C o u n t y  o f  F a i r f a x ,  V i r g i n i a  

July 6, 2021

STAFF REPORT

SE 2021-DR-004

DRAINSVILLE DISTRICT

APPLICANT: Falls Church Propco LLC, AKA Powhatan Nursing Home

ZONING: R-1 & R-4

PARCEL: 41-1 ((1)) 62B

ACREAGE: 7.67 acres

FAR: 0.25

PLAN MAP: Residential

SE CATEGORY: Category 3 – Medical Care Facilities*

PROPOSAL: The applicant, Falls Church Propco LLC, AKA Powhatan Nursing Home, requests approval of a special exception for a medical care facility to permit a change in ownership for the existing nursing home located at 2100 Powhatan Street, Falls Church.

* This application was accepted for review prior to July 1, 2021 and is being reviewed under the previous Zoning Ordinance pursuant to Section 1.C of Appendix 1 the newly adopted Zoning Ordinance (zMOD).
STAFF RECOMMENDATIONS:

Staff recommends approval of SE 2021-DR-004, subject to the development conditions contained in Appendix 1.

Staff recommends a modification of Additional Standard #5.

Staff recommends approval of a modification of the transitional screening requirements along all property lines in favor of the landscaping shown on the Conceptual Landscape Plan attached to the development conditions contained in Appendix 1.

Staff recommends approval of a waiver of the barrier requirements along all property lines.

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.

The approval of this special exception 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.

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

For information, contact the Zoning Evaluation Division, Department of Planning and Development, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.
Special Exception
SE 2021-DR-004

Applicant: FALLS CHURCH PROPCO LLC
Accepted: 03/11/2021
Proposed: MEDICAL CARE FACILITY
Area: 7.67 AC; DISTRICT - DRANESVILLE
Zoning Dist Sect: 03-0104
Located: 2100 POWHATAN STREET
Zoning: R-1, R-4
Plan Area: 2,
Overlay Dist: 
Map Ref Num: 041-1-01/0062B
LEGEND & NARRATIVE FOR EXISTING TREE AREAS

EXISTING TREE AREA A:
THE TREES IN THIS AREA ARE GENERALLY IN GOOD CONDITION WITH SOME SCATTERED DEAD TREES. THE TREE SIZES VARY FROM SMALL TO MEDIUM. THE AREA REPRESENTS 1" CALIPER DECIDUOUS TREES AND 6-8' TALL EVERGREENS.

EXISTING TREE AREA B:
THE TREES IN THIS AREA ARE GENERALLY IN GOOD CONDITION. THE TREE SIZES VARY FROM SMALL TO MEDIUM.

EXISTING TREE AREA C:
THE TREES IN THIS AREA ARE GENERALLY IN GOOD CONDITION WITH SOME DEAD TREES SCATTERED THROUGHOUT. THE AREA REPRESENTS 1" CALIPER DECIDUOUS TREES AND 6-8' TALL EVERGREENS.

EXISTING TREE AREA D:
THE TREES IN THIS AREA ARE GENERALLY IN GOOD CONDITION. THE TREE SIZES VARY FROM SMALL TO MEDIUM.

LEGEND FOR PROPOSED VEGETATION

1. DECIDUOUS TREE CATEGORY I
2. DECIDUOUS TREE CATEGORY II
3. DECIDUOUS TREE CATEGORY III
4. DECIDUOUS TREE CATEGORY IV
5. EVERGREEN TREE CATEGORY I
6. EVERGREEN TREE CATEGORY II
7. EVERGREEN TREE CATEGORY III
8. EVERGREEN TREE CATEGORY IV
9. SHRUBS (PREDOMINATELY EVERGREEN)
10. EXISTING TREE IS DEAD OR DYING, REMOVE
11. PROPOSED LOCATION FOR EXISTING TREES THAT ARE MOVED OUT OF EASEMENTS

NOTES:
1. IN ORDER TO DEPICT EXISTING CONDITIONS, THIS EXHIBIT WAS PREPARED UTILIZING AN ALTA/NSPS LAND TITLE SURVEY PREPARED BY REPUBLIC NATIONAL, BUT WAS NOT SEALED BY A PROFESSIONAL LAND SURVEYOR OR ENGINEER AND WAS NOT DATED.
2. THE EXISTING TREE LINE WAS ADDED USING COUNTY GIS IMAGERY, GOOGLE MAPS IMAGERY, AND A SITE VISIT.
3. A SITE VISIT WAS CONDUCTED BY THIS FIRM, BY AN ISA CERTIFIED ARBORIST, ON JUNE 8 & 30, 2021 TO EVALUATE THE GENERAL CONDITION OF THE TREES AND DETERMINE A LIST OF PREDOMINANT SPECIES, SEE NARRATIVE FOR DETAILS.
4. THIS EXHIBIT IS CONCEPTUAL IN NATURE AND NOT FOR LANDSCAPE SITE PLAN OR CONSTRUCTION PURPOSES. TREE PRESERVATION AND PROPOSED VEGETATION QUANTITIES AND LOCATIONS ARE SUBJECT TO CHANGE. ALL PROPOSED VEGETATION TO BE FIELD LOCATED, AT THE TIME OF SITE PLAN, TO AVOID CONFLICTS WITH EXISTING VEGETATION, SITE FEATURES, AND EASEMENTS TO THE EXTENT FEASIBLE.
ZONING ORDINANCE MODERNIZATION (zMOD)

The County’s new Zoning Ordinance was adopted by the Board of Supervisors on March 23, 2021, with an effective date of July 1, 2021. However, as this application was accepted for review prior to July 1, 2021, it is being reviewed under Sect. 9-308 and other provisions of the previous Zoning Ordinance pursuant to Section 1.C of Appendix 1 of the new Zoning Ordinance (zMOD). All zoning ordinance citations listed in this report refer to the previous Ordinance. In the new Zoning Ordinance (zMOD), a comparable application would be reviewed under subsection 4102.4.R.

OVERVIEW OF THE APPLICATION

The Applicant, Falls Church Propco LLC, AKA Powhatan Nursing Home, requests approval of a special exception for a medical care facility to permit a change in ownership for an existing assisted living facility, known as Powhatan Nursing Home. Powhatan Nursing Home, located at 2100 Powhatan Street in Falls Church, is an assisted living facility focusing on the needs of senior care patients, memory care and short-term rehabilitation. When originally approved via special permit in 1965, it was approved for 160 beds and a maximum of 50 employees. The special permit (SP) included a development condition that issued the SP to the applicant only. The Applicant would like to sell the nursing home to a new operator. Because medical care facilities are now permitted only by special exception (SE) in the R-1 and R-4 Districts, the SP cannot be amended, and the Applicant was required to file this SE application to amend the governing SP conditions. In addition to eliminating the SP condition related to the permittee, the Applicant also proposes to amend the existing SP conditions to reflect current conditions and practice. There are no other changes proposed to the existing site or operations.

The Applicant has requested approval of modification of transitional screening and a waiver of barrier requirements. These requested are discussed in the Waivers and Modifications section of the Zoning Analysis of this report. A reduced copy of the “As Built Plat” (which is serving as the SE Plat) is included at the front of this report. The proposed development conditions, the Applicant’s affidavit, and the Statement of Justification are contained in Appendices 1 through 3, respectively.

