



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

September 19, 2023

Lynne J. Strobel  
Walsh Colucci Lubeley & Walsh PC  
2200 Clarendon Blvd Suite 1300  
Arlington, Virginia 22201-3359

Re: [INTZED-2023-FR-00043](#); RZ 2003-LE-010; NV Flagging, LLC; Tax Map: 99-2 ((1)) 25, 26, 27, 28;  
Site and Building Modifications.

Dear Ms. Strobel:

This letter is in response to your letter requesting a determination of whether proposed site and building modifications would be in substantial conformance with the governing approvals. This determination is based upon your letter, and your interpretation Exhibit, titled "Cinder Bed Road – Phase I Zoning Determination Exhibit," Dated, May 11, 2023, prepared by Pennoni. Official files are maintained by the Department of Planning and Development and are available by searching the [Planning and Land Use System \(PLUS\)](#) database online. Copies of your letter and relevant documents are attached for reference.

The 7.12-acre property is located on the east side of Cinder Bed Road, approximately 1,000 feet north of its intersection with Hill Park Drive in the Lee District. On October 20, 2003, the Board of Supervisors approved RZ 2003-LE-010, subject to proffers, to rezone the property from R-1 to the I-5 District. The approved Generalized Development Plan (GDP) and proffers authorized an industrial development consisting of four buildings with 125 surface parking spaces, totaling 95,187 square feet (SF) and 32 percent open space. A determination letter from this office dated January 4, 2021, found that developing the property in three phases was in substantial conformance with the approvals.

As I understand it, you would like a determination as to whether proposed site and building modifications would be in substantial conformance with the govern approvals. In your letter, you state that you continue to propose to implement the improvements shown on the GDP in phases. However, instead of three phases, the improvements would be completed in two. Phase One will consist of a single building located on the northern portion of the property in the location of Building A as shown on the GDP. Previously approved square footage associated with Building D would be combined with Building A for a total of 53,975 square feet, which is consistent with the square footage shown for Buildings A and D on the GDP. The combination will be in the same footprint of Building A as shown on the GDP but would include a mezzanine to account for the square footage from Building D. You have confirmed that the mezzanine would not increase the height above what is permitted on the GDP.

With the combination of buildings A and D, a reconfiguration of parking is also proposed in the same general location adjacent to Building A and in the area of parking and the approved building footprint for Building D. Your exhibit shows that 60 parking spaces would be constructed with Phase One consistent with the amount of parking shown on the GDP for both buildings. Parking and a travel lane have been eliminated parallel to Cinder Bed Road and replaced with "grasscrete" to provide a fire lane. Loading for the buildings has been consolidated so that four loading spaces are provided in lieu of seven spaces shown on the GDP, which will meet the minimum zoning ordinance requirements. The revised layout for Phase Two will consist of Buildings B and C as shown on



PLANNING & DEVELOPMENT

**Department of Planning and Development**  
Zoning Evaluation Division  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia, 22035-5509  
Phone: 703 324-1290 / Fax: 703 324-3924  
[www.fairfaxcounty.gov/planning-development/](http://www.fairfaxcounty.gov/planning-development/)

Lynne Strobel  
Site and building modifications.  
Page 2

the GDP and will be comprised of 12,820 square feet of warehouse and 28,200 square feet of warehouse, respectively. An additional 65 parking spaces will be constructed with this phase.

With the revised layouts, you state you will continue to honor the limits of the EQC, the floodplain, and clearing and grading in accordance with the GDP. Your exhibit shows that you will install a rain garden to the south of the proposed parking area and possibly an underground stormwater management vault. You state the rain garden will consist of shrubs and grasses and will meet current standards for stormwater management on site. Lastly, you are proposing to shift Building A closer to Cinder Bed Road. Your exhibit shows the shift would result in a decrease from 52 feet to 40 feet in the setback from the Cinder Bed Road right-of-way. While the dimension was shown on the GDP, the record of the case indicates the applicant's intent was to show compliance with the minimum required setback for the district of 40 feet. Further, with this footprint adjustment, you have increased the dimension between the building and the adjacent Hawthorne residential community from the required 25-foot buffer to 35 feet with landscaping consistent with the requirements for transitional screening. All other landscaping as shown on the GDP will continue to be provided and installed as required. Given the proposed changes will not have adverse impacts to adjacent and surrounding uses, I find that the proposed site and building modifications as described herein and shown on your exhibit, titled "Cinder Bed Road – Phase I Zoning Determination Exhibit" is in substantial conformance with the governing approvals.

This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator and addresses only the issues discussed herein. All other conditions and Zoning Ordinance requirements remain in effect. This letter should not be construed as a determination regarding any other elements of the design. If you have any questions regarding this interpretation, please contact Jerrell Timberlake at (703) 324-1290.

