

**TOWN OF HERNDON, VIRGINIA**

**ORDINANCE**

**AUGUST 8, 2023**

**Ordinance-** to approve Zoning Map Amendment, ZMA #22-001, 500, 555, 585 Grove Street, a zoning map amendment from CS, Commercial Services, to PD-B, Planned Development – Business District, with proffered conditions to permit a post-secondary education use within vacant office space.

In adopting this Ordinance, the Town Council has considered the factors set out in 15.2-2284, Code of Virginia (1950) as amended.

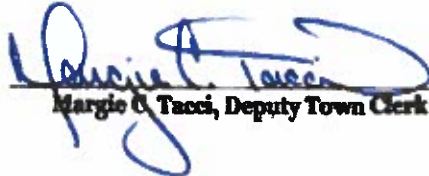
**BE IT ORDAINED** by the Town Council of the Town of Herndon, Virginia that:

1. The zoning of the property described below, lying in the Town of Herndon, Fairfax County, Virginia, is amended to allow a post-secondary education use as proposed in the SAFA TRUST INC. and HERITAGE EDUCATION TRUST LLC /Tri-Tek Engineering/Bean Kinney & Korman P.C. Generalized Development Plan dated June 20, 2023, the Proffer Statement dated June 22, 2023 of ZMA #22-001, and in accordance with Section 78-51.1 and 78-155.1 of the Town of Herndon Zoning Ordinance.

The property comprising two parcels is shown in the above-referenced Generalized Development Plan and described in the land records of Fairfax County in Deed Book 27774 on page 0228 and Deed Book 08804 on page 0056. The Fairfax County Tax Map Numbers are 0162 02 0190C and 0162 02 0203D and the total land area is 4.45 acres.

2. This rezoning shall be governed by this ordinance, the Town of Herndon Zoning Ordinance, the above-referenced Proffer Statement for ZMA #22-001, and the above-referenced Generalized Development Plan for ZMA #22-001. The Proffer Statement is included as an attachment to this ordinance. This Zoning Map Amendment is consistent with the adopted 2030 Comprehensive Plan of the Town of Herndon.
3. This ordinance shall be effective on and after its adoption.

**This is certified to be a true and accurate copy of Ordinance 23-O-17 adopted at a legally convened meeting of the Town Council of the Town of Herndon on August 8, 2023.**

  
Margie C. Tacci, Deputy Town Clerk



Attached for reference is the Proffer Statement dated June 22, 2023 and the Generalized Development Plan dated June 20, 2023.

## **PROFFER STATEMENT**

### **GROVE STREET REZONING Revised 6/22/2023**

Pursuant to Section 15.2-2303 of the Code of Virginia (1950, as amended) and Section 78-50.8 of the Town of Herndon Zoning Ordinance, as amended (the "Zoning Ordinance"), the undersigned, for themselves and their successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually, as the "Applicant"), as owner of the property described as Tax map parcels 16-2-((02)) 190C & 203D (the "Property") hereby proffer that in the event this ZMA #22-001 is approved, the development of the Property shall be in substantial conformance with the conditions set forth in these proffers ("Proffers") and the existing buildings and improvements shown on the Generalized Development Plan (the "GDP") described in Proffer 1 below. The purpose of the proffered rezoning and GDP approval is to allow for the proposed secondary educational use, Fairfax University of America on the Property with existing improvements to remain. No improvements or modifications to the Property are requested with this proffered rezoning.

#### **1. GDP**

- a. The Property is developed in substantial conformance with the Generalized Development Plan GDP prepared by TRITEK, Inc. dated 05/31/2023 (the "GDP") and these Proffers. It is understood by the Applicant that all other applicable regulations and policies governing land development within the Town of Herndon (the "Town") shall apply to the Property and unless specifically modified by the language of this approval.
- b. Minor modifications of the GDP may be permitted without the need for amendments to this approval when necessitated by final engineering or site design provided that modifications are in substantial conformance with the GDP and these Proffers. Substantial conformity shall be determined as provided in the Zoning Ordinance.
- c. The purpose of this ZMA #22-001 is to allow for the use of vacant office space as a post secondary educational use.

