



FAIRFAX COUNTY

BOARD OF ZONING APPEALS

PUBLIC HEARING DATE: September 21, 2016
TIME: 9:00 A.M.

V I R G I N I A

September 13, 2016

STAFF REPORT

APPEAL APPLICATION A 2016-SP-008
APPEAL APPLICATION A 2016-SP-012

SPRINGFIELD DISTRICT

APPELLANT: William Wiehe, Jr.

LOCATION: 6224 Colchester Road
Fairfax, VA 22030

TAX MAP REF: 76-1 ((7)) 5

ZONING DISTRICTS: R-C and WS

SITE AREA: 2.0385 acres

NATURE OF APPEAL: **A 2016-SP-008** - Appeal of a determination that the appellant is allowing a prohibited commercial vehicle to be parked on property in the R-C District in violation of Zoning Ordinance provisions.

A 2016-SP-012 - Appeal of a determination that the appellant is maintaining a storage yard on property in the R-C District in violation of Zoning Ordinance provisions.

SJG

For information, contact the Zoning Administration Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035-5505, 703-324-1314.



American with Disabilities Act (ADA): For special accommodations, call 703-324-1334 (TTY 711 Virginia Relay Center) seven days in advance of the meeting to make the necessary arrangements.

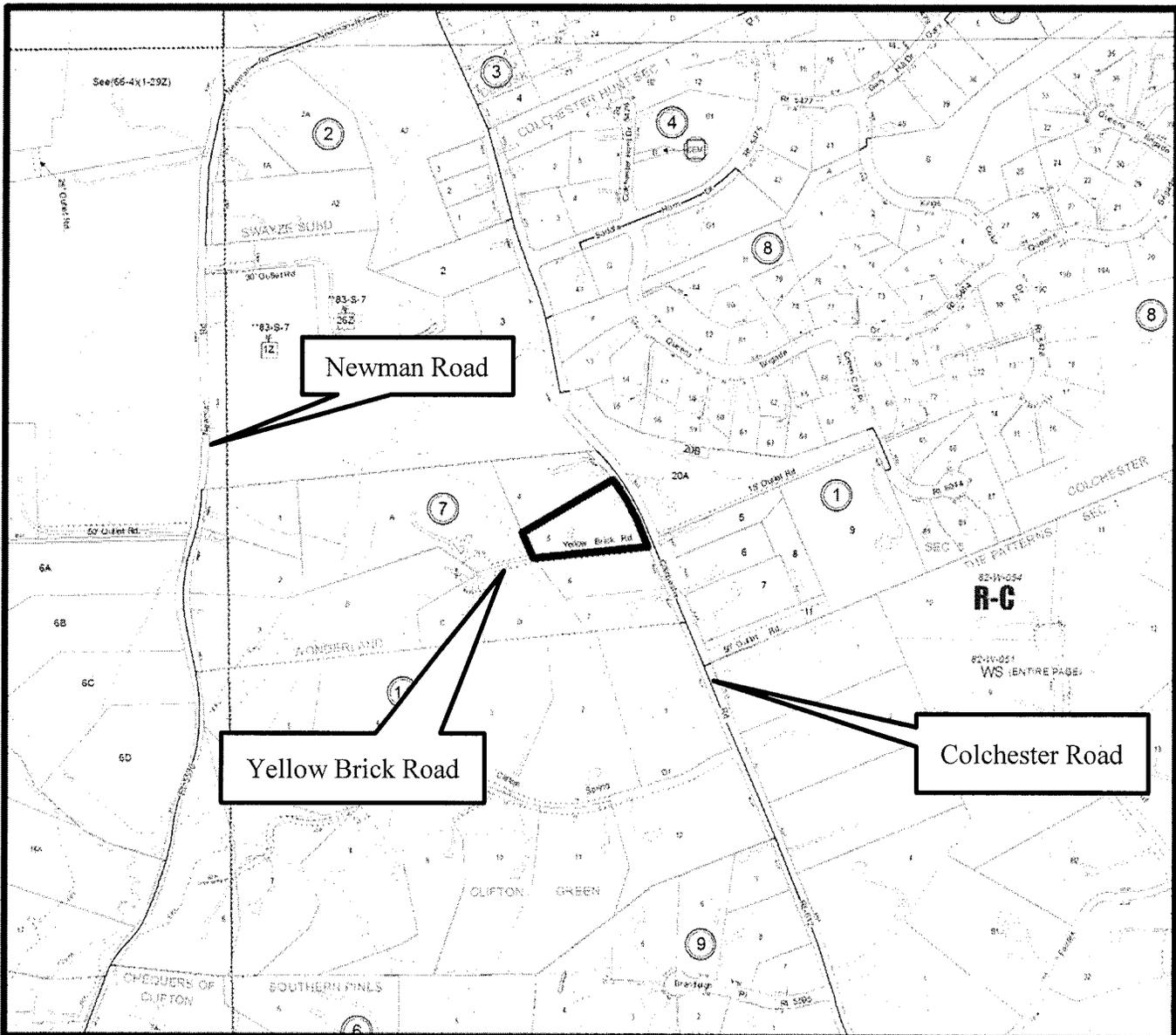
APPEAL APPLICATION

A 2016-SP-008

WILLIAM WIEHE, JR., A 2016-SP-008 Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that the appellant is allowing a prohibited commercial vehicle to be parked on property in the R-C District in violation of Zoning Ordinance provisions. Located at 6224 Colchester Rd., Fairfax, 22030, on approx. 2.04 ac. of land zoned R-C and WS. Springfield District. Tax Map 76-1 ((7)) 5.

A 2016-SP-012

WILLIAM WIEHE, JR., A 2016-SP-012 Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that the appellant has established a storage yard on property in the R-C District in violation of Zoning Ordinance provisions. Located at 6224 Colchester Rd., Fairfax, 22030 on approx. 2.04 ac. of land zoned R-C and WS. Springfield District. Tax Map 76-1 ((7)) 5.



