

**TOWN OF HERNDON, VIRGINIA
WORK SESSION AGENDA
HERNDON COUNCIL CHAMBERS BUILDING *
765 LYNN STREET
OCTOBER 20, 2020
7:00 PM**

* The meeting is being held electronically pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments. Public comments will be received through the town clerk at town.clerk@herndon-va.gov.

CALL TO ORDER

1. Roll Call & Determination of Quorum
2. Comments from the Town Manager

PUBLIC HEARINGS

3. Ordinance 20-O-58, to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by The Richmond Corporation at 640 Elden Street, Tax Map #: 0162-02-0225A, located in the northeast quadrant of the Elden Street and Monroe Street intersection, for public use by condemnation for transportation facility improvements at the Elden Street and Monroe Street intersection, Herndon.
4. Ordinance 20-O-59, to consider Zoning Map Amendment, ZMA #20-01, 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, to consider a zoning map amendment from Unified Commercial Subdivision. The proposed rezoning would allow for the subdivision of four parcels into eight parcels with each parcel containing a building and associated improvements. Fairfax County Tax Map Reference Numbers: 0162-02-0164B, 0162-02-0164C, 0162-02-0164D, and 0162-02-0164E. Agent: Wire Gill, LLP. Applicant: Penzance. Property Owner: Springpark Place, LLC.

GENERAL

5. Ordinance 20-O-60, to amend Chapter 7 (ARTS DISTRICTS), to amend the definition of an Arts Business and to create a new definition for Arts Focused Redevelopment and establish new incentives for creation and support of new arts redevelopment projects.

CONSENT AGENDA

6. Resolution 20-G-48, to award Contract #D-20-01, General Engineering Services.

ROUNDTABLE

CLOSED MEETING

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



STAFF REPORT

**Town Council
October 20, 2020**

Title:

Ordinance - to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary easement on property owned by The Richmond Corporation at 640 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0225A, located in the northeast quadrant of the Elden Street and Monroe Street intersection, for public use by condemnation for transportation facility improvements at the Elden Street and Monroe intersection, Herndon, Virginia.

Staff Contacts:

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

Lauri A.N. Sigler, Deputy Town Attorney
(703)787-7370
lauri.sigler@herndon-va.gov

Summary:

The Elden Street and Monroe Street intersection is a long-standing CIP project. The Town of Herndon intends to construct certain public improvements: a new traffic signal, brick crosswalks and sidewalks with ADA compliant curb ramps, and a revised curb return in the southeast quadrant of the intersection for improved vehicular and pedestrian traffic movements. In order to construct the improvements, the acquisition of several interests in land were identified as necessary. The Town made a bona fide but ineffectual effort to acquire right of way in fee simple and a temporary easement from the landowner of property at Fairfax County Tax Map No. 0162-02-0225A, for \$5,291.96. The landowner did not accept the offer. As a result, negotiations are at an impasse and the landowner cannot convey valid title. Therefore, the Town now seeks to file a Certificate of Take and prosecute to completion a condemnation action against the land owned by The Richmond Corporation as well as against The Richmond Corporation, for the Town's condemnation of these necessary interests in land over the aforementioned real estate so that construction of this critical project can begin.

Background:

The Elden Street and Monroe Street intersection is a long-standing CIP project. The completed public use project will provide a new traffic signal, brick crosswalks and sidewalks with ADA compliant curb ramps, and a revised curb return in the southeast quadrant for improved vehicular and pedestrian traffic movements.

Project plans show right-of-way acquisition for these improvements in the northeast, southeast, and southwest quadrants of the Elden Street and Monroe Street intersection.

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

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

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

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

Negotiations with the landowner at Fairfax County Tax Map No. 0162-02-0225A have not resulted in the conveyance of the necessary interests in land listed below as shown on the plat dated August 27, 2020, prepared by Rice Associates of Manassas, Virginia, which said plat is attached to the Ordinance and incorporated therein:

ROW Acquisition Type	Size of ROW Acquired (Sq. Ft.)	Unit Price of Real Estate	% Of Value Applied	Estimated Value
Right of Way in Fee	132	\$29.99	100.0%	\$3,959.04
Temporary Easement	111	\$29.99	10.0%	332.92
Landscaping				1,000.00
TOTAL				\$5,291.96

The current VDOT schedule for bidding this project has an advertisement date of no later than January 20, 2021. Staff needs to make every effort to acquire the necessary property interests from the property owners by this January date.

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

Fiscal Impact:

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

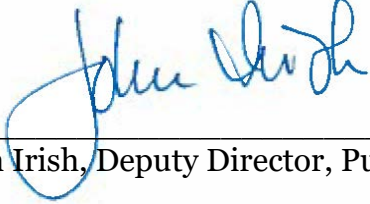
Recommendation:

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

Attachments:

Draft Ordinance

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lauri A.N. Sigler, Deputy Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

October 27, 2020

Ordinance – to authorize the use of eminent domain for the acquisition of a fee simple interest and a temporary construction easement on property owned by The Richmond Corporation at 640 Elden Street, Herndon, Virginia, Tax Map #: 0162-02-0225A, located in the northeast quadrant of the Elden Street and Monroe Street intersection, for public use by condemnation for transportation facility improvements at the Elden Street and Monroe 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 132 square foot right of way in fee simple and the 111 square foot temporary construction and grading easement from The Richmond Corporation for \$5,291.96 (including landscaping) in connection with the Elden Street and Monroe Street intersection 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 The Richmond Corporation as well as The Richmond Corporation for the Town's condemnation of these interests in property over real estate located at the northeast quadrant of the Elden Street and Monroe Street intersection designated as Tax Map #: 0162-02-0225A, and shown as on plat dated August 27, 2020, prepared by Rice Associates of Manassas, Virginia, which said plat is attached hereto and incorporated herein.
2. The Town Council approves the following proposed public use for this acquisition: a new traffic signal, brick crosswalks and sidewalks with ADA compliant curb ramps, and a revised curb return in the southeast quadrant of the intersection for improved vehicular and pedestrian traffic movements.
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 Elden Street and Monroe Street intersection project. The property interests are necessary for the construction, maintenance, improvement of, and access to, the transportation facility improvements, for the public safety and welfare of the Town.
5. This ordinance shall be effective on and after the date of its adoption.

OWNER'S CERTIFICATE:

I, AN UNDERSIGNED OWNER OF THE LAND SHOWN HEREON AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, HEREBY GRANT THE RIGHT OF WAY AND EASEMENTS AS INDICATED FOR CONSTRUCTION AND MAINTENANCE OF STREET IMPROVEMENTS.

BY _____ DATE _____

WITNESS THE ABOVE SIGNATURE THIS _____ DAY OF _____ 2019

NOTARY PUBLIC _____

MY COMMISSION EXPIRES: _____

SURVEYOR'S CERTIFICATE:

I, RANDY A. STOWERS, A DULY CERTIFIED LAND SURVEYOR DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS NOW IN THE NAME OF THE RICHMOND CORPORATION, AS RECORDED IN D.B. 2129, PG. 391, D.B. 2165, PG. 165, D.B. 2683, PG. 718, D.B. 7709, PG. 398 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA AND THAT BEARINGS REFER TO NAD 83 VIRGINIA NORTH ZONE.

[Signature] *08/27/2020*

RANDY A. STOWERS
VIRGINIA # 2342

DATE



APPROVED BY
TOWN OF HERNDON, VIRGINIA

MAYOR _____ DATE _____

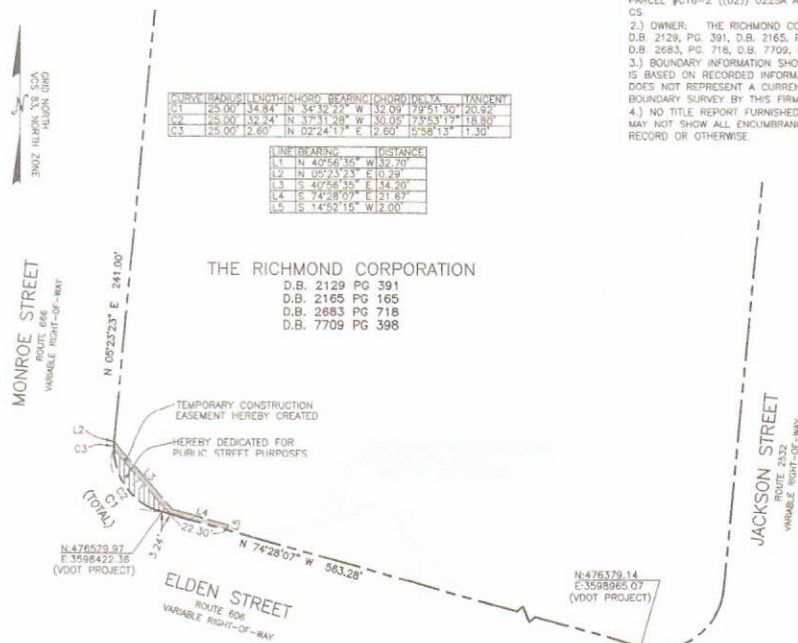
ATTEST _____ DATE _____

AREA TABULATION

DEDICATED FOR PUBLIC STREET PURPOSES 132.50 FT.
TEMPORARY CONSTRUCTION EASEMENT 111.50 FT.



