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HERNDON TOWN COUNCIL
Tuesday
March 10, 2020

The Town Council met in public session on Tuesday, March 10, 2020, at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Mayor Lisa C. Merkel; Vice Mayor Sheila A. Olem; and Councilmembers Jennifer Baker; Cesar del Aguila; Pradip Dhakal; Signe Friedrichs; and Bill McKenna.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Chief Maggie DeBoard, Herndon Police; Scott Robinson, Director of Public Works; Lauri Sigler, Deputy Town Attorney; John Irish, Deputy Director of Public Works; Corporal Lora Nicholson, Herndon Police; Police Officer Kelsi Scaiefe, Herndon Police; and Margie C. Tacci, Deputy Town Clerk.

Mayor Merkel called the meeting to order at 7:00 p.m., all members present, and with Mayor Merkel presiding.

Mayor Merkel led the audience in the Pledge of Allegiance to the Flag of the United States of America.

ANNOUNCEMENTS

Mayor Merkel stated that the applicant for item #10, Ordinance 20-O-18, submitted a letter to withdraw the application. Therefore, the Council would forgo the public hearing and would not take action on this item.

Mayor Merkel stated that the applicant for item #11, Ordinance 20-O-19, asked that the public hearing be continued to April 14. Since this item was properly advertised, at the appropriate time later in the meeting, Mayor Merkel stated that she would open the public hearing for public comment and then would ask for a motion to continue.

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(public hearing)**

Mayor Merkel stated that staff is asking that the public hearing on item #14, Ordinance 20-O-22, be continued to March 24. Since this item was properly advertised, at the appropriate time later in the meeting, Mayor Merkel stated that she would open the public hearing for public comment and then would ask for a motion to continue.

APPROVAL OF MINUTES

**Vote on February 18, 2020
Work Session Minutes**

On motion of Vice Mayor Olem, seconded by Councilmember McKenna, and carried by 6-0 vote, the February 18, 2020 work session were approved. The vote was: Councilmembers Dhakal, del Aguila, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmember Baker abstaining.

**Vote on February 25, 2020
Public Hearing Minutes**

On motion of Councilmember Friedrichs, seconded by Councilmember McKenna, and carried by a 5-0 vote, the minutes of the February 25, 2020 public hearing were approved. The vote was: Councilmembers Baker, Friedrichs, McKenna, Vice Mayor Olem and Mayor Merkel voting "Aye." Councilmembers Dhakal and del Aguila abstaining.

PRESENTATIONS

3. Good Neighbor Award.

Mayor Merkel recognized Barbara Glakas from the town's Cultivating Community Initiative to introduce tonight's winners of the Good Neighbor Award.

Ms. Glakas gave background on the award winners, their actions, and their neighborhoods. Following her comments, the awards were presented to the winners: David and Sheree Cole; Bill and Norma Huntington; and Christian White.

4. Certificate of Support, to recognize Jennifer Taylor, Mrs. Herndon.

Mayor Merkel stated that the Council was honored to recognize Mrs. Taylor, who would be competing as "Mrs. Herndon" in the Mrs. Virginia pageant in South Hill, Virginia, April 3 through April 4. She recognized Councilmember Baker for comments.

Councilmember Baker provided brief comments.

Mrs. Taylor expressed her appreciation and provided brief comments on her recognition.

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Following her comments, the Certificate of Support was presented to Mrs. Taylor and her family.

5. Proclamation, to recognize "Distracted Driving Awareness Month," April 2020.

Councilmember Baker read the proclamation recognizing "Distracted Driving Awareness Month" into the record.

Chief Maggie DeBoard, Herndon Police, provided brief comments and expressed her appreciation for the recognition.

There were brief comments from Council.

The proclamation was presented to Chief DeBoard, Corporal Lora Nicholson and Officer Kelsi Scaiefe from the Herndon Police Department.

**TOWN OF HERNDON, VIRGINIA
PROCLAMATION
DISTRACTED DRIVING AWARENESS MONTH
APRIL 2020**

Distracted driving involves any activity that could divert a driver's attention away from the primary task of driving a vehicle. While texting consistently tops the list, other distractions include acts such as eating, changing the radio, talking on the phone, and applying makeup. All distractions endanger driver, passenger, and bystander safety. According to the National Highway Traffic Safety Administration (NHTSA), distracted driving is a deadly epidemic that, in 2017 alone, killed 3,166 people in the United States.

A poll by AAA revealed that 94 percent of teen drivers acknowledge the danger of texting and driving, but 35 percent of those polled admit they still text while driving. Each day, in the United States, 11 teens die as a result of texting and driving, and one of every four traffic crashes are caused by using cell phones. Another poll shows that 77 percent of adults and 55 percent of teenage drivers believe that they can easily manage both texting and driving simultaneously.

This April, NHTSA is teaming up with State and local law enforcement for *U Drive, U Text, U Pay*. This campaign will work to remind Americans of the consequences of distracted driving and save lives by making roads safer.

Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim the month of April 2020, as **Distracted Driving Awareness Month** in the Town of Herndon; support the Herndon Police Department in raising awareness

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about distracted driving; and encourage education about the significant dangers of distracted driving ~ especially texting and driving ~ improving highway safety for all Herndon citizens and visitors.

6. Proclamation, to recognize “Local Government Education Week,” April 1 – April 7, 2020.

Vice Mayor Olem read the proclamation recognizing “Local Government Education Week” into the record.

Following comments from Council, Mayor Merkel recognized William H. Ashton II, Town Manager, for remarks.

Mr. Ashton stated that currently, more individuals are focused on the federal government level due to Presidential politics. However, local governments are an everyday occurrence. In this day and age with the news and social media platforms, he stated that we need educate our youth about our local government and how it works. He stated that it was not always about the federal government, but it was the everyday efforts of the dedicated workers in local government, who maintain and work in our town. Presently, he stated that our youth were not engaging in or understanding local government as they should and it was our responsibility to teach them.

Mr. Ashton stated that the town is very fortunate to have the Herndon Youth Advisory Council, who are learning about local government. However, we have to continue to support and educate them, as they are the next generation of local government leaders.

The proclamation was presented to Mr. Ashton and members of the town staff that were present.

**TOWN OF HERNDON, VIRGINIA
PROCLAMATION
LOCAL GOVERNMENT EDUCATION WEEK
April 1 - APRIL 7, 2020**

On February 29, 2012, the Virginia General Assembly designated the first week of April as **Local Government Education Week** throughout the Commonwealth of Virginia. This week was selected because on April 2, 1908, the Council-Manager form of government was created in the City of Staunton, Virginia. During **Local Government Education Week**, municipalities throughout the Commonwealth are recognized for the valuable services provided to the residents and communities they serve.

Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim the week of April 1 – April 7, 2020, as **Local Government Education Week** in the Town of Herndon; express appreciation to the town staff for the vital

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role they play in educating our community through initiatives, such as ~ youth and citizen police academies; National Night Out; participation in local school activities; providing internship opportunities to students; promoting career opportunities at the town; safety, building and home maintenance workshops; enforcement of state and local laws; and community meetings on matters important to our citizens.

Further, the Mayor and Town Council of the Town of Herndon, Virginia, hereby express gratitude to the town staff for their dedication to our residents; recognize that citizen services ~ including law enforcement, public health and safety, recreation, and educating local children ~ are best delivered at the local level; and encourage increased civic education and engagement to strengthen our sense of community throughout Herndon, both during **Local Government Education Week** and throughout the year.

