

**TOWN OF HERNDON, VIRGINIA
WORK SESSION AGENDA
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
JANUARY 21, 2020
7:00 P.M.**

Joint Work Session b/n members of the Herndon Town Council and the Herndon Planning Commission for the six-month review of the FY 2020-2025 CIP project status.

PRESENTATIONS

1. Certificate of Appreciation, to recognize Eric Fielding, member of the Architectural Review and Heritage Preservation Review Boards
2. Proclamation, to recognize “African American History Month,” February 2020

PUBLIC HEARINGS

3. Ordinance, to authorize the use of eminent domain for the acquisition of temporary and power utility easements on property owned by James R. Lee, Tax Map #: 0162-22-0006 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
4. Ordinance, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Virgilio Vasquez and Maria L. Vasquez, Tax Map #: 0162-22-0005 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
5. Ordinance, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Virgilio Vasquez and Maria L. Vasquez, Tax Map #: 0162-02-0151A for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
6. Ordinance, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Alvin J. Cosmo and Elise L. Cosmo, Tax Map #: 0162-22-0019 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
7. Ordinance, to authorize the use of eminent domain for the acquisition of a fee simple interest, permanent and temporary easements on property owned by Tu-Anh N. Nguyen, Tax Map #: 0162-22-0020 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon

8. Ordinance, to authorize the use of eminent domain for the acquisition of temporary, permanent, and power utility easements on property owned by St. Timothy's Church, Episcopal, Tax Map #:0162-02-0153 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
9. Ordinance, to authorize the use of eminent domain for the acquisition of temporary and power utility easements on property owned by Nichole F. Lopes and Patrick T. Lopes, Tax Map #:0162-06-0002 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
10. Ordinance, to authorize the use of eminent domain for the acquisition of a permanent easement on property owned by James Passmore and Alia M. Bowen, Tax Map #: 0162-06-0001 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
11. Ordinance, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Cleveland Woods Jr. and Sheila S. Woods, Tax Map #:0162-06-0016 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
12. Ordinance, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Bernice Miller and Stephanie Miller Crum, Tax Map #:0162-02-0141A for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
13. Ordinance, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Bernice Miller and Stephanie Miller Crum, Tax Map #:0162-02-0141D for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon
14. Ordinance, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Prasad Alapati and Santi Yarlagadda, Tax Map #:0162-02-0312C for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon

GENERAL

15. 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 **(Continued from January 14)**
16. Resolution, to provide the Town Manager with Town Council Guidance on the FY 2021 Budget
17. Resolution, Amendment to Fee Schedule – Chestnut Grove Cemetery
18. Resolution, to amend the Parks and Recreation Fees – Special Facilities Use and Facility Rental Fees
19. Resolution, Award of Contract IFB #20-06, Facility of Marketing of Recyclable Materials

CONSENT AGENDA

20. Resolution, Award of Contract for July 4th Fireworks Displays – RFP20-03

DISCUSSION

21. Community donations process (Discussion by Director of Finance and Budget Manager) **Discussion continued from the December 3, 2019 TCWS**

ROUNDTABLE

CLOSED MEETING

A closed meeting pursuant to the Code of Virginia:

- Section 2.2-3711(A)(1) for discussion of prospective candidates relative to appointments to boards & commissions



Town of Herndon, Virginia

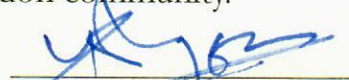
Certificate of Appreciation

to

Eric Fielding

For more than five years of loyal and dedicated service to the Town of Herndon and its citizens as a member of the Architectural Review and Heritage Preservation Review Boards; and for your outstanding contributions to the quality of life in the Herndon community.

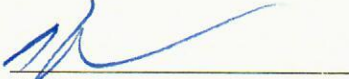

Sheila A. Olem, Vice Mayor


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
PROCLAMATION
AFRICAN AMERICAN HISTORY MONTH
FEBRUARY 2020

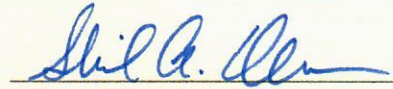
Throughout the month of February each year, events are planned nationwide to honor the history and impact of African Americans. **African American History Month** began with an initiative by writer and educator Dr. Carter G. Woodson, who recognized the need to raise awareness of African American's contributions to civilization. The event was first celebrated in 1926, during the second week of February, to include the birthdays of Abraham Lincoln and Frederick Douglass. Since 1976, every American president has proclaimed February as **African American History Month**. Other countries such as Canada and the United Kingdom also observe month-long celebrations.

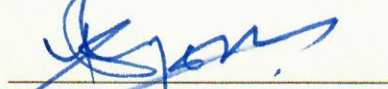
As the Town of Herndon celebrates **African American History Month**, we commemorate the sacrifices and contributions made by generations of African Americans; and we recall the impact that African Americans have made on American history in their struggle and perseverance for freedom and equality.

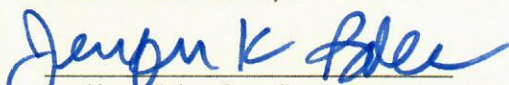
Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim the month of February 2020 as **African American History Month** in the Town of Herndon, and call on all citizens to enhance their awareness of the cultural, scientific, political, and economic contributions of African Americans throughout American society, and to recognize the significance of these endeavors.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby remember and honor the courage, resilience, and fortitude of African Americans. We acclaim the sacrifice, strength, accomplishments, and unyielding spirit of our nation's great civil rights leaders who fought for and protected equal rights including Frederick Douglass, W. E. B. Du Bois, Martin Luther King Jr., Rosa Parks, Fanny Lou Hamer, and we also honor those whose names we do not know.

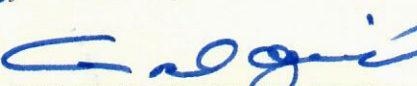
Further, the Mayor and Town Council of the Town of Herndon, hereby honor the innumerable contributions of African Americans since our country's beginning, and we recommit to continue reaching for a day when no person is judged by anything but the content of their character.


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



Proclaimed by the Herndon Town Council January 28, 2020.



STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance to authorize the use of eminent domain for the acquisition of temporary and power utility easements on property owned by James R. Lee, Tax Map #: 0162-22-0006 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 474 square foot temporary construction and grading easement and 150 square feet permanent utility easement for assignment to Virginia Electric and Power Company ("Dominion Energy") from the landowner of 403 Hillwood Court, Herndon, for \$3,000.00. While the landowner agreed to the compensation, they did not obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by James R. Lee as well as against James R. Lee, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 403 Hillwood Court have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	474	\$21.74	10.0%	\$1,040.00
Dominion Easement	150	\$21.74	60.0%	\$1,960.00
Other				
PARCEL 08				\$3,000.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

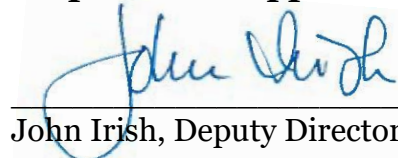
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

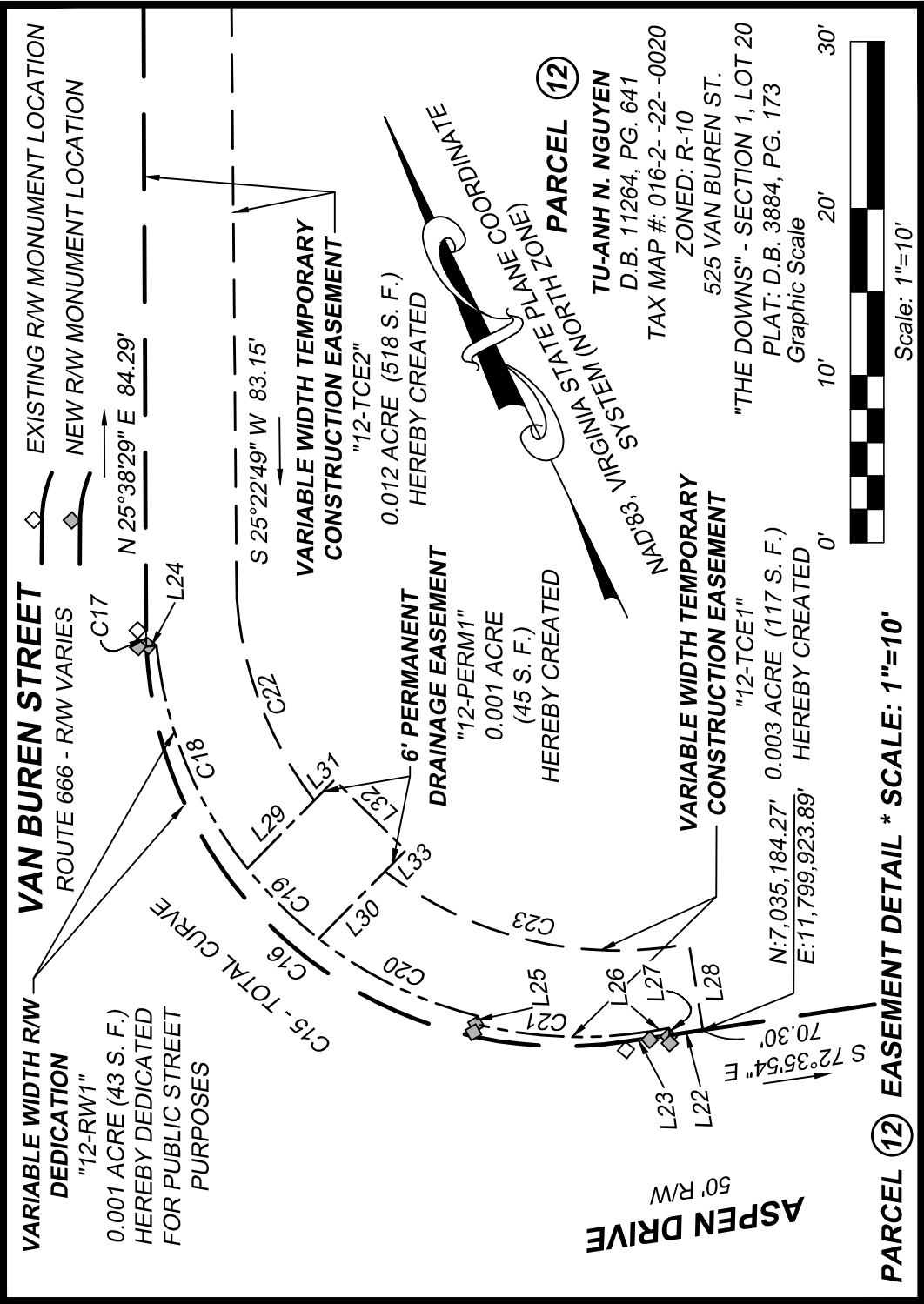
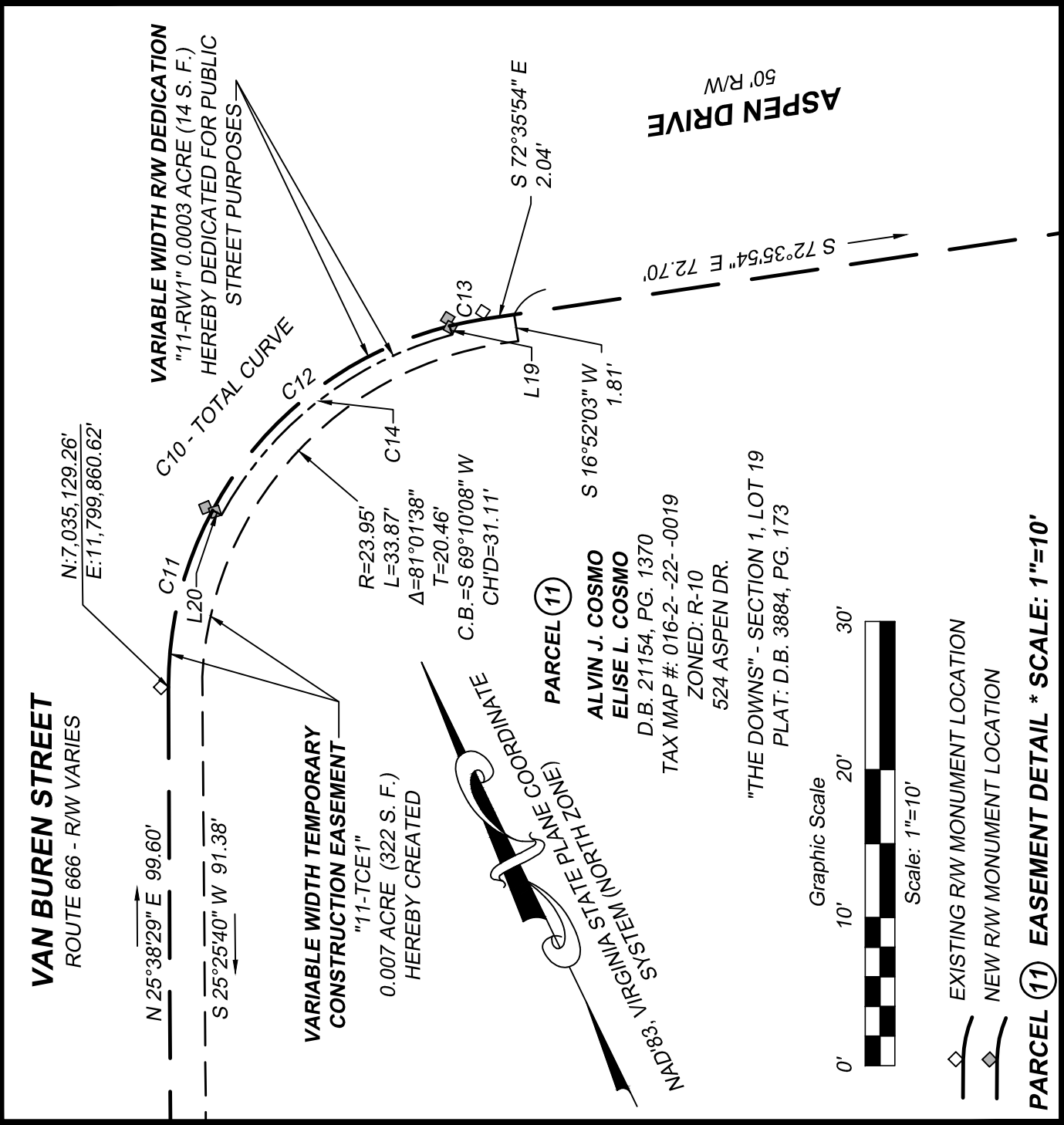
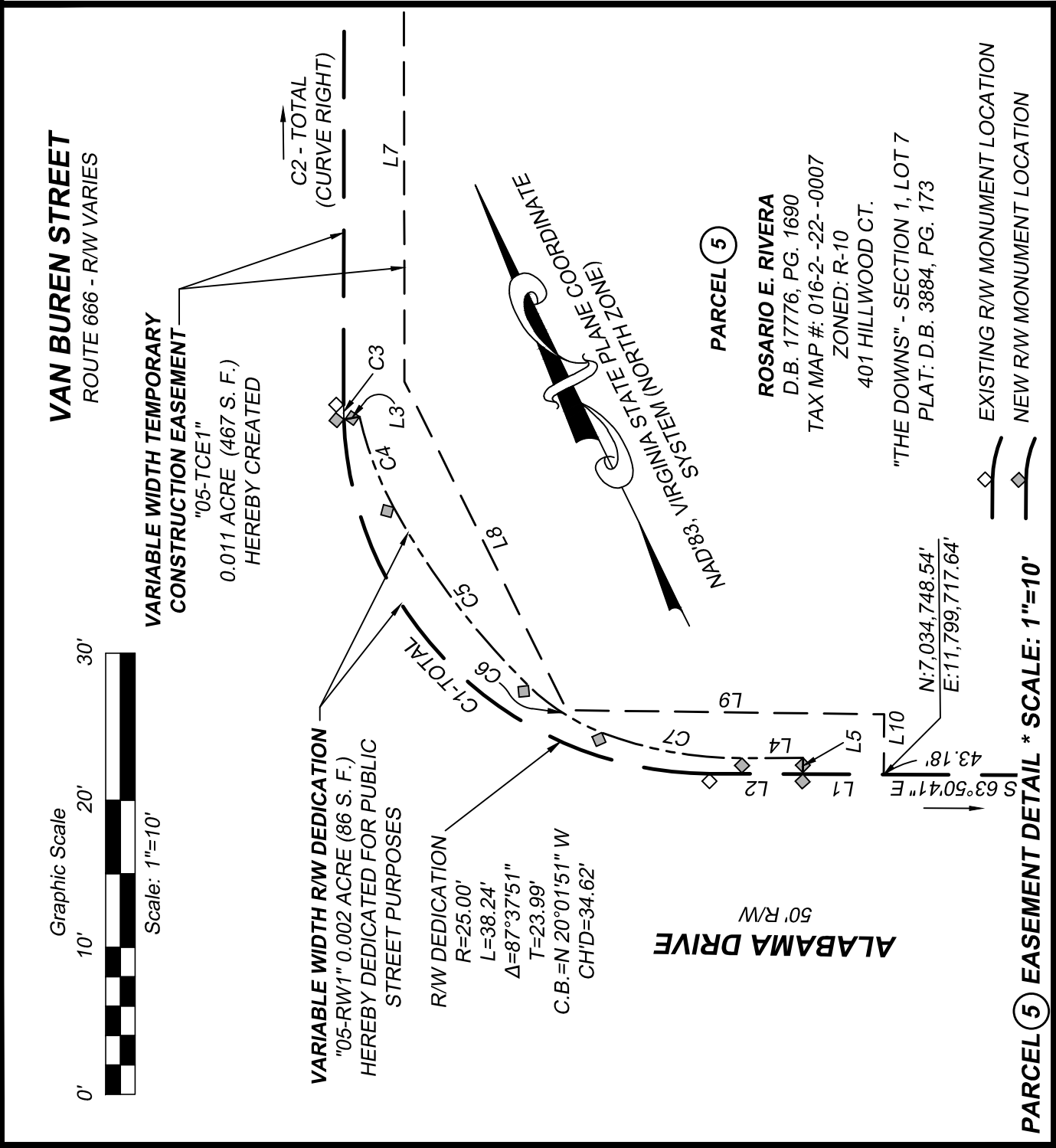
JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of temporary and power utility easements on property owned by James R. Lee, Tax Map #: 0162-22-0006 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 474 square foot temporary construction and grading easement and a 150 square feet permanent utility easement to be assigned to Virginia Electric and Power Company (“Dominion Energy”) from James R. Lee for \$3,000.00 in connection with the Van Buren Streets Improvement Project. Negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by James R. Lee as well as James R. Lee for the Town’s condemnation of these interests in property over real estate located at 403 Hillwood Court, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-22-0006 and shown as Parcel 8 and Plat #5 of Job # RK1807.01, dated June 28, 2019 and revised through August 29, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, and as shown on Plat Number 40-19-0199 dated August 12, 2019, prepared by Dominion Energy Virginia, which said plats are attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.

4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.
5. This ordinance shall be effective on and after the date of its adoption.



LINE	BEARING	DISTANCE
L1	N 63°50'41" W	5.50'
L2	N 63°50'41" W	6.36'
L3	S 73°55'48" E	1.09'
L4	S 64°21'10" E	4.14'
L5	S 26°16'03" W	1.10'
L6	S 62°10'48" E	3.88'
L7	S 25°47'20" W	78.30'
L8	S 00°24'37" E	24.91'
L9	S 63°21'56" E	21.59'
L10	S 26°16'03" W	4.09'
L11	S 38°45'10" E	4.18'
L12	N 25°38'29" E	9.72'
L13	S 72°22'47" E	3.79'
L14	N 24°49'37" E	20.20'
L15	S 72°22'13" E	5.23'
L16	S 08°18'26" W	5.39'
L17	S 19°21'58" W	9.02'
L18	S 55°57'50" W	7.28'
L19	S 06°42'26" W	0.62'
L20	N 36°05'51" W	0.69'
L21	S 72°35'54" E	5.11'
L22	N 72°35'54" W	1.99'
L23	N 72°35'54" W	2.71'
L24	S 70°49'27" E	0.60'
L25	S 41°29'32" W	0.50'
L26	S 73°20'29" E	1.16'
L27	S 17°24'06" W	0.41'
L28	S 16°47'36" W	5.23'
L29	S 70°32'54" W	5.70'
L30	N 70°32'54" E	5.66'
L31	N 70°32'54" E	1.74'
L32	S 19°27'06" E	6.00'
L33	S 70°32'54" W	1.78'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	TANGENT	CHORD BEARING	CHORD LENGTH
C1	25.00'	39.24'	89°55'04"	24.96'	N 18°53'15" W	35.33'
C2	33473.64'	80.00'	00°08'13"	40.00'	N 26°00'04" E	80.00'
C3	25.00'	1.00'	2°17'13"	0.50'	N 24°55'41" E	1.00'
C4	24.00'	6.61'	15°46'38"	3.33'	S 05°12'16" W	6.59'
C5	51.33'	15.25'	17°01'07"	7.88'	S 11°11'28" E	15.19'
C6	14.50'	5.96'	23°32'14"	3.02'	S 31°28'08" E	5.91'
C7	26.50'	9.77'	21°06'55"	4.94'	S 53°47'43" E	9.71'
C8	33473.64'	124.00'	00°12'44"	62.00'	N 25°49'36" E	124.00'
C9	33473.64'	46.29'	00°04'45"	23.14'	N 25°50'47" E	46.29'
C10	25.00'	35.67'	81°45'37"	21.64'	N 66°31'18" E	32.72'
C11	25.00'	12.42'	28°28'14"	6.34'	N 39°52'37" E	12.30'
C12	25.00'	20.85'	47°47'00"	11.07'	S 78°00'14" W	20.25'
C13	25.00'	2.40'	5°30'23"	1.20'	S 75°21'05" E	2.40'
C14	25.00'	20.33'	46°35'08"	10.76'	S 77°53'00" W	19.77'
C15	25.00'	42.87'	98°14'23"	28.88'	N 23°28'42" W	37.80'
C16	25.00'	41.89'	96°00'14"	27.77'	N 24°35'46" W	37.16'
C17	25.00'	0.98'	2°14'09"	0.49'	N 24°31'25" E	0.98'
C18	25.50'	14.60'	32°48'45"	7.51'	S 03°42'40" W	14.40'
C19	25.50'	6.01'	13°30'46"	3.02'	N 19°27'06" W	6.00'
C20	25.50'	10.69'	24°00'45"	5.42'	S 38°12'51" E	10.61'
C21	26.00'	10.51'	23°09'14"	5.33'	S 61°45'52" E	10.44'
C22	22.88'	13.13'	32°51'59"	6.75'	S 04°53'13" W	12.95'
C23	22.88'	19.27'	48°15'19"	10.25'	S 50°44'22" E	18.71'

Sheet Status:
FINAL
Submission Date:
06-28-2019

APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR _____ DATE _____

ATTEST _____ DATE _____

Job #: RK1807.01
Date: 06-28-2019
Sheet: 2 of 2
Drawn By: WFW
Checked By: AWH

PLAT #5

Rev. # _____ Rev. Date _____

Professional Seal



Sealed: 06-28-2019



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A DBE/WBE SWaM Certified Business

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location



Right of Way Agreement

THIS RIGHT OF WAY AGREEMENT, is made and entered into as of this ____ day of _____, 20____, by and between

JAMES R. LEE

("GRANTOR") and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, with its principal office in Richmond, Virginia ("GRANTEE").