LOCATION AND CHARACTER

The 7.67-acre subject property is located at 2100 Powhatan Street, ±275 feet northwest of the interchange of Orland Street and the Powhatan Street. The site is split-zoned R-1 and R-4. The property is currently developed as a 160-bed nursing care facility with 106 parking spaces. Access to the site is provided from the Powhatan Street Drive. The site slopes from north to the south. Existing vegetation is located along the perimeters of the site.
A summary of the surrounding land use, zoning, and Comprehensive Plan recommendations is provided in the following table:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Use</th>
<th>Zoning</th>
<th>Plan Map</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Single-family detached dwellings (Nantucket Subdivision)</td>
<td>R-1, R-4</td>
<td>Residential, 3-4 du/ac</td>
</tr>
<tr>
<td>East</td>
<td>Public Park (Powhatan Hills Park), Single-family detached dwellings</td>
<td>PDH-2</td>
<td>Public Parks;</td>
</tr>
<tr>
<td></td>
<td>(Franklin Cluster Subdivision, Crimmins Subdivision)</td>
<td></td>
<td>Residential, 1-2 du/ac</td>
</tr>
<tr>
<td>South</td>
<td>Single-family detached dwellings (Powhatan Hills Subdivision)</td>
<td>R-4</td>
<td>Residential, 3-4 du/ac</td>
</tr>
<tr>
<td>West</td>
<td>Single-family detached dwellings (Powhatan Hills Subdivision)</td>
<td>R-1, R-4</td>
<td>Residential, 3-4 du/ac</td>
</tr>
</tbody>
</table>

**BACKGROUND (Appendix 4)**

Powhatan Nursing Home was originally approved for a Special Permit to permit a nursing and convalescent home with a total of 160 beds on January 9, 1962, by the Board of Zoning Appeals (BZA). The BZA granted an extension of the special permit on September 22, 1964, due to construction not commencing. A site plan was submitted at that time for a maximum of 93 beds. In 1972, the BZA granted another special permit on the site, S-16-72 conditioned the approval to the applicant only (the current owner).
The history of the property is outlined below:

<table>
<thead>
<tr>
<th>File Number</th>
<th>Approval Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6365</td>
<td>January 9, 1962</td>
<td>The BZA approved the application for the construction of a nursing and convalescent home of up to 160 beds. These approved units were not constructed.</td>
</tr>
<tr>
<td>6365</td>
<td>September 22, 1964</td>
<td>The BZA approved an extension of the special permit. A site plan was submitted for a nursing home for up to 93 beds. The site was eventually constructed in 1965.</td>
</tr>
<tr>
<td>S-16-72</td>
<td>June 14, 1972 (modified on June 28, 1972)</td>
<td>The BZA approved a Special Permit (SP) to permit a building addition; this SP currently governs the site. The approved development conditions permit a total of 160 beds with a maximum of 90 parking spaces and limit the approval to the applicant only (the current owner).</td>
</tr>
</tbody>
</table>

The approved development conditions associated with S-16-72, the governing approval, are included in Appendix 4.

**COMPREHENSIVE PLAN PROVISIONS**

**Plan Area:** Area II  
**Planning District:** McLean Planning District  
**Planning Sector:** M-3, Kirby Community Planning Sector  
**Special Planning District:** N/A  
**Plan Map:** Residential, 1-2 du/ac

**Plan Text:**

_The area bounded by the Arlington County line, Powhatan Street, the eastern boundary of the Nantucket and Marlborough subdivisions, the northern boundary of the Marlborough subdivision, Kirby Road, and Dolley Madison Boulevard is planned for residential use at 1-2 dwelling units per acre._

_Because of the character of existing development in the northern portion of this area, which is bounded on the south by Dumbarton Street and the Chesterbrook Shopping Center, new development at or near the high end of the 1-2 dwelling units per acre range may be appropriate, except in those subareas where steep slopes and stormwater runoff into the streams feeding Little Pimmit Run require less density to maintain adequate environmental protection._

_The Franklin Park area to the south of the Chesterbrook Shopping Center, which is located between Powhatan and Dumbarton Streets and the Arlington County line and Kirby Road, has predominantly steep slopes and sensitive stream valleys and heavily treed areas. Because of these environmental constraints, infill development is appropriate only at the lower end of the 1-2 dwelling units per acre density range._
Other specific recommendations include:

- The creation of nonconforming pipestem lots should only be encouraged where the result is the protection of EQCs and where the environmental impact of a multi-lot infill development will be minimized by their use.

- Consolidation of narrow and grandfathered nonconforming lots should be encouraged through strict adherence to setback requirements for the areas planned for 1-2 dwelling units per acre.

- New multi-lot infill development, which might ordinarily call for a full street, should be accomplished with pipestem drives, where safe access permits, to preserve the character of the neighborhood. Where a standard street is necessary for safe access, adherence to Virginia Department of Transportation standards in such a way so as to conform with the existing character of the roadway network in the area is recommended.

- To preserve open space and the character of the existing neighborhood, the abandonment and preservation of rights-of-way for segments of eight unbuilt streets in the area is recommended. The abandoned rights-of-way, termed ‘nature ways’ or ‘greenways’, should be left in their natural wooded state supplemented by a trail, if appropriate, to promote pedestrian circulation, safety and park access. Recommended for preservation as greenways are segments of Rhode Island Avenue, Birch Road, Maryland Avenue, North Harrison Street, MacArthur Drive, North Kensington Street, John Place and Amherst Avenue.

DESCRIPTION OF THE APPLICATION

Title of SE Plat: (copy at front of staff report) Powhatan Nursing Home As-Built Site Plan No. 1116

Prepared by: Walter L. Phillips Certified Civil Engineers-Land Surveyors

Original and Revision Dates: January 15, 1975, as revised through March 21, 1975.

Due to the limited nature of the request, the Applicant requested and was granted a modification of submission requirements to use the As Built Plan in lieu of a new Special Exception Plat. During the review of this application, the Applicant subsequently provided a Conceptual Landscape Plan to depict all proposed and existing landscaping; this Conceptual Landscape Plan is contained in the development conditions and provided at the front of this report.

As described in the beginning of this report, no changes are proposed to the physical site or the operations of the nursing home, which were approved under S-16-72. The
Powhatan Nursing Home is a 50,442 SF, two-story building, 30 feet in height, located in the center of the site. One-hundred and six (106) surface parking spaces are located to the north, south, and east of the building. Landscaping is located along the perimeters of the site.

All substantive commitments found in the approved special permit conditions will be carried forward, although the conditions have been updated to reflect current practices. This includes reflecting the actual parking found on site and shown on the As Built Site Plan, which exceeds the 90-space limit set in the approved conditions.

Figure 2: As Built Site Plan
ANALYSIS

As noted, no physical or operational changes are proposed to the nursing home with this application. No land use, transportation or other issues related to public facilities were identified during this review.

During the review, it was brought to staff’s attention that over the years, the landscaping which was initially planted on the perimeters of the site had not been replaced when trees died. To rectify this issue, the Applicant provided the Conceptual Landscape Plan showing existing and proposed plantings and agreed to implement this plan. Staff believes this proposed landscaping will provide sufficient screening between the site and abutting residences. Also, in reviewing the existing site, staff encouraged the Applicant to incorporate pedestrian connections within the parking area to mitigate potential conflicts between pedestrians and vehicles. The Applicant has committed to paint a crosswalk from the parking lot to the site, which has been depicted on the Conceptual Landscape Plan. Finally, staff noted that the 106 parking spaces reflected on the As-Built Site Plan exceeds the 90-space limit established by the SP conditions. However, staff does not find that the additional 16 spaces cause any negative impacts, and staff’s proposed development conditions therefore remove this limitation to allow the parking to be governed by the As-Built Site Plan.
Staff finds that the proposed special exception amendment continues to be in harmony with all aspects of the Comprehensive Plan.

**ZONING ORDINANCE PROVISIONS** (Appendix 6)

A nursing home is considered a medical care facility, which is a Category 3 use in the R-1 and R-4 zoning districts, requiring a special exception to be granted by the Board of Supervisors. The general special exception standards set forth in Sect. 9-006 of the Zoning Ordinance must be met, as well as the five additional standards set forth in Sect. 9-304 that all Category 3 Special Exception uses must satisfy. These additional standards include lot size and bulk standards in the applicable zoning district. In addition, a medical care facility requires conformance with additional standards set forth in Sect. 9-308 of the Zoning Ordinance.

As discussed earlier, the sole change proposed by SE 2021-DR-004 is to eliminate the development condition which granted the approval to the applicant only. There are no site or operational modifications proposed. The Powhatan Nursing Home previously satisfied the Zoning Ordinance standards for special permits in a R District when it was approved by special permit in 1962 and again, in 1972. Staff finds that the application continues to satisfy these standards with the exception of Additional Standard 5.

