for such activities, and to repeal the emergency uncodified ordinance on the same subject, which was adopted on May 28, 2020, and is hereby replaced by this ordinance.

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

1. That the following uncodified ordinance is hereby adopted:

A. Purpose of the Ordinance.

This ordinance is intended to provide a method to assure continuity in Fairfax County government during the COVID-19 emergency. Fairfax County government comprises not only the Board of Supervisors, but also numerous County agencies and deliberative bodies that fulfill essential government functions and provide essential government services within the locality. These provisions are intended to sustain the County's economy and ensure the continued ability of County agencies and deliberative bodies to carry out their functions during this emergency without compromising public safety.

This ordinance is being adopted in response to the COVID-19 outbreak. The World Health Organization declared COVID-19 a global pandemic on March 11, 2020. On March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a National Emergency beginning March 1, 2020. On March 12, 2020, Governor Ralph Northam issued a Declaration of a State of Emergency due to Novel Coronavirus (COVID-19). The Governor declared the emergency "to continue to prepare and coordinate our response to the potential spread of COVID-19, a communicable disease of

1 public health threat” and he found that “[t]he anticipated effects of COVID-19
2 constitute a disaster as described in § 44-146.16 of the Code of Virginia.” The
3 Governor’s Declaration of a State of Emergency remains in effect indefinitely,
4 until amended or rescinded. Effective March 16, 2020, Governor Northam and
5 the State Health Commissioner jointly issued an Order declaring a state public
6 health emergency. On March 17, 2020, the Fairfax County Director of
7 Emergency Management, with the consent of the Board of Supervisors, declared
8 a local state of emergency due to the potential spread of COVID-19. The local
9 Declaration of Emergency remains in effect until the Board of Supervisors takes
10 appropriate action to end the declared emergency.

11 The Public Health Emergency Order issued jointly by the Governor and the State
12 Health Commissioner effective March 16, 2020, consistent with all other expert
13 opinions, observes that COVID-19 spreads from person to person, transmitted
14 via respiratory droplets, and can be spread from an infected person who does not
15 have symptoms to another person. The Order states that no vaccine or known
16 treatment options exist at this time.

17 On March 23, 2020, the Governor issued Executive Order 53, which ordered all
18 public and private schools closed for the remainder of the 2019–20 school year
19 and imposed temporary restrictions on restaurants, recreational entertainment,
20 public and private gatherings, and non-essential retail businesses. By virtue of
21 amendments on April 15 and May 4, 2020, the restrictions on restaurants and
22 non-essential businesses remained in effect until May 14, 2020. On March 30,
23 2020, the Governor issued Executive Order 55, which ordered all individuals in
24 Virginia to remain at their places of residence until June 10, 2020, except as set
25 forth in that order and Executive Order 53.

26 On May 8, 2020, the Governor issued Executive Order 61, introducing Phase
27 One in the state’s strategy to ease some of the temporary restrictions instituted in
28 Second Amended Executive Order 53 and Executive Order 55 (orders referred to
29 collectively as Phase Zero). On May 12, 2020, the Governor issued Executive
30 Order 62 extending Phase Zero for Northern Virginia through May 28, 2020.
31 That order was amended on May 14, 2020, to extend Phase Zero for certain
32 other jurisdictions.

33 As part of Phase One, restaurants are permitted to reopen to the extent they
34 have seating in outdoor spaces with limited capacity and adequate spacing.
35 Phase One also allows fitness and exercise facilities to reopen for outdoor
36 activities only. The Governor’s executive orders have provided additional

1 procedural and regulatory discretion to the Virginia Alcoholic Beverage Control
2 Authority, which has issued guidance for outdoor dining in Topic 16.

3 With the impending expiration of Phase Zero in Northern Virginia, the Board held
4 a special meeting on May 28 to consider an uncodified emergency ordinance to
5 provide a method to assure continuity in Fairfax County government during the
6 COVID-19 emergency by temporarily approving outdoor dining and outdoor
7 fitness and exercise activities subject to certain conditions, thereby suspending
8 any requirement for individualized approvals of such activities. The Board
9 adopted the emergency ordinance, which will expire after 60 days unless
10 repealed or readopted.

11 The Governor allowed Amended Executive Order 62 to expire, moving Northern
12 Virginia into Phase One on May 28, 2020. In Executive Order 65, issued on
13 June 2, the Governor ordered that most of the Commonwealth, but not including
14 Northern Virginia, would move into Phase Two on June 5. Under Phase Two,
15 among other things, indoor dining and indoor fitness and exercise activities are
16 now allowed subject to capacity limits; given these limits, the continued
17 allowance for outdoor dining and outdoor fitness and exercise activities remains
18 critical to sustain these businesses. On June 9, 2020, the Governor amended
19 Executive Order 65 to order Northern Virginia's entry into Phase Two on June 12.

20 But for the emergency ordinance, under current County ordinances and
21 regulations, business owners would typically be required to pursue a range of
22 applications to allow outdoor dining and outdoor fitness and exercise activities.
23 In the midst of the COVID-19 emergency, the cost and time to meet such
24 requirements would compound the stress on economically challenged
25 businesses, hinder the opportunity presented by Phases One and Two, and
26 beyond, to revitalize the County's economy, and likely result in a continued de
27 facto closure of such businesses. At the same time, processing and deciding
28 such a multitude of applications on an urgent basis would be extremely difficult, if
29 not impossible, for the County government and would consume extraordinary
30 amounts of time and attention on the part of the County's staff and its deliberative
31 bodies, at a time when they are also strained by the emergency. These factors,
32 separately and collectively, would threaten the County's continuity in government
33 if the emergency ordinance were to expire and not be replaced.

34 The Board of Supervisors desires to continue reducing these COVID-19
35 emergency impacts to business owners, to the communities those businesses
36 serve and who wish to support them, and to County government. To that end,
37 this ordinance, like the emergency ordinance it replaces, automatically approves

1 outdoor dining and outdoor fitness and exercise activities that meet certain
2 conditions, including those established by the Governor in Phases One and Two.

3 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
4 Herndon, or Vienna—to provide a method to assure continuity in its own
5 government. For that reason, the ordinance will not apply in any of those towns
6 unless and until the town’s governing body, by ordinance, decides to be subject
7 to this ordinance.

8 **B. Virginia Statutory Authority for the Ordinance.**

9 Virginia Code § 15.2-1413 authorizes localities to adopt an ordinance to “provide
10 a method to assure continuity in its government, in the event of an enemy attack
11 or other disaster,” “[n]otwithstanding any contrary provision of law, general or
12 special.” The Governor’s Declaration of a State of Emergency found that “[t]he
13 anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16
14 of the Code of Virginia.”

15 The Virginia Attorney General has defined “continuity in government” as
16 coordinated efforts undertaken to assure the continuation of local government’s
17 essential functions during an emergency.

18 **C. Definitions.**

19 “Continuity in Fairfax County government” includes, without limitation, those
20 actions, and the coordination of actions, that are necessary to assure the
21 continuation of the County’s essential functions and services. By way of example
22 and not limitation, such necessary actions include those related to (1) the
23 County’s finances, such as the public hearings and adoption of the FY 2021
24 budget, tax rate, and utilities fees; appropriations of funds; and funding requests;
25 (2) contracts that need Board action; (3) applications, appeals, or other requests
26 that are subject to mandatory or directory time frames for action; (4) satisfying
27 due process or other constitutional requirements; (5) public safety; and
28 (6) measures that help sustain the County’s economy.

29 “Emergency” means the outbreak of the respiratory illness referred to as the
30 novel coronavirus or COVID-19, as described in the Governor’s Declaration of a
31 State of Emergency and the local Declaration of Emergency, and the spread and
32 effects of COVID-19, which constitute a disaster as defined in Virginia Code
33 § 44-146.16.

1 “Outdoor dining” means delivery, takeout, and outdoor dining and beverage
2 services operated by any restaurant, as defined in this ordinance. The term does
3 not include outdoor entertainment.

4 “Restaurant” includes any restaurant, dining establishment, food court, brewery,
5 microbrewery, distillery, winery, or tasting room.

6 “Fitness and exercise activities” means fitness and exercise activities conducted
7 by any fitness center, gymnasium, recreation center, sports facility, or exercise
8 facility.

9 **D. Expansion of Outdoor Dining and Outdoor Fitness and Exercise**
10 **Activities.**

11 1. The Board of Supervisors hereby approves, without the need for any
12 individualized determinations, the expanded use of outdoor space for
13 outdoor dining and for fitness and exercise activities, all subject to the
14 following conditions:

15 a. This approval is valid only for establishments located in zoning districts
16 where they are already approved to operate by right, by a proffer
17 condition, by special exception, by special permit, or by other
18 development approval. No further administrative approval, proffer
19 condition amendment, special exception amendment, special permit
20 amendment, or any other development approval is required as long as
21 the outdoor activity complies with all of the conditions of this ordinance.
22 Further, no temporary special permit or other zoning permit is required
23 to close one or more private streets for the purpose of allowing outdoor
24 dining or outdoor fitness and exercise activities. To qualify under this
25 ordinance, an establishment must have a valid Non-Residential Use
26 Permit/Certificate of Occupancy and, in the case of outdoor dining, a
27 Food Establishment Permit.

28 b. This emergency approval automatically expires upon the repeal of this
29 ordinance.

30 c. Occupancy of the outdoor dining area(s) for any single establishment
31 may not exceed 50% of the lowest occupancy load specified on the
32 establishment’s Non-residential Use Permit/Certificate of Occupancy or
33 Maximum Occupancy Certificate. For any outdoor dining area(s)
34 serving multiple establishments, total seating must be no more than

- 1 50% of the total combined lowest occupancy loads for all the
2 establishments.
- 3 d. Seating area(s) must be accessible for disabled patrons.
- 4 e. Any area used for outdoor dining or for fitness and exercise activities
5 must be clearly delineated by cordon, marking or other means.
- 6 f. A permit from the Office of the Fire Marshal is required for any tent or
7 tent area (aggregate area of multiple tents separated by less than 12
8 feet) that is larger than 900 square feet. The normal fee for such a
9 permit is hereby waived for any establishment applying under this
10 ordinance. A single, temporary tent no larger than 900 square feet
11 does not require a permit.
- 12 g. Any tent must (1) be flame-resistant with appropriate labeling affixed to
13 the tent material, (2) remain open on all sides, (3) be located at least
14 20 feet from any building, and (4) be securely anchored to prevent
15 collapse or uplift during inclement weather.
- 16 h. No cooking or open flame is permitted under any tent unless approved
17 by the Office of the Fire Marshal.
- 18 i. All tables, chairs, umbrellas, tents, lighting, and other accessories must
19 be removable and maintained in good visual appearance and
20 condition. The outdoor area must be kept free of trash and debris, and
21 any trash containers must be removed or appropriately stored at the
22 end of each business day.
- 23 j. No outdoor dining area, outdoor fitness and exercise area, or
24 associated equipment or activity may obstruct a fire lane or fire
25 equipment, such as fire hydrants and fire department connections; any
26 building entrance or exit or any other area marked or designated for life
27 safety or ADA accessibility; or pedestrian passage on any trail, right-of-
28 way, or sidewalk, without adequate alternative pedestrian passage.
29 Street access must be maintained for fire department vehicular
30 response.
- 31 k. Any outdoor dining area must be located entirely on impervious
32 surfaces, such as existing patios, sidewalks, or paved parking spaces.
33 No additional physical alteration—including, for example, addition or
34 enlargement of any deck or paved surface—may be made to the site to

1 accommodate outdoor dining or fitness and exercise. Outdoor fitness
2 and exercise activities are allowed on impervious surfaces and on
3 adjacent open space as appropriate.

4 l. Adequate onsite parking must be maintained for onsite users. This
5 ordinance does not permit any reduction in the number or accessibility
6 of parking spaces designated for individuals with disabilities.
7 Relocation of any such space requires approval by the County's
8 Building Official, must not compromise accessibility, and must not
9 violate any other legal requirement.

10 m. No additional business sign or advertisement is permitted except as
11 permitted under Article 12 (Signs) of the Zoning Ordinance.

12 n. Before using any outdoor area for outdoor dining or for fitness and
13 exercise activities under this ordinance, each establishment is
14 responsible for ensuring that it has the necessary right to do so under
15 this ordinance and that it has permission from the property owner.
16 Each property owner is also responsible for ensuring that no such use
17 occurs on the owner's property without permission.

18 o. The use must comply with all other requirements of any executive
19 order of the Governor (including but not limited to requirements for
20 social distancing, use of face coverings, and cleaning and disinfection);
21 any rules promulgated by the Virginia Alcoholic Beverage Control
22 Authority (including but not limited to Topic 16); and any other
23 applicable code or ordinance.

24 2. No establishment may operate under this ordinance unless it fully
25 complies with the ordinance and with all other applicable requirements as
26 referenced in paragraph 1(o). Any establishment that fails to fully comply
27 may be subject to criminal and/or civil enforcement, including injunctive
28 relief.

29 **E. Scope of Application.**

30 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
31 Herndon, or Vienna—under Virginia Code § 15.2-1413 to provide a method to
32 assure continuity in its own government. For that reason, the ordinance will not

1 apply in any of those towns unless and until the town's governing body, by
2 ordinance, decides to be subject to this ordinance.

3 **F. Supersession of Inconsistent Requirements.**

4 The provisions of this Ordinance apply notwithstanding any contrary provision of
5 law, general or special, as authorized in Virginia Code § 15.2-1413.

6 **2. That this ordinance will become effective upon adoption.**

7 **3. That this ordinance will remain in effect no longer than six months after**
8 **the Board of Supervisors terminates the local Declaration of**
9 **Emergency. Within that six-month period, the Board will resume normal**
10 **governmental authority in accordance with Virginia Code § 15.2-1413 by**
11 **repealing this ordinance in compliance with Virginia Code § 15.2-1427.**

12 **4. That the sections, subsections, paragraphs, sentences, clauses,**
13 **phrases, and words of this ordinance are severable. If any section,**
14 **subsection, paragraph, sentence, clause, phrase, or word is declared**
15 **unconstitutional or otherwise invalid by the lawful judgment or decree**
16 **of any court of competent jurisdiction, its unconstitutionality or**
17 **invalidity shall not affect the validity of any of the remaining sections,**
18 **subsections, paragraphs, sentences, clauses, phrases, and words of**
19 **this ordinance, since the same would have been enacted by the Board**
20 **of Supervisors without and irrespective of any unconstitutional or**
21 **otherwise invalid section, subsection, paragraph, sentence, clause,**
22 **phrase or word being included.**

23 **5. That the emergency ordinance on the same subject adopted on May 28,**
24 **2020, as authorized by Virginia Code §§ 15.2-1413 and -1427, is repealed**
25 **and replaced by this ordinance.**

26 GIVEN under my hand this _____ day of _____ 2020.

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32

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

Board Agenda Item
July 14, 2020

3:30 p.m.

Public Hearing on SE 2019-LE-021 (Muna Barkhadle D/B/A Daffodils Childcare) to Permit a Home Child Care Facility, Located on Approximately 2,560 Square Feet of Land Zoned PDH-4 and NR (Lee District)

This property is located at 7814 Seth Hampton Dr., Alexandria, 22315. Tax Map 99-2 ((10)) (4) 214.

PLANNING COMMISSION RECOMMENDATION:

On June 11, 2020, the Planning Commission voted 11-0 (Commissioner Strandlie was absent from the meeting) to recommend to the Board of Supervisors approval of SE 2019-LE-021, subject to the proposed development conditions consistent with those dated March 5, 2020, and with an additional condition stipulating the operation of the child care center for up to 12 children, pursuant to proper licensure from the State of Virginia.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Katelyn Quinn, Planner, DPD

Board Agenda Item
July 14, 2020

3:30 p.m.

Public Hearing on PCA-C-491-03 (T&M McLean Venture, LLC) to Amend the Proffers for RZ C-491, Previously Approved for Office Use to Permit the Construction of an Inter-Parcel Connection and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.52, Located on Approximately 4.43 Acres of Land Zoned C-2, CRD and SC (Dranesville District)

This property is located on the S. side of Chain Bridge Rd., approximately 800 ft. E. of Westmoreland St. Tax Map 30-2 ((1)) 23.

PLANNING COMMISSION RECOMMENDATION:

On June 24, 2020, the Planning Commission voted 10-0 (Commissioners Spain and Jimenez were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA C-491-03, subject to the execution of proffered conditions consistent with those dated May 11, 2020;
- Reaffirmation of the modification to the transitional screening along the southern and a portion of the eastern property lines where the subject property abuts single family detached dwelling units to that shown on the Generalized Development Plan (GPD);
- Reaffirmation of the parking reduction in accordance with the McLean Commercial Revitalization District provisions of the Fairfax County Zoning Ordinance; and
- Reaffirmation of the waiver of the on-road bike lane and major regional trail system required along Chain Bridge Road.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

Board Agenda Item
July 14, 2020

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Kelly Posusney, Planner, DPD

Board Agenda Item
July 14, 2020

3:30 p.m.

Public Hearing on PCA/CDPA 2010-PR-021-03 (Capital One Bank (USA), National Association) to Amend the Proffers and Conceptual Development Plan for RZ 2010-PR-021, Previously Approved for Hotel/Mixed-Use, to Permit Office/Mixed-Use and Associated Modifications to Proffers and Site Design at a Floor Area Ratio of 4.10, Located on Approximately 5.09 Acres of Land Zoned PTC and HC (Providence District) (Concurrent with SE 2020-PR-002)

and

Public Hearing on SE 2020-PR-002 (Capital One Bank (USA), National Association; Capital One, National Association; Capital One Tysons Block C Owner, LLC) to Permit an Increase in Floor Area Ratio in the PTC District, Located on Approximately 24.52 Acres of Land Zoned PTC and HC (Providence District) (Concurrent with PCA/CDPA 2010-PR-021-03)

This property is located on the N. side of Dolley Madison Blvd., S. side of Scotts Crossing Rd., and E. side of the Capital Beltway. Tax Map 29-4 ((5)) (1) B (pt.), E1 and F (pt.).

This property is located at 1600 Capital One Dr., McLean, 22102. Tax Map 29-4 ((5)) (1) A, B, C, D, E1, E2 and F.

PLANNING COMMISSION RECOMMENDATION:

On June 24, 2020, the Planning Commission voted 10-0 (Commissioners Spain and Jimenez were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of PCA/CDPA 2010-PR-021-03, subject to the execution of proffered conditions consistent with those dated June 22, 2020;
- Reaffirmation of the modification of Sect. 2-414B of the Zoning Ordinance requiring a 75-foot setback of commercial buildings from Interstate 495 to that shown on the CDPA;
- Reaffirmation of the waiver of the Countywide Trails Plan requirement for a regional trail alongside Interstate 495 in lieu of the internal sidewalks shown on the CDPA;

Board Agenda Item
July 14, 2020

- Reaffirmation of the waiver of the tree preservation requirements of Part 4 of Sect. 13-400 of the Zoning Ordinance to allow tree canopy to be provided through new tree plantings; and
- Approval of SE 2020-PR-002, subject to the proposed development conditions dated June 10, 2020, and subject to the Board of Supervisors' approval of PCA/CDPA 2010-PR-021-03.

In a related action, the Planning Commission voted 10-0 (Commissioners Spain and Jimenez were absent from the meeting) to approve FDPA 2010-PR-021-03, subject to the proposed development conditions dated June 23, 2020, and the Board of Supervisors' approval of PCA/CDPA 2010-PR-021-03.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Stephen Gardner, Planner, DPD

Board Agenda Item
July 14, 2020

4:00 p.m.

Public Hearing on a Proposal to Prohibit Through Truck Traffic on Popes Head Road
(Springfield District)

ISSUE:

Public hearing for the purpose of endorsing the following road to be included in the Residential Traffic Administration Program (RTAP) for a through truck traffic restriction:

- Popes Head Road between Ox Road (Route 123) and Fairfax County Parkway.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached resolution (Attachment I) endorsing this road to be included in the RTAP for a through truck traffic restriction.

TIMING:

On May 12, 2020, the Board authorized advertisement of a public hearing scheduled for July 14, 2020, 4:00 p.m.

BACKGROUND:

On July 1, 2019, Supervisor Herrity requested that staff work with the Virginia Department of Transportation (VDOT) to implement a through truck traffic restriction on Popes Head Road due to continuing safety concerns of residents regarding through trucks utilizing this road as a shortcut between Ox Road (Route 123) and Fairfax County Parkway.

The increased truck traffic has exacerbated safety concerns for the neighborhood. A possible alternate route is via Ox Road (Route 123) to Fairfax County Parkway (Attachment II).

Section 46.2-809, of the *Code of Virginia* requires a local jurisdiction to hold a duly advertised public hearing on any proposal to restrict through truck traffic on a primary or secondary road. Further, a resolution pertaining to prohibiting through truck traffic on these roads (Attachment I) has been prepared for adoption and transmittal to VDOT which will conduct the formal engineering study of the through truck restriction request.

Board Agenda Item
July 14, 2020

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Resolution to Restrict Through Truck Traffic on Popes Head Road

Attachment II: Area Map of Proposed Through Truck Traffic Restriction

STAFF:

Rachel Flynn, Deputy County Executive

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

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Steven K. Knudsen, Transportation Planner, FCDOT

RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
THROUGH TRUCK TRAFFIC RESTRICTION
POPES HEAD ROAD
SPRINGFIELD DISTRICT**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 14, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents who live along Popes Head Road, between Fairfax County Parkway and Ox Road (Route 123), have expressed concerns regarding the negative impacts associated with through truck traffic on this road; and

WHEREAS, a reasonable alternate route has been identified for Popes Head Road starting at Popes Head Road and Ox Road (Route 123) to the intersection of Ox Road and Fairfax County Parkway and from the intersection of Ox Road and Fairfax County Parkway to the intersection of Fairfax County Parkway and Popes Head Road; and

WHEREAS, it is the intent of the Fairfax County Board of Supervisors to ensure that the proposed through truck restriction be enforced by the Fairfax County Police Department; and

WHEREAS, a public hearing was held pursuant to Section 46.2-809 of the *Code of Virginia*;

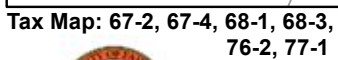
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to prohibit through truck traffic on Popes Head Road, between Fairfax County Parkway and Ox Road (Route 123), as part of the County's Residential Traffic Administration Program (RTAP).

