

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, OCTOBER 9, 2014**

PRESENT: Frank A. de la Fe, Hunter Mill District  
Janet R. Hall, Mason District  
James R. Hart, Commissioner At-Large  
Ellen J. Hurley, Braddock District  
John C. Ulfelder, Dranesville District  
Kenneth A. Lawrence, Providence District  
John L. Litzenberger, Jr., Sully District  
Janyce N. Hedetniemi, Commissioner At-Large

ABSENT: Peter F. Murphy, Springfield District  
James T. Migliaccio, Lee District  
Earl L. Flanagan, Mount Vernon District  
Timothy J. Sargeant, Commissioner At-Large

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The meeting was called to order at 8:19 p.m., by Vice Chairman de la Fe, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Lawrence announced that the Planning Commission's Tysons Committee had met earlier this evening to discuss the draft text for upcoming Tysons Plan Amendment. He added that the committee would meet again in the coming weeks on dates to be announced.

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On behalf of Chairman Murphy, Commissioner Hart MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR PA 2013-III-FC1(A) AND S13-III-FC1, COMPREHENSIVE PLAN AMENDMENTS REGARDING FAIRFAX CENTER AND SUBURBAN CENTER PHASE I, BE DEFERRED TO WEDNESDAY, NOVEMBER 12, 2014.

Commissioners Hurley and Lawrence seconded the motion, which carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.

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MINUTES APPROVAL FOR APRIL 2014 AND MAY 2014

Commissioner Hall: Thank you, Mr. Chairman. I have two items. First, I MOVE TO APPROVE THE MINUTES OF APRIL AND MAY 2014.

Commissioner Hart: Second.

Vice Chairman de la Fe: It has been moved and seconded. Any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion –

Commissioner Hurley: Abstain. I missed the month of May.

Vice Chairman de la Fe: Okay.

Commissioner Hall: You can miss the month of May and still move on the minutes.

Commissioner Hurley: I'll approve.

Commissioner Hall: If it said you were there, that would be a problem. But if it says you're not there, then the minutes are correct.

Vice Chairman de la Fe: So are you abstaining?

Commissioner Hurley: I'll approve the ones that I was at.

Vice Chairman de la Fe: Okay.

Commissioner Hall: That works.

Commissioner Lawrence: Same position.

Vice Chairman de la Fe: With the same position.

Commissioner Lawrence: I vote to approve all those that I attended.

Vice Chairman de la Fe: Okay. Any further clarification? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

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(The motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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FS-M14-29 – AT&T, 5100 Backlick Road

Commissioner Hall: Thank you, Mr. Chairman. One more item of business – I have a “feature shown.” The application number is FS-M14-29, AT&T, 5100 Backlick Road, Annandale, Virginia – zip is 22003 – and I’m not sure what 0714200001 is, but I’m going to assume that it’s part of the definition. I RECOMMEND THAT THE PLANNING COMMISSION CONCUR WITH THE DETERMINATION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING AND THAT THE TELECOMMUNICATIONS FACILITY INSTALLATION PROPOSED BY AT&T LOCATED AT 1500 BACKLICK ROAD, ANNANDALE, VIRGINIA, 22003, IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A “FEATURE SHOWN,” PURSUANT TO *VIRGINIA CODE* 15.2-2232, AS AMENDED.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Commissioner Hart. Is there any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

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(The motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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FS-P14-25 – CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, 1651 Old Meadow Road

Commissioner Lawrence: Secondly, I have some “features shown” – or is that “feature shows.” Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION CONCUR WITH THE STAFF DETERMINATION IN THE MATTER OF FS-P14-25 FOR A VERIZON TELECOMMUNICATIONS FACILITY AT 1651 OLD MEADOW ROAD THAT IS IN CONFORMANCE WITH THE ADOPTED Virginia – COMPREHENSIVE PLAN AND SHOULD BE APPROVED ACCORDING TO section – *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioners Hedetniemi and Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioners Litzenberger and Hedetniemi. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

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(The motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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SE 2014-SU-010 – CSH ARTISAN FAIRFAX, LLC (Decision Only)  
(The public hearing on this application was held September 18, 2014.)

Commissioner Litzenberger: Thank you, Mr. Chairman. We've been doing a lot of work – especially the staff and the applicant – in trying to address all the concerns that were raised on the elder care facility proposed for Chantilly. Could Mr. Adams come down with the applicant and give us an update on how things are going with their title search?