Additional Standard 5 (Par. 5 of Sect. 9-308) requires that no building be located closer than 45 feet to any street line or closer than 100 feet to any lot line which abuts an R-A through R-4 District. At the time of its special permit approval in 1972, the nursing home structure satisfied these requirements. However, the 1975 As-Built Site Plan (which is serving as the SE Plat for this case) indicates that the building was constructed 98.2 feet from the R-4 properties to the south. A surveyor went out to the site and indicated that the on-site measurement is 99.9 feet. In either case, the Applicant has requested a modification of Additional Standard #5 to that shown on the SE Plat. Staff supports this modification.

Additional Standard 3 (Par. 3 of Sect. 9-308) requires that a special exception application for a medical care facility be forwarded to the Health Care Advisory Board (HCAB) for a recommendation. On June 14, 2021, this application went to HCAB for a public hearing, at which time, HCAB found that the facility continues to be reasonable in terms of access, need, operations and financial accessibility. Therefore, HCAB recommends that the Board approve the Applicant’s request. A copy of this resolution is contained in Appendix 5 of this report.

With the modification of Additional Standard 5, staff finds that the proposed application meets the special exception requirements.

**WAIVERS AND MODIFICATIONS**

As noted earlier, the site abuts single-family detached dwellings on all sides. As such, the Zoning Ordinance requires the provision of Transitional Screening 2 (35 feet in
width) and Barrier D, E or F (six feet in height) along these property lines. The proposed SEA is requesting a modification of the transitional screening and a waiver of the barrier requirements in favor of the existing vegetation and proposed supplemental landscaping. Specifically, the Applicant has worked with staff and Urban Forest Management to develop a Conceptual Landscape Plan to replenish and provide supplemental plantings along the perimeter of the property to supplement the existing vegetation. Along the southern portion of the property, the Applicant had removed some plantings and trees along the property line due to a neighbor’s concern about invasive plantings encroaching on the adjacent properties. With the implementation of the Applicant’s proposed Conceptual Landscape Plan as attached to the Development Conditions, staff can support the requested modification of transitional screening and waiver of the barrier requirements.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff finds that the application is in harmony with the Comprehensive Plan and in conformance with all applicable provisions of the Zoning Ordinance subject to the proposed development conditions contained in Appendix 1.

Recommendations

Staff recommends approval of SE 2021-DR-004, subject to the development conditions contained in Appendix 1.

Staff recommends a modification of Additional Standard #5 to that shown on the SE Plat.

Staff recommends approval of a modification of the transitional screening in favor of the landscaping shown on the Conceptual Landscape Plan as attached to the proposed development conditions.

Staff recommends approval of the waiver of the barrier requirements along all property lines.

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.

The approval of this special exception 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.

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

1. Proposed Development Conditions and Conceptual Landscape Plan
2. Affidavit
3. Statement of Justification
4. Original Approval and Development Conditions (S-16-72)
5. Health Care Advisory Board Memo
7. Glossary
APPENDIX 1

PROPOSED DEVELOPMENT CONDITIONS

SE 2021-DR-004

July 6, 2021

If it is the intent of the Board of Supervisors to approve SE 2021-DR-004 for an existing medical care facility to permit changes to the development conditions located at Tax Map 41-1 ((1)) 62B, pursuant to Sect. 3-104 and 3-404 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions, which supercede all previous development conditions. An asterisk denotes conditions carried forward from S-16-72.

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception (SE) is granted only for the purpose(s), structure(s) and/or use(s) indicated on the SE Plat approved with the application, as qualified by these development conditions.

3. This Special Exception (SE) is subject to the provisions of Article 17 of the Zoning Ordinance, Site Plans, as may be determined by the Director, Land Development Services (LDS). Any site plan submitted pursuant to this SE must be in substantial conformance with the approved SE Plat titled "Powhatan Nursing Home As-Built Site Plan No. 1116" prepared by Walter L. Phillips Certified Civil Engineers-Land Surveyors, consisting of one sheet, dated January 15, 1975, as revised through March 21, 1975. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

4. The maximum number of beds shall be 160.*

5. Within 180 days of approval of this special exception, the pedestrian crosswalk must be provided and shown on the Conceptual Landscape Plan attached in Exhibit 1.

6. Within 180 days of approval of this special exception, the Applicant must install and/or replace any dead, dying, or missing screening plantings along the southern lot line in conformance with the Conceptual Landscape Plan attached in Exhibit 1 to meet the intent of the modified Traditional Screening 2 requirements. Prior to installation, the Applicant must provide a landscape plan to review by Urban Forestry Management Division that identifies the specific plant material to be planted and used toward meeting the modified Transitional Screening 2 requirements. The landscape plan will include all information and plan elements in accordance with Section 12-0315.1 of the Public Facilities Manual. The Applicant must continue to maintain the landscape as depicted on the approved landscape plan.

7. Pursuant to Section 9-105 of the Zoning Ordinance, the special exception will take effect upon approval by the Board of Supervisors.
The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, will not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards. The applicant will be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this SE will not be valid until this has been accomplished.
LEGEND & NARRATIVE FOR EXISTING TREE AREAS

EXISTING TREE AREA A:
The trees in this area are generally in good condition, with no dead trees identified.

EXISTING TREE AREA B:
The trees in this area are generally in good condition, with no dead trees identified.

EXISTING TREE AREA C:
The trees in this area are generally in good condition, with no dead trees identified.

EXISTING TREE AREA D:
The trees in this area are generally in good condition, with no dead trees identified.

LEGEND FOR PROPOSED VEGETATION

1. DECIDUOUS TREE CATEGORY I
2. DECIDUOUS TREE CATEGORY II
3. DECIDUOUS TREE CATEGORY III
4. DECIDUOUS TREE CATEGORY IV
5. EVERGREEN TREE CATEGORY I
6. EVERGREEN TREE CATEGORY II
7. EVERGREEN TREE CATEGORY III
8. EVERGREEN TREE CATEGORY IV
9. SHRUBS (PREDOMINATELY EVERGREEN)

NOTES:
1. In order to depict existing conditions, this exhibit was prepared utilizing an Alta/NSPS land title survey prepared by Republic National, but was not sealed by a professional land surveyor or engineer and was not dated.
2. The existing tree line was added using county GIS imagery, Google Maps imagery, and a site visit.
3. A site visit was conducted by this firm, by an ISA certified arborist, on June 8 & 30, 2021 to evaluate the general condition of the trees and determine a list of predominant species, see narrative for details.
4. This exhibit is conceptual in nature and not for landscape site plan or construction purposes. Tree preservation and proposed vegetation quantities and locations are subject to change. All proposed vegetation to be field located, at the time of site plan, to avoid conflicts with existing vegetation, site features, and easements to the extent feasible.
DATE: June 10, 2021

TO: Catherine Lewis, Staff Coordinator
  Zoning Evaluation Division
  Department of Planning and Zoning

FROM: Jo Ellen Groves, Paralegal
  Office of the County Attorney

SUBJECT: Affidavit
  Application No.: SE 2021-DR-004
  Applicant: Falls Church Propco LLC
  PC Hearing Date: 7/21/21
  BOS Hearing Date: 7/27/21

REF.: 161796

Attached is an affidavit which has been approved by the Office of the County Attorney for the referenced case. Please include this affidavit dated 6/8/21, which bears my initials and is numbered 161796a, when you prepare the staff report.

Thank you for your cooperation.

Attachment
cc: (w/attach) Julia Nichols, Planning Technician I (Sent via e-mail)
  Zoning Evaluation Division
  Department of Planning and Zoning
SPECIAL EXCEPTION AFFIDAVIT

DATE: June 8, 2021
(enter date affidavit is notarized)

I, Kathryn R. Taylor, attorney/agent, do hereby state that I am an applicant's authorized agent listed in Par. 1(a) below

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

in Application No.(s): SE 2021-DR-004
(enter County-assigned application number(s), e.g. SE 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 are to 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.)

