

**TOWN OF HERNDON, VIRGINIA
WORK SESSION AGENDA
HERNDON COUNCIL CHAMBERS BUILDING *
765 LYNN STREET
January 19, 2021
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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.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. Resolution 21-G-18, to consider Special Exception SE #20-03, 763 Dranesville Road, to permit an accessory dwelling unit in an accessory structure associated with a single-family residence in an R-15, Residential Single Family District. Fairfax County Tax Map Number: 0104 03110006A. Applicant: Thomas J. O'Neil, O'Neil Architects, Inc. Property Owners: Leland D Ewers, Mary Jo Ewers
4. Ordinance 21-O-01, to approve the dedication of right of way for public street purposes on Town-owned property located in the northeast quadrant of the intersection of Herndon Parkway and Van Buren Street, known as Haley M. Smith Park at 320 and 324 Van Buren Street, Fairfax County Tax Map #: 0164-02-0002
5. Ordinance 21-O-02, to approve and authorize the Mayor to sign a Fifth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC to revise the premises description, approved equipment list, drawings, monthly rent, and Town contact information at the Town's 3rd Street Water Tower
6. Ordinance 21-O-03, to approve and authorize the Mayor to sign a Third Lease Amendment with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation to revise the premises description, approved equipment list, use of premises, drawings, and the Town's contact information at the Town's Alabama Drive Water Tower

GENERAL

7. Resolution 21-G-07, to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining (**deferred from January 12, 2021**)
8. Resolution 21-G-19, to ratify a Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Evinco Analytics, Inc.
9. Resolution 21-G-20, to provide guidance to the Town Manager on the development of the FY 2022 Budget
10. Ordinance, to affirm corrections to Ordinance 20-O-59 for Zoning Map Amendment, ZMA #20-01, 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, approving a zoning map amendment for a Unified Commercial Subdivision
11. Resolution 21-G-21, to consider an extension of Special Exception, SE#19-02, to allow a telecommunications facility with a freestanding monopole on a property improved with an electrical substation and zoned CS, Commercial Service and O&LI, Office & Light Industrial
12. Resolution 21-G-22, to initiate consideration of a zoning ordinance text amendment ZOTA #21-01 to amend Chapter 78 (ZONING), Article IV (Business Districts), Section 78-40.2 (CS – Commercial Services District), to reduce the minimum front setback requirement in the CS zoning district

DISCUSSION

13. Logistics Planning - Quarterly Strategic Review Meeting
14. Consider the establishment of a Herndon Multicultural Board

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 & commissions.



STAFF REPORT

Town Council

January 19, 2021

Title: APPLICATION FOR A SPECIAL EXCEPTION – SE #20-03, 763 Dranesville Road

Staff Contact: Michael Wallick, AICP, Transportation Planner
michael.wallick@herndon-va.gov (703) 787-7380

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

Summary Information

Applicant Request	This application is to consider a special exception to permit an accessory dwelling unit above an existing detached garage in an R-15, Residential Single Family, district. The property is located within the boundaries of the Town of Herndon Historic District Overlay.
Nature of Proposed Action	The zoning ordinance lists uses permitted in a zoning district by-right, by special exception, or not permitted. Special exceptions differ from by-right uses in that they have the potential to have greater impact on neighboring properties and therefore are subject to more thorough review as specified in Section 78-155.3(e). To mitigate potential impacts, the Town can place conditions on the proposed use.
Address	763 Dranesville Road
Fairfax County Tax Map Number	0104 03110006A
Owner	Leland D. Ewers, Mary Jo Ewers
Applicant	Thomas J. O'Neil, O'Neil Architects, Inc.
Existing Zoning	R-15
Overlay Zoning	Historic District Overlay
Adjacent Zoning	North: R-10 South: R-15 East: R-10 West: R-15
Land Use Designation	Neighborhood Conservation
Adjacent Land Use Designation	North: Neighborhood Conservation South: Neighborhood Conservation East: Neighborhood Conservation

	West: Neighborhood Conservation
Total Site Area	22,047 square feet (Lot), 1,604 square feet (Main House)
Existing Use	Residential
Related Cases	n/a

Planning Commission Recommendation	Recommendation for approval in accordance with Resolution (Attachment #2)
Staff Recommendation	Recommendation for approval in accordance with draft Resolution (Attachment #1)

Location Map



Site Description

The existing 1,604 square foot two story single-family detached house sits on a large relatively flat lot on the southwest corner of the Dranesville Road and 3rd Street intersection. The property is located within the boundaries of the Town of Herndon Historic District Overlay and located within the Van Vlecks subdivision. The existing house is a contributing structure to the town's historic district, built within the district's period of significance. The property also includes a 676 square foot detached garage, a 150 square foot shed, and a 540 square foot deck attached to the rear of the existing

detached garage. The garage was constructed at a later date than the house and is not a contributing structure.

Proposal

To provide independent living space for the owner's mother, the applicant has proposed to construct a 530 square foot accessory dwelling unit above the existing two-car detached garage. The proposal includes full independent living quarters consisting of areas for living, sleeping, bathing, and cooking. The proposal includes removing the roof from the existing garage and adding a finished half story that will be the accessory dwelling unit. The proposed accessory dwelling unit contains an interior door on the second floor level and interior stairs leading to the first floor level of the garage. Entrance to the garage can be gained via the two vehicle bay doors, or through a side door at the rear of the garage near the outdoor patio. The layouts of the accessory dwelling unit can be found in Attachment #4, Proposed Plans and Elevations, and is labeled as "Second Floor Plan" on sheet 1. The accessory dwelling unit is proposed to include a bedroom, bathroom with sink, toilet, shower/tub, living room, and kitchen with range/stovetop, refrigerator, dishwasher, sink, and island with barstool seating. The accessory dwelling unit is also proposed to have connections to install a washer and dryer.

The applicant is proposing to remove the roof of the existing garage and install a new, taller gable roof with front and rear shed dormers to create floor space for the accessory dwelling unit. The applicant stated that the existing garage is in need of several repairs which will occur in conjunction with the construction of the upper level accessory dwelling unit if the special exception is approved. The accessory dwelling unit will add a new water and sewer line, which will be tied into the existing lines inside the main house. No new connections are proposed to be made to the street.

The zoning ordinance defines building height as the vertical distance from the grade to the mean height level between the highest ridge and its highest associated eaves for gable, hip and gambrel roofs. The roof height of the detached garage once constructed is 14' 5.5", which is below the 15 foot height maximum allowed for accessory structures.

The property owner states that the existing house at 1,604 square feet does not provide enough room for the owner's mother to live comfortably in the primary structure. The owner believes the best option to provide independent living space is to construct an accessory dwelling unit above the existing two-car detached garage.

Staff Analysis

Zoning Ordinance Compliance

As proposed, this application meets the definition of an accessory dwelling unit per the zoning ordinance. The owner's mother meets the occupant criteria listed in the zoning ordinance for an accessory dwelling unit, which requires the occupant of the accessory dwelling unit or the primary dwelling to meet certain age or physical criteria. In addition to this Special Exception application, the applicant will need to receive administrative approval of a Building Location Survey and apply for a Certificate of Appropriateness from the Historic District Review Board for the design of the structure before a building permit can be issued.

A special exception (formerly called a conditional use permit) has been required for an accessory dwelling unit since 1983. This is the case for both a detached accessory dwelling unit or when a portion of the primary dwelling is converted to have separate areas for living, sleeping, eating, and bathing.

In addition to the special exception requirement, the zoning ordinance requires the following standards to be met for accessory dwelling units:

- A mobile home or recreational vehicle cannot be used as an accessory dwelling unit.
- Accessory dwelling units are limited to one per lot.
- Size is limited to 35% of the primary dwelling or 1,200 square feet, whichever is less. In this case, 35% of the primary structure is 561.4 square feet and therefore the maximum allowable size. The proposed accessory dwelling unit floor area is just under this amount at 530 square feet.
- There is a maximum of two bedrooms and two occupants in the accessory dwelling unit.
- The unit must be accessed from the side or the rear.
- The primary or accessory dwelling must be occupied by someone over 62 or with a disability.
- The property must be able to accommodate one additional parking space beyond the minimum of two required for a single family dwelling.
- The accessory dwelling unit must be converted upon sale of the property unless a special exception is approved upon application by a new owner.

The proposed accessory dwelling unit complies with the size and occupancy limitations required by the zoning ordinance. The property owners intend to continue occupying the primary structure, while the owner's mother intends to occupy the accessory dwelling unit.

One of the property owners currently meets the occupancy requirements in the zoning ordinance for accessory dwelling units which means the unit could remain even if the owner's mother no longer lived on the property. Staff is not proposing a condition that directly ties the accessory dwelling unit to the owner's mother, provided the occupancy requirements are met.

The zoning ordinance allows for flexibility for instances like this, when specific household circumstances create a need for an accessory dwelling unit in order for a member of the household to age in place. Based upon the application which was submitted and reviewed for compliance with the aforementioned town code sections, this proposal complies with the Town of Herndon Zoning Ordinance.

Comprehensive Plan Adherence

The proposal is consistent with the Herndon 2030 Comprehensive Plan Neighborhood Conservation land use designation and Housing sections which encourage uses that support the senior population and accessory uses that comply with the zoning ordinance. Particularly, it aligns with Goal #3, which is to create policies and programs that promote stability and encourage property owners to maintain the appearance of their residences. Additionally, Land Use Policy #6 states that Neighborhood Conservation supports accessory uses associated with residential neighborhoods, such as home based businesses and permitted accessory dwelling units.

Analysis of Conditions

Draft conditions for approval of this special exception are listed in Attachment #3. The conditions speak to substantial conformity with the special exception materials, which are included with this application. The conditions also address compliance with the town's building and zoning standards for accessory dwelling units. The conditions permit only one accessory dwelling unit on this lot and limit the size to not exceed 535 square feet, which will accommodate the applicant's proposal. The conditions permit no more than one bedroom in the accessory dwelling unit and limit the occupancy to no more than two persons. The conditions require the occupant of the accessory dwelling unit or principal dwelling to be at least 62 years of age, or have a physical, mental, or cognitive disability. The conditions require a minimum of one off-street parking space with convenient access to the street for the accessory dwelling unit. The parking shall be in addition to the two parking spaces required for the principal dwelling. The accessory dwelling unit shall not be sold separately from the principal dwelling unit upon the same lot. The accessory dwelling unit shall comply with health, safety, sanitation, and building code regulations and requires a zoning inspection permit prior to issuance of the occupancy permit. The approval is also linked to the property owner and not the land due to the ordinance requirements related to age and health. The conditions of this special exception are required to be recorded in the land records of Fairfax County to ensure any future property owners are aware of the restrictions. Any change in ownership shall require

removal or conversion of the food preparation area and notice to the zoning administrator at least thirty days prior to the sale or transfer of the property. Any violation of the aforementioned conditions or other sections of the Herndon Town Code shall be grounds for revoking the special exception pursuant to the manner described in Section 78-155.3(h).

Alternatives

The following alternatives are available to the Town Council for its decision on Special Exception #20-03:

1. Approval of SE #20-03 as submitted without the recommended conditions.
2. Approval of SE #20-03 in accordance with the draft resolution provided (Attachment #1) to include the recommended conditions.
3. Approval of SE #20-03 in accordance with the draft resolution provided (Attachment #1) with changes to the recommended conditions.
4. Denial of SE #20-03.

The Town Council may also opt to continue the public hearing to a future Town Council meeting if the Council believes their review requires additional time.

Planning Commission Recommendation and Comments

The Planning Commission recommended approval of SE #20-03 in accordance with the resolution dated December 14, 2020 and provided as Attachment #2 to this report. The Planning Commission recommendation, including the conditions of approval provided in Attachment #3, matches the staff's recommendation and proposed conditions. The vote passed unanimously 7-0.

There was one item raised by the Planning Commission regarding Condition #14 "Change in Ownership." Condition #14 states that the owner shall remove or convert the space to a use permitted by the zoning ordinance and the zoning administrator shall be notified at least thirty days prior to the sale or transfer of the property. Some members of the Planning Commission had concerns with this condition because it requires the property owner to remove the secondary kitchen or convert it to an allowable use. Staff explained at the public hearing that the secondary kitchen located within the accessory dwelling unit could be converted a wet bar, which is a by-right use.

Staff Recommendation

Staff recommends approval in accordance with **Alternative #2**.

As stated previously, the zoning ordinance lists uses permitted in a zoning district by-right, by special exception, or not permitted. Special exceptions differ from by-right uses in that they have the potential to have greater impact on neighboring properties and therefore are subject to more thorough review as specified in Section 78-155.3(e).

Staff finds that this application meets the conditions for approval of a special exception and recommends approval with the attached conditions.

Attachments

1. Draft Town Council Resolution
2. Planning Commission Resolution
3. Draft Conditions
4. Proposed Plans and Elevations, dated January 11, 2021
5. Proposed Site Plan, dated December 28, 2020
6. Applicant's Statement of Justification
7. Zoning Ordinance Section 78-155.3(e)
8. Zoning Ordinance Section 78-80.4(a)

Staff Signatures



Michael Wallick, AICP, Transportation Planner



David Stromberg, AICP, Zoning Administrator

TOWN OF HERNDON, VIRGINIA

DRAFT RESOLUTION

January 26, 2021

Resolution- to consider Special Exception Application SE #20-03, to permit an accessory dwelling unit as an accessory structure associated with a single-family residence in an R-15, Residential Single Family District.

WHEREAS, the applicant, Thomas J. O'Neil, O'Neil Architects, Inc., has submitted a request for a special exception to permit an accessory dwelling unit and secondary kitchen within an existing residence on a property located at 763 Dranesville Road and identified as Fairfax County Tax Map # 0162 18100017; and

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing in accordance with the provisions of §15.2-2204 of the State Code; and

WHEREAS, following the public hearing, the Planning Commission recommended that the application be approved with conditions based upon the finding that the proposed accessory dwelling unit meets the purpose and intent of the Zoning Ordinance, in particular Sections 78-80.4(a) and 78-155.3; and

WHEREAS, the Town Council has conducted a public hearing and has reviewed the Planning Commission recommendations.

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

Approves Special Exception Application SE #20-03, in accordance with the conditions set forth below to achieve compliance with the standards found in Sections 78-80.4(a) and 78-155.3;

[INSERT CONDITIONS]

This resolution by its terms shall be effective on and after the date of its adoption.

TOWN OF HERNDON, VIRGINIA

PLANNING COMMISSION

RESOLUTION

DECEMBER 14, 2020

Resolution- to consider Special Exception Application SE #20-03, to permit an accessory dwelling unit as an accessory structure associated with a single-family residence in an R-15, Residential Single Family District.

WHEREAS, the applicant, Thomas J. O'Neil, O'Neil Architects, Inc., has submitted a request for a special exception to permit an accessory dwelling unit and secondary kitchen within an existing residence on a property located at 763 Dranesville Road and identified as Fairfax County Tax Map #0104 03110006A; and

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing in accordance with the provisions of §15.2-2204 of the State Code; and

WHEREAS, the Planning Commission has found that the application, SE #20-03 with conditions meets the purpose and intent of the Zoning Ordinance, in particular Sections 78-80.4(a) and 78-155.3.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Herndon, Virginia, hereby:

Recommends approval of Special Exception Application SE #20-03, in accordance with the conditions set forth below to achieve compliance with the standards found in Sections 78-80.4(a) and 78-155.3;

[INSERT CONDITIONS]

Draft Conditions
SE #20-03
Town Council Public Hearing
January 26, 2021

1. Substantial Conformity. The development and maintenance of the special exception use described in Condition 2 below shall be in substantial conformance with the SE #20-03 application Plans and Elevations prepared by O'Neil Architects and dated January 11, 2021 and the Site Plan prepared by O'Neil Architects and dated December 28, 2020. Approval of this application on the parcel identified as Fairfax County Tax Map Number 0104 03110006A, known as 763 Dranesville Road, Herndon, Virginia (the "Property"), shall not relieve the applicant or the owners of the Property, or their successors or parties developing, establishing, or operating the approved special exception, from the obligation to comply with and conform to any other Zoning Ordinance, codified ordinance, or regulatory requirement.
2. Permitted Use. This special exception is granted to allow an accessory dwelling unit in a detached structure on the Property pursuant to Section 78-80.4(a) of the Town of Herndon Zoning Ordinance (the "Zoning Ordinance").
3. Recordation. These conditions must be recorded by the applicant among the land records of Fairfax County for the Property prior to the issuance of the occupancy permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Administrator.
4. Compliance with Building and Zoning Standards. The accessory dwelling unit shall comply with all applicable building and development standards for dwelling units in the zoning district in which the accessory dwelling unit will be located.
5. One Accessory Dwelling Unit per Lot. There shall be no more than one accessory dwelling unit on the Property in addition to the principal dwelling.
6. Size Limit. The floor area of the accessory dwelling unit shall not exceed 535 square feet.
7. Limit on Bedrooms and Occupancy. The accessory dwelling unit shall not contain more than one bedroom or be occupied by more than two persons.
8. Occupancy Standards. The accessory dwelling unit shall be subject to the dwelling unit occupancy standards of section 78-170.6. Pursuant to Section 78-80.4(a)(8) of the Zoning Ordinance, either the accessory dwelling unit or the principal dwelling shall be occupied by the owner of the principal dwelling. Additionally, either the accessory dwelling unit or the principal dwelling on a property shall be occupied by at least one person who meets the following qualifications:
 - a. The person is at least 62 years of age; or
 - b. The person has a physical, mental, or cognitive disability:
 1. As certified by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board; or
 2. As confirmed in writing signed by a licensed medical practitioner or a practitioner licensed in an allied health field.

3. This section shall not be deemed to exclude individuals who meet the qualifications above and are able to seek or engage in employment.

9. Parking. There shall be a minimum of one off-street parking space with convenient access to the street for the accessory dwelling unit. The parking shall be in addition to the two parking spaces required for the principal dwelling.

10. Not to be Sold Separately. The accessory dwelling unit shall not be sold apart from the principal dwelling upon the same lot.

11. Certificate of Appropriateness. The outside elevations of the garage and accessory dwelling unit must comply with any Certificate of Appropriateness issued for this structure. Approval of this special exceptions shall not be implied to limit the authority of the Historic District Review Board, provided such approval does not result in noncompliance with the zoning ordinance or these conditions.

12. Zoning Inspection Permit and Inspections. A Zoning Inspection Permit for the accessory dwelling unit is required prior to issuance of the occupancy permit. Following occupancy, the accessory dwelling unit shall be inspected by zoning and building officials during reasonable hours and upon reasonable prior notice.

13. Approval linked to Property Owner, Not Land. This Special Exception shall not run with the land and shall terminate by either a change in substantial ownership or possession of the Property, a discontinuation of the use for which the Special Exception was granted for a continuous six month period, a failure to obtain a Zoning Inspection Permit for the use for which the Special Exception was granted within 24 months from the date of approval of the Special Exception, or at any time the use does not comply with any of the conditions of the approved Special Exception.

14. Change in Ownership. The owner shall remove or convert the space to a use permitted by the zoning ordinance and the zoning administrator shall be notified at least thirty days prior to the sale or transfer of the property. Upon the sale or transfer of the property, the property owners shall permit the inspection of the accessory dwelling unit by zoning and building officials within fifteen days to ensure compliance with the conditions of the Special Exception.

15. Revocation. Any violation of the aforementioned conditions or other sections of the Herndon Town Code shall be grounds for revoking the special exception pursuant to the manner described in Section 78-155.3(h) of the Zoning Ordinance. Revocation of this special exception shall require immediate removal of the food preparation area, as defined in the zoning ordinance at the time of approval of this Special Exception from the accessory dwelling unit.

General Notes

All work shall be conducted and completed in accordance with the current Town of Herndon Municipal Code, Fairfax County Code (IRC 2015), Virginia State Building codes, and all other codes applicable to each trade.

General Conditions: Shall be "The General Conditions of the Contract for the Construction of Buildings," AIA Document A-201.

Prior to bid, the contractor shall examine all project documents to develop a complete understanding of the project scope. Failure to review all contract drawings and existing conditions shall not relieve the contractor of the responsibility to perform all work required. The contractor shall, upon review of the drawings and existing conditions, advise the architect of any discrepancies which will affect the work required.

Field Conditions: Contractor shall verify all dimensions in field and notify Architect and Owner promptly of any discrepancies between the Contract Documents and actual field conditions. All drawings, specifications, and contract documents shall be brought to the attention of the architect. The Contractor shall not proceed with related work until the conflict is resolved.

It is the intent of the contract documents that this is fully adjusted, tested, and ready for operation. Wherever the word "provide" is used, it shall mean "furnish and install complete and ready for use", unless noted otherwise.

The Contract drawings are diagrammatic and do not indicate all components and accessories required for the complete installation. The contractor shall provide such items to complete the entire system and place in proper operation in accordance with applicable codes, industry standards, and equipment manufacturer's recommendations.

Structural components shall not be cut drilled or modified in any way without review and approval from the architect and/or structural engineer.

Structural Specifications

Load: Roof: 30 PSF Snow, 17 PSF Dead; Floor: 40 PSF Live, 12 PSF Dead; Decks: 40 PSF Live, 10 PSF Dead; 18 PSF wind load for 90 mph wind; seismic design category B.

Assumed Soil Bearing Capacity: 1500 PSF. Verify in field.

Footings: Bottoms of all footings shall extend a minimum of one foot into undisturbed soil, and where subject to frost action, at least two feet six inches below finish grade. Footings shall extend below to frost action, where necessary to reach the soil bearing value. Reinforcing shall be shown on drawings.

Concrete: All poured in place concrete slabs and footings shall develop a compressive strength of 3500 PSI at 28 days. All poured in place concrete foundation walls shall develop a compressive strength of 3000 PSI at 28 days. All concrete work shall be in accordance with ACI 318-08. Reinforcing as shown on drawing.

Slabs on grade: Shall be 4 inch thick concrete reinforced with #4 w-4x12 welded wire fabric; vertical surfaces: Smooth finish.

Reinforcing Steel: Shall conform to ASTM A-63, welding shall comply with AWS D1.1-80. All ZMAX galvanized or HDG galvanized.

Reinforcing Steel: Shall conform to ASTM A-615, new billet, grade 60.

Framing Carpentry: All framing to be done according to drawings. Grade and trademark required on each piece of lumber in accordance with American Lumber Standards recommendation R-16.

Lumber shall be sound, thoroughly seasoned and free from warp, moisture content shall not exceed 19% for framing lumber. Strutting wood exposed to weather or used in contact with masonry, concrete or steel shall be pressure treated.

Fill plates: 2x4 and pressure treated. Attach plate to foundation wall w/ 1/2" dia anchor bolts set minimum 1" into concrete or fully grouted cmu cells. Minimum of two bolts per plate section.

Maximum spacing of bolts 6'-0" O.C. with bolts placed maximum of 12" from end of each plate.

Framing lumber: Spruce/Pine/Fir #2 grade and better for all general framing (F.B Min: 1105psi, E Min: 1400000, F.V Min 10 psi).

Resistive member use: #4 T psi single member use, E Min: 1400000, F.V Min 10 psi).

Walls: All exterior and interior bearing walls shall be 2x4's at 16" O.C., with continuous double top plates. Interior partitions (non-bearing) shall be 2x4's at 16" O.C., single top plate.

Beams: SPS #2 and better 2x conventional lumber and LVL (laminated veneer lumber) and PSL (parallel strand lumber) beams as manufactured by Lyle by Wegmeyer or approved equal.

Floor Joists: 2x joists as manufactured by Lyle by Wegmeyer or approved equal. See framing plan drawings for sizes, series, and spacing requirements. Follow all manufacturer's installation instructions and details.

Roof rafters and ceiling joists: 2x ceiling joists, size and spacing as shown on drawings.

Bearing Posts: Shall be minimum two 2x4's unless noted otherwise on framing plans.

Continuous Exterior Structural Panel Sheathing: Install 1/2" - 4x8' APA exterior OSB sheathing on all exterior framed walls and interior shear walls (if any) per Section R6.2.10.4 of 2015 IRC.

