

**BOARD OF SUPERVISORS
FINANCE/GOVERNMENT OPERATIONS AND
ECONOMIC DEVELOPMENT COMMITTEE
ACTION ITEM**

SUBJECT: **FY 2016 Capital Improvement Program Amendment / Shaw Road**

ELECTION DISTRICT: Sterling

CRITICAL ACTION DATE: At the Pleasure of the Board

STAFF CONTACTS: Peter Malgieri, Transportation and Capital Infrastructure
Daniel Csizmar, Transportation and Capital Infrastructure
Joe Kroboth, Transportation and Capital Infrastructure

PURPOSE: To amend the FY 2016 Capital Improvement Program (CIP) and budget by approving a budget adjustment to appropriate and transfer \$734,276.80 in cash proffers in the Public Facilities Fund to the Transportation District Fund and then to the Capital Fund to fund the design of Shaw Road drainage improvements and road widening.

RECOMMENDATIONS: Staff recommends the Finance/Government Operations and Economic Development Committee (FGOEDC) recommend that the Board of Supervisors (Board) amend the FY 2016 CIP and budget to appropriate and transfer \$734,276.80 in cash proffers in the Public Facilities Fund to the Transportation District Fund and then to the Capital Fund to fund the Shaw Road drainage improvements and road widening.

BACKGROUND: At its July 15, 2015 Business Meeting, the Board approved (9-0-0) a Board Member Initiative directing the Department of Transportation and Capital Infrastructure (DTCI) to evaluate safety/drainage issues along Shaw Road between South Sterling Boulevard and First Potomac Way (formerly known as Cedar Green Road). DTCI investigated factors leading to the frequent roadway flooding, performed preliminary evaluation of potential solutions, estimated solution costs, and identified possible funding sources.

On December 2, 2015 the Board was presented the findings of DTCI’s evaluation and presented potential costs to solve the flooding problem. The Board approved (9-0-0) a motion to direct staff to pursue the design and construction of upgrades to the existing drainage system and widen Shaw Road between the Sterling Technology property and the Dulles Electric Supply property, from two-lanes to four-lanes using up to \$1,100,000 in cash proffers, subject to issuance of a Zoning Determination, and further directed staff to present a plan for the balance of the funding needed

for the project, estimated at approximately \$1,522,000 as part of the FY 2017- FY 2022 CIP. For planning purposes, and to coincide with the production schedule of the budget document, staff has included the full estimated cost of \$2,622,000 for the project as part of the Proposed FY 2017 – FY 2022 CIP.

Staff has identified proffers totaling \$1,016,540.29 which can potentially be programmed for the design and construction of the proposed Shaw Road improvements. Staff has requested, and received, cash proffer determinations for the following proffers which can be used to initiate the design of the Shaw Road widening project in FY 2016:

Table 1. Cash Proffers Available to Fund Improvements to Shaw Road

Application Name	Application Number	Sequence Number	Total Funding
Allied Plaza	SPEX-1997-0025	99062389	\$34,650.05
Steeplechase Industrial Park 2	SPEX-1986-0053	97101606	\$90,220.16
Steeplechase Industrial Park 2	SPEX-1986-0053	96105340	\$215,753.59
Schwald and Lerner Sterling Business Park Center	ZMAP-1986-0046	97013231	\$393,653.00
Total			\$734,276.80

Staff has submitted a determination request to the Zoning Administrator for use of ZCPA-1993-0005; Sequence 95070051 for \$282,263.49 which will be required to go through the Proffer Flexing process. This item is on the agenda for the April 13, 2016 Public Hearing and, if approved, will be programmed for the construction of the Shaw Road improvements in FY 2016. Additional project details are contained in the April 13, 2016 Public Hearing staff report, which address the project process moving forward and initial discussion of right-of-way acquisition issues.

