

**TOWN OF HERNDON, VIRGINIA
PUBLIC HEARING AGENDA
HERNDON COUNCIL CHAMBERS BUILDING *
765 LYNN STREET
January 26, 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.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

APPROVAL OF MINUTES

January 5, 2021 Town Council Work Session Draft Minutes

COMMENTS

2. Comments from the Town Manager
3. Comments from the Town Council
4. Comments from the Audience

PUBLIC HEARINGS

5. Resolution 21-G-18, 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
6. 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
7. 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

8. 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

9. 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
10. 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 Evince Analytics, Inc.
11. Resolution 21-G-20, to provide guidance to the Town Manager on the development of the FY 2022 Budget
12. 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
13. 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
14. 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

CONSENT AGENDA

15. Resolution 21-G-23, to appoint the Town of Herndon's "Principal" member to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTAPCAC)
16. Resolution 21-G-24, to reappoint Clark Hedrick to the Board of Zoning Appeals
17. Resolution 21-G-25, to reappoint the "Architect/Architectural Historian" member to the Historic District Review Board
18. Resolution 21-G-26, to appoint a Town of Herndon member to the Phase II Dulles Rail Transportation Improvement District Advisory Board

Future Town Council Meetings

February 2, 2021	Town Council Strategic Initiatives Discussion	7:00 PM
February 9, 2021	Town Council Strategic Initiatives Discussion	7:00 PM
February 16, 2021	Town Council Work Session	7:00 PM
February 23, 2021	Town Council Public Hearing	7:00 PM



MEMORANDUM

To: Mayor Olem and members of the Town Council

From: David Stromberg, AICP, Zoning Administrator DS

Date: January 21, 2021

Subject: Special Exception SE #20-03 for a proposed accessory dwelling unit located at 763 Dranesville Road

This memo serves as an addendum to the staff report dated January 19, 2021 and provided for the work session.

During the work session, the town council asked staff about the possibility of removing some or all of the recommend conditions of approval for the special exception application. Specifically, the council had questions and concerns regarding Conditions 13 and 14, regarding the approval being linked to the owner, not the land, and change in ownership.

The applicant has reached out to staff and requested their application to be approved without any conditions.

Some of the recommended conditions come directly from Section 78-80.4(a) the zoning ordinance and are inserted for the benefit of the owner to ensure that they are aware of these applicable zoning ordinance regulations. Removal of these conditions will not relieve the applicant of compliance with the zoning ordinance.

The only way to change the text of the zoning ordinance is through a zoning ordinance text amendment (ZOTA). A special exception can place conditions that are more restrictive than the provisions contained in the zoning ordinance, but it cannot waive or relieve the underlying zoning ordinance language.

Some of the conditions are unique to the individual factors of this special exception application.

Below is an analysis of the 15 proposed conditions that identifies the origin of the condition and the impact of removing the condition.

Condition 1 – Substantial Conformance: This is a standard condition for nearly all special exception applications. The purpose of the condition in this application is to ensure the applicant constructs the accessory dwelling unit as is shown in the plans that were submitted to staff, the planning commission, and the town council. This condition also ensures that the project is built as presented at public hearings, which interested town residents may be viewing. If this condition is removed, the

accessory dwelling unit could be constructed in a different size, location, and manner than what is presented before the town council tonight. The only governing of the size and location would be the same as for other accessory structures. The submitted elevations and site plan are only one possible location of how the accessory dwelling unit might be constructed under this condition.

Condition 2 – Permitted Use: This condition states on the record that the accessory dwelling unit is duly authorized by approval of the special exception. Accessory dwelling units are still regulated by section 78-80.4(a) of the zoning ordinance and removal of this condition will not remove existing codified ordinances.

Condition 3 – Recordation with Circuit Court: The purpose of this condition is to ensure any future owners are aware of the conditions attached to this special exception in order to prevent a potential future zoning violation for the new owner. With removal of this condition, a future owner may not be aware of the requirements set forth in the zoning ordinance, and/or these conditions related to accessory dwelling units which would still apply

Condition 4 – Compliance with Building and Zoning standards: This condition is a restatement to the applicant and future owners of existing requirements. Removal of this condition will have no impact as the accessory dwelling unit will need to comply with the provisions of the zoning ordinance and with the building code regardless of a condition.

Condition 5 – One Accessory Dwelling Unit per Lot: Removal of this condition would have no impact as it is a restatement of the existing language in Section 78-80.4(a) which would still apply.

Condition 6 – Size Limit: Size was limited to 535 square feet to match the proposed accessory dwelling unit size of 530 square feet as proposed by the applicant (5 square-feet added as a margin of error). If this condition is removed, the accessory dwelling unit could increase in size to the maximum allowed by Section 78-80.4(a), or 560 square feet.

Condition 7 – Limit on Bedrooms and Occupancy. Number of bedrooms was limited to one to match the floor plan proposed by the applicant. If this condition is removed, the accessory dwelling unit could increase to a maximum of two bedrooms allowed by Section 78-80.4(a).

Condition 8 – Occupancy Standards. This condition limits the occupancy to at least one person over the age of 62 or one person with a physical, mental, or cognitive disability. It also requires the owner to be an occupant of either the accessory dwelling unit or the principal dwelling unit. Removal of this condition would have no impact as it is a restatement of the existing language in Section 78-80.4(a) which would still apply.

Condition 9 – Parking. This condition states the requirement to provide one parking space specifically for the accessory dwelling unit. Removal of this condition would have no impact as it is a restatement of the existing language in Section 78-80.4(a) which would still apply.

Condition 10 – Not to be sold separately. This condition prohibits of selling the accessory dwelling unit separately from the primary structure. Removal of this condition would have no impact as it is a restatement of the existing language in Section 78-80.4(a) which would still apply.

Condition 11- Certificate of Appropriateness. This condition clarifies for the benefit of all parties that any design changes made by the Historic District Review Board (HDRB) will not result in the accessory dwelling unit being deemed not in substantial conformance with the application materials that were submitted to the town council. Removal of this condition **would not** remove the requirement for the proposed accessory dwelling unit to go before the HDRB. Removal of this condition could potentially open the door to an aggrieved, adjacent property owner filing a complaint that the accessory dwelling unit is not in compliance with the town council approval should the exterior design of the structure be modified during the HDRB public hearing process.

Condition 12 – Zoning Inspection Permit. This condition requires a zoning inspection prior to the issuance of an occupancy permit. Removal of this condition would have no impact as it is a restatement of the existing language in Section 78-80.4(a) which would still apply.

Condition 13 – Approval Linked to Property Owner. This condition states that the special exception approval is tied to the property owner and not to the land. It explains the special exception expires upon change of ownership, discontinuation of the use for six months, or failure to complete construction and obtain an inspection for the accessory dwelling unit within 24 months. The town council may ordain that the special exception approval runs with the land and not with the property owner. This must be explicitly stated in the resolution. This would allow the accessory dwelling unit to remain if the property is sold to a new owner if the new owner met the provisions of Section 78-80.4(a); however, ***if the new owner does not comply with the provisions of Section 78-80.4(a) they would be in violation of the zoning ordinance and subject to enforcement action.***

Condition 14 – Change in Ownership. This condition requires the owner to convert the accessory dwelling unit to a use allowed by-right in the zoning ordinance. Under the current language of the zoning ordinance, this would mean removal of the stove, 220 volt electrical, and any drain lines over 1.5 inches in diameter. Removal of this condition would relieve the owner of altering the structure but has the potential to result in the new owner being subject to enforcement action if they do not meet the requirements of Section 78-80.4(a). This language attempts to protect a future purchaser from buying the property and automatically being in violation of the zoning ordinance.

Condition 15 – Revocation. This condition states that violation of the conditions of the special exception approval or other town ordinances is grounds for revoking the special exception through the public hearing process. Removal of this condition would have no impact as it is a restatement of the existing language in Section 78-155.3(h) that governs all special exceptions and would still apply.

TOWN COUNCIL ALTERNATIVES

Staff has prepared a resolution with three options:

Option A: This is the version provided at the work session and includes 15 conditions. Under this option, the special exception would not run with the land and the accessory dwelling unit would need to be converted upon a transfer in ownership of the property.

Option B: This version of the resolution removes the conditions regarding ownership and explicitly states that the special exception approval runs with the land. The accessory dwelling unit would not need to be converted upon a transfer in ownership of the property but the other 13 conditions would remain in effect.

Option C: This version removes all conditions except substantial conformance with the submitted application materials and explicitly states that the special exception approval runs with the land. The accessory dwelling unit would not need to be converted upon a transfer in ownership of the property but the substantial conformance condition would remain in effect.

The option to deny the special exception or continue the public hearing to a date certain remain as alternatives to the town council.

STAFF RECOMMENDATION

Staff continues to recommend the town council approve the special exception with the 15 conditions in accordance with the resolution presented at the work session (Option A).

Although the intent of the alternative resolutions is to provide greater flexibility to this applicant, there is a risk of unintended consequences resulting from a removal of the conditions that could potentially result in either this property owner or a future property owner ending up in violation of the zoning ordinance.

If a future zoning ordinance text amendment with more permissive provisions for accessory dwelling units is adopted at a future date, then they would supersede the conditions of this special exception.

Attachments:

1. Resolution with Option A, Option B, and Option C
2. Certified Planning Commission resolution

TOWN OF HERNDON, VIRGINIA

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 # 0141 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, 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;

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 7, 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.

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

TOWN OF HERNDON, VIRGINIA

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 # 0141 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, 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, that shall run with the land and not be voided or extinguished from a change in ownership of the property 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;

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 7, 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. 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.

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

TOWN OF HERNDON, VIRGINIA

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 # 0141 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, 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, that shall run with the land and not be voided or extinguished from a change in ownership of the property in accordance with the condition set forth below to achieve compliance with the standards found in Sections 78-80.4(a) and 78-155.3;

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 7, 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.

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:

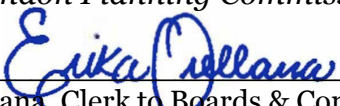
Recommends approval of Special Exception Application SE #20-03, in accordance with the conditions set forth below to achieve compliance with the standards found in Sections 78-80.4(a) and 78-155.3;

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 October 6, 2020 and the Site Plan prepared by O'Neil Architects and dated December 1, 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.

*This is certified to be a true and accurate copy of the resolution associated with Special Exception Application SE #20-03, **adopted*** at a legally convened meeting of the Town of Herndon Planning Commission on December 14, 2020.*



Erika Orellana, Clerk to Boards & Commissions

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.

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 will 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 discrepancy between the Contract Documents and actual field conditions. All conflicts and discrepancies 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 to indicate finished work that 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.

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 this minimum distance where necessary to reach the soil bearing value. Reinforcing as shown on drawings.

Concrete: All poured in place concrete slabs and footings shall develop a compressive strength of 3,500 PSI at 28 days. All poured in place concrete foundation walls shall develop a compressive strength of 3,000 PSI at 28 days.

All concrete work shall be in accordance with ACI 318-08. Reinforcing as shown on drawings. Slabs on grade: Shall be 4 inch thick concrete reinforced with 6x6 w/4x4 welded wire fabric; placing, lap, etc. to conform to WRI standards. Provide 1/2" expansion material where slabs abut vertical surfaces. Smooth finish.

Fasteners and Connectors: All exterior nails, bolts, hurricane straps and joist hangers, shall be ZMAX galvanized or HDG galvanized.

Structural Steel: Shall conform to ASTM A-36. Welding shall comply with AWS D1.1-80. All connections shall be AISC standard. Steel pipe columns with top and bottom plates in sizes as indicated on drawings and conforming to all AISC specifications and standards.

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. Structural wood exposed to weather or used in contact with masonry, concrete or steel shall be pressure treated.

Sill plates: 2x4 and pressure treated. Attach plate to foundation wall w/ 1/2" dia anchor bolts set minimum 7" into concrete or fully grouted cmu cells. Minimum of two bolts per plate section. Maximum spacing of bolts @ 6'-0" OC with bolts placed maximum of 12" from end of each plate.

Framing lumber: Spruce/Pine/Fir #2 grade and better for all general framing (FB Min: 1105psi repetitive member use, 961 psi single member use, E Min: 1,400,000, Fv Min 70 psi).

Walls: All exterior and interior bearing walls shall be 2x4's at 16" O.C. with continuous double top plate. Install blocking between studs on each side of window headers for attaching window treatments. Interior partitions (non-bearing) shall be 2x4's at 16" O.C., single top plate acceptable.

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

Floor Joists: 2x joists and/or TJI joists as manufactured by ILevel by Weyerhaeuser 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 rafters and 2x ceiling joists, size and spacing as shown on drawings.

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

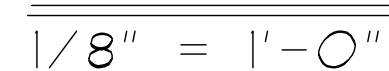
Continuous Exterior Structural Panel Sheathing: Install 1/2" x 4'x8' APA exterior OSB sheathing on all exterior framed walls and interior wood framed shear walls (if any) per Section R602.10.4 of 2012 IRC, "Continuous sheathing". Construct all exterior corners with nailing pattern as indicated in 2012 IRC, Figure R602.10.4.4(1) "Typical Exterior Corner Framing for Continuous Sheathing"

Roof: 1/2" - 4'x8' exterior OSB or ZIPGuard sheathing with metal clips between sheets. See sections for actual product specified.

Windows: Clad Wood Windows and Exterior Doors. See plans for sizes.

