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HERNDON TOWN COUNCIL
Tuesday
June 9, 2020

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Order of the Governor EO-53, as amended; and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19) ~ adopted on March 24, 2020, as amended, Mayor Merkel stated that the June 9, 2020 Herndon Town Council Public Hearing would be by electronic means. The meeting was broadcast and recorded through Cisco Webex and details for the meeting were made available to the public on Thursday, June 4, 2020. In attendance electronically were: Mayor Lisa C. Merkel; Vice Mayor Sheila A. Olem; and Councilmembers Jennifer Baker; Cesar del Aguila [absent from 7:20 p.m. to 7:28 p.m.]; Pradip Dhakal; Signe Friedrichs; and Bill McKenna.

Staff present during the meeting were: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Jennie Tripoli, Director of Finance; Lauri Sigler, Deputy Town Attorney; John Irish, Deputy Director of Public Works; Dana Heiberg, Senior Planner; and Amanda M. Kertz, Deputy Town Clerk.

Staff Announcements

Amanda M. Kertz, Deputy Town Clerk, welcomed those listening to the June 9, 2020 public hearing. She stated that that night's regularly scheduled Herndon Town Council meeting was a virtual meeting and that the public was encouraged to provide comments for the record at town.clerk@herndon-va.gov. She stated, for the record, that:

- The Town Council meeting that evening was conducted electronically pursuant to:
 - ❖ Virginia Code Section 2.2-3708.2, as amended;
 - ❖ the Order of the Governor EO-53, as amended; and

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- ❖ in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19) ~ adopted on March 24, 2020, by the Herndon Town Council, as amended.
- Proper notice of the electronic meeting was provided in accordance with Section 2.2-3708.2 of the Code of Virginia, along with information for viewing the meeting and submitting comments for the record;
- The agenda and meeting materials were available on the town's website;
- Electronic meetings would begin with a roll call and determination of quorum; and
- All votes, including adjournment, would be by roll call vote.

CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Merkel called the public hearing by electronic means to order at 7:00 p.m. and welcomed those who were joining the meeting over Webex. Due to the length of the agenda and the number of roll call votes required, Mayor Merkel asked her colleagues to unmute their microphones and vote stating "yes" or "no." She then asked Ms. Kertz, Deputy Town Clerk, to call the roll for attendance, and for each Councilmember to respond by clearly stating their name and indicating they were present.

All members were present, electronically, with Mayor Merkel presiding. Mayor Merkel stated, for the record, that there was a quorum present, electronically, that evening. William H. Ashton II, Town Manager and Lesa Yeatts, Town Attorney, were also present.

APPROVAL OF MINUTES

**Vote on May 19, 2020
Work Session Minutes**

On motion of Vice Mayor Olem, seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, the minutes of the May 19, 2020 work session were approved. The vote was: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

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**Vote on May 26, 2020
Public Hearing Minutes**

On motion of Vice Mayor Olem, seconded by Councilmember Dhakal, and carried by a 6-0 roll call vote by electronic means, the minutes of the May 26, 2020 public hearing were approved. The vote was: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmember McKenna abstained.

**Vote on June 2, 2020
Work Session Minutes**

Vice Mayor Olem moved approval of the June 2, 2020 work session minutes and Councilmember Dhakal seconded the motion.

Councilmember McKenna stated that he was absent from the June 2, 2020 work session and he thought that the Council voted on that set of minutes previously. He stated he would abstain from the vote on this set of minutes as well.

The question was called on the motion, which carried by a 6-0 roll call vote by electronic means. The vote was: Councilmembers Baker, Dhakal, del Aguila, Friedrichs, Vice Mayor Olem, and Mayor Merkel voting "Aye." Councilmember McKenna abstained.

2. COMMENTS FROM THE TOWN MANAGER

Mayor Merkel recognized William H. Ashton II, Town Manager, to provide an update on the continuity of operations and matters related to the emergency, followed by questions of Council.

Mr. Ashton provided updates on COVID-19 issues from the Governor's most recent press conference, during which Governor Northam announced that Northern Virginia and Richmond would be entering Phase Two of the Forward Virginia Plan that Thursday at Midnight. Mr. Ashton stated that restaurants could have 50 percent occupancy indoors with tables positioned at least six feet apart. He also stated there would be no self-serving allowed, no bar seating, and all customer-facing employees would need to wear face coverings. He also stated there would be a 50 person limit on parties. Mr. Ashton also stated that Farmer's Markets would have onsite shopping and vendors would need to wear face coverings and supply hand sanitizer stations with frequent cleaning of high contact surfaces.

For non-essential retail stores, Mr. Ashton stated they would be allowed less than 50 percent occupancy and customer-facing employees would need to wear face coverings. For gyms, individuals would need to be 10 feet apart while exercising or participating in a class and a gym's attendees could not exceed 30 percent of their capacity. Hot tubs, splash pads, and similar types of facilities remained closed. Mr. Ashton also stated that indoor and outdoor swimming pools could open for lap swimming with no more than

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three people per lane and maintaining 10 feet of distance. Employees must wear face masks and must clean and disinfect. Any equipment must be cleaned between uses and there would have to be an abundance of hand sanitizing stations.

Mr. Ashton stated that for personal care and grooming businesses, both service providers and the clients would need to wear face coverings. These businesses could also not operate at more than 50 percent of their occupancy. He stated all of these restrictions would be enforced by the Health Department. He stated the gathering size remained at 50 people, including for religious facilities, where Mr. Ashton stated those in attendance would need to be at least six feet apart and could not pass items among attendees.

As for how the updates in Phase Two pertain to the town, Mr. Ashton stated that the town was working closely with the Fairfax County Department of Health to facilitate testing in the town. He stated that the demographic breakdown of the COVID-19 data, especially amongst the Hispanic community, was dramatic. This was concerning, especially to the town, because of the large and important Hispanic community. Further, Mr. Ashton stated that the 20170 zip code (Herndon) was sixth in the county for the highest number of COVID-19 cases per capita. He stated that the Health Department was acutely aware of the town's challenges and stated that targeted, county-sponsored testing was being looked into for the town. Staff was looking at other opportunities to enhance testing.

Mr. Ashton then stated that 128 Herndon businesses applied for Fairfax County's Relief Initiative to Support Employers (RISE) grant program, which was a business assistance program paid for with Coronavirus Aid, Relief, and Economic Security (CARES) Act money. He stated that the Herndon Farmer's Market would open on June 18, 2020 and that Parks and Recreation would begin operating outdoor, one-on-one personal training classes. He stated that shortly, the Herndon Municipal Center (HMC) would begin have improvements installed, including sneeze-guards, stanchions, and floor stickers, to open the lobby area of the HMC for customer traffic.

As an update on other town services, Mr. Ashton stated that the Department of Public Works (DPW) had their first week with no employees calling out with symptoms to the shop, and he expected that yard waste would begin being picked up again soon as work schedules shifted. He stated that, at that time, there still would not be any special pick-ups until the town caught up on the backlog of yard waste. Mr. Ashton stated that he hoped to have news about yard waste by the end of that week.

To conclude his comments, Mr. Ashton emphasized that the Farmer's Market would be held on June 18, 2020 and Parks and Recreation classes would start up again, in a measured way, in the coming weeks. He encouraged everyone to visit the town's website, www.herndon-va.gov, and to follow the town's social media platforms for updates that would be provided as they became available. He stated that staff could not wait to get back to work providing services.

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There was brief discussion amongst Council and Mr. Ashton about his update.

In response to Councilmember Baker's queries about the phases, Mr. Ashton confirmed that Northern Virginia and Richmond would be back on track with the rest of the state when those areas moved into Phase Two. He stated that it was unknown at that time whether or not the rest of the state would jump ahead a phase again, and it was his understanding that Phase Two would be in place for a three-week minimum.

In response to queries from Councilmember Baker, Mr. Ashton clarified that, earlier in the pandemic, the Governor's Executive Orders were enforceable through the criminal code, but, as Executive Orders developed, the Governor's office realized that was putting a lot on the police departments. The Executive Orders then shifted enforcement to the health code. Mr. Ashton stated that he was providing information directly from the Executive Order and he confirmed that the police would not be responsible for enforcing guidelines covered by the health code. He stated that some restrictions would still be covered by misdemeanor charges.

In response to queries from Councilmember Friedrichs, Mr. Ashton stated that the mask order was not covered by criminal code because it had been determined that it was not appropriate for police to enforce the wearing of masks.

In response to further queries from Councilmember Friedrichs, Mr. Ashton clarified that occupancy for businesses was based on the Fire Department's occupancy load and the other provisions and restrictions provided. He also stated that the Herndon Police Department (HPD) put out a campaign encouraging citizens to wear masks and stating they were not responsible for enforcement.

In response to queries from Mayor Merkel, Mr. Ashton stated that groups in restaurants could be of no more than 50 people and these were the same guidelines for gatherings in the state at that time.

Lesa Yeatts, Town Attorney, then clarified the definition of the term "gathering" in the order as a group that gathers.

[Note: At 7:18 p.m., Mayor Merkel noted that Councilmember del Aguila was absent from the Webex meeting. The Information Technology (IT) team was checking with Councilmember del Aguila about his connection to the Webex.]

3. COMMENTS FROM THE TOWN COUNCIL

Mayor Merkel reminded Council that comments should be limited to continuity of business and the State Of Emergency to comply with state code requirements. She asked the Council to unmute their microphones and state their name when she recognized them for comments.

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Councilmember Baker: Councilmember Baker provided comments on emails the Council had received in the wake of recent events, and she asked whether or not the Council could address those items, such as the HPD and policies. She also asked whether or not the Council could discuss these items at a future meeting with the Chief of Police.

Mayor Merkel responded by stating that the Council had received many emails and that this was a topic that had also been discussed in her Northern Virginia Regional Commission Mayors and Chairs meeting. She was frequently communicating with the Chief of Police to make sure The Chief was seeing the emails and to coordinate a response. Mayor Merkel stated that she was directing individuals to the HPD portion of the town's website, where HPD's general orders and other links were listed. Mayor Merkel stated there was always room to grow, but HPD was very cognizant of the issues and they had worked to build a relationship with the community. She stated that the Council was all ears, and they wanted to keep people in touch and send a cohesive message. Mayor Merkel also stated that one specific concern had been brought to her and the Chief of Police's attention through an email. HPD was working to get in contact with that individual about what had occurred.

Councilmember Baker then stated she was glad the town had been following up with the messages. She put forward a suggestion that someone made in their email to the Council, which was to hold a community roundtable to specifically discuss the police. She asked Lesa Yeatts, Town Attorney, what her suggestions would be as to timing and content.

Ms. Yeatts then stated that the best conduit would be to ask the Town Manager what staff would be able to do and the resources they could provide. She stated that she had no legal guidance. She felt that, still being under a State of Emergency and in Phase One. Secondly, there was still a demand on staff time and resources. She thought that Mayor Merkel, the Town Manager, and Chief of Police would like to help, but they would need to know what was being requested.

Councilmember Baker and Mr. Ashton then had a brief question and answer session, during which Mr. Ashton stated that forthcoming updates would be provided on the COVID-19 specific page on the town's website. He stated that the town's social media sites would continue to be used to share press releases and information about COVID-19. He stated that due to the rapidly changing nature of the updates, he encouraged everyone to go to the town website because traditional means of sharing the updates, such as mailings or stickers, would not keep up with the pace of changes.

