



APPLICATION ACCEPTED: March 26, 2010
PLANNING COMMISSION: September 30, 2010
BOARD OF SUPERVISORS: not scheduled

County of Fairfax, Virginia

September 16, 2010

STAFF REPORT

APPLICATION RZ 2010-SU-004

SULLY DISTRICT

APPLICANT: James G. Miller, Trustee for the J.G. Miller Revocable Trust

PRESENT ZONING: I-3, AN, WS

REQUESTED ZONING: I-5, AN, WS

PARCEL(S): 33-2 ((2)) 13

ACREAGE: 2.61 acres

FAR: 0.07

OPEN SPACE: 42%

PLAN MAP: Industrial

PROPOSAL: The applicant seeks to rezone 2.61 acres from I-3, AN, WS to I-5, AN, WS Districts to permit continuation of the existing industrial uses, including: contractor's office; storage yard; impoundment facility; recycling center; lumber yard; new vehicle storage; and a building material yard to include rock, sand and gravel, with an overall floor area ratio (FAR) of 0.05 and to allow a future expansion to 0.07.

STAFF RECOMMENDATIONS:

Staff recommends approval of RZ 2010-SU-004, subject to the execution of proffers consistent with those found in Appendix 1 of this report.

William O'Donnell

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application. For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.

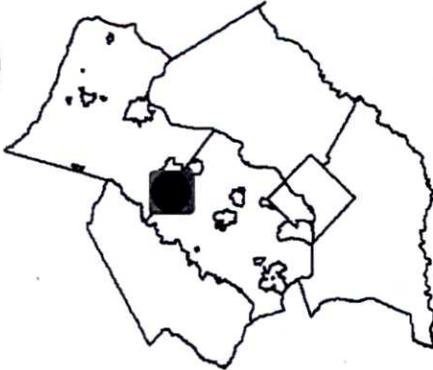
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Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

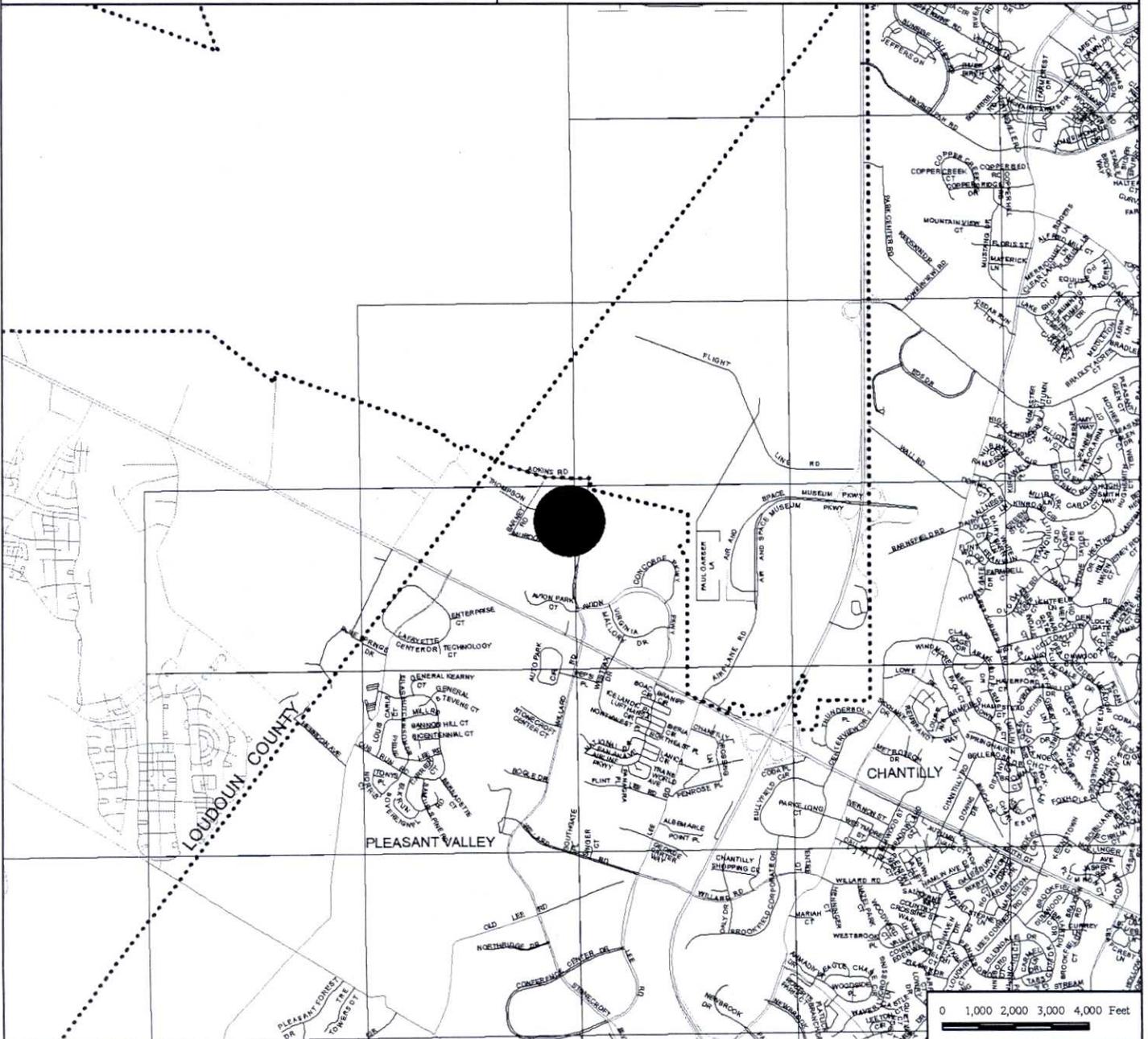
Rezoning Application

RZ 2010-SU-004



Applicant: JAMES G. MILLER, TRUSTEE FOR THE J.G. MILLER REVOCABLE TRUST
Accepted: 03/26/2010
Proposed: COMMERCIAL DEVELOPMENT
Area: 2.61 AC OF LAND; DISTRICT - SULLY
Zoning Dist Sect:
Located: SOUTHWEST QUADRANT OF THE INTERSECTION OF STONECROFT BOULEVARD AND THOMPSON ROAD

Zoning: FROM I- 3 TO I- 5
Overlay Dist: WS AN
Map Ref Num: 033-2- /02/ /0013



Rezoning Application

RZ 2010-SU-004



Applicant:

JAMES G. MILLER, TRUSTEE FOR THE J.G. MILLER REVOCABLE TRUST

Accepted:

03/26/2010

Proposed:

COMMERCIAL DEVELOPMENT

Area:

2.61 AC OF LAND; DISTRICT - SULLY

Zoning Dist Sect:

SOUTHWEST QUADRANT OF THE INTERSECTION OF STONECROFT BOULEVARD AND THOMPSON ROAD

Zoning:

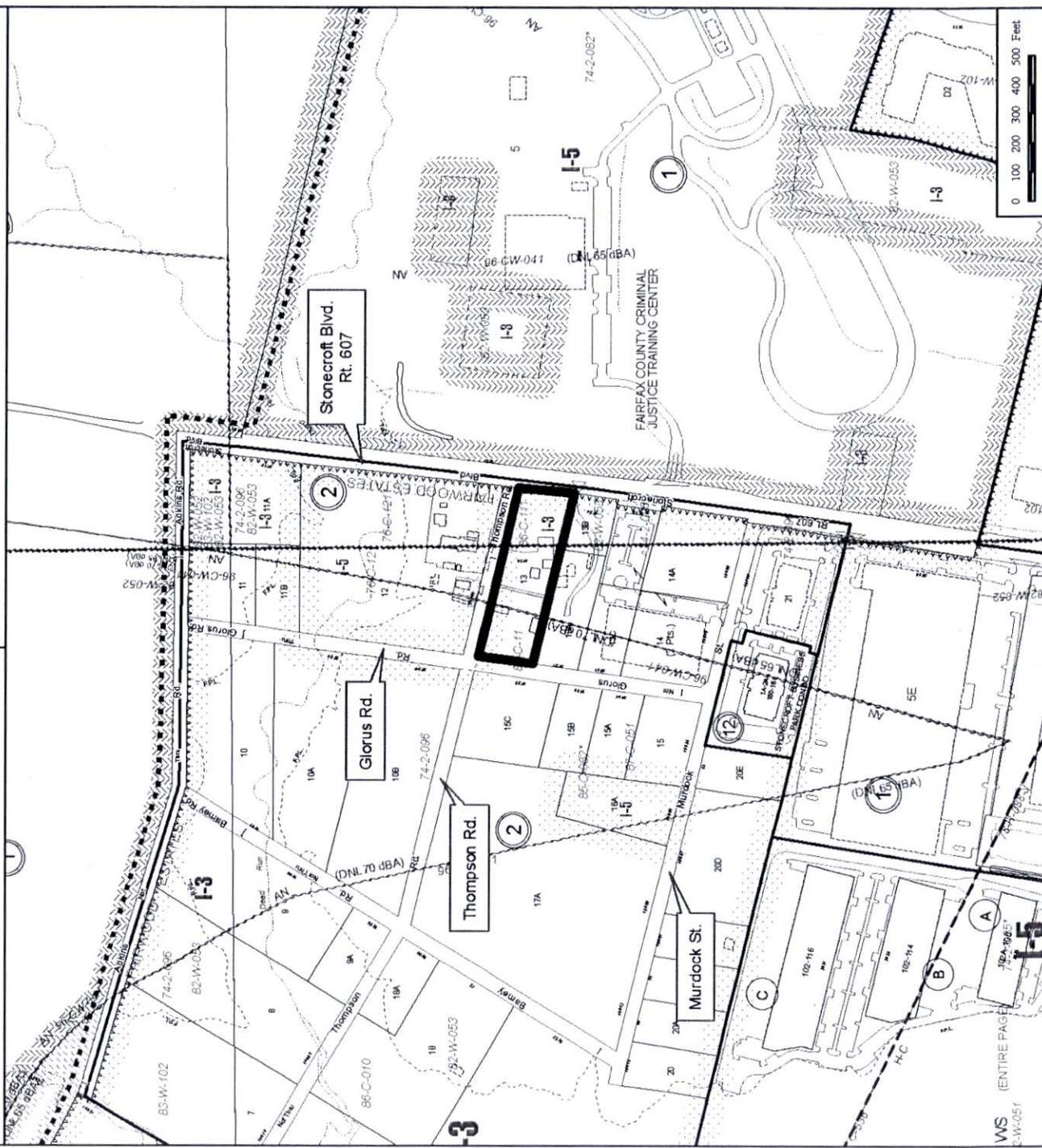
FROM I-3 TO I-5

Overlay Dist:

WS AN

Map Ref Num:

033-2- /02/ /0013



WS (ENTIRE PAGE)
2-W-051

**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS MAY BE
FOUND AT THE BACK OF THIS REPORT**

DESCRIPTION OF THE APPLICATION

Proposal:

The applicant, James G. Miller, Trustee for the J.G. Miller Revocable Trust, seeks to rezone the subject property from the I-3, AN, WS to the I-5, AN, WS Districts to permit industrial uses listed in Section 05-502 of the Zoning Ordinance as Use 4, 13, 16, 23, and 24, that include: contractor's office; storage yard; impoundment facility; recycling center; lumber yard; new vehicle storage; and a building material yard, to include rock, sand and gravel on Tax Map 33-2 ((2)) 13, totaling 2.61 acres. The applicant currently runs a site utility business (Atlantic Construction Fabrics), which is not compliant with the permitted uses in the I-3 District. A Court Order was issued on February 12, 2010, acknowledging the non-compliance and allowing a remedy through the Comprehensive Plan Amendment and Rezoning processes. A Plan Amendment was approved on July 13, 2009, permitting construction related and industrial uses up to 0.35 FAR and this rezoning application seeks to implement the Plan. The overall FAR on the subject property is proposed to be 0.05, with a future expansion to 0.07.

Copies of the proffers, affidavit, and statement of justification for these applications are contained in Appendices 1, 2 and 3, respectively.

