

**TOWN OF HERNDON, VIRGINIA
WORK SESSION AGENDA
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
JANUARY 8, 2019
7:00 P.M.**

GENERAL [Action requested at work session]

1. Resolution 19-G-01, to adopt *Roberts Rules of Order* and to designate the Town Attorney as the Parliamentarian
2. Resolution 19-G-02, to elect the Vice Mayor

PRESENTATIONS

3. Certificate of Appreciation, to recognize Dale Frock, Department of Public Works, on the occasion of his retirement
4. Certificate of Appreciation, to recognize Mike Berg, Herndon Police Department, on the occasion of his retirement

PUBLIC HEARINGS

5. Ordinance 18-O-35, to authorize the encroachment of the front stoops of 701, 703, 705, 707, 709 and 711 Monroe Street, identified as Fairfax County Tax Map numbers: 0162 51 0007 through 0012, into the Monroe Street public access easement located directly adjacent thereto within the Town of Herndon. (this item was continued from December 11, 2018)
6. Resolution, to consider a special exception SE #18-05, 537 Merlins Lane, to permit a home-based daycare with a maximum of twelve children. The zoning designation is PD-R, Planned Development-Residential; Business Name: Sun Montessori; Applicant: Tanushree Maitra.

CONSENT AGENDA

7. Proclamation, to recognize "Herndon Town Incorporation Day," January 14, 2019
8. Resolution, to award contract IFB #B-19-01, 3rd Street Water Tank Painting and Rehabilitation

DISCUSSION

9. FY 2020 Budget Guidance (Discussion by the Town Manager)

ROUNDTABLE

CLOSED MEETING

A closed meeting as provided under Section 2.2-3711(A)(1) of the Code of Virginia for discussion of prospective candidates relative to appointments to boards & commissions.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 8, 2019

Resolution- to adopt *Roberts Rules of Order* and to designate the Town Attorney as the Parliamentarian.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

- Adopts *Robert's Rules of Order Newly Revised*, Eleventh Edition, for the purpose of conducting meetings of the Town Council for January 1, 2019 through December 31, 2020; and
- Designates the Town Attorney as the Parliamentarian for January 1, 2019 through December 31, 2020.

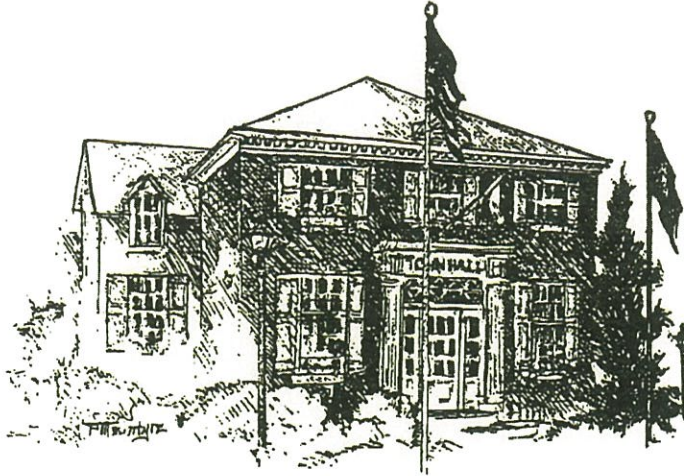
TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 8, 2019

Resolution- to elect the Vice Mayor.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby elects _____ as Vice Mayor of the Town of Herndon for the term of January 1, 2019 through December 31, 2020.



Town of Herndon, Virginia

Certificate of Appreciation

to

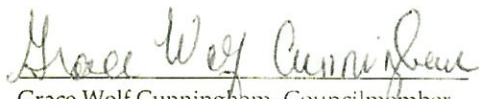
Dale Frock

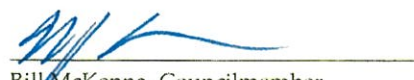
For more than seven years of loyal and dedicated service to the
citizens of the Town of Herndon and for your outstanding
contributions to the quality of life in the Herndon community.