DESCRIPTION OF APPEAL

Appellant:

William Wiehe, Jr.

Issue:

Appeal A 2016-SP-008 is an appeal of a determination that the appellant is allowing a prohibited commercial vehicle to be parked on property in the R-C District in violation of Zoning Ordinance provisions.

Appeal A 2016-SP-012 is an appeal of a determination that the appellant is maintaining a storage yard on property in the R-C District in violation of Zoning Ordinance provisions.

Property Description:

The subject property is located in the Wonderland Subdivision, which is south of Saddle Horn Drive, north of Clifton Spring Drive, east of Newman Road, and west of Colchester Road. The property is zoned R-C, Residential-Conservation District, and Water Supply Protection Overlay District (WS). The property is developed with a single family detached dwelling unit and an accessory structure (barn) on a lot containing approximately 2.04 acres. The appeals are the result of Notices of Violation (NOV). A copy of the zoning map sheet showing the subject property is provided on the previous page.

Appellant's Position:

The appellant's applications and bases for appeal are set forth in Attachment 1 (Appeal A 2016-SP-008) and Attachment 2 (Appeal A 2016-SP-012).

ZONING ORDINANCE PROVISIONS

The provisions of the Zoning Ordinance that are germane to this appeal are listed below. The complete text of these provisions is enclosed as Attachment 3.

- Paragraphs 5 and 6 of Sect. 2-302 – Permitted Uses
- Paragraphs 16 and 24 of Sect. 10-102 – Permitted Accessory Uses
- Sect. 18-103 – Questions of Interpretation
- Definitions of COMMERCIAL VEHICLE and STORAGE YARD as set forth in Article 20.

CHAPTER 82, FAIRFAX COUNTY CODE

The provision of Chapter 82 of the Fairfax County Code that is germane to this appeal is listed below. The complete text of this provision is enclosed as Attachment 4.

- Section 82-5-7 – Parking Commercial Vehicles in Residential Districts

BACKGROUND

- The subject property was conveyed to the appellant on November 14, 2003, as recorded in Deed Book 18592, Page 1130. The property is developed with a single-family dwelling constructed in 1972 and an accessory structure (a 3-stall barn) constructed in 1974 and renovated in 2008. A copy of the deed is provide as Attachment 5.
- The Department of Code Compliance (DCC) received a complaint on March 14, 2008, alleging that a business was being operated in a residential district on the subject property. DCC staff conducted a site inspection on May 5, 2008, that revealed a 2007 Mitsubishi dump truck parked on the property. This vehicle has a gross vehicle weight (GVW) of 18,000 pounds. The DCC Investigator spoke to the appellant during the inspection regarding the allegation of a business being operated on the property. The appellant stated that he owns the property, but lives at 12321 Popes Head Road, Fairfax, VA 22030, and claimed he did not operate a business on the subject property. The appellant was advised that the dump truck is prohibited from being parked on residential property.

Limitations on the parking of commercial vehicles on residential property are found in Par. 16 of Sect. 10-102 of the Zoning Ordinance. Further, it has been a longstanding interpretation of the Zoning Administrator to apply the limitations on commercial vehicles to those with the characteristics listed in Section 82-5-7 of the County Code. These limitations include dump trucks and vehicles having a gross vehicle weight of 12,000 or more pounds. Based on the fact that the subject vehicle is a dump truck and the weight of the subject vehicle, it was determined that the vehicle is prohibited in a residential district.

- Subsequent inspections revealed that the dump truck was continuing to be parked on the property, but that equipment and materials not associated with building activities of the barn renovation previously stored on the property had been removed. On June 26, 2009, because the building permit for the barn renovation was still active, permission was granted for the dump truck to be used on the property solely for loading and unloading of building materials. As a result, the DCC case was closed.
- On April 11, 2016, DCC received a complaint alleging that a business was operating and that commercial vehicles were being parked in a residential district. The complainant also claimed that workers on the property were regularly harassing children walking to the school bus stop. DCC staff conducted several site inspections of the subject property in April 2016 that revealed that the same dump truck was again being parked on the property and that there was extensive outdoor storage on the lot.

- On April 27, 2016, an NOV was issued for parking a dump truck, which is a prohibited commercial vehicle, on residentially zoned property. This NOV had a 10 day appeal period. On April 27, 2016, an NOV was also issued for a storage yard on property in the R-C District. This NOV had a 30 day appeal period.
- Appeal A 2016-SP-008 of the NOV issued for the dump truck was received on May 6, 2016, and was accepted on June 7, 2016. Appeal A 2016-SP-012 of the NOV issued for the storage yard was received May 25, 2016, and was accepted on July 13, 2016. Both appeals are scheduled concurrently for public hearing on September 21, 2016.

ZONING ADMINISTRATOR'S POSITION

It is the position of the Zoning Administrator that the appellant is parking a prohibited commercial vehicle, a dump truck, and has established a storage yard on property in the R-C District, in violation of Zoning Ordinance provisions. Photographs of the property showing the commercial vehicle and the storage materials are provided in Attachment 6.

With regard to the prohibited commercial vehicle, Par. 6 of Sect. 2-302 of the Zoning Ordinance states that no accessory structure or use is permitted unless it complies with the provisions of Part 1 of Article 10. Par. 16A of Sect. 10-102 of the Zoning Ordinance addressing Permitted Accessory Uses states:

16. *Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:*
 - A. *No food truck, solid waste collection vehicle, tractor and/or trailer of a tractor-trailer, **dump truck**, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district. (Emphasis added.)*

The above language contained in Par. 16A of Sect. 10-102 clearly states that dump trucks are prohibited from parking in any residential district. In addition, it has been a longstanding interpretation of the Zoning Administrator to apply the limitations of commercial vehicles that are prohibited from parking on streets which are contained in Section 82-5-7 of the Fairfax County Code (see Attachment 3) to the types prohibited on residential property. Whereas the weight limit of 12,000 pounds in the Zoning Ordinance only applies to wreckers, in the County Code it applies to all vehicle types. The Zoning Administrator's interpretation ensures that the Zoning Ordinance's definition of a prohibited commercial vehicle is consistent with the definition of a prohibited commercial vehicle as described and as approved by the Board of Supervisors in Section 82-5-7 of the Fairfax County Code. Further, the Zoning Administrator's interpretation ensures that commercial vehicles parked in residential areas are regulated in the same manner whether they are parked on the street or in a driveway. The authority to make such an interpretation is granted to the Zoning Administrator under the provisions of Sect. 18-103 of the Zoning Ordinance. This interpretation has been in effect for at least six years.