Waivers & Modifications:

Six waivers are listed on Sheet 1 of the General Development Plan (GDP) all of which are more appropriately addressed during site plan review (see the Zoning Analysis section below).

LOCATION AND CHARACTER

Site Description:

The subject property is located on Tax Map 33-2 ((2)) 13, in the southwest quadrant of the intersection of Stonecroft Boulevard and Thompson Road. The site is currently developed with a small site utility business where water and sewer materials are stored and delivered to various sites. A 2-story single family house (converted into office use) is located in the center of the property on the eastern portion of the site, fronting Stonecroft Boulevard. A small office trailer, 1-story garage and 1-story pole building are located behind the single family house. Two fenced impound lots are also located behind the single family house, which serve as storage and temporary motor vehicle impound

lots. Another small office trailer is located on the western portion of the site. Site access is currently provided from three access points on Thompson Road.

Surrounding Area Description

Direction	Use	Zoning	Plan
North	Flex Industrial Space	I-5	Industrial
South	Flex Industrial Space	I-3	Industrial
East	Fairfax County Criminal Justice Training Center	I-5	Industrial
West	Industrial/ Vacant	I-5	Industrial

BACKGROUND

- On July 26, 1982, the Board of Supervisors approved RZ 82-W-053 to comprehensively rezone approximately 1,640 acres of residentially zoned land within the Airport Noise Impact Overlay District (ANOID) to the I-3 District or less intense industrial district. This industrial zoning was approved to prevent noise incompatible residential development in the Dulles Airport Noise Impact Area. ***A list of the parcels included in this application is included in Appendix 4. The property in the current rezoning application was included in the list. No proffers or general development plan were provided.***
- On February 12, 2010, the Circuit Court of Fairfax County and James G. Miller, Trustee for the J.G. Miller Revocable Trust entered into agreement with Fairfax County acknowledging that the current uses (including contractor’s office; storage yard; impoundment facility; recycling center; lumber yard; new vehicle storage; and a building material yard, to include rock, sand and gravel) of the property were not compliant with the I-3 District and allowed a remedy provision through the Comprehensive Plan Amendment and Rezoning processes. ***(See Appendix 13)***
- On July 13, 2009, the Board of Supervisors approved APR 08-III-7DS which amended the Comprehensive Plan to allow industrial uses up to 0.35 FAR provided that the uses are screened and that an environmental assessment is performed to mitigate any prior industrial contamination. ***The current rezoning application seeks to implement this Plan recommendation.***

COMPREHENSIVE PLAN PROVISIONS (See Appendix 5)

Plan Area: III
Planning Sector: Dulles Suburban Center, Land Unit F-1

Plan Map: Industrial

Plan Text:

In the Fairfax County Comprehensive Plan, 2007 Edition as amended through January 26, 2009, Area III, Dulles Suburban Center, Land Unit F-1, the Plan states:

“Land Use

Land Unit F-1 is planned for office and industrial/flex uses along Route 50 and industrial uses on the northern portion adjacent to the Dulles Airport, with the exception of Cub Run EQC which is planned for public park use as shown on the Plan Map.

- b. The northern portion, which is east of the EQC and includes properties fronting Murdock Street and areas to the north, are planned for construction related and industrial uses up to .35 FAR. Outdoor storage should be screened from public view. Development applications for new and expansion of existing uses should perform an environmental assessment to mitigate any prior industrial contamination.

Transportation

- 1) A commuter parking lot served by transit may be appropriate for this area.
- 2) If future studies determine that right-of-way is needed in Land Unit F-1 to facilitate development of an integrated transit system for the Dulles Suburban Center, then the needed right-of-way should be provided through dedication, easements or other mechanisms, as appropriate.”

ANALYSIS

Generalized Development Plan (GDP) (Copy at front of staff report)

Title of GDP: “Generalized Development Plan J.G. Miller, Inc. Property”

Prepared By: Rinker Design Associates, P.C.

Date: November 13, 2010, as revised through August 19, 2010

Description of the plan:

The proposed General Development Plan (GDP) consists of 2 sheets containing the following information.

Layout: The site includes one rectangularly shaped tax map parcel (Tax Map 33-2 ((2)) 13), with vehicular access from three separate points on Thompson Road, which is an unimproved gravel public street. The applicant proposes to consolidate the access points into one access point on Thompson Road and to improve Thompson Road with a commercial intersection, with Stonecroft Boulevard, that extends approximately 170 feet west of the intersection and is improved with asphalt paving. An asphalt driveway from Thompson Road is proposed to lead to two parking areas on the eastern portion of the site, behind the existing 2,447 square foot single family house (which was converted into office use); one is located to the west and in front of a 1,104 square foot office trailer and the other is located to the west of the house for better access. The driveway is also proposed to lead to two separate storage areas on the western portion of the site (one is 12,840 square feet and the other is 28,200 square feet). These storage areas would be separated by an existing 8 foot tall chain link fence with a 32 foot wide gate used to connect the yards. An existing 644 square foot office trailer located on the northwest corner of the site is also proposed to be shifted to the south of its current location. The proposed gross floor area is 5,400 square feet and the overall FAR on the subject property is proposed to be 0.05.

Note 13 on the GDP indicates that the applicant may consolidate (in the future) the existing office trailers into one building with no more than 3,551 gross square feet, as shown and labeled "possible future consolidation" on the GDP. The existing 1-story garage and pole building may also consolidate into one storage building with no more than 2,322 gross square feet as shown and labeled "possible future consolidation" on the GDP. The proposed future consolidation would result in a slight increase in the overall FAR from 0.05 to 0.07. **Notwithstanding the GDP tabulations showing that the I-5 District allows a 0.50 FAR, the applicant has proffered to the GDP, which depicts a maximum FAR of 0.07.**

Sheet 2 of the GDP shows an illustration highlighting a development option if Thompson Road is further improved in the future. The applicant would then remove the access point located close to the intersection of Thompson Road and Stonecroft Boulevard and add two separate entrances and driveways from Thompson Road leading to the two separate outdoor storage areas. No other changes are proposed. With this option, the applicant would remove, replace and reseed the driveway shown on Sheet 1. The overall FAR would remain 0.05, with a potential future expansion to 0.07, as previously discussed.

Uses: Under the draft proffers, the subject property could only be developed with one or more of the following uses:

- Contractor's Office
- Storage Yard
- Impound Facility
- Recycling Center
- New Vehicle Storage
- Lumber Yard and Building Material Yard to include Rock, Sand and Gravel

Parking: Section 11-105 of the Zoning Ordinance requires one (1) space per one (1) employee on major shift, plus one (1) space per company vehicle and piece of mobile equipment for manufacturing establishments or establishments for production, processing, assembly, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices. The applicant proposes these uses on the site and has provided 15 parking spaces. The applicant has also proffered to comply with the Zoning Ordinance and to conform to the geometric design standards in the Public Facilities Manual, as determined by DPWES, at the time of Site Plan Review.

Right-of-Way Dedication: The applicant has proffered to provide right-of-way along Stonecroft Boulevard as shown on the GDP.

Landscaping & Open Space: A minimum of 15% open space is required for the site; 42% open space is proposed. In addition, the applicant has proposed to plant a mix of deciduous and evergreen trees around the perimeter of the site. A significant number of plantings is proposed along the western boundary. The GDP shows 10 percent tree coverage on the site. The accuracy of the applicant's tree coverage calculations is subject to Urban Forest Management approval and will be determined during Site Plan Review.

Stormwater Management: The stormwater narrative on Sheet 1 of the GDP indicates that the applicant will seek a waiver of the stormwater detention requirements. Runoff from the site flows to the north and northwest and is discharged into an existing 100-year floodplain of Dead Run through an existing, underground closed conduit system (Site Plan 25149-SP-001). In the event that stormwater detention requirements are not waived, the applicant identified on the GDP an area along Thompson Road that could be used for potential stormwater detention facilities. For Best Management Practices (BMP), the applicant proposes three potential areas on the GDP that would provide 50% phosphorus removal for the overall development. The applicant has also proffered to demonstrate adequate stormwater management as determined by DPWES at the time of site plan review.

Land Use (Appendix 5)

The applicant, James G. Miller, Trustee for the J.G. Miller Revocable Trust, is requesting a rezoning of the property from the I-3 zoning district to the I-5

zoning district in order to bring the subject property into compliance with Zoning Ordinance standards. The proposed use would continue as a site utility business (Atlantic Construction Fabrics). The existing structures, outdoor storage and parking areas would remain largely as they are today with minor modifications.

The applicant's request to develop consistent with Option "B" of the recently adopted Plan text relies largely upon compliance with measures requiring adequate screening of the use from surrounding uses and providing an environmental assessment of the site prior to the establishment of the new use. The applicant has agreed to provide additional screening on-site to screen the outdoor storage areas from the adjacent properties and has also submitted a Phase I Environmental Site Assessment (ESA) consistent with the recommendations of the Plan. The existing and planned surrounding uses are industrial in nature. Staff feels that the proposed development is consistent with the recommendations of the Comprehensive Plan. No significant land use issues were identified.

Environmental Analysis (Appendix 5)

Water Quality

Issue:

The applicant was asked to provide a Phase I Environmental Site Assessment (ESA) in order to evaluate any possible soil and groundwater contamination which may have resulted from the long-standing industrial uses at this location.

Resolution:

The applicant has provided an ESA which noted no on-site contamination of either soils or groundwater. Staff feels that the information provided adequately addresses staff concerns.

Urban Forest Management

The Urban Forest Management Branch of DPWES reviewed the development plan and indicated that there were no significant issues. The applicant has proposed to plant a mix of deciduous and evergreen trees along the western boundary of the site and in various locations on the eastern portion of the site. The GDP meets the tree coverage requirement of 10 percent. Staff has encouraged the applicant to commit to plant at least three different proposed species of evergreens and deciduous trees to provide diversification that would allow one species to survive in case a pestilence kills another tree species. UFM will determine the species types at site plan review.

Transportation Analysis (Appendix 6)

The Fairfax County Department of Transportation (FCDOT) reviewed the application and identified the following concerns.

- 1) Dedication of Right-of-Way should be provided along Stonecroft Boulevard for future road improvements;
- 2) Submission of proffers ensuring that proposed uses are consistent with the current uses on the site;
- 3) Construction of frontage improvements along Stonecroft Boulevard and Thompson Road should be provided and will be required at site plan review. FCDOT has indicated that they would support an escrow in lieu of construction at this time.

The applicant addressed the first two concerns noted above with proffers, which include commitments to 1) dedicate right of way along Stonecroft Boulevard as shown on the GDP, and 2) to limit the development of the property with a contractor's office, storage yard, impound facility, recycling center, lumber yard, new vehicle storage and building material yard to include rock, sand and gravel. Staff feels that these proffers address those concerns.

To address the third concern, staff requested that the applicant either proffer to construct the frontage improvements or escrow with DPWES the cost of constructing frontage improvements for their half section of Stonecroft Boulevard and Thompson Road, unless waived at the time of site plan review. At a minimum, staff requested the applicant to construct a commercial entrance at the intersection of Thompson Road and Stonecroft Boulevard and to close two of the three access points on Thompson Road because Thompson Road is currently a gravel public street. The applicant agreed to construct the commercial entrance according to VDOT standards and to close two of the western-most access points. The applicant also agreed to extend the improvement of Thompson Road approximately 170 feet west from the intersection with Stonecroft Boulevard. However, the applicant declined to proffer an escrow for construction of frontage improvements during the rezoning process and believes that this issue would be best left for final determination at site plan review. The applicant intends to apply for a waiver of frontage improvements during site plan review; final determination of the waiver request will be made at that time.

Public Facilities Analysis

Fairfax County Park Authority (Appendix 7)

No significant park issues were identified.

Stormwater Analysis (Appendix 8)

The Department of Public Works and Environmental Services (DPWES) reviewed the application and indicated that there is no Resource Protection Area (RPA) or regulated floodplains on the subject property. In addition, staff identified some potential concerns with water quality controls, stormwater detention and outfall for the site. The applicant will seek a waiver of the stormwater detention during site plan review. In the event that stormwater detention requirements are not waived, the applicant identified on the GDP an area along Thompson Road that could be used for potential stormwater detention facilities. For Best Management Practices (BMP), the applicant proposes three potential areas on the GDP that would provide 50% phosphorus removal for the overall development. The applicant has also proffered to demonstrate adequate stormwater management as determined by DPWES at the time of site plan review. Final determination of these concerns will be made during site plan review.