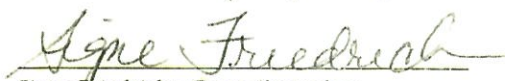
December 2011 to February 2019


Jennifer K. Baker, Vice Mayor

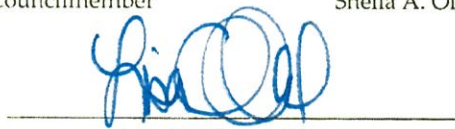

Richard B. Kaufman, Councilmember


Grace Wolf Cunningham, Councilmember

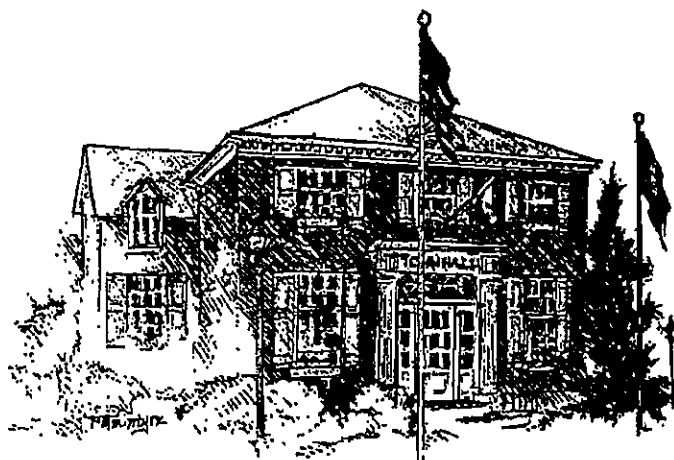

Bill McKenna, Councilmember


Signe Friedrichs, Councilmember


Sheila A. Olem, Councilmember


Lisa C. Merkel, Mayor





Town of Herndon, Virginia

Certificate of Appreciation

to

Michael B. Berg

For more than 32 years of loyal and dedicated service to the
citizens of the Town of Herndon and for your outstanding
contributions to the quality of life in the Herndon community.

May 1986 to February 2019

/s/

Mayor Lisa C. Merkel and Members of the Herndon Town Council

STAFF REPORT

Town Council

January 8, 2019

Title: Ordinance- to authorize the encroachment of the front stoops of 701, 703, 705, 707, 709 and 711 Monroe Street, identified as Fairfax County Tax Map numbers: 0162 51 0007 through 0012, into the Monroe Street public access easement located directly adjacent thereto within the Town of Herndon.

Staff Contact:

Lesa J. Yeatts, Town Attorney
(703) 787-7370
lesa.yeatts@herndon-va.gov

John Irish, Deputy Director Public Works
703-435-6853
john.irish@herndon-va.gov

Summary:

This ordinance will authorize the granting of a license to Tradition Homes, LLC on behalf of Junction Square, LLC for the encroachment of the front stoops of 701, 703, 705, 707, 709 and 711 Monroe Street by 2-4 inches into the Monroe Street public access easement located directly adjacent thereto on Junction Square HOA property.

Description:

The location of the encroachments are shown on Exhibit 1 attached hereto. The encroachments are the natural consequence of the inexact science of construction in urban areas without setbacks in that there is no way to accurately verify a condition until the condition is built

Fiscal Impact:

None.

Staff Recommendation:

Staff recommends that the Town Council approve the draft Ordinance authorizing the encroachments as proposed and shown in the encroachment exhibit.

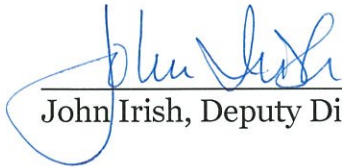
Attachments:

Encroachment Exhibit 1

Prepared and Approved by:



Lesa J. Yeatts, Town Attorney



John Irish, Deputy Director Public Works

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 15, 2019

Ordinance- to authorize the encroachment of the front stoops of 701, 703, 705, 707, 709 and 711 Monroe Street, identified as Fairfax County Tax Map numbers: 0162 51 0007 through 0012, into the Monroe Street public access easement located directly adjacent thereto within the Town of Herndon.