Scott Adams, Applicants Agent, McGuireWoods, LLP: Good evening. I'm Scott Adams with McGuireWoods on behalf of the applicant. Thank you for the opportunity to come down and update you on what we've been doing since the public hearing on this case. As you may recall, when we were here the last time, the big issue that was remaining related to the service drive that runs parallel to Route 50 between Downs Drive and Chantilly Drive. And we have been doing a lot of work trying to figure out the current status in the ownership of that service drive – and also working with the service station owner regarding the access on that and trying to clean up that situation. I guess – before I get into, maybe, the details of those efforts – I did want to just, I think, make a point that may have been lost at the last meeting, which is the necessity of that service drive – or, better said, that the lack of necessity of that service drive for this project. Our traffic consultant – I think you'll hear from County staff – have identified the traffic generated by this site is fully addressed by access off of Route 50 onto Downs Drive. And the service drive really is a secondary access to and from the site that provides, you know, a convenience but not a necessity to provide adequate access to and from the site. That said – obviously, there was a concern raised at the last meeting that we did want to address. And we started off by reviewing the Special Exception for that service station in more detail. I think staff can talk a little bit more about the current status of that Special Exception. But on the Special Exception plat, it does show that that service drive was intended to be dedicated for public right-of-way purposes. There's a development condition that requires that that service drive be dedicated. Following up on that, we did do a title search on that property and determined that – the service drive never was dedicated. So there is a conflict there between the approval and what's actually happened on the ground. We also found that there was no ingress/egress easement that was ever granted over the service drive. So with that said, there seems to be an option of the County going out and trying to get the right-of-way dedicated on the service drive. But at this point, that condition appears to not have been complied with. All that said, we did actually reach to the service station operator – trying to arrange for some sort of alternative access, even though – technically, the County should've gotten that public right-of-way. We did reach out to them – talked to them extensively – met with them – trying to get an alternative access and also get some "No Parking" signs along that service drive and, unfortunately, were not able to come to an agreement with the

operator for a number of reasons – I think one of which was getting some pressure from the neighbors to not work with us to try and clean up that situation, which I think was – is unfortunate. So that’s sort of where we are tonight. The right-of-way should’ve been dedicated. It never was, despite our best efforts. We haven’t been able to secure some sort of alternative right to use that service drive, but we have been assured by the operator that he has no intention of closing that down or prohibiting access along the service drive.

Commissioner Litzenberger: The gas station operator – he hired Mr. Keith Martin, who many of us know. And he called me. I asked him if they would oppose putting up “No Parking” signs on the north side. He said they would not. So have you discussed that with the gas station operator at all?

Mr. Adams: We discussed it with the gas station operator before he hired Mr. Martin. He did indicate to us verbally that he was not opposed to putting up signs along the service drive so that’s – I would confirm what Mr. Martin told you.

Commissioner Litzenberger: Okay, thank you.

Vice Chairman de la Fe: Anything else?

Commissioner Hart: Mr. Chairman?

Vice Chairman de la Fe: Yes, Mr. Hart.

Commissioner Hart: Did you want to do questions? Or –

Vice Chairman de la Fe: We are on verbatim, but go ahead.

Commissioner Hart: Okay, well I’ll keep it short. I don’t know exactly what was going to happen tonight. I guess my hope was that – or my observation would be that – I believe nothing would be hurt by another short deferral. To my mind, the issues of the enforcement against the service station and the approval of the new use – they’re easily conflated. But they’re really separate things. The problem that I’ve had is that the application is about, I think – about as good a use as we can get for that vacant lot. It’s got a lot of challenges with the RPA and it’s so shallow and it doesn’t have very good access. The access is very difficult and the service drive, whether it’s essential or not, makes it better than it is without it. It should’ve been straightened out. I think the applicant assumed that it probably had been straightened out a long time ago. I think staff assumed – I think staff said so at the public hearing that staff had assumed it was a service drive. I believe that the confirmation that this site would have the ability for public ingress and egress over the service drive would help – would be consistent with the other objective of minimizing the cut-through traffic through the neighborhood. Our role, in making a recommendation to the Board, has to include – I think – mitigation of what impacts are caused by a Special Exception use. And a Special Exception use in a residential area could have some transportation impact. My feeling would be – rather than try and decide this tonight, based on that – if Mr. Martin was just hired yesterday, I think the owner of the property needs to talk to the service station operator. The neighbors probably need to reflect on this. It should be in everyone’s interest to straighten out this service drive business. And if we don’t do it now, all the papers are just going to go back up

on the shelf like they did after the service station was approved and no one will look at them again until there's a problem. I don't mean to be going on and on, but I guess I am. So anyway -- and Ken had one -- excuse me, Commissioner Lawrence had one other issue from the last hearing. I thought we were going to do a development condition, possibly, about truck deliveries or something and I never saw that -- or maybe something's happened on that either -- but that seemed to me was another loose end we were perhaps going to improve.

Vice Chairman de la Fe: Okay. Anything else? And don't forget we are --

Commissioner Hall: I know.

Vice Chairman de la Fe: Ms. Hall.

Commissioner Hall: And I'll make it short and sweet. I agree with everything Commissioner Hart has said. I do support the deferral. Just as we're talking about the "No Parking" signs -- who's going to put those up? Who's going to be responsible? I think that needs to be spelled out. The other thing was -- during the public hearing, the way the drive-throughs go straight across into that service lane -- there's no yield sign -- there's no stop sign. That needs to be signed and I haven't heard anybody address that so I would recommend we defer decision -- work out that signage -- because either slowing the cars down off of 50 -- I mean it -- that would take a lot of the danger away. So I would just say that. Thank you.

