

**TOWN OF HERNDON, VIRGINIA
PUBLIC HEARING AGENDA
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
JANUARY 14, 2020
7:00 P.M.**

1. Call to Order
2. Pledge of Allegiance to the Flag of the United States of America

APPROVAL OF MINUTES

December 2, 2019	Town Council Special Work Session Draft Minutes
December 3, 2019	Town Council Work Session Draft Minutes
December 10, 2019	Town Council Public Hearing Draft Minutes

PRESENTATIONS

3. Proclamation, to honor Sharon Bulova, Chairman, Fairfax County Board of Supervisors
4. Proclamation, to recognize “Nachman Day,” January 14, 2020, in honor of the 100th Anniversary of the Nachman family in Herndon
5. Certificate of Appreciation, to recognize Dr. Manuel A. Gomez Guemez, Parks & Recreation Department, on the occasion of his retirement

COMMENTS

6. Comments from the Town Manager
7. Comments from the Town Council
8. Comments from the Audience

PUBLIC HEARINGS

9. Ordinance 20-O-01, to consider Zoning Ordinance Text Amendment ZOTA #19-02, to amend Chapter 78 (ZONING), and several Articles, to revise standards for communications towers and develop standards for utility distribution or transmission poles and to establish a maximum \$500 fee for administrative review eligible projects in Article XV (Decision-Making Authorities, Application Review, and Permitting), Section 78-152.2(b)(3) (Fees) pursuant to Virginia Code 15.2-2286(A)(6)

GENERAL

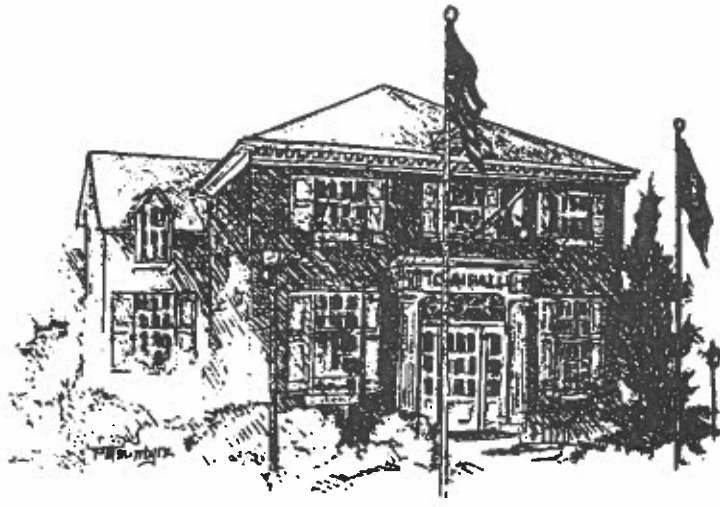
10. Resolution 20-G-01, to accept the Planning Commission's findings and recommendations of the Commission's five year review of the Comprehensive Plan, confirming the direction and providing staff with guidance for future Comprehensive Plan amendments and studies **(To be continued to January 21 & January 28 meetings)**

CONSENT AGENDA

11. Resolution 20-G-02, to reappoint Matthew Ossolinski to the Heritage Preservation Review Board
12. Proclamation, to recognize "Herndon Town Incorporation Day," January 14, 2020
13. Ordinance 20-O-02, to amend Chapter 66, Article V (Shared Mobility Devices), Section 66-106 to permit Pilot Program Agreement(s)
14. Ordinance 20-O-03, to amend the Code of the Town of Herndon to add thereto a new Chapter 11 entitled Short-Term Residential Rental Registration

Future Town Council Meetings

January 21, 2020	Town Council Work Session	7:00 p.m.
January 28, 2020	Town Council Public Hearing	7:00 p.m.
February 4, 2020	Town Council Work Session	7:00 p.m.
February 11, 2020	Town Council Public Hearing	7:00 p.m.



TOWN OF HERNDON, VIRGINIA
PROCLAMATION
HONORING SHARON BULOVA, CHAIRMAN
FAIRFAX COUNTY BOARD OF SUPERVISORS

The Mayor and Town Council of the Town of Herndon, Virginia, hereby express their sincere respect to **Sharon Bulova, Fairfax County Board of Supervisors**, who is retiring after over 30 years of dedicated service and support to the residents of Fairfax County, as Supervisor and Chairman of the Fairfax County Board of Supervisors. Ms. Bulova was first elected Chairman in a special election in 2009, and she had previously served as the Braddock District Supervisor from 1988-2009. Chairman Bulova successfully led Fairfax County through a period of dramatic growth, changes, and a major financial crisis.

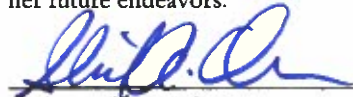
During her time on the Board of Supervisors, Chairman Bulova supported transportation initiatives and alternatives ~ including the Virginia Railway Express commuter rail, which she helped found in 1988. She also championed education; pursued environmental, historical, and cultural initiatives; pursued efforts to end homelessness, including the county's 10 Year Plan to Prevent and End Homelessness; and worked with programs for the 50 plus population. She served as Chair of the Board's all-important budget committee ~ working to build consensus across the political spectrum ~ a post she held for 20 years.

As Chairman, she oversaw the massive development in Tysons Corner and the transformation of older commercial/industrial areas throughout the county; worked with multiple levels of federal, state, and local government toward completion of the Silver Line; and focused on addressing Fairfax County's workforce housing needs ~ just to name a few ~ all while keeping Fairfax County's AAA bond rating intact.

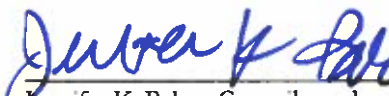
Ms. Bulova has also frequently been recognized for her contributions and leadership throughout her years of service with many awards: her recent Jinx Hazel Arts Award, Council of Government's Elizabeth & David Scull Metropolitan Public Service Award, Virginia Transit Association's Local Public Official of the Year Award, Phyllis Campbell Newsome Public Policy Leadership Award, ATFA's Lifetime Achievement Award, and the Workhouse Arts Foundation Founder's Award. Chairman Bulova was also named one of the most Powerful Women in the Metropolitan Washington Area by Washingtonian Magazine.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express their appreciation to **Sharon Bulova, Fairfax County Board of Supervisors**, for her support on matters directly benefitting the Town of Herndon ~ attracting jobs and fostering the growth of exciting new industry sectors; the promotion of Fairfax County and the town as business and technology centers; investing in education; and protecting a variety of county services and programs that positively impact citizens' quality of life.

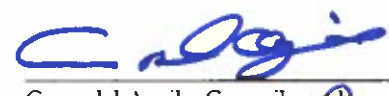
Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby thank **Sharon Bulova, Fairfax County Board of Supervisors**, for her valuable service as a community and regional leader; express admiration to Chairman Bulova for her integrity and effective leadership; and on behalf of a grateful community, wish her much success in her future endeavors.