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>RELATIONSHIP(S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Falls Church Propco LLC</td>
<td>5215 W. Cedar Lane Bethesda, MD 20814</td>
<td>Applicant/Contract Purchaser of Tax Map 41-1 ((1)) 62B</td>
</tr>
<tr>
<td>Agents: Derek R. Vucich Joseph L. Vucich</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cynthia L. Butler</td>
<td>5204 Bradwood Street Springfield, VA 22152</td>
<td>Title Owner of Tax Map 41-1 ((1)) 62B</td>
</tr>
<tr>
<td>Falls Church Opco LLC d/b/a Vierra Falls Church</td>
<td>2100 Powhatan Street Falls Church, VA 22043</td>
<td>Operator</td>
</tr>
<tr>
<td>Agents: Derek R. Vucich Joseph L. Vucich</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(check if applicable) [✓] There are more relationships to be listed and Par. 1(a) is continued on a “Special Exception 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).
Special Exception Attachment to Par. 1(a)

DATE: June 8, 2021
(enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-004
(enter County-assigned application number (s))

(NOTE: All relationships to the application are to 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.)

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>RELATIONSHIP(S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walsh, Colucci, Lubeley &amp; Walsh, P.C.</td>
<td>2200 Clarendon Boulevard, Suite 1300 Arlington, VA 22201</td>
<td>Attorneys/Planners/Agent</td>
</tr>
<tr>
<td>Christopher Consultants, Ltd.</td>
<td>9900 Main Street, Suite 400 Fairfax, Virginia 22031</td>
<td>Engineer/Agent</td>
</tr>
<tr>
<td>Agents: Giovanni (John) B. Rinaldi Laurie Beth Donnachie</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(check if applicable) [ ] There are more relationships to be listed and Par. 1(a) is continued further on a “Special Exception Attachment to Par. 1(a)” form.

Information added.
SPECIAL EXCEPTION AFFIDAVIT

DATE: June 8, 2021

(enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-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:

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

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code)
Falls Church Propco LLC
5215 W. Cedar Lane
Bethesda, MD 20814

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)
Sole Member/Manager: The Joseph Gift Trust Dynasty Trust

(check if applicable) [ ] There is more corporation information and Par. 1(b) is continued on a “Special Exception Affidavit 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.
Special Exception Attachment to Par. 1(b)

DATE: June 8, 2021 (enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-004 (enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
The Joseph Gift Trust Dynasty Trust
5215 W. Cedar Lane
Bethesda, MD 20814

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)
Trustees: Derek R. Vucich
Joseph L. Vucich
Lois L. Vucich
Beneficiaries: Joseph L. Vucich
Christina V. Hennessy
Lois L. Vucich
Victoria F. Vucich

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Falls Church Opco LLC d/b/a Vierra Falls Church
2100 Powhatan Street
Falls Church, VA 22043

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)
Sole Member/Manager: Derek R. Vucich

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.
Special Exception Attachment to Par. 1(b)

DATE: June 8, 2021
(enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-004
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

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)

Wendy A. Alexander
David J. Bomgardner
E. Andrew Burcher
Jonelle M. Cameron
Thomas J. Colucci
Michael J. Coughlin

John H. Foote
H. Mark Goetzman
Bryan H. Guidash
Michael J. Kalish
Michael R. Kieffer

Charles E. McWilliams
Antonia E. Miller
J. Randall Minchew
Andrew A. Painter
M. Catharine Puskar

Kathleen H. Smith
Lynne J. Strobel
Erin M. Thiebert
Garth M. Wainman
Matthew A. Westover

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

Christopher Consultants, Ltd.
9900 Main Street, Suite 400
Fairfax, Virginia 22031

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)

William R. Zink
Jeffrey S. Smith

(check if applicable) [ ] There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.
SPECIAL EXCEPTION AFFIDAVIT

DATE: June 8, 2021
(enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-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, and number, street, city, state, and zip code)
None

(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 “Special Exception Affidavit 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.
SPECIAL EXCEPTION AFFIDAVIT

DATE: June 8, 2021
(enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-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 “Special Exception Attachment to Par. 2” form.
SPECIAL EXCEPTION AFFIDAVIT

DATE: June 8, 2021
(enter date affidavit is notarized)

for Application No. (s): SE 2021-DR-004
(county-assigned application number(s), to be entered by County Staff)

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 “Special Exception 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:

Kathryn R. Taylor, attorney/agent
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 8th day of June 2021, in the State/Comm. of Virginia, County/City of Arlington.

My commission expires: 11/30/2023

[Notary Public Stamp]
Via Hand Delivery

Tracy Strunk, Director
Zoning Evaluation Division
Fairfax County Department of Planning & Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Proposed Special Exception Application
Fairfax County Tax Map Reference: 41-1 ((1)) 62B
Applicant: Falls Church Propco LLC

Dear Ms. Strunk:

Please accept this letter as a statement of justification for a special exception to permit a change in ownership on property identified among the Fairfax County tax map records as 41-1 ((1)) 62B (the “Subject Property”).

The Applicant is the contract purchaser of approximately 7.67 acres located between Powhatan Street (Route 2833) to the east and Wicomico Street (Route 2839) to the west. Included in the Dranesville Magisterial District, the Subject Property is split-zoned to the R-1 and R-4 Districts. Residential development surrounds the Subject Property, which is developed as the Powhatan Nursing Home. The Powhatan Nursing Home has access to Powhatan Street.

Powhatan Nursing Home has been a part of the community since its construction in 1965. The facility has been family-owned and operated since its establishment. The Subject Property’s zoning history begins with the Board of Zoning Appeals’ (the “BZA”) approval of a special permit application to permit the construction and operation of a nursing and convalescent home with a total of 160 beds on January 9, 1962. The BZA granted an extension of the special permit on September 22, 1964 as construction on the nursing home had not yet commenced. A site plan was subsequently processed and approved for a building with 93 beds. The BZA granted a second special use permit, referenced as S-16-72, on June 14, 1972 subject to specific conditions, including a maximum of 160 beds. Special permit S-16-72 currently governs the Subject Property. The existing improvements were constructed in accordance with As-Built Site Plan No. 1116 that includes a building addition to the original construction and 89 parking spaces.
The Applicant proposes to purchase Powhatan Nursing Home and continue its existing operations. According to the approval conditions listed in S-16-72, construction of additional structures, changes in use, or inclusion of additional uses will cause the permit to be re-evaluated by the BZA. The conditions further specify “changes” to include changes in ownership, among others. Since the special permit approval in 1972, the Fairfax County Zoning Ordinance (the “Zoning Ordinance”) has been amended, such that a nursing home use is no longer allowed by special permit, but the approval of a special exception in the R-1 and R-4 Districts. Although the Applicant does not propose any physical changes to the Subject Property, the type of use, or an increase in the number of beds, it has been determined that a change in the ownership requires the approval of a special exception. Therefore, the Applicant proposes a special exception for the single purpose of permitting a change in the ownership of the Subject Property.

The Applicant is an experienced operator of age-restricted housing. Upon the purchase of the Powhatan Nursing Home, the Applicant will continue the nursing home use, which offers valuable and beneficial services to the surrounding community. These services include long-term and short-term care to individuals who require assistance with daily living. The care provided includes rehabilitation programs, physical therapy and occupational therapy. The Applicant plans minor exterior and interior repairs to refurbish and upgrade the aging building.

In accordance with the Zoning Ordinance requirements of Section 9-011, please accept the following information regarding the Applicant’s proposal:

- **Type of Operation:** A nursing care facility with accommodations and services for individuals requiring constant care. Maintaining the current operations, the Applicant will provide housing, meals, programming, and supportive care services associated with the activities of daily living. A nursing care facility is included within the Zoning Ordinance definition of a medical care facility.

- **Hours of Operation:** 24 hours a day/7 days a week.