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

ADOPTED this 14th day of July, 2020.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



February 2020



Board Agenda Item
July 14, 2020

4:00 p.m.

Public Hearing on a Proposal to Vacate and Abandon a Portion of Brecknock Street /
Route 5443 (Sully District)

ISSUE:

Public hearing on a proposal to vacate and abandon a portion of Brecknock Street /
Route 5443.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached order
(Attachment III) for abandonment and resolution (Attachment IV) for vacation of the
subject right-of-way.

TIMING:

On May 12, 2020, the Board authorized the public hearing to consider the proposed
abandonment and vacation for July 14, 2020, at 4:00 p.m.

BACKGROUND:

The applicant, Taddeo Homes, is requesting that a portion of Brecknock Street / Route
5443 be vacated under §15.2-2272(2) of the Virginia Code and abandoned under
Virginia Code §33.2-909. The applicant is seeking this request because of the
requirements of Interparcel Access Waiver #6369-WIPA-001-1 (Attachment VIII).

The subject portion of Brecknock Street, at the southeast side of the intersection of
Tilton Valley Drive, is currently unbuilt. Brecknock Street was originally dedicated in
1973 as a public road as part of the Mary Ridge subdivision and is in the VDOT
Secondary System of Highways. This unconstructed portion of Brecknock Street does
not and would not provide vehicular connection between Tilton Valley Drive and
Brecknock Street. The property that abuts both sides of the existing right-of-way to be
vacated and abandoned is currently occupied by Lots 18 and 19 of the Mary Ridge
subdivision, to which the land would revert after the vacation and abandonment.

Traffic Circulation and Access

The vacation and abandonment will have no long-term impact on pedestrian, transit, or
vehicle circulation and access.

Board Agenda Item
July 14, 2020

Easements

The project manager has certified that all easement requirements for the project have been met.

The proposal to vacate and abandon this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Development, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas, and Verizon. None of these indicate any opposition to the proposal.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter
Attachment II: Notice of Intent to Abandon & Vacate
Attachment III: Order of Abandonment
Attachment IV: Ordinance of Vacation
Attachment V: Metes and Bounds Description
Attachment VI: Vacation and Abandonment Plat
Attachment VII: Vicinity Map
Attachment VIII: Interparcel Access Waiver #6369-WIPA-001-1 Documentation
Attachment IX: Resolution

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Jeff Hermann, Site Analysis Section Chief, FCDOT
Michelle Guthrie, FCDOT
Jeffrey Edmondson, FCDOT

ASSIGNED COUNSEL:

Pamela K. Peltó, Assistant County Attorney

LETTER OF REQUEST AND JUSTIFICATION

September 29, 2019

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

Re: Vacation and Abandonment of Portions of Brecknock Street

As part of the development of TADDEO ESTATES subdivision, Plan #6369-SD-003-1, Fairfax County Department of Public Works and Environmental Services issued an Interparcel Access Waiver [#6369-WIPA-001-1] dated May 1, 2008, conditioned on, among other things:

"Existing stub street of Brecknock Street (that is not extended) should be vacated/abandoned and pavement should be removed. This should occur prior to the issuance of the residential use permit for the first new home in the subdivision."

The applicant, Taddeo Homes, is requesting the vacation and abandonment of those portions of Brecknock Street required by Interparcel Access Waiver #6369-WIPA-001-1. Attached is a plat entitled "Plat Showing Vacation and Abandonment of a Portion of Brecknock Street" prepared by Charles P. Johnson & Associates, Inc. dated February 21, 2019 (the "**Plat**"). The applicant requests the vacation of that portion of Brecknock Street that results in Parcels A and B as shown on the Plat.

NOTICE OF INTENT TO ABANDON AND TO
ADOPT AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

Portions of BRECKNOCK STREET (Route 5443)

Sully District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on July 14, 2020, at 4:00 PM during its regular meeting in Conference Room 11 of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, pursuant to Virginia Code Ann. § 15.2-2204, (1) on the proposed abandonment of a portion of a public road known as Brecknock Street, and (2) vacating a part of the plat of MARY RIDGE subdivision, recorded in Deed Book 3893 at Page 545, on which is shown Brecknock Street from Tilton Valley Drive to the northeast property corner of Lot 19, MARY RIDGE. The road is located on Tax Map 46-1-010 and is described on the metes and bounds schedule prepared by Charles P. Johnson & Associates, Inc. dated September 13, 2019, and is shown on the plat entitled "Plat Showing Vacation and Abandonment of a Portion of Brecknock Street" dated February 21, 2019, and also prepared by Charles P. Johnson & Associates, Inc., both of which are on file in the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia 22033, Telephone Number (703) 877-5600.

All persons wishing to speak on this subject may call the Office of the Clerk to the Board, (703) 324-3151, to be placed on the Speaker's List, or may appear and be heard.

SULLY DISTRICT.

§ 33.2-909

§ 15.2-2272(2)

ORDER OF ABANDONMENT

A Portion of BRECKNOCK STREET (Route 5443)

SULLY DISTRICT
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held this 14th day of July 2020, it was duly moved and seconded that:

WHEREAS, after conducting a public hearing pursuant to notice as required by Virginia Code §33.2-909, and after giving due consideration to the historic value, if any, of such road, the Board has determined that no public necessity exists for continuance of this road as a public road, and that the safety and welfare of the public will be served best by an abandonment,

WHEREFORE, BE IT ORDERED:

That the portions of Brecknock Street labeled as Parcel A and Parcel B on the plat entitled "Plat Showing Vacation and Abandonment of a Portion of Brecknock Street" dated February 21, 2019, and prepared by Charles P. Johnson & Associates, Inc. containing approximately 6,105 square feet and 5,740 square feet, respectively, and described on the metes and bounds schedule prepared by Charles P. Johnson & Associates, Inc. dated September 13, 2019, which is attached hereto and incorporated herein, be and the same are hereby abandoned as a public road pursuant to Virginia Code §33.2-909.

This abandonment is subject to any right, privilege, permit, license, or easement in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either presently in use or of record, including the right to operate, maintain, replace, alter, extend, increase or decrease in size any facilities in the abandoned roadway, without any permission of the landowner(s).

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

§33.2-909

ADOPTION OF AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

A Portion of BRECKNOCK STREET (Route 5443)

Sully District,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Government Center in Fairfax County, Virginia, on July 14 2020, at which meeting a quorum was present and voting, the Board, after conducting a public hearing upon due notice given pursuant to Virginia Code Ann. §15.2-2204 and as otherwise required by law, adopted the following ordinance, to-wit:

BE IT ORDAINED by the Board of Supervisors of Fairfax County, Virginia: that Part of the Plat of MARY RIDGE subdivision recorded in Deed Book 3893 at Page 545, on which is shown Brecknock Street, from Tilton Valley Drive to the western property corner of Lot 1A, TADDEO ESTATES subdivision containing approximately 11,845 square feet of land, located on Tax Map 46-1-010 and described on the metes and bounds schedule prepared by Charles P. Johnson & Associates, Inc. dated September 13, 2019, and shown on the plat entitled "Plat Showing Vacation and Abandonment of a Portion of Brecknock Street" dated February 21, 2019, and also prepared by Charles P. Johnson & Associates, Inc. attached hereto and incorporated herein, be and the same is hereby vacated, pursuant to Virginia Code Ann. §15.2-2272(2).

This vacation is subject to any right, privilege, permit, license, easement, in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either presently in use or of record, including the right to operate, maintain, replace, alter, extend, increase, or decrease in size any facilities in the vacated roadway, without any permission of the landowner.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

§15.2-2272(2)

CPJ Charles P. Johnson & Associates, Inc.
Civil and Environmental Engineers • Planners • Landscape Architects • Surveyors
Associates Silver Spring, MD • Gaithersburg, MD • Frederick, MD • Fairfax, VA

September 13, 2019

DESCRIPTION OF THE PROPERTY OF
THE FAIRAX COUNTY BOARD OF SUPERVISORS
AS RECORDED IN DEED BOOK 3893 AT PAGE 545

A PORTION OF BRECKNOCK STREET – ROUTE 5443 (TO BE VACATED AND
ABANDONED)

Parcel A
Sully District
Fairfax County, Virginia

Description of Parcel A, a portion of Brecknock Street recorded in Deed Book 3893 at Page 545 among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at a point in the southeasterly right of way line of Tilton Valley Drive, said point being a northwesterly corner of Lot 19, Mary Ridge as recorded in Deed Book 3893 at Page 545; thence with the said right of way line

North 29°29'40" East, 55.00 feet to a point; thence departing from said southeasterly right of way line of Tilton Valley Drive and running through Brecknock Street the following three (3) courses:

South 60°30'20" East, 25.00 feet to a point;

147.94 feet along the arc of a curve to the left having a radius of 365.00 feet and a chord bearing and chord of South 72°07'00" East, 146.93 feet to a point and

South 83°43'40" East, 20.00 feet to a point on the westerly line of Lot 1A, Taddeo Estates as recorded in Deed Book 22042 at Page 1759; thence with said westerly lines of Lot 1A

South 06°16'20" West, 30.00 feet to a point and

North 83°43'40" West, 20.00 feet to a point marking the northeasterly corner of aforementioned Lot 19, Mary Ridge, said point also marking the northwesterly corner of Lot 1A, Taddeo Estates; thence with the northerly lines of Lot 19

160.10 feet along the arc of a curve to the right having a radius of 395.00 feet and a chord bearing and chord of North 72°07'00" West, 159.00 feet to a point and

39.27 feet along the arc of a curve to the left having a radius of 25.00 feet and a chord bearing and chord of South 74°29'40" West, 35.36 feet to the point of beginning.

Containing 6,105 square feet or 0.14015 acres of land.

N:\2018-2541\DEPARTMENTS\SURVEY\WORD DOCUMENTS\LEGAL DESCRIPTION\LEGAL DESCRIPTION REV.DOCX

3959 Pender Drive, Suite 210 • Fairfax, VA 22030 • 703-385-7555 • Fax: 703-273-8595 • www.cpja.com

Parcel B
Sully District
Fairfax County, Virginia

Description of Parcel B, a portion of Brecknock Street recorded in Deed Book 3893 at Page 545 among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at a point in the southeasterly right of way line of Tilton Valley Drive, said point being a southwesterly corner of Lot 18, Mary Ridge as recorded in Deed Book 3893 at Page 545; thence departing from said right of way line and running with the aforesaid southerly lines of Lot 18, Mary Ridge the following three (3) courses:

39.27 feet along the arc of a curve to the left having a radius of 25.00 feet and a chord bearing and chord of South 15°30'20" East, 35.36 feet to a point;

135.78 feet along the arc of a curve to the left having a radius of 335.00 feet and a chord bearing and chord of South 72°07'00" East, 134.85 feet to a point and

South 83°43'40" East, 20.00 feet to a point marking a westerly corner of Lot 1A, Taddeo Estates, said point also marking the southeasterly corner of Lot 18, Mary Ridge; thence with the westerly line of said Lot 1A

South 06°16'20" West, 30.00 feet to a point; thence departing from the said westerly line of Lot 1A and running through Brecknock Street the following three (3) courses:

North 83°43'40" West, 20.00 feet to a point;

147.94 feet along the arc of a curve to the right having a radius of 365.00 feet and a chord bearing and chord of North 72°07'00" West, 146.93 feet to a point and

North 60°30'20" West, 25.00 feet to a point in the aforementioned southeasterly right of way line of Tilton Valley Drive; thence with said right of way line

North 29°29'40" East, 55.00 feet to the point of beginning.

Containing 5,740 square feet or 0.13177 acres of land.

| AREA TABULATION | | |
|-----------------|---------|---------|
| EXISTING A/W | SQ. FT. | ACRES |
| BRECKNOCK ST. | 11,845 | 0.27192 |
| TOTAL AREA | 11,845 | 0.27192 |
| PROPOSED LOTS | SQ. FT. | ACRES |
| PARCEL "A" | 6,305 | 0.14515 |
| PARCEL "B" | 5,740 | 0.13177 |
| TOTAL AREA | 11,845 | 0.27192 |

APPROVED
COUNTY OF FAIRFAX
LAND DEVELOPMENT SERVICES
ADDRESSING REVIEW

DATE: BY: DATE REVIEWED:

FINAL PLAT
RECOMMENDED FOR APPROVAL
FAIRFAX COUNTY
LAND DEVELOPMENT SERVICES

ALL STREET LOCATIONS AND/OR EASEMENTS
CONFORM TO THE REQUIREMENTS OF THIS OFFICE.
THIS APPROVAL IS NOT A COMMITMENT TO PROVIDE
PUBLIC SANITARY SERVICE.

DATE: BY: DATE REVIEWED AND
INSPECTION SIGNED BY AGENT

APPROVED
FOR
BOARD OF SUPERVISORS
FAIRFAX COUNTY, VIRGINIA

DATE: BY: DATE REVIEWED AND
INSPECTION SIGNED BY AGENT

APPROVAL VOID IF PLAT IS NOT OFFERED FOR
RECORD ON OR BEFORE:

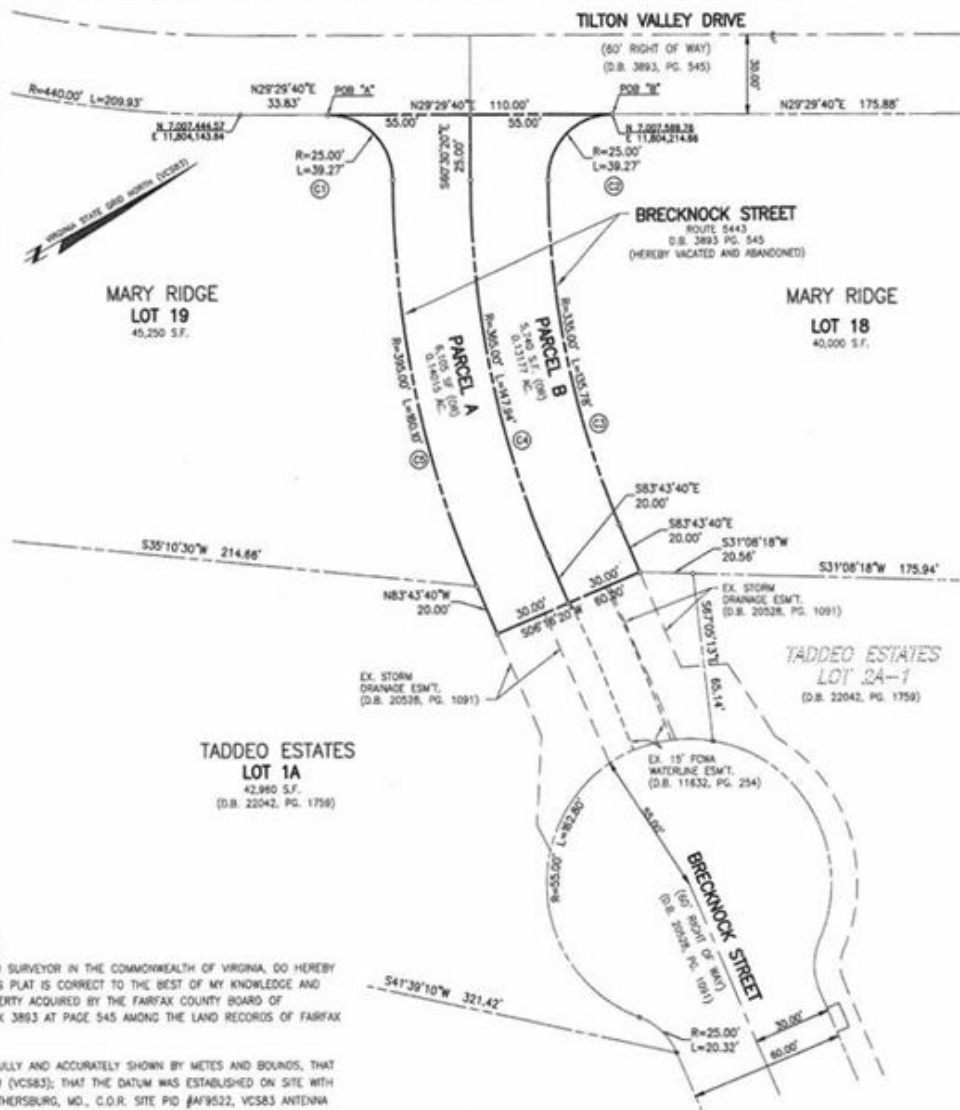
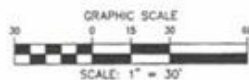
SURVEYOR'S CERTIFICATE:

I, EUGENE C. DORN A DULY LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT THE PROPERTY DELINEATED ON THIS PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT IT IS A PLAT OF ALL OF THE PROPERTY ACQUIRED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS, BY DEED RECORDED IN DEED BOOK 3893 AT PAGE 545 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

I FURTHER CERTIFY THAT THIS PARCEL IS FULLY AND ACCURATELY SHOWN BY METES AND BOUNDS, THAT BEARINGS REFER TO VIRGINIA COORDINATE SYSTEM (VCS83); THAT THE DATUM WAS ESTABLISHED ON SITE WITH G.P.S. RECEIVERS BASED ON THE NGS, NOAA GAITHERSBURG, MD., C.O.R. SITE PID #AF9522, VCS83 ANTENNA REFERENCE POINT, WITH LATITUDE 39 08 02.34044 N, LONGITUDE 077 13 15.51884 W AND THAT IRON PIPES WILL BE SET IN ACCORDANCE WITH THE FAIRFAX COUNTY SUBDIVISION ORDINANCE.



EUGENE C. DORN
LICENSED LAND SURVEYOR
VA NO. 001445



| CURVE TABLE | | | | | |
|-------------|-----------|---------|---------|---------|---------|
| CURVE | DELTA | RADIUS | ARC | TANGENT | CHORD |
| C1 | 90°00'00" | 25.00' | 39.27' | 25.00' | 35.36' |
| C2 | 90°00'00" | 25.00' | 39.27' | 25.00' | 35.36' |
| C3 | 27°13'20" | 335.00' | 135.78' | 88.83' | 134.85' |
| C4 | 27°13'20" | 365.00' | 147.84' | 75.00' | 146.93' |
| C5 | 27°13'20" | 365.00' | 180.10' | 81.16' | 159.00' |



VICINITY MAP
SCALE: 1" = 2000'

NOTES:

1. THE PROPERTY SHOWN HEREON IS IDENTIFIED ON FAIRFAX COUNTY TAX MAP NO. 46-1 AND IS ZONED R-1.
2. ALL PREVIOUSLY RECORDED RIGHTS OF WAY, EASEMENTS OR OTHER INTEREST OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE NOTED ON THIS PLAT.
3. THIS PLAT IS BASED ON A BOUNDARY SURVEY PREPARED BY CHARLES P. JOHNSON & ASSOCIATES, DATED NOVEMBER, 2018 WITH AN ERROR OF CLOSURE WITHIN THE LIMIT OF ONE (1) IN TWENTY THOUSAND (20,000) RELATED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 (VCS 83) NORTH ZONE.
4. THE PLAT OF THE PROPERTY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 AS COMPUTED FROM A FIELD RUN BOUNDARY AND HORIZONTAL CONTROL SURVEY THAT TIES THIS BOUNDARY TO AN NOAA/NGS PUBLISHED MONUMENT DESIGNATED AS HV9413 WITH A COMBINED SCALED FACTOR OF 0.99995941.
5. ALL EASEMENTS ARE "HEREBY GRANTED" UNLESS OTHERWISE NOTED.
6. THIS PROPERTY LIES WITHIN "ZONE X", (AREAS OF MINIMAL FLOOD HAZARD), AS SHOWN ON THE FLOOD INSURANCE RATE MAP (F.I.R.M.) MAP NO. 51059C0140E1 AN EFFECTIVE DATE OF SEPTEMBER 17, 2010.
7. PARCELS "A" AND "B" DO NOT MEET THE REQUIREMENTS OF THE ZONING ORDINANCE FOR A BUILDABLE LOT.