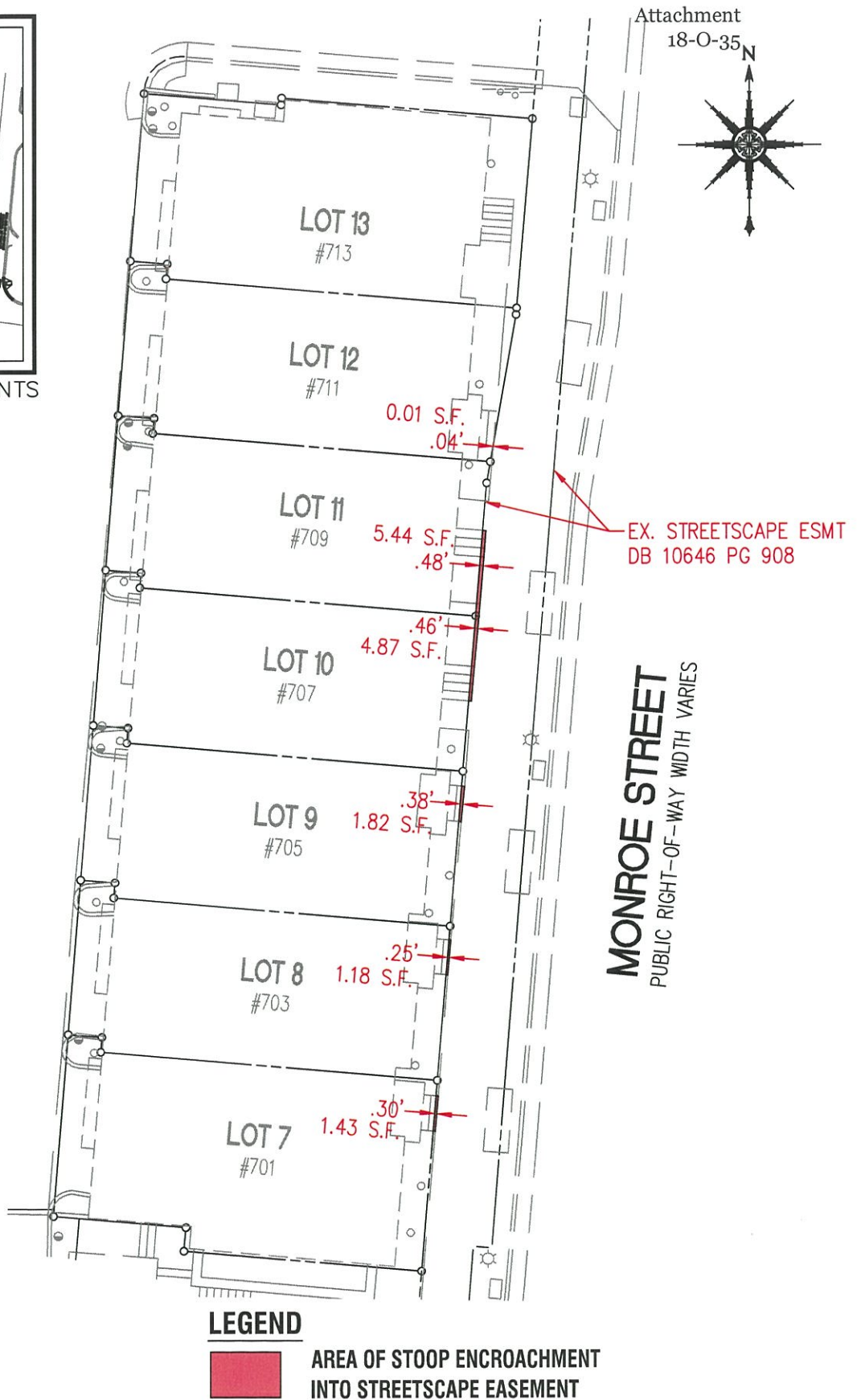
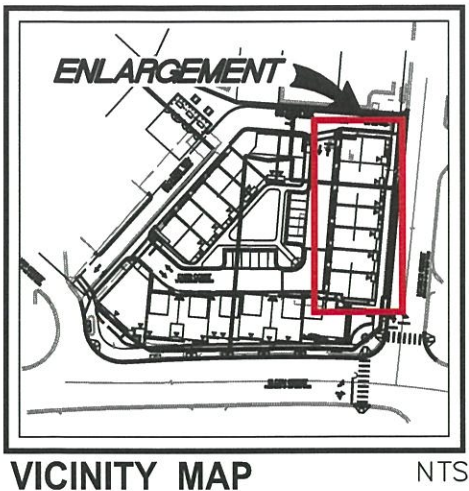
BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia, that:

Pursuant to §15.2-2009, Code of Virginia (1950), as amended, Town Council authorizes Tradition Homes, LLC on behalf of Junction Square, LLC (Junction Square) the encroachment of the front stoops of the structures located at 701, 703, 705, 707, 709 and 711 Monroe Street, identified as Fairfax County Tax Map numbers: 0162 51 0007 through 0012, into the Monroe Street public access easement located directly adjacent thereto within the Town of Herndon, subject to the following conditions.