Vice Chairman de la Fe: Okay. Mr. Litzenberger?

Commissioner Lawrence: Mr. Chairman?

Vice Chairman de la Fe: Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. First, I asked that -- heading to the green time on the tight left turn onto the major arterial we looked into. Has that happened?

Mr. Adams: I'm sorry. Could you say that again? The --

Commissioner Lawrence: In the interest of being as short as I possibly can -- me too.

Vice Chairman de la Fe: Okay.

Commissioner Litzenberger: Mr. Chairman, I would like to have Mr. O'Donnell tell us what the staff has been working on, please.

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning: Sure. I'm William O'Donnell with the Department of Planning and Zoning. What Scott Adams has mentioned on the record is true. I'd like to further elaborate on some of the information he's provided, which we'll probably have to look into further. But 1971 -- the Special Permit (SP) was approved for the service station. In 1997, there was a request to replace the gas pumps with five new pumps and a canopy over the pumps. Then later in 1997, they filed an SE and was approved for the service station/mini mart. And what Scott has mentioned on the record is -- yes, as part of

that development – as part of that approval, there was a development condition that 70 feet – 75 feet of right-of-way be dedicated in front of the service station. In 2000, the Board permitted an 18-month extension of that Special Exception because they hadn't commenced construction of the approval. And then in October 5<sup>th</sup>, 2001, the SE expired. There is a non-RUP on file, which I assume is based on the site plan that was filed according to the original SP, which is probably the 1974 timeframe. Land development history on our LDIS system shows about 40 instances of building permits that were approved, ranging from sign permits to electrical mechanical permits. And, ironically, there is a complaint that was filed for unapproved additions on 2012, but that was closed. At this point, staff would have to consider re-opening some of those investigations because of all the testimony that has been taking place. And then I would like to further reiterate that, during our analysis of the Special Exception, we did not assume the need for the service road. We felt comfortable that there is adequate access, regardless of the service road. And as I indicated at the public hearing, there are the two instances of traffic lights between the Chantilly Plaza and Chantilly Road that does provide adequate green time for one to exit the site. And if need be – if they needed to do – go eastbound on Route 50, they could do a U-turn at Chantilly Road or even further up towards Lowe's Improvement. So with that being said, I also have Bob Pikora from Fairfax Department of Transportation, who could further reiterate what I had said about the access. But staff has found that the application meets the general standards of the Special Exception request. It meets the medical care facility additional standards. And we support the application.

Vice Chairman de la Fe: Okay. Mr. Litzenberger.

Commissioner Litzenberger: Two quick questions and then I'll move. For transportation, did you check to make sure the lights are sequenced so that people can get out easily at that stop sign on Downs Drive?

Robert Pikora, Fairfax County Department of Transportation (FCDOT): Commissioner, my name is Bob Pikora with FDOT, as Billy had mentioned. We had not looked at the lights specifically because they are controlled by VDOT. If we change any of the light timings for the signal at Chantilly, we're also looking at changing all the light signals upstream and downstream of the site. So we have not looked at that perspective of changing the light timing.

Commissioner Litzenberger: So you didn't – okay. Let me put it this way. Mr. O'Donnell stated that, based on the County transportation requirements, the service road would be just over and above what was required – that if it was just Downs Drive, it would be good enough to handle the traffic going to and from the facility?

Mr. Pikora: Yes sir.

Commissioner Litzenberger: Okay. I'm ready to move.

Vice Chairman de la Fe: Okay. Mr. Litzenberger.

Commissioner Litzenberger: I think we still – a little more homework here to answer the other Commissioners' questions. One thing I did is I drove over there and I looked at it for a third time. And I confirmed what Mr. O'Donnell stated that there's about a two-minute break between when

the Staples light comes on and the Chantilly Road light. So in two minutes, a lot of traffic can flow through a traffic sign to get across street and the left-turn lane extends all the way to Downs Drive. Secondly, I mentioned I spoke with the gas station operator and his attorney and they did not oppose the “No Parking” signs. As Mr. O’Donnell mentioned the last time, the service drive is 29 feet wide so if there’s no parking on the north side, they can queue up for the gas station on the south side. There’s still more than enough space for two trucks to pass each other. But I want to get the questions answered, as requested by Mr. Lawrence, Mr. Hart, and Ms. Hall. So I MOVE THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2014-SU-010, TO A DATE ABSOLUTELY CERTAIN OF October 2<sup>nd</sup> – OCTOBER 22<sup>ND</sup>, excuse me.

Commissioners Hall and Hedetniemi: Second.

Vice Chairman de la Fe: October 22<sup>nd</sup>? Seconded by Mrs. Hall and Mrs. Hedetniemi. Any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: Thank you.

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(The motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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SE 2014-MV-017 – VERIZON VIRGINIA, LLC (Decision Only)  
(The public hearing on this application was held on October 1, 2014.)