Energy Conservation Code Requirements: The project will follow the prescriptive method of the 2015 International Energy Conservation Code with minimum R-values and maximum U-factors as follows:

Ceilings: R-38	Basement Walls: R-10 continuous against walls, R-13 between studs
Wood framed 2x4 walls: R-15	Slab on Grade: R-10
Wood framed 2x6 walls: R-19	Crawl Space Walls: R-10 continuous against walls
Concrete/CMU walls: R-8	Windows/Doors: U-factor, max. 0.35
Floors: R-19	Skylights: U-factor, max. 0.55

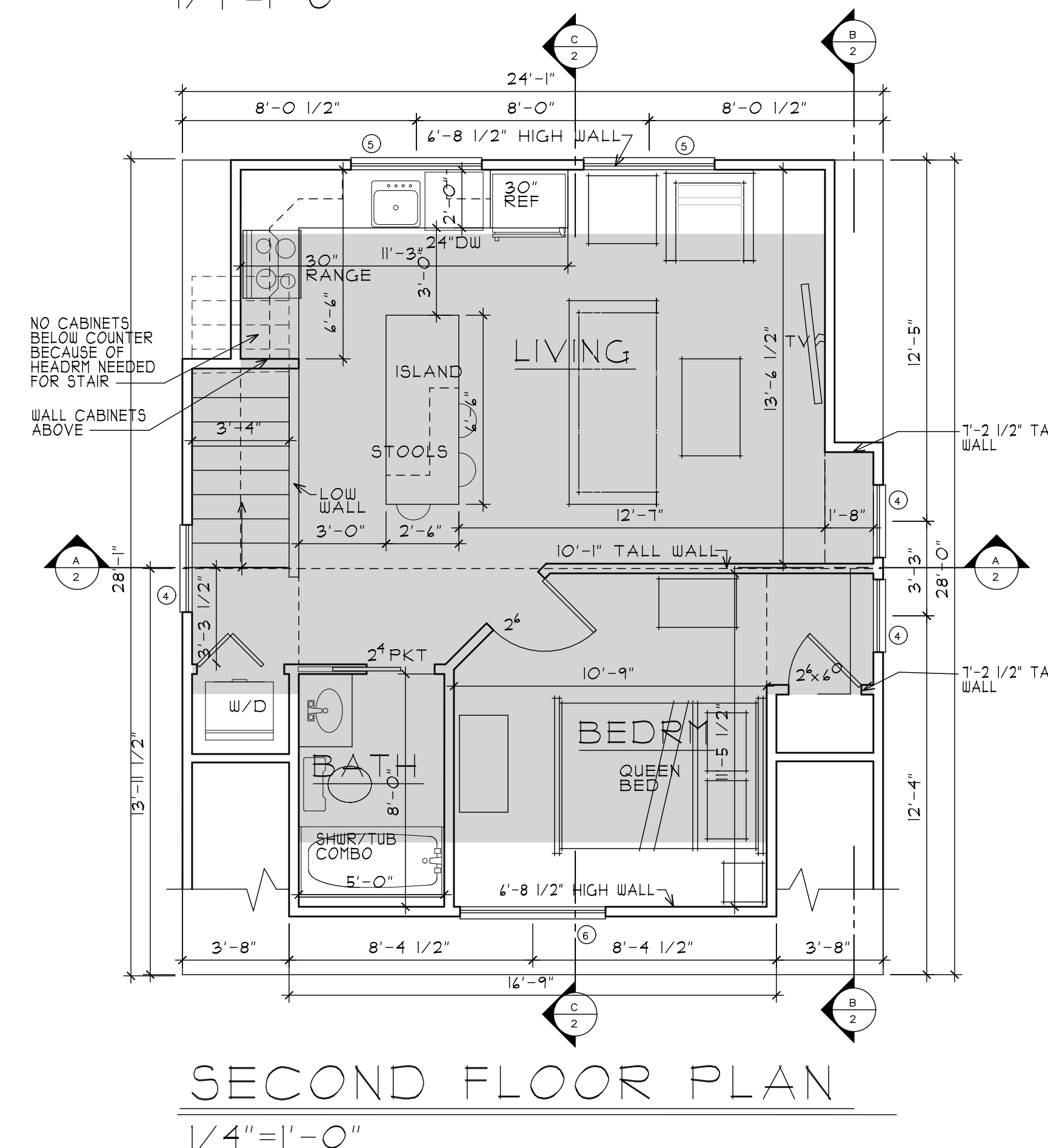


NOTE: ALL EXIST DOORS & WDWS ON GARAGE TO BE REPLACED.
EXIST WALLS TO BE REBUILT AS REQUIRED TO SUPPORT NEW SECOND LEVEL

Total Apartment Area: 530 sq. ft.
Total 7' or greater ceiling height
area (shown shaded on 2nd flr plan):
432 sq ft

$$530/2 = 265$$

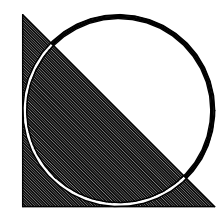
432 > 265 therefore 7' ceiling
is more than 50% of total flr area



NOT FOR
CONSTRUCTION

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

O'NEIL
ARCHITECTS



703 777 5773
703 771 8408 fax
www.ONeilArchitects.com
tjoneil@ONeilArchitects.com
110 Loudoun Street SW
Leesburg, VA 20175

Dwg.

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Of: 4



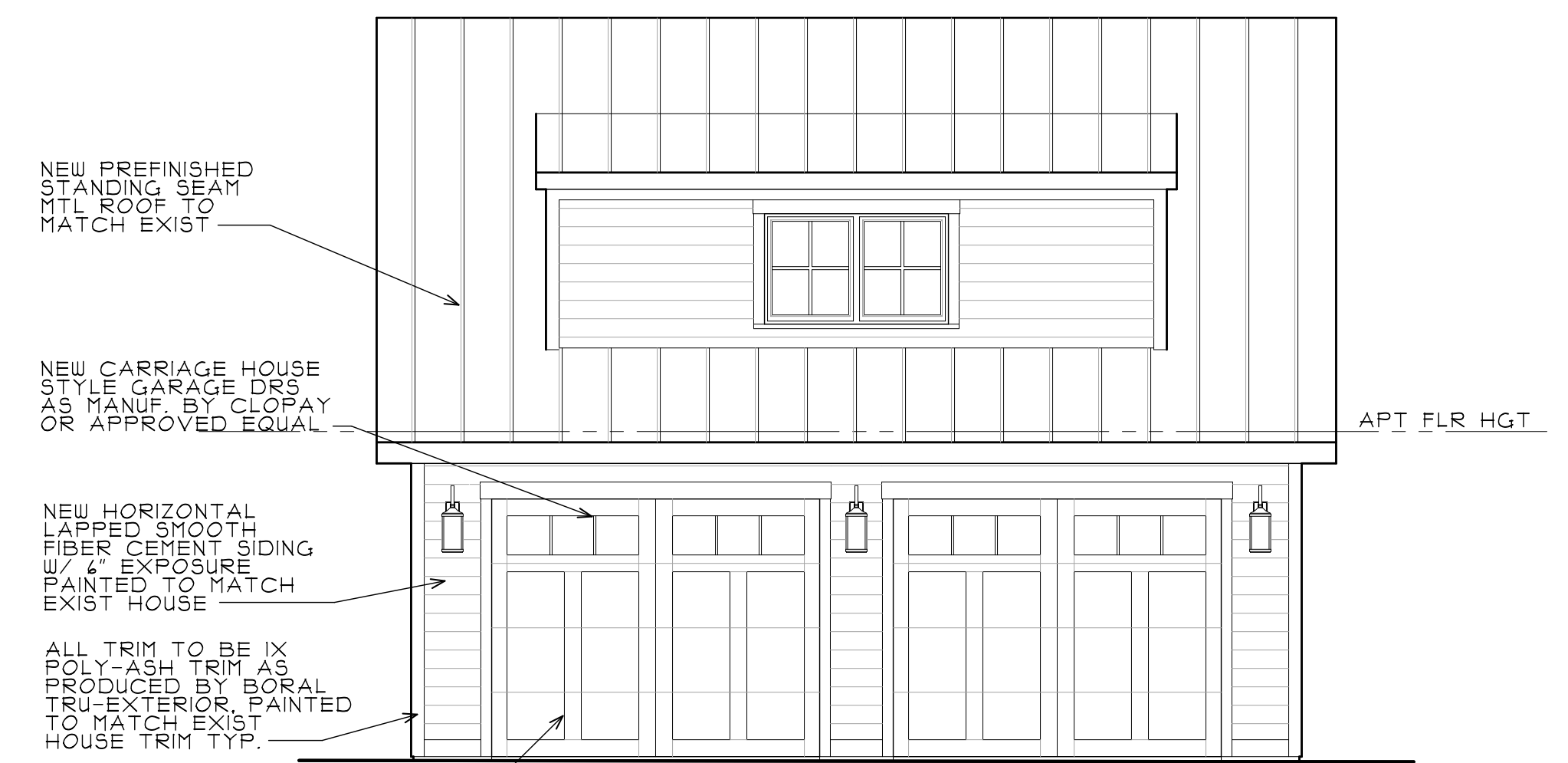
LEFT ELEVATION

1/4"=1'-0"



RIGHT ELEVATION

1/4"=1'-0"



FRONT ELEVATION

1/4" = 1'-0"



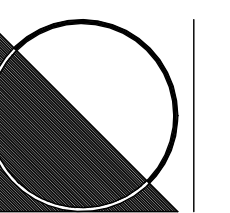
REAR ELEVATION

1/4"=1'-0"

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CONSTRUCTION

EWERS GARAGE & LIVING SPACE
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ELEVATIONS