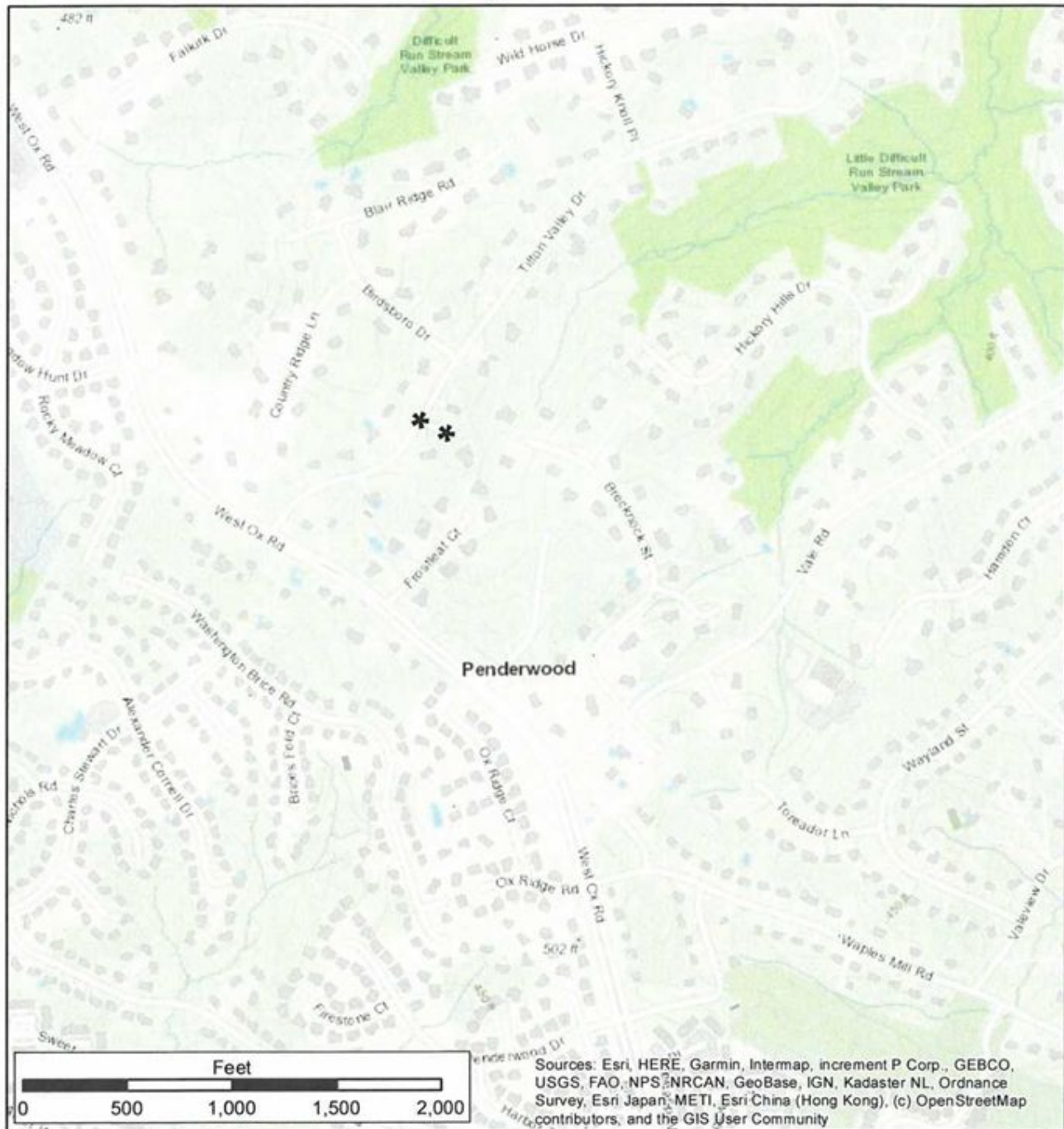
PLAT SHOWING
VACATION AND ABANDONMENT
OF A PORTION OF
BRECKNOCK STREET
(D.B. 3893, PG. 545)
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA

CPI Charles P. Johnson & Associates, Inc.
PLANNERS ENGINEERS LANDSCAPE ARCHITECTS SURVEYORS
3000 PONDY DRIVE, SUITE 200 FAIRFAX, VIRGINIA 22030 (703) 960-7000
ELDER SPRING, MD. FAX (703) 960-7000

| REVISION | DATE | DESCRIPTION | TAX MAP | SITE PLAN NO. |
|----------|------|-------------|-----------------|---------------------|
| | | | 46-1 (E180) | N/A |
| | | | DRAFT: DAS | |
| | | | CHECK: TJD | |
| | | | DATE: 3-25-19 | |
| | | | SCALE: 1" = 30' | |
| | | | | SHEET 1 OF 1 |
| | | | | FILE NO.: 80-02001A |

Last Saved 12/16/2019 Last Plotted 12/17/2019 3:52 PM Sheet N/2018-2541/DWG/00

Brecknock Street Easement Vacation/Abandonment Sully District



Tax Map 46-1

* Symbol Denotes Area of Easement to be Vacated



County of Fairfax, Virginia

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

MAY - 1 2008

Dominic M. Taddeo, Principal
Taddeo Homes
6425 Tilton Valley Drive
Fairfax, Virginia 22033

Subject: Taddeo Estates Subdivision, Plan #6369-SD-003-1, Tax Map #046-1-01-0002-B, Sully District

Reference: Interparcel Access Waiver #6369-WIPA-001-1

Dear Mr. Taddeo:

Your request to waive the requirements of the Fairfax County Public Facilities Manual Section 7-0101.1 to provide Interparcel access to connect Brecknock Street through the property to Tilton Valley Drive has been reviewed and coordinated with the Fairfax County Department of Transportation and Virginia Department of Transportation, and is hereby approved, conditioned upon the following:

- Existing stub street of Brecknock Street (that is not extended) should be vacated/abandoned and pavement should be removed. This should occur prior to the issuance of the residential use permit for the first new home in the subdivision.
- The applicant shall provide a "State Standard" cul-de-sac on Brecknock Street.

This waiver shall automatically expire, without notice, twenty-four (24) months after the approval date of this letter, unless the subject construction plan has been approved.

If you have any questions or need additional information, please contact Shaukat Faheem, Engineer III, Environmental and Site Review Division (ESRD) West at 703-324-1720.

Sincerely,


for Assad Ayoubi, Director
ESRD West

AUA/tg

cc: Angela Kadar Rodeheaver, Chief, Site Analysis Section, FCDOT
Shaukat Faheem, Engineer III, ESRD West, DPWES
Waiver File

Department of Public Works and Environmental Services
Land Development Services, Environmental and Site Review Division
12055 Government Center Parkway, Suite 535
Fairfax, Virginia 22035-5503
Phone 703-324-1720 • TTY 711 • FAX 703-324-8359





6369-WIPA-006-1 CAA/TBA

Taddeo Homes

Ms. Michelle Brickner, P.E., Director
 Department of Public Works and Environmental Services
 Environmental and Facilities Review Division
 12055 Government Center Parkway, Suite 530
 Fairfax, VA 22035

November 26, 2007

Re: Inter-parcel Access Waiver Request
 Taddeo Estates, 6369-SD-03-1
 Tax Map #46-1((1))2B
 Sully District

Sent to DOT
 2/21/08

Dear Ms. Brickner:

In reference to the above specified project, we respectfully request for your consideration a waiver of PFM Section 7-0101.1 with regard to providing inter-parcel access to connect Brecknock Street through the property to Tilton Valley Drive. We provide the following justifications for granting the waiver:

1. The surrounding adjacent property owners have expressed opposition to Brecknock Street being established as a through road as it will cause increased traffic, noise, and safety concerns for those property owners.
2. There is no benefit to providing a through road along Brecknock Street. Brecknock Street runs parallel to West Ox Road between Tilton Valley Drive and Vale Road. West Ox Road is a major collector road for both Tilton Valley Drive and Vale Road and the predominant destination for both streets. Vehicles using either road can reach West Ox Road shortly beyond Brecknock Street. Therefore, there is no advantage to using Brecknock Street to reach the other.
3. The west portion of Brecknock Street has been a "stub out" for an extended period of time. The opposite portion of Brecknock Street is an existing cul-de-sac. With approval of the waiver, the existing condition is maintained.

We feel the items listed above provide reasonable justifications for waiver approval and appreciate your consideration on this matter. For your reference are two copies of the Final Subdivision Plat as well as the \$690.00 waiver request fee. Your prompt attention to this request would be greatly appreciated. If you have any questions or require any additional information, please feel free to contact me.

Sincerely,

Dominic M. Taddeo
 Principal

3425 Tilton Valley Dr Fairfax, Virginia 22033 (703)307-7237

dmtaddeo@yahoo.com



SF

COMMONWEALTH of VIRGINIA

DAVID S. EKERN, P.E.
COMMISSIONER

DEPARTMENT OF TRANSPORTATION
14685 Avion Parkway
Chantilly, VA 20151
(703) 383-VDOT (8368)

March 12, 2008

Assad Ayoubi, Director
Department of Public Works and Environmental Services
Land Development Services
12055 Government Center Parkway, Suite 444
Fairfax, Virginia 22035-5503

Re: Taddeo Estates Subdivision, Interparcel Access Waiver
Fairfax County Plan No.: 6369-WIPA-001-1

Dear Mr. Ayoubi:

We have reviewed the referenced waiver and have no objection to the approval of this waiver as noted:

1. The existing stub street of Brecknock Street (that is not being extended) should be vacated/abandoned and pavement should be removed.
2. The applicant should provide a standard cul-de-sac.

If you have any questions, please call me at (703) 383-2059.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Gerner".

Peter K. Gerner, P.E.
Transportation Engineer

cc: Ms. D. A. Purvis

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Fairfax County Government Center in Fairfax, Virginia, this 14th day of July, 2020, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Taddeo Homes, petitioned the Fairfax County Board of Supervisors to abandon and vacate an existing stub street of Brecknock Street (Route 5443) to satisfy the conditions of Interparcel Access Waiver #6369-WIPA-001-1 (Attachment VIII), and;

WHEREAS, the Board of Supervisors has approved the abandonment and vacation of the existing stub street of Brecknock Street (Route 5443) located adjacent to Tax Map 46-1-((10)) Parcel 18 and Parcel 19, described on the metes and bounds schedule dated September 13, 2019, and shown as 6,105 square feet (Parcel A) and 5,740 square feet (Parcel B) on the abandonment and vacation plat dated December 17, 2019, both prepared by CPJ Associates, and;

WHEREAS, the County has no current or planned use for the unimproved right-of-way created by the abandonment and vacation, and;

WHEREAS, the Board of Supervisors finds that it would be in the best interest of the residents of Fairfax County to abandon, pursuant to Virginia Code Ann. §33.2-909, and vacate, pursuant to Virginia Code Ann. §15.2-2272(2), the above described portion of Brecknock Street (Route 5443),

NOW, THEREFORE, upon public hearing duly advertised according to law, it is **RESOLVED** that, in consideration of the conditions associated with the Interparcel Access Waiver, the County Executive or Deputy County Executive is hereby authorized to execute all necessary documents to vacate and abandon the real property described above to the Applicant.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
July 14, 2020

4:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the
Construction of Hunter Village Dr Walkway (Wentworth to Flax) (Springfield District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project 2G40-088-038, Hunter Village Dr Walkway from Wentworth Place to Flax Street, Fund 40010, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On March 24, 2020, the Board authorized advertisement of a public hearing to be held on April 14, 2020, commencing at 3:00 p.m. The Board deferred the public hearing on April 14, 2020, until July 14, 2020, at 4:00 p.m.

BACKGROUND:

The County is planning to construct a five-foot wide concrete sidewalk along the north side of Hunter Village Drive from Flax Street to approximately 250 linear feet east of Wentworth Place, for a total length of approximately 550 linear feet.

Land rights for these improvements are required on four properties, one of which has been acquired by the Land Acquisition Division. The construction of this project requires the acquisition of Deeds of Dedication and Grading Agreement and Temporary Construction Easements.

Negotiations are in progress with the remaining three property owners; however, because resolution of these acquisitions is not imminent, it may become 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.

Board Agenda Item
July 14, 2020

FISCAL IMPACT:

Funding is available in Project 2G40-088-000, County Six Year Plan Bike & Pedestrian Program, in Fund 40010, County and Regional Transportation Projects. This project is included in the FY 2020 – FY 2024 Adopted Capital Improvement Program (with future Fiscal Years to FY 2029). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A – Project Location Map

Attachment B – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachments 1 through 3-A).

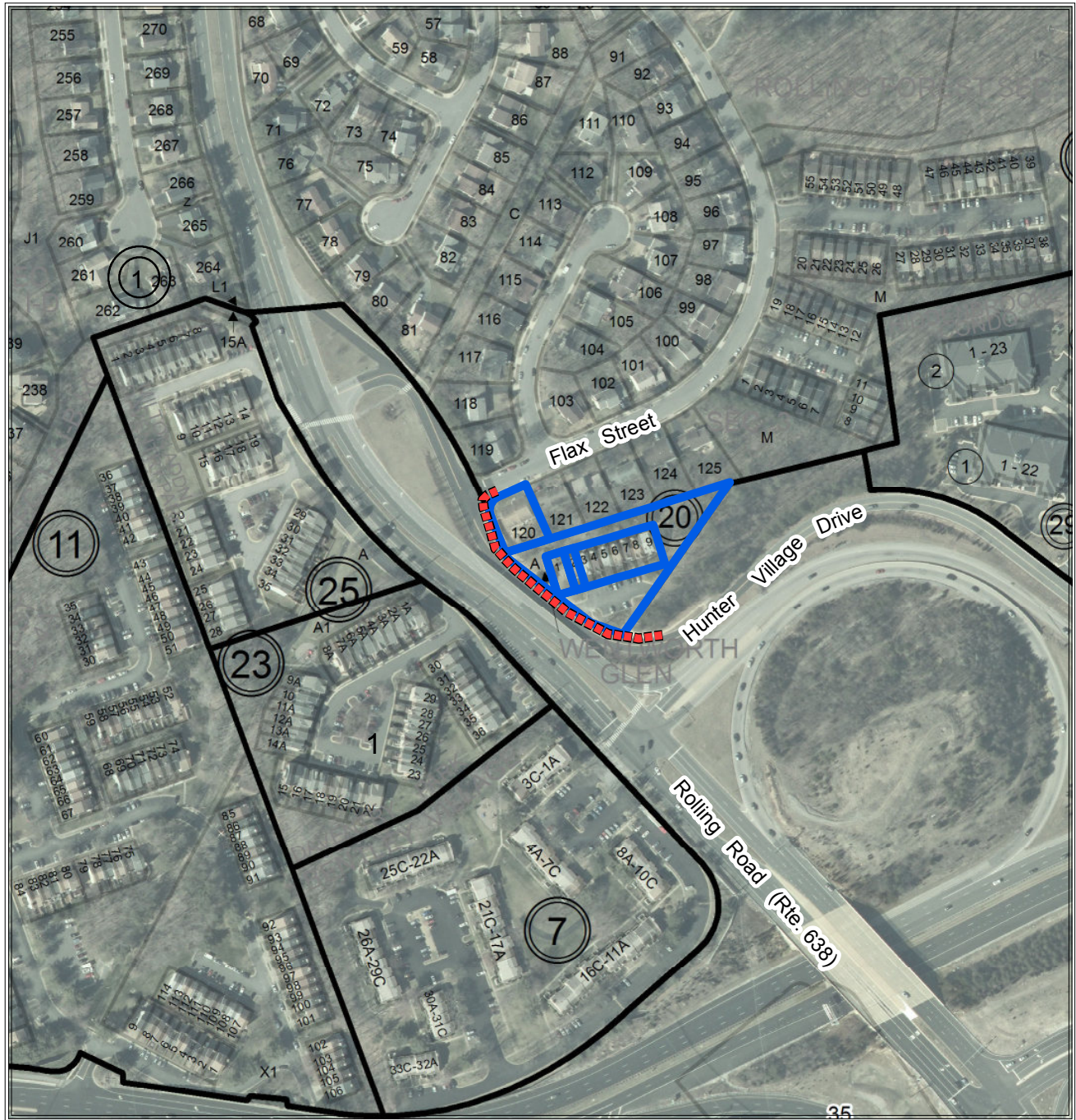
STAFF:

Randolph W. Bartlett, 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



HUNTER VILLAGE DRIVE WALKWAY WENTWORTH TO FLAX

Project 2G40-088-038

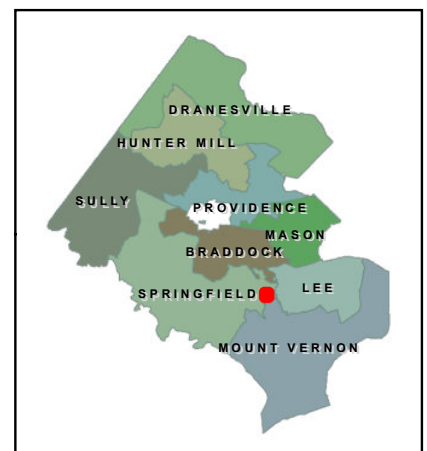
Tax Map: 089-4

Springfield District

Affected Properties:

Proposed Improvements:

0 5 10 20
Miles



ATTACHMENT B

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in Conference Room 11 of the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 14, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain 2G40-088-038, Hunter Village Dr Walkway from Wentworth Place to Flax Street had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than August 28, 2020.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 3-A by gift, purchase, exchange, or eminent domain; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the purpose of constructing a five-foot wide concrete sidewalk along the north side of Hunter Village Drive from Flax Street to approximately 250 linear feet east of Wentworth Place, for a total length of approximately 550 linear feet as shown and described in the plans of Project 2G40-088-

038, Hunter Village Dr Walkway from Wentworth Place to Flax Street on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the Code of Virginia and does hereby authorize and direct the Director, Land Acquisition Division, on or subsequent to August 14, 2020, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES
Project 2G40-088-038 Hunter Village Dr Walkway
(Wentworth Place to Flax Street)
(Springfield District)

PROPERTY OWNER(S)

TAX MAP NUMBER

1. Wentworth Glen Homeowners Association, Inc.

089-4-20-A

Address (Legal Description):
Wentworth Glen, Parcel A – Common Area

2. Serra Karacam 089-4-20-0001

Address:
7940 Wentworth Place, Springfield, VA 22152

3. Russell Carl Bannerman 089-4-20-0002

Address:
7938 Wentworth Place, Springfield, VA 22152

A Copy – Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 089-4-20-A

Legal Description: Wentworth Glen, Parcel A – Common Area

OWNER(S): Wentworth Glen Homeowners Association, Inc.

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Dedication - 1,974 sq. ft.

Grading Agreement and Temporary Construction Easement – 1,952 sq. ft.

VALUE

Estimated value of interests and damages:

FOUR THOUSAND EIGHT HUNDRED AND FORTY DOLLARS (\$4,840.00)

AFFECTED PROPERTY

Tax Map Number: 089-4-20-0001

Street Address: 7940 Wentworth Place, Springfield, VA 22152

OWNER(S): Serra Karacam

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication – 4 sq. ft.

Grading Agreement and Temporary Construction Easement – 437 sq. ft.

VALUE

Estimated value of interests and damages:

ONE THOUSAND SEVEN HUNDRED SEVENTY DOLLARS (\$1,770.00)

AFFECTED PROPERTY

Tax Map Number: 089-4-20-0002

Street Address: 7938 Wentworth Place, Springfield, VA 22152

OWNER(S): Russell Carl Bannerman

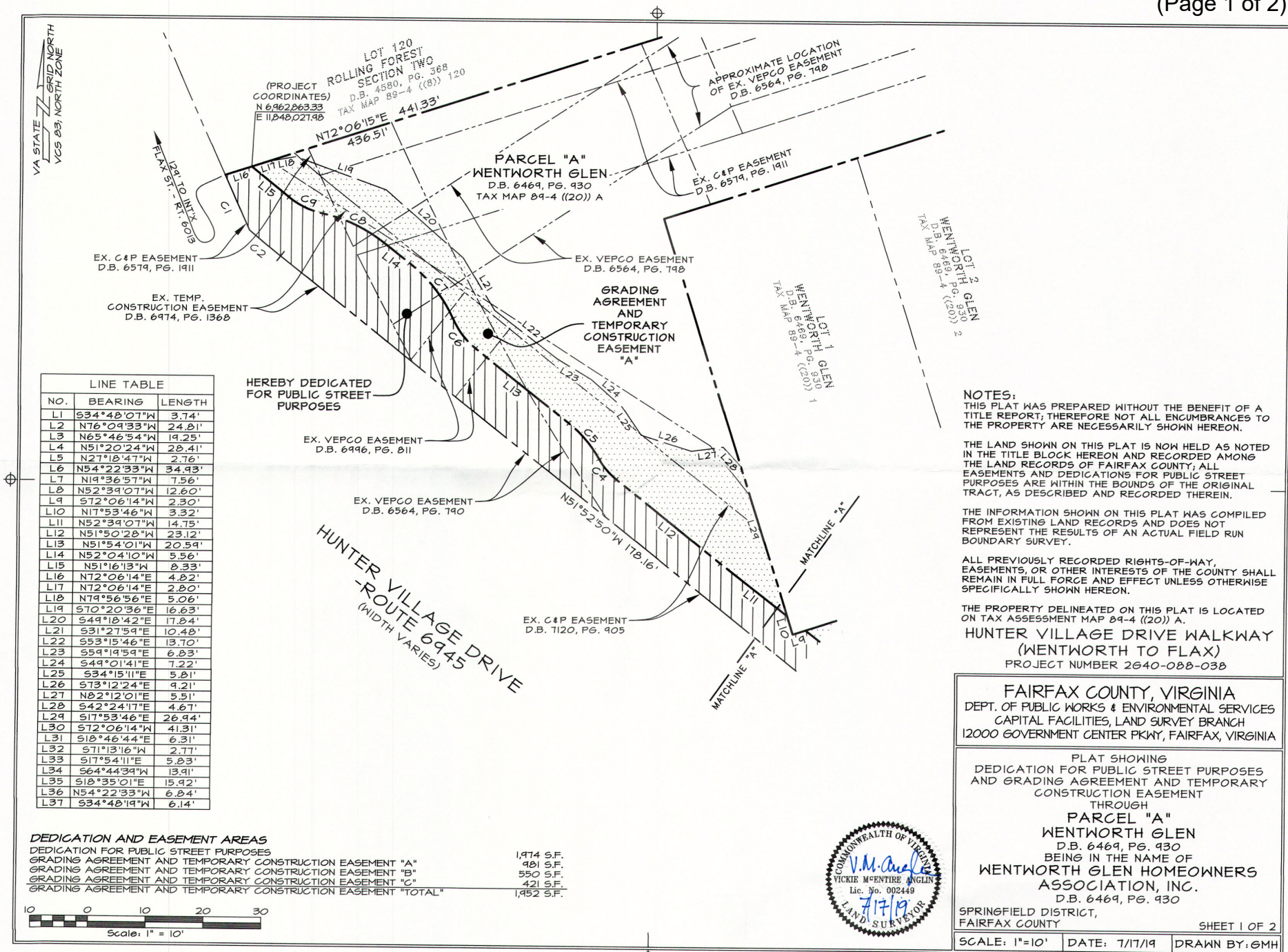
INTEREST(S) REQUIRED: (As shown on attached plat/plan)