1. This ordinance shall constitute a license and shall be revocable at the pleasure of the Town of Herndon or of the General Assembly.
2. Junction Square shall maintain at its expense, in effect throughout the term of this license, general liability insurance covering the licensed improvements in the amount agreed upon by the parties. Such insurance shall be with a company satisfactory to the Town. Any deductible provision of said insurance shall be subject to the approval of the Town. Such insurance shall specifically insure Junction Square against all liability assumed by it under the terms of this license granted hereunder as well as any liability imposed by law and shall insure both the Town and Junction Square but shall be so endorsed as to create the same liability on the part of the insurer as if separate policies had been written for Junction Square and the Town. Licensee shall provide the Town's Finance Director with a Certificate of Insurance naming the Town as an additional insured, which shall be in a form satisfactory to the Town and the Town Attorney upon effective date of this ordinance and annually thereafter without demand. Each insurer mentioned in this section shall agree by endorsement on the policy or policies issued by it or by independent instrument furnished to the Town that it will give the Town at least thirty (30) days' written notice before the policy or policies in question shall be altered or cancelled.
3. Nothing contained in this ordinance, the Herndon Town Code or in

the Code of Virginia provision referred to above shall be construed to relieve Junction Square, its successors and assigns from liability for negligence on their part because of any such encroachment. Junction Square, its successors and assigns shall be liable for negligence because of such encroachment.

4. This ordinance shall be effective on and after January 15, 2019.



STOOP ENCROACHMENT EXHIBIT
JUNCTION SQUARE

SCALE: 1" = 20'
DATE: 11/28/2018



STAFF REPORT

Town Council

January 8, 2019

Title:

Resolution, to consider Special Exception, SE #18-05, to permit a home-based daycare with a maximum of 12 children in an existing single-family residence zoned PD-R, Planned Development-Residential, located at 537 Merlins Lane.

Staff Contact:

David Stromberg, Zoning Administrator
(703) 787-7380
david.stromberg@herndon-va.gov

Summary:

This application is for a special exception to permit a home-based child daycare use for 12 children within the PD-R, Planned Development – Residential, zoning district. The applicant currently has a valid zoning inspection permit for seven children. The Herndon Zoning Ordinance limits the maximum number of children that can be permitted in a home-based daycare to seven with a zoning inspection permit and 12 with a special exception.

Case Description:

Address:	537 Merlins Lane
Parcel Tax Map #:	0104 15 0179
Applicant:	Tanushree Maitra
Business Name :	Sun Montessori
Zoning District:	PD-R, Planned Development-Residential
Property Use:	Single Family Detached Dwelling
Proposed Use:	Home-based daycare
Adjacent Zoning:	North: PD-R, Single Family House South: PD-R, Single Family House East: PD-R, Single Family House West: R-10, Single Family House

Comprehensive Plan
Land Use Designation: Neighborhood Conservation

Applicable Zoning Code: Section 78-80.4(c); Special Exception for home-based business
Section 78-155.3; Special Exceptions

Building Square
Footage: 2,400 GFA

Parking Provided: 1 garage and 2 driveway spaces

Recommendation Alternatives:

1. Approve Special Exception #18-05 based upon the determination that the proposed use meets the standards as found in Section 78-155.3.
2. Approve Special Exception #18-05 with the conditions set forth in the staff recommendation to achieve compliance with the standards found in Section 78-155.3.
3. Deny Special Exception #18-05 based upon the determination that this special exception does not meet the requirements of Section 78-155.3.

Staff Recommendation:

Staff recommends approval in accordance with Alternative #2.

Planning Commission Recommendation:

This item was heard by the Planning Commission at the November 19, 2018 work session and December 3, 2018 public hearing. The Commission did not raise any concerns and recommended approval of Special Exception #18-05 with the staff conditions.

