This does not represent a verbatim transcript of the Planning Commission meeting. Visit www.herndon-va.gov "agendas & minutes" to view agendas and videos. Copies of videotapes of the public hearing meetings are available on request by contacting HCTV at 703-689-2323.

PLANNING COMMISSION
Public Hearing
Monday, December 14, 2020

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, Chairman Romeo has stated that the October 26 2020, Planning Commission Public Hearing will be by electronic means. The meeting was broadcast and recorded through Cisco WebEx and details for the meeting were made available to the public on Wednesday, December 9, 2020. In attendance were: Chairman Michael Romeo, Vice Chair George Burke and Commissioners Jay Donahue, Paul LeReche, Kevin Moses Sean Regan and Meron Yohannes. Due to technical issues, Commissioner Meron Yohannes and Vice Chair George Burke joined the meeting at 7:10 p.m.

Staff present during the meeting: Lesa Yeatts, Town Attorney; Bryce Perry, Deputy Director of Community Development; David Stromberg; Zoning Administrator, Michael Wallick, Transportation Planner and Collin Okoniewski, Planning Operations Manager.

STAFF ANNOUNCEMENTS

Collin Okoniewski, Planning Operations Manager, stated that the Planning Commission public hearing was held as a virtual meeting. The Planning Operations Manager welcomed those listening and encouraged the public to provide comments for the record at planning.commission@herndon-va.gov.

Mr. Okoniewski stated, for the record, that:

- The Planning Commission public hearing that evening was conducted electronically Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as

amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.

- Proper notice of the electronic meeting was provided in accordance with Section 2.2-3708.2 of the Code of Virginia, along with information for viewing the meeting and submitting comments for the record;
- The agenda and meeting materials are available on the town's website;
- Electronic meetings will begin with a roll call and determination of quorum; and
- All votes, including adjournment, were by roll call vote.

ANNOUNCEMENT BY CHAIRMAN

Chairman Romeo gave the well wishes to Commissioner Regan on his final Planning Commission meeting before assuming his new role as Councilmember.

1. **CALL TO ORDER**

Roll Call

Chairman Romeo called the virtual public hearing to order at 7:04 p.m. and asked Mr. Okoniewski to call the roll for attendance. All Planning Commissioners were present, electronically, with Chairman Romeo presiding.

DETERMINATION OF QUORUM

Chairman Romeo stated, for the record, that there was a quorum present, virtually, that evening. Chairman Romeo stated that tonight's public hearing was conducted by electronic means pursuant to the appropriate laws.

ANNOUNCEMENT BY CHAIRMAN

Chairman Romeo stated that Lesa Yeatts, Town Attorney; Bryce Perry, Deputy Director of Community Development; David Stromberg; Zoning Administrator and Michael Wallick, Transportation Planner were also present.

APPROVAL OF AGENDA

On the motion of Commissioner LeReche, seconded by Commissioner Donahue and carried by a vote of 7-0, the approval of agenda. The vote was: Commissioners Donahue,

LeReche, Moses, Regan, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye."

APPROVAL OF MINUTES

2. **Vote on November 9, 2020**
   Work Session Minutes

   On the motion of Commissioner Regan, seconded by Vice Chair Burke and carried by a vote of 7-0, the minutes for the November 9, 2020 work session were approved. The vote was: Commissioners Donahue, LeReche, Moses, Regan, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye."

3. **Vote on November 16, 2020**
   Public Hearing Minutes

   On the motion of Commissioner Donahue seconded by Commissioner LeReche and carried by a vote of 7-0, the minutes for the November 16, 2020 public hearing were approved. The vote was: Commissioners Donahue, LeReche, Moses, Regan, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye."

4. **COMMENTS BY THE STAFF**

   Mr. Bryce Perry, Deputy Director of Community Development thanked Commissioner Regan for his hard work and dedication in his role on the Planning Commission.

5. **COMMENTS BY THE COMMISSIONERS**

   Commissioners thanked Commissioner Regan and look forward to his role as a Town Council member. Commissioner Regan stated that he was excited about the new role as Town Council member and thanked everyone for the well wishes.

NEW BUSINESS

6. Proposed Changes to the 2021 Planning Commission Meeting Schedule

   Chairman Romeo opened the public hearing and called on Bryce Perry, Deputy Director of Community Development, for the staff memo.

   Mr. Perry presented the staff memo dated December 2, 2020, which is on file in the Department of Community Development.

   Mr. Perry informed the Commission that staff is recommending that the Planning Commission adopt the attached resolution amending the Commission's 2021 schedule

for the months of November and December. Per the bylaws, the 2021 November public hearing is scheduled for Monday, November 22nd, which is the Monday before Thanksgiving. To ensure a quorum and encourage the public and applicants to participate, the resolution moves the public hearing to Monday, November 15, 2021. Per the bylaws, the Planning Commission's December 2021 public hearing falls on December 27th. To ensure a quorum and encourage the public and applicants to participate, the proposed resolution moves the public hearing to December 13th. The rescheduling of the public hearing to the 13th requires that the work session be rescheduled from the 13th to the 6th.

Chairman Romeo called on the Planning Commission individually for questions to Mr. Perry.

Commissioner LeReche asked for confirmation on the dates of the January Planning Commission's meetings, January 11th for the work session and January 25th for the public hearing. Mr. Perry confirmed.