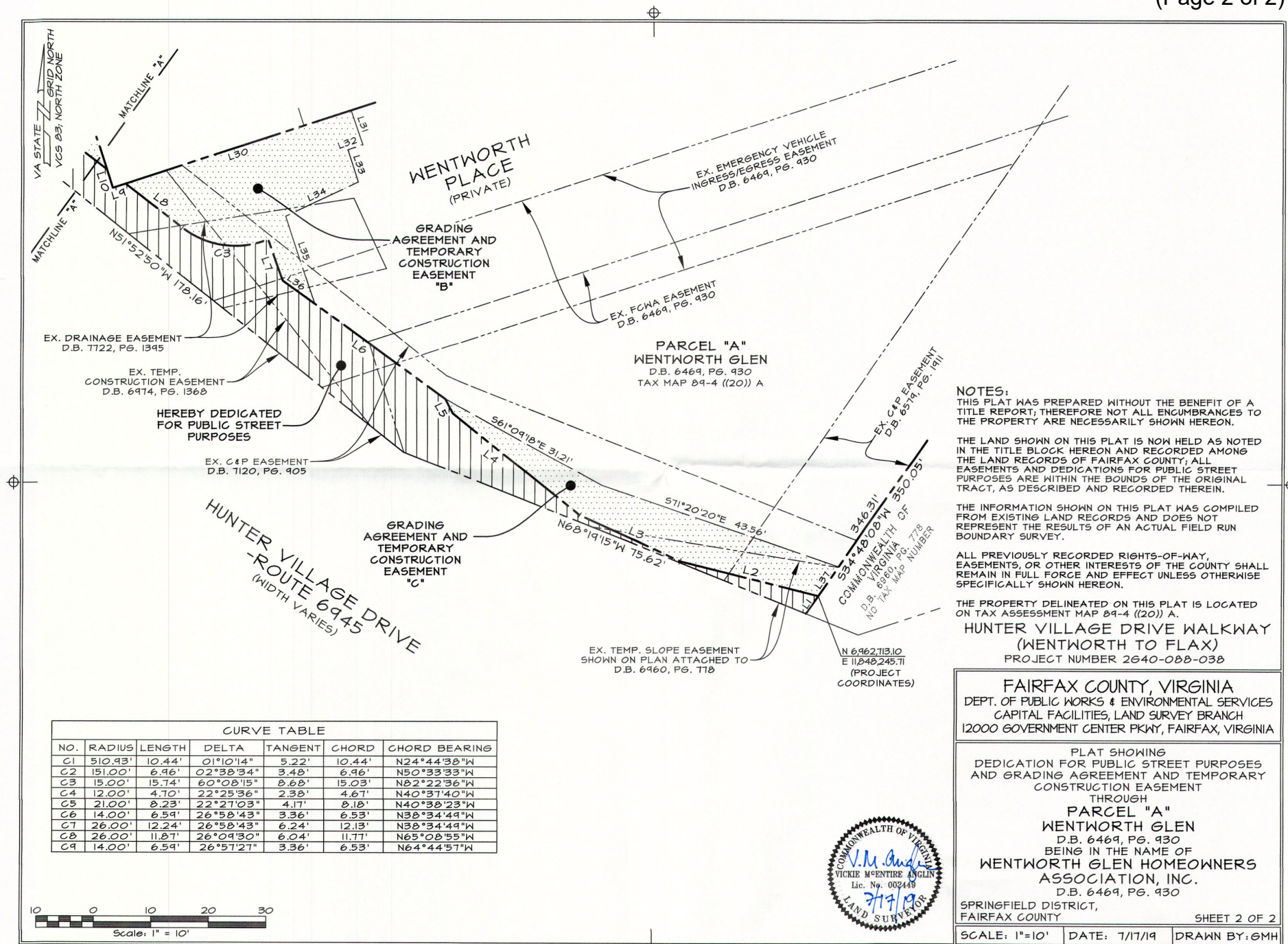
Grading Agreement and Temporary Construction Easement – 53 sq. ft.

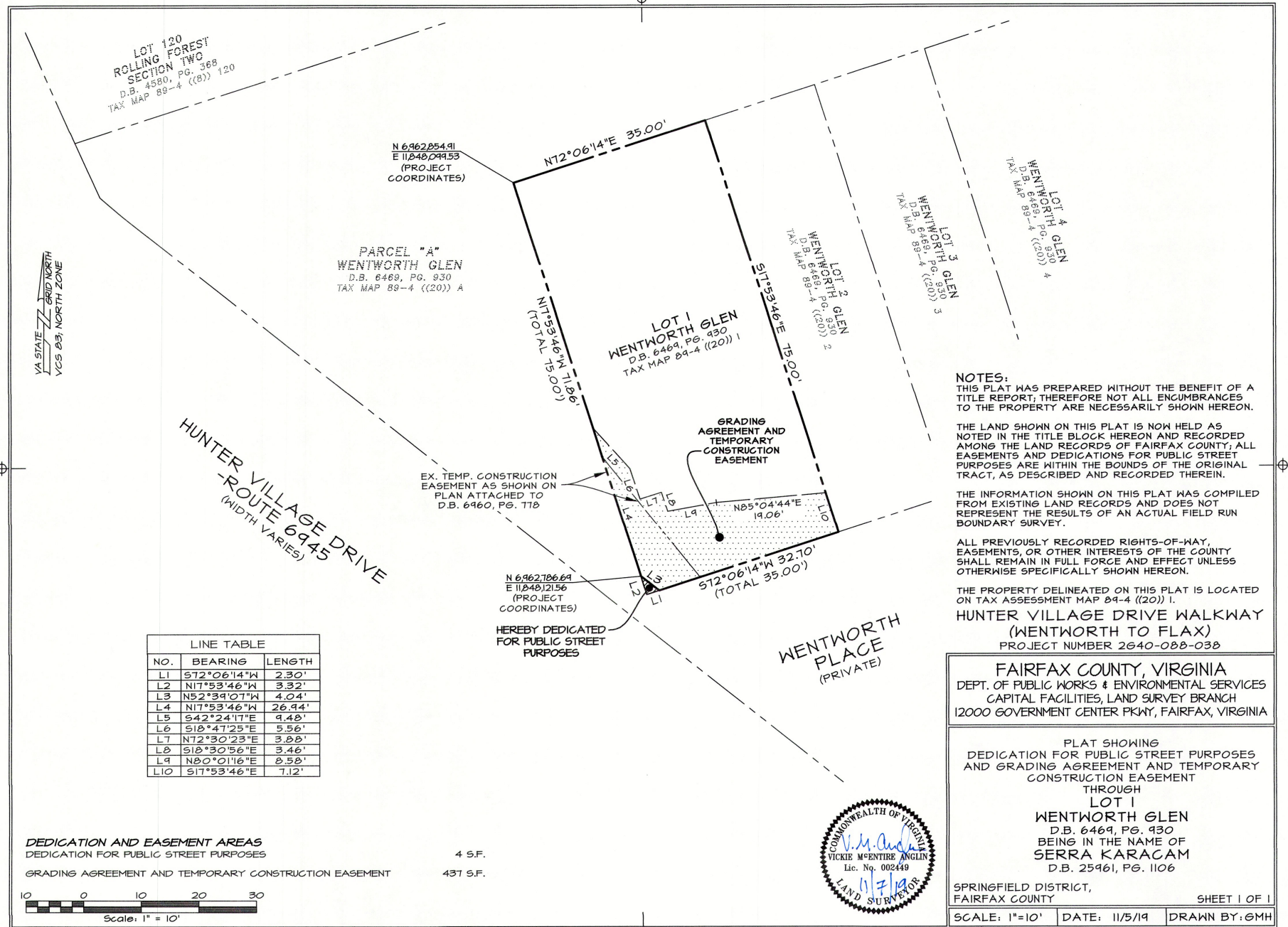
VALUE

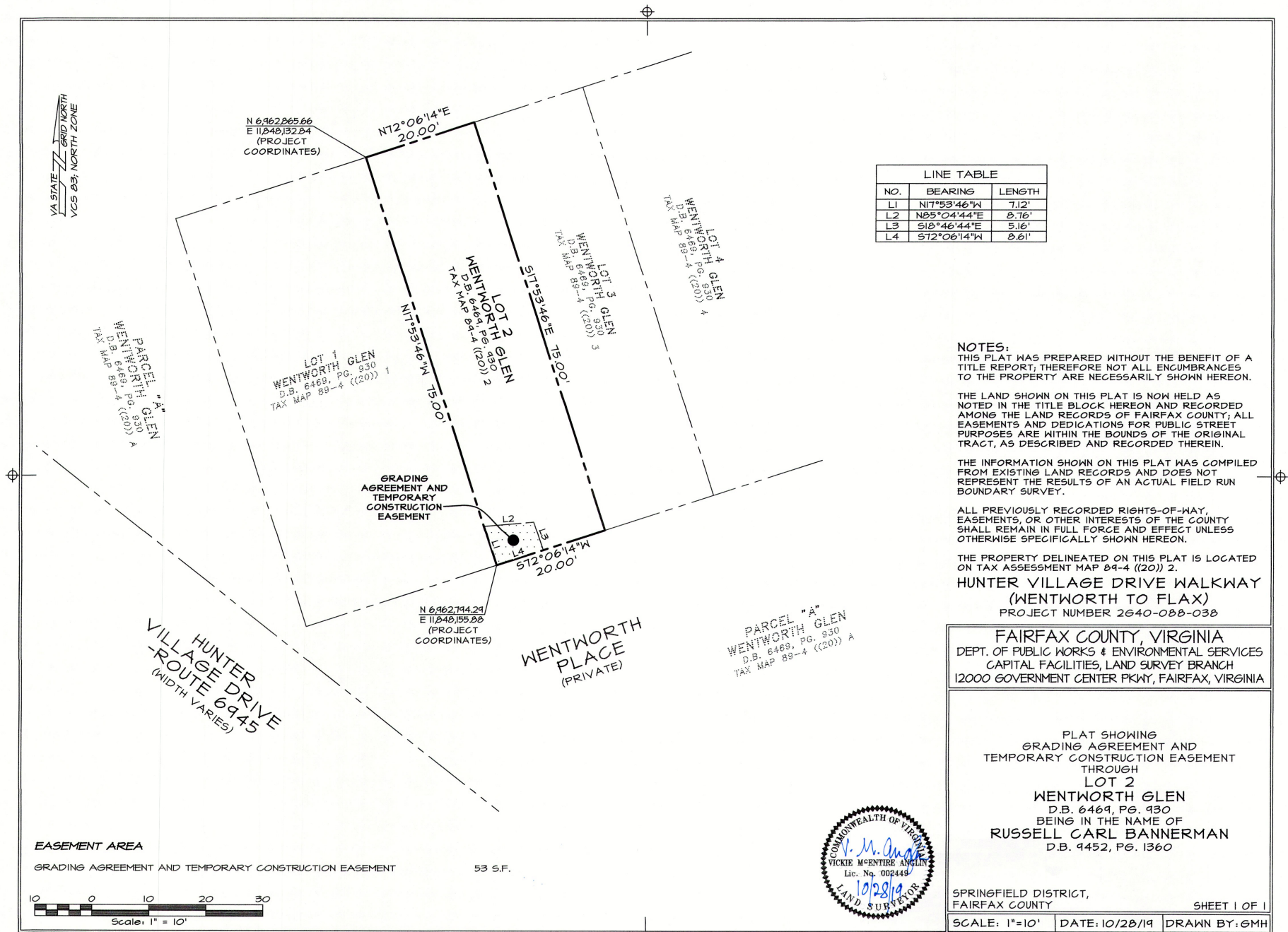
Estimated value of interests and damages:

SIX HUNDRED EIGHTY DOLLARS (\$680.00)









Board Agenda Item
July 14, 2020

4:30 p.m.

Public Hearing on Proposed Amendments to the Police Officers Retirement System Ordinance

ISSUE:

Public hearing on proposed amendments to Article 7 of Chapter 3 of the Code of the County of Fairfax, which sets forth the ordinance for the Fairfax County Police Officers Retirement System (PORS).

RECOMMENDATION:

The County Executive recommends that the Board approve the proposed amendments to the PORS ordinance to add a third active police officer member to the PORS Board of Trustees and allowing PORS members to purchase membership service credit in the PORS by paying into the PORS membership service credit earned while participating in the Fairfax County Employees' Retirement System (ERS) or the Fairfax County Uniformed Retirement System (URS). These amendments will implement changes to the state enabling legislation for the PORS enacted during the General Assembly's 2020 session.

TIMING:

On June 9, 2020, the Board authorized a public hearing on July 14, 2020, at 4:30 p.m.

BACKGROUND:

At the April 2, 2019, meeting of its Personnel Committee, the Board was presented with proposed amendments to the PORS ordinance requested by the PORS Board of Trustees to: (1) bring the joint and last survivor option alternatives available to PORS members more into line with the commensurate joint and last survivor option alternatives available to members of the ERS and URS; (2) increase the membership of the Board of Trustees from 7 to 8 by adding a third active police officer member; and (3) allow PORS members to purchase membership service credit in the PORS by paying into the PORS membership service credit earned while participating in another County Retirement System. All three of these proposed amendments sought to bring the PORS ordinance more into line with the ERS and URS ordinances.

The Board later approved the first proposed amendment following a public hearing on June 25, 2019. Because the other two proposed amendments required changes to

Board Agenda Item
July 14, 2020

state enabling legislation for the PORS (Chapter 303 of the 1944 Acts of Assembly, as amended), the Board voted on August 27, 2019, to include those necessary changes in its 2020 Legislative Program.

On April 8, 2020, the Governor signed into law S. 651 and S. 652, which respectively increase the number of active police officer members on the PORS Board of Trustees from 2 to 3, thereby bringing to total number of trustees to 8, and authorize the Board to enact rules and regulations permitting PORS members to purchase membership service credit in the PORS by paying into the PORS membership service credit earned while participating in the ERS or URS.

PROPOSED AMENDMENTS:

The proposed PORS ordinance amendments, which if adopted, would become effective on August 1, 2020. These amendments would:

- Add a third member to the PORS Board of Trustees, to be a sworn Fairfax County police officer elected by active police officers, and
- Allow PORS members to purchase membership service credit in the PORS using membership service credit earned while in either the ERS or URS.

FISCAL IMPACT:

These changes do not represent benefit enhancements, would not impact the PORS's funded status, and would not require an increase in the County's contribution to PORS.

ENCLOSED DOCUMENTS:

Attachment 1: Amendments to Chapter 3, Article 7 (with changes noted)

STAFF:

Joseph Mondoro, Chief Financial Officer
Jeff Weiler, Executive Director, Fairfax County Retirement Systems
Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Benjamin R. Jacewicz, Assistant County Attorney

Section 3-7-10. - Membership; term of office; election of officers.

- (a) The Board of Trustees of the System shall consist of the following members:
- Director of the Department of Finance, who shall be the Treasurer of the Board, or his or her permanent designee, sitting ex officio;
 - Three persons appointed by the Board of Supervisors;
 - Three ~~Two~~ persons currently employed by the Fairfax County Police Department as sworn police officers elected by the members of the System currently employed by the Fairfax County Police Department as sworn police officers; and
 - One person who is retired from employment as a sworn police officer of Fairfax County elected by the retired members of the System.
- (b) With the exception of the Director of the Department of Finance, the term of office of trustees shall be four years. (20-81-3; 10-01-3; 4-16-3.)

Section 3-7-22. - Membership service credit.

- (a) Each member shall receive membership service credit for service rendered while a member of the System, or after he or she last became a member in the event of a break in his or her membership.
- (b) Each member shall receive membership service credit for any period he or she is on service-connected total disability retirement. All members who have been retired before, and all members who are retired on or after July 7, 2003, on account of service-connected partial disability pursuant to [Section 3-7-29](#) shall receive membership service credit for any period they are on service-connected partial disability retirement.
- (c) Each member shall be allowed membership service credit for accrued unused sick leave upon making application for retirement, at the rate of one month of credit for each 172 hours of accrued unused sick leave; and pro rata credit shall be allowed for each fraction thereof. In determining average final compensation, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the member had continued to work at his or her final salary during the period of his or her accrued unused sick leave.
- (d) Each member shall receive membership service credit for military leave, provided he or she returns to full employment within 90 days of discharge and such discharge is other than dishonorable.
- (e) Effective August 1, 2020, under such rules and regulations as are adopted by the Board, any employee who has been a member of the Fairfax County Employees' Retirement System or the Fairfax County Uniformed Retirement System, and who withdraws therefrom and becomes a member of this System may purchase membership service credit for service rendered while a member of such other system by paying into this System all contributions that would have been due from

his or her had he or she been a member of this System, plus interest at the rate or rates, as established by the Board, for each of the years for which membership service credit is sought.

The amount due from a member for such purchase of membership service credit shall be satisfied, to the extent possible, (a) by directing the trustees of the system from which he or she is withdrawing to transfer her or her accumulated member contributions in such system directly to this System, without distribution to such employee, if such transfers are available under such system, or (b) through: (i) a rollover from the system from which he or she is withdrawing (if the member would be eligible for a refund from such system); (ii) a rollover from an individual retirement account in which all contributions were derived from a rollover from such system; or (iii) a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A); or (iv) through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code. To the extent that a rollover of direct transfer permitted under this Subsection is insufficient to purchase the necessary membership service credit, other arrangements permitted by the rules and regulations adopted by the Board shall be made for purchasing such membership service credit. (20-81-3; 36-88-3; 8-03-3; 33-03-3; 4-16-3, - - .)

Board Agenda Item
July 14, 2020

4:30 p.m.

Public Hearing to Consider an Ordinance to Amend the Fairfax County Code by Adopting Article 3 to Chapter 7 Relating to Establishing Voter Satellite Offices for Absentee in Person Voting Under Virginia Code Section 24.2-701.2

ISSUE:

Public Hearing to consider an ordinance that proposes to amend Chapter 7 of the Fairfax County Code by adding a new Article 3 to establish voter satellite offices for absentee in person voting. Virginia Code Section 24.2-701.2, effective on July 1, 2020, applies to elections beginning with the November 3, 2020, General Election, and requires that the Board establish all voter satellite offices in the County by ordinance.

RECOMMENDATION:

The County Executive recommends adoption of the proposed ordinance.

TIMING:

On June 9, 2020, the Board authorized a public hearing to be held on July 14, 2020, at 4:30 p.m. to consider this ordinance. Board action on July 14, 2020, will ensure sufficient time to prepare the newly approved voter satellite offices for use; secure all equipment and retain staff needed to operate each office; and inform voters of the office locations no later than 55 days prior to the November 3, 2020, General Election.

BACKGROUND:

Currently, voter satellite offices are identified and established by the Electoral Board pursuant to Virginia Code Section 24.2-707. On July 1, 2020, concurrent with the establishment of “no excuse” absentee voting in Virginia, Virginia Code Section 24.2-701.2 now requires the governing body of each county and city to establish the locations of voter satellite offices by ordinance, if any such offices are desired.

Under the new law, the Board of Supervisors may establish as many voter satellite offices as it deems necessary to support countywide absentee voting in person, subject to the physical and accessibility requirements of Virginia Code Section 24.2-701.2.

The advent of no excuse absentee voting for the November 2020 Presidential Election is expected to significantly increase the number of voters choosing to cast absentee ballots in person. In order to meet voter demand, adequate time must be allowed to

Board Agenda Item
July 14, 2020

schedule and staff the voter satellite offices in public buildings, in accordance with Virginia Code Section 24.2-701.2(D), and inform voters of the voter satellite office locations not later than 55 days prior to the General Election on November 3, 2020, as required by Virginia Code Section 24.2-701.2(E).

In anticipation of increased voter turnout for the November 2020 Presidential Election, the proposed fourteen (14) voter satellite offices are an increase in the number of locations provided in the past. For the November 2016 Presidential Election, there were nine (9) voter satellite locations. In subsequent elections, Herndon Fortnightly Library, Great Falls Library, and Tysons-Pimmit Regional Library have been added. For the November 2020 Presidential Election, Centreville Regional Library and Thomas Jefferson Library are proposed to be added. The Laurel Hill Golf Club will replace the Lorton Library which is currently under construction.

For the November 2020 Presidential Election, the voter satellite offices are scheduled to operate October 14 through October 31, weekdays and Saturdays. The proposed weekday hours of operation shall be from 1 PM to 7 PM, and 9 AM to 5 PM on Saturdays, however, if in July and August absentee ballot activity indicates a review is warranted, the Fairfax County Electoral Board may consider revising the weekday hours of operation of the voter satellite offices.

The Virginia Code continues to require that the electoral board of each county and city provide for absentee voting in person in the office of the general registrar. In Fairfax County, the office of the general registrar is located in the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, therefore absentee voting at the Fairfax County Government Center is not considered a voter satellite office and is not included on the following list.

If approved, the proposed ordinance would establish and approve the following fourteen (14) voter satellite offices:

Centreville Regional Library

14200 Saint Germain Drive
Centreville, Virginia 20121

Franconia Governmental Center

6121 Franconia Road
Alexandria, Virginia 22310

Great Falls Library

9830 Georgetown Pike
Great Falls, Virginia 22066

Board Agenda Item
July 14, 2020

Herndon Fortnightly Library

768 Center Street
Herndon, Virginia 20170

Laurel Hill Golf Club

8701 Laurel Crest Drive
Lorton, Virginia 22079

Mason Governmental Center

6507 Columbia Pike
Annandale, Virginia 22003

McLean Governmental Center

1437 Balls Hill Road
McLean, Virginia 22101

Mount Vernon Governmental Center

2511 Parkers Lane
Alexandria, VA 22306

North County Governmental Center

1801 Cameron Glen Drive
Reston, Virginia 20190

Providence Community Center

3001 Vaden Drive
Fairfax, Virginia 22031

Sully Governmental Center

4900 Stonecroft Boulevard
Chantilly, Virginia 20151

Thomas Jefferson Library

7415 Arlington Boulevard
Falls Church, Virginia 22042

Tysons-Pimmit Regional Library

7584 Leesburg Pike
Falls Church, Virginia 22043

West Springfield Governmental Center

6140 Rolling Road
Springfield, Virginia 22152

Board Agenda Item
July 14, 2020

FISCAL IMPACT:

Insignificant. Funding is available in the agency's FY 2021 Adopted Budget.