Councilmember Friedrichs: Councilmember Friedrichs echoed Councilmember Baker's comments. She stated she was supportive of a community roundtable discussion with the police and she thought it should be a priority.

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Councilmember Friedrichs thanked Mr. Ashton for his response on the meetings and agendas page of the town's website. She had been having trouble with everything displaying correctly on the page and she stated it was hard to send citizens to that page if it was not displaying properly. She appreciated the fact that it looked correct right now.

Councilmember Friedrichs thanked HPD for their efforts in the two recent racial justice events in town. She thought it made a big statement and that it was important for HPD to show they were part of the solution and not the problem.

[Note: At 7:28 p.m. Mayor Merkel stated, for the record, that Councilmember del Aguila signed back into the Webex meeting. He was present through the end of the meeting.]

Vice Mayor Olem: Vice Mayor Olem stated that she wanted to remind those listening about what HPD has done in the community. She shared about the relationship her son still had with his coaches that were HPD Officers and about the Coffee with a Cop event that has been held each year for some time. That event was like a roundtable with the public. She also provided comments about the resource officers in the schools and the sporting events with children that contributed to community policing in the town. She stated that Herndon has been ahead of the curve and stated that the Chief of Police might be able to share some of the history of the police in town and their programs.

Vice Mayor Olem also stated that many of the local businesses were working hard to let citizens know they were open and sharing discounts.

Vice Mayor Olem also thanked DPW for continuing to pick up the trash and recycling during this time. She stated that even though the yard waste had not been picked up, the Town Manager and DPW staff did a great job managing the crisis.

Mayor Merkel: Thanked staff for working to get applications approved quickly for businesses that started reopening the first day of Phase One.

Mayor Merkel confirmed with the IT staff that no other members of Council had their hands raised, electronically.

PUBLIC HEARINGS

Public Hearing Process

Mayor Merkel stated that there were several public hearings that evening and she would outline the participation process for Webex. At the appropriate time, she would ask that those wishing to address Council on the public hearing item click the hand icon in Webex. She stated that instructions for participation would be available on the screen and were posted on the agendas and minutes page of the town's website. To make sure she saw everyone who wishes to speak, Mayor Merkel stated that she would pause for

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about 30 seconds to wait for a member of the public to raise their hand. The Clerk would then advise of those who had their hand raised in the order she saw them on her screen. Mayor Merkel stated that she would take a brief pause while staff enabled the speaker's ability to address the Council and she would call on them when it was their turn to speak.

STREETSCAPES PHASE III

4. Ordinance 20-O-31, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Elden Market, LLC, Tax Map #: 0162-02-0076 for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, Herndon, Virginia;
5. Ordinance 20-O-32, to authorize the use of eminent domain for the acquisition of a fee simple interest on property owned by Elden Market, LLC, at 771 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0077, for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, Herndon, Virginia;
6. Ordinance 20-O-33, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Elden Market, LLC, at 765 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0078, for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, Herndon, Virginia;
7. Ordinance 20-O-34, to authorize the use of eminent domain for the acquisition of a fee simple interest on property owned by Alice Martin Family, LLC, at 762 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0025, for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, Herndon, Virginia; and
8. Ordinance 20-O-35, to authorize the use of eminent domain for the acquisition of a fee simple interest on property owned by Alice Martin Family, LLC, at 761 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0083, for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, Herndon, Virginia.

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CENTER/ELDEN INTERSECTION

9. Ordinance 20-O-36, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Trustees of Church of Jesus Christ, at 800 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0033 for public use by condemnation for transportation facility improvements at the Center Street and Elden Street intersection, Herndon, Virginia;
10. Ordinance 20-O-37, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Richard Cook, at 801 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0073A for public use by condemnation for transportation facility improvements at the Center Street and Elden Street intersection, Herndon, Virginia; and
11. Ordinance 20-O-38, to authorize the use of eminent domain for the acquisition of a fee simple interest, temporary easements, and a permanent easement on property owned by Elden Street Market, LLC, at 791 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0074 and Tax Map #: 0162-02-0075 for public use by condemnation for transportation facility improvements at the Center Street and Elden Street intersection, Herndon, Virginia.

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, May 22 and Friday, May 29, 2020 issues.

Mayor Merkel stated that the first eight public hearings on that night's agenda related to the use of eminent domain for the Streetscape Phase III and the Center/Elden Street Intersection projects. Staff would present the reports concurrently on these items, which would be followed by either separate public hearings. At the end of each public hearing, Mayor Merkel would ask for a motion, followed by Council discussion and vote by roll call. She reminded Council to unmute at the beginning of the motion, so that they could go through the votes as quickly as possible.

The proposed ordinances for the Streetscapes Phase III project would authorize the use of eminent domain for the acquisition of fee simple interests and temporary easements for public pedestrian, utility, and streetscape improvements along Elden Street in downtown Herndon on five parcels of property owned by:

- Elden Market, LLC, with addresses of 771 & 765 Elden Street, known as Parcels 0076, 0077 & 0078;
- The Alice Martin Family, LLC, with addresses of 762 & 761 Elden Street, known as Parcels 0025 & 0083; and

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The proposed ordinances for the Elden Street Intersection project would authorize the use of eminent domain for the acquisition of fee simple interests, permanent easements, and a temporary easement, for transportation facility improvements at the Center and Elden Street intersection on four parcels of property owned by:

- Church of Jesus Christ Trustees, 800 Elden Street;
- Richard Cook, 801 Elden Street; and
- Elden Street Market, LLC, 791 Elden Street.

Mayor Merkel opened the public hearings and asked if any written comments were received for the record on these items, and Amanda Kertz, Deputy Town Clerk, stated that staff had not received any comments to enter into the record.

Mayor Merkel recognized John Irish, Deputy Director of Public Works, for a collective presentation on all eight items, followed by input from Lauri Sigler, Deputy Town Attorney.

Mayor Merkel asked, for the record, why these items were permitted on the agenda since the Council was limited on what they could discuss during a declared State of Emergency.

Mr. Irish stated the proposed eminent domain ordinances were under the category of "continuity of government," which was why they could be part of that night's agenda. He stated that these items addressed two critical infrastructure projects for the town that tied into Federal highway funding, which had certain stipulations and deadlines. The Streetscapes portion of the projects had an advertising date of June 24, 2020. While the town would not likely advertise by that date, the town needed the right-of-way and easements under its control, which would satisfy the funding requirement. The Center/Elden Street project was contiguous to the Streetscapes project and staff hoped to advertise the two items together.

Mr. Irish presented the concurrent staff reports and a PowerPoint, dated June 9, 2020, which are on file in the Town Clerk's office. The Streetscapes Phase III Project and the Center and Elden Street Intersection Project were long-standing Capital Improvement Program (CIP) projects. He reviewed the locations, scopes, and the property owners that were involved in the projects. He stated that the section to the north of the aerial shown on page three of the PowerPoint would be completed in a similar manner when the downtown redevelopment was installed.

For the Streetscapes Phase III project, Mr. Irish stated that the project was in its third and final phase, which included approximately 979 square feet of right-of-way take and approximately 336 square feet of temporary easement. Mr. Irish stated that the town would minimize land acquisition and would use existing right-of-way as much as

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possible. The completed streetscapes project would provide pedestrian improvements, sidewalks, landscaping, lighting fixtures, and infrastructure for future undergrounding of utilities. He reviewed the history and presented the timeline for the project. Staff expected that this project would be advertised in late summer or fall, following review by the Virginia Department of Transportation (VDOT). Mr. Irish reviewed the remainder of the project's timeline, which was on page six of the PowerPoint.

Mr. Irish stated that the Center and Elden Street project was primarily the intersection itself and it tied into the west end of the Streetscapes project. The project would realign the intersection, add a traffic signal that would make this intersection safer, and improve the flow of traffic through this intersection and the adjacent intersection. He discussed the history and presented the timeline for this project, as provided on page 10 of the PowerPoint. He restated that staff was hoping to bid the two projects together to take advantage of the bidding market and economies of scale, since the projects on their own were small.

Following Mr. Irish's PowerPoint, Mayor Merkel recognized Ms. Sigler for comments. Ms. Sigler stated that there were eight staff reports, nine parcels, and four property owners for these properties. The reason there were eight staff reports for nine parcels was because two of the contiguous parcels were appraised together. For the town to consider the condemnations under state law for a quick take, the town had to verify that the property was needed for public use; would take no more private property than was necessary to achieve the stated public purpose; and the town had to send written, bona fide, but ineffectual offers to all property owners. Staff sent the offer letters out at the end of April and has communicated with all the property owners.

Ms. Sigler stated that one of the property owners, Mr. Cook, had signed a deed and the town had reached settlement with him. However, she asked the Council to consider approving the authorization for Mr. Cook's property so staff would be able to move forward, as a back-up plan. She stated that the negotiations between the town and the property owners were at an impasse, so for the projects to start, the proceedings needed to move forward. Ms. Sigler stated that the town also heard from the church, but they had trustees who had to convey title and there could be an issue in establishing the current trustees.

Ms. Sigler stated that to proceed with the condemnations, public hearings had to be held and the Council had to take action. Negotiations were authorized to continue after the filing of the Certificate of Take and might continue, even if the town was required to file a Petition in Condemnation, which was the next step after the filing of a Certificate of Take. She stated that the town sent another notification letter to the property owners in order to file the Certificate. Ms. Sigler stated that the town could move forward no sooner than 30 days, but no later than 45 days, from the date of notification letters. Staff recommends approval of the proposed ordinances, as presented.

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Mayor Merkel made sure that she could hear Councilmember del Aguila's microphone, and it was working. She stated that he turned his camera off so he could have a clearer line of communication. She asked him to electronically raise his hand so she would be alerted if he had comments.

There was brief discussion amongst Council and staff on these items.

There was a brief question and answer session between Councilmember Friedrichs and Ms. Sigler.

In response to queries from Councilmember Friedrichs, Ms. Sigler stated that the largest property where the town was looking to pursue a Certificate of Take from was owned by Elden Market, LLC, who owned the two corner lots for the intersection projects and a couple of the properties toward the front of Aslin Brewery. She stated staff was negotiating with the property owners.

Ordinance 20-O-31, property owned by Elden Market, LLC

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. To make sure everyone who wished to speak would be seen, she stated that she would pause for about 30 seconds to wait for a member of the public to raise their hand to speak. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

Vice Mayor Olem moved to approve Ordinance 20-O-31, as presented (there were no comments from the audience). Councilmember Dhakal seconded the motion.

There were brief comments from Council.

Vice Mayor Olem stated that she would provide comments on this item that pertained to all eight eminent domain items. She stated that she had waited 22 years for these items and that it takes a long time to plan large public improvements. She looked forward to it as a 30-year resident of Herndon.

Mayor Merkel asked Councilmember del Aguila to jump into the discussion if he had a question so she would know to call on him, to which he agreed.