ISSUES: An amendment to the FY 2016 CIP is required in order to transfer additional funds from the Public Facilities Fund to the Capital Fund for the Shaw Road project. If the Board chooses to not appropriate the use of proffer funding for the project then the design for this project cannot begin until funding is appropriated, currently planned for FY 2018 in the FY 2017 – FY 2022 Proposed CIP.

FISCAL IMPACT: Zoning Administration staff issued cash proffer determinations (ZCOR-2015-0216; ZCOR-2015-0199) indicating the cash proffers requested are appropriate for the proposed use. If approved by the Board, staff will prepare a budget adjustment to appropriate \$734,276.80 in cash proffers in the Public Facilities Fund, as shown in Table 1, and transfer that amount through the Transportation District Fund to the Capital Fund for the Shaw Road project. The Proposed FY 2017

– FY 2022 CIP includes funding of \$2,622,000 for the Shaw Road project in FY 2018, consisting of \$1,400,000 in local tax funding, \$900,000 in cash proffers, and \$322,000 in NVTA 30% local funding. Any amount of cash proffers the Board appropriates in FY 2016 to initiate design will be reduced from the \$900,000 currently programmed for the project in FY 2018 of the FY 2017 – FY 2022 CIP. The balance necessary for construction will remain in FY 2018 of the FY 2017 – FY 2022 CIP.

ALTERNATIVES: The Board may choose to recommend the transfer of some, none or all of the requested \$734,276.80 funding for the road capital project. If the Board does not fully fund the request, staff would have to identify other sources of proposed funding for the project, or wait until project funding is appropriated in FY 2018 of the Proposed CIP to begin design work.

DRAFT MOTIONS:

1. I move the Finance, Government Operations and Economic Development Committee recommend that the Board of Supervisors amend the FY 2016 Capital Improvement Program and budget by directing staff to execute a budget adjustment to appropriate \$734,276.80 in cash proffers in the Public Facilities Fund, as shown in Table 1,

AND

I further move to transfer that amount through the Transportation District Fund to the Capital Fund to fund the design of drainage improvements and the widening of Shaw Road between the Sterling Technology property and the Dulles Electric Supply property.

OR

2. I move and alternate motion.

ATTACHMENTS:

1. ZCOR-2015-0216; Cash Proffer Determination – Use of Special Exception Contributions for Improvements to Shaw Road.
2. ZCOR 2015-0199; Cash Proffer Determination – Request from DTCI to Use Sterling Park Business Center Cash Proffer for the Design and Construction of Improvements to Shaw Road.
3. Proposed Widening of Shaw Road.

CORRESPONDENCE SUMMARY

Date: January 27, 2016

Correspondence Number: ZCOR 2015-0216

Subject: **Use of Special Exception Contributions for Improvements to Shaw Road**

Applicable Reference Numbers: SPEX 1997-0025*, SPEX 1986-0053*

Election District: Sterling

Correspondence Summary: Widening of Shaw Road can be funded with applicant contributions made pursuant to SPEX 1997-0025 and SPEX 1986-0053.

Current Property Owners:

SPEX 1997-0025:

032-45-8892
Hossain Esmaeili LLC
5812 Fairview Woods Drive
Fairfax Station, VA 22039

031-15-3806
Grisha Enterprises
22714 Glenn Drive Suite 130
Sterling, VA 20164

SPEX 1986-0053:

043-10-7197, 043-30-8107, 043-20-5453
SIR Properties Trust
255 Washington Street, Suite 300
Newton, MA 02458

043-30-4666
H/F Sky Rocket LLC
1707 Duke Street
Alexandria, VA 22314

031-35-7311, 043-30-8755, 031-45-1206,
043-40-5903
Orbital Sciences Corporation
Attn: Tax Dept
45101 Warp Drive
Sterling, VA 20166

031-35-6086
21700 Atlantic Boulevard Investors
c/o Thompson Reuters Property Tax
Services
PO Box 1368
Carlsbad, CA 92018