Sincerely,



Suzanne L. Wright, Director  
Zoning Evaluation Division, DPD

Attachments: A/S

***Thank you for your business with Fairfax County.  
Please take a moment to take our [Customer Satisfaction Survey](#).***

Cc: Rodney L. Lusk, Supervisor, Franconia District  
Daniel G. Lagana, Planning Commissioner, Franconia District  
Andrew Hushour, Deputy Zoning Administrator, Permit Review Branch, DPD-ZAD  
Matthew Hansen, Director, Site Development and Inspections Division, LDS  
Katalin Barczay, Branch Chief, SDID, LDS  
Kirsten Munz, Director, LDS-Permitting and Code Administration Division  
Jay Riat, Building Official and Building Division Director, LDS  
Marc Dreyfuss, AICP, Section Chief, Site Analysis, FCDOT  
Paul Fernandes, Chief, LDS-Site Application Center  
Facilitation and Addressing Center, [ldsfac@fairfaxcounty.gov](mailto:ldsfac@fairfaxcounty.gov)  
Cathy S. Belgin, AICP, Chief, Conformance Review & Applications Branch, DPD-ZED  
File: RZ 2003-LE-010



**WALSH COLUCCI  
LUBELEY & WALSH PC**

Lynne J. Strobel  
(703) 528-4700 Ext. 5418  
[lstrobel@thelandlawyers.com](mailto:lstrobel@thelandlawyers.com)

June 9, 2023

**Via PLUS**

Suzanne L. Wright, Director  
Zoning Evaluation Division  
Fairfax County Department of Planning & Development  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035

Re: RZ 2003-LE-010  
Fairfax County Tax Map Reference: 99-2 ((1)) 25, 26, 27, and 28 (the "Property")  
Applicant: NV Flagging, LLC

Dear Ms. Wright:

Please accept this letter as a request for an interpretation in accordance with subsection 8100.5.A.(1)(a) of the Fairfax County Zoning Ordinance (the "Ordinance"). The Applicant proposes minor modifications to a previously approved rezoning that are in substantial conformance to that approval.

NV Flagging, LLC (the "Applicant") is the co-owner of property identified among the Fairfax County tax assessment records as 99-2 ((1)) 25, 26, 27, and 28 (the "Property"). The Property is also owned by Vanguard Services, Inc. ("Vanguard"). On October 20, 2003, the Board of Supervisors (the "Board") granted RZ 2003-LE-010, which rezoned the Property from the R-1 District to the I-5 District to permit certain industrial uses. The Board granted the approval subject to proffers dated September 30, 2003 (the "Proffers") and a generalized development plan prepared by BC Consultants dated November 2002 and revised through September 29, 2003 (the "GDP"). As shown on the GDP, the Property will be developed with four (4) buildings identified as Buildings A, B, C and D. The site tabulations state that the improvements will consist of warehouses up to 90,000 square feet of gross floor area and office up to 5,000 square feet of gross floor area. The tabulations further state that 123 parking spaces are proposed and the development will result in a .30 FAR. The Property has a single access to Cinder Bed Road.

**ATTORNEYS AT LAW**

703 528 4700 ■ [WWW.THELANDLAWYERS.COM](http://WWW.THELANDLAWYERS.COM)  
2200 CLARENDON BLVD. ■ SUITE 1300 ■ ARLINGTON, VA 22201-3359  
LOUDOUN 703 737 3633 ■ WOODBRIDGE 703 680 4664

The Property is presently improved with two structures that were inadvertently modified without the benefit of permits, which resulted in the issuance of a Notice of Violation. The Applicant has submitted a request to Fairfax County for demolition permits to take down these structures. Once the permits are issued, the two structures will be removed which will clear the Notice of Violation issued on the Property.

The Applicant plans to operate a business on the Property that provides traffic control in Northern Virginia, Maryland, and the District of Columbia. On March 12, 2021, the Applicant received a use determination issued by James Shields of the Zoning Administration Division. The use determination concludes that the business operated by the Applicant will be considered a contractor's office and shop, which is a permitted use on the Property according to the Proffers. In addition, the Applicant received a letter dated January 4, 2021 issued by Tracy D. Strunk as the Director of the Zoning Evaluation Division. Ms. Strunk determined that phasing of the improvements shown on the GDP would be in substantial conformance with the prior approval, including the Proffers. The Applicant spent many months working to implement the improvements through the approval of a site plan, but encountered a number of difficulties. After considering a sale of the Property, the Applicant has decided to improve the Property to operate its business, but requests an additional interpretation.

The Applicant and Vanguard continue to propose to implement the improvements shown on the GDP in phases. As shown on an enclosed exhibit consisting of one page prepared by Pennoni Associates, Inc. dated May 11, 2023 (the "Exhibit"), the Applicant and Vanguard propose two phases of development as follows:

- Phase I will consist of a single building located on the northern portion of the Property in the location of Building A as shown on the GDP. The Applicant proposes to combine Building D as shown on the GDP with Building A for a total of 53,975 square feet, which is consistent with the square footage shown for Buildings A and D on the GDP. The Applicant proposes to construct 60 parking spaces in Phase I, which is consistent with the parking provided for Building A and Building D as shown on the GDP.
- Phase II will consist of Buildings B and C as shown on the GDP, and will be comprised of 12,820 square feet of warehouse and 28,200 square feet of warehouse, respectively. An additional 65 parking spaces will be constructed with Phase II.