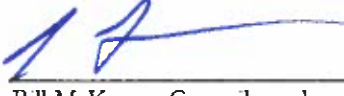

Sheila A. Olem, Vice Mayor


Pradip Dhaka, Councilmember


Jennifer K. Baker, Councilmember

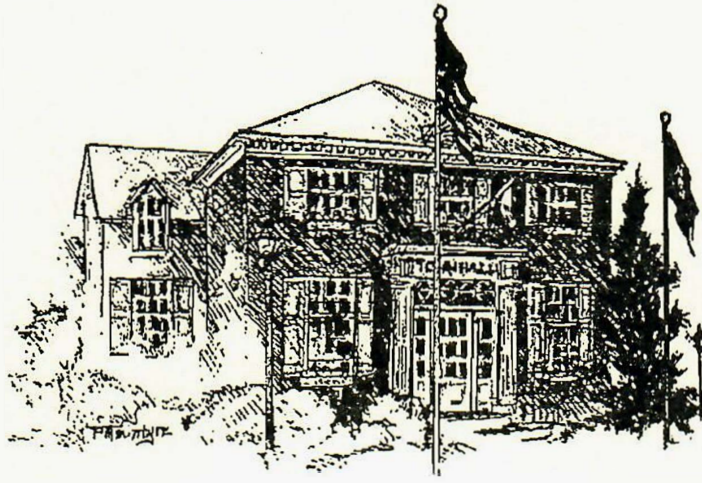

Signe Friedrichs, Councilmember


Cesar del Aguila, Councilmember


Bill McKenna, Councilmember


Lisa C. Merkel, Mayor





**TOWN OF HERNDON, VIRGINIA
PROCLAMATION RECOGNIZING
NACHMAN DAY
JANUARY 14, 2020**

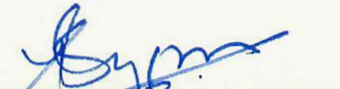
Since first arriving in Herndon in 1919 as part-owners of a store and building which would later come to be fully-owned and known as Nachmans, the Nachman family has been a constant, positive presence in the town. Throughout the past 100 years, the Nachmans have exhibited their ongoing dedication to Herndon through involvement in activities and organizations including: the Herndon Town Council; Herndon Volunteer Fire Department; Herndon Rotary Club; Herndon Masonic Lodge and Eastern Star; Herndon Business and Professional Women's Club; Herndon Optimist Club; Arts Herndon; Economic Development Authority; Board of Equalization; and many more.

The Nachmans have also made a profound impact on the lives of students in the Herndon community by providing musical instruments, master instructors, and lessons to those who could not afford them. In that same spirit, they have been supporters of the Downtown Concert Series. Along with their encouragement of music in the community, the Nachmans have also championed the arts by commissioning two notable murals which display the town's vibrant history and by serving as the catalyst in establishing an Arts District in downtown. The Nachman Building was the first to feature an art gallery and artists-in-residence.

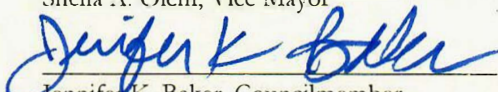
Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express their appreciation and recognition of the Nachman family for their valued presence in the town and their innumerable contributions to the community over the past century by proclaiming **January 14, 2020** to be **Nachman Day** in the **Town of Herndon**.



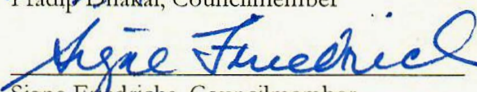
Sheila A. Olem, Vice Mayor



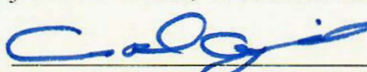
Pradip Dhakal, Councilmember



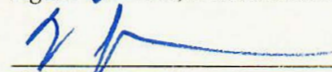
Jennifer K. Baker, Councilmember



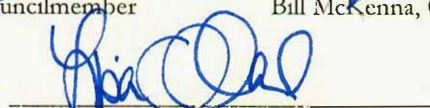
Signe Friedrichs, Councilmember



Cesar del Aguila, Councilmember

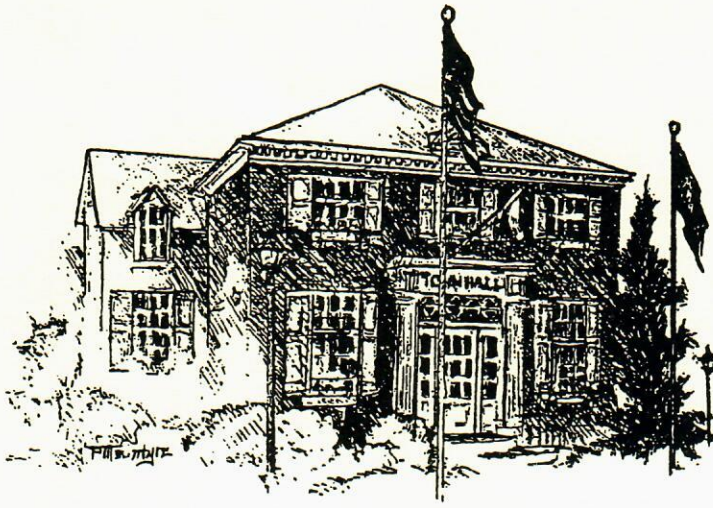


Bill McKenna, Councilmember



Lisa C. Merkel, Mayor





Town of Herndon, Virginia

Certificate of Appreciation

to

Dr. Manuel A. Gomez Guemez

For more than 12 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.

February 2007 to December 2019

Sheila A. Olem, Vice Mayor

Pradip Dhakal, Councilmember

Jennifer K. Baker, Councilmember

Signe Friedrichs, Councilmember

Cesar del Aguila, Councilmember

Bill McKenna, Councilmember

Lisa C. Merkel, Mayor



TOWN OF HERNDON, VIRGINIA

ORDINANCE

_____, 2020

Ordinance – to amend Chapter 78 (ZONING), Article III (Residential Districts), Section 78-30.1, (R-15 – Residential Single-Family District), Section 78-30.2 (R-10 – Residential Single-Family District), Section 78-30.3 (RTC – Residential Townhouse Cluster District), Section 78-30.4 (RM – Residential Multi-Family District), Article IV (Business Districts), Section 78-40.1 (CC – Central Commercial District), Section 78-40.2 (CS – Commercial Services District), Section 78-40.3 (CO – Commercial Office District), Section 78-40.4 (O&LI – Office and Light Industrial District), Article V (Planned Development Districts), Section 78-50.4 (PD-R – Planned Development – Residential District), Section 78-50.5 (PD-B – Planned Development – Business District), Section 78-50.6 (PD-D – Planned Development – Downtown), Section 78-50.7 (PD-TD – Planned Development – Traditional Downtown), Section 78-50.8 (PD-TOC – Planned Development – Transit Oriented Core), Section 78-51.1 (PD-UR – Planned Development – Urban Residential), Article VI (Overlay Districts), Section 78-60.3 (HPO – Heritage Preservation Overlay), Article VII (Use Regulations), Section 78-71.13 (Commercial Utilities Use Category), Article VIII (Accessory Uses), Section 78-80.2 (Table of Permitted and Allowed Accessory Uses), Section 78-80.4 (Standards for Specific Accessory Uses and Structures by Type), Article XVIII (Definitions), Section 78-180 (Definitions), to revise standards for communications towers and develop standards for utility distribution or transmission poles and to establish a maximum \$500 fee for administrative review eligible projects in Article XV (Decision-Making Authorities, Application Review, and Permitting), Section 78-152.2(b)(3) (Fees) pursuant to Virginia Code 15.2-2286(A)(6).

