



BOARD OF ZONING APPEALS REGULAR MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170

Thursday, November 21, 2024 | 7:00 PM

1. Call to Order

2. Approval of Minutes

- a. October 24, 2024, Board of Zoning Appeals Regular Meeting Minutes

3. Comments

- a. Comments from the Staff Members
- b. Comments from the Board Members
- c. Comments from Citizens

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.

4. Public Hearing

- a. BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring the Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 780-153.1(c)(2), submittal of revised application and time limit for resubmission.

[NOTE: The applicant has formally withdrawn this appeal, and no further action is required by the Board of Zoning Appeals.]

- b. BZA #24-006, 801 2nd Street, to seek a variance from Section 78-30.1(g), R-15 Dimensional Standards.

[NOTE: The applicant has requested that this application be deferred to the Board of Zoning Appeals regular meeting on January 23, 2025, and the Board will need to vote on whether or not to approve the deferral.]

5. Adjournment



**Board of Zoning Appeals
Regular Meeting
Agenda Item 2.a.**

Agenda Item: October 24, 2024, Board of Zoning Appeals Regular Meeting Minutes

Meeting Date: November 21, 2024

Category: Approval of Minutes

Prepared by: Aaron Zoellick, Clerk of Boards and Commissions

Description:

This is a request to approve the October 24, 2024, Board of Zoning Appeals regular meeting minutes.

Background:

N/A

Fiscal Impact:

N/A

Staff Recommendation/Next Steps:

Recommend approval, as presented.

Attachments:

1. 10.24.2024 BZA Regular Meeting Minutes



HERNDON BOARD OF ZONING APPEALS
Regular Meeting Minutes
Thursday, October 24, 2024

1. Call to Order

Chair Pierce called the October 24, 2024, Board of Zoning Appeals meeting to order at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Chair Carilyn Pierce, Vice Chair Stevan Porter; and Board Members Stephanie Frye, Yung Kim, and Stephen Mundt.

Staff present during the meeting: Lauri Sigler, Deputy Town Attorney; David Stromberg, Zoning Administrator; and Collin J. Okoniewski, Planning Operations Manager

Chair Pierce determined there was a quorum with all members present.

2. Approval of Minutes

a. September 26, 2024, Board of Zoning Appeals Regular Meeting Minutes

Board Member Mundt motioned to approve the September 26, 2024, Board of Zoning Appeals regular meeting minutes. Motion seconded by Board Member Kim. The question was called on the motion, which was approved by a 5-0 roll call vote. Board Members Frye, Kim, Mundt, Vice Chair Porter, and Chair Pierce voted "Aye."

3. Comments

a. Comments from the Staff Members

No comments were offered.

b. Comments from the Board Members

No comments were offered.

c. Comments from Citizens

Greg Morgan, 702 Nash Street

4. Public Hearing

- a. **BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring the Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 780-153.1(c)(2), submittal of revised application and time limit for resubmission.**

Certifications of Publications from the Editor of the Fairfax County Times Newspapers were filed, showing that notices of the following public hearing item were duly advertised in the October 4 and October 11, 2024, issues.

Chair Pierce recognized Vice Chair Porter and Board Member Mundt to read their disclosure statement related to BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. They indicated that they are able to participate in the discussion and consideration of the appeal fairly, objectively, and in the public interest. The disclosure statement has been recorded in the Town Attorney's Office.

Chair Pierce recognized Ms. Sigler to provide information on the applicant's request for a continuance. Ms. Sigler stated that on October 15th, 2024, the applicant's attorney requested a continuance of the appeal to the November 21, 2024, Board of Zoning Appeals, which has been agreed to by the parties. Further, Ms. Sigler stated that the matter continues to move positively towards settlement of the issue. Ms. Sigler stated that should the board approve the continuance, the public hearing will not be opened and no testimony will be taken this evening. As the item has been publicly advertised, the Board must take action to continue the item.

Board member Mundt reiterated his shared frustration on the matter, and stressed that the Town should provide better answers to the community.

Ms. Sigler stated that the Town understood, and reiterated that things were moving forward between the Town, the applicant, and the applicant's legal representative.

Vice Chair Porter made a motion to continue the public hearing to November 21, 2024. The motion was seconded by Board Member Frye. The question was called on the motion, which was approved by a 5-0 roll call vote. Board members Frye, Kim, Mundt, Vice Chair Porter, and Chair Pierce voted "Aye."

5. Adjournment

There being no further business, and without objection, Chair Pierce adjourned the

October 24, 2024 Board of Zoning Appeals meeting at 7:12 PM.

Agenda Item: BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring the Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 780-153.1(c)(2), submittal of revised application and time limit for resubmission.
[NOTE: The applicant has formally withdrawn this appeal, and no further action is required by the Board of Zoning Appeals.]

Meeting Date: November 21, 2024

Category: Public Hearing

Prepared by: David Stromberg, Zoning Administrator

Description:

An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 78-153.1(c)(2), submittal of revised application and time limit for resubmission.

Background:

This item was scheduled to be heard at the September 26, 2024, Board of Zoning Appeals public hearing. The appellant's attorney requested a continuance on this item in order to pursue a settlement agreement with the Town Attorney's office regarding pending litigation. The Board granted the continuance. At the October 24, 2024, Board of Zoning Appeals public hearing, the appellant's attorney requested a second continuance in order to continue working towards a settlement agreement and the zoning administrator did not oppose this continuance request. The Board granted a continuance to the November 21, 2024, Board of Zoning Appeals public hearing. Communication between the appellant's attorney and the Town Attorney has been ongoing. The full staff report and supporting documents can be found in the September, 26, 2024, Board of Zoning Appeals meeting agenda packet.

<https://herndonva.portal.civicclerk.com/event/158/files/report/812>

Fiscal Impact:

N/A

Staff Recommendation/Next Steps:

Staff will provide a recommendation prior to or at the November 21, 2024, regular meeting.

Attachments:

1. Legal Ad

Town of Herndon, Virginia
Notice of Public Hearing

Notice is hereby given that the **Board of Zoning Appeals (BZA)** of the Town of Herndon, Virginia, will hold a public hearing on Thursday, November 21, 2024, at 7:00 p.m. in the Herndon Council Chambers Building, located at 765 Lynn Street, Herndon on the following items:

BOARD OF ZONING APPEALS, BZA #24-004, 641 Nash Street – Appeal of a Zoning Administrator’s Decision. An appeal of the Zoning Administrator’s decision issued on July 30, 2024, declaring Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 78-153.1(c)(2), submittal of revised application and time limit for resubmission. The 10,194 square-foot lot is located at 641 Nash Street, on the southeast corner of Nash Street and Spring Street. The property is zoned R-10, Single Family Residential. Fairfax County Tax Map Number 0162 02 0139. Appellants and property owners: Francis Kenney Jr. and Caitlin Kenney. **(Continued from the September 26 and October 24, 2024, regular meetings).**

BOARD OF ZONING APPEALS, BZA #24-006, 801 2nd Street, to seek a variance from Section 78-30.1(g), R-15 Dimensional Standards, to request a reduction of the required 45-foot secondary front yard setback (along Grant Street) on a corner lot to 35 feet. The 30,000 square-foot lot is located on the southwest corner of the intersection of Grant Street and 2nd Street. The property is zoned R-15, Single Family Residential. Fairfax County Tax Map Number 0104 0306 A. Applicants and property owners, Steven D. Mitchell and Wanda A. Mitchell.

The public is encouraged to participate in the town’s public hearing process. Individuals having an interest in the above items are invited to attend the public hearing and state their opinions and may also submit comments to bza@herndon-va.gov. The proposed item is available for review by the public on the town’s website www.herndon-va.gov.

The Town of Herndon supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities, so that they may participate in services, programs, or activities, offered by the town. Please call (703) 435-6804 to arrange for any accommodation that may be necessary to allow participation.

Amanda Morrow Kertz, Acting Town Clerk

Agenda Item: BZA #24-006, 801 2nd Street, to seek a variance from Section 78-30.1(g), R-15 Dimensional Standards.