The appellant acknowledges that the subject vehicle is owned by the appellant and parked on the property, but argues that it is not a *prohibited* commercial vehicle nor does it meet any of the definitions of a commercial vehicle as defined in Section 82-5-7 of the County Code and, by extension, Par. 16A of Sect. 10-102 of the Zoning Ordinance. The appellant is challenging the validity of Par. 16A of Sect. 10-102 of the Zoning Ordinance, as well as the Zoning Administrator's interpretation of that section of the Zoning Ordinance. The appellant further argues that the dump truck has been parked at the subject property since 2008 and was the subject of a complaint in December 2008, which was cleared on June 26, 2009, through "compliance." As noted above, the Fairfax County Code and the Zoning Ordinance clearly state that a dump truck, regardless of its size or weight, is a prohibited commercial vehicle and may not be parked in a residential district. Therefore, the appellant's assertions that the subject vehicle does not meet the qualifications of a prohibited commercial vehicle are plainly wrong. The appellant is correct that the dump truck was the subject of an earlier complaint and that the issue was cleared. However, as previously discussed, the appellant was advised at that time that the dump truck was a prohibited commercial vehicle in a residential district. The violation was cleared only because the dump truck was temporarily allowed to be used on the property solely for loading and unloading of building materials associated with the open building permit for construction on the barn. Since there is no longer any active construction or an open building permit for construction on the lot, the dump truck may not be parked or operated on the property. Moreover, the use of the property for the parking of a commercial vehicle is in violation of Par. 6 of Sect. 2-302, Accessory Uses and Structures, which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

With regard to the storage yard, pursuant to Par. 5 of Sect. 2-302 of the Zoning Ordinance, "no use shall be allowed in any district which is not permitted by the regulations for the district." A "storage yard" is defined in Article 20 of the Zoning Ordinance as:

The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

A storage yard is not permitted in any residential district by right, by special permit, or by special exception. As set forth in the NOV, and as shown in the site photographs provided as Attachment 6, in addition to the dump truck on the property, materials to include ladders, floor joists, scaffolding, lumber, cinder blocks, pallets, and other miscellaneous materials and an equipment trailer were found located in the rear yard of the property.

The appellant does not dispute that the materials are located on the lot, but claims that they are "neatly arranged, organized and covered with tarps for use by the Appellant in the ongoing residing of the barn." The building permit for the barn construction is no longer active, nor are there any other active building permits for the property, and the barn received final inspection on June 2, 2014. Therefore, there are no permitted provisions for any activity or materials used for the current construction of the barn. Pursuant to Par. 24 of Sect. 10-102, outdoor storage is

permitted in residential districts “provided such storage is located on the rear half of the lot, is screened from view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet.” While some outdoor storage is allowed on the property, the extent of the storage on the subject property exceeds 100 square feet and the majority of the materials are not screened from view. The appellant’s assertion that the materials are arranged neatly or may be organized does not negate the fact that the storage on the property exceeds the allowable area, is not screened from view, and meets the criteria for a storage yard.

The appellant further states that the equipment trailer is for personal use and is not used for business or construction of any kind. While the equipment trailer may be for personal use, its presence on the property in combination with materials and equipment associated with construction deem it to be part of the storage yard use. It is also noted that the DCC Investigator was unable to obtain measurements of the trailer so it is unclear if it would also meet the definition of a prohibited commercial vehicle, which includes any vehicle that is more than 21 feet long or with a width of 102 inches (8.5 feet) or more.

In conclusion, it is clear from site inspections of the subject property that the appellant is parking a prohibited commercial vehicle, a dump truck, on the subject property. Furthermore, the appellant has continued to illegally park the commercial vehicle on the property since at least 2008, despite having been advised at that time that the dump truck is not permitted to be parked in a residential district. The appellant has also established a storage yard on the property, which is not a permitted use on a residential district. Staff therefore recommends that the BZA uphold the determination of the Zoning Administrator as set forth in the Notices of Violation dated April 27, 2016.

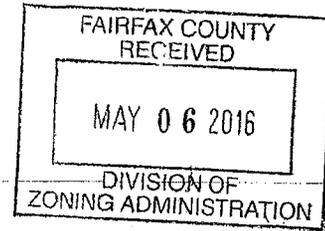
ATTACHMENTS:

1. William Wiehe, Jr. Application and Basis for Appeal and Notice of Violation (A 2016-SP-008)
2. William Wiehe, Jr. Application and Basis for Appeal and Notice of Violation (A 2016-SP-012)
3. Applicable Zoning Ordinance Provisions
4. Applicable Fairfax County Code Provisions
5. Deed Book 18592, Page 1130
6. Photographs of the Subject Property

Please type or Print in Black Ink



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
APPLICATION FOR APPEAL



APPLICATION NO. A-2016-SP-008
(Assigned by Staff)

NAME OF APPELLANT: William Wiehe Jr.

NATURE OF THE APPEAL:

APPEAL OF NOTICE OF VIOLATION CASE # 201601769 SR # 125911 ISSUED BY RONALD GIBSON CITING APPELLANT'S VEHICLE AS A COMMERCIAL VEHICLE IN VIOLATION OF SECTIONS 10-102(C)(6) AND B7 AND 2-302.6) PROHIBITED TO BE PARKED AT A RESIDENTIALLY ZONED PROPERTY.