BE IT ORDAINED by the Council for the Town of Herndon that:

1. Chapter 78 (ZONING) of the Herndon Town Code is amended and reenacted as follows.

- 1 **Section 78-30.1(c)(3) Table of Principal Permitted and Allowed Uses in the R-15**
- 2 **District.**

Table 78-30.1(c)(3): Principal Permitted and Allowed Uses R-15 KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column			
USE CATEGORY	USE TYPE	R- 15	See Supplemental Regulations

Commercial Utilities	Commercial Communication Tower, Freestanding	S	§78-71.18 <i>78-71.13</i>

Section 78-30.1(d)(3). Table of permitted and allowed accessory uses in the R-15 district.

Table 78-30.1(d)(3): Permitted and Allowed Accessory Uses R-15 KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	R-15	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)

Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)(1)
Home-Based Business, Including Daycare or Childcare	P	§78-80.5
Minor Utilities	P	§78-80.4(m)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

Section 78-30.2(c)(3) Table of Principal Permitted and Allowed Uses in the R-10 District.

Table 78-30.2(c)(3): Principal Permitted and Allowed Uses R-10 KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column			
USE CATEGORY	USE TYPE	R-10	See Supplemental Regulations

Commercial Utilities	Commercial Communication Tower, Freestanding	S	§78-71.13 ¹³

Section 78-30.2(d)(3) Table of permitted and allowed accessory uses in the R-10 District

Table 78-30.2(d)(3): Permitted and Allowed Accessory Uses R-10 KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	R-10	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)

Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission</i>	P	<i>78-71.13</i>

<i>pole</i>		

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17 **Section 78-30.3(d)(3) – Table of permitted and allowed accessory uses in the RTC**
 18 **district.**

Table 78-30.3(d)(3): Permitted and Allowed Accessory Uses RTC KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	RTC	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)
Commercial Communication Towers, Freestanding	S	§78-80.4(d)(2) <i>§78-71.13</i>

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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21 **Section 78-30.4(d)(3) – Table of permitted and allowed accessory uses in the RM**
 22 **district**

Table 78-30.4(d)(3): Permitted and Allowed Accessory Uses RM KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
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ACCESSORY USE	RM	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)
Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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Section 78-40.1(d)(3) – Table of permitted and allowed accessory uses in the CC district.

Table 78-40.1(d)(3): Permitted and Allowed Accessory Uses CC KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	CC	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)
Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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29 **Section 78-40.2(d)(3) – Table of permitted and allowed accessory uses in the CS**
 30 **district.**

Table 78-40.2(d)(3): Permitted and Allowed Accessory Uses CS KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	CS	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)

Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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33 **Section 78-40.3(d)(3) – Table of permitted and allowed accessory uses in the CO**
 34 **district.**

Table 78-40.3(d)(3): Permitted and Allowed Accessory Uses CO KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	CO	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)
Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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37 **Section 78-40.4(d)(3) – Table of permitted and allowed accessory uses in the O&LI**
38 **district.**

Table 78-40.4(d)(3): Permitted and Allowed Accessory Uses O&LI KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	O&LI	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	§78-80.4(c)

Commercial Communication Towers, Freestanding	S	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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41 **Section 78-50.4(d)(4) – Table of permitted and allowed accessory uses in the PD-R**
 42 **district.**

Table 78-50.4(d)(4): Permitted and Allowed Accessory Uses PD-R KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-R	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	Z P	§78-80.4(c)
Commercial Communication Towers, Freestanding	Z	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	P	<i>§78-71.13</i>

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44 **Section 78-50.5(d)(4) – Table of permitted and allowed accessory uses in the PD-B**
 45 **district.**

Table 78-50.5(d)(4): Permitted and Allowed Accessory Uses PD-B KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-B	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	Z	§78-80.4(c)

	<i>P</i>	

Commercial Communication Towers, Freestanding	Z	§78-71.13 (d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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48 **Section 78-50.6(d)(4) – Table of permitted and allowed accessory uses in the PD-D**
49 **district.**

Table 78-50.6(d)(4): Permitted and Allowed Accessory Uses PD-D KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-D	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	<i>Z</i> <i>P</i>	§78-80.4(c)

Commercial Communication Towers, Freestanding	Z	§78-71.13 (d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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52 **Section 78-50.7(d)(4) – Table of permitted and allowed accessory uses in the PD-**
 53 **TD district.**

Table 78-50.7(d)(4): Permitted and Allowed Accessory Uses PD-TD KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-TD	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	Z <i>P</i>	§78-80.4(c)

Commercial Communication Towers, Freestanding	Z	§78-71.13(d)(2)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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56 **Section 78-50.8(d)(4) – Table of accessory uses PD-TOC.**

Table 78-50.8(d)(4): Permitted and Allowed Accessory Uses PD-TD KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-TD	Supplemental Use Regulations

Antennae of all kinds (except commercial communication	P	§78-80.4(c)

towers, freestanding) <i>co-location</i>	<i>P</i>	

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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59 **Section 78-51.1(d)(4) – Table of permitted and allowed accessory uses in the PD-**
60 **UR district.**

Table 78-51.1(d)(4): Permitted and Allowed Accessory Uses PD-UR KEY: P = Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Uses may be subject to use specific standards as noted in the last column		
ACCESSORY USE	PD-UR	Supplemental Use Regulations

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	<i>Z</i> <i>P</i>	§78-80.4(c)

<i>Small cell facilities on a utility distribution or transmission pole</i>	<i>P</i>	<i>§78-71.13</i>

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63 **Section 78-60.3(g)(2) – Exemptions from COA.** The following minor development,
64 which has been determined not to have permanent effects on the character of the heritage
65 preservation district, is exempted from the requirements of this section. In the event the scope
66 or nature of the development changes during the improvement process, the zoning
67 administrator shall have the authority to order all work to be stopped and that an appropriate
68 application for a certificate of appropriateness be filed.

addition *to the applicable requirements in this chapter*, the following standards shall apply:

~~(1) — *Electrical power facility, substation, and transmission stations*. The zoning administrator may require that an electrical power facility, substation, or transmission station shall comply with the following standards:~~

~~a. — *Proximity*. The electrical power facility, substation, or transmission station shall be within reasonable proximity of the area to be served by the facility.~~

~~b. — *Setback, screening and buffering*. The electrical power facility, substation, or transmission station shall provide additional setbacks, screening and buffering around the perimeter of the proposed use if it is deemed necessary by the zoning administrator to ensure land use compatibility with surrounding uses.~~

~~(2)~~*(1) Communication towers; and monopoles. Communication towers and monopoles between 50 feet and 125 feet* ~~other telecommunication facilities. Communication towers, monopoles, and other mobile or land-based telecommunication facilities including non-staffed equipment cabinets or structures shall meet the following standards:~~

a. *Material and color*. Except for antennas completely enclosed within a structure, all antennas and their supporting mounts shall be of a material or color that closely matches and blends with the structure on which it is mounted.

b. *Advertising*. No commercial advertising or signs shall be allowed on any monopole, tower, antenna, antenna support structure, or related equipment cabinet or structure.