[NOTE: The applicant has requested that this application be deferred to the Board of Zoning Appeals regular meeting on January 23, 2025, and the Board will need to vote on whether or not to approve the deferral.]

Meeting Date: November 21, 2024

Category: Public Hearing

Prepared by: David Stromberg, Zoning Administrator

Description:

The applicant is seeking a variance from Section 78-30.1(g), R-15 Dimensional Standards, to request a reduction of the required 45-foot secondary front yard setback (along Grant Street) on a corner lot to 35 feet. The intention of this request is to allow a larger buildable area on the future corner lot of a by-right subdivision.

Background:

This property was formerly identified as 1019 Grant Street.

Fiscal Impact:

N/A

Staff Recommendation/Next Steps:

Denial of the variance.

Attachments:

1. Staff Report
2. Zoning Setback Exhibit
3. Application with Attachments
4. Resolution for Approval (Proposed)
5. Resolution for Denial (Proposed)
6. Legal Ad

STAFF REPORT

Agenda Item: BZA #24-006 – 801 2nd Street - Variance

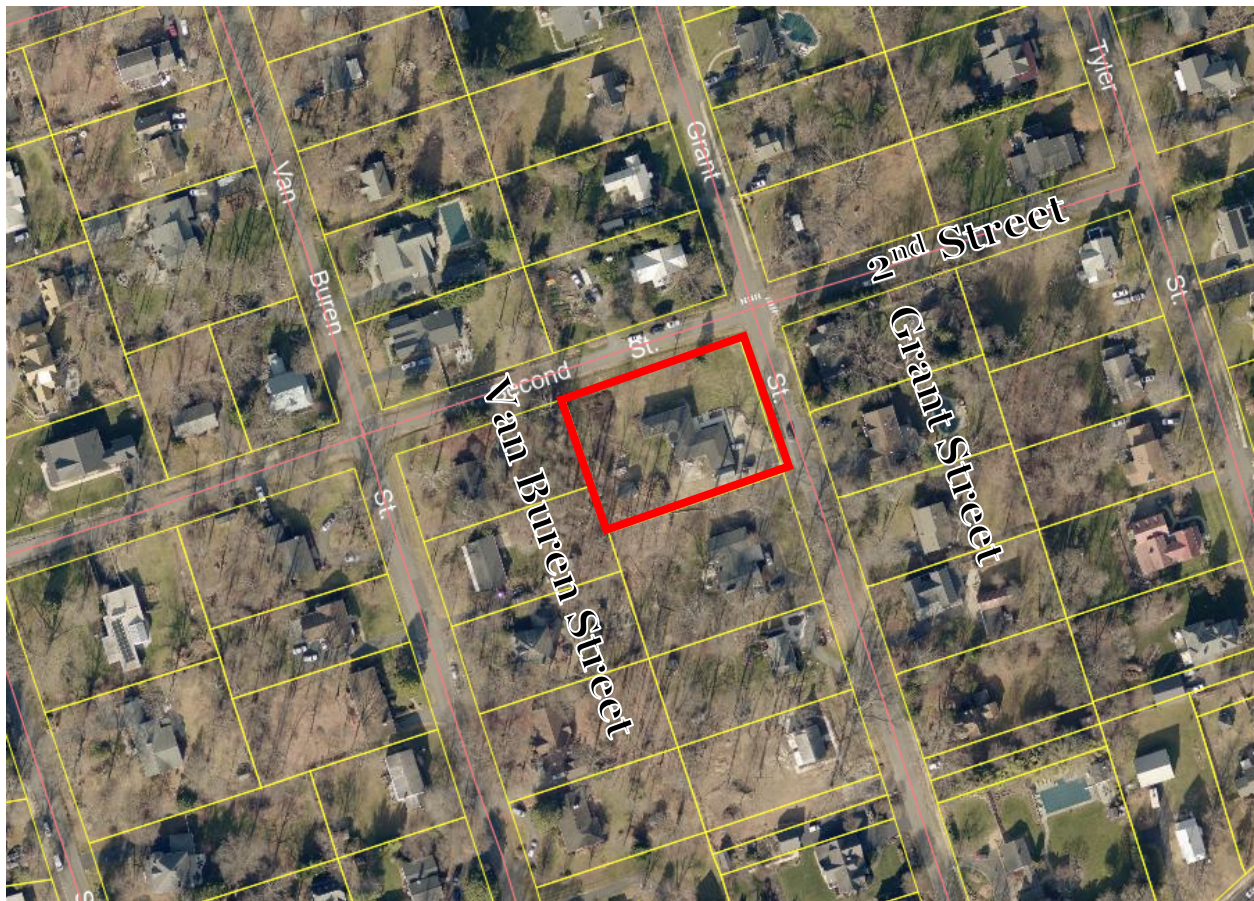
Meeting Date: November 21, 2024

Staff Contact: David Stromberg, AICP, Zoning Administrator

Summary Information:

Requested Variance(s)	To seek a variance from Section 78-30.1(g), R-15 Dimensional Standards, to request a reduction of the required 45-foot secondary front yard setback (along Grant Street) on a corner lot to 35 feet.		
Address	801 2 nd Street		
Fairfax County Tax Map Number	0104 0306 A		
Owners & Applicants	Steven D. Mitchell and Wanda A. Mitchell		
Zoning	R-15 Residential Single Family		
Lot Area	30,000 square feet		
Property Use	Residential single family		
Required Yards and Setbacks on Corner Lots	Front (2 nd Street): 45 feet Secondary Front (Grant Street): 45 feet Side: 15 feet Rear: 25 feet		
Requested Yard and Setbacks	Front (2 nd Street): 45 feet Secondary Front (Grant Street): 35 feet Side: 15 feet Rear: 25 feet		
Adjacent Zoning	North: R-15 East: R-15, Historic District Overlay South: R-15 West: R-15		
Building Type(s)	Detached single family	Date of Construction:	1951

Location Map:



Background & Site Description:

Site Description

The property is part of the subdivision entitled, D. Van Vleck's Addition to the Town of Herndon, Fairfax County, Virginia, that was recorded in 1895. The subject lot was created by resubdivision, approved by the Herndon Town Council at a public hearing on December 12, 1967, and recorded in the Fairfax County land records on February 2, 1968.

The 30,000 square-foot lot is located at the southwest corner of Grant Street and Second Street. The lot is rectangular in shape, measuring 150 feet along Grant Street and 200 feet along Second Street. There is an existing single family house that was constructed in 1951. The property is not located within the town's Historic District Overlay.

All properties that abut and are across the street from the subject property contain a single family residence and each lot contains 20,000 square feet, with the exception of 1017 Grant Street, which contains 30,000 square feet.

Three previous variance requests have been submitted for this property by this applicant. The first application, heard by the Board on August 25, 2022, contained three variance requests to the R-15 district:

1. A request to reduce the side yard setback from the required 25 feet (or 15 feet, if the Board determined the proposed property line to be a side yard) to 4.8 feet.
2. A request to reduce the front setback from the required 45 feet to 35 feet.
3. A request to reduce the minimum required lot area from 15,000 square feet to 13,500 square feet.

The second application, heard by the Board on October 27, 2022, contained two variance requests to the R-15 district:

1. A request to reduce the required lot area from the required 15,000 square feet to 11,925 square feet.
2. A request to reduce the required 90 minimum lot width to 79.5 feet.

The third application, heard by the Board on December 15, 2022, contained one variance request.

1. A request to reduce the minimum required lot area from 15,000 square feet to 13,500 square feet.

All three requests were denied by the board.

Case Details & Proposal:

The applicant is requesting a reduction to the 45-foot required setback along Grant Street. The requested reduction is from 45 feet to 35 feet.

Staff Analysis:

Zoning Ordinance Compliance

The property is zoned R-15, which requires a minimum lot size of 15,000 square feet. The 30,000 square-foot lot is able to be subdivided by-right, creating two lots that would front along 2nd Street. The existing house would need to be demolished prior to approval of a subdivision.