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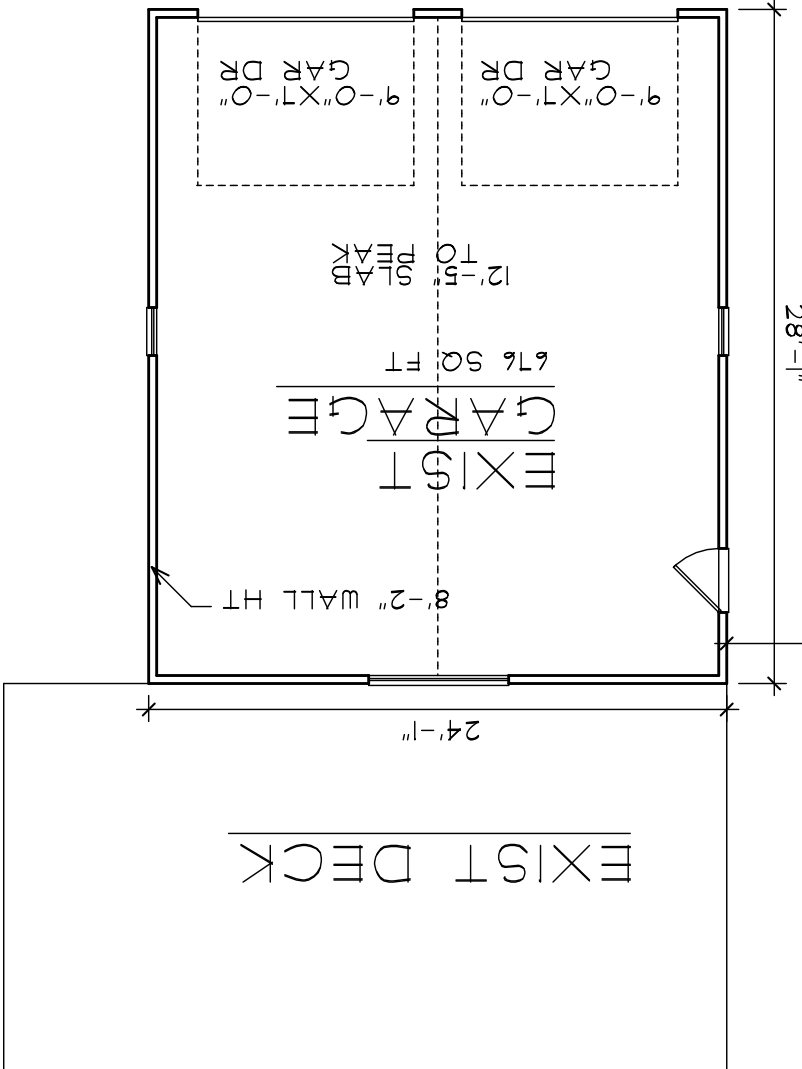
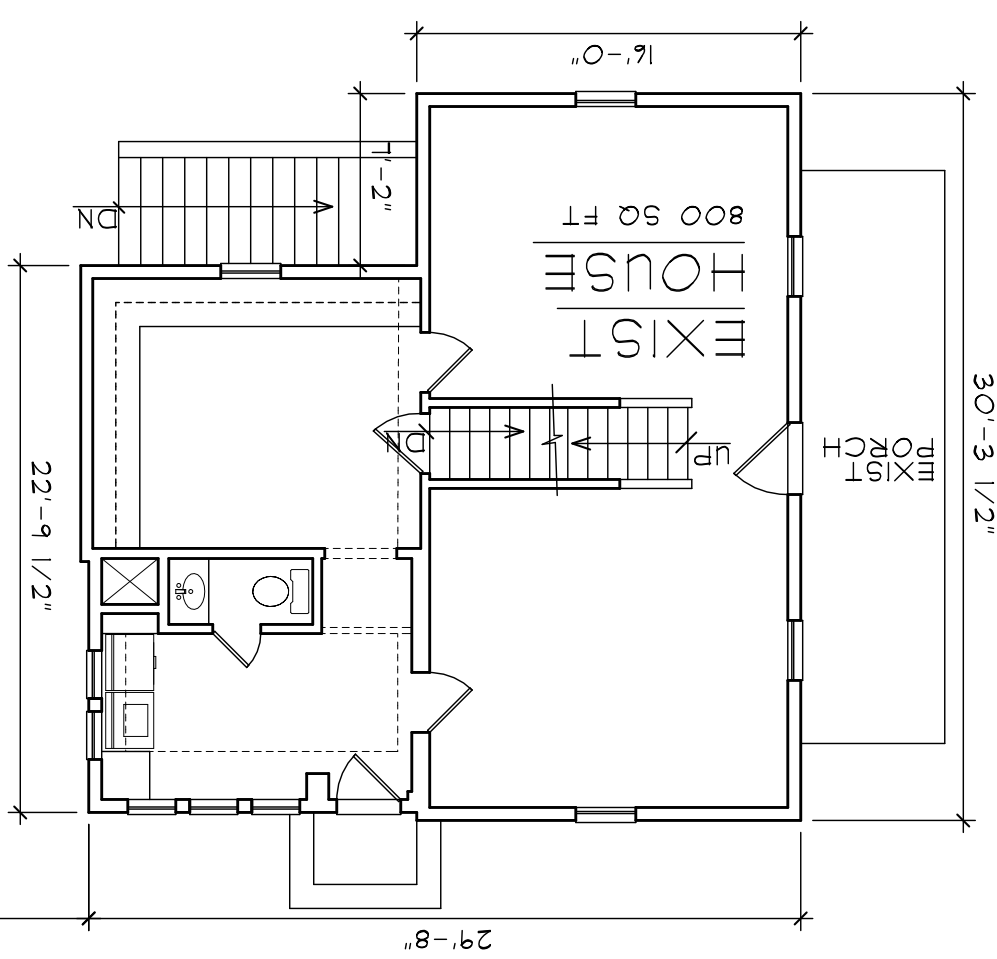
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EXIST FIRST FLR PLAN

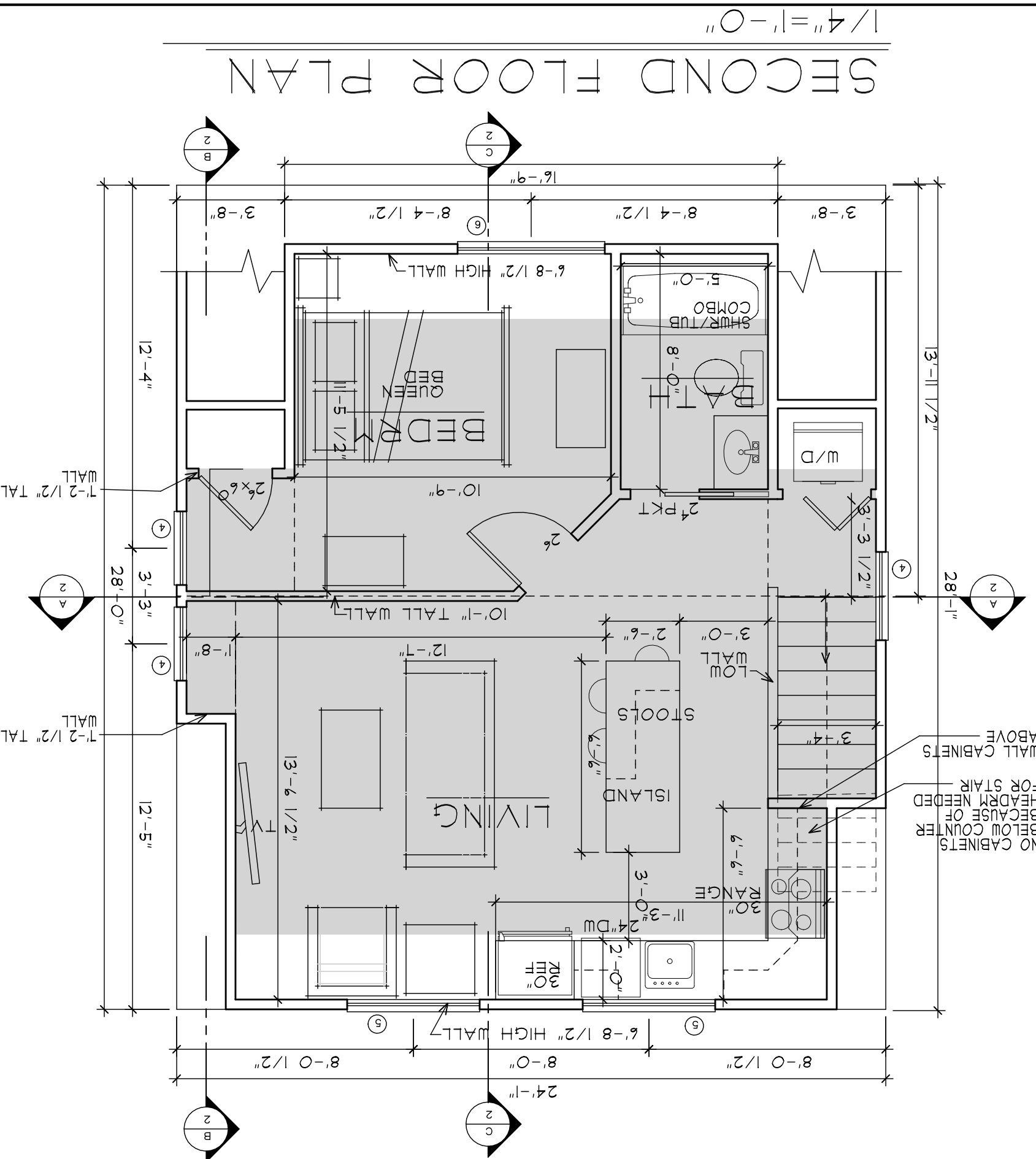
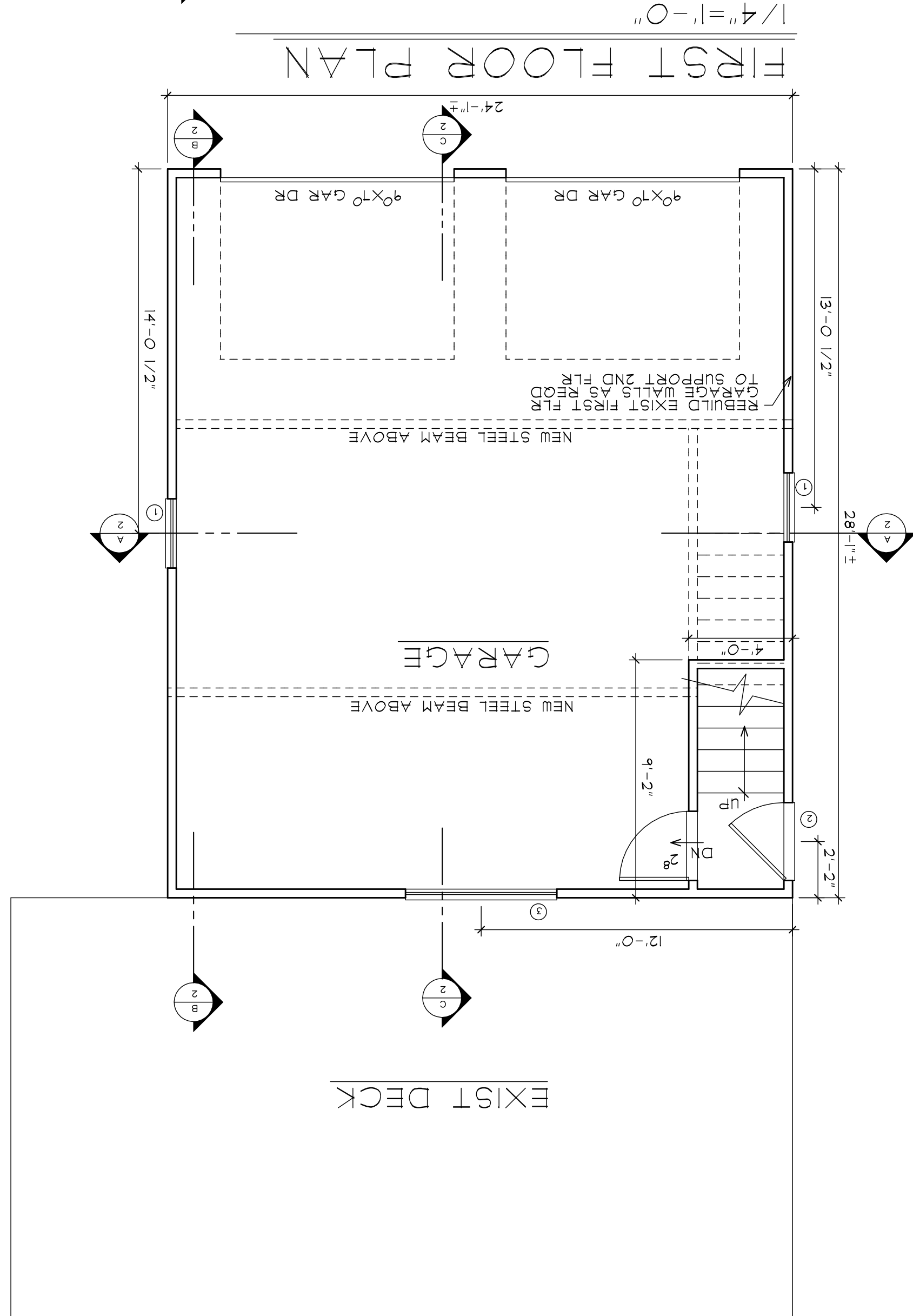
NOTE: ALL EXIST DOORS & WINDOWS ON GARAGE TO BE REPLACED

EXIST WALLS TO BE REBUILT AS REQUIRED TO SUPPORT NEW SECOND LEVEL

MARK	QUAN	WINDOW TYPE AND MODEL	R.O.SIZE
1	2	2'-8" X 4'-0" DOUBLE HUNG WDW 2/2 LT	
2	1	2'-8" X 6'-10" HALF LT EXT DR	
3	1	TWIN (2) 2'-10" X 4'-0" DOUBLE HUNG WDW	
4	2	2'-6" X 4'-0" CASEMENT EGRESS WDW 2/2 LT	
5	2	TWIN (2) 2'-3" X 2'-6" CASEMENT WDW FULL LT	
6	1	TWIN (2) 2'-6" X 3'-0" CASEMENT WDW 2/2 LT	

WINDOW SCHEDULE

Total Apartment Area: 530 sq. ft.
Total 'T' or greater ceiling height area (shown shaded on 2nd flr plan): 432 sq ft
530/2 = 265
432 > 265 therefore 'T' ceiling is more than 50% of total flr area



EVERS GARAGE & LIVING SPACE
763 DRANESVILLE ROAD, HERNDON VA
PLANS & NOTES

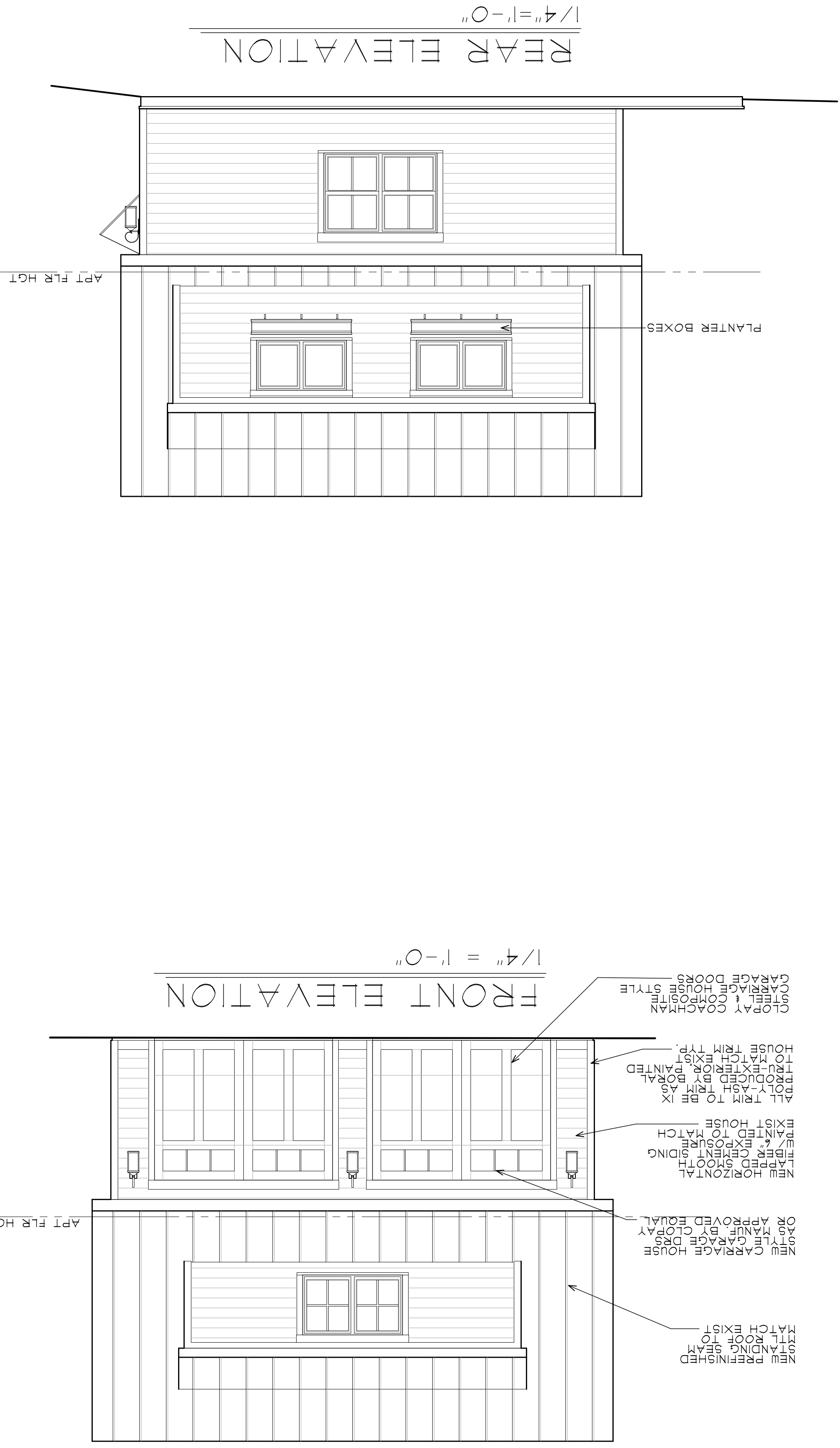
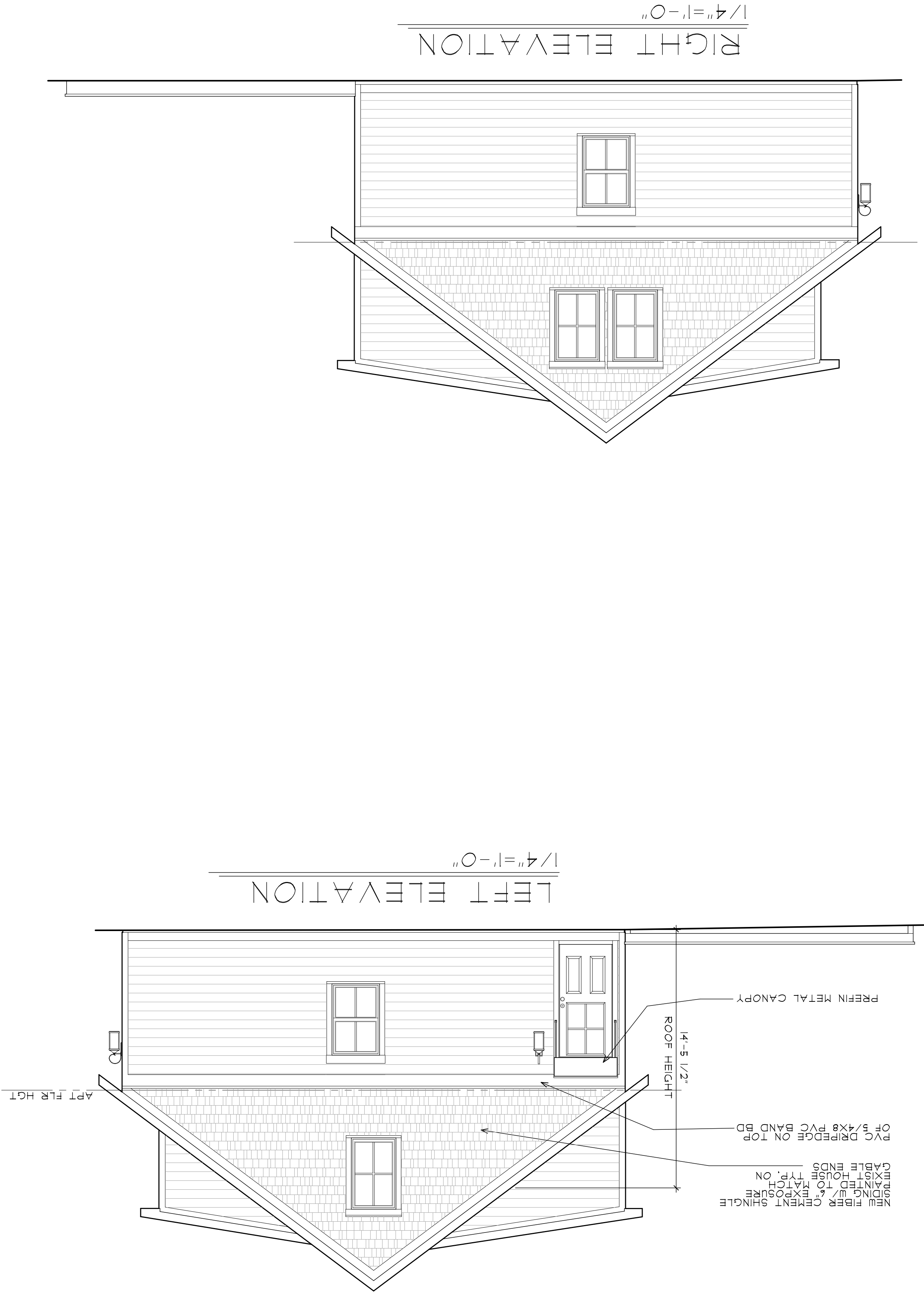
NOT FOR
CONSTRUCTION

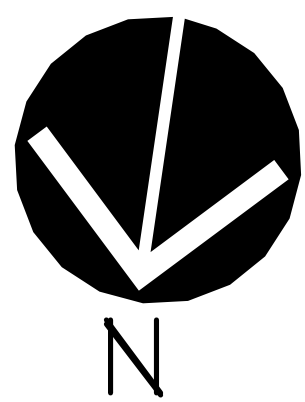
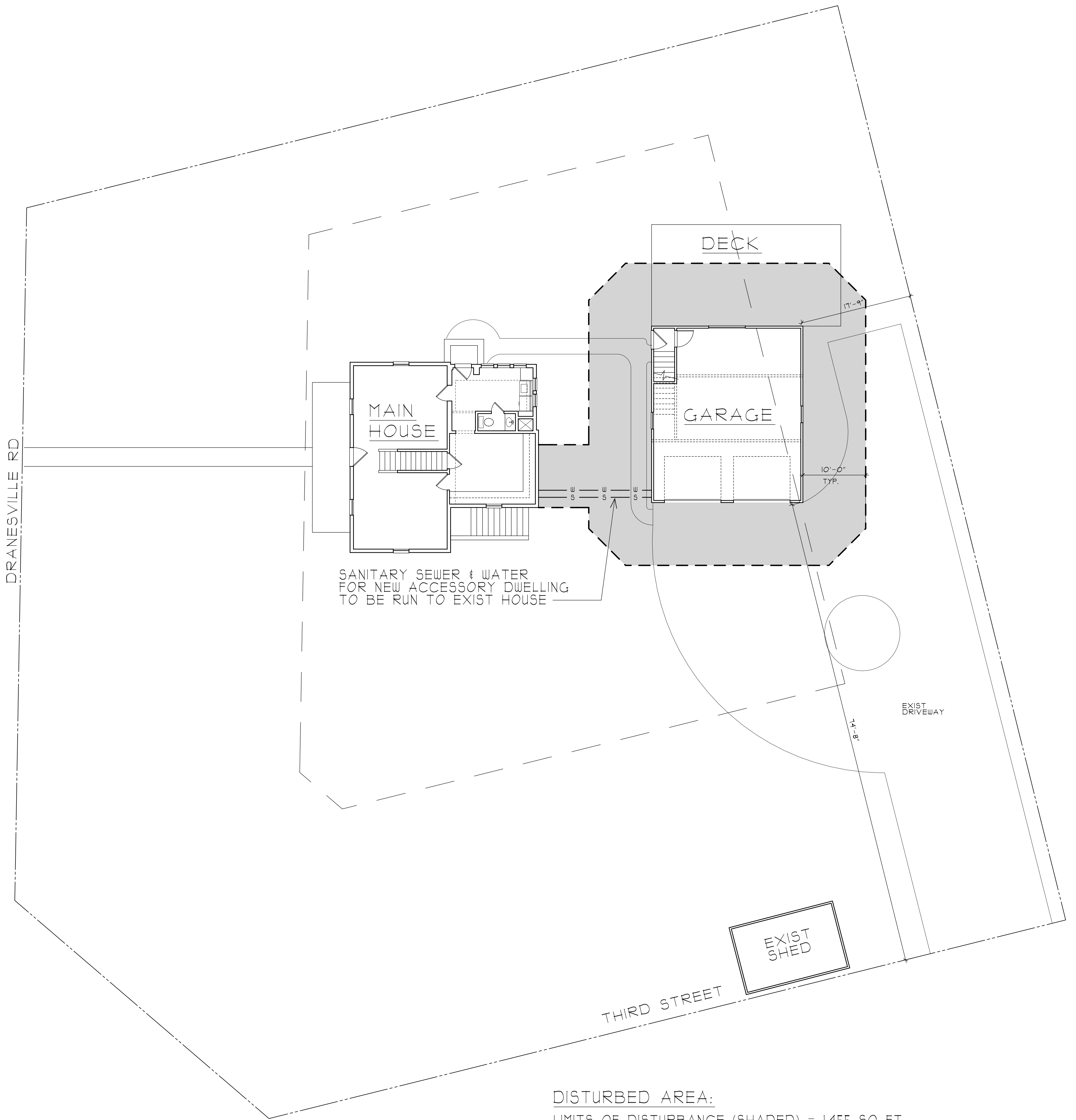
Date: 06/02/2020 Special Exception
10/06/2020 Special Exception 2nd Submission
1/11/2021 Special Exception/HFRS Submission
Job No.: 1919
Copyright 2020, O'Neil Architects, Inc.

O'NEIL
ARCHITECTS

703.777.5773
www.OneilArchitects.com
110 Loudoun Street SW
Leesburg, VA 20175

Dwg. 1
of: 4





SITEPLAN

1/16" = 1'-0"

ALLOWABLE LOT COVERAGE:

BUILDING = 25% MAX
IMPERVIOUS SURFACE = 50% MAX
PAVED FRONT YARD = 35% MAX

EXIST LOT COVERAGE:

EXIST HOUSE FOOTPRINT = 944 SQ FT
EXIST GARAGE FOOTPRINT = 676 SQ FT
EXIST SHED FOOTPRINT = 181 SQ FT
TOTAL EXIST COVERAGE = 1,801 SQ FT
EXIST LOT = 22,041 SQ FT
1,801/22,041 = 8% TOTAL EXIST LOT COVERAGE
EXIST IMPERVIOUS SURFACE = 2,100 SQ FT ±
1,801 + 2,100 = 4,501 SQ FT TOTAL IMP. SURFACE
4,501/22,041 = 20% TOTAL IMP. SURFACE LOT COVERAGE

DISTURBED AREA:

LIMITS OF DISTURBANCE (SHADED) = 1,455 SQ FT
LOD - EXIST PAVING TO REMAIN = 1,455-441
= 1,014 SQ FT DISTURBED AREA

ACCESSORY STRUCTURE:

ALLOWABLE FLOOR AREA = 50% -
MAX OF MAIN BLDG FLOOR AREA

EXIST MAIN HOUSE FLOOR AREA (800 SQ FT PER FLR) = 1,600 SQ FT
EXIST GARAGE FLOOR AREA = 676 SQ FT
PROPOSED ACCESSORY DWELLING FLOOR AREA = 530 SQ FT

EXIST ACCESSORY STRUCTURE:

EXIST GARAGE/MAIN HOUSE = 676/1,600 = 42%

PROPOSED ACCESSORY STRUCTURE:

EXIST GARAGE + ACCESSORY DWELLING/MAIN HOUSE = 676+530/1,600 = 75%

ACCESSORY DWELLING:

ALLOWABLE FLOOR AREA = 35% -
MAX OF MAIN HOUSE GROSS FLOOR AREA
OR 1,200 SQ FT
1,600 X 35% = 560 GROSS SQ FT ALLOWABLE
PROPOSED ACCESSORY DWELLING FLOOR AREA = 530 SQ FT

EWERS RESIDENCE, GARAGE ADDITION

163 DRANESVILLE RD, HERNDON, VA

DRAWINGS NOT FOR CONSTRUCTION

O'NEIL ARCHITECTS

tjoneil@oneilarchitects.com
payton.bridge@oneilarchitects.com

12/28/2020

703-777-5773

RECEIVED ON

JUN 12 2020

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Ewers Residence Addition

763 Dranesville Road, Herndon, VA 20170

06/11/2020

Scope of Work/Statement of Justification:

The scope of this project consists of an attic apartment addition over an existing two-car garage. The roof of the existing garage will be removed and a new, taller gable roof will be constructed with front and rear shed dormers to create floor space for the small apartment while still meeting size and 15' roof height requirement for an accessory structure as required by the Herndon zoning ordinance. The existing garage walls will be resided, windows will be relocated, and new overhead garage doors will be installed.