WITNESSETH:

1. That for and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, **GRANTOR** grants and conveys unto **GRANTEE**, its successors and assigns, the perpetual right, privilege and non-exclusive easement over, under, through, upon, above and across the property described herein, for the purpose of transmitting and distributing electric power by one or more circuits; for its own internal telephone and other internal communication purposes directly related to or incidental to the generation, distribution, and transmission of electricity, including the wires and facilities of any other public service company in aid of or to effectuate such internal telephone or other internal communication purposes; and for lighting purposes; including but not limited to the right:

1.2 to construct, operate and maintain a pole line including, without limitation, all wires, poles, attachments, ground connections, one or more lighting supports and lighting fixtures as **GRANTEE** may from time to time deem advisable, equipment, accessories and appurtenances desirable in connection therewith, including the right to increase or decrease the number of wires; the width of said non-exclusive easement shall extend ten by fifteen (10 x 15) feet in width across the lands of **GRANTOR**.

Initials: _____

This Document Prepared by Virginia Electric and Power Company and should be returned to:
Dominion Energy Virginia, 3072 Centreville Rd, Herndon, VA 20171 .

(Page 1 of 4 Pages)

VAROW No(s). 40-19-0199

Tax Map No. 016-2-22-0006

Form No. 728493-1 (Apr 2019)

© 2019 Dominion Energy

Right of Way Agreement

2. The easement granted herein shall extend across the lands of **GRANTOR** situated in the Town of Herndon, Fairfax County, Virginia, as more fully described on Plat(s) Numbered 40-19-0199, attached to and made a part of this Right of Way Agreement; the location of the boundaries of said easement being shown in broken lines on said Plat(s), reference being made thereto for a more particular description thereof.

3. All facilities constructed hereunder shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, reconstruct, remove, repair, improve, relocate on and within the easement area, including but not limited to the airspace above the property controlled by **GRANTOR**, and make such changes, alterations, substitutions, additions to or extensions of its facilities as **GRANTEE** may from time to time deem advisable.

4. **GRANTEE** shall have the right to keep the easement clear of all buildings, structures, trees, roots, undergrowth and other obstructions which would interfere with its exercise of the rights granted hereunder, including, without limitation, the right to trim, top, retrim, retop, cut and keep clear any trees or brush inside and outside the boundaries of the easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**.

5. For the purpose of exercising the right granted herein, **GRANTEE** shall have the right of ingress to and egress from this easement over such private roads as may now or hereafter exist on the property of **GRANTOR**. The right, however, is reserved to **GRANTOR** to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, **GRANTEE** shall have such right of ingress and egress over the lands of **GRANTOR** adjacent to the easement. **GRANTEE** shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to **GRANTOR**.

6. **GRANTEE** shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and (b) outside the boundaries of the easement and shall repair or pay **GRANTOR**, at **GRANTEE**'s option, for other damage done to **GRANTOR**'s property inside the boundaries of the easement (subject, however, to **GRANTEE**'s rights set forth in Paragraph 4 of this Right of Way Agreement) and outside the boundaries of the easement caused by **GRANTEE** in the process of the construction, inspection, and maintenance of **GRANTEE**'s facilities, or in the exercise of its right of ingress and egress; provided **GRANTOR** gives written notice thereof to **GRANTEE** within sixty (60) days after such damage occurs.

Initials: _____

(Page 2 of 4 Pages)

VAROW No(s). 40-19-0199

Form No. 728493-2 (Apr 2019)

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Right of Way Agreement

7. **GRANTOR**, its successors and assigns, may use the easement for any reasonable purpose not inconsistent with the rights hereby granted, provided such use does not interfere with **GRANTEE's** exercise of any of its rights hereunder. **GRANTOR** shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, **GRANTOR** may construct on the easement fences, landscaping (subject, however, to **GRANTEE's** rights in Paragraph 4 of this Right of Way Agreement), paving, sidewalks, curbing, gutters, street signs, and below ground obstructions as long as said fences, landscaping, paving, sidewalks, curbing, gutters, street signs, and below ground obstructions do not interfere with **GRANTEE's** exercise of any of its rights granted hereunder. In the event such use does interfere with **GRANTEE's** exercise of any of its rights granted hereunder, **GRANTEE** may, in its reasonable discretion, relocate such facilities as may be practicable to a new site designated by **GRANTOR** and acceptable to **GRANTEE**. In the event any such facilities are so relocated, **GRANTOR** shall reimburse **GRANTEE** for the cost thereof and convey to **GRANTEE** an equivalent easement at the new site.

8. **GRANTEE'S** right to assign or transfer its rights, privileges and easements, as granted herein, shall be strictly limited to the assignment or transfer of such rights, privileges and easements to any business which lawfully assumes any or all of **GRANTEE'S** obligations as a public service company or such other obligations as may be related to or incidental to **GRANTEE'S** stated business purpose as a public service company; and any such business to which such rights, privileges and easements may be assigned shall be bound by all of the terms, conditions and restrictions set forth herein.

9. If there is an Exhibit A attached hereto, then the easement granted hereby shall additionally be subject to all terms and conditions contained therein provided said Exhibit A is executed by **GRANTOR** contemporaneously herewith and is recorded with and as a part of this Right of Way Agreement.

10. Whenever the context of this Right of Way Agreement so requires, the singular number shall mean the plural and the plural the singular.

Initials: _____

(Page 3 of 4 Pages)
VAROW No(s). 40-19-0199



Right of Way Agreement

11. **GRANTOR** covenants that it is seised of and has the right to convey this easement and the rights and privileges granted hereunder; that **GRANTEE** shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that **GRANTOR** shall execute such further assurances thereof as may be reasonably required.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

WITNESS the following signatures and seals:

_____(SEAL) _____(SEAL)
JAMES R. LEE

_____(SEAL) _____(SEAL)

State of _____

City/County of _____

The foregoing instrument was acknowledged before me this ____ day of

_____, _____ by JAMES R. LEE
(Name of Grantor(s) Signing)

Notary Public (Print Name)

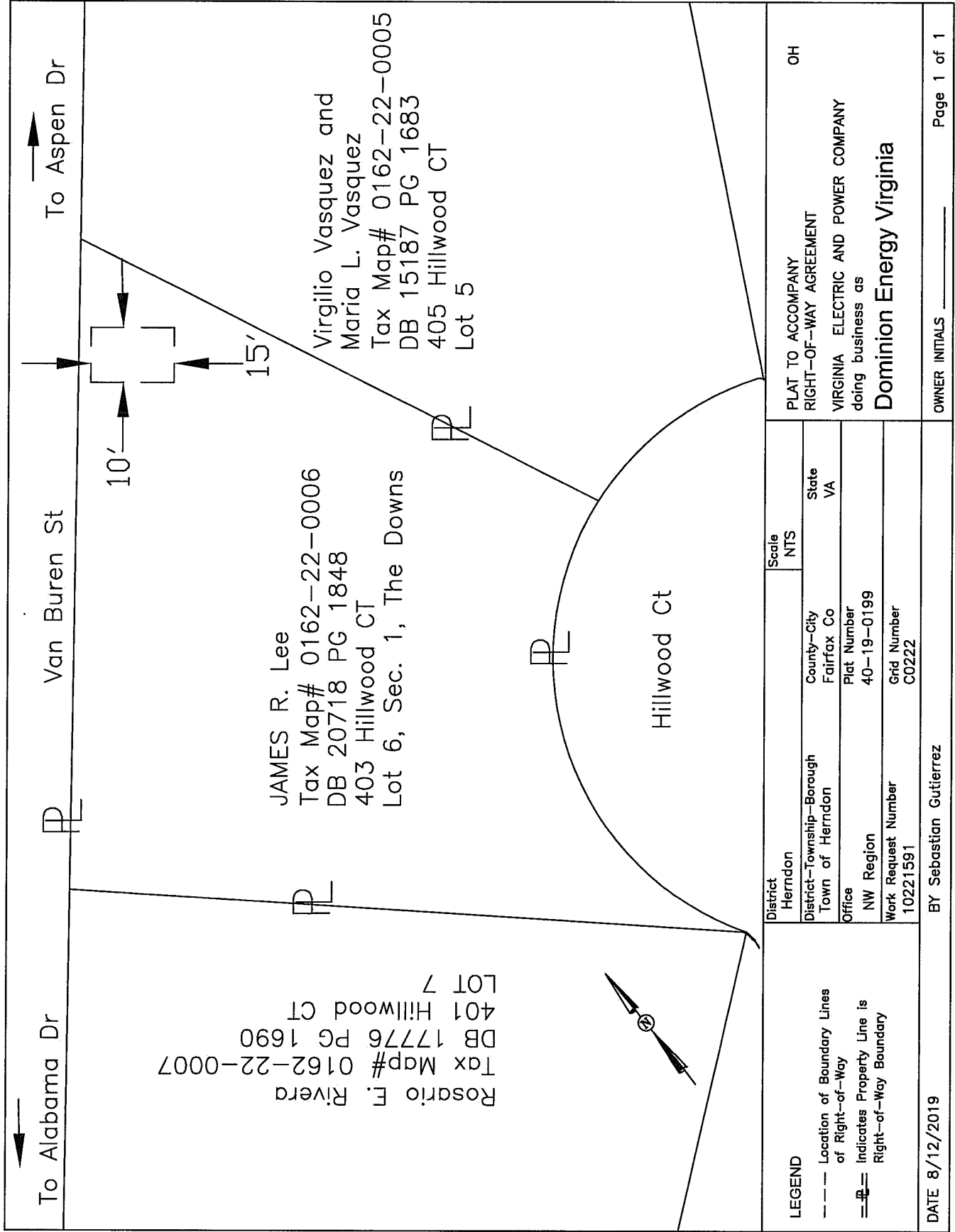
Notary Public (Signature)

Virginia Notary Reg. No. _____ My Commission Expires: _____.

(Page 4 of 4 Pages)

VAROW No(s). 40-19-0199

(Notary Seal Here)





STAFF REPORT

**Town Council
January 21, 2020**

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Virgilio Vasquez and Maria L. Vasquez, Tax Map #0162-22-0005 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire 214 square feet of temporary construction and grading easement from the landowner of 405 Hillwood Court for \$470.00. The landowner did not accept this offer or obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Virgilio Vasquez and Maria L. Vasquez as well as Virgilio Vasquez and Maria L. Vasquez, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 405 Hillwood Court have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	214	\$21.73	10.0%	\$470.00
Other				
PARCEL 09				\$470.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

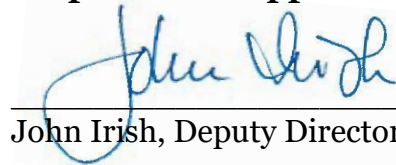
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

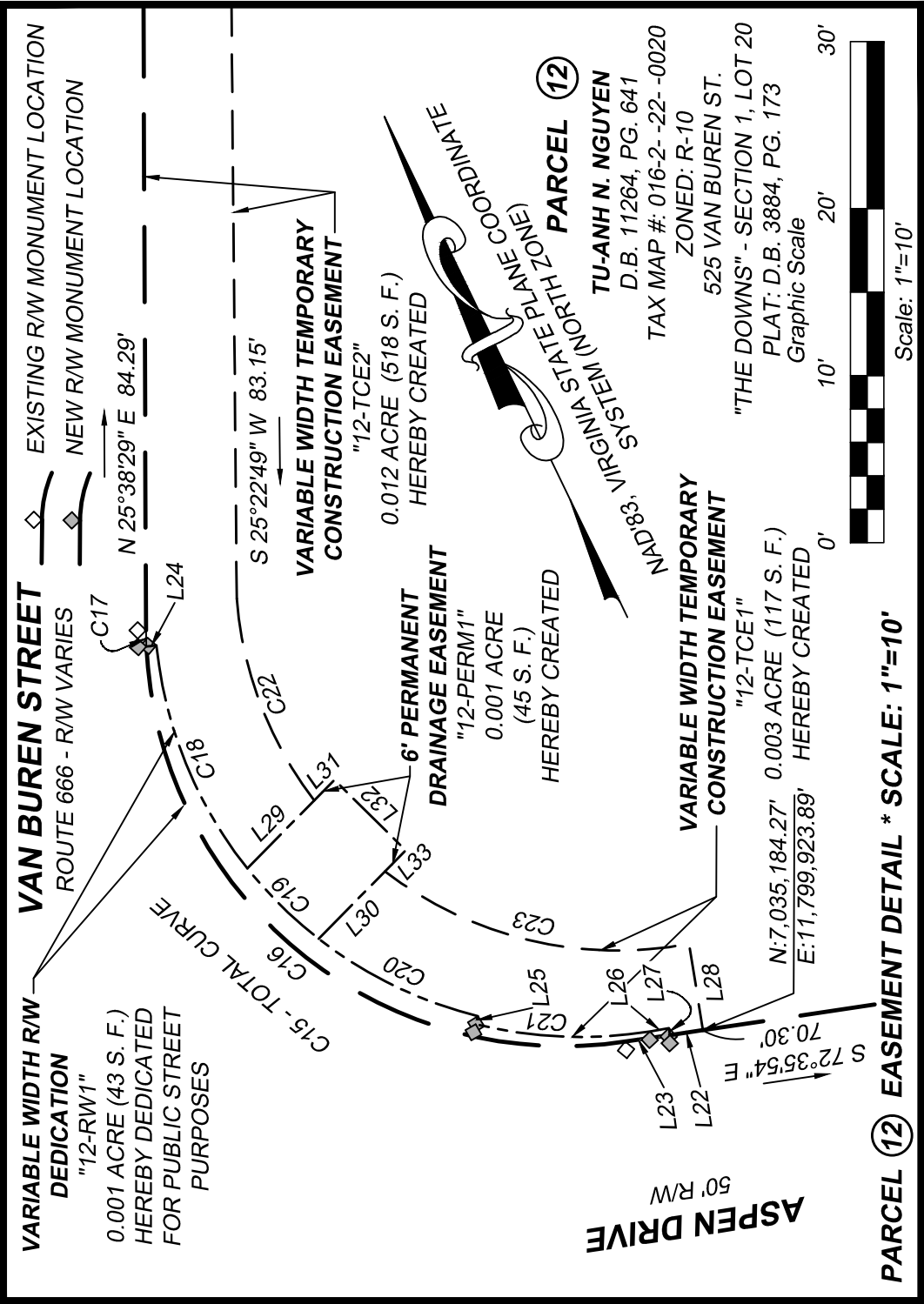
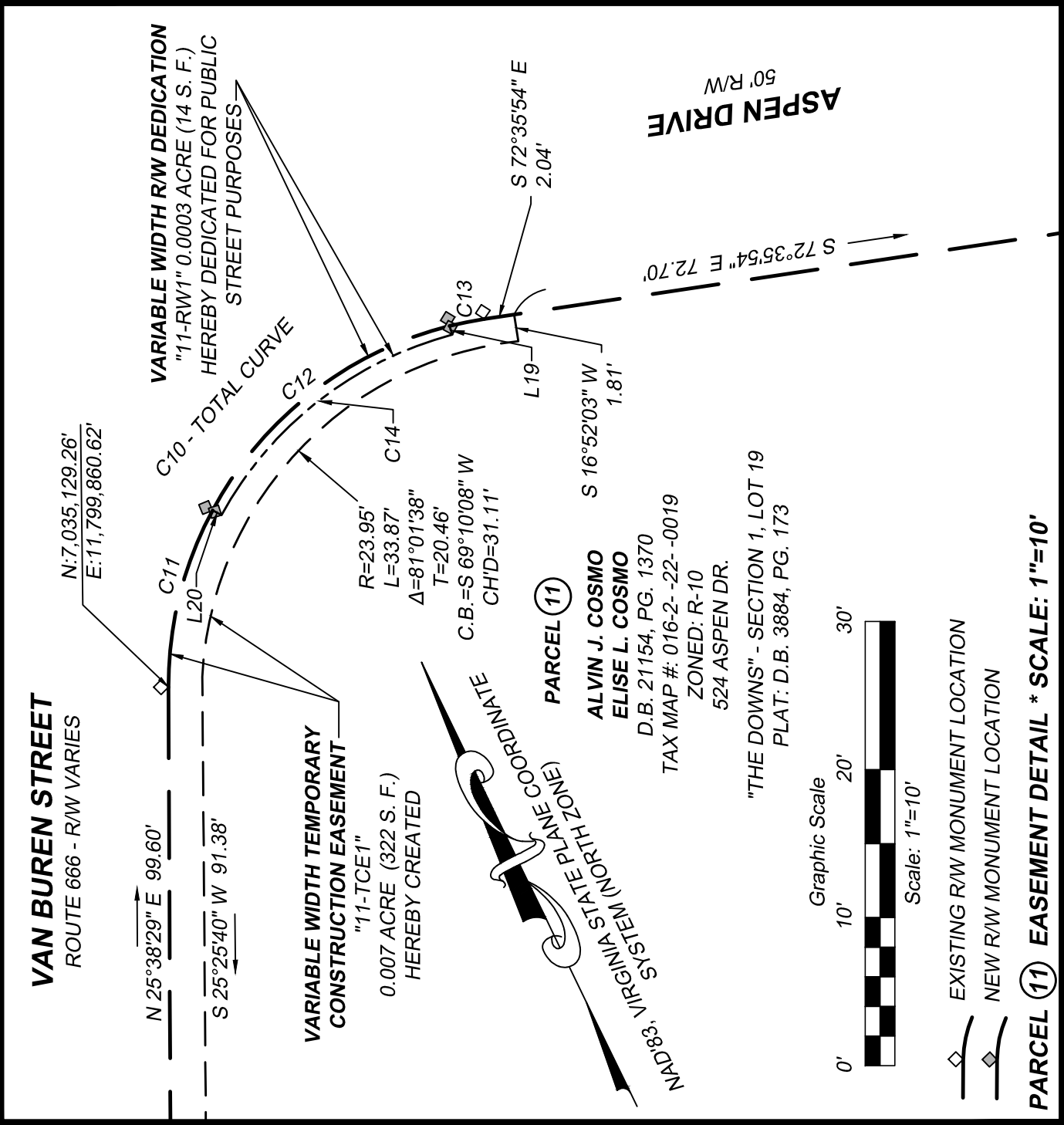
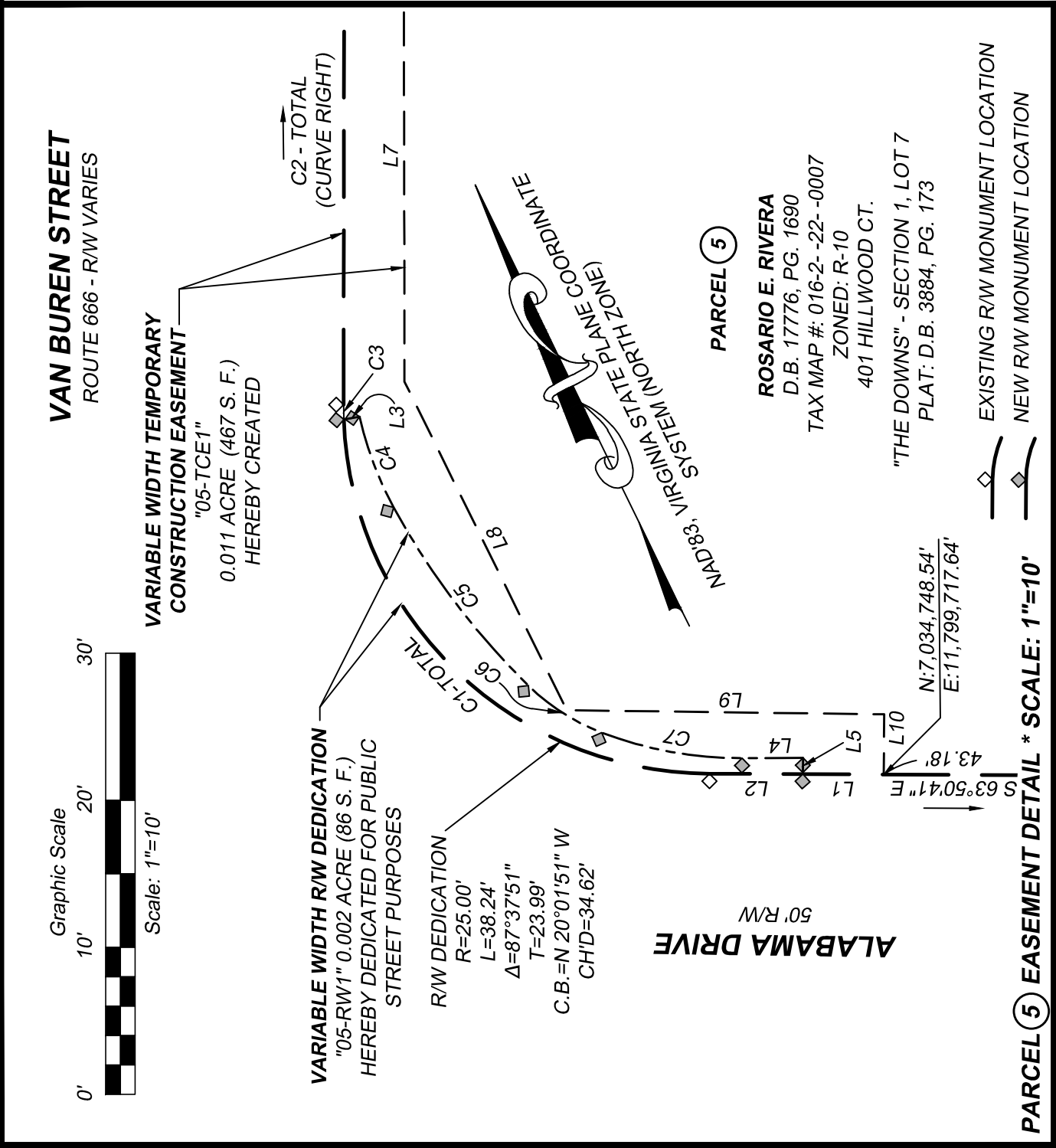
Ordinance – Authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Virgilio Vasquez and Maria L. Vasquez, Tax Map #0162-22-0005 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a total of 214 square feet of temporary construction and grading easement from Virgilio Vasquez and Maria L. Vasquez for \$470.00 in connection with the Van Buren Streets Improvement Project. The landowner did not accept this offer, cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Virgilio Vasquez and Maria L. Vasquez as well as Virgilio Vasquez and Maria L. Vasquez for the Town's condemnation of these interests in property over real estate located at 405 Hillwood Court, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 016-2-22-0005 and shown as Parcel 9 and Plat #5 of Job # RK1807.01, dated June 28, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public

roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



LINE	BEARING	DISTANCE
L1	N 63°50'41" W	5.50'
L2	N 63°50'41" W	6.36'
L3	S 73°55'48" E	1.09'
L4	S 64°21'10" E	4.14'
L5	S 26°16'03" W	1.10'
L6	S 62°10'48" E	3.88'
L7	S 25°47'20" W	78.30'
L8	S 00°24'37" E	24.91'
L9	S 63°21'56" E	21.59'
L10	S 26°16'03" W	4.09'
L11	S 38°45'10" E	4.18'
L12	N 25°38'29" E	9.72'
L13	S 72°22'47" E	3.79'
L14	N 24°49'37" E	20.20'
L15	S 72°22'13" E	5.23'
L16	S 08°18'26" W	5.39'
L17	S 19°21'58" W	9.02'
L18	S 55°57'50" W	7.28'
L19	S 06°42'26" W	0.62'
L20	N 36°05'51" W	0.69'
L21	S 72°35'54" E	5.11'
L22	N 72°35'54" W	1.99'
L23	N 72°35'54" W	2.71'
L24	S 70°49'27" E	0.60'
L25	S 41°29'32" W	0.50'
L26	S 73°20'29" E	1.16'
L27	S 17°24'06" W	0.41'
L28	S 16°47'36" W	5.23'
L29	S 70°32'54" W	5.70'
L30	N 70°32'54" E	5.66'
L31	N 70°32'54" E	1.74'
L32	S 19°27'06" E	6.00'
L33	S 70°32'54" W	1.78'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	TANGENT	CHORD BEARING	CHORD LENGTH
C1	25.00'	39.24'	89°55'04"	24.96'	N 18°53'15" W	35.33'
C2	33473.64'	80.00'	00°08'13"	40.00'	N 26°00'04" E	80.00'
C3	25.00'	1.00'	2°17'13"	0.50'	N 24°55'41" E	1.00'
C4	24.00'	6.61'	15°46'38"	3.33'	S 05°12'16" W	6.59'
C5	51.33'	15.25'	17°01'07"	7.88'	S 11°11'28" E	15.19'
C6	14.50'	5.96'	23°32'14"	3.02'	S 31°28'08" E	5.91'
C7	26.50'	9.77'	21°06'55"	4.94'	S 53°47'43" E	9.71'
C8	33473.64'	124.00'	00°12'44"	62.00'	N 25°49'36" E	124.00'
C9	33473.64'	46.29'	00°04'45"	23.14'	N 25°50'47" E	46.29'
C10	25.00'	35.67'	81°45'37"	21.64'	N 66°31'18" E	32.72'
C11	25.00'	12.42'	28°28'14"	6.34'	N 39°52'37" E	12.30'
C12	25.00'	20.85'	47°47'00"	11.07'	S 78°00'14" W	20.25'
C13	25.00'	2.40'	5°30'23"	1.20'	S 75°21'05" E	2.40'
C14	25.00'	20.33'	46°35'08"	10.76'	S 77°53'00" W	19.77'
C15	25.00'	42.87'	98°14'23"	28.88'	N 23°28'42" W	37.80'
C16	25.00'	41.89'	96°00'14"	27.77'	N 24°35'46" W	37.16'
C17	25.00'	0.98'	2°14'09"	0.49'	N 24°31'25" E	0.98'
C18	25.50'	14.60'	32°48'45"	7.51'	S 03°42'40" W	14.40'
C19	25.50'	6.01'	13°30'46"	3.02'	N 19°27'06" W	6.00'
C20	25.50'	10.69'	24°00'45"	5.42'	S 38°12'51" E	10.61'
C21	26.00'	10.51'	23°09'14"	5.33'	S 38°12'51" E	10.44'
C22	22.88'	13.13'	32°51'59"	6.75'	S 04°53'13" W	12.95'
C23	22.88'	19.27'	48°15'19"	10.25'	S 50°44'22" E	18.71'

Sheet Status:
FINAL
Submission Date:
06-28-2019

APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR _____ DATE _____

ATTEST _____ DATE _____

H&B Surveying and Mapping, LLC
insightful solutions, quality service
A DBE/WBE SWaM Certified Business

614 Moorefield Park Drive
Richmond, VA 23236
804.330.3781 Office 804.859.5330 Fax
www.hbsurveying.com

Survey
Produced
at Richmond
Office Location

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

PLAT SHOWING
A VARIABLE WIDTH STREET RIGHT-OF-WAY DEDICATION & A
VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT ON THE
PROPERTY OF
ROSARIO E. RIVERA
(D.B. 17776, PG. 1690) (PARCEL 5)

A 16' PERMANENT SIDEWALK MAINTENANCE EASEMENT ON THE
PROPERTY OF
VALERIE J. WINSTEAD, TRUSTEE
(D.B. 3775, PG. 0510 & D.B. 25450, PG. 2180) (PARCEL 7)

A VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT ON THE
PROPERTY OF
JAMES R. LEE
(D.B. 20718, PG. 1848) (PARCEL 8)

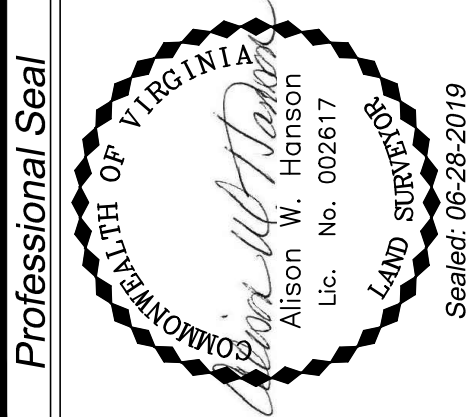
A VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT ON THE
PROPERTY OF
VIRGILIO VASQUEZ & MARIA L. VASQUEZ
(D.B. 15187, PG. 1683) (PARCEL 9)

A VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT ON THE
PROPERTY OF
MARIA L. VASQUEZ & VIRGILIO VASQUEZ
(D.B. 13000, PG. 2051) (PARCEL 10)

A VARIABLE WIDTH STREET RIGHT-OF-WAY DEDICATION & A
VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT ON THE
PROPERTY OF
ALVIN J. COSMO & ELISE L. COSMO
(D.B. 21154, PG. 1370) (PARCEL 11)

A VARIABLE WIDTH STREET RIGHT-OF-WAY DEDICATION, A 6'
PERMANENT DRAINAGE EASEMENT & A VARIABLE WIDTH
TEMPORARY CONSTRUCTION EASEMENT ON THE PROPERTY OF
TU-ANH N. NGUYEN
(D.B. 11264, PG. 641) (PARCEL 12)

TOWN OF HERNDON, FAIRFAX COUNTY, VIRGINIA
DETAILS THIS SHEET, SCALE 1"= 10'



Job #: RK1807.01
Date: 06-28-2019
Sheet: 2 of 2
Drawn By: WFW
Checked By: AWH

Rev. #	Rev. Date

Professional Seal



STAFF REPORT

**Town Council
January 21, 2020**

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Virgilio Vasquez and Maria L. Vasquez, Tax Map #0162-02-0151A for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire 129 square feet of temporary construction and grading easement from the landowner of 406 Van Buren Street for \$50.00. The landowner did not accept this offer or obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Virgilio Vasquez and Maria L. Vasquez as well as Virgilio Vasquez and Maria L. Vasquez, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QA/QC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 406 Van Buren Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	129	\$3.78	10.0%	\$50.00
Other				
PARCEL 10				\$50.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

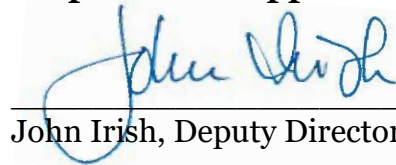
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

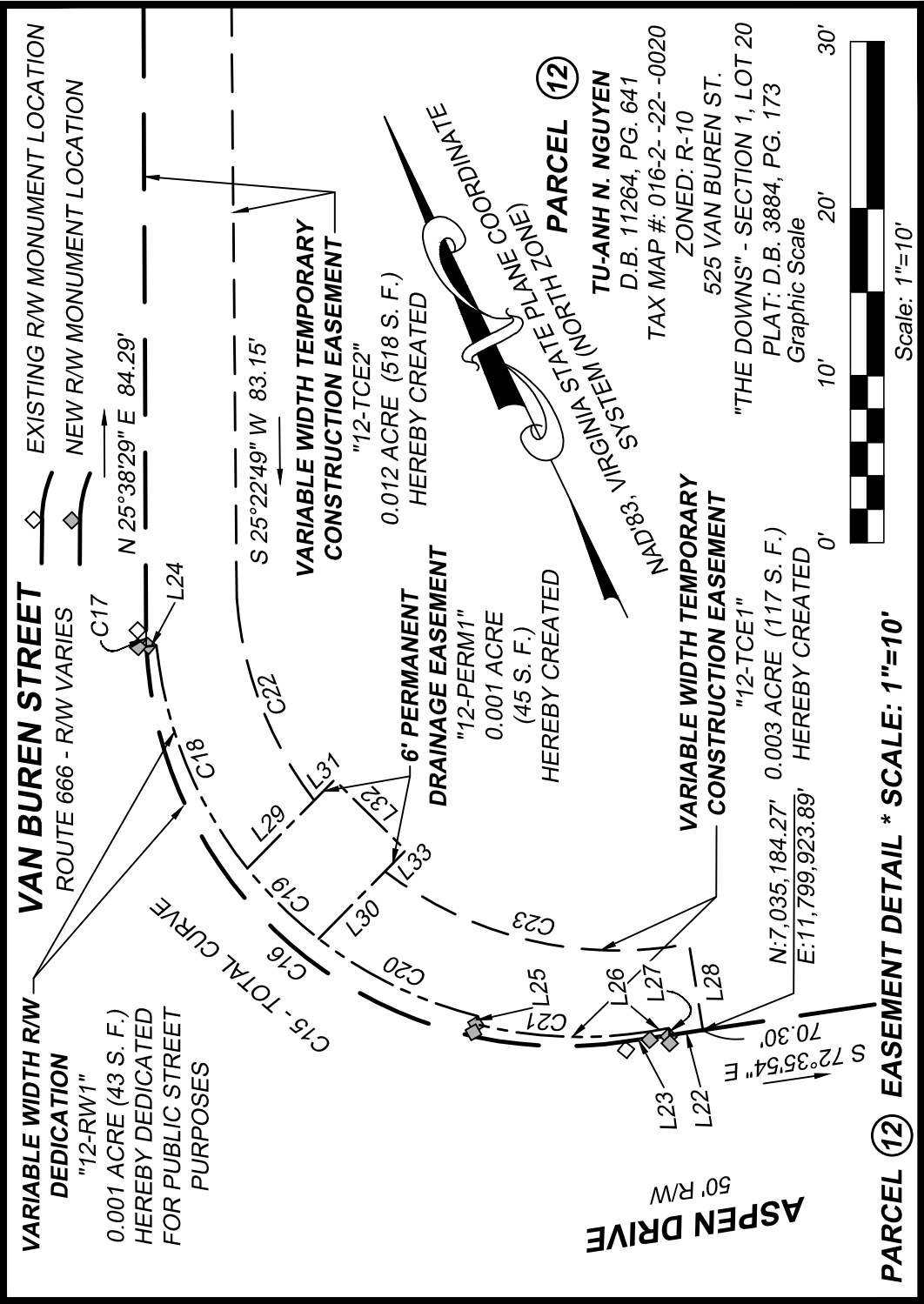
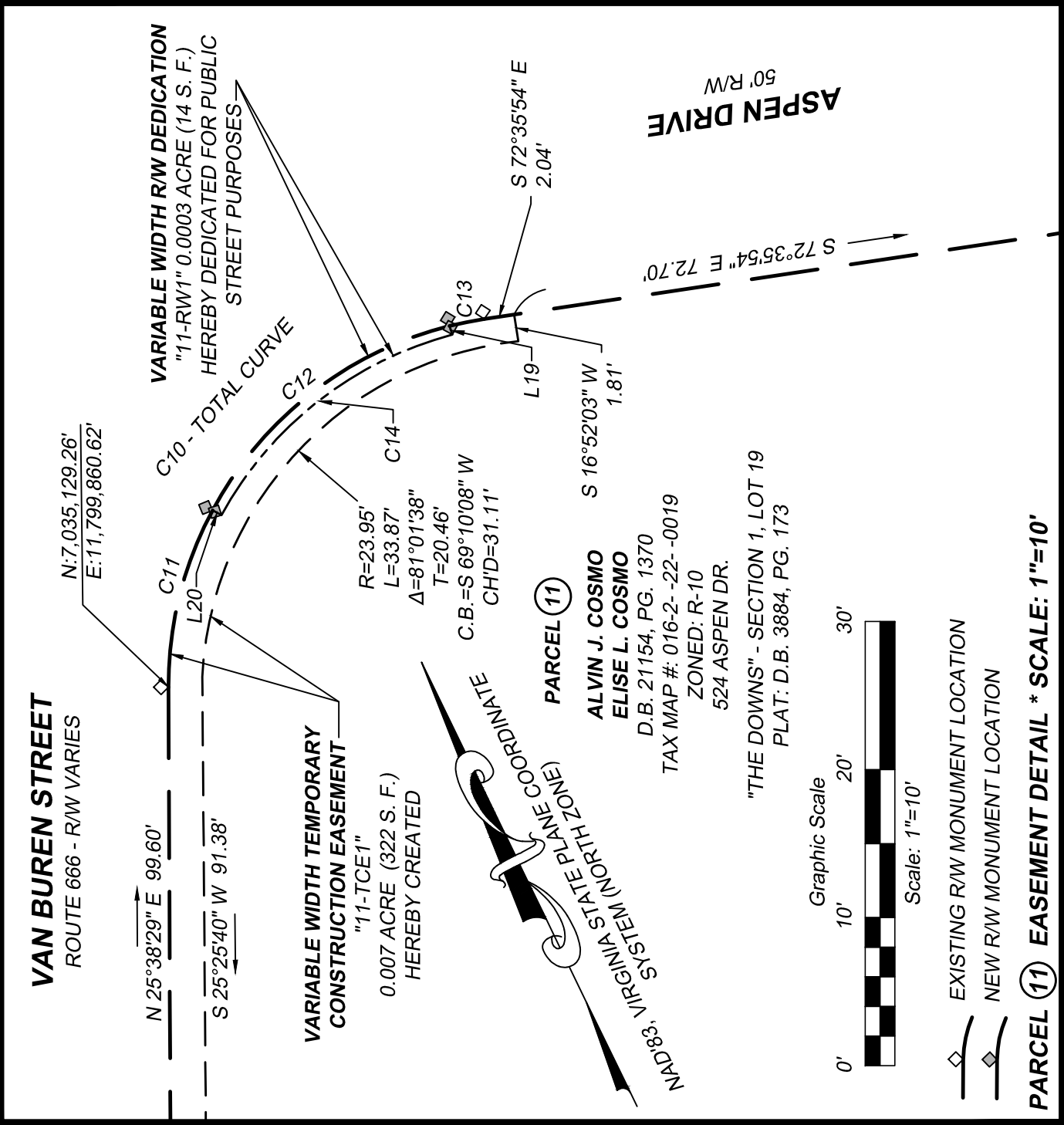
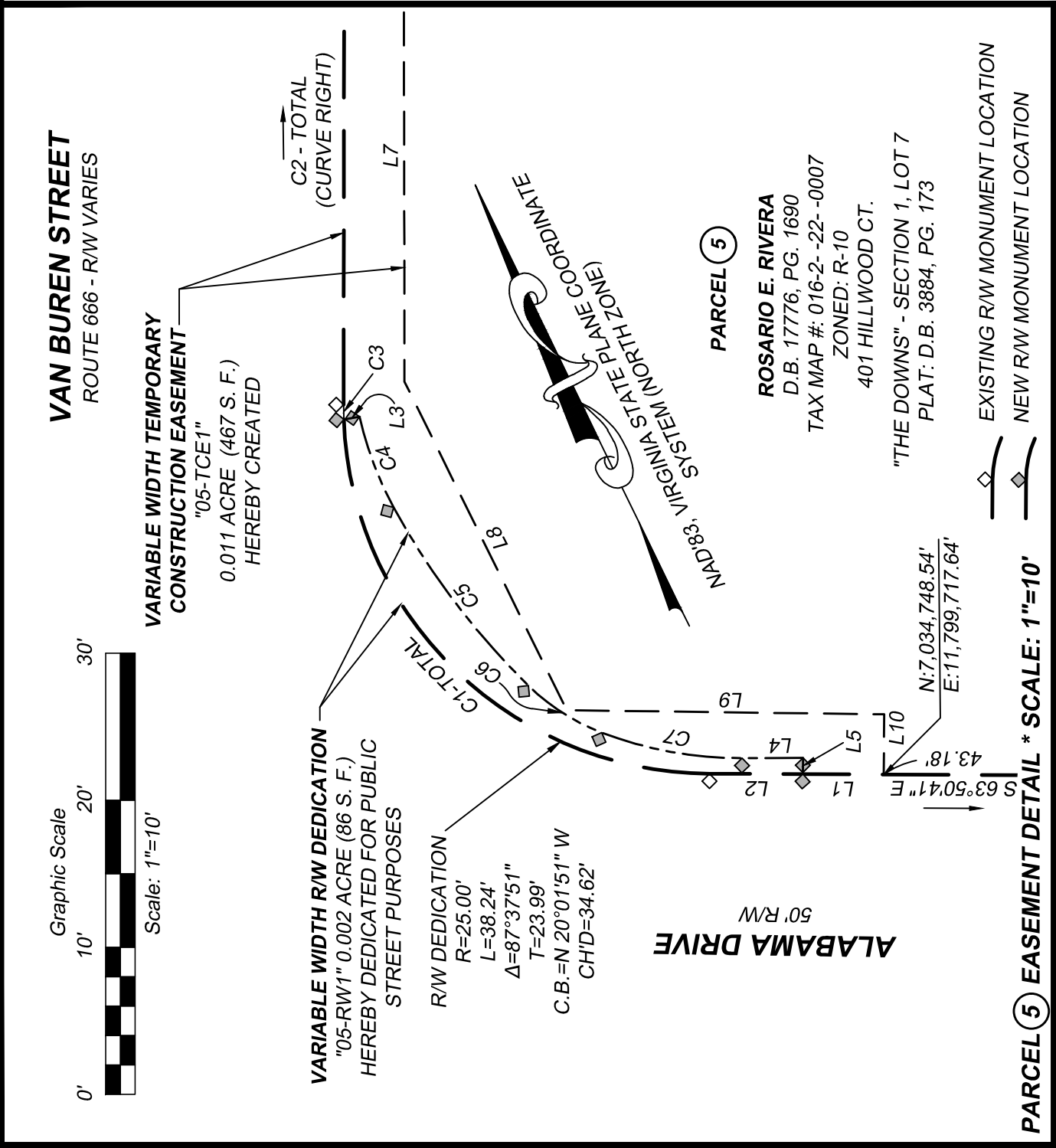
Ordinance – Authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Virgilio Vasquez and Maria L. Vasquez, Tax Map #0162-22-0151A for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a total of 129 square feet of temporary construction and grading easement from Virgilio Vasquez and Maria L. Vasquez for \$50.00 in connection with the Van Buren Streets Improvement Project. The landowner did not accept this offer, cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Virgilio Vasquez and Maria L. Vasquez as well as Virgilio Vasquez and Maria L. Vasquez for the Town's condemnation of these interests in property over real estate located at 406 Van Buren Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-22-0151A and shown as Parcel 10 and Plat #5 of Job # RK1807.01, dated June 28, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public

roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



LINE	BEARING	DISTANCE
L1	N 63°50'41" W	5.50'
L2	N 63°50'41" W	6.36'
L3	S 73°55'48" E	1.09'
L4	S 64°21'10" E	4.14'
L5	S 26°16'03" W	1.10'
L6	S 62°10'48" E	3.88'
L7	S 25°47'20" W	78.30'
L8	S 00°24'37" E	24.91'
L9	S 63°21'56" E	21.59'
L10	S 26°16'03" W	4.09'
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L12	N 25°38'29" E	9.72'
L13	S 72°22'47" E	3.79'
L14	N 24°49'37" E	20.20'
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L16	S 08°18'26" W	5.39'
L17	S 19°21'15" W	9.02'
L18	S 55°57'50" W	7.28'
L19	S 06°42'26" W	0.62'
L20	N 36°05'51" W	0.69'
L21	S 72°35'54" E	5.11'
L22	N 72°35'54" W	1.99'
L23	N 72°35'54" W	2.71'
L24	S 70°49'27" E	0.60'
L25	S 41°29'32" W	0.50'
L26	S 73°20'29" E	1.16'
L27	S 17°24'06" W	0.41'
L28	S 16°47'36" W	5.23'
L29	S 70°32'54" W	5.70'
L30	N 70°32'54" E	5.66'
L31	N 70°32'54" E	1.74'
L32	S 19°27'06" E	6.00'
L33	S 70°32'54" W	1.78'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	TANGENT	CHORD BEARING	CHORD LENGTH
C1	25.00'	39.24'	89°55'04"	24.96'	N 18°53'15" W	35.33'
C2	33473.64'	80.00'	00°08'13"	40.00'	N 26°00'04" E	80.00'
C3	25.00'	1.00'	2°17'13"	0.50'	N 24°55'41" E	1.00'
C4	24.00'	6.61'	15°46'38"	3.33'	S 05°12'16" W	6.59'
C5	51.33'	15.25'	17°01'07"	7.88'	S 11°11'28" E	15.19'
C6	14.50'	5.96'	23°32'14"	3.02'	S 31°28'08" E	5.91'
C7	26.50'	9.77'	21°06'55"	4.94'	S 53°47'43" E	9.71'
C8	33473.64'	124.00'	00°12'44"	62.00'	N 25°49'36" E	124.00'
C9	33473.64'	46.29'	00°04'45"	23.14'	N 25°50'47" E	46.29'
C10	25.00'	35.67'	81°45'37"	21.64'	N 66°31'18" E	32.72'
C11	25.00'	12.42'	28°28'14"	6.34'	N 39°52'37" E	12.30'
C12	25.00'	20.85'	47°47'00"	11.07'	S 78°00'14" W	20.25'
C13	25.00'	2.40'	5°30'23"	1.20'	S 75°21'05" E	2.40'
C14	25.00'	20.33'	46°35'08"	10.76'	S 77°53'00" W	19.77'
C15	25.00'	42.87'	98°14'23"	28.88'	N 23°28'42" W	37.80'
C16	25.00'	41.89'	96°00'14"	27.77'	N 24°35'46" W	37.16'
C17	25.00'	0.98'	2°14'09"	0.49'	N 24°31'25" E	0.98'
C18	25.50'	14.60'	32°48'45"	7.51'	S 03°42'40" W	14.40'
C19	25.50'	6.01'	13°30'46"	3.02'	N 19°27'06" W	6.00'
C20	25.50'	10.69'	24°00'45"	5.42'	S 38°12'51" E	10.61'
C21	26.00'	10.51'	23°09'14"	5.33'	S 61°45'52" E	10.44'
C22	22.88'	13.13'	32°51'59"	6.75'	S 04°53'13" W	12.95'
C23	22.88'	19.27'	48°15'19"	10.25'	S 50°44'22" E	18.71'

Sheet Status:
FINAL
Submission Date:
06-28-2019

APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

ATTEST

DATE

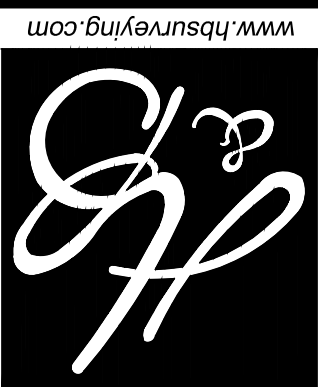
DATE

H&B Surveying and Mapping, LLC
insightful solutions, quality service
A DBE/WBE SWaM Certified Business

614 Moorefield Park Drive
Richmond, VA 23236
804.330.3781 Office 804.859.5330 Fax

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location



Job #: RK1807.01
Date: 06-28-2019
Sheet: 2 of 2
Drawn By: WFW
Checked By: AWH

PLAT #5

Rev. #	Rev. Date

Professional Seal

COMMONWEALTH OF VIRGINIA
Alison W. Hanson
Lic. No. 002617
LAND SURVEYOR

Sealed: 06-28-2019



STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Alvin J. Cosmo and Elise L. Cosmo, Tax Map #: 0162-22-0019 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 14 square foot fee simple interest and a 322 square foot temporary construction and grading easement from the landowner of 524 Aspen Drive for \$820.00. The landowner did not accept this offer or obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Alvin J. Cosmo and Elise L. Cosmo as well as Alvin J. Cosmo and Elise L. Cosmo, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QA/QC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 524 Aspen Drive have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take	14	\$17.23	100.0%	\$260.00
Permanent Easement				
Temporary Easement	322	\$17.23	10.0%	\$560.00
Other				
PARCEL 10				\$820.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

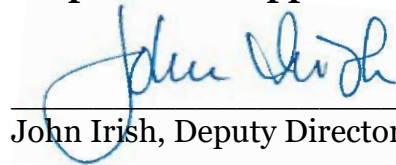
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

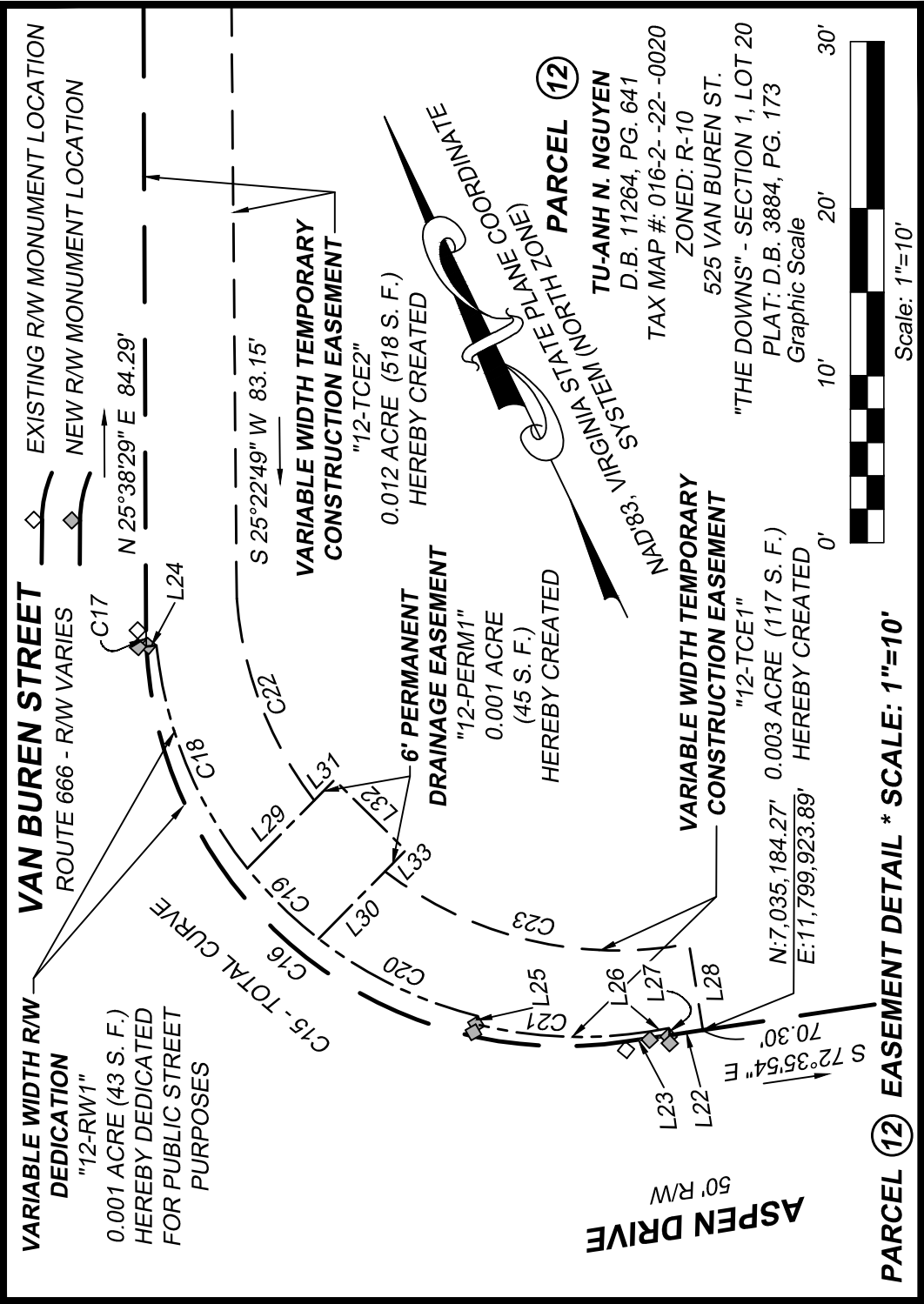
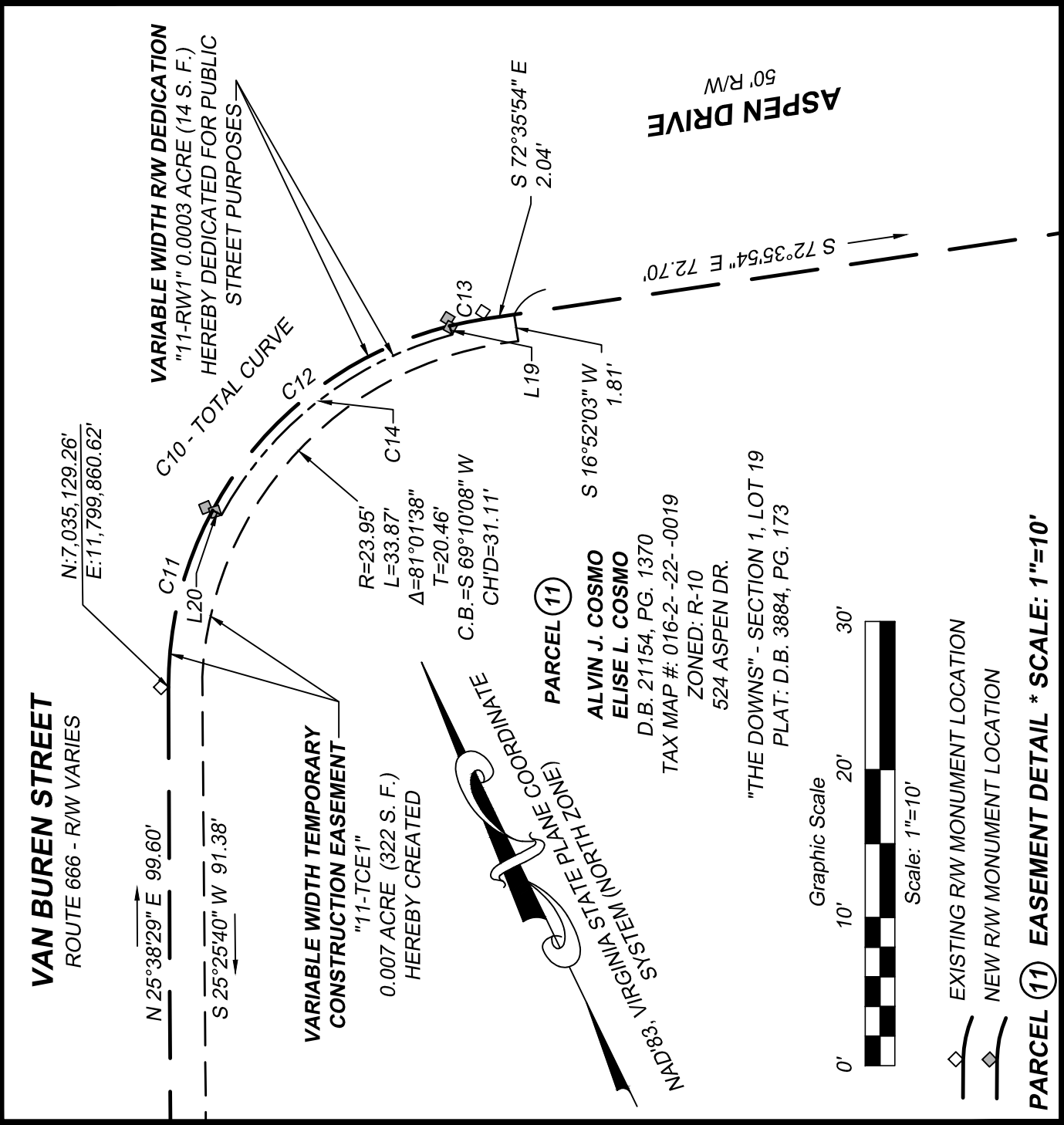
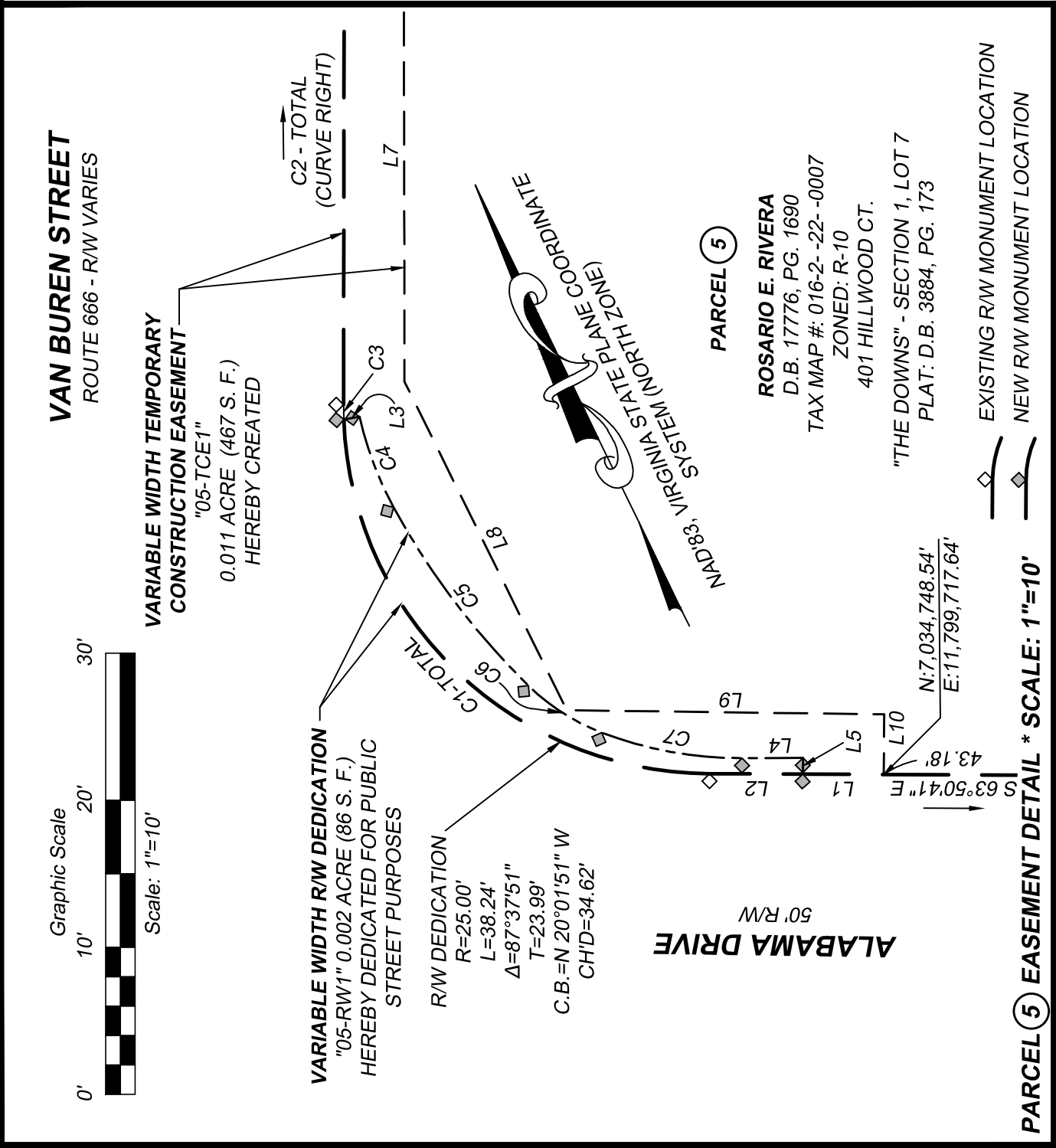
Ordinance – Authorizing the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Alvin J. Cosmo and Elise L. Cosmo, Tax Map #: 0162-22-0019 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 14 square foot fee simple interest and a 322 square foot temporary construction and grading easement from Alvin J. Cosmo and Elise L. Cosmo for \$820.00 in connection with the Van Buren Streets Improvement Project. The landowner did not accept this offer, cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Alvin J. Cosmo and Elise L. Cosmo as well as Alvin J. Cosmo and Elise L. Cosmo for the Town's condemnation of these interests in property over real estate located at 524 Aspen Drive, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-22-0019 and shown as Parcel 11 and Plat #5 of Job # RK1807.01, dated June 28, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public

roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



LINE	BEARING	DISTANCE
L1	N 63°50'41" W	5.50'
L2	N 63°50'41" W	6.36'
L3	S 73°55'48" E	1.09'
L4	S 64°21'10" E	4.14'
L5	S 26°16'03" W	1.10'
L6	S 62°10'48" E	3.88'
L7	S 25°47'20" W	78.30'
L8	S 00°24'37" E	24.91'
L9	S 63°21'56" E	21.59'
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L11	S 38°45'10" E	4.18'
L12	N 25°38'29" E	9.72'
L13	S 72°22'47" E	3.79'
L14	N 24°49'37" E	20.20'
L15	S 72°22'13" E	5.23'
L16	S 08°18'26" W	5.39'
L17	S 19°21'15" W	9.02'
L18	S 55°57'50" W	7.28'
L19	S 06°42'26" W	0.62'
L20	N 36°05'51" W	0.69'
L21	S 72°35'54" E	5.11'
L22	N 72°35'54" W	1.99'
L23	N 72°35'54" W	2.71'
L24	S 70°49'27" E	0.60'
L25	S 41°29'32" W	0.50'
L26	S 73°20'29" E	1.16'
L27	S 17°24'06" W	0.41'
L28	S 16°47'36" W	5.23'
L29	S 70°32'54" W	5.70'
L30	N 70°32'54" E	5.66'
L31	N 70°32'54" E	1.74'
L32	S 19°27'06" E	6.00'
L33	S 70°32'54" W	1.78'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	TANGENT	CHORD BEARING	CHORD LENGTH
C1	25.00'	39.24'	89°55'04"	24.96'	N 18°53'15" W	35.33'
C2	33473.64'	80.00'	00°08'13"	40.00'	N 26°00'04" E	80.00'
C3	25.00'	1.00'	2°17'13"	0.50'	N 24°55'41" E	1.00'
C4	24.00'	6.61'	15°46'38"	3.33'	S 05°12'16" W	6.59'
C5	51.33'	15.25'	17°01'07"	7.88'	S 11°11'28" E	15.19'
C6	14.50'	5.96'	23°32'14"	3.02'	S 31°28'08" E	5.91'
C7	26.50'	9.77'	21°06'55"	4.94'	S 53°47'43" E	9.71'
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C18	25.50'	14.60'	32°48'45"	7.51'	S 03°42'40" W	14.40'
C19	25.50'	6.01'	13°30'46"	3.02'	N 19°27'06" W	6.00'
C20	25.50'	10.69'	24°00'45"	5.42'	S 38°12'51" E	10.61'
C21	26.00'	10.51'	23°09'14"	5.33'	S 61°45'52" E	10.44'
C22	22.88'	13.13'	32°51'59"	6.75'	S 04°53'13" W	12.95'
C23	22.88'	19.27'	48°15'19"	10.25'	S 50°44'22" E	18.71'