REVISION BLOCK		
NO.	DESCRIPTION	DATE
1	Final Seal & Signature	08/27/2020
2		
3		



CURVE	RADIUS	LENGTH	CHORD	BEARING	CHORD DELTA	TANGENT
C1	25.00	14.84	N 34°12'22" W	32.09	79°51'30"	20.92
C2	25.00	13.24	N 37°11'28" W	30.05	74°53'15"	18.80
C3	25.00	2.60	N 02°24'17" E	2.60	5°58'15"	1.30

LINE	BEARING	DISTANCE
L1	N 40°16'15" W	32.70
L2	N 05°23'23" E	0.29
L3	S 40°16'15" E	14.20
L4	E 74°28'07" W	563.28
L5	S 14°52'15" W	72.00

THE RICHMOND CORPORATION

D.B. 2129 PG. 391
D.B. 2165 PG. 165
D.B. 2683 PG. 718
D.B. 7709 PG. 398

NOTES

- 1.) THE PROPERTY SHOWN HEREON IS LOCATED ON FAIRFAX COUNTY ASSESSMENT PARCEL #016-2 ((02)) 0225A AND ZONED C5.
- 2.) OWNER: THE RICHMOND CORPORATION, D.B. 2129, PG. 391, D.B. 2165, PG. 165, D.B. 2683, PG. 718, D.B. 7709, PG. 398
- 3.) BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDED INFORMATION AND DOES NOT REPRESENT A CURRENT FIELD RUN BOUNDARY SURVEY BY THIS FIRM.
- 4.) NO TITLE REPORT FURNISHED, THIS PLAT MAY NOT SHOW ALL ENCUMBRANCES OF RECORD OR OTHERWISE.

PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES AND
TEMPORARY CONSTRUCTION EASEMENT
ON THE PROPERTY OF
THE RICHMOND CORPORATION

D.B. 2129 PG. 391
D.B. 2165 PG. 165
D.B. 2683 PG. 718
D.B. 7709 PG. 398

RICE ASSOCIATES

Surveying • Photogrammetry • 3-D Laser Scanning
Subsurface Utility Designation and Mapping



10661 GASKINS WAY
MANASSAS, VIRGINIA 20109
(703) 968-3200 FAX (703) 968-2705
WWW.RICESURVEYS.COM



STAFF REPORT

Town Council

October 20, 2020

Title: ZONING MAP AMENDMENT – ZMA #20-01; 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place.

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

Summary Information:

Applicant Request	The applicant is seeking a rezoning to allow for a future unified commercial subdivision. The site currently consists of eight buildings on four parcels. The intent of the applicant is to subdivide the property into eight lots with each respective lot containing a building and associated site improvements.
Address	450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place.
Fairfax County Tax Map #	0162 02 0164B, 0162 02 0164C, 0162 02 0164D, and 0162, 02, 0164E
Owner	Springpark Place, LLC
Applicant	Penzance
Agent	Ken Wire, Wire/Gill LLP
Existing Zoning	PD-B: Planned Development-Business
Proposed Zoning	PD-B: Planned Development-Business with proffers
Total Site Area	21.75 Acres
Land Use Designation	Office Parks and Flexible Space
Existing Land Use	Office Park
Adjacent Zoning	North: O&LI, Office and Light Industrial South: PD-B, Planned Development – Business and RTC, Residential Townhouse Cluster East: O&LI, Office and Light Industrial West: O&LI, Office and Light Industrial
Adjacent Land Use	North: Washington and Old Dominion Trail, Office South: Residential Townhouse Community, Self Storage, Retail Uses, Light Industrial Uses East: Fairfax County Connector Fleet Facility West: Office Park

Background & Site Description:

The site was originally approved for development in 1985 (phase 1) and 1986 (phase 2). The existing development was approved for the development of four lots as part of a unified commercial subdivision. A breakdown of the lots is shown below and on Sheet C-02 and Sheet C-03 of the generalized development plan (attachment #4).

- Lot 1 (6.29 acres) containing buildings 450 Springpark Place (62,030 square feet) and 460 Springpark Place (63,912 square feet)
- Lot 2 (4.4 acres) containing buildings 455 Springpark Place (29,066 square feet) and 465 Springpark Place (25,379 square feet)
- Lot 3 (5.98 acres) containing buildings 470 Springpark Place (52,536 square feet) and 480 Springpark Place (52,076 square feet)
- Lot 4 (5.07 acres) containing buildings 475 Springpark Place (29,350 square feet) and 485 Springpark Place (42,062)

At the time of approval, the site was zoned PD-IP, Planned Development – Industrial Park. All properties that were zoned PD-IP within the town limits were reclassified to PD-IP when the Herndon Zoning Ordinance was rewritten in 2007. The property met all requirements of PD-IP at the time of approval. There are no existing proffers restricting uses on these four parcels.

Proposal Details:

All existing parcels and buildings within the development are under one ownership. The applicant intends to sell some of the buildings and associated proposed parcels to different entities. The applicant has stated some of the buildings and proposed parcels will remain under control by Penzance, but it is unclear at this time how many that is.

Under the unified commercial subdivision provisions, some or all amenities can be shared amongst the proposed parcels. The applicant has proffered a property owners association to oversee shared parking and maintenance. The association will have the authority to allocate excess parking on one property to another if necessary. The association will also have the authority to perform necessary maintenance if an individual property owner fails to do so.

A site plan (TP #20-07) with minor site improvements (accessibility improvements, trail connections, and parklets for commercial tenants) is currently under administrative review by town staff.

Staff Analysis:

Zoning Requirements

Unified commercial subdivisions may only be approved by the town council (§78-40.5(d)). In 1985 all subdivision requests went before the town council for approval. In 2015, ZOTA #14-07 transferred the review and approval process of subdivisions from the town council to the town staff. A zoning map amendment review and approval by the town council followed by an administrative review and approval of a subdivision is required under the current zoning and subdivision ordinances to enable a unified commercial subdivision.

If the applicant were to propose a by-right subdivision, each proposed parcel would be required to meet every provision of the zoning ordinance within the boundaries of every proposed lot. This is especially impactful for zoning requirements located at property lines. For example, properties zoned PD-B are required to have landscape buffers along the borders of the parcel. The proposed property lines on this site go through existing improvements. This would result in certain existing improvements being ripped out in order to meet the ordinance on each lot. Under a unified commercial subdivision, the interior lot lines function mostly as an ownership boundary and certain zoning requirements are applicable only at the borders of the development.

Modification Requests (attachment #2)

Several zoning modifications must be granted by the town council in order for a subsequent administrative subdivision to be possible. The existing development complies with most requirements of PD-B when considering the entire development. Some of the proposed lots are unable to comply with the PD-B requirements independently. Below is an analysis of which lots require modifications.

1. Parking space dimensions (§78-100.5) – At the time of plan approval in 1985 and 1986, compact parking spaces were allowed under the zoning ordinance. Compact parking spaces are no longer permitted under the zoning ordinance and existing compact spaces are considered legally nonconforming. An existing parking conditions map on Sheet C-06 of the generalized development plan shows the dimensions of every space and identifies the nonconforming spaces. Every proposed parcel contains some compact spaces; therefore, the modification is required for all proposed parcels in the development.
 - a. Staff is supportive of this modification request.
2. Exterior Lighting (§78-130.9) – The zoning ordinance limits maximum lighting levels at property lines to prevent light pollution onto adjacent properties. Some

of the interior lot lines run through the middle of parking lots or are adjacent to buildings where having low illumination levels may result in unsafe conditions.

- a. Staff is supportive of this modification request with the condition that the modification only applies to interior property lines and not the outer property lines of the development.
3. Density/Floor Area Ratio for PD-B (§ 78-50.5(f)(2))) – The maximum permitted density in the PD-B zoning district is 0.4. The existing overall density for the development is 0.38. The densities resulting from the proposed subdivision range from a low of 0.28 to a high of 0.45. Any proposed individual lot (Lots 1A, 1B, 3A) with a FAR greater than 0.4 will require a modification.
 - a. Staff is supportive of this modification request because the overall density of the site is below the permitted maximum and cannot increase because all properties will be governed by the generalized development plan and these proffers.
4. Open space required for PD-B (§ 78-50.5(g)) – A minimum of 20 percent of property in the PD-B zoning district is required to be open space. The overall open space for the existing development is 26 percent. As is typical with most developments, the open space is in clusters and not evenly distributed throughout the site. The resulting open space by adding lot lines from the proposed subdivision ranges from a low of 17 percent to a high of 38 percent. Any proposed individual lot (Lots 1B, and 3A) with less than 20 percent open space will require a modification.
 - a. Staff is supportive of this modification request as the overall open space on the site exceeds the minimum for the district and will not decrease because it is governed by the generalized development plan.
5. Minimum number of parking spaces (§78-100.2) – The existing development met the required parking at the time of original plan approval. The PD-B zoning district allows a wide array of by-right uses including office, retail, personal services, data centers, research & development, and some light industrial uses. The parking calculation used is the “office” standard of one space per 300 square-feet. This is the current predominant use but other by-right uses with higher or lower parking requirements could result in variable parking demands across the development. The applicant is proffering a property owners association which will establish and manage a shared parking program.
 - a. As with any new use where there is a change in parking requirements (i.e. converting a data center to office or converting office to retail) the applicant

must demonstrate adequate parking is provided. The association has the authority to allocate unused parking on an adjacent parcel to meet the parking demands of the new use. Proof of allocation by the association can satisfy the requirement to demonstrate adequate parking and obtain a zoning appropriateness permit.