The property is within the Herndon Heritage Preservation Overlay District. The existing single family home on the property is a small two-story wood frame farmhouse is a contributing structure to the district, but the garage was constructed at a much later date and is poorly proportioned and detailed in comparison to the main house. In addition, the existing siding, trim and windows on the garage are in poor condition and in need of replacement.

The addition has been carefully designed to meet the zoning requirements for size and height while still complementing the house. The project is being pursued for the following reasons:

- Owner Mary Jo Ewers' mother is in declining health and is over the age of 70. The Ewers would like her to have a separate, comfortable, private space for her to move into while still being close by.
- The existing house, while charming, is small with limited space. There is not a dedicated private bedroom and bathroom for guests.
- Owner Leland Ewers will be over the age of 62 later this year. The apartment will allow the Ewers to age in place more easily on the existing property by either having a younger family member occupy the apartment to assist them, or vice versa.
- Adding living space over the garage allows the historic farmhouse to remain intact
- The completed garage/apartment will enhance the overall appearance of the property and increase its value

Other documentation accompanying this letter:

1. One completed Special Exception application form with the owner's signature
2. Nine sets of construction drawings, site plan, plat, and labeled colored 3d renderings of the proposed garage/apartment and existing garage
3. Signed statement from the Ewers stating that O'Neil Architects is their authorized agent for the project
4. \$300 check from the Ewers made out to the Town of Herndon for the application fee.

Prepared by: O'Neil Architects, Inc. 703.777.5773, tjoneil@oneilarchitects.com

Sec. 78-155.3. - Special exception.

(e) *Review standards for special exceptions .*

- (1) *General standards for all special exceptions uses .* A special exception may be approved upon a determination by the planning commission and town council, respectively, as to whether, and the extent to which, the proposed use(s) meet the following standards:
 - a. Is consistent with the comprehensive plan.
 - b. Is free of conflict with any provision of this chapter and related town regulations or any other applicable local, state, or federal laws and regulations.
 - c. Does not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.
 - d. Consistent with the purpose and intent of the zoning district in which it is located, or will improve compatibility among uses and will ensure efficient development within the town.
 - e. Minimizes adverse visual impact of the proposed use on adjacent lands.
 - f. Contributes to a logical and orderly development pattern consistent with accepted or emerging planning practices.
 - g. Minimizes adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and should not create a nuisance.
 - h. Avoids significant adverse impacts on the property values of surrounding lands or substantially and permanently injures the use of neighboring property for those uses that are permitted in the zoning district.
 - i. Does not significantly and adversely impact the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
 - j. Results in development that is adequately served by transportation facilities, including whether or not a substantial deterioration of the level of service on the town's transportation network would occur and whether or not the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions on and around the site.
 - k. Results in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
 - l. If infill and redevelopment is consistent with the redevelopment criteria and other applicable guidelines as stated in the Herndon 2030 Comprehensive Plan (adopted August 12, 2008), as amended.
 - m. If located in the floodplain overlay district, meets floodplain overlay standards.
 - f. Additional common recreation space (developed) above that required by section 78-113.3, privately provided recreation areas, is provided in proportion to the requested increase in dwelling unit density.

Sec. 78-80.4. - Standards for specific accessory uses and structures by use type.

Accessory uses and structures listed below shall comply with the following specific standards.

(a) *Accessory dwelling unit.* An accessory dwelling unit shall comply with the following standards:

- (1) *Special exception required.* An accessory dwelling unit shall be permitted by special exception in accordance with section 78-155.3 and Article VIII, Accessory Use Regulations.
- (2) *Compliance with building and zoning standards.* An accessory dwelling unit shall comply with all applicable building and development standards for dwelling units in the zoning district in which the accessory dwelling unit will be located. An accessory dwelling unit shall also comply with all applicable standards for the principal dwelling.
- (3) *No mobile homes or recreational vehicles as accessory dwellings.* Mobile homes, recreational vehicles, travel trailers, and the like shall not be used as accessory dwelling units.
- (4) *One accessory unit per lot.* There shall be no more than one accessory dwelling unit on a lot in addition to the principal dwelling.
- (5) *Size limit.* The floor area of an accessory dwelling unit shall not exceed 35 percent of the gross floor area of the principal dwelling, or 1,200 square feet, whichever is less.
- (6) *Entrance location.* If the accessory dwelling unit is a part of the principal structure on the lot, any external entrance for the accessory dwelling unit shall be located on the side or rear of the structure.
- (7) *Limit on bedrooms and occupancy.* An accessory dwelling unit shall not contain more than two bedrooms or be occupied by more than two persons.
- (8) *Occupancy standards.* An accessory dwelling unit shall be subject to the dwelling unit occupancy standards of section 78-170.6. Either the accessory dwelling unit or the principal dwelling shall be occupied by the owner of the principal dwelling. Additionally, either the accessory dwelling unit or the principal dwelling on a property shall be occupied by at least one person who meets the following qualifications:
 - a. The person is at least 62 years of age; or
 - b. The person has a physical, mental, or cognitive disability:
 1. As certified by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board; or
 2. As confirmed in writing signed by a licensed medical practitioner or a practitioner licensed in an allied health field.
 3. This section shall not be deemed to exclude individuals who meet the qualifications above and are able to seek or engage in employment.
- (9) *Parking.* There shall be a minimum of one off-street parking space with convenient access to a street for the accessory dwelling unit. The parking shall be in addition to the requirements specified for the principal dwelling.
- (10) *Not to be sold separately.* Accessory dwelling units shall not be sold apart from the principal dwelling upon the same lot where they are located.
- (11) *Compliance with health, safety, sanitation and building code regulations.* Any accessory dwelling unit shall meet the applicable code regulations for building, safety, health, and sanitation standards. During reasonable hours upon prior notice, the applicant shall make provisions to allow officials to make the appropriate inspections.
- (12) *Zoning permit and special exception time limits.* A zoning inspection permit is required for an accessory dwelling unit. The special exception and zoning inspection permit for the accessory dwelling unit shall expire:

- a. Ninety days from the date on which the owner no longer occupies the property. The owner shall notify the zoning administrator at such time as the owner no longer occupies the property.
 - b. Two years from the date of approval of the special exception if required improvements have not been completed.
 - c. One year from the date the use ceased.
 - d. At any time the use does not comply with any of the conditions of approval or the terms of this chapter.
- (13) *Conflicting provisions.* In the case of any conflict between the accessory dwelling unit standards of this section and any other requirement of this chapter or the subdivision ordinance, the standards of this section shall control.

(Ord. No. [17-O-13](#), 8-8-2017; [Ord. No. 19-O-43](#), § 1, 12-10-2019; [Ord. No. 20-O-01](#), § 1, 1-14-2020)



STAFF REPORT

Town Council
January 19, 2021

Title:

Ordinance- to approve the dedication of right of way for public street purposes on Town-owned property located in the northeast quadrant of the intersection of Herndon Parkway and Van Buren Street, known as Haley M. Smith Park at 320 and 324 Van Buren Street, Fairfax County Tax Map #: 0164-02-0002.

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

Description:

Before you is an Ordinance to approve the dedication of approximately 1,489 square feet right of way for public street purposes on Town-owned property located in the northeast quadrant of the intersection of Herndon Parkway and Van Buren Street, known as Haley M. Smith Park at 320 and 324 Van Buren Street, Fairfax County Tax Map #: 0164-02-0002 (the "Property").

The Herndon Parkway and Van Buren Street intersection improvement project is a long-standing Capital improvement Program (CIP) item (the "Project"). The CIP is a financial planning document that establishes a six-year schedule for public improvements. It serves as a policy document that is a companion to the Town of Herndon 2030 Comprehensive Plan. The CIP reflects and effectuates the town's goals, as expressed in the council's vision for the town. The CIP is adopted by the council annually after it is first introduced and considered by the planning commission after a public hearing.

The Project involves the construction of certain public improvements to include widening of the intersection to accommodate additional vehicle turn lanes, new traffic and pedestrian signals and island, an extended sidewalk and cycle track, and a redesigned stormwater management system, with such improvements designed to relieve congestion and improve safety. The construction plans for the Project require dedication of approximately 1,489 square feet of right of way on the

Property. This additional right of way is necessary for public street purposes and is more particularly described and shown on the attached draft Deed of Dedication and plat. The deed is necessary to confirm the dedication of land for public street purposes to be distinguished from the current use of the Property for park purposes.

The Town recently acquired temporary construction easements, permanent drainage easements, and additional right of way dedication from three other property owners in the vicinity of the Herndon Parkway and Van Buren Street intersection for the Project. The right of way dedication from the town is the last property needed for the Project.

Section 15.2-2232 of the Code of Virginia (1950) as amended, requires that the widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas must first be approved by the local planning commission as being substantially in accord with the local comprehensive plan. This requirement has been satisfied through the CIP process. The Project was most recently included in the FY 2021 – FY 2026 CIP that was recommended by the planning commission February 24, 2020 and approved by the Town Council June 9, 2020.

Additionally, Section 15.2-1800 of the Code of Virginia (1950) as amended, requires the Town Council to hold a public hearing prior to conveying most interests in real property owned by the Town. Here, even though the title to the land will still be vested in the town, a public hearing is necessary because the Town Council will be changing the designation of the land from park use to public street use. The related need for the dedication on Town-owned property and the plat has undergone review by Town of Herndon Departments of Public Works, Parks and Recreation and the Town Attorney.

The proposed draft Deed of Dedication by and between the Town and a draft ordinance approving the draft Deed of Dedication are attached for Town Council's consideration.

Fiscal Impact:

None, but if this dedication is not approved, it may cause a delay to the start of construction.

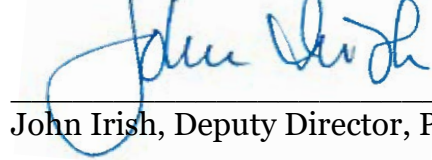
Recommendation:

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

Attachments:

1. Draft Ordinance
2. Draft Deed of Dedication with plat attached

Prepared and Approved By:



John Irish, Deputy Director, Public Works



Lauri A.N. Sigler, Deputy Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

January 26, 2021

Ordinance- to approve the dedication of right of way for public street purposes on Town-owned property located in the northeast quadrant of the intersection of Herndon Parkway and Van Buren Street, known as Haley M. Smith Park at 320 and 324 Van Buren Street, Fairfax County Tax Map #: 0164-02-0002.

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

1. Pursuant to Section 15.2-2232 of the Code of Virginia (1950), as amended, and the Town of Herndon Capital Improvement Program (CIP) the Town Council dedicates for public street purposes all of the fee simple title to 1,469 square feet of land on Town-owned property known as Haley M. Smith Park at 320 and 324 Van Buren Street, Fairfax County Tax Map #: 0164-02-0002 that is required pursuant to the constructions plans for the Herndon Parkway and Van Buren Street intersection improvement project which is a long-standing CIP item.
2. This dedication in fee simple contains approximately 1,469 square feet and is more particularly described and shown on the Plat, dated July 13, 2018 and sealed January 14, 2021, entitled "RIGHT OF WAY PLANS & DEDICATION PLAT" and prepared by Pennoni Associates Inc. of Leesburg, Virginia.
3. The Mayor is authorized to sign and deliver a Deed of Dedication and associated instruments necessary to evidence, effect, or correct this conveyance. This Deed of Dedication shall be on such form as approved by the Town Attorney.
4. This ordinance shall be effective on and after the date of its adoption.

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

Tax Map No. 0164-02-0002

Exempted from recordation taxes and fees under Sections 58.1-811(A)(3), 58.1-811(C)(5), and 17.1-279(E) of the Code of Virginia 1950, as amended.

THIS DEED OF DEDICATION (the **“Deed”**) is made this ____ day of _____, 2021, by and between the **TOWN OF HERNDON, VIRGINIA**, a municipal corporation (hereinafter referred to as **“Town”**) (Grantor and Grantee).

W I T N E S S E T H :

WHEREAS, the Town is the owner and proprietor of certain real property (the **“Property”**) as shown on Plat, dated July 13, 2018 and sealed January 14, 2021, entitled **“RIGHT OF WAY PLANS & DEDICATION PLAT”** and prepared by Pennoni Associates Inc. of Leesburg, Virginia, (the **“Plat”**) which Plat is attached hereto; and

WHEREAS, the Property is situate in the Town of Herndon, Fairfax County, Virginia, the Town having acquired the Property by deed recorded in Deed Book 8075, page 1301, among the land records of Fairfax County, Virginia; and

WHEREAS, by Ordinance 21-O-____, adopted January 26, 2021, the Herndon Town Council approved the dedication of 1,469 square feet of land for public street purposes for the Herndon Parkway and Van Buren Street intersection improvement project, a long-standing Capital Improvement Program project item.

WHEREAS, it is the desire and intent of Town to confirm the dedication of land for public streets purposes in accordance with this Deed and the Plat; and

STREET DEDICATION

NOW THEREFORE, that in consideration of the public benefits to accrue from the action represented by this Deed, the Town Council declares, dedicates in fee simple, and acts to confirm the dedication for public street purposes pursuant to Ordinance 21-O-____, adopted January 26, 2021, and does so dedicate 1,469 square feet, more or less, of right of way for public street purposes

as so designated on the Plat as "PROP. ROW". This dedication is made in accordance with the statutes made and provided therefore.

This Deed is made in accordance with the statutes made and provided in such cases; and is with the free consent and in accordance with the desire of Town, the owner and proprietor of the land depicted on the Plat as aforesaid.

The Town's signature below shall indicate acceptance of the real estate interests dedicated by this Deed. The Mayor is authorized to execute this deed on behalf of the Town.

IN WITNESS WHEREOF, the Town has caused this Deed to be executed, under seal.

FURTHER WITNESS the following signature and seal.

[SIGNATURE FOLLOWS ON NEXT PAGE]

ATTEST:

TOWN OF HERNDON, VIRGINIA, as
Grantor and Grantee

Town Clerk

By _____
Sheila A. Olem, Mayor

COMMONWEALTH OF VIRGINIA
COUNTY OF _____, to wit:

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

GIVEN under my hand and seal this _____ day of _____, _____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

APPROVED AS TO FORM:

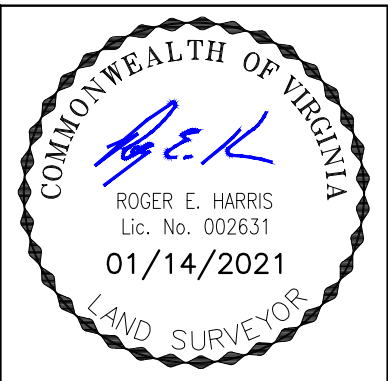
Lesa J. Yeatts, Town Attorney

PROJECT MANAGER _____
SURVEYED BY, DATE _____
DESIGN BY _____
SUBSURFACE UTILITY BY, DATE _____

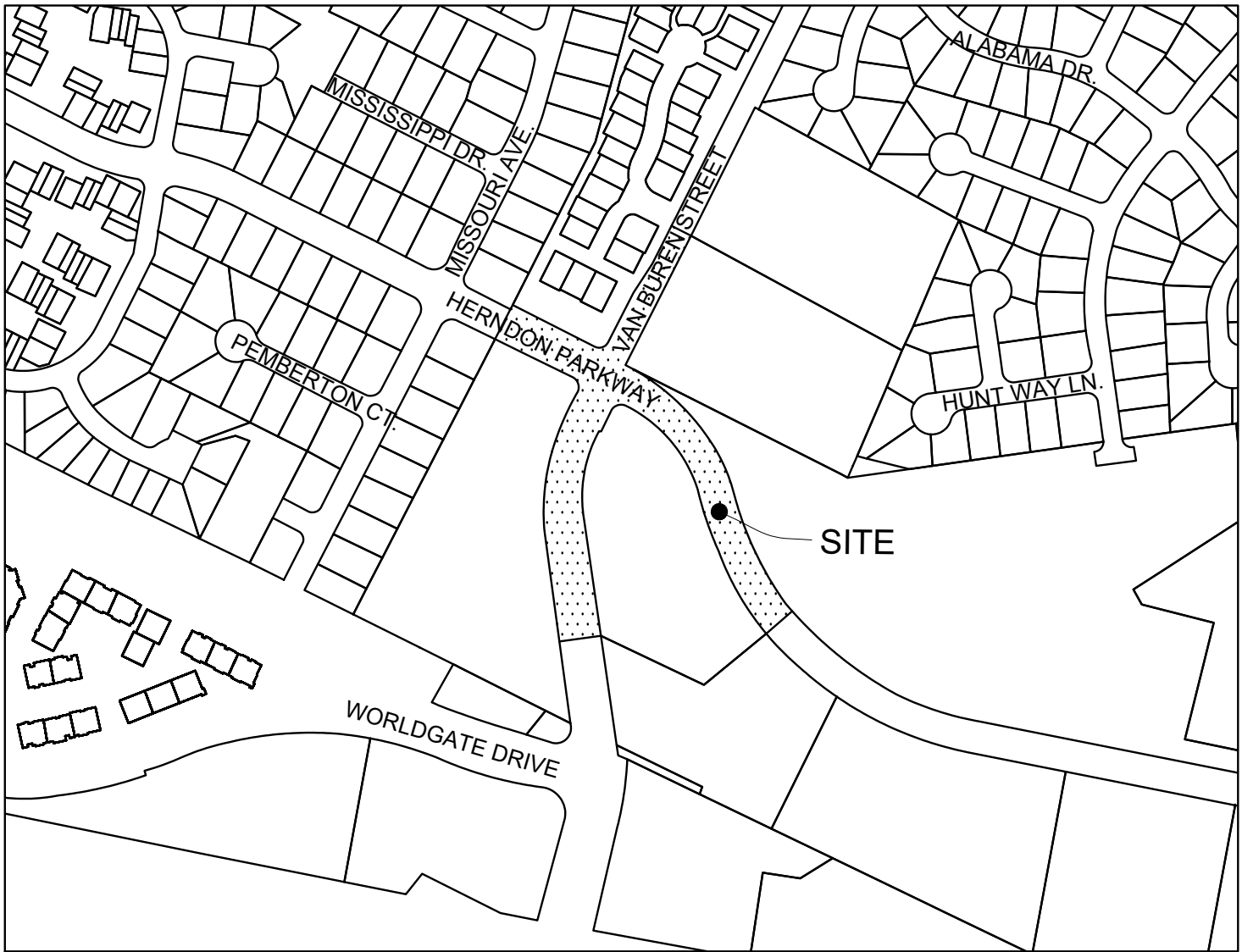
R.O.W. Line Table		
Line #	Length	Direction
L5	4.06'	S65° 29' 57"E
L6	40.02'	S24° 28' 11"W
L7	21.06'	S65° 10' 28"E
L8	11.02'	S43° 43' 31"E
L9	13.38'	S46° 26' 28"W

R.O.W. Curve Table			
Curve #	Length	Radius	Delta
C4	26.586	14.000	108.8038
C5	31.763	625.466	002.9097

AREAS	
PARCEL #	R/W DEDICATION
005	1,469 SQ.FT.



REVISED	STATE	ROUTE	STATE PROJECT	SHEET NO.
	VA	606	0606-235-335	1
DRAWN BY: DLU		DATE: JULY 13, 2018		



VICINITY MAP
SCALE: 1"=400'

OWNER’S CONSENT

THE PLATTING OR DEDICATION OF THE LANDS SHOWN HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

BY: _____ DATE: _____

BY: _____ DATE: _____

BY: _____ DATE: _____

BY: _____ DATE: _____

STATE OF _____
COUNTY OF _____

SUBSCRIBED AND SWORN BEFORE ME
THIS _____ DAY OF _____ 2016

BY _____

NOTARY PUBLIC
MY COMMISSION EXPIRES:

TOWN OF HERNDON

MAYOR DATE

ATTEST: _____
TOWN CLERK DATE



PENNONI ASSOCIATES INC.
208 Church Street, SE
Leesburg, VA 20175
T 703.777.3616 F 703.777.3725

RIGHT OF WAY PLANS & DEDICATION PLAT

ON THE PROPERTY OF
TOWN OF HERNDON
LOCATED IN HERNDON, VIRGINIA

SURVEYOR’S CERTIFICATE

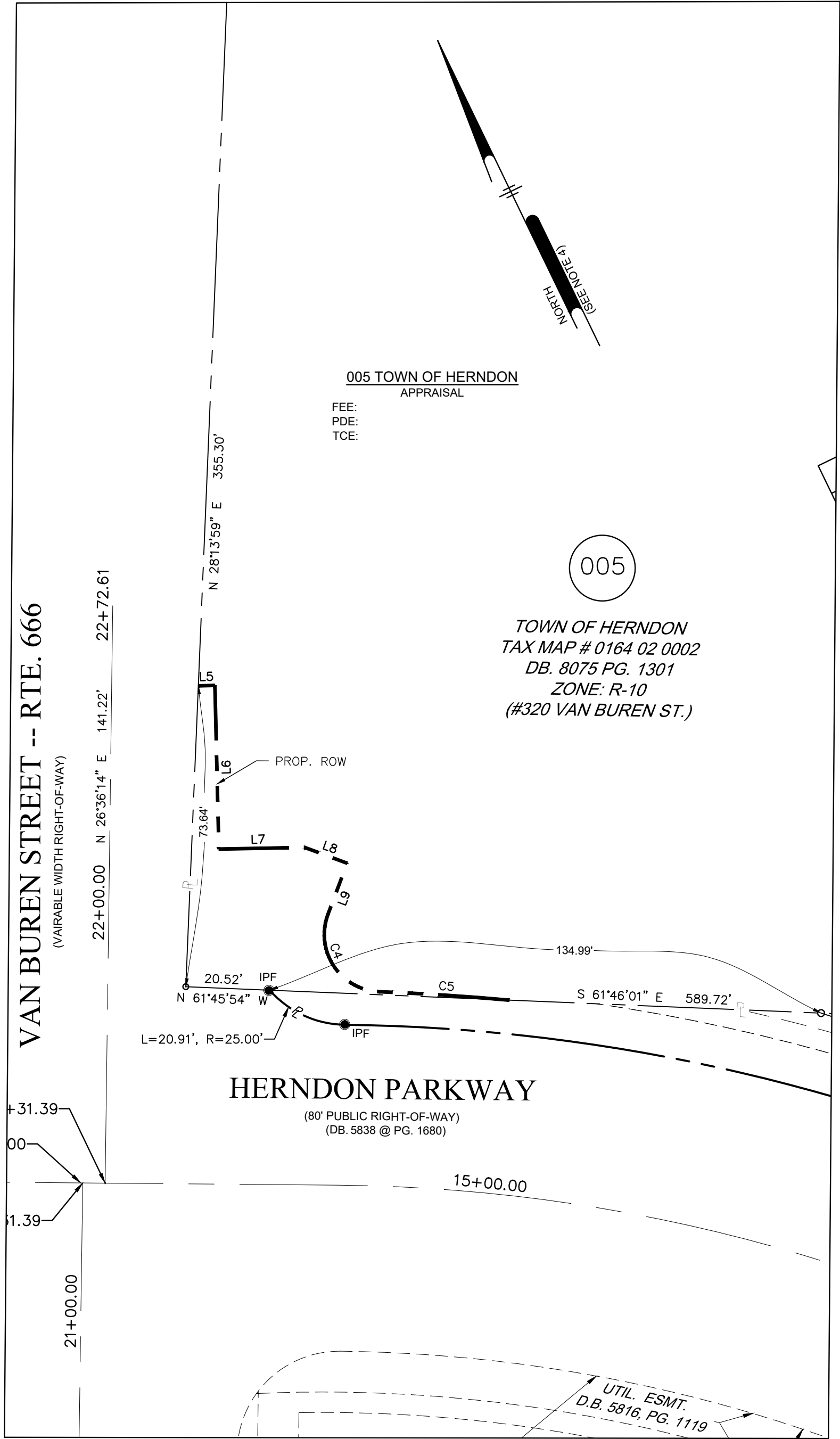
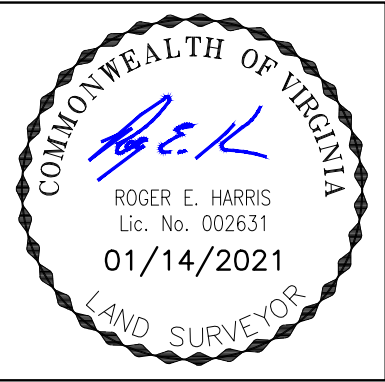
I, ROGER E. HARRIS, A DULY CERTIFIED LAND SURVEYOR, DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS IN THE NAME OF TOWN OF HERNDON D.B. 8075 @ PG. 1301 AS RECORDED AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

NOTES

- 1.) ALL ADJOINING/DEPARTING BOUNDARY LINES SHOWN ARE COMPILED FROM VARIOUS SOURCES: FOUND PROPERTY MONUMENTATION, METES AND BOUNDS DESCRIPTIONS AND RECORDED PLATS. THE ADJOINING LINES DO NOT REPRESENT A FIELD RUN SURVEY OF ADJOINING PROPERTIES AND ARE A BEST FIT BASED ON COMPILED DATA.
- 2.) ALL OF THE PROPERTIES PHYSICAL IMPROVEMENTS ARE NOT SHOWN HEREON.
- 3.) THIS PLAT SHEET WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ALL EASEMENTS WHICH MAY AFFECT THE PROPERTY SHOWN HEREON.
- 4.) THIS SURVEY DATUM IS BASED ON VDOT PROJECT # 0606-235-335.
- 5.) RIGHT-OF-WAY MONUMENTATION TO BE SET UPON COMPLETION OF CONSTRUCTION.

