



TOWN COUNCIL WORK SESSION AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170

Tuesday, May 21, 2024 | 7:00 PM

1. Call to Order

2. Public Hearings

- a. Resolution to adopt the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 Town of Herndon Capital Improvement Program

3. General

- a. Resolution to adopt the Town of Herndon Streetery Pilot Program
- b. Ordinance to amend Chapter 66 (STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES), Sec. 66-1 and to repeal Article VI (Encroachments Over and Upon Public Rights-of-Ways), Division 1 (Generally), and Division 2 (Outdoor Seating Administrative Encroachments)
- c. Resolution to authorize the removal of the duct bank for the relocation of underground utilities (UPC 120508) from the Virginia Department of Transportation (VDOT) - administered '*East Elden Street Improvements and Widening*' project (UPC 50100)
- d. Resolution, to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #24-02 to amend Chapter 78 (ZONING), Article III (Residential Districts), Section 78-30.6, Article V (Planned Development Districts), by adding Section 78-51.2, PD-TRG1 (Planned Development – Transit Related Growth 1), and Section 78-51.2, PD-TRG2 (Planned Development – Transit Related Growth 2), and amending Article VII (Use Regulations), Section 78-70.2, Article VIII (Accessory Uses), Section 78-80.2, Article X (Parking, Loading, and Circulation), Section 78-100.2, Article XIV (Signs), adding a new Section 78-141.7 (Sign Standards for Planned Development – Transit Related Growth), Section 78-180 (Definitions), and other articles as deemed necessary and appropriate to implement the recommendations and standards of the Transit Related Growth Small Area Plan

4. Consent

- a. Resolution to delegate authority to the Town Manager to approve all project budget transfers, and the addition of and cancellation of projects in the American Rescue Plan Act (ARPA) Fund

5. Roundtable

6. Adjournment

Agenda Item: Resolution to adopt the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 Town of Herndon Capital Improvement Program

Meeting Date: May 21, 2024

Category: Public Hearings

Prepared by: John Irish, Deputy Director of Public Works, John Verdin, Capital Projects Program Manager

Description:

The Capital Improvement Program (CIP) is a financial planning document that establishes a six-year schedule for public improvements. It serves as a companion policy document to the Town of Herndon 2030 Comprehensive Plan and the town's Annual Operating Budget. The focus of this action concerns the FY 2026 through FY 2030 CIP, as the first year of the CIP (FY 2025) was adopted with the FY 2025 budget. The CIP document includes all six years and thus is referred to as the FY 2025 through FY 2030 CIP. This proposed CIP and the attached Resolution represent the Town Manager's recommendation for the Town Council to adopt.

[View the FY 2025 - FY 2030 CIP](#)

Background:

As mandated by the Code of Virginia, the proposed CIP was reviewed by the Planning Commission during a public hearing. The Commission's adopted Resolution 24-PC-003 dated February 26, 2024, and attached to this report, provides the Commission's recommendation to the Town Manager. Additional information is included in the attached Staff Report.

Budget Impact:

The proposed program of capital improvements is integrated into the overall financial planning of the town. The program plans for the prudent use of General Fund revenues, American Rescue Plan Act (ARPA) funds, and Enterprise Fund revenues (Golf Course, Water and Sewer, Cemetery) within specific policy guidelines established within the town's Operating Budget and Comprehensive Annual Financial Report. The table below provides the total funds for FY 2025 as well as for FY 2026-FY 2030, as per the General Fund and Enterprise Fund summaries.

Total Recommended CIP	FY 2025	FY 2026 - FY 2030	Total
General Government Projects	\$5,190,000	\$129,184,004	\$134,374,004
Golf Course Fund Projects	\$50,000	\$0	\$50,000
Water and Sewer Fund Projects	\$11,739,000	\$57,180,000	\$68,919,000
Cemetery Fund Projects	\$2,311,450	\$0	\$2,311,450

Recommendation:

Staff recommends approval of the Resolution as presented to adopt the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 CIP.

Attachments:

1. Staff Report
2. Resolution (Proposed)
3. PC Resolution (Approved)

STAFF REPORT

Agenda Item: Resolution to adopt the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 Town of Herndon Capital Improvement Program

Meeting Date: May 21, 2024

Staff Contact: John Irish, Deputy Director of Public Works
John Verdin, CIP Program Manager

Background:

The Capital Improvement Program (CIP) is a financial planning document that establishes a six-year schedule for public improvements. It serves as a companion policy document to the Town of Herndon 2030 Comprehensive Plan and the town's Annual Operating Budget. The focus of this action concerns the FY 2026 through FY 2030 CIP, as the first year of the CIP (FY 2025) was adopted with the FY 2025 budget. The CIP document includes all six years and thus is referred to as the FY 2025 through FY 2030 CIP. This proposed CIP and the attached Resolution represent the Town Manager's recommendation for the Town Council to adopt.

As mandated by the Code of Virginia, the proposed CIP was reviewed by the Planning Commission during a public hearing. The Commission's adopted Resolution 24-PC-003 dated February 26, 2024 provides the Commission's recommendation to the Town Manager. The Planning Commission indicated that the project Sidewalks, Trails, and Bicycle Facilities project should receive necessary funding in FY 2025. There are currently four projects and nine studies focused on sidewalk improvements or compliance to further walkability in the town.

There are several important factors to consider with respect to prioritization of the projects, whereby certain town projects may have a contractual or legal obligation in place, or projects that affect critical public safety and/or projects where there are major Federal and State funding timeline obligations and/or local match funding commitments.

The 24 proposed General Government projects are categorized as follows, with new projects appearing in *italics*:

Multimodal Transportation and Enhancements

East Elden Street Improvement and Widening
East Elden Street Duct Bank for Future Relocation
South Elden St. (Herndon Pkwy. to Sterling Rd.)
Spring Street (H. Parkway to Fairfax Co. Pkwy)
Sidewalk, Minor Trails, and Bicycle Facilities
Central Elden Walkability Improvements
Locust Street ADA Sidewalk Improvements
Sterling Road Multi-Modal Improvements
Monroe Street – Park Avenue Improvements
Herndon Parkway Improvement at Worldgate Extension
Herndon Parkway/Sunset Park Drive Intersection
Ferndale Avenue Improvements

Government Facilities Infrastructure

Energy Conservation
Town-wide Security Initiative
1481 Sterling Future Considerations
Town Shop Underground Fuel Storage Tanks
Herndon Municipal Center/Chamber Backlog
Downtown Redevelopment – Arts Center
Network Infrastructure

Storm Water Management/Environmental Enhancement

Storm Drainage Improvements
Stream Restoration

Parks and Recreation:

Park Equipment Program
Sports Field and Park Improvements
Herndon Community Life Cycle Projects
Town Hall Square, Depot, Caboose Improvements
Aquatic Office Conversion

Future Prospect Projects*

Runnymede Park Nature Center
W&OD Trail Lighting - Downtown
Herndon Community Center - Phase 5
Wayfinding and Identification Signs
Center Street Culvert Safety Improvement
Worldgate Drive Extension
Herndon Metrorail Promenade
Spring Street ADA Sidewalk Improvements
Downtown Utility Relocation
Police Exterior Garage
HPD Secure Gate
HPD Facility Improvements

* Projects costs/funding are not included in the CIP Financial Matrix

Fiscal Impact:

The proposed program of capital improvements is integrated into the overall financial planning of the town. The program plans for the prudent use of General Fund revenues, American Rescue Plan Act (ARPA) funds, and Enterprise Fund revenues (Golf Course, Water and Sewer, Cemetery) within specific policy guidelines established within the town's Operating Budget and Comprehensive Annual Financial Report. The table below provides the total funds for FY 2025 as well as for FY 2026-FY 2030, as per the General Fund and Enterprise Fund summaries.

Total Recommended CIP	FY 2025	FY26-FY30	Total
General Government Projects	\$5,190,000	\$129,184,004	\$134,374,004
Golf Course Fund Projects	\$50,000	\$0	\$ 50,000
Water and Sewer Fund Projects	\$11,739,000	\$57,180,000	\$68,919,000
Cemetery Fund Projects	\$ 2,311,450	\$0	\$2,311,450

For the General Government Projects, the proposed CIP makes use of approximately \$100,786,000 in grant funding from several sources in support of 36 different projects. Within the Water and Sewer Fund, additional debt financing will be needed for Water Utility Master Plan Improvements, Sewer Capacity Purchase and Sewer System Conveyance. The other Water and Sewer projects are supported mainly by operating revenues, availability fees, and ARPA funds (\$2,539,799).

Additional Staff Comments:

The proposed CIP contains 36 projects to include 24 General Government projects and 12 Enterprise Fund projects. The largest funding sources for General Government projects are grants (\$22,005,000), Revenue Bonds/Water & Sewer (\$43,220,000), Fairfax County Storm Water Tax (\$9,511,600), General Fund revenue (\$9,613,090) and ARPA (\$3,851,500). ARPA funds have been used as a stop gap method to recover from COVID revenue reduction and to correct oversight of essential infrastructure projects.

As with any long-range plan, implementation of the Five-Year Capital Improvement Program will require identifying and securing new sources of funding in support of the identified projects. Staff will continue to pursue local, state, and federal funding opportunities to keep these projects on schedule as outlined in the CIP.

The adopted FY 2024 – FY 2029 CIP is available on the town website for comparison and comprises [pages 244-469 of the Adopted FY 2024 Budget](#).

Staff Recommendation:

1. Staff recommends that the Town Council approve and adopt the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 CIP.
2. Recognizes that the purpose of the [FY 2025 - FY 2030 CIP](#) is as a planning document and that the funding shown is dependent upon future revenues and other funding sources.

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

RESOLUTION

MAY 28, 2024

Resolution- to adopt the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 Town of Herndon Capital Improvement Program.

The Capital Improvement Program (CIP) is a financial planning document that establishes a six-year schedule for public improvements. It serves as a companion policy document to the Town of Herndon 2030 Comprehensive Plan and the town's Annual Operating Budget. The focus of this action concerns the FY 2026 through FY 2030 CIP, as the first year of the CIP (FY 2025) was adopted with the FY 2025 budget. The CIP document includes all six years and thus is referred to as the FY 2025 through FY 2030 CIP.

As mandated by the Code of Virginia, the proposed CIP was reviewed by the Planning Commission during a public hearing. The Commission's adopted Resolution 24-PC-003 dated February 26, 2024 provides the Commission's recommendation to the Town Manager.

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

1. The Town Council approves and adopts the FY 2026 through FY 2030 portion of the FY 2025 - FY 2030 Town of Herndon Capital Improvement Program.

**TOWN OF HERNDON, VIRGINIA
PLANNING COMMISSION**

RESOLUTION

FEBRUARY 26, 2024

Resolution- to recommend to the Town Manager of the Town of Herndon the Proposed FY 2025 – FY 2030 Capital Improvement Program (CIP) and the Planning Commission’s priorities, as presented at the Planning Commission work session of February 12, 2024, and public hearing of February 26, 2024.

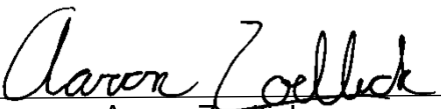
The Planning Commission of the Town of Herndon, Virginia has reviewed the Proposed FY 2025 – FY 2030 CIP (Proposed CIP). The Planning Commission has found that the Proposed CIP provides the necessary six-year financial planning schedule for the town’s public facilities and improvements. The Planning Commission has determined that the Proposed CIP aligns with the town’s 2030 Comprehensive Plan and the action items found in the town’s adopted Pedestrian Plan and Bicycle Network Master Plan. The Planning Commission recognizes that the Proposed CIP is a draft and that adjustments may be necessary based upon additional information received during the finalization of the Proposed FY 2025 Operating Budget.

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

The Planning Commission recommends the Proposed FY 2025 – FY 2030 Capital CIP to the Town Manager of the Town of Herndon for further consideration and adoption and further recommends that:

1. The Sidewalk, Bicycle, and Trails project continues to be funded using General Funds dollars; and,
2. The General Government projects focus should be on maintaining existing major infrastructure and ensuring safety of operations.

This is certified to be a true and accurate copy of resolution 24-PC-003 adopted at a legally convened meeting of the Town of Herndon Planning Commission on February 26, 2024.


Aaron Zoellick
Clerk of Boards and Commissions

Agenda Item: Resolution to adopt the Town of Herndon Streeterly Pilot Program

Meeting Date: May 21, 2024

Category: General

Prepared by: David Stromberg, Zoning Administrator, Lauri Sigler, Deputy Town Attorney

Description:

After continued discussion of outdoor seating at the May 7, 2024 work session, Town Council directed staff to develop a pilot program to allow outdoor dining for a specified duration within the public right of way, including on public shared parking and sidewalks, within the downtown. The proposed resolution establishes a Streeterly Pilot Program within the downtown, which memorializes the fee change adopted by Ordinance 24-O-10 at the May 14, 2024 Town Council meeting, and increases the number of parking spaces available for outdoor seating. In order to establish and implement the pilot program, Chapter 66, Article VI, Divisions 1 and 2, must be repealed. The Streeterly Pilot Program will supersede the current regulations regarding outdoor seating found in Chapter 66 that are being repealed.