7. COMMENTS FROM THE TOWN MANAGER

William H. Ashton II, Town Manager, provided an update regarding the Coronavirus. He stated that staff has been in contact with Fairfax County, the Fairfax County Health Department, and the Centers for Disease Control. He stated that the town does not have a health department and to visit Fairfax County's website for the most recent information on the Coronavirus, because they are doing a good job of keeping the public informed. He stated that the senior management staff was monitoring how staff interfaces with the public to mitigate exposure to employees. The senior management staff has been discussing and preparing contingency plans in the case the Coronavirus hits our area. The plan would include critical functions (police, water and sewer, etcetera), staffing, teleworking, and other initial operations of the town. As the town receives updates on the Coronavirus they would be posted on the towns website.

8. COMMENTS FROM THE TOWN COUNCIL

Councilmember Friedrichs: Stated that she did not get a chance to say a few words about Christian "Christy" White following her recognition earlier in the meeting during the "Good Neighbor Award" presentation. She stated that Christy is the definition of a good neighbor and luckily enough she lives across from Councilmember Friedrichs' mother at the Herndon Harbor House. Christy makes sure that the Harbor House is a caring, stable, and enjoyable place for seniors to live. She stated that if it were not for Christy, Councilmember Friedrichs' mother would not be able to live as close to her.

Councilmember Dhakal: Expressed his appreciation to the Town Manager and budget team for their one-on-one budget meeting with him. He stated that during his meeting with staff, he requested additional investment in technology to better streamline efforts; a comparison between decreasing and increasing tax rates with other municipalities in the Commonwealth so the Council could make a uniform decision; and reviewing better

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spending practices (e.g. vehicle life cycle, recycling, trash, etcetera) for the future. He encouraged citizens to continue providing their comments and concerns on the budget to Council and staff.

Councilmember Dhakal stated that he again enjoyed the last Community Roundtable on Saturday, February 29, 2020. He stated that the citizens asked excellent questions regarding sustainability, affordable housing, and other items. He has forwarded additional questions to the Town Manager that he was not able to answer.

Councilmember del Aguila: Echoed Councilmember Friedrichs' comments about Christy White. Ms. White was the first person he met when he moved to the town and he, too, recognized how much she cares.

Councilmember del Aguila echoed Councilmember Dhakal's comments on the recent Community Roundtable. He stated that he saw new people and gained some new perspectives. He stated that the conversations were good and though he may not agree with some aspects, that the interactions were good. He encouraged citizens to continue to provide their comments and concerns on the budget and other items to Council and staff.

Vice Mayor Olem: Congratulated the Good Neighbor Award winners who were honored that evening. She stated that these awards are exactly why she loves living in Herndon, and why she would stay in the town. She appreciated neighbors looking after each other.

9. COMMENTS FROM THE AUDIENCE

The following members of the audience provided comments:

- Diane Weiss, 706 Morningside Court, Herndon, provided comments regarding her concerns about traffic lights and safety in Herndon, especially the intersection of Summerfield Drive and Herndon Parkway. She stated that staff had communicated with her; however, she did not feel that it answered her concerns.

Ms. Weiss stated that she had talked to Councilmember del Aguila last Tuesday, March 3, 2020. Following their discussion, Councilmember del Aguila informed her about the upcoming Pedestrian Bicycle Advisory Committee meeting on Thursday, March 19, 2020. She plans to attend the meeting; however, she could not find any information about it on the town's website.

Ms. Weiss stated that she has been interviewing Four Seasons residents and it has come to her attention that many are not happy with the Four Season Recreation Association. She stated this was not the Homeowners Association or the Architectural Review Board. She stated that she feels that they are not providing public access where needed.

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In response to Ms. Weiss, Mayor Merkel stated that a work order has been requested for the traffic light at Summerfield Drive and Herndon Parkway and it should be reviewed in the next week or so.

- Ann Vayda, 631 Oak Street, Herndon, provided comments regarding the carefully placed language relating to the “conservation efforts” of Heritage Preservation Review Board guidelines on the town’s website. She stated she could not find any data; no mention of documented cases; no documentation on real estate appreciation on historic homes; and she knows of only a handful of historic homeowners that have been interviewed out of the 100 plus of them in the town.
- Jay Hadlock, 515 Alabama Drive, Herndon, provided written comments for the record, which are on file in the town clerk’s office. He spoke about residential real estate assessments; recycling costs; peak water rates; grant funding; and the Metro Stop Promenade.
- William Campenni, 1104 Iron Ridge Court, Herndon, provided written comments for the record, which are on file in the town clerk’s office. He spoke about removing Section 3.1 “Candidates for town offices shall not be identified on the ballot by political affiliation” of the Town Charter.
- Barbara Glakas, 935 Barton Oaks Place, Herndon, stated that the Herndon Depot Museum’s grand reopening on Sunday, March 1, 2020, was a success. She stated that the Herndon Historical Society would be holding two upcoming events. Tuesday, March 17, is the 157th anniversary of Mosby’s Raid on Herndon Station. To commemorate this, the Herndon Historical Society would be having a Civil War and Mosby Book Sale at the Herndon Depot Museum every Sunday in the month of March, from noon to 3:00 pm. On Sunday, March 22, 2020, the Historical Society would be celebrating Women’s History Month with a program titled “Mr. President, How Long Must Women Wait for Liberty.”

PUBLIC HEARINGS

10. **Ordinance 20-O-18, to approve and authorize the Mayor to sign a fourth lease amendment to APC Realty and Equipment Company, LLC to revise the approved equipment list, premises description, and drawings at the Town’s 3rd Street Water Tower.**

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the Friday, February 21 and Friday, February 28, 2020 issues.

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Mayor Merkel stated that as she mentioned earlier, the applicant for this item submitted a letter to withdraw their application. The letter has been entered into the record and is on file in the Town Clerk's office. She stated that therefore, the Council would forgo the public hearing and would not take action on this item.

11. **Ordinance 20-O-19, to approve and authorize the Mayor to sign a second lease amendment to Cellco Partnership d/b/a Verizon Wireless to revise the premises description, approved equipment list, and drawings at the Town's 3rd Street Water Tower.**

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the Friday, February 21 and Friday, February 28, 2020 issues.

Mayor Merkel stated that as she mentioned earlier, the applicant submitted an email requesting that the Council continue the public hearing on this item to April 14, 2020. The email has been entered into the record and is on file in the Town Clerk's office. Since the public hearing was properly advertised, she stated that the public hearing would be held.

Mayor Merkel opened the public hearing and asked if there were any disclosures from Council.

Disclosure:

- **Vice Mayor Olem** stated, for the record, that she is the owner of a commercial property in North Augusta, South Carolina. The group she leases to is in the Verizon Global Real Estate division of Cellco Partnership d/b/a Verizon Wireless, out of Temple Terrace, Florida. She stated that she was able to participate in the discussion and action on this application fairly, objectively, and in the public interest and she has filed the appropriate papers with the Town Clerk and Town Attorney.

Mayor Merkel recognized Town Attorney, Lesa Yeatts for an update.

Mrs. Yeatts provided a brief update on the applicant's request to continue.