PROJECT	SHEET NO.
HERN1501	1

REVISED	STATE	ROUTE	STATE PROJECT	SHEET NO.
	VA	606	0606-235-335	2
DRAWN BY: DLU DATE: JULY 13, 2018				



PENNONI ASSOCIATES INC.
 208 Church Street, SE
 Leesburg, VA 20175
 T 703.777.3616 F 703.777.3725

RIGHT OF WAY PLANS & DEDICATION PLAT
 ON THE PROPERTIES OF
TOWN OF HERNDON
 LOCATED IN HERNDON, VIRGINIA



STAFF REPORT

Town Council
January 19, 2021

Title:

Ordinance - To approve and authorize the Mayor to sign a Fifth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC to revise the premises description, approved equipment list, drawings, monthly rent, and Town contact information at the Town's 3rd Street Water Tower.

Staff Contact:

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

Background:

Before you is an Ordinance to approve and authorize a Fifth Lease Amendment between the Town and T-Mobile Northeast LLC. Staff is requesting that the Town Council approve this Fifth Amendment that revises the premises description, approved equipment list, drawings, monthly rent, and Town contact information at the Town's 3rd Street Water Tower.

The original lease agreement at the 3rd Street Water Tower by and between the Town of Herndon, Virginia and T-Mobile Northeast LLC, successor in interest to Omnipoint Communications Cap Operation, LLC, was dated September 1, 1994, as amended by the Revival and Extension of the Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of the Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease dated May 12, 2015 and has a term that shall expire on August 31, 2029.

Many of the current equipment items will be removed and replaced with new updated equipment. Equipment changes include the removal of 12 existing TMAs (Tank Mounted Amplifiers), 1 Existing Equipment Cabinet, and 4 existing RRUs (Remote Radio Units) from ground level, and the installation of 8 Mounts, 12 Antennas, 8 RRUs (Remote Radio Units), 8 Hybrid Cables, 1 Equipment Cabinet, 1 Battery Cabinet. All equipment changes are subject to and must comply with zoning and permit approvals.

The next step for this amendment, if approved, is for the applicant to submit the changes Community Development to begin the Architectural Review Board process. Once that process is complete, the next step is to submit applicable paperwork for a building permit.

Fiscal Impact:

The amended lease will increase the monthly rent by \$1,200.00 due to the addition of 8 antennas. The new rent will be \$5,505.13 per month and will be subject to the annual 3% escalation provided for in the original Deed of Lease.

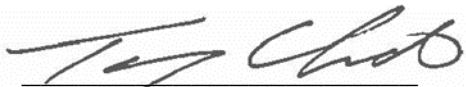
Staff Recommendation:

Staff recommends that the Town Council approve the Ordinance as proposed.

Attached Documents:

1. Draft Ordinance
2. Lease Amendment Agreement with Exhibits A, B and C

Staff:



Tammy Chastain
Deputy Director of Public Works

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 26, 2021

Ordinance - To approve and authorize the Mayor to sign a Fifth Lease Amendment with T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC to revise the premises description, approved equipment list, drawings, monthly rent, and Town contact information at the Town's 3rd Street Water Tower.

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

1. The Town Council approves this Fifth Amendment to Deed of Lease Agreement dated January 26, 2021. This instrument amends the original deed of lease dated September 1, 1994, as amended by the Revival and Extension of the Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of the Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease dated May 12, 2015.
2. This instrument updates the approved equipment list, premises description, drawings, contact information of the Town and monthly rent.
3. Equipment changes include the removal of 12 existing TMAs (Tank Mounted Amplifiers), 1 Existing 2106 Equipment Cabinet, and 4 existing RRUs (Remote Radio Units) from ground level, and the installation of 8 Mounts, 12 Antennas, 8 RRUs (Remote Radio Units), 8 Hybrid Cables, 1 6160 Equipment Cabinet, 1 B160 Battery Cabinet.
5. This instrument approves revising the equipment list to the following: 4 Equipment Cabinets, up to 63"H x 34"W x 26"W, 12 Antennas up to 96.5"H x 24"W x 9"D, 8 RRUs (Remote Radio Units) up to 17"H x 14"W x 11"D, 8 Coax and/or Fiber Hybrid Cables up to 1 5/8"D, 1 T-Mobile Meter up to 38"H x 13"W x 4.84"D, 1 T-Mobile Disconnect up to 45.5"H x 23"W x 7.5"D, 1 T-Mobile SPD up to 4.5"H x 7"W x 7.35"D, and 1 T-Mobile Panel Board up to 30"H x 21"W x 7"D.
6. Monthly rent shall be increased by \$1,200.00 to \$5,505.13 per month and shall escalate each year as provided in paragraph 2(a) of the Deed of Lease.
6. Section 17 regarding Notices is hereby amended to reflect the following address of the Town:

If to Lessor, to:
Town of Herndon
Attn: Town Manager
777 Lynn Street
Herndon, VA 20170

With a copy to:

Town of Herndon
Attn: Department of Public Works
777 Lynn Street
Herndon, VA 20170

5. In all other respects the original lease remains in effect.
6. The Mayor is authorized to sign and deliver the lease amendment and any ancillary instruments necessary to evidence or effectuate the lease amendment, provided they are consistent with this ordinance and on such form approved by the Town Attorney.
7. This ordinance shall be in effect on and after the date of its adoption.

FIFTH AMENDMENT TO DEED OF LEASE AGREEMENT

This Fifth Amendment to Deed of Lease Agreement ("Fifth Amendment") is dated this 26th day of January 2021 (the "Fifth Amendment Effective Date"), made by and between **Town of Herndon** ("Lessor") and **T-Mobile Northeast LLC**, a Delaware limited liability company, successor-in-interest to **Omnipoint Communications CAP Operations, LLC** ("Lessee").

WHEREAS, Lessor and Lessee entered into that certain Deed of Lease Agreement dated September 1, 1994, as amended by the Revival and Extension of Deed of Lease Agreement dated November 18, 1999, as amended by the Second Revival and Extension of Deed of Lease Agreement dated March 15, 2005, as amended by the Third Revival and Extension of Deed of Lease Agreement dated July 28, 2014, as amended by the Fourth Amendment to Deed of Lease Agreement dated May 12, 2015 (collectively referred to herein as the "Lease"), whereby Lessor leased to Lessee a portion of the property and on the Water Tank located on the 3rd Street Water Tower located at 806 3rd Street, Herndon, Virginia 20170; and

WHEREAS, Town and Lessee hereby affirm that, as of the date hereof: (i) no breach or default by Town or Lessee has occurred; and (ii) the Lease, and all the terms, covenants, conditions, provisions and agreements thereof, except as expressly modified by this Fifth Amendment are in full force and effect, with no defenses or offsets thereto; and

WHEREAS, Town and Lessee desire to amend the Lease as follows; and

NOW THEREFORE, in consideration of the mutual covenants contained in the Lease and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Lessee hereby agree as follows:

1. All capitalized terms shall have the meaning ascribed to them in the Lease unless otherwise defined in this Fifth Amendment.
2. Exhibit A is hereby deleted in its entirety and replaced with Exhibit A dated November 17, 2020, Exhibit B is hereby deleted in its entirety and replaced with Exhibit B dated November 17, 2020, Exhibit C-2 is hereby deleted in its entirety and replaced with Exhibit C, Pages 1-4, dated November 17, 2020, all of which are attached hereto and incorporated herein.
3. Lessee shall have the right to modify its Equipment as described in Exhibit C, Pages 1-4 dated November 17, 2020, attached hereto and incorporated herein. In consideration of the modification of the Equipment as shown in Exhibit C, Lessee shall pay the Lessor an additional One Thousand Two Hundred Dollars (\$1,200.00) per month ("Additional Rent"). The new monthly rent shall be Five Thousand Five Hundred Five and 13/100 Dollars (\$5,505.13), commencing on the first day of the month following the Fifth Amendment Effective Date, and shall escalate each year as provided in paragraph 2(a) of the Deed of Lease.
4. Section 17 regarding Notices is hereby amended to reflect the following address of the Town:

If to Lessor, to:
Town of Herndon
Attn: Town Manager
777 Lynn Street
Herndon, VA 20170

With a copy to:

Town of Herndon
Attn: Department of Public Works
777 Lynn Street
Herndon, VA 20170

5. Except as specifically amended herein, the remaining terms of the Lease shall remain in full force and effect. To the extent any provision contained in this Fifth Amendment conflicts with the terms of the Lease, the terms and provisions of this Fifth Amendment shall prevail.

LESSOR

TOWN OF HERNDON

By: _____

Name: _____

Title: _____

ATTEST

By: _____

Name: _____

Title: _____

LESSEE

T-Mobile Northeast LLC

By:  _____

Name: Kevin Griswold _____

Title: Director Site Development, Northeast region _____



APPROVED AS TO FORM

By: _____

Name: Lesa J. Yeatts _____

Title: Town Attorney _____

Site Number: 7WAC057A
Site Name: Herndon Water Tank
Market: Baltimore/Washington

 Digitally signed by John J. Velasquez
DN: cn=John J. Velasquez, o=T-Mobile
USA, Inc., ou=Legal Affairs,
email=John.Velasquez@t-mobile.com,
c=US
Date: 2020.12.10 13:44:43 -0500

Exhibit A
November 17, 2020

The property lies in the Town of Herndon, Virginia and is described as follows:

1. 806 3rd Street
Herndon, VA 20170
2. Fairfax County Tax Map Number 10-4-2-45A

The geodetic coordinates of the Property are as follows:

North Latitude: 38° 58' 50"

West Longitude 77° 22' 59"

Exhibit B
November 17, 2020

The premises shall consist of the following:

1. The Ground Space, consisting of approximately 324 square feet for placement of equipment cabinets and a back-up generator and associated concrete pad.
2. Space on the Tower sufficient to accommodate the placement, installation, operation and maintenance of the equipment (listed on Exhibit "C", dated November 17, 2020).
3. The Access easement.
4. The Utility Easements.
5. The premises are depicted on the attached drawings.

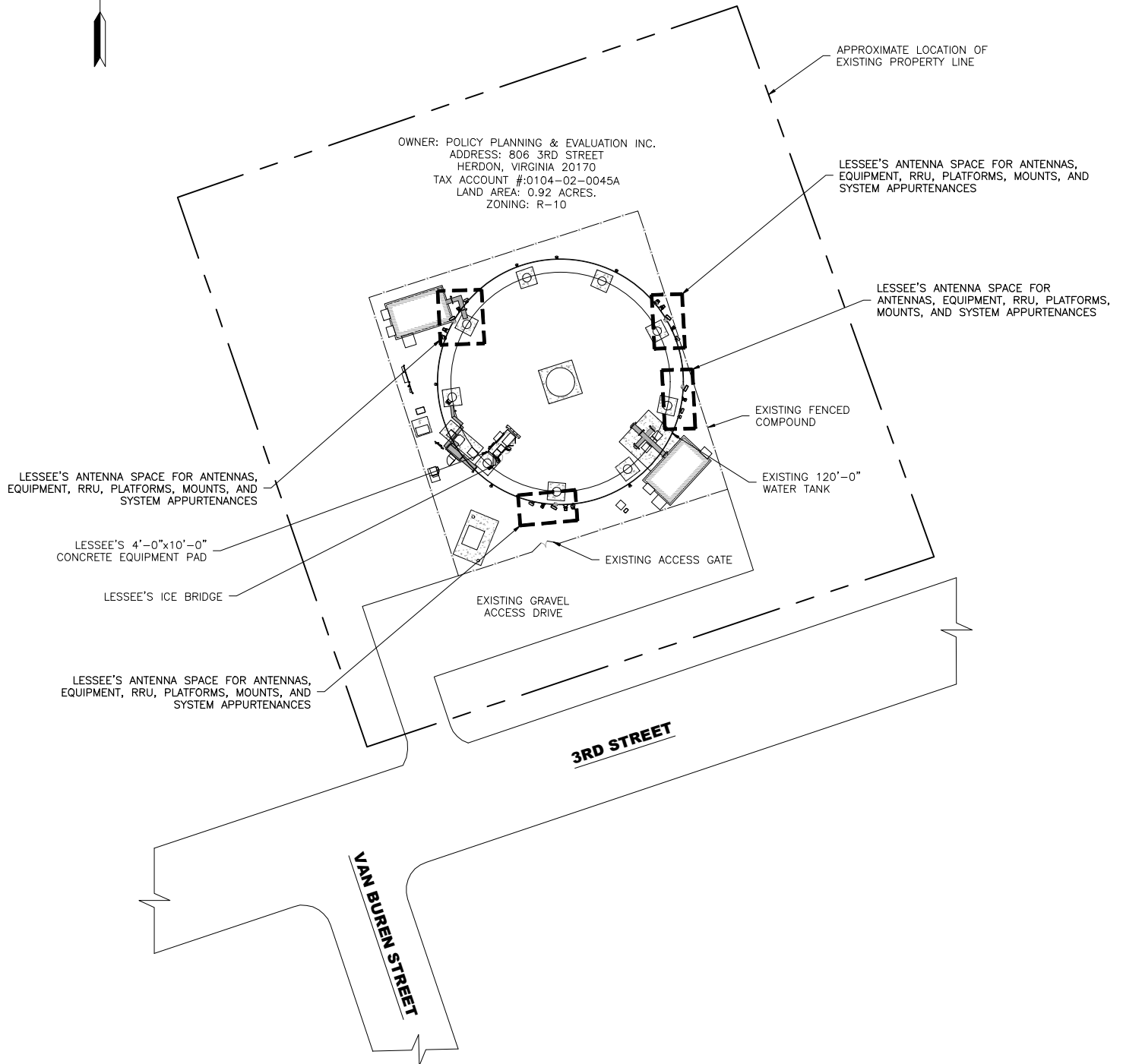
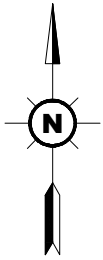
Nothing in this legal description shall convey to Lessee any rights in the Property other than what are specifically described in this Deed of Lease as to the Premises.

Exhibit C
Page 1 of 4
November 17, 2020

The following equipment together with any associated wires, cables, pipes, conduits and supporting structures associated with the equipment shall be located on the Third Street Water Tank as generally shown on the attached drawings.

<u>Quantity</u>	<u>Type</u>	<u>Approximate Size</u>
4	Equipment Cabinets	up to 63" H x 34" W x 26" D
12	Antennas	up to 96.5" H x 24" W x 9"
8	Remote Radio Units (RRU's)	up to 17" H x 14" W x 11" D
8	Coax and/or Fiber Hybrid Cables	up to 1-5/8" in Diameter
1	T-Mobile Meter	up to 38" H x 13" W x 4.84" D
1	T-Mobile Disconnect	up to 45.5" H x 23" W x 7.5" D
1	T-Mobile SPD	up to 4.5" H x 7" W x 7.35" D
1	T-Mobile Panel Board	up to 30" H x 21" W x 7" D

Exhibit C Page 2 of 4
November 17, 2020



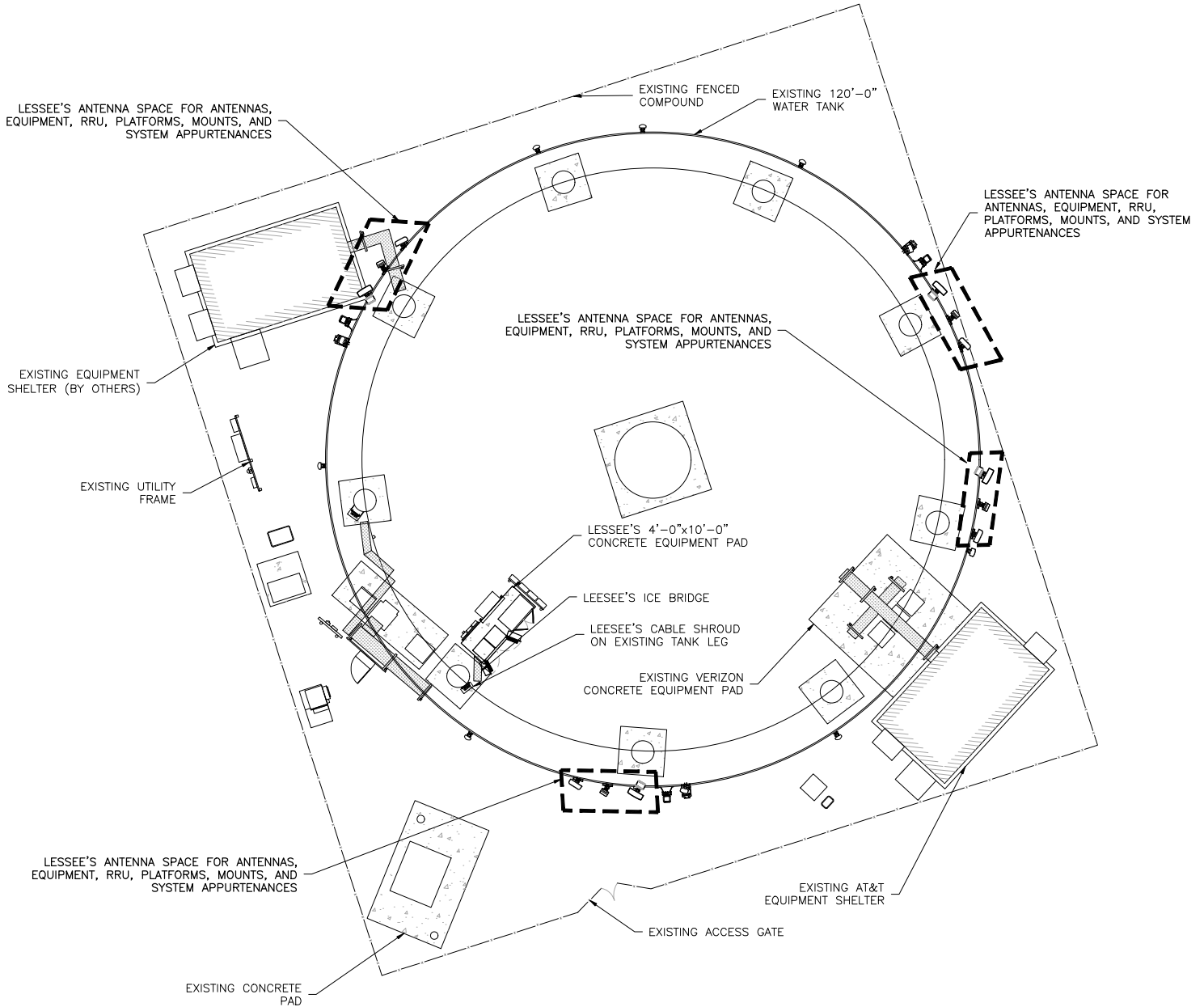
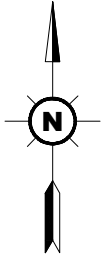
1 SITE PLAN
 LE-1 SCALE: N.T.S.

SUBMITTALS	
PRELIMINARY	08/31/2020
DRAFTER: AP	

LEASE EXHIBIT
SITE NAME
TOWN OF HERNDON - HERNDON
7WAC057A

806 3RD STREET
HERNDON, VIRGINIA 20170

Exhibit C Page 3 of 4
November 17 2020



1
LE-2

COMPOUND PLAN

SCALE: N.T.S.



7151 COLUMBIA GATEWAY DRIVE SUITE A
 COLUMBIA, MARYLAND 21046
 PHONE: (443) 367-0003
 FAX: (443) 367-3548

T - Mobile
 NORTHEAST LLC

T-MOBILE NORTHEAST LLC
 12050 BALTIMORE AVENUE
 BELTSVILLE, MARYLAND 20705
 PHONE: (240) 264-8600
 FAX: (240) 264-8610

SUBMITTALS

PRELIMINARY	08/31/2020
DRAFTER: AP	

**LEASE EXHIBIT
 SITE NAME**

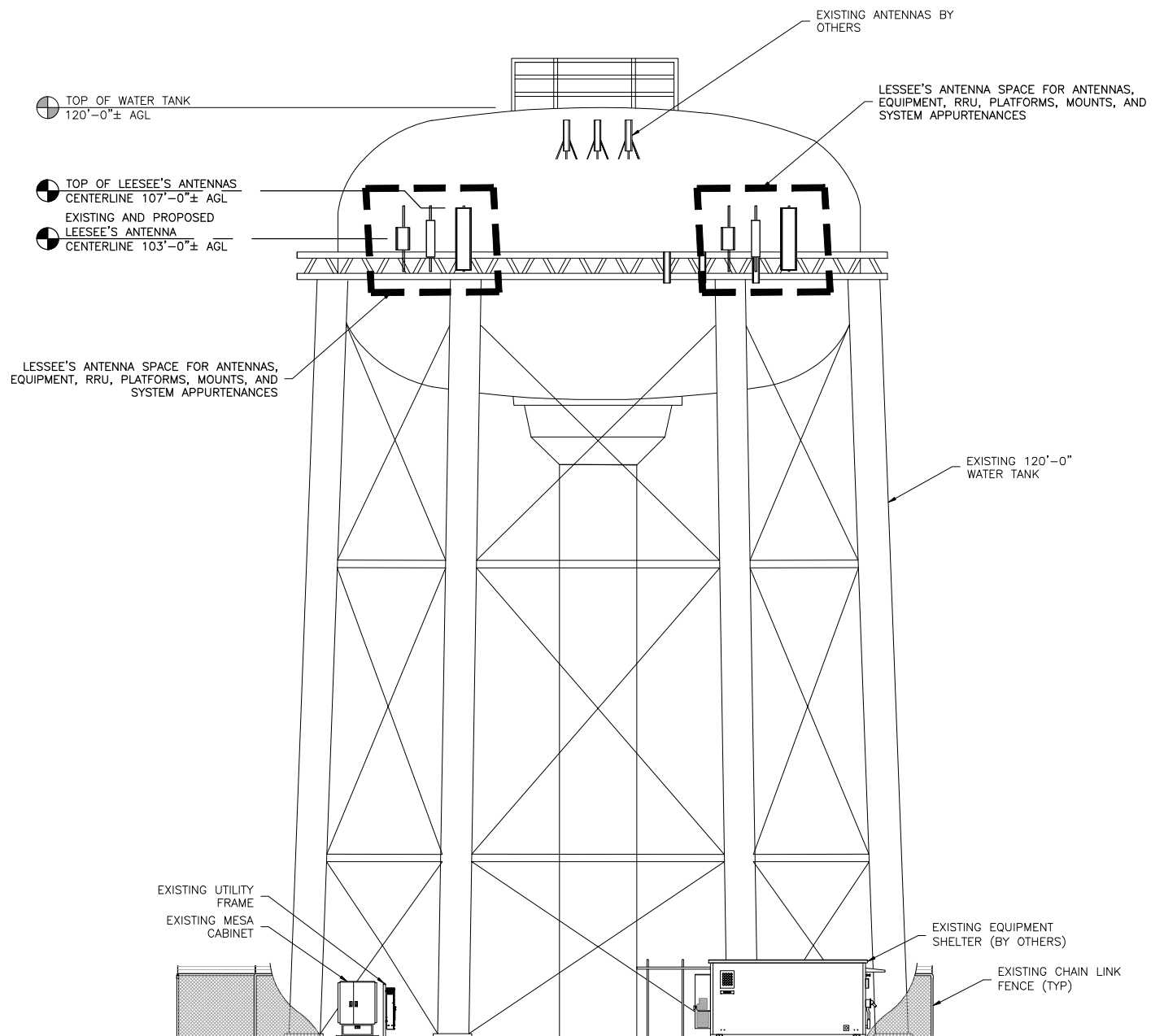
**TOWN OF HERNDON - HERNDON
 7WAC057A**

**806 3RD STREET
 HERNDON, VIRGINIA 20170**

LE-2

SHEET: 2 OF 3

Exhibit C Page 4 of 4
November 17, 2020



1 ELEVATION VIEW
LE-3 SCALE: N.T.S.



T - Mobile
 NORTHEAST LLC

T-MOBILE NORTHEAST LLC
 12050 BALTIMORE AVENUE
 BELTSVILLE, MARYLAND 20705
 PHONE: (240) 264-8600
 FAX: (240) 264-8610

SUBMITTALS	
PRELIMINARY	08/31/2020
DRAFTER: AP	

**LEASE EXHIBIT
 SITE NAME**

**TOWN OF HERNDON - HERNDON
 7WAC057A**

**806 3RD STREET
 HERNDON, VIRGINIA 20170**

LE-3

SHEET: 3 OF 3

STAFF REPORT

Town Council
January 19, 2021

Title:

Ordinance - To approve and authorize the Mayor to sign a Third Lease Amendment with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation to revise the premises description, approved equipment list, use of premises, drawings, and the Town's contact information at the Town's Alabama Drive Water Tower.

Staff Contact:

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

Background:

Before you this evening is an Ordinance to approve and authorize a Third Lease Amendment between the Town and AT&T Mobility Corporation. Staff is requesting that the Town Council approve this Third Amendment that revises the premises description, approved equipment list, use of premises, drawings, and the Town's contact information at the Town's Alabama Drive Water Tower.

The original lease agreement at the Alabama Drive Water Tower by and between the Town of Herndon, Virginia and Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation was dated December 6, 2000, as amended by the First Amendment to Deed of Lease dated July 23, 2006, and as amended by the Second Amendment to Deed of Lease dated October 20, 2015 shall expire on May 31, 2026.