DATE OF ORDER, REQUIREMENT, DECISION, DETERMINATION OR NOTICE OF VIOLATION WHICH IS SUBJECT TO THE APPEAL APRIL 27, 2016

HOW IS THE APPELLANT AN AGGRIEVED PERSON?:

He is owner of the vehicle and the owner of the residentially zoned property located at 6224 Colchester Road Fairfax, VA.

IF APPEAL RELATES TO A SPECIFIC PROPERTY, PROVIDE THE FOLLOWING INFORMATION:

POSTAL ADDRESS OF PROPERTY: 6224 Colchester Road Fairfax, VA 22030

TAX MAP DESCRIPTION: 76-1((7))5

Keith C. Martin, Agent
Type or Print Name of Appellant or Agent

[Signature]
Signature of Appellant or Agent

8245 Boone Blvd #400 Vienna, VA 22182
Address

Telephone No: Home 703 734-4800 Work Cell

Please type or print name, address, and phone number of contact person if different from above:

DO NOT WRITE IN THIS SPACE

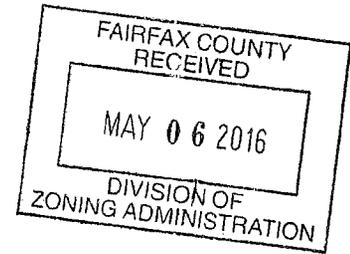
Subdivision Name: Wonderland
Total Area (Acres/Square Feet): 2.0385 acres
Present Zoning: RC WS
Supervisor District: Springfield
Date application received: 5/6/16 Application Fee Paid: \$ \$600
Date application accepted: 6/7/16

May 6, 2016

Zoning Administrator
Zoning Administration Division
Department of Planning and Zoning
12055 Government Center Pkwy, Suite 807
Fairfax, Va 22035

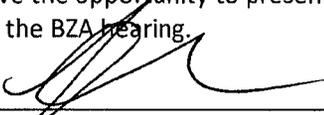
With Copy to:

Clerk, Board of Zoning Appeals
Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Pkwy, Suite 801
Fairfax, Va 22035



GROUNDS FOR APPEAL: The vehicle cited is a Mitsubishi truck, registered to the Appellant for his personal use. It does not meet any of the prohibitions of a Commercial Vehicle parking at residentially zoned property nor does it meet any of the definitions of a commercial vehicle cited in the Notice in Section 82-5-7 of the County Code. This vehicle has been parked at the property since 2008 and was the subject of Community Complaint Inquiry # 42872, Commercial Vehicle in December, 2008 and disposed of by Code Compliance on June 26, 2009 as "Compliance".

I reserve the opportunity to present further evidence in support of this grounds for appeal before or during the BZA hearing.

By: 

KEITH C. MARTIN, AGENT FOR APPELLANT



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

COPY

DATE OF ISSUANCE: April 27, 2016

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: William Wiehe Jr.
ADDRESS: 12321 Popes Head Road
Fairfax, Virginia 22030

LOCATION OF VIOLATION: 6224 Colchester Road
Fairfax, Virginia 22030-5906

TAX MAP REF: 0761 07 0005

ZONING DISTRICT: RES CO (1DU/5AC)

CASE #: 201601769 **SR #:** 125911

ISSUING INVESTIGATOR: Ronald Gibson, (703) 324-8247

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§10.102.16	\$ 200.00	\$ 500.00
	TOTAL:	\$ 200.00	\$ 500.00

Dear Responsible Party:

An inspection of the above referenced property on April 14, 2016, revealed the following violations of the Fairfax County Zoning Ordinance:

§ 10-102 (16 A & B) Commercial Vehicle
§ 2-302 (6) Accessory Use must comply with Article 10:

The inspection has determined that a prohibited commercial vehicle: a white Mitsubishi dump truck with Virginia registration TX18453, that has a gross weight of 18,000 pounds, is parked at this

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

residentially zoned property. A commercial vehicle is defined in Part 3 of Article 20 of the Ordinance as follows:

Any vehicle with a rated carrying capacity of 1500 pounds (3/4 ton) or more, and any vehicle, regardless of capacity, which displays advertising lettered thereon or which is licensed as a 'for hire' vehicle. For the purpose of this Ordinance, commercial vehicles shall not be deemed to include any vehicle operated by a public agency except those vehicles set forth in Par. 16A of Sect. 10 102, farm vehicle or equipment located on property used for agricultural purposes, motor home, camping trailer, boat, boat trailer, horse trailer or similar recreational equipment recognized as personal property and not for hire, emergency fuel oil delivery truck which has been approved by the County and/or any public or private vehicle used exclusively for the transportation of persons to and from a school, place of religious worship, or activities related thereto.

A commercial vehicle may be parked and/or stored on residentially zoned property as an accessory use provided it satisfies the limitations detailed in the Zoning Ordinance. These limitations are specified in Paragraphs 16A and 16B of Sect. 10-102 of the Fairfax County Zoning Ordinance, which permit:

Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:

- A. No food truck, solid waste collection vehicle, tractor and/or trailer of a tractor trailer truck, dump truck, construction equipment, cement mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.
- B. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.

Based on Section 82-5-7 of the Fairfax County Code, any vehicle with the following characteristics shall be deemed most similar to a prohibited commercial vehicle as stated above and thereby not permitted to be parked in a residential district.

- Vehicles which are more than 21 feet long → vehicle is actually 17' long.
- Vehicles which are more than 8 feet high including appurtenances → vehicle is 95" tall —
- Vehicles with a width of 102 inches (8.5 feet) or more → vehicle is actually 95" wide
Tarp accessory adds additional 5", however this can be relocated to under 8'.