Author: Brian Wegener

*Indicates where to file

Is this a determination? Check one: Yes No

ZCOR 2015-0216

ATTACHMENT 1

**County of Loudoun
Department of Planning and Zoning
MEMORANDUM**

Date: January 27, 2016

To: Susan Glass, Program Manager – Transportation and Capital Infrastructure

From: Brian Wegener, Planner – Zoning Administration Division

Subject: **ZCOR 2015-0216, Use of Cash Contributions Received Pursuant to Special Exception Applications for Improvements to Shaw Road**

This correspondence is sent in response to your memorandum of December 3, 2015 requesting a determination as to use of funds received pursuant to special exception applications to fund design and construction of improvements to Shaw Road. Specifically, you have asked whether the improvements, which consist of widening Shaw Road between the “Sterling Technology property” (PIN: 033-45-3879) and the “Dulles Electric Supply property” (PIN: 033-35-7335) from two lanes to four lanes, can be funded with applicant contributions made pursuant to special exceptions SPEX 1997-0025 and SPEX 1986-0053.

The short answer to your question is yes, the funds may be used, as summarized in the table below. A more detailed analysis follows. Please be advised that the Department of Planning and Zoning cannot guarantee the listed funds have not been disbursed or obligated to other projects.

APPLICATION #	APPLICATION NAME	SEQ #	AWARD #	BALANCE	APPROPRIATE?
SPEX 1997-0025	Allied Plaza	99062389	Y00659	\$34,650.05	Yes
SPEX 1986-0053	Steeplechase Industrial Park 2	97101606	Y00637	\$90,220.16	Yes
SPEX 1986-0053	Steeplechase Industrial Park 2	96105340	Y00582	\$215,753.59	Yes

Request: The Department of Transportation and Capital Infrastructure (DTCI) requests the use of \$34,650.05 (LMIS Sequence #99062389) received by the County as a regional road contribution pursuant to special exception SPEX 1997-0025, Allied Plaza, approval condition #9, for design and construction of the widening of Shaw Road.

Determination: On February 26, 1998, the Board of Zoning Appeals approved special exception SPEX 1997-0025, Allied Plaza, subject to 15 approval conditions. Condition #9 states:

9. *A regional road contribution of \$.75 per square foot shall be provided at zoning permit issuance for the construction of Phases 2 and 3 for improvements in the vicinity of Ruritan Circle.*

The applicant contributed \$30,000 pursuant to condition #9. The funds earned \$4,650.05 in interest, for a balance of \$34,650.05. LMIS indicates that there have been no distributions.

It is appropriate to use the requested cash condition fund for the proposed project, as it was intended for regional road improvements in the vicinity of Ruritan Circle as specified in the condition. The phrase “in the vicinity” has been defined in previous determinations to mean within the same Planning Subarea as the development where the funds were contributed. SPEX 1997-0025, Allied Plaza, and the Shaw Road improvements are both located in the Sterling Planning Subarea. Therefore, the current remaining balance, plus additional contributions and interest earned in this account, may be used for the proposed project.

Request: DTCI requests the use of \$305,973.75 (LMIS Sequence #97101606 and #96105340) received by the County as a contribution for transportation facilities pursuant to special exception SPEX 1986-0053, Steeplechase Industrial Park 2, approval conditions #4.a.1 and #4.a.2, for design and construction of the widening of Shaw Road.

Determination: On March 16, 1987, the Board of Supervisors approved special exception SPEX 1986-0053, Steeplechase Industrial Park 2, subject to conditions of approval. Condition #4 provided for a cash contribution for transportation facilities and states:

4. *The following conditions are applicable for the development of Lots 1-10 (south of Cabin Branch):*
 - a. *The County accepts the applicant’s commitment to provide a one-time contribution of \$1/square foot of gross building structure area for transportation facilities as outlined in their amendment to the special exception dates 2/26/87.*
 1. *One half is to be paid upon approval of the Special Exception Request. These funds are to be calculated on the basis of 50 cents per square foot of the gross allowable building area for a .4 FAR for Lots 1-10.*
 2. *One half is to be paid in conjunction with the issuance of individual building permits for Section 1. These funds will be calculated on the basis of 50 cents per square feet of the gross building structure to be constructed.*