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

d. *Lighting, signals and illumination*. No signals, lights or illumination shall be permitted on ~~an antenna~~ *a tower or monopole* unless required by the Federal Communications Commission, the Federal Aviation Administration or the town, provided, however, that on all antenna structures which exceed 100 feet in height, a steady red marker light shall be installed and operated at all times, unless the zoning administrator waives the red marker light requirement upon a determination by the Fairfax County Police Department that such marker light is not necessary

for flight safety requirements for police and emergency helicopter operations. All such lights shall be shielded to prevent the downward transmission of light.

~~e. —Location on existing structures as accessory use. Antennas may be located on existing buildings or structures, to include existing towers and poles, as an accessory use. See section 78-80.4(c).~~

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

~~g. Special exception required for freestanding facilities.~~ Freestanding communication towers, ~~and~~ ~~monopoles, and other structures designed to hold telecommunication antennae or microwave dishes (or both)~~ shall be permitted in conjunction with non-staffed equipment cabinets or structures by special exception within all zoning districts and within planned developments. ~~when approved initially or by amendment when the land on which such facility is located is owned or operated by a public entity or governmental authority. Such land includes, but would not be limited to, public parks, public schools, fire stations, police stations, government office and service buildings, public recreational facilities, and cemeteries.~~ Any such use shall comply with the following standards:

- ~~1. Towers, and monopoles, and other supporting structures with attached antennae or dishes may exceed the maximum permitted building height, but shall not exceed a maximum overall height of 125 feet over grade;~~
- ~~2. Panel style antennas attached to towers, monopoles, or other supporting structures shall not exceed 108 inches in height and 24 inches in width.~~
- ~~3. Dish style antennas attached to towers, monopoles, and other supporting structures shall not exceed three feet in diameter.~~
- ~~4. Related non-staffed equipment cabinets or structures for each telecommunications provider shall not exceed 12 feet in height or a total of 500 square feet in gross floor area per telecommunications provider. Such structures shall be in accordance with the dimensional standards of the zoning district in which they are located.~~
- ~~5. All equipment shall be screened with an opaque constructed solid fence or wall. Such fence or wall shall be in accordance with the standards of this chapter and shall be further screened by an~~

181 evergreen hedge with a minimum height of no less than 48 inches
182 over grade. *in accordance with Section 78-114.*

183 6. Where reasonably practicable and appropriate, as determined by the
184 zoning administrator using recognized standards, antennas
185 attached to towers, monopoles, and other supporting structures
186 shall be constructed in a manner as to reduce their visual impact.
187 This goal shall be achieved through screening or applied stealthing
188 or camouflaging methods.

189 7. Existing light poles and stanchions may be replaced to allow for
190 collocation of antennas and such replacement structures may be
191 increased in height up to an overall height not to exceed 125 feet
192 over grade.

193 8. Within all residential zoning districts, towers *and* monopoles, ~~and~~
194 ~~other supporting structures with attached antennae or dishes~~ shall
195 be located on parcels of no less than 50,000 square feet in total
196 area. Such structures shall be placed at a distance of no less than
197 one foot for every foot of height from abutting lot lines in
198 residential zoning districts.

199 *(2) Antennae co-location. Antenna co-location onto an existing structure or utility*
200 *distribution or transmission pole must comply with the accessory structure*
201 *standards of Section 78-80.4(c)(3). For the purposes of this article, the*
202 *replacement of a utility distribution or transmission pole of the same size or*
203 *smaller and within 6 feet of the existing pole is not considered a new structure.*

204 *(3) Small Cell Facilities on a new utility distribution or transmission pole less than*
205 *50 feet. Any new utility distribution or transmission pole of less than 50 feet in*
206 *height above grade and designed to support small cell facilities is an*
207 *administrative review-eligible project (AREP) as defined by Section 15.2-2316.3*
208 *of the Code of Virginia. An AREP is subject to approval by the zoning*
209 *administrator and shall comply with the following standards:*

210 *a. Heritage preservation review. Small cell facilities in the Heritage*
211 *Preservation Overlay are subject to the following:*

212 *1. Certificate of Appropriateness. A certificate of appropriateness*
213 *must be obtained from the Heritage Preservation Review Board*
214 *unless all of the following conditions are met.*

215 *(i) The antenna is attached to an existing site light pole.*

216 *(ii) The antenna does not exceed 30 inches in height or 12*
217 *inches in diameter and is mounted flush, in-line with, or*
218 *on top of the pole.*

- 219 (iii) The antenna is painted to match the color of the existing
220 site light pole.
- 221 (iv) No additional equipment other than the antenna is placed
222 on the light pole.
- 223 (v) Support equipment is installed underground or
224 camouflaged inside the pole or within a previously
225 approved site furnishing and approved by the zoning
226 administrator.
- 227 b. Architectural review. Small cell facilities outside of the Heritage
228 Preservation Overlay must receive approval by the Architectural Review
229 Board unless the following conditions are met:
- 230 1. The antenna is attached to an existing site light pole.
- 231 2. The antenna does not exceed 30 inches in height or 12 inches in
232 diameter. No portion of the antenna may extend beyond 18
233 inches from the side of the pole.
- 234 3. The antenna is painted to match the color of the light pole.
- 235 4. No additional equipment other than the antenna is placed on the
236 light pole.
- 237 5. Support equipment is installed underground or camouflaged
238 inside the pole or within a site furnishing approved by the
239 administrator or screened pursuant to the provisions of Section
240 78-114.
- 241 c. Setbacks. Small cell facilities, including ground-mounted equipment,
242 must comply with the minimum setback provisions of the underlying
243 zoning district.
- 244 d. Lot size. Within all zoning districts, a minimum lot size of one acre is
245 required.
- 246 e. Height. The maximum height of a small cell facility, including antenna,
247 shall not exceed the maximum permitted height of a by-right principal
248 use of the underlying zoning district.
- 249 f. Wiring, cables, and conduit. All wiring, cables, and conduits must be
250 located in a fully enclosed structure or match the color of the utility or
251 distribution transmission pole.
- 252 g. Removal. All antennas and related equipment, to include ground-
253 mounted equipment, must be removed within 120 days after such
254 antennas or related equipment are no longer in use.

