



TOWN COUNCIL MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170
Tuesday, March 14, 2023 | 7:00 p.m.

1. Call to Order

2. Pledge of Allegiance to the Flag of the United States of America

3. Presentations/Reports/Comments

- a. Town Manager Report
- b. Councilmember Comments

4. Comments from the Audience

Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.

5. Public Hearings

- a. Ordinance 23-O-07 to approve and authorize the Mayor to sign a Fourth Lease Amendment with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation to revise the exhibits, utility and access easement description, premises description, approved equipment list, and rent at the Town's Alabama Drive Water Tower
- b. Ordinance 23-O-08 to consider zoning ordinance text amendment, ZOTA #23-01, to amend Chapter 78 (ZONING), Section 78-141.6 (Sign Standards for Downtown Mixed-Use Districts), to revise the regulations governing the location of wall mounted signs

6. Consent

- a. Resolution 23-G-23 to approve the Town's participation in the proposed settlement of opioid-related claims against Teva, Allergan, Walmart, Walgreens, CVS, and their related corporate entities, and to direct the Town Manager and/or Town Attorney to execute the documents necessary to effectuate the Town's participation in the settlements
- b. February 21, 2023, Town Council Work Session Minutes
- c. February 28, 2023, Town Council Meeting Minutes
- d. March 9, 2023, Town Council Special Meeting Minutes

7. Adjournment

TOWN OF HERNDON, VIRGINIA

ORDINANCE

MARCH 14, 2023

Ordinance - to approve and authorize the Mayor to sign a Fourth Lease Amendment with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation to revise the exhibits, utility and access easement description, premises description, approved equipment list, and rent 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 Fourth Amendment to Deed of Lease dated February 28, 2023. 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, as amended by the Second Amendment to Deed of Lease dated October 20, 2015, and as amended by the Third Amendment to Deed of Lease dated January 26, 2021.
2. This instrument updates the exhibits, utility and access easement descriptions, premises description, approved equipment list, and rent.
3. Exhibit B "print date" December 26, 2000, Exhibit C dated December 8, 2020, Exhibit D dated December 8, 2020 and Exhibit E, Pages 1-5 dated December 8, 2020 are deleted in their entirety and replaced with Exhibit B dated February 28, 2023, Exhibit C dated February 28, 2023, and Exhibit D Pages 1-4 dated February 28, 2023.
4. The "Utility" and "Access" Easements shall be as described in Exhibit A.
5. The "Premises" shall be as described in Exhibits B, C and D.
6. The "Equipment" shall be as described in Exhibits C and D.
7. This instrument approves the following on equipment list: 12 antennas up to 96" H x 20" W x 8" D.
8. In all other respects the original lease remains in effect.
9. The Mayor is authorized to sign and deliver the lease amendment and any ancillary instruments necessary to evidence or effectuate the lease amendment, provided they are consistent with this ordinance and on such form approved by the Town Attorney.
10. This ordinance shall be in effect on and after the date of its adoption.

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

FOURTH AMENDMENT TO DEED OF LEASE

THIS FOURTH AMENDMENT TO DEED OF LEASE (“**Fourth Amendment**”), dated the 28th day of February 2023, 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-in-interest) 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**”), as amended by the Second Amendment to Deed of Lease dated October 20, 2015 (“**Second Amendment**”), and as amended by the Third Amendment to Deed of Lease dated January 26, 2021 (“**Third 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, the Second Amendment, and the Third 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 Fourth 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 Fourth Amendment.
2. Exhibit B “print date” December 26, 2000, Exhibit C dated December 8, 2020, Exhibit D dated December 8, 2020 and Exhibit E, Pages 1-5 dated December 8, 2020 are deleted in their entirety.
3. The lease is hereby amended to add Exhibit B dated February 28, 2023, Exhibit C dated February 28, 2023, and Exhibit D Pages 1-4 dated February 28, 2023.
4. “Utility” and “Access” Easements shall be as described in Exhibit A.
5. “Premises” shall be as described in Exhibits B, C and D.
6. “Equipment” shall be as described in Exhibits C and D.
7. **Rent.** As additional consideration for the modification and other rights set forth in this Fourth Amendment, beginning on April 1, 2023, the rent will be increased by

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

\$450.00 per month. The rent shall escalate each year provided in paragraph 3(c) of Original Deed of Lease, as amended.