Sheet Status:
FINAL
Submission Date:
06-28-2019

APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

ATTEST

DATE

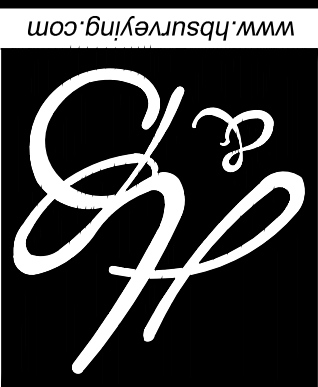
DATE

H&B Surveying and Mapping, LLC
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614 Moorefield Park Drive
Richmond, VA 23236
804.330.3781 Office 804.859.5330 Fax

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location



Job #: RK1807.01
Date: 06-28-2019
Sheet: 2 of 2
Drawn By: WFW
Checked By: AWH

PLAT #5

Rev. #	Rev. Date

Professional Seal

COMMONWEALTH OF VIRGINIA
Alison W. Hanson
Lic. No. 002617
LAND SURVEYOR

Sealed: 06-28-2019



STAFF REPORT

Town Council
January 21, 2020

Title: Ordinance authorizing the use of eminent domain for the acquisition of fee simple interest, permanent and temporary easements on property owned by Tu-Anh N. Nguyen, Tax Map #: 0162-22-0020 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 43 square foot fee simple interest, a 635 square foot temporary construction and grading easement, and a 45 square foot permanent light easement from the landowner of 525 Aspen Drive, Herndon, for \$2,910.00. While the landowner agreed to the compensation, they did not obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Tu-Anh N. Nguyen as well as against Tu-Anh N. Nguyen, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike

crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 525 Aspen Drive have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take	43	\$20.40	100.0%	\$880.00
Permanent Easement	45	\$20.40	75.0%	\$690.00
Temporary Easement	635	\$20.40	10.0%	\$1,300.00
Other				
PARCEL 12				\$2,910.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

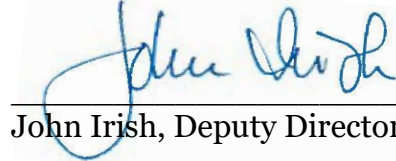
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

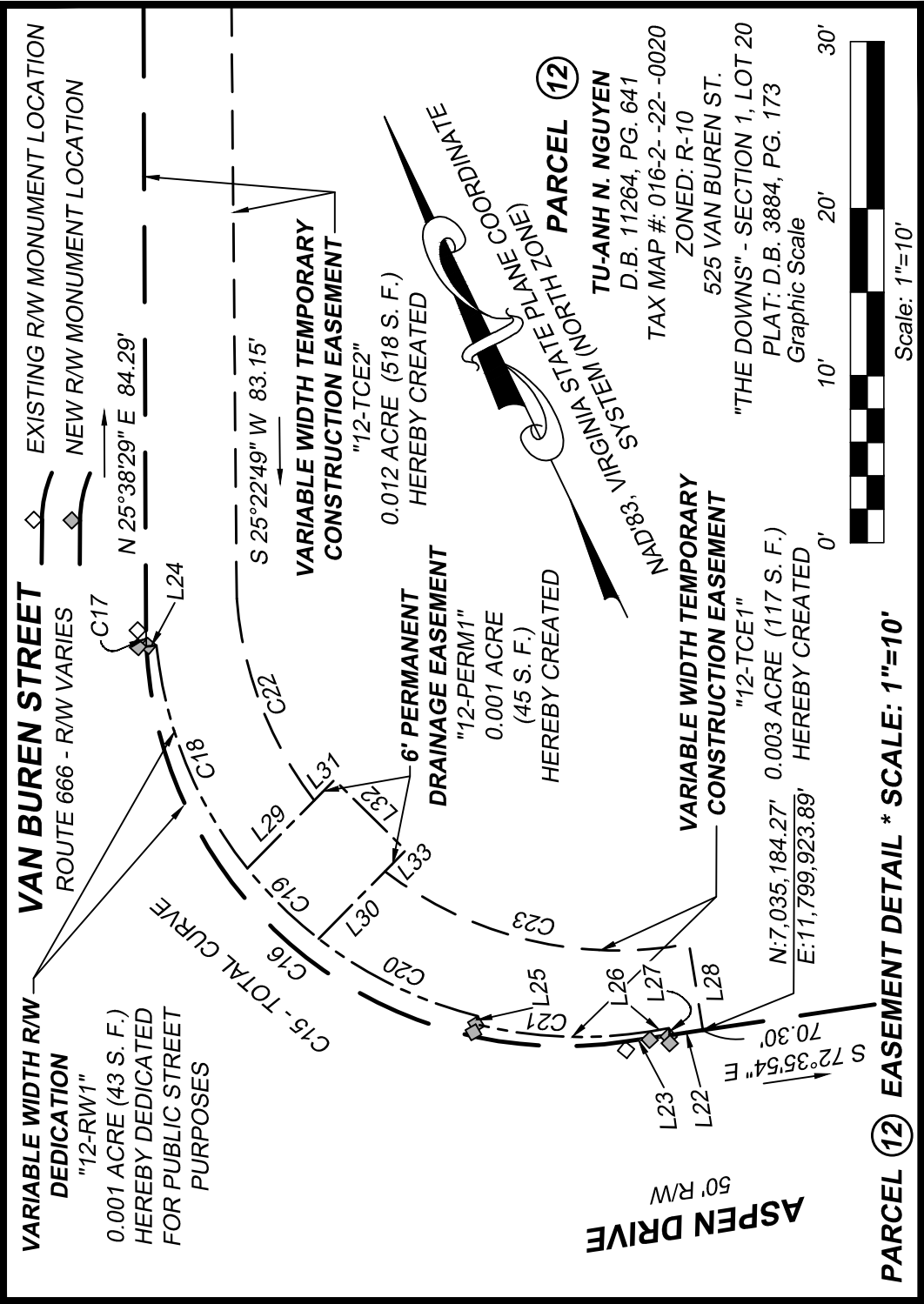
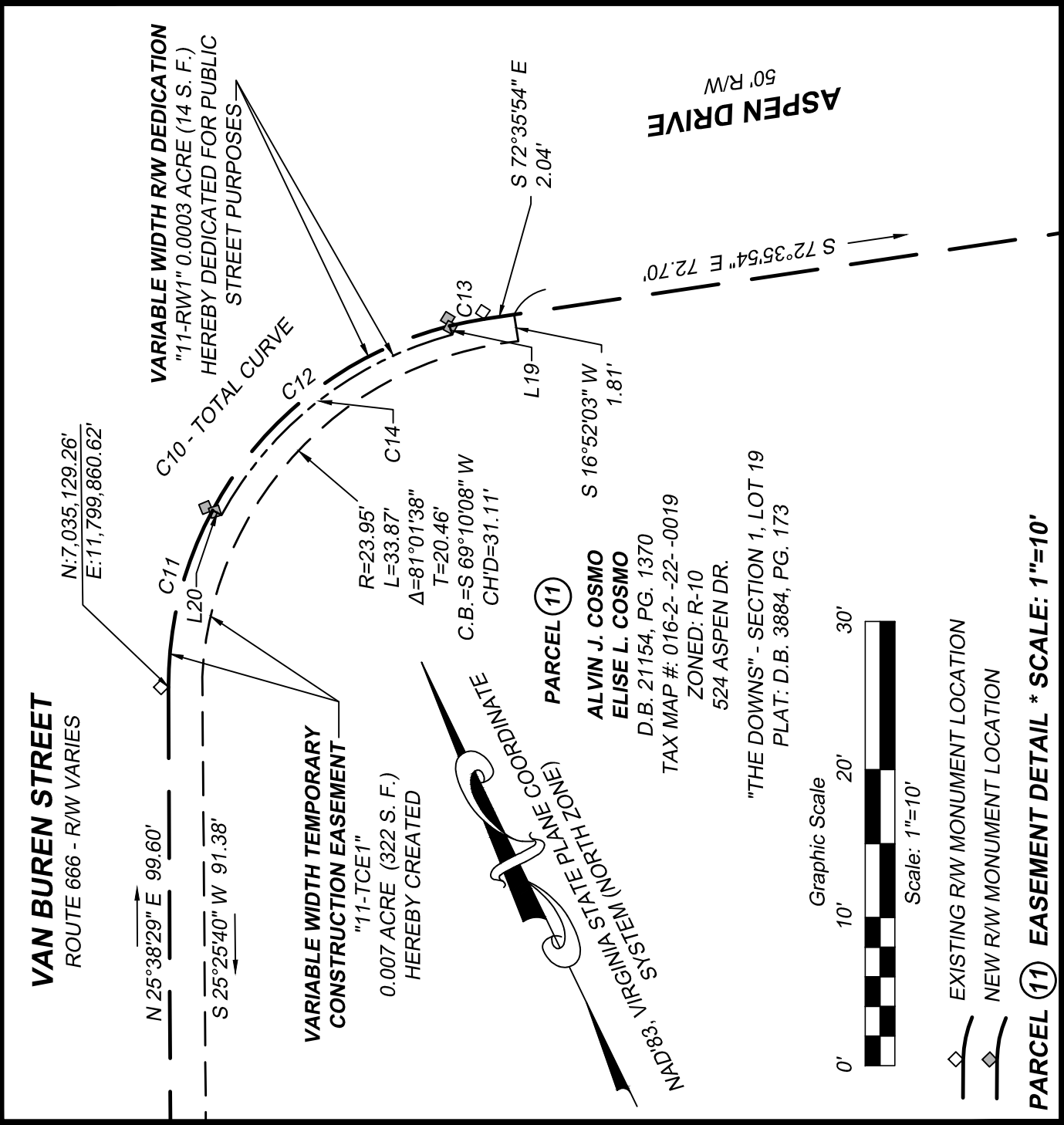
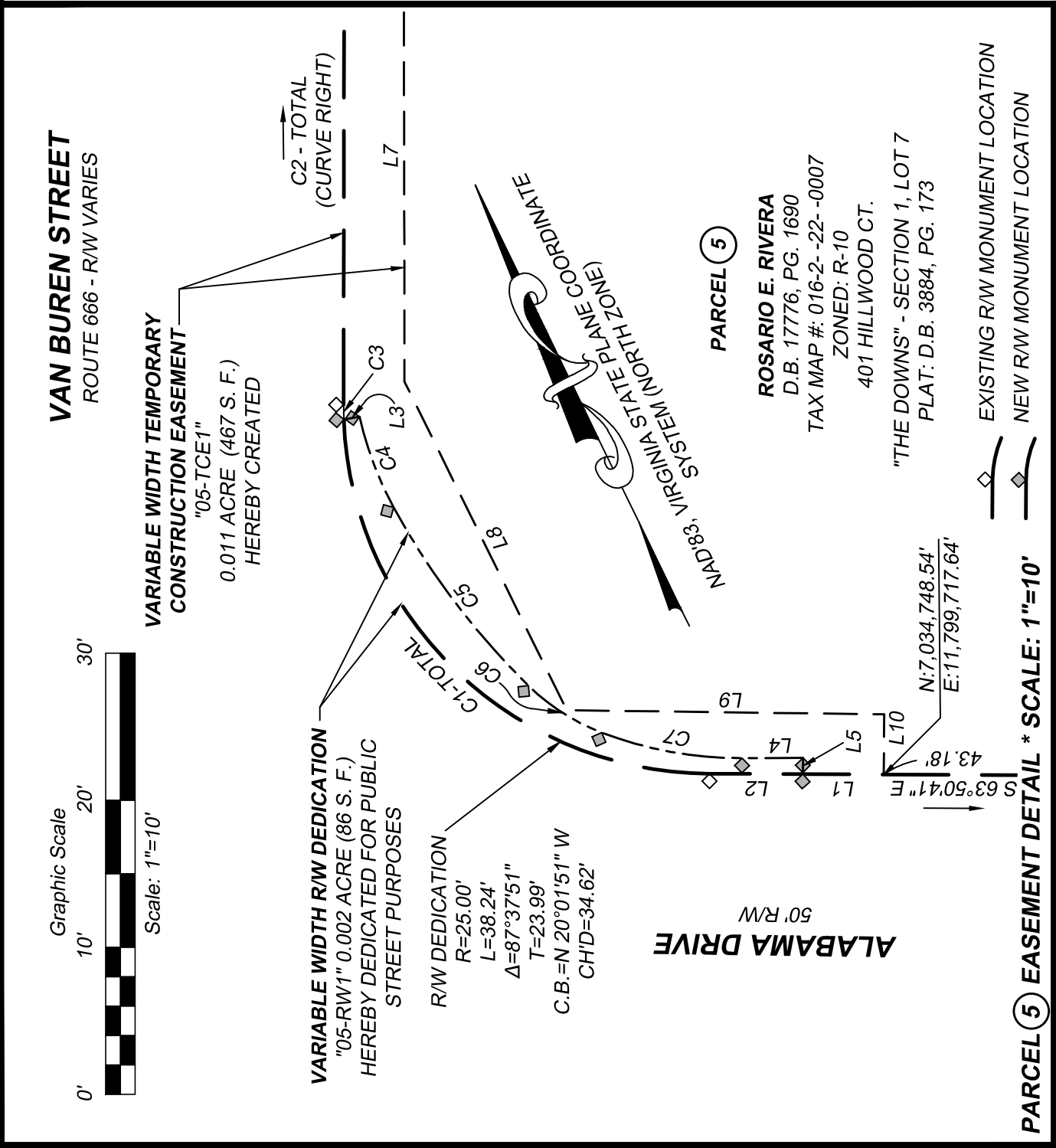
Ordinance – Authorizing the use of eminent domain for the acquisition of fee simple interest, permanent and temporary easements on property owned by Tu-Anh N. Nguyen, Tax Map #: 0162-22-0020 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 43 square foot fee simple interest, a 635 square foot temporary construction and grading easement, and a 45 square foot permanent light easement from Tu-Anh N. Nguyen for \$2,910.00 in connection with the Van Buren Streets Improvement Project. The landowner cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Tu-Anh N. Nguyen as well as Tu-Anh N. Nguyen for the Town's condemnation of these interests in property over real estate located at 525 Aspen Drive, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-22-0020 and shown as Parcel 12 and Plat #5 of Job # RK1807.01, dated June 28, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public

roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



LINE	BEARING	DISTANCE
L1	N 63°50'41" W	5.50'
L2	N 63°50'41" W	6.36'
L3	S 73°55'48" E	1.09'
L4	S 64°21'10" E	4.14'
L5	S 26°16'03" W	1.10'
L6	S 62°10'48" E	3.88'
L7	S 25°47'20" W	78.30'
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L22	N 72°35'54" W	1.99'
L23	N 72°35'54" W	2.71'
L24	S 70°49'27" E	0.60'
L25	S 41°29'32" W	0.50'
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CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	TANGENT	CHORD BEARING	CHORD LENGTH
C1	25.00'	39.24'	89°55'04"	24.96'	N 18°53'15" W	35.33'
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C3	25.00'	1.00'	2°17'13"	0.50'	N 24°55'41" E	1.00'
C4	24.00'	6.61'	15°46'38"	3.33'	S 05°12'16" W	6.59'
C5	51.33'	15.25'	17°01'07"	7.88'	S 11°11'28" E	15.19'
C6	14.50'	5.96'	23°32'14"	3.02'	S 31°28'08" E	5.91'
C7	26.50'	9.77'	21°06'55"	4.94'	S 53°47'43" E	9.71'
C8	33473.64'	124.00'	00°12'44"	62.00'	N 25°49'36" E	124.00'
C9	33473.64'	46.29'	00°04'45"	23.14'	N 25°50'47" E	46.29'
C10	25.00'	35.67'	81°45'37"	21.64'	N 66°31'18" E	32.72'
C11	25.00'	12.42'	28°28'14"	6.34'	N 39°52'37" E	12.30'
C12	25.00'	20.85'	47°47'00"	11.07'	S 78°00'14" W	20.25'
C13	25.00'	2.40'	5°30'23"	1.20'	S 75°21'05" E	2.40'
C14	25.00'	20.33'	46°35'08"	10.76'	S 77°53'00" W	19.77'
C15	25.00'	42.87'	98°14'23"	28.88'	N 23°28'42" W	37.80'
C16	25.00'	41.89'	96°00'14"	27.77'	N 24°35'46" W	37.16'
C17	25.00'	0.98'	2°14'09"	0.49'	N 24°31'25" E	0.98'
C18	25.50'	14.60'	32°48'45"	7.51'	S 03°42'40" W	14.40'
C19	25.50'	6.01'	13°30'46"	3.02'	N 19°27'06" W	6.00'
C20	25.50'	10.69'	24°00'45"	5.42'	S 38°12'51" E	10.61'
C21	26.00'	10.51'	23°09'14"	5.33'	S 61°45'52" E	10.44'
C22	22.88'	13.13'	32°51'59"	6.75'	S 04°53'13" W	12.95'
C23	22.88'	19.27'	48°15'19"	10.25'	S 50°44'22" E	18.71'

Sheet Status:
FINAL
Submission Date:
06-28-2019

APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

ATTEST

DATE

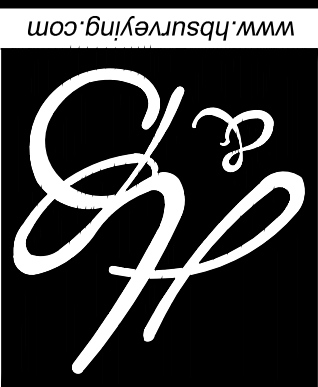
DATE

H&B Surveying and Mapping, LLC
insightful solutions, quality service
A DBE/WBE SWaM Certified Business

614 Moorefield Park Drive
Richmond, VA 23236
804.330.3781 Office 804.859.5330 Fax

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location



Job #: RK1807.01
Date: 06-28-2019
Sheet: 2 of 2
Drawn By: WFW
Checked By: AWH

PLAT #5

Rev. #	Rev. Date

Professional Seal

COMMONWEALTH OF VIRGINIA
Alison W. Hanson
Lic. No. 002617
LAND SURVEYOR

Sealed: 06-28-2019



STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance authorizing the use of eminent domain for the acquisition of temporary, permanent, and power utility easements on property owned by St. Timothy's Church, Episcopal, Tax Map #: 0162-02-0153 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire 18,859 square feet of temporary construction and grading easements, 8,938 square feet of storm drainage and stormwater management easements, and a 14,362 square feet permanent utility easement to be assigned to Virginia Electric and Power Company ("Dominion Energy") from the landowners of 432 Van Buren Street for \$64,310. Unless a church is a legally incorporated entity, title to church real estate is held by Trustees appointed by the Circuit Court, and the Trustees cannot convey an interest in real property until an order has been entered by a Judge. While the Church communicated that the offer was acceptable, they have not provided verification that all Trustees have been appointed and are authorized by the Court to make the conveyance of the easements nor have they obtained the approval and signature of their mortgage lender on the conveyance documents. As a result, the landowner cannot convey valid title and negotiations are at an impasse. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by the Trustees of St. Timothy's Episcopal Church as well as against Trustees of St. Timothy's Episcopal Church,

for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written "bona fide" offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The "quick take" process is authorized under the Virginia Code to allow condemners to enter property and obtain "defeasible title" to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate

of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 432 Van Buren Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement	8,938	\$20.00	50.0%	\$89,380.00
Temporary Easement	18,859	\$20.00	10.0%	\$37,720.00
Vacated Trail Easement *	10,741	\$20.00	50.0%	-\$107,410.00
Dominion Easement	7,020 (14,362**)	\$20.00	30.0%	\$42,120.00
5 trees at \$500 each				\$2,500.00
PARCEL 13				\$64,310.00

* by Deed dated July 14, 2002, the Church conveyed a perpetual easement of a public pedestrian trail along Van Buren Street and this easement is no longer needed and will be vacated. Because the 10,741 S F area will no longer be encumbered by this easement, the Town has calculated the value for this property that will credited towards the consideration the Town will pay for the other easement interests.

** the total area of the Dominion easement is 14,362 SF, of which 7,342 SF coincides with the permanent storm drainage and stormwater management easements and is included in the 8,938 SF area being acquired. The residual Dominion easement area requiring compensation is 7,020 SF (14,362 SF – 8,938 SF = 7,020 SF).