- **Estimated Number of Residents:** The maximum number of residents is 160, as 160 beds are permitted within the building.

- **Number of Employees:** Based on anticipated occupancy, the proposed number of employees is a maximum of 50 individuals on the Subject Property at any one time. Employees include nurses, aides, physical therapists, kitchen staff, administrative staff, and maintenance. The total number of employees is approximately 120. The building operates with three shifts of health care employees per day. The shift times are approximately 7:00 a.m. to 3:00 p.m.; 3:00 p.m. to 11:00 p.m.; and 11:00 p.m. to 7:00 a.m. The shift with the maximum number of employees present is 7:00 a.m. to 3:00 p.m.

- **Total Number of Vehicle Trips:** Given that employees work on shifts and arrivals/departures are staggered, traffic does not adversely affect the surrounding
residential neighborhood. The peak hour for arrivals at the Subject Property is between 7:30 a.m. and 8:30 a.m. and for departures between 2:30 p.m. and 3:30 p.m. Approximately 15 to 20 visitors arrive and depart the Subject Property daily. Visitors include vendors and those who are visiting the residents. The building is currently closed to resident visitors because of the pandemic. During normal times, the number of daily visitors to residents increases on special occasions or holidays such as Mother’s Day, Father’s Day and Christmas. These visitors primarily arrive and depart from the Subject Property in the evening and on Saturdays and Sundays, which are non-peak traffic hours. Lastly, residents do not own or maintain vehicles on the Subject Property.

- **The Vicinity or General Area to be Served:** The existing use serves a radius of approximately 10 to 15 miles and primarily serves McLean and Falls Church.

- **Architecture:** The existing building is brick and stone with most of the building having a flat roof. Slope roof elements are located at building entrances. The Applicant will retain the existing building located on the Subject Property. While the Applicant plans to make minor repairs and maintenance improvements, such improvements will not modify the overall appearance of the building nor result in physical changes to the Subject Property.

- **Hazardous Materials:** The Applicant is not aware of any hazardous or toxic substances located on the Subject Property. Given the nature of the existing use, such use does generate, utilize, store, treat or dispose of hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; and/or hazardous waste as set forth in Commonwealth of Virginia/Department of Waste Management VR 672-10-1-Virginia Hazardous Waste Management Regulations. To the Applicant’s best knowledge, these substances are and will continue to be utilized, stored, and disposed of in accordance with said regulations.

- **Modifications:** To the best of the Applicant’s knowledge, the existing use conforms to the provisions of all applicable ordinance regulations, adopted standards and any applicable conditions except as identified herein. Any non-conforming elements of the existing use will remain as legally established non-conformities:
  - A waiver of the transitional screening requirements along all property lines as set forth in the Zoning Ordinance, Section 13-303.3.B. The Applicant requests this waiver in favor of the existing mature vegetation surrounding the Subject Property, which will continue to be utilized for screening purposes.
A waiver of the barrier requirements along all property lines as set forth in the Zoning Ordinance, Section 13-304.4. The Applicant requests that the existing mature vegetation serve in lieu of formal barriers as provision of the required barriers may result in the displacement of such vegetation. In addition, the depth of the existing setbacks from all property lines (302.7 feet to the west; 101.3 feet to the north; 164.7 feet to the east; and 99.9 feet to the south) and the presence of the existing mature landscaping ensures adequate buffering between the existing building and the surrounding single-family, detached dwellings.

In addition to the general standards of Section 9-011, the Applicant's proposal meets the additional standards for medical care facilities as detailed in Section 9-308 of the Zoning Ordinance as follows, excepted as noted herein:

- Though the Powhatan Nursing Home has been operating without issue since 1965, and there are no changes proposed to the existing use or the number of beds, the Applicant will seek a recommendation from the Health Care Advisory Board.

- The existing use adequately accommodates service vehicles with access to the building at the rear entrance.

- The existing facility on the Subject Property fronts and has direct access to Powhatan Street, which is a collector street.

- The existing building is located more than 164 feet to any street line. The abutting properties to the north and south are zoned to the R-4 District. The existing building is located 101.3 feet from the northern property line, and is 99.9 feet from the southern property line. Because the existing building is located closer than 100 feet from the southern property line by 0.1 foot, the Applicant requests that this standard be modified by the Board of Supervisors in favor of the existing conditions, which includes an existing parking lot and existing mature vegetation.

- The Subject Property contains more than 5 acres.

Lastly, the Applicant's proposal to acquire and operate an existing medical care facility is in conformance with the general standards for special exceptions found in Section 9-006 of the Zoning Ordinance. The Applicant meets the standards as follows:

- The existing nursing care facility is in harmony with the recommendations of the Comprehensive Plan as a compatible use to the surrounding stable residential neighborhood.
The existing use is in harmony with the general purpose and intent of the applicable zoning district regulations. The Subject Property is zoned to the R-1 and R-4 Districts which are intended to provide for residential uses and other uses that are compatible with the character of these districts and the intent of the Zoning Ordinance. The existing use serves the needs of Fairfax County’s aging population. The existing building is predominately one-story and residential in character. The use is compatible with the character of the R-1 and R-4 Districts and the intent of the Zoning Ordinance.

The use is harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the Plan. The nursing care facility has been a part of the community since 1965 and fits within the fabric of the surrounding area. Generous setbacks are provided to all property lines and the building height is lower than permitted for residential uses in the R-1 and R-4 Districts. The proposed use does not generate impacts on peak traffic and does not generate noise or lighting that adversely impacts adjacent properties.

The proposed use does not generate hazardous pedestrian and vehicular traffic that will conflict with existing and anticipated traffic in the neighborhood. The Subject Property has a direct access to Powhatan Street and does not create cut-through traffic in adjacent residential neighborhoods nor does it generate typical peak hour vehicular trips.

The Subject Property includes mature landscaping around its perimeter to screen the existing building.

The Subject Property has sufficient open space to meet the requirements of the R-1 and R-4 Districts.

The existing improvements are served by adequate utility, drainage, parking, loading and other necessary facilities to serve the use.

All signs shall meet the requirements of Article 12 of the Zoning Ordinance.

The Applicant’s proposal to acquire and maintain the existing use on the Subject Property will benefit the surrounding residential neighborhoods. The nursing care facility is appropriately located in a residential setting, and the Applicant’s proposal will continue to provide much needed housing and services for seniors who live in Fairfax County. It will also allow seniors to continue to live in Fairfax County in proximity to family and friends.

Should you have any questions regarding the above or require additional information, please do not hesitate to contact me. I would appreciate the continued processing of the pending special exception application in anticipation of the Planning Commission hearing scheduled on July 21, 2021.
As always, I appreciate your assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

Kathryn R. Taylor

cc: Cathy Lewis  
    Curtis Rowlette  
    Derek Vucich  
    Laurie Beth Donnachie  
    Lynne J. Strobel
Appendix 4

Page 199

POWHATAN NURSING (continued)
June 14, 1972

In application No. S-16-72, application by Powhatan Associates, under Sec. 30-7.2.6.1.8
of the Zoning Ordinance, to permit addition to nursing home, on property located at 2100
N. Powhatan Street, Branesville District, also known as tax map 41-l(1)(1)628,
County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following
resolution:

WHEREAS, the captioned application has been properly filed in accordance with the
requirements of all applicable State and County Codes and in accordance with the by-laws
of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper,
pasting of the property, letters to contiguous and nearby property owners, and a public
hearing by the Board of Zoning Appeals held on the 14th day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is M. Roy Nicholsen, Trustee.
2. That the present zoning is R-10 and R-1.
3. That the area of the lot is 7.664 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County and State Codes is required.
6. That a Special Use Permit was granted by the B.Z.A. on January 9, 1962.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards
for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning
Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby
granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without
further action of this Board, and is for the location indicated in the application and
is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation
has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plat submitted
with this application. Any additional structures of any kind, changes in use or
additional uses, whether or not these additional uses require a use permit, shall be cause
for this use permit to be re-evaluated by this Board. These changes include, but are
not limited to, changes of ownership, changes of the operator, changes in sign, and
changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of
this county. The applicant shall be himself responsible for fulfilling his obligation
to obtain certificates of occupancy and other like through established procedures and this
special use permit shall not be valid until this has been complied with.
5. The resolution pertaining to the granting of the Special Use Permit shall be posted
in a conspicuous place along with the Certificate of Occupancy on the property of the
use and be made available to all Departments of the County of Fairfax during the
hours of operation of the permitted use.
6. The maximum number of beds shall be 150.
7. The minimum number of parking spaces shall be 115.
(This number was amended on June 28, 1972 to 89 parking spaces)
8. See resolution to allow this one
9. The operation shall be subject to compliance with the inspection report, the
requirements of the Fairfax County Health Department, the State Department of Welfare
and Institutions.
10. Landscaping, screening and planting shall be as approved by the Director of County
Development and as set forth in the Staff Report and as shown on plat and renderings.
11. Dedicate and construct required improvements on Powhatan Street with no ingress
and egress on Winchuck Street.
12. The applicant shall contribute the required pro-rata share per impervious acre for
the site.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith read the Staff report since the motion referred to it. It stated:

This office has reviewed the plan dated May 19, 1972, and would offer the following
comments:

The proposed additional parking area along the south property line encroaches
into the required setback area established by the Zoning Administrator's office.
This setback line was established by allowing no parking closer to the south
property line than any existing parking spaces.
The landscape plan has been reviewed by the landscape architect in this office and the plan is satisfactory, subject to the following comments:

1. The white pines as shown on the plan should be a minimum of 6' in height and spaced a minimum of 5' on center in staggered configuration.

2. A 4' hedge or wall should be provided along the parking spaces along the south property line. These spaces are designated as numbers 27 through 58 on the subject plan.

3. The pine planting on the subject plan should be continued around the west parking lot to further screen that lot from those residential units to the north in the Nantucket subdivision.

At the meeting of June 28, 1972, the Board made the following resolution regarding the above case which changed the parking requirement.

Mr. Long moved:

In application No. S-1672, application by Powhatan Associates to permit addition to nursing home on property located at 2100 North Powhatan Street, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the Board of Zoning Appeals has made the following finding of facts:

1. The use permit was granted by the Board, June 19, 1972.

2. The consensus of this board was there be a minimum parking required or allowed for this application as set forth in motion adopted on May 24, 1972.

3. The required parking for this use is 90 spaces.

4. The permit granted set forth 118 parking spaces.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby amended as follows:

1. There be a maximum of 90 parking spaces.

2. The areas where the parking is deleted be utilized for landscaping as approved by the Division of Land Use Administration.

Mr. Barnes seconded this motion and it passed unanimously.
DATE: June 23, 2021

TO: Board of Supervisors

FROM: Marlene W. Blum, Chairman
Health Care Advisory Board

SUBJECT: Public Hearing on Falls Church Propco, LLC’s Special Exception Application SE 2021-DR-004 to acquire and rebrand Powhatan Nursing Home as Vierra Falls Church

On June 14, 2021, a public meeting was held to review the above-referenced Special Exception zoning application of Falls Church Propco, LLC (SE 2021-DR-004) to acquire and rebrand Powhatan Nursing Home as Vierra Falls Church. The facility is located at 2100 Powhatan Street, Falls Church, Virginia 22043 in the Dranesville Magisterial District.

As the Board of Supervisors is aware, the Zoning Ordinance specifies that the Health Care Advisory Board (HCAB) review zoning applications for medical care facilities. The HCAB reviews these applications from the perspective of financial accessibility to clients, community and medical need, institutional need, cost, proposed staffing levels and qualifications, and financial feasibility.

Derek Vucich, Modalia Capital – a private family investment firm – and Kathryn R. Taylor, Associate Attorney, Walsh, Colucci, Lubeley & Walsh, P.C, presented Falls Church Propco, LLC’s proposal and answered HCAB questions.

After reviewing the applicant’s submission, the HCAB determined that the applicant has met the HCAB’s Special Exception Review Criteria. The application is reasonable in terms of access, need, operations, and financial accessibility, which includes the applicant’s commitment to secure Medicaid Certification for an estimated 20 beds, and as such, the HCAB recommends that the Board approve the applicant’s request for a change in ownership to acquire Powhatan Nursing Home.

Facility/Program
Operational since 1965, Powhatan Nursing Home is a 160 bed, private-pay Skilled Nursing Facility (SNF). Currently, 22 residents are receiving care at Powhatan Nursing Home. The Nursing Home offers two primary programs: (1) The CarriageWay Home and (2) Long-Term Care. The Applicant will continue both these programs upon the transfer of ownership.
The CarriageWay Home is a program that provides short-term rehabilitation to residents requiring physical, occupational, and/or speech therapy. These residents typically arrive after an acute injury, disability, illness or surgery in the hospital. The program’s goal is to quickly and safely rehabilitate the resident, so he or she is able to regain and/or achieve higher function in order to return home.

The Long-Term Care program is for residents who are looking to make a permanent move to the Nursing Home. These residents and their families are seeking 24/7 nursing care in a safe and supportive environment. The Long-Term Care residents have access to all CarriageWay Home therapies.

With the exception of seeking Medicare/Medicaid certification (see Accessibility, financial below), the applicant is not proposing to change the SNF’s current number of beds, expand its existing use, or make physical changes to the facility. Plans to develop a small memory care unit are being considered, but would be accommodated within the facility’s existing blueprint and the operator’s safety and security protocols.

Institutional/Community Need
The Health Systems Agency of Northern Virginia (HSANV) provided SNF utilization and occupancy data to the HCAB. As the Board is aware, many of Virginia's nursing homes date back to the 1970s and 1980s. The Virginia Medicaid program, the principal source of payment for skilled nursing care, stimulated and sustained the development of SNFs statewide. Unfortunately, poor planning and changes to the regulatory landscape resulted in excess nursing home capacity at levels that could not be absorbed easily or quickly. The Virginia General Assembly responded and imposed a moratorium on nursing home development in 1988.

The moratorium remained in place for eight years before being replaced in 1996 with a prospective planning process that limits nursing home development to those areas where a specific need is identified and quantified in a published “request for applications” (RFA). Under this process, applications for nursing care facilities and beds may not be filed (i.e., will not be accepted) unless the Commissioner of Health has determined that beds may be needed in a given planning area.

Northern Virginia (Planning District 8) is one of these districts. The Virginia Department of Health’s Division of Certificate of Public Need (DCOPN) has determined a current need for several hundred additional nursing home beds in Northern Virginia, with a projected need for 284 beds in 2022.

Accessibility
Geographic
The current facility is located within a residential community where major transportation arteries, such as Interstate 66, Virginia State Route 29, the Dulles Toll Road, and Old Dominion Drive, are located proximate to the site. Additionally, there are three major hospital facilities within 10 miles of the facility – Virginia Hospital Center, Inova Fairfax, and Inova Alexandria.
Financial

The nursing home is currently a private-pay only facility, limiting the population that can afford to pay for skilled nursing services out-of-pocket. Therefore, the applicant is seeking certifications that will make the facility accessible to residents who utilize Medicare or Medicaid programs.

As the Board is aware, the Medicare and Medicaid programs may be used to cover nursing home expenses. While Medicare does not cover long term care of any kind, it does pay for short-term rehabilitation (up to 100 days) in a Medicare-certified SNF following a qualifying hospital stay. Recipients who are eligible for this benefit have typically been hospitalized or discharged to a rehab facility to recover from a serious illness, injury, or operation and have a documented need for SNF services. Common medical issues that require senior rehabilitation include pneumonia, stroke and injuries caused by serious falls.

Medicaid programs for seniors and the disabled cover various long-term care services but only for those individuals who meet the state’s financial eligibility requirements and have a documented medical need for a skilled level of care. To qualify, beneficiaries must have limited income and assets and have inadequate funds to pay for nursing home care.