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Voter Satellite Offices

Attachment 2: Map of Proposed Voter Satellite Office Locations

Attachment 3: Proposed Ordinance

STAFF:

Gary D. Scott, General Registrar and Director of Elections

Beth Dixon Methfessel, Clerk to the Fairfax County Electoral Board

ASSIGNED COUNSEL:

Martin R. Desjardins, Assistant County Attorney

Relevant provisions of the Virginia Code, as shall be in force as of July 1, 2020, and applicable first to the November 3, 2020, General Election.

§ 24.2-701.1. (Effective for elections beginning with the general election on November 3, 2020) Absentee voting in person.

A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election.

1. Any registered voter eligible to vote absentee pursuant to subsection A of § 24.2-700 may vote absentee in person beginning on the forty-fifth day prior to the election in which he is offering to vote and continuing until the second Friday immediately preceding such election. He shall complete the application for an absentee ballot required by § 24.2-701, and the general registrar shall process that application in accordance with the provisions of § 24.2-706.

2. Any registered voter may vote absentee in person on or after the second Saturday immediately preceding the election in which he is offering to vote. He shall provide his name and his residence address in the county or city in which he is offering to vote. After verifying that the voter is a registered voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee voter applicant list maintained pursuant to § 24.2-706.

A registered voter voting by absentee ballot in person shall provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one of the forms of identification specified in subsection B of § 24.2-643, he shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

B. Absentee voting in person shall be available during regular business hours. The electoral board of each county and city shall provide for absentee voting in person in the office of the general registrar or a voter satellite office established pursuant to § 24.2-701.2. For purposes of this chapter, such office shall be open to the public a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections. Any applicant who is in line to cast his ballot when the office of the general registrar or voter satellite office closes shall be permitted to cast his absentee ballot that day.

C. The general registrar may provide for the casting of absentee ballots in person pursuant to this section on voting systems. The Department shall prescribe the procedures for use of voting systems. The procedures shall provide for absentee voting in person on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department to all localities using comparable voting systems.

D. At least two officers of election shall be present during all hours that absentee voting in person is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party conducting the primary. However, such

requirement shall not apply when (i) voting systems that are being used pursuant to subsection C are located in the office of the general registrar or voter satellite office and (ii) the general registrar or an assistant registrar is present.

E. The Department shall include absentee ballots voted in person in its instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

§ 24.2-701.2. Absentee voting in person; voter satellite offices.

A. The governing body of any county or city may establish, by ordinance, voter satellite offices to be used in the locality for absentee voting in person. The governing body may establish as many offices as it deems necessary. No change in, including the creation or abolishment of, any voter satellite office shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the locality once a week for two successive weeks.

B. Any voter satellite office shall be in a public building owned or leased by the county, city, or town within the county and may be in a facility that is owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Any such location shall have adequate facilities for the protection of all elections materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the location.

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

D. The governing body of each county, city, and town shall provide funds to enable the general registrar to provide adequate facilities at each voter satellite office for the conduct of elections.

E. Not later than 55 days prior to any election, the general registrar shall post notice of all voter satellite office locations in the locality and the dates and hours of operation of each location in the office of the general registrar and on the official website for the county or city. Such notice shall remain in the office of the general registrar and on the official website for the county or city for the duration of the period during which absentee voting in person is available. If the county or city does not have an official website, such notice shall be published in a newspaper of general circulation in the county or city at least once prior to the election but not later than 55 days prior to such election.

F. If an emergency makes a voter satellite office unusable or inaccessible, the electoral board or the general registrar shall provide an alternative voter satellite office, subject to the approval of the State Board, and shall give notice of the change in the location of the voter satellite office. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, "emergency" means a

rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

G. The provisions of subsection E of § 24.2-310 providing certain limited circumstances in which a local electoral board may approve an exception to the prohibition on the distribution of campaign materials inside the prohibited area outside of a polling place shall apply to voter satellite offices and the building in which such offices may be located.

H. A voter satellite office established pursuant to this section shall be deemed to be the equivalent of an office of the general registrar for purposes of completing an application for an absentee ballot in person pursuant to §§ 24.2-701, 24.2-701.1, and 24.2-706.



**AN ORDINANCE ADOPTING ARTICLE 3 TO CHAPTER 7 OF THE FAIRFAX
COUNTY CODE, ESTABLISHING VOTER SATELLITE OFFICES PURSUANT TO
VIRGINIA CODE SECTION 24.2-701.2**

~~Draft of June 9, 2020~~ As adopted on July 14, 2020

**AN ORDINANCE to amend the Fairfax County Code by adding Article 3 to
Chapter 7, establishing voter satellite offices pursuant to Virginia Code
Section 24.2-701.2.**

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

- 1. That Article 3 of Chapter 7 of the Fairfax County Code is adopted, as follows:**

ARTICLE 3. – Voter Satellite Offices.

Section 7-3-1. – Establishment of Voter Satellite Offices.

The Board of Supervisors hereby establishes voter satellite offices at the locations listed in Section 7-3-2, pursuant to Virginia Code Section 24.2-701.2, as amended.

Section 7-3-2. – Voter Satellite Offices.

Voter satellite offices are hereby established at the following locations:

- (a). – Centreville Regional Library**
14200 Saint Germain Drive, Centreville, Virginia 20121
- (b). – Franconia Governmental Center**
6121 Franconia Road, Alexandria, Virginia 22310
- (c). – Great Falls Library**
9830 Georgetown Pike, Great Falls, Virginia 22066
- (d). – Herndon Fortnightly Library**
768 Center Street, Herndon, Virginia 20170
- (e). – Laurel Hill Golf Club**
8701 Laurel Crest Drive, Lorton, Virginia 22079
- (f). – Mason Governmental Center**
6507 Columbia Pike, Annandale, Virginia 22003

- (g). – **McLean Governmental Center**
1437 Balls Hill Road, McLean, Virginia 22101
- (h). – **Mount Vernon Governmental Center**
2511 Parkers Lane, Alexandria, VA 22306
- (i). – **North County Governmental Center**
1801 Cameron Glen Drive, Reston, Virginia 20190
- (j). – **Providence Community Center**
3001 Vaden Drive, Fairfax, Virginia 22031
- (k). – **Sully Governmental Center**
4900 Stonecroft Boulevard, Chantilly, Virginia 20151
- (l). – **Thomas Jefferson Library**
7415 Arlington Boulevard, Falls Church, Virginia 22042
- (m). – **Tysons-Pimmit Regional Library**
7584 Leesburg Pike, Falls Church, Virginia 22043
- (n). – **West Springfield Governmental Center**
6140 Rolling Road, Springfield, Virginia 22152

Section 7-3-3. – Security.

The security of the elections materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the voter satellite offices shall be the responsibility of the General Registrar.

2. That this ordinance shall become effective upon adoption.

GIVEN under my hand this _____ day of _____, 2020.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

Board Agenda Item
July 14, 2020

4:30 p.m.

Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21

ISSUE:

Public hearing to amend Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 of the Code of the County of Fairfax. The proposed amendments are required as a result of SB 868 which was passed by the 2020 session of the General Assembly, signed by the Governor and takes effect July 1, 2020. The proposed amendments will be effective retroactive to July 1, 2020.

RECOMMENDATION:

The County Executive recommends that the Board hold the Public Hearing of the proposed County Code amendments.

TIMING:

On June 23, 2020, the Board authorized advertisement of a Public Hearing to consider the proposed amendment to Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 of the Code of the County of Fairfax to take place on July 14, 2020 at 4:30 p.m.

BACKGROUND:

The 2020 session of the Virginia General Assembly passed SB 838, which was signed by the Governor on April 11, 2020, and takes effect July 1, 2020. SB 868 explicitly prohibits discrimination in public employment on the basis of sexual orientation and gender identity. Additionally, SB 868 added a new code section, Va. Code Ann. § 15.2-1500.1, which explicitly prohibits any "department, office, board, commission, agency, or instrumentality of local government" from discriminating in employment "on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran." As a result, Fairfax County Code 3-1-1, Definitions, and Fairfax County Code 3-1-21, Prohibited Practices, require amendment.

FISCAL IMPACT:

None.

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ENCLOSED DOCUMENTS:

Attachment 1 – Proposed amendment to Fairfax County Code § 3-1-1, Definitions
Attachment 2 - Proposed amendment to Fairfax County Code § 3-1-21, Prohibited Practices

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney

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

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

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

(b) *Authority.* The authority for this article is contained in *Va. Code Ann.* § 15.2-1506, which reads, in part, as follows: "Notwithstanding any other provision of law to the contrary, the governing body of every county, city and town which has more than fifteen employees shall establish by June thirty, nineteen hundred seventy-four, a grievance procedure for its employees to afford an immediate and fair method for the resolution of disputes which may arise between such public employer and its employees and a personnel system including a classification plan for service and uniform pay plan for all employees;" ~~and~~ *Va. Code Ann.* § 15.2-807, which reads, in part, as follows: "All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform;" and *Va. Code Ann.* § 15.2-1500.1 which explicitly prohibits discrimination in employment on the "basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran."¹ ¶

(c) *Applicability.*

- (1) This Article applies to all employees in the administrative service of the County who are appointed by the Board of Supervisors, County Executive or the head of a department, as provided in *Va. Code Ann.* §15.2-807.² ¶
- (2) This Article and any regulations or administrative directives or procedures issued under its authority also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing boards of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered under this Article in the same manner as if those employees were in the administrative service of the County.³ ¶

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

(e) *Definitions.*

- (1) *Personnel Regulations.* A body of rules governing County personnel administration issued under authority of this Article by the Board of Supervisors after consideration of the recommendation of the County Civil Service Commission, and having the effect of ordinance.
- (2) *Competitive service.* All positions not specifically designated as exempt positions in accordance with this Article, and the employees appointed to fill such positions. Competitive positions must be filled in accordance with merit principles. Persons in the competitive service are considered career employees. They have all rights, benefits, privileges, protections and obligations set forth in this Article and Personnel Regulations.
- (3) *Exempt service.* Positions which are specifically so designated in accordance with this article and Personnel Regulations, and employees appointed to fill such positions. Exempt personnel are not merit employees. They may be appointed, classified, promoted to other exempt positions, demoted to other exempt positions and discharged without regard to the restrictions contained in this Article and Personnel Regulations, which apply to the competitive service. They are entitled to only such employee rights and benefits as are provided for various categories of exempt personnel elsewhere in this Article and Personnel Regulations or by the Board of Supervisors or in procedural directives issued by the County Executive or his or her designee.
- (4) *Full-time position.* Any position, whether authorized for the competitive service or exempt, which is authorized to be filled for at least 2080 scheduled hours in 12 consecutive months.
- (5) *Part-time position.* Any position, whether authorized for the competitive service or exempt, which does not meet the above criteria for full-time positions.
- (6) *Full-time employee.* Any employee, whether in the competitive service or exempt, who is regularly scheduled to work at least 2080 hours in 12 consecutive months.
- (7) *Part-time employee.* Any employee, whether in the competitive service or exempt, who does not meet the above criteria for full-time employees.
- (8) *Probationary employee.* Any employee in the competitive service serving in a probationary appointment as defined in § 3-1-13 of this Article and Personnel Regulations.
- (9) *Merit system.* The system of personnel administration applicable to the competitive service. It includes the provisions of this Article, other applicable provisions of County ordinances, County Personnel Regulations and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.
- (10) *Merit employee.* Any employee in the competitive service.
- (11) *Department Head.* An employee appointed by the Board of Supervisors or the County Executive to oversee, direct, or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. All department head positions are assigned to the exempt service. All persons appointed as department heads on or after July 1, 1987, are exempt employees. Any department head appointed as a department head by the Board of Supervisors on or after July 1, 1987, may be removed by the Board of Supervisors with or without cause and in any event, may not grieve his or her removal under the County's grievance procedures. Any department head appointed by the County Executive may be removed by either the Board of Supervisors or the County Executive with or without cause and in any event, may not grieve his or her removal under the County's grievance procedure. (7-87-3; 32-8-3; 26-98-3; 35-05-3; 32-11-3; 40-19-3.)

Footnotes:

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

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Wherever used in this Article, the term "department" means "department," "office," "agency," or other administrative unit, the director of which reports to the County Executive, either directly or via a deputy county executive, or to the Board of Supervisors. Elected officials, persons appointed to fill vacancies in elective offices, and members of boards, authorities and commissions appointed by the Board of Supervisors are not employees in the sense of this article, although they may be compensated and receive such other benefits as State law or regulations, County ordinance or the Board of Supervisors may authorize.

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

Section 3-1-21. - Prohibited practices.

(a) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, promotion, reduction, removal or appointment held or made under the provisions of this Article or in any manner commit or attempt to commit any fraud preventing the impartial execution of the Personnel Regulations adopted pursuant to this Article.

(b) No person shall, either directly or indirectly, pay, render or give any money, service or other valuable thing to any person for, on account of or in connection with any test, appointment, promotion, reduction or removal in which he or she is concerned.

(c) No officer or employee of the County shall knowingly defeat, deceive or obstruct any person in his or her right to examination, eligibility certification or appointment under this Article or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the competitive service.

(d) No officer or employee of the County shall discriminate against any employee or applicant for employment with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement on the basis of race, color, sex, creed, religion, national origin, **pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, status as a veteran,** age, disability, or genetic information.

(e) No officer or employee of the County shall retaliate against any employee with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement because the employee has used or has participated in the County's grievance procedure, has complied with any law of the United States, or of the Commonwealth, or has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors, the County Executive, or other governmental authority. (7-87-3; 26-98-3; 35-05-3; 32-11-3.)

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4:30 p.m.

Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Code Relating to Animal Control and Care

ISSUE:

Public hearing to consider amendments to Chapter 41.1 of the Fairfax County Code, governing Animal Control and Care. The proposed amendments to Chapter 41.1 will (i) allow wildlife rehabilitators, exhibitors and other individuals who have valid permits from the Virginia Department of Game and Inland Fisheries to possess wildlife in the County, (ii) revise the definition of wild or exotic animal, (iii) revise rabies control provisions, (iv) revise provisions related to traveling animal exhibitions (v) remove provisions related to euthanizing wildlife at the County's animal shelter (vi) update the animal shelter's fee schedule and (vii) make other minor revisions to Chapter 41.1. A more detailed description of the proposed amendments is set forth in the Background section below.

RECOMMENDATION:

The County Executive recommends that the Board approve the proposed amendments to County Code Chapter 41.1.

TIMING:

On June 23, 2020, the Board authorized advertisement of a public hearing to consider this matter on July 14, 2020, at 4:30 p.m. If adopted, these amendments will become effective immediately.

BACKGROUND:

This agenda item is in response to a Board matter dated January 14, 2020, directing County staff to review the current provisions in Chapter 41.1 regarding possession of wildlife in the County by individuals and organizations that have valid permits from the Virginia Department of Game and Inland Fisheries (DGIF). This item also includes other proposed amendments to Chapter 41.1 as further described below.

Wildlife Rehabilitators and Exhibitors

The proposed revisions to Section 41.1-4-1 allow individuals who have permits from the Commonwealth of Virginia or the federal government to keep wild or exotic animals in the County, specifically including wildlife rehabilitators and exhibitors. Current provisions in Chapter 41.1 prohibit the possession of wild or exotic animals, as those

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terms are defined in Section 41.1-1-1. The County's Zoning Ordinance also prohibits possession of animals that are not permitted under Chapter 41.1. DGIF issues permits to individuals and organizations allowing possession of wildlife for certain purposes, and the federal government issues permits for some other species including migratory birds. Approximately fifty (50) individuals in the County have DGIF permits. Permittees include trained wildlife rehabilitators, exhibitors (including county, regional and state park nature centers), local conservation education organizations, and falconers, among others. DGIF provides comprehensive oversight of these permittees including setting conditions for wildlife care and housing, conducting inspections, and placing restrictions on species and their uses. As a result of this current prohibition in Chapter 41.1, DGIF has considered revoking permits issued to County residents because they do not comply with the local ordinance. The proposed amendments to Section 41.1-4-1 will ensure that the County residents who have valid permits can continue to provide valuable rehabilitation and educational services under the supervision of DGIF. The proposed amendments to this section further clarify that residents cannot keep any animal in violation of state or federal law.

The proposed amendments also revise the definition of wild or exotic animal found in Section 41.1-1-1. The current language defines wild or exotic animal as any animal normally found in the wild state and contains a mix of examples of such animals with a narrow set of exceptions for ferrets, hedgehogs, chinchillas, non-poisonous snakes, rabbits and laboratory rats. This definition has generated much confusion and required interpretation from staff about exactly what sorts of animals are classified as wild or exotic and thus prohibited in the County. The revised definition classifies as wild or exotic those animals that are naturally occurring or normally found in the wild state, either within the continental United States or elsewhere in the world, regardless of whether such animal has been bred in captivity, and also specifically includes all animals, spiders, insects and scorpions that are venomous to humans. The new definition then creates a set of exceptions from the definition that will cover animals that have become common pets, including chinchillas and other small rodents, hedgehogs, birds and non-venomous reptiles and amphibians. The proposed amendments to Section 41.1-4-2 revise the notice provisions required at places where exotic animals are sold to match the new definition.

Rabies

The proposed amendments to Sections 41.1-1-1 add definitions for rabid and suspected rabid animals as well as potential exposure to rabies to include situations other than animal bites, all adapted from state regulations. The revisions to Section 41.1-2-1, 2-2 and 2-3 allow for exemptions to the rabies vaccination requirement pursuant to Virginia law, and Section 41.1-2- sets forth a detailed definition of currently vaccinated. The revisions to Sections 41.1-2-8 through 2-11 set forth more detailed provisions related to confinement and isolation of animals that are suspected of being rabid, have potentially

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exposed persons to rabies, or have been potentially exposed to rabies. These sections set forth the different responses to different species of animals, and reflect the availability of a recognized rabies vaccine for dogs, cats and ferrets and the lack of such a recognized vaccine for other companion animals and livestock. The revisions to Section 41.1-2-10 provide for titer amnestic response to demonstrate a rabies vaccine history for animals potentially exposed to rabies. The proposed new definition of animal provides that for certain sections, animal means any animal susceptible to rabies and is also based on the Code of Virginia. The amendments delete the provisions of Section 41.1-2-14 related to the oral rabies vaccination program; the County has not conducted this program for several years and staff has no plans to recommend resuming it. These revisions further designate the Director of Health as the point of contact for rabies incidents in accordance with the Code of Virginia.

Department of Animal Sheltering

The proposed amendments add the Department of Animal Sheltering to the definitions in Section 41.1-1-1, along with revising the definition of the animal shelter from pound to public animal shelter. The proposed amendments to Section 41.1-2-16 remove provisions related to the euthanasia of otherwise healthy wildlife brought to the shelter. Shelter staff have not performed this service for several years. The Department of Animal Sheltering believes such euthanasia runs counter to its mission and negatively affects the emotional and psychological well-being of shelter staff. Private companies are available to perform this service for County residents. The proposed amendments to Section 41.1-2-5 update the fee schedules and will allow the Director of Animal Sheltering to waive shelter fees for good cause shown. Because the Department of Animal Sheltering is now an independent agency, the amendments remove the requirement that the Director follow certain procedures for waiving fees established by the Police Department.

Animal Services Division

The proposed amendments change the definition of animal control officer to refer to the County's Animal Protection Police, and also revise the definition of animal based on the Code of Virginia. The amendments will allow for officer discretion to charge owners of unrestricted dogs in Section 41.1-2-4 and unvaccinated dogs in Section 41.1-2-1. The enforcement provisions of Section 41.1-1-2 will be revised to allow enforcement as otherwise provided by law to clarify that any person may seek a warrant for misdemeanor violations without law enforcement involvement in accordance with Virginia law. Section 41.1-1-5 is updated to match current Virginia law.

Traveling Animal Exhibitions

The proposed amendments will require these exhibitors to obtain current certificates of health for each animal to be exhibited. The amendments remove the requirement for an inspection prior to the issuance of a permit. Because these exhibitors are normally

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based outside of the County, these inspections are impractical. However, these exhibitors will be required to observe the appropriate standards of care established under Virginia law and will be prosecuted for providing inadequate care. The definitions of adequate care, adequate feed, adequate water and adequate space have been removed and replaced by a reference to current Virginia law.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Amendments to Chapter 41.1, Animal Control and Care (markup)

Attachment 2 – Proposed Amendments to Chapter 41.1, Animal Control and Care (clean)

STAFF:

David M. Rohrer, Deputy County Executive

Karen Diviney, Director, Department of Animal Sheltering

Captain Jerry Watts, Commander, Animal Services Division

Katherine Edwards, Wildlife Management Specialist, Animal Services Division

Benjamin Klekamp, Manager, Division of Epidemiology & Population Health

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney

**AN ORDINANCE AMENDING
CHAPTER 41.1 OF THE FAIRFAX COUNTY CODE, RELATING TO
ANIMAL CONTROL AND CARE**

Draft of March 11, 2020

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2, all relating to animal control and care.

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

- 1. That Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2 of the Fairfax County Code are amended and reenacted as follows:**

Section 41.1-1-1. - Definitions.