The combination of Buildings A and D will be in the same footprint of Building A as shown on the GDP but will include a mezzanine. The mezzanine will not increase the height of the building above 35 feet as permitted on the GDP. In addition to combining Buildings A and D in Phase I, the Applicant has reconfigured the parking in the same general location adjacent to Building A and in the area of parking and the building footprint for Building D. The revised layout results in better traffic circulation. In addition, parking and a travel lane have been eliminated parallel to Cinder Bed Road and replaced with grasscrete for a fire lane. Loading has

been consolidated so that four (4) loading spaces are provided in lieu of seven (7) spaces as shown on the GDP. The proposed number of loading spaces meets the requirements of the Ordinance.

The Applicant will continue to honor the limits of the EQC, the floodplain, and clearing and grading in accordance with the GDP. In order to address stormwater management, and maintain conformance with the GDP, the Applicant will install a rain garden to the south of the proposed parking area and possibly an underground stormwater management vault. The rain garden will be planted with shrubs and grasses and the proposed measures will meet current standards for stormwater management. Lastly, the Applicant is improving the building setback to the Hawthorne community, which is developed with single-family attached houses. The width of the buffer is increased from 25 feet as shown on the GDP to 35 feet. This 35-foot setback will be landscaped consistent with the requirements for transitional screening. I have attached an exhibit with the proposed building overlaid on a section provided on Sheet 4 of the GDP. The modified section illustrates the 35-foot setback and plantings. This adjustment does result in a decrease from 52 feet to 40 feet in the setback from the Cinder Bed Road right-of-way. The resulting 40-foot setback remains in conformance with the Ordinance. Other landscaping as shown on the GDP will be preserved and installed as required.

As part of the Phase I improvements, the Applicant will ensure that all outdoor storage will be located in the proposed building in conformance with the Proffers. Consistent with Proffer 12.d., no more than seven (7) vehicles containing three (3) or more axles will be parked outdoors at any one time. These vehicles are accessory to the Applicant's use which has been determined to be a contractor's office and shops.

The Applicant will install infrastructure to support the Phase I improvements. The Property will continue to be served by a single access to Cinder Bed Road. The Applicant will dedicate right-of-way and construct frontage improvements to Cinder Bed Road as described in Proffer 6 with the Phase I improvements. The remainder of the Property not included in Phase I will not be disturbed until such time as Phase II is implemented, except for perimeter tie-in grades resulting from proposed grading activities during Phase I construction.

The proposal described herein will allow a phased development of approved improvements in a manner consistent with the provision of subsection 8100.5.A.(1)(a) of the Ordinance. It will allow an opportunity for a business to be implemented on the Property that has been contemplated for a number of years.

The proposal does not conflict with any of the Proffers nor proposes the following:

- The removal of any land or the addition of land subject to the approved rezoning application.

*The land area as shown on the GDP remains the same.*

- Create, intensify or expand any non-conformity with maximum or minimum requirements of the zoning district.

*The proposed development does not result in any non-conformities and does not intensify the use approved on the Property.*

- Result in an increased parking requirement.

*As there is no proposed additional gross floor area and no change in use, there is no change to the parking requirement.*

- Permit a more intensive use than that approved.

*The Applicant proposes development in accordance with the gross floor area as shown on the GDP and described in the Proffers. In addition, the Applicant is maintaining the same building height and footprint with the addition of a mezzanine. Therefore, the Applicant does not propose any increase in intensity.*

- Permit uses other than those approved.

*The Proffers have specific limitations on the use of the Property and the Applicant will follow these limitations. The Applicant received a determination request from the Zoning Administration Division confirming that the proposed use is permitted in accordance with the approvals.*

- Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space.

*The Applicant is installing required landscaping on the Property as shown on the GDP. In addition, the Applicant is increasing the buffer to the Hawthorne residential community from 25 feet to 35 feet and providing landscaping consistent with transitional screening. Lastly, the open space on the Phase 1 portion of the Property is increasing from 49.6% to 57.2%.*

- Permit changes to bulk, mass, orientation or location that adversely impact the relationship of the development to adjacent property.

*As described, the Applicant is not exceeding the building height shown on the GDP and is locating the improvements within the approved building footprint. The building orientation is the same and there are no building modifications that will adversely impact the relationship of this development to adjacent property.*

- Increase the amount of clearing or grading for a stormwater management facility.

*The Applicant is honoring the limits of clearing and grading shown on the GDP.*

- Expand hours of operation or expand the area or type of signage approved.

*The Proffers do not include any limitations on hours of operation and the Applicant will provide signs in accordance with Article 7.*

- Include the addition of or to any building.