Based on its written submission to the HCAB, the applicant has filed all paperwork with the Centers for Medicare and Medicaid Services (CMS) to obtain Medicare Certification. The applicant projects that the Certification survey (i.e. inspection) will occur before the end of June 2021 with Medicare Certification granted within 60 days of the survey completion. At this time, the Applicant expects issuance of the Medicare Certification by September of 2021, at which time Medicare patients will be accepted into the facility.

Once the Applicant is issued its Medicare Certification, the Applicant will then apply for Medicaid Certification. The applicant estimates that the submission of a complete application for such Certification will occur roughly 60 days after the issuance of the Medicare Certification. The waiting period between these Certifications will allow the facility’s staff to adjust to the significantly more comprehensive regulations imposed by CMS. Once the Medicaid Certification application is filed, the Applicant anticipates a 30-day review period before the Medicaid Certification is issued. Upon receipt of its certification, the facility will then accept Medicaid patients.

While nationwide, approximately 85% of nursing home residents are Medicare/Medicaid recipients, the applicant anticipates that the facility’s Fairfax County location will allow for a higher proportion of private pay residents. Therefore, the applicant anticipates about 35% of its population will be private pay while 65% will be Medicare/Medicaid.

The facility’s purchase and transfer of ownership will be completed 100% with cash with stabilized operating revenue projected at $16 million, expenses at $14 million, and income at $2 million. The applicant stated that current residents will not have their rates increase. However, charges for new residents are expected to increase 20% for a private room. The new rate structure includes:

- Private Room/Private Bath: $440/day
- Private Room/Shared Bath: $400/day
- Semi-Private Room/Shared bath: $330/day
Individuals with Medicare or Medicaid will use these government programs to pay for their stay/services.

**Staffing Levels, Qualifications, and Training**

In Virginia, staffing in nursing homes is evaluated on an “hours per resident day” basis. It is further broken down into categories for Registered Nurses, Licensed Practical Nurses, and Certified Nurse Aides. It is important to note that these hours only take into account staff that provide direct care to the residents. It generally does not include the Director of Nursing, Director of Quality Assurance/Infection Prevention, and other nursing administrative staff. While some operators try to cut staffing as much as possible to save money, the applicant stated it does not use this approach, citing its 5-star rating at its owned and operated Carriage Hill Bethesda.

Nurse staffing will be divided into three shifts: 7am-3pm (Day Shift), 3pm-11pm (Evening Shift), and 11pm-7am (Night Shift).

<table>
<thead>
<tr>
<th>Proposed Nurse Staffing Levels</th>
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<tbody>
<tr>
<td>Total Staffing Hours (Per Resident Day)</td>
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<tr>
<td>Registered Nurse Hours (Per Resident Day)</td>
</tr>
<tr>
<td>Licensed Practical Nurse Hours (Per Resident Day)</td>
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<tr>
<td>Certified Nurse Aide Hours (Per Resident Day)</td>
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<tr>
<td>4.25</td>
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<td>0.75</td>
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For example, if there are 96 residents in the building, there would be an average of 4 Registered Nurses on each shift, 3 Licensed Practical Nurses on each shift, and 10 Certified Nurse Aides on each shift. There is 24/7 nurse staffing. At this time, personnel are not restricted from working additional shifts at other long term care facilities.

Other nursing staff will include the Director of Nursing, Assistant Director of Nursing, Director of Quality Assurance, MDS Coordinators, and a Director of Medical Records.

Non-direct care, but equally important personnel will include the following departments: Administration, Dietary, Housekeeping, Maintenance, Social Services, and Activities. Should the applicant move forward with developing a small memory care unit, additional enrichment staff (e.g., activity assistants) will be hired.

With respect to recruitment, the applicant stated they have received several inquiries from outside individuals who have expressed interest in leaving a chain of corporate-owned facilities for a family-owned environment, which they cite has higher retention and lower attrition. While a transfer in ownership for some properties might entail replacing existing personnel, the applicant stated it makes every effort to retain staff to enhance continuity of care. At this time, all but two of the original staff have decided to remain.

**Safety and Security**

While the perimeter of the property does not include an exterior fence, the applicant informed the HCAB that upon entering into its agreement with the current owners, a maglock (i.e., magnetic locks) system was installed. All exterior doors are equipped with a keypad entry, which is then programmed into the fire alarm system to allow exit in the event of a fire or other emergency.
The HCAB reviewed the most recent inspection survey for Powhatan Nursing Home, dated January 4, 2019 and the inspection reports, dated February 14, 2020 – December 20, 2020 for the applicant’s current SNF in Bethesda, MD – Carriage Hill Bethesda – which has earned CMS’ highest quality rating of five stars.

Community Feedback:
As required by the Zoning Ordinance, the HCAB made attempts to solicit information and comment from SNF providers within a three-to-five-mile radius of the proposed application. Public meeting notices were sent to Annandale Healthcare Center; The Springs, Fountains at Washington House; Goodwin House Bailey’s Crossroads; Goodwin House Alexandria; Arleigh Burke Pavilion; Leewood Healthcare Center; and Iliff Nursing and Rehabilitation Center. Additionally, the HCAB contacted the Northern Virginia Ombudsman to facilitate the distribution of the public hearing notice to the Resident Council President at Powhatan Nursing Home. The HCAB did not receive any comments or statements from the above entities and no one asked to speak during the hearing.

Professional and community-based organizations were also notified of Powhatan’s pending transfer of ownership. The HCAB did not receive any comments or statements from these organizations.

Recommendation:
Based on the information provided by Falls Church Propco, LLC, the HCAB has determined that the applicant has met the HCAB’s Special Exception Review Criteria, demonstrating a need for the continued operation of the skilled nursing facility, with a transfer of ownership from Powhatan Nursing Home to Vierra Falls Church. The application is reasonable in terms of access, need, operations, and financial accessibility (based on the applicant's commitment to seek Medicaid certification and increasing the net supply of the region's Medicaid certified nursing home beds).

Therefore, the HCAB recommends that the Board approve the applicant's proposal. Should the Board have further questions, please contact the HCAB. Thank you.

cc: Bryan J. Hill, County Executive
    Chris Leonard, Deputy County Executive
    Jill Cooper, Executive Director, Planning Commission
    John C. Ulfelder, Planning Commission, Dranesville District
    Kathryn R. Taylor, Associate, Walsh, Colucci, Lubeley & Walsh, P.C.
    Catherine Lewis, Branch Chief, Zoning Evaluation Division, Department of Planning & Development
    Gloria Addo-Ayensu, MD, MPH, Director of Health
    Jessica Werder, Deputy Director for Public Health Operations
    Sharon Arndt, Director, Community Health Development
    Health Care Advisory Board
RESIDENTIAL DISTRICT REGULATIONS

PART 1  3-100 R-1 RESIDENTIAL DISTRICT, ONE DWELLING UNIT/ACRE

3-101 Purpose and Intent
The R-1 District is established to provide for single family detached dwellings; to allow other selected uses which are compatible with the low density residential character of the district; and otherwise to implement the stated purpose and intent of this Ordinance.

3-102 Permitted Uses
1. Accessory uses and home occupations as permitted by Article 10.
2. Agriculture, as defined in Article 20.
3. Dwellings, single family detached.
4. Public uses.

3-103 Special Permit Uses
For specific Group uses, regulations and standards, refer to Article 8.
1. Group 2 - Interment Uses.
2. Group 3 - Institutional Uses.
3. Group 4 - Community Uses.
4. Group 5 - Commercial Recreation Uses, limited to:
   A. Commercial swimming pools, tennis courts and similar courts
5. Group 6 - Outdoor Recreation Uses.
7. Group 8 - Temporary Uses, limited to:
   A. Carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities
   B. Construction material yards accessory to a construction project
   C. Contractors’ offices and equipment sheds to include trailers accessory and adjacent to an active construction project
   D. Subdivision and apartment sales and rental offices
E. Temporary dwellings or mobile homes
F. Temporary farmers’ markets
G. Temporary mobile and land based telecommunications testing facility
H. Temporary portable storage containers

8. Group 9 - Uses Requiring Special Regulation, limited to:
   A. Barbershops or beauty parlors as a home occupation
   B. Home professional offices
   C. Sawmilling of timber
   D. Veterinary hospitals
   F. Accessory dwelling units

3-104 Special Exception Uses
For specific Category uses, regulations and standards, refer to Article 9.