Commissioner Hart: Thank you, Mr. Chairman. Commissioner Flanagan, last night, did an intent to defer, but he’s at the Route 1 meeting so I’m going to pinch hit. On the Verizon case – Mr. Chairman, I MOVE THE DEFER THE DECISION ONLY FOR SE 2014-MV-017 TO A DATE CERTAIN OF OCTOBER 15, 2014, WITH THE RECORD REMAINING OPEN FOR WRITTEN TESTIMONY.

Commissioner Hall: Second.

Vice Chairman de la Fe: Seconded by Mrs. Hall. Any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

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(The motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. PA 2014-I-A1 – COMPREHENSIVE PLAN AMENDMENT (5285 PORT ROYAL ROAD/RAVENSWORTH INDUSTRIAL AREA) (Braddock District)
2. SE 2014-HM-024 – MARY BETH SWICORD D/B/A FIRST MARKS ART STUDIO

This order was accepted without objection.

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PA 2014-I-A1 – COMPREHENSIVE PLAN AMENDMENT (5285 PORT ROYAL ROAD/RAVENSWORTH INDUSTRIAL AREA) – To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment concerns an approximately 4.6 acre parcel located at 5285 Port Royal Road [Tax Map Parcels 70-4 ((10)) 503 and 503A]. The site is located within the Ravensworth Industrial Area, which south of Braddock Road, west of I-495 and east of the Ravensworth Farms residential community. The proposed Plan amendment would facilitate the conversion of an existing warehouse to a self-storage facility use which could result in an overall intensity up to 1.0 FAR. In addition, the proposed amendment considers future inclusion of residential uses within the existing building. BRADDOCK DISTRICT. PUBLIC HEARING

Leanna O'Donnell, Planning Division (PD), Department of Planning and Zoning (DPZ), introduced Terek Bolden, PD, DPZ, who joined DPZ in the summer of 2013 and said that he would present the staff report for this proposed Amendment. In addition, she briefly described his planning experience in other jurisdictions.

Mr. Bolden presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of Comprehensive Plan Amendment PA 2014-I-A1.

There were no disclosures by the Commission.

Commissioner Hurley suggested that staff and the Commission evaluate the possibility of including housing in industrial areas at a later time as a possible means of revitalizing certain areas, but she noted that due to unresolved issues regarding certain housing policies, the proposed Amendment did not include any provisions to add dwelling units. She added that she had coordinated with the Ravensworth Farm Civic Association and the North Springfield Civic

Association and indicated that they did not object to the proposed Amendment, provided that no provisions for dwelling units were included. Commissioner Hurley then reiterated that no dwelling units would be included in the proposed Amendment.

Vice Chairman de la Fe called for speakers, but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Hurley for action on this case.

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Vice Chairman de la Fe: I will close the public hearing and turn to Mrs. Hurley for a motion.

Commissioner Hurley: Thank you, Mr. Chairman. As staff indicated, this Amendment would modify the Plan language for Tax Map Parcels 70-4 ((10)) 503 and 503A to facilitate the conversion of a portion of an existing warehouse to accommodate a self-storage facility at an intensity up to 1.0 Floor Area Ratio (FAR). The language distributed this evening with my motion dated 9 October, 2014 includes changes to the staff recommendation that further clarify the language related to the proposed use and the transportation impacts. Staff has indicated that additional p.m. peak-hour trips may occur over the base plan so I propose that we remove that condition. The minimal number of trips that will be generated with the proposed self-storage unit is consistent with Plan objectives to discourage high p.m. peak hour uses in the Ravensworth Industrial Area. My proposed change is noted in bold italics. Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF A PLANNING COMMISSION ALTERNATIVE TO THE STAFF RECOMMENDATION FOR PA 2014-I-A1, AS SHOWN ON TONIGHT'S HANDOUT AND DATED OCTOBER 9, 2014.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

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(The motion carried by a vote of 8-0. Commissioner Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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Since the next case was in the Hunter Mill District, Vice Chairman de la Fe relinquished the Chair to Parliamentarian Hart.

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SE 2014-HM-024 – MARY BETH SWICORD D/B/A FIRST MARKS ART STUDIO – Appl. under Sect. 6-304 of the Zoning Ordinance to permit a private school of special education with a maximum enrollment of 12 students at one time. Located at 1398 Concord Point Ln., Reston, 20194, on approx. 17,234 sq. ft. of land zoned PRC-R. Tax Map 11-4 ((6)) 12. HUNTER MILL DISTRICT. PUBLIC HEARING

Parick Via, Applicants Agent, Rees Broome PC, reaffirmed the affidavit dated February 11, 2014.

There were no disclosures by the Commission.

Carmen Bishop, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2014-HM-024.

A discussion ensued between Commissioner Lawrence and Ms. Bishop, with input from William Mayland, ZED, DPZ, regarding the possible requirement of an emergency evacuation plan for private schools located within a residential dwelling unit wherein Ms. Bishop pointed out that there were two means of egress within the existing private school on the subject property and Mr. Mayland added that there were no County requirements for such an evacuation plan, noting that the facility included point of egress, which met the necessary County requirements.