O'NEIL
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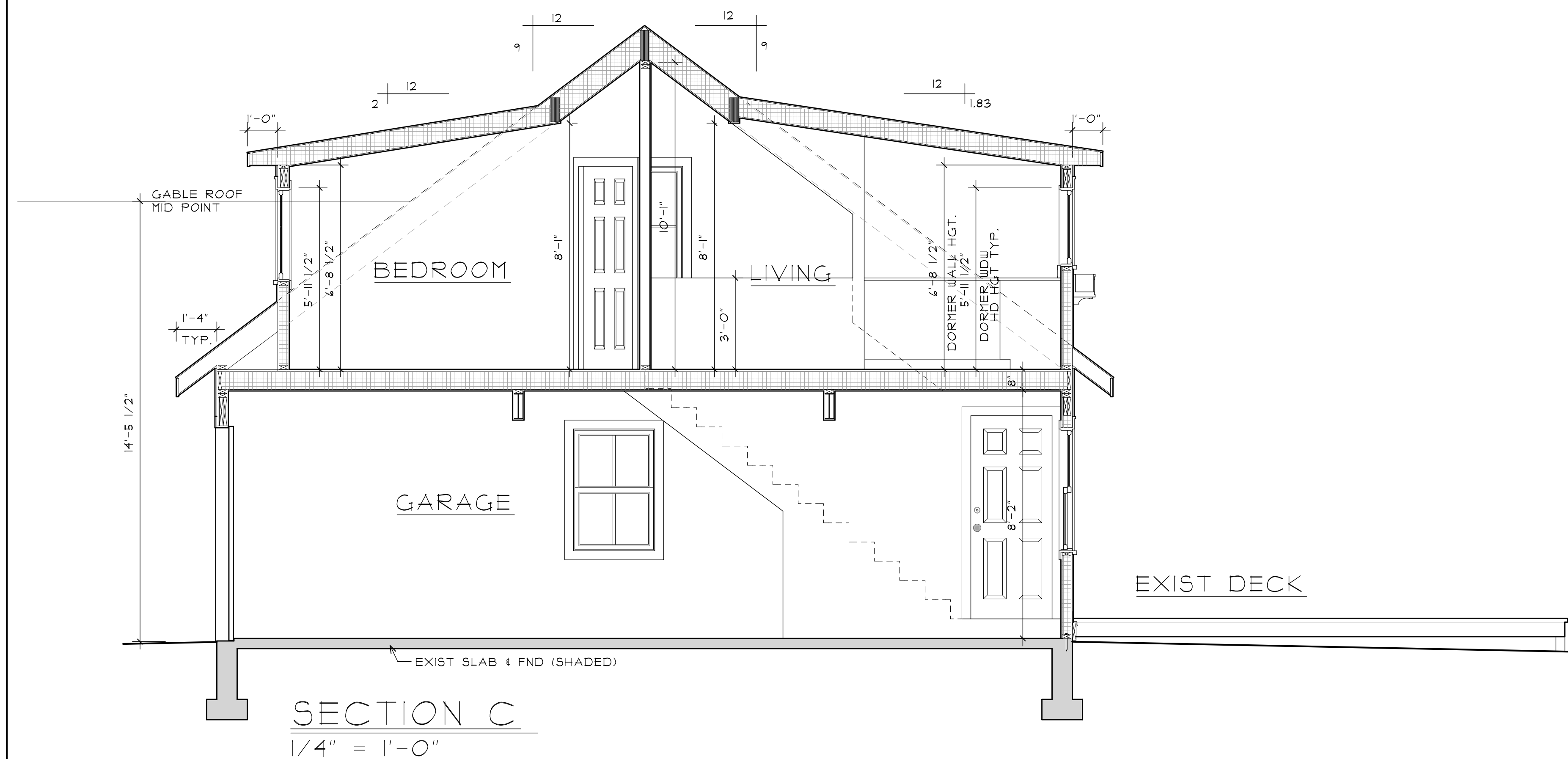
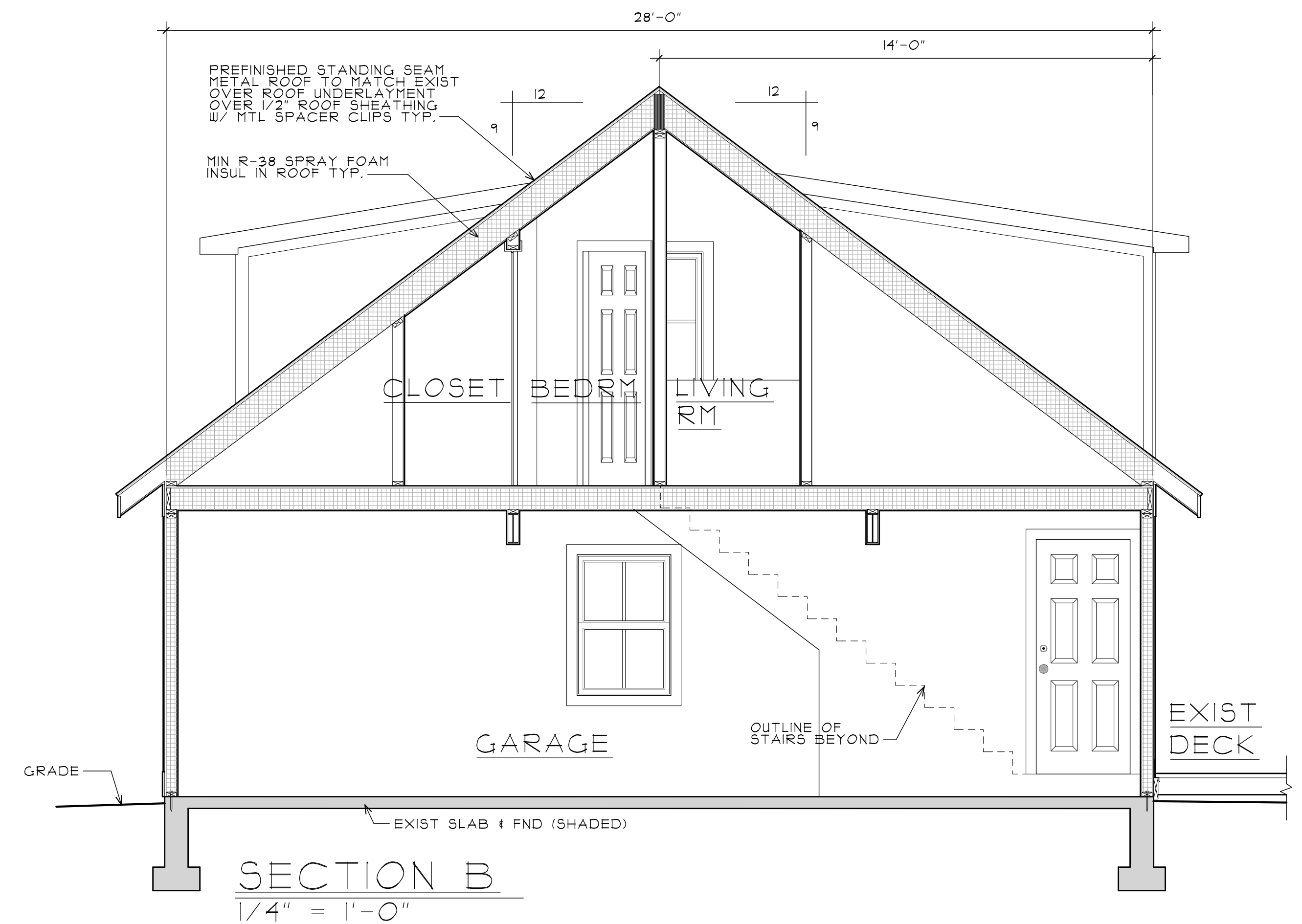
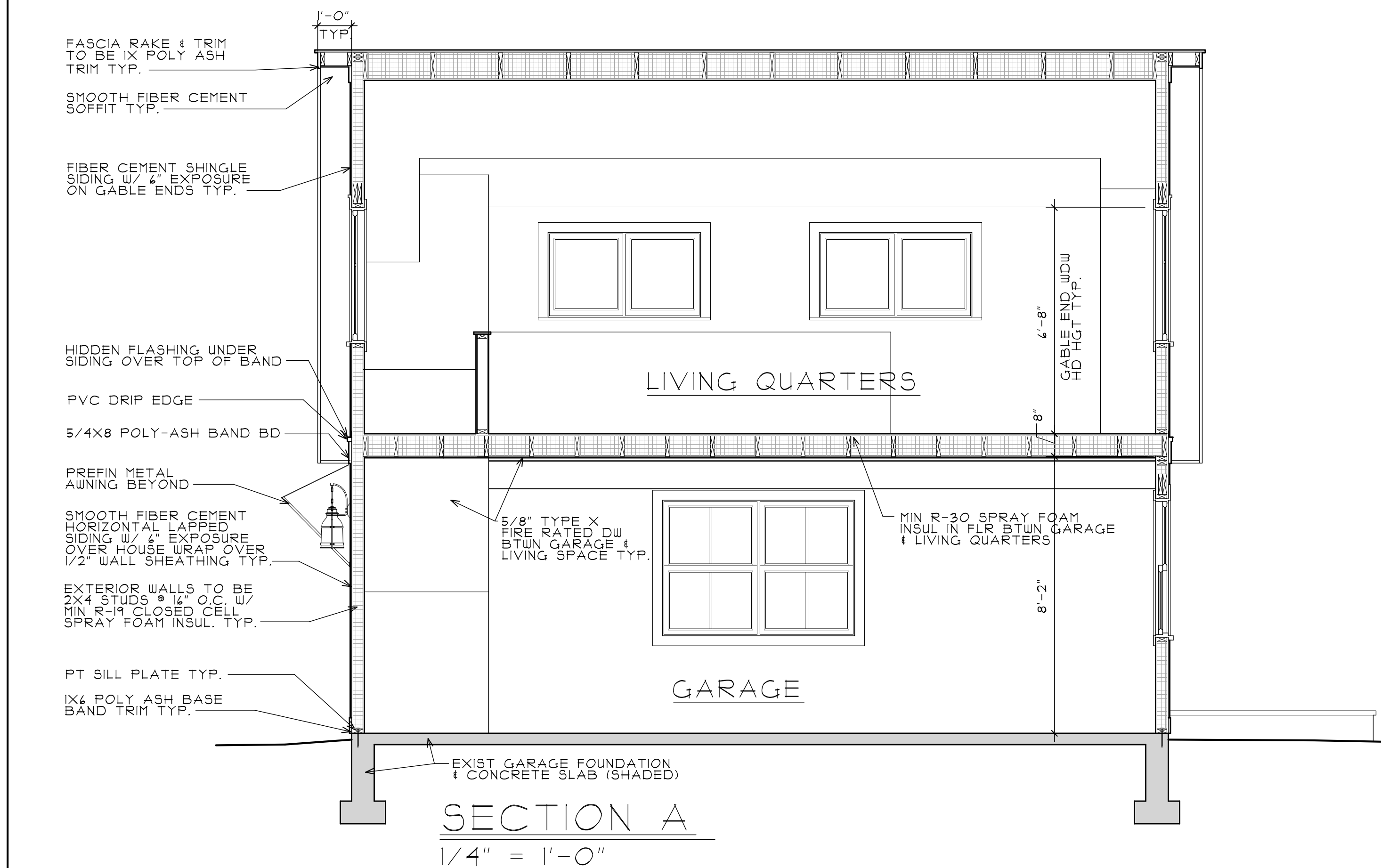
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Date: 06/02/2020 Special Exception
10/06/2020 Special Exception, 2nd Submission
1/11/2021 Special Exception/HPRB Submission

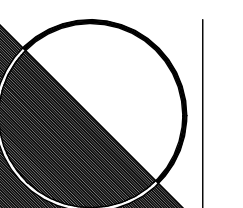
Job No. 1919
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EWERS GARAGE & LIVING SPACE
763 DRANESVILLE ROAD, HERNDON VA
SECTIONS

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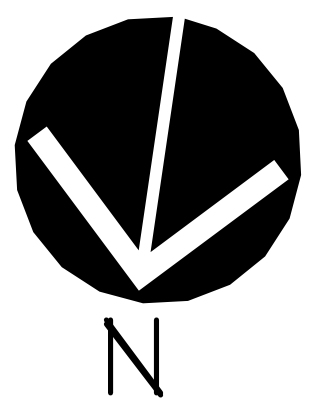
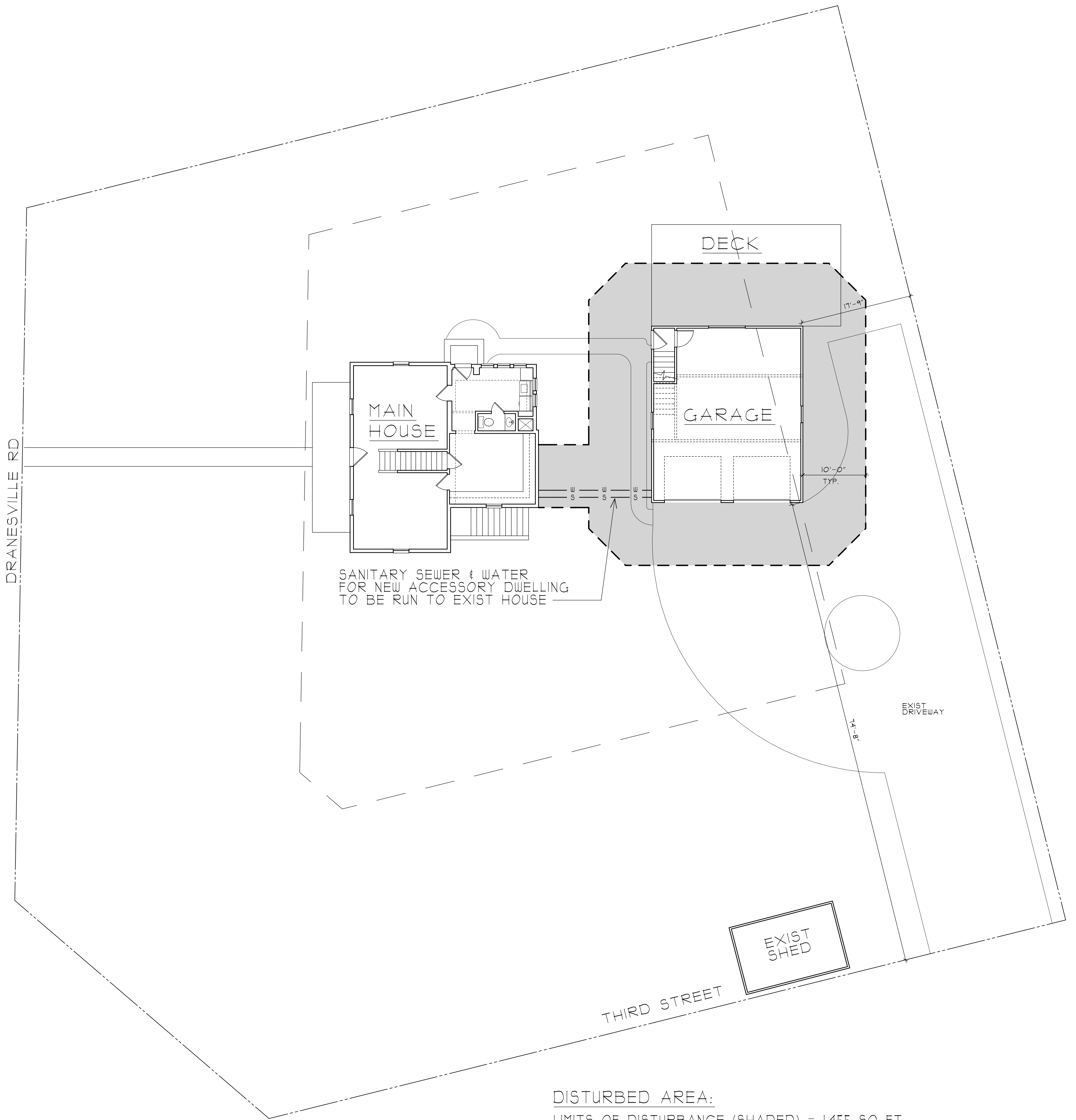
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of: 4

Date: 06/02/2020 Special Exception
10/06/2020 Special Exception, 2nd Submission
1/11/2021 Special Exception/HPR Submission

Job No. 1919
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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)

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:

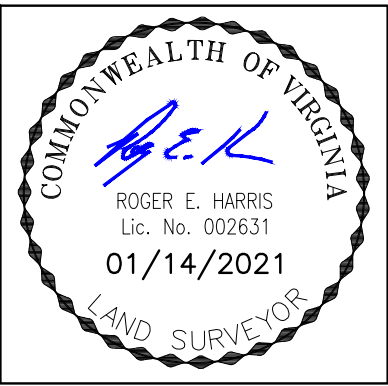
Lesa J. Yeatts, Town Attorney

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

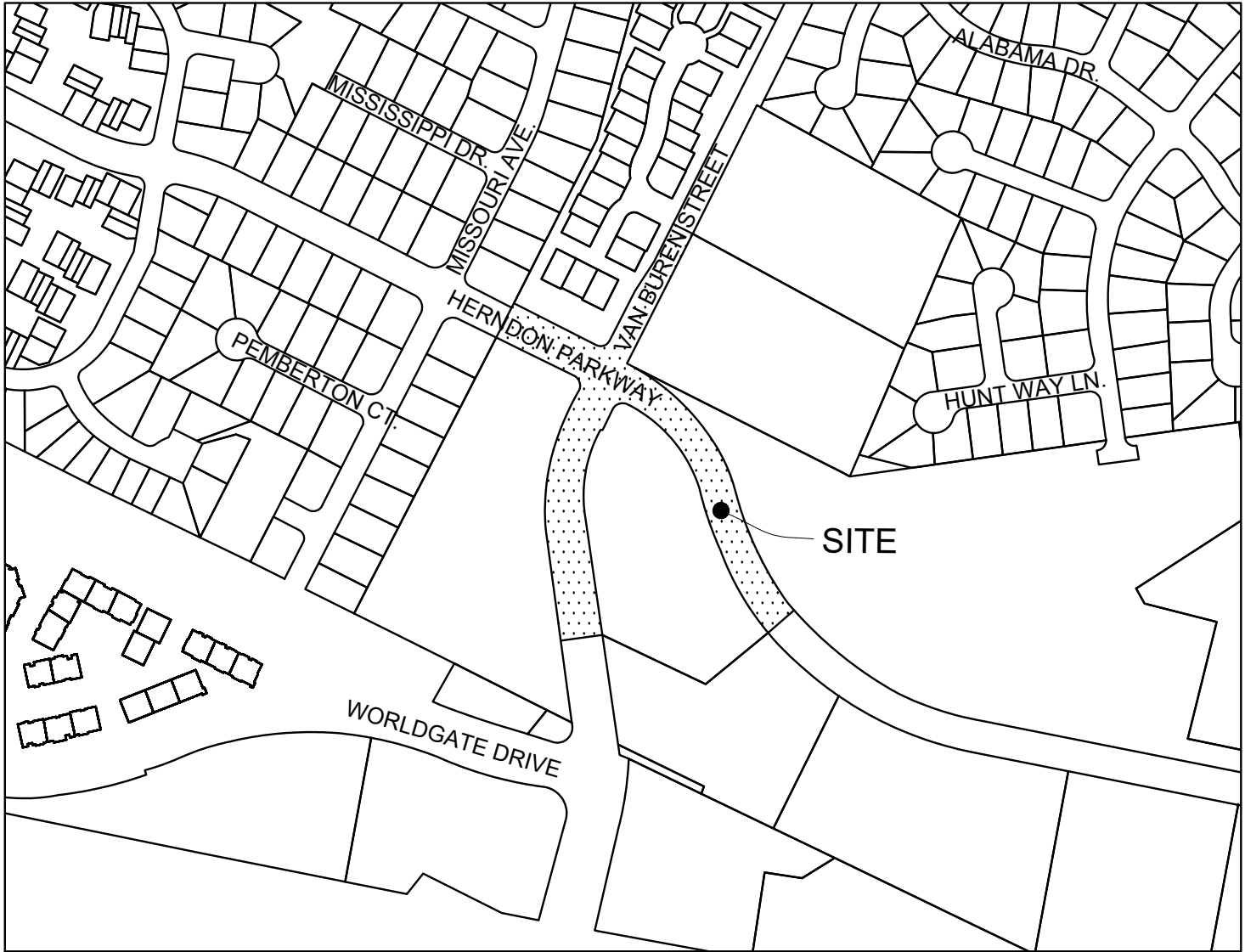
R.O.W. Line Table		
Line #	Length	Direction
L5	4.06'	S65° 29' 57"E
L6	40.02'	S24° 28' 11"W
L7	21.06'	S65° 10' 28"E
L8	11.02'	S43° 43' 31"E
L9	13.38'	S46° 26' 28"W

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

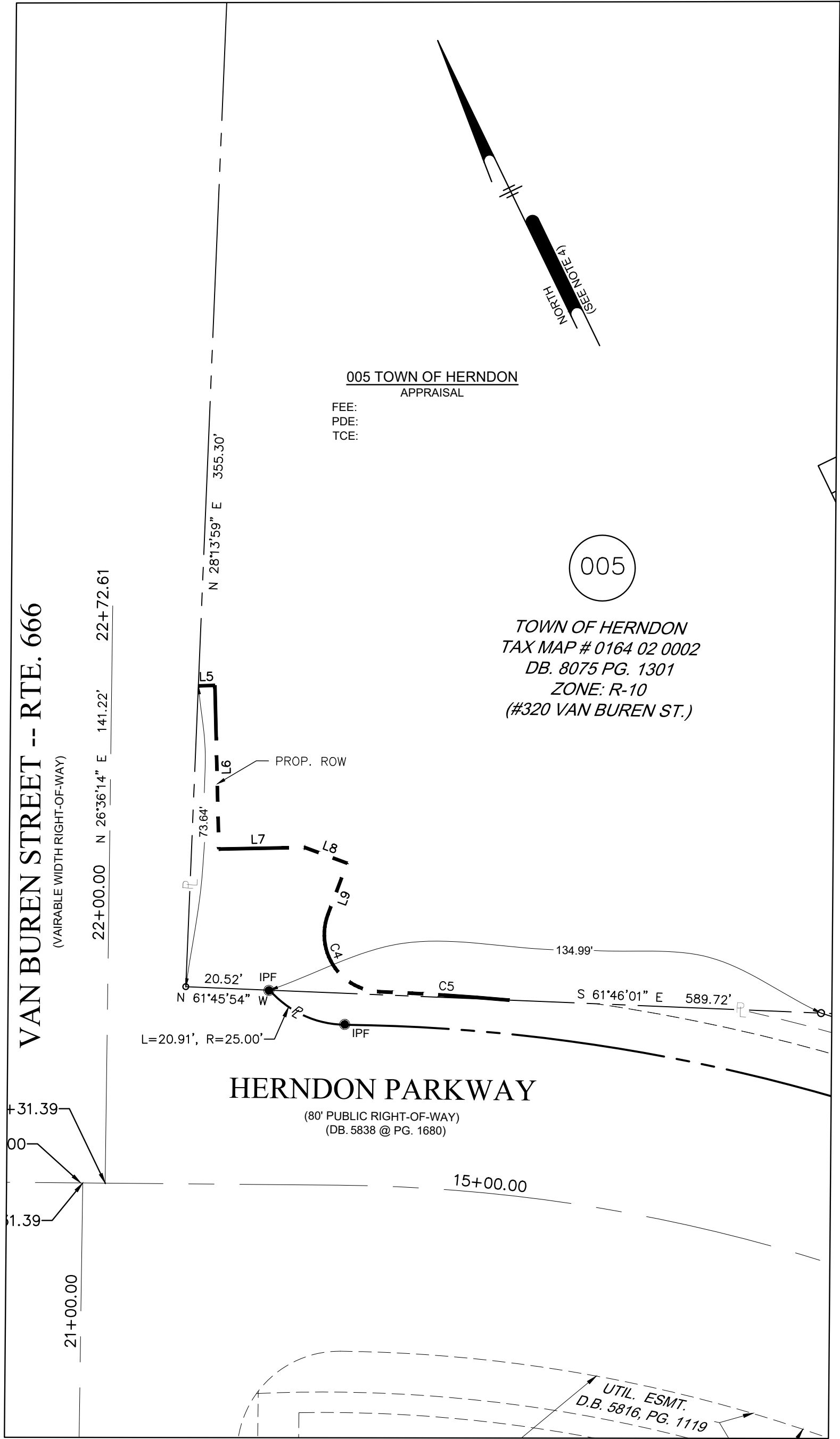
I, ROGER E. HARRIS, A DULY CERTIFIED LAND SURVEYOR, DO HEREBY CERTIFY THAT THE LAND EMBRACED ON THIS PLAT IS IN THE NAME OF TOWN OF HERNDON D.B. 8075 @ PG. 1301 AS RECORDED AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

NOTES

- 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.
- ALL OF THE PROPERTIES PHYSICAL IMPROVEMENTS ARE NOT SHOWN HEREON.
- 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.
- THIS SURVEY DATUM IS BASED ON VDOT PROJECT # 0606-235-335.
- RIGHT-OF-WAY MONUMENTATION TO BE SET UPON COMPLETION OF CONSTRUCTION.

PROJECT	SHEET NO.
HERN1501	1

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



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



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.
4. 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.
5. 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

7. In all other respects the original lease remains in effect.
8. 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.
9. 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.

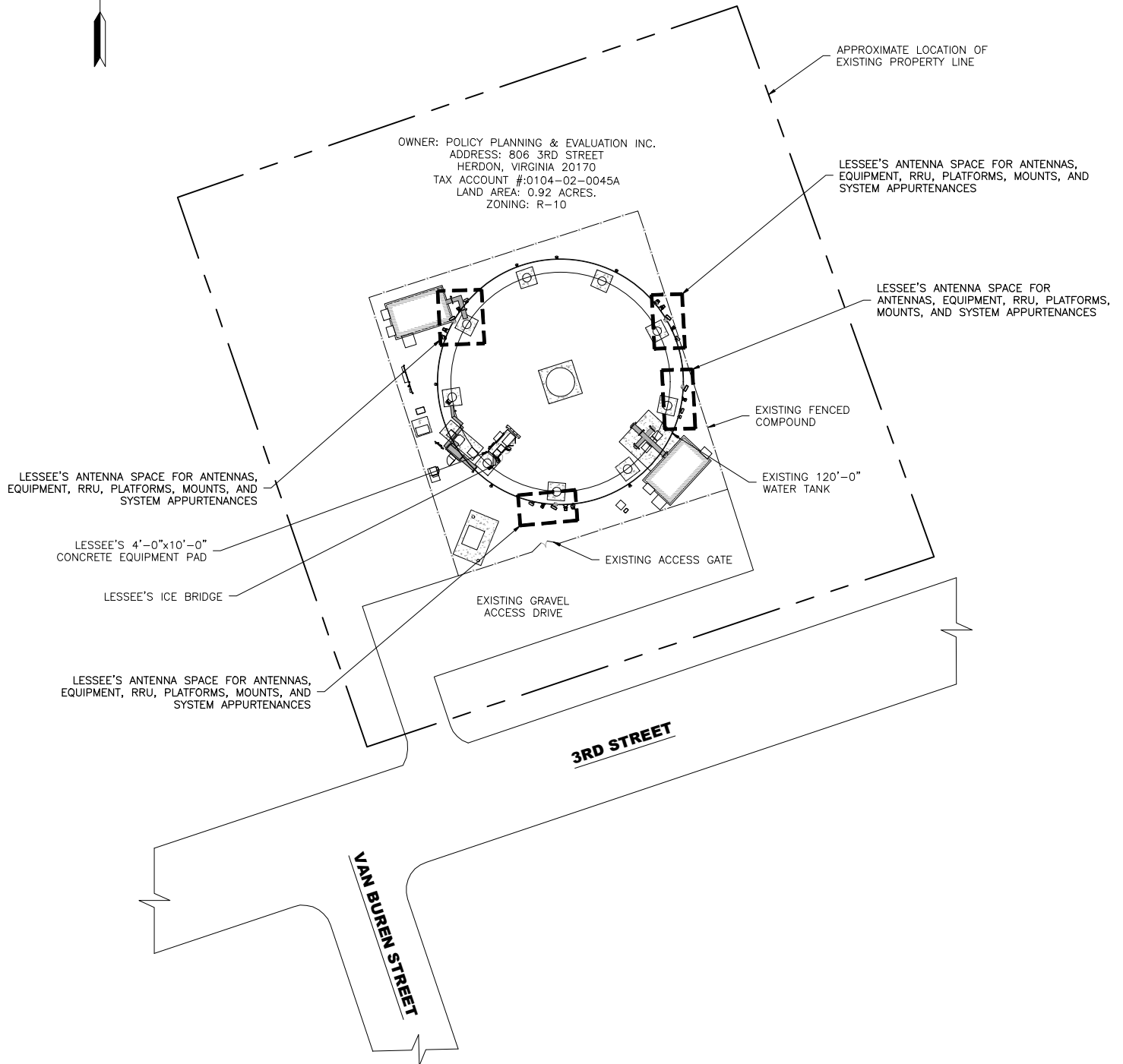
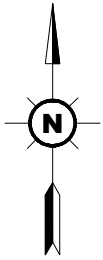
Nothing in this legal description shall convey to Lessee any rights in the Property other than what are specifically described in this Deed of Lease as to the Premises.

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

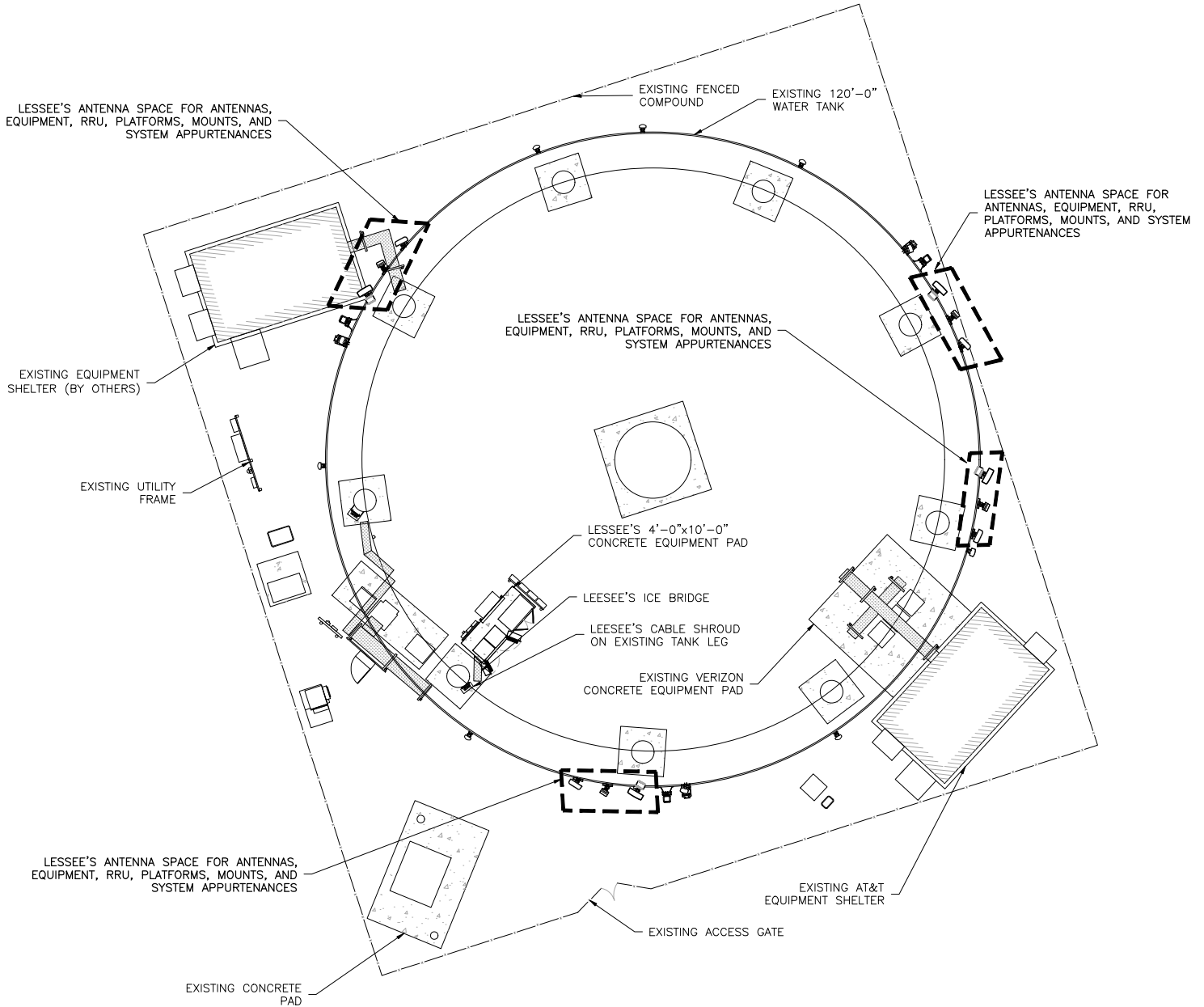
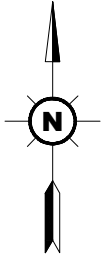