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

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Ordinance 20-O-31, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Elden Market, LLC, Tax Map #: 0162-02-0076 for public use by condemnation for public pedestrian, utility and streetscape improvements along Elden Street in downtown, 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 the 110 square foot dedication of right of way in fee simple and the 109 square foot temporary construction and grading easement for \$5,319.56 in connection with the Streetscapes Phase III 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 Elden Market, LLC as well as Elden Market, LLC, of these interests in property over real estate designated as Tax Map #: 0162-02-0076 and shown on plat F-1957 dated May 18, 2010 and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, 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, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, 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 Streetscapes Phase III project. The property interests are necessary for the construction, maintenance, or improvement of and access to, the public roadway, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

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[Attached for reference is plat F-1957 dated May 18, 2010 and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, Virginia.]

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APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR DATE

ATTEST DATE

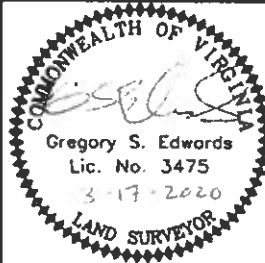
PLAT SHOWING
PROPOSED TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF

ELDEN MARKET, LLC

DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.3/16/20 UPDATE OWNER
REV.12/10/18 VDOT COMMENTS
REV.3/27/18 UPDATE PLAT
REV.5/23/11 TOWN COMMENTS
REV. 11/9/10 REV. DEDICATION
DRAWN BY: DCF CHECKED: GSE
SCALE: 1"=30' DATE: 5/18/10

SHEET 1 OF 3



BURGESS & NIPLE

14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1957

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OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

BY: _____

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

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

BY _____

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, GREGORY S. EDWARDS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF ELDEN MARKET, LLC AS RECORDED IN DEED BOOK 26115, PAGE 600 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.

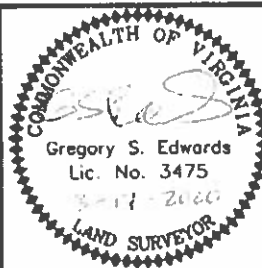
GSE
GREGORY S. EDWARDS
VIRGINIA #3475

DATE: 3-17-2020**NOTES**

- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 76 AND IS ZONED CC.
- 2.) OWNER: ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
PROPOSED TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF
ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV. 3/16/20 UPDATE OWNER
REV. 12/10/18 VDOT COMMENTS
REV. 3/27/18 UPDATE PLAT
REV. 5/23/11 TOWN COMMENTS
REV. 11/9/10 REV. DEDICATION
DRAWN BY: DCF
CHECKED: GSE
SCALE: 1"=30'
DATE: 5/18/10
SHEET 2 OF 3



 BURGESS & NIPLE 14520 AVION PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630		
00D014	47724	F-1957

**June 9, 2020
(public hearing)**

Ordinance 20-O-32, property owned by Elden Market, LLC, 771 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Vice Mayor Olem (there were no comments from the audience), seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-32 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-32, to authorize the use of eminent domain for the acquisition of a fee simple interest on property owned by Elden Market, LLC, at 771 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0077, for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, 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 the 388 square foot dedication of right of way in fee simple for \$17,072 in connection with the Streetscapes Phase III 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 Elden Market, LLC as well as Elden Market, LLC, of these interests in property over real estate designated as Tax Map #: 0162-02-0077 and shown on plat F-1959 dated May 18, 2010 and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, 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, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.

**June 9, 2020
(public hearing)**

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 Streetscapes Phase III project. The property interests are necessary for the construction, maintenance, or improvement of and access to, the public roadway, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1959 dated May 18, 2010 and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, Virginia.]

June 9, 2020
(public hearing)



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

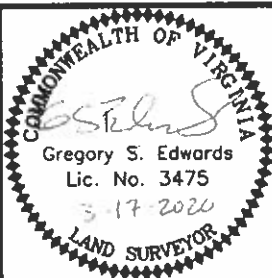
DATE

ATTEST

DATE

PLAT SHOWING
STREET DEDICATION
ON THE PROPERTY OF
ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.	
REV. 3/16/20 UPDATE OWNER	
REV. 12/10/18 VDOT COMMENTS	
REV. 3/27/18 UPDATE PLAT	
REV. 5/23/11 TOWN COMMENTS	
DRAWN BY: DCF	CHECKED: GSE
SCALE: 1"=30'	DATE: 5/18/10
SHEET 1 OF 3	



BURGESS & NIPLE
14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1959

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

BY: _____

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

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

BY _____

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, GREGORY S. EDWARDS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF ELDEN MARKET, LLC AS RECORDED IN DEED BOOK 26115, PAGE 600 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.



GREGORY S. EDWARDS
VIRGINIA #3475

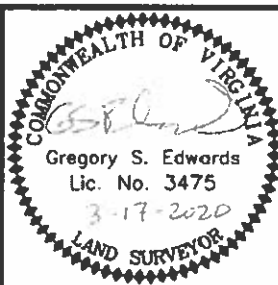
3-17-2020

DATE

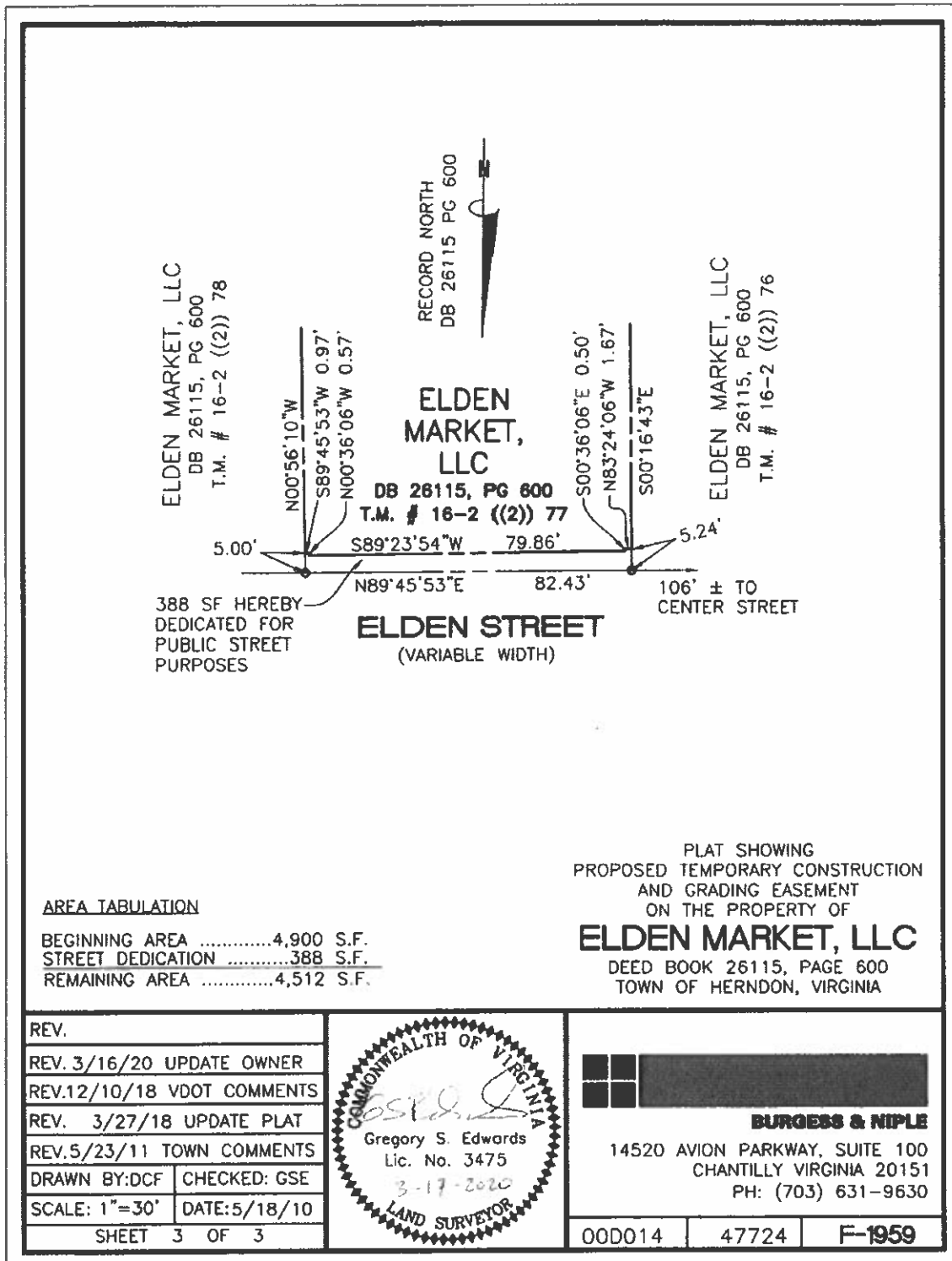
NOTES

- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 77 AND IS ZONED CC.
- 2.) OWNER: ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
PROPOSED TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF
ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.			 BURGESS & NIPLE 14520 AVON PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630	
REV. 3/16/20 UPDATE OWNER				
REV. 12/10/18 VDOT COMMENTS				
REV. 3/27/18 UPDATE PLAT				
REV. 5/23/11 TOWN COMMENTS				
DRAWN BY: DCF	CHECKED: GSE			
SCALE: 1"=30'	DATE: 5/18/10	00D014	47724	F-1959
SHEET 2 OF 3				

**June 9, 2020
(public hearing)**



**June 9, 2020
(public hearing)**

Ordinance 20-O-33, property owned by Elden Market, LLC, 765 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Vice Mayor Olem (there were no comments from the audience), seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-33 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-33, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Elden Market, LLC, at 765 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0078, for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, 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 the 227 square foot dedication of right of way in fee simple and the 227 square foot temporary construction and grading easement for \$10,986.80 in connection with the Streetscapes Phase III 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 Elden Market, LLC as well as Elden Market, LLC, of these interests in property over real estate designated as Tax Map #: 0162-02-0078 and shown on plat F-1960 dated May 18, 2010 and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, 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, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.

**June 9, 2020
(public hearing)**

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 Streetscapes Phase III project. The property interests are necessary for the construction, maintenance, or improvement of and access to, the public roadway, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1960 dated May 18, 2010 and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, Virginia.]

**June 9, 2020
(public hearing)**



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

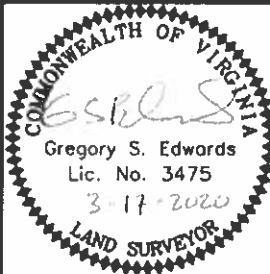
DATE

ATTEST

DATE

PLAT SHOWING
PROPOSED TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF
ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.	
REV. 3/16/20 UPDATE OWNER	
REV. 12/10/18 VDOT COMMENTS	
REV. 3/27/18 UPDATE PLAT	
REV. 5/23/11 TOWN COMMENTS	
DRAWN BY: DCF	CHECKED: GSE
SCALE: 1"=30'	DATE: 5/18/10
SHEET 1 OF 3	



BURGESS & NIPLE
14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1960

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

BY: _____

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

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

BY _____

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, GREGORY S. EDWARDS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF ELDEN MARKET, LLC AS RECORDED IN DEED BOOK 26115, PAGE 600 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.