8. 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 Fourth Amendment conflicts with the terms of the Lease, the terms and provisions of this Fourth Amendment shall prevail.

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

LESSOR:

TOWN OF HERNDON

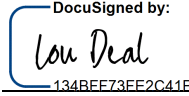
By: _____
Name: Sheila A. Olem
Title: Mayor
Date: _____

ATTEST:

By: _____
Name: _____
Title: _____

LESSEE:

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

By: 
Name: Lou Deal
Title: Reac Mgr
Date: 2/22/2023

APPROVED AS TO FORM:

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

**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**

Exhibit B
February 28, 2023

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"

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

Exhibit C
February 28, 2023

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 and ground sufficient to accommodate the placement, installation, operation and maintenance of the equipment (listed on Exhibit "D").
3. The Access easement (as depicted in Exhibit "A").
4. The Utility Easements. (as depicted in Exhibit "A").
5. The premises is as depicted on the attached drawings (Exhibit "B", "C", "D")

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.

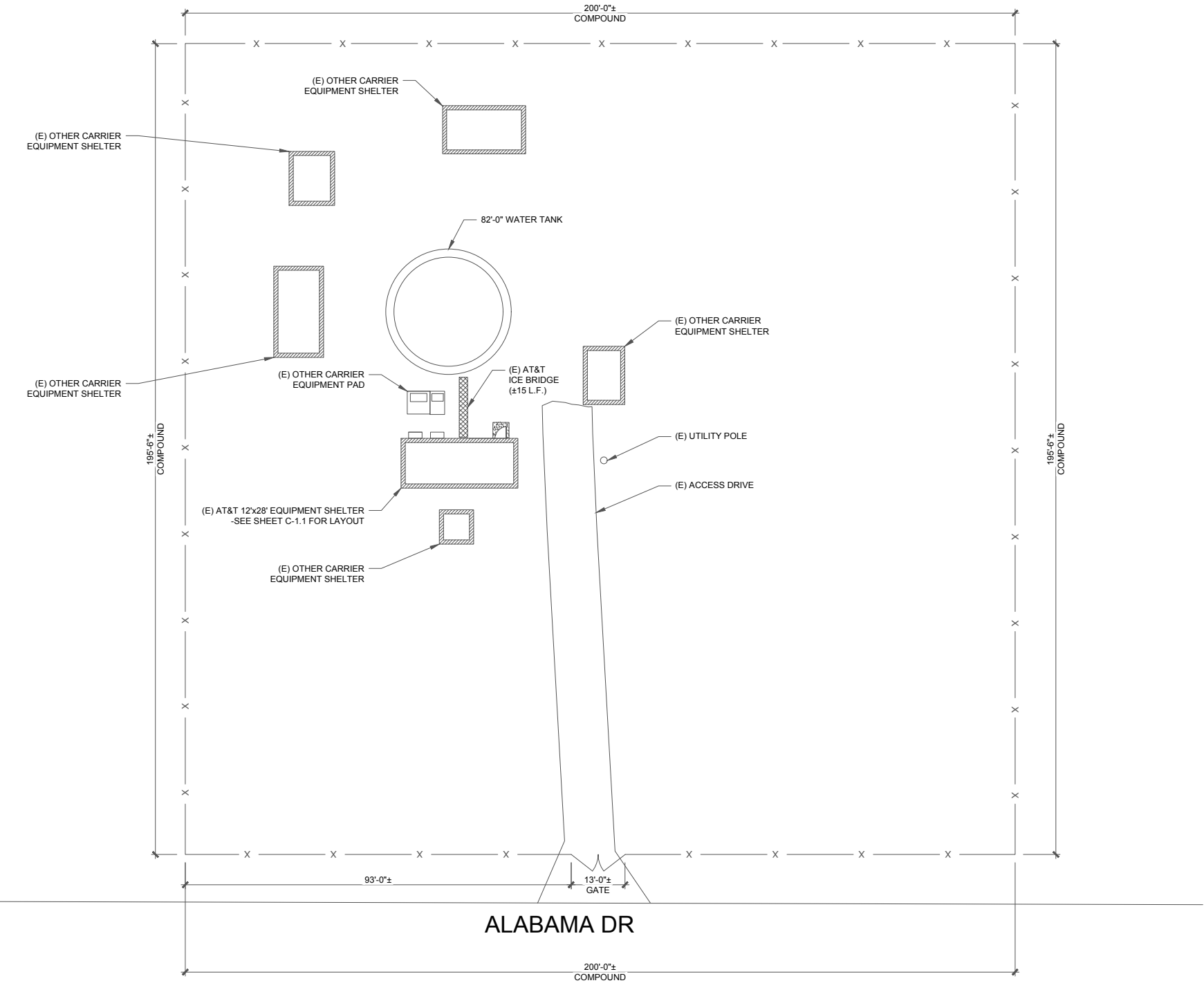
Town Site ID: Herndon Alabama Drive Water Tower
Tenant Site ID: PW1191/Herndon Water Tank
Fixed Asset No. 10067722
Market: DC/MD
Address: 624 Alabama Drive, Herndon, VA 20170