For site outfall, the applicant indicated that runoff from the site flows to the north and northwest and is discharged into an existing 100-year floodplain of Dead Run through an existing, underground closed conduit system (Site Plan 25149-SP-001). However, staff is concerned that improvements proposed under this site plan were not approved at this time and recommended that the stormwater detention areas and BMP areas shown on the GDP be reconfigured to meet detention and BMP requirements if a waiver is not approved. The applicant has revised the GDP and reconfigured/enlarged the potential detention and BMP areas. As previously discussed, the applicant also proffered to demonstrate adequate stormwater management as determined by DPWES at the time of site plan review. Final determination of outfall will be made at site plan review.

Fairfax County Water Authority (Appendix 9)

The Fairfax County Water Authority has reviewed this application and has indicated that adequate domestic water service is available at the site from existing 12-inch located at the property. No issues from the proposed development were identified.

Fire and Rescue Analysis (Appendix 10)

The application property is serviced by the Fairfax County Fire and Rescue Department Station 415, Chantilly. According to current fire protection guidelines, the subject property is 4/10 of a mile outside of the protection guidelines; no new facility is planned for the Chantilly area at this time.

Sanitary Sewer Analysis (Appendix 11)

The application property is located within the Upper Cub Run (T-1) Watershed, and would be sewered into the UOSA Treatment Plant. There is an existing 8-inch line located on the property, which is deemed adequate for the proposed use at this time.

ZONING ORDINANCE PROVISIONS (Appendix 12)

In order to rezone the subject property from I-3, AN, WS to I-5, AN, WS Districts to permit industrial uses consisting of contractor’s office, storage yard, impoundment facility, recycling center, lumber yard, new vehicle storage, and building material yard to include rock, sand and gravel, the request must fulfill all applicable provisions of the Zoning Ordinance.

The following chart depicts how the subject 2.61-acre site meets the I-5 District zoning requirements:

Standard	Required (I-5)	Provided
Lot Size	20,000 square feet	113,893 square feet (2.61 acres)
Lot Width	100 feet	192 ft (Stonecroft Blvd.) 192 ft (Glorus Rd.) 596 ft (Thompson Rd.)
Building Height	75 feet maximum	35 feet
Front Yard	40 feet (based on an angle of bulk plane of 45 degrees for a 35-foot tall building)	±95 ft (Stonecroft Blvd.) ±100 ft (Glorus Rd.) 38.8 ft (Thompson Rd.)*
FAR	0.50	0.07
Open Space	15%	42%
Parking Spaces	Section 11-105 of the Zoning Ordinance requires one space per employee plus one space per company vehicle or equipment for all of the proposed uses on the site	15*
Loading	N/A Office Use: One (1) space for the first 10,000 square feet of gross floor area	N/A

**Proffer 7 indicates that the Parking spaces shall meet the provisions of Article 11 of the Zoning Ordinance and the geometric design standards in the Public Facilities Manual, as determined by DPWES.*

As shown in the table above, the proposal conforms to all of the minimum bulk regulations for the I-5 District, except for the front yard requirements for the existing 1-story office trailer located on the northeastern portion of the site, along Thompson Road. The applicant has proffered to apply for a modification of this requirement during site plan review based on Section 2-419 of the Zoning Ordinance for a Reduction in Minimum Yard Requirements Based on

Error in Building Location. This section provides authority to the Zoning Administrator to approve a reduction in the minimum yard requirements for any existing building provided that the error does not exceed a 10 percent reduction of the yard requirement and that the noncompliance was done in good faith, among other conditions. As shown in the chart, the modification of the yard requirement would fall below the 10% threshold. However, if the modification request is not granted, the applicant proffered to move the office trailer to the south to satisfy the requirements or remove it from the property.

Transitional Screening and Barrier Requirements:

No transitional screening or barriers are required.

Overlay District Requirements

Water Supply Protection (WSPOD)

The subject property is located within the Water Supply Protection Overlay District. The applicant proposes three potential areas on the GDP that would provide 50% phosphorus removal for the overall development. The applicant has also proffered to demonstrate adequate stormwater management as determined by DPWES at the time of site plan review.

Waiver and Modifications

Six waivers are listed on Sheet 1 of the General Development Plan (GDP), all of which will be addressed during site plan review.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

The application seeks to rezone the subject property from I-3, AN, WS to I-5, AN, WS Districts to permit industrial uses consisting of contractor's office; storage yard; impoundment facility; recycling center; lumber yard; new vehicle storage; and building material yard to include rock, sand and gravel; on Tax Map 33-2 ((2)) 13, totaling 2.61 acres. The overall FAR on the subject property is proposed to be 0.07. Staff believes that the proposal is conformance with the Comprehensive Plan, and with all applicable Zoning Ordinance provisions as proffered.

Staff Recommendations

Staff recommends approval of RZ 2010-SU-004, subject to the execution of proffers consistent with those found in Appendix 1 of this report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this rezoning does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

APPENDICES

1. Proffers
2. Affidavit
3. Statement of Justification
4. Adopted Ordinance for RZ 82-W-053 with a list of all associated Tax Map Parcels
5. Comprehensive Plan Land Use Analysis & Environmental Assessment
6. Transportation Analysis
7. Fairfax County Park Authority
8. Stormwater Management Analysis
9. Fairfax County Water Authority
10. Fire and Rescue
11. Sanitary Sewer Analysis
12. Zoning Ordinance Provisions
13. Agreed Final Order issued by the Circuit Court for the County of Fairfax
14. Glossary

PROFFERS
FOR
REZONING APPLICATION RZ 2010-SU-004

J.G. Miller, Trustee – Property located at 3720 Stonecroft Boulevard
Tax Map No. 033-02-0013

September 9, 2010

Pursuant to Section 15.2-2303(a) Code of Virginia, 1950, as amended, J.G. Miller, Trustee (hereinafter referred to as the "Applicant") for himself, the owners, and successors and assigns, in RZ 2010-SU-004, on property identified as Tax Map 033-2-02-0013 (hereinafter referred to as the "Application Property"), hereby proffers that the development of the Application Property shall be in accordance with the following proffers, provided that the Board of Supervisors approves RZ 2010-SU-004.

1. GENERAL

Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance"), development of the Application Property shall be in substantial conformance with the Generalized Development Plan ("GDP") prepared by Rinker Design Associates dated November 13, 2009, and revised through August 19, 2010. Minor modifications to the GDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to modify the layout shown on the GDP at time of site plan based on final design, provided that there is no decrease in the amount of open space, landscaping, or distances to peripheral lot lines as dimensioned all in the GDP. The permitted uses under the General Industrial District (I-5) shall be limited to include the right to operate a contractor's office, storage yard, impound facility, recycling center, rental and service establishment; lumber yard and building material yard to include rock, sand and gravel; and new vehicle storage yard.

The entrance to the site shall be as shown on the drawing attached hereto unless a modification is agreed to by the Zoning Administrator, Virginia Department of Transportation and Fairfax County Department of Transportation.

2. ROAD DEDICATION

At the time of the site plan or minor site plan approval of the Application Property, or upon request, whichever occurs first, the Applicant shall dedicate right of way for public street purposes in fee simple as shown on the GDP to the Board of Supervisors for Fairfax County, Virginia without encumbrances for that area identified as set forth

on the GDP. The applicant shall receive density credit for the dedication, as set forth in § 2-308 of the Zoning Ordinance.

3. STREETScape/LANDSCAPING

Each site plan submissions shall include streetscape/landscape plans in substantial conformance with the GDP.

4. STORMWATER MANAGEMENT

The applicant shall demonstrate adequate stormwater management as determined by DPWES at the time of site plan review. If the applicant cannot demonstrate adequate stormwater management and an alternative is not in substantial conformance with the GDP, a PCA may be required.

5. PARKING AND SIGNAGE

Parking spaces shall satisfy the provisions of Article 11 of the Zoning Ordinance and the geometric design standards in the Public Facilities Manual, as determined by DPWES.

Signs shall be provided in accord with Article 13 of the Zoning Ordinance. "No Parking" signs shall be provided along Thompson Road to ensure proper sight distances at the properties access points.

6. SET BACKS

At the time of site plan, the applicant shall apply for a modification of the front yard requirement to permit a reduction of approximately three (3) percent for the existing 1-story office trailer located on the northeast portion of the site based on Section 2-419 of the Zoning Ordinance. If the modification is not granted, the applicant will either move the trailer to the south in order to satisfy the yard requirement or remove the trailer from the site.

J. G. Miller, Trustee
3720 Stonecroft Boulevard
Tax Map No. 033-2-02-0013

REZONING AFFIDAVIT

DATE: 5/25/10
 (enter date affidavit is notarized)

I, William McCauley Arnold, ESQ., do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below 107979

in Application No.(s): RZ 2010-SU-004
 (enter County-assigned application number(s), e.g. RZ 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
J.G. Miller, Trustee for The James G. Miller Revocable Trust, for the benefit of James G. Miller and Kevin Miller	c/o Kevin Miller 3720 Stonecroft Blvd. Chantilly, Virginia 20120	APPLICANT/TITLE OWNER
J.G. Miller, Inc.	3720 Stonecroft Blvd. Chantilly, Virginia 20120	LESSEE
Atlantic Construction Fabrics, Inc.	3720 Stonecroft Blvd. Chantilly, Virginia 20120	LESSEE
McCandlish & Lillard, P.C. William McCauley Arnold, ESQ.	11350 Random Hills Road, Suite 500 Fairfax, Virginia 22030	ATTORNEY/ AGENT "
Rinker Design Associates, P.C. Eileen T. Carroll	9300 West Courthouse Rd. Suite 300 Manassas, Virginia 20100	ENGINEER/AGENT

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Rezoning Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

REZONING AFFIDAVIT

DATE: 5/28/10
(enter date affidavit is notarized)

107979

for Application No. (s): R2 2010-SU-004
(enter County-assigned application number(s))

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders, **and if the corporation is an owner of the subject land, all of the OFFICERS and DIRECTORS of such corporation:**

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
James G. Miller, Inc. 3720 Stonecroft Blvd.
Centreville, Virginia 20120

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)
James G. Miller

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name & title, e.g. **President, Vice President, Secretary, Treasurer, etc.**)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Rezoning Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Rezoning Attachment to Par. 1(b)

DATE: 5/25/10
(enter date affidavit is notarized)

107979

for Application No. (s): RZ 2010-SU-004
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Atlantic Construction Fabrics, Inc.
3720 Stonecroft Boulevard
Centreville, Virginia 20120

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDER: (enter first name, middle initial, and last name)

=====

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

=====

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Rinker Design Associates, P.C.
9300 West Courthouse Rd., Suite 300
Manassas, Virginia 20110

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

Edward B. Snider
Stephen M. Seay
Chun Mo Kim
David Sidwornik

=====

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Rezoning Attachment to Par. 1(b)" form.

Rezoning Attachment to Par. 1(b)

DATE: 5/25/10
(enter date affidavit is notarized)

107979

for Application No. (s): RZ 2010-SU-004
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

McCandlish & Lillard, P.C.
11350 Random Hills Road, Suite 500
Fairfax, Virginia 22030

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDER: (enter first name, middle initial, and last name)

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

NAMES OF OFFICERS & DIRECTORS: (enter first name, middle initial, last name, and title, e.g. President, Vice-President, Secretary, Treasurer, etc.)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Rezoning Attachment to Par. 1(b)" form.

REZONING AFFIDAVIT

DATE: 5/25/10
(enter date affidavit is notarized)

107979

for Application No. (s): RZ 2010-SU-004
(enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state and zip code)

(check if applicable) [] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) [] There is more partnership information and Par. 1(c) is continued on a "Rezoning Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

REZONING AFFIDAVIT

DATE: 5/25/10
(enter date affidavit is notarized)

107979

for Application No. (s): RZ 2010-SU-004
(enter County-assigned application number(s))

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Rezoning Attachment to Par. 2" form.