In regard to condition #4.a.1, \$1,784,219.22 was collected and the funds earned \$293,754.52 in interest. Disbursements total \$1,862,220.15, for a current remaining balance of \$215,753.59. In regard to condition #4.a.2, \$196,456 was collected and the funds earned \$30,924.51 in interest. Disbursements total \$137,160.35, for a current remaining balance of \$90,220.16. The sum of both accounts is \$305,973.75. The current remaining balances, plus additional contributions and interest earned in these accounts, may be used for the proposed project.

It is appropriate to use the requested cash contribution funds for the proposed project, as the funds were intended for transportation facilities to serve Steeplechase Industrial Park 2 and the

surrounding community and the proposed improvement is located within proximity to the property subject to the approved special exception. Further, SPEX 1986-0053, Steeplechase Industrial Park 2, and the Shaw Road improvements are both located in the Sterling Planning Subarea.

PLEASE NOTE: This opinion is valid only as of this date, and this opinion does not and shall not relieve the owner or any occupant of the property in question from the obligation to comply with all applicable Zoning Ordinance and other County Ordinance requirements. This opinion is based upon the special exception conditions as they exist as of the date of this letter, and such special exception conditions may be amended by a subsequent Special Exception.

This determination applies solely to the referenced property and is not binding upon the County, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property.

Please be advised that any person aggrieved, or any officer, department or agency of Loudoun County affected by an order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the provisions of the special exception conditions attached to a special exception application, may appeal said decision within thirty (30) days to the Board of Zoning Appeals in strict accordance with Section 15.2-2311 of the *Code of Virginia*. This decision is final and unappealable if not appealed within 30 days. An application package for an appeal to the Board of Zoning Appeals may be obtained by visiting the Loudoun County Government Center, 1 Harrison St. S.E., Second Floor, Customer Service, Leesburg, VA. Two copies of the completed application must be submitted to the Department of Building and Development Customer Service counter with the fee payment of \$350.00 within 30 days from the date of this letter.

If you have any questions in regard to this correspondence, you may contact Amy Kresge, Proffer Program Manager, at 703-737-8890 or amy.kresge@loudoun.gov.