This Third Amendment approves revision of the equipment list to the following: 1 equipment shelter up to 12' x 28', 9 antennas up to 96"H x 20"W x 8"D, 12 diplexers up to 6.3"H x 4.4"W x 3"D, 15 remote radio units (RRU's) up to 31.5" H x 12" W x 9" D, 6 DC trunks up to 0.92" diameter, 3 eighteen(18) pair fiber trunks up to 0.40" D, 3 junction/slack boxes up to 12"H x 12"W x 8"D, 3 RET cables up to 3/8"D, 3 surge suppressors up to 24"H x 11"W x 11"D, 12 coax cables up to 1-5/8"D.

The majority of the proposed changes are minor and the changes to upper size limits will allow flexibility with the equipment as technology changes and develops over time. Any changes above these limits or to the quantities will require another lease amendment. The next steps in the process, if this ordinance is approved, is to submit information to Community Development as part of the Architectural Review Board process. Upon completion of that process, the proper paperwork would then have to be submitted for a building permit.

Fiscal Impact:

The current monthly rent is \$3,857.10 and will remain unchanged with this Amendment. However, the lease will remain subject to an annual 3% escalation provided for in the original Deed of Lease.

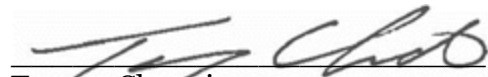
Staff Recommendation:

Staff recommends that the Town Council approve the Ordinance as proposed.

Attached Documents:

1. Draft Ordinance
2. Lease Amendment Agreement with Exhibits C, D, and E

Staff:



Tammy Chastain
Deputy Director of Public Works

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 26, 2021

Ordinance - To approve and authorize the Mayor to sign a Third Lease Amendment with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation to revise the premises description, approved equipment list, use of premises, drawings, and the Town's contact information at the Town's Alabama Drive Water Tower.

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

1. The Town Council approves this Third Amendment to Deed of Lease dated January 26, 2021. This instrument amends the original Deed of Lease dated December 6, 2000, as amended by First Amendment to Deed of Lease dated July 23, 2006, and as amended by the Second Amendment to Deed of Lease dated October 20, 2015.
2. This instrument updates the premises description, approved equipment list, use of premises, drawings, and contact information of the Town.
3. The "Premises" shall be as described in Exhibits A, B, C and D.
4. The "Equipment" shall be as described in Exhibits A, B and E.
5. This instrument approves revision of the equipment list to the following: 1 equipment shelter up to 12' x 28', 9 antennas up to 96"H x 20"W x 8"D, 12 diplexers up to 6.3"H x 4.4"W x 3"D, 15 remote radio units (RRU's) up to 31.5"H x 12"W x 9"D, 6 DC trunks up to 0.92"diameter, 3 eighteen(18) pair fiber trunks up to 0.40"D, 3 junction/slack boxes up to 12"H x 12"W x 8"D, 3 RET cables up to 3/8"D, 3 surge suppressors up to 24"H x 11"W x 11"D, 12 coax cables up to 1 5/8"D.
6. Paragraph 4(a) regarding Use of premises is hereby deleted and replaced with the following:
 - (a) Lessee may use the Premises solely for installing, operating, repairing, replacing and maintaining the wireless communications equipment ("Equipment") as substantially described in Exhibit A, B, and E attached hereto, which Equipment will be used for transmission and reception of communication signals and form part of a telecommunications system licensed by the Federal Communications Commission, and for activities reasonably related thereto. The Equipment listed in Exhibit "E" may be replaced, without the Town's consent and without requiring an amendment to this Deed of Lease, with Equipment that is not substantially greater in size than the Equipment listed on Exhibit "E." Otherwise, Lessee

shall have the right to alter, replace, supplement, expand, enhance, upgrade the Equipment, consistent with this Deed of Lease at any time during the term of this Deed of Lease, upon the prior written consent of Town, which consent shall not be unreasonably withheld, conditioned or delayed, and a decision thereon shall be communicated to Lessee in writing within ten (10) days following Lessee's request. Town reserves the right to utilize remaining area of the Property as it so desires, subject to Lessee's right under this Deed of Lease, including, without limitation, Lessee's right pursuant to Section 5. This paragraph does not apply to or limit Town's police power or any decision under Town's police power. Nothing in this Deed of Lease shall affect Town's power, right, or ability to use the Property or Premises for a municipal water supply, which is and must remain the dominant use of the Property and the Premises.

6. Paragraph 18 regarding Notices is hereby amended to reflect the following address of the Town:

Town of Herndon
Attn: Town Manager,
777 Lynn Street
Herndon, VA 20170

5. In all other respects the original lease remains in effect.
6. The Mayor is authorized to sign and deliver the lease amendment and any ancillary instruments necessary to evidence or effectuate the lease amendment, provided they are consistent with this ordinance and on such form approved by the Town Attorney.
7. This ordinance shall be in effect on and after the date of its adoption.

Town Site ID: Herndon Alabama Drive Water Tower
Tenant Site ID: PW1191/Herndon Water Tank
Fixed Asset No. 10067722
Market: DC/MD
Address: 624 Alabama Drive, Herndon, VA 20170

THIRD AMENDMENT TO DEED OF LEASE

THIS THIRD AMENDMENT TO DEED OF LEASE (“**Third Amendment**”), dated the 26th day of January 2021, is by and between Town of Herndon, a municipal corporation, having a mailing address of 777 Lynn Street, Herndon, VA 20170 (hereinafter referred to as “**Town**”), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 1025 Lenox Park Blvd. NE, Third Floor, Atlanta, GA 30319 (hereinafter referred to as “**Lessee**”).

WHEREAS, Town and Lessee (or its respective predecessor) entered into a Deed of Lease dated December 6, 2000 (“Deed of Lease”), as amended by that certain First Amendment to Deed of Lease dated July 23, 2006 (“First Amendment”), and as amended by the Second Amendment to Deed of Lease dated October 20, 2015 (“Second Amendment”), whereby Town leased to Lessee certain Premises, therein described, that are a portion of the Property located at 624 Alabama Drive, Herndon, VA 20170 (hereinafter, the Deed of Lease, the First Amendment, and the Second Amendment are collectively referred to as the “**Lease**”); and

WHEREAS, Town and Lessee hereby affirm that, as of the date hereof: (i) no breach or default by Town or Lessee occurred; and (ii) the Lease, and all the terms, covenants, conditions, provisions and agreements thereof, except as expressly modified by this Third Amendment are in full force and effect, with no defenses or offsets thereto; and

WHEREAS, Town and Lessee desire to amend the Lease as follows;

NOW THEREFORE, in consideration of the mutual covenants contained in the Lease and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Lessee hereby agree as follows:

1. All capitalized terms shall have the meaning ascribed to them in the Lease unless otherwise defined in this Third Amendment.
2. The lease is hereby amended to add Exhibit C dated December 8, 2020, Exhibit D dated December 8, 2020 and Exhibit E, Pages 1-5 dated December 8, 2020.
3. “Premises” shall be as described in Exhibits A, B, C and D.
4. “Equipment” shall be as described in Exhibits A, B and E.
5. Paragraph 4(a) regarding Use of premises is hereby deleted and replaced with the following:
 - (a) Lessee may use the Premises solely for installing, operating, repairing, replacing and maintaining the wireless communications equipment (“Equipment”) as substantially described in Exhibit A, B, and E attached hereto, which Equipment will be used for transmission and reception of communication signals and form part of a telecommunications system licensed by the Federal Communications

Town Site ID: Herndon Alabama Drive Water Tower
Tenant Site ID: PW1191/Herndon Water Tank
Fixed Asset No. 10067722
Market: DC/MD
Address: 624 Alabama Drive, Herndon, VA 20170

Commission, and for activities reasonably related thereto. The Equipment listed in Exhibit "E" may be replaced, without the Town's consent and without requiring an amendment to this Deed of Lease, with Equipment that is not substantially greater in size than the Equipment listed on Exhibit "E." Otherwise, Lessee shall have the right to alter, replace, supplement, expand, enhance, upgrade the Equipment, consistent with this Deed of Lease at any time during the term of this Deed of Lease, upon the prior written consent of Town, which consent shall not be unreasonably withheld, conditioned or delayed, and a decision thereon shall be communicated to Lessee in writing within ten (10) days following Lessee's request. Town reserves the right to utilize remaining area of the Property as it so desires, subject to Lessee's right under this Deed of Lease, including, without limitation, Lessee's right pursuant to Section 5. This paragraph does not apply to or limit Town's police power or any decision under Town's police power. Nothing in this Deed of Lease shall affect Town's power, right, or ability to use the Property or Premises for a municipal water supply, which is and must remain the dominant use of the Property and the Premises.

6. Paragraph 18 regarding Notices is hereby amended to reflect the following address of the Town:

Town of Herndon
Attn: Town Manager
777 Lynn Street
Herndon, VA 20170

7. Except as specifically amended herein, the remaining terms of the Lease shall remain in full force and effect. To the extent any provision contained in this Third Amendment conflicts with the terms of the Lease, the terms and provisions of this Third Amendment shall prevail.

IN WITNESS WHEREOF, the parties have caused this Third Amendment to be effective as of the last date written below.

Signatures on following page

Town Site ID: Herndon Alabama Drive Water Tower
Tenant Site ID: PW1191/Herndon Water Tank
Fixed Asset No. 10067722
Market: DC/MD
Address: 624 Alabama Drive, Herndon, VA 20170

LESSOR:

TOWN OF HERNDON

By: _____
Name: Lisa C. Merkel
Title: Mayor
Date: _____

ATTEST:

By: _____
Name: _____
Title: _____

LESSEE:

NEW CINGULAR WIRELESS PCS, LLC By:
AT&T MOBILITY CORPORATION
Its: Manager

By: 
Name: Louis Deal
Title: Reac Mgr
Date: 12/15/2020

APPROVED AS TO FORM:

By: _____
Name: Lesa J. Yeatts
Title: Town Attorney

Exhibit C
December 8, 2020

The property lies in the Town of Herndon, Virginia and is described as follows:

1. 624 Alabama Dr
Herndon, VA 20170
2. Fairfax County Tax Map Number: 0162 02 0148

The geodetic coordinates of the Property are as follows:

North Latitude: 38° 57' 40.83"

West Longitude 77° 23' 13.08"

Exhibit D
December 8, 2020

The premises shall consist of the following:

1. The Ground Space, consisting of approximately 336 square feet for placement of equipment shelter.
2. Space on the Tower sufficient to accommodate the placement, installation, operation and maintenance of the equipment (listed on Exhibit "E").
3. The Access easement.
4. The Utility Easements.
5. The premises are depicted on the attached drawings.

Nothing in this legal description shall convey to Lessee any rights in the Property other than what are specifically described in this Deed of Lease as to the Premises.

Exhibit E
Page 1 of 5
December 8, 2020

The following equipment together with any associated wires, cables, pipes, conduits and supporting structures associated with the equipment shall be located on the Third Street Water Tank as generally shown on the attached drawings.

<u>Quantity</u>	<u>Type</u>	<u>Approximate Size</u>
1	Equipment Shelter	12' x 28'
9	Antennas	up to 96" H x 20" W x 8" D
12	Diplexers	up to 6.3" H x 4.4" W x 3" D
15	Remote Radio Units (RRU's)	up to 31.5" H x 12" W x 9" D
6	DC Trunks	up to .92" each
3	18 pair Fiber Trunks	up to .40" each
3	Junction/Slack Boxes	up to 12" x 12" x 8"
3	RET Cables	up to 3/8"
3	Surge Suppressors	up to 24" x 11" x 11"
12	Coax	up to 1 5/8"



Drawn: RC
Designed: MRL
Checked: AJD

Project Title:

Prepared For:



Drawing Number

 NORTH

 **COMPOUND PLAN**
SCALE: AS NOTED

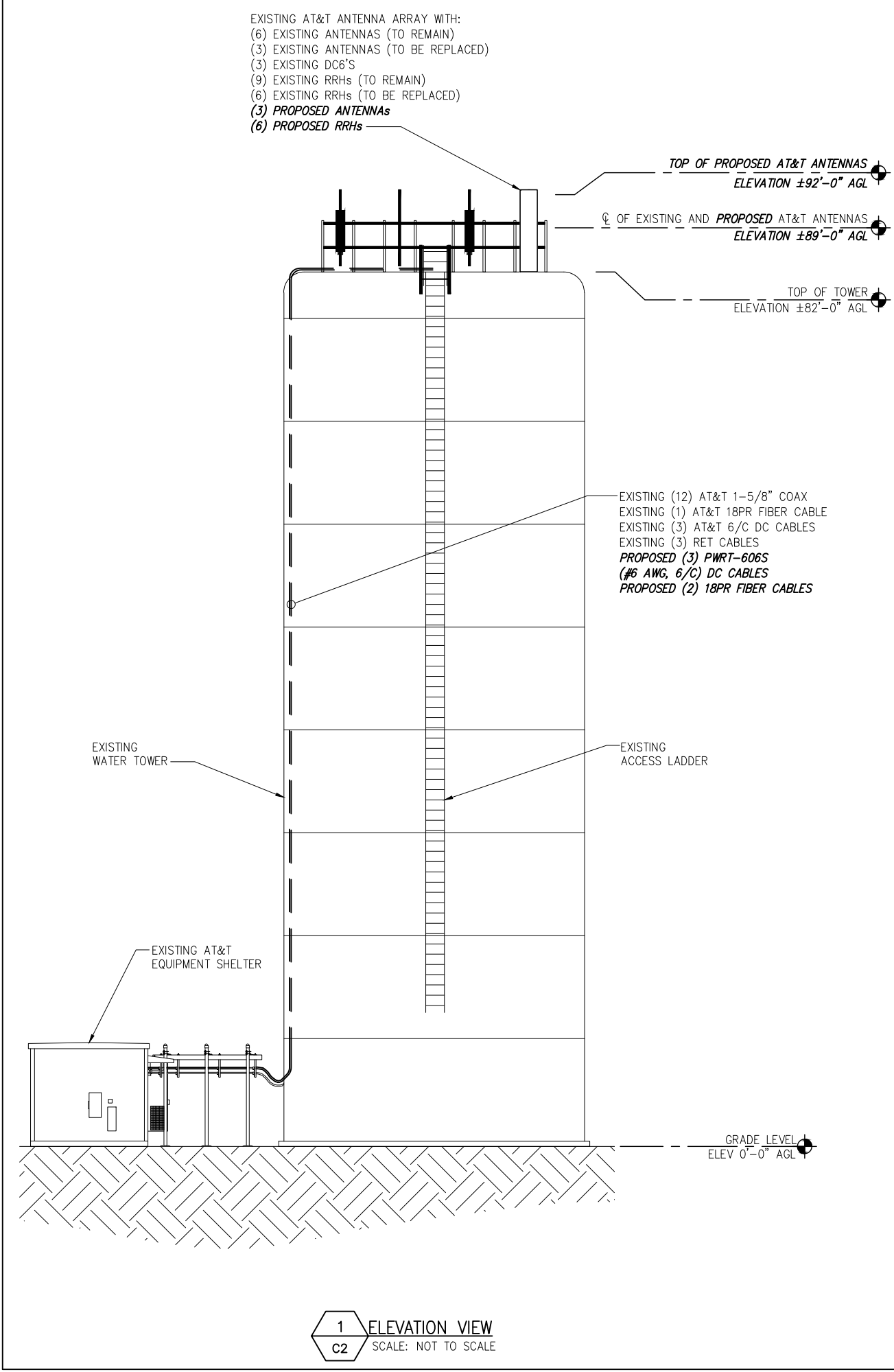
GRAPHIC SCALE:

30' 15' 0 15' 30'



SCALE (11x17): 1" = 30'-0"

SCALE (22x34): 1" = 15'-0"



ANTENNA AND RRH SCHEDULE									
SECTOR	ANTENNA POSITION	ANTENNA MAKE	ANTENNA MODEL	RAD CTR. FT. AGL	AZIMUTH	RRH/TMA QTY/MAKE/MODEL	FILTER/DIPLEXER QTY/MAKE/MODEL	E-TILT	M-TILT
A	#1	COMMSCOPE	NNH4-65C-R6	89'-0"	0°	(1) 4T4R B5 160W (1) B25 RRH4X30-4R (1) RRH4X25-WCS-4R	-	3" (LTE 700) 9" (LTE 1900) 2" (LTE WCS)	0°
	#2	KATHREIN	80010121	89'-0"	30°	-	(4) POWERWAVE LGP13519	4" (UMTS 850)	0°
	#3	-	-	-	-	-	-	-	-
	#4	KATHREIN	80010966	89'-0"	0°	(1) B14/12/29 AHLBBA (1) B66A-RRH4X45	-	3" (LTE 700) 2.5" (LTE AWS) 2.5" (LTE AWS)	0°
B	#5	COMMSCOPE	NNH4-65C-R6	89'-0"	30°	(1) 4T4R B5 160W (1) B25 RRH4X30-4R (1) RRH4X25-WCS-4R	-	3" (LTE 700) 9" (LTE 1900) 2" (LTE WCS)	0°
	#6	KATHREIN	80010121	89'-0"	0°	-	-	4" (UMTS 850)	0°
	#7	-	-	-	-	-	-	-	-
	#8	KATHREIN	80010966	89'-0"	0°	(1) B14/12/29 AHLBBA (1) B66A-RRH4X45	-	3" (LTE 700) 2.5" (LTE AWS) 2.5" (LTE AWS)	0°
C	#9	COMMSCOPE	NNH4-65C-R6	89'-0"	30°	(1) 4T4R B5 160W (1) B25 RRH4X30-4R (1) RRH4X25-WCS-4R	-	3" (LTE 700) 9" (LTE 1900) 2" (LTE WCS)	0°
	#10	KATHREIN	80010121	89'-0"	0°	-	-	4" (UMTS 850)	0°
	#11	-	-	-	-	-	-	-	-
	#12	KATHREIN	80010966	89'-0"	0°	(1) B14/12/29 AHLBBA (1) B66A-RRH4X45	-	3" (LTE 700) 2.5" (LTE AWS) 2.5" (LTE AWS)	0°

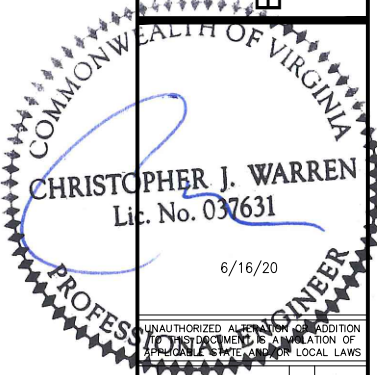
KEY:
EXISTING
PROPOSED

CABLE SCHEDULE			
SYSTEM	TYPE	QTY	LENGTH
UMTS	1-5/8"Ø COAX	12	180'±
LTE	18 PAIR FIBER	1	180'±
LTE	#8 AWG 6/C DC	3	180'±
LTE	PWRT-606-S (#6 AWG, 6/C) DC	3	180'±
LTE	RFFT-48SM-001 (24PR) FIBER	2	180'±

SURGE PROTECTION DEVICE SCHEDULE		
TYPE	LOCATION	QTY
DC6	SECTOR LEVEL	3

RF DESIGN NOTE:
THIS ANTENNA AND CABLE SCHEDULE HAS BEEN CREATED USING THE FOLLOWING AT&T RFDS
DATED: **11/09/17** REVISION: **V2018_0.1** ALL ANTENNA DESIGN, ZONING, STRUCTURAL ANALYSIS
PERMITS AND COMPLIANCE SUBMISSIONS ARE COORDINATED WITH THE AFOREMENTIONED DOCUMENT.

2
C2 **RF SCHEDULE**
NOT TO SCALE



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TO THIS DOCUMENT IS A VIOLATION OF
APPLICABLE STATE AND/OR LOCAL LAWS

0 ISSUED FOR CONSTRUCTION MPB 06/16/20
A ISSUED FOR CLIENT REVIEW SKB 03/18/20
No. Submittal / Revision App'd Date

Drawn: RC
Designed: MEL
Checked: AJD

Project Number:
1106-A0001-C

Project Title:

CALHOUN CT
SITE ID: 2873
FA # 10067722
627 ALABAMA DR
HERNDON, VA 20170

Prepared For:



Drawing Title
**ELEVATION
AND
RF SCHEDULE**

Drawing Number

C2

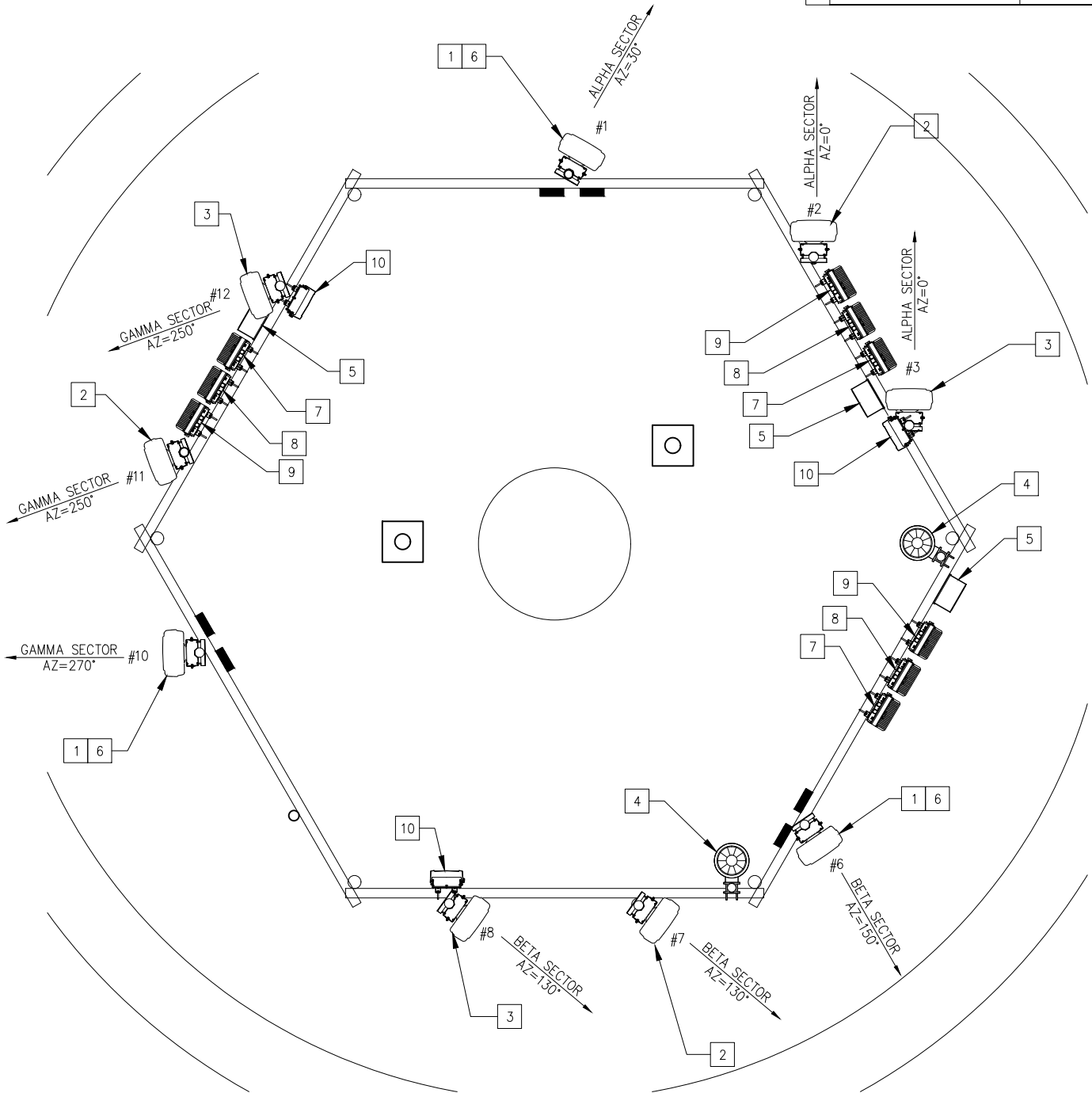
AT&T TOWER PIM NOTICE

- REPLACE ANY HOSE CLAMPS, HANGERS AND SNAP-INS SUPPORTING RF COAX JUMPERS, CPRI, RET OR DC CABLES LOCATED AT THE PLATFORM LEVEL AND/OR ANTENNA RAD CENTER WITH QTY= 2 UV RATED 1/4" WIDE NYLON CABLE TIES (PER CLAMP REMOVED).
- REMOVE ANY UNNECESSARY HARDWARE THAT'S NOT CURRENTLY SUPPORTING ANYTHING. TIGHTEN ALL REMAINING CLAMPS, BRACKETS, ANTENNA SUPPORTS ETC. TO MANUFACTURER TORQUE SPEC. ENSURE THERE IS NO RUSTING METAL ON MOUNTING PIPE WHERE CABLE HANGER AND ADAPTER ARE TO BE ATTACHED. USE A WIRE BRUSH OR WIRE WHEEL & DRILL TO REMOVE ANY RUSTING METAL. CLEAN THE MOUNTING SURFACE (INCLUDING REMOVAL OF MINOR CORROSION) WITH A SCOTCH BRITE PAD. PAINT ANY EXPOSED METAL WHERE THERE WAS RUST OR GALVANIZING HAS BEEN DAMAGED WITH COLD-GALVANIZING PAINT (COLD-GALV). USE NO-OX BETWEEN PIPE MOUNTING HARDWARE (CLAMPS OR STAINLESS-STEEL BANDING) AND MOUNTING PIPE. IF COLD-GALV PAINT WAS APPLIED, ENSURE THE PAINT HAS DRIED BEFORE APPLYING NO-OX. DO NOT USE HOSE CLAMPS TO SECURE CABLE HANGERS OR HANGER ADAPTERS IN HIGH RISK PIM ZONES.
- ALL CABLES TIES SHOULD BE FLUSH CUT TO PREVENT INJURY FROM EXPOSED SHARP EDGES.
- DO NOT ATTACH BRASS TAGS TO RF CABLES FOR CABLE