For the purpose of this Chapter, the following words and phrases have the following meanings unless otherwise defined within this Chapter:

~~*Adequate feed* means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.~~

~~*Adequate shelter* means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Shelters whose wire, grid,~~

~~or slat floors permit the animals' feet to pass through the openings, sag under the animals' weight or otherwise do not protect the animals' feet or toes from injury are not adequate shelter.~~

~~*Adequate space* means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, adequate space means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.~~

~~*Adequate water* means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.~~

~~*Animal* means any nonhuman vertebrate species except fish. For the purposes of Sections 41.1-2-8 through 41.1-2-11, animal means any species susceptible to rabies. For the purposes of Section 41.1-2-20, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.~~

~~*Animal control officer* means a person appointed as the animal ~~control~~ protection police officer or a deputy animal ~~control~~ protection police officer pursuant to Virginia law to enforce the Virginia Comprehensive Animal Care Laws, this Chapter, and all laws for the protection of domestic animals.~~

~~*Animal Shelter* means the Fairfax County Animal Shelter a facility which is operated by the Department of Animal Sheltering as a pound public animal shelter as is defined in Virginia Code § 3.2-6500, as amended.~~

~~*Animal Services Division* means the Animal Services Division of the Fairfax County Police Department. References to the Commander of the Animal Services Division mean the Commander or his or her agent.~~

1 *Certified service animal* means a monkey that is used or is in training to be used solely to
 2 assist disabled persons and which use is certified by officials of a generally recognized
 3 scientific or educational institution, provided that such certified service animal has been
 4 bred in a closed breeding environment located in the United States.

5 *Circus* means any commercial variety show featuring animal acts for public entertainment.

6 *Companion animal* means any domestic or feral dog, domestic or feral cat, non-human
 7 primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native
 8 animal, reptile, exotic or native bird, or any feral animal or any animal under the care,
 9 custody, or ownership of a person or any animal that is bought, sold, traded, or bartered
 10 by any person. Agricultural animals, game species, or any animals regulated under
 11 federal law as research animals shall not be considered companion animals for the
 12 purpose of this chapter.

13 *Department of Animal Sheltering* means the Fairfax County agency responsible for the
 14 operation of the public animal shelter(s) in Fairfax County.

15 *Director of Health* means the Director of the Fairfax County Health Department or his or
 16 her designee.

17 *Director of Tax Administration* means the Director of the Department of Tax
 18 Administration or his or her designee. For purposes of issuing dog licenses, the Animal
 19 Services Division is a designee of the Director of Tax Administration.

20 *Horse* means and includes horse, mule, donkey, and ass.

21 *Kennel* means any place in or at which five or more dogs or cats or hybrids of either are
 22 kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or
 23 showing.

24 *Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine
 25 animals; porcine animals; cervidae animals; caprae animals; animals of the genus
 26 Lama; ratites; fish or shellfish in aquaculture facilities, as defined in state law; enclosed
 27 domesticated rabbits or hares raised for human food or fiber; or any other individual
 28 animal specifically raised for food or fiber, except companion animals.

29 *Owner* means any person, firm, partnership, corporation, association, or other legal entity,
 30 who has a right of property in an animal, keeps or harbors an animal, has an animal in
 31 his, her or its care, or acts as a custodian of an animal, including operators or managers
 32 of stables, kennels, pet shops, or other animal establishments.

33 *Primary enclosure* means any structure used to immediately restrict an animal to a limited
 34 amount of space, such as a room, tank, pen, cage, compartment or hutch. For tethered
 35 animals, the term includes the shelter and the area within reach of the tether.

36 *Rabid animal* means an animal that has had the diagnosis of rabies confirmed by the
 37 Virginia Division of Consolidated Laboratory Services, Fairfax Health Department
 38 Laboratory, Centers for Disease Control and Prevention Rabies Laboratory, or a
 39 laboratory in any state that is recognized by that state to perform rabies testing for public
 40 health purposes. Any suspected rabid animal that has exposed a companion or

1 agricultural animal or a person and is not available for laboratory testing should be
 2 presumed to be rabid

3 *Rabies exposure or potentially exposed to rabies* means any circumstance where saliva
 4 or central nervous system tissue from a rabid or suspected rabid animal entered or could
 5 have entered a fresh, open wound or come in contact with a mucous membrane of a
 6 person or susceptible animal species. For the purposes of companion and agricultural
 7 animal exposure, the actual witnessing of a bite or attack by a rabid or suspected rabid
 8 animal is not necessary to define an exposure; however, a rabid or suspected rabid
 9 animal needs to have been witnessed in close proximity to the exposed animal and where,
 10 in the judgment of the Director of Health, it is reasonable to assume that the rabid or
 11 suspected rabid animal could have exposed the susceptible companion or agricultural
 12 animal.

13 *Releasing agency* means a ~~pound~~, public or private animal shelter, humane society,
 14 animal welfare organization, society for the prevention of cruelty to animals, or other
 15 similar entity or home-based rescue that releases a companion animal for adoption,
 16 including the Fairfax County Animal Shelter.

17 *Rightful owner* means a person with a right of property in the animal.

18 *Service animal* means any dog or miniature horse that is individually trained to do work
 19 or perform tasks for the benefit of an individual with a disability, including a physical,
 20 sensory, psychiatric, intellectual, or other mental disability. Other species of animals,
 21 whether wild or domestic, trained or untrained, are not service animals for the purposes
 22 of this definition. The work or tasks performed by a service animal must be directly related
 23 to the handler's disability. Examples of work or tasks include, but are not limited to,
 24 assisting individuals who are blind or have low vision with navigation and other tasks,
 25 alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
 26 providing non-violent protection or rescue work, pulling a wheelchair, assisting an
 27 individual during a seizure, alerting individuals to the presence of allergens, retrieving
 28 items such as medicine or the telephone, providing physical support and assistance with
 29 balance and stability to individuals with mobility disabilities, and helping persons with
 30 psychiatric and neurological disabilities by preventing or interrupting impulsive or
 31 destructive behaviors. The crime deterrent effects of an animal's presence and the
 32 provision of emotional support, well-being, comfort, or companionship do not constitute
 33 work or tasks for the purposes of this definition.

34 *Suspected rabid animal* means any animal that has not been tested for rabies and that
 35 the Fairfax County Health Department considers to be a species at high risk for acquiring
 36 or transmitting rabies whether or not the animal is exhibiting clinical signs compatible with
 37 rabies and any animal the Fairfax County Health Department considers at low risk for
 38 acquiring or transmitting rabies that is exhibiting clinical signs compatible with rabies.

39 *Traveling animal exhibition* means any spectacle, display, act or event, including circuses
 40 and carnivals, where animals are maintained, whether or not the animals actually perform,

the owners or operators of which do not have their principal place of business in Fairfax County, Virginia, and that are required to obtain a temporary special permit pursuant to the Zoning Ordinance. Notwithstanding the foregoing, a horse or pony ride is not a traveling animal exhibition.

Unrestricted means not under the control of the owner or his agent either by leash, cord, chain, or primary enclosure when off the property or premises of the owner or custodian. An electronic device does not qualify as a leash, cord or chain.

Vicious animal means any animal or animals that constitute a physical threat to human beings or other animals, not to include vicious dogs, ~~which are addressed separately within this Chapter.~~

~~*Wild or exotic animal* means any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula that can normally be found in the wild state or any other member of a crocodilian, including but not limited to alligators, crocodiles, caimans, and gavials. Ferrets, hedgehogs, chinchillas, non-poisonous snakes, rabbits, and laboratory rats that have been bred in captivity and that have never known the wild are excluded from this definition.~~ any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals shall be excluded from this definition: (i) chinchillas, guinea pigs, hamsters, rats, mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians.

Section 41.1-1-2. - Enforcement.

The provisions of this Chapter shall be enforced by the animal control officer and deputy animal control officers, and may be enforced by other law-enforcement officers ~~of the Police Department~~ or as otherwise provided under Virginia law. Where specific reference is made to the Director of Health, he or she may enforce those provisions as well.

Section 41.1-1-5. - Compliance with State Comprehensive Animal Care Laws.

The provisions of this Chapter are intended to complement, not superseede, the state Comprehensive Animal Care Laws.

ARTICLE 2. - Animal Control and Rabies Control.

Section 41.1-2-1. - Vaccination of dogs and cats against rabies required.

Unless exempt pursuant to Virginia law, the owner or custodian of each dog and domesticated cat 4 months of age and older shall have it currently vaccinated against rabies. For the purposes of this section, currently vaccinated means the animal was (i) vaccinated by a licensed veterinarian or a licensed veterinary technician under the direct supervision of a licensed veterinarian on the premises and (ii) the animal was vaccinated and revaccinated in accordance with the current National Association of State Public Health Veterinarian's Compendium of Animal Rabies Prevention and Control or as described on the U.S. Department of Agriculture approved vaccine label. ~~by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises.~~ The supervising veterinarian on the premises shall provide the owner or custodian of the dog or domesticated cat with a certificate of vaccination. The owner or custodian of the dog or domesticated cat shall promptly furnish, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or Director of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. Any dog that has not been vaccinated as required by this Section shall be impounded, except that if the rightful owner of the dog can be immediately ascertained and located, then that owner shall be allowed to have custody of the animal, but ~~shall~~ may be subject to issuance of a summons for violation of this Section.

Section 41.1-2-2. - Dog license required; license tax on dogs and kennels.

(a) Except as otherwise provided herein, it is unlawful for any person to own a dog 4 months old or older in the County unless the dog is licensed by Fairfax County. Any dog not wearing a collar bearing a current license tag shall prima facie be deemed to be an unlicensed dog and in any proceeding under this Chapter the burden of proof of the fact that the dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog. No license tag shall be issued for any dog unless the Director of Tax Administration receives either the certificate of rabies vaccination required by Section 41.1-2-3, ~~or~~ satisfactory evidence that such certificate has been obtained, or a rabies vaccination exemption certificate issued annually by the Director of Health. This subsection shall not apply to a releasing agency that has registered as such annually with the Animal Services Division.

(b) There is hereby provided and levied within the County an annual license tax of \$10.00 per dog, regardless of whether the dog is fertile or infertile.

1 (1) [Reserved.]

2
3 (2) No license tax shall be levied on any dog that is trained and serves as a guide dog
4 for a blind person, that is trained and serves as a hearing dog for a deaf or hearing
5 impaired person, that is trained and serves as a service dog for a mobility-impaired
6 person, or on any dog owned by a person having diplomatic status in the United States.
7 As used in this section, "hearing dog" means a dog trained to alert its owner by touch to
8 sounds of danger and sounds to which the owner should respond and "service dog"
9 means a dog trained to accompany its owner for the purpose of carrying items, retrieving
10 objects, pulling a wheelchair or other such activities of service or support.

11
12 (c) *Duplicate License Tag.* If a dog license tag is lost, destroyed or stolen, the owner
13 shall at once apply to the Director of Tax Administration for a duplicate license tag,
14 presenting the original license receipt. Upon affidavit of the owner that the original license
15 tag has been lost, destroyed or stolen, the Director of Tax Administration shall issue a
16 duplicate license tag which the owner shall immediately affix to the collar of the dog. The
17 Director shall endorse the number of the duplicate and the date issued on the face of the
18 original license receipt. The fee for a duplicate tag for any dog is \$1.00.

19
20 (d) Upon application and payment of the license tax to the Director of Tax
21 Administration, the Director shall issue a dog license tag, which tag shall bear only the
22 words "Fairfax County, VA Dog Tag," an assigned number, and the current license year.

23
24 (e) It is unlawful to operate a kennel in the County unless it is licensed. The owner or
25 operator of a dog kennel shall pay an annual license tax of \$50.00 for up to but not more
26 than 50 dogs.

27
28 (f) The Director of the Department of Tax Administration shall keep a list of all licenses
29 issued annually, and a separate account of funds received from such tax. All unissued
30 license tags for the current license year shall be destroyed at the end of such year.

31
32 (g) *Displaying Receipts; Dogs To Wear Tags.* Dog license receipts, issued by the
33 Director of Tax Administration at the time of purchase of a dog license tag, and kennel
34 license tax receipts shall be preserved by the licensees and exhibited promptly upon
35 request for inspection by any animal control officer or other officer. Dog license tags shall
36 be securely fastened to a substantial collar by the owner and worn by the dog at all times,
37 except the owner of the dog may temporarily remove the tag required by this Section:

38
39 (1) When the dog is engaged in lawful hunting while accompanied by the owner;
40

- 1 (2) When the dog is competing in a dog show;
2
3 (3) When the dog has a skin condition which would be exacerbated by the wearing of
4 the collar;
5
6 (4) When the dog is confined;
7
8 (5) While the dog is engaged in a supervised formal obedience training class; or
9
10 (6) During formally sanctioned field trials.

11
12 **Section 41.1-2-3. - Certificate of vaccination prerequisite to issuance of dog**
13 **licenses.**

14
15 (a) No license tag shall be issued for any dog unless the Director of Tax Administration
16 receives either a certificate of rabies vaccination that complies with Section 41.1-2-1, ~~or~~
17 satisfactory evidence that such certificate has been obtained, or a rabies vaccination
18 exemption certificate issued annually by the Director of Health.

19
20 (b) The certificate of rabies vaccination shall show the date of vaccination, the type of
21 vaccine used (whether modified live virus or inactivated virus), the rabies tag number, the
22 expiration date of the vaccination, the sex and breed of the dog and the name of the
23 owner.

24
25 **Section 41.1-2-4. - Unrestricted dogs prohibited; leash law.**

26
27 (a) No dog shall run unrestricted, as defined in Section 41.1-1-1, in the County. Any
28 person who is the owner of a dog found unrestricted in the County shall be in violation of
29 this Section. This Section shall not apply to any person who uses a dog under his direct
30 supervision while lawfully hunting, while engaged in a supervised formal obedience
31 training class or show, during formally sanctioned field trials, while a dog is in an area
32 owned, leased, controlled, or operated by Fairfax County designated by resolution of the
33 Board of Supervisors as an off-leash dog exercise area, or while a dog is in an area
34 owned, leased, controlled, or operated by the Fairfax County Park Authority and
35 designated by resolution of the Fairfax County Park Authority as an off-leash or dog
36 exercise area, or while a dog is in an area, leased, controlled, or operated by the Northern
37 Virginia Regional Park Authority and designated by resolution of the Northern Virginia
38 Regional Park Authority Board as an off-leash or dog exercise area, or if a dog is a service
39 animal whose handler is unable because of a disability to use a harness, leash, or other
40 tether, or the use of a harness, leash, or other tether would interfere with the service

1 animal's safe effective performance of work or tasks, in which case the service animal
2 must be otherwise under the handler's control (e.g., voice control, signals, or other
3 effective means). It is a violation of this Section for any owner of a dog to place such dog
4 or allow it to be placed into custody of any person not physically capable of maintaining
5 effective control of restricting such dog.

6
7 (b) Any dog found unrestricted in violation of subsection (a) shall be impounded, except
8 that if the rightful owner of the dog can be immediately ascertained and located, then that
9 owner shall be allowed to have custody of the animal, but ~~shall~~ may be subject to issuance
10 of a summons for violation of this Section.

11
12 **Section 41.1-2-5. - County animal shelter; confinement and disposition of stray**
13 **animals; impoundment and boarding fees; adoption fees.**

14
15 (a) The County Animal Shelter shall be operated and maintained in accordance with
16 Virginia law, and it shall be accessible to the public at reasonable hours during the week.

17
18 (b) Except as otherwise provided by Section 41.1-2-9, whenever any animal is confined
19 at the Animal Shelter, it shall be kept for a period of not less than 5 days, such period to
20 commence on the day immediately following the day the animal is initially confined in the
21 facility, unless sooner claimed by the rightful owner. If any animal confined at the Animal
22 Shelter is claimed by its rightful owner, such owner shall be charged the applicable fee or
23 fees set forth in this Section.

24
25 (c) Any animal impounded that is not ~~known or~~ suspected of being rabid may be
26 redeemed by its rightful owner upon: (1) presentation of proof of ownership and personal
27 identification; (2) payment of all applicable fees set forth in this Section; (3) if the animal
28 being claimed is a dog or a cat that is 4 months of age or older, presentation of a certificate
29 that shows the animal being claimed has been vaccinated for rabies in accordance with
30 the requirements of Section 41.1-2-1; (4) if the animal being claimed is a dog that is 4
31 months old or older, presentation of evidence of payment of a valid dog license, as
32 required by Section 41.1-2-2; and (5) payment of any necessary veterinary expenses
33 incurred for the benefit of that animal by the Animal Shelter. Any rightful owner who fails
34 to produce the certificate of vaccination or proof of payment of the license fee shall be
35 allowed to have custody of the animal, but shall be subject to issuance of a summons for
36 violation of Section 41.1-2-1 or Section 41.1-2-2. Any dog not redeemed may be
37 destroyed in a humane manner or otherwise lawfully disposed of by the Director of the
38 Animal Shelter or the designated agent of the Director. The Director or the designated
39 agent of the Director shall not knowingly give, sell, or otherwise release any animal to any
40 person who intends to use that animal for research purposes.

(d) Any person who adopts an animal from the Animal Shelter shall pay the applicable adoption fee set forth in this Section and shall sign an adoption contract agreeing to comply with laws regulating the adoption and ownership of the animal and to appropriately care for the animal. The Animal Shelter shall not release any dog or cat for adoption unless the animal is already sterilized or the person who adopts the animal signs an agreement as required by Virginia law to have the animal sterilized.

(e) Fee Schedules:

Impoundment fees:

Dogs and cats, first impoundment \$ 25.00
 Second impoundment 50.00
 Third or subsequent impoundment 75.00
 Livestock, under 150 pounds 50.00
Livestock, 150 pounds or more 100.00
 Reptiles and ~~exotic animals~~ 20.00
 Rodents, ferrets, and rabbits 20.00

Boarding fees (for each day boarded):

Dogs and cats ~~15.00~~ 20.00
 Livestock (under 150 pounds) 25.00
Livestock (150 pounds or more) 50.00
 Reptiles and ~~exotic animals~~ 10.00
 Rodents, ferrets, and rabbits 10.00

Adoption fees:

Dogs under six (6) months of age ~~175.00~~ 200.00
 Dogs age six (6) months ~~to~~ through five (5) years ~~125.00~~ 150.00
 Dogs age ~~five (5)~~ six (6) years and older 100.00
 Cats under six (6) months of age ~~125.00~~ 150.00
 Cats age six (6) months ~~to~~ through five (5) years 75.00
 Cats age ~~five (5)~~ six (6) years and older 50.00
 Rabbits and ~~ferrets~~ ~~15.00~~ 30.00
Ferrets, Chinchillas and Hedgehogs 40.00
Hermit crabs 10.00
 Reptiles and ~~small birds~~ ~~10.00~~ 20.00

| | |
|---|--|
| 1 | <u>Guinea Pigs 15.00</u> |
| 2 | <u>Rodents (mice, hamsters, gerbils, rats) 5.00</u> |
| 3 | Other small animals 5.00 |
| 4 | Equine and bovine 200.00 |
| 5 | Other livestock 20.00 <u>50.00</u> |
| 6 | <u>Small birds (parakeets, finches, canaries) 10.00</u> |
| 7 | <u>Medium birds 75.00</u> |
| 8 | Large birds 400.00 <u>150.00</u> |
| 9 | <u>Poultry 20.00</u> |

10
 11 The Animal Shelter Director may waive or reduce the adoption, impoundment or boarding
 12 fees established in this subsection (e) for good cause shown, including, but not limited to,
 13 special adoption events. The Animal Shelter Director's determination of good cause shall
 14 ~~be based on guidelines set forth in Standard Operating Procedures approved by the~~
 15 ~~Fairfax County Police Department.~~

16
 17 (f) The owner of any animal that is held pursuant to Va. Code Ann. § 3.2-6569 for more
 18 than 30 days shall post a bond in surety with the County in an amount equal to the cost
 19 of boarding the animal for 9 months at the rates established in this Section. If the owner
 20 satisfies this obligation by obtaining a commercial bond, then the bond must be issued by
 21 a surety that is licensed to do business in Virginia and that has an A-IV or better rating
 22 from A.M Best. Upon a request by an owner, the County may reduce the bond for good
 23 cause shown.

24 25 **Section 41.1-2-8. - Confinement of animals suspected of having rabies.**

26
 27 (a) Every person having knowledge of the existence in the County of an animal
 28 apparently afflicted with rabies shall report immediately to the Director of Health the
 29 existence of such animal, the place where seen, the owner's name, if known, and the
 30 symptoms suggesting rabies.

31
 32 (b) It shall be the duty of any of the officials charged with the enforcement of this
 33 Chapter to impound in the Animal Shelter, at no expense to the owner, any animal
 34 showing active signs of rabies or suspected of having rabies, or upon the request of the
 35 owner and at his expense, the animal may be placed in the custody of a licensed
 36 veterinarian. The animal shall be confined for such period of time as may be necessary
 37 to establish a diagnosis. If confinement is impossible or impracticable, such animal shall
 38 ~~be destroyed~~ be euthanized upon the authorization of a licensed veterinarian or ~~any person~~
 39 ~~charged with the enforcement of this Chapter~~ the Director of Health by one of the methods
 40 approved by the State Veterinarian.

Section 41.1-2-9. - Disposition of animals that have potentially exposed ~~bitten~~ persons to rabies.