On motion of Vice Mayor Olem, seconded by Councilmember McKenna (there were no comments from the audience), and carried by unanimous vote, the public hearing on Ordinance 20-O-19 was **CONTINUED** to April 14, 2020. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

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12. Ordinance 20-O-20, to approve the assignment of a Power Utility Easement to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, acquired by the Town of Herndon for transportation facility improvements for the Herndon Metrorail Access Improvements along Herndon Parkway, Herndon, Virginia, on property owned by Kiddar Herndon Station, LLC, Tax Map #: 0164-10-0006;
13. Ordinance 20-O-21, to approve the assignment of a Power Utility Easement to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, acquired by the Town of Herndon for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia, on property owned by Garth J. Norris and Tracy L. Norris, Tax Map #: 0162-02-0147; and
14. Ordinance 20-O-22, to approve the assignment of a Power Utility Easement to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, acquired by the Town of Herndon for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia, on property owned by Valarie J. Winstead, Trustee, Tax Map #: 0162-02-0146 (Public Hearing to be continued).

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearings had been duly advertised in the Friday, February 21 and Friday, February 28, 2020 issues.

Mayor Merkel opened the public hearings and stated that she would recognize staff for the concurrent staff reports at tonight's meeting. There would be separate public hearings with roll call votes on each item. She stated that staff was recommending that Council continue the public hearing on item #14 on the agenda (Winstead). Since this item was properly advertised, the public hearing would be held. She recognized Lauri Sigler, Deputy Town Attorney, for the staff reports.

Ms. Sigler presented the staff reports dated March 3, 2020, which are on file in the Town Clerk's office. She stated that the three items were easements that the town acquired on behalf of Virginia Electric and Power Company (Dominion). Number 14 on the agenda, Kiddar Herndon Station, LLC, was part of the bus bays project and the other two easements were part of the Van Buren Street project. Since the town has secured title to the parcels for items 12 and 13 on the agenda, the town needed to assign and convey the easement rights to Dominion. Once received, Dominion could start relocating utilities. Additionally, staff is recommending that the Council continue the public hearing on item 14, property belonging to Valarie Winstead. Ms. Sigler stated

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this was the deed that had been recorded between the title and the filing of the certificate. Staff recommends approval of the other two ordinances, as presented.

Ordinance 20-O-20

Following the public hearing (there were no comments from the audience), Councilmember Friedrichs moved approval of Ordinance 20-O-20, as presented. Vice Mayor Olem seconded the motion.

There were brief comments from Council.

The question was called on the motion, which carried by unanimous roll call vote. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-20, To approve the assignment of a Power Utility Easement to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, acquired by the Town of Herndon for transportation facility improvements for the Herndon Metrorail Access Improvements along Herndon Parkway, Herndon, Virginia, on property owned by Kiddar Herndon Station, LLC, Tax Map #: 0164-10-0006.

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

1. The Town Council approves the assignment of a Power Utility Easement from the Town to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia ("Dominion"), to assign the power utility easement acquired by the Town of Herndon from Kiddar Herndon Station, LLC, by that certain Deed of Dedication and Easement dated November 11, 2019 and recorded in Deed Book 25976, Page 1994, in the Fairfax County land records ("Kiddar Deed"). The power utility easement allows for the relocation of electric facilities which are necessary as part of the transportation facility improvements for the Herndon Metrorail Access Improvements along Herndon Parkway, Herndon, Virginia.
2. This power utility easement contains approximately 3,825 square feet and is located on property owned by Kiddar Herndon Station, LLC, at acquisition, now owned by Bristol Herndon Parkway, LLC, known as Tax Map#: 0164-10-0006, as is more particularly shown on the Plat dated November 7, 2019 prepared by Precision Measurements, Inc. and attached to the recorded Kiddar Deed.

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3. The Mayor is authorized to sign and deliver an assignment of easement and associated instruments necessary to evidence, effect, or correct this assignment. This assignment shall be on such form as approved by the Town Attorney.
4. This ordinance shall be effective on and after the date of its adoption.

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[Note: Attached for reference are the assignment of power utility easement from the town to Virginia Electric & Power Company d/b/a Dominion Energy Virginia to assign the power utility easement acquired by the town from Kiddar Herndon Station, LLC ("Kiddar Deed") dated November 11, 2019 and the Plat #1447202, dated November 7, 2019, prepared by Precision Measurements, Inc.]

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Prepared by:
Lauri A. N. Sigler, VSB No. 39778
Deputy Town Attorney
Town of Herndon
777 Lynn Street, Herndon VA 20170

Return to:
Dominion Energy Virginia
Attn: James W. West
3072 Centreville Road
Herndon, VA 20171

Tax Map # 016-2-0147

ASSIGNMENT OF POWER UTILITY EASEMENT

For and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the TOWN OF HERNDON, VIRGINIA, a Virginia municipal corporation (GRANTOR), located at 777 Lynn Street, Herndon, Virginia 20170-4602, and BRISTOL HERNDON PARKWAY, LLC (additional GRANTOR for indexing purposes only, successor in interest to Herndon Station LLC, by Deed dated January 28, 2020, and recorded in Deed Book 2605, at Page 791) hereby assigns and transfers to VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia corporation, doing business in Virginia as Dominion Energy Virginia (GRANTEE), all of its right, title and interest in and to that certain Power Utility Easement recorded in Deed Book 26092, at Page 435, among the land records of Fairfax County, Virginia, a copy of which is attached hereto as an Exhibit A. This Assignment of Power Utility Easement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

--- SEE FOLLOWING PAGES FOR SIGNATURES ---

Attachment
20-O-20

**March 10, 2020
(public hearing)**

TOWN OF HERNDON, VIRGINIA,
a Virginia municipal corporation

By: _____
Lisa C. Merkel, Mayor

ATTEST:

Town Clerk

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX:

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by LISA C. MERKEL, Mayor of the Town of Herndon, a Virginia municipal corporation, on behalf of the Town of Herndon.

Notary Public

My Commission Expires: _____

Registration No. _____

APPROVED AS TO FORM:

Town Attorney

Attachment
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**VIRGINIA ELECTRIC AND POWER
COMPANY**, a Virginia corporation, doing
Business in Virginia as
Dominion Energy Virginia

By: _____
Shaun Reilly
Its: _____
Authorized Representative

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this ____ day of _____,
2020 by Shaun Reilly as Authorized Representative for Virginia Electric and
Power Company, a Virginia Corporation.