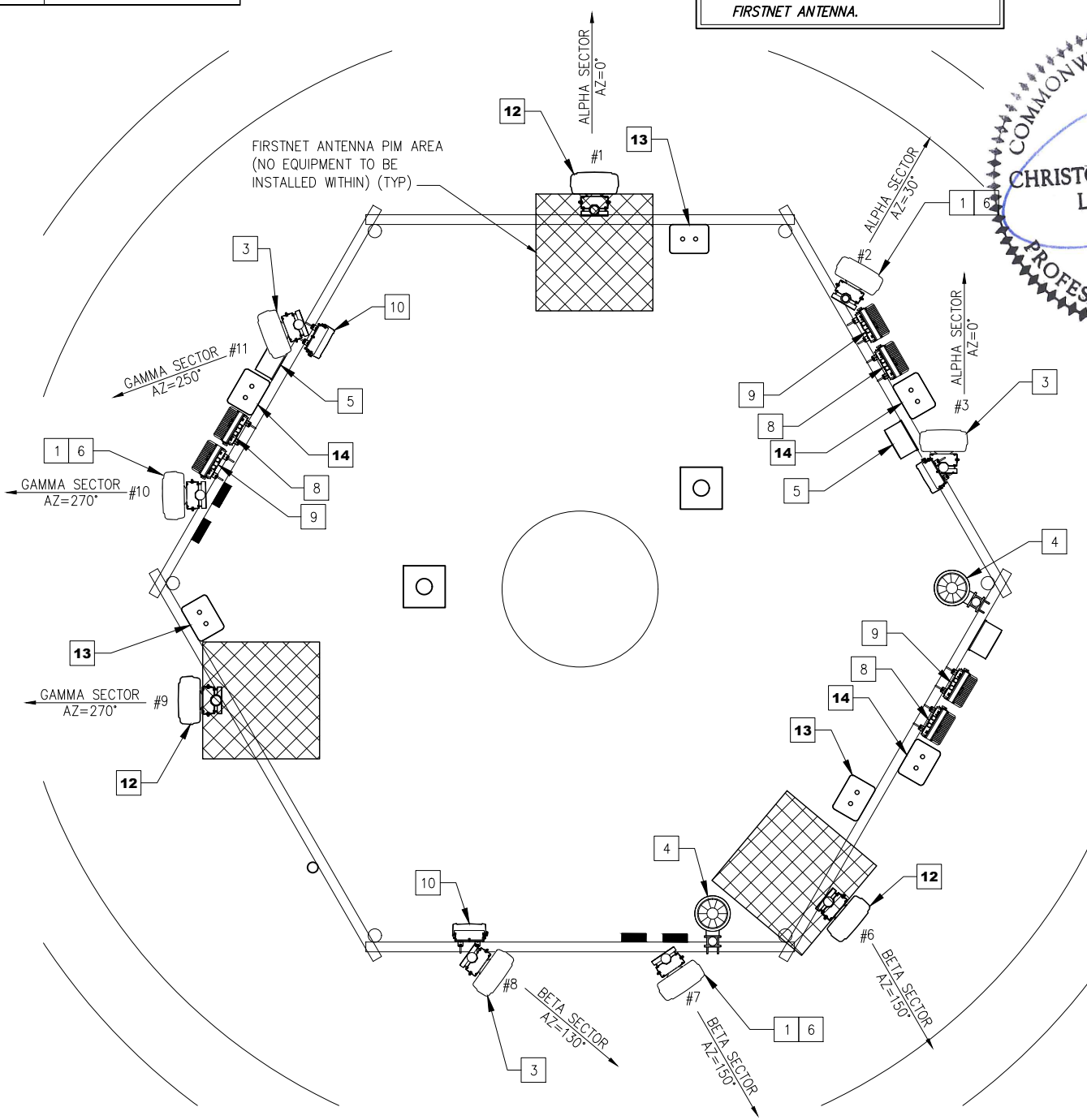
ORIENTATION PLAN KEY				
KEY	DESCRIPTION	TYPE	QTY	STATUS
1	80010121	ANTENNA	3	RELOCATED
2	SBJAH4-1D65C-DL	ANTENNA	3	REMOVED
3	80010966	ANTENNA	3	REMAIN
4	DC6	DC/FIBER MGMT	3	REMAIN
5	SLACK BOX	SLACK BOX	3	REMAIN
6	LGP13519	DIPLEXER	12	RELOCATED
7	RRH2x40W-07L	RRH	3	REMOVED
8	RRH4x25-WCS-4R	RRH	3	REMAIN
9	B25 RRH4X30-4R	RRH	3	REMAIN
10	B66A-RRH4x45	RRH	3	REMAIN
11	FLEXI 4T4R B14 160W	RRH	3	REMOVED
12	NNH4-65C-R6	ANTENNA	3	PROPOSED
13	4T4R B5 160W	RRH	3	PROPOSED
14	B14-12-29 AHLBBA	RRH	3	PROPOSED

- NOTE:
- LAYOUT SHOWN BASED ON AVAILABLE INFORMATION FROM AUDIT PHOTOS. GC TO FIELD ADJUST LAYOUT AS NECESSARY FOR MINIMUM REQUIRED CLEARANCES OF EQUIPMENT.
 - NO EXISTING OR PROPOSED UNISTRUT TO EXCEED A SPAN OF 4' BETWEEN SUPPORTS. REMOVE AND REPLACE EXISTING UNISTRUT AS NECESSARY FOR MAX. 4' SPAN WHEN UTILIZED FOR MOUNTING RRHs AND SLACK BOXES.
 - SEE SHEETS C5 AND C6 FOR PROPOSED EQUIPMENT MOUNTING DETAILS.
 - ALL SECTOR LEVEL SLACK BOXES TO BE REMOVED UNLESS NOTED OTHERWISE.

- NOTE:
- NO EQUIPMENT TO BE INSTALLED WITHIN 3' OF 700 FIRSTNET ANTENNA.
 - EXISTING DC6 IN ALPHA SECTOR TO BE RELOCATED AT LEAST 3' FROM 700 FIRSTNET ANTENNA.



1 ANTENNA ORIENTATION PLAN (EXISTING)
C3 SCALE: 1/4" = 1'-0"



2 ANTENNA ORIENTATION PLAN (PROPOSED)
C3 SCALE: 1/4" = 1'-0"



INFINIGY
ENGINEERING, PLLC

6865 DEERPATH ROAD SUITE 152
ELK RIDGE, MD 21075

COMMONWEALTH OF VIRGINIA
CHRISTOPHER J. WARREN
Lic. No. 037631

6/16/20

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0 ISSUED FOR CONSTRUCTION MPB 06/16/20
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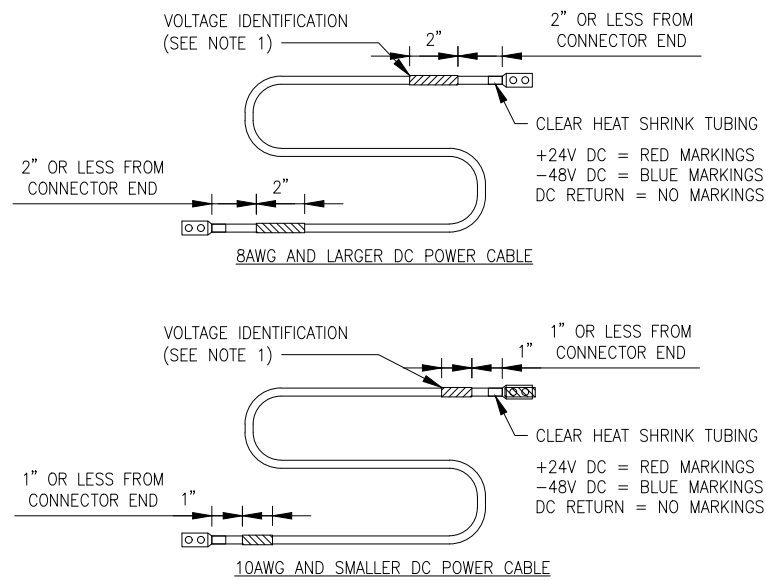
Project Number:
1106-A0001-C

Project Title:
CALHOUN CT
SITE ID: 2873
FA # 10067722
627 ALABAMA DR
HERNDON, VA 20170

Prepared For:
smartlink
1362 MELLON RD
HANOVER, MD 21076
TEL (410) 582-8043
FAX (443) 221-2962

Drawing Title
ANTENNA
ORIENTATION
PLAN

Drawing Number
C3

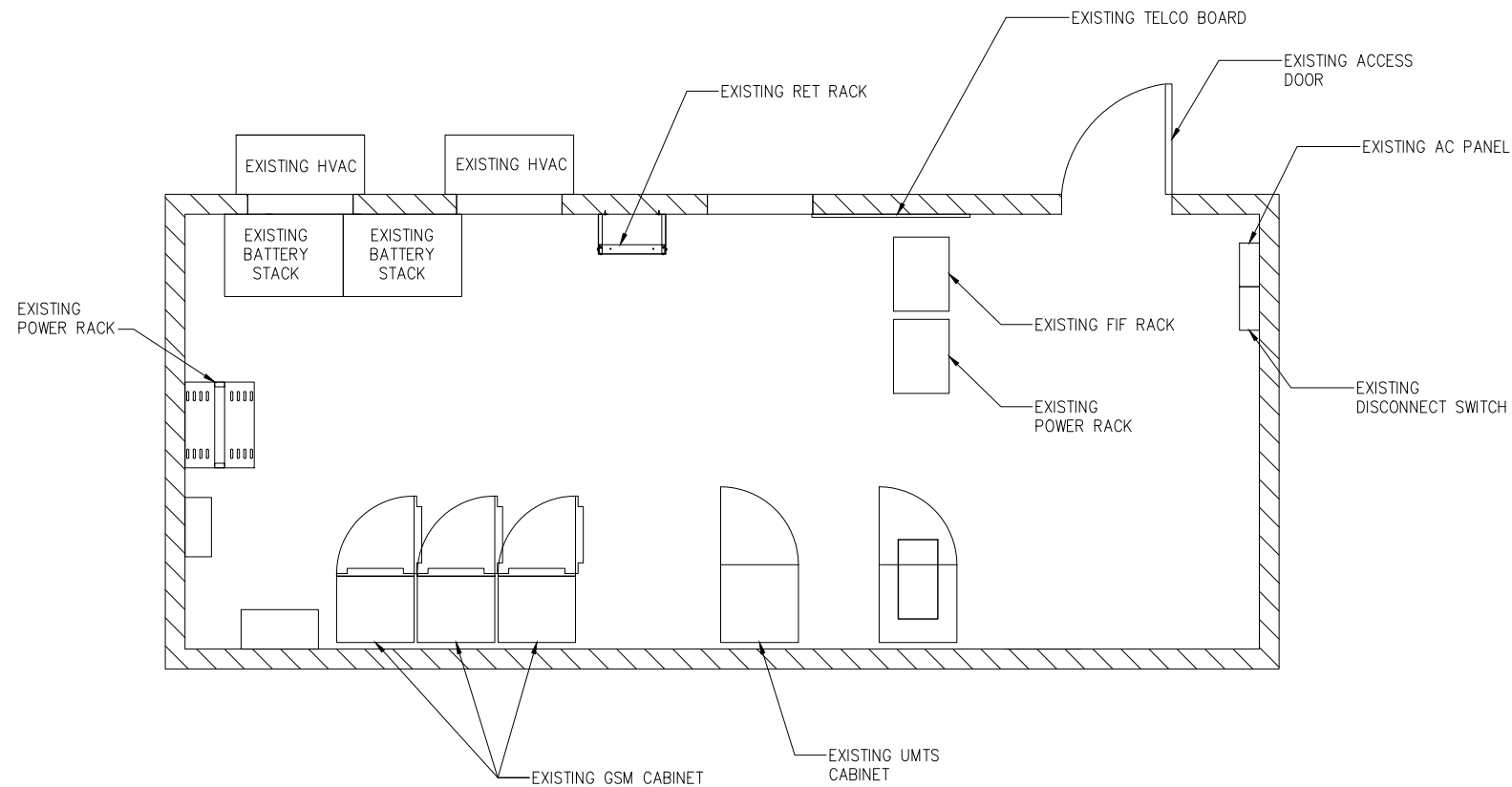


- NOTES:
1. DC CONDUCTORS SHALL BE KS24194 L2 TELCOHYDE UL LISTED TYPE RHH/ST1, SUCH AS SOUTHWIRE TELCOFLEX II OR AT&T APPROVED EQUAL FOR SIZES #14AWG THROUGH 750KCMIL.
 2. VOLTAGE IDENTIFICATION WIRES SHALL BE APPLIED TO BOTH ENDS OF ALL NEW DC POWER WIRING USING UL224 VW-1 FLAME RETARDANT UL LISTED THIN WALL HEAT SHRINK TUBING OF APPROPRIATE COLOR. ALTERNATIVELY IT SHALL BE ACCEPTABLE TO APPLY VOLTAGE IDENTIFICATION MARKINGS TO DC WIRING WITH APPROPRIATELY COLORED ELECTRICAL TAPE THAT SHALL BE APPLIED IN TWO HALF-LAPPED LAYERS WITH THE FINAL TWO WRAPS APPLIED FULLY OVERLAPPING WITHOUT TENSION. WHENEVER POSSIBLE THE ELECTRICAL TAPE VOLTAGE IDENTIFICATION MARKINGS SHALL BE FULLY COVERED WITH CLEAR UL224 VW-1 FLAME RETARDANT UL LISTED THIN WALL HEAT SHRINK TUBING TO PREVENT UNWINDING OR MOVEMENT OF THE ELECTRICAL TAPE DESIGNATIONS.
 3. AT&T COMPLIANT THIN WALL CLEAR OR COLORIZED HEAT SHRINK IS AVAILABLE FOR ALL DC POWER WIRING SIZES FROM BURNDY (HSC-FR & HS-FR) AND THOMAS & BETTS (CPO SERIES). OTHER MANUFACTURER HEAT SHRINK SHALL BE ACCEPTABLE ONLY IF IN FULL COMPLIANCE WITH SPECIFICATION PROVIDED ABOVE.
 4. DESIGNATION TAGS SHALL BE AFFIXED TO BOTH CABLE ENDS AS SPECIFIED IN AT&T DOCUMENT ATT-TP-76300, SECTION L.

1 DC CONDUCTOR SPECIFICATIONS

SCALE: NOT TO SCALE

- NOTES:**
1. ROUTE PROPOSED TELCOFLEX DC CONDUCTORS IN EXISTING CEILING MOUNTED CABLE TRAY.
 2. DC CONDUCTOR SIZING FOR RRH POWER CONNECTION TO DC SURGE PROTECTION DEVICE BASED ON MINIMUM SIZE REQUIRED FOR AMPACITY RATING OF CONDUCTORS. GC TO INCREASE CONDUCTOR SIZING AS NECESSARY TO SUPPLY MINIMUM VOLTAGE NECESSARY TO RRHs BASED ON ACTUAL INSTALLATION LENGTH OF CONDUCTORS AND DC TRUNK CABLES.



2 EQUIPMENT LAYOUT
C4 SCALE: NOT TO SCALE

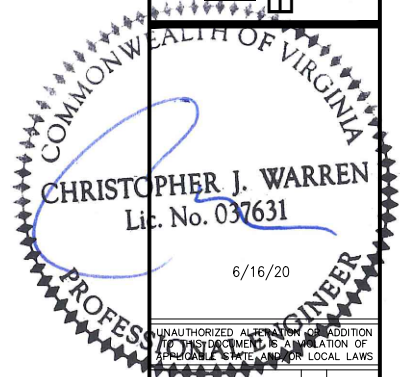
SCALE: NOT TO SCALE

Exhibit E
Pg. 5 of 5
December 8, 2020



INFINIGY2
ENGINEERING, PLLC
6865 DEERPATH ROAD SUITE 152
ELKRIDGE, MD 21075

ELKRIDGE, MD 21075



6/16/20

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0	ISSUED FOR CONSTRUCTION	MPB	06/16/20
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A	ISSUED FOR CLIENT REVIEW	SKB	03/18/20
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No.	Submittal / Revision	App'd	Date
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Drawn: _____ RC

Designed: MRL

Project Number:

106-A0001-C

Project Title:

CALHOUN CT

SITE ID: 2873

FA # 10067722

627 ALABAMA DR
HERNDON, VA 20170

Prepared For:



1362 MELLON RD
HANOVER, MD 21076
TEL (410) 582-8043
FAX (443) 221-2962



Drawing Title

EQUIPMENT LAYOUT & DETAILS

Drawing Number

C4

3 NOT USED
C4 SCALE: NOT TO SCALE

~~NOT USED~~

SCALE: NOT TO SCALE

USED
E: NOT TO SCALE

NOT USED

SCALE: NOT TO SCALE



STAFF REPORT

**Town Council
January 19, 2021**

Title:

Resolution to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining. **(Deferred from January 12, 2021)**

Staff Contacts:

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

Description:

Before you is a Resolution to Ratify a temporary outdoor dining license for Mile 20 that has been signed by the Town Manager pursuant to Ordinance 20-O-23, as amended. As you will recall, this item was continued from the last public hearing pending additional information.

In response to Governor Northam's phased reopening of Virginia beginning on May 29, 2020, Town staff moved quickly to assist town businesses with re-opening and developed a comprehensive application for free Temporary Outdoor Dining Permits that streamlined the requirements and the approval process. The application provided for three types of outdoor dining scenarios—private property, town sidewalks (ROW), and town parking lots. Under state law, requests for a License to use the town sidewalks, streets or parking lots, must be approved by the Town Council after a public hearing, causing the entire process to take a month or more before a License can be issued.

To further streamline this process, Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended authorizes the Town Manager to approve and sign certain instruments. Such instruments are subject to final consideration and ratification by the Town Council at its next available Public Hearing.

The original Temporary Outdoor Dining licenses were set to expire on November 30, 2020. As Virginia and the Town remain in a State of Emergency and restrictions on indoor dining capacity and spacing remain in effect, we required that all restaurants that would like to continue to offer temporary outdoor seating beyond November 30, 2020 submit a new application for permit. The new

application was amended to be more specific to the current situation, including language regarding the seasonal use of heaters as well as language regarding adhering to any future Executive Orders from the Governor. In the previous Agreements, an important element that was essential to the town protecting its property was to provide hardened barriers to establishments where cars were operating in close proximity to diners. The Department of Public Works blocked off certain parking lots and portions of sidewalks with Jersey barriers as a condition of the issuance of a Temporary License. These barriers will remain for businesses that wish to continue to utilize temporary outdoor dining beyond November 30, 2020 and have submitted applications and received approval for permit, two of which, Zeffirelli's and The Green Lizard, were approved at the January 12, 2021 Public Hearing.

This new Outdoor Dining License Agreement for Mile 20 was signed by the Town Manager on December 8, 2020. If ratified by Town Council, this new license will expire on May 10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first. If Town Council does not ratify the license signed by the Town Manager it becomes VOID and the restaurant cannot operate outdoor dining on the specified town property.

The Town Council must now consider ratification of this Temporary License Agreement for Temporary Outdoor Dining on town property to finalize its approval.

Fiscal Impact:

None.

Recommendation:

Staff recommends that Council exercise its discretion to ratify or not.

Attachments:

- Resolution
- Application for Temporary Outdoor Dining Permit and Temporary License

Prepared and Approved By:



Lesa J. Yeatts, Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager is authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining subject to ratification by Town Council.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated December 8, 2020 between the Town of Herndon and **Teryanna, LLC dba Mile 20 at Mediterranean Breeze** for use of public property or public right-of-way for temporary outdoor dining at 781 Station Street, Herndon.

Temporary License # **OD-003**

Application Date: 11/23/20

Property Address: 781 Station St Herndon, VA 20170

Establishment Name: Teryanna, LLC T/A Mile 20 at Mediterranean Breeze

Hours of Operation: Monday closed; Tuesday 4pm-10pm; Wednesday 4pm-10pm

Thursday 4pm-10pm; Friday 4pm-10pm; Saturday Noon-10pm; Sunday Noon-10pm

Applicant Information (Principal Operator of dining establishment):

Name: Phillip Orme

Telephone No.: © 301-641-0222 Email Address: medbreezeva@yahoo.com

Are you the property owner? Yes _____ No X

Property Owner Information (if applicant is not the property owner):

Name(s): James Building Development LLC - Steven J. Mitchell / MGR

Mailing Address: 1291 Monroe Street Herndon VA 20170

Telephone No.: 703-966-2576 Email Address: monroe1291@aol.com

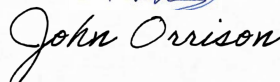
Required Town Approvals

Zoning Administrator Approval:



Date: **12/4/2020**

Building Official Approval:



Date: **12/07/2020**

Deputy Dir. Public Works Approval: Tammy L Chastain

Date: **12/4/2020**

REQUIRED APPLICATION SUBMISSION MATERIALS

☒ Written authorization or signature from the property owner if the principal operator is not the property owner;

☒ A plan which clearly shows the following:

- o dimensions showing the layout and arrangement of the proposed outdoor seating area, including its overall dimensions, aisle widths, access to the adjacent building and restrooms, the locations of chairs, tables, umbrellas, barriers, and all other appurtenances to be located within the boundaries of the proposed outdoor seating area.

- If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☐ Number and type of heaters. *N/A*
 - Heaters and tents must be in compliance with the Fairfax County Office of the Fire Marshal Guidelines <https://www.fairfaxcounty.gov/fire-ems/fire-marshal> and Town of guidelines dated November 6, 2020, as amended.
- ☒ A copy of the Capacity Certificate for the establishment.
- ☒ Certificate of Insurance showing that the Town of Herndon and its employees, volunteers, and agents have been added as additional insureds to the applicants' Business Liability Insurance and, if applicable, Liquor Liability Insurance.
 - The endorsement to the policy showing that the Town et al. has been added to the policy is also required.
- ☒ If alcohol will be served on site, a copy of Virginia ABC license.
- ☒ Pictures (2-3) of the location of the outdoor dining.

CONDITIONS OF TEMPORARY OUTDOOR DINING LICENSE ON TOWN PROPERTY

1. Temporary outdoor dining area:
 - a. Must be located directly adjacent to the establishment, or a location within 100' of the establishment;
 - c. Concrete barriers, provided by the town, are required on town property used for outdoor dining;
 - d. Any modification to the approved plan must be submitted and approved;
 - e. The proposed dining operation and location will not significantly interfere with pedestrian traffic or otherwise constitute a health and safety risk;
 - f. Any proposed lighting must be approved by the town and any cables must be secured so as not to create a tripping hazard.
2. Must comply with all applicable Governor's Executive Orders, as amended, local Fire Marshal, and Building Code requirements.
3. A copy of this license must be kept on site at all times and a copy of the capacity certificate must be on display at all times.
4. Hours of operation shall be limited to between 6 am and 11 pm.
5. No other uses are permitted within the Temporary Outdoor Dining Area; including, but not limited to, live entertainment.
6. No pets are permitted in Temporary Outdoor Dining Areas, except service animals.
7. Cooking or food prep is not permitted in Temporary Outdoor Dining Areas unless approved by the Fairfax County Health Department and Fire Marshal.
8. Businesses are responsible for properly disposing of all trash in approved private refuse containers.
9. This license agreement shall expire on May 10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first.

TEMPORARY LICENSE AGREEMENT – WHEN LOCATED ON TOWN PROPERTY

THIS TEMPORARY LICENSE AGREEMENT (the "Agreement"), is made as of the date it is signed by the Herndon Town Manager (the "Effective Date"), by and between the TOWN OF HERNDON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the "Town") and [REDACTED] (the "Applicant") (collectively, the "Parties").

WHEREAS, the Town is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas (the "Property"), as shown on EXHIBIT A – LICENSED AREA of the TEMPORARY OUTDOOR DINING PERMIT (the "Permit") attached hereto;

WHEREAS, due to the COVID-19 pandemic, indoor dining service for Applicant's business has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, the Parties desire to allow Applicant to enter upon the Property for the purpose of outdoor seating and dining (the "Use") in conjunction with the Applicant's business during the Term, as defined herein.

NOW, THEREFORE, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties agree as follows:

1. The Town hereby grants Applicant temporary use of the property for the purposes described in the permit.
2. This Agreement shall expire on May10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first (the "term").
3. The applicant shall comply with the terms of the Permit and all applicable town, state, and federal laws and regulations and maintaining at all times any other permit(s) required under applicable law for the use.
4. The parties expressly agree and contract that there shall be no fee for the use of the Town property during this term only.
5. The permission to use the Property granted by this agreement is nonexclusive in nature, and the Town reserves the right to make concurrent use of the Property.
6. Applicant hereby assumes all risk of damage by reason of its occupation of the property caused by any defects therein or activity occurring thereon, whether caused by the negligence of the Town, its officers, agents, or employees, or otherwise, and the applicant hereby agrees to hold harmless and indemnify the Town, its officers, agents, and employees, from and against any such liability for such damage or injury to the extent permitted under the laws of the Commonwealth of Virginia.
7. Applicant shall secure, provide and maintain insurance to protect the Town of such type and in such amount as is described below naming the Town as an additional insured. This agreement shall not take effect until evidence of insurance is provided to the Town and

the Town gives the applicant written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Commercial General Liability – Combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate. Policy shall be endorsed to name the Town as an additional insured.

Liquor Liability (if applicable) – \$1,000,000. Policy shall be endorsed to name the Town as an additional insured.

The insurance required hereunder shall be maintained in effect during the duration of this Agreement. Insurance Policy(s) shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving thirty (30) calendar days advance notice thereof to the Town.

8. Termination: The Town may terminate this Agreement upon 24 hours notice to Applicant for cause.
9. This Agreement is subject to ratification by the Town Council for the Town of Herndon pursuant to Ordinance #20-O-23.
10. This Agreement, having been executed in the Commonwealth of Virginia, the construction and performance thereof or any dispute shall be governed by the laws of Virginia. Venue shall be proper in the County of Fairfax, Virginia.
11. This Agreement contains the entire and only agreement between the parties and it supersedes and merges all pre-existing agreements. Any representations, understandings, promises and any conditions not expressly incorporated herein shall not be binding upon either party or their respective successors in interest.

WITNESS the following signatures and seals: BUSINESS:

By: Philip H. Caine

Its: owner

TOWN OF HERNDON:

By: Wm. H. [Signature]

Town Manager

12.8.2020

Date

781-783 STATION ST.

