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HERNDON TOWN COUNCIL
Tuesday
January 26, 2021

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, Mayor Olem stated that the January 26, 2021 Herndon Town Council Public Hearing would be by electronic means. The meeting was broadcast and recorded through Cisco Webex and details for the meeting were made available to the public on Thursday, January 7, 2021. In attendance electronically were: Mayor Sheila A. Olem; Vice Mayor Cesar del Aguila; and Councilmembers Naila Alam; Pradip Dhakal; Signe Friedrichs; Sean M. Regan; and Jasbinder Singh (due to technical difficulties, Councilmember Singh was away from the dais until 7:14 p.m.).

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Jennie Tripoli, Director of Finance; Scott Robinson, Director of Public Works; David Stromberg, Zoning Administrator; John Irish, Deputy Director of Public Works; Tammy Chastain, Deputy Director of Public Works, Karen Gagliano, Budget Manager; and Amanda M. Kertz, Chief Deputy Town Clerk.

Announcements

Amanda M. Kertz, Chief Deputy Town Clerk, welcomed those listening to the January 26, 2021 Town Council public hearing and stated that night's regularly scheduled Herndon Town Council meeting was a virtual meeting, which was being conducted electronically pursuant to:

- ❖ Virginia Code Section 2.2-3708.2, as amended;
- ❖ the Governor's Executive Orders, as amended; and

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- ❖ 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.
- Proper notice of the electronic meeting was provided in accordance with the Code of Virginia;
- Agenda and meeting materials, along with information for viewing the meeting and submitting comments for the record are available on the town's website; and
- Electronic meetings will begin with a roll call to determine a quorum and all votes, including adjournment, will be by roll call vote.

CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Olem called the public hearing by electronic means to order at 7:00 p.m. and asked Ms. Kertz to call the roll for attendance. Mayor Olem asked each Councilmember to respond by clearly stating their name and indicating they were present.

Following the roll call for attendance, Mayor Olem confirmed there was an electronic quorum present. All members were present electronically, with Mayor Olem presiding. As Ms. Kertz stated, the meeting that evening was being conducted pursuant to the appropriate laws associated with the COVID-19 pandemic disaster.

ANNOUNCEMENTS

Mayor Olem announced that Council had their Second Housing Webex earlier that day with guest speaker Mr. Fabrizio Fasulo, Director of Planning and Policy for Virginia Housing about House Bill 854 Housing Study. She stated the Webex was available on Granicus and thanked Town Manager, Mr. Ashton and Town Attorney, Ms. Yeatts for their work on it.

Mayor Olem also announced that Mr. Ashton cleared the agendas of the first two meetings in February which would now be dedicated solely to the discussion of Strategic Council Initiatives.

Mayor Olem also stated Town Business Licenses would be due in March.

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APPROVAL OF MINUTES

**Vote on January 5, 2021
Work Session Minutes**

On motion of Councilmember Dhakal, seconded by Councilmember Regan, and carried by unanimous roll call vote by electronic means, the minutes of the January 5, 2021 work session were approved. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

2. COMMENTS FROM THE TOWN MANAGER

Mayor Olem recognized William H. Ashton II, Town Manager, for comments followed by questions of Council.

Mr. Ashton began his comments by providing a COVID-19 update. Based on phone conversations with Fairfax County Health Department, he shared that the county had pre-registered over 130,000 people for Phase 1B, but there was not enough supply. Fairfax County was getting roughly 10,000 or less doses a week, and they were weeks to months from proceeding past Phase 1B.

He reviewed that Phase 1B included Public Safety and teachers and stated that some of Phase 1A was still being processed. Mr. Ashton stated jails and other congregate living settings were included in 1B and individuals 75 and older were getting priority. After those folks, the next phase would focus on agriculture and food processing, manufacturing personnel, grocery store workers, public transit, mail carriers, continuity of government personnel—so far defined as judges and court personnel—although it was presumed elected officials would be included.

Mr. Ashton stated most town staff are included in Phase 1C with that phase being weeks or months away. He also stated there had been a plateau of cases with a very slow progression of slow down because holiday infections had been absorbed. However, he stated this was not something to get exuberant about and the current plateau was higher than in the spring. He stated the 20170-zip code was running 11th and had been between 10th and 12th in recent weeks. He indicated the town was still seeing staff with infections and exposures requiring them to be out on leave. He stated that had yet to have operational impact and cited the town's aggressive posture on immediate administrative leave after exposure.

Mr. Ashton reiterated Mayor Olem's mention of the Webex with Dr. Fasulo and stated the recording was on the town's website, herndon-va.gov. Mr. Ashton stated it was a detailed academic discussion about state-level work on housing and policy initiatives they intend to pursue and how this will help towns. He encouraged everyone to review the video.

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Mr. Ashton also provided further details about the Discussions on Strategic Initiatives February 2nd and 9th and shared they would be like two detailed work sessions. He stated he had received the top three priorities from four members of Council and asked the other Councilmembers to please send theirs at their earliest convenience.

Questions from Council

Vice Mayor del Aguila requested an update about the Herndon Aquatic Club (HAC) after a parent inquired about when the team could resume practices and competitions.

Mr. Ashton provided an update about the relationship between the boosters, the town, and HAC. He stated that laws and insurance overhead have increased dramatically in the past 35 years since it was created, and it was an unusual relationship. Only Washington, D.C. and Arlington have similar sports teams, so finding a good model was difficult. He stated swimming was the only sport the town does this for and they were looking for a way forward to reduce exposure and liability.

Vice Mayor del Aguila asked for clarification if the town sponsors this as an entity and therefore carries risk, and Mr. Ashton clarified that the town staffs swim coaches and the pool. Parents pay for the aquatics program, and the booster club and town do certain elements. He stated it was troubling in a lot of different ways and that 85 percent of participation came from outside of town. He also stated there was a significant cost of \$1200 to \$2400 per child. Mr. Ashton also stated the town was responsible for traveling. He also touched on prioritizing this in the middle of the pandemic and budgetary elements.

Vice Mayor del Aguila asked if there was an update, they could give of what needs to happen, and Mr. Ashton indicated he spoke to the president of the booster club and had been in contact for more documentation and will contact them again.

3. COMMENTS FROM THE TOWN COUNCIL

Vice Mayor del Aguila: Expressed support for the two upcoming Strategic Initiatives meetings and shared his appreciation for staff and moving this forward.

Councilmember Alam: Provided appreciative comments about the Presidential Inauguration.

Councilmember Dhakal: Reiterated for those listening that they are seeking and interviewing members for boards and commissions. He stated they are accepting applications to serve on town boards and commissions on the town's website and encouraged everyone to apply for one, or multiple, positions.

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Councilmember Friedrichs: Thanked staff for putting together the Second Housing Webex and shared she looked forward to hearing more about the housing studies discussed.

She also shared she attended Metro Monday at the Chamber of Commerce where there was a call to action asking businesses and individuals to express interest in Metro. She shared that Metro would probably open early summer or late spring 2021, and there were requests to improve budgets by not opening some of the stations when they are up and running.

Councilmember Friedrichs mentioned some local officials and stated she got the impression if they do not open Metro right, people will be resistant to take it. She reiterated the call to action was to have businesses and individuals contact Metro about how important Metro access was for them and their businesses. She offered to find and provide contact information for those interested.

Councilmember Regan: Shared that the past Thursday was the first Committee for Dulles Executive meeting. He stated it was largely organizational with plans for upcoming years, and he shared the committee was still setting up its bimonthly meeting schedule.

Councilmember Singh: Indicated he would submit his comments for the February sessions and stated he was looking forward to discussion. He stated Mr. Ashton could talk with him about rationale for his comments.

Mayor Olem: Shared that she also attended Metro Monday and that it was exciting to hear everyone being so supportive of Metro. She restated its importance for businesses who settle on the second phase of the Silver Line. She also shared she would attend the Virginia Municipal League's (VML) Government Day and mentioned the Northern Virginia Regional Commission (NVRC), who have been making sure Northern Virginia gets vaccines. She stated Northern Virginia was ahead of the rest of the state and extended thanks to healthcare workers for that.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem asked Ms. Kertz whether she had received comments for the record or Transactional Disclosure Declarations from Council on any items listed on that evening's agenda, and she stated that she had received comments on Public Hearing Resolution 21-G-18 and General Item 21-G-20. No transactional disclosures were received for that evening's meeting.

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4. **COMMENTS FROM THE AUDIENCE**

Mayor Olem outlined the participation process for Webex. She stated that Council would use a speakers list to call on those who have registered to provide "Comments from the Audience" to address Council on any matter that was not listed as a public hearing item on that night's agenda. She would call on each person that signed up to speak and would also announce the name of the next speaker. She would then pause briefly while staff enabled the speaker's ability to address Council. Speakers would have up to three minutes and should state their name and address for the record. Comments from the Audience were limited to 45 minutes or approximately 15 speakers.

Mayor Olem stated that a timer would appear on the Webex screen and encouraged speakers to wrap up when there were 30 seconds left on the timer. She then called on the following individual, who provided comments:

- Ann Vayda Null, 631 Oak St., Herndon: Provided comments about the integrity of Council and their conduct. She asked Mayor Olem and Council to expedite adopting and instituting a Code of Conduct. A written copy of Ms. Null's full comments is on file in the Town Clerk's Office.

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.**

Mayor Olem recognized Zoning Administrator, David Stromberg, who presented the staff report and PowerPoint dated January 26, 2021 which are on file in the Town Clerk's office.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been duly advertised in the Friday, January 8, 2021 and the Friday, January 15, 2021 issues.

Mr. Stromberg gave Council an overview of what constitutes a special exception, the requirements, relevant terms, and location on both the Zoning Map and the 2030 Comprehensive Plan Map. He then reviewed the details of the applicant's proposal and provided Council with a summary of proposed conditions to the proposal including: conformance with submission materials; maximum size of 535 square feet; allowing one accessory dwelling unit; complying with ownership and occupancy requirements; recording approval in the circuit court land records; and required parking. He stated there was also a condition of conversion back to a by-right use on change of property ownership.

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Mr. Stromberg also provided analysis of the proposed conditions that came from the zoning ordinance and those that were case specific and more restrictive. He highlighted substantial conformance which was the most important part of a special exception application, and the requirement for recordation with circuit court land records so future owners would be aware of conditions. Mr. Stromberg indicated the applicant was opposed to this condition because if the zoning laws changed in the future, they would have to remove those land records themselves.

Mr. Stromberg presented Council with three resolution options. Option A was the original resolution presented to Council with 15 conditions, does not run with the land, and recordation required. Option B has 15 conditions, runs with the land, and recordation required. Option C has one condition, runs with the land, and recordation is not required. Staff recommended approval of the resolution Option A, as presented.

There was discussion amongst Council and staff on this item.

Councilmember Dhakal confirmed with Mr. Stromberg that the applicant complied with the special exception requirements. He also asked about the applicant's opposition to the recordation requirement, and Mr. Stromberg confirmed the applicant contacted staff about not wanting to go through the process of recordation because if requirements relaxed in the future, they would still have to have the records removed. Councilmember Dhakal inquired if, based on what the applicant wants, Option Three was the only one that did not require recordation, and Mr. Stromberg confirmed.

Mayor Olem asked for clarification that Councilmember Dhakal was discussing Option C and Councilmember Dhakal confirmed.

Responding to a request made by Councilmember Singh, Mr. Stromberg reviewed special exception requirements by providing Councilmember Singh with the history of the special exception requirement in the Zoning Ordinance since 1983. Councilmember Singh asked, if the garage were attached if it would need special exception, and Mr. Stromberg stated if it was a fully livable space, then it would still require the special exception process.

Vice Mayor del Aguila asked Ms. Yeatts, Town Attorney about steering towards Option C and inquired if the town had any exposure should they approve Option C.