Proffers (attachment #3)

The applicant has worked diligently with staff on refining the proffer language prior to and after the planning commission work session. Staff is comfortable that the most recent version of the proffers submitted by the applicant will allow the development to maintain its identity as a singular, unified development, even though it will be transitioning from one owner to multiple owners.

Town Council Alternatives:

1. Recommend approval of Zoning Map Amendment ZMA #20-01 in accordance with the draft ordinance of approval (attachment #7).
2. Recommend denial of Zoning Map Amendment ZMA #20-01 and specify the reasons for the denial.
3. Refer Zoning Map Amendment ZMA #20-01 back to the planning commission for further consideration.
4. Continue the public hearing on Zoning Map Amendment #20-01 to a date certain.

Planning Commission Recommendation:

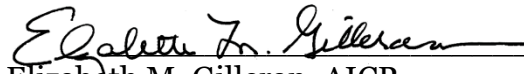
This case was heard before the planning commission at the September 14, 2020 work session and at the September 28, 2020 public hearing. The commission shared staff's concerns regarding shared parking and long-term infrastructure maintenance. The commission was satisfied with the revisions the applicant made to the proffer statement and passed a resolution recommending approval (attachment #6).

Staff Recommendation:

Staff recommends the town council approve Zoning Map Amendment ZMA #20-01 in accordance with **alternative 1**.

Attachments:

1. Vicinity Map
2. Applicant Statement of Support dated August 26, 2020
3. Proposed Proffer Statement dated September 23, 2020
4. Proposed Generalized Development Plan dated August 26, 2020
5. Draft Deed of Resubdivision
6. Planning Commission Resolution for Approval
7. Draft Ordinance of approval


Elizabeth M. Gilleran, AICP
Director of Community Development


David Stromberg, AICP
Zoning Administrator



SITE LOCATION – Spring Park Place

Case: ZMA #20-01



TOWN OF
Herndon

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

August 26, 2020

David Stromberg
Zoning Administrator
Community Development
Herndon Municipal Center
777 Lynn Street, 2nd floor
Herndon, VA 20170

Re: Revised Submission
Zoning Map Amendment For A Unified Commercial Subdivision
450, 455, 460, 465, 470, 475, 480 and 485 Spring Park Place (“Property”)
Tax Parcel Numbers: 16-2-((2))-164B; 16-2-((2))-164C, 16-2-((2))-164D and
16-2-((2))-164E

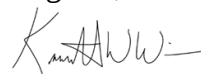
Dear Mr. Stromberg,

On behalf of the Spring Park Place LLC, Owner of the Property referenced above and Applicant, please find enclosed a revised application for a Zoning Map Amendment and other requirements in furtherance of a Unified Commercial Subdivision of the Property:

- Zoning Map Amendment Application;
- List including Owner, Applicant and Agents with contact information;
- Copy of the Signed Affidavit;
- Copy of the Authorization Letter;
- Revised Statement of Support;
- Revised Proffer Statement
- Revised Generalized Development Plan (“GDP”);
- Revised Draft Unified Commercial Subdivision Plat; and
- Revised Draft Deed of Resubdivision.

Please feel free to contact me with any questions regarding this request and we look forward to a public hearing.

Regards,



Kenneth W. Wire

STATEMENT OF SUPPORT

Spring Park Place LLC, Owner of the Spring Park office park and Applicant (“Owner/Applicant”), seeks to subdivide its Property into eight (8) separate lots through the Unified Commercial Subdivision (“UCS”) process. In order to pursue the UCS process, the Town of Herndon Staff directed the Owner/Applicant to file a Zoning Map Amendment from the existing Zoning District PD-B to the existing Zoning District PD-B with proffers. The Owner/Applicant requests no changes or improvements to the Property with this application; the ZMA is requested solely to allow for a UCS/subdivision of the Property into eight (8) lots after the ZMA Town Council hearing, should it be approved.

As background, pursuant to the approved original site plans (Phase 1: May 9, 1985 and Phase 2: April 15, 1986, known as TP #85-89), the Property was subdivided into four (4) lots, each lot with two buildings: Lot 1 with 460 and 470 Spring Park Place; Lot 2 with 455 and 465 Spring Park Place; Lot 3 with 470 and 480 Spring Park Place; and Lot 4 with 475 and 486 Spring Park Place.

According to a Zoning Verification Letter #19-01 dated June 28, 2019, the Property was originally-zoned to the “PD-IP” Planned Development – Industrial Park. The Property was later reclassified to the current Zoning District PD-B in 2007 pursuant to the Town of Herndon Zoning Ordinance revision.

The Owner/Applicant seeks a subdivision to allow for each of the eight (8) buildings to stand alone on its respective lot in order to allow for the Owner/Applicant to sell buildings and lots individually. The ability to sell building individual lots will facilitate additional investment within the Spring Park Office Park. The Owner/Applicant also intends to retain ownership of some lots. The Owner/Applicant intends to make site improvements, facilitate new tenants, and to generally modernize the office park.

There are several modifications needed to allow for existing conditions to remain over the entirety of the Property on all future Lots. First, as noted in the Zoning Verification Letter #19-01, the Property contains compact parking spaces that met the then-current Zoning Ordinance but are not permitted pursuant to the current Zoning Ordinance. As such, the Owner/Applicant seeks to allow compact parking spaces as originally approved over the entirety of the Property/all eight (8) future lots. Second, the existing parking spaces do not meet the 8.5’ x 19.0 standard size parking space dimension required by Section 78-100.5. See hatched spaces on sheets C-06 depicting parking spaces that do not meet the standard parking space dimensions. Lastly, pursuant to Section 78-130.9 Exterior Lighting, the existing building lighting is original to the buildings and does not meet some of these standards.

As shown on the enclosed GDP, Lots 1A, 1B, 3A, 3B and 4A require modifications of the current Zoning Ordinance standards due to the existing building and improvements on the Property to remain. Specifically, Section 78.50.5(f)(2) regarding density/FAR; Section 78.50.5(g) open space; and Section 78-100.2 minimum number of parking spaces cannot be met by the existing buildings and improvements. Lots 2A, 2B and 4B meet the current Zoning Ordinance requirements for FAR, open space and parking, among other applicable requirements.

The following is a specific list of the Zoning Ordinance modifications requested for Lots 1A, 1B, 3A, 3B and 4A:

- Lot 1A:
 - Parking—207 spaces required and 161 (includes 4 HC) provided;
- Lots 1B:
 - FAR—limited to .4 FAR and .49 FAR existing to remain;
 - Parking—214 spaces required and 151 provided (includes 4 HC); and
 - Open Space—20% is required and 17% existing to remain.
- Lot 3A:
 - FAR—limited to .4 FAR and .45 FAR existing to remain;
 - Parking—176 spaces required and 131 provided (includes 4 HC); and
 - Open Space—20% is required and 19% existing to remain.
- Lot 3B:
 - Parking—174 spaces required and 156 (includes 4 HC) provided.
- Lot 4A:
 - Parking—98 spaces required and 64 (includes 2 HC) provided;

Also enclosed for the Town's reference is a DRAFT Resubdivision Plat ("Plat") and a DRAFT Deed of Resubdivision ("Deed"). The Plat shows the boundaries of the new proposed eight (8) lots, parking, access and improvements within each new lot. Also shown on the Plat are existing easements. Additionally, the Deed generally allows for future Lot Owners to access walkways, driveways, loading and other shared surface features. It is the Owner/Applicant's understanding that the Plat and Deed will be reviewed by the Town after the ZMA is heard by the Town, if approved.

The Applicant had a virtual pre-application meeting with Town Planning and Zoning Staff on June 5, 2020. The Applicant has had two other meetings with Town Planning and Zoning Staff since in August of 2020 to discuss this request and looks forward to a future work session with both the Planning Commission and Town Council in September 2020.

PROFFER STATEMENT
ZMA #20-01
Spring Park Office Park: Unified Commercial Subdivision

September 23 , 2020

Pursuant to Section 15.2-2303 of the Code of Virginia (1950, as amended) and Section 78-50.8 of the Town of Herndon Zoning Ordinance, as amended (the “Zoning Ordinance”), the undersigned, for themselves and their successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually, as the “Applicant”), as owner of the property described as Fairfax County 2015 Tax map parcels 16-2-((2))-164B; 16-2-((2))-164C, 16-2-((2))-164D and 16-2-((2))-164E (the “Property”) hereby proffer that in the event this ZMA# 20-01 is approved and a Unified Commercial Subdivision is granted by the Herndon Town Council as provided for in Section 78-40.5(d) of the Herndon Zoning Ordinance, the development of the Property shall be in substantial conformance with the conditions set forth in these proffers (“Proffers”) and the Generalized Development Plan (the “GDP”) described in Proffer 1 below. The purpose of the proffered rezoning and GDP approval is to allow for the subsequent Unified Commercial Subdivision of the Property with existing improvements to remain. No improvements or modifications to the Property are requested with this proffered rezoning.