GREGORY S. EDWARDS
VIRGINIA #3475

3-17-2020

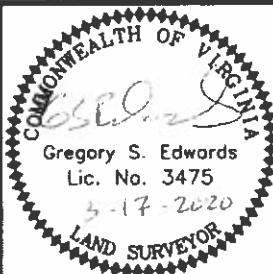
DATE

NOTES

- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 78 AND IS ZONED CC.
- 2.) OWNER: ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
PROPOSED TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF
ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.	
REV. 3/16/20 UPDATE OWNER	
REV.12/10/18 VDOT COMMENTS	
REV. 3/27/18 UPDATE PLAT	
REV.5/23/11 TOWN COMMENTS	
DRAWN BY: DCF	CHECKED: GSE
SCALE: 1"=30'	DATE: 5/18/10
SHEET 2 OF 3	



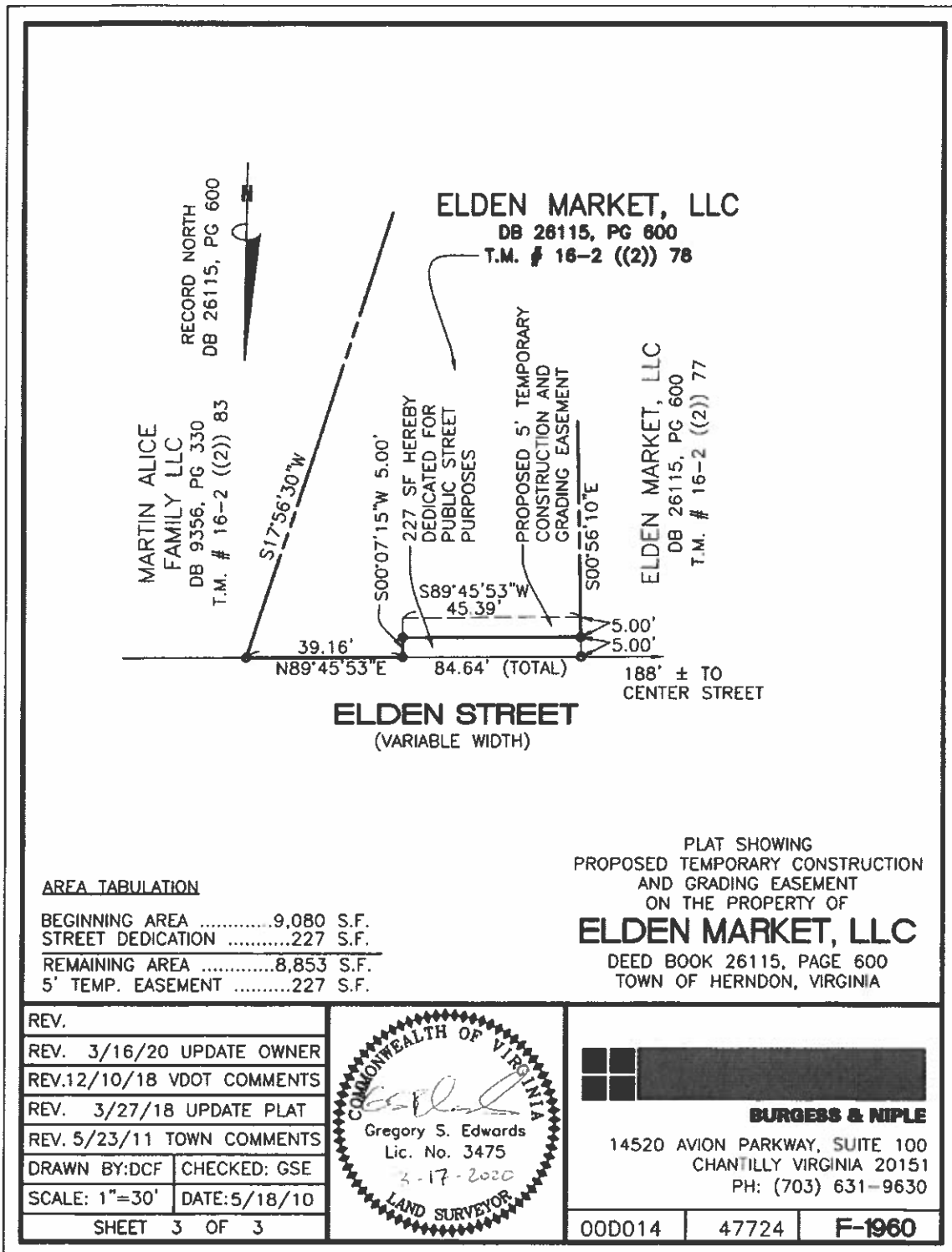
 **BURGESS & NIPLE**
14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1960

June 9, 2020
(public hearing)



**June 9, 2020
(public hearing)**

Ordinance 20-O-34, property owned by Alice Martin Family, LLC, 762 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Vice Mayor Olem (there were no comments from the audience), seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-34 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-34, to authorize the use of eminent domain for the acquisition of a fee simple interest on property owned by Alice Martin Family, LLC, at 762 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0025 for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, 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 the 215 square foot dedication of right of way in fee simple for \$11,351.98 in connection with the Streetscapes Phase III 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 Alice Martin Family, LLC as well as Alice Martin Family, LLC, of these interests in property over real estate designated as Tax Map #: 0162-02-0025 and shown on plat F-1955 dated May 18, 2010 and revised through December 10, 2018, prepared by Burgess & Niple of Chantilly, 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, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.

**June 9, 2020
(public hearing)**

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 Streetscapes Phase III project. The property interests are necessary for the construction, maintenance, or improvement of and access to, the public roadway, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1955 dated May 18, 2010 and revised through December 10, 2018, prepared by Burgess & Niple of Chantilly, Virginia.]

**June 9, 2020
(public hearing)**



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

DATE

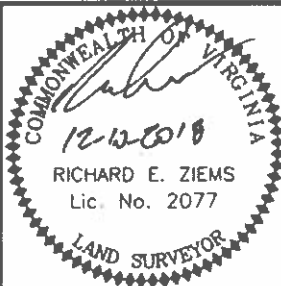
ATTEST

DATE

PLAT SHOWING
STREET DEDICATION
ON THE PROPERTY OF
ALICE MARTIN FAMILY LLC

DEED BOOK 20038, PAGE 1366
TOWN OF HERNDON, VIRGINIA

REV.	
REV. 12/10/18 VDOT COMMENTS	
REV. 3/27/18 UPDATE PLAT	
REV. 4/26/12 REV DEDICATION	
REV. 5/23/11 TOWN COMMENTS	
DRAWN BY: DCF	CHECKED: REZ
SCALE: 1"=30'	DATE: 5/18/10
SHEET 1 OF 3	



		
BURGESS & NIPLE		
14520 AVION PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630		
00D014	47724	F-1955

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

ALICE MARTIN FAMILY LLC

BY: _____

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

THIS PLAT WAS ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC FOR THE ABOVE JURISDICTION, BY _____ OF ALICE MARTIN FAMILY LLC, A
_____ CORPORATION, ON BEHALF OF THE CORPORATION.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, RICHARD E. ZIEMS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF ALICE MARTIN FAMILY LLC AS RECORDED IN DEED BOOK 20038, PAGE 1366 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.

Richard E. Ziems
RICHARD E. ZIEMS
VIRGINIA #2077

12-18-2018
DATE

NOTES

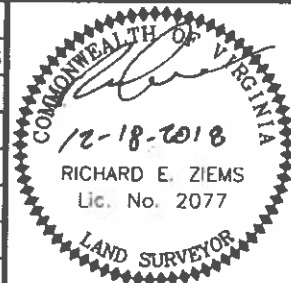
- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 25 AND IS ZONED CC.
- 2.) OWNER: ALICE MARTIN FAMILY LLC
DEED BOOK 20038, PAGE 1366
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
STREET DEDICATION
ON THE PROPERTY OF

ALICE MARTIN FAMILY LLC

DEED BOOK 20038, PAGE 1366
TOWN OF HERNDON, VIRGINIA

REV.	
REV. 12/10/18 VDOT COMMENTS	
REV. 3/27/18 UPDATE PLAT	
REV. 4/26/12 REV DEDICATION	
REV. 5/23/11 TOWN COMMENTS	
DRAWN BY: DCF	CHECKED: REZ
SCALE: 1"=30'	DATE: 5/18/10
SHEET 2 OF 3	



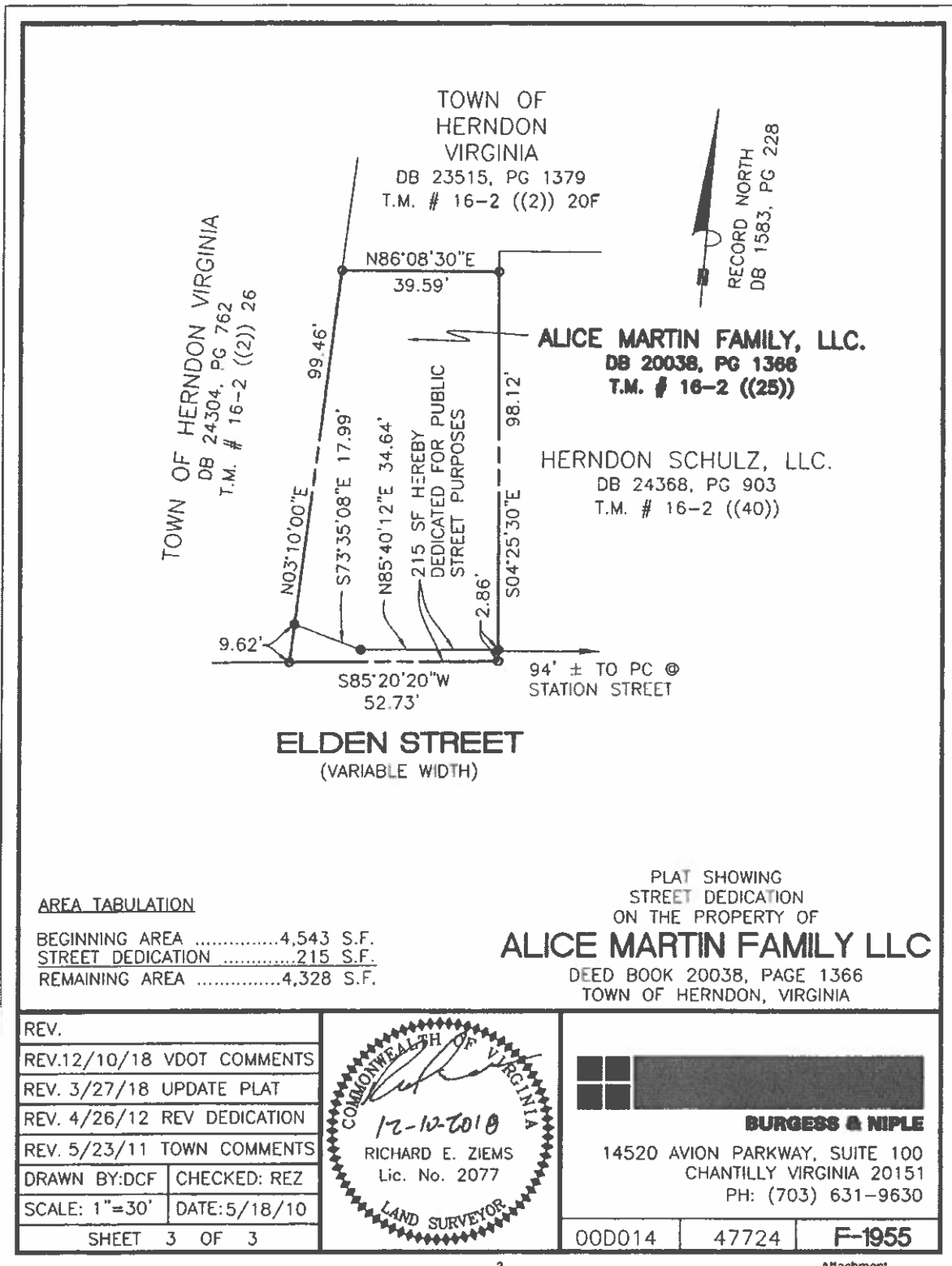
BURGESS & NIPLE
14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1955