REZONING AFFIDAVIT

DATE: 5/25/10
(enter date affidavit is notarized)

107979

for Application No. (s): RZ 2010-SU-004
(enter County-assigned application number(s))

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Rezoning Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

William McCauley Arnold
[] Applicant [X] Applicant's Authorized Agent

William McCauley Arnold
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 25th day of May, 2010, in the State/Comm. of Virginia, County/City of Fairfax.

Kathy Garrison
Notary Public

My commission expires: July 31, 2013



MAR 05 2010

COUNTY OF FAIRFAX
Department of Planning and Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035 (703) 324-1290

APPLICATION No: Zoning Evaluation Division

J.G. MILLER, TRUSTEE
Chantilly, VA
Tax Map: 33-2-002-13

Submission Requirement No. 8 for a Rezoning Application

STATEMENT OF JUSTIFICATION

The Applicant requests that the subject property comprising of 2.6 acres be rezoned from the I-3 district to the I-5 district. The Property is located on the west side of Stonecroft Boulevard approximately 1,000 feet from the southern boundary of Dulles Airport.

This property is located within Land Unit F-1 of the Dulles Suburban Center. The Plan text, which was amended in 2009, states:

- b. The northern portion, which is east of the EQC and includes properties fronting Murdock Street and areas to the north, are planned for construction related and industrial uses up to .35 FAR. Outdoor storage should be screened from public view. Development applications for new and expansion of existing uses should perform an environmental assessment to mitigate any prior industrial contamination.

The rezoning of the subject property is justified because the existing and anticipated industrial uses are consistent with the Comprehensive Land Use Plan and are consistent with the surrounding uses and zoning. The site is currently classified by the County as a contractors office with outdoor storage. A photograph of the site and a tax map location is attached as Exhibit A.

The character of all of the surrounding land uses are industrial and are all zoned I-3 or I-5 as cited below.

The adjacent property to the north is used as an office and outdoor storage facility for Skyline Crane and is zoned I-5. A photograph of the site and a tax map location is attached as Exhibit B.

The property adjacent to the west is a material storage yard and truck storage lot for the Virginia Department of Transportation. A photograph of the site and a tax map location is attached as Exhibit C.

The property adjacent to the east, across Stonecroft Road, is used as a firing range, racetrack and training facility for Fairfax County police and is zoned I-3. A photograph of the site and an tax map location is attached as Exhibit D.

The property adjacent to the south is used as a materials recycling facility and is zoned I-3.

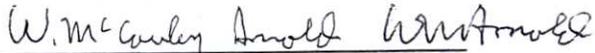
No residential uses exist in the area.

The subject property is within 1,000 feet of the southern boundary for Dulles Airport and is within the Airport Noise Impact Overlay District. Stonecroft Road is the construction entrance for the Airport.

The subject property has been used as the office for J.G. Miller, Inc., since 1985 and an office for Atlantic Construction Fabrics, Inc. since 1989. The property was cited for a zoning violation in 2008 and is in litigation. This application is to bring the use into conformity with the proposed zoning category.

The rezoning of the subject property is justified because the existing and industrial uses are consistent with the Comprehensive Plan and are consistent with the surrounding uses and zoning.

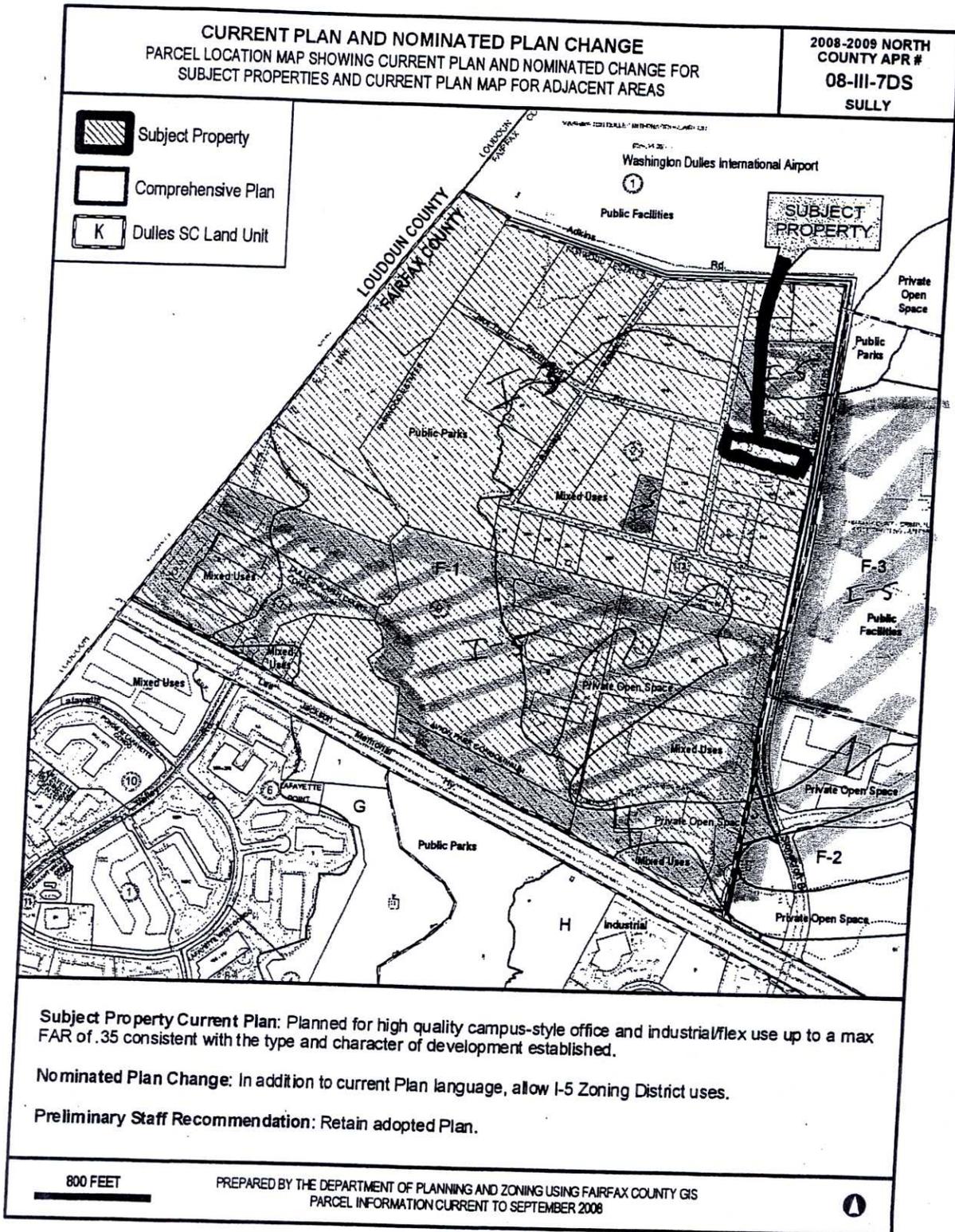
Submitted by:

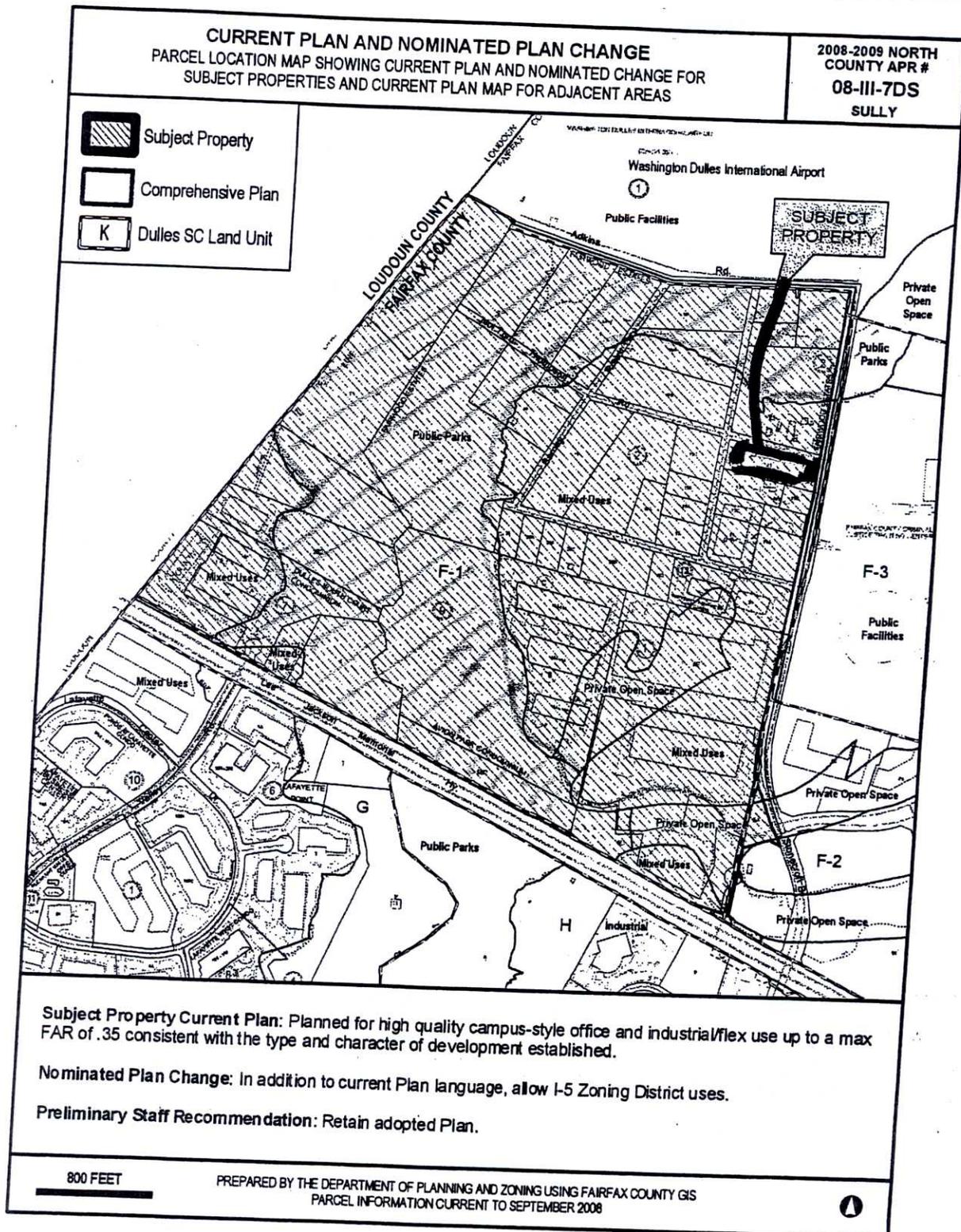


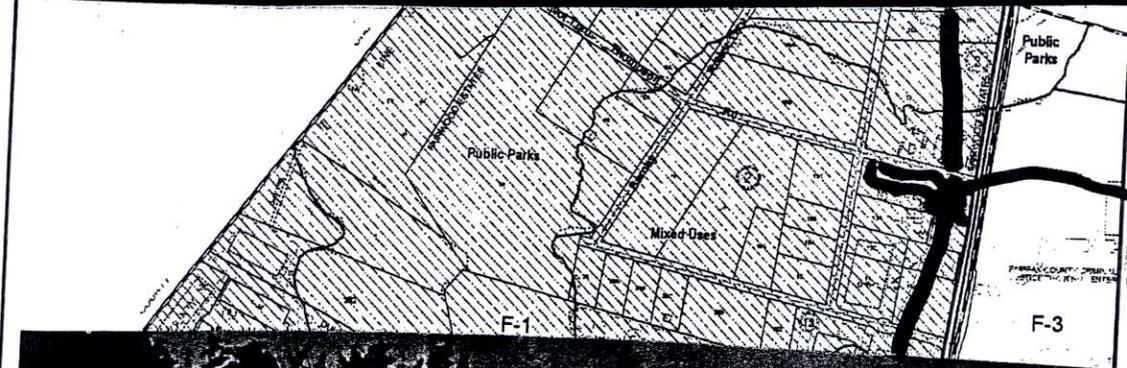
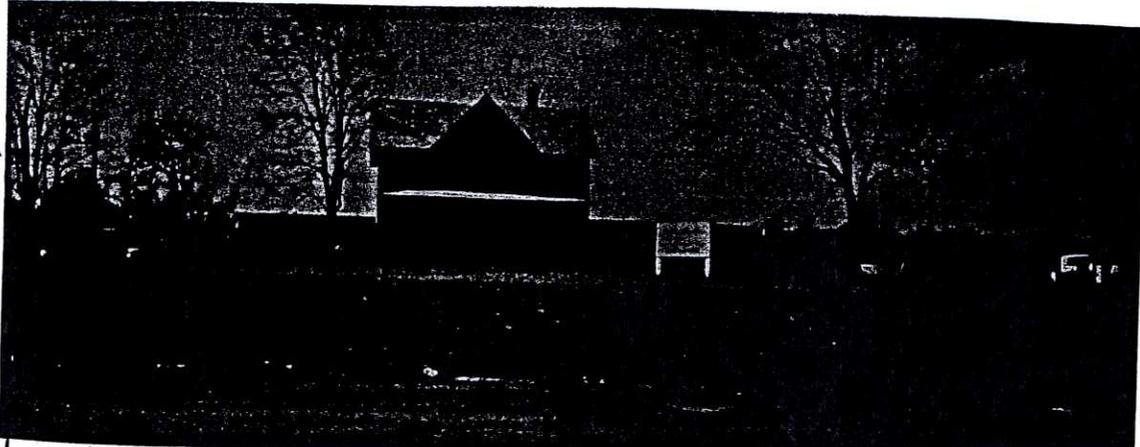
W. McCauley Arnold, Esquire
McCandlish & Lillard, PC
11350 Random Hills Road, Suite 500
Fairfax, VA 22030
telephone: (703) 273-2288
facsimile: (703) 273-4589