Background:

At the May 14, 2024 public hearing, Town Council adopted Ordinance 24-O-10 to amend Sec. 66-133(b)(5) of the Herndon Town Code for the limited purpose of reducing the seasonal outdoor seating fee charged for private use of public sidewalks, public rights-of-way, or public share parking spaces from ten dollars (\$10.00) per square foot to one dollar (\$1.00) per square foot and further directed Town staff to create a pilot program for outdoor seating that would supersede the regulations in Chapter 66. As per Town Council's direction, Town staff has created the "Streeterly Pilot Program for Outdoor Seating." The regulations for this pilot program largely mirror the language from Chapter 66, Division 2 (Outdoor Seating Administrative Encroachments) except that it reduces the fee charged to one dollar (\$1.00) per square foot for the first two parking spaces and five dollars (\$5.00) per square foot for the third and fourth parking spaces, and increases the total number of on-street public and public shared parking spaces that can be used for outdoor seating to four.

The term "Streeterly" is used instead of the term "seasonal outdoor seating" to describe outdoor seating areas on public sidewalks, public rights-of-way, public streetscape easements, or public shared parking. As defined in the proposed pilot program regulations, a "Streeterly" means:

any outdoor group of tables, chairs, or other seating fixtures and all related appurtenances maintained within the public sidewalk, or other right-of-way when located adjacent to an eating establishment having the same principal operator. A Streeterly is typically an extension of an existing eating establishment's "dining room" and is not considered a public space. Further, a Streeterly shall be temporary in nature, shall not be permanently affixed so as to extend below the sidewalk or other right-of-way, must not involve penetration of the sidewalk or right-of-way surface or be attached to any building, and shall be readily removable without damage to the surface of the sidewalk or other right-of-way.

The term of the Streeterly Pilot Program will begin at the adoption of the resolution and will continue through November 30, 2024.

Budget Impact:

Budgetary impacts will be dependent on the participation in the program.

Recommendation:

Staff recommends approval of the resolution to establish the Streeterly Pilot Program, and the subsequent adoption of the Ordinance to amend Chapter 66, Section 66-1 and repeal Article VI, Divisions 1 and 2.

Attachments:

1. Resolution (Proposed)
2. Streeterly Pilot Program Regulations

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

RESOLUTION

MAY 28, 2024

Resolution- to adopt the Town of Herndon Streetery Pilot Program.

At the May 7, 2024 work session, Town Council directed staff to develop an outdoor dining pilot program that would reduce the fees associated with utilizing public rights-of-ways, as well as increasing the allowable number of parking spaces, for a Streetery. The intent of the pilot program is to reduce potential barriers and provide opportunities for eligible eating establishments to create additional outdoor eating spaces within the downtown.

The pilot program will be for a limited duration, and will include some data analysis in reviewing program efficacy and determining next steps at the conclusion of the pilot program.

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

1. The Town of Herndon Streetery Pilot Program is established and the Town Manager is authorized to create rules and regulations for the efficient establishment and administration of the Pilot Program.
2. The Economic Development Director will engage a group of business owners within the downtown business district to obtain input on program efficacy and impacts.
3. Town staff will monitor the pilot program and utilize available data in reviewing program efficacy and impacts.
4. This resolution shall be effective on the date of its adoption through November 30, 2024.

TOWN OF HERNDON STREETERY PILOT PROGRAM RULES AND REGULATIONS

1. Purpose.

The purpose of this program is to create the opportunity for the Town, in partnership with downtown eating establishments, to try out a streetery program for a trial period. While the following rules and regulations aim to protect the health, safety, and welfare of the Herndon community, as well as ensure compliance with required regulatory agencies, they are also intended to reduce potential barriers and provide greater opportunities for eligible eating establishments to create additional outdoor eating spaces within the downtown. The program will include some data analysis in reviewing program efficacy and in determining next steps at the conclusion of the pilot program.

2. Administrative approval required for Streetery.

In accordance with the Code of Virginia § 15.2-2009, as amended, the town council authorizes the director of community development and the director of public works or their designee, upon application to the department of community development, to administratively approve streetery seating areas that encroach into public rights-of-way and other public places subject to the terms and conditions more specifically described below. Furthermore, the town council authorizes the director of public works to enforce the provisions of these regulations.

If an application for a streetery encroachment does not meet all of the criteria of paragraph 4, then the directors of public works and community development or their designees are prohibited from administratively approving the encroachment application, which said application must be denied.

3. Streetery Permit; definitions.

The terms used in these regulations and not here defined shall carry their ordinary meanings. For purposes of this program, the following terms shall carry the meanings set out below:

ABC means the Virginia Department of Alcoholic Beverage Control.

ADA means the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, 42 U.S.C. § 12101 et seq.

Director of community development means the director of the department of community development and their authorized designees.

Director of public works means the director of the department of public works and their authorized designees.

Eating establishment means any business meeting the criteria in section 78-71.6 of the zoning ordinance which is properly licensed and lawfully located in the PD-TD, Planned Development Traditional Downtown, PD-D, Planned Development Downtown, and CC, Central Commercial zoning districts.

Principal operator means the person or entity that operates an eating establishment.

Public shared parking spaces means as defined in section 78-180 of the zoning ordinance but specifically exclude public shared parking spaces located on public streets.

Public parking means for the purpose of this program, parking spaces located in public right-of-way (on-street parking spaces) or, in a public street easement, but specifically excluding public shared parking spaces.

Public right-of-way means for the purpose of this program, dedicated and otherwise acquired public right-of-way and public street easements having the characteristics of a municipal public street for the purpose of public travel and other uses consistent with a public municipal street.

Public shared parking seating area means an area on a public shared parking space to be used for a streetery associated with an adjacent eating establishment.

Public sidewalk means for the purpose of this program, dedicated and otherwise acquired public right-of-way and public streetscape easements having the characteristics of a municipal sidewalk for the purpose of non-vehicular public travel and other uses consistent with a public municipal sidewalk.

Streetery means any outdoor group of tables, chairs, or other seating fixtures and all related appurtenances maintained within the public sidewalk, or other right-of-way when located adjacent to an eating establishment having the same principal operator. A streetery is typically an extension of an existing eating establishment's "dining room" and is not considered a public space. Further, a streetery shall be temporary in nature, shall not be permanently affixed so as to extend below the sidewalk or other right-of-way, must not involve penetration of the sidewalk or right-of-way surface or be attached to any building, and shall be readily removable without damage to the surface of the sidewalk or other right-of-way. The term for the streetery pilot program will be from May 28, 2024 to November 30, 2024 after which time the town council will evaluate the streetery program and make any changes it deems necessary.