255 **Section 78-80.2(c) – Table of permitted and allowed accessory uses and structures.**
 256 The Table of Permitted and Allowed Accessory Uses and Structures, Table 78-80.2(c), identifies
 257 the uses permitted within base districts. (See also Section 78-70.2(d): Table of Principal
 258 Permitted and Allowed Uses, and Table 78-90.1(b), Allowed Temporary Uses and Structures;
 259 See also use specific standards in Section 78-80.4).

	Table 78-80.2(d): TABLE OF PERMITTED AND ALLOWED ACCESSORY USES & STRUCTURES KEY: P=Use Permitted By Right; S=Use Allowed Subject to Special Exception Approval; Z=Use Allowed Subject to Zoning Map Amendment Approval													
	Notes: 1. A blank cell means the use is prohibited in the district; 2. Uses may be subject to use specific standards noted in the last column. ** For Permitted Accessory Uses in PD-TOC see section 78-50.78; For Accessory Uses Permitted and Allowed in PD-W see section 78-50.89													
	Residential Districts				Business Districts					Planned Development District				Suppl Reqs.
ACCESSORY USE	R 15	R 10	R TC	RM	CC	CS	CO	O& LI	PD- R	PD- B	PD- TD PD- D	PD- UR	PD- TOC PD- W	See Section

Antennae of all kinds (except commercial communication towers, freestanding) <i>co-location</i>	P	P	P	P	P	P	P	P	Z	Z	Z	Z	**	§78-80.4(c)

Commercial Communication Towers, Freestanding	S	S	S	S	S	S	S	S	Z	Z	Z	Z	**	§78-71.13 (d)(21)

<i>Small cell facilities</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>**</i>	<i>§78-</i>

MISCELLANEOUS ADMINISTRATIVE REVIEWS	
<i>Administrative review eligible projects (AREPs)</i>	<i>\$500.00</i>

282

283

284 **Section 78-180 - Definitions**

285

286 ~~Antennae(except commercial communication antennae).~~ Any structure or device used to
 287 collect or radiate electromagnetic waves, including both directional antennas, such as panels,
 288 microwave dishes and satellite dishes, and omni-directional antennas, such as whips, *Any*
 289 *communications equipment that transmits or receives electromagnetic radio signals used in*
 290 *the provision of any type of wireless communications services,* but not including satellite earth
 291 stations.

292

293 *Co-locate/Co-location. To install, mount, maintain, modify, operate, or replace a wireless*
 294 *facility on, under, within, or adjacent to a base station, building, existing structure, utility*
 295 *pole, or wireless support structure.*

296 *Commercial communication tower. See "communication tower, freestanding." or*
 297 *"communication tower, roof-mounted."*

298

299 *Communication tower, freestanding.* A monopole or lattice structure erected on the ground
 300 that:

- 301 (1) May be supported by guy wires, ground anchors or other means of support;
- 302 (2) May transmit or receive signals by radio, electromagnetic, optical, or other means;
- 303 (3) Is used by commercial, governmental, or other public or quasi-public users;
- 304 (4) Does not include private home use of satellite dishes and television antennas, or
- 305 amateur radio operators as licensed by the Federal Communications Commission;
- 306 (5) Is non-staffed;
- 307 (6) May include antennas, microwave dishes, horns or similar types of equipment, towers
- 308 or similar accessory structures supporting such equipment; ~~and~~
- 309 (7) May include an equipment cabinet and a wall or security barrier; *and*
- 310 *(8) Is 50 feet or greater in height or otherwise not defined as a small cell facility.*

311 *Communication tower, roof-mounted.* A structure placed on a building used primarily for
 312 the support of cellular telephone technology, broadcast and/or receiving equipment and utilized
 313 by commercial, governmental, or other public or quasi-public users. A communication tower

does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the Federal Communications Commission. *See "co-locate/co-location."*

Communication/transmission warehousing. A facility where computer hard drives are stored for web hosting or other mass storage of electronic information, also known as "data warehousing," or an electronic switching center for telecommunications. A communication/transmission warehousing use is characterized by structures that are primarily occupied by technical and electronic equipment, with a small number of employees present to service the equipment. Traffic to and from a communication/transmission warehousing use typically involves minimal vehicle traffic for day-to-day operations, with fiber optic cables or other electronic communications media instead serving as the primary means of connecting the functions of the use to customers and others.

Small cell facility. A type of utility distribution or transmission pole that meets both of the following qualifications:

(1) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet, and;

(2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as established by the Federal Communications Commission. The following equipment is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Telecommunication switching station. See "communication/transmission warehousing." A principal structure(s) primarily occupied by technical and electronic equipment for the processing of telecommunications equipment.

Utility distribution or transmission pole. A ground mounted self-supported or guy wire-supported vertical structure made of fabricated metal, treated wood, or concrete used to elevate electrical and communication distribution lines, antennas, wireless facilities, small cell facilities, and related facilities and equipment, whose primary function is the support of wires, conductors, and associated apparatus used for the distribution of electrical energy, communication signals, or other similar utilities.

Utilities, major. Infrastructure services providing regional or community-wide service. Major utilities include water towers; wastewater treatment plants; potable water plants; and public transit park and ride facilities; major electrical transmission wires, fiber optic cable, and electrical substations.

Utilities, minor. Infrastructure services that need to be located in or near the neighborhood where the service is provided. Minor utilities include water and sewage pump stations;

stormwater retention and detention facilities; ~~ordinary poles, lines, and~~ pipes for local distribution; transformers; ~~rights-of-way and utility easements~~; telephone exchanges; and surface transportation stops.

Utility strip. A vegetated strip of ground typically located between the sidewalk and the back of curb or edge of pavement of a public or private street. The utility strip is usually intended for the placement of street trees and underground or above ground utilities.

~~*Utility related maintenance and storage yards.* Outdoor storage accessory to a major or minor utility.~~

2. This ordinance shall be effective on and after the date of its adoption.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

January 14, 2020

Resolution – Five Year Review of the Town of Herndon 2030 Comprehensive Plan and its associated supplements, as required by the Code of Virginia, Section 15.2-2230 (1950), as amended.

WHEREAS, the Town of Herndon, Virginia 2030 Comprehensive Plan was adopted August 12, 2008; the Planning Commission completed an initial review of the plan in 2013 and has continued to recommend amendments to the plan; and

WHEREAS, at this time the Planning Commission has completed a review of the comprehensive plan as required by the Code of Virginia, to determine if it is advisable to amend the plan; and

WHEREAS, as part of this review the Planning Commission has completed a process of community outreach on the comprehensive plan and a wide variety of issues associated with the plan; and

WHEREAS, the Planning Commission of the Town of Herndon, Virginia finds that the comprehensive plan as amended to date contains the desired and appropriate plans and policies, and

WHEREAS, the Planning Commission of the Town of Herndon, Virginia, in their resolution of December 16, 2019, confirmed existing policy and provided additional priorities for future amendments to the comprehensive plan.

NOW THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia affirms the policies and findings of the Planning Commission as included in the commission's resolution of December 16, 2019. Further, the Town Council affirms the priorities for future plan amendments as recommended by the commission.