Notary Public
My Commission Expires: _____
Registration No. _____

Attachment
20-O-20

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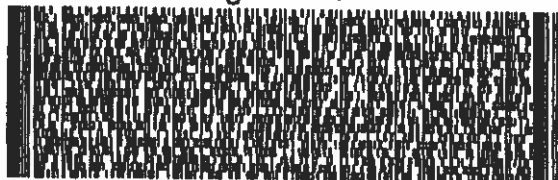
2019075206.001

BK 25976 1994

11/13/2019 14:18:00

Fairfax Circuit Court Coversheet Generator

Cover Sheet Page 1 of 1



Consideration	\$1,635,000.00	Consideration/Actual Value %	100
Actual/Assessed	Tax Exemption	NONE	Amount Not Taxed
Code Section	58.1-811, 58.1-3315, 25.1-418, 42.1-70, 17.1-286, 17.1279		
DEN Number			
Original Book	25339	Original Page	1304
Title Company	NONE	Title Case	
Property Descr.	LAND	Multiple Lots?	NO
Return To Party Name:	LESA YEATTS, TOWN ATTORNEY	Address:	777 LYNN STREET, HERNDON, VA 20172
No. of Certified Copies	0	No. of Non-certified Copies	0
		Page Range	

Document Type(s)

DEDICATION

Grantor(s)

KIDAR HERNDON STATION, LLC_L_N

Grantee(s)

TOWN OF HERNDON_L_N

Tax Map Number

016-4- -10- -0008-

Attachment
20-O-20

March 10, 2020 (public hearing)

BK 25976 1995

 Prepared by/Return to: Town of Herndon 777 Lynn Street, Herndon, VA 20172
 Attn: Lisa Yeatts, Town Attorney
 Tax Map No. 0164-10-0006

Exempted from recordation taxes
 under Sections 58.1-811 (A) (3),
 58.1-811(C)(5), 58.1-3315, 25.1-418, 42.1-70,
 17.1-266, and 17.1-279(E)

DEED OF DEDICATION AND EASEMENTS

THIS DEED OF DEDICATION AND EASEMENTS (the "Deed") is made this 1st day of Nov, 2019, by and between KIDDAR HERNDON STATION, LLC, ("Owner" or "Grantor"); KEN GRAY and TIMOTHY ANNETT, each a resident of the Commonwealth of Virginia, either of whom may acts, as Trustees (together, the "Trustees" or "Trustee Grantors") and whose business address is 8425 Boone Boulevard, Suite 820, Tysons Corner, Virginia 22182; EAGLEBANK, a Maryland banking corporation ("Beneficiary"); and the TOWN OF HERNDON, a Virginia municipal corporation ("Town" or "Grantee").

WITNESSETH:

WHEREAS, Owner is the owner of certain real property located in the Town of Herndon, Virginia, at 575 Herndon Parkway, Herndon, Virginia, and more particularly described as Tax Map No. 016 4 10 0006 (the "Property"), having acquired the Property by Special Warranty Deed from 575 Herndon Parkway Investors LLC, a Delaware limited liability company to Kiddar Herndon Station LLC, a Virginia limited liability company and recorded in Deed Book 25339 at Page 1304, among the land records of Fairfax County, Virginia.

WHEREAS, by Credit Line Deed of Trust and Security Agreement, dated February 23, 2018, recorded February 28, 2018, in Deed Book 25339, Page 1312 (the "Deed of Trust"), the Property was conveyed in trust to Trustees to secure a certain indebtedness to Beneficiary.

WHEREAS, it is proposed by the Town to construct transportation improvements identified as the Herndon Metrorail Access Improvements Project on Herndon Parkway ("the Project"). The Project is further identified by the Town's Project Code Number (UPC) 104328; State Project Number U000-235-353, RW-201; and Federal Project Number CM-5A01 (863).

WHEREAS, the Property is shown as Parcel 003 on the Project plan sheets labelled "PLAT SHOWING TWO RIGHT-OF-WAY DEDICATIONS, ONE PERMANENT EASEMENT AND TWO TEMPORARY EASEMENTS ON THE PROPERTY OF KIDDAR HERNDON STATION, LLC (D.B. 25339, PG. 1304)" (the "Plat Sheet") dated November 5, 2019 and prepared by Precision Measurements Inc. which Plat Sheet is attached hereto and made a part hereof.

WHEREAS, it is the desire and intent of the Owner to grant and convey unto the Town the dedication area and the property easements on the locations as shown on the Plan Sheets.

WHEREAS, the construction of the aforesaid Project makes it necessary to relocate the Dominion Facilities further described herein, and it is the desire and intent of the Owner to grant and convey to the Town a power easement for further assignment to a public service corporation.

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BK 25976 1996

WHEREAS, the parties have now agreed upon the following amount of just compensation for the land and/or interests therein and damages to the remainder, if any and for all other claims and demands by the Town against the Owner arising out of the conveyance of this land or interest therein, under threat of condemnation.

STREET DEDICATION

NOW THEREFORE, in consideration of the premises and the consideration stated herein, the receipt and sufficiency of which is hereby acknowledged, Owner does hereby dedicate to the Town the following land in fee simple for public use:

Right of Way dedication in the total amount of 5750 square feet comprised of 1) 24 square feet as more particularly identified as "PROP R/W 5 0.001 ACRE (24 S.F.) HEREBY DEDICATED" and shown on Plat Sheet and 2) 5726 square feet as "PROP R/W 6 0.131 ACRE (5726 S.F.) HEREBY DEDICATED" and shown on Plat Sheet. This dedication is made with the free consent and in accordance with the desires of the undersigned Owner and in accordance with statutes made and provided therefore.

TEMPORARY CONSTRUCTION EASEMENTS

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the consideration stated herein, the receipt and sufficiency of which is hereby acknowledged, Owner does hereby grant and convey unto the Town, its successors and assigns, temporary construction and grading easements ("the TCE") in a total amount of 2864 square feet for the purpose of the necessary construction and grading through, upon and across the Property comprised of 1) 316 square feet as more particularly identified on Plat Sheet as "PROP. TEMP. CONST. EASEMENT 6 0.007 Acre (316 S.F.) HEREBY DEDICATED" and 2) 2548 square feet as more particularly identified on Plat Sheet as "PROP. TEMP. CONST. EASEMENT 7 0.058 ACRE (2548 S.F.) HEREBY DEDICATED" The TCE shall become null and void at such time as grading and construction is complete and the work is accepted by the Town.

The TCE is subject to following conditions:

1. The Town, its agents or assigns, shall have full and free use of the said easements and right-of-way for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise of the easements and right-of-way, including the right of access to and from the right-of-way, and the right to use land adjoining the easements where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance and then only to the minimum extent reasonably necessary for such construction and maintenance, and further, this right shall not be construed to allow the Town to erect any building, structure or facility of a permanent nature on such adjoining land.
2. The Town, its agents or assigns shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in or reasonably near the

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(public hearing)**

BK 25976 1997

easements being conveyed, deemed by it to interfere with the proper and efficient construction and grading of the property herein conveyed; provided, however, that the Town, at its own expense, shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the resetting of or the replacement of any existing fences, the replacement or transplanting of any shrubbery located within said easements and the seeding or sodding of the denuded areas, but not the restoration of the original grade or topography or the replacement of structures, trees or other obstructions located within said easements.

3. The Owner reserves the right to construct and maintain roadways over said easements and to make any use of the easements herein granted which may not be inconsistent with the rights herein conveyed or interfere with the use of said easements by the Town for the purposes named; provided, however, while the TCE remains in effect, the Owner shall not erect any building or other structure, excepting a fence, on the easements without obtaining the prior written approval of the Town.

POWER EASEMENT

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the consideration stated herein, the receipt and sufficiency of which is hereby acknowledged, Owner does hereby grant and convey unto the Town, its successors and assigns, in accordance with the provision of Sections 15.02-1902 and 33.2-1014, Code of Virginia (1950), as amended, the perpetual right, privilege and non-exclusive easement over, under, through, upon and above and across the Property identified on Plat Sheet as "PROP. DOMINION EASEMENT 0.088 ACRE (3,825 S.F.) HEREBY DEDICATED" (the "Dominion Easement") in order that same may then be assigned and conveyed to Virginia Electric and Power Company, doing business in Virginia as Dominion Energy Virginia (hereinafter "Dominion"), its successors and assigns, for the purpose of granting Dominion the exclusive and perpetual right for transmitting and distributing electric power by one or more circuits; for Dominion's 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. The Dominion Easement and Dominion Facilities installed thereon as hereinabove described are subject to the following conditions:

1. Dominion shall have the right to lay, construct, operate, maintain, one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as Dominion may from time to time determine, and all wires conduit, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith ("Dominion Facilities").