Applicant's

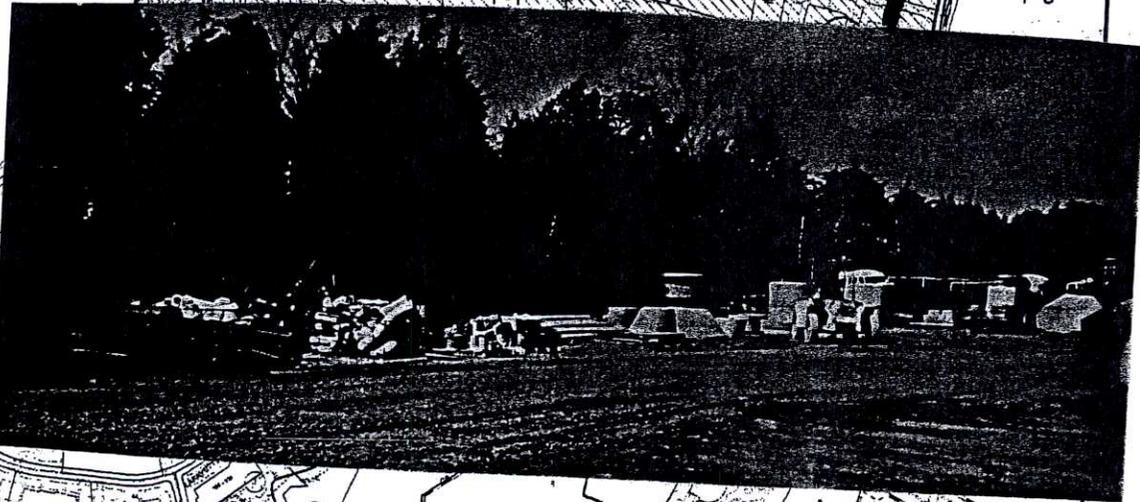
EXHIBIT A







Subject property



Subject Property Current Plan: Planned for high quality campus-style office and industrial/flex use up to a max FAR of .35 consistent with the type and character of development established.

Nominated Plan Change: In addition to current Plan language, allow I-5 Zoning District uses.

Preliminary Staff Recommendation: Retain adopted Plan.

800 FEET

PREPARED BY THE DEPARTMENT OF PLANNING AND ZONING USING FAIRFAX COUNTY GIS
PARCEL INFORMATION CURRENT TO SEPTEMBER 2008



Applicant's

EXHIBIT B

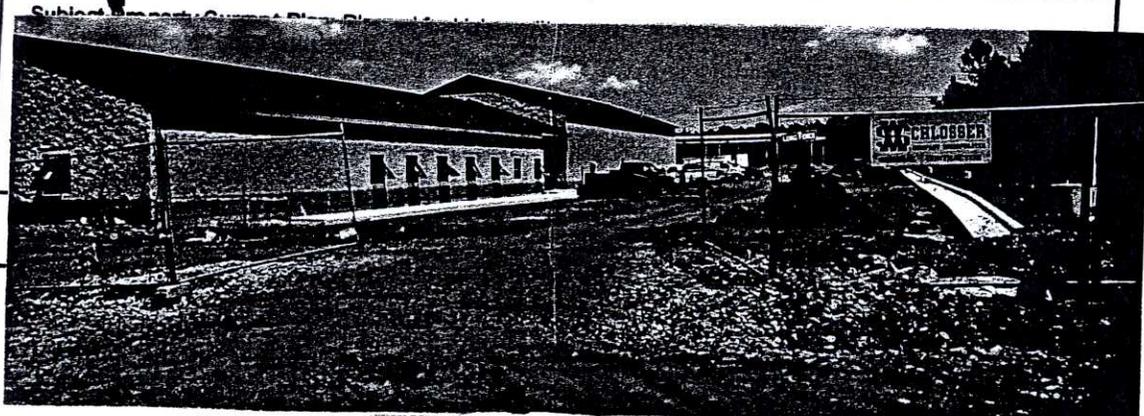
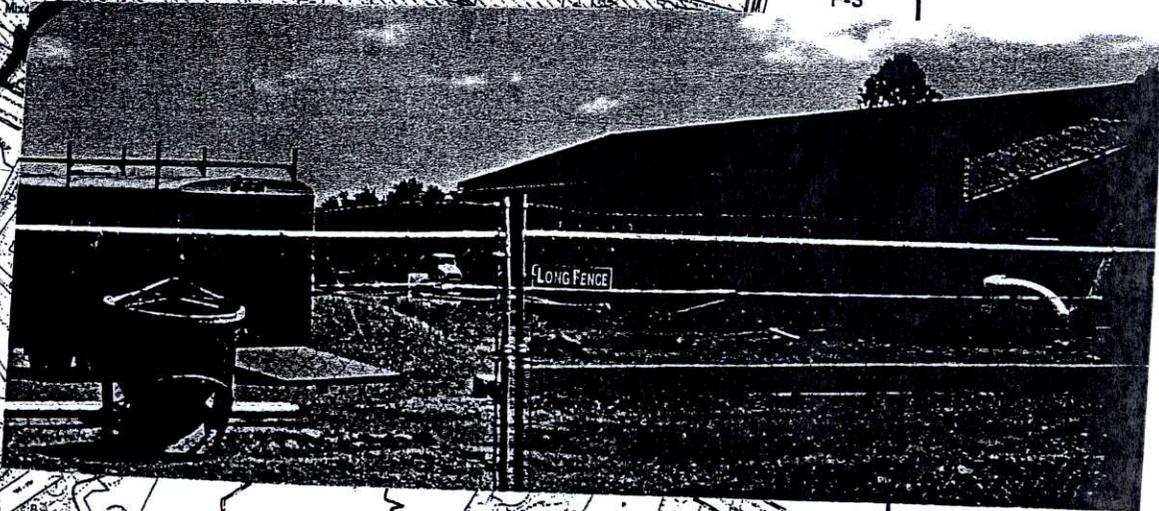
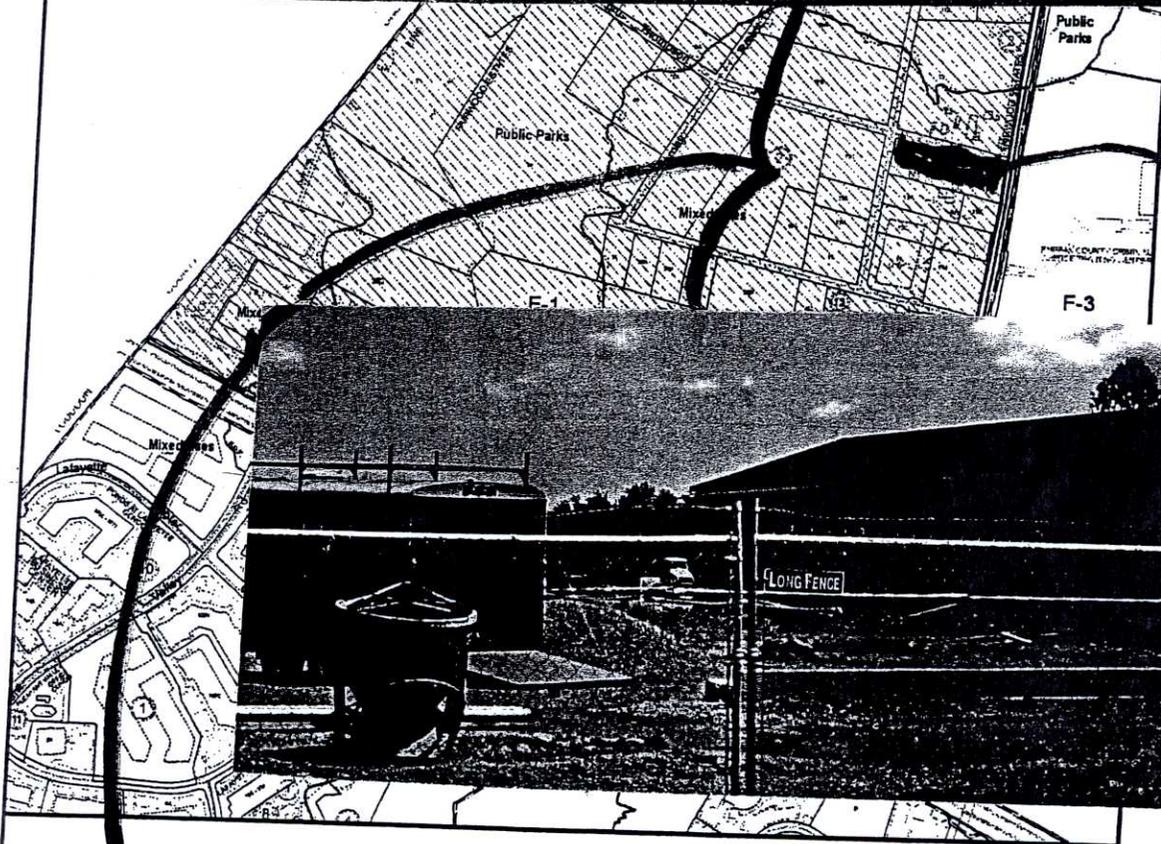
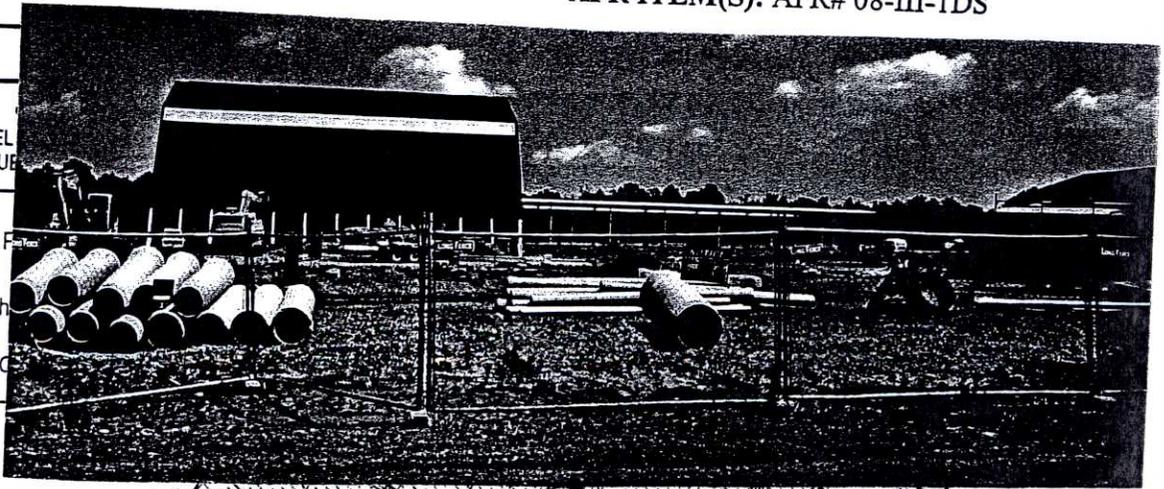
Applicant's