TO WHOM IT MAY CONCERN:

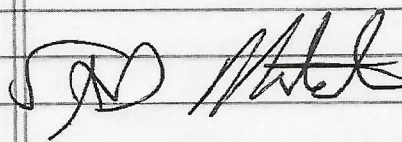
THE ABOVE APPLICANT

HAS AUTHORIZATION TO

MAKE APPLICATION FOR

TEMPORARY OUTDOOR DINING

JAMES BULONE DEV. LLC
STEVEN J. MITCHELL / MGR

 / MGR.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/13/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cushman Insurance Agency, Inc. 5160 Parkstone Drive Suite 130 Chantilly, VA 20151	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED Mediterranean Breeze II Teryanne LLC 781 Station Street Herndon, VA 20170	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Southern Insurance Companies of VA	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			BSS9228139	07/12/2020	07/12/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 liquor liability \$ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☐	N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Herndon & its employees, volunteers and agents are listed as an additional insured per written contract. RE outdoor seating.

CERTIFICATE HOLDER**CANCELLATION**Town of Herndon
777 Lynn St
Herndon, VA 20170

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Map data ©2020, Map data ©2020 20 ft

Measure distance
Total distance: 278.09 ft (84.76 m)

12 ft.
Walk way
Separating - Both
Clusters

White Chain fence

- 8 tents 10'x20' size
- 1 tent 10'x30' size
- appropriate space between the tent to walk through

Area 700

A 1-10x30 tent in a cluster
2-10x20 tent

Area **B** 4-10x20 Tents in a cluster

800



- current setup in parking lot, good for warm weather
- looking to close in distances and bring close to building to help fight the cold winds at times





VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY
2901 Hermitage Road • P O Box 27491 • Richmond VA 23261-7491

License Number: 39202

ABC LICENSE

License Type(s):

Wine and Beer On and Off Premises/Delivery Permit

Effective Period

MAY 01, 2020 TO APR 30, 2021

Expiration Date

APR 21

Mixed Beverage Restaurant (Seating Capacity - over 150 seats)

MAY 01, 2020 TO APR 30, 2021

APR 21

License Name & Trade Address:

**Teryanna LLC
Mile 20 at Mediterranean Breeze
781 Station St
Herndon VA 20170-4607**

Establishment Type: Restaurant

**Telephone Numbers: 703-435-4495
301-641-0222**

**Fairfax County - TERRITORY # 70
Alexandria - Region 4
703-313-4432**

By Order of Alcoholic Beverage Control Board

Chair

License Privileges and Instructions

The privilege(s) of this license is (are) hereby granted by the Virginia Alcoholic Beverage Control Board to the Licensee named above to operate in accordance with the terms of the license herein designated and the applicable statutes of the Commonwealth of Virginia and regulations of the Board.

The privilege(s) conferred by this license, except banquet licenses and mixed beverage special event licenses, shall continue until the last day of the twelfth month next ensuing or the last day of designated month of expiration, and thereafter year to year provided no cause exists for which the Board would be entitled to refuse to issue the license or until terminated by the operation of the law, voluntary surrender, Order of the Board, or failure to pay the required license tax or penalties. License periods may be adjusted as necessary to maintain distribution of annual license reissuance as equally as practicable on a monthly basis.

This license may be suspended or revoked in accordance with the Virginia Alcoholic Beverage Control Act or the Mixed Beverage Laws, whichever is applicable.

Please detach the above license which must be posted in a conspicuous place in the establishment. You may keep the bottom portion for reference.

A separate receipt may be obtained from the Board, if desired, in the event this license is terminated and returned to the Board.

Any questions relative to the issuance, privileges and maintenance of your ABC license should be addressed to your local ABC office.

**Teryanna LLC
Mile 20 at Mediterranean Breeze
781 Station St
Herndon VA 20170-4607**

TOWN OF HERNDON
VIRGINIA
DEPARTMENT OF PUBLIC WORKS
BUILDING INSPECTIONS

MAXIMUMS APPROVED

SECTION 1008.1 BOCA CODE AS ADOPTED BY THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

LIVE LOAD _____ LBS. PER SQ FT.

OCCUPANCY LOAD 185 SEATING PERSONS

USE GROUP A-2

CONST. TYPE 5-B

FOR MEDITERRANEAN BREEZE RESTURANT

781 STATION STREET

APPROVED 6/1/05

John Orian
BUILDING INSPECTOR



STAFF REPORT

Town Council
January 19, 2021

Title:

Resolution - to ratify a Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Evince Analytics, Inc.

Staff Contacts:

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

Description:

Before you is a Temporary Emergency Extension of Lease between the Town and Evince Analytics, Inc., signed by the Town Manager pursuant to Ordinance 20-O-23, as amended. Staff is recommending ratification of the lease extension.

The Town is currently party to a one-year lease with Evince Analytics, Inc. for 3,512 sq. ft. of office space in the Town's building at 397 Herndon Parkway. This lease was set to expire on December 31, 2020.

Evince Analytics had recently determined that their space needs have changed, and they would like to re-negotiate a new lease with the Town. However, due to the fact that the current lease would expire before this process could be completed, the Town and Evince Analytics agreed that a temporary extension of the current lease would be the best option in order to allow meaningful negotiations to occur. This instrument extends the expiration date to June 30, 2021 to allow for the necessary time to process a new lease agreement with the Town. The rent for this space would remain \$5,000 per month, which is consistent with current market rates.

The Town Manager has signed the Temporary Emergency Extension of Lease pursuant to the Town's Continuity of Government ordinance. The next step is ratification of the Temporary Emergency Extension of Lease to Evince Analytics, Inc., to finalize its approval.

Fiscal Impact:

MONTH	RENT
January	\$5,000.00
February	\$5,000.00
March	\$5,000.00
April	\$5,000.00
May	\$5,000.00
June	\$5,000.00
TOTAL REVENUE	\$30,000.00

Recommendation:

Staff recommends that the Town Council ratify the Resolution as proposed.

Attachments:

- Resolution
- Lease Extension

Prepared and Approved By:



Lesa J. Yeatts, Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to ratify a Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Evince Analytics, Inc.

WHEREAS, the parties entered into a Lease Agreement dated September 18, 2012, as amended June 8, 2013, as amended July 11, 2017, as amended December 10, 2019 for 3,512 sq. ft. of office space in the Town's building at 397 Herndon Parkway; and

WHEREAS, the Lease Agreement was expiring on December 31, 2020; and

WHEREAS, Town and Lessee desired to temporarily extend the term of the Agreement to expire on June 30, 2021; and

WHEREAS, The Temporary Emergency Extension of Lease Agreement was signed by the Town Manager pursuant to Ordinance 20-O-23, as amended and ratified by Town Council.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Temporary Emergency Extension of Lease dated December 31, 2020 and signed by the Town Manager between the Town of Herndon and Evince Analytics, Inc. for space in the Town's building at 397 Herndon Parkway in Herndon.

**Temporary Emergency Extension of Lease Pursuant to Ordinance
20-O-23 Continuity of Governmental Operations, as amended, due to
State of Emergency, Pandemic Disaster**

Pursuant to the powers conferred upon the Town Manager by Ordinance 20- O- 23, as amended, this Temporary Emergency Extension of Lease dated December 31, 2020 hereby extends the December 31, 2020 termination date of the existing Lease between the Town of Herndon, Virginia (Landlord) and Evince Analytics, Inc., a Virginia corporation (Tenant), dated September 18, 2012, as amended June 8, 2013, as amended July 11, 2017, as amended December 10, 2019 (collectively, the Lease) is amended and confirmed, with necessary changes.

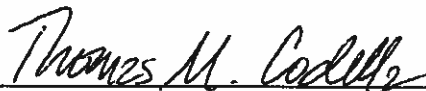
THEREFORE, in consideration of the rent paid to Landlord and the leased space provided to Tenant, the parties agree that:

1. Effective January 1, 2021, the term of this lease is extended for 6 months, terminating June 30, 2021.
2. Effective January 1, 2021, the rent shall remain \$5,000 per month due on the first day of each calendar month.
3. In all other respects, the lease dated September 18, 2012, as amended June 8, 2013, as amended July 11, 2017, as amended December 10, 2019 is confirmed.

TOWN OF HERNDON, VIRGINIA

EVINCE ANALYTICS, INC

By: 

By: 

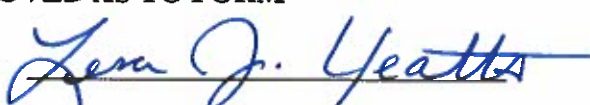
Name: William H. Ashton II

Name: Thomas M. Cordella

Title: Town Manager

Title: President

APPROVED AS TO FORM

By: 

Name: Lesa J. Yeatts

Title: Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to provide guidance to the Town Manager on the development of the FY 2022 Budget.

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

WHEREAS, the Town Council is committed to maintaining the town's fiscal integrity in these economically uncertain times; and

WHEREAS, the Town Council recognizes the FY 2022 budget priorities for funding must be set.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby directs the Town Manager to use the following guidance in preparing the FY 2022 budget:

Provide a full budget with two levels of expenditure sequestration based on a range of revenue projections.

Continue to fund core services and activities during these uncertain times, to include:

- Health, safety, and welfare;
- Statutory requirements;
- Contractual requirements; and
- Secondary functions that support and protect these core services and activities.

Continue to demonstrate a commitment to, and investment in, the town's employees, to include:

- Strategies to minimize impacts to personnel and to maintain competitiveness in the local employment market;
- Addressing rising health care costs; and
- Funding training required to sustain key knowledge and skills.

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

- Preparing a full budget with two levels of expenditure sequestration to provide maximum flexibility and adaptability as revenue projections change;
- Continuing to develop a multi-year revenue and expenditure forecast in anticipation of impacts associated with the current and projected economic climate;
- Exploring various funding strategies, such as use of the FY2020 surplus or other revenue enhancements, to sustain key resources through a short-term economic downturn;
- Balancing water and sewer service revenue with operating costs; and
- Addressing increasing problems with water and sewer infrastructure.



STAFF REPORT

Town Council
January 19, 2021

Title:

Ordinance- To affirm corrections to Ordinance 20-O-59 for Zoning Map Amendment, ZMA #20-01, 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, approving a zoning map amendment for a Unified Commercial Subdivision.

Staff Contacts:

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

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

Description:

Before you is an Ordinance to affirm corrections to Ordinance 20-O-59 for Zoning Map Amendment. Staff is requesting that the Town Council approve the corrected draft Ordinance 20-O-59, as proposed.

At the October 27, 2020 Public Hearing, the Town Council approved Ordinance 20-O-59 for ZMA #20-01, 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, for a Unified Commercial Subdivision in accordance with the Generalized Development Plan. The rezoning allowed for the subdivision of four parcels into eight parcels with each parcel containing a building and associated improvements. The Ordinance also approved five modifications to different sections of the zoning regulations, as allowed under Section 78-50.2(d) of the Zoning Ordinance. One of the modifications allows a lower amount of required parking spaces on certain lots.

The applicant requested a modification to Section 78-100.2 of the Zoning Ordinance to allow a lower amount of required parking spaces on a total of five lots, Lots 1A, 1B, 3A, 3B and 4A. A table listing the requested modifications on Sheet C-05 of the approved Generalized Development Plan also listed the same five lots. The version of Ordinance 20-O-59 that was approved by the Town Council October 27, 2020, inadvertently omitted Lot 3B from the parking space modification and only listed Lots 1A, 1B, 3A, and 4A.

The Ordinance with the corrected modification including all five lots, Lots 1A, 1B, 3A, 3B and 4A, is attached to this staff report. No other changes to the ordinance have been made. Staff recommends that the Town Council take action to affirm that the Ordinance 20-O-59 for Zoning Map Amendment, ZMA #20-01, 450, 455, 460, 465, 470, 475, 480, and 485 Springpark Place, attached to this staff report is the correct ordinance approving ZMA #20-01.

Fiscal Impact:

None.

Recommendation:

Staff recommends that the Town Council approve the corrected draft Ordinance 20-O-59, as proposed.

Attachments:

1. Redline version of corrected draft Ordinance 20-O-59
2. Corrected draft Ordinance 20-O-59

Prepared and Approved By:

A handwritten signature in blue ink, appearing to read "David Stromberg".

David Stromberg, AICP, Zoning Administrator

A handwritten signature in black ink, appearing to read "Lauri A.N. Sigler".

Lauri A.N. Sigler, Deputy Town Attorney

TOWN OF HERNDON, VIRGINIA

ORDINANCE

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 October 16, 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, **3B**, 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.

Attached is the Proffer Statement dated October 16, 2020 and the proposed Springpark Place LLC/Wire Gill LLP/Vika Virginia LLC Development Plan dated August 26, 2020 as referenced in the ordinance.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

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.

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- 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, 3B, 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.

Attached is the Proffer Statement dated October 16, 2020 and the proposed Springpark Place LLC/Wire Gill LLP/Vika Virginia LLC Development Plan dated August 26, 2020 as referenced in the ordinance.



STAFF REPORT

Town Council

January 19, 2021

Title: SPECIAL EXCEPTION EXTENSION - SE #19-02, 525 Grove Street.

Staff Contact: Bryce A. Perry, Deputy Director of Community Development
bryce.perry@herndon-va.gov (703)787-7380
Elizabeth M. Gilleran, AICP, Director of Community Development
lisa.gilleran@herndon-va.gov (703) 787-7380

Summary Information:

Applicant Request	A resolution to extend an approved Special Exception to permit the construction of a telecommunications monopole and associated ground equipment compound located within the Office and Light Industrial (O&LI) zoning district.
Address	525 Grove Street
FFX CO Tax Map #	0162 02 0190E
Owner	Virginia Electric & Power Company
Applicant	Tessia Knight, Network Building & Consulting, LLC
Zoning	O&LI (Office & Light Industrial) CS (Commercial Service)
Adjacent Zoning	North: CS (Commercial Service) South: O&LI (Office & Light Industrial) East: O&LI (Office & Light Industrial) West: CS (Commercial Service)
Land Use Designation	Community Facilities
Adjacent Land Use Designation	North: Business Corridor South: Office Parks & Flexible Space East: Office Parks & Flexible Space West: Business Corridor
Total Site Area	1.4621 acres / 63,688 square feet
Existing Use	Dominion Energy electrical substation

Background:

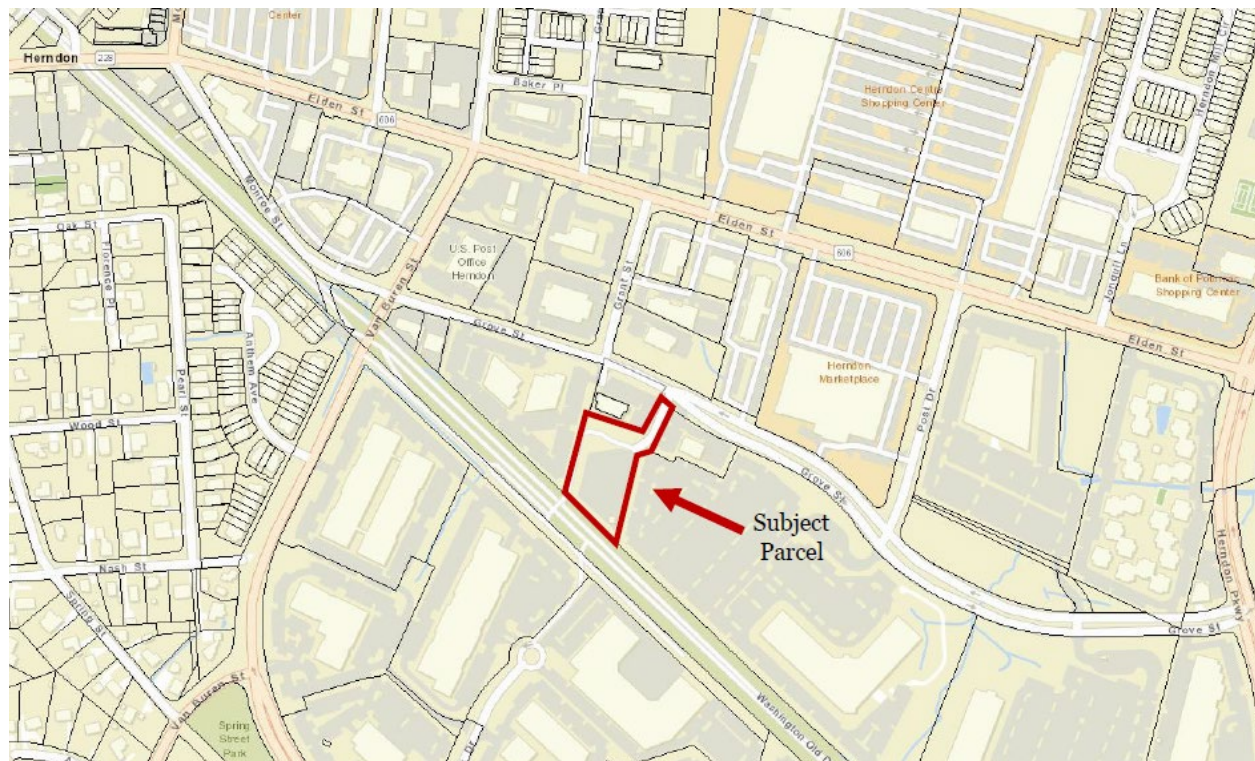
The zoning for the subject property was changed to allow the proposed telecommunications facility with Proffer Condition Amendments PCA#19-01 and PCA#19-02. The project was further permitted with Special Exception SE#19-02, as approved by the Town Council on April 23, 2019. The Town Council Resolution is provided as Attachment #2. The two PCA cases run with the land, however, in accordance with the approved Special Exception resolution, the Special Exception expires when there is a "failure to obtain a final building inspection for the monopole within eighteen (18)

months of approval of the Special Exception”. Per Section 78-155.3(g) of the zoning ordinance, “Upon written application submitted at least 30 days prior to the expiration of the special exception by the applicant, and upon showing of good cause, the Town Council may grant an extension not to exceed six months.” The applicant provided the official request for extension on September 22, 2020. If granted the six month extension, as requested would allow the Special Exception to remain active until April 23, 2021.

Approved Project Details:

As proposed, the monopole is 125’ high and would accommodate multiple platforms for multiple antennas. The associated ground equipment compound is 100’ long and 15’ wide and enclosed by a 7’ tall decorative black metal fence topped with one gate. Some existing landscaping will remain to help screen the compound, and additional trees will be planted to add further screening. Several existing trees and shrubs will require removal however they will be replaced at a one-to-one ratio. The existing gravel driveway along the northern boundary of the property would provide vehicle access to the facility. Bollards would be installed at the end of the driveway to prevent vehicle access off-site and prevent vehicle usage of the adjacent trail.

Site Location:



Staff Analysis:

1. In the request for the extension (Attachment #3), the applicant explains the reasons for the delay, including the merger of T-mobile, for whom this facility is being built, with Sprint, and processing delays due to Covid-19 impacted operations.

2. Staff supports the extension based on good cause. Unprecedented events beyond the control of the applicant resulted in longer than expected planning, prepping, and processing times for this project. With those added challenges, the applicant was able to steadily work through the site plan process and the Architectural Review Board process in 2020.
3. Staff still supports this project as originally approved based on the staff analysis conducted with the original case and accordance with the Planning Commission recommendations for the original case

Town Council Alternatives:

The following alternatives are available to the Town Council for its decision on the extension of this special exception, SE#19-02:

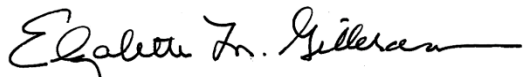
1. Approval of the draft resolution including conditions (Attachment #1).
2. Approval of the draft resolution with revision(s).
3. Denial of the extension.
4. Continuance of the application to a future (date certain) Town Council hearing.

Staff Recommendation:

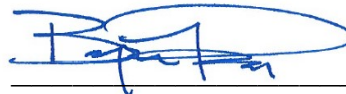
Staff recommends approval of the application in accordance with Alternative #1.

Attachments:

1. Draft Resolution dated January 26, 2021
2. Original Town Council Resolution, dated April 23, 2019
3. Applicant Extension Request Letter



Elizabeth M. Gilleran, AICP
Director of Community Development



Bryce A. Perry
Deputy Director of Community Development

TOWN OF HERNDON, VIRGINIA

DRAFT RESOLUTION

JANUARY 26, 2021

Resolution – to consider an extension of Special Exception, SE#19-02, to allow a telecommunications facility with a freestanding monopole on a property improved with an electrical substation and zoned CS, Commercial Service and O&LI, Office & Light Industrial.

WHEREAS, Network Building & Consulting, LLC, the applicant, received a Special Exception, se#19-02, as approved by the Herndon Town Council on April 23, 2019, to allow a telecommunications facility on the property located at 525 Grove Street and identified as Fairfax County Tax Map Reference Number 0162-02-0190E; and

WHEREAS, Network Building & Consulting, LLC, the applicant, has submitted a request for an extension of the approved Special Exception, SE#19-02, in accordance with Zoning Ordinance Section 78-155.3(g); and

WHEREAS, The Town Council finds that the extension as requested is made with good cause.

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

Approves the extension of Special Exception SE #19-02, with the following conditions;

1. The extension expires on April 23, 2021. The final building inspection shall be completed by that deadline.
2. All conditions of the original approval, dated April 23, 2019, are retained and still apply, except as modified by condition 1 above.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

APRIL 23, 2019

Resolution- to consider Special Exception, SE#19-02, to allow a telecommunications facility with a freestanding monopole on a property improved with an electrical substation and zoned CS, Commercial Service and O&LI, Office & Light Industrial.

WHEREAS, Network Building & Consulting, LLC, the applicant, has submitted an Special Exception application to allow a telecommunications facility on the property located at 525 Grove Street and identified as Fairfax County Tax Map Reference Number 0162-02-0190E; and

WHEREAS, the proposed telecommunications facility is shown on the NB+C/Vertical Bridge plan exhibit, dated March 19, 2019; and

WHEREAS, the referenced parcel is currently improved by a Dominion Energy substation and its land use is regulated by previously approved Zoning Map Amendments, ZMA#02-102 and ZMA#02-103; and

WHEREAS, the Proffer Statements regulating the land use of the site will be amended to allow the proposed telecommunications facility when Proffer Condition Amendments, PCA#19-01 and PCA#19-02 are approved; and

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing, in accordance with the provisions of §15.2-2204 of the State Code, on February 25, 2019 and continued that public hearing to March 25, 2019; and

WHEREAS, following public hearing, the Planning Commission finds that the proposed use meets the purpose and intent of the Zoning Ordinance dependent upon a modification of ground equipment screening method requested as part of the above referenced Proffer Condition Amendment applications; and

WHEREAS, the Town Council has conducted a public hearing and has reviewed the Planning Commission recommendations.

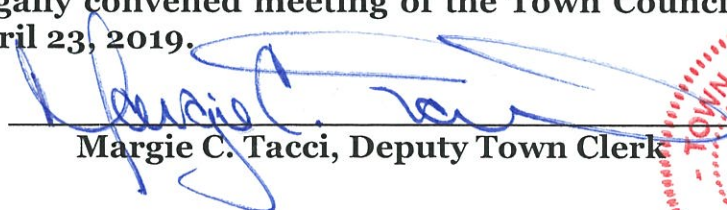
NOW THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

Approves Special Exception SE #19-02, in accordance with the conditions set forth below to achieve compliance with the applicable zoning ordinance standards:

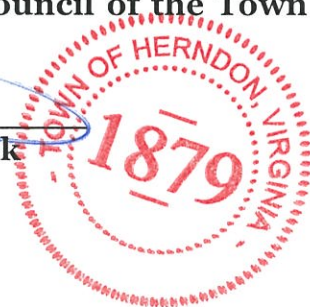
- A. **Substantial Conformity.** The site shall be developed and maintained in substantial conformance with the NB+C/Vertical Bridge plan exhibit, dated March 19, 2019, except where modified by these conditions and with the removal of the modification requests #2 and #3 listed on the cover sheet of the plan exhibit.
- B. **Permitted use.** The use shall be limited to one 125-foot telecommunications monopole and associated ground equipment and enclosure.
- C. **Site Plan Revision.** A site plan revision indicating all proposed modifications to the site shall be submitted to the Town of Herndon for administrative staff review.
- D. **Stormwater Management.** The proposed improvements shall not negatively impact the existing stormwater BMP. The applicant shall include an analysis with the site plan submission and, if required, associated site improvements demonstrating that the proposed project will not negatively impact the existing stormwater BMP.
- E. **Architectural Review Board (ARB).** An application for the proposed new construction, to include the required screening and access barriers, shall be submitted for review by the Architectural Review Board (ARB.) All permits and construction must comply with the ARB approval.
- F. **Access to the Site.** The telecommunications facility compound shall not be accessed from the existing trail near the western property boundary. A physical barrier shall be installed preventing any vehicular access from the private access road off-site. The design of the barrier shall be submitted to the ARB in accordance with Condition E. Access into the enclosure shall be limited to a single gate as shown in the referenced plan unless provided along the enclosure's eastern side adjacent to the substation.
- G. **Inspection.** The property owner and tenant shall allow Town officials to inspect the property during reasonable hours upon prior notice
- H. **Expiration.** This Special Exception shall run with the land except under the following condition(s):
 - i. A discontinuance of the use for which the special exception was granted for a continuous 12-month period;

- ii. Failure to obtain a final building inspection for the monopole within eighteen (18) months of approval of the special exception.
- I. **Revocation.** Any violation of the aforementioned conditions or other sections of the Herndon Town Code shall be grounds for revoking the special exception pursuant to the manner described in Section 78-155.3(h) of the zoning ordinance.

This is certified to be a true and accurate copy of Resolution 19-G-33 adopted at a legally convened meeting of the Town Council of the Town of Herndon on April 23, 2019.



Margie C. Tacci, Deputy Town Clerk



Attached for reference is the NB+C/Vertical Bridge Plan Exhibit, dated March 19, 2019.