(a) The owner of an animal that has ~~bitten~~ potentially exposed a person to rabies or any person having knowledge of any animal which has ~~bitten~~ potentially exposed a person to rabies shall immediately notify the ~~Animal Services Division or the County Police Department~~ Director of Health. The owner of such animal shall permit the Director of Health or any person charged with enforcement of this Chapter to immediately examine such animal, and for dogs, cats and ferrets, the owner of such animal shall:

(1) ~~Impound and board~~ Confine the animal in the County Animal Shelter for a period of 10 days and the owner shall be responsible for paying the impoundment and boarding fees set forth in Section 41.1-2-5;

(2) ~~Place~~ Confine the animal in the custody of licensed veterinarian or a licensed veterinary hospital for a period of 10 days at the owner's expense; or

(3) Confine the animal on the owner's premises ~~in a strong enclosure that is isolated from all other animals and persons~~ for a period of 10 days. For the purposes of this section, confinement of a dog, cat or ferret means that the animal should be housed in a building, pen or some other suitable escape-proof enclosure and not removed from the enclosure unless on a leash and under the immediate control of a responsible adult while being kept either on the owner's property or in the immediate area associated with the owner's place of residence. The animal should not be moved or taken to another location, site or property unless permission is obtained from the Director of Health. At the first indication of the animal becoming ill, it is the responsibility of the owner or custodian to notify the Director of Health and take the animal to a veterinarian for an examination. If rabies is suspected, the animal should be immediately euthanized and tested for rabies.

(b) Any such dog, cat or ferret ~~animal~~ shall be released from confinement after the ten-day period only upon authorization of ~~a licensed veterinarian or the Director of Health~~ any person charged with enforcement of this Chapter. If any animal being confined pursuant to this Section develops active symptoms of rabies prior to the expiration of the ten-day period, then that animal shall be ~~destroyed~~, euthanized and tested for rabies, and the person ~~destroying~~ euthanizing any such animal shall comply with the requirements of Section 41.1-2-11.

(c) The disposition of any animal other than a dog, cat or ferret that has potentially exposed a person to rabies shall be as determined in the sole discretion of the Director of Health.

Section 41.1-2-10. - Confinement or isolation of ~~dogs and cats~~ animals ~~bitten by rabid animals~~ potentially exposed to rabies.

~~Any person with knowledge of an animal. The owner of any dog or cat that is known to have been bitten or otherwise~~ potentially exposed to rabies by a rabid animal or by an animal suspected of being rabid shall immediately notify the Animal Services Division or the Director of Health.

(a) Any dog, or cat or ferret for which no proof of current rabies vaccination is available and which ~~that~~ is bitten or otherwise potentially exposed to rabies by an animal believed to be afflicted with rabies shall be confined placed under isolation in a pound, kennel or enclosure approved by the Animal Services Division or the Director of Health for a period, not to exceed 6 months, at the expense of the owner. For the purposes of this section, isolation means a kennel in a veterinary hospital, commercial boarding establishment, or a pen at home that prevents direct contact between the animal and any human or other animal, but allows for feeding, watering, and cleaning. The Director of Health is responsible for approving the adequacy of the isolation unit. The owner has up to 14 days from the date of the exposure to place the dog, cat or ferret in isolation. At the discretion of the Director of Health, rabies titer amnestic response results can be used to demonstrate a prior rabies vaccine history. A rabies vaccination shall be administered as soon as possible after the exposure. If isolation is not feasible, the dog, cat or ferret shall be euthanized by one of the methods approved by the State Veterinarian. however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the State Veterinarian. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement.

(b) Any dog, or cat or ferret ~~so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, with proof of a rabies vaccination, that is~~ potentially exposed to rabies shall be revaccinated immediately following the bite exposure and shall be confined to the premises of the owner in accordance with Section 41.1-2-9, or other site approved by the Director of Health for a period of 45 days.

(c) The disposition of any animal other than a dog, cat or ferret that has been potentially exposed to rabies shall be as determined in the sole discretion of the Director of Health.

Section 41.1-2-11. - Regulations concerning animals dying of rabies.

Any person who destroys an animal that is ~~rabid or~~ suspected of being rabid or any person who has knowledge that an animal has died of rabies or is suspected of having died of rabies shall immediately notify the Director of Health Animal Services Division of the location of the body of such animal. ~~If requested by the Director of Health,~~ the head of the animal shall be surrendered to any person charged with the enforcement of this Chapter.

Section 41.1-2-14. - Reserved. ~~Oral rabies vaccine distribution program.~~

~~(a) The Board of Supervisors hereby creates a program for the distribution of oral rabies vaccine within the County to prevent the spread of rabies. The program, including, but not limited to, the time and method of rabies vaccine distribution, shall be administered by the County Health Department and its duly authorized representatives. Subject to the notice provisions set forth below, those persons administering the program are authorized to enter upon property located in the County for the purpose of distribution of oral rabies vaccine and may use any other method to place the oral rabies vaccine on the property.~~

~~(b) Notice shall be given to the owner or occupant of property prior to entry upon the property for the purpose of the distribution of oral rabies vaccine or the use of any other methods to place oral rabies vaccine on the property. Notice shall be given by (i) sending two letters by first class mail, at successive intervals of not less than two weeks and (ii) printing a copy of the form of the notice, at least once, in a newspaper of general circulation in the County. Written notice shall be in a form approved by the governing body and shall include a description of the purpose for which entry upon the property is to be made, the time and method of rabies distribution at the property, and the submission deadline for requests by any owner or occupant of property who wishes to be excluded from the oral rabies vaccine distribution program.~~

~~(c) The owner or occupant of property may refuse to allow the distribution of oral rabies vaccine upon such property. Any owner or occupant who wishes to be excluded from the oral rabies vaccine distribution program shall provide a written request for nonparticipation in the manner and by the date specified in the written notice. No further action to distribute oral rabies vaccine shall be taken for a period of one year with respect to any property for which a request for nonparticipation has been received.]~~

Section 41.1-2-16. - Burial or cremation of dead animals and fowl.

When the owner of any animal or fowl that has died knows of the death, such owner shall forthwith have its body cremated or buried, or otherwise disposed of in a manner

acceptable to the Director of Health; alternatively, the owner may request such service from the Animal Shelter. If, after notice, the owner of any companion animal that has died fails to properly dispose of the animal, the animal control officer or other officer may bury or cremate the animal and may recover, on behalf of the County, from the owner for the cost of the disposal. If the owner of any other animal that has died fails to bury or cremate the dead animal or fowl, any judge of a general district court, after notice to the owner if he can be ascertained, shall authorize Animal Services Division or the Director of Health to do so. In that event, the County shall be entitled to recover the actual cost of the cremation or burial.

~~Any person who has trapped wildlife in accordance with Virginia law and transported the wildlife to the Animal Shelter in a cage or trap may request that the animal be euthanized and/or cremated. Provision of such services is subject to payment of the following fee for impounding, euthanizing and/or cremating the animal:~~

~~Skunk: \$50.00~~

~~Raccoon, squirrel, groundhog, gopher, and other small animal: 25.00~~

ARTICLE 4. - Keeping of Wild, Exotic or Vicious Animals Prohibited.

Section 41.1-4-1. - Keeping prohibited; exceptions.

No person shall keep or permit to be kept any wild, exotic or vicious animal, as those terms are defined in Section 41.1-1-1, for any purposes, except that this prohibition shall not apply to (i) a single certified service animal in a household, (ii) zoological parks, (iii) traveling animal exhibitions, (iv) circuses or (v) individuals, organizations, or veterinary clinics that are properly licensed or permitted by an agency of the Federal Government or Commonwealth of Virginia, including, but not limited to, wildlife rehabilitators and exhibitors. The wild or exotic animals of such licensed or permitted individuals or establishments shall not be exhibited or displayed in such a manner that persons other than their handlers can pet, fondle, or otherwise come in direct physical contact with such animals; however this prohibition shall not apply to the riding of elephants by persons other than the elephants' handlers while under the direct supervision of the elephants' handlers where such elephants are performing in zoological parks, animal exhibitions or circuses which are properly licensed by the Federal Government or the Commonwealth of Virginia and Fairfax County. Nothing in this Chapter shall be construed to permit the possession of any animal in violation of any law or regulation of the Federal Government or Commonwealth of Virginia.

Section 41.1-4-2. Notice required at place of sale.

Any person who offers for sale an exotic animal as defined by Section 41.1-1-1 shall post conspicuously at the place of sale or display the following notice:

"No person may lawfully keep or permit to be kept in Fairfax County, other than a certified service animal, ~~any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula, crocodile or alligator, which can normally be found in the wild state or any other member of the crocodilian, including but not limited to alligators, crocodiles, caimans and gavials.~~" any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals may be lawfully kept in Fairfax County: (i) chinchillas, guinea pigs, hamsters, rats mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians."

Section 41.1-4-3. - Disposition of Animals.

Any person who keeps a wild, exotic, or vicious animal in contravention of this Article may dispose of the animal by removal of the animal from Fairfax County, by giving or selling the animal to a zoological park or by releasing the animal to the Department of Animal Sheltering ~~Animal Services Division, which shall release the animal to the wild, to a zoological park, or other entity approved for the care or protection of the particular species.~~

ARTICLE 5. - Traveling Animal Exhibitions.

Section 41.1-5-2. - Issuance of permit.

(a) The owner or operator of any traveling animal exhibition desiring to operate in Fairfax County shall make written application for permit on forms provided by the Animal Services Division no later than 21 days prior to the first performance of any spectacle, display, act or event. The application shall include but not be limited to the name of the owner of the traveling animal exhibition, all proposed locations in Fairfax County for the

1 traveling animal exhibition, the date the traveling animal exhibition is to arrive in Fairfax
2 County, the date of departure, all dates on which it is to perform at any location in Fairfax
3 County, the owner's principal address and telephone number, the total length of time
4 during which the traveling animal exhibition will operate in Fairfax County, a list of all
5 locations at which the traveling animal exhibition has performed during the twelve-month
6 period prior to making this application, whether or not the owner or operators of the
7 traveling animal exhibition have been charged or convicted of an offense constituting
8 cruelty to animals, a brief description of the acts or events to be performed and the
9 signature of the owner or representative thereof. The applicant shall attach to the
10 application a copy of a current and valid ~~United States~~ Exhibitor's License issued by the
11 United States Department of Agriculture (USDA), and health certificates issued within 30
12 days of the date of the application by a licensed veterinarian for each animal to be
13 exhibited in Fairfax County.

14
15 ~~(b) Prior to approval of an application for a permit, an animal control officer and a~~
16 ~~U.S.D.A. accredited veterinarian, licensed by the Commonwealth of Virginia, chosen by~~
17 ~~the Commander of the Animal Services Division, shall inspect the animals and the~~
18 ~~proposed premises of the traveling animal exhibition to determine compliance with the~~
19 ~~requirements of this Article. The owner or operator of the traveling animal exhibition shall~~
20 comply with the provisions of Section 41.1-4-1 and shall present upon demand by any
21 law enforcement officer a current and valid USDA Exhibitor's License and valid health
22 certificates issued within 30 days for each animal to be exhibited.

23
24 ~~(c) Upon inspection, the animal control officer and the veterinarian referenced herein~~
25 ~~above shall determine whether a~~ All animals maintained by the traveling animal exhibition
26 ~~have~~ must been given adequate feed, adequate water, adequate shelter, adequate space
27 for the particular type of animal depending upon its age, size and weight, adequate
28 veterinary care when needed, and humane care and treatment. For the purposes of this
29 Section, adequate care, adequate feed, adequate shelter, adequate space and adequate
30 water shall have the meanings set forth in Va. Code § 3.2-6500, as amended.

31
32 (d) The Commander of the Animal Services Division shall issue a permit to the traveling
33 animal exhibition if the ~~inspection reveals that the~~ traveling animal exhibition complies
34 with the requirements of this Article and shall notify the Zoning Administrator that a permit
35 has been issued. The permit will be valid for the length of time requested on the
36 application not to exceed 21 days from the date of issuance.

37
38 (e) The Commander of the Animal Services Division may deny the application for permit
39 if the traveling animal exhibition fails to comply with any of the requirements of this Article.
40

(f) Any costs of fees incurred by Fairfax County as a result of the inspection and permit process shall be charged to the traveling animal exhibition. Payment of all such costs shall be in addition to the \$50.00 permit fee required by this Article and shall be considered a precondition to the issuance of the permit.

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 upon adoption.

GIVEN under my hand this ____ day of _____, 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

**AN ORDINANCE AMENDING
CHAPTER 41.1 OF THE FAIRFAX COUNTY CODE, RELATING TO
ANIMAL CONTROL AND CARE**

Draft of March 11, 2020

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2, all relating to animal control and care.

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

- 1. That Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2 of the Fairfax County Code are amended and reenacted as follows:**

Section 41.1-1-1. - Definitions.

For the purpose of this Chapter, the following words and phrases have the following meanings unless otherwise defined within this Chapter:

Animal means any nonhuman vertebrate species except fish. For the purposes of Sections 41.1-2-8 through 41.1-2-11, animal means any species susceptible to rabies. For the purposes of Section 41.1-2-20, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

Animal control officer means a person appointed as the animal protection police officer or a deputy animal protection police officer pursuant to Virginia law to enforce the Virginia Comprehensive Animal Care Laws, this Chapter, and all laws for the protection of domestic animals.

Animal Shelter means a facility which is operated by the Department of Animal Sheltering as a public animal shelter as defined in Virginia Code § 3.2-6500, as amended.

Animal Services Division means the Animal Services Division of the Fairfax County Police Department. References to the Commander of the Animal Services Division mean the Commander or his or her agent.

Certified service animal means a monkey that is used or is in training to be used solely to assist disabled persons and which use is certified by officials of a generally recognized

1 scientific or educational institution, provided that such certified service animal has been
2 bred in a closed breeding environment located in the United States.

3 *Circus* means any commercial variety show featuring animal acts for public entertainment.

4 *Companion animal* means any domestic or feral dog, domestic or feral cat, non-human
5 primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native
6 animal, reptile, exotic or native bird, or any feral animal or any animal under the care,
7 custody, or ownership of a person or any animal that is bought, sold, traded, or bartered
8 by any person. Agricultural animals, game species, or any animals regulated under
9 federal law as research animals shall not be considered companion animals for the
10 purpose of this chapter.

11 *Department of Animal Sheltering* means the Fairfax County agency responsible for the
12 operation of the public animal shelter(s) in Fairfax County.

13 *Director of Health* means the Director of the Fairfax County Health Department or his or
14 her designee.

15 *Director of Tax Administration* means the Director of the Department of Tax
16 Administration or his or her designee. For purposes of issuing dog licenses, the Animal
17 Services Division is a designee of the Director of Tax Administration.

18 *Horse* means and includes horse, mule, donkey, and ass.

19 *Kennel* means any place in or at which five or more dogs or cats or hybrids of either are
20 kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or
21 showing.

22 *Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine
23 animals; porcine animals; cervidae animals; capradae animals; animals of the genus
24 Lama; ratites; fish or shellfish in aquaculture facilities, as defined in state law; enclosed
25 domesticated rabbits or hares raised for human food or fiber; or any other individual
26 animal specifically raised for food or fiber, except companion animals.

27 *Owner* means any person, firm, partnership, corporation, association, or other legal entity,
28 who has a right of property in an animal, keeps or harbors an animal, has an animal in
29 his, her or its care, or acts as a custodian of an animal, including operators or managers
30 of stables, kennels, pet shops, or other animal establishments.

31 *Primary enclosure* means any structure used to immediately restrict an animal to a limited
32 amount of space, such as a room, tank, pen, cage, compartment or hutch. For tethered
33 animals, the term includes the shelter and the area within reach of the tether.

34 *Rabid animal* means an animal that has had the diagnosis of rabies confirmed by the
35 Virginia Division of Consolidated Laboratory Services, Fairfax Health Department
36 Laboratory, Centers for Disease Control and Prevention Rabies Laboratory, or a
37 laboratory in any state that is recognized by that state to perform rabies testing for public
38 health purposes. Any suspected rabid animal that has exposed a companion or
39 agricultural animal or a person and is not available for laboratory testing should be
40 presumed to be rabid.

1 *Rabies exposure or potentially exposed to rabies* means any circumstance where saliva
2 or central nervous system tissue from a rabid or suspected rabid animal entered or could
3 have entered a fresh, open wound or come in contact with a mucous membrane of a
4 person or susceptible animal species. For the purposes of companion and agricultural
5 animal exposure, the actual witnessing of a bite or attack by a rabid or suspected rabid
6 animal is not necessary to define an exposure; however, a rabid or suspected rabid
7 animal needs to have been witnessed in close proximity to the exposed animal and where,
8 in the judgment of the Director of Health, it is reasonable to assume that the rabid or
9 suspected rabid animal could have exposed the susceptible companion or agricultural
10 animal.

11 *Releasing agency* means a public or private animal shelter, humane society, animal
12 welfare organization, society for the prevention of cruelty to animals, or other similar entity
13 or home-based rescue that releases a companion animal for adoption, including the
14 Fairfax County Animal Shelter.

15 *Rightful owner* means a person with a right of property in the animal.

16 *Service animal* means any dog or miniature horse that is individually trained to do work
17 or perform tasks for the benefit of an individual with a disability, including a physical,
18 sensory, psychiatric, intellectual, or other mental disability. Other species of animals,
19 whether wild or domestic, trained or untrained, are not service animals for the purposes
20 of this definition. The work or tasks performed by a service animal must be directly related
21 to the handler's disability. Examples of work or tasks include, but are not limited to,
22 assisting individuals who are blind or have low vision with navigation and other tasks,
23 alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
24 providing non-violent protection or rescue work, pulling a wheelchair, assisting an
25 individual during a seizure, alerting individuals to the presence of allergens, retrieving
26 items such as medicine or the telephone, providing physical support and assistance with
27 balance and stability to individuals with mobility disabilities, and helping persons with
28 psychiatric and neurological disabilities by preventing or interrupting impulsive or
29 destructive behaviors. The crime deterrent effects of an animal's presence and the
30 provision of emotional support, well-being, comfort, or companionship do not constitute
31 work or tasks for the purposes of this definition.

32 *Suspected rabid animal* means any animal that has not been tested for rabies and that
33 the Fairfax County Health Department considers to be a species at high risk for acquiring
34 or transmitting rabies whether or not the animal is exhibiting clinical signs compatible with
35 rabies and any animal the Fairfax County Health Department considers at low risk for
36 acquiring or transmitting rabies that is exhibiting clinical signs compatible with rabies.

37 *Traveling animal exhibition* means any spectacle, display, act or event, including circuses
38 and carnivals, where animals are maintained, whether or not the animals actually perform,
39 the owners or operators of which do not have their principal place of business in Fairfax
40 County, Virginia, and that are required to obtain a temporary special permit pursuant to

the Zoning Ordinance. Notwithstanding the foregoing, a horse or pony ride is not a traveling animal exhibition.

Unrestricted means not under the control of the owner or his agent either by leash, cord, chain, or primary enclosure when off the property or premises of the owner or custodian. An electronic device does not qualify as a leash, cord or chain.

Vicious animal means any animal or animals that constitute a physical threat to human beings or other animals, not to include vicious dogs.

Wild or exotic animal means any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals shall be excluded from this definition: (i) chinchillas, guinea pigs, hamsters, rats, mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians.

Section 41.1-1-2. - Enforcement.

The provisions of this Chapter shall be enforced by the animal control officer and deputy animal control officers, and may be enforced by other law-enforcement officers or as otherwise provided under Virginia law. Where specific reference is made to the Director of Health, he or she may enforce those provisions as well.

Section 41.1-1-5. - Compliance with State Comprehensive Animal Care Laws.

The provisions of this Chapter are intended to complement, not supersede, the state Comprehensive Animal Care Laws.

ARTICLE 2. - Animal Control and Rabies Control.

Section 41.1-2-1. - Vaccination of dogs and cats against rabies required.

Unless exempt pursuant to Virginia law, the owner or custodian of each dog and domesticated cat 4 months of age and older shall have it currently vaccinated against rabies. For the purposes of this section, currently vaccinated means the animal was (i) vaccinated by a licensed veterinarian or a licensed veterinary technician under the direct supervision of a licensed veterinarian on the premises and (ii) the animal was vaccinated and revaccinated in accordance with the current National Association of State Public

1 Health Veterinarian's Compendium of Animal Rabies Prevention and Control or as
2 described on the U.S. Department of Agriculture approved vaccine label. The supervising
3 veterinarian on the premises shall provide the owner or custodian of the dog or
4 domesticated cat with a certificate of vaccination. The owner or custodian of the dog or
5 domesticated cat shall promptly furnish, upon the request of an animal control officer,
6 humane investigator, law-enforcement officer, State Veterinarian's representative, or
7 Director of Health, the certificate of vaccination for such dog or cat. The vaccine used
8 shall be licensed by the United States Department of Agriculture for use in that species.
9 Any dog that has not been vaccinated as required by this Section shall be impounded,
10 except that if the rightful owner of the dog can be immediately ascertained and located,
11 then that owner shall be allowed to have custody of the animal, but may be subject to
12 issuance of a summons for violation of this Section.

13
14 **Section 41.1-2-2. - Dog license required; license tax on dogs and kennels.**

15
16 (a) Except as otherwise provided herein, it is unlawful for any person to own a dog 4
17 months old or older in the County unless the dog is licensed by Fairfax County. Any dog
18 not wearing a collar bearing a current license tag shall prima facie be deemed to be an
19 unlicensed dog and in any proceeding under this Chapter the burden of proof of the fact
20 that the dog has been licensed, or is otherwise not required to bear a tag at the time, shall
21 be on the owner of the dog. No license tag shall be issued for any dog unless the Director
22 of Tax Administration receives either the certificate of rabies vaccination required by
23 Section 41.1-2-3, satisfactory evidence that such certificate has been obtained, or a
24 rabies vaccination exemption certificate issued annually by the Director of Health. This
25 subsection shall not apply to a releasing agency that has registered as such annually with
26 the Animal Services Division.

27
28 (b) There is hereby provided and levied within the County an annual license tax of
29 \$10.00 per dog, regardless of whether the dog is fertile or infertile.

30
31 (1) [Reserved.]