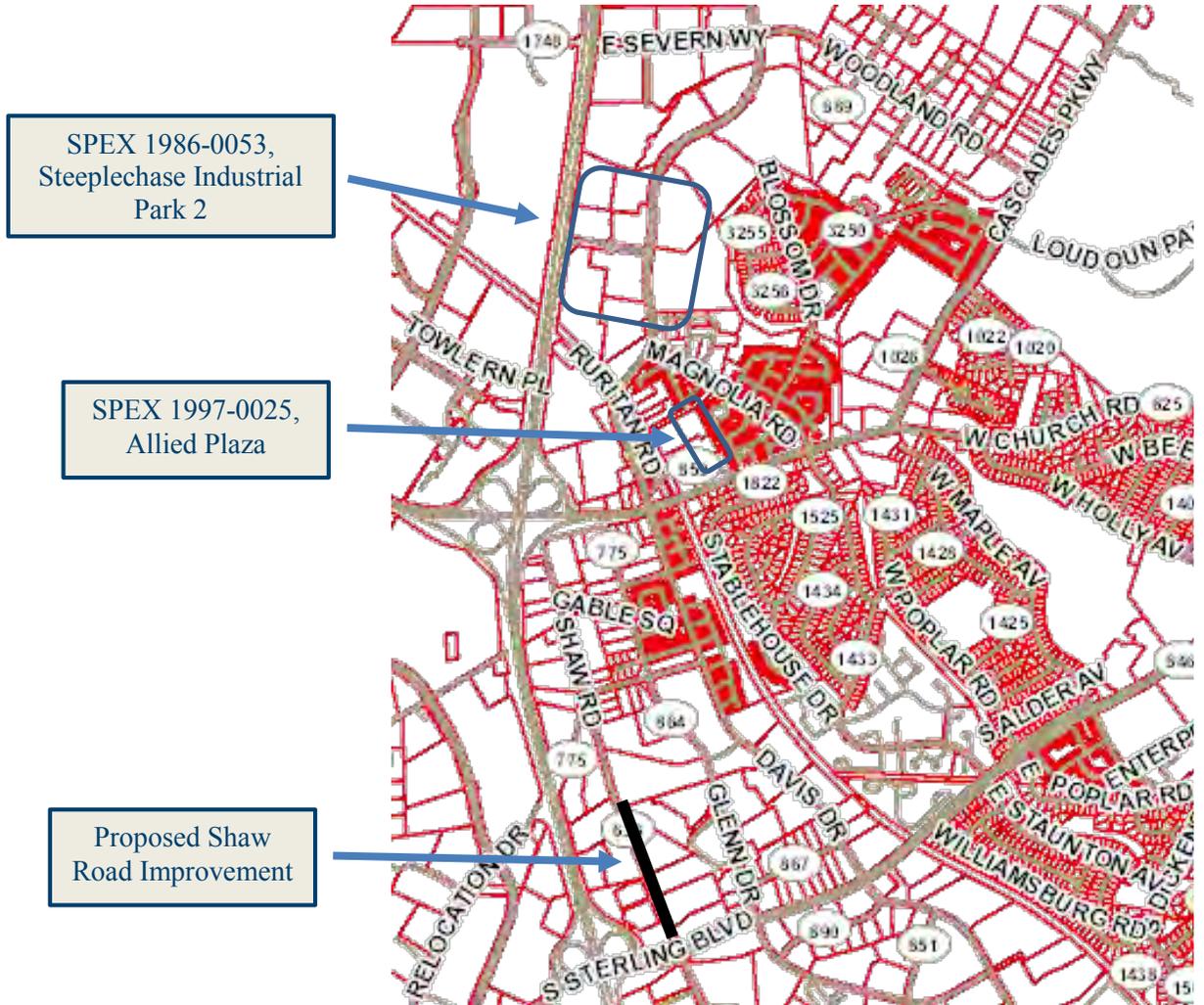
Attachment: Vicinity Map

Copy via email: Phyllis Randall, Chair At-Large
Koran Saines, Sterling District Supervisor
Kenneth Young, Assistant County Administrator
Ricky Barker, Director of Planning and Zoning
Joe Kroboth, Director, DTCI
Terrie Laycock, Special Projects Manager, DTCI
Daniel Csizmar, Capital Budget Manager, DTCI
Greg Barnes, Civil Engineer, DTCI
Mark Stultz, Zoning Administrator
Amy Kresge, Proffer Program Manager

Copy via US Mail: Hossain Esmali LLC, H/F Sky Rocket LLC,
Grisha Enterprises, Orbital Sciences Corporation,
SIR Properties Trust, 21700 Atlantic Boulevard Investors

VICINITY MAP

CONDITION FUNDS REQUESTED FROM SPECIAL EXCEPTIONS FOR WIDENING OF SHAW ROAD



CORRESPONDENCE SUMMARY

DATE: March 4, 2016

CORRESPONDENCE NUMBER: ZCOR 2015-0199

SUBJECT: Request from DTCI to Use Sterling Park Business Center Cash Proffer for the Design and Construction of Improvements to Shaw Road

1993 Ordinance Reference Numbers: N/A

1972 Ordinance Reference Numbers: N/A

Other Applicable Reference Numbers: ZMAP 1986-0046*
(LSDO/FSM/ZMAP/SPEX)

Applicable Tax Map/PIN Numbers:

Election District: Sterling

Correspondence Summary: It is appropriate to use the funds in LMIS Sequence #97013231/Oracle Award #Y01107 for design and construction of improvements to Shaw Road between the Sterling Technology property (PIN: 033-45-3879) and the Dulles Electric Supply property (PIN: 033-35-7335).