EXHIBIT C

SUPERVISOR DISTRICT(S): SULLY

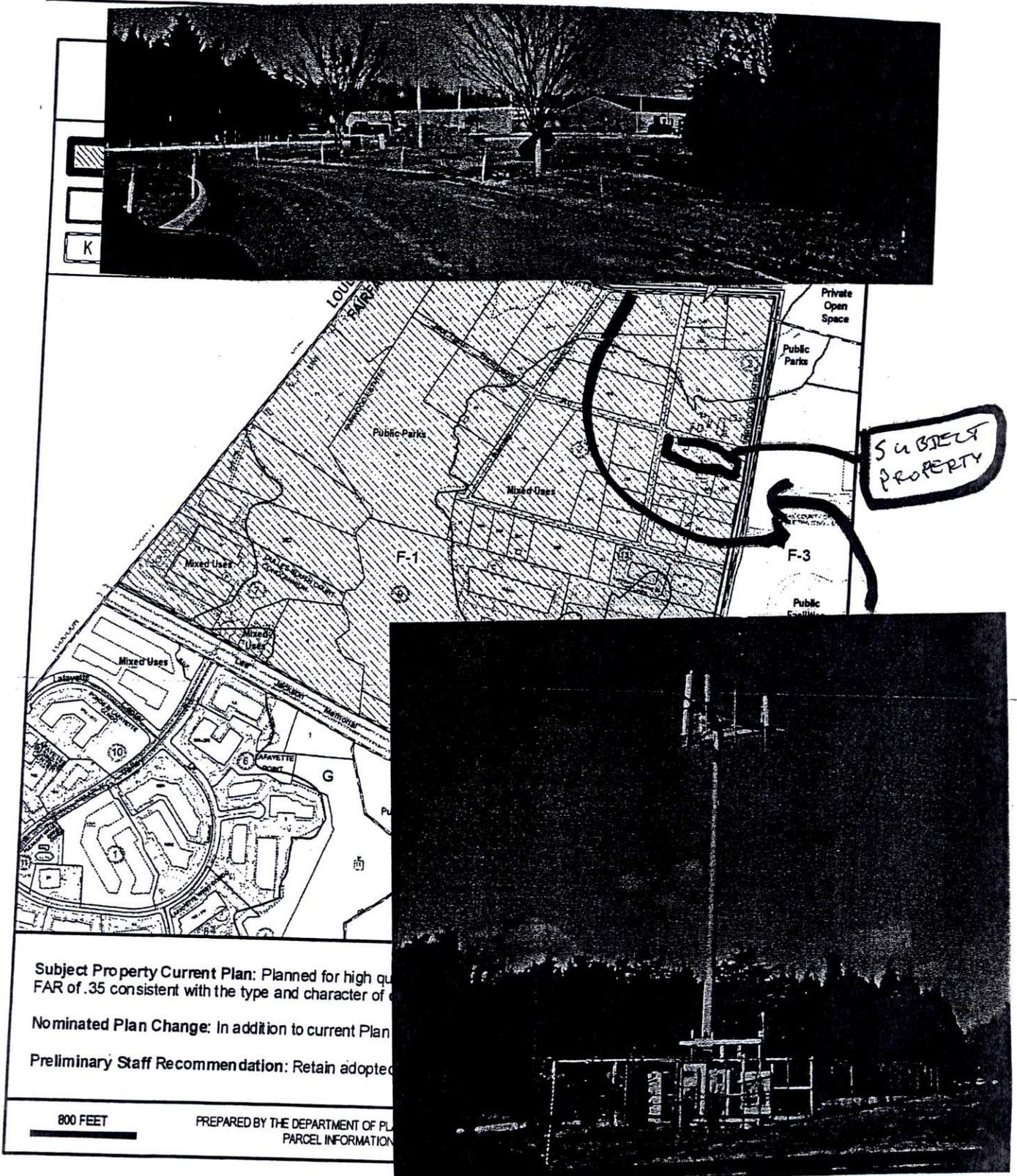
APR ITEM(S): APR# 08-III-1DS

- PARCEL
SUB
-  Subject F
 -  Compreh
 -  Dulles SC



Applicant's

EXHIBIT D



At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Room in the Massey Building at Fairfax, Virginia on the 26th day of July, 1982, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
(PROPOSAL NO RZ 82-W-053)

WHEREAS, Board of Supervisors, Own Motion, filed in proper form, an application requesting the zoning of certain parcels of land hereinafter described, from the R-1 District to the I-3 District, and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that those certain parcels of land situated in the R-1 District, and more particularly described as follows: See list.

Be, and hereby are, zoned to the I-3 District, and said property is subject to the use regulations of said I-3 District, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment.

GIVEN under my hand this 26th day of July, 1982.


Ethel Wilcox Register, CMC
Clerk to the Board

1707-053
Office of the Planning
Zoning and Code Enforcement Division

JUL 28 1982

the ...
Fairfax, VA 22030

PARCELS PROPOSED TO BE
REZONED TO THE I-3 OR LESS
INTENSE INDUSTRIAL DISTRICT

Map Reference Number	Land Area - Acres
033-2 01 0001	11.5000
033-2 01 0002	27.0070
033-2 01 0003	1.5442
033-2 01 0004	7.7000
033-2 01 0006	131.6701
033-2 01 0007	1.2000
033-2 01 0008	.2040
033-2 01 0009	2.0990
033-2 02 0007	5.4300
033-2 02 0008	5.6600
033-2 02 0009	4.6870
033-2 02 0009A	1.0330
033-2 02 0010	3.8000
033-2 02 0010A	5.6300
033-2 02 0010B	5.4300
033-2 02 0011	1.3840
033-2 02 0011B	1.1330
033-2 02 0013	2.4220
033-2 02 0013A	1.4300
033-2 02 0013C	1.0270
033-2 02 0014	2.9340
033-2 02 0014A	2.0570
033-2 02 0015	1.3620
033-2 02 0015A	1.0330
033-2 02 0015B	1.0330
033-2 02 0015C	2.4970
033-2 02 0016	7.0300
033-2 02 0016A	1.7000
033-2 02 0017	5.6000
033-2 02 0018	5.7200
033-2 02 0018A	1.0000
033-2 02 0019	23.2000
033-2 02 0020	1.0330
033-2 02 0020A	1.0330
033-2 02 0020B	1.0340
033-2 02 0020C	1.0330
033-2 02 0020D	3.0800
033-2 02 0020E	1.0330
033-2 02 0021	5.2000
033-4 01 0008	13.8383
033-4 01 0009	6.0000

Map Reference
Number

Land
Area - Acres

034-1 02 0011A	2.5600
034-1 02 0013B	.7170
034-1 02 0023A	1.1306
034-1 02 0025A	2.0094
034-1 02 0028A	1.0330
034-1 02 0030	5.0790
034-1 02 0030A	1.1010
034-2 01 0012	5.8861
034-3 01 0001	50.6036
034-3 01 0002	5.9398
034-3 01 0003	1.9200
034-3 01 0006	.9100
034-3 01 0007	.7060
034-3 01 0008	.5000
034-3 01 0009	.9700
034-3 01 0012	1.3400
034-3 01 0013	2.0000
034-3 01 0014	1.7960
034-3 01 0015	1.0687
034-3 01 0016	1.2600
034-3 01 0019	5.0010
034-3 01 0021	82.2614
034-3 01 0024	5.1011
034-3 01 0026	3.0000
034-3 01 0027	1.0000
034-3 01 0028	.5000
034-3 01 0029	1.0000
034-4 01 0009	10.4290
034-4 01 0014	3.5120
034-4 01 0015	.6430
034-4 01 0030	4.7982
034-4 01 0038	.3984
034-4 01 0039	.9019
034-4 01 0048	.1100
034-4 01 0053 (Part)	6.3737
034-4 01 0053A(Part)	.0450
043-2 01 0001	139.2518
043-2 01 0002	5.3790
043-2 01 0004	6.0820
043-2 01 0005	2.0000
043-2 01 0006	2.0670
043-2 01 0007 (Part)	377.3775
043-4 01 0001A (Part)	35.8700
043-4 01 0003 (Part)	9.9200
044-1 01 0001B	13.4900
044-1 01 0002	10.0000
044-1 01 0003	11.0000
044-1 01 0005	21.0224
044-1 01 0006	109.6000
044-1 01 0006A	50.2400
044-1 01 0008	2.7860
044-1 01 0009	2.2000
044-1 01 0010	3.0550
044-1 01 0011	.4290
044-1 01 0012	9.0033

Map Reference Number	Land Area - Acres
044-2 01 0001	1.1360
044-2 01 0002	5.0961
044-2 01 0004	4.3926
044-2 01 0005	94.6900
044-2 01 0006	94.5000
044-2 01 0008 (Part)	23.0928
044-2 04 0001	5.9820
044-2 04 0002	5.4420
044-2 04 0003	5.7150
044-2 04 0004	5.0530
044-2 04 0005A	2.5010
044-2 04 0005B	2.5000
044-2 04 0006	4.1978
044-3 01 0003	1.4124
044-4 01 0002A (Part)	49.5997

NOTE: Acreage of all partial parcels approximate.



County of Fairfax, Virginia

MEMORANDUM

DATE: July 27, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Chief *PGN*
Environment and Development Review Branch, DPZ

SUBJECT: **Land Use Analysis & Environmental Assessment:** RZ 2010-SU-004
Miller

The memorandum, prepared by John Bell, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the development plan dated November 13, 2009 revised through January 14, 2010. The extent to which the application conforms to the applicable guidance contained in the Comprehensive Plan is noted. Possible solutions to remedy identified issues are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

DESCRIPTION OF THE APPLICATION

The applicant, James G. Miller, is requesting a rezoning of the property from the I-3 zoning district to the I-5 zoning district in order to bring the subject property into compliance with Zoning Ordinance standards. The subject property contains approximately 2.61 acres. The proposed use would continue as a contractor's office and shops with an outdoor storage yard. The existing structures, outdoor storage and parking areas will remain largely as they are today with minor modifications.

LOCATION AND CHARACTER OF THE AREA

The property is located on the west side of Stonecroft Boulevard at its intersection with Thompson Road. The surrounding properties are all zoned I-3 or I-5. The Fairfax County Criminal Justice Training Center is located immediately east of the subject property. The grounds of Washington-Dulles International Airport are located nearby to the north of the subject property.

COMPREHENSIVE PLAN CITATIONS:

Land Use

Fairfax County Comprehensive Plan, 2007 Edition, Area III, Dulles Suburban Center, Dulles Suburban Center Land Unit Recommendations, as amended through March 9, 2010, page 103:

- “1. Land Unit F-1 is planned for office and industrial/flex uses along Route 50 and industrial uses on the northern portion adjacent to the Dulles Airport, with the exception of Cub Run EQC which is planned for public park use as shown on the Plan Map.
 - a. The southern portion (along Route 50) is planned for high-quality campus-style office and industrial/flex use up to a maximum FAR of .35, consistent with the type and character of development established in adjoining units. Substantial setbacks, landscaping and screening should be provided along Route 50 and along Stonecroft Boulevard for an attractive appearance. Direct access to Route 50 should be permitted from Parcel 33-2((1))2 which is constrained on its eastern side by an EQC which traverses the parcel from north to south. In addition to existing access points, one new access point could be permitted to the balance of the land unit provided it does not impact environmentally sensitive lands. Substantial consolidation of small parcels is recommended and should be carried out in a manner that ensures that unconsolidated parcels have adequate access and can be developed in accord with the Comprehensive Plan. Architecture should also function as an element of design integration and architectural sketches should be made available for the public review process.
 - b. The northern portion, which is east of the EQC and includes properties fronting Murdock Street and areas to the north, are planned for construction related and industrial uses up to .35 FAR. Outdoor storage should be screened from public view. Development applications for new and expansion of existing uses should perform an environmental assessment to mitigate any prior industrial contamination.”