*The Applicant is not proposing any new buildings or building additions. The Applicant is simply combining the square footage associated with Buildings A and D as shown on the GDP into a single building.*

Should you have any questions regarding this request or require additional information, please do not hesitate to contact me. In addition to the Exhibit, I have attached an overlay of the proposal with the GDP to illustrate the proposed improvements. I have uploaded a fee in the amount of \$520.00 in accordance with Ordinance requirements to PLUS with this letter. As always, I appreciate your consideration.

Very truly yours,

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



Lynne J. Strobel

LJS:kae

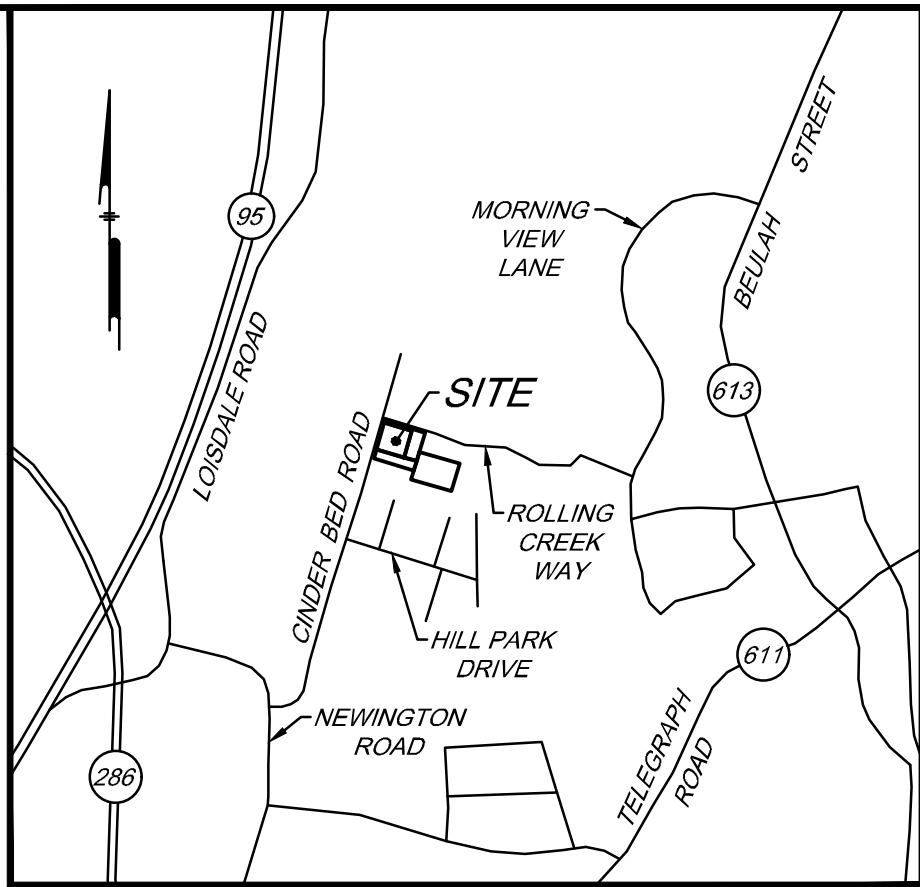
Attachments

cc: Cathy Belgin  
Jerrell Timberlake  
Remberto Hernandez  
Chuck Bowley  
Blake Smith