1 SITE PLAN
 LE-1 SCALE: N.T.S.

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



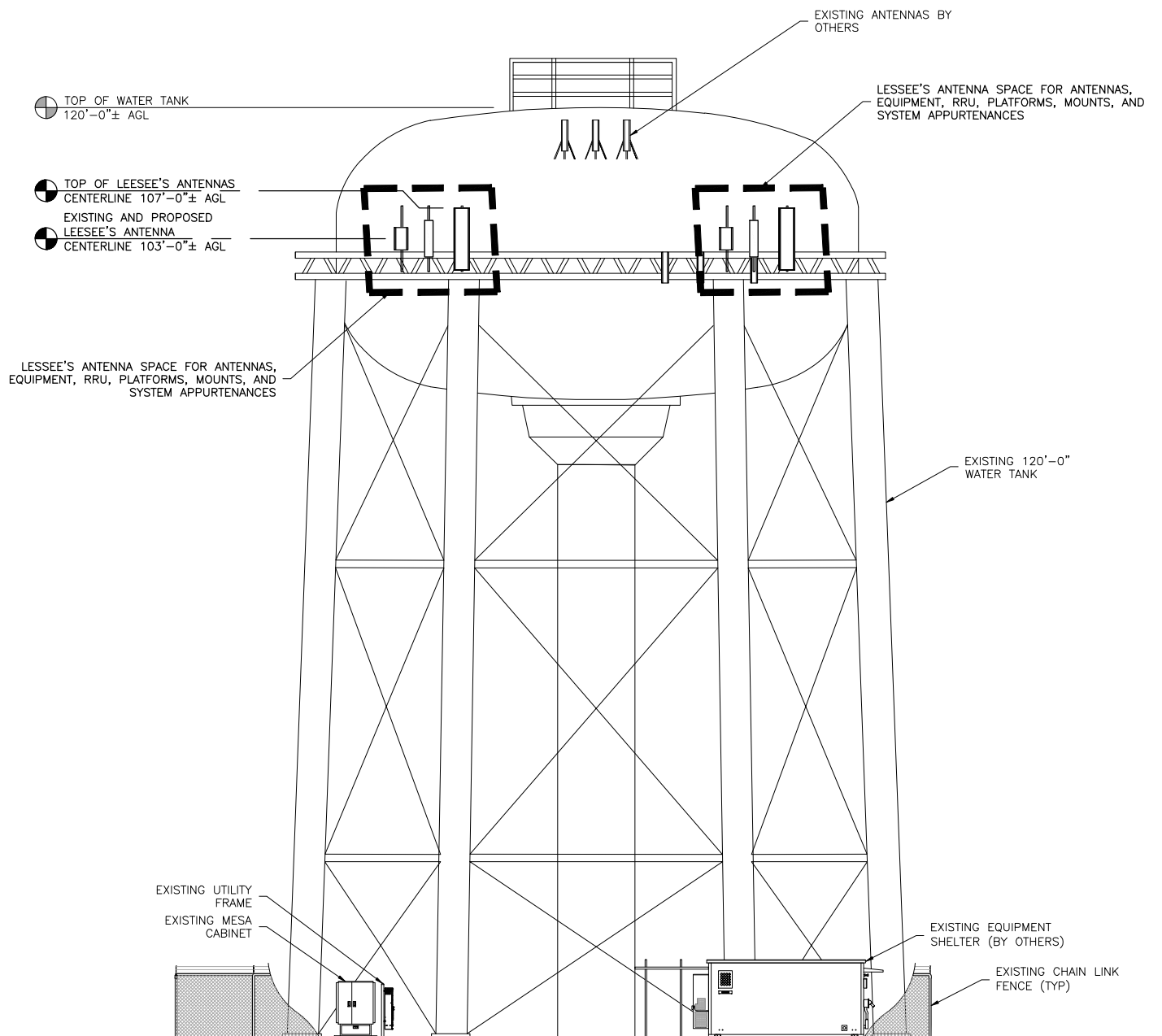
1
LE-2 **COMPOUND PLAN**
 SCALE: N.T.S.

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 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

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.

7. 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

8. In all other respects the original lease remains in effect.
9. 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.
10. 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:

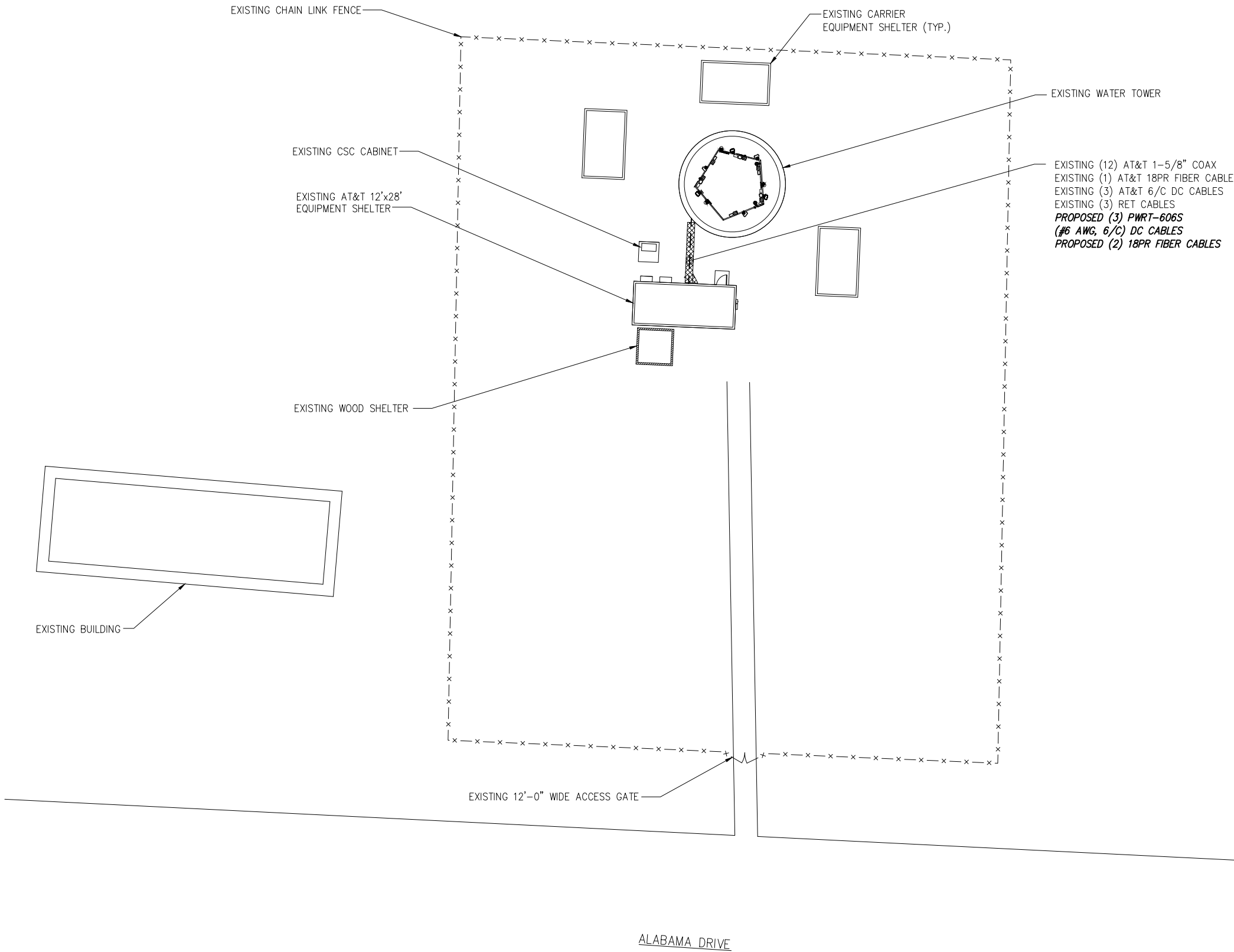
1. The Ground Space, consisting of approximately 336 square feet for placement of equipment shelter.
2. Space on the Tower sufficient to accommodate the placement, installation, operation and maintenance of the equipment (listed on Exhibit "E").
3. The Access easement.
4. The Utility Easements.
5. The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

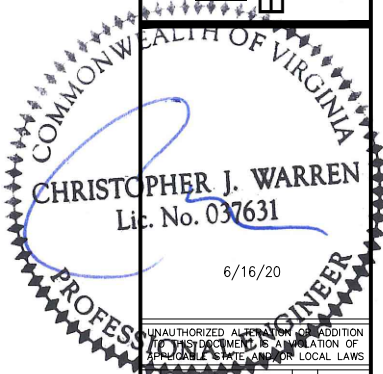
Exhibit E
Page 1 of 5
December 8, 2020

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"



**INFINIGY &
ENGINEERING, PLLC**
6865 DEERPATH ROAD SUITE 152
ELK RIDGE, MD 21075



UNAUTHORIZED ALTERATION OR ADDITION
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: MRL
Checked: AJD

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
**COMPOUND
PLAN**

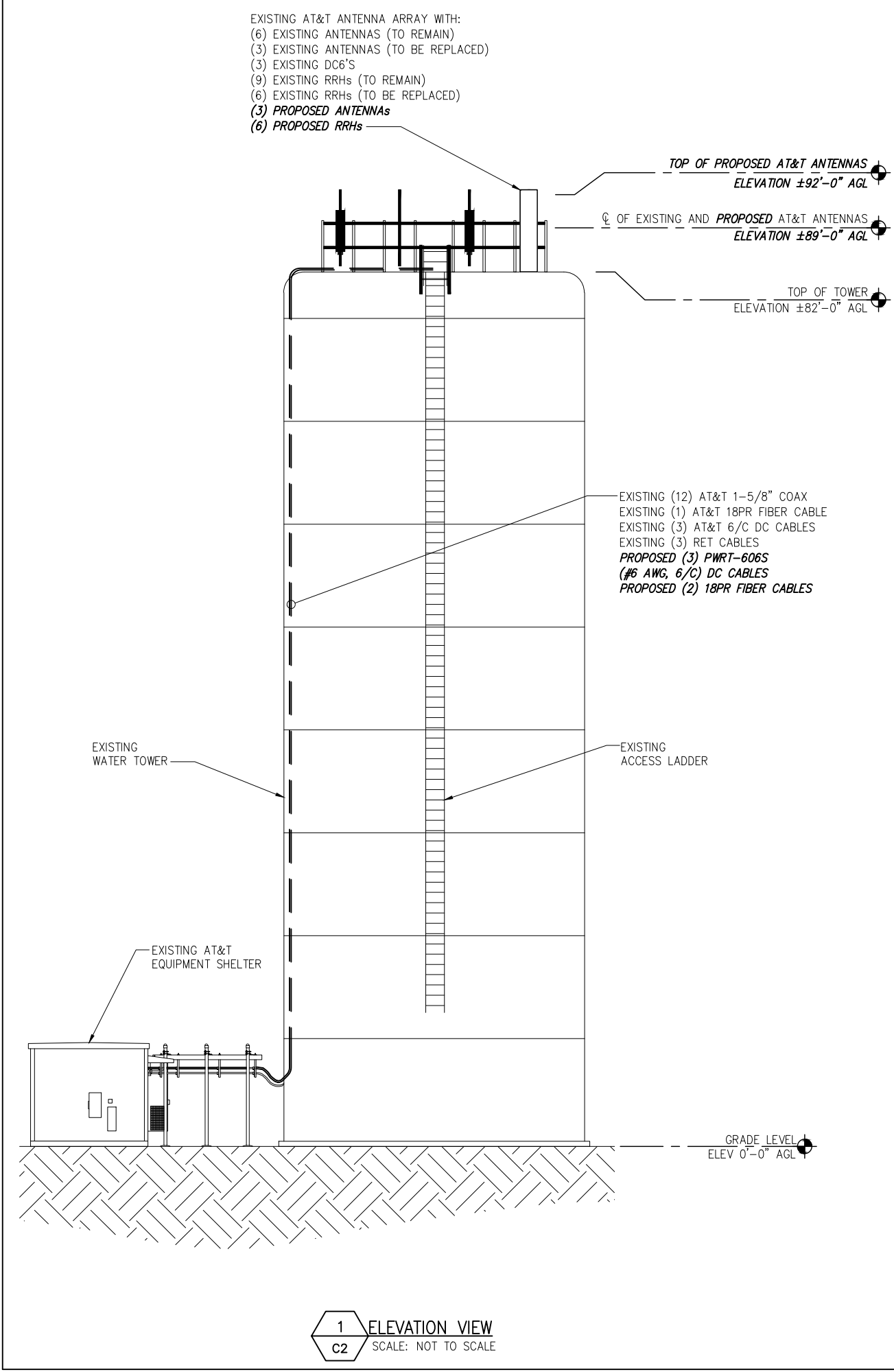
Drawing Number
C1

NORTH

1
C1
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



INFINIGY8
ENGINEERING, PLLC
6865 DEERPATH ROAD SUITE 152
ELK RIDGE, MD 21075

COMMONWEALTH OF VIRGINIA
CHRISTOPHER J. WARREN
Lic. No. 037631
6/16/20
PROFESSIONAL ENGINEER

UNAUTHORIZED ALTERATION OR ADDITION
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:

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

Drawing Title
**ELEVATION
AND
RF SCHEDULE**

Drawing Number
C2

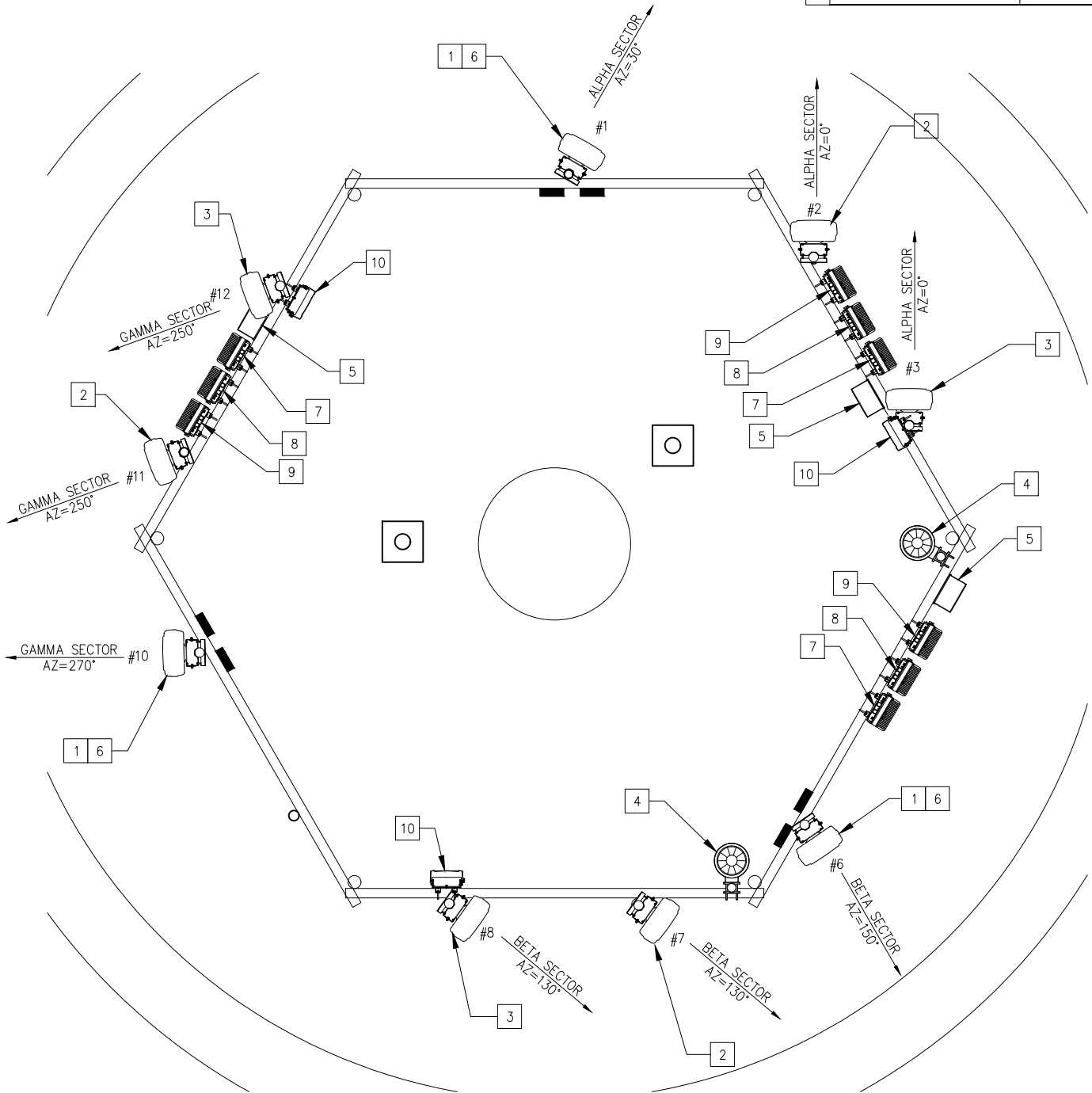
AT&T TOWER PIM NOTICE

- 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

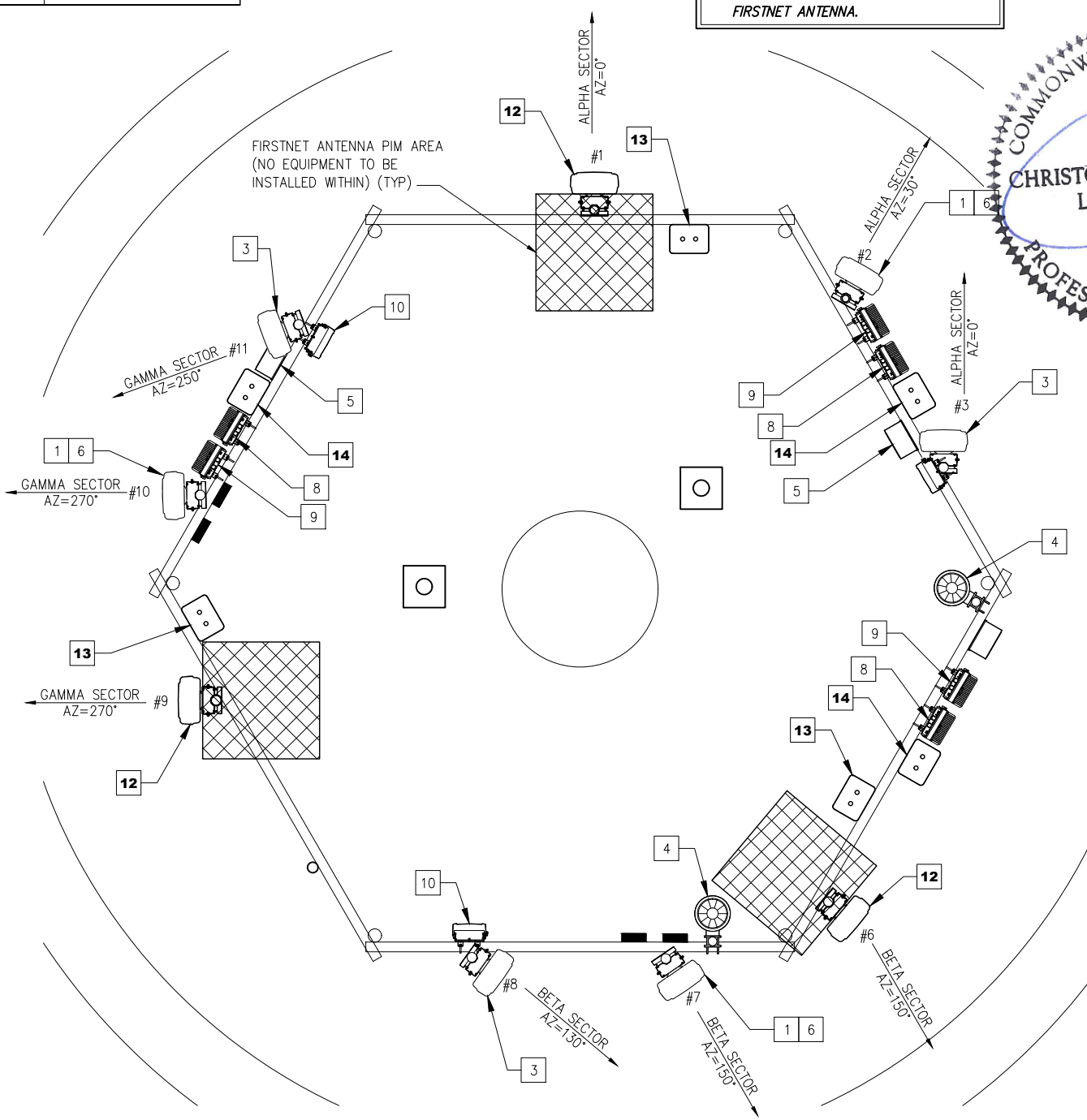
ORIENTATION PLAN KEY				
KEY	DESCRIPTION	TYPE	QTY	STATUS
1	80010121	ANTENNA	3	RELOCATED
2	SBJAH4-1D65C-DL	ANTENNA	3	REMOVED
3	80010966	ANTENNA	3	REMAIN
4	DC6	DC/FIBER MGMT	3	REMAIN
5	SLACK BOX	SLACK BOX	3	REMAIN
6	LGP13519	DIPLEXER	12	RELOCATED
7	RRH2x40W-07L	RRH	3	REMOVED
8	RRH4x25-WCS-4R	RRH	3	REMAIN
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"



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

6/16/20

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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: MRL
Checked: AUB

Project Number:
1106-A0001-C

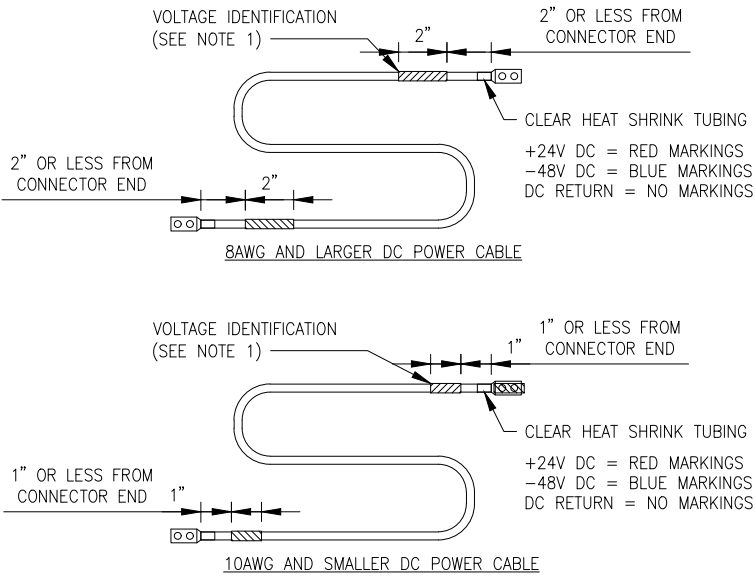
Project Title:
CALHOUN CT
SITE ID: 2873
FA # 10067722
627 ALABAMA DR
HERNDON, VA 20170

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



Drawing Title
ANTENNA
ORIENTATION
PLAN

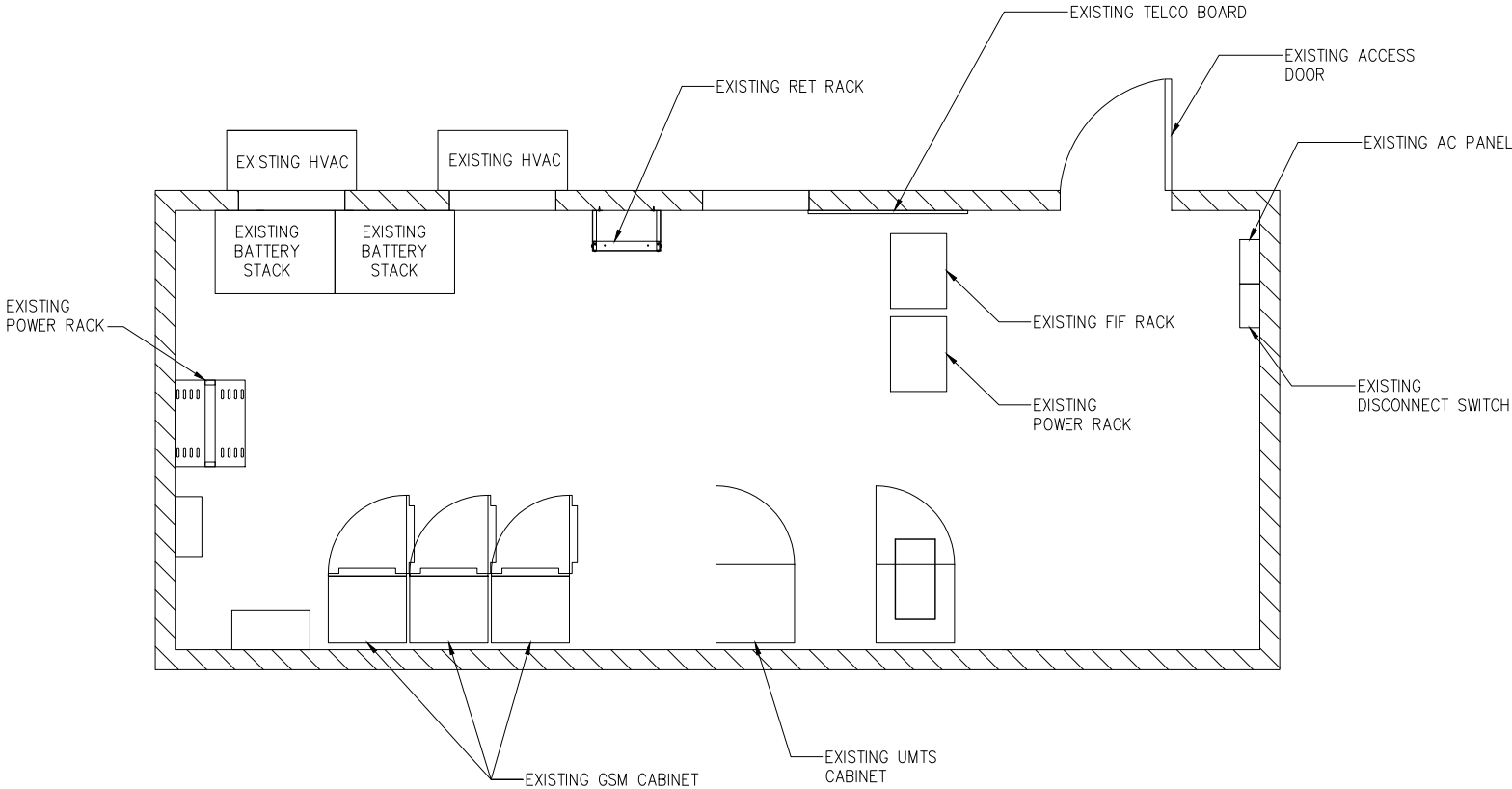
Drawing Number
C3



- NOTES:
- 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.
 - 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. 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.
 - 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:
- ROUTE PROPOSED TELCOFLEX DC CONDUCTORS IN EXISTING CEILING MOUNTED CABLE TRAY.
 - 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.