Staff Analysis:

The zoning ordinance lists uses permitted in a zoning district as by-right, by special exception, or not permitted. Special exceptions differ from by-right uses in that they have the potential to have a greater impact on neighboring properties and therefore are subject to more thorough review.

Among other zoning sections, staff relies on the standards listed in Section 78-155.3(e), a copy of which is attached to this report, in its evaluation of a Special Exception for its appropriateness, compatibility, potential impacts, and offers the following comments:

The applicant was recently approved to operate a child daycare for seven children

and the Town has not received any complaints on this address. The applicant has also submitted a letter from the Hunter's Creek HOA expressing support for the application.

The applicant's business model involves staggered arrival and pickup times and the applicant has stated that some of the children are siblings who arrive in the same vehicle. The driveway is capable of accommodating up to two vehicles at one time and staff is proposing a condition that all clients are to park in the driveway.

The property has a fenced rear yard of approximately 6,500 square feet which can be used for an outdoor play area. This exceeds the minimum of 900 square feet required by the ordinance (75 square feet per child). The playground for Herndon Elementary School is approximately 200 feet from the rear yard of the subject property. Staff anticipates that any noise generated from the outdoor play area will be less than what is already produced by the school.

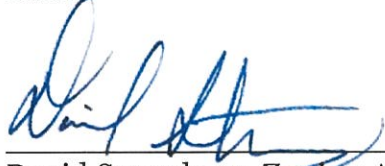
The hours of operation proposed by the applicant is 7:30 a.m. to 5 p.m. Staff is recommending a condition to limit the time from 7 a.m. to 6:30 p.m. to allow flexibility in pickups/drop-offs.

Staff believes this proposal meets the conditions for approval of a special exception and recommends approval with the attached conditions.

Attachments:

1. Draft Resolution for Approval
2. Vicinity Map
3. Narrative Statement
4. Property Plat
5. Statement from HOA
6. Zoning Ordinance Section 78-155.3(e)

Staff:



David Stromberg, Zoning Administrator



Elizabeth M. Gilleran, Director of Community Development

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 15, 2019

Resolution- to consider Special Exception Application SE #18-05, to permit a home-based daycare with a maximum of 12 children in an existing single-family residence zoned PD-R, Planned Development-Residential.

WHEREAS, the applicant, Tanushree Maitra, has submitted a request for a special exception to permit a daycare with a maximum of 12 children on a property improved with a single-family residence and located at 537 Merlins Lane and identified as Fairfax County Tax Map # 0104 15 0179.

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing in accordance with the provisions of §15.2-2204 of the State Code; and

WHEREAS, following the public hearing, the Planning Commission recommended that the application be approved with conditions based upon the finding that the proposed use meets the purpose and intent of the Zoning Ordinance, in particular Section 78-155.3; and

WHEREAS, the Town Council has conducted a public hearing and has reviewed the Planning Commission recommendations.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

Approves Special Exception Application SE #18-05, in accordance with the conditions set forth below to achieve compliance with the standards found in Section 78-155.3;

a. **Substantial Conformity.** The site shall be operated in substantial conformance with the special exception application submitted October 31, 2018, except as modified by these conditions.

b. **Permitted use & licensure.** The use shall be limited to a home-based child daycare with an on-site play area. The applicant must maintain a license as a Family Day home as defined by the Code of Virginia and Virginia Department of Social Services.

c. **Hours of Operation.** The hours of operation for the use shall not extend beyond 7:00 AM – 6:30 PM.

d. **Child drop-off & pickup.** Child drop-off and pickup shall be from the driveway of the subject property. The applicant shall notify all current and new clients in writing that the driveway is the only permitted drop-off/pickup zone.

e. **Number of permitted children.** The number of non-resident children present on site shall not exceed 12 at any one time during the permitted operational hours.

f. **Signs.** Signage related to the business shall not be permitted.

g. **Play area.** When playing outside all children shall be within the fenced playground area.