June 9, 2020
(public hearing)



**June 9, 2020
(public hearing)**

Ordinance 20-O-35, property owned by Alice Martin Family, LLC, 761 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Vice Mayor Olem (there were no comments from the audience), seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-35 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-35, to authorize the use of eminent domain for the acquisition of a fee simple interest on property owned by Alice Martin Family, LLC, at 761 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0083 for public use by condemnation for public pedestrian, utility, and streetscape improvements along Elden Street in downtown, 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 the 39 square foot dedication of right of way in fee simple for \$1,716.01 in connection with the Streetscapes Phase III 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 Alice Martin Family, LLC as well as Alice Martin Family, LLC, of these interests in property over real estate designated as Tax Map #: 0162-02-0083 and shown on plat F-1961 dated May 18, 2010 and revised through April 14, 2020, prepared by Burgess & Niple of Chantilly, 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, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.

**June 9, 2020
(public hearing)**

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 Streetscapes Phase III project. The property interests are necessary for the construction, maintenance, or improvement of and access to, the public roadway, sidewalks, utility undergrounding infrastructure and enhancement of the streetscapes, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1961 dated May 18, 2010 and revised through April 14, 2020, prepared by Burgess & Niple of Chantilly, Virginia.]

**June 9, 2020
(public hearing)**



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

DATE

ATTEST

DATE

PLAT SHOWING
STREET DEDICATION
ON THE PROPERTY OF

**MARTIN ALICE
FAMILY, LLC**

DEED BOOK 9356, PAGE 330
TOWN OF HERNDON, VIRGINIA

REV.

REV.12/10/18 VDOT COMMENTS

REV. 3/27/18 UPDATE PLAT

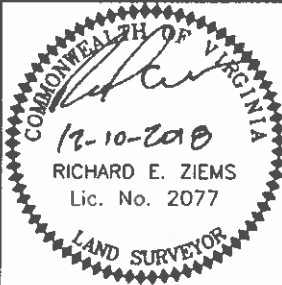
REV.5/23/11 TOWN COMMENTS

REV.7/27/10 TOWN COMMENTS

DRAWN BY: DCF CHECKED: REZ

SCALE: 1"=30' DATE:5/18/10

SHEET 1 OF 3



BURGESS & NIPLE

14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1961

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

MARTIN ALICE FAMILY, LLC

BY: _____

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

THIS PLAT WAS ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC FOR THE ABOVE JURISDICTION, BY _____ OF MARTIN ALICE FAMILY, LLC., A _____ CORPORATION, ON BEHALF OF THE CORPORATION.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, RICHARD E. ZIEMS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF MARTIN ALICE FAMILY, LLC, AS RECORDED IN DEED BOOK 9356, PAGE 330 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.


RICHARD E. ZIEMS
VIRGINIA #2077

12/10/2018
DATE

NOTES

- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 83 AND IS ZONED CC.
- 2.) OWNER: MARTIN ALICE FAMILY, LLC
DEED BOOK 9356, PAGE 330
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED DEEDS AND HIGHWAY PLAN INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
STREET DEDICATION
ON THE PROPERTY OF
**MARTIN ALICE
FAMILY, LLC**
DEED BOOK 9356, PAGE 330
TOWN OF HERNDON, VIRGINIA

REV.	
REV.12/10/18 VDOT COMMENTS	
REV. 3/27/18 UPDATE PLAT	
REV.5/23/11 TOWN COMMENTS	
REV.7/27/10 TOWN COMMENTS	
DRAWN BY: DCF	CHECKED: REZ
SCALE: 1"=30'	DATE: 5/18/10
SHEET 2 OF 3	



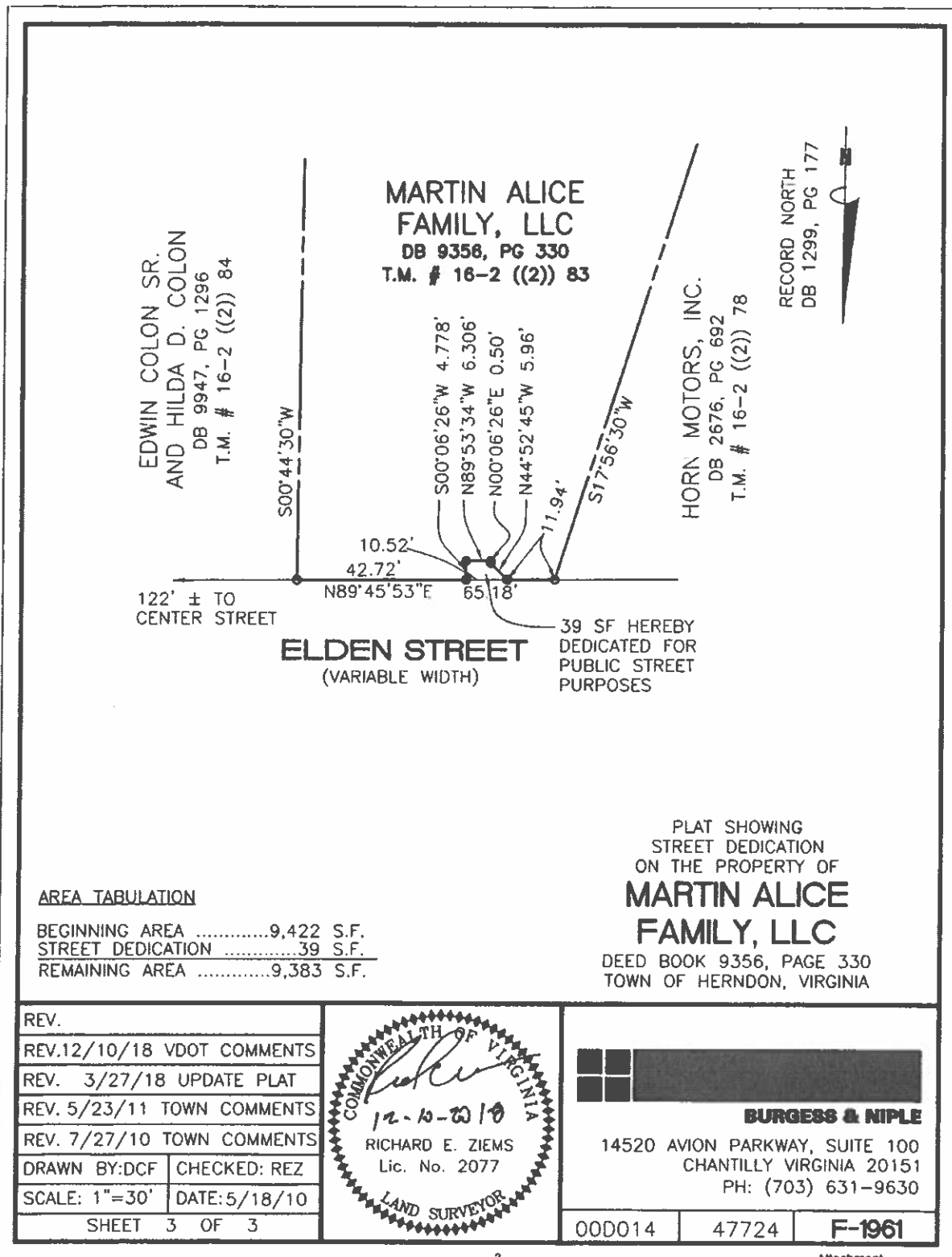
 **BURGESS & NIPLE**
14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

00D014

47724

F-1961

June 9, 2020
(public hearing)



**June 9, 2020
(public hearing)**

Ordinance 20-O-36, property owned by Trustees of Church of Jesus Christ, 800 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Vice Mayor Olem (there were no comments from the audience), seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-36 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-36, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by Trustees of Church of Jesus Christ, at 800 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0033 for public use by condemnation for transportation facility improvements at the Center Street and Elden Street intersection, 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 the 7 square foot dedication of right of way in fee simple and the 173 square foot temporary construction and grading easement for \$499.46 in connection with the Center Street and Elden Street intersection. 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 Trustees of Church of Jesus Christ as well as Trustees of Church of Jesus Christ for the Town's condemnation of these interests in property over real estate located at 800 Elden Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-02-0033 and shown as on plat F-1981 dated May 6, 2019, prepared by Burgess & Niple of Chantilly, 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, improvement of,

**June 9, 2020
(public hearing)**

access to, the public roadway and pedestrian facilities, the realignment of the intersection and installation of a traffic signal, 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 Center Street and Elden Street intersection. The property interests are necessary for the construction, maintenance, improvement of, access to, the public roadway and pedestrian facilities, the realignment of the intersection and installation of a traffic signal, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1981 dated May 6, 2019, prepared by Burgess & Niple of Chantilly, Virginia.]



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

DATE _____

ATTEST

DATE _____

PLAT SHOWING
STREET DEDICATION AND EASEMENT
ON THE PROPERTY OF
TRUSTEES OF THE
CHURCH OF JESUS CHRIST

DEED BOOK 4462, PAGE 494
TOWN OF HERNDON, VIRGINIA

				
				
			BURGESS & NIPLE 14520 AVION PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630	
DRAWN BY: AKM CHECKED: GSE SCALE: 1"=30' DATE: 5/6/19 SHEET 1 OF 3			00D014 52506 F-1981	

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

TRUSTEE(S) OF THE CHURCH OF JESUS CHRIST

BY: _____
DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

THIS PLAT WAS ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC FOR THE ABOVE JURISDICTION,
BY _____, TRUSTEE OF THE CHURCH OF JESUS CHRIST, ON
BEHALF OF THE CHURCH OF JESUS CHRIST.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, GREGORY S. EDWARDS, A DULY LICENSED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF TRUSTEES OF THE CHURCH OF JESUS CHRIST AS RECORDED IN DEED BOOK 4462, PAGE 494 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.