32
33 (2) No license tax shall be levied on any dog that is trained and serves as a guide dog
34 for a blind person, that is trained and serves as a hearing dog for a deaf or hearing
35 impaired person, that is trained and serves as a service dog for a mobility-impaired
36 person, or on any dog owned by a person having diplomatic status in the United States.
37 As used in this section, "hearing dog" means a dog trained to alert its owner by touch to
38 sounds of danger and sounds to which the owner should respond and "service dog"
39 means a dog trained to accompany its owner for the purpose of carrying items, retrieving
40 objects, pulling a wheelchair or other such activities of service or support.

1
2 (c) *Duplicate License Tag.* If a dog license tag is lost, destroyed or stolen, the owner
3 shall at once apply to the Director of Tax Administration for a duplicate license tag,
4 presenting the original license receipt. Upon affidavit of the owner that the original license
5 tag has been lost, destroyed or stolen, the Director of Tax Administration shall issue a
6 duplicate license tag which the owner shall immediately affix to the collar of the dog. The
7 Director shall endorse the number of the duplicate and the date issued on the face of the
8 original license receipt. The fee for a duplicate tag for any dog is \$1.00.

9
10 (d) Upon application and payment of the license tax to the Director of Tax
11 Administration, the Director shall issue a dog license tag, which tag shall bear only the
12 words "Fairfax County, VA Dog Tag," an assigned number, and the current license year.

13
14 (e) It is unlawful to operate a kennel in the County unless it is licensed. The owner or
15 operator of a dog kennel shall pay an annual license tax of \$50.00 for up to but not more
16 than 50 dogs.

17
18 (f) The Director of the Department of Tax Administration shall keep a list of all licenses
19 issued annually, and a separate account of funds received from such tax. All unissued
20 license tags for the current license year shall be destroyed at the end of such year.

21
22 (g) *Displaying Receipts; Dogs To Wear Tags.* Dog license receipts, issued by the
23 Director of Tax Administration at the time of purchase of a dog license tag, and kennel
24 license tax receipts shall be preserved by the licensees and exhibited promptly upon
25 request for inspection by any animal control officer or other officer. Dog license tags shall
26 be securely fastened to a substantial collar by the owner and worn by the dog at all times,
27 except the owner of the dog may temporarily remove the tag required by this Section:

28
29 (1) When the dog is engaged in lawful hunting while accompanied by the owner;

30
31 (2) When the dog is competing in a dog show;

32
33 (3) When the dog has a skin condition which would be exacerbated by the wearing of
34 the collar;

35
36 (4) When the dog is confined;

37
38 (5) While the dog is engaged in a supervised formal obedience training class; or

39
40 (6) During formally sanctioned field trials.

Section 41.1-2-3. - Certificate of vaccination prerequisite to issuance of dog licenses.

(a) No license tag shall be issued for any dog unless the Director of Tax Administration receives either a certificate of rabies vaccination that complies with Section 41.1-2-1, satisfactory evidence that such certificate has been obtained, or a rabies vaccination exemption certificate issued annually by the Director of Health.

(b) The certificate of rabies vaccination shall show the date of vaccination, the type of vaccine used (whether modified live virus or inactivated virus), the rabies tag number, the expiration date of the vaccination, the sex and breed of the dog and the name of the owner.

Section 41.1-2-4. - Unrestricted dogs prohibited; leash law.

(a) No dog shall run unrestricted, as defined in Section 41.1-1-1, in the County. Any person who is the owner of a dog found unrestricted in the County shall be in violation of this Section. This Section shall not apply to any person who uses a dog under his direct supervision while lawfully hunting, while engaged in a supervised formal obedience training class or show, during formally sanctioned field trials, while a dog is in an area owned, leased, controlled, or operated by Fairfax County designated by resolution of the Board of Supervisors as an off-leash dog exercise area, or while a dog is in an area owned, leased, controlled, or operated by the Fairfax County Park Authority and designated by resolution of the Fairfax County Park Authority as an off-leash or dog exercise area, or while a dog is in an area, leased, controlled, or operated by the Northern Virginia Regional Park Authority and designated by resolution of the Northern Virginia Regional Park Authority Board as an off-leash or dog exercise area, or if a dog is a service animal whose handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). It is a violation of this Section for any owner of a dog to place such dog or allow it to be placed into custody of any person not physically capable of maintaining effective control of restricting such dog.

(b) Any dog found unrestricted in violation of subsection (a) shall be impounded, except that if the rightful owner of the dog can be immediately ascertained and located, then that owner shall be allowed to have custody of the animal, but may be subject to issuance of a summons for violation of this Section.

Section 41.1-2-5. - County animal shelter; confinement and disposition of stray animals; impoundment and boarding fees; adoption fees.

(a) The County Animal Shelter shall be operated and maintained in accordance with Virginia law, and it shall be accessible to the public at reasonable hours during the week.

(b) Except as otherwise provided by Section 41.1-2-9, whenever any animal is confined at the Animal Shelter, it shall be kept for a period of not less than 5 days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. If any animal confined at the Animal Shelter is claimed by its rightful owner, such owner shall be charged the applicable fee or fees set forth in this Section.

(c) Any animal impounded that is not suspected of being rabid may be redeemed by its rightful owner upon: (1) presentation of proof of ownership and personal identification; (2) payment of all applicable fees set forth in this Section; (3) if the animal being claimed is a dog or a cat that is 4 months of age or older, presentation of a certificate that shows the animal being claimed has been vaccinated for rabies in accordance with the requirements of Section 41.1-2-1; (4) if the animal being claimed is a dog that is 4 months old or older, presentation of evidence of payment of a valid dog license, as required by Section 41.1-2-2; and (5) payment of any necessary veterinary expenses incurred for the benefit of that animal by the Animal Shelter. Any rightful owner who fails to produce the certificate of vaccination or proof of payment of the license fee shall be allowed to have custody of the animal, but shall be subject to issuance of a summons for violation of Section 41.1-2-1 or Section 41.1-2-2. Any dog not redeemed may be destroyed in a humane manner or otherwise lawfully disposed of by the Director of the Animal Shelter or the designated agent of the Director. The Director or the designated agent of the Director shall not knowingly give, sell, or otherwise release any animal to any person who intends to use that animal for research purposes.

(d) Any person who adopts an animal from the Animal Shelter shall pay the applicable adoption fee set forth in this Section and shall sign an adoption contract agreeing to comply with laws regulating the adoption and ownership of the animal and to appropriately care for the animal. The Animal Shelter shall not release any dog or cat for adoption unless the animal is already sterilized or the person who adopts the animal signs an agreement as required by Virginia law to have the animal sterilized.

(e) Fee Schedules:

| | |
|----|---|
| 1 | Impoundment fees: |
| 2 | |
| 3 | Dogs and cats, first impoundment \$ 25.00 |
| 4 | Second impoundment 50.00 |
| 5 | Third or subsequent impoundment 75.00 |
| 6 | Livestock, under 150 pounds 50.00 |
| 7 | Livestock, 150 pounds or more 100.00 |
| 8 | Reptiles 20.00 |
| 9 | Rodents, ferrets, and rabbits 20.00 |
| 10 | |
| 11 | Boarding fees (for each day boarded): |
| 12 | |
| 13 | Dogs and cats 20.00 |
| 14 | Livestock (under 150 pounds) 25.00 |
| 15 | Livestock (150 pounds or more) 50.00 |
| 16 | Reptiles 10.00 |
| 17 | Rodents, ferrets, and rabbits 10.00 |
| 18 | |
| 19 | Adoption fees: |
| 20 | |
| 21 | Dogs under six (6) months of age 200.00 |
| 22 | Dogs age six (6) months through five (5) years 150.00 |
| 23 | Dogs age six (6) years and older 100.00 |
| 24 | Cats under six (6) months of age 150.00 |
| 25 | Cats age six (6) months through five (5) years 75.00 |
| 26 | Cats age six (6) years and older 50.00 |
| 27 | Rabbits 30.00 |
| 28 | Ferrets, Chinchillas and Hedgehogs 40.00 |
| 29 | Hermit crabs 10.00 |
| 30 | Reptiles 20.00 |
| 31 | Guinea Pigs 15.00 |
| 32 | Rodents (mice, hamsters, gerbils, rats) 5.00 |
| 33 | Equine and bovine 200.00 |
| 34 | Other livestock 50.00 |
| 35 | Small birds (parakeets, finches, canaries) 10.00 |
| 36 | Medium birds 75.00 |
| 37 | Large birds 150.00 |
| 38 | Poultry 20.00 |
| 39 | |

1 The Animal Shelter Director may waive or reduce the adoption, impoundment or boarding
2 fees established in this subsection (e) for good cause, including, but not limited to, special
3 adoption events.

4
5 (f) The owner of any animal that is held pursuant to Va. Code Ann. § 3.2-6569 for more
6 than 30 days shall post a bond in surety with the County in an amount equal to the cost
7 of boarding the animal for 9 months at the rates established in this Section. If the owner
8 satisfies this obligation by obtaining a commercial bond, then the bond must be issued by
9 a surety that is licensed to do business in Virginia and that has an A-IV or better rating
10 from A.M Best. Upon a request by an owner, the County may reduce the bond for good
11 cause shown.

12
13 **Section 41.1-2-8. - Confinement of animals suspected of having rabies.**

14
15 (a) Every person having knowledge of the existence in the County of an animal
16 apparently afflicted with rabies shall report immediately to the Director of Health the
17 existence of such animal, the place where seen, the owner's name, if known, and the
18 symptoms suggesting rabies.

19
20 (b) It shall be the duty of any of the officials charged with the enforcement of this
21 Chapter to impound in the Animal Shelter, at no expense to the owner, any animal
22 showing active signs of rabies or suspected of having rabies, or upon the request of the
23 owner and at his expense, the animal may be placed in the custody of a licensed
24 veterinarian. The animal shall be confined for such period of time as may be necessary
25 to establish a diagnosis. If confinement is impossible or impracticable, such animal shall
26 be euthanized upon the authorization of a licensed veterinarian or the Director of Health
27 by one of the methods approved by the State Veterinarian.

28
29 **Section 41.1-2-9. - Disposition of animals that have potentially exposed persons to**
30 **rabies.**

31
32 (a) The owner of an animal that has potentially exposed a person to rabies or any
33 person having knowledge of any animal which has potentially exposed a person to rabies
34 shall immediately notify the Director of Health. The owner of such animal shall permit the
35 Director of Health or any person charged with enforcement of this Chapter to immediately
36 examine such animal, and for dogs, cats and ferrets, the owner of such animal shall:

37
38 (1) Confine the animal in the County Animal Shelter for a period of 10 days and the
39 owner shall be responsible for paying the impoundment and boarding fees set forth in
40 Section 41.1-2-5;

(2) Confine the animal in the custody of licensed veterinarian or a licensed veterinary hospital for a period of 10 days at the owner's expense; or

(3) Confine the animal on the owner's premises for a period of 10 days. For the purposes of this section, confinement of a dog, cat or ferret means that the animal should be housed in a building, pen or some other suitable escape-proof enclosure and not removed from the enclosure unless on a leash and under the immediate control of a responsible adult while being kept either on the owner's property or in the immediate area associated with the owner's place of residence. The animal should not be moved or taken to another location, site or property unless permission is obtained from the Director of Health. At the first indication of the animal becoming ill, it is the responsibility of the owner or custodian to notify the Director of Health and take the animal to a veterinarian for an examination. If rabies is suspected, the animal should be immediately euthanized and tested for rabies.

(b) Any such dog, cat or ferret shall be released from confinement after the ten-day period only upon authorization of the Director of Health. If any animal being confined pursuant to this Section develops active symptoms of rabies prior to the expiration of the ten-day period, then that animal shall be euthanized and tested for rabies, and the person euthanizing any such animal shall comply with the requirements of Section 41.1-2-11.

(c) The disposition of any animal other than a dog, cat or ferret that has potentially exposed a person to rabies shall be as determined in the sole discretion of the Director of Health.

Section 41.1-2-10. - Confinement or isolation of animals potentially exposed to rabies.

Any person with knowledge of an animal potentially exposed to rabies shall immediately notify the Director of Health.

(a) Any dog, cat or ferret for which no proof of rabies vaccination is available and that is potentially exposed to rabies shall be placed under isolation for a period, not to exceed 6 months, at the expense of the owner. For the purposes of this section, isolation means a kennel in a veterinary hospital, commercial boarding establishment, or a pen at home that prevents direct contact between the animal and any human or other animal, but allows for feeding, watering, and cleaning. The Director of Health is responsible for approving the adequacy of the isolation unit. The owner has up to 14 days from the date of the exposure to place the dog, cat or ferret in isolation. At the discretion of the Director of

1 Health, rabies titer amnestic response results can be used to demonstrate a prior rabies
2 vaccine history. A rabies vaccination shall be administered as soon as possible after the
3 exposure. If isolation is not feasible, the dog, cat or ferret shall be euthanized by one of
4 the methods approved by the State Veterinarian.

5
6 (b) Any dog, cat or ferret with proof of a rabies vaccination that is potentially exposed to
7 rabies shall be revaccinated immediately following the exposure and shall be confined to
8 the premises of the owner in accordance with Section 41.1-2-9, or other site approved by
9 the Director of Health for a period of 45 days.

10
11 (c) The disposition of any animal other than a dog, cat or ferret that has been potentially
12 exposed to rabies shall be as determined in the sole discretion of the Director of Health.

13
14 **Section 41.1-2-11. - Regulations concerning animals dying of rabies.**

15
16 Any person who destroys an animal that is suspected of being rabid or any person who
17 has knowledge that an animal has died of rabies or is suspected of having died of rabies
18 shall immediately notify the Director of Health of the location of the body of such animal.
19 If requested by the Director of Health, the head of the animal shall be surrendered to any
20 person charged with the enforcement of this Chapter.

21
22 **Section 41.1-2-14. – Reserved.**

23
24 **Section 41.1-2-16. - Burial or cremation of dead animals and fowl.**

25
26 When the owner of any animal or fowl that has died knows of the death, such owner shall
27 forthwith have its body cremated or buried, or otherwise disposed of in a manner
28 acceptable to the Director of Health; alternatively, the owner may request such service
29 from the Animal Shelter. If, after notice, the owner of any companion animal that has died
30 fails to properly dispose of the animal, the animal control officer or other officer may bury
31 or cremate the animal and may recover, on behalf of the County, from the owner for the
32 cost of the disposal. If the owner of any other animal that has died fails to bury or cremate
33 the dead animal or fowl, any judge of a general district court, after notice to the owner if
34 he can be ascertained, shall authorize Animal Services Division or the Director of Health
35 to do so. In that event, the County shall be entitled to recover the actual cost of the
36 cremation or burial.

37
38
39 **ARTICLE 4. - Keeping of Wild, Exotic or Vicious Animals Prohibited.**
40

Section 41.1-4-1. - Keeping prohibited; exceptions.

No person shall keep or permit to be kept any wild, exotic or vicious animal, as those terms are defined in Section 41.1-1-1, for any purposes, except that this prohibition shall not apply to (i) a single certified service animal in a household, (ii) zoological parks, (iii) traveling animal exhibitions, (iv) circuses or (v) individuals, organizations, or veterinary clinics that are properly licensed or permitted by an agency of the Federal Government or Commonwealth of Virginia, including, but not limited to, wildlife rehabilitators and exhibitors. The wild or exotic animals of such licensed or permitted individuals or establishments shall not be exhibited or displayed in such a manner that persons other than their handlers can pet, fondle, or otherwise come in direct physical contact with such animals; however this prohibition shall not apply to the riding of elephants by persons other than the elephants' handlers while under the direct supervision of the elephants' handlers where such elephants are performing in zoological parks, animal exhibitions or circuses which are properly licensed by the Federal Government or the Commonwealth of Virginia and Fairfax County. Nothing in this Chapter shall be construed to permit the possession of any animal in violation of any law or regulation of the Federal Government or Commonwealth of Virginia.

Section 41.1-4-2. Notice required at place of sale.

Any person who offers for sale an exotic animal as defined by Section 41.1-1-1 shall post conspicuously at the place of sale or display the following notice:

"No person may lawfully keep or permit to be kept in Fairfax County, other than a certified service animal, any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals may be lawfully kept in Fairfax County: (i) chinchillas, guinea pigs, hamsters, rats mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians."

Section 41.1-4-3. - Disposition of Animals.

Any person who keeps a wild, exotic, or vicious animal in contravention of this Article may dispose of the animal by removal of the animal from Fairfax County, by giving or selling the animal to a zoological park or by releasing the animal to the Department of Animal Sheltering.

ARTICLE 5. - Traveling Animal Exhibitions.

Section 41.1-5-2. - Issuance of permit.

(a) The owner or operator of any traveling animal exhibition desiring to operate in Fairfax County shall make written application for permit on forms provided by the Animal Services Division no later than 21 days prior to the first performance of any spectacle, display, act or event. The application shall include but not be limited to the name of the owner of the traveling animal exhibition, all proposed locations in Fairfax County for the traveling animal exhibition, the date the traveling animal exhibition is to arrive in Fairfax County, the date of departure, all dates on which it is to perform at any location in Fairfax County, the owner's principal address and telephone number, the total length of time during which the traveling animal exhibition will operate in Fairfax County, a list of all locations at which the traveling animal exhibition has performed during the twelve-month period prior to making this application, whether or not the owner or operators of the traveling animal exhibition have been charged or convicted of an offense constituting cruelty to animals, a brief description of the acts or events to be performed and the signature of the owner or representative thereof. The applicant shall attach to the application a copy of a current and valid Exhibitor's License issued by the United States Department of Agriculture (USDA), and health certificates issued within 30 days of the date of the application by a licensed veterinarian for each animal to be exhibited in Fairfax County.

(b) The owner or operator of the traveling animal exhibition shall comply with the provisions of Section 41.1-4-1 and shall present upon demand by any law enforcement officer a current and valid USDA Exhibitor's License and valid health certificates issued within 30 days for each animal to be exhibited.

(c) All animals maintained by the traveling animal exhibition must be given adequate feed, adequate water, adequate shelter, adequate space for the particular type of animal depending upon its age, size and weight, adequate veterinary care when needed, and humane care and treatment. For the purposes of this Section, adequate care, adequate feed, adequate shelter, adequate space and adequate water shall have the meanings set forth in Va. Code § 3.2-6500, as amended.

(d) The Commander of the Animal Services Division shall issue a permit to the traveling animal exhibition if the traveling animal exhibition complies with the requirements of this Article and shall notify the Zoning Administrator that a permit has been issued. The permit will be valid for the length of time requested on the application not to exceed 21 days from the date of issuance.

(e) The Commander of the Animal Services Division may deny the application for permit if the traveling animal exhibition fails to comply with any of the requirements of this Article.

(f) Any costs of fees incurred by Fairfax County as a result of the permit process shall be charged to the traveling animal exhibition. Payment of all such costs shall be in addition to the \$50.00 permit fee required by this Article and shall be considered a precondition to the issuance of the permit.

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 upon adoption.

GIVEN under my hand this ____ day of _____, 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

4:30 p.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 - 1. *Mateusz Fijalkowski v. M. Wheeler, S. Adcock, S. Blakely, R. Bronte-Tinkew, C. Clark, J. Grande, R. Jakowicz, L. Labarca, L. McNaught, W. Mulhern, M. Zesk, Sean Brooks, and American Pool, Inc.*, Appeal No. None Assigned (U.S. Sup. Ct.)
 - 2. *Richard Miller v. Douglas A. Comfort, Amanda Skowronski, and Jason Friedman*, Case No. 1:19-cv-1252 (E.D.Va.)
 - 3. *April Michelle Marshall, a.k.a. April Norwood v. Alicia A. Adkins, #4259*; Case No. CL-2019-0008593 (Fx. Co. Cir. Ct.)
 - 4. *Melinda Norton, Cecilia Gonzalez, Amjad Arnous, John A. McEwan, Mary Lou McEwan, Laura Quirk Niswander, Nagla Abdelhalim, Robert Ross, Helen Ross, Sanjeev Anand, Anju Anand, Melinda Galey and Travis Galey v. Board of Supervisors of Fairfax County, Virginia*, Case No. None Assigned (Va. Sup. Ct.)
 - 5. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. 1521 Dranesville, LLC*, Case No. CL-2020-0008120 (Fx. Co. Cir. Ct.) (Dranesville District)
 - 6. *American Builders & Contractors Supply Co. v. Suk K. Kim, Trustee, Hyun K. Kim, Trustee, Yun Bae Suh t/a YNC Construction, Board of Supervisors of Fairfax County, and KNE Construction*, Case No. CL 2020-0006482 (Fx. Co. Cir. Ct.) (Dranesville District)
 - 7. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Mishal H. Al-Thani*, Case No. CL-2018-0001769 (Fx. Co. Cir. Ct.) (Dranesville District)

8. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Darioush David Movafagh and Lili Movafagh*, Case No. CL-2020-0008594 (Fx. Co. Cir. Ct.) (Hunter Mill District)
9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Abid A. Awan*, Case No. CL-2020-0008403 (Fx. Co. Cir. Ct.) (Lee District)
10. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Keun Hoon Lee and Yong Ja Lee*, Case No. CL-2019-0000700 (Fx. Co. Cir. Ct.) (Lee District)
11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Bill H. Waller*, Case No. CL-2020-0008130 (Fx. Co. Cir. Ct.) (Mount Vernon District)
12. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Douglas 2817 LLC*, Case No. GV20-002465 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
13. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Steven Sherman*, Case No. CL-2019-0016948 (Fx. Co. Cir. Ct.) (Providence District)
14. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Judy V. Marshall*, Case No. CL-2020-0008131 (Fx. Co. Cir. Ct.) (Providence District)
15. *In Re: Sidney Harris, Appeal No. A 2019-SP-011* (Board of Zoning Appeals) (Springfield District)
16. *In Re: Sidney Harris, Appeal No. T 2020-SP-015* (Board of Zoning Appeals) (Springfield District)
17. *In Re: Sidney Harris, Appeal No. 200617.0AP* (Fairfax County Board of Building Code Appeals) (Springfield District)