1. GDP.

- a. The Property is developed in substantial conformance with the Generalized Development Plan prepared by VIK A, Inc. dated August 24, 2020(the “GDP”) and these Proffers. It is understood by the Applicant that all other applicable regulations and policies governing land development within the Town of Herndon (the “Town”) shall apply to the Property and unless specifically modified by the language of this approval. Modifications to the applicable Zoning Ordinance for open space, FAR and parking for certain future Lots are shown on the GDP.
- b. Minor modifications of the GDP may be permitted without the need for amendments to this approval when necessitated by final engineering or site design provided that modifications are in substantial conformance with the GDP and these Proffers. Substantial conformity shall be determined as provided in the Zoning Ordinance.
- c. The purpose of this ZMA# 20-01 is to allow for the subdivision of the property from Four (4) lots to Eight (8) lots with the existing buildings and improvements to remain, subject to the requirements of Section 78-40.5(d) of the Zoning Ordinance and subject to administrative subdivision approval pursuant to Chapter 70 of the Herndon Code of Ordinances that can occur upon approval of the ZMA#20-01. Applicant acknowledges the administrative Unified Commercial Subdivision process can occur upon approval of the Zoning Map Amendment and GDP pursuant to these Proffers.

2. USES.

Any use or combination of uses permitted in the PD-B may be established on the Property.

3. PARKING.

- a. Parking shall be provided as shown in the GDP and may be modified administratively should it be permitted by the Zoning Administrator.
- b. Each future Lot owner will own and manage all parking spaces within their respective future Lots. As detailed in Proffer 7., a property owners association will require shared parking among future Lots so long as there is excess parking.

4. APPROVED SITE PLANS.

- a. No changes to the existing building or site are proposed as part of this approval.
- b. The Applicant agrees to be bound to the approved Phase 1 Site Plan and Phase 2 Site Plan (TP #85-89) approved on May 9, 1985 and April 15, 1986 respectively (“Approved Site Plans”) except when modified as outlined in Proffer 4.c.
- c. New site plans will govern respective future Lots upon Unified Commercial Subdivision, which will then govern development. The Applicant may seek minor administrative revisions to its site plans and site plan revisions approved by the Town as permitted by the Zoning Ordinance and these proffers.

5. UNIFIED COMMERCIAL SUBDIVISION.

Upon approval of the GDP and these proffers the Applicant shall seek administrative approval of the subdivision of the Property in substantial conformance with the subdivision plat entitled “Plat Showing Subdivision of Lots 1, 2, 3 & 4 Spring Park Technology Center” prepared by VIKa, Inc. dated June 8, 2020 (the “Plat”) and these Proffers. It is understood by the Applicant that all other applicable regulations and policies governing land development within the Town of Herndon (the “Town”) shall apply to the Property and its subdivision unless specifically modified by the language of this approval.

6. DEED OF RESUBDIVISION.

Prior to the recordation of the subdivision plat and pursuant to and consistent with Section 78-40.5(d)(1) of the Zoning Ordinance, the Applicant agrees to submit a Deed of Resubdivision for review and administrative approval by the Town that shall include a declaration of covenants, conditions and restrictions, easements and cross-easements or other measures which require the subdivision to be developed,

maintained and utilized as a unified whole and will allow for use and access of the Property running to the benefit of future lot owners, lessees, tenants and patrons.

7. The Property shall be subject to an owner's association and all Lot owners shall be members of the association that shall be responsible for the management and maintenance of certain shared elements located on the Property. Prior to the recordation of the subdivision plat, the Declaration of Association ("Association") shall be submitted for review and approval by the Town which shall include the following terms and provisions.
 - a. That the Lot owners will own and manage all improvements and infrastructure on their respective lots in accordance with the GDP and these proffers unless otherwise specifically provided in the Association or deed of subdivision.
 - b. That the Association shall establish a shared parking system and allocate parking between and among the Lots.
 - c. Lot owners are responsible for stormwater management facilities located on their respective Lots. In the event stormwater management facilities are located on Lot(s) that serve other Lot(s), the Lot(s) that benefit from the shared stormwater management facility and the Lot(s) where the facility is located shall jointly be responsible for its maintenance. The Association shall have the ability to maintain any common area facility if the owner of such Lot(s) fails to do so.
 - d. Lot owners shall allow for inter-parcel vehicular and pedestrian access over all roads, sidewalks, driveways and other surface elements by other Lot owners, tenants, employees, licensees, guests or patrons as shown on the GDP.

8. SUCCESSORS AND ASSIGNS.

These proffers shall bind and inure to the benefit of the Applicant and its successors and assigns.

APPLICANT:

LAND USE ATTORNEY:

ENGINEER:

ENGINEER:
VKA VIRGINIA, LLC
8180 GREENSBORO DRIVE, SUITE 200
TYSONS, VIRGINIA 22102
FRANKLIN JENKINS L.S., P.E.
703-442-7800

TOWN OF HERNDON
VIRGINIA

JUNE 17, 2020
AUGUST 26, 2020

CIVIL

C-01	COVER SHEET
C-02	EXISTING CONDITIONS PLAN
C-03	EXISTING CONDITIONS PLAN
C-04	GENERAL DEVELOPMENT PLAN
C-05	GENERAL DEVELOPMENT PLAN
C-06	PARKING STUDY



VICINITY MAP
1" = 100'

MODIFICATION REQUESTS

DESIGNATE EACH SECTION OF THE ZONING ORDINANCE PUBLIC FACILITIES MANUAL OR SUPERVISION ORDINANCE FROM WHICH A MODIFICATION IS REQUESTED PLEASE NOTE THAT A LETTER OF JUSTIFICATION FOR EACH MODIFICATION MUST ACCOMPANY THIS FORM. 25-01-00-00000000

KEY WORDS: *Chlamydia trachomatis*; *Neisseria meningitidis*; *Neisseria gonorrhoeae*; *Haemophilus influenzae*; *Streptococcus pneumoniae*

MODIFICATION OF SECTION 75-22-2021, MISSISSIPPI CODE ANNOTATED

MODIFICATION OF SECTION 7-42 FROM OPEN SPACE

MODIFICATION OF SECTION 7E-425.2 MINIMUM NUMBER OF PARKING SPACES

ADDRESS: ROOM OF BENTLEY FL-408 & STANFORD ST. dallas-9 TEXAS

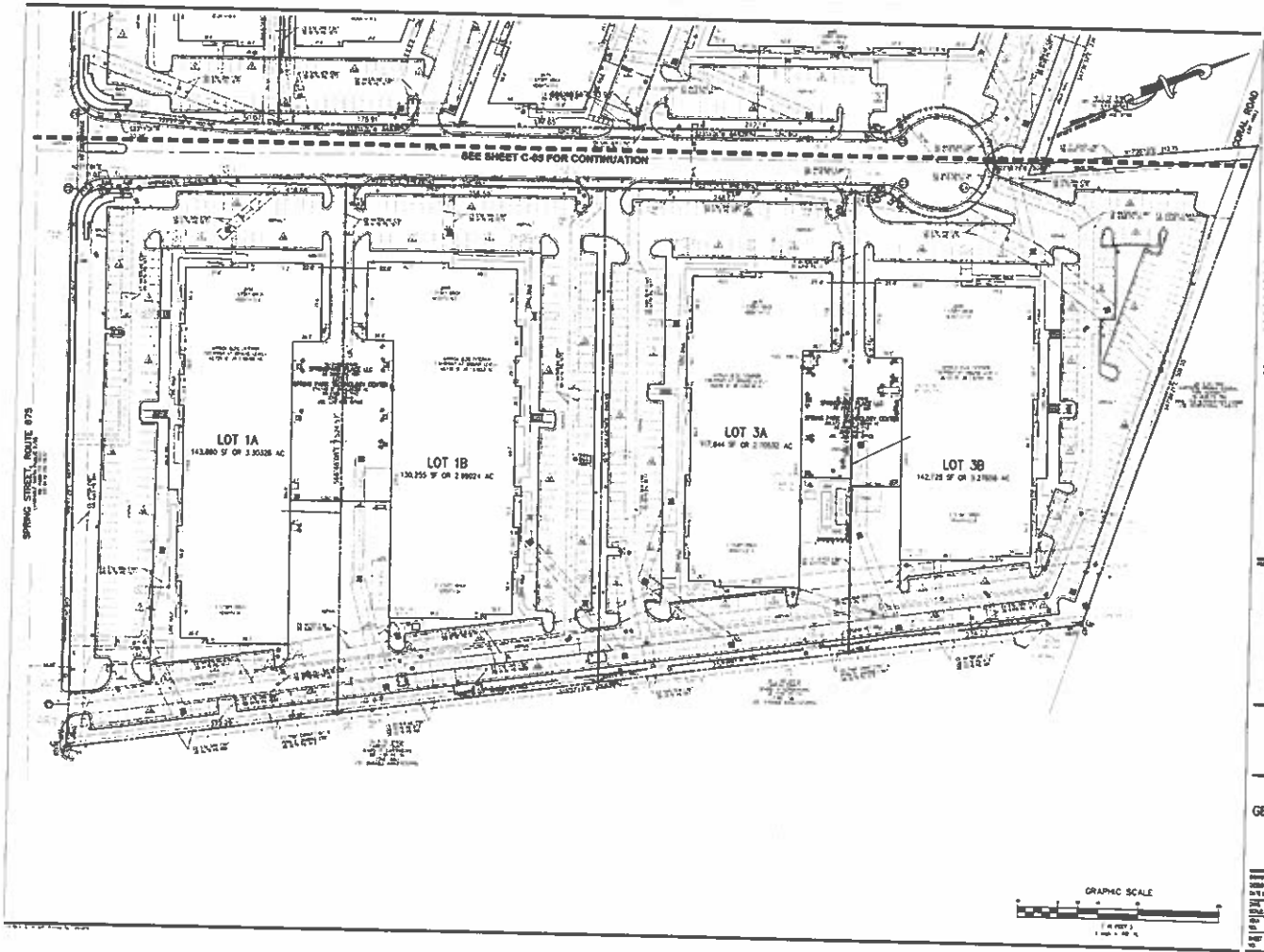
MODIFICATION OF SECTION 75-A(1) & EXTENSION (continued)