Exhibit D
Page 1 of 4
February 28, 2023

The following equipment together with any associated wires, cables, pipes, conduits and supporting structures associated with the equipment shall be located on and around the Alabama Drive 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'
12	Antennas	up to 96" H x 20" W x 8" D
6	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
9	DC Trunks	up to 0.92" diameter
3	18 pair Fiber Trunks	up to 0.40" diameter
3	Junction/Slack Boxes	up to 12" x 12" x 8"
3	RET Cables	up to 3/8" diameter
3	Surge Suppressors	up to 32" x 14" x 11"
12	Coax Cables	up to 1 5/8" diameter

EXHIBIT D (February 28, 2023) (PG 2 OF 4)



7150 STANDARD DRIVE
HANOVER, MD 21076



1362 MELLON ROAD, SUITE 140
HANOVER, MD 21076



GPD GROUP, INC.®

520 South Main Street, Suite 2531
Akron, OH 44311
330.572.2100 Fax 330.572.2101

PROJECT INFORMATION:

CALHOUN CT
10067722
624 ALABAMA DRIVE
HERNDON, VA 20170
FAIRFAX COUNTY

SEAL:

**THIS DOCUMENT
IS PRELIMINARY
IN NATURE AND IS
NOT A FINAL,
SIGNED AND
SEALED
DOCUMENT**

REV.: DATE: DESCRIPTION:

A	10/13/2022	SITE EXHIBIT
B	10/17/2022	PER COMMENTS
C	11/28/2022	ANTENNAS UPDATED

DRAWN BY: CHK.: APV.:

MAS	MRL	CJS
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SHEET TITLE:

ROOFTOP PLAN

SHEET NUMBER: REVISION:

C-1

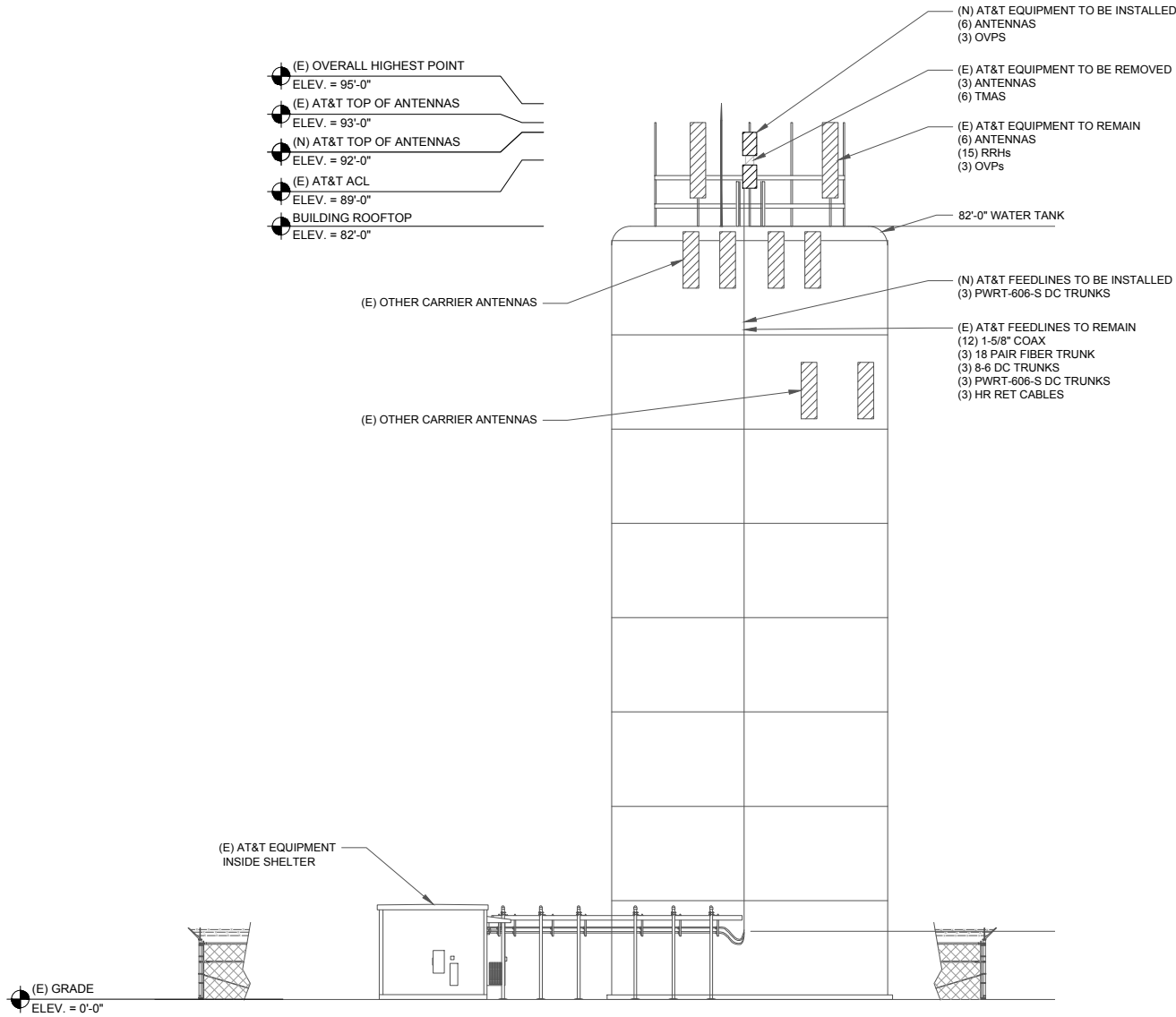
C

GPD Job #:

2022723.21.16269.01

EXHIBIT D (February 28, 2023) (PG 3 OF 4)

PAINTING NOTE:
1. ALL NEW ANTENNAS SHALL BE PAINTED TO MATCH EXISTING USING SHERWIN WILLIAMS POLANE G PLUS PAINT. PROVIDE PAINT SAMPLES FOR OWNER APPROVAL PRIOR TO ORDERING OR PAINTING. OWNER APPROVAL SHALL BE DOCUMENTED IN WRITING.
2. PAINTING METHOD SHALL BE COORDINATED WITH EQUIPMENT MANUFACTURER.



NOTES:
1. THIS DRAWING IS INTENDED TO DEPICT THE GENERAL LOCATION AND HEIGHT OF THE NEW EQUIPMENT ON THE EXISTING TOWER. CONSTRUCTION SHALL NOT PROCEED UNTIL A STRUCTURAL ANALYSIS REPORT HAS BEEN COMPLETED BY A PROFESSIONAL ENGINEER REGISTERED IN THIS STATE, CONCLUDING THAT THE EXISTING TOWER IS STRUCTURALLY ADEQUATE TO RESIST THE EXISTING AND NEW LOADS.

STRUCTURAL ANALYSIS: PENDING
DATED: PENDING
MOUNT ANALYSIS: GPD GROUP, INC.
DATED: 05/06/2022



7150 STANDARD DRIVE
HANOVER, MD 21076



1362 MELLON ROAD, SUITE 140
HANOVER, MD 21076



GPD GROUP, INC.®

520 South Main Street, Suite 2531
Akron, OH 44311
330.572.2100 Fax 330.572.2101

PROJECT INFORMATION:

CALHOUN CT
10067722

624 ALABAMA DRIVE
HERNDON, VA 20170
FAIRFAX COUNTY

SEAL:

**THIS DOCUMENT
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REV.: DATE: DESCRIPTION:

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B	10/17/2022	PER COMMENTS
C	11/28/2022	ANTENNAS UPDATED

DRAWN BY: CHK.: APV.:

MAS	MRL	CJS
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SHEET TITLE:

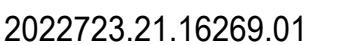
**BUILDING ELEVATION &
ANTENNA PLAN**

SHEET NUMBER: REVISION:

C-2	C
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GPD Job #:

2022723.21.16269.01



- 3

TOWN OF HERNDON, VIRGINIA

ORDINANCE

March 14, 2023

Ordinance - to amend Chapter 78 (ZONING), Article XIV (Signs), Section 78-141.6 (Sign Standards for Downtown Mixed-Use Districts), to revise the regulations governing the location of wall mounted signs.