Ms. Yeatts asked if Vice Mayor del Aguila was asking her to opine on legal exposure, and he confirmed. She stated the town could possibly be exposed to any future purchasers of the property due to lack of notice given of deed/property restrictions by virtue of the special exception. Option A, which contained usual requirements recommended by staff, provided, in her legal opinion, full protection to the town for any claims from the applicant about not knowing what was expected and required from zoning ordinance, as

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well as any future purchases, or anyone reviewing the title of that property about restrictions on that property by virtue of special exception.

Vice Mayor del Aguila asked Mr. Stromberg if there was an Option D which would link this to the property and require recordation. That way it would be on record and conceivably allow them to sell as is and transfer the special exception to the next owner.

Mr. Stromberg clarified that Option B would accomplish that goal by requiring the recordation but allowing it to potentially transfer to a future property owner without another special exception.

Vice Mayor del Aguila provided further comments about recordation.

Responding to Councilmember Regan's query about which Option other recent special exceptions were consistent with, Mr. Stromberg stated they were consistent with Option A.

Councilmember Regan made a parliamentary inquiry about if the motion made needed to indicate Option A, B, or C, and Ms. Yeatts confirmed. Councilmember Regan further inquired, if the motion failed, if it was all or nothing. Ms. Yeatts stated that in the case it is proposed in this situation it could be and that hopefully staff had provided enough information that evening for a clear decision.

Councilmember Friedrichs asked Mr. Stromberg if the current owner were to put the house on the market with Option A, and the purchaser then fulfilled the conditions listed, if it could transfer without any change in the kitchen. Mr. Stromberg stated that would not be the case under Option A. It would be the case under Option B or Option C.

There was a brief question and answer session between Councilmember Friedrichs and Mr. Stromberg about the requirements needed for a purchaser to acquire a special exception. Mr. Stromberg clarified that a purchaser would need to apply for a special exception, and they would likely be approved since nothing changed, but it would still need to go through the process before the Planning Commission and Council.

Councilmember Friedrichs then asked if there had been any objection by the applicant before the discussion Council had about the regulations. Mr. Stromberg stated that prior to the work session discussion there had not, but applicants would generally choose an option with fewer requirements.

Responding to Councilmember Friedrichs' further queries, Mr. Stromberg stated the applicant contacted staff after the work session.

Mayor Olem recognized Thomas O'Neil, Neil Architects Inc., representing the applicant, for comments.

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- Mr. O'Neil stated the applicant would prefer some conditions be removed and that they did not know there was a path forward without agreeing to all. They understood, after the work session, that Council could change some requirements. He commented on the approval process length and stated it was apparent most members of the Planning Commission and Council felt the ordinance needed to change. He understood it was a long process for ultimate Council approval.

Mr. O'Neil stated the primary reason the applicant objected to certain conditions was burden on the applicant. Even with possible future changes, their property would still have Condition 3. The applicant would also like to have Conditions 13 and 14 removed. He felt they were similar restrictions on future use. It could change with ownership but the conditions for reapplying for special exception would still be there. Mr. O'Neil believed that Conditions 3, 13, and 14 burden homeowners, especially Condition 3.

Vice Mayor del Aguila asked if Mr. O'Neil had access to the different options and which option the applicant preferred. Mr. O'Neil indicated he did have access, and the applicant preferred Option C.

Councilmember Regan expressed concern about heading down a path that gives less than needed in attempt to get what was wanted. He shared that he was tempted to ask the applicant which option they wanted Council to vote on, knowing that Option C would go against precedent.

Mr. O'Neil expressed disappointment that these were the only three options available and that he wished he would have spent time working with staff on a fourth option.

Councilmember Dhakal asked about the level of effort that recordation required. He thought recordation was a good practice, but he wanted the rationale for being unwilling to do it.

Mr. O'Neil stated, from an architect and homeowner point of view, that recordation put a lot of burden on the homeowner. He stated they worried about the ordinance changing and that these owners would still have to remove the restriction removed from land records. He was unaware of any guidance or information about that process from the town, so there was some fear of the unknown. He also referenced not knowing how long the process might take which could hold up closing on the house. Another strong reason for not wanting to do so was that it seemed like the ordinance might change.

Councilmember Dhakal asked Mr. O'Neil what the preferable fourth option would include, and Mr. O'Neil stated all conditions except for 3, 13, and 14.

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Councilmember Friedrichs asked if Option C was not what the applicant was asking for, and Mr. O'Neil responded by stating that it seemed more conditions would make the town staff and attorney feel better. He stated they would accept all but 3,13, and 14 and he was suggesting what he felt was a compromise.

Vice Mayor del Aguila restated what he thought Councilmember Friedrichs was saying. He stated he also wanted a clarification, and stated it was his understanding that if a motion failed, the Council could still make a motion on the other options, and they did not have to have unanimous or majority support on any of them.

Ms. Yeatts stated that, in the past, they had not made subsequent motions on land-use matters. She stated that what she was hearing was a proposal of a possible hybrid motion. She stated if that was put forward, they could address any subsequent motions as they come.

Mayor Olem confirmed with Ms. Kertz that there were no speakers on this item.

In response to Mayor Olem asking if he had any rebuttal, Mr. O'Neil stated he did not have a rebuttal, just clarification on his comments about an Option D. He felt that if they had more time with Town Staff, Option C may have been tailored differently to the applicants' concerns.

Mayor Olem closed the public hearing and moved to Council level for discussion and action. She reviewed the specifics of each of the options available to Council and asked Councilmembers to clarify which Option they were making a motion on.

Ms. Yeatts asked Mayor Olem to make sure she had closed the public hearing. Mayor Olem stated the public hearing was closed.

Councilmember Singh began providing comments about what he thought was a similar item, and Ms. Yeatts stated to Mayor Olem that they were looking for a motion and this seemed like discussion.

Main Motion (Amended & Approved)

Councilmember Singh moved approval of Resolution 21-G-18 in accordance with "Option C," as presented, and Vice Mayor del Aguila seconded the motion.

There were comments from Council.

Councilmember Singh stated he spent quite some time on a similar case. He stated he went to guidance from Fairfax County and Town of Stafford and used criteria they had and basically it came to whether the special exception would change the character of the

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neighborhood or affect neighbors adversely. He would be happy to share that directly with the rest of Council, and the applicant would meet all those criteria he found for application.

Councilmember Singh questioned why it took a special exception and then discussed his personal garage and living space. He then discussed requirements such as the 62 years of age requirement and went over what he thought were benefits of allowing accessory dwelling units. He did not believe that allowing such a unit harmed anyone. He then reiterated it was his feeling that this would have little or no effect now or in the future. He felt they needed to look at regulations and the regulatory burdens they place on people and hoped most of Council would see it that way.

Vice Mayor del Aguila expressed his support for this but mentioned long-term concerns over the impact of changes to the character of the neighborhood and town in general. He thought this was a perfect example of a topic for planning sessions and they should look at where these ordinances came from and what their desired outcomes were. He expressed that the town was different now and needed updated processes and ordinances.

Councilmember Friedrichs expressed concern over the lack of recordation and not having as much information available to a future buyer in Virginia as a "buyer beware" state. She stated she could not support Option C but could support Option B and left it to her colleagues for their decision. Councilmember Friedrichs wanted to go with Option A because making big exceptions on the fly went against the grain for her, and she did not want purchasers to have less information. She also understood why others were making these exceptions.

Councilmember Dhakal agreed with his colleagues, and he stated he liked Option C. He echoed Councilmember Friedrichs' concerns about the lack of recordation, and indicated he was in favor of an Option D, as well. Without an Option D, he was in favor of Option B and was concerned about long-term effects of the decisions Council made. He asked his colleagues to consider how lack of recordation would impact buyers.

Councilmember Regan thought the problems were with recordation and the removal of kitchen elements, and he asked Mr. Stromberg for clarification about whether proceeding with Option C would have anything requiring the other aspects such as being occupied by a person 62 years or older. Mr. Stromberg confirmed that, with Option C, the other conditions regarding age would apply to future purchasers who could potentially be in violation. Recordation would make it so a future purchaser would know what the requirements were.

Councilmember Regan stated that Option C only mentioned conformance with plans, and Mr. Stromberg clarified that special exceptions can only add provisions. He stated it was not removing anything and, responding to further queries from Councilmember Regan, he indicated that while special exceptions allow for extra use, they also require restrictions to allow for that use.

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Councilmember Regan then asked for confirmation that they were allowing for use of an additional kitchen and allowing use by people who are not 62. Mr. Stromberg stated that was not correct.

Mayor Olem expressed concerns similar to some of her colleagues' about changing zoning ordinances on the fly and that passing this would put people in the same situation as those who buy in the Historic District—where buyers do not know all the rules for property because real estate agents are not required to disclose that information. She stated special exceptions are there, and she would support Option A. Mayor Olem briefly discussed the requirements for removing the kitchen utilities. She could not support Option C.

Councilmember Singh believed they needed to think carefully for the future and questioned keeping requirements of age and use. It was his opinion that recordation was not necessary because people buy and use as they like. He referenced what he had read about special exceptions and mentioned them being made for special hardships. It was his opinion that granting this exception did not affect anyone else. He wanted approval of Option C.

Councilmember Regan referenced his time on the Planning Commission and the meeting minutes of the 1983 meeting where ADUs were imagined—with the intention to create an opportunity for elderly family members or to generate income from home and support aging in place. He admired the way they narrowed the burden to removing a kitchen, which was the range, oven, and drainpipe. He stated, due to this, someone who spent \$50-90,000 on their ADU would not lose all that value. He felt they threaded the needle to serve a specific purpose. He thought there was a need to look at it in future, but he was reluctant to deviate from a process that has worked well for previous applicants, even as he does think they might revisit and think about broadening it. He also thought it was unfortunate, but there would always be a last applicant who went through the process before changes were made. He reiterated that he was reluctant to discount the research and 1983 ordinance on such short notice.

Vice Mayor del Aguila stated to “level-set” everyone, he did not think they were changing ordinances on the fly. They were looking at options from staff and discussing what option they thought best in this situation, not changing an ordinance. He was hearing consensus that they should take another look at this, and he thought they were all viable options and he was in favor of the most freedom when it came to people's homes. He would support any of the options, but Option C seemed least restrictive.

Councilmember Friedrichs stated Councilmember Regan brought up good points that allow for ADUs but do not impinge on future buyers. She felt they should discuss this in planning meetings and that it may or may not change. Councilmember Friedrichs thought that it would not hold good will to not hold this homeowner to the same standards as everyone else. She was in favor of changing it, but not just for one specific case, and

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because the homeowner was opposed to what she feels is the most important part—recordation. She could vote for Options A and B and that she liked the idea of the next homeowner not having to remove the kitchen. She reiterated recordation is important for everyone who has already done so as well as future buyers.

**Friendly Amendment (Not Accepted)
to the Main Motion**

Councilmember Friedrichs stated that she would like to make a Friendly Amendment and asked how she could do that. Vice Mayor del Aguila stated that she had just made the Friendly Amendment by stating that.

Clarification

Ms. Yeatts stated that Councilmember Friedrichs was making a Friendly Amendment, however she needed to specifically state what the amendment was.

Councilmember Friedrichs stated that she would like to amend Special Exception #20-03 and she was interrupted while stating her motion.

Point of Order

Vice Mayor del Aguila called for point of order on the Friendly Amendment process. He stated that Councilmember Singh made the motion on the floor which had been seconded. As the maker of the motion, Councilmember Singh would have to state whether he accepted Councilmember Friedrichs' Friendly Amendment.

Clarification

Ms. Yeatts stated that it sounded like Councilmember Friedrichs was offering a Substitute Motion, however Councilmember Friedrichs had originally made a motion to amend Councilmember Singh's motion.