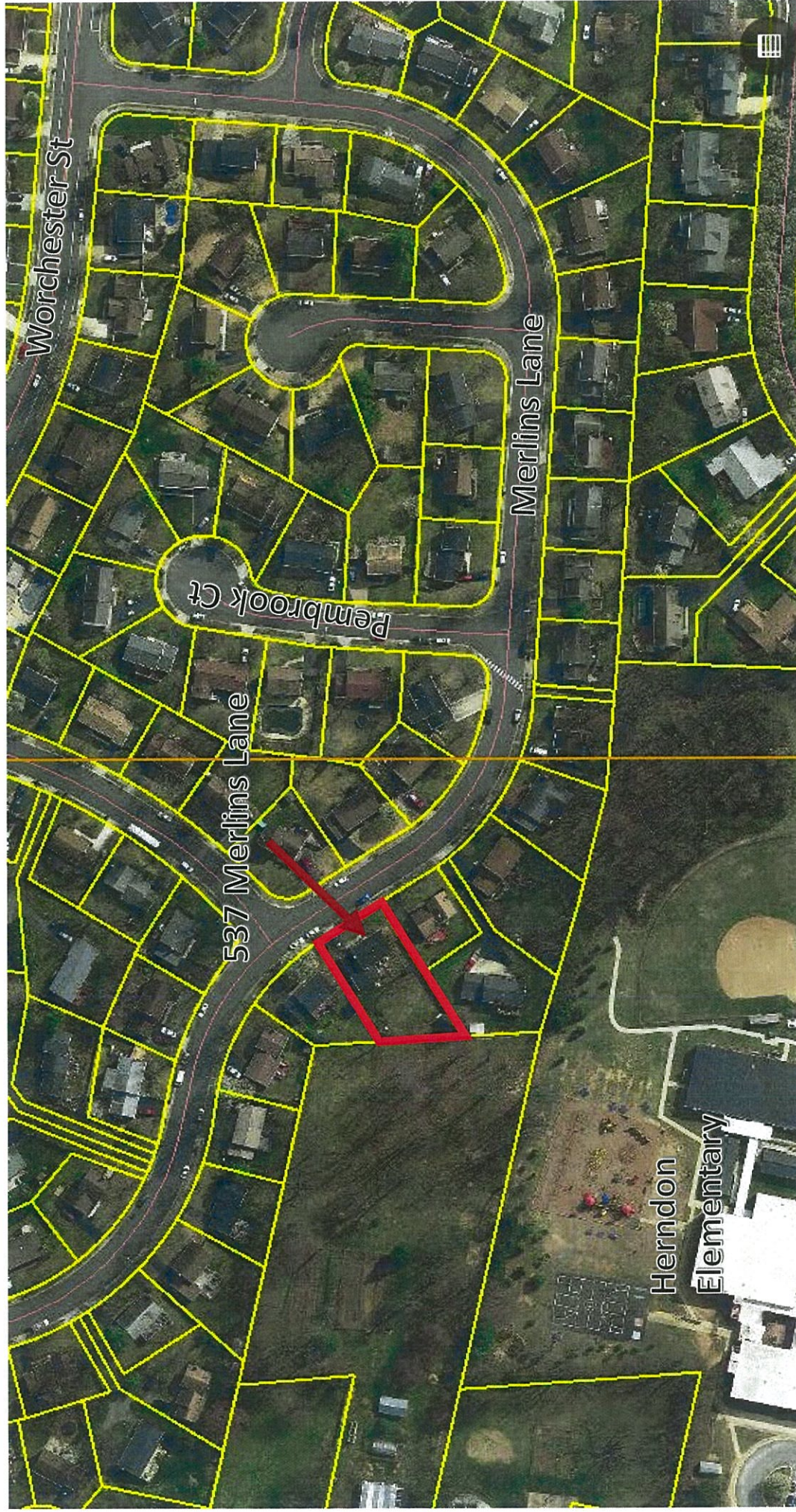
h. **Inspection.** The property owner shall, during hours of operation, make provisions to allow town officials to inspect the property.

i. **Expiration.** This Special Exception shall not run with the land and shall expire under the following condition(s):

- i. A discontinuation of the use for which the special exception was granted for a continuous twelve-month period;
- ii. Failure to obtain a Certificate of Occupancy for the proposed use within twelve months of approval of the special exception;
- iii. A change in substantial ownership of possession of the subject land.

j. **Revocation.** Any violation of the aforementioned conditions or other sections of the Herndon Town Code shall be grounds for revoking the special exception pursuant to the manner described in Section 78-155.3(h) of the zoning ordinance.