Right-of-way seating area means an extension of the sidewalk into the parking lane on a public right-of-way or public street easement to be used for a streetery associated with an adjacent eating establishment. The establishment of a right-of-way seating area for eligible eating establishments is limited to Lynn Street, Pine Street, Station Street, and the 700 block of Center Street.

Sidewalk seating area means an area on a public sidewalk or public streetscape easement to be used for a streetery associated with an adjacent eating establishment.

4. Requirements.

- (a) *Permit required; enforcement.* Subject to the provisions of these regulations, a streetery may encroach into a portion of the public sidewalk, public right-of-way, or public shared parking only upon issuance of a streetery permit as provided for in these regulations. No other use of the area devoted to a streetery shall be permitted. It shall be the responsibility of the director of public works to enforce the provisions of these regulation. A streetery permit shall not be transferable to another principal operator or location.
- (b) *Application requirements.*
 - (1) Application for a streetery permit shall be made to the director of community development on such application form and subject to such written procedures as the director may establish. Application for a streetery permit shall be made by the principal operator of an eating establishment that is located at street level adjacent to the proposed streetery. The application shall be signed by the principal operator of the eating establishment and by the owner of the property on which the eating establishment is located if the property owner is not the eating establishment operator.
 - (2) Streetery areas whether in a sidewalk or public right-of way, must comply with all streetery requirements, which address the allowed locations, design requirements, safety, and maintenance responsibilities that are approved by the directors of community development and public works. The use of tents with or without sides are prohibited due to the safety hazard presented by impeding the site distance for vehicles operating around the streetery areas. Umbrellas must have a minimum 7-foot overhead clearance and be securely weighted. Signs are prohibited on umbrellas.
 - (3) Application fee. A nonrefundable application fee of \$100.00 shall accompany each application for a streetery permit.
 - (4) Term of permit. A streetery permit is limited to a period beginning May 28, 2024 through November 30, 2024. A streetery permit shall be valid until the time stated in the permit, the establishment ceases operation, the permit is suspended, or the permit is revoked.

- (5) Fees for use of public right-of-way or public share parking shall be \$1.00 per square foot per term for the first two parking spaces and shall be \$5.00 per square foot per term for the third and fourth parking spaces. The fees for use of the public sidewalk shall be \$1.00 per square foot per term.
- (c) *Limitations on right-of-way seating areas.* An eating establishment shall be limited to the permitted use of four public parking spaces per establishment. At any one time, the town shall limit the total number of issued permits for a streetery to no more than 30 percent of the total parking spaces along a street block. Permits will be issued based on the order of complete applications received.
- (d) *Limitations on use of public shared parking.* An eating establishment shall be limited to the permitted use of four public shared parking space per establishment, however the use of public shared parking spaces can only be used for streetery seating if the parking spaces have not been allocated through the public shared parking program pursuant to section 78-100.7 of the zoning ordinance.

If as described in section 66-137(b)(1)f of the town code, a development applicant has voluntarily proffered or chosen to participate in the public shared parking program and the only remaining spaces are occupied by an eating establishment pursuant to these regulations, the director of public works shall provide written notice to the principal operator and owner of the property.
- (e) *Liability insurance and indemnity.* Prior to approval of any streetery permit, the applicant shall submit a certificate of liability insurance in such amounts and such coverages as may be required by the risk manager, naming the Town of Herndon as an additional insured in a form satisfactory to the risk manager.
- (f) *Fees and taxes to be paid.* All Town of Herndon fees and taxes required by law and applicable to the eating establishment, or to the property on which the eating establishment is located, shall be paid in full and all required town licenses shall be current prior to approval of a streetery permit.
- (g) *Encroachment agreement.* Prior to the approval of a streetery permit the applicant shall submit an executed encroachment agreement, incorporating all terms and conditions imposed by town staff and in a form approved by the town attorney or their designee, which shall include but not be limited to provisions regarding insurance and indemnification as may be required by the risk manager.

5. Review process.

- (a) After a complete application, including all required materials as set forth in paragraph 4 is submitted, the director of community development and the director of public works shall jointly approve the streetery permit, approve the streetery permit with conditions, or deny the streetery permit.
- (b) Standards for application review. Approval of a streetery permit shall be granted only if:
 - (1) The eating establishment is properly licensed and lawfully located in a PD-TD, Planned Development Traditional Downtown, PD-D, Planned Development Downtown, or CC, Central Commercial zoning districts;
 - (2) The proposed streetery complies with the uniform statewide building code, state and local fire codes, state and local health codes, and all applicable provisions of federal, state, and local law, including these regulations;
 - (3) The proposed streetery complies with all streetery requirements;
 - (4) The public sidewalk maintains 60 inches passage way to back of curb and 36 inch passage around any sidewalk obstruction;
 - (5) The eating establishment complies with ADA requirements for the indoor and outdoor streetery areas. This includes required ADA access within the streetery area;
 - (6) The proposed streetery will not unreasonably interfere with the normal use of town property by the town or general public, and does not present a safety, health, or environmental hazard; and

- (7) The proposed streetery shall not block egress from the adjacent buildings, block or hinder access to any fire hydrant, fire lane or fire department hose connection.
- (c) Availability of approved permit on the premises. If approved, the streetery permit shall be available on the premises of the eating establishment at all times and shall be provided to representatives of the town upon request.

6. Changes to approved permit.

No material change to an approved streetery permit shall be made without prior written approval by the director of community development and the director of public works, provided that the director of public works may modify an approved permit if they find there is a public need relative to use of the adjacent sidewalk area or right-of-way.

7. Enforcement, revocation, and suspension.

- (a) *Generally.* Operation of a streetery is a licensed privilege granted by the Town of Herndon to occupy a portion of the public right-of-way or public shared parking and is predicated on the streetery being operated in compliance with all applicable regulations and on maintaining the superseding public interest in the use of public rights-of-ways in the town and shall be revocable at the pleasure of the town council.
- (b) *Administrative revocation of approved permit by the director of public works.*
 - (1) The director of public works shall have the authority to revoke an approved streetery permit if any of the following occurs:
 - a. The applicant has misrepresented facts or provided false information in the streetery permit application;
 - b. The streetery is operated in violation of the terms or conditions of the streetery permit, encroachment agreement, or ABC regulations;
 - c. The streetery or the eating establishment is operated in violation of the zoning ordinance, town code, or other applicable federal, state, or local law;
 - d. The streetery constitutes a public nuisance or a hazard to the public health, safety, or welfare of the public, or is endangering the life or property of others;
 - e. The eating establishment has delinquent taxes, unpaid fees, or has not maintained all licenses necessary for operation of the eating establishment and streetery; or
 - f. The director of public works determines that there is a superseding public need relative to the portion of the public sidewalk, public right-of-way, or public shared parking space(s) occupied by or otherwise affected by the streetery, including but not limited to: 1) work or repair in the public sidewalk or public right-of-way areas, or 2) need of access for work or repair to a public facility or public utility or 3) if a development applicant has voluntarily proffered or chosen to participate in the public shared parking program and the only remaining spaces are occupied by a streetery.
 - (2) The director of public works shall provide written notice that shall be reasonable under the circumstances to the principal operator and owner of the property where the eating establishment is located setting forth the effective date of the revocation and the grounds therefor. Such revocation shall not be appealable.
 - (3) In the case of revocation of a streetery permit on grounds other than specified in paragraph (b)(1)f of this section, the principal operator of the streetery shall not be permitted to re-apply for an administrative streetery permit to operate a streetery area for the same establishment within one year of revocation.