Ms. Yeatts stated that if Councilmember Friedrichs were making a Friendly Amendment, Councilmember Singh (the motion maker), would have to accept the Friendly Amendment, which would require a second.

Ms. Yeatts asked Councilmember Friedrichs to state her amendment.

Councilmember Friedrichs stated that she would like her amendment to align with Resolution 21-G-18, "Option B," because of the recordation and that the land use would run with the property.

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Point of Order

Vice Mayor del Aguila called for point of order and asked if Councilmember Friedrichs was proposing Resolution 21-G-18, "Option C," with the recordation, as her Friendly Amendment.

Ms. Yeatts asked Councilmember Friedrichs if that was her intent, to which Councilmember Friedrichs confirmed it was.

**Friendly Amendment (Not Accepted)
to the Main Motion**

Ms. Yeatts asked Councilmember Singh, the motion maker, if he accepted Councilmember Friedrichs' Friendly Amendment, to approve Resolution 21-G-18, "Option C," with the recordation requirement.

Councilmember Singh did not accept the Friendly Amendment.

Substitute Motion (Failed)

Councilmember Friedrichs moved a substitute motion to approve Resolution 21-G-18, "Option B."

Councilmember Dhakal seconded the motion.

Vice Mayor del Aguila stated he thought Councilmember Singh should have accepted the Friendly Amendment made by Councilmember Friedrichs.

Clarification

Councilmember Singh asked the parliamentarian to clarify the motion on the floor. Ms. Yeatts stated the motion on the floor was a Substitute Motion to approve Resolution 21-G-18, "Option B." This was the motion that the Council would vote on following discussion.

Councilmember Singh asked if he could still accept the Friendly Amendment to his motion to add the condition requiring recordation.

Mayor Olem stated he could not because there was currently a motion on the floor.

Vice Mayor del Aguila stated that to do what Councilmember Singh was asking, Councilmember Friedrichs would have to recall her Substitute Motion that was on the floor.

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Councilmember Friedrichs stated that she would not recall the motion.

Councilmember Dhakal asked Councilmember Friedrichs to recall her Substitute Motion, make the same Friendly Amendment again, and ask Councilmember Singh to accept.

Mayor Olem stated that Councilmember Friedrichs had already said that she would not recall the motion. She stated she thought this was still on the fly and not going through a public process to change things did not set a good precedent.

**Vote on the
Substitute Motion (Failed)**

The Substitute Motion was restated for clarity, which was to approve Resolution 21-G-18, "Option B."

The question was called on the motion, which failed by a 3-4 roll call vote by electronic means. Councilmembers Dhakal, Friedrichs, and Regan voting "Aye." Councilmembers Alam, Singh, Vice Mayor del Aguila, and Mayor Olem voting "No."

Clarification

Ms. Yeatts stated that since the Substitute Motion did not pass, the motion on the floor was the Main Motion, which was to approve Resolution 21-G-18, "Option C."

**Friendly Amendment
to the main motion (Accepted)**

Vice Mayor del Aguila stated he would like to offer "Councilmember Friedrichs' original motion," to amend Resolution 21-G-18, "Option C," with the recordation. He stated it was a task for the applicant but puts in the record that it was approved. He thought it was a good balance.

Councilmember Dhakal seconded the motion.

Councilmember Singh, the motion maker, accepted the Friendly Amendment.

The motion on the floor was to approve Resolution 21-G-18, "Option C," and Mayor Olem asked Vice Mayor del Aguila to restate his amendment to the Main Motion, for clarity.

Vice Mayor del Aguila stated it was "with recordation required."

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**Vote on the
Main Motion,
as amended**

(Approved)

The question was called on the motion, which carried by 5-2 roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Regan, Singh, and Vice Mayor del Aguila voting "Aye." Councilmember Friedrichs and Mayor Olem voting "No."

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.

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 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

**January 26, 2021
(public hearing)**

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.

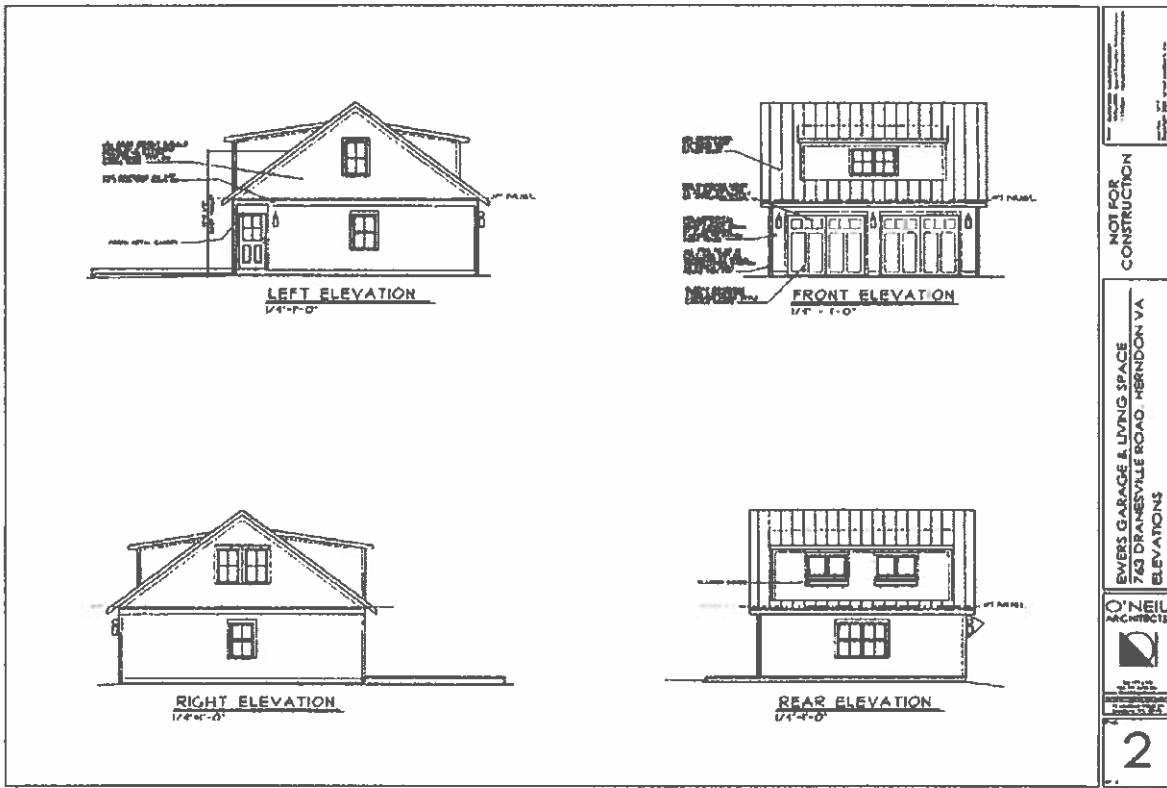
2. Recordation. These conditions must be recorded by the applicant among the land records of Fairfax County for the Property prior to the issuance of the occupancy permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Administrator.

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

[Note: Attached for reference are the 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 as referenced in the resolution.]

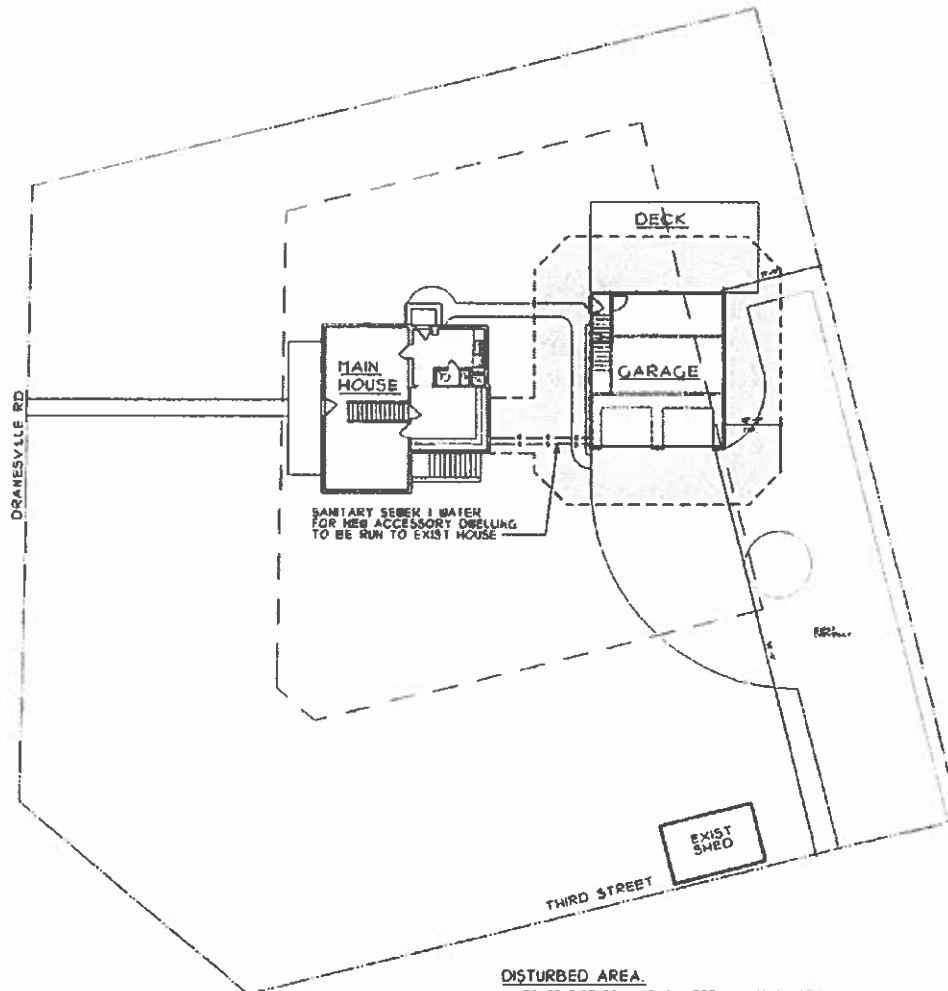


January 26, 2021
(public hearing)





January 26, 2021
(public hearing)



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 = 144 SQ FT
EXIST GARAGE FOOTPRINT = 131 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:

UNITS OF DISTURBANCE (SHADED) = 1,455 SQ FT
LOD - EXIST PAVING TO REMAIN = 1,455 SQ FT
= 1,044 SQ FT DISTURBED AREA

ACCESSORY STRUCTURE:

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

EXIST MAIN HOUSE FLOOR AREA = 1,800 SQ FT PER FLR = 1,400 SQ FT
EXIST GARAGE FLOOR AREA = 131 SQ FT
PROPOSED ACCESSORY DWELLING FLOOR AREA = 530 SQ FT

EXIST ACCESSORY STRUCTURE:

EXIST GARAGE/MAIN HOUSE = 614/1,400 = 44%

PROPOSED ACCESSORY STRUCTURE:

EXIST GARAGE + ACCESSORY DWELLING/MAIN HOUSE = 614+530/1,400 = 76%

ACCESSORY DWELLING:

ALLOWABLE FLOOR AREA = 35%
MAX OF MAIN HOUSE GROSS FLOOR AREA
OR 1,200 SQ FT

1,400 X 35% = 490 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

l.joneil@oneilarchitects.com
payton.bridge@oneilarchitects.com

12/28/2020

703-777-5773

January 26, 2021
(public hearing)

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.**

Mayor Olem recognized the Deputy Director of Public Works, John Irish who presented the staff report and PowerPoint dated January 19, 2021 which are on file in the Town Clerk's office.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been duly advertised in the Friday, January 8, 2021 and the Friday, January 15, 2021 issues.

Mr. Irish provided an overview of the project, location, and the related ordinance. He stated this was one of many projects to provide multimodal transportation. He also discussed the scope of the project, the background of right-of-way easements acquired, the location of the property being discussed, and how the use would be changed.