This resolution by its terms shall be effective on and after the date of its adoption.



SITE LOCATION – AERIAL PHOTO

Case: SE #18-05 – 537 Merlins Lane



TOWN OF
Herndon

Photo prepared by Town of Herndon
Department of Community Development
Image source: Fairfax County GIS

To whom it may concern

Town of Herndon

Currently we operate a daycare center from within a residential facility at 537 Merlins Ln Herndon, 20170. We are certified to operate by the Virginia Department of Social Services and the Town of Herndon and provide progressive educational opportunities to multiple children in the immediate and surrounding areas. Due to the variety of programs that we offer, the dropoff and pickup times vary. Furthermore during the day time there is ample street parking available if required. We have children ranging from five months to 6 years of age and many of the children are siblings who are dropped off and picked up together. Our drop off times range from 7:30 am to 9:00 am and parents pick up their children between 12:30 pm to 5 pm. As these time periods are broad and flexible we are rationally confident that no additional stress will be placed upon neighbors. For the preceding reasons, we would like to request leniency in regards to the capacity of students that we are authorized to serve. Therefore, we request an increase to the seven student limit that we are currently allowed to attend to. The 12 student allowance would give us the opportunity to expand our business which is my livelihood as the owner, while being respectful of those around me. I am very grateful to the Town of Herndon for all the courtesies extended to me.

For your consideration,

Tanushree Maitra

703-477-0909

Email: maitrat@yahoo.com

Date: 10/31/2018



0171020007

To Whom It May Concern,

The Hunter's Creek HOA by covenant does not object to any home based business that is allowed within the Town of Herndon.

<http://www.hunterscreek.org/page/covenants-and-restrictions>, section 1

We wish our neighbor well in their future business endeavor.

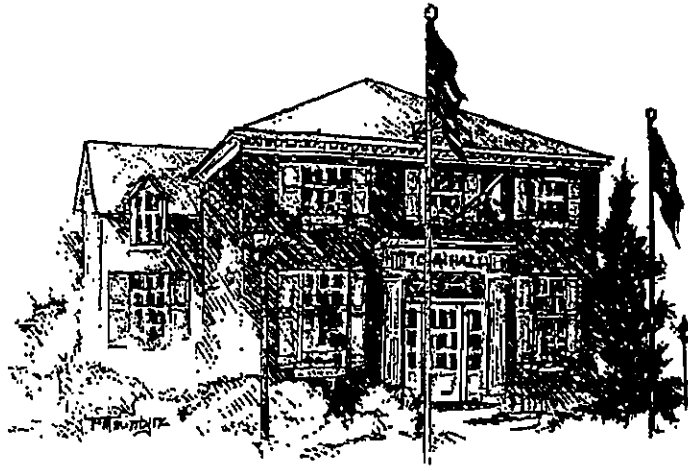
A handwritten signature in black ink, appearing to read 'Jeff Smith', with a long horizontal flourish extending to the right.

Jeff Smith
VP Hunter's Creek HOA

Sec. 78-155.3. - Special exception.

(e) *Review standards for special exceptions .*

- (1) *General standards for all special exceptions uses .* A special exception may be approved upon a determination by the planning commission and town council, respectively, as to whether, and the extent to which, the proposed use(s) meet the following standards:
 - a. Is consistent with the comprehensive plan.
 - b. Is free of conflict with any provision of this chapter and related town regulations or any other applicable local, state, or federal laws and regulations.
 - c. Does not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.
 - d. Consistent with the purpose and intent of the zoning district in which it is located, or will improve compatibility among uses and will ensure efficient development within the town.
 - e. Minimizes adverse visual impact of the proposed use on adjacent lands.
 - f. Contributes to a logical and orderly development pattern consistent with accepted or emerging planning practices.
 - g. Minimizes adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and should not create a nuisance.
 - h. Avoids significant adverse impacts on the property values of surrounding lands or substantially and permanently injures the use of neighboring property for those uses that are permitted in the zoning district.
 - i. Does not significantly and adversely impact the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
 - j. Results in development that is adequately served by transportation facilities, including whether or not a substantial deterioration of the level of service on the town's transportation network would occur and whether or not the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions on and around the site.
 - k. Results in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
 - l. If infill and redevelopment is consistent with the redevelopment criteria and other applicable guidelines as stated in the Herndon 2030 Comprehensive Plan (adopted August 12, 2008), as amended.
 - m. If located in the floodplain overlay district, meets floodplain overlay standards.
 - f. Additional common recreation space (developed) above that required by section 78-113.3, privately provided recreation areas, is provided in proportion to the requested increase in dwelling unit density.