A subdivision would create an interior lot and a corner lot. The interior lot would have a front yard setback, rear yard setback, and two side yard setbacks. The corner lot would have a front yard setback along 2nd Street, a secondary front yard setback along Grant Street, a side yard setback, and a rear yard setback. Section 78-21(c)(3) establishes the setbacks for corner lots.

Section 78-21(c)(3) “On corner lots, the front setback requirement shall be met on all street frontages. Side and rear yard requirements shall be determined by the zoning administrator based upon both the orientation of the lot and upon the orientation of structures built or to be built on the lot. On any corner lot planting, structures, fences, retaining walls, or other features more than three feet higher than the curb level are subject to the provisions of Section 78-21(e), visibility clearance.”

Variance Request – to reduce the secondary front setback requirement (along Grant) from 45 feet to 35 feet.

Criteria from Section 78-155.4(d)(1) – Variances	Meets or Does not Meet	Why the application meets or does not meet the criteria of Section 78-155.4(d)(1)
Strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon.	Does not Meet	The lot is not unreasonably restricted. It is currently used as a single family residence. If the residence is demolished. The lot could be subdivided into two developable lots. The existing lot is a 150-foot by 200-foot rectangle. A subdivision would create two 100-foot by 150-foot rectangular lots. Rectangular lots are standard shaped lots for single family construction.
The property was acquired in good faith and any hardship was not created by the applicant for the variance.	Meets	The property was acquired in good faith and the applicant has not performed any unpermitted construction. Staff contends that no hardship exists.
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties.	Does not Meet	If granted, the variance would allow a new house to be located closer to Grant Street than some existing houses fronting on Grant Street and any future

		new houses proposed on the west side of Grant Street.
The condition or situation of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.	Does not Meet	The situation is shared by all R-15 zoned corner lots. If the public policy is going to be that corner lots should be built closer to the street, then a comprehensive plan amendment followed by a zoning ordinance text amendment should be passed for all R-15 corner lots.
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property	Meets	If granted, this variance would not alter the permitted uses or permitted intensity of the R-15 zoning district.
The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance	Meets	Modifications are restricted to PD, Planned Development, districts and the property is zoned R-15.

Board of Zoning Appeals Alternatives:

The following alternatives are available to the Board of Zoning Appeals for its decision on BZA #24-006.

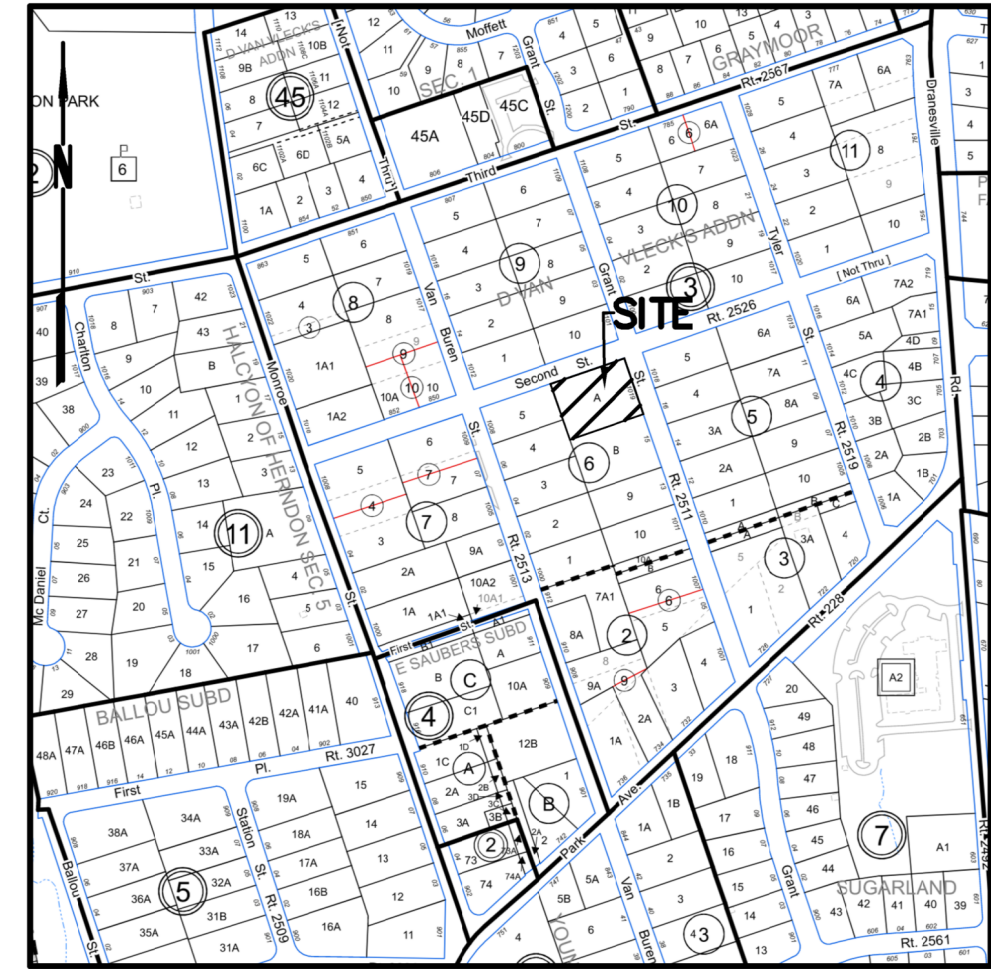
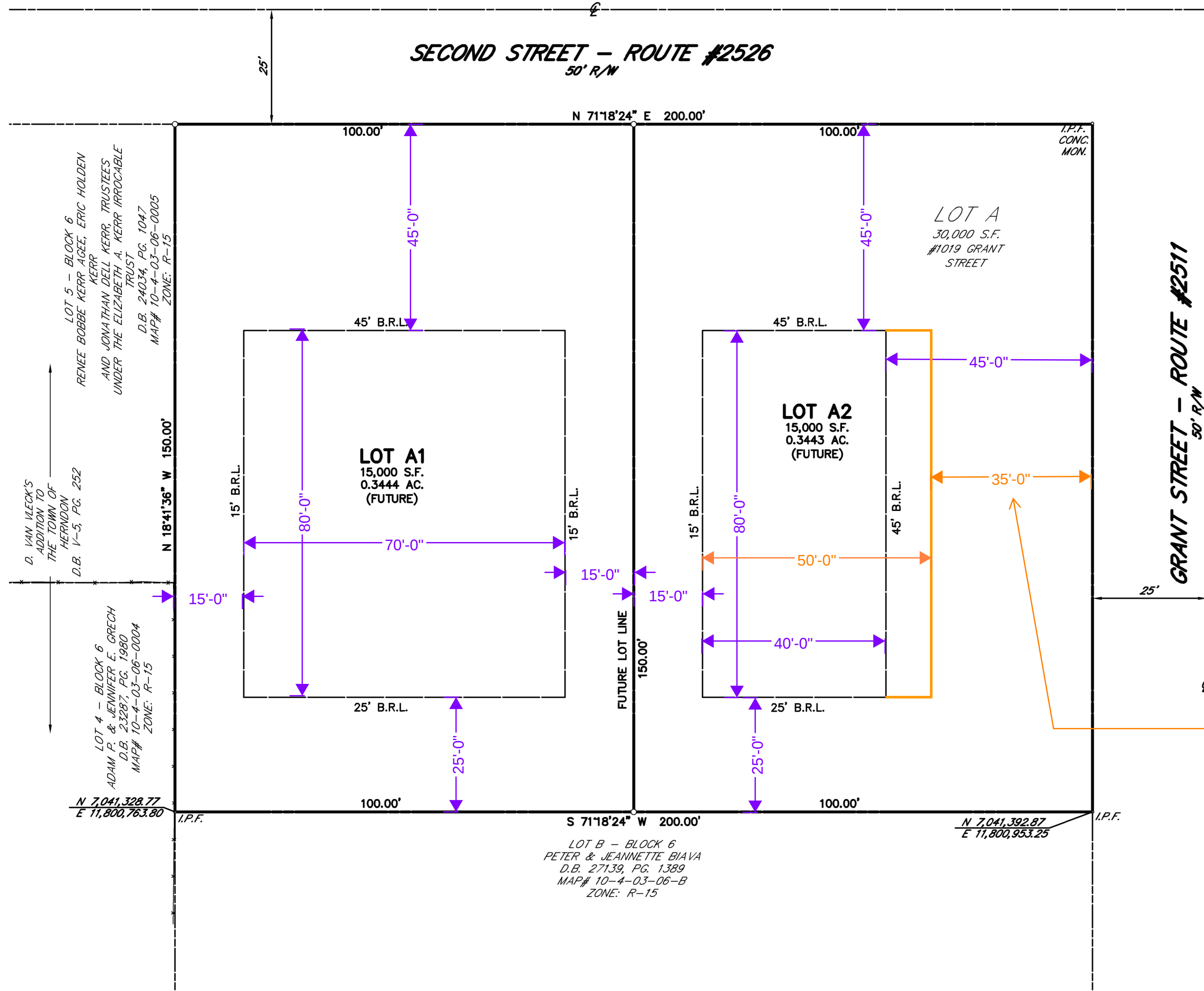
1. Approve the variance request.
2. Approve the variance request with the staff recommended conditions.
3. Deny the variance request
4. Continue the application to December 19, 2024.