William Weihe Jr.
April 27, 2016
SR 125911
Page 3

- Vehicles which have a gross vehicle weight of 12,000 or more pounds - *vehicle is 9100 # GVW*
- Vehicles carrying commercial freight in plain view - *none*
- Vehicles with three (3) or more axles - *vehicle is 2 axle*
- Vehicles exempted from these size and weight limits are: commercial vehicles - *N/A* used by a public service company, watercraft or motor home, school buses used on a current and regular basis to transport students; clearly marked privately owned vehicles displaying accessible parking placards or license plates, moving trucks for 48 hours and normal service delivery vehicles while making deliveries.

Therefore, you are in violation of Paragraphs 16A and 16B of Sect. 10-102 and Par. 6 of Section 2-302 of the Zoning Ordinance which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par 1 of Article 10.

You are hereby directed to clear this violation within ten(10) days of the date of this Notice. Compliance can be accomplished by:

- Removing the prohibited commercial vehicles to meet limitations set forth in Par. 16 of Sect. 10-102 of the Fairfax County Zoning Ordinance.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

You may have the right to appeal this Notice of Zoning Violation within ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such ten (10) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal

William Weihe Jr.
April 27, 2016
SR 125911
Page 4

application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314

Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-8247.

LEGAL NOTICE ISSUED BY:



Signature

Ronald Gibson
Code Compliance Investigator
(703) 324-8247
Ronald.Gibson@fairfaxcounty.gov

2000P3 14408

VIRGINIA MOTOR VEHICLE REGISTRATION

VSA-0

Identification Number (VIN)	Date Issued	Plate Number	Plate Type	Sticker	Expires	
L6CCD1SX7K011010	02/19/12	TX18453	TKP		02/2	
Model	Body	Year	Color	Fuel	Vehicle Use	
FEB	TRUCK	2007	WHI	DESL	PRIVATE	
Odometer at Titling	Lien at Reg	EW	GW	GVWR	GCWR	Unit #
23 ACTUAL	N	5985	18000	19500		

T60804522

*none of these
refer to GVW*

WIEHE JR, WILLIAM HARRY
 12321 POPES HEAD RD
 FAIRFAX VA 22030-6409

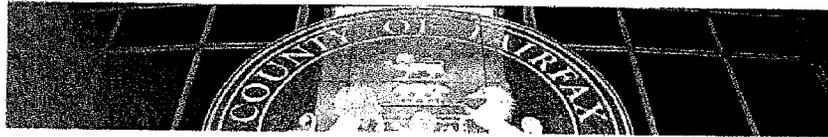
FAIRFAX COUNTY

CM



Insurance coverage of all registered vehicles. If you cancel your insurance, notify DMV and
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 will be cancelled.

be carried in the motor vehicle when in operation but does not permit holder to operate a mot



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Community Complaint Inquiry

(6224 COLCHESTER RD, FAIRFAX)

Complaint Number	Description	Status	Opened	Closed	Disposition
30226	Business In A Residential District	Closed	03/14/2008	08/29/2008	Compliance
42872	Commercial Vehicle	Closed	12/22/2008	06/26/2009	Compliance
125911	Zoning	Under Investigation	04/11/2016		



Mobile Site

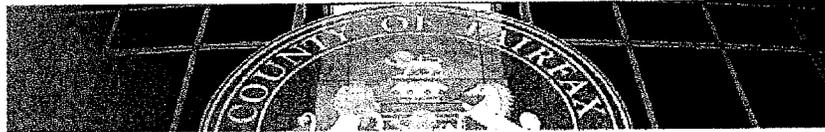
Complaint # 42872
Street Address 6224 Colchester Rd
Magisterial District Springfield
Complaint Description Commercial Vehicle
Agency Planning and Zoning
Status Closed
Opened Date 12/22/2008
Closed Date 06/26/2009
Disposition Compliance
Inspector Assigned Laura Ferramosca, 703-324-4300
Notice of Violation and/or Corrective Work Order No
Litigation No

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 Technical Questions: [Web Administrator](#)

[ADA Accessibility](#) | [Website Accessibility](#)
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Community Complaint Inquiry

(8224 COLCHESTER RD, FAIRFAX)

Complaint Number	Description	Status	Opened	Closed	Disposition
30226	Business In A Residential District	Closed	03/14/2008	08/29/2008	Compliance
42672	Commercial Vehicle	Closed	12/22/2008	08/26/2009	Compliance
125911	Zoning	Under Investigation	04/11/2015		

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Return Site

Contact Fairfax County: [Phone](#), [Email](#) or [Twitter](#) | Main Address: [12000 Government Center Parkway, Fairfax, VA 22035](#)
Technical Questions: [Web Administrator](#)

[ADA Accessibility](#) | [Website Accessibility](#)
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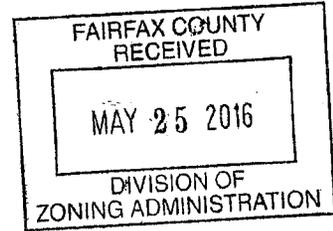
Website Feedback

Language Translations



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
APPLICATION FOR APPEAL

Please type or
Print in Black Ink



APPLICATION NO. AT-2016-SP-012
(Assigned by Staff)

NAME OF APPELLANT: William Wiehe Jr.