TOWN OF HERNDON, VIRGINIA
PLANNING COMMISSION RESOLUTION

December 16, 2019

Resolution – Five Year Review of the Town of Herndon 2030 Comprehensive Plan and its associated supplements, as required by the Code of Virginia, Section 15.2-2230 (1950), as amended.

WHEREAS, the Town of Herndon, Virginia 2030 Comprehensive Plan was adopted August 12, 2008; the Planning Commission completed an initial review of the plan in 2013 and has continued to recommend amendments to the plan; and

WHEREAS, at this time the Planning Commission has completed a review of the comprehensive plan as required by the Code of Virginia, to determine if it is advisable to amend the plan; and

WHEREAS, several amendments to the comprehensive plan have addressed major goals and objectives of the original plan through intensive planning processes driven by community input; specifically, the plan was amended by Town Council after Planning Commission recommendation, as follows:

CPA 10-01, Downtown Master Plan, adopted February 22, 2011;

CPA 11-01, Downtown Streetscape Map, a residential streetscape map designation along Center and Vine streets, adopted September 27, 2011;

CPA 11-02, Herndon Metro Station Area Plan, adopted February 28, 2012;

CPA 15-01, Fairbrook Drive Extension, a change to the Major Street Network Map adopted January 13, 2015;

CPA 17-02, Cycle Track on Herndon Parkway, to establish a cycle track along Herndon Parkway approximately 2,000 feet south of the W & OD Trail property at the eastern side of the town, adopted September 27, 2017.

CPA 18-01, South Elden Area Plan, adopted February 12, 2019; and

CPA 18-02, South Elden Street Design Concept, adopted February 26, 2019; and

WHEREAS, the Planning Commission and staff have completed an outreach process during 2019 on the Five Year Review of the comprehensive plan, which has included a public input meeting on September 25, 2019, preceded by staff outreach at the Herndon Farmers Market, as well as presentations and discussion at several community group meetings including, the Herndon Youth Advisory Committee, the Herndon Committee of the Dulles Regional Chamber of Commerce, the Herndon Economic Development Advisory Committee and the Pedestrian, Bicycle Advisory Committee and through a variety of media channels; and

WHEREAS, the Planning Commission of the Town of Herndon, Virginia finds that the comprehensive plan as amended to date contains the plans and policies that the commission supports.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Herndon recommends to the Town Council that the following priorities for the development of potential future amendments to the plan and for the implementation of the comprehensive plan be adopted:

1. Continue a cooperative relationship with Fairfax County and regional entities regarding major public services such as human services, public transportation, and fire and rescue, while remaining vigilant to ensure that the town receives adequate and equitable services.
2. Ensure that the town's public facilities serve the needs of all ages and abilities.
3. Continue to assess indoor and outdoor recreational facilities and seek needed additional facilities through the land development entitlement process to ensure that increase service demand is met.
4. Continue to advance the comprehensive plan goal as adopted in the Metrorail Station Area Plan to provide housing choices for those attracted to compact, mixed use, walkable neighborhoods with nearby transit availability. Explore opportunities to achieve a greater range of housing choices through redevelopment in areas of the town where the comprehensive plan supports redevelopment. For example, the areas designated Adaptive Area or Adaptive Area-Residential on the comprehensive plan land use map.
5. Continue to advance major pedestrian and multimodal facilities in the Capital Improvement Program such as the Van Buren Street Improvements, the W & OD Trail Lighting and other pedestrian and bicycle connections to enhance access to Metrorail as well as other connections and linkages throughout the town and connecting to areas in Fairfax County or Loudoun County striving to ensure a walkable and multimodal community.
6. Ensure that while every town resident lives within 1/2 mile of a park, those parks are accessible by all forms of transportation and for all residents regardless of their varying sensory, communication and activity abilities.
7. Undertake a minor plan amendment to add references within the comprehensive plan to the Sustainability Plan adopted December 12, 2017, the Streetscape Manual adopted October 2018, the Bicycle Network Master Plan adopted August 13, 2019, and the Pedestrian Plan adopted October 29, 2019. This amendment should also address outdated references or instances where an older planning document has been superseded by more recent Town Council action.

8. Support the environmental goals of the plan including compliance with Virginia Chesapeake Bay Act requirements and the implementation of water quality improvement projects within the town through a cooperative agreement with Fairfax County and funded by the countywide stormwater service district tax. Depending on Virginia Department of Environmental Quality direction and guidance, develop an updated plan chapter on the environment including Chesapeake Bay policy specific to water quality and watershed improvements.
9. Amend the Heritage Preservation chapter of the comprehensive plan to provide desired changes to preservation policy, using the term “historic” rather than the term “heritage.”
10. Consider the regional planning efforts related to resilience, including the Northern Virginia Regional Commission’s “Resilient Critical Infrastructure, A Roadmap for Northern Virginia,” February 2018, which contains a goal to identify appropriate policy frameworks to respond to climate change planning and adaptation.
11. Continue to support cooperation with Fairfax and Loudoun with regard to new development and public facilities planning within areas that are close to the town/county boundaries, especially the coordination of all modes of transportation improvements with regard to major transit-oriented development areas.
12. Incorporate a plan chapter on economic development.
13. Ensure that future comprehensive plan amendments promote universal design and opportunities for individuals with varying sensory, communication and activity abilities.
14. Complete infrastructure impact analysis in the near term to inform planning efforts and to allow for full consideration of a potential plan amendment process relative to the Transit Related Growth area or designated portions (subareas) thereof.
15. In general, consider the 2040 and 2045 time horizons and beyond throughout the comprehensive plan document as these horizons have been part of the more recent plan amendment efforts adopted by the town. Further, these horizons have become part of the town’s participation in regional planning and funding efforts.
16. Downtown Master Plan: The commission acknowledges that there will be a significantly changed environment in place by the next five-year comprehensive plan review, as there are major projects currently in the development pipeline. Leading up to year 2024, reconsider the plan relative to the land use and density for non-redeveloped properties and other areas within the context and the experience of the build-out that has occurred by that point in time.

17. Continue to engage in regional planning efforts related to the Innovation Metrorail Station and surrounding areas within Loudoun County and Fairfax County.

SEPTEMBER 25, 2019 PUBLIC MEETING – INPUT RECEIVED

Comments from breakout groups:

Parks and Recreation

Park Maintenance including Bruin Park run by Fairfax County Park Authority -concern with dead trees (both standing and down on the ground) and conditions of sidewalk and courts

Coordination with Fairfax County

Open space in the HTOC and TRG and insuring connections to regional trails

Preserve green space and recreational facilities during redevelopment

Haley Smith Park – more park amenities needed

(NOTE: artificial turf field with lighting and other park improvements are included in the adopted FY 2020 – FY 2025 CIP at Fiscal Year 2023, with new playground equipment planned for Fiscal Year 2024).

Transportation

Walkability improvements makes for a more friendly, inviting, engaged community

General support for multimodal measures

Zone parking – related to anticipated parking problems north of TRG as a result of the opening of Herndon Metrorail Station

Need for street connectivity to provide alternatives and assist in reducing versus traffic congestion

Need to coordinate future roadway improvements with adjoining Fairfax and Loudoun Counties. For example: Fairfax County's proposed Monroe Street improvements coordinated with the town's (south) Van Buren Street improvements.