2. All facilities constructed hereunder shall remain the property of Dominion. Dominion shall have the right to inspect, reconstruct, remove, repair, improve, relocate on and within the easement area, including but not limited to the airspace

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(public hearing)**

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above the property controlled by Owner, and make such changes, alterations, substitutions, additions to or extensions of its facilities as Dominion may from time to time deem advisable.

3. Dominion 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 Dominion shall remain the property of Owner.

4. For the purpose of exercising the right granted herein, Dominion 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 Owner. The right, however, is reserved to Owner 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, Dominion shall have such right of ingress and egress over the lands of Owner adjacent to the easement. Dominion shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to Owner.

5. Dominion shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to Dominion's rights set forth in Paragraph 3 above) and (b) outside the boundaries of the easement and shall repair or pay Owner, at Dominion's option, for other damage done to Owner's property inside the boundaries of the easement (subject, however, to Dominion's rights set forth in Paragraph 3 above) and outside the boundaries of the easement caused by Dominion in the process of the construction, inspection, and maintenance of Dominion's facilities, or in the exercise of its right of ingress and egress; provided Owner gives written notice thereof to Dominion within sixty (60) days after such damage occurs.

6. Owner, 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 Dominion's exercise of any of its rights hereunder. Owner shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, Owner may construct on the easement fences, landscaping (subject, however, to Dominion's rights in Paragraph 2 above), 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 Dominion's exercise of any of its rights granted hereunder. In the event such use does interfere with Dominion's exercise of any of its rights granted hereunder, Dominion may, in its reasonable discretion, relocate such facilities as may be practicable to a new site designated by Owner and acceptable to Dominion. In the

**March 10, 2020
(public hearing)**

BK 25976 1999

event any such facilities are so relocated, Owner shall reimburse Dominion for the cost thereof and convey to Dominion an equivalent easement at the new site.

7. Dominion'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 Dominion's obligations as a public service company or such other obligations as may be related to or incidental to Dominion'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.

RELEASE AND TRUST SUBORDINATION

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, each of the Trustees, as authorized to act by the Beneficiary as shown by their execution hereof, do hereby release the that portion of the Property dedicated in fee simple from the liens of the respective Deeds of Trust.

In addition, the Trustees, as authorized to act by the Beneficiary, as shown by their execution hereof, do hereby subordinate the liens of the Deeds of Trust to the Easements granted herein.

It is expressly understood that the release of the that portion of the Property dedicated in fee simple from the liens of the Deeds of Trust, and the subordination of the liens of the Deeds of Trust to the Easements granted herein, shall not affect in any way the lien of the Deeds of Trust upon the other land conveyed thereby and not subject to said Easements, and the Deeds of Trust shall remain in full force and effect as to the land conveyed thereby, subject to said subordination.

ADDITIONAL CONSIDERATION

\$1,635,000 in full for the fee simple land, permanent utility easement, temporary construction easements, and any landscaping impacted by this Project, including any damages if any.

GENERAL PROVISIONS

The parties agree that the agreements and covenants stated above are not covenants personal to the Owner but are covenants running with the land, which are and shall be binding upon the Owner, its heirs, personal representatives, successors and assigns, as owner of the Property.

This Deed is made in accordance with the statutes made and provided in such cases; with the approval of the proper authorities of the Town of Herndon, Virginia, as shown by the signatures affixed to this Deed, and is with the free consent and in accordance with the desire of the Owner, owner and proprietor of the land shown on the Plan Sheets. The Owner by execution of this instrument acknowledges that the plans for the aforesaid project as they affect the Property have been fully explained to the authorized representatives.

**March 10, 2020
(public hearing)**

BK 25976 2000

The Owner covenants that they have the right to convey the land to the Town, that they have done no act to encumber the same and that they will execute such further assurance of the same as may be requisite.

The Town's execution of this Deed shall evidence the Town's acceptance of these easement rights and the fee simple title to the property and facilities now or later installed in the easement area(s). The Mayor is authorized to execute this deed on behalf of the Town.

The Owner covenants and agrees, that the consideration hereinabove mentioned and paid by Town shall be in lieu of any and all claims to compensation for easements, improvements, and for damages, if any.

This document may be executed in counterparts, which, taken together, shall constitute one and the same instrument.

FURTHER WITNESS THE FOLLOWING SIGNATURES AND SEALS ON THE FOLLOWING
PAGES

**March 10, 2020
(public hearing)**

BK 25976 2001

Kiddar Herndon Station, LLC

By: Bristol Capital Corporation,
It's Manager

By: [Signature] (SEAL)
David A. Sislen, President

STATE/Commonwealth of Maryland

CITY/COUNTY OF Bethesda / Montgomery to-wit:

The foregoing instrument was acknowledged before me this 11 day of November

2019, by David A. Sislen, President of Bristol Capital Corporation, Manager of Kiddar Herndon Station, LLC.

My Commission Expires: 7/14/21
Registration Number: _____

[Signature]
Notary Public

WENDY LYNETT HADKEY
Notary Public
Montgomery County
Maryland
My Commission Expires July 14, 2021

March 10, 2020
(public hearing)

BK 25976 2002

BENEFICIARY: EAGLEBANK

Ken Gray or Timothy Anne (SEAL)
Ken Gray or Timothy Anne, Trustees

STATE/Commonwealth of Maryland
CITY/COUNTY OF Montgomery, to-wit:

The foregoing instrument was acknowledged before me this 12 day of November 2019, by
Ken Gray, Trustee.

Wendy Lynett Hackey
Notary Public

My Commission Expires: 7/14/21

Registration Number: _____



**March 10, 2020
(public hearing)**

BK 25976 2003

TOWN OF HERNDON, VIRGINIA, a
Virginia Municipal Corporation

By *Lisa C. Merkel* (SEAL)
Lisa C. Merkel, Mayor

ATTEST:

Vivian Wellerham (SEAL)
Town Clerk



COMMONWEALTH OF VIRGINIA
FAIRFAX COUNTY, to-wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Lisa C. Merkel as Mayor of the Town of Herndon, Virginia, whose name is signed to the foregoing deed, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

Given under my hand this 3rd day of November, 2019.

Victoria Lee Wellerham
Notary Public

My Commission Expires: 9.30.22
Registration Number: #123614



APPROVED AS TO FORM:

Lesa J. Yeatts (SEAL)
Lesa J. Yeatts, Town Attorney

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Plat Attached

11/13/2019
RECEIVED FAIRFAX COUNTY
CLERK

Attachment
20-O-20

**March 10, 2020
(public hearing)**

Ordinance 20-O-21

Following the public hearing (there were no comments from the audience), Vice Mayor Olem moved approval of Ordinance 20-O-21, as presented. Councilmember McKenna seconded the motion.

There were brief comments from Council.