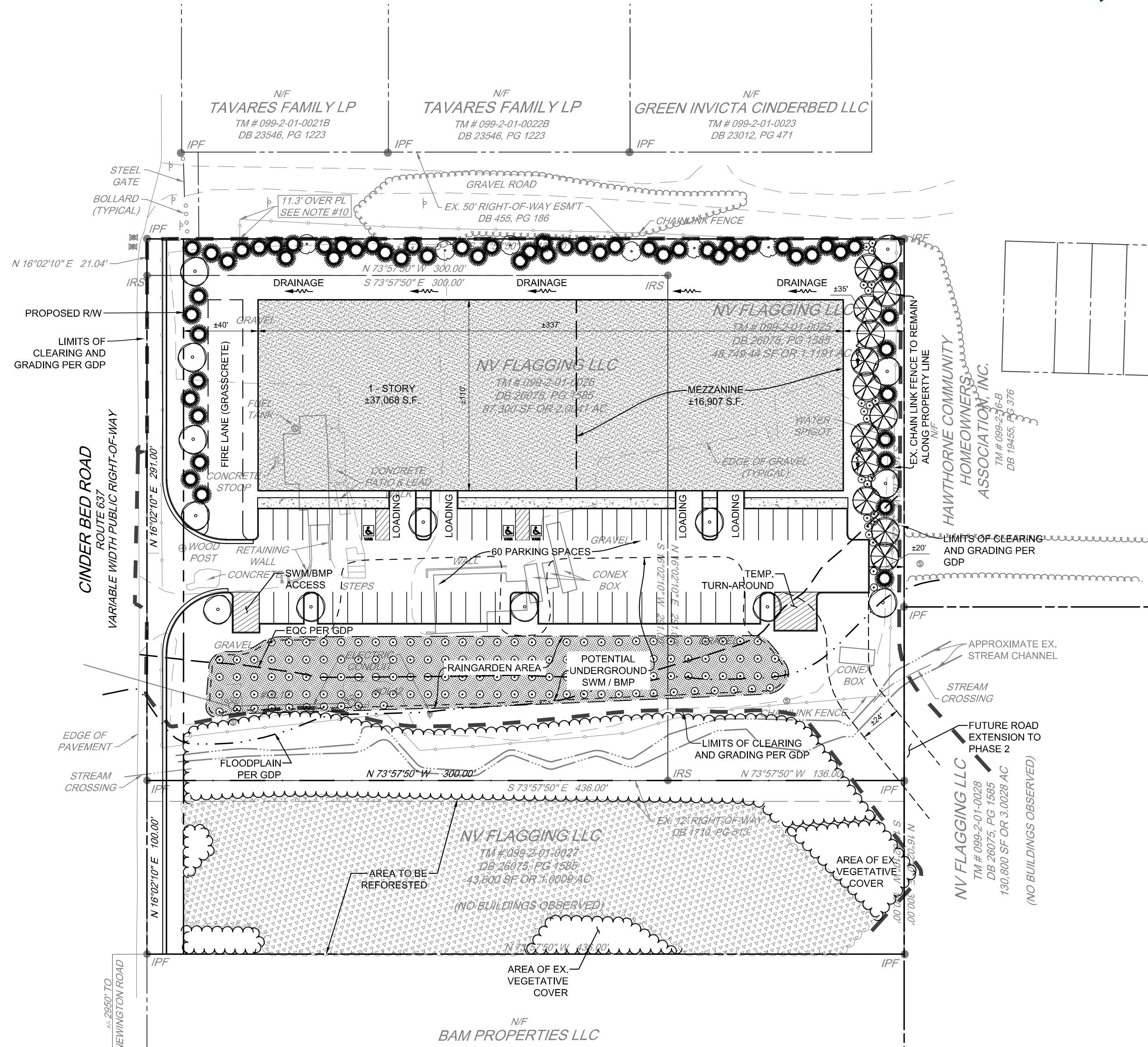


# CINDER BED ROAD - PHASE I ZONING DETERMINATION EXHIBIT

FRANCONIA DISTRICT  
FAIRFAX COUNTY, VA  
MAY 11, 2023



VICINITY MAP  
1" = 2,000'



## NOTES:

THE 25' WIDE LANDSCAPE BUFFER ALONG THE PROPERTY LINE THAT ABUTS HAWTHORNE COMMUNITY ACHIEVES A MINIMUM 10-YR TREE CANOPY OF 75% OR GREATER AND ACHIEVES A MIXTURE OF TREES AND SHRUBS AS SPECIFIED IN PFM SECTION 5108.6.B(a)2 AND SECTION 5108.6.B(a)3.

	APPROVED GDP	PROPOSED
BUILDING SETBACK FROM HAWTHORNE COMMUNITY	25'	35'
PARKING FOR PHASE I	60	60
LOADING FOR PHASE I	7	4
*OPEN SPACE FOR PHASE I	±1.95 AC. (49.6%)	±2.25 AC. (57.2%)
BUILDING SQUARE FOOTAGE FOR PHASE I	53,975 S.F.	53,975 S.F.
MAXIMUM BUILDING HEIGHT	35'	35'

\* DOES NOT INCLUDE R/W DEDICATION AREA.