REVIEW AND INSPECTION FEE SCHEDULE					
SEE SECTION 74-02.2 AND SECTION 74-03.0 OF THE TOWN CODE FOR FEES					
ITEM	QUANTITY	UNIT	PER UNIT	PER UNIT	PER
			hour/line	hour/line	hour/line
1. GENERAL INSPECTION OF CONCRETE					
a. INSPECTION OF CONCRETE					
1. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
2. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
3. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
4. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
5. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
6. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
7. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
8. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
9. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
10. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
11. INSPECTION OF CONCRETE	1.00	HR	1.00	1.00	1.00
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T-1	TITLE SHEET		1 OF 7
Z-1	SITE PLAN		2 OF 7
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L-2	PROPOSED LANDSCAPE PLAN		7 OF 7

MODIFICATION REQUESTS

THE DEVELOPER REQUESTS THE FOLLOWING MODIFICATIONS AS PART OF APPLICATIONS FOR A PUD AND SE #19-02.

- SECTION 7B-114.2-2 TO ALLOW A 7' CHAIN LINK FENCE INSTEAD OF A MASONRY WALL AND OPPOSITE METAL GATES.
- SECTION 7B-115.2 TO ALLOW UNBARRIED WIRE ON TOP OF THE CHAIN LINK FENCE.
- SECTION 7B-110.4-5 TO ALLOW THE 10' ACCESS EASEMENT WITHIN A PORTION OF THE 7.5' REQUIRED PERIMETER LANDSCAPE BUFFER.

WAIVER REQUESTS

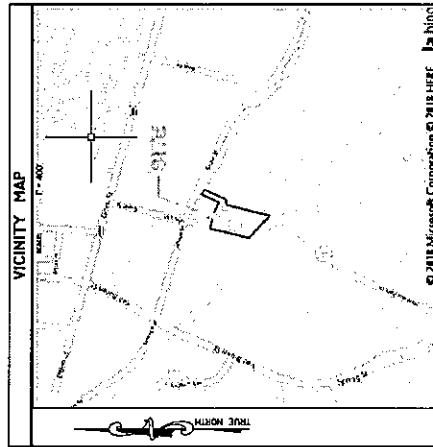
THE DEVELOPER REQUESTS THE FOLLOWING MODIFICATIONS AS PART OF APPLICATIONS FOR A PUD AND SE #19-02.

- SECTION 7B-114.2-2 TO ALLOW A 7' CHAIN LINK FENCE INSTEAD OF A MASONRY WALL AND OPPOSITE METAL GATES.
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- SECTION 7B-110.4-5 TO ALLOW THE 10' ACCESS EASEMENT WITHIN A PORTION OF THE 7.5' REQUIRED PERIMETER LANDSCAPE BUFFER.

EXISTING CONDITION SURVEY NOTES

THE DEVELOPER REQUESTS THE FOLLOWING MODIFICATIONS AS PART OF APPLICATIONS FOR A PUD AND SE #19-02.

- SECTION 7B-114.2-2 TO ALLOW A 7' CHAIN LINK FENCE INSTEAD OF A MASONRY WALL AND OPPOSITE METAL GATES.
- SECTION 7B-115.2 TO ALLOW UNBARRIED WIRE ON TOP OF THE CHAIN LINK FENCE.
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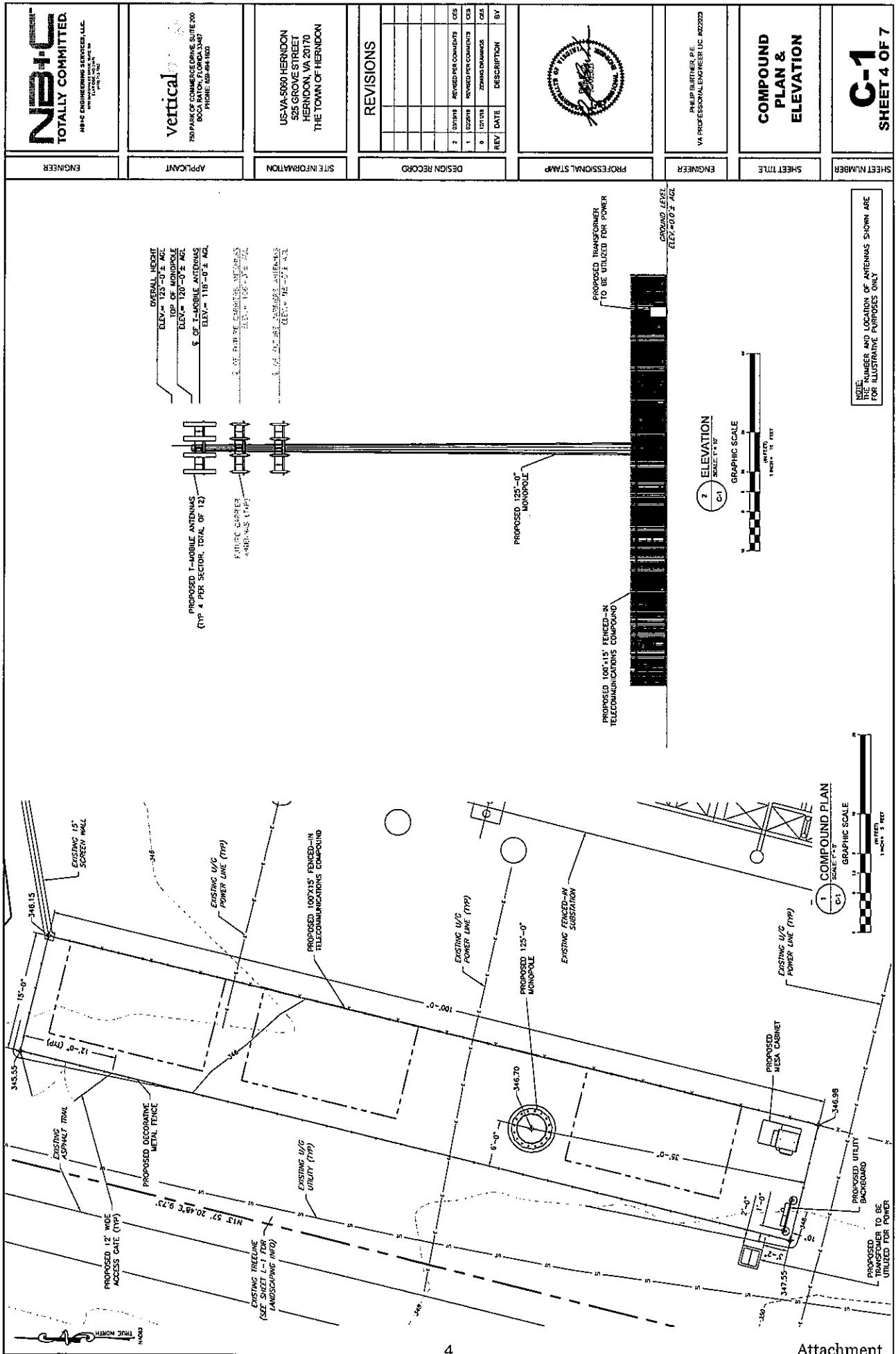


LOCATION OF BENCHMARKS	
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FOR BUL. COMPLETION	FOR BUL. COMPLETION
BALANCE POINTS TO BE ISSUED SEPARATELY.	
DATE	FARMER COUNTY FIRE MARSHAL
DATE	DIRECTOR OF PUBLIC WORKS
DATE	DIRECTOR OF COMMUNITY DEVELOPMENT
DATE	SCIENCE COMMISSIONER

BEFORE YOU DIE
CALL "MISS UTILITY" 811
OR 1-800-562-7001
we'll come to you! [miss1.com](http://www.miss1.com)

TOWN PLAN #:	TOWN OF HERNDON, VIRGINIA		
	COVER SHEET		
SUBMITTER:	US-VA 5080 HERNDON		
DATE PLAN MADE	VIRGINIA ELECTRIC AND POWER COMPANY		
OWNER ADDRESS	171 E CLARY ST RICHMOND, VA 23219		
DATE AND TELEPHONE NUMBER	VERTICAL BRIDGE, 750 PARK OF COMMERCE DR, STE 200 BOCA RATON, FL 33467	PHONE: 855-494-1600	
DESIGNED BY	NUBAC ENGINEERING SERVICES, LLC		
DESIGNER ADDRESS	8925 MARSHALLEE DR, STE 300		
DATE AND TELEPHONE NUMBER	ELKHORNO, MD 21075	PHONE: 410-712-7082	
TOTAL COUNTY TAX MAP NUMBER	0183-00-0105E		
PARCEL AREA	1.61 AC		
REUSED:	PROJECT NUMBER: 00000000000000000000		
	PAGE 1 OF 7 PAGES		

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N&C
TOTALLY COMMITTED.
N&C ENGINEERING SERVICES, LLC
10000 W. 11TH AVENUE, SUITE 100
DENVER, CO 80202

vertical
150 PARK OF COMMERCE DRIVE, SUITE 200
BOCA RATON, FLORIDA 33487
PHONE 561-494-1000

US-VA-5080 HERNDON
525 GROVE STREET
HERNDON, VA 20170
THE TOWN OF HERNDON

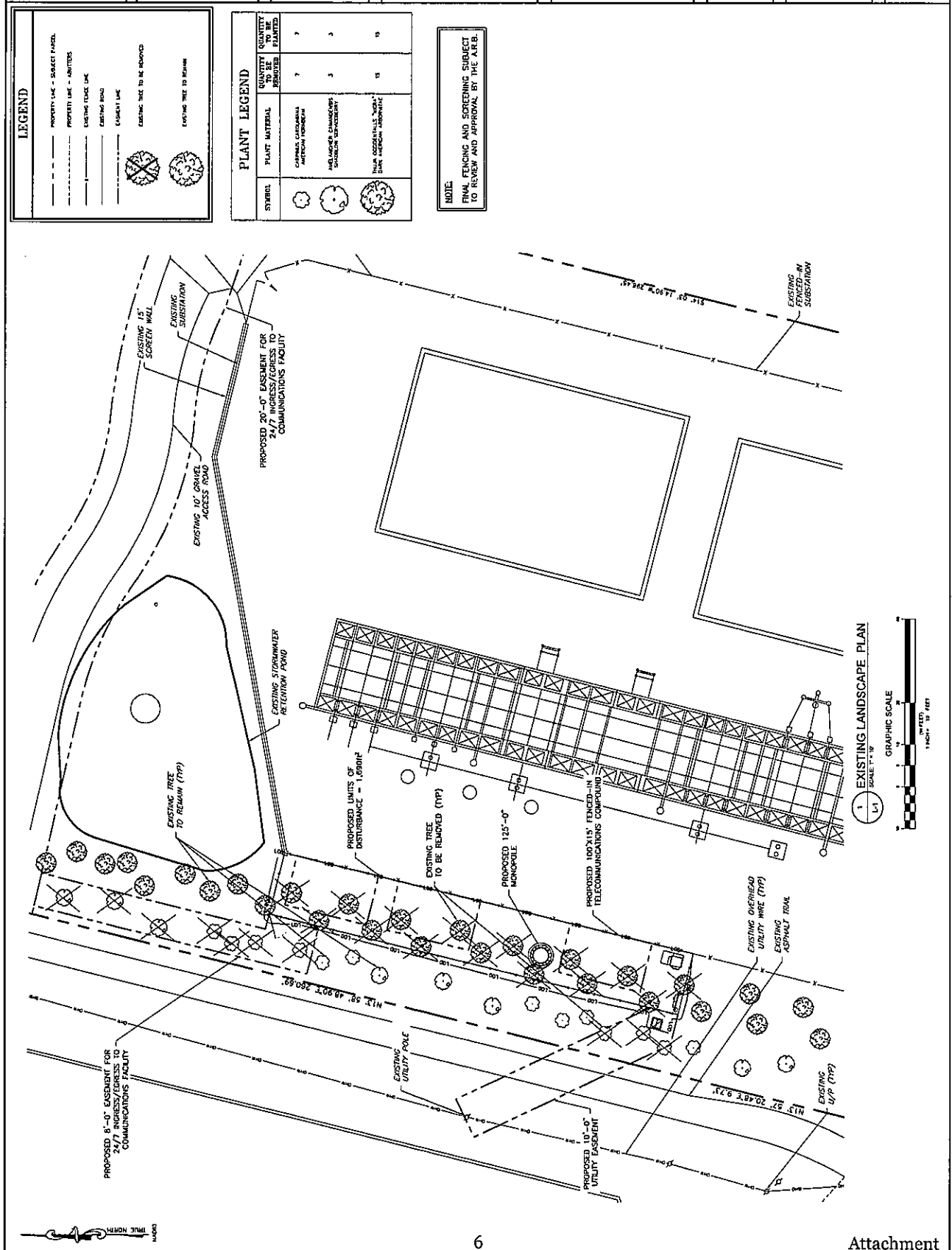
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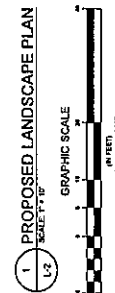
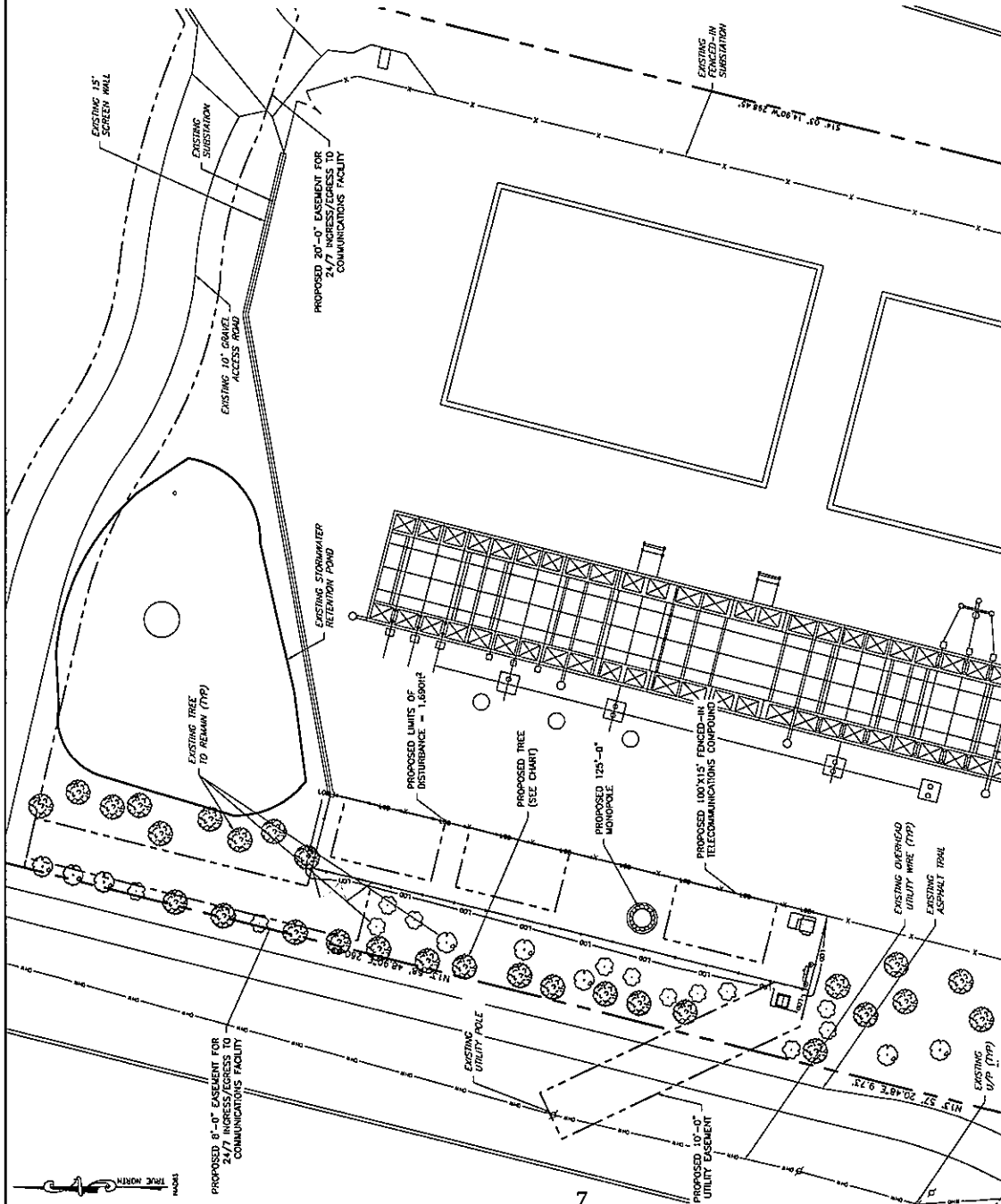
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4	02/01/14	REVISED PER COMMENTS	CEB
5	02/01/14	REVISED PER COMMENTS	CEB

PHILIP PARTNER, D.C.
VA PROFESSIONAL ENGINEER LIC. #022023

**EXISTING
LANDSCAPE PLAN**

L-1
SHEET 6 OF 7





N&C TOTALLY COMMITTED. N&C ENGINEERING SERVICES, LLC 1000 W. 10TH STREET, SUITE 100 BOCA RATON, FLORIDA 33432 PHONE: 561-441-1000	vertical 750 PARK OF COMMERCE DRIVE, SUITE 200 BOCA RATON, FLORIDA 33432 PHONE: 561-441-1000	US-VA-5600 HERNDON 525 GROVE STREET HERNDON, VA 20170 THE TOWN OF HERNDON	REVISIONS <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> <tr> <td>1</td> <td>02/01/14</td> <td>REVISED PER COMMENTS</td> <td>DES</td> </tr> <tr> <td>2</td> <td>02/01/14</td> <td>REVISED PER COMMENTS</td> <td>DES</td> </tr> <tr> <td>3</td> <td>02/01/14</td> <td>REVISED PER COMMENTS</td> <td>DES</td> </tr> <tr> <td>4</td> <td>02/01/14</td> <td>REVISED PER COMMENTS</td> <td>DES</td> </tr> </table>	NO.	DATE	DESCRIPTION	BY	1	02/01/14	REVISED PER COMMENTS	DES	2	02/01/14	REVISED PER COMMENTS	DES	3	02/01/14	REVISED PER COMMENTS	DES	4	02/01/14	REVISED PER COMMENTS	DES		PHILIP BUNTING, P.E. VA PROFESSIONAL ENGINEER LIC #20203	PROPOSED LANDSCAPE PLAN	L-2 SHEET 7 OF 7
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9/22/2020

David Stromberg
Town of Herndon
Department of Community Development
777 Lynn St
Herndon, VA 20170

RE: Vertical Bridge US-VA-5060
SE #19-02: Extension Request
525 Grove Street

Dear Mr. Stromberg,

Network Building & Consulting, LLC is requesting an extension to SE #19-02 due to extraordinary circumstances that have occurred since the initial approval of this site was received. Our company is the authorized agent for the tower developer Vertical Bridge, who is constructing this tower on behalf of T-Mobile, a national provider of wireless communications services. Shortly after approval of the above-mentioned special exception, T-Mobile began to pursue a merger with Sprint which has since been approved. On a national level, in order to pursue the merger in a timely manner, funding for this site was placed on a temporary hold. When the hold was complete, COVID-19 began to cause substantial delays in processing times for outstanding items needed for the site plan approval. Between the merger and COVID-19, this set our development plans back roughly six months. We have submitted our application to the Architectural Review board for the October agenda, and last week we completed the final item needed for site plan approval. We are requesting a six-month extension to complete the final items pending prior to construction which include receiving approval from the Architectural Review Board, subsequently applying for a Building Permit, and completing final inspections. Realistically, we are planning to complete construction by the end of 2020, but in order to accommodate for potential delays relating to construction and inspections we are requesting an additional six months.

Please reach out to me directly via email or my mobile phone with any additional questions or concerns related to this project.

Thank you,



Tessia Knight

Land Use Specialist

NETWORK BUILDING + CONSULTING

6095 Marshalee Dr. | Suite 300 | Elkridge MD | 21075

E Tknight@nbcllc.com | M 240.481.8461



STAFF REPORT

Town Council

January 19, 2021

Title: Initiating Resolution - Zoning Ordinance Text Amendment – ZOTA #21-01 – to reduce the minimum front setback requirement in the CS zoning district.

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

Elizabeth Gilleran, Director of Community Development
Lisa.gilleran@herndon-va.gov (703) 787-7380

Summary Information:

If approved, this initiating resolution will refer ZOTA #21-01 to the planning commission for consideration and recommendation. Following planning commission review, this text amendment would return to the council for final action.

This zoning ordinance text amendment will reduce the minimum front setback requirement in the CS, Commercial Services, zoning district. All principal and accessory structures in the CS zoning district are currently required to be at least 50 feet back from the front property line. The proposal would reduce the minimum setback requirement to 25 feet.

Background:

The South Elden Area Plan (Comprehensive Plan Amendment CPA #18-01) was adopted by the town council on February 12, 2019. One of the goals of the plan is to encourage reuse or redevelopment of commercial sites to support increased pedestrian, bicycle, and transit access.

Many of the properties that are zoned CS on South Elden Street only have a lot depth of between 150 and 200 feet. The 50-foot minimum building setback requirement limits the design flexibility available to property owners who are seeking to redevelop their lots. Staff identified a reduction in the front setback requirement as one of the ways to encourage property owners to redevelop their commercial properties.

This zoning text amendment is being initiated at this time because the town has received an application to redevelop one of the commercial properties on South Elden Street and the applicant would like to utilize the design flexibility that would be possible if this text amendment is adopted. It should be noted that if approved, this zoning text amendment would apply to all properties that are zoned CS.

Staff Analysis:

As stated above, staff identified several zoning ordinance text amendments that should be adopted in order to further the goals of the South Elden Area Plan. Reducing the front setback requirement provides property owners that are zoned CS additional options for how to design and locate buildings on their site.

Properties that are zoned CS are concentrated along two sections of Elden Street (attachment 3). The section of Elden Street that runs south of Sterling Road to the town border with Fairfax County and comprises most of the properties in the South Elden Area Plan. The other section is Elden Street extending from Monroe Street to Laurel Way, just before the Fairfax County Parkway, where the majority of parcels are zoned CS. This section of Elden Street is not part of a small area plan, but staff does not anticipate negative impacts by reducing the front setback requirement. It is expected that reducing the front setback requirement will result in fewer legal nonconformities that may have been created as a result of right-of-way acquisition associated with the Elden Street Widening Project.

This zoning text amendment will not increase the density permitted on properties zoned CS and it will not reduce the amount of open space that is required. The FAR (Floor Area Ratio), which is how density is measured and regulated, will remain at 0.3 and the area dedicated for open space will remain at 25%.

Town Council Alternatives:

The following alternatives are available to the town council for its decision on Zoning Ordinance Text Amendment ZOTA #21-01:

1. Approve Initiating Resolution
2. Deny Initiating Resolution

Staff Recommendation:

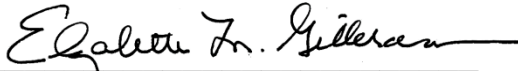
Staff recommends the town council approve the initiating resolution for ZOTA #21-01 in accordance with **alternative 1**.

If the town council approves the initiating resolution, then staff will schedule this item with the planning commission. The item will then return to the town council for a public hearing and vote.

Attachments:

1. Initiating Resolution
2. Draft Language

3. Map of Properties Zoned CS, Commercial Services



Elizabeth Gilleran, AICP
Director of Community Development



David Stromberg, AICP
Zoning Administrator

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution – to initiate consideration of a zoning ordinance text amendment ZOTA #21-01 to amend Chapter 78 (ZONING), Article IV (Business Districts), Section 78-40.2 (CS – Commercial Services District), to reduce the minimum front setback requirement in the CS zoning district.

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

1. Initiates consideration of an amendment to Chapter 78 (ZONING) of the Herndon Town Code to reduce the minimum front setback in the CS, Commercial Services, zoning district.
2. Out of public necessity, convenience, general welfare, or good zoning practice, requires the Town Council's consideration of this proposed amendment.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

_____, 2021

Ordinance – to initiate consideration of a zoning ordinance text amendment ZOTA #21-01 to amend Chapter 78 (ZONING), Article IV (Business Districts), Section 78-40.2 (CS – Commercial Services District), to reduce the minimum front setback requirement in the CS zoning district.

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

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

Section 78-40.2 – CS – Commercial Services district.

...

g. *Dimensional standards.* All primary and accessory structures in the CS zoning district are subject to the dimensional standards set forth in Table 78-40.2(g): CS Table of Dimensional Standards. These standards may be further limited or modified by other applicable sections of this chapter. Accessory structures are subject further to the standards in Article VII, ~~Definitions~~, *Accessory Uses*. ~~for~~ Terms *used* in this section may be found in Article XVIII, Definitions.

TABLE 78-40.2(g): CS DIMENSIONAL STANDARDS	
STANDARD	ALL USES
Lot Area, Minimum (sq. ft.)	None
Lot Width, Minimum at setback line (feet)	None
Setback, Minimum (feet)	Greater of: 50', or as specified in the buffer classification in See also section 78-110.4(e)(3)a. and section 78-110.4(e)(3)b.. <i>25'</i>
Setback, Maximum (feet)	100'

Side Yard, Minimum (feet)	Adjacent to Residential District. ¹: Greater of 25' or building height ²; or as specified in the buffer classification in See also section 78-110.4(e)(3)a. and section 78-110.4(e)(3)b. Not Adjacent to Residential District: 7.5', or as specified in the buffer classification in section 78-110.4(e)(3)a. and section 78-110.4(e)(3)b.
Rear Yard, Minimum (feet)	Adjacent to Residential District. ¹: Greater of 25' or building height ²; or as specified in the buffer classification in See also section 78-110.4(e)(3)a. and section 78-110.4(e)(3)b. Not Adjacent to Residential District: 7.5', or as specified in the buffer classification in section 78-110.4(e)(3)a. and section 78-110.4(e)(3)b.
Height, Maximum (feet)	45' (See also Sec. 78-40.6 Downtown for CS Property Located within sector 3 of the Downtown)
Floor Area Ratio, Maximum	.3
Open Space, Minimum	25%
Notes: ¹ Adjacent to Residential District: indicates that a special side or rear yard requirement applies for every lot line abutting a parcel zoned for residential use when the parcel is used for residential purposes or is undeveloped. The special yard requirement is as indicated above. ² Building Height: indicates that the required setback or yard is equal to the height of the tallest building on the site where the setback or yard is required.	

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