PROPERTY OWNER:
FP STERLING PARK 8 & 9 LLC
FIRST POTOMAC REALTY TRUST
7600 WISCONSIN AVE SUITE 1100
BETHESDA, MD 20814-3661

Author: Bradley R. Polk

*Indicates where to file

Is this a determination? Check one: Yes No

County of Loudoun

Department of Planning and Zoning

MEMORANDUM

DATE: March 4, 2016

TO: Susan Glass, Program Manager, Department of Transportation and Capital Infrastructure

FROM: Bradley R. Polk, Proffer Auditor 

SUBJECT: **ZCOR 2015-0199; Request for Proffer Determination to Use Sterling Park Business Center Cash Proffer for Design and Construction of Improvements to Shaw Road**

This correspondence is sent in response to your November 10, 2015, memorandum to Mark Stultz, Zoning Administrator, and Amy Kresge, Proffer Program Manager, which requested a proffer determination concerning the use of specific cash proffers received from the developer of Sterling Park Business Center to fund the design and construction of improvements to Shaw Road between the Sterling Technology property (PIN: 033-45-3879) and the Dulles Electric Supply property (PIN: 033-35-7335) to address frequent flooding problems. The Department of Transportation and Capital Infrastructure (DTCI) requests to fund the design and construction of the improvements from the Sterling Park Business Center cash in lieu of construction contribution received for the proffered improvements to Glenn Drive extended, Davis Drive extended, and/or Route 775 extended (Belfort Park Drive).

The use of the funds requested is appropriate. Please be advised that I cannot guarantee that the requested funds have not been disbursed or obligated to other projects.

On July 18, 1988, the Board of Supervisors approved the zoning map amendment for Sterling Park Business Center, ZMAP-1986-0046, subject to the proffers dated June 30, 1988. As stated in the text below, Proffer 1(a)(i), provided for construction of public road improvements to Route 775 extended (Belfort Park Drive), Glenn Drive extended or Davis Drive extended in substantial conformance with Exhibit A. Proffer 1(d) provides for a cash contribution if any of the improvements shown on Exhibit A, including those stated in Proffer 1(a)(i), are completed by others.

- (i) Upon site plan approval for Lot 13 as shown on the Concept Development Plan, the Owner shall construct a portion of the public road improvements to Route 775

extended, Glenn Drive extended or Davis Drive extended, or any combination thereof, in substantial conformance with Exhibit "A" as directed by the County and subject to VDOT approval. Such improvements shall be constructed either on-site or off-site subject to the provisions of subparagraph 1(a) (iii) below. The cost of such improvements to the Owner shall not exceed \$367,900. This amount shall increase or decrease by a percentage equal to the percentage increase or decrease in the Engineering News Record Twenty Cities Construction Cost Index. The base period for such index shall be the year and month when this application is approved, with the cost adjusted as of the date of construction but no later than three years after the approval date of this rezoning application. In the event such index should not be published for as long as this proffer is in force, a comparable publication, acceptable to both the County and the Owner, will be used.

- (d.) Construction by Others. In the event that any of the public road improvements shown on Exhibit "A" have already been constructed and paid for by others, at the time of site plan approval for Lot 13, the owner shall provide the County with a cash equivalent contribution in an amount equal to the cost of such improvements constructed and paid for by others; provided, however, that the amount of such contribution shall not exceed \$367,900, adjusted in accordance with subparagraph 1(a) (i) above to the date of such contribution but no later than three years after the approval date of this rezoning application, and the amount that may be contributed to the escrow fund under subparagraph 1(a) (ii) above shall be reduced by any amount contributed pursuant to this subparagraph 1(d).