Environment

Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008, on page 7 through 9, the Plan states:

“Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County.

- Policy k. For new development and redevelopment, apply better site design and low impact development (LID) techniques.

Development proposals should implement best management practices to reduce runoff pollution and other impacts. Preferred practices include: those which recharge groundwater when such recharge will not degrade groundwater quality; those which preserve as much undisturbed open space as possible; and, those which contribute to ecological diversity by the creation of wetlands or other habitat enhancing BMPs, consistent with State guidelines and regulations. . . .

Programs to improve water quality in the Potomac River/Estuary, and Chesapeake Bay will continue to have significant impacts on planning and development in Fairfax County. There is abundant evidence that water quality and the marine environment in the Bay are deteriorating, and that this deterioration is the result of land use activities throughout the watershed. . . .

In order to protect the Chesapeake Bay and other waters of Virginia from degradation resulting from runoff pollution, the Commonwealth has enacted regulations requiring localities within Tidewater Virginia (including Fairfax County) to designate "Chesapeake Bay Preservation Areas". Within which land uses are either restricted or water quality measures must be provided. Fairfax County has adopted a Chesapeake Bay Preservation Ordinance pursuant to these regulations."

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008, on page 12, the Plan states:

"Unlike some parts of the United States, Fairfax County is not subject to major natural disasters such as earthquakes, or major forest fires. However the County is not free of natural and human made hazards to new and existing development.

There are hazards to property in some areas of the County posed by wet or unstable soils. Marine clay soils found in the eastern part of the County and shrink-swell clay soils found primarily in the western area can cause foundation failures, cracked and shifting walls, and in extreme cases, catastrophic slope failure. Asbestos bearing soils may pose a health risk to construction workers requiring special precautions during excavation.

Objective 6: **Ensure that new development either avoids problem soil areas, or implements appropriate engineering measures to protect existing and new structures from unstable soils.**

Policy a: Limit densities on slippage soils, and cluster development away from slopes and potential problem areas.

Policy b: Require new development on problem soils to provide appropriate engineering measures to ensure against geotechnical hazards."

COMPREHENSIVE PLAN MAP: Mixed Use

LAND USE ANALYSIS

Recently adopted Plan text for the site supports construction related and industrial uses up to .35 floor area ratio (FAR). The Plan further recommends that outdoor storage should be screened from public view and that development applications for new and expansion of existing uses should perform an environmental assessment to mitigate any prior industrial contamination. Consistent with this Plan guidance, the proposed development relies largely upon the provision of adequate screening of the use from surrounding uses and environmental assessment of the site prior to the approval of the new use. The applicant has agreed to provide additional screening on-site. The applicant has also submitted a Phase I Environmental Site Assessment (ESA) consistent with the recommendations of the Plan. The existing and planned surrounding uses are industrial in nature. Staff feels that the proposed development is in conformance with the recommendations of the Comprehensive Plan.

ENVIRONMENTAL ANALYSIS

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed development. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the county's remaining natural amenities.

Water Quality

Issue:

The applicant was asked to provide an Environmental Site Assessment (ESA) in order to evaluate any possible soil and groundwater contamination which may have resulted from the long-standing industrial uses at this location.

Resolution:

The applicant has provided an ESA which noted no on-site contamination of either soils or groundwater. Staff feels that the information provided adequately addresses staff concerns.

PGN: JRB



County of Fairfax, Virginia

MEMORANDUM

DATE: August 10, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section
Department of Transportation

SUBJECT: Transportation Impact

FILE: 3-4 (RZ 2010-SU-004)

REFERENCE: RZ 2010-SU-004; James G. Miller, Trustee for the J.G. Miller Revocable Trust
(Rezoning Compliance from I-3 to I-5)
Land Identification: 33-2 ((2)) 13

The following comments reflect the position of the Fairfax County Department of Transportation (FCDOT), and are based on the applicant's development plan revised June 30, 2010 and informational package submitted / dated March 5, 2010.

The applicant seeks to rezone the subject property from I-3 to I-5 to permit a contractor's office, a shop, and a storage yard. The applicant currently runs a site utility business (commercial water and sewer) that is not compliant with the permitted uses in the I-3 District. Additional existing uses on the property include a contractor's yard with outside storage.

The subject property has road frontage on three roads; Stonecroft Boulevard, Thompson Road, and Glorus Road (undeveloped). Uses on the property are divided in two separate sections. There are two access points from Thompson Road to the business located at the rear of the property (closest to Glorus) and one access point from Thompson Road to the business located at the front of the property (closest to Stonecroft Boulevard). The transportation issues are as follows:

- Right-of-Way waiver will not be supported by FCDOT. Applicant should dedicate road frontage along Stonecroft Boulevard for future road improvements.
- Construction of frontage improvements along Stonecroft Boulevard and Thompson Road will be a requirement at the time of site plan review. This Department would not object to an escrow in lieu of construction at this time.
- FCDOT recommends submittal of proffers with the development plan to ensure limited uses are clarified and noted. (Traffic Analysis Determination was calculated on applicant's request to limit uses on property to existing and some limited uses)

FCDOT does not object to approval of the proposed rezoning application with the conditions agreed upon by the applicant's informational submittal, development plan, and the recommendations contained in this document.

AKR/mdd

Fairfax County Department of Transportation

4050 Legato Road, Suite 400

Fairfax, VA 22033-2895

Phone: (703) 877-5600 TTY: 711

Fax: (703) 877-5723

www.fairfaxcounty.gov/fcdot





FAIRFAX COUNTY PARK AUTHORITY



M E M O R A N D U M

TO: Regina M. Coyle, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Sandy Stallman, Manager,
Park Planning Branch, PDD *SS*

DATE: April 22, 2010

SUBJECT: RZ 2010-SU-004, J.G.Miller
Tax Map Number(s): 33-2((2))13

The Park Authority staff has reviewed the above referenced plan. Based on that review, staff has determined that this application bears no adverse impact on land or resources of the Park Authority.

FCPA Reviewer: Pat Rosend
DPZ Coordinator: Billy O 'Donnell

Copy: Cindy Walsh, Director, Resource Management Division
Chron Binder
File Copy



County of Fairfax, Virginia

MEMORANDU

DATE: July 6, 2010

TO: Billy O'Donnell, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Beth Forbes, Stormwater Engineer *BF*
Environmental and Site Review Division
Department of Public Works and Environmental Services

SUBJECT: Rezoning Application #RZ 2010-SU-004, J.G. Miller, Inc., Generalized Development Plan dated June 30, 2010, LDS Project #8883-ZONA-001-2, Tax Map #33-2-02-0013, Sully District

We have reviewed the subject application and offer the following stormwater management comments.

Chesapeake Bay Preservation Ordinance (CBPO)

There is no Resource Protection Area (RPA) on this site. Water quality controls are required for this project, if not waived. Locations for 3 facilities are shown on the plan. One of these facilities is located near the highest point of the property and will serve only a small area.

Floodplain

There are no regulated floodplains on the property.

Downstream Drainage Complaints

There are no downstream drainage complaints on file.

Stormwater Detention

Stormwater detention or an approved waiver will be required (PFM 6-0301.3). No detention facilities are shown on the plan. The applicant has provided a justification for a waiver. Based on the justification provided, a waiver is not likely to be granted.

Site Outfall

A description of the outfall to 100 times the site's area has been provided, however, the narrative does not include any information on the condition, i.e., the stability, of the downstream drainage systems (ZO 18-202 paragraph 10.F(2)(c)).



Billy O'Donnell, Staff Coordinator
Rezoning Application #RZ 2010-SU-004, J.G. Miller, Inc.
July 6, 2010
Page 2 of 2

Both the justification for the waiver and the description of the downstream system consider improvements proposed for an adjacent property under Site Plan #25149-SP-001. This site plan was disapproved with comments in October, 2009. The site plan has not been resubmitted as of this date. Also, the required RPA delineation study for the neighboring property has not yet been submitted.

Please contact me at 703-324-1720 if you require additional information.

BF/

cc: Craig Carinci, Director, Stormwater Planning Division, DPWES
Jeremiah Stonefield, Chief, Stormwater & Geotechnical Section, ESRD, DPWES
Clinton Abernathy, Chief Site Review Engineer, ESRD West, DPWES
Zoning Application File



FAIRFAX COUNTY WATER AUTHORITY
8560 Arlington Boulevard, Fairfax, Virginia 22031
www.fairfaxwater.org

PLANNING & ENGINEERING
DIVISION

Jamie Bain Hedges, P.E.
Director
(703) 289-6325
Fax (703) 289-6382

March 9, 2010

Ms. Regina Coyle, Director
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5505

Re: RZ 2010-SU-002
Tax Map: 33-2
Miller Property

Dear Ms. Coyle:

The following information is submitted in response to your request for a water service analysis for the above application:

1. The property can be served by Fairfax Water.
2. Adequate domestic water service is available at the site from an existing 12-inch water main located at the property. See the enclosed water system map.
3. Depending upon the configuration of the on-site water mains, additional water main extensions may be necessary to satisfy fire flow requirements and accommodate water quality concerns.

If you have any questions regarding this information please contact Dave Guerra at (703) 289-6343.

Sincerely,

A handwritten signature in cursive script that reads "Traci K. Goldberg".

Traci K. Goldberg, P.E.
Manager, Planning Department

Enclosure



County of Fairfax, Virginia

MEMORANDUM

DATE: April 11, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Eric Fisher, GIS Analyst III
Information Technology Section
Fire and Rescue Department

SUBJECT: Fire and Rescue Department Preliminary Analysis of Rezoning Application
RZ 2010-SU-004

The following information is submitted in response to your request for a preliminary Fire and Rescue Department analysis for the subject:

1. The application property is serviced by the Fairfax County Fire and Rescue Department Station #415, Chantilly
2. After construction programmed _____ this property will be serviced by the fire station _____
3. In summary, the Fire and Rescue Department considers that the subject rezoning application property:
 - a. currently meets fire protection guidelines.
 - b. will meet fire protection guidelines when a proposed fire station becomes fully operational.
 - c. does not meet current fire protection guidelines without an additional facility; however, a future station is projected for this area.
 - d. does not meet current fire protection guidelines without an additional facility. The application property is 0.4 of a mile outside the fire protection guidelines. No new facility is currently planned for this area.





County of Fairfax, Virginia

MEMORANDUM

DATE: April 30, 2010

TO: Staff Coordinator
Zoning Evaluation Division
Department of Planning & Zoning

FROM: Lana Tran (Tel: 703 324-5008)
Wastewater Planning & Monitoring Division
Department of Public Works & Environmental Services

SUBJECT: Sanitary Sewer Analysis Report

REFERENCE: Application No. RZ2010-SU-004
Tax Map No. 033-2-/02/ 0013

The following information is submitted in response to your request for a sanitary sewer analysis for above referenced application:

1. The application property is located in the Upper Cub Run (T-1) watershed. It would be sewerred into the Upper Occoquan Sanitation Authority (UOSA).
2. Based upon current and committed flow, there is excess capacity in the UOSA Treatment Plant at this time. For purposes of this report, committed flow shall be deemed that for which fees have been paid, building permits have been issued, or priority reservations have been established by the Board of Supervisors. No commitment can be made, however, as to the availability of treatment capacity for the development of the subject property. Availability of treatment capacity will depend upon the current rate of construction and the timing for development of this site.
3. An existing 8" inch line located on the property is adequate for the proposed use at this time.
4. The following table indicates the condition of all related sewer facilities and the total effect of this application.