DATE FOR COLLECTION: 1998-11-10

TOWN PLAN #:

TOWN OF HERNDON, VIRGINIA
COVER SHEET

[illegible]



VITA VIRGINIA, LLC
2400 Greenbush Dr., Suite 200
Falls Church, VA 22046
703.443.7000 | vita.com

Our Site Set on the Future

THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A CONTRACT. IT IS THE RESPONSIBILITY OF THE USER TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

PLAN STATUS	DATE
BY SA	05/10/2020
BY SA	05/10/2020

REVISION NO. 1
SPRING PARK PLACE, LLC
10000 Spring Park Place, Suite 100
Falls Church, VA 22046
703.443.7000



SPRING PARK
GENERAL
DEVELOPMENT PLAN
TOWN OF SPRING PARK
FALLS CHURCH, VIRGINIA

GENERAL DEVELOPMENT
PLAN

DESIGNED BY	DATE
DRAWN BY	DATE
CHECKED BY	DATE
IN CHARGE	DATE
DATE	C-04

Prepared by and Return To:

Wire Gill LLP
1750 Tysons Boulevard, Suite 1500
Tysons, VA 22314
Attn: Ina C. Charvet
VSB: 39969

Tax Parcel Identification: 016-2 ((2)) 0164B, 016-2 ((2)) 0164C, 016-2 ((2)) 0164D and 016-2 ((2)) 0164E

DEED OF RESUBDIVISION

THIS DEED OF RESUBDIVISION is made and entered this ____ day of _____, 2020, by and between SPRINGPARK PLACE LLC, a Delaware limited liability company ("Owner"), Grantor and Grantee; LAWYERS TITLE REALTY SERVICES, INC., a Virginia corporation, Trustee, ("Trustee"), Grantor; CANADIAN IMPERIAL BANK OF COMMERCE, ACTING THROUGH ITS NEW YORK BRANCH, as Administrative Agent ("Beneficiary"), Grantor; and the TOWN OF HERNDON, VIRGINIA, a municipal corporation ("Town"), Grantee.

WITNESSETH:

WHEREAS, the Owner is the owner of certain real property situate in the Town of Herndon, Fairfax County, Virginia, by virtue of a deed recorded in Deed Book 25891, at Page 1661, among the land records of Fairfax County, Virginia (the "Property"), as further depicted on that plat dated _____, 20____, entitled "Plat Showing Subdivision of Lots 1, 2, 3 & 4, Spring Park Technology Center," and prepared by VIKA Virginia LLC, attached hereto and incorporated herein (the "Plat"); and

WHEREAS, by credit line deed of trust recorded in Deed Book 25891, at Page 1669 (the "Deed of Trust"), the Property was conveyed in trust to the Trustee, to secure a certain indebtedness to the Beneficiary; and

WHEREAS, it is the desire of the Owner, with the consent and approval of the Trustee(s) and the Beneficiary, to resubdivide the Property, all in accordance with the Plat; and

WHEREAS, it is further the desire of the Owner, with the consent and approval of the Trustee(s) and the Beneficiary, to establish certain covenants regarding existing utility

easements and regarding reciprocal access to and through the roads, driveways and sidewalks upon the Property; and

WHEREAS, it is the desire of the Owner, with the consent and approval of the Trustee(s) and the Beneficiary, to subordinate the lien of the Deed of Trust to the easements and covenants created herein.

RESUBDIVISION

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustee(s) and the Beneficiary, if any, does hereby resubdivide the Property into **Lot 1A, Lot 1B, Lot 2A, Lot 2B, Lot 3A, Lot 3B, Lot 4A and Lot 4B, SPRING PARK TECHNOLOGY CENTER**, as more particularly described on the Plat attached hereto and incorporated herein (each a "Lot" and any combination thereof "Lots").

COVENANTS

THIS DEED FURTHER WITNESSETH that, in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner, with the consent and approval of the Trustee(s) and the Beneficiary, does establish the following covenants upon each of the Lots created by this Deed of Resubdivision, which covenants shall run with the land and be binding upon subsequent owners of each such Lot ("Lot Owners"):

1. **Existing Utility Easements.** The Property previously was made subject to certain easements by virtue of instruments recorded among the land records of Fairfax County, Virginia ("Existing Easements"). The Lot Owners shall adhere to the following conditions with regard to altering, relocating, releasing, vacating, quitclaiming or otherwise extinguishing any Existing Easements:

a. Each Lot Owner shall have the right to alter, relocate, release, vacate, quitclaim or otherwise extinguish any Existing Easement(s) that services the Lot Owner's Lot; however, to the extent that any such Existing Easement crosses another Lot, the location of any alteration or relocation must be approved in writing by the Lot Owner of the other Lot

being crossed. Such approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the alteration or relocation of an Existing Easement shall not materially interfere with the use of any Lot Owner's improvements thereon.

b. Each Lot Owner shall have the right to alter or relocate an Existing Easement that crosses its Lot but services another Lot, but only upon the written approval of the owner of the serviced Lot. Such approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the alteration or relocation of an Existing Easement shall not materially interfere with Lot Owner's use or improvements thereon.

c. Any Lot Owner causing an Existing Easement to be relocated upon another Lot shall be responsible for the costs and expenses related to such work and, upon completion, shall restore to its original condition, or as close thereto as reasonably possible, any area damaged on the other Lot as a result of the work.

d. Nothing contained herein shall prohibit the Lot Owners, or any combination of them, as appropriate, from agreeing together in writing concerning any Existing Easement(s) affecting their Lots, provided that such agreement does not materially interfere with the rights of any Lot Owner not a party to the agreement.

2. **Reciprocal Access.** The Owner as Grantor does hereby establish over and across the Property, for the benefit of each Lot Owner, its successors and assigns and its tenants, occupants, guests, licensees and invitees, a covenant for the perpetual, non-exclusive and reciprocal use of the roads, driveways and sidewalks located upon the Property ("Reciprocal Access Areas") for the purpose of vehicular and pedestrian ingress and egress to and from each of the Lots and to and from all abutting streets or rights-of-way furnishing access to the Lots. The covenant is subject to the following conditions:

a. **Maintenance and Relocation.** Each Lot Owner shall be responsible for the performance and the cost of maintenance, repair and replacement of the Reciprocal Access Areas located upon its own Lot, except as otherwise may be agreed in writing. Notwithstanding the existing location of Reciprocal Access Areas depicted on the Plat, each Lot Owner shall have the right to relocate or reconfigure the Reciprocal Access Areas located upon its own Lot, provided, however, that such relocation or reconfiguration shall not

materially or unreasonably interfere with any Lot's access to and from abutting streets or rights-of-way.

b. **Liability Indemnification.** To the fullest extent permitted by law, each Lot Owner (an "Indemnitor") shall indemnify, defend and hold harmless the other Lot Owners and their successors and assigns, partners (and the officers, directors, members and shareholders of its partners), employees, agents, tenants, occupants, guests, licensees, invitees, contractors and lenders (the "Indemnitees"), from and against any and all damages, losses, costs, expenses (including court costs and reasonable attorneys' fees), suits, causes of action, judgments, liabilities, fines and claims of any nature suffered by an Indemnatee that are attributable to or in any way arising from, out of, in connection with, or relating to (or alleged to arise from, out of, in connection with, or to relate to) the use by the Indemnitor and the Indemnitor's employees, agents, contractors and invitees of the Reciprocal Access covenant established herein (collectively, an "Indemnified Loss"), except to the extent arising from the negligence or willful misconduct of the Indemnatee being indemnified.

c. **Insurance.** Each Lot Owner shall maintain a policy or policies of Broad Form Comprehensive Commercial General Liability Insurance, and/or such other insurance as may be prudent, against claims for bodily injury (including death), property damage, and personal injury occurring on, in, or about, or arising out of the use of the Reciprocal Access Areas in amounts as are commercially reasonable, but not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, which may be satisfied in any combination of primary and umbrella coverage.

d. Nothing contained herein shall prohibit the Lot Owners, or any combination of them, as appropriate, from agreeing together in writing concerning reciprocal access, parking or the related structural facilities, provided that such agreement does not materially interfere with the rights of any Lot Owner not a party to the agreement.

3. **Lot Maintenance.** The Lot Owners shall adhere to the following requirements with regard to maintenance of the Lots:

a. Each Lot Owner shall maintain its Lot in accordance with the approved site plan and in a condition of good repair and professional appearance.

b. Each Lot Owner shall timely remove snow and ice from the drives,

parking areas, sidewalks and walkways of its Lot. Should any Lot Owner fail to perform such work, any other Lot Owner (or combination thereof) shall have the right but not the obligation to enter upon the Lot and perform such work and shall be reimbursed upon demand by the Owner of said Lot for the costs and expenses incurred as a result.