The question was called on the motion, which carried by unanimous roll call vote. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-21, To approve the assignment of a Power Utility Easement to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia, acquired by the Town of Herndon for transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia, on property owned by Garth J. Norris and Tracy L. Norris, Tax Map #: 0162-02-0147.

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

1. The Town Council approves the assignment of a Power Utility Easement from the Town to Virginia Electric and Power Company, a Virginia public service corporation, doing business in Virginia as Dominion Energy Virginia ("Dominion"), to assign the power utility easement acquired by the Town of Herndon from Garth J. Norris and Tracy L. Norris, by that certain Deed of Dedication and Easement dated December 27, 2019, and recorded in Deed Book 26092, Page 435, in the Fairfax County land records ("Norris Deed"). The power utility easement allows for the relocation of electric facilities which are necessary as part of the transportation facility improvements to Van Buren Street from Spring Street to Herndon Parkway, Herndon, Virginia.
2. This power utility easement contains approximately 49 square feet and is located on property owned by Garth J. Norris and Tracy L. Norris, known as Tax Map#: 0162-02-0147, as is more particularly shown on Plat Number 40-19-0183 prepared by Dominion and attached to the recorded Norris Deed.
3. The Mayor is authorized to sign and deliver an Assignment of Easement and associated instruments necessary to evidence, effect, or correct this assignment. This assignment shall be on such form as approved by the Town Attorney.

**March 10, 2020
(public hearing)**

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

[Note: Attached for reference is the assignment of power utility easement from the town, Virginia Electric & Power Company d/b/a Dominion Energy Virginia, to assign the power utility easement acquired by the town from Garth J. Norris and Tracy L. Norris, ("Norris Deed") dated December 27, 2019 and the Plat #40-19-0183 prepared by Dominion Energy Virginia.]

**March 10, 2020
(public hearing)**

Prepared by:

Lauri A. N. Sigler, VSB No. 39778
Deputy Town Attorney
Town of Herndon
777 Lynn Street, Herndon VA 20170

Return to:

Dominion Energy Virginia
Attn: James W. West
3072 Centreville Road
Herndon, VA 20171

Tax Map # 016-2-0147

ASSIGNMENT OF POWER UTILITY EASEMENT

For and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the TOWN OF HERNDON, VIRGINIA, a Virginia municipal corporation (GRANTOR), located at 777 Lynn Street, Herndon, Virginia 20170-4602, and GARTH J. NORRIS, JR and TRACEY L. NORRIS (additional GRANTORS for indexing purposes only) hereby assigns and transfers to VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia corporation, doing business in Virginia as Dominion Energy Virginia (GRANTEE), all of its right, title and interest in and to that certain Power Utility Easement recorded in Deed Book 26092, at Page 435, among the land records of Fairfax County, Virginia, a copy of which is attached hereto as an Exhibit A. This Assignment of Power Utility Easement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

--- SEE FOLLOWING PAGES FOR SIGNATURES ---

Attachment
20-O-21

**March 10, 2020
(public hearing)**

TOWN OF HERNDON, VIRGINIA,
a Virginia municipal corporation

By: _____
Lisa C. Merkel, Mayor

ATTEST:

Town Clerk

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX:

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by LISA C. MERKEL, Mayor of the Town of Herndon, a Virginia municipal corporation, on behalf of the Town of Herndon.

Notary Public

My Commission Expires: _____

Registration No. _____

APPROVED AS TO FORM:

Town Attorney

Attachment
20-O-21

**March 10, 2020
(public hearing)**

**VIRGINIA ELECTRIC AND POWER
COMPANY**, a Virginia corporation, doing
Business in Virginia as
Dominion Energy Virginia

By: _____
Shaun Reilly

Its: _____
Authorized Representative

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this ____ day of _____,
2020 by _____ Shaun Reilly as Authorized Representative for Virginia Electric and
Power Company, a Virginia Corporation.

Notary Public
My Commission Expires: _____
Registration No. _____

Attachment
20-O-21

**March 10, 2020
(public hearing)**

2020014253.012

BK 26092 0435

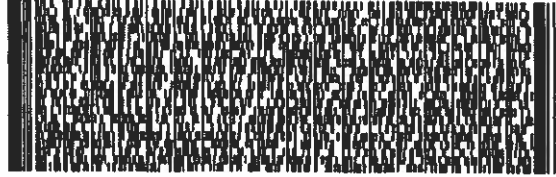
02/20/2020 14:27:35

2/19/2020

Display Barcodes - Fairfax Circuit Court

Fairfax Circuit Court Coversheet Generator

Cover Sheet Page 1 of 1



Consideration	\$0.00	Consideration/Actual Value %	100
Actual/Assessed	Tax Exemption	NONE	Amount Not Taxed
Code Section	58.1-811, 58.1-3315, 25.1-418, 42.1-70, 17.1-266, AND 17.1-279		
DEM Number			
Original Book	Original Page		
Title Company	NONE	Title Case	
Property Descr.	405 VAN BUREN STREET	Multiple Lots?	NO
Return To Party Name:	TOWN OF HERNDON, ATTORNEY'S OFFICE	Address:	777 LYNN STREET, HERNDON VA 20170
No. of Certified Copies	0	No. of Non-certified Copies	0
		Page Range	

Document Type(s)

DEDICATION

Grantor(s)

GARTH J NORRIS JR_I_N, TRACEY L NORRIS_I_N

Grantee(s)

TOWN OF HERNDON, VIRGINIA_I_N

Tax Map Number

018-2--02--0147-

49

<https://ccr.fairfaxcounty.gov/CoverSheet/Coversheet/DisplayBarcodes>

1/1

Attachment
20-O-21

**March 10, 2020
(public hearing)**

BK 26092 0436

Prepared by:
Lauri A.N. Sigler, VSB No. 39778
Deputy Town Attorney
Town of Herndon
777 Lynn Street
Herndon, Virginia 20170

Tax Map No. 0162-02-0147

THIS DEED OF DEDICATION AND EASEMENT (the "Deed") is made this 27th day of December, 2019, by and between **GARTH J. NORRIS, JR.** and **TRACEY L. NORRIS**, (hereinafter referred to as "Owners") and the **TOWN OF HERNDON, VIRGINIA**, a municipal corporation (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, the Owners are the owners and proprietors of certain real property (the "Property") as shown on Plat #4 of Job # RK1807.01, dated July 17, 2019, for PARCEL 6 entitled Plat Showing "A VARIABLE WIDTH STREET RIGHT-OF-WAY DEDICATION & A VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT ON THE PROPERTY OF **GARTH J. NORRIS, JR., TRACEY L. NORRIS**" and prepared by H&B Surveying and Mapping, LLC of Richmond, Virginia, (the "Plat") which Plat is attached hereto; and

WHEREAS, the Property is situate in Fairfax County, Virginia, Owner having acquired the Property by deed recorded in Deed Book 20960, at page 405, among the land records of Fairfax County, Virginia; and

WHEREAS, it is the desire and intent of Owner to dedicate, grant, and convey for public use, the streets and thoroughfares in accordance with this Deed and the Plat; and

WHEREAS, it is the desire and intent of Owner to grant and convey unto the Town the easements in the locations as shown on the Plat and as hereinafter provided; and

WHEREAS, it is the desire and intent of the Owner to grant and convey unto the Town a power utility easement for further assignment to a public service corporation; and

WHEREAS, the Property is not subject to the lien of a Deed of Trust.