## LANDSCAPE LEGEND:

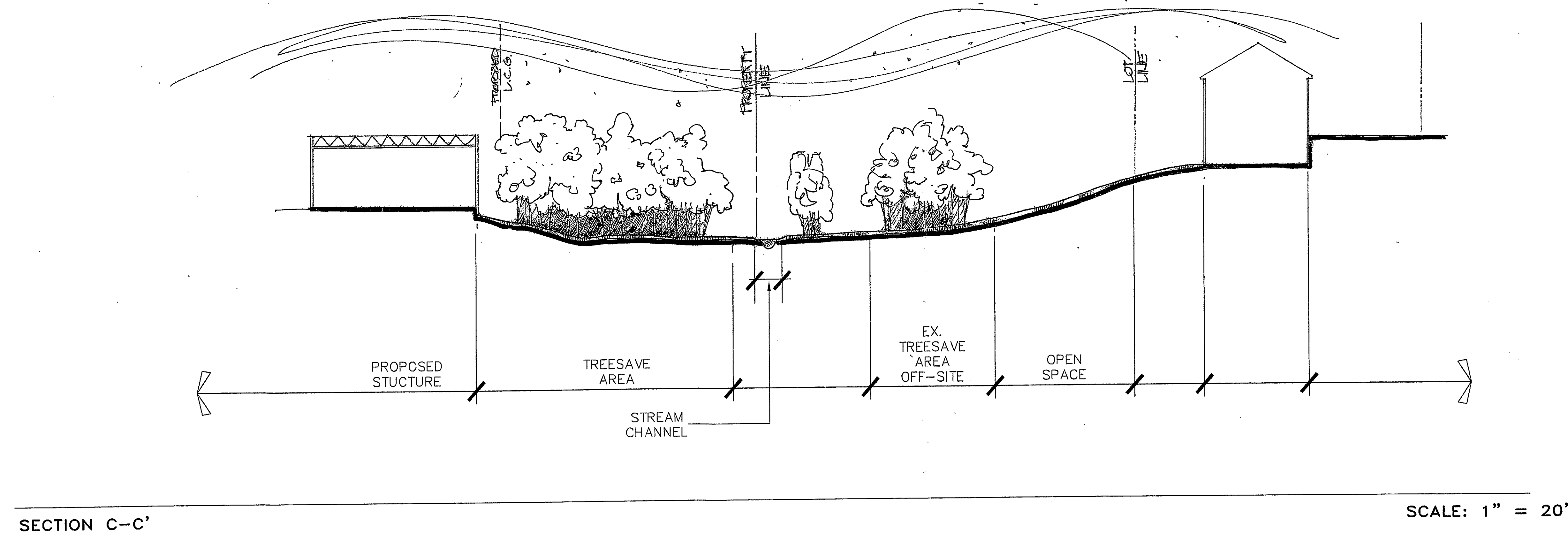
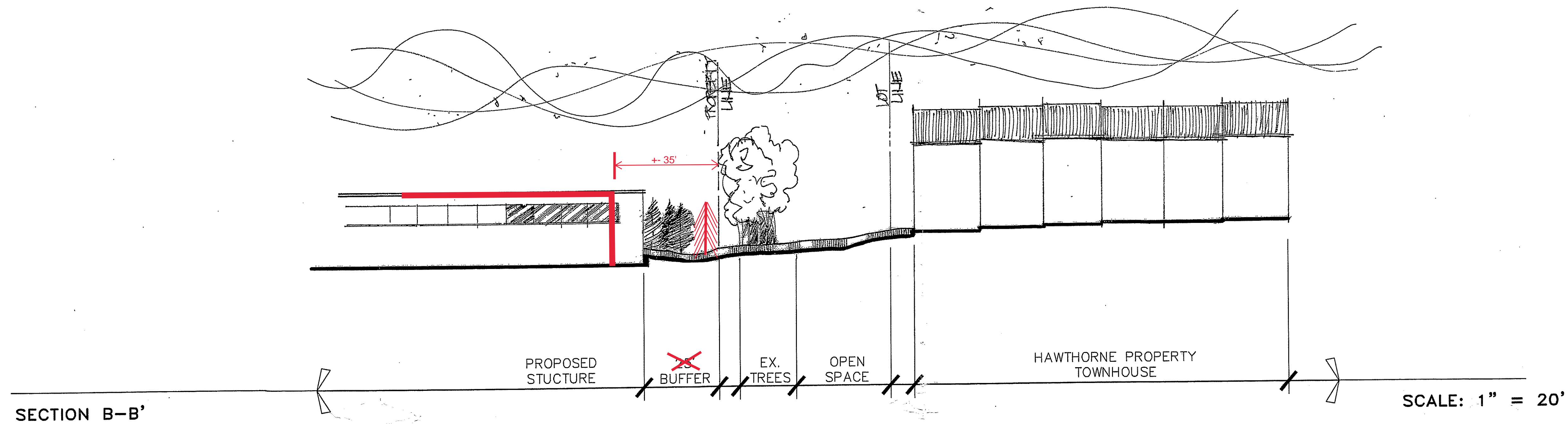
- DECIDUOUS TREE (CATEGORY IV)
- EVERGREEN TREE (CATEGORY IV)
- DECIDUOUS TREE (CATEGORY II)
- EVERGREEN TREE (CATEGORY II)
- SHRUB
- RAINGARDEN PLANTING (SHRUBS & GRASSES)



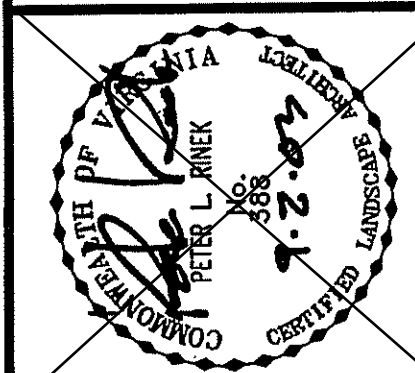
PENNONI ASSOCIATES INC.  
14901 Bogle Drive, Suite 202  
Chantilly, VA 20151  
T 703.956.6204



V:\PROJECTS\0207\0207\0207.dwg, SECTIONS 9/20/03 12:28:48 PM



Application No. 02003-HM-010 Staff C. Lino  
APPROVED DEVELOPMENT PLAN  
(DP) (GDP) (CDP) (FDP)  
SEE PROFFERS DATED 9-30-03  
Date of (BOS) (PC) approval 10-20-03  
Sheet 4 of 4



**BC Consultants**  
Planners • Engineers • Surveyors • Landscape Architects  
12600 Fair Lakes Circle, Suite 100, Fairfax, VA 22033  
(703)449-8100 (703)449-8108 (Fax)  
www.bcon.com