CONSENT AND SUBORDINATION

THIS DEED FURTHER WITNESSETH that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Trustee(s), as authorized to act by the Beneficiary, do(es) hereby consent to the resubdivision and subordinate the lien of the Deed of Trust to the covenants established herein, as further shown on the Plat.

COVENANTS REAL

The Owner, with the consent and approval of the Trustee(s) and the Beneficiary, declares that the agreements and covenants stated in this Deed are not covenants personal to the Owner, but are covenants real, running with the land.

FREE CONSENT AND DESIRE

This Deed is made with the free consent and in accordance with the desire of the undersigned owners, proprietors, and Trustee(s), if any.

MISCELLANEOUS

This Deed shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. This Deed may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. This Deed is in accordance with the Statutes of Virginia and the ordinances in force in the Town of Herndon, Virginia, governing the platting and subdivision of land and is approved by the proper authorities as evidenced by their endorsement hereto and the Plat.

[Signatures appear on the following pages.]

OWNER:

SPRINGPARK PLACE LLC,
a Delaware limited liability company

By: Penzance DC Real Estate Fund REIT LLC,
a Delaware limited liability company, its sole
member

By: Penzance DC Real Estate Fund REIT Manager
LLC,
a Delaware limited liability company, its
manager

By: _____
Michael Lefkowitz,
Authorized Signatory

State/Commonwealth of _____ :
City/County of _____ : to wit:

The foregoing instrument was acknowledged before me by
_____, the _____ of SPRINGPARK PLACE LLC on this
_____ day of _____, 20____.

Notary Public

My commission expires: _____
Commission ID #: _____

TRUSTEE:

LAWYERS TITLE REALTY SERVICES, INC.,
a Virginia corporation, Trustee

By: _____

Name: _____

Title: _____

State/Commonwealth of _____:
City/County of _____: to wit:

The foregoing instrument was acknowledged before me by
_____, the _____ of LAWYERS TITLE REALTY
SERVICES, INC., on this _____ day of _____, 20____.

Notary Public

My commission expires: _____
Commission ID #: _____

BENEFICIARY:

CANADIAN IMPERIAL BANK OF COMMERCE,
ACTING THROUGH ITS NEW YORK BRANCH

By: _____

Name: _____

Title: _____

State/Commonwealth of _____:
City/County of _____: to wit:

The foregoing instrument was acknowledged before me by
_____, the _____ of CANADIAN IMPERIAL BANK OF
COMMERCE, ACTING THROUGH ITS NEW YORK BRANCH on this _____ day of
_____, 20__.

Notary Public

My commission expires: _____
Commission ID #: _____

TOWN:

TOWN OF HERNDON, VIRGINIA,
a municipal corporation

Lisa C. Merkel, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Commonwealth of Virginia:
County of Fairfax, to wit:

The foregoing instrument was acknowledged before me by Lisa C. Merkel, the Mayor
of the TOWN OF HERNDON, VIRGINIA, this ____ day of _____, 20__.

Notary Public

My commission expires: _____
Commission ID #: _____

TOWN OF HERNDON, VIRGINIA

PLANNING COMMISSION

RESOLUTION

September 28, 2020

Resolution – Recommending approval of Zoning Map Amendment #20-01, 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, to the Town Council

WHEREAS, Wire Gill, LLP, the applicant, has submitted a zoning map amendment, ZMA #20-01, requesting to subdivide 4 parcels of land, identified as Fairfax County Tax Map Reference Numbers 0162-02-0164B, 0162-02-0164C, 0162-02-0164D, 0162-02-0164E, and containing 2 buildings each, into 8 parcels of land with each parcel containing a building and associated improvements and being regulated under the provisions of a unified commercial subdivision; and

WHEREAS, The request includes a proffer statement dated August 26, 2020 and amended through September 23, 2020, and a generalized development plan dated June 17, 2020 and amended through August 26, 2020; and

WHEREAS, The request does not increase the level of density or land uses permitted on the property; and

WHEREAS, The applicant is requesting modifications to the following sections of the zoning ordinance: Section 78-50.5(f)(2) regarding density/floor area ratio in PD-B, Section 78-50.5(g) regarding open space in PD-B, Section 78-100.2 regarding minimum parking, Section 78-100.5 regarding dimensional requirements for parking, and Section 78-130.9 regarding exterior lighting; and

WHEREAS, On September 28, 2020, the Planning Commission held a public hearing to consider ZMA #20-01; and

WHEREAS, The Planning Commission has determined that the applicant has demonstrated that the above referenced Proffer Statement and generalized development plan adheres to applicable sections of the Town of Herndon Zoning Ordinance, dependent upon a modification of aforementioned sections; and

WHEREAS, The Planning Commission has determined that the applicant has demonstrated that the requested modifications afford equal or greater assurances of meeting the applicable goals of the Zoning Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Herndon, Virginia that the Commission recommends to the Town Council of the Town of Herndon, Virginia approval of ZMA #20-01.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

ZMA #20-01

October 27, 2020

Ordinance- Zoning Map Amendment ZMA #20-01. To amend the zoning of the property at 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, identified as Fairfax County Tax Map Reference Numbers 0162-02-0164B, 0162-02-0164C, 0162-02-0164D, and 0162-02-0164E, to allow for a unified commercial subdivision and to offer proffers. The property is zoned PD-B, Planned Development – Business, and its land use designation in the Comprehensive Plan is “Office Parks and Flexible Space”

In adopting this Ordinance, the Town Council has considered the factors set out in 15.2-2284, Code of Virginia (1950) as amended.

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

A. The zoning of the property described below, lying in the Town of Herndon, Fairfax County, Virginia, is amended to allow a Unified Commercial Subdivision as proposed in the Springpark Place LLC/Wire Gill LLP/Vika Virginia LLC Development Plan dated August 26, 2020 and the Proffer Statement dated September 23, 2020 for ZMA #20-01 and in accordance with Sections 78-50.5 and 78-155.1 of the Town of Herndon Zoning Ordinance.

The property is shown in the above referenced Development Plan and described in the land records of Fairfax County in Deed Book 25891 on page 1661 and in Deed Book 6330 page 1112. The total land area of the property is 21.75 acres.

B. This rezoning shall be governed by this ordinance, the Town of Herndon Zoning Ordinance, the above referenced Proffer Statement for ZMA #20-01 and the above referenced Generalized Development Plan for ZMA #20-01. The Proffer Statement is included as an attachment to this ordinance. This Zoning Map Amendment is consistent with the adopted 2030 Comprehensive Plan of the Town of Herndon.

C. The Town Council approves the following modifications to the zoning regulations, as allowed under Section 78-50.2(d):

A modification to Section 78-100.5 to allow compact parking spaces (minimum 16 feet by 7.5 feet).

A modification to Section 78-130.9 to allow the maximum lighting requirements to be exceeded at property lines interior to the development.

A modification to Section 78-50.5(f)(2) to allow the maximum permitted density to exceed 0.4 on Lots 1A, 1B, and 3A in accordance with the Generalized Development Plan.

A modification to Section 78-50-5(g) to allow a lower percentage of open space on Lots 1B and 3A in accordance with the Generalized Development Plan.

A modification to Section 78-100.2 to allow a lower amount of required parking on Lots 1A, 1B, 3A, and 4A in accordance with the Generalized Development Plan.

D. As to the modifications set out in item C. above, the Town Council finds that such modifications will afford equal or greater assurance of meeting the goals of the zoning ordinance, Town of Herndon, Virginia, as set out in the preamble of that ordinance.

E. This ordinance shall be effective on and after its adoption.



STAFF REPORT

Town Council Work Session October 20, 2020

Title:

Ordinance – to amend Chapter 7 (ARTS DISTRICTS), to amend the definition of an Arts Business and to create a new definition for Arts Focused Redevelopment and establish new incentives for creation and support of new arts redevelopment projects.

Staff Contact:

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

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

Summary:

The Town Council adopted Ordinance 16-O-02 on January 12, 2016 adding a new Chapter 7 – ARTS DISTRICTS to the Herndon Town Code. The new chapter established and delineated the boundaries of the Town’s first arts district for the purpose of increasing awareness and support for the arts and providing incentives for the support and creation of arts within the district.

This ordinance will amend Chapter 7 by creating a new definition of “Arts Business” and creating a new term called an “Arts Focused Redevelopment” and establishing incentives for support and creation of arts focused redevelopment projects.

Background:

Section 15.2-943.1 of the Code of Virginia authorizes the creation of arts and cultural districts and sets forth the types of incentives that can be offered in these districts.

An “arts business” will now be called an “arts business or organization” in order to include not for profit organizations. In order to qualify as an arts business or organization, greater than 50% of the floor area of the business or organization must be used for arts instruction, media arts, performing arts, performing arts venue, visual arts creation, or visual arts exhibit as defined in the Chapter, and the business or organization may engage in related, incidental retail sales, as an accessory use.

An “arts focused redevelopment” is a new term that is being added to the Chapter. Such a development will be entitled to incentives in addition to those available to an individual arts business or organization. In order to qualify as an arts focused redevelopment project, the project must be located in the PD-TD - Planned Development – Traditional Downtown zoning district. Since there is limited property currently within the arts district boundaries zoned PD-TD, the hope is that the increased incentives will encourage rezoning to the PD-TD that provides for more harmonious and creative new development, adaptive use and revitalization using the traditional downtown form.