#### **2. TRANSPORTATION AND SITE CIRCULATION IMPROVEMENTS**

- a. Improvements to the Property for the transportation and circulation, including for improved accessibility, have been provided as reflected on the GDP. These improvements include bike path access at the intersection of Grove and Grant Street, a bike path connection to the Property at the South East corner adjacent to the W&OD Trail, stairs connecting 500 Grove Street to the crosswalk at the intersection of Grove and Grant Street, and certain improvements to bring the Property into compliance with current ADA standards. Locations and sizes of accessible parking spaces (including van parking) have been updated across the entirety of the Property as well as inclusion of an ADA compliant ramp access from the Southwest corner of 500 Grove Street.

### 3. USES

Uses allowed on the property shall be those in the PD-B zoning district, except as modified below.

- a) The following uses shall be allowed by-right.
- Post-Secondary Education and Career Schools
  - Library
  - Museum, Fine Arts Center
  - Restaurant
  - Commercial Recreation/Entertainment, Indoor
  - All Office Uses (excluding any medical or health related services - see "health care facility")
  - Animal Hospital, Kennel, Pet Daycare, Animal Shelter, and Veterinary Clinic
  - Artist's Studio or Gallery
  - Dry-Cleaning/Laundry, Laundromats
  - Durable Goods Sales
  - Financial Institution
  - Health Care Facility
  - Health Care Laboratory
  - Mailing and Packing Service
  - Personal Services, General
  - Pharmacy
  - Product Repair and Services
  - Retail Sales
  - School of Special Instruction
  - Other Personal Services and Retail Sales Uses
  - Scientific Research and Scientific Development
- b) The following uses shall be subject to Special Exception Approval:
- Childcare Center, Daycare Center or Preschool
  - School, Public or Private (K-12)
  - Community Centers
  - Religious Institution (with a capacity of 300 or fewer persons) gathered for religious observance, with or without any accessory schools, daycare centers, or recreational facilities
  - Religious Institution (with a capacity of more than 300 persons) gathered for religious observance, with or without accessory schools, daycare centers, or recreational facilities
  - Senior Center
  - Drive-In Restaurant
  - Commercial Recreation/Entertainment, Outdoor
  - Commercial Communication Tower, Freestanding
  - Electrical Substation

- Telecommunication Switching Station
- All other Light Manufacturing Uses
- Wholesale Establishment

c) The following uses shall be prohibited:

- Convalescent home
- Hospital
- Conference center/hotel
- All other industrial service uses
- Self-service storage uses
- Public or private parking facility
- Electronic warehousing
- Contractor's materials

d) Accessory uses on the property shall be those as regulated in the PD-B zoning district.

e) The following uses existing prior to and at the time of this approved zoning map amendment will continue, provided that none of the identified uses shall be expanded or altered except for repairs and minor alterations. The uses to be preserved are as follows:

- Religious Institution with a capacity less than 300 – See GDP Plans Sheet

#### 4. FAR

The existing FAR for 500 and 585 Grove Street is 0.6 and 0.52 respectively. The overall FAR across the Property is 0.54. The maximum floor area ratio ("FAR") for the Application Property shall not exceed 0.54.

#### 5. PHASING OF DEVELOPMENT

The Property consists of two, separately owned parcels, each of which shall be improved consistent with the GDP. The project may be processed as two separate phases based on the parcels site improvements, as shown on Sheet 2 of 4 of the GDP, shall be substantially completed as determined by the Zoning Administrator prior to the issuance of any occupancy certificate for university use, at 500 Grove Street. Site improvements, as shown on Sheet 3 of 4 of the GDP, shall be substantially completed as determined by the Zoning Administrator prior to the issuance of any occupancy certificate for university use, at 555 & 585 Grove Street. Completion of construction of the proposed improvements on one parcel will vest the right to complete the GDP improvements on the other parcel in a later phase.

#### 6. SUCCESSORS AND ASSIGNS.

These proffers shall bind and inure to the benefit of the Applicant and his/her successors an assigns.