Staff Recommendation:

The variance should be denied based on the inability to meet all six criteria of Section 78-155.4(d)(1).

If the Board votes to approve the variance request, staff recommends the following condition:

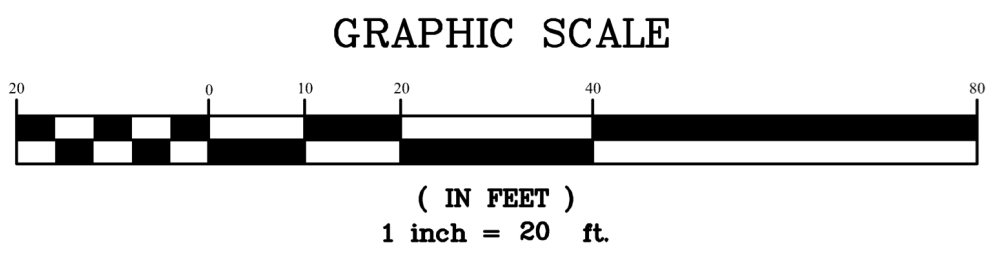
1. The setback reduction shall only apply to a subdivision as shown in the application that creates two, 100-foot by 150-foot lots.



VICINITY MAP
SCALE: 1"=500'

- NOTES:
- MAP# 10-4-03-06-A
 - OWNER: STEVEN D. & WANDA A. MITCHELL
D.B. 27286, PG. 2032
 - ZONE: R-15
 - ABSTRACT TITLE PROVIDED BY HIGHLAND TITLE & ESCROW
FILE NO. 38336-VAAS, DATED: AUGUST 21, 2021 AT 8:00 A.M.
(NO EXCEPTIONS REPORTED)
 - F.E.M.A. / F.I.R.M. FLOOD DATA: COMMUNITY NO: 51059C
H & I PANEL NO: 0110 E
FLOOD ZONE: X
EFFECTIVE: SEPTEMBER 17, 2010
 - BOUNDARY IS BASED ON A FIELD RUN SURVEY BY TRI-TEK ENGINEERING DATED FEBRUARY, 2022. BOUNDARY BEARINGS AND COORDINATES ARE V.C.S. 1983 GRID NORTH SYSTEM.

AREA TABULATION	
EXISTING LOTS	FUTURE LOTS
30,000 S.F. OR 0.6887 AC.	LOT A1 - 15,000 S.F. OR 0.3444 AC. LOT A2 - 15,000 S.F. OR 0.3443 AC.
TOTAL = 30,000 S.F. OR 0.6887 AC.	TOTAL = 30,000 S.F. OR 0.6887 AC.



TRI-TEK ENGINEERING
CIVIL ▲ ENVIRONMENTAL ▲ LAND PLANNING ▲ SURVEYING
a professional corporation
690 Center Street, Suite 300
Herndon, Virginia 20170-5018 (703) 481-5900

EXHIBIT 1

BY RIGHT
SUBDIVISION/BUILDING
ENVELOPE

LOT A - BLOCK 6
(DB 2996; PG 507)

D. VAN VLECK'S ADDITION TO
THE TOWN OF HERNDON
TOWN OF HERNDON, VIRGINIA
SCALE: 1" = 20' DATE: 9-20-2022

SHEET 1 OF 1



Department of Community Development
777 Lynn Street
Herndon, Virginia 20170-4602

BOARD OF ZONING APPEALS
APPLICATION FOR A VARIANCE

Submittal of this form with **original signatures is required. PLEASE PRINT OR TYPE** (Unless otherwise indicated.)

Request for a Variance from Town Code Section: TABLE 78-30.1(g): R-15 DIMENSIONAL STANDARDS

To Permit: Larger Building Envelope

Address of the Subject Property (including apt/suite #): 801 2nd Street

Lot area: By Right Subdivision-15000 s.f.

Are any site alterations or any alterations to the building's exterior or interior planned or underway in connection with this use (or were any alterations done)? ☐ No ☐ Yes Please describe:

Name and role of principal contact for this application (property owner, agent authorized to act on behalf of property owner, or contract purchaser):

Steve Mitchell

Mailing Address

1291 Monroe Street, Herndon, VA

monroe1291@aol.com

703-966-2576

N/A

E-mail address

Telephone #

FAX #

The undersigned hereby applies for a Variance under the provisions of § 78-202.4 of the Herndon Town Code.

I hereby affirm and certify that:

- The information provided on this form is true and correct to the best of my knowledge.
- The requirements associated with this application have been read and are understood.
- The use and occupancy of buildings and/or the use of land noted above is in conformance with all provisions of the Town of Herndon, Virginia Zoning Ordinance regulations to the best of my knowledge.
- The applicant must attend the public hearing scheduled for this application with the Board of Zoning Appeals and the application may be postponed or denied if the applicant does not appear on the assigned date.

SAO Mitchell / OWNER
Signature of Applicant (Property Owner, Contract Purchaser, or Authorized Agent)

9/19/2024
Date

BOARD OF ZONING APPEALS – APPLICATION FOR A VARIANCE - continued

TO BE SUBMITTED WITH THIS APPLICATION

 X Name and title of all Co-Applicants (Property Owner(s), Contract Purchasers, and Agents Authorized to Act on Behalf of the Property Owner) with respective mailing addresses, telephone numbers, fax numbers, and e-mail addresses;

 N/A A letter signed by the owner or owner's agent consenting to the application for the variance (if applicable);

 Six copies of a statement of support demonstrating (per § 78-202.4) that:

- owing to special circumstances or conditions beyond the property owner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the strict application of the terms of the Zoning Ordinance would result in unnecessary or unreasonable hardship;
- such need would not be shared generally by other properties;
- the deviation would not be contrary to the public interest or intent of the Zoning Ordinance;
- the application does not involve a change in use from those permitted in Article IV of the Zoning Ordinance;
-

 Six copies of a Site Plan or Plat of the property, drawn to scale, showing all existing buildings including accessory buildings and any proposed structure or alteration. Requests for variances to height, setbacks or other architectural provisions must be accompanied with a dimensional drawing showing the features desired;

 Six copies of any other drawings, pictures, plans and information that might assist the Board in making its decision.

REQUIREMENTS FOR ALL APPLICATIONS (Zoning Ordinance § 78-201.3)

 N/A A statement from the landowner(s) authorizing an agent to act on their behalf (if applicable);

 no If a pre-application conference took place, a statement indicating the date and time a pre-application conference was held with the Town, as well as a list of participants in the conference;

 X A receipt or other documentation indicating that taxes have been paid on lands subject to the application (may be obtained when application is filed);

 Application fee.