**TOWN OF HERNDON, VIRGINIA
PROCLAMATION
HERNDON TOWN INCORPORATION DAY
JANUARY 14, 2019**

The Town of Herndon, Virginia, was officially incorporated on January 14, 1879. In honor of the town's official birthday, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim January 14, 2019, as **Herndon Town Incorporation Day** in the Town of Herndon, to recognize the 140th anniversary of our town. With respect and reverence to the Town of Herndon and its history, the Town Council will highlight and proclaim each January 14 as **Herndon Town Incorporation Day**.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express appreciation to mayors, councils, members of the Herndon Historical Society, town staff and volunteers, who ~ both in the past and in the present ~ continually strive to preserve and document the history of the Town of Herndon, and encourage the public's interest in our distinct heritage.

Lisa C. Merkel, Mayor
January 15, 2019

The Herndon Town Council formally presents this proclamation to the Herndon Historical Society every 10 years. The next presentation is scheduled for January 2020.

STAFF REPORT

Town Council
January 8, 2019

Title:

Resolution – Award of Contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation

Staff Contact:

John Irish, Deputy Director of Public Works
(phone) 703-435-6853
(e-mail) john.irish@herndon-va.gov

Background:

3rd Street Water Tank Painting and Rehabilitation is a project in the Capital Improvement Program. The project consists of the interior and exterior painting of the tank, pipe and valve painting, miscellaneous structural steel and concrete repairs, and ladder fabrication with installation of a safety climb and ladder guard.

On October 16, 2018 contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation was advertised. A pre-bid conference was held on November 1, 2018 and was attended by two firms.

On December 4, 2018 the following five bids were received:

<u>Contractor</u>	<u>Bid</u>
Worldwide Industries Corp.	\$791,640
D&M Painting Corporation	\$986,000
Horizon Brothers Painting Corp.	\$989,700
NOSTOS SS Contractors, LLC	\$1,085,000
Manolis Painting, Inc.	\$1,194,000

The apparent lowest bidder, Worldwide Industries Corp. has been found to be responsive and responsible.

Fiscal Impact:

Funds to support this contract are available in the Capital Projects Account #0020888-480020. Staff recommends Contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation be awarded to Worldwide Industries Corp. for \$791,640. Staff also

recommends a \$79,000 contingency, which is approximately 10% of the contract amount, be authorized.

Staff Recommendation:

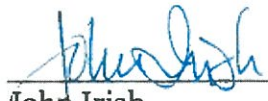
Staff recommends Town Council:

1. Award Contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation, to Worldwide Industries Corp. for \$791,640.
2. Authorize a contingency of \$79,000.

Attachments:

Draft Resolution

Staff:



John Irish
Deputy Director of Public Works

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 15, 2019

Resolution— To award Contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation.

WHEREAS, the 3rd Street Water Tank Painting and Rehabilitation project is in the Capital Improvement Program; and

WHEREAS, Contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation, was advertised on October 16, 2018; and

WHEREAS, a pre-bid conference was held on November 1, 2018 and was attended by two firms; and

WHEREAS, the following bids were received and opened on December 4, 2018 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
Worldwide Industries Corp.	\$791,640
D&M Painting Corporation	\$986,000
Horizon Brothers Painting Corp.	\$989,700
NOSTOS SS Contractors, LLC	\$1,085,000
Manolis Painting, Inc.	\$1,194,000; and

WHEREAS, Worldwide Industries Corp. submitted the lowest bid which was found to be responsive and responsible; and

WHEREAS, staff recommends in addition to the contract that a contingency of \$79,000 which is approximately 10% of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account Number 0020888-480020; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-19-01, 3rd Street Water Tank Painting and Rehabilitation, to Worldwide Industries Corp. in the amount of \$791,640.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes a contingency of \$79,000.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Town Manager's designee to approve contract modifications (change orders) that increase project scope and costs, utilizing the project contingency.