Parliamentarian Hart stated that applications for home child care facilities were subject to inspections from the Department of Code Compliance (DCC). He then asked whether a private school within a residential dwelling unit was subject to a similar inspection. Ms. Bishop indicated that staff had conducted a site inspection of the school on the subject property and confirmed that the applicant had obtained the necessary permits. A discussion ensued between Parliamentarian Hart and Mr. Mayland regarding inspections conducted by DCC for home child care providers and private schools within a residential dwelling unit wherein Mr. Mayland said that such inspections were not typical for the proposed use.

When Parliamentarian Hart asked about the frequency with which a private school within a residence was requested, Mr. Mayland stated that such use was permitted as a home occupation and explained that the purpose of the subject application was to permit an increase in the allowable class size from 4 students at a time with a maximum of 8 students a day to 6 students at a time with a maximum of 12 students a day.

In reply to questions from Commissioner Ulfelder, Ms. Bishop confirmed that the summer hours for the existing private school on the site was subject to the same limitations for home

occupation, which only permitted a maximum of 8 students at the school in a given day, and the subject application would permit a maximum of 10 students.

A discussion between Commissioners de la Fe and Ulfelder ensued regarding the number of students the subject application would permit compared to the standards of home occupation and the different hours of operation during the summer compared to the rest of the year wherein Commissioner de la Fe pointed out that the subject application was submitted after Notices of Violation had been issued to the applicant for permitting too many students at a given time.

Mr. Via said that the applicant had coordinated with staff in crafting the development conditions listed in Appendix 1 of the staff report and indicated that the applicant did not object to these conditions. He also indicated that the applicant had met with the Reston Association and the Reston Planning and Zoning Committee, stating that neither objected to the proposal. In addition, he stated that the applicant had met with the residents of the surrounding neighborhood to address their concerns, noting that only one resident expressed opposition to the proposal. Mr. Via explained that the resident opposing the subject application said they did so because the transportation impact and drop-off/pick-up procedures would adversely impact their property. He stated that to address these concerns, the applicant had agreed to require parents dropping off students to park in the driveway and wait until each student for a class was present before leaving. He added that the applicant would inform the parents of the students that they were required to comply with this procedure.

Addressing Commissioner Ulfelder's question regarding the hours of operation during the summer, Mr. Via said that drop-off/pick-up times would be staggered to ensure that there would be no more than five vehicles parked in the driveway at a given time. In addition, he pointed out that some students walked to the site and some parents utilized carpooling, which further mitigated the transportation impact. Addressing Commissioner Lawrence's questions regarding emergency evacuation requirements, Mr. Via stated that the applicant was committed to obtaining any necessary permits and would cooperate with any required inspections. He noted that an egress was located within the classroom in which the students were taught. Mr. Via explained that the Notices of Violation that had been issued to the applicant occurred because there were more students on-site than permitted under the limitations of home occupancy and these additional students were present to make up for missed classes.

In response to questions from Commissioner Litzenberger, Mr. Via said that a private school in a home residence did not require a license from the State of Virginia to permit the number of students requested, but noted the applicant would obtain this license if necessary. He also indicated that the applicant would accommodate inspections associated with such a license.

When Commissioner Lawrence asked how the drop-off and pick-up schedule for the students would be handled, Mr. Via confirmed that the pick-up and drop-off times would be staggered to ensure the driveway could accommodate each vehicle so that they could remain parked until the students were inside, adding that this schedule had been recommended by staff. A discussion ensued between Commissioner Lawrence and Mr. Via regarding efforts by parents of the students to minimize the transportation impact on neighboring property owners wherein Mr. Via stated that the parents were required to abide by a signed policy, which stipulated that they would

be considerate of the neighbors, and he did not object to adding language that clearly articulated the proper transportation procedures in this policy.

Replying to questions from Commissioner Ulfelder, Mary Swicord, Applicant/Title Owner, said that the age range of the students attending the private school on the subject property was 5 to 16. She also confirmed that the students were grouped in classes based on their age. In addition, Ms. Swicord confirmed that students attended one class per week.

A discussion ensued between Commissioner Ulfelder and Ms. Swicord regarding the maximum number of students that could attend her private school and the origin of the Notices of Violation that had been issued to her school wherein Ms. Swicord indicated that a maximum of 12 students could attend her school in a single day and explained that the Notice of Violation occurred due to students having to make up missed classes, adding that she would address this issue by including time slots for make-up classes within the schedule and adding additional time slots to the end of the semester.

When Commissioner Ulfelder asked how the maximum number of students articulated in Development Condition Number 5 in Appendix 1 of the staff report, Ms. Swicord stated that she had negotiated with staff to permit a maximum of 6 students per class and a maximum of 10 students per day for summer semesters, adding that she also requested the ability to schedule additional classes for individual students. A discussion ensued between Commissioner Ulfelder and Ms. Swicord regarding the structure of the classes offered at the private school wherein Ms. Swicord said that classes lasted approximately one hour and fifteen minutes and indicated that there was a substantial waiting list for students to attend her private school.