GSE
GREGORY S. EDWARDS, LS

6-19-2019
DATE

NOTES

- 1.) THE PROPERTIES SHOWN HEREON ARE LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 33 AND ARE ZONED R-10.
- 2.) OWNER: TRUSTEES OF THE CHURCH OF JESUS CHRIST DEED BOOK 4462, PAGE 494
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

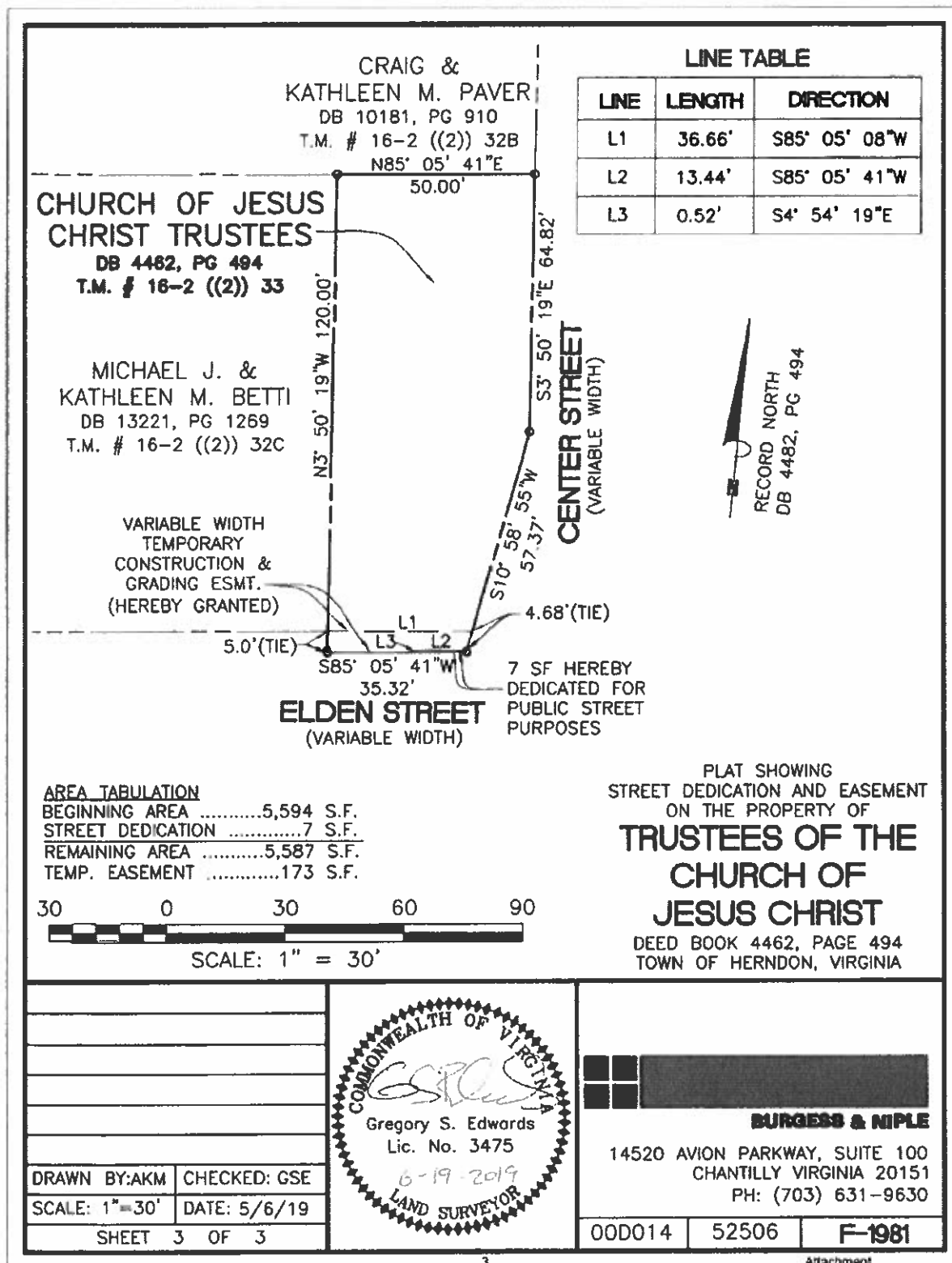
PLAT SHOWING
STREET DEDICATION AND EASEMENT
ON THE PROPERTY OF

TRUSTEES OF THE
CHURCH OF
JESUS CHRIST

DEED BOOK 4462, PAGE 494
TOWN OF HERNDON, VIRGINIA

			 BURGESS & NIPLE 14520 AVION PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630
DRAWN BY: AKM	CHECKED: GSE		
SCALE: 1"=30'	DATE: 5/6/19		
SHEET 2 OF 3		00D014	F-1981

June 9, 2020
(public hearing)



**June 9, 2020
(public hearing)**

Ordinance 20-O-37, property owned by Richard Cook, 801 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Vice Mayor Olem (there were no comments from the audience), seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-37 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-37, to authorize the use of eminent domain for the acquisition of a temporary easement on property owned by Richard Cook, at 801 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0073A for public use by condemnation for transportation facility improvements at the Center Street and Elden Street intersection, 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 the 456 square foot temporary construction and grading easement for \$1,192.57 in connection with the Center Street and Elden Street intersection. 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 Richard Cook as well as Richard Cook for the Town's condemnation of these interests in property over real estate located at 801 Elden Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-02-0073A and shown as on plat F-1982 dated May 6, 2019, prepared by Burgess & Niple of Chantilly, 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, improvement of, access to, the public roadway and pedestrian facilities, the realignment of the intersection and installation of a traffic signal, for the public safety and welfare of the Town.

**June 9, 2020
(public hearing)**

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 Center Street and Elden Street intersection. The property interests are necessary for the construction, maintenance, improvement of, access to, the public roadway and pedestrian facilities, the realignment of the intersection and installation of a traffic signal, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1982 dated May 6, 2019, prepared by Burgess & Niple of Chantilly, Virginia.]

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE ENGINEER'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

OWNER: _____

RICHARD COOK

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

THIS PLAT WAS ACKNOWLEDGED BEFORE ME, A NOTARY PUBLIC FOR THE ABOVE JURISDICTION,
BY RICHARD COOK, OWNER.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, GREGORY S. EDWARDS, A DULY LICENSED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF RICHARD COOK AS RECORDED IN DEED BOOK 23144, PAGE 1688 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.

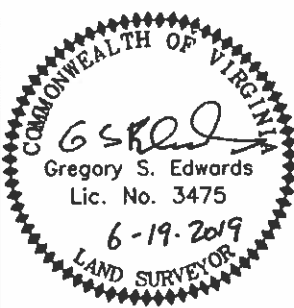
GSE
GREGORY S. EDWARDS, LS

6-19-2019
DATE

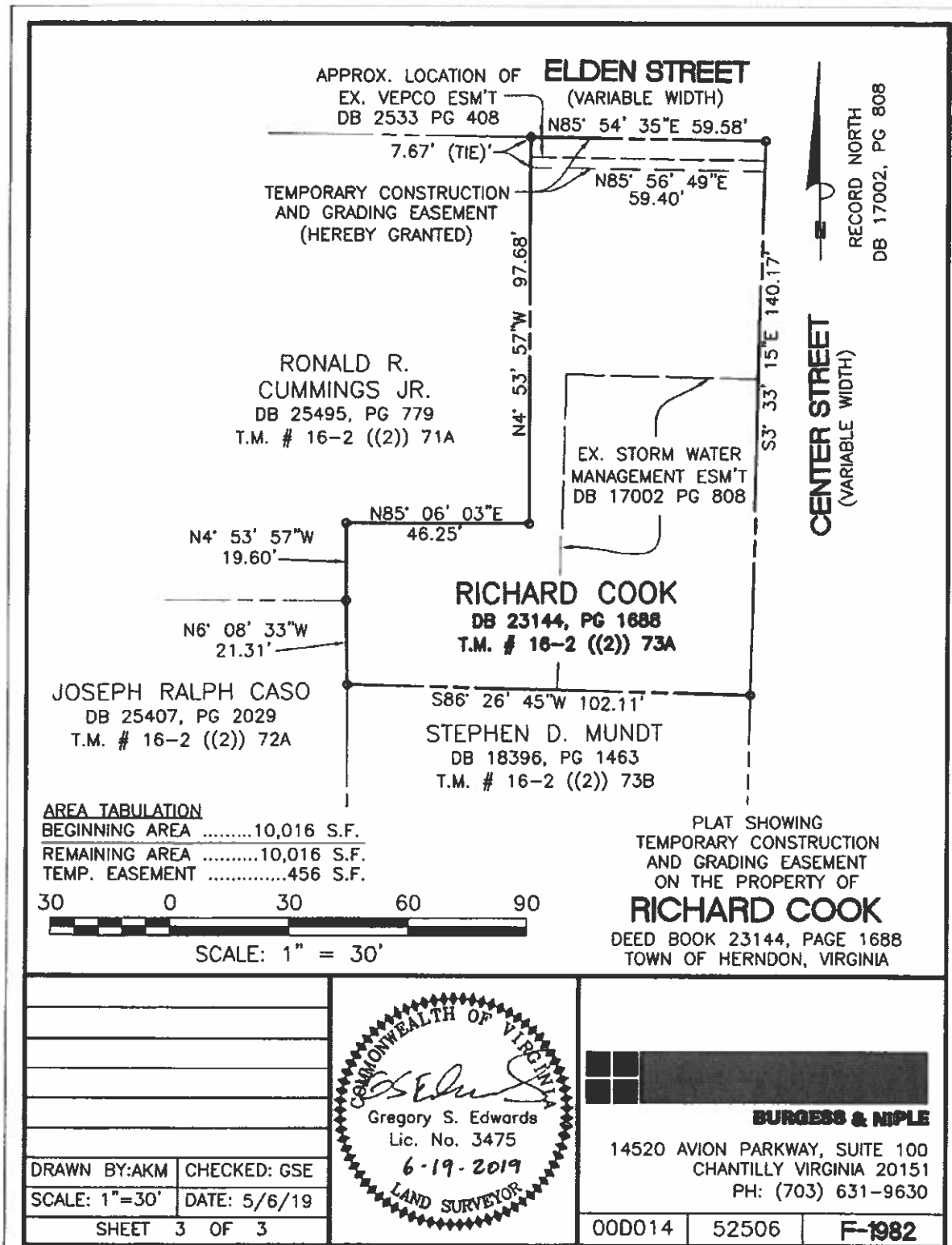
NOTES

- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON
FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2))
73A AND IS ZONED R-10.
- 2.) OWNER: RICHARD COOK
DEED BOOK 23144, PAGE 1688
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON
RECORDED INFORMATION AND DOES NOT REPRESENT A
CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF
RECORD OR OTHERWISE.