Mayor Olem confirmed with Ms. Kertz that there were no registered speakers. She closed the public hearing and moved to Council level for discussion and action.

Motion (Later Corrected for the Record)

Councilmember Dhakal Councilmember Dhakal moved to approve Ordinance "20-O-01, to approve the dedication of right-of-way for public street purposes," as presented, and Vice Mayor del Aguila seconded the motion.

Councilmember Dhakal, Councilmember Friedrichs, and Mayor Olem each provided brief comments.

The Parliamentarian, Ms. Yeatts, stated Councilmember Dhakal needed to clarify the correct ordinance number for the motion.

Mayor Olem thought that Councilmember Dhakal had moved approval of Ordinance 21-O-01.

Mr. Ashton stated that he heard Councilmember Dhakal move approval of **Ordinance "20-O-01."** Ms. Yeatts agreed.

Mayor Olem had heard Councilmember Dhakal state the correct ordinance number. She thanked Ms. Yeatts for making that correction.

**January 26, 2021
(public hearing)**

Motion

(Approved)

Councilmember Dhakal clarified the correct ordinance number for the motion, which was to approve Ordinance 21-O-01, as presented. The motion had previously been seconded by Vice Mayor del Aguila.

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

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.

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.

[Note: Attached for reference is the Deed of Dedication and 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, as referenced in the ordinance.]

**January 26, 2021
(public hearing)**

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).

WITNESSETH:

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

**January 26, 2021
(public hearing)**

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]

**January 26, 2021
(public hearing)**

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 _____.

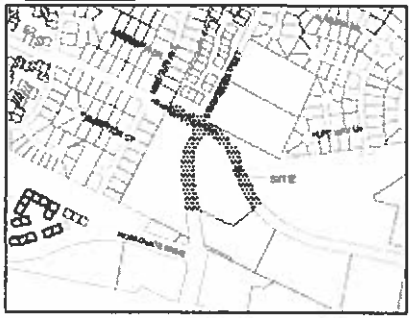
Notary Public

My Commission Expires: _____
My Notary Registration Number: _____

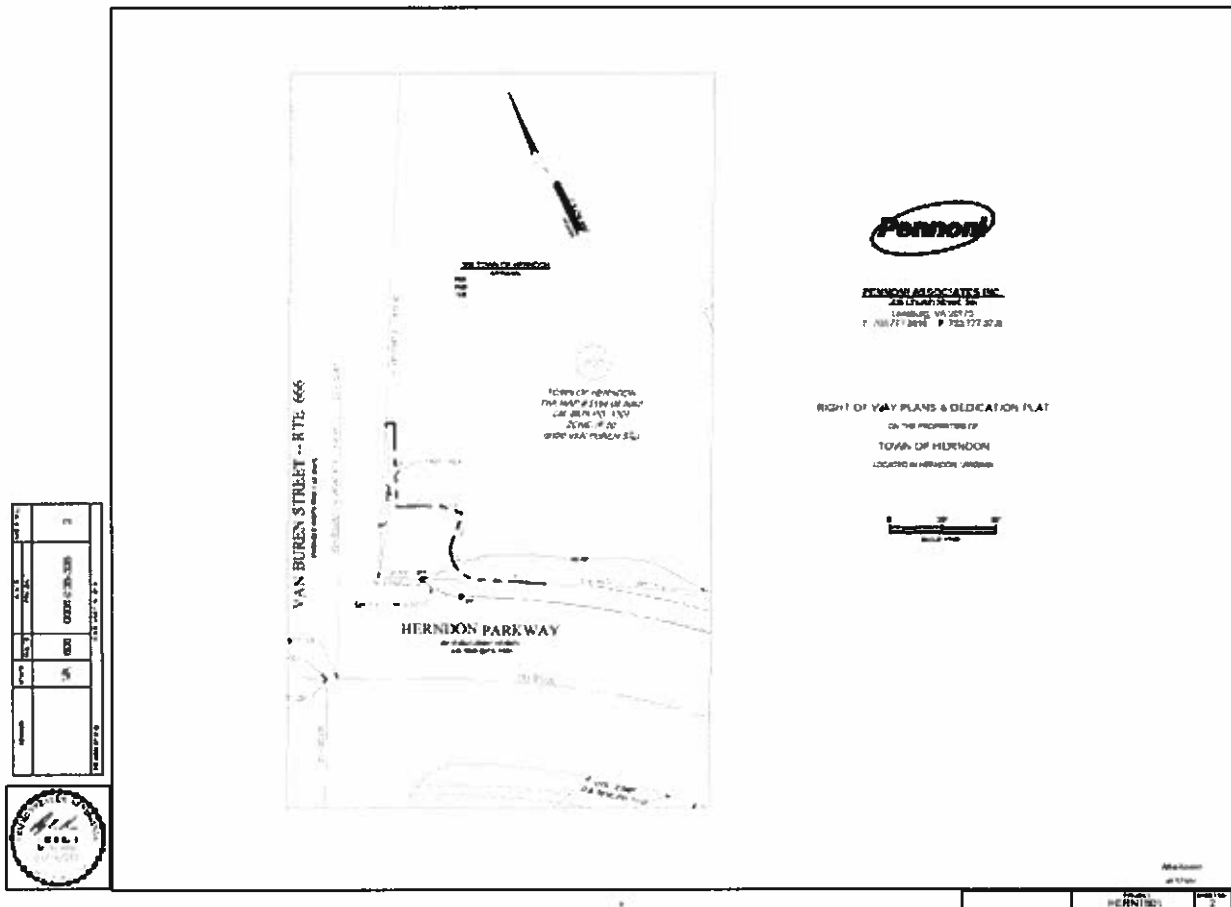
APPROVED AS TO FORM:

Lesa J. Yeatts, Town Attorney

January 26, 2021
(public hearing)

	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">TOWN</td> <td style="width: 15%;">COUNTY</td> <td style="width: 15%;">STATE</td> <td style="width: 15%;">PROJECT</td> <td style="width: 15%;">SHEET</td> </tr> <tr> <td>VA</td> <td>BOE</td> <td>0006-220-330</td> <td></td> <td>1</td> </tr> </table>	TOWN	COUNTY	STATE	PROJECT	SHEET	VA	BOE	0006-220-330		1
TOWN	COUNTY	STATE	PROJECT	SHEET							
VA	BOE	0006-220-330		1							
											
VICINITY MAP SCALE: 1"=400'											
AREAS <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>PARCEL #</th> <th>RAW DEDICATION</th> </tr> <tr> <td>00</td> <td>1.00 AC</td> </tr> </table>	PARCEL #	RAW DEDICATION	00	1.00 AC							
PARCEL #	RAW DEDICATION										
00	1.00 AC										
NOTES: - ALL ALLEGED UNLAWFUL ENCROACHMENTS ARE SHOWN AND CORRECTED BY THIS PLAN. THE TOWN OF HERNDON IS NOT RESPONSIBLE FOR ANY ENCROACHMENTS NOT SHOWN ON THIS PLAN. - ALL OF THE PROPOSED PHYSICAL IMPROVEMENTS ARE SET BACK FROM THE STREET. - THIS PLAN DOES NOT REPRESENT THE TOWN OF HERNDON'S POSITION ON ANY MATTER NOT SHOWN ON THIS PLAN. - THIS PLAN DOES NOT REPRESENT THE TOWN OF HERNDON'S POSITION ON ANY MATTER NOT SHOWN ON THIS PLAN. - RIGHT OF WAY DEDICATION TO BE MADE UPON COMPLETION OF CONSTRUCTION.											
RIGHT OF WAY PLANS & DEDICATION PLAN ON THE PROPERTY OF TOWN OF HERNDON LIBRARY: HERNDON, VIRGINIA											
HERNDON HERNDON ASSOCIATES INC. 220 LINDEN ROAD SW LYNNBURG, VA 22089 1-800-777-3070 • FAX 703-777-3070											
HERNDON1501											

January 26, 2021
(public hearing)



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.**

Mayor Olem recognized the Deputy Director of Public Works, Tammy Chastain who then presented the staff report dated January 19, 2021 which is on file in the Town Clerk's office.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been duly advertised in the Friday, January 8, 2021 and the Friday, January 15, 2021 issues.

Ms. Chastain stated that the Ordinance before Council was to approve and authorize a Fifth Lease Amendment between the Town and T-Mobile Northeast LLC. Staff was

**January 26, 2021
(public hearing)**

requesting that the Town Council approve this Fifth Amendment that revises the premises description, approved equipment list, drawings, monthly rent, and Town contact information at the Town's 3rd Street Water Tower. Ms. Chastain stated many of the current equipment items will be removed and replaced with new updated equipment. She stated all equipment changes are subject to and must comply with zoning and permit approvals.

The next step for this amendment, if approved, would be for the applicant to submit the changes to Community Development to begin the Architectural Review Board process. Once that process is complete, the next step is to submit applicable paperwork for a building permit. She stated they would also have to stay within all town ordinances.

The amended lease will increase the monthly rent by \$1,200.00 due to the addition of 8 antennas. The new rent would be \$5,505.13 per month and be subject to the annual three percent escalation provided for in the original lease. Staff recommended approval of this resolution, as presented.

Councilmember Friedrichs provided queries about the construction and related noise, and Ms. Chastain clarified that the construction would take place onsite within the fence and would not impede anyone. Ms. Chastain also stated they would have to abide by the town's timeline and noise ordinance or get written approval for exceptions. Councilmember Friedrichs asked if those nearby would be made aware of the noise. Ms. Chastain stated they did not do that typically but could look into it.

Mayor Olem recognized Brady Lawrence, Advantage Engineers, representing T-Mobile for comments.

- Mr. Lawrence did not provide comments.

Mayor Olem confirmed with Ms. Kertz that there were no registered speakers. She closed the public hearing and moved to Council level for discussion and action.

Main Motion **(Subsequently Approved)**

Councilmember Friedrichs moved to approve Ordinance 21-O-02, as presented.

Councilmember Dhakal seconded the motion.

Discussion on the process

Councilmember Singh stated he had modifications to propose, but he did not know the procedure. He had personally written changes to Ordinance 21-O-02 that he thought could be applied to this and all future leases.

**January 26, 2021
(public hearing)**

Ms. Yeatts asked Councilmember Singh if he was proposing a Friendly Amendment to the motion, to which Councilmember Singh replied that it could be a Friendly Amendment, in the sense that it addressed many issues.

Ms. Yeatts asked if Councilmember Singh was commenting on the motion that had been made and seconded, to which Councilmember Singh replied he had commented many times on this matter before, and because no one cared, he wanted to make specific requests for changes.

Ms. Yeatts stated that Councilmember Singh's statements appeared to be in the form of a comment, to which Mayor Olem agreed.

Councilmember Singh stated that he had more and Mayor Olem asked him to make those comments.

**Friendly Amendment (Not Accepted)
to the main motion**

Councilmember Singh stated that he was proposing to amend Ordinance 21-O-02 and that the following were the comments:

"a. The leasee shall provide temporary sanitation facilities, such as 'Port-O-Johns' during the installation of any equipment or doing any construction. Temporary sanitation facilities shall be removed promptly after completion of the installation of the equipment.

b. The Town and the leasee shall conduct a joint final inspection of the premises after completion of the installation of the equipment and ensure that the leasee has removed all trash generated by the new installation from the premises.

The leasee shall deposit a sum of \$10,000 before starting any construction or installation. Such a deposit shall be returned to the leasee if all trash has been removed and the site has been left clean and the leasee passes inspection.

d. The leasee shall mitigate any residual stormwater or any effects of its equipment including the cables on the residential area surrounding the water tower. The mitigation actions may include painting the cables, constructing a sufficiently high brick fence around the tower base, controlling storm water flows from such equipment, or building containing such equipment.