Commissioner Ulfelder noted the demand for the applicant's services and the limitations on permitting additional students on the site due to the traffic impact on the surrounding residential neighborhood. He also encouraged the use of carpooling to limit the impact and avoid future Notices of Violation.

Mr. Via explained that the hours of operation for the school lasted until 8:00 p.m. during the school year because it provided additional flexibility in scheduling these classes. In addition, he confirmed that there would be a maximum of two classes per day.

A discussion ensued between Commissioner Hall and Mr. Via regarding when each class would be schedule, which students would attend these classes, and the hours of operation in which the private school would operate wherein Mr. Via indicated that total number of students and the total number of classes would not change under the subject application, adding that classes would not end between 5:00 p.m. and 6:00 p.m. to limit the traffic impact.

Commissioner Hurley expressed concern about vehicles being unable to exit the driveway when dropping off or picking up students. She also expressed concern about the safety of the students while waiting for other students to arrive or depart. Mr. Via said that parents of students were required to remain in the driveway until the students were inside the residence. He also stated that if a student arrived late, then the parent was still required to park in the driveway and escort

the student into the residence. In addition, he pointed out that the students would wait inside in the event of inclement weather.

Parliamentarian Hart called the first listed speaker and recited the rules for public testimony.

Jeffrey Novak, 1400 Concord Point Lane, Reston, spoke in support of the subject application. He said that his residence was located adjacent to the subject property and indicated that he had not experienced any issues with the drop-off/pick-up procedures at the site. He added that the applicant had met with him to inform him of these procedures and would coordinate with them to address any concerns that might arise.

Carrie Sawicki, 11211 Longwood Grove Drive, Reston, voiced support for the subject application. She echoed remarks from the previous speaker regarding the applicant's commitment to coordinating with the neighbors and addressing their concerns. In addition, she said that her children attended the private school on the subject property and she was informed of the applicant's pick-up/drop-off procedures when she signed up.

James Ishee, 1396 Concord Point Lane, Reston, stated that he was an attorney representing Rod and Crystal Rivers, whose residence was located adjacent to the subject property. He indicated that his clients opposed the subject application because it did not include sufficient provisions to ensure that the development conditions would be enforced. Referring to Section 9-007 of the Zoning Ordinance, which pertained to the conditions and restrictions for Special Exceptions (SE), Mr. Ishee requested that approval of the subject application be subject to a regular renewal to ensure compliance with the adopted development conditions. He also requested that future violations on the subject property incur a financial penalty to further ensure compliance. Referring to photographs included in his written statement, Mr. Ishee pointed out an incident where nine vehicles were present at the subject property. In addition, he noted that there had been instances where pedestrians accessing the subject property walked across the front yard of his client's property and where vehicles dropping off students blocked their driveway. Mr. Ishee also stated that the applicant had advertised that the subject property could accommodate more students than permitted and indicated that his clients had observed instances where there the number of students present exceeded the maximum permitted at a private school located within a residence. He indicated that there had been numerous conflicts between his clients, the applicant, and parents of the students attending the private school, which resulted in complaints to the police and the Reston Association. In addition, he said that the applicant's explanations for previous Notices of Violations that had been issued for the site were not consistent with his client's observations. Mr. Ishee pointed out that an SE for a commercial use within a residential dwelling could only be permitted if such a use did not impact the neighboring properties and additional enforcement provisions were necessary to ensure these impacts did not occur for his clients. (A copy of Mr. Ishee's written statement is in the date file.)

A discussion ensued between Commissioner Hall and Mr. Mayland regarding whether the requested modifications articulated in Mr. Ishee's statement could be incorporated into the proposal and the consequences that would be incurred if the applicant did not comply with the provisions of the subject application wherein Mr. Mayland pointed out that there had been other cases where SE applications included provisions requiring regular renewal and while it would be

possible to include such provisions in the subject application, staff did not support such a modification because the conditions of the surrounding neighborhood did not warrant it.

Commissioner Hall pointed out that Mr. Ishee's clients could call the Zoning Enforcement Branch to notify them if an issue arose on the subject property. Mr. Mayland concurred, adding that DCC could be called upon to enforce the development conditions articulated in the proposal.

Commissioner Lawrence asked whether a development condition could be added to require the applicant to articulate to parents of students that crossing private property to access the site was prohibited. He also asked whether it was possible to articulate in the development conditions that repeated violation of these could result in the loss of the SE for the site. Mr. Mayland pointed out that Development Condition Number 11 stipulated that parents of students must park in the driveway and Development Condition Number 12 required the applicant to provide a written agreement to parents of students articulating the pick-up and drop-off procedures. Commissioner Lawrence supported additional language in the written agreement that articulated what constituted a violation of the proposed development conditions.