2. Category 2 - Heavy Public Utility Uses, limited to:
   A. Electrical generating plants and facilities
   B. Landfills
   C. Water purification facilities
3. Category 3 - Quasi-Public Uses, limited to:
   A. Alternate uses of public facilities
   B. Child care centers and nursery schools
   C. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education
   D. Colleges, universities
   E. Congregate living facilities
   F. Cultural centers, museums and similar facilities
RESIDENTIAL DISTRICT REGULATIONS

G. Dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls
H. Independent living facilities
I. Medical care facilities
J. Private clubs and public benefit associations
K. Private schools of general education
L. Private schools of special education
M. Quasi-public parks, playgrounds, athletic fields and related facilities

4. Category 4 - Transportation Facilities.

5. Category 5 - Commercial and Industrial Uses of Special Impact, limited to:
   A. Baseball hitting and archery ranges, outdoor
   B. Bed and breakfasts
   C. Commercial off-street parking in Metro Station areas as a temporary use
   D. Establishments for scientific research and development
   E. Funeral chapels
   F. Golf courses, country clubs
   G. Golf driving ranges
   H. Kennels, animal shelters
   I. Marinas, docks and boating facilities, commercial
   J. Miniature golf courses ancillary to golf driving ranges
   K. Offices
   L. Plant nurseries
   M. Veterinary hospitals, but only ancillary to kennels

6. Category 6 – Miscellaneous Provisions Requiring Board of Supervisors’ Approval:
PART 4 3-400 R-4 RESIDENTIAL DISTRICT, FOUR DWELLING UNITS/ACRE

3-401 Purpose and Intent
The R-4 District is established to provide for single family detached dwellings at densities set forth in Sect. 408 below; to provide for affordable dwelling unit developments; to allow other selected uses which are compatible with the low density residential character of the district; and otherwise to implement the stated purpose and intent of this Ordinance.

3-402 Permitted Uses
1. Accessory uses and home occupations as permitted by Article 10.
2. Affordable dwelling unit developments.
3. Dwellings, single family detached.
4. Public uses.

3-403 Special Permit Uses
For specific Group uses, regulations and standards, refer to Article 8.
1. Group 2 - Interment Uses.
2. Group 3 - Institutional Uses, limited to:
   A. Churches, chapels, temples, synagogues and other such places of worship
   B. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education
   C. Convents, monasteries, seminaries and nunneries
   D. Group housekeeping units
   E. Home child care facilities
3. Group 4 - Community Uses.
4. Group 5 - Commercial Recreation Uses, limited to:
   A. Commercial swimming pools, tennis courts and similar courts
5. Group 7 - Older Structures, limited to:
   A. Antique shops
   B. Art and craft galleries
FAIRFAX COUNTY ZONING ORDINANCE

C. Rooming houses
D. Summer theatres

6. Group 8 - Temporary Uses, limited to:
   A. Carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities
   B. Construction material yards accessory to a construction project
   C. Contractors’ offices and equipment sheds to include trailers accessory and adjacent to an active construction project
   D. Subdivision and apartment sales and rental offices
   E. Temporary dwellings or mobile homes
   F. Temporary farmers’ markets
   G. Temporary mobile and land based telecommunications testing facility
   H. Temporary portable storage containers

7. Group 9 - Uses Requiring Special Regulation, limited to:
   A. Home professional offices
   B. Accessory dwelling units

3-404 Special Exception Uses
For specific Category uses, regulations and standards, refer to Article 9.


2. Category 3 - Quasi-Public Uses, limited to:
   A. Alternate uses of public facilities
   B. Child care centers and nursery schools
   C. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education
   D. Colleges, universities
RESIDENTIAL DISTRICT REGULATIONS

E. Conference centers and retreat houses, operated by a religious or nonprofit organization

F. Congregate living facilities

G. Cultural centers, museums and similar facilities

H. Dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls

I. Independent living facilities

J. Medical care facilities

K. Private clubs and public benefit associations

L. Private schools of general education

M. Private schools of special education

N. Quasi-public parks, playgrounds, athletic fields and related facilities

3. Category 4 - Transportation Facilities, limited to:
   A. Electrically-powered regional rail transit facilities
   B. Regional non-rail transit facilities

4. Category 5 - Commercial and Industrial Uses of Special Impact, limited to:
   A. Commercial off-street parking in Metro Station areas as a temporary use
   B. Convenience centers
   C. Funeral chapels
   D. Golf courses, country clubs
   E. Marinas, docks and boating facilities, commercial
   F. Offices
   G. Plant nurseries

5. Category 6 – Miscellaneous Provisions Requiring Board of Supervisors’ Approval:

Refer to Article 9, Special Exceptions, Part 6, Miscellaneous Provisions Requiring Board of Supervisors’ Approval, for provisions which may qualify or supplement these district regulations.
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.
**SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP):**

Family detached dwellings. The site plan is required to assure that development complies with the Zoning 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.

**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 15.1-451) 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.

**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.

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**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 15.1-451) 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.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>A&amp;F</td>
<td>Agricultural &amp; Forestal District</td>
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<tr>
<td>ADU</td>
<td>Affordable Dwelling Unit</td>
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<tr>
<td>ARB</td>
<td>Architectural Review Board</td>
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<tr>
<td>BMP</td>
<td>Best Management Practices</td>
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<tr>
<td>BOS</td>
<td>Board of Supervisors</td>
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<tr>
<td>BZA</td>
<td>Board of Zoning Appeals</td>
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<tr>
<td>COG</td>
<td>Council of Governments</td>
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<tr>
<td>CBC</td>
<td>Community Business Center</td>
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<tr>
<td>CDP</td>
<td>Conceptual Development Plan</td>
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<tr>
<td>CRD</td>
<td>Commercial Revitalization District</td>
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<tr>
<td>DOT</td>
<td>Department of Transportation</td>
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<tr>
<td>DP</td>
<td>Development Plan</td>
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<tr>
<td>DPWES</td>
<td>Department of Public Works and Environmental Services</td>
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<tr>
<td>DPZ</td>
<td>Department of Planning and Zoning</td>
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<tr>
<td>DU/AC</td>
<td>Dwelling Units Per Acre</td>
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<tr>
<td>E QC</td>
<td>Environmental Quality Corridor</td>
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<tr>
<td>FAR</td>
<td>Floor Area Ratio</td>
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<tr>
<td>FDP</td>
<td>Final Development Plan</td>
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<tr>
<td>GDP</td>
<td>Generalized Development Plan</td>
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<td>GFA</td>
<td>Gross Floor Area</td>
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<tr>
<td>HC</td>
<td>Highway Corridor Overlay District</td>
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<tr>
<td>HCD</td>
<td>Housing and Community Development</td>
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<td>LOS</td>
<td>Level of Service</td>
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<tr>
<td>Non-RUP</td>
<td>Non-Residential Use Permit</td>
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<td>OSDS</td>
<td>Office of Site Development Services, DPWES</td>
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<tr>
<td>PCA</td>
<td>Proffered Condition Amendment</td>
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<td>Planned Development Commercial</td>
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<td>Planned Development Housing</td>
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<tr>
<td>PFM</td>
<td>Public Facilities Manual</td>
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<td>Planned Residential Community</td>
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<td>RC</td>
<td>Residential-Correction</td>
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<td>VPH</td>
<td>Vehicles per Hour</td>
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<td>Washington Metropolitan Area Transit Authority</td>
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<td>WS</td>
<td>Water Supply Protection Overlay District</td>
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<td>ZED</td>
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<td>ZPRB</td>
<td>Zoning Permit Review Branch</td>
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