(c) *Administrative suspension of an approved permit by the director of public works.*

- (1) The director of public works shall have the authority to suspend an approved streetery permit for a period of up to 30 days, or such longer period as may be necessary, if any of the conditions of paragraph (b)(1) occur.
- (2) The director of public works shall provide written notice to the principal operator setting forth the effective date of the suspension, the length of the suspension, and the grounds therefor.
- (3) The director of public works may reinstate a streetery permit if the director is satisfied that the grounds for the suspension have been abated.

8. Marking of Streetery area for inspection.

After approval of a streetery permit and prior to initial occupancy of any area approved for use for streetery seating, the principal operator of the streetery shall mark the corners of the approved streetery area in a conspicuous but non-permanent manner on the sidewalk surface or other public space and shall notify the director of public works for inspection by the town building official and approval of the same.

9. Appeal of denial, of permit, or Administrative Suspension.

A person aggrieved by the denial of an application for a streetery permit or an administrative suspension of a streetery permit shall have the right to appeal to the Town Manager. The appeal shall be made in writing to the Town Manager within 72 hours from the receipt of the written denial or suspension. The written appeal shall state the reasons for the appeal. Town Manager shall review the appeal and issue a written decision within five business days of its receipt.

Agenda Item: Ordinance to amend Chapter 66 (STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES), Sec. 66-1 and to repeal Article VI (Encroachments Over and Upon Public Rights-of-Ways), Division 1 (Generally), and Division 2 (Outdoor Seating Administrative Encroachments)

Meeting Date: May 21, 2024

Category: General

Prepared by: David Stromberg, Zoning Administrator, Lauri Sigler, Deputy Town Attorney

Description:

This is a request to amend Chapter 66, Section 66-1 and repeal Article VI Division 1 and Division 2 regarding outdoor dining. The adoption of this Ordinance is a necessary step in establishing the Town of Herndon Streeterly Pilot Program. The Streeterly Pilot Program will supersede the current regulations regarding seasonal outdoor seating found in Chapter 66 that are being repealed by the proposed Ordinance.

Background:

Please review information included under the previous agenda item regarding the establishment of the Town of Herndon Streeterly Pilot Program.

Budget Impact:

None.

Recommendation:

Staff recommends approval the proposed ordinance.

Attachments:

1. Ordinance (Proposed)

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

ORDINANCE

MAY 28, 2024

Ordinance- **to amend Chapter 66 (STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES), Sec. 66-1 and to repeal Article VI (Encroachments Over and Upon Public Rights-of-Ways), Division 1 (Generally), and Division 2 (Outdoor Seating Administrative Encroachments).**

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

1. The following sections or provisions of the Herndon Town Code (2000), as amended, are amended as follows:

**CHAPTER 66 (STREETS, SIDEWALKS AND CERTAIN
OTHER PUBLIC PLACES)**

Article I. In General.

Sec. 66-1. - Obstructing streets and sidewalks.

Except as may otherwise be provided by ~~article VI of this chapter~~, this Code or resolution of the town council adopted pursuant to general law for the placement of improvements in a public right-of-way for a public purpose or the temporary closing of streets for other than public purposes, no person shall obstruct a street or sidewalk by placing or permitting thereon any bench, carton, barrel, box, cart, vehicle, merchandise, snow or ice from private land used for commercial purposes, or other article or fixture whatsoever, whether for exhibition, sale, or other purposes.

2. The following sections or provisions of the Herndon Town Code (2000), as amended, are repealed as follows:

~~Article VI. Encroachments Over and Upon Public Rights-of Ways.~~

~~Division 1.- Generally.~~

~~Sec. 66-121. – Purpose of article.~~

~~It is the general policy of the town that the public rights-of-way are to be reserved for public use or open space; and that the rights of the public, present and future, are not to be diminished by the installation of private improvements within public rights-of-way. Notwithstanding the foregoing, limited private encroachments into public rights-of-way may be permitted, subject to the express terms of this article and compliance with other provisions of this chapter.~~

~~Secs. 66-122 – 66-130. – Reserved.~~

~~Division 2. – Outdoor Seating Administrative Encroachments.~~

~~Sec. 66-131. Administrative approval required for seasonal outdoor seating.~~

~~In accordance with the Code of Virginia § 15.2-2009, as amended, the town council hereby authorizes the director of community development and the director of public works or their designee, upon application to the department of community development, to administratively approve seasonal outdoor seating areas that encroach into public rights-of-way and other public places subject to the terms and conditions of article VI of this chapter. Furthermore, the town council hereby authorizes the director of public works to enforce the provisions of this Division.~~

~~If an application for an outdoor seating encroachment does not meet all of the criteria of Sec. 66-133, then the directors of public works and community development or their designees are prohibited from administratively approving the encroachment application, which said application must be denied.~~

~~Sec. 66-132. Seasonal Outdoor seating permit; definitions.~~

~~The terms used in the division and not here defined shall carry their ordinary meanings. For purposes of this division, the terms set out below shall carry the meanings set out below:~~

~~ABC. The Virginia Department of Alcoholic Beverage Control.~~

~~ADA. The Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008, 42 U.S.C. §§ 12101, et seq.~~

~~Director of community development. The director of the department of community development and their authorized designees.~~

~~Director of public works. The director of the department of public works and their authorized designees.~~

~~Eating Establishment. Any business meeting the criteria in Sec. 78-71.6 of the zoning ordinance which is properly licensed and lawfully located in the PD-TD, Planned Development Traditional Downtown, PD-D, Planned Development Downtown, and CC, Central Commercial zoning districts.~~

~~*Public Shared Parking Spaces.* Shall have meaning as defined in Sec. 78-180 of the zoning ordinance but specifically exclude public shared parking spaces located on public streets.~~

~~*Public Shared Parking Seating Area.* An area on a public shared parking space to be used for seasonal outdoor seating associated with an adjacent eating establishment.~~