Addressing Commissioner Hall's remarks regarding other cases where renewals were required, Parliamentarian Hart noted that there had been instances with Special Permit applications where such provisions were implemented, adding that these provisions had been included to ensure that the development conditions were sufficient.

Commissioner Hedetniemi expressed concern for students attending the private school who walked to the site and disrupted neighboring properties. She recommended that the applicant emphasized to the parents of the students the school's commitment to ensuring no such disruptions occur and failure to uphold these responsibilities could result in expulsion.

Commissioner Hurley echoed Commissioner Hedetniemi's recommendation to emphasize the role of the parent in limiting the impact of the proposal on the surrounding properties, but added that she favored allowing additional flexibility to ensure the policies were not excessively stringent.

A discussion ensued between Commissioner Ulfelder and Ms. Bishop regarding the properties adjacent to the subject property, the presence of sidewalks on the cul-de-sac, and the presence of a bicycle path near one of the neighboring properties.

Lisa Parisi, 12451 Oliver Cromwell Drive, Herndon, spoke in support of the subject application. She said that her daughter attended the private school on the site and commended the applicant for her services. She also noted that she carpooled with other students to the school. In addition, she pointed out that she had experienced few difficulties with drop-off/pick-up and she expressed a willingness to sign a written agreement articulating the drop-off/pick-up procedures. Ms. Parisi noted the need for art schools in the County. She also indicated that she was aware of the concerns expressed by the neighbors.

Kristen Locklin, 13120 Apple Grove Lane, Herndon, expressed support for the proposal. She stated that her daughter attended the private school on the site and echoed remarks from previous

speakers regarding the quality of the service provided by the applicant. She briefly described the classes conducted at the site. In addition, she said that she utilized carpooling and echoed remarks from previous speakers regarding the limited traffic impact on the surrounding neighborhood. (A copy of Ms. Locklin's statement is in the date file.)

Kathryn Schmid, 1392 Concord Point Lane, Reston, voiced support for the subject application. She echoed previous remarks regarding the limited traffic impact of the school and the quality of the service provided by the applicant. She described the traffic conditions of the neighborhood, noting its low traffic volume. Ms. Schmid said her daughter attended classes at the school, adding that numerous students walked to the school and did not add to the traffic impact.

Jill Gallagher, 1388 Concord Point Lane, Reston, spoke in support of the application, echoing remarks regarding the quality of the service provided by the applicant and the limited traffic impact of the school on the surrounding neighborhood. She also noted the applicant's commitment to ensuring the safety of the students and enforcement of the transportation provisions articulated in the written agreement that parents of students were required to sign. In addition, Ms. Gallagher said that the private school on the site was consistent with the character of the surrounding neighborhood. She also expressed concern that requiring parents to park in the driveway during drop-off/pick-up would create safety issues.

When Commissioner Litzenberger asked about the hours of operation of the private school during the summer, Ms. Gallagher stated that her daughter spent approximately six hours at the school during this time, adding that numerous students walked to the site.

A discussion ensued between Commissioner Ulfelder and Ms. Gallagher regarding pedestrian routes to the site and instances where students walked across neighboring properties wherein Ms. Gallagher indicated that the sidewalk around the cul-de-sac terminated at the bicycle path.

Commissioner Hedetniemi expressed concerns the feasibility and potential safety issues of requiring vehicles to back out of the driveway on the subject property.

When Commissioner Hedetniemi asked whether it was possible to install a fence to discourage visitors from utilizing neighboring properties to access the subject property, Mr. Via pointed out that there were no fences in the surrounding neighborhood and Commissioner de la Fe noted the difficulty of installing fences in Reston.

Georgiann Howell, 12931 Oak Lawn Place, Oak Hill, spoke in support of the subject application. She echoed remarks from previous speakers regarding the quality of the applicant's services, the private school's limited traffic impact on the surrounding neighborhood, and the applicant's commitment to enforcing the rules stipulated in the written agreement that parents of students were required to sign. She added that her daughter attended the school.

Parliamentarian Hart called for speakers from the audience.

Andrew Adams, 1604 Barnstead Drive, Reston, spoke in support of the proposal. He said that his daughter attended the private school on the site and echoed remarks from previous speakers

regarding the quality of the services provided by the applicant and the applicant's commitment to safety. He also echoed remarks from Commissioner Lawrence regarding the importance of ensuring that parents were responsible for abiding by the rules prescribed by the applicant's policies.

Maura Cardellicchio, 11210 Longwood Grive Drive, Reston, voiced support for the subject application. She pointed out that her property was located across the cul-de-sac from the subject property and indicated that the traffic impact of the school on the site was minimal, adding that children encroaching on neighboring properties might not be associated with the school.

Justin Yingling, 1396 Old Quincy Lane, Reston, voiced support for the proposal. He echoed remarks from previous speakers regarding the applicant's commitment to safety and the school's minimal impact on traffic and neighboring properties. In addition, he said that the applicant had established boundaries for students of the school to ensure that they did not utilize neighboring properties to access the site.