The proffered improvements required by Proffer 1(a)(i) were completed, in part, by the Belfort Park Area Road Improvements Project, funded by the County and administered by the Virginia Department of Transportation (VDOT). On October 23, 2014, First Potomac contributed to the County \$393,653 in fulfillment of Proffer 1(d). The current balance of the account is \$393,653 (LMIS Sequence #97013231, Oracle Award # Y01107).

Proffer 1(d) does not limit use of the cash equivalent contribution. Therefore, the County may use the funds at its discretion. The proposed improvements to Shaw Road are in close proximity to the proffered improvements to Glen Drive and Belfort Park Drive constructed by VDOT. It is also noted that both the proposed improvements to Shaw Road and the proffered improvements are in the Sterling Planning Subarea. Therefore, it is appropriate to use the requested cash proffer funds for the design and construction of improvements to Shaw Road between the Sterling Technology property (PIN: 033-45-3879) and the Dulles Electric Supply property (PIN: 033-35-7335) to eliminate frequent flooding problems of the roadway.

PLEASE NOTE: This opinion is valid only as of this date, and this opinion does not and shall not relieve the owner or any occupant of the property in question from the obligation to comply with all applicable Zoning Ordinance and other County Ordinance requirements. This opinion is based upon the proffers as they exist as of the date of this letter and such proffers may be amended by a subsequent Zoning Concept Plan Amendment.

This determination applies solely to the referenced property and is not binding upon the County, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property.

Please be advised that any person aggrieved, or any officer, department or agency of Loudoun County affected by an order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the provisions of the proffer conditions attached to a rezoning or amendment to the zoning map, may appeal said decision within thirty (30) days to the Board of Supervisors in strict accordance with Section 15.2-2301 of the *Code of Virginia*. This decision is final and unappealable if not appealed within 30 days. An application package for an appeal to the Board of Supervisors may be obtained by visiting the Loudoun County Government Center, 1 Harrison St. S.E., Second Floor, Customer Service, Leesburg, VA. Two copies of the completed application must be submitted to the Department of Building and Development Customer Service counter with the fee payment of \$350.00 within 30 days from the date of this letter.

If you have any questions concerning this correspondence, you may call me at 703-737-8657 or contact me via email: bradley.polk@loudoun.gov.