Need to push for regional view on transportation planning (to include multimodal and 'complete street' initiatives) and congestion relief measures

Elden Street corridor – need for improved signal synchronization

Need for a comprehensive multi-modal approach in providing access to Innovation Metrorail Station and Herndon Metrorail Station

Provide trail connection from the Downs neighborhood to the Transit Related Growth area and the Metrorail Station. This comment included acknowledgement that many in the neighborhood disagree.

Van Buren and Alabama intersection: re-evaluate the need for signalization as part of the Van Buren Street improvements. Can it be implemented later?

Retain community while relieving congestion – a challenge and balancing act

Sustainability and Heritage Resources

LEED Certification Requirements

Stream restoration

Tree preservation

Association between built environment and wellness

(there were no comments on Heritage Resources)

Housing and Residential Areas

Performance standards for housing, especially new construction; deal with quality problems with builders; negative impact on owners and renters when there are extensive construction problems; potential negative impact on other properties in HTOC area

Allow short-term rentals so that owners can have supplemental income to help them stay in their homes. Others expressed concern on impacts to stable neighborhoods if allowing transient use through short-term rentals.

Fulfill need for age-based housing as well as housing with accessibility

Provide for Accessory Dwelling Units in existing housing

Consider rent control on private sector housing

Preserve existing affordable housing

Pursue county support for new affordable housing

Intermix affordable housing units in market rate projects

Economic Development

Maintain town character

Technology sector recruitment

Encourage entrepreneurship

Support incubators and co-working

Focus on minority-owned businesses

Distinguish Herndon from Reston, Vienna (market sectors)

Recruit corporate headquarters to town

Focus on Metrorail area in recruitment

Smart city infrastructure

Streamline zoning process

Building permit – streamline process and guide users through the process

Provide clear documents with the requirements for opening a business

Encourage renewable energy infrastructure

Recruit green businesses

Comment cards filled out at the meeting by participants:

1. Never allow [name of development company] to build in Herndon again
2. With more population there will be more cars and more pollution; so the town should go after renewable energy and create jobs for people, especially the youth so that they are busy, have income and are discouraged from going after drugs and crime.
3. Address population growth. More people take up more land; since housing takes up land area, it reduces farmland to grow crops to feed the population; which in return will end up causing us to import more food.
4. Environment and sustainability are important issues for the future. We need to reduce the town's impact on global warming. Reduce plastic use and educate residents on proper recycling techniques so recycling doesn't get diverted to landfills or oceans.
5. Encourage residents to compost food waste versus sending it to landfills.
6. Building permits should reduce asphalt/concrete heat sinks to the maximum extent possible.
7. Land use should maximize the use of trees to absorb greenhouse gases.
8. Transportation areas should be cyclist/walker friendly.
9. The town should have designated commuter parking lots to encourage carpooling.
10. Develop a campaign to reduce polluted runoff to storm drains.
11. Policies should strive to retain "town" character, which is unique to Fairfax County; stronger adherence to Heritage Preservation guidelines to protect the Historic District.

12. Reduce high density housing projects and approvals for large homes on small lots (size of house should be in proportion to the size of the lot)
13. More green space and projects to reduce congestion; encourage drivers to use Herndon Parkway versus driving through the middle of town on Elden Street.
14. Retain diverse events for town residents. Don't scale back on Herndon Festival or fireworks displays. I was very disappointed to see the Homecoming Parade was re-routed last year.
15. Don't let Herndon be homogenized with the rest of Fairfax County.
16. Better signage / directional arrows are needed in the Municipal Center parking garage to assist newcomers.

JULY 23, 2019 HERNDON YOUTH ADVISORY COUNCIL – INPUT RECEIVED

1. Ensure multimodal access to all parts of Town particularly the new Metro station and Downtown
2. Design exterior spaces for a variety of activities
3. Provide opportunities through planning and design for everyone including those with varying levels of sensory, communication and activity abilities
4. Ensure that the Downtown develops with high quality and durable materials

COMMENTS RECEIVED BY THE COMMUNITY DEVELOPMENT E-MAIL:

Resident concerned on traffic with more downtown development planned; especially traffic on Elden Street and Van Buren Street; traffic mitigation during construction as well as after build-out. Does not believe that walkability of the site will be enough to offset traffic impacts.

Another resident expressed concerns about climate change, jobs, drugs and rehab programs, human trafficking, education, and the need to plant more trees and retain green space versus the impact of more urban construction.

TOWN OF HERNDON, VIRGINIA

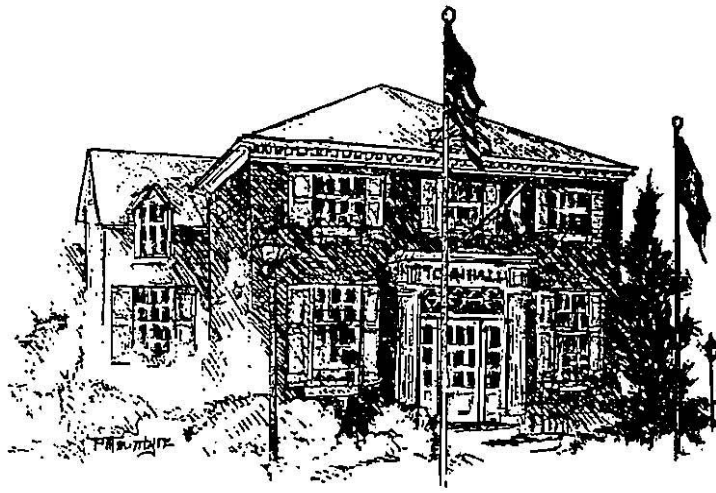
RESOLUTION

JANUARY 14, 2020

Resolution- to reappoint Matthew Ossolinski to the Heritage Preservation Review Board.

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

- **Matthew Ossolinski** as the “architect/architectural historian” to the Heritage Preservation Review Board for a one-year (non-resident) term ending February 28, 2021.



TOWN OF HERNDON, VIRGINIA
PROCLAMATION
HERNDON TOWN INCORPORATION DAY
JANUARY 14, 2020

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, 2020, as **Herndon Town Incorporation Day** in the Town of Herndon, to recognize the 141st 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.

The Herndon Town Council formally presents this proclamation to the Herndon Historical Society every 10 years. The next presentation is scheduled for January 2029 on the occasion of the town's 150th anniversary.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 14, 2020

Ordinance – to amend Chapter 66, Article V (Shared Mobility Devices), Section 66-106 to permit Pilot Program Agreement(s)

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

1. Chapter 66, Streets, Sidewalks, and Certain Other Places, Herndon Town Code (2000), is amended as follows:

ARTICLE V. – SHARED MOBILITY DEVICES

DIVISION 1. - IN GENERAL

...

Sec. 66-106 – Shared Mobility Device Permit Required; Prerequisites to Issuance.