PLAT SHOWING
TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF
RICHARD COOK
DEED BOOK 23144, PAGE 1688
TOWN OF HERNDON, VIRGINIA

				
DRAWN BY: AKM	CHECKED: GSE	 BURGESS & NIPLE 14520 AVION PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630	F-1982	
SCALE: 1"=30'	DATE: 5/6/19			
SHEET 2 OF 3				
		2	Attachment 20-O-37	

**June 9, 2020
(public hearing)**



**June 9, 2020
(public hearing)**

Ordinance 20-O-38, property owned by Elden Street Market, LLC, 791 Elden Street

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Councilmember Dhakal (there were no comments from the audience), seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-38 was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-38, to authorize the use of eminent domain for the acquisition of a fee simple interest, temporary easements, and a permanent easement on property owned by Elden Street Market, LLC, at 791 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0074 and Tax Map #: 0162-02-0075 for public use by condemnation for transportation facility improvements at the Center Street and Elden Street intersection, 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 the 102 square foot temporary construction and grading easement on Parcel 0074 for \$570.00 along with the 1,984 square foot dedication of right of way in fee simple, the 518 permanent storm drainage easement, and the 1,797 square foot temporary construction and grading easements, plus asphalt paving, on Parcel 0075 for \$145,780.00, in connection with the Center Street and Elden Street intersection. The landowner did not accept this offer and 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 Elden Market, LLC as well as Elden Market, LLC for the Town's condemnation of these interests in property over real estate located at 791 Elden Street, Town of Herndon, Fairfax County, Virginia, designated as Tax Map #: 0162-02-0074 and Tax Map # 0162-02-0075 and shown as on

**June 9, 2020
(public hearing)**

plat F-1958 dated May 18, 2010, and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, 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, improvement of, access to, the public roadway and pedestrian facilities, the realignment of the intersection and installation of a traffic signal, 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 Center Street and Elden Street intersection. The property interests are necessary for the construction, maintenance, improvement of, access to, the public roadway and pedestrian facilities, the realignment of the intersection and installation of a traffic signal, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference is plat F-1958 dated May 18, 2010, and revised through March 16, 2020, prepared by Burgess & Niple of Chantilly, Virginia.]

June 9, 2020
(public hearing)



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR

DATE

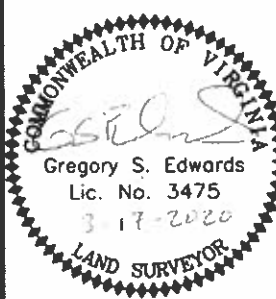
ATTEST

DATE

PLAT SHOWING
STREET DEDICATION AND EASEMENTS
ON THE PROPERTY OF
ELDEN MARKET, LLC

DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.3/16/2020 UPDATE OWNER
REV.7/27/10 TOWN COMMENTS
REV. 11/16/18 UPDATE AREA
REV. 3/27/18 UPDATE PLAT
REV.5/23/11 TOWN COMMENTS
REV.10/13/10 REV DEDICATION
DRAWN BY: DCF
CHECKED: GSE
SCALE: 1"=30'
DATE: 5/18/10



BURGESS & NIPLE

14520 AVION PARKWAY, SUITE 100
CHANTILLY VIRGINIA 20151
PH: (703) 631-9630

SHEET 1 OF 4

00D014

47724

F-1958

**June 9, 2020
(public hearing)**

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, DEDICATE THE FEE SIMPLE TITLE TO THE LAND AS INDICATED FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF PUBLIC STREETS. THE PLATTING OR DEDICATION OF THE LAND AS DESCRIBED ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

BY: _____

DATE: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

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

BY _____

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
NOTARY REGISTRATION NUMBER: _____

SURVEYOR'S CERTIFICATE:

I, GREGORY S. EDWARDS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF ELDEN MARKET, LLC AS RECORDED IN DEED BOOK 26115, PAGE 600 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO DEED NORTH.

GSE

3-17-2020

GREGORY S. EDWARDS
VIRGINIA #3475

DATE

NOTES

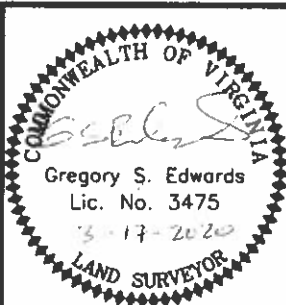
- 1.) THE PROPERTIES SHOWN HEREON ARE LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #16-2 ((2)) 74 AND PARCEL #16-2 ((2)) 75 AND ARE ZONED CC.
- 2.) OWNER: ELDEN MARKET, LLC
DEED BOOK 26115, PAGE 600
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
- 4.) THIS PLAT DOES NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
PROPOSED TEMPORARY CONSTRUCTION
AND GRADING EASEMENT
ON THE PROPERTY OF

ELDEN MARKET, LLC

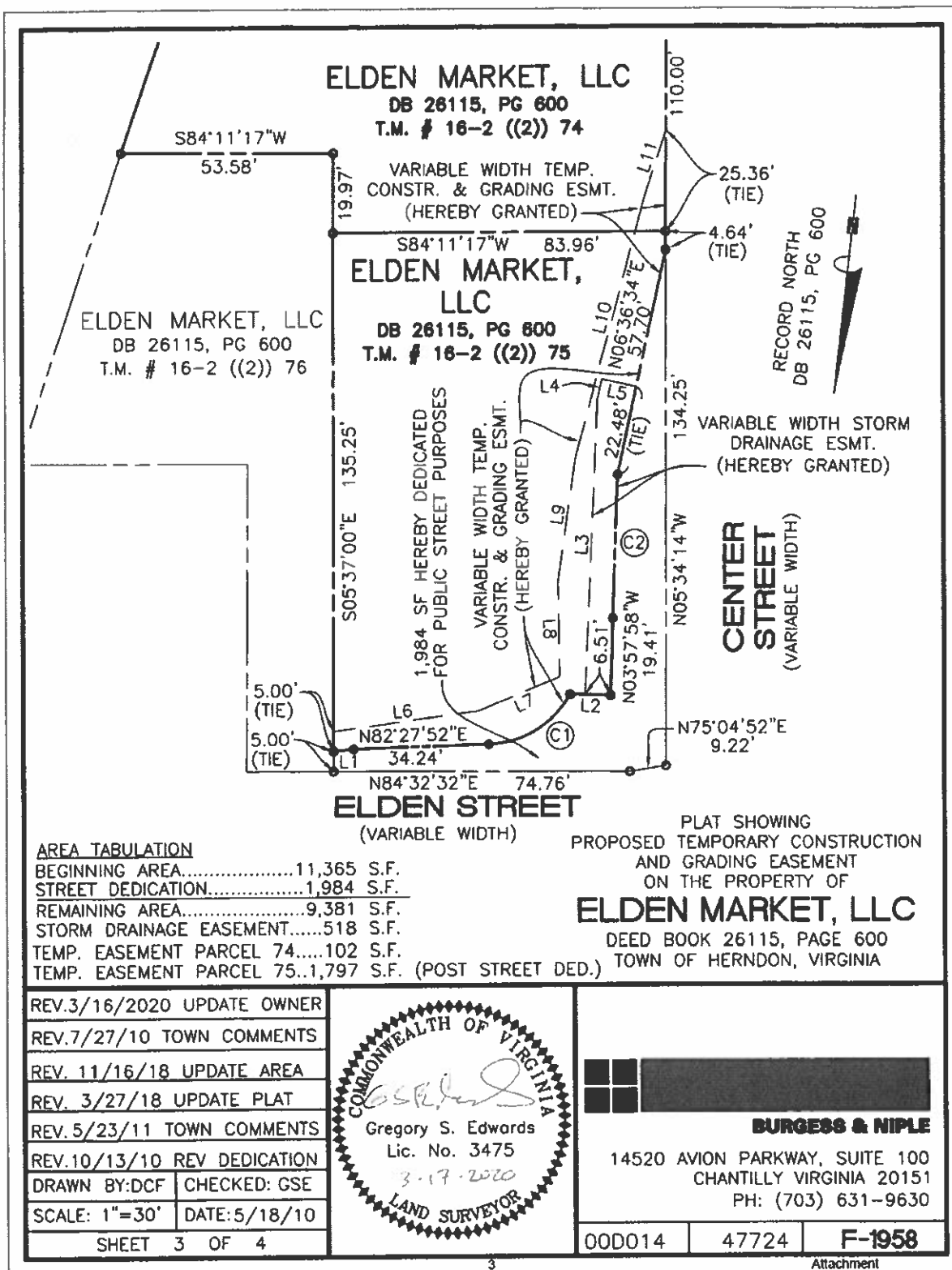
DEED BOOK 26115, PAGE 600
TOWN OF HERNDON, VIRGINIA

REV.3/16/2020 UPDATE OWNER
REV.7/27/10 TOWN COMMENTS
REV. 11/16/18 UPDATE AREA
REV. 3/27/18 UPDATE PLAT
REV.5/23/11 TOWN COMMENTS
REV.10/13/10 REV DEDICATION
DRAWN BY: DCF
CHECKED: GSE
SCALE: 1"=30'
DATE: 5/18/10
SHEET 2 OF 4



		
BURGESS & NIPLE		
14520 AVION PARKWAY, SUITE 100 CHANTILLY VIRGINIA 20151 PH: (703) 631-9630		
00D014	47724	F-1958

June 9, 2020
(public hearing)



**June 9, 2020
(public hearing)**

12. Ordinance 20-O-39, to consider amending the Fiscal Year (FY) 2020 Adopted Budget which, if adopted by Town Council, will amend the budgets of the General Fund, Capital Improvements Fund, and Golf Fund.

A Certificate of Publication was filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the Friday, May 29, 2020 issue.

Mayor Merkel opened the public hearing and asked if any written comments were received for the record on this item, and Amanda Kertz, Deputy Town Clerk, stated that staff had not received any comments to enter into the record.

Mayor Merkel recognized Jennie Tripoli, Director of Finance, for the staff report. Due to technical difficulties, William H. Ashton II, Town Manager began the staff report by summarizing the items on the staff report and PowerPoint, dated June 9, 2020, which are on file in the Town Clerk's office.

Mr. Ashton stated that throughout the fiscal year, the town typically received grant funding, insurance recoveries, and other reimbursements of town costs that were not part of the adopted budget because they happened off-cycle. The proposed budget amendment would reconcile accounts from which these funds were spent.

When Ms. Tripoli was able to rejoin the meeting via Webex, she stated that the all of the funding staff was requesting came from external sources. She reviewed the proposed budgetary changes by fund and department, provided in the staff report and as outlined below:

General Fund

- Police Department - \$105,441 increase in expenditures, funded by federal and state seized assets, various federal grants for selective enforcement, the state Internet Crimes Against Children (ICAC) grant, federal selective enforcement grants, and e-summons funds left over from prior years, but spent in the current year.
- Department of Public Works (DPW) - \$19,485 increase in expenditures for reimbursement received from a developer for completing punch list items and funds received for a memorial bench, which had been purchased and installed by the town.
- Community Development - \$72,000 increase in personnel expenditures for the federal community development BLOC grant received through Fairfax County for the Neighborhood Improvement Coordinator position.
- Emergency Cost Center - \$500,000 allocation of a portion of the federal the CARES Act funding received through Fairfax County to cover estimated eligible costs directly

**June 9, 2020
(public hearing)**

related to COVID-19, including personal protective equipment (PPE), sanitization products and services, teleworking and electronic meeting capabilities, and other goods and services. She stated further details would be coming in July.

Capital Projects Fund

- Public Works - \$31,609 increase in wayfinding sign expenditures to replace the lighted town sign destroyed in an accident earlier this year. The replacement cost is fully covered by insurance.

Golf Fund

- Golf - \$1,367 increase in maintenance expenses incurred due to an attempted break-in. This cost was recovered by insurance.

Ms. Tripoli also stated that staff would be coming to Council in July concerning CARES Act funds and emphasized that there would be a net zero impact on the funds being discussed. Staff recommends approval of the proposed ordinance, as presented.

There was brief discussion amongst Council and staff on this item.