STREET DEDICATION

NOW THEREFORE, that in consideration of the premises and the sum of One Dollar (\$1.00) cash in hand paid, receipt of which is hereby acknowledged, Owner does hereby grant, dedicate, and convey to the Town in fee simple the 0.020 Acre (889 square feet), more or less, of right of way for public street purposes as so designated on the Plat as "VARIABLE WIDTH R/W

Exempted from recordation taxes and fees under Sections 58.1-81.1(A)(3), 58.1-81.1(C)(5), and 17.1-279(E) of the Code of Virginia 1950, as amended.

Attachment
20-O-21

**March 10, 2020
(public hearing)**

BK 26092 0437

DEDICATION "06-RW1" 0.020 ACRE (889 S.F.) HEREBY DEDICATED FOR PUBLIC STREET PURPOSES". This dedication is made in accordance with the statutes made and provided therefore.

TEMPORARY CONSTRUCTION EASEMENT

NOW THEREFORE, that in consideration of the premises and the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, Owner does hereby grant and convey unto the Town, its successors and assigns, a temporary construction easement for the purpose of the necessary grading and construction through, upon and across the Property as more particularly bounded and described on the Plat as "VARIABLE WIDTH TEMPORARY CONSTRUCTION EASEMENT "06-TCE 1" 0.022 ACRE (947 S.F.) HEREBY CREATED". This temporary grading and construction easement shall become null and void at such time as grading and construction is complete and the work is accepted by the Town.

The foregoing easement is subject to the following conditions where applicable:

1. Town, its agents and assigns, shall have full and free use of the easement areas for the purposes stated, the right of access to and from the easement area, and the right to use land abutting the easement area when Town deems such reasonably necessary for the convenient and efficient exercise of construction, alteration, repair, or maintenance relating to the easements.
2. Town shall have the right to trim, cut or remove trees and shrubbery and to remove fences, structures, and other obstructions or facilities in or near the easement area which are deemed by the Town to interfere with the proper and efficient construction, operation, alteration, repair, or other maintenance of the easements.
3. Town, at its own expense, shall restore to its original condition, as nearly as practical, any of the Owner's property disturbed by the Town in connection with activities undertaken pursuant to Paragraphs 1 and 2 above; but such restoration shall include only the reseeding or resodding of lawns, the reseeding of pasture areas, the replacement or repair of any authorized pavement which has been disturbed, any appropriate backfilling of trenches, the reinstallation of any fence removed, and the planting of young shrubs in replacement of shrubs removed or destroyed by the Town. With respect to Owner's property abutting the easement area; (i) the Town shall plant young trees in replacement of trees removed or destroyed by the Town, and (ii) the Town shall replace, or (at Town's option) reasonably compensate Owner for the value

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BK 26092 0438

of, other structures and facilities removed by the Town. However, the Town need not replace any trees or shrubs or other structures, obstructions, or facilities planted, installed, or constructed in violation of Paragraph 5 below.

4. Owner reserves the right to install and maintain pavement over the easement area if Owner otherwise has lawful authority to do so and to make any use of the easement area which is not inconsistent with the rights of the Town and does not interfere with the Town's use thereof, except as otherwise provided in Paragraph 5 below.

5. Owner shall not erect any building or other structure, excepting a fence; plant any tree; or change the existing ground elevation within the easement area without obtaining the prior written approval of the Town. Owner shall not without the prior written approval of the Town, erect any building or other structure, excepting a fence; plant any tree; or change the existing ground elevation on any land abutting the easement area if any of these acts could impair the use of said easement for the purposes herein named, or any part of it, or could unreasonably impair the Town's convenient exercise of its rights granted by this deed.

6. If Town performs work of any nature or expends any funds to correct any unauthorized grading or to remove any unauthorized trees, buildings, structures, facilities, or obstructions in or abutting the easement area, or if Owner causes or allows any damage to be done to any portion of the easement area, Owner shall reimburse the Town, within ten days of receipt of notice of demand, all costs incurred by the Town in this work. If such reimbursement is not made within the ten day period, interest shall accrue on the sum due at the legal rate of interest, and the Town shall be entitled to recover from Owner Town's attorney's fees in pursuing recovery of the sums due the Town.

7. Town's execution of the Deed shall evidence Town's acceptance of these easement rights and the fee simple title to any appurtenant facilities now or later installed in the easement areas.

POWER UTILITY EASEMENT

THIS DEED FURTHER WITNESSETH, that in consideration of the premises and the consideration stated herein, the receipt and sufficiency of which is hereby acknowledged, the Owner does also hereby grant and convey unto the Town its successors and assigns, in accordance with the provision of Sections 15.2-1902 and 33.2-1014, Code of Virginia (1950), as

**March 10, 2020
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amended, a non-exclusive power utility easement containing 49 square feet, more or less, over, under, through, upon, above and across the Property as more fully described on Plat Number 40-19-0183 attached hereto as "Exhibit 1", with the boundaries of the easement being shown broken lines, in order that the same may be assigned and conveyed to Virginia Electric and Power Company, doing business in Virginia as Dominion Energy Virginia (hereafter "Dominion"), its successors and assigns, for the purpose of granting the perpetual right, privilege and non-exclusive easement for transmitting and distributing electric power by one or more circuits; for Dominion's 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:

1.1. to lay, construct, operate, maintain, one or more lines of underground conduits and cables including, without limitation, one or more lighting supports and lighting fixtures as Dominion may from time to time determine, and all wires conduits, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, accessories and appurtenances desirable in connection therewith.

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 Dominion 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 Property as more particularly bounded and described on the Plat as

2. All facilities constructed hereunder shall remain the property of Dominion. Dominion 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 Owner, and make such changes, alterations, substitutions, additions to or extensions of its facilities as Dominion may from time to time deem advisable.

3. Dominion 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

**March 10, 2020
(public hearing)**

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easement that may endanger the safe and proper operation of its facilities. All trees and limbs cut by Dominion shall remain the property of Owner.

4. For the purpose of exercising the right granted herein, Dominion 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 Owner. The right, however, is reserved to Owner 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, Dominion shall have such right of ingress and egress over the lands of Owner adjacent to the easement. Dominion shall exercise such rights in such manner as shall occasion the least practicable damage and inconvenience to Owner.

5. Dominion shall repair damage to roads, fences, or other improvements (a) inside the boundaries of the easement (subject, however, to Dominion's rights set forth in Paragraph 3 above) and (b) outside the boundaries of the easement and shall repair or pay Owner, at Dominion's option, for other damage done to Owner's property inside the boundaries of the easement (subject, however, to Dominion's rights set forth in Paragraph 3 above) and outside the boundaries of the easement caused by Dominion in the process of the construction, inspection, and maintenance of Dominion's facilities, or in the exercise of its right of ingress and egress; provided Owner gives written notice thereof to Dominion within sixty (60) days after such damage occurs.

6. Owner, 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 Dominion's exercise of any of its rights hereunder. Owner shall not have the right to construct any building, structure, or other above ground obstruction on the easement; provided, however, Owner may construct on the easement fences, landscaping (subject, however, to Dominion's rights in Paragraph 3 above), 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 Dominion's exercise of any of its rights granted hereunder. In the event such use does interfere with Dominion's exercise of any of its rights granted hereunder, Dominion may, in its reasonable discretion, relocate such facilities as may be practicable to a new site designated by Owner and acceptable to Dominion. In the event any such facilities are so relocated, Owner shall reimburse Dominion for the cost thereof and convey to Dominion an equivalent easement at the new site.