For Office Use Only:

Application Received by:	Date:	Case No.:
Tax Map Reference:	Zoning District:	
Fee paid:	Status of Taxes: ☐ Paid ☐ Delinquent	

**Distribution
after
approval:**

Applicant

Community
Development

Fire
Department

Finance

SECOND STREET - ROUTE #2526
50' R/W

N 71°18'24" E 200.00'

100.00'

100.00'

I.P.F.
CONC.
MON.

LOT A
30,000 S.F.
#1019 GRANT
STREET

LOT A2
15,000 S.F.
0.3443 AC.
(FUTURE)

LOT A1
15,000 S.F.
0.3444 AC.
(FUTURE)

EXISTING
HOUSE

FUTURE LOT LINE
150.00'

GRANT STREET - ROUTE #2511
50' R/W

25'

I.P.F.

N 70°41'32.77"
E 11,800.763.80

LOT B - BLOCK 6
PETER & JEANNETTE BIAVA
D.B. 27139, PG. 1389
MAP# 10-4-03-06-B
ZONE: R-15

I.P.F.

N 70°41'32.77"
E 11,800.763.80

D. VAN VLECK'S
ADDITION TO
THE TOWN OF
HERNDON
D.B. 14-5, PG. 252

LOT 5 - BLOCK 6
RENEE BOBBE KERR ALZE, ERIC HOLDEN
AND JONATHAN DELL KERR, TRUSTEES
UNDER THE ELIZABETH A. KERR IRREVOCABLE
TRUST
D.B. 24034, PG. 1047
MAP# 10-4-03-06-0005
ZONE: R-15

LOT 4 - BLOCK 6
ADAM P. & JENNIFER E. GRECH
D.B. 23287, PG. 1980
MAP# 10-4-03-06-0004
ZONE: R-15

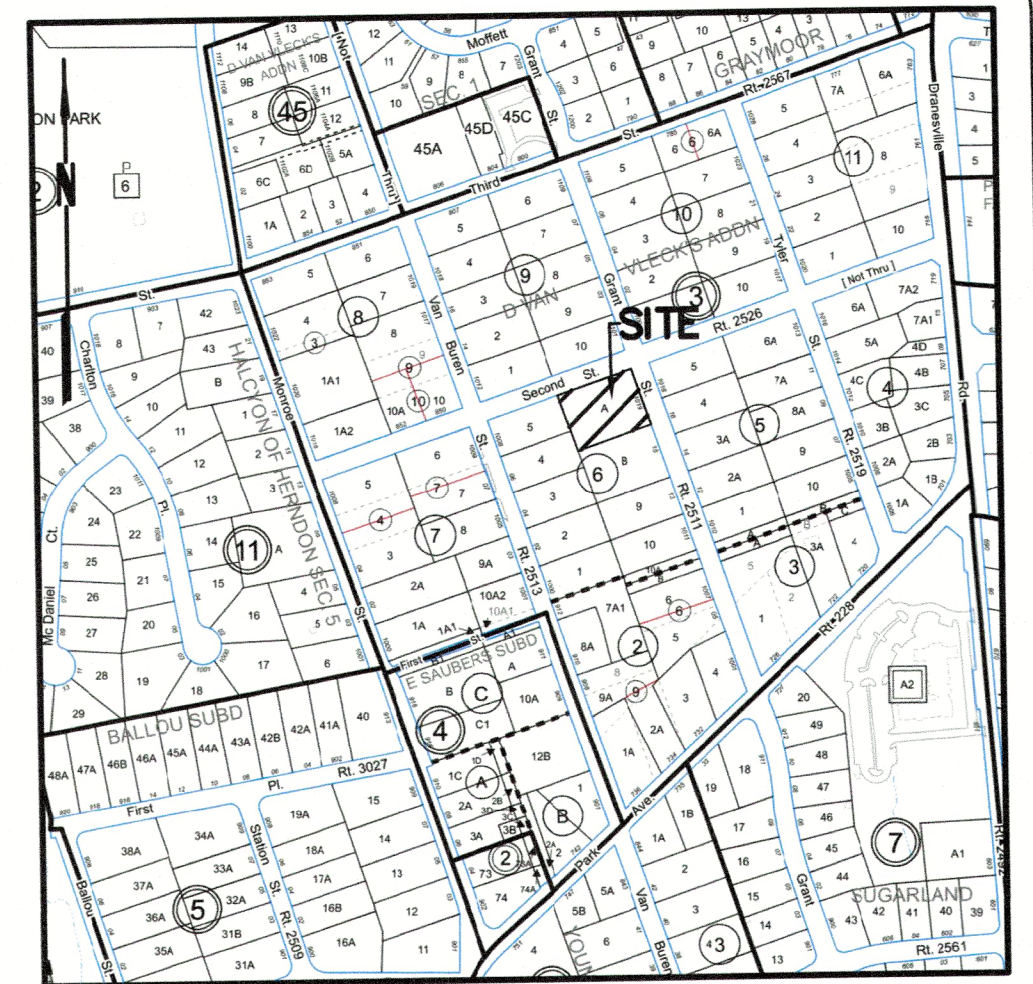
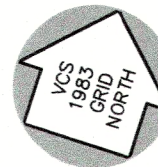
AREA TABULATION

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TOTAL = 30,000 S.F. OR 0.6887 AC.	TOTAL = 30,000 S.F. OR 0.6887 AC.

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.



VICINITY MAP
SCALE: 1"=500'

NOTES:

- MAP# 10-4-03-06-A
- OWNER: STEVEN D. & WANDA A. MITCHELL
D.B. 27286, PG. 2032
- ZONE: R-15
- ABSTRACT TITLE PROVIDED BY HIGHLAND TITLE & ESCROW
FILE NO. 38336-VAAS, DATED: AUGUST 21, 2021 AT 8:00 A.M.
(NO EXCEPTIONS REPORTED)
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H & I PANEL NO: 0110 E
FLOOD ZONE: X
EFFECTIVE: SEPTEMBER 17, 2010
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FEBRUARY, 2022. BOUNDARY BEARINGS AND COORDINATES ARE V.C.S. 1983
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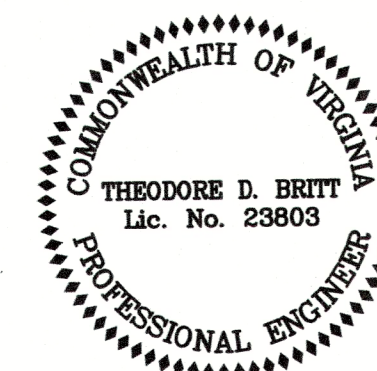
CURRENT
CONDITIONS