In the event the Town of Herndon undertakes such activities, the leasee agrees to pay its fair and equitable share of the associated expenditures.

**January 26, 2021
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If leasee provides Wi-Fi signals for people to play video games near the water tower, they shall create a safe ...(inaudible) ...roadside space for as many as five cars at a time. The leasee shall inspect this space every week and remove all trash that may have been left by the video game players. Rather than the leasee, it may be the town that would inspect such a space and remove the trash, because a lot of trash is left. Finally, the leasee's lease currently is modified to include the clauses given above."

Mayor Olem asked Councilmember Friedrichs, the motion maker, if she accepted Councilmember Singh's Friendly Amendment.

Councilmember Friedrichs did not accept the Friendly Amendment.

Councilmember Friedrichs asked if Councilmember Singh could bring this up at a work session and stated that she would like to return the original motion to approve Ordinance 21-O-02, as presented.

Discussion on the process

Vice Mayor del Aguila asked Ms. Yeatts if some of Councilmember Singh's proposals would be viable to amend this lease given enough time. He asked what the process would be for amending something like this and if it was possible.

Ms. Yeatts stated that without sorting through all the items that were proposed, she could not begin to say this evening. She stated that this lease amendment had been in negotiation between staff and the leasee for many months. She stated that possibly, if this had come up at a work session, there would have been more time requested to work through anything that was plausible. At this point, she could not provide a guess on whether the proposed items would be viable for discussion.

Councilmember Friedrichs asked if the lessee representative was still there and asked if this item could be put off. Councilmember Friedrichs asked Ms. Chastain if the applicant indicated they were in a rush, and Ms. Chastain stated they had planned to start construction in February and still had other processes that she had mentioned to go through.

Ms. Chastain clarified that some of the items requested by Councilmember Singh were already done such as the final inspection, and they do enforce cleaning up the site before they leave.

Mayor Olem stated when she lived in Four Seasons the residents always called and the town made sure things got cleaned up.

Councilmember Dhakal asked if it was possible to bring the applicant's agent back on the Webex for comments, and the Town Attorney stated that would be the Chair's decision.

**January 26, 2021
(public hearing)**

Mayor Olem stated that the public hearing was closed. She stated that the issues Councilmember Singh raised were on the table. She encouraged those living near the 3rd Street Water Tower to contact the Department of Public Works if there were any issues during construction.

Councilmember Singh provided further comments about the conditions and ignored complaints. He mentioned other specific problems he has seen at the sites, and he thought it was very important to change the leases. Whether this lease was modified or not, he felt this issue needed to be addressed.

**Vote on the
Main Motion (Approved)**

The Main Motion was restated for clarity, which was: to approve Ordinance 21-O-02, as presented.

The question was called on the motion, which carried by 5-2 roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, and Mayor Olem voting "Aye." Councilmember Singh and Vice Mayor Olem voting "No."

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.

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

**January 26, 2021
(public hearing)**

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.

[Note: Attached for reference is the Fifth Amendment to Deed of Lease Agreement dated January 26, 2021 b/n town and T-Mobile Northeast LLC, successor-in-interest to Omnipoint Communications CAP Operations, LLC.]

**January 26, 2021
(public hearing)**

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:

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

**January 26, 2021
(public hearing)**

U:\USDP\Sign Envelope\10.00498773-0040-4E69-0010-0C040FA198C9

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"

**January 26, 2021
(public hearing)**

UULUJYH EITWUJIC IU. 00430313-0040-4CLY-00 IU-UE040FA: 89LW

**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.

**January 26, 2021
(public hearing)**

UNCLASSIFIED//FOR OFFICIAL USE ONLY

**Exhibit C
Page 1 of 4
November 17, 2020**

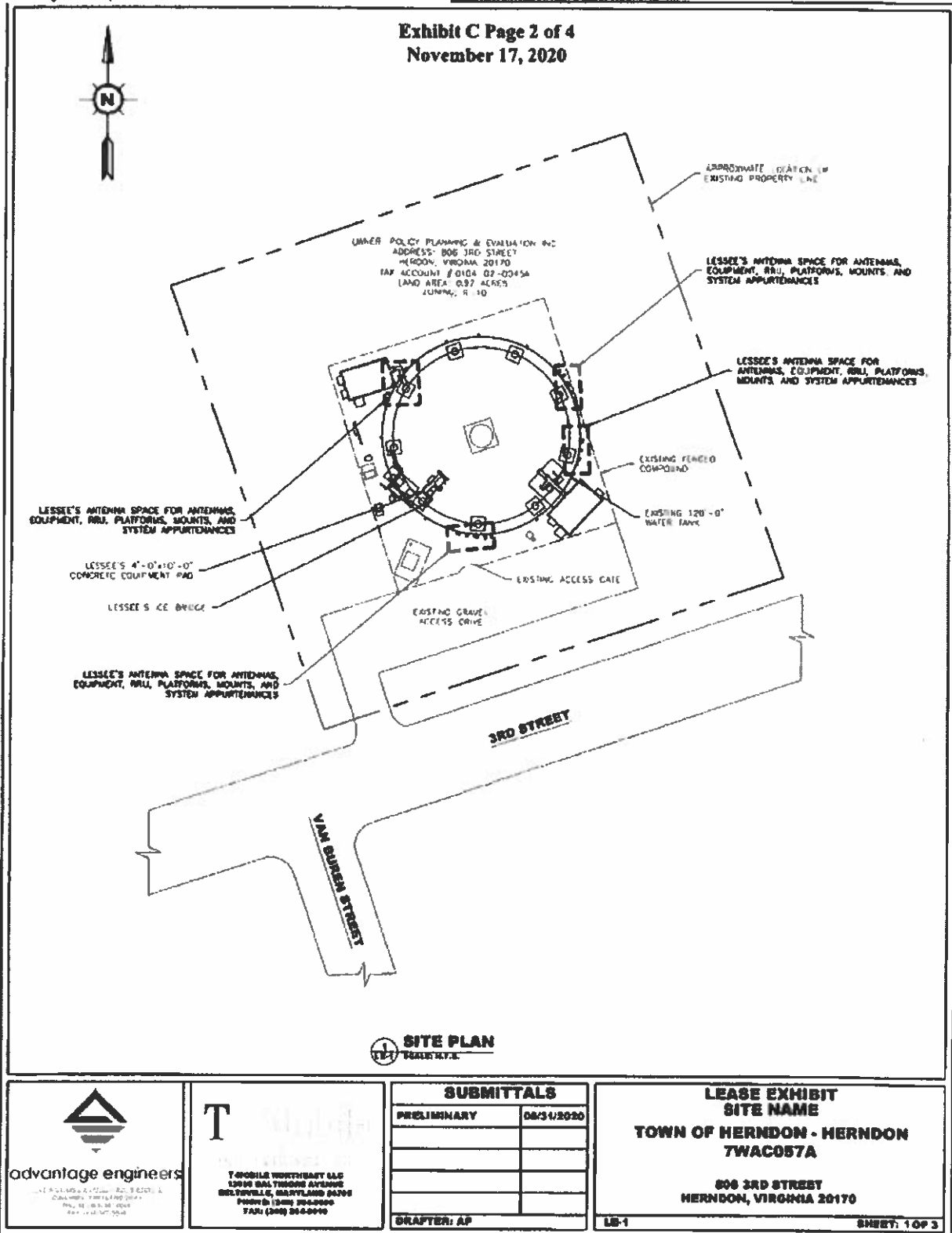
The following equipment together with any associated wires, cables, pipes, conduits and supporting structures associated with the equipment shall be located on the Third Street Water Tank as generally shown on the attached drawings.

<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

January 26, 2021
(public hearing)

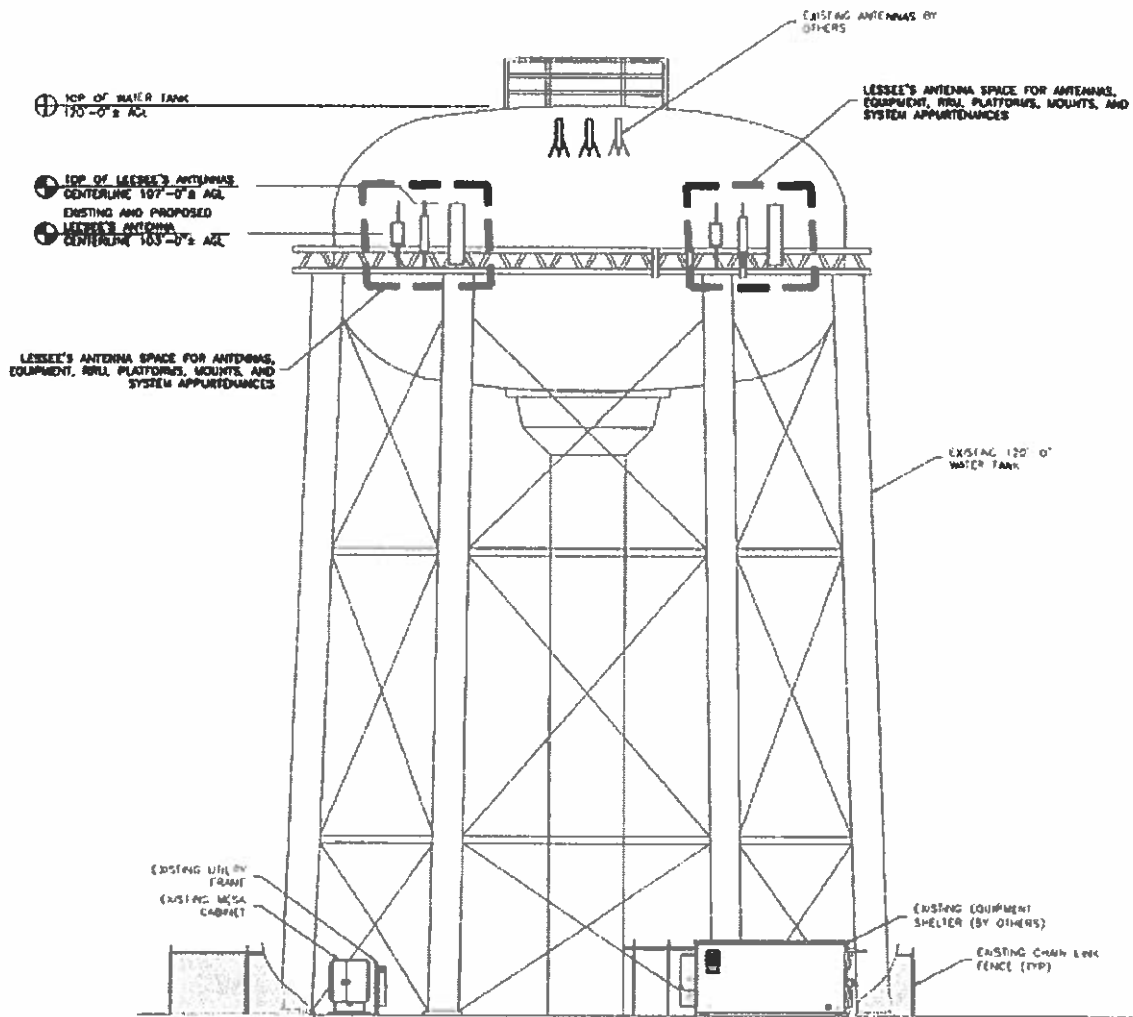
LocalSign envelope ID: B04989/3-0040-REC0-0010-0007A/58LV

Exhibit C Page 2 of 4
November 17, 2020



**January 26, 2021
(public hearing)**

Exhibit C Page 4 of 4
November 17, 2020



ELEVATION VIEW



advantage engineers

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F. MOORE NORTHEAST LLC
1200 SOUTHERN AVENUE
OSHTVILLE E, NORTLANDS 20706
PHONE: (202) 354-0600
FAX: (202) 354-0610

SUBMITTALS

PRELIMINARY	03/31/2020

DRAFTER: AD

**LEASE EXHIBIT
SITE NAME**

TOWN OF HERNDON - HERNDON
TWAC057A

606 3RD STREET
HERNDON, VIRGINIA 20170

U.S.