In response to queries from Councilmember Friedrichs, Ms. Tripoli stated that the seized assets were part of Virginia Code Section 19.2-386.22 from 1990, which referenced assets that were used in the transport and sale of illegal drugs that could be seized and used by participating police departments. She stated the state's Department of Justice controlled the state portion of the fund and the allocation of money to participating localities. She stated there are also federal seized assets, but these funds were specifically state funds.

Mr. Ashton also stated that the assets were seized following conviction and that the proceeds from products of the crime could only be used for certain things, like new programs. He stated the Chief of Police was not the only one who decided how the funds were used and that his signature was required as well.

In response to further queries from Councilmember Friedrichs, Mr. Ashton emphasized that the assets were seized statewide.

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address Council on this item.

Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

**June 9, 2020
(public hearing)**

On motion of Councilmember Friedrichs (there were no comments from the audience), seconded by Vice Mayor Olem, and carried by unanimous roll call vote by electronic means, Resolution 20-O-39, amending the Fiscal Year (FY) 2020 Adopted Budget, was approved, as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."

Ordinance 20-O-39, Amending the Fiscal Year 2020 Adopted Budgets of the General Fund, Capital Projects Fund, and Golf Fund to Provide Financial Adjustments Related to Off-Cycle Grants, Insurance Recoveries, and Reimbursements for Town Services.

Recital

In adopting this ordinance, the Town Council has considered the Town Manager's recommended budget modifications as described in Attachment A, FY 2020 Budget Amendment Number 3.

BE IT ORDAINED by the Council of the Town of Herndon, Virginia that the financial adjustments to the FY 2020 budget, as described in Attachment A, FY 2020 Budget Amendment Number 3, dated June 9, 2020 and incorporated as part of this ordinance, are hereby approved.

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

[Note: Attached for reference is Attachment A, titled "FY 2020 Budget Amendment Number 3."]

**June 9, 2020
(public hearing)**

Attachment A
Page 1 of 1

TOWN OF HERNDON, VA

**FY 2020
BUDGET AMENDMENT NUMBER 3**

June 9, 2020

GENERAL FUND

Expenditure Appropriations:

Increase General Fund Expenditures:

Police Department	\$ 105,441
Department of Public Works	19,485
Community Development	72,000
<u>Emergency (COVID-19)</u>	<u>500,000</u>
Total	\$ 696,926

Revenue Budgets:

Increase Federal and State Grant Revenues	\$ 647,441
Increase Not Otherwise Classified	19,485
<u>Increase Use of Restricted Fund Balance (eSummons)</u>	<u>30,000</u>
Total	\$ 696,926

CAPITAL PROJECTS FUND

Expenditure Appropriations:

Increase Wayfinding Signs Capital Project Expenditures	\$ 31,609
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Revenue Budget:

Increase Insurance Proceeds	\$ 31,609
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GOLF FUND

Expense Appropriations:

Increase Golf Operations & Maintenance Expense	\$ 1,367
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Revenue Budget:

Increase Insurance Proceeds	\$ 1,367
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Attachment
20-O-39

**June 9, 2020
(public hearing)**

13. **Resolution 20-G-17, to consider the TOWN OF HERNDON FY 2021 – FY 2026 CAPITAL IMPROVEMENT PROGRAM. Descriptive Summary of Proposed Action: The Town Council will consider adoption of the Town Manager’s recommended Capital Improvement Program (CIP). The CIP is a financial planning document that establishes a six-year schedule for public improvements and serves as a companion to the Town of Herndon 2030 Comprehensive Plan. The Town Council will hear public comment and consider action with focus on the FY 2022 through FY 2026 portion of the FY 2021– FY 2026 CIP. It is anticipated that the FY 2021 portion of the CIP will be adopted during May 2020 with the annual operating budget for the fiscal year that runs from July 1, 2020 through June 30, 2021 (“FY 21”).**

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, May 22 and Friday, May 29, 2020.

Mayor Merkel opened the public hearing and asked if any written comments were received for the record on this item, and Amanda Kertz, Deputy Town Clerk, stated that staff had not received any comments to enter into the record.

Mayor Merkel recognized Dana Heiberg, Senior Planner, for the staff report.

Mr. Heiberg presented the staff report and PowerPoint, dated June 9, 2020, which are on file in the Town Clerk’s office. The Capital Improvement Program (CIP) was a financial planning document that would establish a six-year schedule for public improvements and would serve as a policy document that was a companion to the town’s 2030 Comprehensive Plan. This was the FY 2021-FY 2026 portion of the CIP and he stated that the first year of the CIP was adopted with the FY 21 Operating Budget. To what extent the town would be able to achieve the proposed spending for the projects was uncertain at this time and would be for the foreseeable future.

The proposed CIP was developed during the final quarter of 2020. The Planning Commission reviewed it on February 25, 2020, prior to COVID-19. Mr. Heiberg stated that the proposed CIP represented the Town Manager’s recommendations; however, in light of the current fiscal situation, what was a calculated plan was now an aspirational document.

Mr. Heiberg provided an overview of the pre-COVID CIP, which contained 48 projects: 36 General Fund, and 12 Enterprise Fund projects. There were five new projects included in the CIP, which were: South Elden Street, Metrorail Station Promenade, Central Elden Walkability, Town-wide Security Initiative, and the Police Server Room HVAC and Expansion.

Mr. Heiberg outlined two major VDOT-administered projects, which were: East Elden Street and Herndon Parkway/Spring Street to Fairfax County Parkway, and he stated that

**June 9, 2020
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they were listed in the CIP because the town would contribute some funding. East Elden Street and Herndon Parkway/Spring Street were currently estimated at \$50.69 million and \$14.6 million, respectively. Staff was pursuing VDOT Revenue Sharing as a 50 percent match to reduce current shortfalls. He stated that General Obligation Bonds were listed in the proposed CIP, so the town would fully fund its commitment. While staff has been successful with Revenue Sharing allocations, due to the current economic situation, these funds were not guaranteed.

Mr. Heiberg reviewed the CIP projects by category, as outlined in the PowerPoint: Multimodal Transportation Enhancements; Government Facilities and Infrastructure; Stormwater Management and Environmental Enhancement (funded by county Stormwater Tax); Parks and Recreation; Golf Course Enterprise Fund; Water and Sewer Fund Projects – which were very similar to previous programs; the Downtown Parking Fund; and Cemetery Fund. He discussed the typical funding sources that support the CIP projects, as provided on page 13 of the PowerPoint.

Mr. Heiberg clarified one statement from the staff report, which referenced the approximately \$1.2 million grant from Fairfax County for the Arts Center interior. He stated that grant was approved as part of a Memorandum of Understanding (MOU) between the town and the county. He also highlighted the two largest items in the Water and Sewer Fund, which were the sewer conveyance and the sewer capacity purchase.

Mr. Heiberg reviewed how the proposed CIP aligned with the town's 2030 Comprehensive Plan and other policies, stressing projects like East Elden and Spring Street improvements; Arts Center; Runnymede Park Nature Center; Community Center Phase V; projects related to the Metrorail; and other transportation improvements. He then pointed out that several CIP projects supported downtown redevelopment and several addressed the town's Pedestrian Plan.

Mr. Heiberg discussed the future situation for CIP projects during the current economic environment, where funding would be greatly reduced and enterprise funds would also face downward pressure and uncertainty. Staff would frequently reassess the CIP projects based on anticipated revenue forecasts. He stated that staff would prioritize grant funded projects and that staff wanted to provide several needed immediate transportation projects to move forward. Staff planned to prepare for the arrival of Metrorail and future revenue-generating developments. Mr. Heiberg stated that staff recommended approval of the proposed resolution, as presented. He stated that the resolution would include the caveat that the funding shown was dependent on future revenue, along with the usual language included in the CIP.

Mayor Merkel stated that members of the audience who wished to address Council on this item should click the hand icon to be recognized. Mayor Merkel asked Ms. Kertz if there was anyone who joined the Webex that would like to address Council on this item.

**June 9, 2020
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Ms. Kertz confirmed there were no speakers. Mayor Merkel closed the public hearing and moved to Council level for discussion and action.

On motion of Councilmember Friedrichs (there were no comments from the audience), seconded by Vice Mayor Olem, and carried by unanimous roll call vote by electronic means, Resolution 20-G-17, adopting the FY 2022 through FY 2026 portion of the FY 2021–FY 2026 CIP, was approved as presented. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting “Aye.”

Resolution 20-G-17, Adoption of the FY 2022 through FY 2026 portion of the FY 2021 - FY 2026 Town of Herndon Capital Improvement Program.

WHEREAS, the Town Manager of the Town of Herndon, Virginia caused the development and submission of the proposed FY 2021 – FY 2026 Capital Improvement Program by the town staff to the Planning Commission; and

WHEREAS, the Planning Commission held a public hearing on the proposed FY 2021 – FY 2026 Capital Improvement Program on February 24, 2020 and recommended the program to the Town Manager; and

WHEREAS, the Town Manager reviewed the Planning Commission recommendation and developed a similar recommendation with several adjustments on May 5, 2020 as part of the FY 2020 – FY 2021 (“FY 21”) annual Operating Budget proposed to the Town Council; and

WHEREAS, on May 26, 2020, the Town Council adopted the Fiscal Planning Resolution for the FY 21 Operating Budget, including the Capital Improvement Program consisting of \$5,396,000 for general government capital projects; and

WHEREAS, the Town Council held a public hearing with focus on the FY 2022 through FY 2026 portion of the FY 2021 – FY 2026 Capital Improvement Program (CIP) on June 9, 2020.

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

1. Approves and adopts the FY 2022 through FY 2026 portion of the FY 2021 - FY 2026 CIP, as reflected in Attachments 2a, 2b, and 3 of the staff report of June 2, 2020, incorporated by reference. This action includes the FY 2021 – FY 2026 CIP summaries for General Government and Enterprise Fund projects dated June 2, 2020.

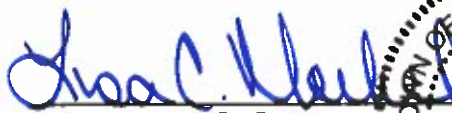
**June 9, 2020
(public hearing)**

2. Recognizes that the purpose of the FY 2021 – FY 2026 CIP is as a planning document and that the funding shown is dependent upon future revenues and other funding sources.

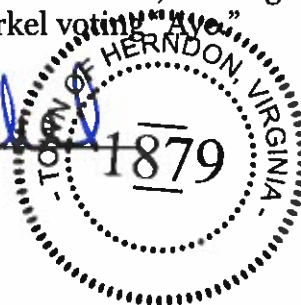
[Note: The FY 2022 through FY 2026 portion of the FY 2021 - FY 2026 CIP, as reflected in Attachments 2a, 2b, and 3 of the staff report dated June 2, 2020, is incorporated by reference and is on file in the Department of Community Development.]

14. ADJOURNMENT

On motion of Vice Mayor Olem, seconded by Councilmember Baker, and carried by unanimous roll call vote by electronic means, the meeting of the June 9, 2020 public hearing adjourned at 8:46 p.m. The vote was: Councilmembers Baker, del Aguila, Dhakal, Friedrichs, McKenna, Vice Mayor Olem, and Mayor Merkel voting "Aye."



**Lisa C. Merkel
Mayor**



**Amanda M. Kertz
Deputy Town Clerk**

Minutes approved by Town Council: July 14, 2020.