EXHIBIT 23

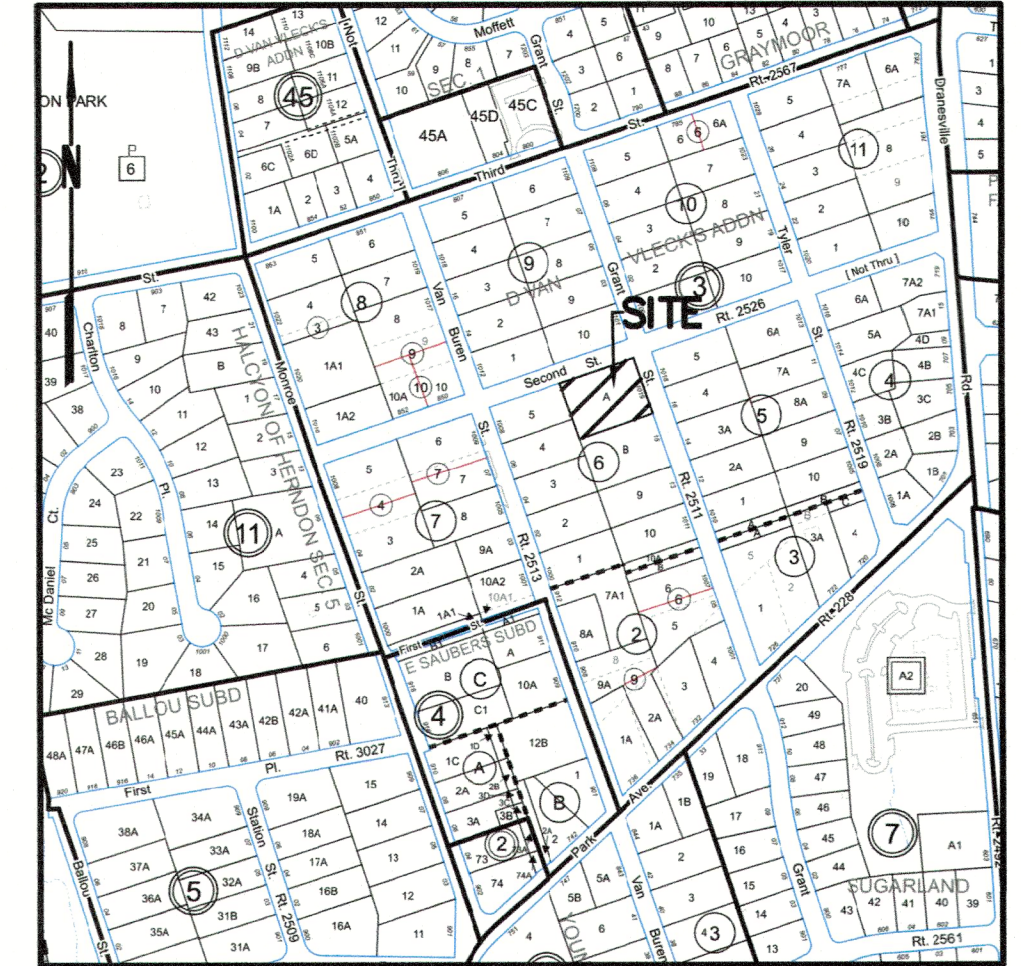
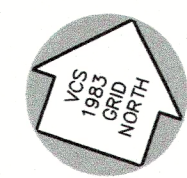
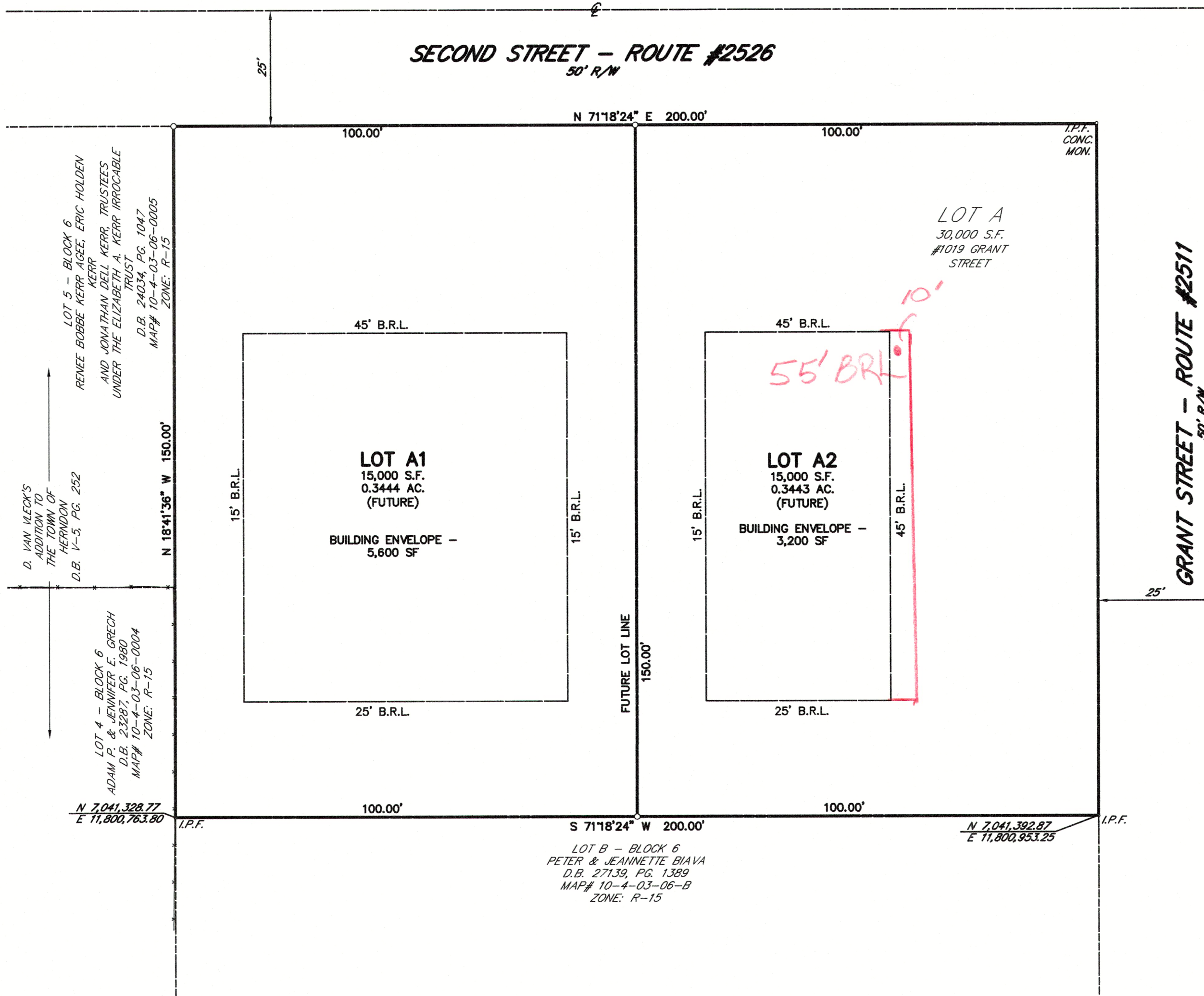
BY RIGHT
SUBDIVISION/BUILDING
ENVELOPE

LOT A - BLOCK 6
(DB 2996; PG 507)
D. VAN VLECKS ADDITION TO
THE TOWN OF HERNDON
TOWN OF HERNDON, VIRGINIA
SCALE: 1" = 20' DATE: 9-20-2022

SHEET 1 OF 1



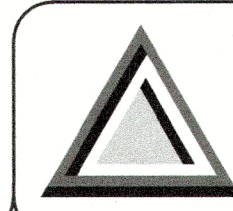
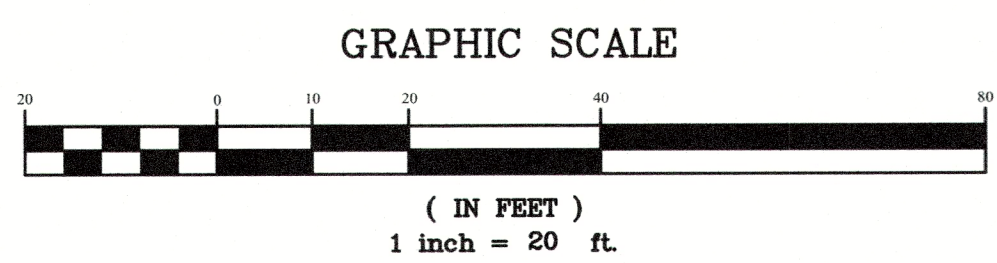
TRI-TEK ENGINEERING
CIVIL • ENVIRONMENTAL • LAND PLANNING • SURVEYING
a professional corporation
690 Center Street, Suite 300
Herndon, Virginia 20170-5018 (703) 481-5900



- NOTES:
- MAP# 10-4-03-A
 - OWNER: STEVEN D. & WANDA A. MITCHELL
D.B. 27286, PG. 2032
 - ZONE: R-15
 - ABSTRACT TITLE PROVIDED BY HIGHLAND TITLE & ESCROW
FILE NO. 38336-VAAS, DATED: AUGUST 21, 2021 AT 8:00 A.M.
(NO EXCEPTIONS REPORTED)
 - F.E.M.A. / F.I.R.M. FLOOD DATA: COMMUNITY NO: 51059C
H & I PANEL NO: 0110 E
FLOOD ZONE: X
EFFECTIVE: SEPTEMBER 17, 2010
 - BOUNDARY IS BASED ON A FIELD RUN SURVEY BY TRI-TEK ENGINEERING DATED FEBRUARY, 2022. BOUNDARY BEARINGS AND COORDINATES ARE V.C.S. 1983 GRID NORTH SYSTEM.