~~*Principal Operator.* The person or entity that operates an establishment.~~

~~*Public Parking.* For the purpose of this division, includes parking spaces located in public right-of-way (on-street parking spaces) or, in a public street easement, but specifically excluding public shared parking spaces.~~

~~*Public Right-of-Way.* For the purpose of this Division includes dedicated and otherwise acquired public right-of-way and public street easements having the characteristics of a municipal public street for the purpose of public travel and other uses consistent with a public municipal street.~~

~~*Public Sidewalk.* For the purpose of this Division includes dedicated and otherwise acquired public right-of-way and public streetscape easements having the characteristics of a municipal sidewalk for the purpose of non-vehicular public travel and other uses consistent with a public municipal sidewalk.~~

~~*Seasonal outdoor seating.* Any group of tables, chairs, or other seating fixtures and all related appurtenances maintained within the public sidewalk, or other right-of-way when located adjacent to an eating establishment having the same principal operator. Further, outdoor seating shall be temporary in nature, shall not be permanently affixed so as to extend below the sidewalk or other right-of-way, must not involve penetration of the sidewalk or right-of-way surface or be attached to any building, and shall be readily removable without damage to the surface of the sidewalk or other right-of-way. The maximum time period for outdoor seating pursuant to the division is from March 15 to October 31 per calendar year.~~

~~*Sidewalk Seating Area.* An area on a public sidewalk or public streetscape easement to be used for seasonal outdoor seating associated with an adjacent eating establishment~~

~~*Right-of-Way Seating Area.* An extension of the sidewalk into the parking lane on a public right-of-way or public street easement to be used for seasonal outdoor seating associated with an adjacent eating establishment. The establishment of a Right-of-Way Seating Area for eligible Eating Establishments is limited to Lynn Street, Pine Street, Station Street, and the 700 block of Center Street.~~

~~Sec. 66-133. Same – Requirements.~~

- ~~(a) *Permit required; enforcement.* Subject to the provisions of this Division, seasonal outdoor seating may encroach into a portion of the public sidewalk, public right-of-way, or public shared parking only upon issuance of a seasonal outdoor seating permit as provided for in this Division. No other use of the area devoted to the seasonal outdoor seating shall be~~

permitted. It shall be the responsibility of the director of public works to enforce the provisions of this division.

~~(b) Application requirements.~~

- ~~(1) Application for a seasonal outdoor seating permit shall be made to the director of community development on such application form and subject to such written procedures as the director may establish. Application for a seasonal outdoor seating permit shall be made by the principal operator of an eating establishment that is located at street level adjacent to the proposed outdoor seating area. The application shall be signed by principal operator of the eating establishment and by the owner of the property on which the eating establishment is located if the property owner is not the eating establishment operator.~~
- ~~(2) Seasonal outdoor seating areas whether in a sidewalk or public right-of-way, must comply with all Seasonal Outdoor Seating Requirements, which address the allowed locations, design requirements, safety, and maintenance responsibilities that are approved by the directors of community development and public works~~
- ~~(3) Application fee. A nonrefundable application fee of \$100.00 shall accompany each application for a seasonal outdoor seating permit.~~
- ~~(4) Term of permit. Each seasonal outdoor seating permit is limited to a period beginning March 15 through October 31 of each calendar year. Such permit will have to be applied for on an annual basis and will not automatically renew.~~
- ~~(5) Fees for use of public sidewalk, public right-of-way, or public share parking shall be one dollar (\$1.00) per square foot per term.~~

~~(c) Limitations on right-of-way seating areas. An eating establishment shall be limited to the permitted use of two (2) public parking spaces per establishment. At any one time, the town shall limit the total number of issued permits for right-of-way seating areas to no more than twenty percent (20%) of the total parking spaces along a street block. Permits will be issued based on the order of complete applications received.~~

~~(d) Limitations on use of public shared parking. An eating establishment shall be limited to the permitted use of two (2) public shared parking space per establishment, however the use of public shared parking spaces can only be used for seasonal outdoor seating if the parking spaces have not been allocated through the public shared parking program pursuant to Sec. 78-100.7 of the zoning ordinance.~~

If as described in Sec. 66-137(b)(1)f, a development applicant has voluntarily proffered or chosen to participate in the public shared

~~parking program and the only remaining spaces are occupied by an eating establishment pursuant to this division, the director of public works shall provide written notice to the principal operator and owner of the property~~

- ~~(e) *Liability insurance and indemnity.* Prior to approval of any seasonal outdoor seating permit, the applicant shall submit a certificate of liability insurance in such amounts and such coverages as may be required by the risk manager, naming the Town of Herndon as an additional insured in a form satisfactory to the risk manager.~~
- ~~(f) *Fees and taxes to be paid.* All Town of Herndon fees and taxes required by law and applicable to the eating establishment, or to the property on which the eating establishment is located, shall be paid in full and all required town licenses shall be current prior to approval of a seasonal outdoor seating permit.~~
- ~~(g) *Encroachment Agreement.* Prior to the approval of a seasonal outdoor seating permit the applicant shall submit an executed encroachment agreement, incorporating all terms and conditions imposed by town staff and in a form approved by the town attorney or their designee, which shall include but not be limited to provisions regarding insurance and indemnification as may be required by the risk manager.~~

~~Sec. 66-134. Same – Review process.~~

- ~~(a) After a complete application, including all required materials as set forth in Sec. 66-133 is submitted, the director of community development and the director of public works shall jointly approve the seasonal outdoor seating permit, approve the seasonal outdoor seating permit with conditions, or deny the seasonal outdoor seating permit.~~
- ~~(b) Standards for application review. Approval of a seasonal outdoor seating permit shall be granted only if:
 - ~~(1) The eating establishment is properly licensed and lawfully located in a PD-TD, Planned Development Traditional Downtown, PD-D, Planned Development Downtown, or CC, Central Commercial zoning districts;~~
 - ~~(2) The proposed seasonal outdoor seating complies with the uniform statewide building code, state and local fire codes, state and local health codes, and all applicable provisions of federal, state, and local law, including this division;~~
 - ~~(3) The proposed seasonal outdoor seating complies with all Seasonal Outdoor Seating Requirements;~~
 - ~~(4) The public sidewalk maintains 60 inches passage way to back of curb and 36 inch passage around any sidewalk obstruction;~~~~

- ~~(5) The eating establishment complies with ADA requirements for the indoor and outdoor seating areas. This includes required ADA access within the outdoor seating area;~~
- ~~(6) The proposed outdoor seating will not unreasonably interfere with the normal use of town property by the town or general public, and does not present a safety, health, or environmental hazard; and~~
- ~~(7) The proposed outdoor seating area shall not block egress from the adjacent buildings, block or hinder access to any fire hydrant, fire lane or fire department hose connection.~~
- ~~(c) Availability of approved permit on the premises. If approved, the seasonal outdoor seating permit shall be available on the premises of the eating establishment at all times and shall be provided to representatives of the town upon request.~~