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

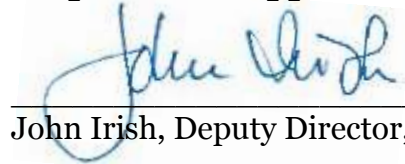
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

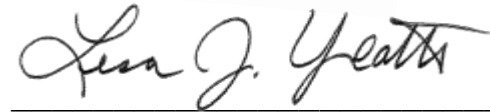
Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

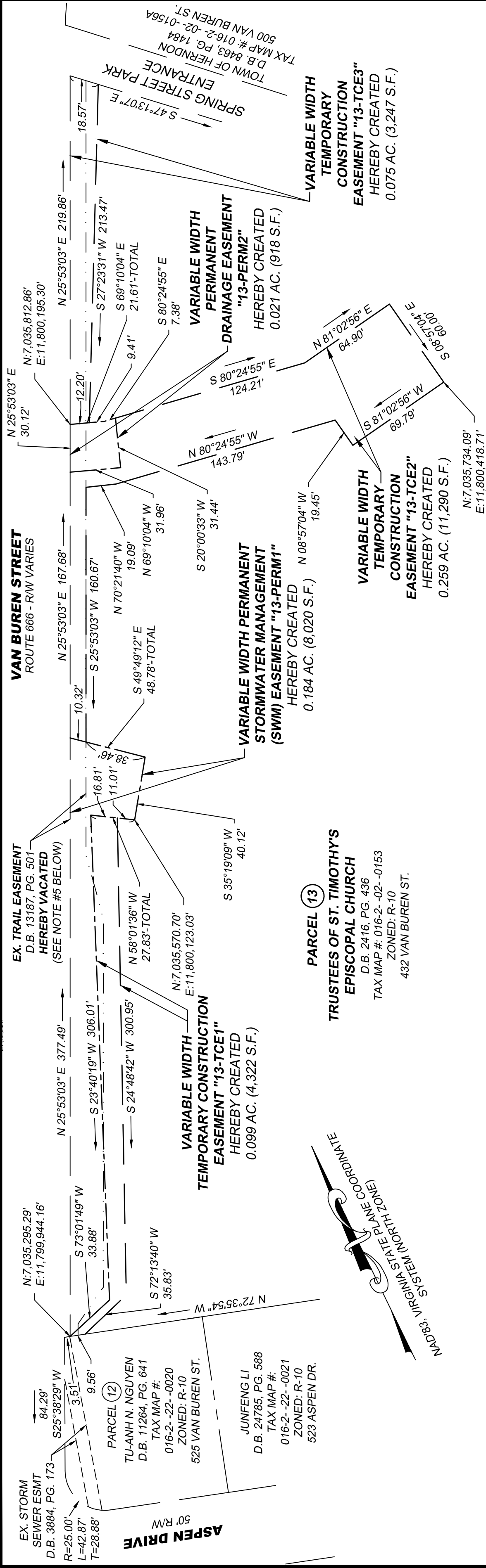
JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of temporary, permanent, and power utility easements on property owned by St. Timothy’s Church, Episcopal, Tax Map #: 0162-02-0153 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire 18,859 square feet of temporary construction and grading easements, 8,938 square feet of storm drainage and stormwater management easements, and a 14,362 square foot permanent utility easement to be assigned to Virginia Electric and Power Company (“Dominion Energy”) from Trustees of the St. Timothy’s Episcopal Church for \$64,310 in connection with the Van Buren Streets Improvement Project. The landowner cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by St. Timothy’s Episcopal Church as well as St. Timothy’s Episcopal Church for the Town’s condemnation of these interests in property over real estate located at 432 Van Buren Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-02-0153 and shown as Parcel 13 and Plat #9 of Job # RK1807.01, dated July 23, 2019 and revised through October 2, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.

4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.
5. This ordinance shall be effective on and after the date of its adoption.



OWNER'S CERTIFICATE: (WITH RESPECT TO PARCEL __ 13 __ ONLY)

THE PLATTING OR DEDICATION OF THE RIGHT(S)-OF-WAY AND/OR EASEMENT(S) SHOWN HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNER(S), PROPRIETOR(S) AND TRUSTEE(S), IF ANY.

BY (SIGNATURE): _____ DATE _____

(PRINTED NAME AND TITLE) _____

BY (SIGNATURE): _____ DATE _____

(PRINTED NAME AND TITLE) _____

NOTARY:
COMMONWEALTH OF VIRGINIA
COUNTY OF _____

THIS PLAT WAS ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC FOR THE ABOVE JURISDICTION, WITNESSED THE ABOVE SIGNATURE THIS ____ DAY OF _____, 2019.

NOTARY PUBLIC: _____

MY COMMISSION EXPIRES: _____

AREA TABULATION: PARCEL 13

PERMANENT SWM EASEMENT "13-PERMT1":	0.184 ACRE	(8,020 S.F.)
PERMANENT DRAINAGE EASEMENT "13-PERM2":	0.021 ACRE	(918 S.F.)
TOTAL AREA IN PERMANENT EASEMENTS:	0.205 ACRE	(8,938 S.F.)
TEMPORARY CONSTRUCTION EASEMENT "13-TCET1":	0.099 ACRE	(4,322 S.F.)
TEMPORARY CONSTRUCTION EASEMENT "13-TCE2":	0.259 ACRE	(11,290 S.F.)
TEMPORARY CONSTRUCTION EASEMENT "13-TCE3":	0.075 ACRE	(3,247 S.F.)
TOTAL AREA IN TEMPORARY EASEMENTS:	0.433 ACRE	(18,859 S.F.)

APPROVED BY
TOWN OF HERNDON, VIRGINIA

____MAYOR____DATE____

____ATTEST____DATE____

Sheet Status:

FINAL

Submittal Date:

10-02-2019

SURVEYOR'S CERTIFICATE:

I, ALISON W. HANSON, L.S. A DULY LICENSED SURVEYOR IN THE COMMONWEALTH OF VIRGINIA DO HEREBY CERTIFY THAT THE DEDICATIONS OF EASEMENTS AND/OR RIGHTS-OF-WAY SHOWN HEREON ARE LOCATED UPON THE FOLLOWING INDICATED PARCEL EMBRACED ON THIS PLAT AND IS NOW IN THE NAME OF:

PARCEL #:

13. TRUSTEES OF ST. TIMOTHY'S EPISCOPAL CHURCH, AS RECORDED IN D.B. 2416, PG. 436

AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT THE BEARINGS REFER TO NAD83 VIRGINIA STATE PLANE COORDINATE SYSTEM (NORTH ZONE).

Alison W. Hanson
ALISON W. HANSON, L.S. (VIRGINIA LS # 2617) DATE 10-02-2019

NOTES:

- EASEMENTS AND/OR RIGHTS-OF-WAY HEREBY DEDICATED BY THIS PLAT ARE IN CONJUNCTION WITH ENGINEERING PROJECT ENTITLED " TOWN OF HERNDON, VAN BUREN STREET IMPROVEMENTS, CONTRACT # D-17-03, PHASE I, VDOT PROJECT NO.: (NFO) EN15-235-112, P101, R201, C601, (UPC 107658). FHWA-534 DATA 25208, FEDERAL NO.: TAP-5A01 (029) & PHASE II", PREPARED BY RUMMEL, KLEPPER, & KAHL, LLP (RK&K), DATED APRIL 11, 2019. PARCEL IDENTIFIER NUMBERS SHOWN IN THIS PLAN SET ARE DUPLICATED ON THIS PLAT FOR THE SUBJECT PROPERTIES AND ARE DESIGNATED BY AN ENCIRCLED NUMBER, I.E. (13).
- BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED DEEDS AND HIGHWAY PLAN INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- ALL PREVIOUSLY RECORDED RIGHTS-OF-WAY, EASEMENTS, OR OTHER INTERESTS OF THE TOWN OF HERNDON SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.
- THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
- EXISTING TRAIL EASEMENT RUNNING ALONG VAN BUREN STREET (ESTABLISHED IN D.B. 13187, PG. 501) FOR THE BENEFIT OF THE TOWN OF HERNDON, IS TO BE VACATED HEREIN. THE RECORDING DOCUMENT FOR THIS EASEMENT DOES NOT SPECIFY THE AREA CONTAINED BY THE EASEMENT. THIS EASEMENT HAS BEEN COMPUTED TO CONTAIN AN AREA OF 0.247 ACRE OR 10,741 SQUARE FEET.



REVISION #2: CORRECT TOTAL AREA FOR PERMANENT EASEMENTS.
REVISION #1: INCORPORATE TRAIL EASEMENT VACATION TO PLAT PER TOWN COMMENT.

Job #: RK1807.01
Date: 07-23-2019
Sheet: 1 of 1
Drawn By: WFW
Checked By: AWH

PLAT #9

Rev. #	Rev. Date
#1	07-31-2019
#2	10-02-2019

Professional Seal



insightful solutions, quality service
H&B Surveying and Mapping, LLC
A DBE/WBE SWaM Certified Business
2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office
804.330.3781 Office
804.859.5330 Fax
614 Moorefield Park Drive
Richmond, VA 23236
Produced at Richmond
Survey
www.hbsurveying.com



PLAT SHOWING
A VARIABLE WIDTH STORMWATER MANAGEMENT (SWM) EASEMENT, A VARIABLE WIDTH PERMANENT DRAINAGE EASEMENT AND THREE VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENTS
- AND -
THE VACATION OF AN EXISTING TRAIL EASEMENT BENEFITING THE TOWN OF HERNDON
(ESTABLISHED BY D.B. 13187, PG. 501)
ON THE PROPERTY OF

TRUSTEES OF ST. TIMOTHY'S EPISCOPAL CHURCH

(D.B. 2416 PG. 436) (PARCEL 13)

TOWN OF HERNDON, FAIRFAX COUNTY, VIRGINIA
SCALE 1"= 50'



STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance authorizing the use of eminent domain for the acquisition of temporary and power utility easements on property owned by Nichole F. Lopes and Patrick T. Lopes, Tax Map #: 0162-06-0002 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 1,608 square foot temporary construction and grading easement and 100 square feet permanent utility easement for assignment to Virginia Electric and Power Company ("Dominion Energy") from the land owner of 433 Van Buren Street, Herndon, for \$2,540.00. While the landowner agreed to the compensation, they did not obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Nichole F. Lopes and Patrick T. Lopes as well as against Nichole F. Lopes and Patrick T. Lopes, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 433 Van Buren Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	1,608	\$13.25	10.0%	\$2,140.00
Dominion Easement	100	\$13.25	30.0%	\$400.00
Other				
PARCEL 15				\$2,540.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

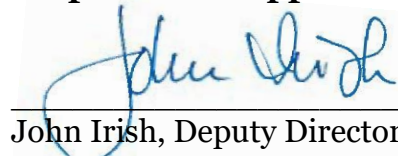
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:


John Irish, Deputy Director, Public Works


Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of temporary and power utility easements on property owned by Nichole F. Lopes and Patrick T. Lopes, Tax Map #: 0162-06-0002 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

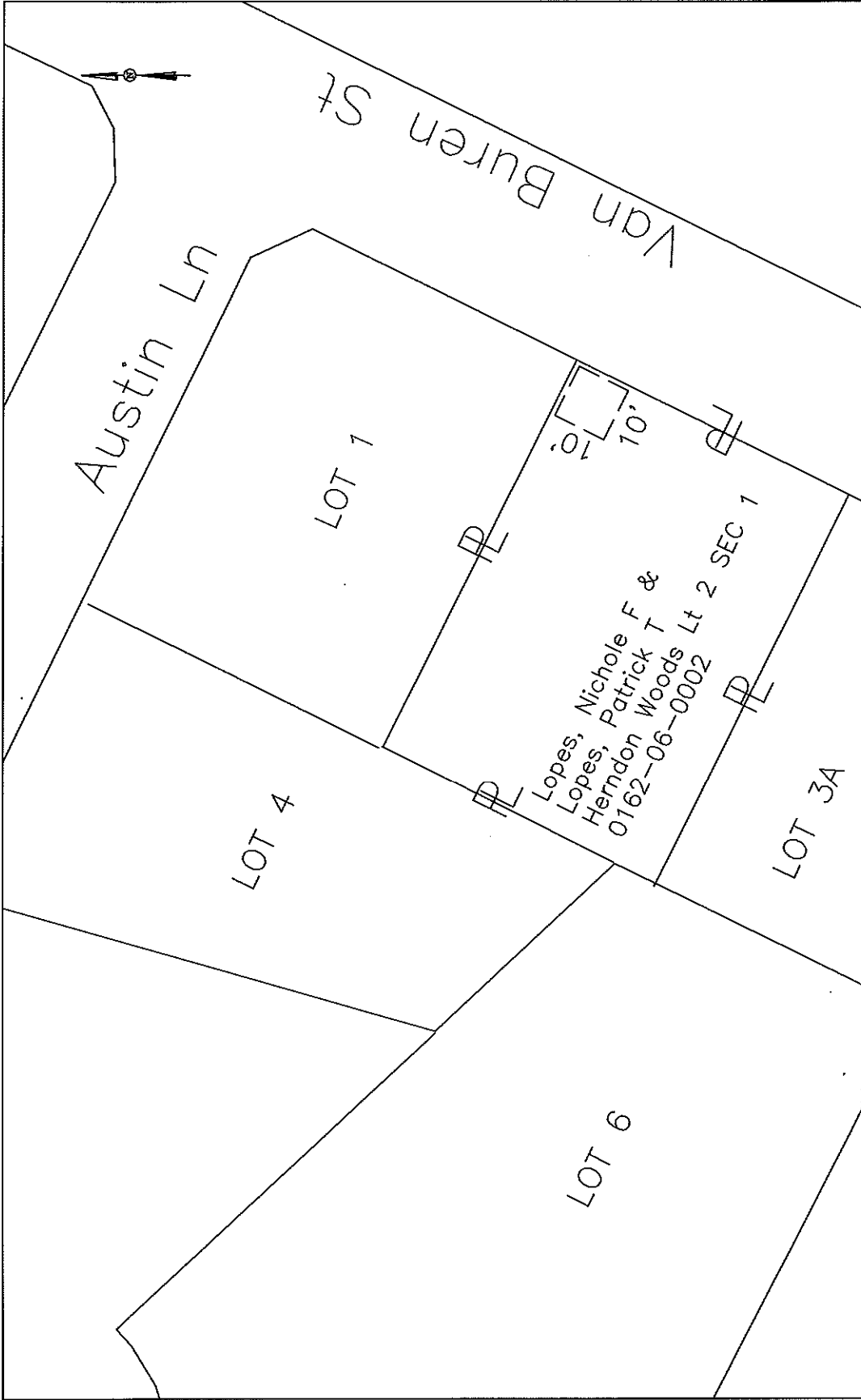
BE IT ORDAINED by the Council for the Town of Herndon that:

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 1,608 square foot temporary construction and grading easement and 100 square feet permanent utility easement for assignment to Virginia Electric and Power Company (“Dominion Energy”) from Nichole F. Lopes and Patrick T. Lopes for \$2,540.00 in connection with the Van Buren Streets Improvement Project. The landowner cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Nichole F. Lopes and Patrick T. Lopes as well as Nichole F. Lopes and Patrick T. Lopes for the Town’s condemnation of these interests in property over real estate located at 433 Van Buren Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 016-2-06-0002, and shown as Parcel 15 on Plat #7 of Job # RK1807.01, dated July 17, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, and as shown on Plat Number 40-19-0075 prepared by Dominion Energy Virginia, which said plats are attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.

4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.
5. This ordinance shall be effective on and after the date of its adoption.

Graphic Scale: 1"=20'

0' 20' 40' 60'



LEGEND --- Location of Boundary Lines of Right-of-Way 10' in Width. --- Indicates Property Line is --- Right-of-Way Boundary 10' in Width.		District 44	Scale NTS	PLAT TO ACCOMPANY RIGHT-OF-WAY AGREEMENT VIRGINIA ELECTRIC AND POWER COMPANY doing business as Dominion Energy Virginia		OH
State VA		County-City Fairfax Co.		OWNER INITIALS _____ Page 01 of 01		
Office NW Region		Plat Number 40-19-0075		DATE _____		
Work Request Number 10221591		Grid Number C0222		By Sebastian Gutierrez		



STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a permanent easement on property owned by James Passmore and Alia M. Bowen, Tax Map #: 0162-06-0001 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 2,399 square foot storm drainage easement from the land owner of 601 Austin Lane, Herndon, and to compensate them for five shrubs for a total of \$21,760.00. While the landowner agreed to the compensation, they did not obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by James Passmore and Alia M. Bowen as well as against James Passmore and Alia M. Bowen, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 601 Austin Lane have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement	2,399	\$17.89	50.0%	\$21,460.00
Temporary Easement				
5 Shrubs at \$60 each			100.0%	\$300.00
PARCEL 16				\$21,760.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

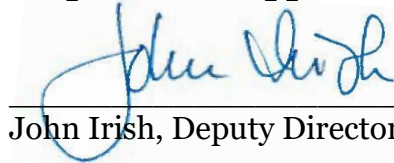
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of a permanent easement on property owned by James Passmore and Alia M. Bowen, Tax Map #: 0162-06-0001 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

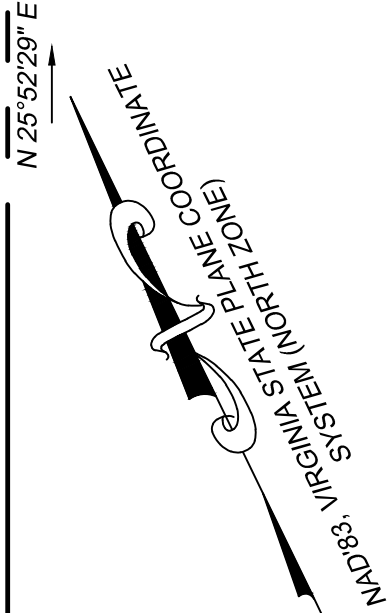
BE IT ORDAINED by the Council for the Town of Herndon that:

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 2,399 square foot storm drainage easement from James Passmore and Alia M. Bowen and compensate them for five shrubs for a total of \$21,760.00 in connection with the Van Buren Streets Improvement Project. The landowner cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by James Passmore and Alia M. Bowen for the Town's condemnation of these interests in property over real estate located at 601 Austin Lane, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-06-0001 and shown as Parcel 16 and Plat #8 of Job # RK1807.01, dated July 17, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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

LOT 4 - SECTION ONE
HERNDON WOODS
D.B. 1208, PG. 321

TAX MAP #: 016-2--06--0004



LOT 2 - SECTION ONE
HERNDON WOODS
D.B. 1208, PG. 321

PARCEL (15)

NICHOLE F. LOPES
PATRICK T. LOPES
D.B. 25340, PG. 97
TAX MAP #:
016-2--06--0002
433 VAN BUREN ST.

LOT 1- SECTION ONE
HERNDON WOODS
D.B. 1208, PG. 321

PARCEL (16)
JAMES PASSMORE
ALIA M. BOWEN
D.B. 23029, PG. 183
TAX MAP #: 016-2--06--0001
601 AUSTIN LN.

VARIABLE WIDTH PERMANENT
DRAINAGE EASEMENT
"16-PERM1"
0.055 ACRE (2,399 S.F.)
HEREBY CREATED

S 64°07'31" E 160.00' - TOTAL (137.72')

AUSTIN LANE
50' R/W

(TIE)
R=30.00'
L=9.27'
Δ=17°42'40"
T=4.67'
C.B.=S 55°16'10" E
CHD=9.24'

N 26°33'20" E 118.59'
S 25°52'29" W 90.00'

(TOTAL CURVE)
R=30.00'
L=47.12'
Δ=90°00'00"
T=30.00'
C.B.=S 19°07'31" E
CHD=42.43'

(ESMT)
R=30.00'
L=37.85'
Δ=72°17'20"
T=21.91'
C.B.=S 10°16'10" E
CHD=35.39'

N:7,035,695.84'
E:11,800,083.05'

VAN BUREN STREET
ROUTE 666 - R/W VARIES

AREA TABULATION: PARCEL (16)

PERMANENT DRAINAGE EASEMENT "16-PERM1": 0.055 ACRE (2,399 S.F.)
TOTAL AREA IN PERMANENT EASEMENT: 0.055 ACRE (2,399 S.F.)

APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR DATE

ATTEST DATE

Sheet Status:

FINAL

Submittal Date:

07-25-2019

OWNER'S CERTIFICATE: (WITH RESPECT TO PARCEL __ 16 __ ONLY)

THE PLATTING OR DEDICATION OF THE RIGHT(S)-OF-WAY AND/OR EASEMENT(S) SHOWN HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNER(S), PROPRIETOR(S) AND TRUSTEE(S), IF ANY.

BY (SIGNATURE): DATE

(PRINTED NAME AND TITLE) DATE

BY (SIGNATURE): DATE

(PRINTED NAME AND TITLE) DATE

NOTARY:

COMMONWEALTH OF VIRGINIA

COUNTY OF

THIS PLAT WAS ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC FOR THE ABOVE JURISDICTION,

WITNESSED THE ABOVE SIGNATURE THIS DAY OF, 2019.

NOTARY PUBLIC: MY COMMISSION EXPIRES:

SURVEYOR'S CERTIFICATE:

I, ALISON W. HANSON, L.S., A DULY LICENSED SURVEYOR IN THE COMMONWEALTH OF VIRGINIA DO HEREBY CERTIFY THAT THE DEDICATIONS OF EASEMENTS AND/OR RIGHTS-OF-WAY SHOWN HEREON ARE LOCATED UPON THE FOLLOWING INDICATED PARCEL EMBRACED ON THIS PLAT AND IS NOW IN THE NAME OF:

PARCEL #:

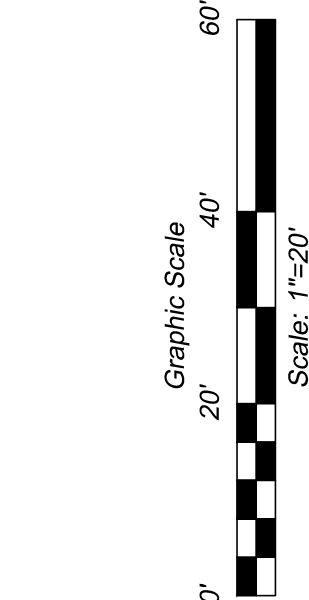
16. JAMES PASSMORE & ALIA M. BOWEN, AS RECORDED IN D.B. 23029, PG. 183

AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT THE BEARINGS REFER TO NAD83 VIRGINIA STATE PLANE COORDINATE SYSTEM (NORTH ZONE).