SECTIONS  
**J & C ENTERPRISES**  
LEE DISTRICT  
FAIRFAX COUNTY, VIRGINIA

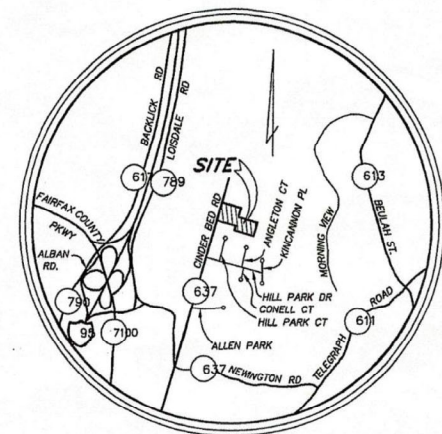
BC REVISIONS	
MAY 15, 2003	
JUNE 13, 2003	
AUGUST 15, 2003	
SEPTEMBER 2, 2003	
SEPTEMBER 29, 2003	
OWNER APPLICANT	
J & C ENTERPRISES	
7945 N. AUGUST CT.	
SPRINGFIELD, VIRGINIA 22153	
DESIGNED BY: JDB	
DRAFTED BY: CAD	
CHECKED BY: DDD	
DATE: NOVEMBER 2002	
SCALE: HOR. AS SHOWN	
VERT. AS SHOWN	
SHEET 4 OF 4	
CO. NO.	
FILE NO. 02027.11.08.0	
CADD NAME: PHWGDP.DWG	





**SITE TABULATIONS:**

GROSS SITE AREA 7.12 AC.± OR 310,147 G.S.F. ±  
 EXISTING ZONE R-1  
 PROPOSED ZONE I-5  
 MAXIMUM F.A.R. .35 OR 108,551 S.F.  
 PROPOSED F.A.R. .30 OR 95,000 S.F.  
 OPEN SPACE REQUIRED(15% OF G.S.A.) 1.06 AC. OR 46,568 S.F.  
 OPEN SPACE PROVIDED(32% OF G.S.A.) 2.28 AC. OR 99,343 S.F.  
 PARKING REQUIRED: 108 SPACES  
 --WAREHOUSE USE (90,000 S.F. \* 1 SPACE PER 1,000 S.F.)=90 SP  
 --OFFICE USE (5,000 S.F. \* 3.6 SPACES PER 1,000 S.F.)= 18 SP  
 PARKING PROPOSED: 123 SPACES  
 LOADING REQUIRED: AS SHOWN (SEE GENERAL NOTE#22 ON SHEET 2 OF 2).  
 MAXIMUM BUILDING HEIGHT PROPOSED = 35 FT.



VICINITY MAP  
 SCALE: 1" = 2,000'