~~Sec. 66-135. Same – Changes to approved permit.~~

~~No material change to an approved seasonal outdoor seating permit shall be made without prior written approval by the director of community development and the director of public works, provided that the director of public works may modify an approved permit if they find there is a public need relative to use of the adjacent sidewalk area or right-of-way.~~

~~Sec. 66-136. Same – Duration and transferability.~~

- ~~(a) A seasonal outdoor seating permit shall be valid from March 15 to October 31 per calendar year, unless a shorter time is specified. A seasonal outdoor seating permit shall be valid until the time stated in the permit, the establishment ceases operation, the permit is suspended, or the permit is revoked.~~
- ~~(b) A seasonal outdoor seating permit shall not be transferable to another principal operator or location.~~

~~Sec. 66-137. Same – Enforcement, revocation and suspension.~~

- ~~(a) *Generally.* Operation of seasonal outdoor seating is a licensed privilege granted by the Town of Herndon to occupy a portion of the public right-of-way or public shared parking and is predicated on the seasonal outdoor seating being operated in compliance with all applicable regulations and on maintaining the superseding public interest in the use of public rights-of-ways in the town and shall be revocable at the pleasure of the town council.~~
- ~~(b) *Administrative revocation of approved permit by the director of public works.*~~
 - ~~(1) The director of public works shall have the authority to revoke an approved seasonal outdoor seating permit if any of the following occurs:~~
 - ~~a. The applicant has misrepresented facts or provided false~~

~~information in the seasonal outdoor seating permit application;~~

- ~~b. The outdoor seating area is operated in violation of the terms or conditions of the outdoor seating permit, encroachment agreement or, ABC regulations;~~
- ~~c. The outdoor seating area or the eating establishment is operated in violation of the zoning ordinance, town code, or other applicable federal, state or local law;~~
- ~~d. The outdoor seating area constitutes a public nuisance or a hazard to the public health, safety, or welfare of the public, or is endangering the life or property of others;~~
- ~~e. The eating establishment has delinquent taxes, unpaid fees, or has not maintained all licenses necessary for operation of the eating establishment and outdoor seating area; or~~
- ~~f. The director of public works determines that there is a superseding public need relative to the portion of the public sidewalk, public right-of-way, or public shared parking space(s) occupied by or otherwise affected by the outdoor seating, including but not limited to: 1) work or repair in the public sidewalk or public right-of-way areas, or 2) need of access for work or repair to a public facility or public utility or 3) if a development applicant has voluntarily proffered or chosen to participate in the public shared parking program and the only remaining spaces are occupied by outdoor seating.~~

~~(2) The director of public works shall provide written notice that shall be reasonable under the circumstances to the principal operator and owner of the property where the eating establishment is located setting forth the effective date of the revocation and the grounds therefor. Such revocation shall not be appealable.~~

~~(3) In the case of revocation of a seasonal outdoor seating permit on grounds other than specified in subsection (b)(1)f of this subsection, the principal operator of the seasonal outdoor seating shall not be permitted to re-apply for an administrative seasonal outdoor seating permit to operate an outdoor seating area for the same establishment within one year of revocation.~~

~~(c) *Administrative suspension of an approved permit by the director of public works.*~~

~~(1) The director of public works shall have the authority to suspend an approved outdoor seating permit for a period of up to 30 days, or such longer period as may be necessary, if any of the conditions of subsection (b)(1) occur.~~

~~(2) The director of public works shall provide written notice to the principal operator setting forth the effective date of the suspension,~~

~~the length of the suspension, and the grounds therefor.~~

- ~~(3) The director of public works may reinstate a seasonal outdoor seating permit if the director is satisfied that the grounds for the suspension have been abated.~~

~~Sec. 66-138. Same – Marking of outdoor seating area for inspection.~~

~~After approval of a seasonal outdoor seating permit and prior to initial occupancy of any area approved for use for outdoor seating, the principal operator of the outdoor seating shall mark the corners of the approved outdoor seating area in a conspicuous but non-permanent manner on the sidewalk surface or other public space and shall notify the director of public works for inspection by the town building official and approval of the same.~~

~~Secs. 66-139 – 66-150. – Reserved.~~

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

Agenda Item: Resolution to authorize the removal of the duct bank for the relocation of underground utilities (UPC 120508) from the Virginia Department of Transportation (VDOT) administered '*East Elden Street Improvements and Widening*' project (UPC 50100)

Meeting Date: May 21, 2024

Category: General

Prepared by: John Irish, Deputy Director of Public Works, Mark Duceman, Transportation Program Manager/Senior Planner, Jaleh Moslehi, Capital Projects Planner/Engineer

Description:

The attached resolution, if approved, provides Town Council endorsement of the revised project and requests the Virginia Department of Transportation (VDOT) to proceed with a revised design for the future construction of retaining the utilities above ground, resulting in a significant reduction to the total project cost and subsequently reducing the town's funding obligation.

Background:

The scope for this VDOT administered project is to provide congestion relief by widening East Elden Street to six (6) lanes with a raised median between Fairfax County Parkway and Herndon Parkway, continuing as a four (4) lane section with a raised median and dedicated turning lanes between Herndon Parkway and Van Buren Street, transitioning to a two (2) lane section with a left turn lane when reaching Monroe Street. The project also includes bridge upgrade/flood mitigation measures, improved traffic signalization, bus transit enhancements as well as ADA pedestrian sidewalks, bike lanes, and cycle tracks on both sides of the roadway with connectivity to three regional trails and the Herndon Metrorail Station.

Budget Impact:

At this time, the estimated project cost for the East Elden Street Improvements and Widening project is approximately \$71 million, which would include the costs associated with retaining the utilities above ground. The town currently has accumulated federal, state, and regional funding that total \$61 million, of which \$10 million is state Revenue Sharing funds that require a local 50% match (i.e. \$10 million). Accordingly, the town's local match obligation of \$10 million is to fulfill the remaining project costs and thus reduce the amount of funding for which the town would otherwise be responsible.

The Town's match is proposed to be comprised of town general funds, town bond funds

and/or Northern Virginia Transportation Authority (NVTA) Local Revenue funds, within the two fiscal years subsequent to allocation along with a Town/VDOT project agreement prior to beginning this VDOT administered project.

It is anticipated that by maintaining utilities above ground instead of relocating them underground, the project will be enabled to be scheduled for construction bid advertisement in year 2027.