ALISON W. HANSON, L.S. (VIRGINIA LS #. 2617) 07-25-2019 DATE

NOTES:

- EASEMENTS AND/OR RIGHTS-OF-WAY HEREBY DEDICATED BY THIS PLAT ARE IN CONJUNCTION WITH ENGINEERING PROJECT ENTITLED "TOWN OF HERNDON, VAN BUREN STREET IMPROVEMENTS, CONTRACT #. D-17-03, PHASE I, VDOT PROJECT NO.: (NFO) EN15-235-112, P101, R201, CS01, (UPC 107658), FHWA-534 DATA 25208, FEDERAL NO.: TAP-5A01 (029) & PHASE II", PREPARED BY RUMMEL, KLEPPER, & KAHL, LLP (RK&K), DATED APRIL 11, 2019. PARCEL IDENTIFIER NUMBERS SHOWN IN THIS PLAN SET ARE DUPLICATED ON THIS PLAT FOR THE SUBJECT PROPERTIES AND ARE DESIGNATED BY AN ENCIRCLED NUMBER, I.E. (16)
- BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED DEEDS AND HIGHWAY PLAN INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- ALL PREVIOUSLY RECORDED RIGHTS-OF-WAY, EASEMENTS, OR OTHER INTERESTS OF THE TOWN OF HERNDON SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.
- THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.



PLAT SHOWING
A VARIABLE WIDTH PERMANENT DRAINAGE EASEMENT ON THE
PROPERTY OF

JAMES PASSMORE & ALIA M. BOWEN

(D.B. 23029 PG. 183) (PARCEL 16)

TOWN OF HERNDON, FAIRFAX COUNTY, VIRGINIA

SCALE 1"= 20'

H&B Surveying and Mapping, LLC
insightful solutions, quality service
A DBE/WBE SWaM Certified Business

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location

614 Moorefield Park Drive
Richmond, VA 23236
804.330.3781 Office 804.859.5330 Fax



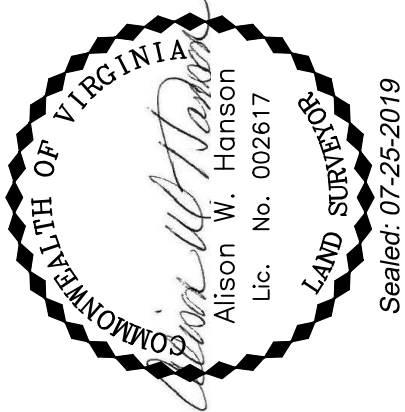
www.hbsurveying.com

Job #: RK1807.01
Date: 07-17-2019
Sheet: 1 of 1
Drawn By: WFW
Checked By: AWH

PLAT #8

Rev. # Rev. Date

Professional Seal





STAFF REPORT

**Town Council
January 21, 2020**

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Cleveland Woods Jr. and Sheila S. Woods, Tax Map #: 0162-06-0016 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 652 square foot temporary construction and grading easement from the land owner of 605 Spring Street, Herndon, for \$720.00. While the landowner agreed to the compensation, they did not obtain the approval and signature of their mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Shelia S. Woods and Cleveland Woods as well as against Shelia S. Woods and Cleveland Woods, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 605 Spring Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	652	\$10.94	10.0%	\$720.00
Other				
PARCEL 18				\$720.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

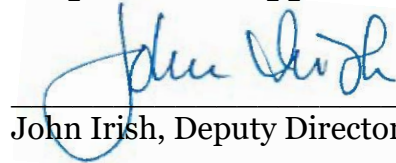
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Cleveland Woods Jr. and Sheila S. Woods, Tax Map #: 0162-06-0016 for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 652 square foot of temporary construction and grading easement from Shelia S. Woods and Cleveland Woods for \$720.00 in connection with the Van Buren Streets Improvement Project. The landowner cannot convey valid title and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Shelia S. Woods and Cleveland Woods as well as Shelia S. Woods and Cleveland Woods for the Town's condemnation of these interests in property over real estate located at 605 Spring Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 016-2-06-0016, and shown as Parcel 18 on Plat #10 of Job # RK1807.01, dated July 24, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the

construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



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H&B Surveying and Mapping, LLC

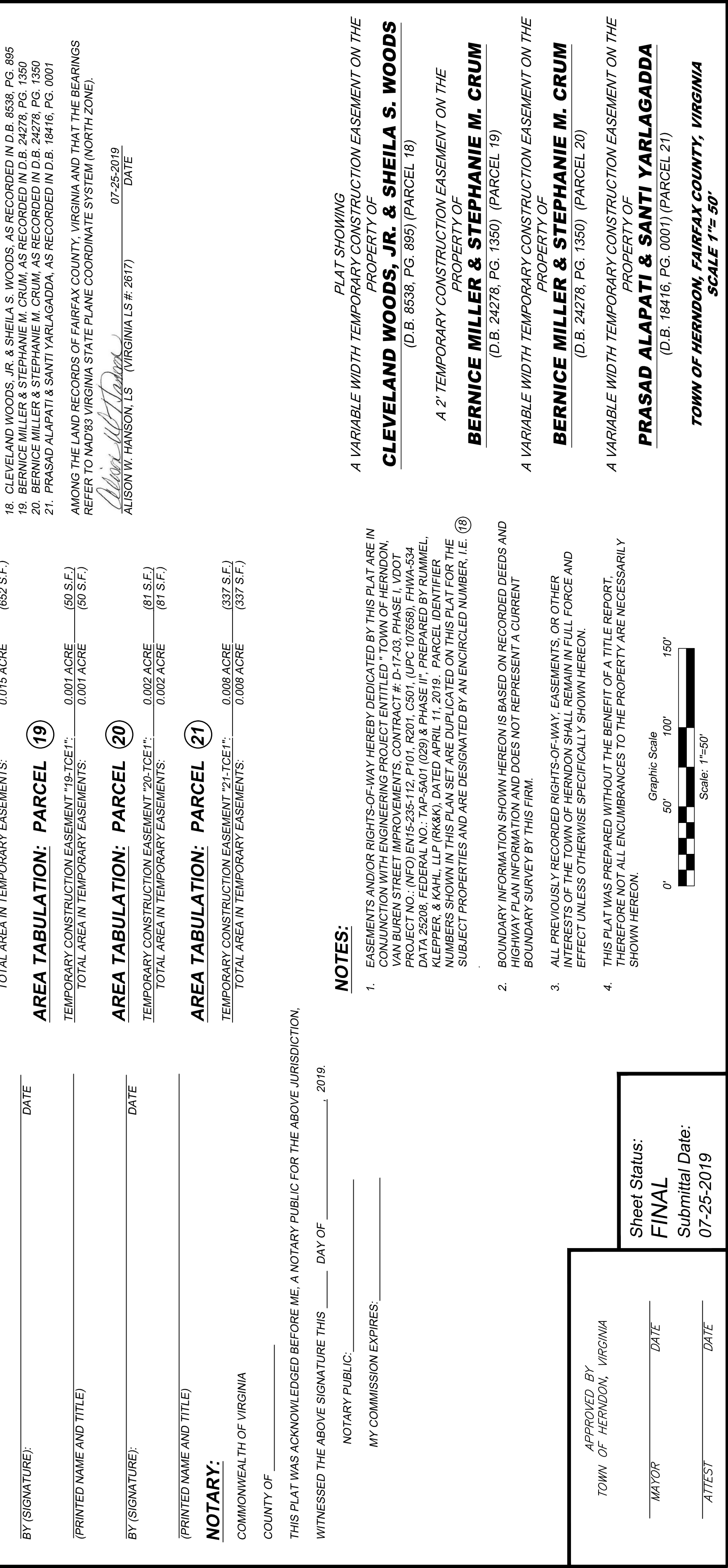
insightful solutions, quality service

A DBE/WBE SWaM Certified Business

614 Moorefield Park Drive
Richmond, VA 23236
804.330.3371 Office 804.859.5330 Fax

2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location





STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Bernice Miller and Stephanie Miller Crum, Tax Map #: 0162-02-0141A for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a total of 50 square feet of temporary construction and grading easements from the land owner of 501 Van Buren Street, Herndon, for \$90.00. The landowner did not accept this offer and did not obtain the approval and signature of the mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Bernice Miller and Stephanie Miller Crum as well as against Bernice Miller and Stephanie Miller Crum, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QAIQC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 501 Van Buren Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	50	\$17.91	10.0%	\$90.00
Other				
PARCEL 19				\$90.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

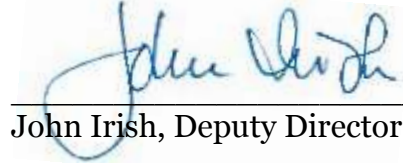
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Bernice Miller and Stephanie Miller Crum, Tax Map #: 0162-02-0141A for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 50 square foot temporary construction and grading easements from Bernice Miller and Stephanie Miller Crum for \$90.00 in connection with the Van Buren Streets Improvement Project. The landowner did not accept this offer and cannot convey valid title, as a result, negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Bernice Miller and Stephanie Miller Crum as well as Bernice Miller and Stephanie Miller Crum for the Town's condemnation of these interests in property over real estate located at 501 Van Buren Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 016-2-02-0141A, and shown as Parcel 19 on Plat #10 of Job # RK1807.01, dated July 24, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the

construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



STAFF REPORT

Town Council
January 21, 2020

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Bernice Miller and Stephanie Miller Crum, Tax Map #: 0162-02-0141D for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a total of 81 square feet of temporary construction and grading easements from the land owner of 501 Van Buren Street, Herndon, for \$150.00. The landowner did not accept this offer and did not obtain the approval and signature of the mortgage lender on the conveyance documents. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Bernice Miller and Stephanie Miller Crum as well as against Bernice Miller and Stephanie Miller Crum, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate

a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
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Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 501 Van Buren Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	81	\$17.91	10.0%	\$150.00
Other				
PARCEL 20				\$150.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

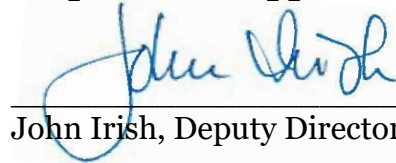
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Bernice Miller and Stephanie Miller Crum, Tax Map #: 0162-02-0141D for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 81 square foot temporary construction and grading easements from Bernice Miller and Stephanie Miller Crum for \$150.00 in connection with the Van Buren Streets Improvement Project. The landowner did not accept this offer and cannot convey valid title, as a result, negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Bernice Miller and Stephanie Miller Crum as well as Bernice Miller and Stephanie Miller Crum for the Town's condemnation of these interests in property over real estate located at 501 Van Buren Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 016-2-02-0141D, and shown as Parcel 20 on Plat #10 of Job # RK1807.01, dated July 24, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the

construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



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H&B Surveying and Mapping, LLC

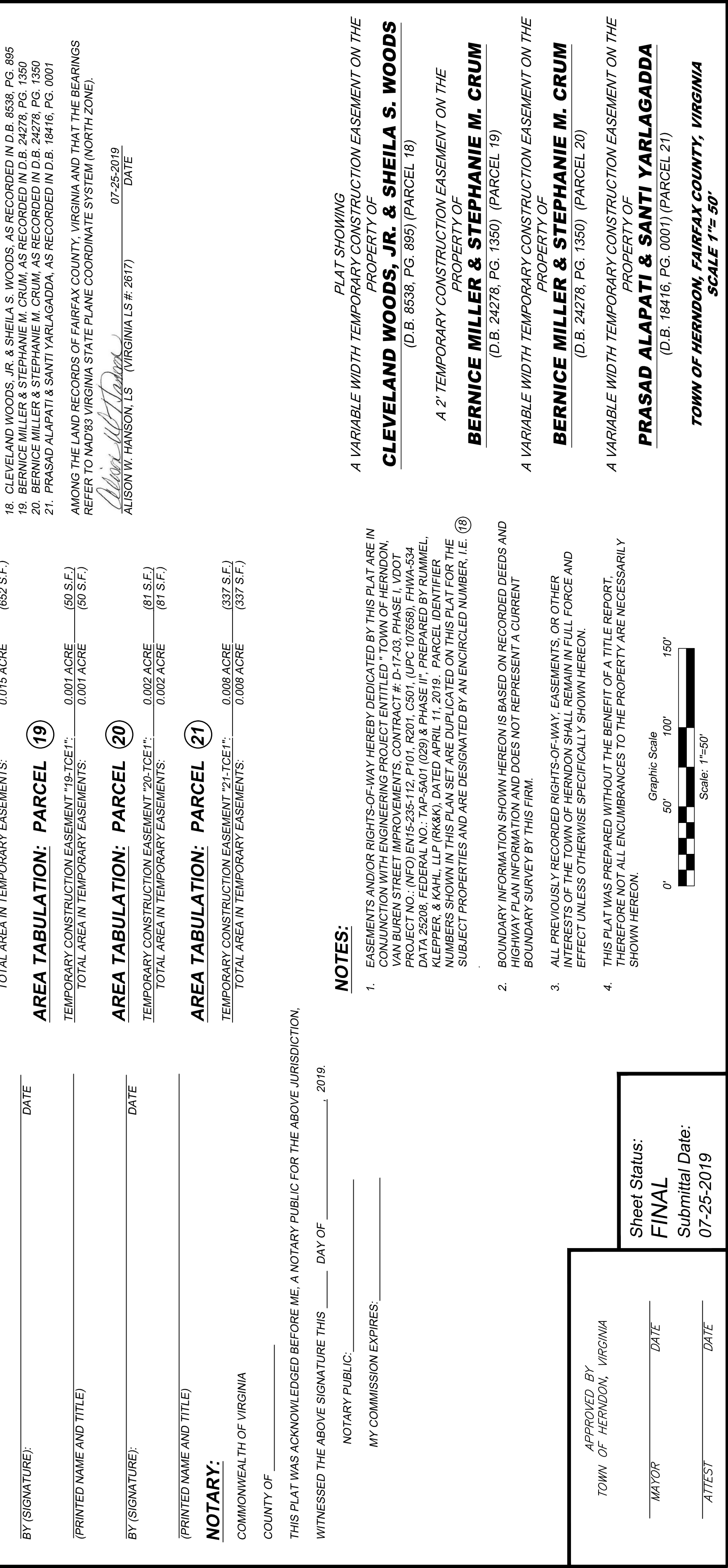
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2105 Electric Road SW, Suite 103
Roanoke, VA 23224
540.904.2559 Office

Survey
Produced
at Richmond
Office Location





STAFF REPORT

**Town Council
January 21, 2020**

Title:

Ordinance authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Prasad Alapati and Santi Yarlagadda, Tax Map #: 0162-02-0312C for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

Staff Contacts:

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

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

Summary:

The Van Buren Street Improvement Project is a long-standing CIP item. The Town of Herndon intends to construct certain transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire a 337 square foot temporary construction and grading easement from the land owner of 605 Nash Street, Herndon, for \$560.00. The landowner did not make any attempt to contact staff and did not accept this offer. As a result, negotiations are at an impasse. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Prasad Alapati and Santi Yarlagadda as well as against Prasad Alapati and Santi Yarlagadda, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Van Buren Street Improvement Project is a long-standing CIP item. The completed public use project will provide widening the roadway to accommodate a pedestrian bike lane in each direction, new sidewalks, curb and gutter, and

improved storm drainage. The project provides for signalized pedestrian and bike crosswalks at Alabama Drive, as well as improved street lighting throughout.

Project plans show right-of-way acquisition for these improvements along Van Buren Street.

Rummel, Klepper & Kahl, LLP was awarded a Contract for the design of Van Buren Street Improvement Project, as the best qualified to provide civil engineering services for this project as the result of their proposal, interview and selection by an evaluation committee.

As part of their scope of work, Rummel, Klepper & Kahl, LLP was tasked with providing Right-of-Way acquisition services including but not limited to:

- Right of Way oversight and compliance management
- Prepare right of way cost estimate reports
- Complete *QA/QC* of right of way plans and plats (and revisions)
- Support good-will contacts with affected landowners and tenants
- Provide title research
- Provide property acquisition appraisals

Written “bona fide” offers were made to all property owners from whom interests in property are needed for construction of the project. The Virginia Code requires that a bona fide, but ineffectual offer be made to the property owner prior to initiating condemnation proceedings as well as an advertised public hearing. A check representing the fair market value of the land interests will be deposited in the Fairfax County Land Records along with the Certificate of Take. Negotiations are authorized to continue after the filing of the Certificate of Take and may continue, even if the Town is required to file a Petition in Condemnation—the next step after the filing of a Certificate of Take. The “quick take” process is authorized under the Virginia Code to allow condemners to enter property and obtain “defeasible title” to the property in order to start projects for the benefit of the public and come to an agreement on just compensation to the property owner. If final acquisition of the land interests does not occur after the filing of a Certificate of Take, the Town will file a Petition in Condemnation in the Circuit Court to allow commissioners or jury to determine just compensation for the land interests.

Negotiations with the landowner of 605 Nash Street have not resulted in the conveyance of the necessary interests in land listed below:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Fee Take				
Permanent Easement				
Temporary Easement	337	\$16.43	10.0%	\$560.00
Other				
PARCEL 21				\$560.00

VDOT authorization of advertising for construction contract bidding is contingent on the ability of the Town to have property rights secured and utility relocations completed. Approval of this Ordinance will accomplish this end and secure the property rights. It is anticipated that this project will be advertised for bidding in mid-2020, upon completion of utility relocation with construction completed within one year of award.

Fiscal Impact:

Anticipated land acquisition costs are included in the current project budget.

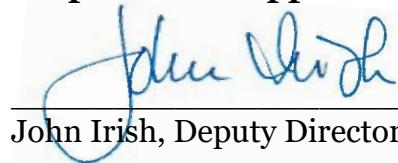
Recommendation:

Staff recommends that the Town Council approve the draft ordinance as proposed.

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lesa J. Yeatts, Town Attorney
Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 28, 2020

Ordinance – Authorizing the use of eminent domain for the acquisition of a temporary easement on property owned by Prasad Alapati and Santi Yarlagadda, Tax Map #: 0162-02-0312C for public use by condemnation for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.

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

1. The Town of Herndon made a bona fide but ineffectual effort to acquire a 337 square foot temporary construction and grading easement from Prasad Alapati and Santi Yarlagadda for \$560.00 in connection with the Van Buren Streets Improvement Project. The landowner did not accept this offer and negotiations are at an impasse. Therefore, the Town Attorney and outside counsel on behalf of the Town are authorized and directed to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by Prasad Alapati and Santi Yarlagadda as well as Prasad Alapati and Santi Yarlagadda for the Town's condemnation of these interests in property over real estate located at 605 Nash Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 016-2-02-0312C, and shown as Parcel 21 on Plat #10 of Job # RK1807.01, dated July 24, 2019, prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: the construction, maintenance, or improvement of the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage, for the public safety and welfare of the Town.
3. The Town Council directs the Town Manager, Town Attorney, and their outside counsel to acquire the above described interests in property for public use by condemnation, purchase, or other means. The Town staff is hereby authorized to pay the compensation set forth in paragraph 1 above into the Fairfax County Circuit Court contemporaneously with filing a Certificate of Take.
4. The property interests shall be used for the Van Buren Street Improvement Project. The property interests are necessary for the

construction, maintenance, or improvement of, and access to, the public roadway, bike lanes, sidewalks, utility relocation, curb and gutter, and storm drainage.

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



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H&B Surveying and Mapping, LLC

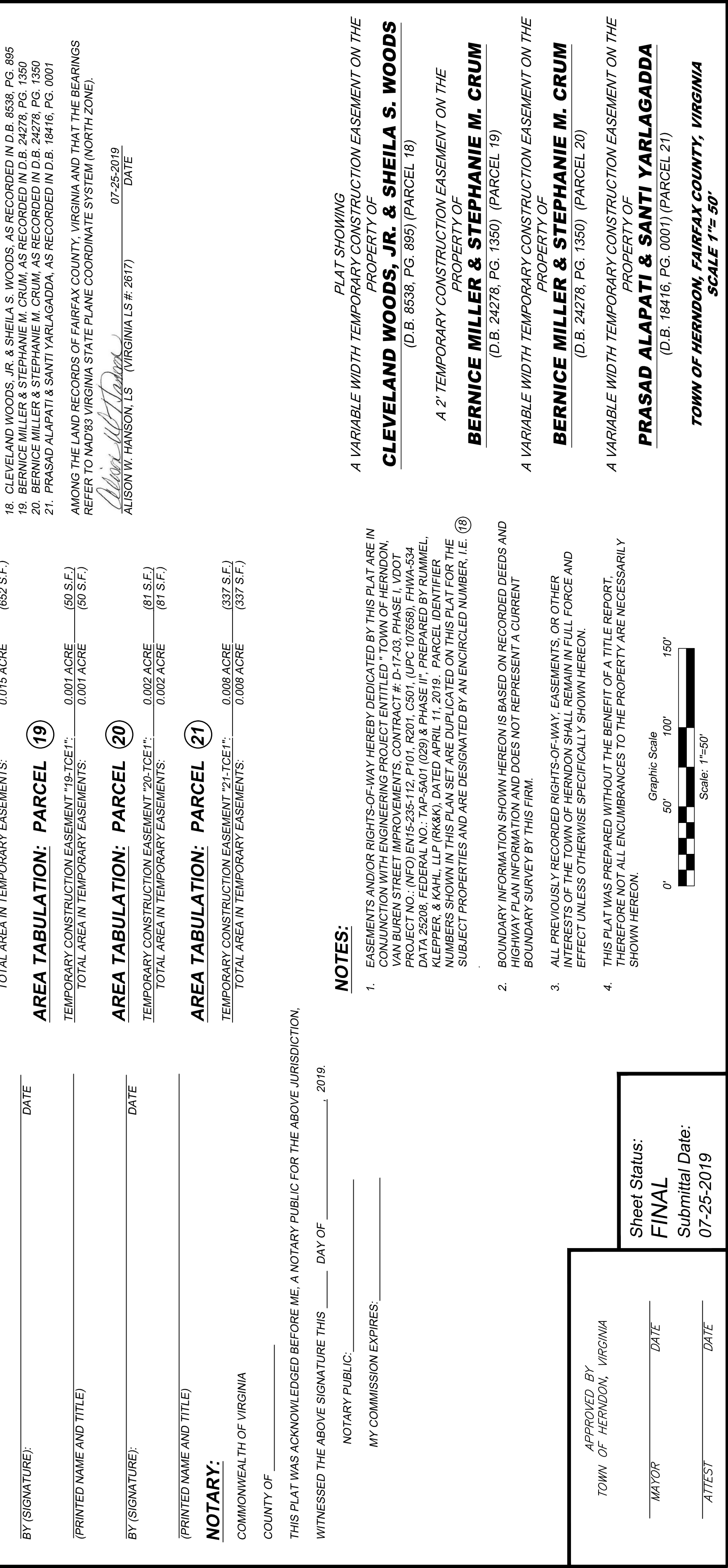
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Office Location





MEMORANDUM

To: William H. Ashton, Town Manager

From: Elizabeth M. Gilleran, Director of Community Development 

Date: January 16, 2020

Subject: Resolution 20-G-01, to accept the Planning Commission's findings and recommendations regarding the five-year review of the comprehensive plan

Attached are two resolutions. The first attachment is the proposed Town Council resolution, dated January 28, 2020, accepting the Planning Commission's findings and recommendations as provided in the Planning Commission's adopted resolution of December 16, 2019. The Planning Commission's December 16, 2019 resolution is the second attachment.