SECRET TOP SECRET

January 26, 2021
(public hearing)

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.**

Mayor Olem recognized the Deputy Director of Public Works, Tammy Chastain. Ms. Chastain presented the staff report dated January 19, 2021 which is on file in the Town Clerk's office.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been duly advertised in the Friday, January 8, 2021 and the Friday, January 15, 2021 issues.

Ms. Chastain reviewed the background and the scope of the proposed ordinance to approve and authorize a third lease amendment between the Town and AT&T Mobility Corporation. This third amendment would revise the premises description, approved equipment list, use of premises, drawings, and the town's contact information at the Alabama Drive Water Tower.

Ms. Chastain reviewed the proposed changes and stated that any changes above these limits or to the quantities would require another lease amendment. The next steps in the process, if this ordinance is approved, is to submit information to Community Development as part of the Architectural Review Board process. Upon completion of that process, the proper paperwork would be submitted for a building permit. The current monthly rent would remain unchanged. Staff recommended approval of this item, as presented.

Mayor Olem recognized Nathan Montanye, Real Estate Manager, SmartLink, representing AT&T for comments.

- Mr. Montanye did not provide comments.

Mayor Olem confirmed with Ms. Kertz that there were no registered speakers. She closed the public hearing and moved to Council level for discussion and action.

Councilmember Regan moved approval of Ordinance 21-O-03, as presented, and Councilmember Friedrichs seconded the motion.

The question was called on the motion, which carried by 6-1 roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Singh voting "No."

**January 26, 2021
(public hearing)**

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.

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

**January 26, 2021
(public hearing)**

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.

[Note: Attached for reference, at the end of the minutes, is the Third Amendment to Deed of Lease dated January 26, 2021 b/n town and New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation.]

January 26, 2021
(public hearing)

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.**

[Note: this item was continued from the Council's meeting on January 12, 2021.]

Mayor Olem recognized the Town Attorney, Lesa Yeatts who presented the staff report dated January 19, 2021 which is on file in the Town Clerk's office.

Ms. Yeatts stated this item was continued from the last meeting, pending additional information. This was a resolution to ratify a temporary outdoor dining license for Mile 20 that had been signed by the Town Manager pursuant to Ordinance 20-O-23, as amended.

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

Ms. Yeatts stated the original Temporary Outdoor Dining licenses were set to expire on November 30, 2020. As Virginia and the Town remain in a State of Emergency and restrictions on indoor dining capacity and spacing remain in effect, the town required that all restaurants that would like to continue offering temporary outdoor seating submit a new application for a permit. The new application was amended to be more specific to the current situation, including language regarding the seasonal use of heaters as well as language regarding adhering to any future Executive Orders from the Governor.

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

Councilmember Dhakal moved approval of Resolution 21-G-07, as presented, and Councilmember Friedrichs seconded the motion.

**January 26, 2021
(public hearing)**

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

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.

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.

[Note: Attached for reference, at the end of the minutes, is the temporary license agreement dated December 8, 2020 b/n the town and Teryanna, LLC dba Mile 20 at Mediterranean Breeze.

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.**

Mayor Olem recognized the Director of Public Works, Scott Robinson who presented the staff report dated January 19, 2021 which is on file in the Town Clerk's office.

Mr. Robinson stated the proposed resolution would ratify a Temporary Emergency Extension of Lease between the town and Evince Analytics, Inc., signed by the Town

**January 26, 2021
(public hearing)**

Manager pursuant to Ordinance 20-O-23, as amended. Staff is recommending ratification of the lease extension.

The town is currently party to a one-year lease with Evince Analytics, Inc. for 3,512 square feet of office space in the town's building at 397 Herndon Parkway. This lease was set to expire on December 31, 2020. Evince Analytics had recently determined that their space needs have changed, and they would like to re-negotiate a new lease. However, since the current lease would expire before this process could be completed, the town and Evince Analytics agreed that a temporary extension of the current lease would be the best option. This instrument extends the expiration date to June 30, 2021 to allow for the necessary time to process a new lease agreement. The rent for this space would remain \$5,000 per month, which is consistent with current market rates. Staff recommended approval, as presented.

Councilmember Dhakal asked for clarification if this was an extension of the existing lease, and Mr. Robinson confirmed.

Councilmember Friedrichs moved approval of Resolution 21-G-19, as presented, and Councilmember Regan seconded the motion.

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

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.

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.

**January 26, 2021
(public hearing)**

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.

[Note: Attached for reference is the extension of lease dated December 31, 2020 b/n town and Evince Analytics, Inc.]

**January 26, 2021
(public hearing)**

**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.

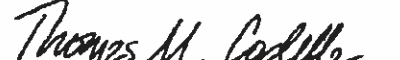
THEREFORE, in consideration of the rent paid to Landlord and the leased space provided to Tenant, the parties agree that:

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: 

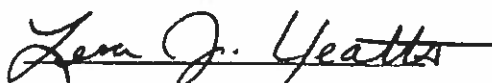
Name: William H. Ashton II

Name: Thomas M. Cordella

Title: Town Manager

Title: President

APPROVED AS TO FORM

By: 

Name: Lesa J. Yeatts

Title: Town Attorney

**January 26, 2021
(public hearing)**

11. Resolution 21-G-20, to provide guidance to the Town Manager on the development of the FY 2022 Budget.

Mayor Olem recognized Town Manager, Bill Ashton to outline the proposed resolution.

Mr. Ashton stated that current Budget Manager, Karen Gagliano, and future Budget Manager, Maria Lee, were also on the Webex. He stated they would be going over the annual exercise for Council to adopt a series of guidelines under which they adopt town's operational budget. He stated this was a policy document, making Council guidance and input paramount. Modifications to the resolution had been made since the work session.

Mr. Ashton then presented the draft resolution with the full budget with guidance that stipulates two levels of expenditure projections based on a range of revenue predictions at a minimum, mid, and max option. Something new from the work session was additional funding in contingency of Council priorities to address concerns those items would not be addressed by the budget. Staff proposed a contingency fund for Council priorities and Council could work with staff to account for those priorities that they had not yet defined. If the amount was not enough, they could amend, or if too much, they could do something with the surplus.

Mr. Ashton outlined goals of the budget along with functions and services the town needs to provide, focusing on core services, health, safety, welfare, and things they are required to perform statutorily and contractually that directly affect quality of life for residents and visitors. He also highlighted secondary functions necessary to support the core services.

Other core areas of focus included: demonstration of commitment and investment, minimizing impact to personnel, and maintaining competitiveness in employment by demonstrating investment in employees through raises, healthcare costs, and funding training and certifications necessary for staff; maintaining a strong fiscal position and forecasting for the future; exploring funding strategies like using FY 2020 surplus, and sustaining key resources; and working with staff to avoid making bad long-term strategic decisions for short term gain.

Mr. Ashton stated tonight, they were primarily discussing the General Fund, but they would need to balance water and sewer revenue with costs and address infrastructure issues. He brought up the 2018 rate study to talk about where revenues are compared to cost. Though the town had the lowest rates in the region, the user fees needed to cover the operating cost. The current plan would address this was suspended for COVID-19, but they need to get back to it.

**January 26, 2021
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Mr. Ashton reported the water system pipes were 50 years old and that is considered young, with the life cycle being 100 years. They should be replacing around 1 percent of the pipes every year, so they need to get more aggressive with that as they are only at around 0.5 percent currently. He stated that revenue would help balance operating costs to address those infrastructure goals.

Mr. Ashton stated staff was asking Council to agree to this guidance. He also addressed questions he had received from a Councilmember and stated the sustainability plan was very important, even though it was not directly reflected in the proposed resolution. He referenced areas where they have engrained sustainability such as the CIP and the culture of the town.

To address another question about COVID-19 management brought up by a Councilmember, Mr. Ashton indicated that the town was not directly involved in vaccinations but did mention additional costs from COVID-19 such as having an additional cleaning of the HMC and administrative leave which had to that point equaled approximately 26,000 hours, or roughly 14 full time employees, lost over the course of the year to COVID leave. He stated COVID-19 had become engrained in the operations so he did not think he needed to make particular mention of it.

There was discussion amongst Council and staff on this item.

Mayor Olem provided brief comments stating they were in good hands and like most jurisdictions, the town was experiencing decreases in revenues. She mentioned the importance of keeping the core services in place for budget planning.

Vice Mayor del Aguila stated he had concerns on the last two items, and he felt he knew where they needed to go, but they needed historical data from 10 to 20 years ago to illustrate the delta between revenues and operating costs. He thought they would need to do a couple of things to close those gaps, and that they need to give the public historical context. He stated the problem might get worse if they kicked it down the road and to going forward, they should show some trends to address concerns.

Mr. Ashton stated that was covered in the 2018 rate study, which staff would present during the budget adoption public hearings. He also shared they would have a consultant coming to the work session in February and they could discuss water and sewer rates then. He then went over how user fees used to cover costs, but the cost of the commodity, labor, equipment, and fuel had risen while the rates remained stagnant. He stated when he and the Director of Finance, Jennie Tripoli began serving in their current roles, they commissioned a study to look at what was happening.

Mr. Ashton also discussed how this money was viewed as income rather than a capital account. He stated they looked at the study and slowly raised rates over different budget years. They also took water rates and included them in the budget to shine a spotlight on

**January 26, 2021
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them to examine this rate each year. He shared that Council could be briefed on the 2018 study at any point, and it also included projections for if they did nothing.

Councilmember Dhakal agreed with many of Vice Mayor del Aguila's points about revenue and narrowing the gap. He wanted to revisit some fees and see what was feasible to maintain strong financial position. He expressed that he was more interested in learning about the gap in the financial position and using that to make decisions rather than basing decisions on how long it had been since rates were raised and what other jurisdictions were doing.

Councilmember Dhakal wanted to see the potential gap between what they were planning and the budget items that were slated to be part of FY 2021 budget before the pandemic to understand what was missing. He indicated that the Five-year plan, CIP, or other things they could have put there if they had not been hit by the pandemic. This would make it easier to prioritize to see what was missing. Councilmember Dhakal felt there were many ways they could look for the leaks they have. He then mentioned that, from the HR perspective, items like administrative leave and PTO accumulation were big financial burdens for the town.

Mr. Ashton stated Councilmember Dhakal raised good points. He had quoted the history of water and sewer in the town so Council could understand where they came from. He was focused on where they were going. Similarly, he stated comparative analysis with other water services in the region was to illustrate how the town charged considerably less for commodities than what they pay. He reiterated that this was addressed in the 2018 study. In terms of the gaps Councilmember Dhakal mentioned, that staff would present a base and two sequestration budgets. They went into FY 2021 where he was prepared to offer a \$38 million budget from the General Fund, and they are at \$32.5 million projected with \$5.5-6 million sequestration. He stated that while the town would see some savings over the course of the year, they had to be fiscally disciplined to get out balanced. Staff had been looking at leakage since he started because they were seeing dangerous trends with costs of inflation and costs of personnel, equipment, fuel rising every year with revenue base rising at a lower rate. He went after the leakages for the first couple of years and changed methodologies.

Mr. Ashton also stated they could not cut administrative leave for COVID symptoms because they had to be aggressive based on both the Governor's orders and it being the right thing to do.