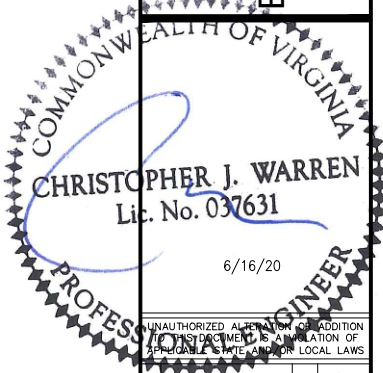


2 EQUIPMENT LAYOUT
SCALE: NOT TO SCALE

Exhibit E
Pg. 5 of 5
December 8, 2020

3 NOT USED
SCALE: NOT TO SCALE

4 NOT USED
SCALE: NOT TO SCALE



INFINIGY
ENGINEERING, PLLC
6865 DEERPATH ROAD SUITE 152
ELK RIDGE, MD 21075

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Drawing Title
**EQUIPMENT
LAYOUT
& DETAILS**

Drawing Number
C4

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: John Orrison **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:
- 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:

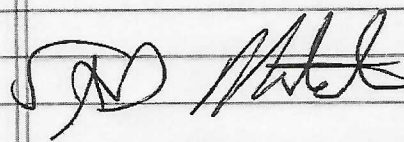
THE ABOVE APPLICANT

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 O'Neil
BUILDING INSPECTOR

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: 

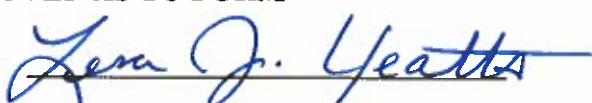
Name: William H. Ashton II

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.

Establish additional funding in contingency for Council priorities.

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.

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

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- 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

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.

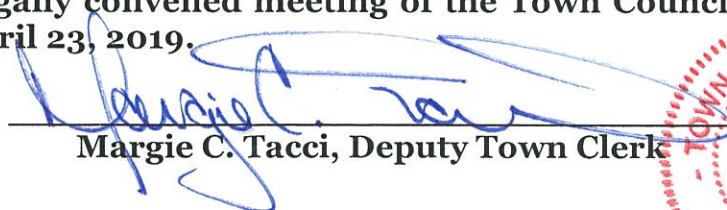
NOW THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

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

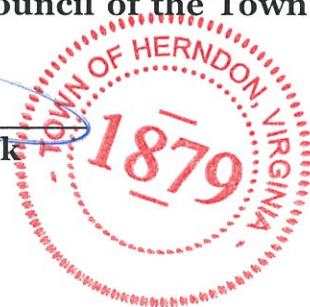
- A. **Substantial Conformity.** The site shall be developed and maintained in substantial conformance with the NB+C/Vertical Bridge plan exhibit, dated March 19, 2019, except where modified by these conditions and with the removal of the modification requests #2 and #3 listed on the cover sheet of the 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				
(ONE SECTION FEE AND SECTION AMOUNT OF THE OTHER SECTION)				
ITEM	QUANTITY	UNIT	PER UNIT	FEE
1. SURVEILLANCE SERVICE	50	HR.	\$1	\$50
2. PHOTOGRAPHY	100	HR.	\$1	\$100
3. INTERVIEW OF WITNESSES	100	HR.	\$1	\$100
4. INTERVIEW OF SUSPECT	100	HR.	\$1	\$100
5. INTERVIEW OF VICTIM	100	HR.	\$1	\$100
6. INTERVIEW OF WITNESS	100	HR.	\$1	\$100
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INDEX	PAGE
T-1	TITLE SHEET
T-1	1 OF 7
S-1	SITE PLAN
S-2	2 OF 7
S-3	ENLARGED SITE PLAN
S-3	3 OF 7
S-4	COMPOUND PLAN & ELEVATION
S-4	4 OF 7
D-1	CONSTRUCTION DETAILS
D-1	5 OF 7
L-1	EXISTING LANDSCAPE PLAN
L-1	6 OF 7
L-2	PROPOSED LANDSCAPE PLAN
L-2	7 OF 7

MODIFICATION REQUESTS

THE DEVELOPER REQUESTS THE FOLLOWING MODIFICATIONS AS PART OF APPLICATIONS FOR A PERMIT AND SET ASH-02:

- SECTION 78-114.2-2 TO ALLOW A 7' CHAIN LINK FENCE INSTEAD OF A MASONRY WALL AND OPAQUE METAL GATES.
- SECTION 78-115.2 TO ALLOW BARBED WIRE ON TOP OF THE CHAIN LINK FENCE.
- SECTION 78-110.4 TO ALLOW THE 16' ACCESS EASEMENT WITHIN A PORTION OF THE 7.5' REQUIRED PERIMETER LANDSCAPE BUFFER.

WAIVER REQUESTS

REGARDLESS EACH SECTION OF THE ZONING ORDINANCE, PUBLIC UTILITIES MATERIALS, OR SUBDIVISION ORDINANCE FROM WHICH A WAIVER IS REQUESTED, THE APPLICANT SHALL BE REQUIRED TO FURNISH SUFFICIENT INFORMATION TO ACCURATELY IDENTIFY THE SECTION OF THE ZONING ORDINANCE, PUBLIC UTILITIES MATERIALS, OR SUBDIVISION ORDINANCE FROM WHICH A WAIVER IS REQUESTED.

SECTION OF ZONING ORDINANCE: _____ OF _____ = \$200.00 PER REQUEST

SECTION OF PUBLIC UTILITIES MATERIALS: _____ OF _____ = \$200.00

SECTION OF SUBDIVISION ORDINANCE: _____ OF _____ = \$200.00

NUMBER OF REQUESTS: _____ x \$200.00 = _____

TOTAL FEE COLLECTED (CHECK ONE): _____

EXISTING CONDITION SURVEY NOTES

PROPERTY: _____

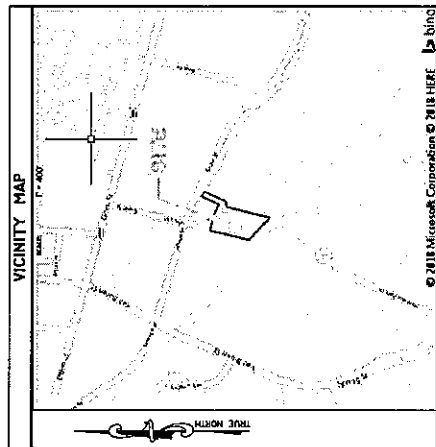
LOCATION: _____

DATE: _____

BY: _____

FOR: _____

REMARKS: _____



LOCATION OF BENCHMARKS	
DATE	FARMER COUNTY FIRE MARSHAL
DATE	DIRECTOR OF PUBLIC WORKS
DATE	DIRECTOR OF COMMUNITY DEVELOPMENT
DATE	ZONING COMMISSIONER

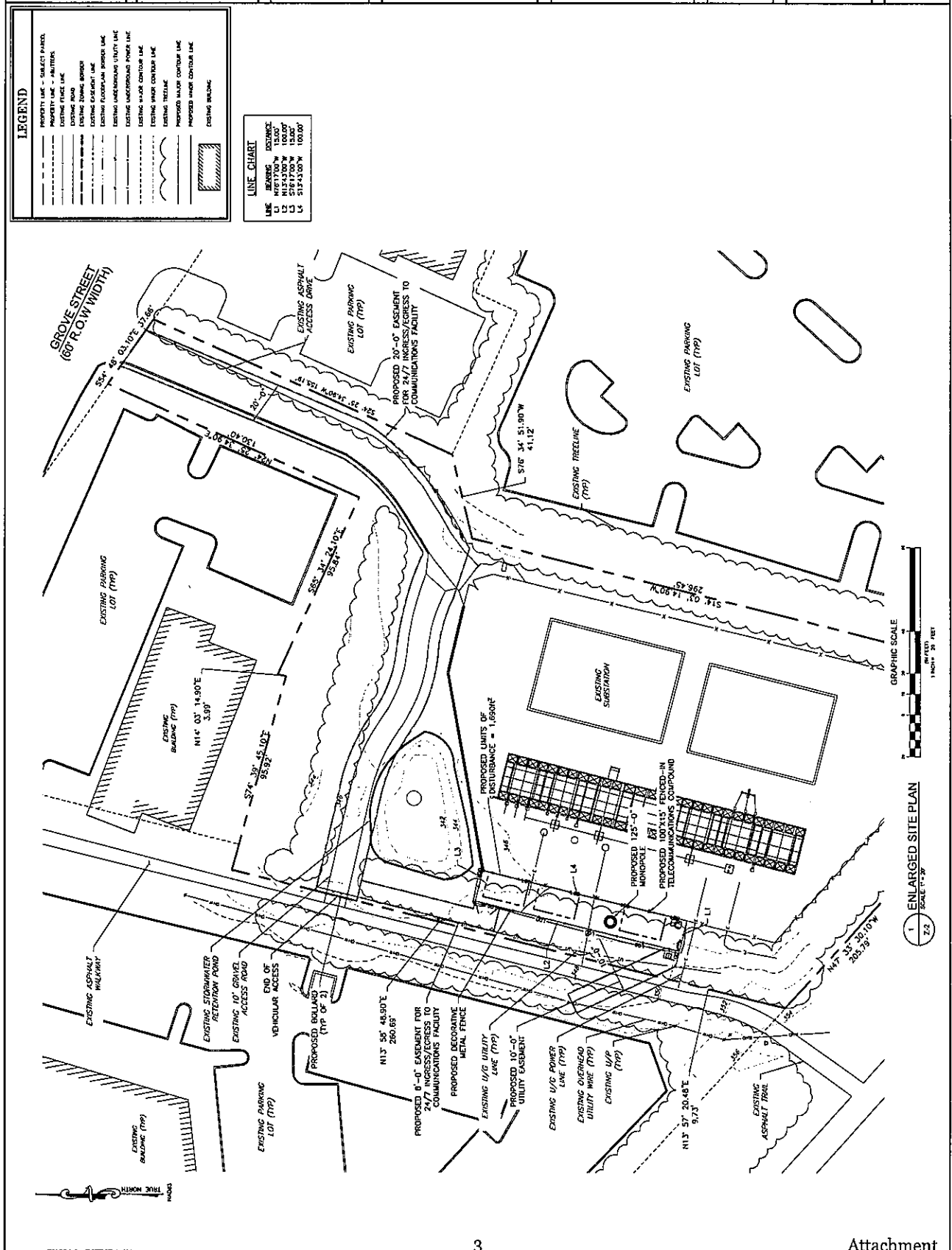
SECTION 7A-202(2)(3) SUBCOMMITTEE APPROVAL VOID IF FINAL SUBCOMMITTEE MEETING IS NOT SCHEDULED WITHIN ONE YEAR OF APPROVAL OF A PRELIMINARY SUBCOMMITTEE PLAN.