CONCEPT w/B2A
55' BRL

AREA TABULATION	
EXISTING LOTS	FUTURE LOTS
30,000 S.F. OR 0.6887 AC.	LOT A1 - 15,000 S.F. OR 0.3444 AC. LOT A2 - 15,000 S.F. OR 0.3443 AC.
TOTAL = 30,000 S.F. OR 0.6887 AC.	TOTAL = 30,000 S.F. OR 0.6887 AC.

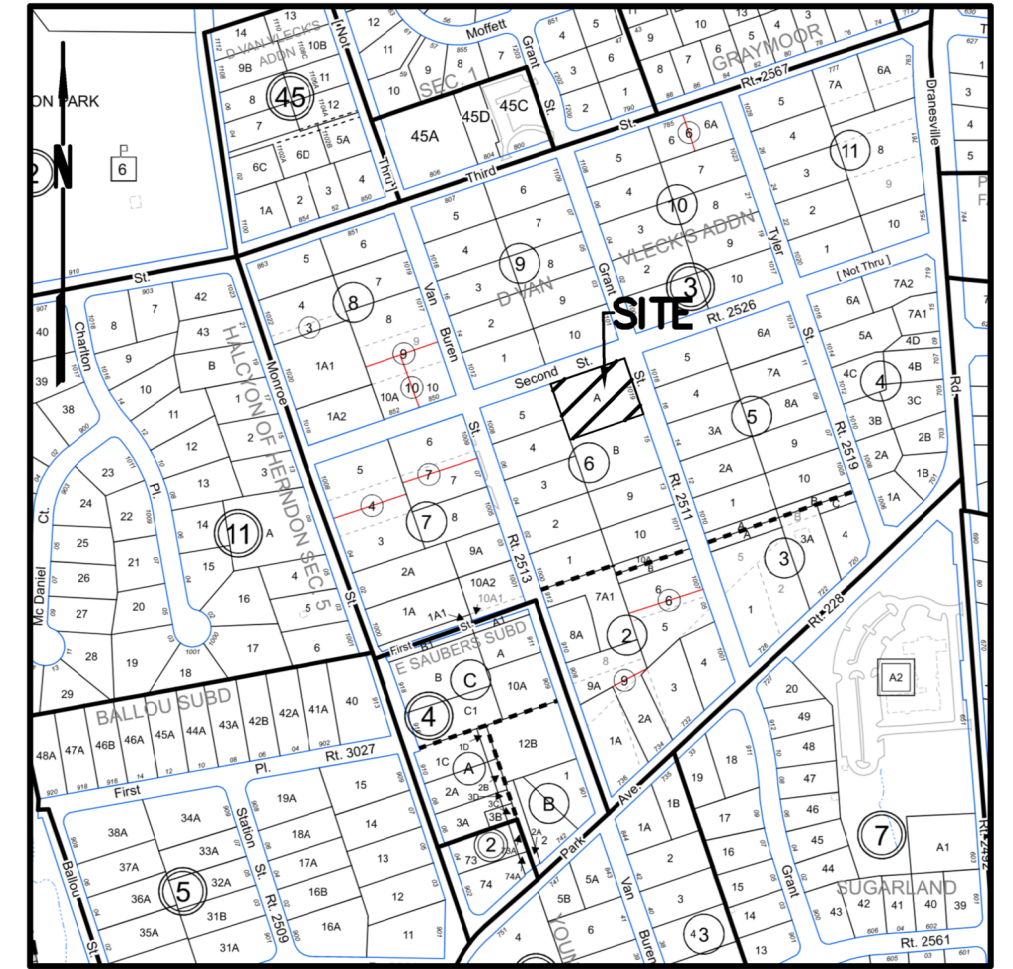
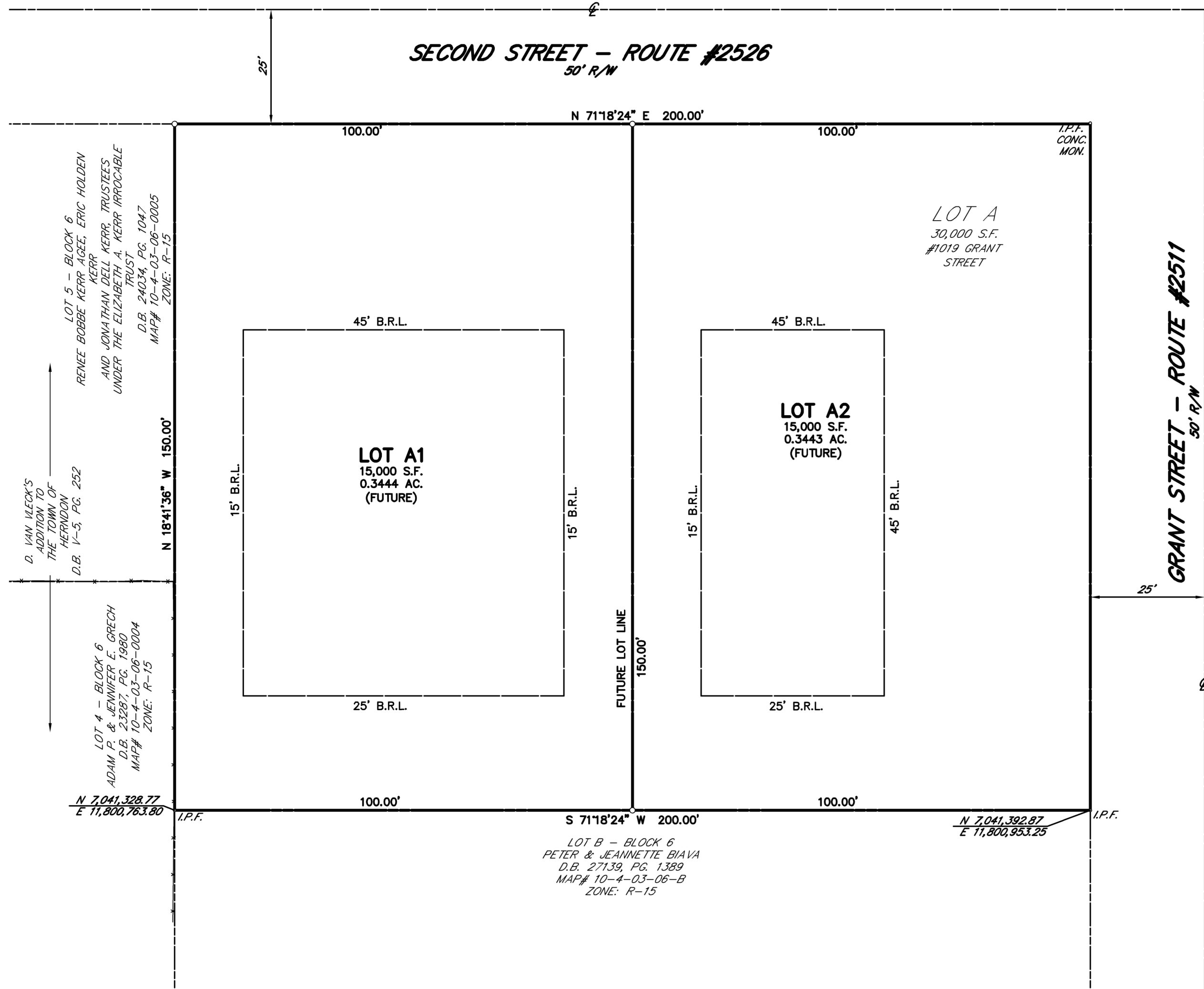


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690 Center Street, Suite 300
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EXHIBIT 2