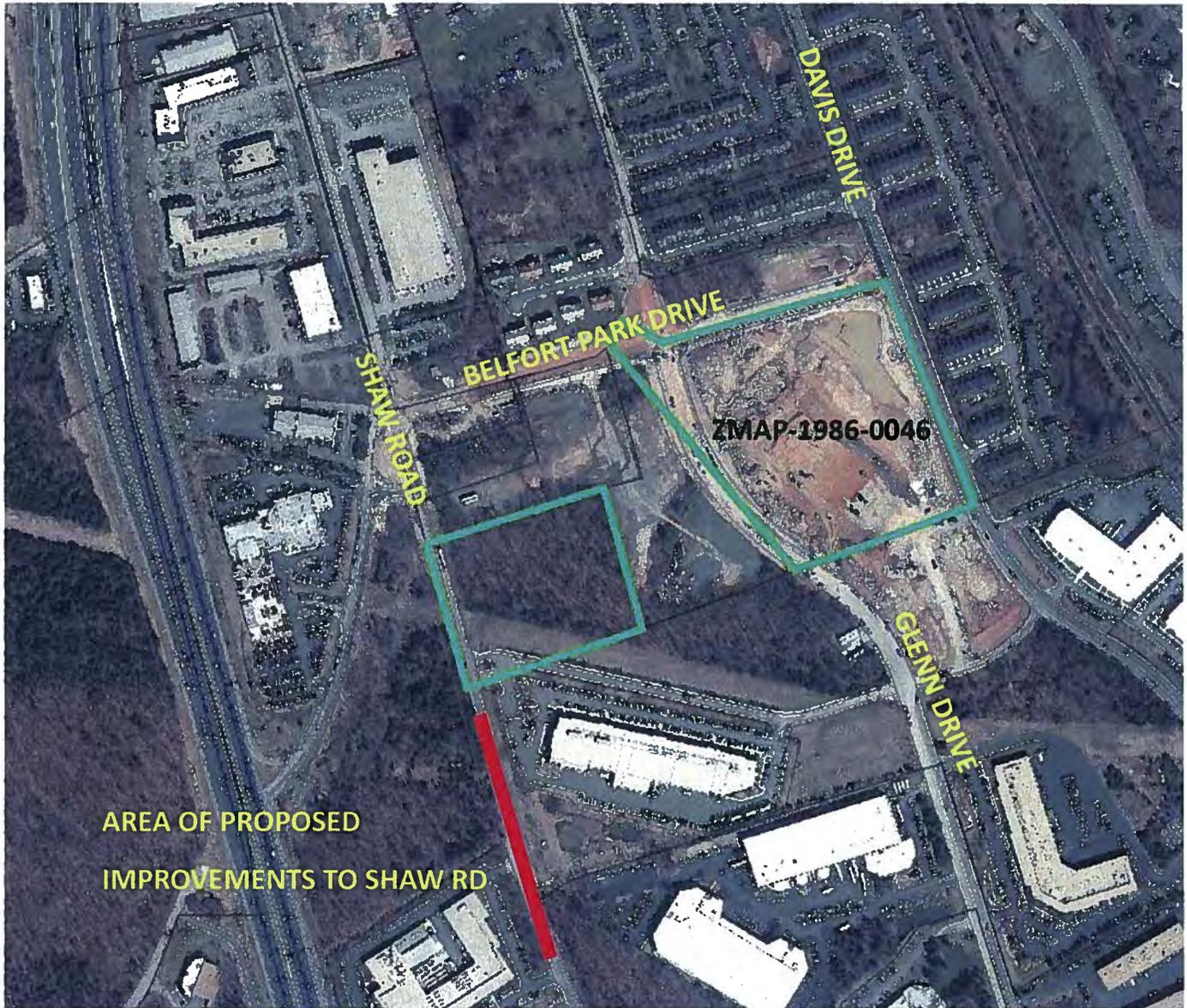
Attachment: Vicinity Map

Susan Glass
March 4, 2016
Page 4 of 4

cc via email: Phyllis J. Randall, Chair, Board of Supervisors
Koran T. Saines, Sterling District Supervisor
Joe Kroboth, Director, DTCI
Terrie Laycock, Special Projects Manager, DTCI
Dan Csizmar, Capital Budget Manager, DTCI
Peter Malgieri, Transportation Capital Budget Specialist, DTCI
Greg Barnes, Project Engineer, DTCI
Ricky W. Barker, AICP, Director, Planning and Zoning
Mark Stultz, Zoning Administrator
Amy Kresge, Proffer Program Manager

cc via U.S. Mail: FP STERLING PARK 8 & 9 LLC, Property Owner

VICINITY MAP
STERLING PARK BUSINESS CENTER, ZMAP 1986-0046;
PROPOSED DESIGN AND CONSTRUCTION OF
IMPROVEMENTS TO SHAW RD TO ELIMINATE FREQUENT FLOODING



SHAW ROAD

EXISTING POND OUTFALL

PROPOSED ROADWAY WIDENING

REPLACE PIPE

PROPOSED RIGHT-OF-WAY

PROPOSED DRAINAGE/
UTILITY EASEMENT

PROPOSED CURB & GUTTER

Shaw Rd

SHAW ROAD



28

Sully Rd

864

Export Dr

© 2015 Google

ATTACHMENT 3

**EXHIBIT NO.2: PROPOSED
WIDENING OF SHAW ROAD
(SCENARIO 2)**

Scale: NOT TO SCALE
Date: 10/27/2015