Commissioner Hall commended the speakers who spoke in support of the subject applications, but she also acknowledged the concerns of the neighbors. She then encouraged the community and parents of the students at the private school to coordinate to ensure that these concerns were addressed.

There being no more speakers, Parliamentarian Hart called for a rebuttal statement from Mr. Via, who indicated that the applicant was aware of the concerns raised by the neighbors and reiterated that the applicant was committed to addressing them. He pointed out that Development Condition Number 12 required parents of the students at the private school to sign a written agreement stipulating the applicant's parking and safety policies, adding that violation of this agreement would incur a sufficient penalty.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Parliamentarian Hart closed the public hearing and recognized Commissioner de la Fe for action on this case.

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Parliamentarian Hart: I will close the public hearing and recognize Commissioner de la Fe.

Commissioner de la Fe: Thank you very much, Mr. Chairman. And I want to thank everyone that came. And with respect to Mr. Ishee and the Rivers – this came to the Reston Planning and Zoning Committee and this is the first we have heard about this at that – you know – they were not at that committee meeting. The violations were discussed and development conditions were developed to make sure that the concerns that had been raised, both from the violations and the staff, could be met through the development conditions. And I think we have done that. I agree with Commissioner Hedetniemi on the solution that – although it's not a development – the solution that the school has come up with of having five or six cars all wait there and then having to back out at the same time. I'm not sure that that is the wisest thing, but I don't think a development – the development condition says that the discharge and pickup must occur in the

driveway. Whether they all have to wait or not, that's something that has been set by policy. And I'm not sure that that is the safest way to do it, but that is not in the development conditions. I would like to ask the applicant's representative whether the development conditions that have been developed – whether you are in agreement with them.

Patrick Via, Applicants Agent, Rees Broome PC: The answer is we preferred to have the method of drop-off as has always occurred, which is just – the folks can pull in if they want, but they're authorized to drop the kids off in front of the driveway. But we have negotiated this and we accept that as written.

Commissioner de la Fe: Okay, the other thing is – and I want to make sure that it's on the record – there appears to be some history here of violations. And I want to impress on the applicant that these development conditions, as have been pointed out, must be lived up to and that any violations could lead to the denial – you know, and the discontinuance of the Special Exception.

Mr. Via: We understand and Ms. Swicord certainly understands. And just for the record, the 1998 violation that was questioned earlier – that had to do with a transfer from Loudoun County. She had five months in order to – to make the change – the location of it. The Fairfax County representative did not realize that she had previously had a business in Loudoun County so that one happened in 98. Since 98, nothing occurred until 2013. But again, she's aware of it. She will abide by these conditions. We've talked a lot about them and how important it is. And I guarantee that she is going to work hard to make sure they're abided by.

Commissioner de la Fe: Thank you. And once again, Mr. Chairman, I request that the applicant confirm for the record their agreement to the proposed development conditions dated September 23<sup>rd</sup>, 2014.

Mr. Via: We agree.

Commissioner de la Fe: Okay. Thank you very much. Mr. Chairman, this application came to the Reston Planning and Zoning and they approved it almost unanimously. The one vote against it is because the individual always votes against home occupations and doesn't believe that residences should be used for business. And that – but you know – otherwise, everyone agreed that this application should be approved and I agree. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2014-HM-024, SUBJECT TO CONDITIONS DATED SEPTEMBER 23<sup>RD</sup>, 2014.

Commissioner Lawrence: Second.

Parliamentarian Hart: Seconded by Commissioner Lawrence. Is there any discussion? Seeing none, we'll move to a vote. All in favor of the motion, as articulated by Commissioner de la Fe, please say aye.

Commissioners: Aye.

Parliamentarian Hart: Those opposed? The Chair votes aye, the motion carries.

Commissioner de la Fe: And, Mr. Chairman, I move – FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS AND A REDUCTION IN THE PARKING REQUIREMENT TO PERMIT 8 SPACES INSTEAD OF 10.

Commissioner Lawrence: Second.

Parliamentarian Hart: Seconded by Commissioner Lawrence. Is there any discussion? Seeing none, we'll move to a vote. All in favor, please say aye.

Commissioners: Aye.

Parliamentarian Hart: Those opposed? The Chair votes aye, the motion carries.

Commissioner de la Fe: Thank you very much to everyone.

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(Each motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

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At the conclusion of the case, Vice Chairman de la Fe resumed the Chair.

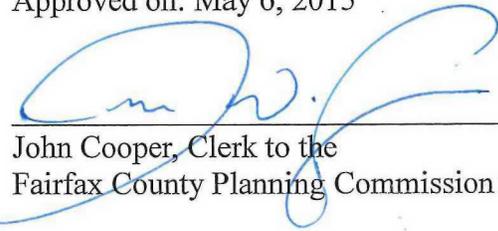
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The meeting was adjourned at 10:17 p.m.  
Peter F. Murphy, Chairman  
Janet R. Hall, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: May 6, 2015

  
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John Cooper, Clerk to the  
Fairfax County Planning Commission