BY RIGHT
SUBDIVISION/BUILDING
ENVELOPE/B2A
LOT A - BLOCK 6
(DB 2996; PG 507)
D. VAN VLECK'S ADDITION TO
THE TOWN OF HERNDON
TOWN OF HERNDON, VIRGINIA
SCALE: 1" = 20' DATE: 9-20-2022

SHEET 1 OF 1



VICINITY MAP
SCALE: 1"=500'

NOTES:

- MAP# 10-4-03-06-A
- OWNER: STEVEN D. & WANDA A. MITCHELL
D.B. 27286, PG. 2032
- ZONE: R-15
- ABSTRACT TITLE PROVIDED BY HIGHLAND TITLE & ESCROW
FILE NO. 38336-VAAS, DATED: AUGUST 21, 2021 AT 8:00 A.M.
(NO EXCEPTIONS REPORTED)
- F.E.M.A. / F.I.R.M. FLOOD DATA: COMMUNITY NO: 51059C
H & I PANEL NO: 0110 E
FLOOD ZONE: X
EFFECTIVE: SEPTEMBER 17, 2010
- BOUNDARY IS BASED ON A FIELD RUN SURVEY BY TRI-TEK ENGINEERING DATED
FEBRUARY, 2022. BOUNDARY BEARINGS AND COORDINATES ARE V.C.S. 1983
GRID NORTH SYSTEM.

AREA TABULATION	
EXISTING LOTS	FUTURE LOTS
30,000 S.F. OR 0.6887 AC.	LOT A1 - 15,000 S.F. OR 0.3444 AC. LOT A2 - 15,000 S.F. OR 0.3443 AC.
TOTAL = 30,000 S.F. OR 0.6887 AC.	TOTAL = 30,000 S.F. OR 0.6887 AC.



(IN FEET)
1 inch = 20 ft.



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EXHIBIT 1

BY RIGHT
SUBDIVISION/BUILDING
ENVELOPE

LOT A - BLOCK 6
(DB 2996; PG 507)
D. VAN VLECKS ADDITION TO
THE TOWN OF HERNDON
TOWN OF HERNDON, VIRGINIA
SCALE: 1" = 20' DATE: 9-20-2022

SHEET 1 OF 1

TOWN OF HERNDON, VIRGINIA

RESOLUTION

November 21, 2024

Resolution – to grant Variance Application BZA #24-006, 801 2nd Street, to seek a variance from Section 78-30.1(g), R-15 Dimensional Standards, to allow a reduction of the required 45-foot secondary front yard setback (along Grant Street) on a corner lot to 35 feet. The 30,000 square-foot lot is located on the southwest corner of the intersection of Grant Street and 2nd Street. The property is zoned R-15, Single Family Residential. Fairfax County Tax Map Number 0104 0306 A. Applicants and property owners, Steven D. Mitchell and Wanda A. Mitchell.

RECITALS

The applicants and owners, Steven D. Mitchell and Wanda A. Mitchell have submitted a variance application to Section 78-30.1(g) of the Zoning Ordinance, Herndon Town Code, to allow a reduction of the secondary front setback along Grant Street from 45 feet to 35 feet on a property located at 801 2nd Street and identified as Fairfax County Tax Map Number 0104 0306 A.

The Board of Zoning Appeals has reviewed this application and has held a public hearing in accordance with the provisions of §15.2-2204 of the State Code on November 21, 2024, and reviewed the application against the criteria of Section 78-155.4(d)(1).

THEREFORE BE IT RESOLVED, by the Board of Zoning Appeals of the Town of Herndon, Virginia, that:

1. The Board **grants** the requested variance based on the findings set out below:

The strict application of the ordinance would unreasonably restrict the utilization of the property; and

OR

Granting the variance would alleviate an undue hardship due to a physical condition relating to the property or improvements thereon; and

- a. The Board further finds that all of the following apply:

- i. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and
 - ii. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; and
 - iii. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; and
 - iv. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - v. The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application;
2. The board imposes the following conditions on the granting of the variance:
- a. The setback reduction shall only apply to a subdivision as shown in the application that creates two, 100-foot by 150-foot lots.

In favor: _____

Against: _____

Attest: _____

Recording Secretary

Date: _____

TOWN OF HERNDON, VIRGINIA

RESOLUTION

November 21, 2024

Resolution – to deny Variance Application BZA #24-006, 801 2nd Street, to seek a variance from Section 78-30.1(g), R-15 Dimensional Standards, to allow a reduction of the required 45-foot secondary front yard setback (along Grant Street) on a corner lot to 35 feet. The 30,000 square-foot lot is located on the southwest corner of the intersection of Grant Street and 2nd Street. The property is zoned R-15, Single Family Residential. Fairfax County Tax Map Number 0104 0306 A. Applicants and property owners, Steven D. Mitchell and Wanda A. Mitchell.

RECITALS

The applicants and owners, Steven D. Mitchell and Wanda A. Mitchell have submitted a variance application to Section 78-30.1(g) of the Zoning Ordinance, Herndon Town Code, to allow a reduction of the secondary front setback along Grant Street from 45 feet to 35 feet on a property located at 801 2nd Street and identified as Fairfax County Tax Map Number 0104 0306 A.

The Board of Zoning Appeals has reviewed this application and has held a public hearing in accordance with the provisions of §15.2-2204 of the State Code on November 21, 2024, and reviewed the application against the criteria of Section 78-155.4(d)(1).

THEREFORE BE IT RESOLVED, by the Board of Zoning Appeals of the Town of Herndon, Virginia, that:

1. The Board ***denies*** the requested variance based on the findings set out below and identified in the staff report:

The strict application of the ordinance does not unreasonably restrict the utilization of the property; and

OR

Granting the variance does not alleviate an undue hardship due to a physical condition relating to the property or improvements thereon; and

- a. The Board further finds that all of the following do not apply:

- i. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and
- ii. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; and
- iii. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; and
- iv. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- v. The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application;

In favor: _____

Against: _____

Attest: _____

Recording Secretary

Date: _____

Town of Herndon, Virginia
Notice of Public Hearing

Notice is hereby given that the **Board of Zoning Appeals (BZA)** of the Town of Herndon, Virginia, will hold a public hearing on Thursday, November 21, 2024, at 7:00 p.m. in the Herndon Council Chambers Building, located at 765 Lynn Street, Herndon on the following items:

BOARD OF ZONING APPEALS, BZA #24-004, 641 Nash Street – Appeal of a Zoning Administrator’s Decision. An appeal of the Zoning Administrator’s decision issued on July 30, 2024, declaring Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 78-153.1(c)(2), submittal of revised application and time limit for resubmission. The 10,194 square-foot lot is located at 641 Nash Street, on the southeast corner of Nash Street and Spring Street. The property is zoned R-10, Single Family Residential. Fairfax County Tax Map Number 0162 02 0139. Appellants and property owners: Francis Kenney Jr. and Caitlin Kenney. **(Continued from the September 26 and October 24, 2024, regular meetings).**

BOARD OF ZONING APPEALS, BZA #24-006, 801 2nd Street, to seek a variance from Section 78-30.1(g), R-15 Dimensional Standards, to request a reduction of the required 45-foot secondary front yard setback (along Grant Street) on a corner lot to 35 feet. The 30,000 square-foot lot is located on the southwest corner of the intersection of Grant Street and 2nd Street. The property is zoned R-15, Single Family Residential. Fairfax County Tax Map Number 0104 0306 A. Applicants and property owners, Steven D. Mitchell and Wanda A. Mitchell.

The public is encouraged to participate in the town’s public hearing process. Individuals having an interest in the above items are invited to attend the public hearing and state their opinions and may also submit comments to bza@herndon-va.gov. The proposed item is available for review by the public on the town’s website www.herndon-va.gov.

The Town of Herndon supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities, so that they may participate in services, programs, or activities, offered by the town. Please call (703) 435-6804 to arrange for any accommodation that may be necessary to allow participation.

Amanda Morrow Kertz, Acting Town Clerk