Sewer Network	Existing Use <u>+Application</u>		Existing Use <u>+ Application</u> <u>Previous Rezonings</u>		Existing Use <u>+ Application</u> <u>+ Comp Plan</u>	
	<u>Adeq.</u>	<u>Inadeq.</u>	<u>Adeq.</u>	<u>Inadeq.</u>	<u>Adeq.</u>	<u>Inadeq.</u>
Collector	<u>X</u>	<u>---</u>	<u>X</u>	<u>---</u>	<u>X</u>	<u>---</u>
Submain	<u>X</u>	<u>---</u>	<u>X</u>	<u>---</u>	<u>X</u>	<u>---</u>
Main/Trunk	<u>X</u>	<u>---</u>	<u>X</u>	<u>---</u>	<u>X</u>	<u>---</u>
Interceptor	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>
Outfall	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>

5. Other pertinent information or comments:

Department of Public Works and Environmental Services
Wastewater Planning & Monitoring Division
12000 Government Center Parkway, Suite 358
Fairfax, VA 22035-0052
Phone: 703-324-5030, Fax: 703-324-3946



INDUSTRIAL DISTRICT REGULATIONS

PART 5 5-500 I-5 GENERAL INDUSTRIAL DISTRICT**5-501 Purpose and Intent**

The I-5 District is established to provide areas where a wide range of industrial and industrially-oriented commercial activities may locate. Uses allowed in this district shall operate under medium performance standards designed to minimize the impact of noise, smoke, glare, and other environmental pollutants on the industries within the district and on the neighboring lands of higher environmental quality. The business and commercial activities allowed in the district will be those which provide services and supplies primarily to industrial companies, those which engage in wholesale operations, and those which are associated with warehouse establishments.

5-502 Permitted Uses

1. Accessory uses and accessory services uses as permitted by Article 10.
2. Child care centers and nursery schools, limited by the provisions of Sect. 505 below.
3. Churches, chapels, temples, synagogues and other such places of worship.
4. Contractor's offices and shops.
5. Crematory, human or animal.
6. Establishments for printing of any size, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and associated retail sales; except bulk storage of flammable materials for resale, and those particular heavy industrial uses set forth in Par. 13 of Sect. 9-501.
7. Establishments for scientific research, development and training.
8. Financial institutions.
9. Funeral homes.
10. Heavy equipment and specialized vehicle sale, rental and service establishments.
11. Kennels, limited by the provisions of Sect. 505 below.
12. Light public utility uses (Category 1), all uses except radio or television broadcasting tower facilities, microwave facilities, satellite earth stations, and mobile and land based telecommunication facilities.
13. Lumber yards and building material yards to include rock, sand and gravel.
14. Mobile and land based telecommunication facilities, subject to the provisions of Sect. 2-514.

INDUSTRIAL DISTRICT REGULATIONS

5-507 Bulk Regulations

1. Maximum building height: 75 feet, subject to increase as may be permitted by the Board in accordance with the provisions of Sect. 9-607
2. Minimum yard requirements
 - A. Front yard: Controlled by a 45° angle of bulk plane, but not less than 40 feet
 - B. Side yard: No Requirement
 - C. Rear yard: No Requirement
3. Maximum floor area ratio: 0.50, provided however, an increase to 1.00 may be permitted by the Board in accordance with the provisions of Sect. 9-618
4. Refer to Sect. 13-301 for provisions that may qualify the minimum yard requirements set forth above.

5-508 Open Space

15% of the gross area shall be landscaped open space

5-509 Additional Regulations

1. Refer to Article 2, General Regulations, for provisions which may qualify or supplement the regulations presented above.
2. Refer to Article 11 for off-street parking, loading and private street requirements.
3. Refer to Article 12 for regulations on signs.
4. Refer to Article 13 for landscaping and screening requirements.
5. Refer to Article 17 for uses and developments which are subject to site plan provisions.

IT FURTHER APPEARING TO THE COURT that Atlantic Construction is the lessee of the subject property; and

IT FURTHER APPEARING TO THE COURT that the Zoning Administrator and the Defendants have agreed to settle this case under the terms and conditions set forth below, as evidenced by the endorsements hereon of counsel for the Zoning Administrator and counsel for the Defendants; and

IT FURTHER APPEARING TO THE COURT that the parties hereto agree that the terms of this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the Zoning Administrator and the Defendants with the approval of this Court, subject, however, to the provisions of Va. Code Ann. Va. Code Ann. § 15.2 -2259(D), which are applicable to site plans pursuant to Va. Code Ann. § 15.2-2258; and

IT FURTHER APPEARING TO THE COURT that this Agreed Final Order should be entered; now, therefore, it is hereby

ADJUDGED and ORDERED as follows:

1. Using and/or allowing the subject property to be used as Contractor's Offices and Shops as long as the subject property is zoned to the I-3 District violates Zoning Ordinance §§ 2-302(4) and (5); and
2. Using and/or allowing the subject property to be used for permitted uses without an approved site plan violates Zoning Ordinance § 17-103(3); and
3. The construction and use and/or allowing the construction and use of buildings and structures on the subject property without Building Permits approved by the Zoning Administrator or her agents violates Zoning Ordinance § 18-601; and

4. The occupancy and/or allowing the occupancy of the subject property without a Non-RUP violates Zoning Ordinance § 18-701; and

5. Maintaining and/or allowing the maintenance on the subject property of outdoor storage in excess of 250 square feet in area and not shown on any approved site plan violates Zoning Ordinance §§ 10-102(24) and 2-302(6); and

6. Miller proposed an amendment to the Fairfax County Comprehensive Land Use Plan ("Comprehensive Plan") to allow the subject property to be rezoned from the I-3 District to the I-5 District (General Industrial District). On July 7, 2009, the Fairfax County Board of Supervisors ("Board of Supervisors") approved the amendment to the Comprehensive Plan; and

7. On December 22, 2009, Miller submitted a Rezoning Application to Fairfax County. The Rezoning Application, once accepted, must be reviewed by Fairfax County Staff and advertised for public hearings before the Planning Commission and the Board of Supervisors. Miller shall, within 9 months after the entry of this Agreed Final Order, obtain the Board's approval of a rezoning of the subject property from the I-3 District to the I-5 District; and

8. Miller shall, within 3 months after the subject property is rezoned to the I-5 District, apply for site plan approval of all uses of the subject property as required by Zoning Ordinance § 17-103(3), and the County agrees to process a minor site plan if such is permitted by Zoning Ordinance § 17-103 and the Department of Public Works and Environmental Services. The Defendants shall, within three (3) months after the subject property is rezoned to the I-5 District, apply for Building Permits for all structures and buildings on the subject

property as required by Zoning Ordinance § 18-601, and apply for a Non-Residential Use Permit ("Non-RUP") for the use of the subject property as required by Zoning Ordinance § 18-701; however, the timeframes set forth herein shall not preclude Miller from pursuing, after obtaining the approval of the Board, concurrent processing of Miller's rezoning application, site plan, Building Permits, and/or Non-RUP(s); and

9. All necessary resubmissions or corrections to the above-referenced site plan, building permits, Non-RUPs, and related applications shall be submitted to the County within 28 days, or such longer period of time specified in writing by Fairfax County Staff, of the return of such plans to the Defendants or their registered licensed professionals; and

10. The above-referenced deadlines may be modified only by mutual, written agreement of the Zoning Administrator and the Defendants, subject, however, to the provisions of Va. Code Ann. § 15.2-2259(D), which are applicable to site plans pursuant to Va. Code Ann. § 15.2-2258; and

11. If the Defendants' application to rezone the subject property to the I-5 District is denied, or if the Defendants fail to submit applications for a site plan, building permits, and Non-RUPs, or if the Defendants fail to submit necessary resubmissions or corrections within the timeframes set forth in paragraphs 7, 8, and 9 above, the Defendants shall, within 30 days after the first to occur of these events, take the following actions: (1) permanently cease the use of the subject property as a Contractor's Offices and Shops and permanently remove all vehicles, structures, and/or other items associated with the use of the subject property as a Contractor's Offices and Shops from the subject property to a lawful site; (2) permanently

cease any unlawful use of the subject property and remove all items associated with any use from the subject property to a lawful site until an approved site plan for such use has been obtained as required by Zoning Ordinance § 17-103(3); (3) permanently remove from the subject property to a lawful site the buildings and structures erected on the subject property without Building Permits or obtain approved Building Permits for such structures and buildings as required by Zoning Ordinance § 18-601, except that the house and two trailers are permitted to remain on the subject property until the Defendants apply for building permits;

(4) permanently cease all use of the subject property and remove all items associated with all uses on the subject property to a lawful site or obtain the required Non-RUP as required by Zoning Ordinance § 18-701; and (5) permanently remove from the subject property to a lawful site all outdoor storage exceeding 250 square feet in area not located on an area designated on an approved site plan so as to bring the subject property into compliance with Zoning Ordinance §§ 10-102(24) and 2-302(6). Notwithstanding the foregoing, if the Defendants' application to rezone the subject property is denied, the Defendants shall be permitted to continue to maintain an Office use on the subject property if they cease the use of the subject property as a Contractor's Offices and Shops and, within 3 months after the rezoning is denied, apply for site plan approval of all uses of the subject property as required by Zoning Ordinance § 17-103(3), apply for Building Permits for all structures and buildings on the subject property as required by Zoning Ordinance § 18-601, and apply for a Non-Residential Use Permit ("Non-RUP") for the use of the subject property as required by Zoning Ordinance § 18-701. Delays caused by the County shall not be assessed against the Defendants for purposes of applying this agreement; and

12. In the event the Defendants do not comply with the requirements of paragraphs 8, 9, 10 and 11, then the following limitations shall be applicable:

A. Miller and Atlantic Construction are enjoined from using and/or allowing the subject property to be used as Contractor's Offices and Shops as long as the subject property is zoned to the I-3 District in violation of Zoning Ordinance §§ 2-302(4) and (5); and

B. Miller and Atlantic Construction are enjoined from using and/or allowing the subject property to be used for permitted uses without an approved site plan in violation of Zoning Ordinance § 17-103(3); and

C. Miller and Atlantic Construction are enjoined from the construction and use and/or allowing the construction and use of buildings and structures on the subject property without Building Permits approved by the Zoning Administrator or her agents in violation of Zoning Ordinance § 18-601; and

D. Miller and Atlantic Construction are enjoined from using and/or allowing the use of the subject property without a Non-RUP at any time in the future in violation of Zoning Ordinance § 18-701; and

E. Miller and Atlantic Construction are enjoined from maintaining and/or allowing the maintenance on the subject property of outdoor storage in excess of 250 square feet in area and not shown on any approved site plan at any time in the future in violation of Zoning Ordinance §§ 10-102(24) and 2-302(6); and

13. The Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times in the future to inspect the subject property to monitor compliance with the terms of this Agreed Final Order; and

14. The Defendants shall, within 15 days after entry of this Agreed Final Order, dismiss with prejudice their Request for a Declaratory Judgment and Petition for a Writ of Certiorari filed in Circuit Court Case No. CL-2008-0015228; and

15. The terms set forth in this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the parties with the approval of this Court.

AND THIS CAUSE IS FINAL.

ENTERED this 12th day of February 2010.



JUDGE, FAIRFAX COUNTY CIRCUIT COURT

WE ASK FOR THIS:

DAVID P. BOBZIEN
COUNTY ATTORNEY

By 

Laura S. Gori (VSB No. 65907)
Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064
(703) 324-2421
(703) 324-2665 (fax)
Counsel for Plaintiff Eileen M. McLane, Fairfax County Zoning Administrator

SEEN AND AGREED:



W. McCauley Arnold, Esq.
McCandlish & Lillard, P.C.
11350 Random Hills Road, #500
Fairfax, Virginia 22030
Counsel for Defendant James G. Miller, Trustee, James G. Miller Living Trust

Joseph F. Jackson by Wm Arnold

Joseph F. Jackson, Esq.

Williams Mullen

8270 Greensboro Drive, Suite 700

McLean, Virginia 22102

(703) 760-5200

(703) 748-0244 (fax)

Counsel for Defendant Atlantic Construction Fabrics, Inc.

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

dBA: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area: information such as topography, location and size of proposed structures, location of streets trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

EASEMENT: A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

ERODIBLE SOILS: Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may be function as a buffer between land uses or for scenic, environmental, or recreational purposes.

OPEN SPACE EASEMENT: An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

P DISTRICT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

URBAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code; includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		