Council discussion during the January 7th work session and the public hearing of January 14th elicited significant long-range planning policy guidance. The staff has attempted to incorporate the council's comments, regarding additional policy guidance for future comprehensive plan amendments, into the proposed Town Council resolution. The incorporated comments are found in the "Be it Further Resolved" clause of Attachment 1.

Attachments:

1. Draft Town Council Resolution
2. Planning Commission Adopted Resolution dated December 16, 2019

TOWN OF HERNDON, VIRGINIA

RESOLUTION

January 28, 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, and the Town Council affirms the priorities for future plan amendments as recommended by the commission.

BE IT FURTHER RESOLVED, that the Town Council of the Town of Herndon provides the following guidance for future amendments to the comprehensive plan:

The Town of Herndon will continue to support the arts through art related activities and facilities within future amendments of the comprehensive plan, and

Work force and affordable housing serve distinct groups of individuals within the Herndon community and the region, and the Town of Herndon endorses the inclusion of housing for both populations within the town and its surrounding area, and

Renewable energy infrastructure, such as electrical vehicle charging stations, is important to the health of the community and the inclusion of such resources shall be considered in future amendments of the comprehensive plan, and

The Town of Herndon recognizes the need to update the chapter on Heritage Resources found in the comprehensive plan, and will update the town's comprehensive plan policies to reflect the updated guidelines and policy guidance that is currently being formulated by the town, and

Future amendments to the comprehensive plan will incorporate the awareness and need for the town to take a proactive role in support of small businesses through policies that ease the processes associated with opening and operating a business within the town, and

The need for a proactive mindset towards attracting, retaining and fostering the success of all businesses, but especially small business, will be included in the future comprehensive plan Economic Development chapter, and

Future comprehensive plan amendments will promote policies that ensure that transportation solutions be multimodal and address the needs of individuals of varying sensory, communication and activity abilities, and

The town's multimodal transportation initiatives will emphasize both walkability as well as bikeability, to capitalize on the presence of the Washington and Old Dominion Trail, the mix of uses inherent within the town's arrangement of land uses and the future opening of the Herndon Metrorail Station, and

As growth and redevelopment continue, the town will continue to create, preserve and enhance its unique sense of place through thoughtfully designed public and private architecture, landscape architecture, streetscapes and public spaces, the design of which will reflect and celebrate the community in its entirety, and preserve and highlight the town's standing as a unique presence along the Silver Line corridor due to a legacy of its own independent identity and a built environment spanning over 150 years, and

The comprehensive plan's future land use map will be amended to include the designation of "Redevelopment Area" along with the term "Adaptive," and to highlight areas designated by small area plans as appropriate for redevelopment with an expanded legend to describe the intent of the words, and

When, in the future the 2030 Comprehensive Plan is rewritten the term "Adaptive" will be replaced by "Redevelopment Area" and the mapping and text will provide enhanced explanation of those small area plans that have been adopted and additional small area plans that will be adopted prior to the rewrite of the 2030 Comprehensive Plan.

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.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 28, 2020

Resolution- to provide to the Town Manager guidance from the Town Council on the FY 2021 Budget.

WHEREAS, the Town Council is committed to providing the core services expected of a municipal government, providing quality services and facilities for residents and businesses of the town, and improving town government effectiveness and efficiency; and

WHEREAS, the Town Council is committed to advancing the 2035 Vision Plan and Goals for the Town of Herndon as embodied in its principles, goals, and objectives; and

WHEREAS, the Town Council is committed to maintaining the town's fiscal integrity; and

WHEREAS, the Town Council recognizes the FY 2021 budget priorities for funding must be set.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby directs the Town Manager to use the following guidance in preparing the FY 2021 budget:

Fund activities that will advance the 2035 Vision, to include:

- Continuing to address the impacts of transportation projects and redevelopment projects associated with Metrorail and the downtown on the town's governmental and proprietary funds;
- Advancing implementation of the town's downtown redevelopment plan;
- Providing for the development and operation of an arts center facility;
- Advancing implementation of the Council's sustainability plan; and
- Maintaining the town's focus on the use of technology to support administration and service provision.

Fund activities that will demonstrate a commitment to, and investment in, the town's employees, to include:

- Continuing emphasis on maintaining a competitive employment position in the local market;
- Addressing rising health care and pension costs; and
- Continuing employee skills development and education, with an emphasis on leadership development and succession planning.

Continue efforts to develop and maintain a strong fiscal position, to include:

- Preparing an annual budget that addresses the rising costs associated with high-quality program and service delivery and the revenues required to meet them;
- Continuing to develop a multi-year revenue and expenditure forecast in anticipation of impacts associated with the economic climate;
- Emphasizing the funding of life cycle maintenance that provides a comprehensive assessment of the town's overall exposure along with the revenue stream needed to maintain town assets;
- Balancing water and sewer service revenue with operating costs; and
- Addressing increasing problems with water and sewer infrastructure.



STAFF REPORT

Town Council

Date: January 21, 2020

Title: Resolution – Amendment to Fee Schedule – Chestnut Grove Cemetery

Staff Contact:

Cindy S. Roeder, Director of Parks & Recreation
(phone) 703-435-6800 x2123
(e-mail) cindy.roeder@herndon-va.gov

Background:

The Town of Herndon operates the Chestnut Grove Cemetery as an enterprise fund to offset all operations, maintenance, and capital expense of the cemetery. Authority for establishment of fees was granted to town council as part of the original ordinance that created the division of cemetery management. The 1997 approved fee schedule has been subsequently amended several times, most recently in December 2017.

In revising fees, staff took into consideration the comparable pricing schedules of other cemeteries in the region. Historically, the town has established fees to maintain affordable and accessible options for its residents. It is staff's recommendation that the approved pricing structure continue to align with the average cost of services throughout the region. This protects the cemetery from being chosen solely as the low cost provider for those who need no further contact with the remains and have no interest in the long term care and upkeep of Chestnut Grove.

Due to the increasing demand for cremation sites, a proposed increase in price to both the Park Cremation Garden and non-park ground areas is the recommended course of action. While the site fees for the Park area were reduced in 2017 due to underperformance, that adjustment achieved the desired result and sales have increased. It is now appropriate to make a modest upward adjustment to those rates to continue to maintain sufficient balance between costs, desirability and long term upkeep of the cemetery itself.

The other modest adjustments to after-hours services, permit fees, and disinterments, ensures personnel costs are covered in these situations. The adjustment to the Columbarium fees rebalances Chestnut Grove's fee structure to be in alignment with the regional average.

Description:

SITES	<i>Current Fees</i>	<i>Proposed Fees</i>
Lots 1 through 605 (older section)	\$ 3,295	3,295
Lots 606 through 999 (Sec.7-back)	3,295	3,295
Lots 2200 through 2226	3,695	3,695
Lots 3300 through 3335	3,695	3,695
Lots 4200 through 4246	3,695	3,695
Lots 5200 through 5217	3,695	3,695
Infant/Child Site	595	595
Park/Infant-Child	975	975
<i>Estate Lots</i>		
Interment Rights (6)	35,995	35,995
Interment Rights (4)	23,995	23,995
<i>Mausoleum</i> (including bronze crypt plate)		
Level 1 & Level 4	5,695	5,695
Level 2 & Level 3	6,195	6,195
<i>Cremation Sites</i>		
Land Cremation Sites Non-Park		
Single	2,195	2,700
Double	3,395	4,000
Land Cremation Sites Park		
Single	2,195	2,700
Double	3,395	4,000
Columbaria 3, 4, 5 & 6 (including memorial plate)		
Single	2,795	3,250
Double	4,095	4,550
<i>Mausoleum/Columbaria</i> (including crypt plate)		
Single	2,795	3,250
Double	4,095	4,550
INTERMENTS		
Weekdays before 2:00 p.m.		
Adult	1,695	1,695
Infant/Child	495	495
Cremation (Ground Burial)*	1,095	1,095
Columbarium*	1,095	1,095
Mausoleum*	1,895	1,895

**Includes tent and chairs*

	<i>Current Fees</i>	<i>Proposed Fees</i>
<i>Additional Fees for Interment</i>		
Weekdays after 2:00 p.m.	300	500
Saturdays	500	500
Sundays & Holidays	650	750

GENERAL SERVICE FEES

Disinterment	2,695	3,000
Deed Transfer	175	175
Tent & Chair Rental	450	450
Memorial Permit Fee	95	125

Traditional site – second right of interment \$1,700

Columbaria and Mausoleum Crypt* - second right of interment \$1,300

Cremation ground burial sites – park or non-park area - second right of interment \$1,300

*Second right of interment is restricted to an urn entombment of cremated remains.

Recommendation:

The Cemetery Advisory committee reviewed and endorsed this proposal at their meeting on December 12, 2019. Staff recommends approval and adoption to take effect July 1, 2020.

Fiscal Impact:

Any additional revenue achieved as a result of these increases contributes towards the cemetery's overall revenue goals and the required allocation to the perpetual care fund.

Staff:



Cindy S. Roeder, Director of Parks & Recreation

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 28, 2020

Resolution- to consider an amendment to the Fee Schedule, Chestnut Grove Cemetery.

WHEREAS, the Town of Herndon has established fees for the Chestnut Grove Cemetery; and

WHEREAS, due to the increasing demand for cremation sites, a proposed increase in price to the non-park ground cremation sites and the Park Cremation Garden is recommended; and

WHEREAS, with the continuing decrease in in-ground burials during the past several years, and the need for additional funding support to maintain the cemetery enterprise fund operations, fee adjustments are recommended; and

WHEREAS, it is recommended the fees be modified as follows:

SITES	<i>FY18 Fees</i>
Lots 1 through 605 (older section)	\$ 3,295
Lots 606 through 999 (Sec.7-back)	3,295
Lots 2200 through 2226	3,695
Lots 3300 through 3335	3,695
Lots 4200 through 4246	3,695
Lots 5200 through 5217	3,695
Infant/Child Site	595
Park/Infant-Child	975
<i>Estate Lots</i>	
Interment Rights (6)	35,995
Interment Rights (4)	23,995
<i>Mausoleum</i> (including bronze crypt plate)	
Level 1 & Level 4	5,695
Level 2 & Level 3	6,195
<i>Cremation Sites</i>	
Land Cremation Sites Non-Park	
Single	2,700
Double	4,000
Land Cremation Sites Park (no memorial plate included)	
Single	2,700
Double	4,000

Columbaria 3, 4, 5 & 6 (including memorial plate)	
Single	3,250
Double	4,550

<i>Mausoleum/Columbaria</i> (including crypt plate)	
Single	3,250
Double	4,550

INTERMENTS

Weekdays before 2:00 p.m.	
Adult	1,695
Infant/Child	495
Cremation (Ground Burial)*	1,095
Columbarium*	1,095
Mausoleum*	1,895

**Includes tent and chairs*

<i>Additional Fees for Interment</i>	
Weekdays after 2:00 p.m.	500
Saturdays	500
Sundays & Holidays	750

GENERAL SERVICE FEES

Disinterment	3,000
Deed Transfer	175
Tent & Chair Rental	450
Memorial Permit Fee	125

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby approves the Amendment to the Chestnut Grove Cemetery Fee Schedule-January 2020, and, directs the Chestnut Grove Cemetery staff to implement the amended fee schedule effective July 1, 2020.



STAFF REPORT

Town Council

Date: January 21, 2020

Title: Resolution, to amend the Parks and Recreation Fees - Special Facilities Use and Facility Rental Fees

Staff Contact:

Cindy S. Roeder
Director, Parks and Recreation Department
703-435-6800 x2123
cindy.roeder@herndon-va.gov

Background:

The Parks and Recreation Department provides for community-use facilities at the Herndon Community Center, Bready Park Indoor Tennis Center, and Park Picnic Shelters. During the Department's review of current services and operational costs, and the current rates at six similar facilities in the region, staff is proposing the following additions and revisions to its fee schedule for community use facilities.

1. Increase indoor tennis center contract and random court reservation rates.

1. Tennis - Indoor Court Reservations

The fees for the Indoor Tennis Center were last amended for the 2017 season. Proposed is a \$2/hour increase in all hourly fees for resident and non-residents, during both prime and non-prime time, for contract and random reservations. The increase in fees will enable the Department to continue to offset all operating and personnel costs. These fees shall take effect beginning with the September 2020 indoor season. The tennis bubble has achieved cumulative net revenue of just under \$350,000 since its opening in FY2000. The amortized capital development costs of the facility were fully retired in FY2014.

Staff proposes hourly fees as follows:

<i>Contract Time</i>	Town of Herndon Resident	Non-Resident
Primetime	\$28	\$36
Non-Primetime	\$25	\$32
Youth/Seniors	\$22	\$26

<i>Random Time</i>	Town of Herndon Resident	Non-Resident
Primetime	\$32	\$40
Non-Primetime	\$27	\$34
Youth/Seniors	\$24	\$28

¹Increase of \$2/hour

²Increase of \$2/hour

Fiscal Impact:

The above proposals are compatible with similar facilities in Leesburg, Arlington, Burke, Fairfax, Ashburn, and D.C., and will support the Department's efforts to meet its revenue goals.

Recommendation:

Approve fees as proposed for implementation effective September, 2020.

Staff:



Cindy S. Roeder, Director of Parks and Recreation

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 28, 2020

Resolution- to amend the Parks and Recreation Fees – Special Facilities Use and Facility Rental Fees.

WHEREAS, the Town’s Parks and Recreation Department operates the Herndon Community Center and other town parks and facilities; and

WHEREAS, the department is expected to recover 75 percent of its operating costs through fees and charges for services; and

WHEREAS, the department recommends adoption of the amendments stated below to the *Special Facilities Use and Facility Rental Fees*.

Indoor Tennis Center

Effective beginning with the September 2020 season:

Contract Time	Town of Herndon Resident	Non-Resident
Primetime	\$28	\$36
Non-Primetime	\$25	\$32
Youth/Seniors	\$22	\$26
Random Time	Town of Herndon Resident	Non-Resident
Primetime	\$32	\$40
Non-Primetime	\$27	\$34
Youth/Seniors	\$24	\$28

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby approves the *Amendment to Parks and Recreation Fees-Special Facilities Use and Facility Rental Fees*, and directs the Parks and Recreation Department to implement the amended fee schedule effective September, 2020.



DEPARTMENT OF PUBLIC WORKS

STAFF REPORT

Town Council
January 21, 2020

Title:

Resolution – Award of Contract IFB #20-06, Facility of Marketing of Recyclable Materials

Staff Contact:

Gerald W. Amacker (Jerry), VCA, VCO Purchasing Agent
(phone) 703-435-6800 ext. 2048
(e-mail) gerald.amacker@herndon-va.gov

Tammy Chastain, Deputy Director of Public Works
(phone) 703-435-6860
(e-mail) tammy.chastain@herndon-va.gov

Background:

This purpose of this contract is to attain the services of a qualified contractor to provide separation and proper distribution of recyclable materials that is collected by town staff and delivered to the facility by town equipment, by mixed load (single stream) consisting of acceptable material as defined by the contract.

On September 13, 2019, contract IFB #20-06, Facility for Marketing of Recyclable Materials, was advertised. On October 15, 2019, the following bid was received:

<u>Contractor</u>	<u>Bid</u>
BFI Transfer Systems of Virginia, LLC	\$98.65 per ton less commodity value

The only bidder, BFI Transfer Systems of Virginia, LLC, was determined to be responsive and responsible.

Fiscal Impact:

Funds to support this contract are available in the Refuse account (Recycling Tipping Fee) number 0010889-420290. Staff recommends Contract IFB #20-06, Facility for Marketing of Recyclable Materials, be awarded to BFI Transfer Systems of Virginia, LLC for per ton rate of \$98.65.

January 21, 2020

Staff Report: Resolution- Award of Contract IFB #20-06, Facility of Marketing of Recyclable Materials

Page 2 of 2

Staff Recommendation:

Staff recommends Town Council Award Contract IFB #20-06, Facility for Marketing of Recyclable Materials, be awarded to BFI Transfer Systems of Virginia, LLC for per ton rate of \$98.65.

Attachments:

Draft Resolution.

Staff:



Gerald W. Amacker
Purchasing Agent



Tammy Chastain
Deputy Director

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 28, 2020

Resolution- to Award Contract IFB #20-06, Facility of Marketing of Recyclable Materials.

WHEREAS, IFB #20-06, Facility of Marketing of Recyclable Materials, was budgeted in the General Fund for FY 20; and

WHEREAS, IFB #20-06, Facility of Marketing of Recyclable Materials, was advertised on September 13, 2019; and

WHEREAS, the following bid was received and opened on October 15, 2019 at a public bid opening:

<u>Contractor</u>	<u>Bid</u>
BFI Transfer Systems of Virginia, LLC	\$98.65 per ton less commodity value; and

WHEREAS, the only bidder, BFI Transfer Systems of Virginia, LLC, was determined to be responsive and responsible; and

WHEREAS, funds to support this contract are available in the Refuse account (Recycling Tipping Fee) number 0010889-420290. Staff recommends Contract IFB #20-06, Facility for Marketing of Recyclable Materials, be awarded to BFI Transfer Systems of Virginia, LLC for per ton rate of \$98.65.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract IFB #20-06, Facility of Marketing of Recyclable Materials, to BFI Transfer Systems of Virginia, LLC for per ton rate of \$98.65.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Director of Public Works designee to approve contract modifications (change orders) that increase service scope and costs, utilizing the service contingency.



STAFF REPORT

Town Council

Date: January 21, 2020

Title:

Resolution: Award of Contract for July 4th Fireworks Displays – RFP 20-03

Staff Contact:

Cindy S. Roeder
Director, Parks and Recreation Department
703-435-6800 x2123
cindy.roeder@herndon-va.gov

Background:

Staff issued a Request for Proposal for a fireworks display for the Fourth of July Celebration. In October, 2019 the RFP was posted to the EVA portal.

The fireworks proposals for the Fourth of July provides for a choreographed fireworks display to be electronically fired to provide a higher degree of safety in the firing of the show. The proposal provides for a base year and for four, one-year, renewable options. The proposal provides for evaluation based upon the artistic design in a choreographed display, the quantity, quality, diversity, and size of materials, experience and expertise and capabilities of the firm, and pyrotechnicians, references, and cancellation fees.

No proposals had been received at the deadline for submissions. Staff worked with the Purchasing Agent to seek a qualified firm to provide the show on the desired date. Ultimately, Digital Lightning LLC of Gaithersburg, MD expressed interest and submitted a contract proposal. Following review by the Finance Director and Risk Manager, the town returned the contract to Digital Lightning with modifications which they subsequently accepted. An acceptable contract has been submitted to the town for execution.

Fiscal Impact:

The Recreation Program Division budget provides \$23,000 for the Fourth of July fireworks, awarded on an annual basis.

Recommendation:

The staff recommends that the contract be awarded to Digital Lightning LLC, and that the Town Manager be authorized to enter into four (4) additional one- year contracts to implement the fireworks displays.

Reviewed By:

Gerald W. Amacker, Purchasing Agent

(Jerry)

Staff:

Cindy S. Roeder, Director of Parks and Recreation

**TOWN OF HERNDON, VIRGINIA
RESOLUTION**

January 28, 2020

Resolution- Award of Contract for Fourth of July Fireworks Display

WHEREAS, the competitive negotiation process (request for proposal) was used to solicit offers from fireworks contractors for the Fourth of July Celebration; and

WHEREAS, specifications were prepared for vendors to submit proposals and to provide for evaluation of proposals based upon artistry; capability for choreographed displays; the quantity, quality, diversity, and size of materials; experience and expertise of the firm and pyrotechnicians; references; cost for cancellation; and price; and

WHEREAS, funds are provided in the Parks and Recreation fiscal year 20 budget for fireworks in the amount of \$23,000 for the Fourth of July Celebration; and

WHEREAS, upon successful completion of the show, the contract may be renewed for up to four, one-year agreements; and

WHEREAS, staff has evaluated the proposal and recommends that the contract be awarded to Digital Lightning, LLC.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Herndon that it hereby awards RFP 20-03 to Digital Lightning, LLC.