**March 10, 2020
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7. Dominion'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 Dominion's obligations as a public service company or such other obligations as may be related to or incidental to Dominion'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.

MISCELLANEOUS

Headings used in this Deed are for convenience purposes only and are not intended to affect the express terms herein set forth.

Unless otherwise indicated herein, the easements granted herein shall be perpetual and shall run with the land, and shall be binding upon the Owner, its successors and/or assigns and shall inure to the benefit of the Town, its successors and assigns.

This Deed is made in accordance with the statutes made and provided in such cases; with the approval of the proper authorities of the Town of Herndon, Virginia, as shown by the signatures affixed to the Plat, and is with the free consent and in accordance with the desire of Owner, the owner and proprietor of the land depicted on the Plat, as aforesaid.

Town's execution of the Deed shall evidence Town's acceptance of these easement rights and the fee simple title to the facilities now or later installed in the easement area(s). The Mayor is authorized to execute this deed on behalf of the Town.

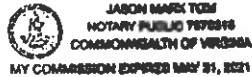
IN WITNESS WHEREOF, the parties hereto have caused this Deed to be executed, under
seal.

FURTHER WITNESS the following signatures and seals.

[SIGNATURES FOLLOW ON NEXT PAGES]

**March 10, 2020
(public hearing)**

BK 26092 0442



OWNERS:

[Signature] (SEAL)
GARTH J. NORRIS, JR.

COMMONWEALTH OF VIRGINIA
COUNTY OF Fairfax, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that GARTH J. NORRIS, JR. whose name is signed to the foregoing Deed, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 31st day of December, 2019.

[Signature]
Notary Public

My Commission Expires: 05/31/2021

My Notary Registration Number: 7578613



[Signature] (SEAL)
TRACEY L. NORRIS

COMMONWEALTH OF VIRGINIA
COUNTY OF Fairfax, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that TRACEY L. NORRIS, whose name is signed to the foregoing Deed, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 31st day of December, 2019.

[Signature]
Notary Public

My Commission Expires: 05/31/2021

My Notary Registration Number: 7578613

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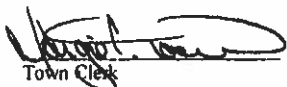
02/20/2020
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
[Signature]
CLEAR

Attachment
20-O-21

**March 10, 2020
(public hearing)**

BK 26092 0443

ATTEST:


Town Clerk

TOWN OF HERNDON, VIRGINIA

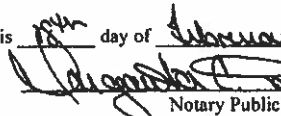
By 
Lisa C. Merkel, Mayor



COMMONWEALTH OF VIRGINIA
COUNTY OF Fairfax, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Lisa C. Merkel as Mayor of the Town of Herndon, Virginia, whose name is signed to the foregoing Deed, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 10th day of February, 2020.


Notary Public

My Commission Expires: 8-31-2020

My Notary Registration Number: 295189



APPROVED AS TO FORM:


Lisa J. Yeatts, Town Attorney

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Plat Attached

Attachment
20-O-21

March 10, 2020
(public hearing)

BK 26092 0444

COMMISSIONER'S CERTIFICATE

I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original as recorded in the office of the Commissioner of the State of New York, and that the same has been duly filed for record in the office of the County Clerk of the County of [County Name], and that the same is a true and correct copy of the original as recorded in the office of the Commissioner of the State of New York, and that the same has been duly filed for record in the office of the County Clerk of the County of [County Name].

Given under my hand and the seal of the Office of the Commissioner of the State of New York, at Albany, this 12th day of March, 2020.

[Signature]
Commissioner of the State of New York

NOTES:

1. The survey was made by H&B Surveying and Mapping, LLC, a professional engineering firm, and the same is a true and correct copy of the original as recorded in the office of the Commissioner of the State of New York, and that the same has been duly filed for record in the office of the County Clerk of the County of [County Name].
2. The survey was made by H&B Surveying and Mapping, LLC, a professional engineering firm, and the same is a true and correct copy of the original as recorded in the office of the Commissioner of the State of New York, and that the same has been duly filed for record in the office of the County Clerk of the County of [County Name].
3. The survey was made by H&B Surveying and Mapping, LLC, a professional engineering firm, and the same is a true and correct copy of the original as recorded in the office of the Commissioner of the State of New York, and that the same has been duly filed for record in the office of the County Clerk of the County of [County Name].
4. The survey was made by H&B Surveying and Mapping, LLC, a professional engineering firm, and the same is a true and correct copy of the original as recorded in the office of the Commissioner of the State of New York, and that the same has been duly filed for record in the office of the County Clerk of the County of [County Name].

PLAT 1

PLAT 2

H&B Surveying and Mapping, LLC
insightful solutions, quality service
A DRENDSWELL Certified Business

444 Broadway, Suite 200, New York, NY 10013
Tel: 212-693-1234 Fax: 212-693-1235
www.hbsurveying.com

PLAT 1

PLAT 2

March 10, 2020
(public hearing)

BK 26092 0445

"EXHIBIT 1"

Alabama Drive		LOT 148	LOT 143	Aspen Drive
LOT 149 Norris, Garth J. & Tracey Tax Map# 0162-02-0147 DB 20960 PG 0405 (#403 Van Buren ST)		Winstead, Valerie J. TR. Tax Map# 0162-02-0146 DB 3775 PG 0510 (#405 Van Buren ST)		
		To Heglar Oaks		
To Senate Ct		Van Buren St		
LEGEND --- Location of Boundary Lines --- at Right-of-Way --- Indicate Property Line to Right-of-Way Boundary				
District 44 Jackson County, Georgia Town of Hiram Section 40-18-0113 NW Quarter Survey Request Number 10221591		Scale MTS State VA County City Fairfax Co PG 40-18-0113 Old Number 00222		
DATE BY Sebastian Gulleritz		PLAT TO ACCOMPANY RIGHT-OF-WAY AGREEMENT VIRGINIA ELECTRIC AND POWER COMPANY doing business as Dominion Energy Virginia		
OWNER INITIALS <i>CS</i>		Page 1 of 1		

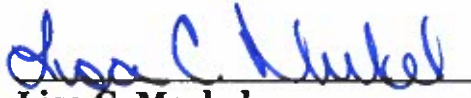
**March 10, 2020
(public hearing)**

Ordinance 20-O-22

On motion of Vice Mayor Olem, seconded by Councilmember McKenna (there were no comments from the audience), and carried by a unanimous vote, the public hearing on Ordinance 20-O-22 was **CONTINUED** to March 24, 2020. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

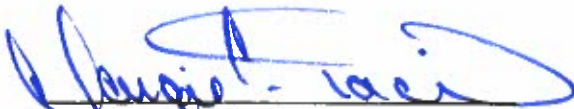
15. ADJOURNMENT

There being no further business, the meeting adjourned at 8:05 p.m.



Lisa C. Merkel
Mayor





Margie C. Tacci
Deputy Town Clerk

Minutes approved by Town Council: March 24, 2020.

March 10, 2020
(public hearing)

NOTE:

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