**LEGEND:**

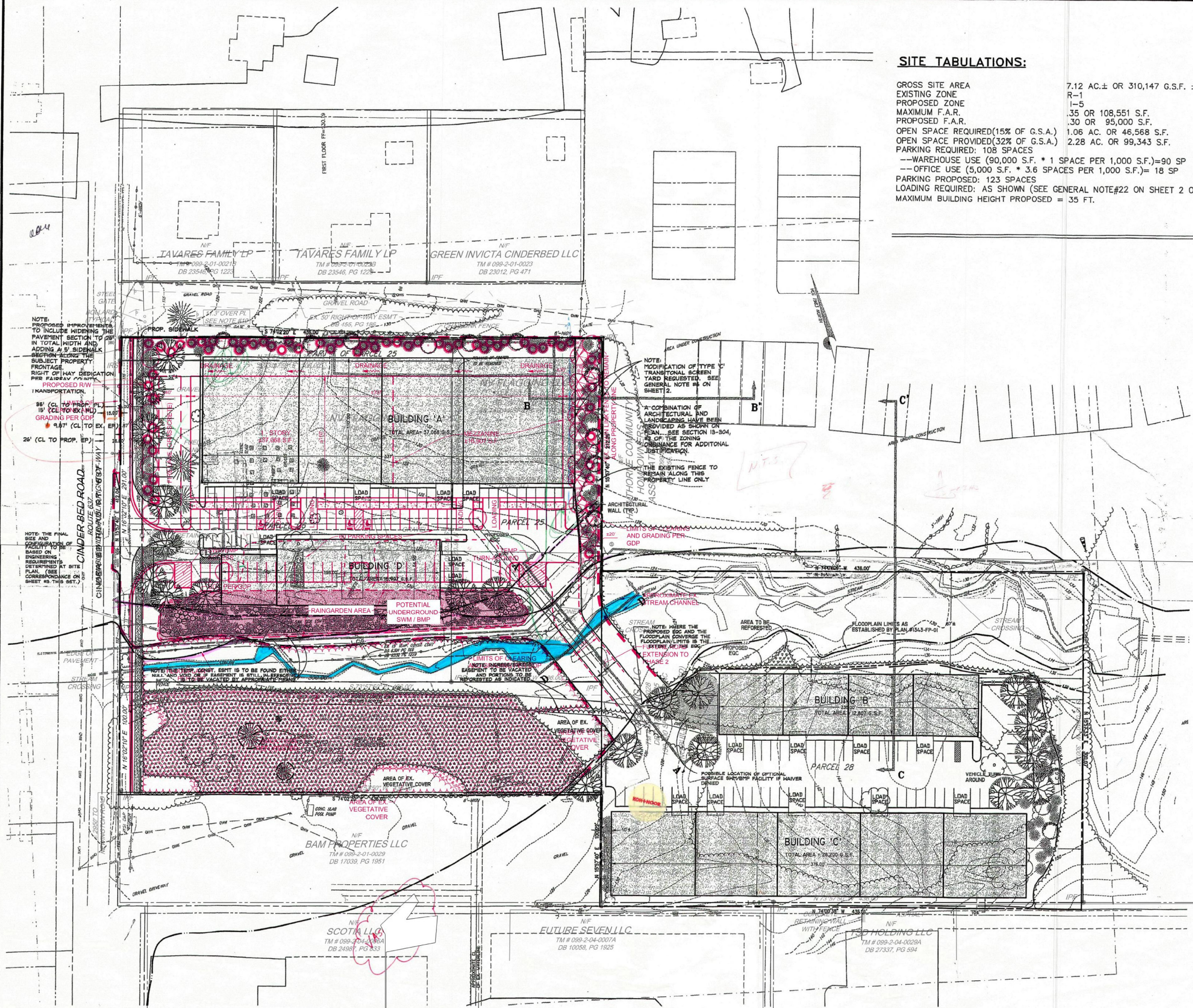
- EX. TREE LINE
- PROPOSED FENCE
- PROPOSED TREE LINE
- LIMITS OF CLEARING AND GRADING
- LIMITS OF EQC
- APPROVED FLOODPLAIN
- AREA TO BE REFORESTED
- CATEGORY III OR IV  
 (2" MINIMUM CALIPER  
 (2" MINIMUM CALIPER AT PLANTING))
- CATEGORY I OR II  
 DECIDUOUS TREE  
 (2" MINIMUM CALIPER AT PLANTING)
- CATEGORY II, III, OR IV  
 EVERGREEN TREE  
 (8-10 FT. HEIGHT AT PLANTING)

Application No. 2203-15-010 Staff C-1111  
 APPROVED DEVELOPMENT PLAN  
 (DPY) (GDP) (CDP) (FDP)  
 SEE PROFFERS DATED 4-30-03  
 Date of (BOS) (PC) approval 10-20-03  
 Sheet 1 of 4

REVISED SEPTEMBER 29, 2003  
 REVISED SEPTEMBER 2, 2003  
 REVISED AUGUST 15, 2003  
 REVISED JUNE 13, 2003

DESIGNED BY: JDB  
 DRAFTED BY: CAD  
 CHECKED BY: DDD  
 DATE: NOVEMBER 2002  
 SCALE: HOR. 1" = 40'  
 VERT. 1" = 10'  
 SHEET 1 OF 4  
 CO. NO.  
 FILE NO. 02027.11.08.0  
 CADD NAME: PHWGDP.DWG

RECEIVED  
 Department of Planning & Zoning  
 SEP 29 2003  
 Zoning Evaluation Division



NOTE: PROPOSED IMPROVEMENTS TO INCLUDE WIDENING THE PAVEMENT SECTION TO 26' IN TOTAL WIDTH AND ADDING A 9' SIDEWALK SECTION ALONG THE SUBJECT PROPERTY FRONTAGE. RIGHT OF WAY DEDICATION PER FAIRFAX COUNTY TRANSPORTATION.

NOTE: THE FINAL SIZE AND CONFIGURATION OF FACILITY TO BE BASED ON ENGINEERING REQUIREMENTS DETERMINED AT SITE PLAN. (SEE CORRESPONDENCE ON SHEET #3 THIS SET.)

NOTE: MODIFICATION OF TYPE 'C' TRANSITIONAL SCREEN YARD REQUESTED. SEE GENERAL NOTE #5 ON SHEET 2.

A COMBINATION OF ARCHITECTURAL AND LANDSCAPING HAVE BEEN PROVIDED AS SHOWN ON PLAN. SEE SECTION 19-804, 19 OF THE ZONING ORDINANCE FOR ADDITIONAL JUSTIFICATION.

THE EXISTING FENCE TO REMAIN ALONG THIS PROPERTY LINE ONLY.

AND GRADING PER GDP

NOTE: WHERE THE PROPOSED EQC AND THE FLOODPLAIN CONVERGE THE FLOODPLAIN LIMITS IS THE EXTENSION TO PHASE 2

NOTE: INGRESS/EGRESS BASEMENT TO BE VACATED AND PORTIONS TO BE REFORESTED AS INDICATED

POSSIBLE LOCATION OF OPTIONAL SURFACE SWM/BMP FACILITY IF HAVER DENIED

VEHICLE TURN AROUND