Councilmember Singh provided comments about his personal company and budgets and trends. He thought what the Vice Mayor was talking about would help. He stated they may understand certain words differently. He felt they needed numbers and explanations of where information came from. He was interested in seeing the study, but he was uncomfortable with only discussing water and sewer which was an enterprise fund. He thought they needed to look at the General Fund numbers to get a sense of what has been

**January 26, 2021
(public hearing)**

happening and give guidance on what Council prefers to do. He had looked at water and sewer rates and data, and if rates rise, they must be paid. He provided further comments about understanding that delta and future replacement of some of the sewer system. He felt it was important for Council to know all the numbers and where to shift and that Mr. Ashton was looking for Council guidance.

Mr. Ashton stated he was looking for guidance in a broad sense at this point. He stated once they get into the nuts and bolts, Council would meet with the budget team individually about how to make this budget balanced. He stated they would listen to the individual meetings and then have at least four budget meetings with Council. It was a team effort, and they had a great budget team working on this. He also shared that he had never seen something quite like this budget and that it would be a challenge.

Councilmember Singh asked why Council meetings should be held one-on-one and not with all of Council as they go department by department. Mr. Ashton responded that they do so to elicit frank responses and discussions. He also mentioned they sometimes talk about personnel, and he prefers to keep that low key until they get to a point to make it public because it affects people's lives.

Councilmember Singh provided comments on his prior experiences with the budget on Council and expressed concerns with Council having to spend time looking through each part of the budget. He mentioned raising salaries for Councilmembers and expressed that they do not have enough time.

Mayor Olem expressed appreciation for Mr. Ashton's work in his role as Town Manager as well as the rest of staff for being so agile.

Councilmember Singh felt that it was important to keep new residents in town who would expect a lot from the town and facilities if they want to be able to upgrade everything in the next five to ten years to compete with surrounding jurisdictions. His personal preference to have discussion on what all that means.

Councilmember Alam thanked Mr. Ashton for his work for the town, and Mayor Olem echoed her sentiments.

Councilmember Friedrichs moved approval of Resolution 21-G-20, as presented, and Vice Mayor del Aguila seconded the motion.

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

**January 26, 2021
(public hearing)**

Resolution 21-G-20, 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

**January 26, 2021
(public hearing)**

- 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.

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.

Mayor Olem recognized the Zoning Administrator, David Stromberg who presented the staff report and PowerPoint dated January 19, 2021, which are on file in the Town Clerk's office.

Mr. Stromberg stated the proposed ordinance would affirm corrections to Ordinance 20-O-59 for a Zoning Map Amendment. Staff was requesting that Council approve the corrected draft Ordinance 20-O-59, as proposed.

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

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(public hearing)**

The applicant requested a modification to allow a lower amount of required parking spaces on a total of five lots, Lots 1A, 1B, 3A, 3B and 4A. The version of Ordinance 20-O-59 that the Town Council approved on October 27, 2020, inadvertently omitted Lot 3B from the parking space modification and only listed Lots 1A, 1B, 3A, and 4A. The Ordinance with the corrected modification including all five lots, Lots 1A, 1B, 3A, 3B and 4A. No other changes to the ordinance have been made.

On motion of Councilmember Dhakal, seconded by Councilmember Regan, and carried by unanimous roll call vote by electronic means, Ordinance 20-O-59 was approved, as presented. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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):

**January 26, 2021
(public hearing)**

- 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.

[*The version of Ordinance 20-O-59, approved by the Town Council on October 27, 2020, inadvertently omitted Lot 3B from the parking space modification and only listed Lots 1A, 1B, 3A, and 4A.]

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.

Mayor Olem recognized the Deputy Director of Community Development, Bryce Perry who presented the staff report and PowerPoint dated January 19, 2021 which are on file in the Town Clerk's office.

Mr. Perry stated the proposed resolution extended an already approved special exception for an existing monopole. He reviewed the special exception standards, background, and proposed extension. He stated that construction had not begun, which was triggering the need for the extension, and the project had not changed since its original approval. He reviewed the project, location, and impacts of the project.

**January 26, 2021
(public hearing)**

Mr. Perry then reviewed the two primary reasons given for the delay of the project which included the merging of Sprint and T-Mobile and administrative delays related to the pandemic. Staff found these to be justified reasons. He also stated the project was still meeting all standards and if granted the six-month extension, the special exception would remain active until April 23, 2021.

In response to queries from Councilmember Singh about the next extension, Mr. Perry clarified that the zoning ordinance allowed for one six-month extension. The applicant could submit amendments to change the special exception, but that would require going through the full special exception process.

Councilmember Dhakal moved approval of Ordinance 20-O-59, as presented, and Councilmember Regan seconded the motion.

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

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.

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.

**January 26, 2021
(public hearing)**

2. All conditions of the original approval, dated April 23, 2019, are retained and still apply, except as modified by condition 1 above.

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.

Mayor Olem recognized the Zoning Administrator, David Stromberg for the staff report.

Mr. Stromberg provided an overview of Town of Herndon Zoning Ordinances for Council. He stated zoning came from Chapter 78 of the Town Code and could only be changed by legislative action with authority from the Code of Virginia. He reviewed the ZOTA process, and he clarified the roles of Council and staff with Zoning Text Amendments.

Mr. Stromberg stated that, if approved, this initiating resolution would refer ZOTA #21-01 to the Planning Commission for consideration and recommendation. Following Planning Commission review, this text amendment would return to Council for final action. He stated this amendment was one of several that needed to be made to implement the South Elden Area Plan that Council adopted on February 12, 2019. This plan encouraged the reuse or redevelopment of existing commercial sites and further explained the reasoning.

He then outlined the location of the parcels and summarized all the changes related to this proposal which included reducing the front setback requirement in the CS, Commercial Services, zoning district. Staff recommended that Council approve the item, as presented to send it to the Planning Commission.

Councilmember Singh provided comments about looking forward and asked if this was to allow flexibility. He imagined those corridors might be redeveloped and this was part of a plan to set how they want the area to work. He also provided comments about having consistent development over time and needing to have the bigger picture in mind to make the town beautiful. These were guidelines he would like to see developed.

Councilmember Regan asked about the thinking behind 25 feet. Mr. Stromberg stated there are various tiers in the South Elden Area Plan with different densities and provided comments on the full rezoning. He stated this removed the initial setback requirement to allow a little more flexibility for parking.

Councilmember Alam moved approval of Resolution 21-G-22, as presented, and Councilmember Dhakal seconded the motion.

**January 26, 2021
(public hearing)**

Councilmember Regan provided comments about wanting to be efficient and acknowledged that they were following a statute that requires Council to act on this before it goes to the Planning Commission.

Mayor Olem provided brief comments.

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

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.

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.

[Note: Attached for reference is the proposed draft ordinance.]

**January 26, 2021
(public hearing)**

TOWN OF HERNDON, VIRGINIA

DRAFT 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 VIII, ~~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: 30' 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. 25'
Setback, Maximum (feet)	100'

**January 26, 2021
(public hearing)**

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.	

18

19

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

**January 26, 2021
(public hearing)**

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 (NVTA PCAC);**
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; and**
18. **Resolution 21-G-26, to appoint a Town of Herndon member to the Phase II Dulles Rail Transportation Improvement District Advisory Board.**

On motion of Councilmember Dhakal, seconded by Vice Mayor del Aguila, the Consent agenda items were approved by unanimous roll call vote by electronic means, without comment. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Resolution 21-G-23, 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.

**January 26, 2021
(public hearing)**

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.

Resolution 21-G-24, 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.

Resolution 21-G-25, 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.

Resolution 21-G-26, 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.

**January 26, 2021
(public hearing)**

19. ADJOURNMENT

Councilmember Friedrichs moved to adjourn the meeting of the January 26, 2021 public hearing, and Councilmember Dhakal seconded the motion. The question was called on the motion which carried by unanimous roll call vote by electronic means, and the meeting of the January 26, 2021 public hearing adjourned at 10:42 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."



**Sheila A. Olem
Mayor**



**Jessica Sizemore
Legislative Assistant**

Minutes approved by Town Council: March 9, 2021.

**January 26, 2021
(public hearing)**

NOTE:

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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.

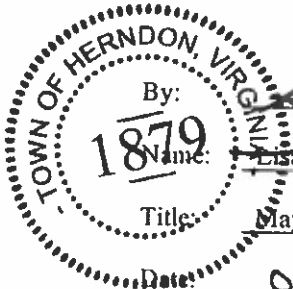
Signatures on following page

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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:

Title:

Date:

Shil A. Den
Shel A. Den
 Lisa C. Merkel
 Mayor
 01/12/2021

LESSEE:

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

DocuSigned by:

By:

Name:

Title:

Date:

Louis Deal
 1348FF73FE2C41B
 Louis Deal
 Reac Mgr
 12/15/2020

ATTEST:

By:

Name:

Title:

Margie C. Tucci
 Margie C. Tucci
 Acting Town Clerk

APPROVED AS TO FORM:

By:

Name:

Title:

Lesa J. Yeatts
 Lesa J. Yeatts
 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"

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Exhibit E - Pg. 4 of 5 - December 8, 2020