NATURE OF THE APPEAL:
APPEAL of Notice of Violation Case # 201601709 SR # 125911 issued by
RONALD GIBSON Citing a Storage Yard in violation of Par. 5 of Sect. 2-302

DATE OF ORDER, REQUIREMENT, DECISION, DETERMINATION OR NOTICE OF VIOLATION WHICH
IS SUBJECT TO THE APPEAL April 27, 2016

HOW IS THE APPELLANT AN AGGRIEVED PERSON?:
Title owner of the property

IF APPEAL RELATES TO A SPECIFIC PROPERTY, PROVIDE THE FOLLOWING INFORMATION:

POSTAL ADDRESS OF PROPERTY: 6224 Colchester Road

TAX MAP DESCRIPTION: 76-1 (17) 5

Keith C. Martin, Agent
Type or Print Name of Appellant or Agent


Signature of Appellant or Agent

8245 BODNE BLVD #400 VIENNA, VA 22182
Address

703 734-4800
Telephone No: Home Work Cell

Please type or print name, address, and phone number of contact person if different from above:

DO NOT WRITE IN THIS SPACE
Subdivision Name: Wonderland
Total Area (Acres/Square Feet): 2.0385 ac
Present Zoning: R-C and WS
Supervisor District: Springfield
Date application received: 5/25/16 Application Fee Paid: \$ 600
Date application accepted: 7/13/16

May 26, 2016

Zoning Administrator
Zoning Administration Division
Department of Planning and Zoning
12055 Government Center Pkwy, Suite 807
Fairfax, VA 22035

With Copy to:

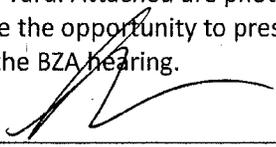
Clerk, Board of Zoning Appeals
Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Pkwy, Suite 801
Fairfax, VA 22035

GROUND FOR APPEAL: The Notice states that inspection found an equipment trailer, cinder blocks, pallets and other miscellaneous material and such use constitutes a Storage Yard as defined in the Zoning Ordinance as:

The use of any space, whether inside or outside of a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and /or farm machinery.

The trailer is a personal use trailer licensed to the Appellant and not used for business or construction of any kind and is permitted to be parked on a residential lot. The other material cited are neatly arranged, organized and covered with tarps for use by the Appellant in the ongoing residing of the barn. The materials are easily accessible by the Appellant up against the barn to continue the residing project. The materials are not visible from the house or from the public street. One has to walk deep into the back yard and look around the side of the barn and under the tarps to see the materials. None of the materials constitute construction equipment or machinery and therefore this does not constitute a Storage Yard. Attached are photographs of the neatly kept barn area.

I reserve the opportunity to present further evidence in support of this grounds for appeal before or during the BZA hearing.

By: 

KEITH C. MARTIN, AGENT FOR APPELLANT



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

COPY

DATE OF ISSUANCE: April 27, 2016

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: William Wiehe Jr.
ADDRESS: 12321 Popes Head Road
Fairfax, Virginia 22030

LOCATION OF VIOLATION: 6224 Colchester Road
Fairfax, Virginia 22030-5906

TAX MAP REF: 0761 07 0005

ZONING DISTRICT: RES CO (1DU/5AC)

CASE #: 201601769 **SR #:** 125911

ISSUING INVESTIGATOR: Ronald Gibson, (703) 324-8247

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§02.302.5SY	\$ 200.00	\$ 500.00
	TOTAL:	\$ 200.00	\$ 2000.00

Dear Responsible Party:

An inspection of the above referenced property on April 14, 2016, revealed the following violation of the Fairfax County Zoning Ordinance:

§ 2-302 (5) Storage Yard:

The inspection revealed the storage in the rear yard of, but not limited to, the following:

Dump truck, equipment trailer, ladders, floor joists, scaffolding, lumber,

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

William Wiehe Jr.
April 27, 2016
SR 125911
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equipment trailer, cinder blocks, and pallets, and other miscellaneous materials

Such use of this property constitutes a storage yard, which is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

A storage yard is not a permitted use in the RC (1DU/AC) District. Therefore you are in violation of Par. 5 of Sect. 2-302 of the Fairfax County Zoning Ordinance which states:

No use shall be allowed in any district, which is not permitted by the regulations for the district.

You are, hereby, directed to clear this violation within thirty (30) days of the date of this Notice. Compliance must be accomplished by the following:

- Removing all items comprising the storage yard from this lot to a lawful site; and
- Ceasing, on a permanent basis, the use of the property as a storage yard.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314

Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

William Wiehe Jr.

April 27, 2016

SR 125911

Page 3

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-8247.

LEGAL NOTICE ISSUED BY:



Signature

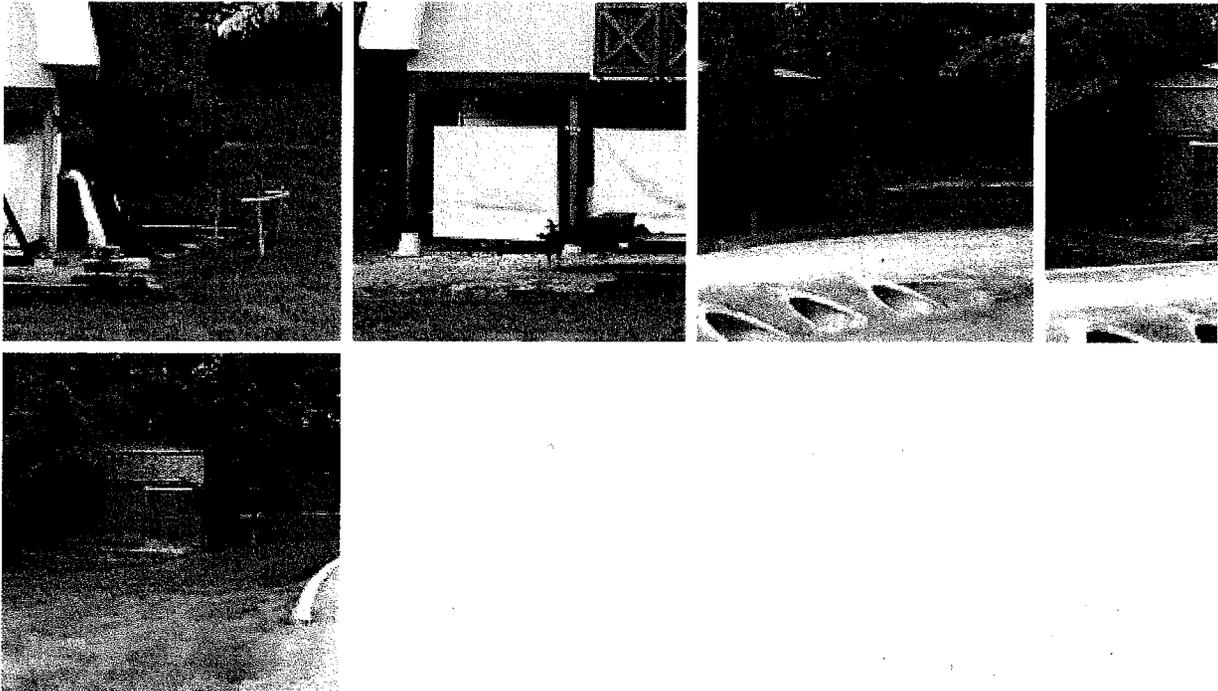
Ronald Gibson

Code Compliance Investigator

(703) 324-8247

Ronald.Gibson@fairfaxcounty.gov

6224 Barn area



ATTACHMENT 3

Applicable Zoning Ordinance Provisions

Appeal A 2016-SP-008 William Wiehe, Jr.

Appeal A 2016-SP-012 William Wiehe, Jr.

Paragraphs 5 and 6 of Sect. 2-302 – Permitted Uses:

5. No use shall be allowed in any district which is not permitted by the regulations for that district.
6. No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

Paragraphs 16 and 24 of Sect. 10-102 – Permitted Accessory Uses:

Accessory uses and structures shall include, but are not limited to, the following uses and structures; provided that such use or structure shall be in accordance with the definition of Accessory Use contained in Article 20.

16. Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:
 - A. No food truck, solid waste collection vehicle, tractor and/or trailer of a tractor-trailer, dump truck, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.
 - B. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.
24. Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet. In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.

Sect. 18-103 – Questions of Interpretation:

The Zoning Administrator shall administer and interpret the Zoning Ordinance. Every question involving the interpretation of any provision of this Ordinance shall be presented

to the Zoning Administrator for decision. An appeal of any decision of the Zoning Administrator may be taken to the BZA as provided for in Part 3 of this Article, except an appeal of a decision which relates to a proffered condition shall be taken to the Board as provided for in Par. 10 of Sect. 204 below.

Article 20, Definitions: COMMERCIAL VEHICLE and STORAGE YARD:

COMMERCIAL VEHICLE: Any vehicle with a rated carrying capacity of 1500 pounds (3/4 ton) or more, and any vehicle, regardless of capacity, which displays advertising lettered thereon or which is licensed as a 'for hire' vehicle. For the purpose of this Ordinance, commercial vehicles shall not be deemed to include any vehicle operated by a public agency except those vehicles set forth in Par. 16A of Sect. 10 102, farm vehicle or equipment located on property used for agricultural purposes, motor home, camping trailer, boat, boat trailer, horse trailer or similar recreational equipment recognized as personal property and not for hire, emergency fuel oil delivery truck which has been approved by the County and/or any public or private vehicle used exclusively for the transportation of persons to and from a school, place of religious worship, or activities related thereto.

STORAGE YARD: The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

Applicable Provisions – Chapter 82, Fairfax County Code

Appeal A 2016-SP-008 William Wiehe, Jr.

Appeal A 2016-SP-012 William Wiehe, Jr.

Section 82-5-7. - Parking commercial vehicles in residential districts.

- (a) No person shall park any motor vehicle, trailer or semitrailer on or adjacent to the highways of the County when such person parks any such motor vehicle, trailer or semitrailer for commercial purposes. The provisions of this subsection shall not apply to (1) any commercial vehicle when picking up or discharging passengers or (2) utility generators located on trailers and being used to power network facilities during a loss of commercial power.
- (b) No person shall park any commercial vehicle on the highways of the County in areas zoned for residential use. However, one resident of each single-family dwelling unit zoned for residential use may park one vehicle licensed and registered in the Commonwealth of Virginia as a taxicab or limousine on such highways, provided other vehicles are permitted to park thereon, and the provisions of this Subsection do not apply to a commercial vehicle when picking up or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location. For the purposes of this Subsection, the following terms have the meanings ascribed to them below:

"Commercial vehicle" means: (1) any solid waste collection vehicle, tractor truck or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, towing and recovery vehicle with a registered gross weight of 12,000 pounds or more, and any heavy construction equipment, whether located on the highway or on a truck, trailer, or semitrailer; (2) any trailer, semitrailer, or other vehicle in which food or beverages are stored or sold; (3) any trailer or semitrailer used for transporting landscaping or lawn-care equipment whether or not such trailer or semitrailer is attached to another vehicle; (4) any vehicle licensed for use as a contract carrier or as a limousine; (5) any vehicle more than 21 feet in length or more than eight feet in height including appurtenances attached to the vehicle, or with a width of 102 inches or more, or with a gross weight of 12,000 or more pounds, other than: commercial vehicles used by a public service company, as defined in § 56-1 or by others working on its behalf; watercraft and motor homes; school buses used on a current and regular basis to transport students; clearly marked privately owned vehicles displaying accessible parking placards or license plates, not for hire, driven by or used for transport of persons with disabilities; commercial vehicles used in the provision of cable television service as defined in § 15.2-2108.1; moving vehicles, within 48 hours of execution of the leasing contract; or commercial vehicles used in the provision of

propane gas service; (6) any vehicle carrying commercial freight in plain view; (7) any trailer, semitrailer, or double axle utility trailer, regardless of whether a state safety inspection is required, except those designed to be used as a camper trailer or boat trailer or a single axle utility trailer, regardless of whether such trailer or semitrailer is attached to another vehicle; or (8) any vehicle with three or more axles.

"Utility trailer" means: A small non-motorized trailer which is generally pulled by a motorized vehicle and features an open-top rear cargo area.