The current amendment allows an art focused redevelopment to take advantage of additional economic incentives including: 1) a 50 percent reduction in the water availability fees, sewer availability fees and building permit fees incurred in the initial establishment of the redevelopment project; 2) an annual rebate of up to 100 percent of the real property taxes attributed to the total redevelopment project for the real estate property taxes due to the town for up to 10 consecutive calendar years; and 3) certain exemptions from town zoning ordinance or proffers allowing for a reduction in the number of parking spaces required for multi-family residential uses to not less than 1.25 spaces per dwelling unit and deferral of certain recreational amenities contributions.

Staff Analysis:

These amendments create additional opportunities to expand the type, quantity and quality of art offerings to town residents and increase the town’s presence as a destination for art activities.

Staff Recommendation:

Staff recommends the Town Council approve the amendment of Chapter 7 of the Town Code as drafted.

Attachments:

1. Draft Ordinance
2. Map of Arts District

Prepared and Approved By:



Lesa J. Yeatts, Town Attorney



David Stromberg, AICP, Zoning Administrator

TOWN OF HERNDON, VIRGINIA

ORDINANCE

OCTOBER 27, 2020

Ordinance- to amend Chapter 7 (ARTS DISTRICTS), to amend the definition of an Arts Business and to create a new definition for Arts Focused Redevelopment and establish new incentives for creation and support of new arts redevelopment projects.

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

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

Chapter 7 - ARTS DISTRICTS

ARTICLE I. - IN GENERAL

Sec. 7-1. - Introduction, intent and purpose.

In accordance with Section 15.2-943.1 of the Code of Virginia, as amended, it is The purpose of this chapter is to create arts districts to attract new arts venues, support existing arts venues, and to encourage the expansion of existing venues in the town. These new, existing, and expanded businesses will increase the town's presence as a destination for arts activities, as well as the opportunities and benefits to town residents of arts offerings.

(Ord. No. 16-O-02, § 1, 1-12-2016)

Sec. 7-2. - Definitions.

When used in this chapter, the following terms shall have the meanings ascribed in this section:

Arts business **or organization** is a business **or not-for-profit** organization **physically located within a town arts district where the principal use, defined as greater than 50% of the floor area, is used** ~~primarily engaged in~~ **for** arts instruction, media arts, performing arts, performing arts venue, visual arts creation or visual arts exhibit as defined herein. The term includes a museum and an arts office use. The business may engage in related, incidental retail sales-, **as an accessory use.**

Arts focused redevelopment is a new redevelopment project physically located within a town arts district on or after October 27, 2020, and in the PD-TD - Planned Development – Traditional Downtown zoning district, where a minimum of 15% of the ground-level gross floor area of the redevelopment project, exclusive of structured parking, is dedicated to qualified arts businesses or organizations including visual arts exhibits.

Arts instruction teaches individuals skills in the performing arts, media arts, or visual arts through experience, study, performance and assessment, providing participatory learning and engaging students with skilled artists, teachers, and art.

Arts office is an office use associated with an arts business **or organization**, such as performing arts events organization and promotion, or arts production.

Business shall have the same meaning as provided for in the business license tax in chapter 30 of this Code.

District means an arts district established pursuant to section 7-3 herein.

Existing business or organization is an arts business **or organization** which is physically located within the district prior to July 1, 2016.

Expanded business or organization is an existing arts business **or organization** which expands physically into new space within the district, to add at least 20 percent in gross square feet (enclosed or outdoors).

Media arts are film, video, audio and other forms of digital and Web-based media, including the production, exhibition, distribution, and preservation of the work.

Museum is a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes which, using a professional staff, owns or uses tangible objects, cares for them, and exhibits them to the public in a physical setting on a regular basis.

New business is a new arts business **or organization** physically located or locating in the district on or after July 1, 2016, which was not actively engaged in the conduct of trade or business in the district prior to the submission of a completed program qualification application. The new business **or organization** shall generate a new use of the land or building, and not the continuation of an existing use. An existing business **or organization** shall not qualify for incentives by reorganizing or changing its form in a manner that does not alter the basis of the business assets or result in a taxable event.

Performing arts are live music, theater, dance (excluding dance as exercise or fitness activity), and opera.

Performing arts venue is a place of indoor or outdoor public assembly for the presentation of the performing arts or media arts.

Qualified arts business or organization is an existing or new arts business, in an **arts district** that has successfully completed the process described in section 7-6 herein. Businesses providing personal services, **including but not limited to a bank, real estate office or attorney's office; or a bowling alley; a brewpub; a restaurant; or** a business intended primarily for exercise or fitness, are not eligible to be qualified arts businesses.

***Qualified arts focused redevelopment* is an arts focused redevelopment in an arts district that has successfully completed the process described in section 7-6 herein.**

Visual arts are the arts of painting, photography, sculpture, printmaking, drawing, design, folk and traditional arts and craft.

Visual arts exhibit is a business or gallery **or defined outdoor area within an arts focused redevelopment** which displays the visual arts to visitors.

(Ord. No. 16-O-02, § 1, 1-12-2016)

Sec. 7-3. - Districts, establishment and boundaries.

There is hereby established a Downtown Herndon Arts District, consisting of all the area as shown on the map entitled "Herndon Arts District," dated January 12, 2016. The Herndon Arts District Map is hereby declared to be a part of this article and to have the same force and effect as if it was fully set forth and described herein. The Herndon Arts District Map shall be kept on file in the office of the community development department.

The town shall provide identifying signs or markings to delineate and identify any arts district created pursuant to this section.

(Ord. No. 16-O-02, § 1, 1-12-2016) ARTICLE II. - ARTS DISTRICT INCENTIVES

Sec. 7-4. - Waiver of fees.

- (a)** A qualified arts business is afforded a 100 percent reduction of planning, zoning, and building permit application fees up to \$2,000.00 total for any single project incurred in the initial establishment of the business, or expansion of the business, in an arts district.
- (b)** **A qualified arts focused redevelopment is entitled to any eligible waiver of fees provided for in Section 7-4(a), or is afforded a 50 percent reduction in the water availability fees, sewer availability fees and building permit fees incurred in the initial establishment of the redevelopment project, whichever is greater.**

Sec. 7-4.1 – Rebate of real property taxes.

- (a)** **A qualified arts focused redevelopment shall be entitled to an annual rebate of up to 100 percent of the real property taxes attributed to the total redevelopment project for the real estate property taxes due to the town for up to 10 consecutive calendar years. Year one is the calendar year in which the arts focused redevelopment becomes qualified if it is qualified prior to June 30 of the first year. Otherwise, year one shall be the year following the year in which the arts focused redevelopment is qualified. In the case of a multi-year incentives, an arts focused redevelopment shall establish its qualification for the incentives on an annual basis by January 1.**

Sec. 7-4.2 – Exemptions from town zoning ordinance.

- (a)** **Notwithstanding a written proffer to the contrary, a qualified arts focused redevelopment shall be entitled to a reduction in the number of parking spaces required for multi-family residential uses to not less than 1.25 spaces per dwelling unit.**

- (b) Notwithstanding a written proffer to the contrary, a qualified arts focused redevelopment shall be entitled to defer a per residential unit proffer contribution to the town for recreational amenities so that the total contribution shall be paid no later than 10 years from the date of approval of the application issued pursuant to section 7-6 herein.**

(Ord. No. 16-O-02, § 1, 1-12-2016)

Sec. 7-5. - Signage.

A qualified arts business is eligible for any provisions described for arts districts in ~~section 78-508.7 of the zoning ordinance.~~ **Chapter 78 of the Town Code.**

(Ord. No. 16-O-02, § 1, 1-12-2016)

ARTICLE III. - ADMINISTRATION AND ENFORCEMENT

Sec. 7-6. - Applications.

- (a) The town manager or his designee will administer applications through the community development department. In determining eligibility for the incentives contained herein, the town manager or his designee shall be guided by this chapter.
- (b) A new or existing arts business **or organization or an arts focused redevelopment** seeking to obtain the incentives of an arts district will meet with the community development department staff and submit a completed qualification application. The community development department shall perform an initial review of the business or project to determine if it qualifies for incentives and then forward the application and recommendation to the town manager or his designee. The town manager, or his designee acting as the agent of the town council, shall review the application and recommendation and make a final determination as to whether the business or project is qualified for the incentives herein.
- (c) The application shall be signed by an official officer, member, agent or representative of the business authorized to sign on its behalf.
- (d) If the town manager or his designee denies an application, he shall do so in writing stating the reasons therefore, and affording the applicant an opportunity to respond in writing or in person.

(Ord. No. 16-O-02, § 1, 1-12-2016)

Sec. 7-7. - Compliance with article.

A qualified arts business **or organization or a qualified arts focused redevelopment** that fails to pay in full any tax imposed by the town by the due date shall lose its incentive eligibility and its entitlement to any incentives afforded under this article until such taxes are paid in full.

Sec. 7-8. - Confidentiality.

To the extent permitted under the Virginia Freedom of Information Act, confidential business records shall be safeguarded from disclosure; provided, however, that as a condition of receiving the incentives provided herein, each applicant agrees to the release by the town of the monetary value of any incentive received. This agreement shall appear prominently upon the application for incentives and each signature upon an application shall bind the applicant to this condition.