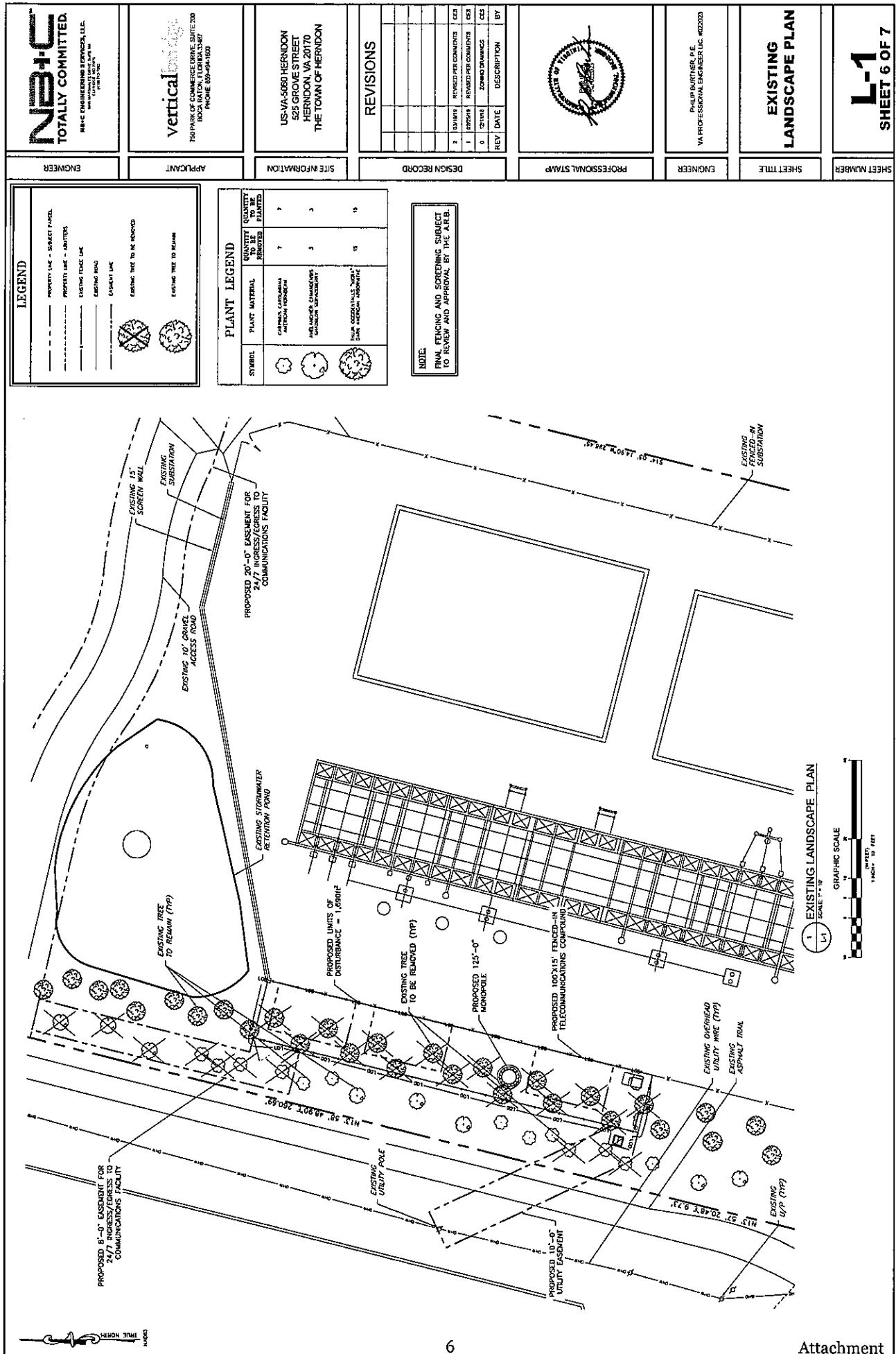
SECTION 7A-202(4): SITE PLAN AND SINGLE LOT DEVELOPMENT PLAN APPROVAL SHALL AUTOMATICALLY EXPIRE AT THE END OF A FIVE-YEAR PERIOD FOLLOWING THE DATE OF ITS APPROVAL. IF THE ZONING COMMISSION HAS REVIEWED THE FIVE-YEAR PERIOD OF AN APPROVAL BUT HAS NOT REVIEWED THE SUBCOMMITTEE PLAN AND HAS NOT BEEN APPROVED.

BEFORE YOU DIG
CALL "MISS UTILITY" 811
OR 1-800-542-7001
visit online at miss11.com

TOWN PLAN #:		TOWN OF HERNDON, VIRGINIA		COVER SHEET	
SENDER OR SHEET PLAN #:		US-VA 5060 HERNDON			
SENDER OR SHEET NAME:		VIRGINIA ELECTRIC AND POWER COMPANY			
SENDER OR SHEET NUMBER:		701 E CARY ST RICHMOND, VA 23219			
REQUIRE ADDRESS AND TELEPHONE NUMBER:		VERTICAL BLDG. 750 PARK OF COMMERCE DR. STE 200 BOCA RATON, FL 33467 PHONE: 955-894-1600			
ENGINEER'S NAME, ADDRESS AND TELEPHONE NUMBER:		NILES ENGINEERING SERVICES, LLC. 6955 MARSHALEE AVE STE 300 FALLS CHURCH, VA 22034 ENCLIDMO, MD 21075 PHONE: 410-712-7262			
TOTAL SHEET COUNT:		0152 OF 0152		PROJECT NUMBER: 5060-VA-HERNDON	
TOTAL SHEET COUNT:		1 OF 1		PAGE 1 OF 7 PAGES	

ENGINEER	APPLICANT	SITE INFORMATION	DESIGN RECORD	PROFESSIONAL STAMP	ENGINEER	SHEET TITLE	SHEET NUMBER																																												
NB+C TOTALLY COMMITTED. NB+C ENGINEERING SERVICES, LLC 10000 W. BAYVIEW BLVD., SUITE 100 MIAMI, FL 33154 (305) 555-1234	vertical 250 PARK OF COMMERCE DRIVE, SUITE 200 BOCA RATON, FLORIDA 33487 PHONE: 561-994-1000	US-VA-5860 HERNDON 525 GROVE STREET HERNDON, VA 20170 THE TOWN OF HERNDON	REVISIONS <table border="1"> <thead> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>2</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>3</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>4</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>5</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>6</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>7</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>8</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>9</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>10</td> <td>02/01/18</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> </tbody> </table>	REV	DATE	DESCRIPTION	BY	1	02/01/18	REVISED PER COMMENTS	CEB	2	02/01/18	REVISED PER COMMENTS	CEB	3	02/01/18	REVISED PER COMMENTS	CEB	4	02/01/18	REVISED PER COMMENTS	CEB	5	02/01/18	REVISED PER COMMENTS	CEB	6	02/01/18	REVISED PER COMMENTS	CEB	7	02/01/18	REVISED PER COMMENTS	CEB	8	02/01/18	REVISED PER COMMENTS	CEB	9	02/01/18	REVISED PER COMMENTS	CEB	10	02/01/18	REVISED PER COMMENTS	CEB		PHILIP BLUMSTEIN, P.E. VA PROFESSIONAL ENGINEER LIC. #20022	SITE PLAN	Z-2 SHEET 3 OF 7
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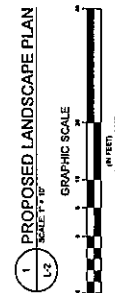
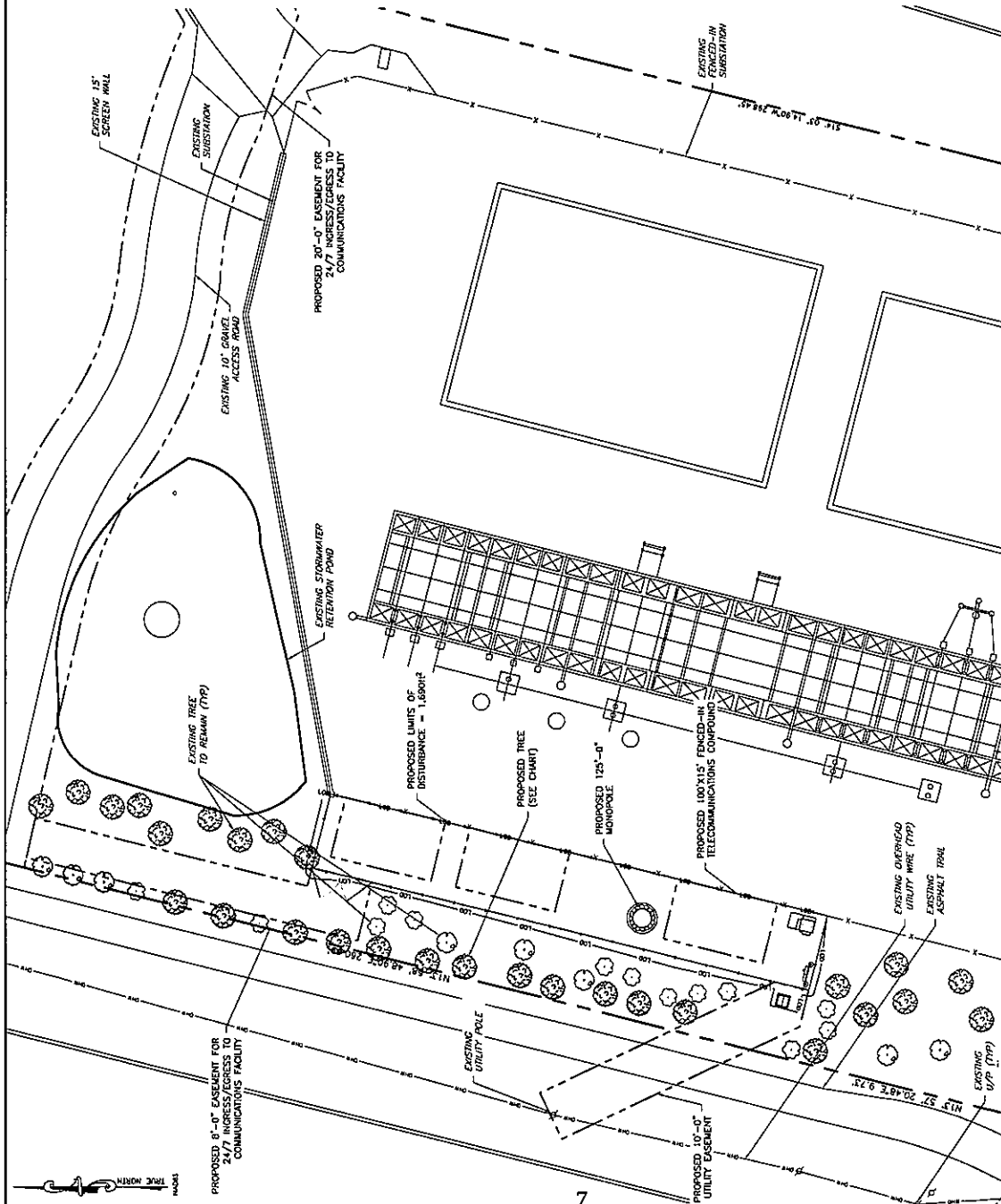
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---	EXISTING TREE TO BE REMOVED
---	EXISTING TREE TO REMAIN

PLANT LEGEND

SYMBOL	PLANT MATERIAL	QUANTITY TO BE REMOVED	QUANTITY TO BE PLANTED
(Symbol)	CAROLINA YACONTHA	7	7
(Symbol)	AMERICAN HOLLYHOCK	3	3
(Symbol)	AMERICAN HOLLYHOCK	15	15

NOTE:
FINAL FENCING AND SCREENING SUBJECT TO REVIEW AND APPROVAL BY THE A.E.B.

N&C TOTALY COMMITTED. N&C ENGINEERING SERVICES, LLC 1000 N. UNIVERSITY BLVD., SUITE 100 BOCA RATON, FL 33433 PHONE 561-994-1000	vertical 150 PARK OF COMMERCE DRIVE, SUITE 200 BOCA RATON, FL 33487 PHONE 561-994-1000	US-VA-5080 HERRICK 525 GROVE STREET HERRICK, VA 20170 THE TOWN OF HERRICK	REVISIONS <table> <tr> <th>REV</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>CEB</td> </tr> <tr> <td>2</td> <td>02/01/14</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> <tr> <td>3</td> <td>02/01/14</td> <td>REVISED PER COMMENTS</td> <td>CEB</td> </tr> </table>	REV	DATE	DESCRIPTION	BY	1	02/01/14	REVISED PER COMMENTS	CEB	2	02/01/14	REVISED PER COMMENTS	CEB	3	02/01/14	REVISED PER COMMENTS	CEB		PHILIP BURRER, P.E. VA PROFESSIONAL ENGINEER LIC. #022023	EXISTING LANDSCAPE PLAN	L-1 SHEET 6 OF 7
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N&C TOTALLY COMMITTED. N&C ENGINEERING SERVICES, LLC 1000 W. 10TH AVE., SUITE 100 BOCA RATON, FL 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 #60220	PROPOSED LANDSCAPE PLAN	L-2 SHEET 7 OF 7
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LEGEND		
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---	EXISTING TRUCK LANE	
---	EXISTING ROAD	
---	EXISTING LANE	
---	EXISTING TREE TO BE REMOVED	
---	EXISTING TREE TO REMAIN	

PLANT LEGEND		
SYMBOL	PLANT MATERIAL	QUANTITY TO BE PLANTED
	CAMPONOTUS CAROLINIANA	7
	CAMPONOTUS CAROLINIANA	3
	CAMPONOTUS CAROLINIANA	15

PLANTING SCHEDULE		
SPACING	SIZE	QUANTITY/LOCATION
3'-4'	3'-4'	AS SHOWN
4'-5'	4'-5'	AS SHOWN
5'-6'	5'-6'	AS SHOWN

NOTE:
FINAL FENCING AND SCREENING SUBJECT TO REVIEW AND APPROVAL BY THE A.T.E.B.

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

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.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to appoint the Town of Herndon's "Principal" member to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTA PCAC).

WHEREAS, General Assembly legislation creating the Northern Virginia Transportation Authority (NVTA) calls for the establishment of the Planning Coordination Advisory Committee (PCAC); and

WHEREAS, legislation mandates that the PCAC, 'shall include, but not be limited to, at least one elected official from each town that is located in any county embraced by the Authority and receives street maintenance payments under § 33.1-41.1'; and

WHEREAS, membership of the PCAC is comprised of elected officials who are not members of the NVTA, including one member from the towns of Dumfries, Herndon, Leesburg, Purcellville, Vienna and any town that receives the specified street payment in the future; one member each from the Cities of Fairfax, Falls Church, Manassas and Manassas Park; two members each from the City of Alexandria and Arlington County; three members each from the Counties of Loudoun and Prince William; and four members from Fairfax County; and

WHEREAS, members are appointed annually by their local governing bodies.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Councilmember Naila Alam**, as the Town's elected official to the Northern Virginia Transportation Authority's Planning Coordination Advisory Committee (NVTA PCAC) for the 2021-2022 term.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to reappoint Clark Hedrick to the Board of Zoning Appeals.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Clark Hedrick** to the Board of Zoning Appeals to a five-year term ending December 31, 2025.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to reappoint the “Architect/Architectural Historian” member to the Historic District Review Board.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Matthew Ossolinski** as the “Architect/Architectural Historian” to the Historic District Review Board for a one-year [non-resident] term ending February 28, 2022.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 26, 2021

Resolution- to appoint a Town of Herndon member to the Phase II Dulles Rail Transportation Improvement District Advisory Board.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints **Andrew J, Czekaj, III** as the Town of Herndon member to the Phase II Dulles Rail Transportation Improvement District Advisory Board to fill an unexpired four-year term ending January 31, 2024.