Recommendation:

Staff recommends approval of the Resolution, as proposed.

Attachments:

1. Resolution (Proposed)

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

RESOLUTION

MAY 28, 2024

Resolution- to authorize the removal of the duct bank for the relocation of underground utilities (UPC 120508) from the Virginia Department of Transportation (VDOT) administered 'East Elden Street Improvements and Widening' project (UPC 50100).

In order for VDOT to proceed towards completing the final revised engineering design, it is necessary for the Town Council to provide the direction and approval for the removal of the duct bank for the relocation of utilities from the East Elden Street Improvements and Widening project.

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

1. The Town Council continues to endorse the project and approves the transmittal of this resolution to the Virginia Department of Transportation (VDOT).
2. The Virginia Department of Transportation (VDOT) may proceed with a revised design for the future construction of retaining the utilities above ground.

Agenda Item: Resolution to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #24-02 to amend Chapter 78 (ZONING), Article III (Residential Districts), Section 78-30.6, Article V (Planned Development Districts), by adding Section 78-51.2, PD-TRG1 (Planned Development – Transit Related Growth 1), and Section 78-51.2, PD-TRG2 (Planned Development – Transit Related Growth 2), and amending Article VII (Use Regulations), Section 78-70.2, Article VIII (Accessory Uses), Section 78-80.2, Article X (Parking, Loading, and Circulation), Section 78-100.2, Article XIV (Signs), adding a new Section 78-141.7 (Sign Standards for Planned Development – Transit Related Growth), Section 78-180 (Definitions), and other articles as deemed necessary and appropriate to implement the recommendations and standards of the Transit Related Growth Small Area Plan

Meeting Date: May 21, 2024

Category: General

Prepared by: David Stromberg, Zoning Administrator

Description:

The proposed zoning ordinance text amendment will establish the first two zoning districts for the recently adopted Transit-Related Growth (TRG) Area Small Area Plan. The creation of the TRG zoning districts is essential for implementing the land use recommendations of the plan. Approval of this initiating resolution will allow staff to bring draft zoning language to the Planning Commission for review. Final approval of this zoning ordinance text amendment will not change the existing zoning or property rights of the private property owners within the TRG plan area. Adoption of the zoning districts will provide private property owners the opportunity to apply for a rezoning to redevelop their properties in accordance with the adopted TRG plan.

Background:

The Transit-Related Growth Area Small Area Plan is the result of a highly collaborative effort lasting nearly two years. Informed by extensive public input, the process was facilitated by, and the plan produced by a consultant team with guidance from the TRG Advisory Committee, Planning Commission, Town Council, and town staff. The plan seeks to establish a vision for the TRG as a vibrant urban district fostering economic growth, supporting job creation, and accommodating a diverse mix of residential, retail, office, and recreational amenities. The plan was adopted by the Town Council as Comprehensive Plan Amendment CPA #23-01 on April 23, 2024 (Resolution 24-G-23).

Budget Impact:

N/A

Recommendation:

Staff recommends approval of the initiating resolution, as presented, so that staff can bring draft zoning language to the Planning Commission and Town Council for review and public input.

Attachments:

1. Resolution (Proposed)

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

RESOLUTION

MAY 28, 2024

Resolution- to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #24-02 to amend Chapter 78 (ZONING), Article III (Residential Districts), Section 78-30.6 (Specific Use Standards for Residential Districts), Article V (Planned Development Districts), by adding Section 78-51.2, entitled PD-TRG1 (Planned Development – Transit Related Growth 1), and Section 78-51.2, entitled PD-TRG2 (Planned Development – Transit Related Growth 2), and amending Article VII (Use Regulations), Section 78-70.2 (Table of Permitted and Allowed Uses), Article VIII (Accessory Uses), Section 78-80.2 (Table of Permitted and Allowed Accessory Uses and Structures), Article X (Parking, Loading, and Circulation), Section 78-100.2 (Minimum Off-Street Parking and Loading Standards), Article XIV (Signs), adding a new Section 78-141.7 (Sign Standards for Planned Development – Transit Related Growth), Section 78-180 (Definitions), and other articles as deemed necessary and appropriate to implement the recommendations and standards of the Transit Related Growth Small Area Plan.

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

1. Public necessity, convenience, general welfare, or good zoning practice requires the Town Council's consideration of this proposed amendment.
2. The Town Council initiates consideration of an amendment to Chapter 78 (ZONING) of the Herndon Town Code to implement the recommendations and standards of the Transit Related Growth Small Area Plan.

Agenda Item: Resolution to delegate authority to the Town Manager to approve all project budget transfers, and the addition of and cancelation of projects in the American Rescue Plan Act (ARPA) Fund

Meeting Date: May 21, 2024

Category: Consent

Prepared by: Marjorie Sloan, Finance Director

Description:

This is a request to adopt a resolution to delegate authority to the Town Manager to approve transfers between projects and add or cancel projects within the American Rescue Plan Act (ARPA) Fund.

Background:

The America Rescue Plan Act (ARPA) awarded and paid the Town of Herndon \$22.5M. Per the deadlines stipulated for the award, all grant proceeds must be encumbered, or obligated as defined by December 31, 2024. Any unencumbered or un-obligated funds must be returned to the US Treasury Department. Furthermore, all award spending must be completed by December 31, 2026. In order to encumber and spend the grant, Town Council has approved over 30 projects. Quarterly updates and budget amendments have been conducted to ensure project estimates and schedule meet the criteria set forth in the 2024/2026 deadlines.

Per the established financial policies, the Town Manager has authority to approve budget transfers up to \$100K. The Town is entering the final six months before the encumbrance deadline. In order to ensure that projects are efficiently finalized per the deadline, it is proposed that the Town Manager be provided authority to approve all budget transfers between ARPA projects as well as approval to add/cancel projects where needed within the ARPA Fund. Agile management of project estimates, schedule, and spending will ensure that the town is able to meet the December 2024 deadline.

Budget Impact:

N/A

Recommendation:

Staff recommends approval of the resolution, as presented.

Attachments:

1. Resolution (Proposed)

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

RESOLUTION

MAY 28, 2024

Resolution- **to delegate authority to the Town Manager to approve all project budget transfers, and the addition of and cancellation of projects in the American Rescue Plan Act (ARPA) Fund.**

Pursuant to the deadlines under the American Rescue Plan Act (ARPA), project costs must be encumbered, or obligated as defined, by December 31, 2024. It is imperative that reallocation of the grant funds across the Council approved project list be efficiently finalized to meet this deadline.

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

1. The Town Manager has authority to approve all budget transfers between projects within the ARPA Fund.
2. The Town Manager has authority to cancel projects and approve additional projects if needed.
3. This Resolution will be effective upon adoption.