"Areas zoned for residential use" includes all areas of the County which have been zoned to a zoning classification which permits one or more residential dwelling units. The zoning boundaries shall be used in the enforcement of the requirements of this Subsection. However, in any case in which a highway serves as the boundary between an area zoned for residential use and an area zoned for another use, then the centerline of that highway shall be considered as the boundary between the area zoned for residential use and the area zoned for another use. In such cases, the prohibitions of this Subsection shall apply only to the side of the highway that abuts the area zoned for residential use except as otherwise provided in Section 82-5-37(5). In any case in which a service road or frontage road is adjacent to an area zoned for residential use, then the prohibitions of this Subsection shall apply to the side of the highway that abuts the area zoned for residential use except as otherwise provided in Section 82-5-37(5).

(3-13-63; 1961 Code, § 16-122.1; 2-79-82; 47-86-82; 30-97-82; 38-04-82; 53-09-82; 35-10-82.)

DMZ Cover Sheet 2.0

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Fairfax County Land Records Cover Sheet

Instruments

DEED OF GIFT CORRECTION

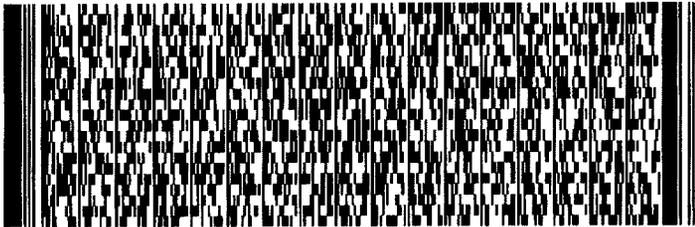
Grantor(s)

WIEHE, MARY MAY STERN_I_N, WIEHE, WILLIAM JR_I_N

Grantee(s)

WIEHE, WILLIAM JR_I_N

Consideration	0.00	Consideration %	100
Tax Exemption	CFO	Amount Not Taxed	
DEM Number		Tax Map Number	076-1- -07- -0005-
Original Book		Original Page	
Title Company	LAND TITLE, LLC	Title Case	WIEHE
Property Descr.	WONDERLAND, SEC 4, LOT 5		
Certified	No	Copies	0
		Page Range	



Fairfax County Land Records

2

Fairfax County Land Records Cover Sheet - 030432H

Instrument(s)

DEED OF GIFT

Grantor(s)

WIEHE, MARY MAY STERN _I_N; WIEHE, WILLIAM JR _I_N

Grantee(s)

WIEHE, WILLIAM JR _I_N

Consideration		Consideration %	100
Tax Exemption	CFO	Amount Not Taxed	
DEM Number		Tax Map Number	076-1- /07/ /0005
Original Book		Original Page	
Title Company	LAND TITLE LLC	Title Case	
Property Deser.	LOT 5 SECTION 4 WONDERLAND		
Certified	No	Copies	0
		Page Range	



This Deed is being recorded to correct the recording order of the ~~prev~~ Prior Deeds to preserve the Chain of Title and intent of the Grantors leaving William Wiehe, Jr. as Sole Grantee.

LAND TITLE, LLC
 13450 SUNRISE VALLEY DRIVE
 SUITE 15C
 HERRINGTON, VA 22071
 FILE # D3043411

Inst 076-1-07-0005

GIFT DEED

THIS GIFT DEED made this 14th day of November, 2003, by and between Mary May Stern WIEHE and William WIEHE, Jr., Grantors, and William WIEHE, Jr., Unmarried Grantee.

WITNESSETH:

That for and in consideration of the sum of TEN AND NO/100'S (\$10.00) Dollars, cash in hand paid and other good and valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby quitclaim, release and convey to the Grantee(s) all right, title and interest of the Grantor(s) in and to the following described property located in Fairfax County, Virginia, State of Virginia, and more particularly described as follows:

S. 1811D

See Exhibit "A" attached hereto and made a part hereof

This Deed is done without the benefit of Title Examination.
 WITNESS the following signatures and seals:

Mary May Stern Wiehe
 (SEAL) Mary May Stern WIEHE

(SEAL) William WIEHE, Jr.
William Wiehe, Jr. (SEAL)

____ (SEAL)

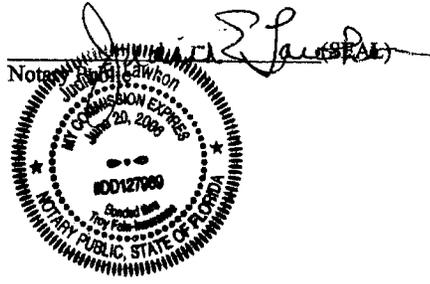
STATE OF VIRGINIA
 FAIRFAX COUNTY, to-wit:

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that Mary May Stern WIEHE and William WIEHE, Jr., whose name are signed to the foregoing Deed, dated this 14th day of November, 2003, have acknowledged the same before me in my State and City aforesaid.

BK 15462 0514

Given under my hand and seal this 14th day of November, 2003.
My commission expires: June 20, 2006

File # 030432H



BK 18592 1134

BK 15462 0515

EXHIBIT "A"

**Lot 5, Section 4, in the subdivision known as WONDERLAND,
as the same appears duly dedicated, platted and recorded in
Deed Book 4693 at page 837 among the land records of Fairfax
County, Virginia.**

15 4

A COPY TESTE:
JOHN T. FREY, CLERK

BY: *John T. Frey*
Deputy Clerk

12/04/2003
RECORDED FAIRFAX CO VA
TESTE: *John T. Frey*
CLERK

07/06/2006
RECORDED FAIRFAX CO VA
TESTE: *John T. Frey*
CLERK

Aerial Photograph of the Subject Property



Photographs of the dump truck parked on the subject property as taken from Yellow Brick Road



Photographs of materials on property constituting a Storage Yard