(Ord. No. 16-O-02, § 1, 1-12-2016)

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

Herndon Arts District

Legend

- Arts District Boundary
- Downtown Mixed-use

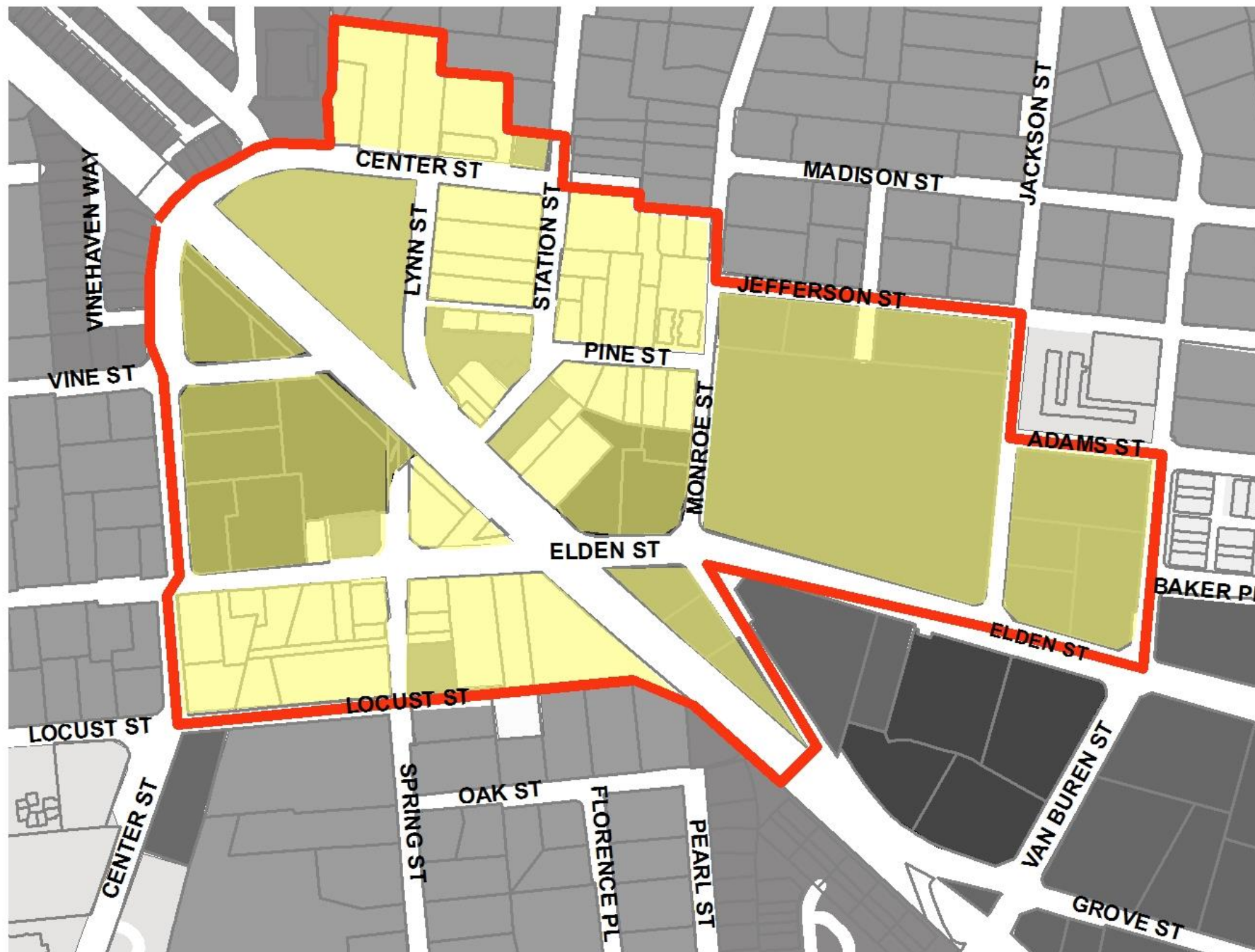


0 95 190 380 Feet

Map prepared by Town of
Herndon Department of
Community Development.

October 26, 2020

TOWN OF
Herndon
VIRGINIA



STAFF REPORT

Town Council
October 20, 2020

Title:
Resolution – Award of Contract #D-20-01, General Civil Engineering Services.

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

Background:

On October 29, 2019, the Town issued a Request for Proposal for a General Civil Engineering Services contract to support design and engineering efforts required for the Town's Capital Improvement Program (CIP) projects and other Town Council approved efforts. The intent of the award is to provide the ability to secure engineering services on an "as-needed" contract for discrete work to be performed on a task order basis. This contract is a one (1) year contract that may be extended for four (4) one-year periods. No minimum volume of work is guaranteed.

Initial proposals were received from 15 firms. An evaluation committee composed of Public Works staff selected the following three firms for follow up oral interviews:

J2 Engineers, Inc.
Rinker Design Associates, P.C.
Burgess & Niple

Due to staffing changes, Burgess and Niple declined the invitation to interview. Following the interviews, the evaluation committee selected J2 Engineering, Inc. as the top-rated firm. Negotiations with J2 Engineering, Inc. have resulted in favorable hourly rates for the variety of professional and non-professional disciplines and supporting tasks that will be awarded for the assigned work to the amounts indicated:

Principal-Expert Witness	\$332.00/hour
Principal	\$220.00/hour
Associate	\$200.00/hour
Sr. Project Manager	\$195.00/hour
Sr. Transportation Engineer	\$195.00/hour
Sr. Land Planner / Sr. Landscape Architect	\$175.00/hour
Land Planner / Landscape Architect	\$165.00/hour
Project Manager	\$165.00/hour
Engineer III	\$125.00/hour

Engineer II	\$115.00/hour
Engineer I	\$105.00/hour
Sr. Landscape Designer	\$140.00/hour
Landscape Designer II	\$120.00/hour
Landscape Designer I	\$105.00/hour
Technician III	\$110.00/hour
Technician II	\$100.00/hour
Technician I	\$ 90.00/hour
Licensed Land Surveyor	\$150.00/hour
Project Surveyor	\$130.00/hour
Survey Crew (1 Person)	\$100.00/hour
Survey Crew (2 Person)	\$150.00/hour
Survey Crew (3 Person)	\$170.00/hour
Survey Computer	\$105.00/hour
Clerical	\$ 68.00/hour

Fiscal Impact:

Funds to support individual Task Orders will be provided from the appropriate Capital Improvement and Professional Services accounts.

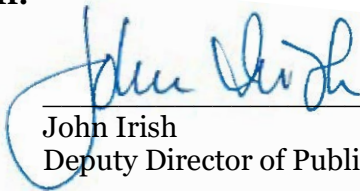
Staff Recommendation:

Staff recommends Town Council award Contract #D-20-01, General Civil Engineering Services to J2 Engineering, Inc.

Attachments:

Draft Resolution.

Staff:



John Irish
Deputy Director of Public Works

TOWN OF HERNDON, VIRGINIA

RESOLUTION

October 27, 2020

Resolution – to award of Contract #D-20-01, General Engineering Services.

WHEREAS, general engineering services are required for Capital Improvement Program (CIP) projects; and

WHEREAS, general services task order consultants have been determined to be a cost effective and efficient means in completing task requirements in support of the execution of the CIP and other Town Council approved efforts; and

WHEREAS, RFP #D-20-01 was advertised on October 29, 2019 and clearly identified the nature of the intended services; and

WHEREAS, on November 22, 2019 the Town received 15 proposals from general engineering services firms; and

WHEREAS, an evaluation committee reviewed the proposals and selected three of the applicants to interview, and interviews took place on August 20th of 2020; and

WHEREAS, the selection committee selected J2 Engineering, Inc. as the best qualified to provide general engineering services for town projects; and

WHEREAS, negotiations with J2 Engineering, Inc. have resulted in favorable hourly rates and unit costs for the variety of professional and non-professional disciplines and supporting tasks that will be required for the assigned work as follows:

Principal-Expert Witness	\$332.00/hour
Principal	\$220.00/hour
Associate	\$200.00/hour
Sr. Project Manager	\$195.00/hour
Sr. Transportation Engineer	\$195.00/hour
Sr. Land Planner / Sr. Landscape Architect	\$175.00/hour
Land Planner / Landscape Architect	\$165.00/hour
Project Manager	\$165.00/hour
Engineer III	\$125.00/hour

Engineer II	\$115.00/hour
Engineer I	\$105.00/hour
Sr. Landscape Designer	\$140.00/hour
Landscape Designer II	\$120.00/hour
Landscape Designer I	\$105.00/hour
Technician III	\$110.00/hour
Technician II	\$100.00/hour
Technician I	\$ 90.00/hour
Licensed Land Surveyor	\$150.00/hour
Project Surveyor	\$130.00/hour
Survey Crew (1 Person)	\$100.00/hour
Survey Crew (2 Person)	\$150.00/hour
Survey Crew (3 Person)	\$170.00/hour
Survey Computer	\$105.00/hour
Clerical	\$ 68.00/hour; and

WHEREAS, funds to support individual Task Orders will be provided from the appropriate Capital Improvement and Professional Services accounts.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #D-20-01, General Engineering Services, to J2 Engineering, Inc. at the negotiated hourly and unit rates.