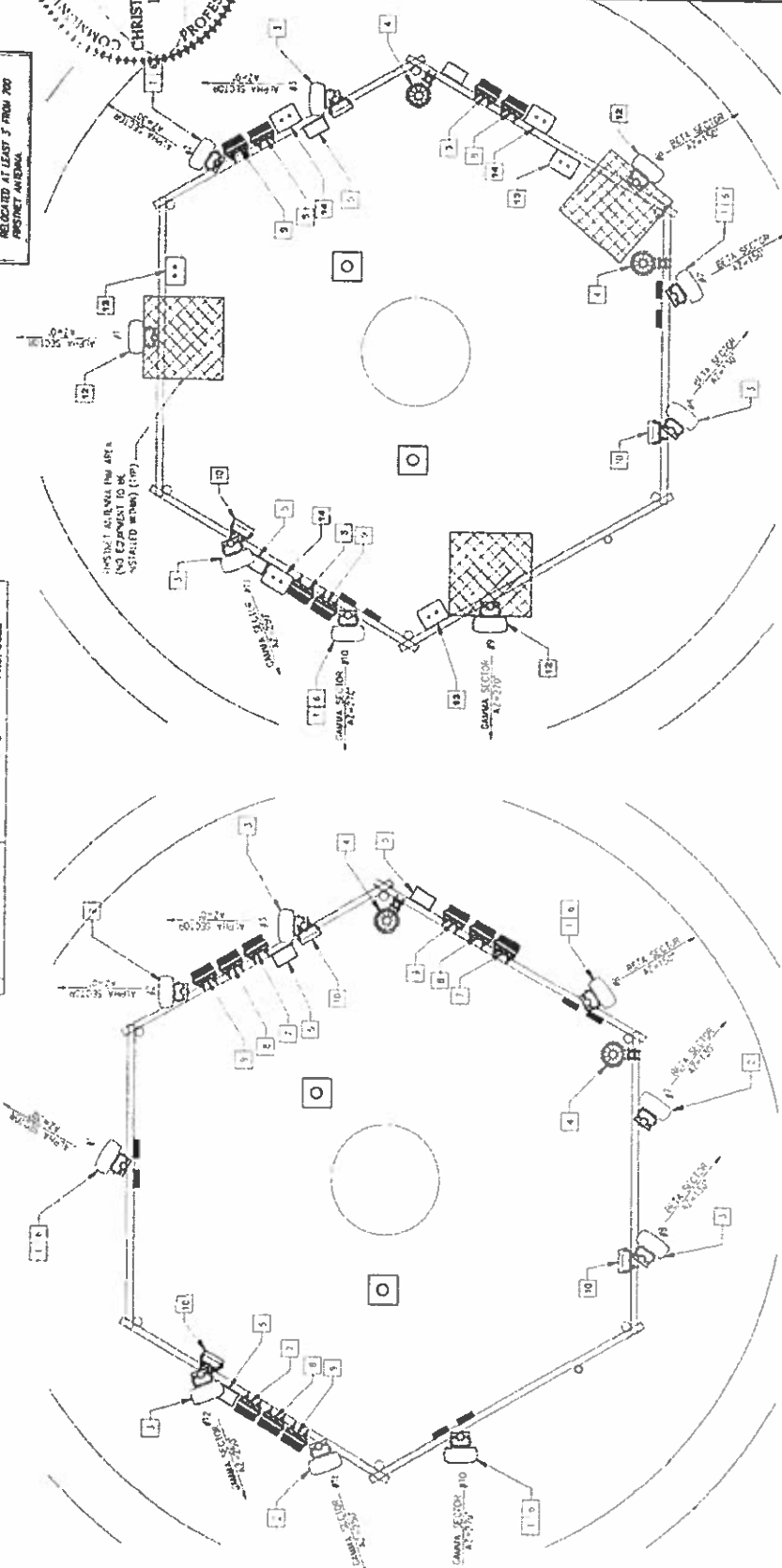
AT&T TOWER PIM NOTICE

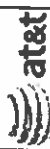
- REPLACE ALL CABLE CLAMPS, HANGERS, AND SUPPORTS SURROUNDING THE TOWER. CLAMPS MUST BE PLACED LOCATED AT THE PLUMB LINE AND/OR ANCHOR AND EXTEND 6" FROM THE PLUMB LINE. CLAMPS MUST BE PLACED LOCATED AT THE PLUMB LINE AND/OR ANCHOR AND EXTEND 6" FROM THE PLUMB LINE. CLAMPS MUST BE PLACED LOCATED AT THE PLUMB LINE AND/OR ANCHOR AND EXTEND 6" FROM THE PLUMB LINE.
- REMOVE ALL UNNECESSARY HANGERS, SUPPORTS, AND CLAMPS. REMOVE ALL HANGERS, SUPPORTS, AND CLAMPS THAT ARE NOT REQUIRED FOR THE TOWER. REMOVE ALL HANGERS, SUPPORTS, AND CLAMPS THAT ARE NOT REQUIRED FOR THE TOWER.
- THE TOWER SURFACE, INCLUDING ROOFING, MUST BE MAINTAINED IN GOOD CONDITION. THE TOWER SURFACE, INCLUDING ROOFING, MUST BE MAINTAINED IN GOOD CONDITION. THE TOWER SURFACE, INCLUDING ROOFING, MUST BE MAINTAINED IN GOOD CONDITION.
- ALL CABLES MUST BE SECURED TO THE TOWER. ALL CABLES MUST BE SECURED TO THE TOWER. ALL CABLES MUST BE SECURED TO THE TOWER.
- DO NOT ATTACH WIRING TO THE TOWER. DO NOT ATTACH WIRING TO THE TOWER. DO NOT ATTACH WIRING TO THE TOWER.

ORIENTATION PLAN KEY			
#	DESCRIPTION	TYPE	STATUS
1	600' TOWER	ANTENNA	RELOCATED
2	50' DIA. 15' TALL	ANTENNA	RELOCATED
3	800' TOWER	ANTENNA	RELOCATED
4	20' DIA. 15' TALL	ANTENNA	RELOCATED
5	20' DIA. 15' TALL	ANTENNA	RELOCATED
6	20' DIA. 15' TALL	ANTENNA	RELOCATED
7	20' DIA. 15' TALL	ANTENNA	RELOCATED
8	20' DIA. 15' TALL	ANTENNA	RELOCATED
9	20' DIA. 15' TALL	ANTENNA	RELOCATED
10	20' DIA. 15' TALL	ANTENNA	RELOCATED
11	20' DIA. 15' TALL	ANTENNA	RELOCATED
12	20' DIA. 15' TALL	ANTENNA	RELOCATED
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81	20' DIA. 15' TALL	ANTENNA	RELOCATED
82	20' DIA. 15' TALL	ANTENNA	RELOCATED
83	20' DIA. 15' TALL	ANTENNA	RELOCATED
84	20' DIA. 15' TALL	ANTENNA	RELOCATED
85	20' DIA. 15' TALL	ANTENNA	RELOCATED
86	20' DIA. 15' TALL	ANTENNA	RELOCATED
87	20' DIA. 15' TALL	ANTENNA	RELOCATED
88	20' DIA. 15' TALL	ANTENNA	RELOCATED
89	20' DIA. 15' TALL	ANTENNA	RELOCATED
90	20' DIA. 15' TALL	ANTENNA	RELOCATED
91	20' DIA. 15' TALL	ANTENNA	RELOCATED
92	20' DIA. 15' TALL	ANTENNA	RELOCATED
93	20' DIA. 15' TALL	ANTENNA	RELOCATED
94	20' DIA. 15' TALL	ANTENNA	RELOCATED
95	20' DIA. 15' TALL	ANTENNA	RELOCATED
96	20' DIA. 15' TALL	ANTENNA	RELOCATED
97	20' DIA. 15' TALL	ANTENNA	RELOCATED
98	20' DIA. 15' TALL	ANTENNA	RELOCATED
99	20' DIA. 15' TALL	ANTENNA	RELOCATED
100	20' DIA. 15' TALL	ANTENNA	RELOCATED

- 1. LAYOUT SHOWN BASED ON AVAILABLE INFORMATION FROM THE TOWER OWNER. THE TOWER OWNER IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
- 2. NO EXISTING OR PROPOSED ANTENNA TO EXCEED A SPAN OF 10' BETWEEN SUPPORTS. REMOVE AND REPLACE EXISTING ANTENNA AS NECESSARY FOR MAX. 4' SPAN WHEN UTILIZED.
- 3. SEE SHEETS C3 AND C4 FOR PROPOSED EQUIPMENT.
- 4. WORKING DETAILS SHALL BE TO BE PROVIDED UNLESS NOTED OTHERWISE.

- 1. NO EQUIPMENT TO BE INSTALLED WITHIN 3' OF PROPOSED ANTENNA.
- 2. EXISTING OR PROPOSED ANTENNA TO BE RELOCATED AT LEAST 3' FROM PROPOSED ANTENNA.





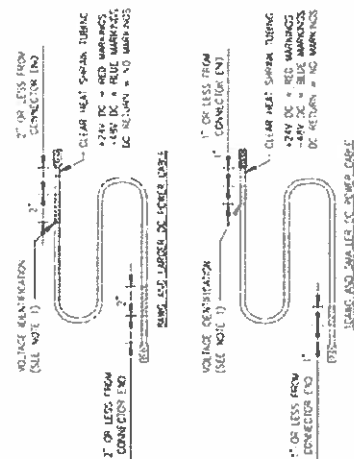
INGENIY8
ENGINEERING, PLLC
1000 DEERPATH ROAD SUITE 100
COLUMBUS, OH 43240
614.462.2000
FAX 614.462.2001

PROFESSIONAL ENGINEER
CHRISTOPHER J. WARREN
No. 003631
STATE OF OHIO

smartlink
1300 BELCON RD
HOUSTON, TX 77058
713.462.2000
FAX 713.462.2001
www.smartlink.com

ANTENNA ORIENTATION PLAN
C3

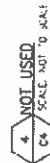
CALHOUN CT
SITE ID: 2873
FA # 10067722
REVISION NO. 001
REVISION DATE 12/08/20



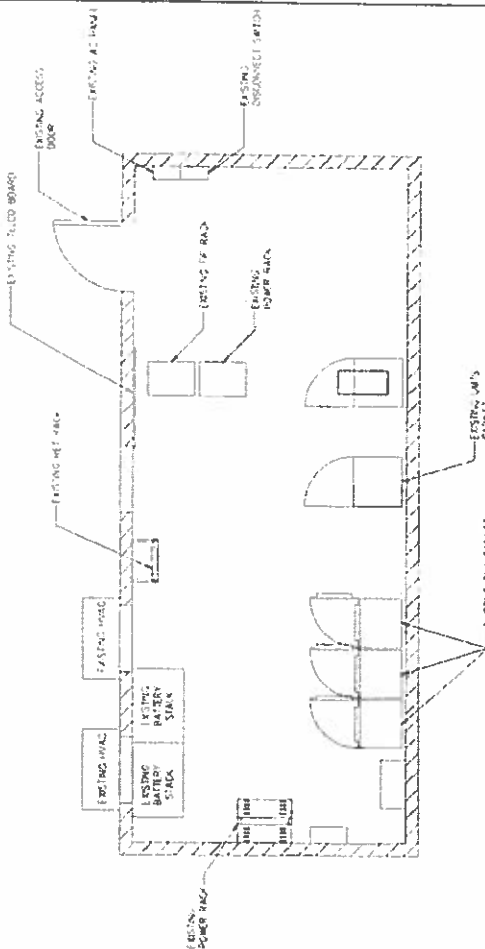
1 DC CONDUCTOR SPECIFICATIONS

\c4 / SCALE. NOT TO SCALE

- [illegible]



1. INCLUDE PROPOSED TELECOMPLEX DC CONDUCTORS IN EXISTING CEILING MOUNTED CABLE TRAY.
2. DC CONDUCTOR SIZING FOR AMF POWER CONNECTION TO DC SURGE PROTECTION DEVICE BASED ON MAXIMUM SIZE REQUIRED FOR AMPACITY RATING OF CONDUCTORS. OCC TO INCREASE CONDUCTOR SIZING AS NECESSARY TO SUPPLY MINIMUM VOLTAGE NECESSARY TO 600V BASED ON ACTUAL INSTALLATION LENGTH OF CONDUCTORS AND DC TRUNK CABLES.



2 EQUIPMENT LAYOUT
SCALE: NOT TO SCALE

WAS C: IDN JNOS

																																																																																																			
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APPLICATION FOR TEMPORARY LICENSE AGREEMENT

Temporary Outdoor Dining on Town Property

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: [Signature]

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

Department of Community Development
777 Lynn Street • Herndon, VA 20170 • (703) 787-7380
zoning.enforcement@herndon-va.gov

age 1 of 1

- o If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- o Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☐ Number and type of heaters. *N/A*
 - o 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.
 - o 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 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 (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. Come

Its: owner

TOWN OF HERNDON:

By: Wm. H. [Signature]

Town Manager

12.8.2020

Date

781 - 783 GATION ST.

TO WHOM IT MAY CONCERN:

THE ABOVE APPLICANT

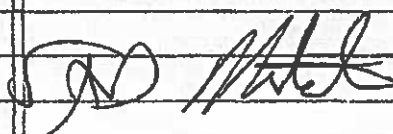
HAS AUTHORIZATION TO

MAKE APPLICATION FOR

TEMPORARY OUTDOOR DINING

JAMES GILSON 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): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE <table style="width: 100%;"> <tr> <td style="width: 80%;">INSURER A: Southern Insurance Companies of VA</td> <td style="width: 20%;">NAIC # A0605</td> </tr> <tr><td>INSURER B:</td><td></td></tr> <tr><td>INSURER C:</td><td></td></tr> <tr><td>INSURER D:</td><td></td></tr> <tr><td>INSURER E:</td><td></td></tr> <tr><td>INSURER F:</td><td></td></tr> </table>	INSURER A: Southern Insurance Companies of VA	NAIC # A0605	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER A: Southern Insurance Companies of VA	NAIC # A0605												
INSURER B:													
INSURER C:													
INSURER D:													
INSURER E:													
INSURER F:													
INSURED Mediterranean Breeze II Teryanne LLC 781 Station Street Herndon, VA 20170													

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 - COMPIOP 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? ☐ Y ☐ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		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
---	--

Google Maps

White Fence in place by town already
 Jersey Barriers in place already



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

Area 700
 1 - 10x30 tent
 2 - 10x20 tent in a cluster

Area 800
 4 - 10x20 Tents in a cluster

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



- 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

Maria K. Everett

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 Orsini
BUILDING INSPECTOR