- (a) It shall be unlawful for any person to offer shared mobility devices for hire without first obtaining a shared mobility device permit from the Town manager. For purposes of this article, offering shared mobility devices for hire shall mean offering a ride for hire that originates within the Town of Herndon.
- (b) A shared mobility device permit shall not be issued unless the applicant has first obtained approval, in the form of a *pilot project agreement*, franchise, license or other similar agreement, from the Town Council to use public rights-of-way for this purpose pursuant to Sec. 15.2-2100 of the Code of Virginia. Such *pilot project agreement*, franchise, license or other agreement may include such terms as the Town Council deems necessary and appropriate, including but not limited to those pertaining to the regulation and/or limitation of the number, operation, maintenance, specifications, and parking of shared mobility devices; insurance; indemnification; community outreach and communication; records and data sharing; reporting; fees; and rider/user regulations and agreements.
- (c) Nothing herein shall be construed to require the Town Council to grant a *pilot project agreement*, franchise, license or other similar agreement to any person or to otherwise limit the discretion of the Town Council with regard to terms of any shared mobility device agreement or shared mobility device permit condition.
- (d) Compliance with this article is a separate and additional legal requirement for shared mobility devices and issuance of a shared mobility device permit shall not

be construed to authorize the offering for hire of shared mobility devices in a manner that does not conform to other applicable federal, state, and local law.

State Law Reference – Code of Virginia §§ 15.2-2100 et seq., 46.2-1315.

Sec. 66-107– Shared Mobility Device Permit Requirements and Conditions.

Shared mobility device permits issued pursuant to this article shall be subject to the following general conditions. In addition, in granting a shared mobility device permit, the Town manager may impose conditions, requirements, and restrictions as are necessary to reasonably protect the public health, safety, and welfare.

- (a) Shared mobility device permittees shall be compliant with all applicable federal, state, and local laws, including but not limited to Herndon Town Chapter 30, Article VII as amended, pertaining to business licenses and Code of Virginia § 2.2-4311.2, as amended, pertaining to authorization to transact business in the Commonwealth of Virginia, and the provisions of this article.
- (b) Shared mobility device permits shall not be non-assignable without the prior written consent of the Town manager.
- (c) Shared mobility device permittees shall be compliant with the applicable *pilot project agreement*, franchise, license or other similar agreement for use of public rights-of-way. Expiration or termination of such *pilot project agreement*, franchise, license or other similar agreement shall be cause for immediate revocation of the shared mobility device permit.

State Law Reference – Code of Virginia §§ 15.2-2100 et seq., 46.2-1315.

Sec. 66-108 – Application and Review Process for Shared Mobility Device Permits.

- (a) The Town manager is authorized and directed to develop an application process for shared mobility device permits, which shall be kept on file in the office of Town manager. No shared mobility device permit shall be approved until a complete application and fee is received. In order to carry out the purposes of this article, the Town manager may require the applicant to provide information in addition to that provided in the application. A fee of \$300 shall accompany all applications for shared mobility device permits.
- (b) After receipt and review of the complete application materials, the Town manager may: (1) approve the shared mobility device permit with or without additional conditions if it meets the standards for approval set forth in this article; or (2) deny the shared mobility device permit if it does not meet the standards for approval set forth in this article. Upon denial of a shared mobility device permit application, the

applicant shall be apprised of the reasons for denial in writing and shall be entitled to appeal the decision as set forth in Section 66-110.

- (c) Upon receipt of an application for a shared mobility device permit or an application for a *pilot project agreement*, franchise, license or similar agreement for use of shared mobility devices within public rights-of-way, the Town Council may, in its sole discretion, direct the Town manager to solicit additional proposals through a competitive bidding process and/or direct the Town manager to implement a pilot program for shared mobility devices prior to acting on an application. If a pilot program or competitive bidding process is employed, the Town Council may defer action upon or deny the permit application.

Sec. 66-109 – Term of Shared Mobility Device Permit; Extensions.

- (a) The term of any shared mobility device permit shall run concurrently with the term of the applicable *pilot project agreement*, franchise, license or other similar agreement for use of public rights-of-way.

...

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 14, 2020

Ordinance – to amend the Code of the Town of Herndon to add thereto a new Chapter 11 entitled Short-Term Residential Rental Registration.

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

1. The following section of the Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Chapter 11 - Short Term Rental Registration.

Sec. 11-1. - Definitions.

As used in this section:

“Operator” means the proprietor of any dwelling, lodging or sleeping accommodation offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

“Short-term rental” means the provision of a room or space that is suitable or is intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty consecutive days, in exchange for the charge for the occupancy.

“Director” means the Director of Finance or his designee.

Sec. 11-2. - Registration Required.

(a) The owner or operator of any dwelling, lodging or sleeping accommodation who offers, for a charge, or rents such to persons for short term rental must register annually with the Department of Finance on the Town’s Short-Term Rental Registry.

(b) The registration shall state the name, residence, business address of the owner and/or operator and the addresses of all properties within the Town of Herndon offered for short-term rental. There shall be no fee for such registration. After initial registration, registration shall be renewed by January 1st of each year.

Sec. 11-3. - Exceptions.

Any person who is (1) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (2) registered pursuant to the Virginia Real Estate Time Share Act, Va Code § 55-360 et seq., or (3) licensed with the Department of Health related to the provision of room or space for lodging shall present evidence of such other

licensing or registering to the Director and be exempt from registering under this ordinance. Should such registration or licensing cease, the person shall forthwith register with the Director on the Town's Short-Term Rental Registry.

Sec. 11-4. - Failure to Register, Fine and Penalty, Appeal.

(a) Any owner and/or operator who is required to register under this ordinance who fails to register within 30 days of offering a property for rent or renting said property shall be subject to a fine of \$500.00. Unless and until the owner/operator pays the fine and registers the property, such person shall not continue to offer any property for short term rental.

(b) Any owner or operator required to register under this ordinance may be prohibited from offering a specific property in the Town of Herndon upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to short-term rental, including any applicable Town transient occupancy taxes or meals taxes.

(c) A decision of the Director under this section may be appealed to the Town Manager upon the filing within 10 business days of the date of the notice of the action of the Director.

Sec. 11-5. - Non-contravention.

Except as provided in this chapter, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate short-term residential rental of property through general land use and zoning authority. Nothing in this chapter shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants; the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (Sec. 55-79.39 et seq) of the Code of Virginia, 1950, as amended; the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (Sec. 55-424 et seq.) of the Code of Virginia, 1950, as amended; or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (Sec. 55-508 et seq.) of the Code of Virginia, 1950, as amended.

Sec. 11-6. - Administration and Enforcement

It shall be the responsibility of the Director to administer, interpret and enforce the provisions of this Chapter. Notwithstanding any other provision of this chapter, the Director may enter into agreements, subject to local law, with computer platform hosts of short-term residential rentals, to facilitate the efficient collection of the transient lodging tax pursuant to this code.

2. This ordinance shall be effective on and after February 1, 2020.