Sec. 78-141.6. – Sign standards for downtown mixed-use districts.

(a) *Freestanding, wall, and temporary signs.* Except as otherwise prohibited in this article, the following signs are permitted as accessory to any properties within the central commercial (CC), planned development-downtown (PD-D), *and* planned development-traditional downtown (PD-TD) zoning districts, the following standards apply:

TABLE 78-141.6(a):

STANDARDS FOR FREESTANDING, WALL AND TEMPORARY SIGNS IN CC, PD-D, and PD-TD DOWNTOWN MIXED-USE DISTRICTS

Type	Freestanding	Wall	Temporary
Number	1 per street frontage when there's more than 150' of street frontage	Up to 2 per establishment	Up to 1 per property
Size	24 SF Max.	24 SF Max. per sign	12 SF max.
Height	8' Max.	N/A	If freestanding: 6' max.
Location	5' Min. from ROW	Limited to ground floor, <i>except when authorized to be in an alternate location through an approved Certificate of Appropriateness</i>	N/A
Illumination	Halo-lit or Indirect Lit	Halo-lit or Indirect Lit	None

Duration	Unlimited	Unlimited	60 Days per calendar year
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18

19

20

TOWN OF HERNDON, VIRGINIA

RESOLUTION

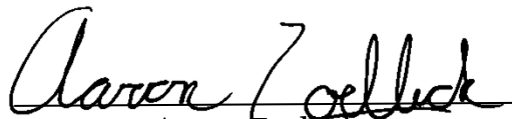
FEBRUARY 27, 2023

Resolution - to recommend APPROVAL of Zoning Ordinance Text Amendment ZOTA #23-01 to amend Chapter 78 (ZONING), Article XIV (Signs), Section 78-141.6 (Sign Standards for Downtown Mixed-Use Districts), to revise the regulations governing the location of wall mounted signs.

BE IT RESOLVED by the Planning Commission for the Town of Herndon, Virginia that:

1. The Planning Commission recommends approval of an amendment to Chapter 78 (ZONING) of the Herndon Town Code to revise the regulations governing the location of wall mounted signs in the Downtown Mixed-Use zoning districts.
2. This amendment is necessary out of public necessity, convenience, general welfare, or good zoning practice.
3. The Planning Commission held a public hearing on February 27, 2023 to consider the item.

This is certified to be a true and accurate copy of resolution 23-PC-002, adopted at a legally convened meeting of the Town of Herndon Planning Commission on February 27, 2023.



Aaron Zoellick

Clerk of Boards and Commissions

TOWN OF HERNDON, VIRGINIA

RESOLUTION

MARCH 14, 2023

Resolution- to approve the Town's participation in the proposed settlement of opioid-related claims against Teva, Allergan, Walmart, Walgreens, CVS, and their related corporate entities, and to direct the Town Manager and/or Town Attorney to execute the documents necessary to effectuate the Town's participation in the settlements.

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its counties, cities, and towns by adversely impacting the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services; and

WHEREAS, the Commonwealth of Virginia and its counties, cities, and towns, including the Town of Herndon, have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of the Commonwealth and the Town of Herndon; and

WHEREAS, settlement proposals have been negotiated that will cause Teva, Allergan, Walmart, Walgreens, and CVS to pay billions of dollars nationwide to resolve opioid-related claims against them; and

WHEREAS, the Town Attorney has reviewed the available information about the proposed settlements and has recommended that the Town participate in the settlements.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, on this 14th day of March 2023, hereby approves of the Town's participation in the proposed settlement of opioid-related claims against Teva, Allergan, Walmart, Walgreens, CVS, and their related corporate entities, and directs the Town Manager and/or Town Attorney to execute the documents necessary to effectuate the Town's participation in the settlements, including the required release of claims against settling entities.