Following the public hearing, Commissioner Moses moved approval of resolution dated December 14, 2020, for the proposed changes to the 2021 Planning Commission Meeting Schedule as presented by staff. This motion was seconded by Chairman Romeo.

There was no discussion from the Commissioners on this item.

The question was called on the motion, which carried by a vote of 7-0, The vote was: Commissioners Donahue, LeReche, Moses, Regan, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye."

[**Note:** Below is the approved resolution for the proposed changes to the 2021 Planning Commission Meeting Schedule.]

TOWN OF HERNDON, VIRGINIA

RESOLUTION

December 14, 2020

Resolution - Amending the regularly scheduled 2021 Planning Commission calendar for the months of November 2021 and December 2021.

WHEREAS, the Planning Commission of the Town of Herndon, Virginia, has reviewed the Planning Commission work session and public hearing calendar for the year 2021, and

WHEREAS, the Planning Commission has found that during the months of November and December the dates for public hearings, as established by the bylaws, fall within the same weeks as major holidays, and

WHEREAS, the Planning Commission wishes to ensure that the scheduling of public hearings and work sessions encourages the general public and applicants to attend and to participate, and

WHEREAS, the Planning Commission wishes to ensure, to the greatest extent possible, that commission members experience as few scheduling conflicts as possible thus ensuring a quorum.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Herndon, Virginia, that the regularly scheduled public hearing of November 22, 2021 is rescheduled to November 15, 2021.

BE IT FURTHER RESOLVED that, the regularly scheduled public hearing of December 27, 2021 is rescheduled to December 13, 2021 and that the corresponding work session, scheduled for December 13, 2021, is rescheduled to December 6, 2021.

PUBLIC HEARINGS

7. **APPLICATION FOR A SPECIAL EXCEPTION – SE #20-04, 459 Herndon Parkway, units 7 & 8, Christ Fellowship Church,** to consider a special exception to permit a religious institution with a capacity of 300 or fewer persons. Fairfax County Tax Map Reference Numbers: 0164-22-0007 and 0164-22-0008A. Applicant: George Churchwell. Property Owner: HLI Group LLC. Prospective Purchaser: Walter Hamilton, III, Christ Fellowship Church. *(Continued from the November 16, 2020 Planning Commission public hearing.)*

Note: This item was continued from the November 16, 2020 Planning Commission public hearing.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the Friday, November 25, 2020 and December 2, 2020 issues.

Chairman Romeo stated this public hearing remains open and that the applicant has requested a continuance of this item to the January 25, 2021 Planning Commission Public Hearing to allow the applicant and condominium association to work together to resolve parking and use issues.

Chairman Romeo called on the Planning Commission individually for questions to Mr. Wallick.

Commissioner Regan asked for clarification if the property was located close to the growth of the metro station. Mr. Wallick informed that it is located to the south east of the Herndon Parkway and Spring Street.

Chairman Romeo recognized the property owner, George Churchwell, applicant, to provide comments.

Mr. Churchwell, applicant, provided his comments to the Planning Commission.

Chairman Romeo called on the Planning Commissioners individually for questions to the applicant, Mr. Churchwell and the prospective purchaser, Walter Hamilton, III.

Commissioner Regan asked Mr. Hamilton, III if he was in agreement to have this item continued in order to allow issues to be resolved. Mr. Hamilton stated that he agreed.

Chairman Romeo recognized the public for comments on this item. No public was present to speak on this item.

Vice Chair Burke moved continuance of SE#20-04 to the January 25, 2021 public hearing. This motion was seconded by Commissioner LeReche.

There was no discussion from the Commissioners on this item.

The question was called on the motion, which carried by a vote of 7-0, The vote was: Commissioners Donahue, LeReche, Moses, Regan, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye."

8. **APPLICATION FOR A SPECIAL EXCEPTION - SE #20-03, 763 Dranesville Road,** to consider a special exception to permit an accessory dwelling unit as an accessory structure associated with a single-family residence in an R-15, Residential Single Family District. Fairfax County Tax Map Number: 0104 03110006A. Applicant: Thomas J. O'Neil, O'Neil Architects, Inc. Owners: Leland D Ewers, Mary Jo Ewers.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the Friday, November 25, 2020 and December 2, 2020 issues.

Chairman Romeo opened the public hearing and called on Michael Wallick, Transportation Planner, for the staff report and updates.

December 14, 2020
(public hearing)

Mr. Wallick presented the staff report dated December 7, 2020 and staff memo dated December 10, 2020, which are on file in the Department of Community Development.

Mr. Wallick stated Section 78-80.3 of the Town of Herndon Zoning Ordinance requires that the "height of an accessory structure shall not exceed the lesser of the height of the principal structure on the site, or 15 feet". The applicant shows that the "average roof height", located on the "Proposed Plans & Elevations, dated October 6, 2020", is 14.99'. Section 78-180 of the Town of Herndon Zoning Ordinance defines building height as "the mean height level between the highest ridge and its highest associated eaves for gable, hip and gambrel roofs". Per the Town of Herndon Zoning Ordinance definition, the proposed accessory dwelling unit's building height is 13'9.5" and not 14.99'.

Mr. Wallick informed that the staff recommendation to the Planning Commission remains approval with the proposed conditions.

Chairman Romeo called on the Planning Commissioners individually for questions to Mr. Wallick.

Commissioner Regan asked for clarification on the conditions. Mr. Wallick responded to question from Commissioner Regan.

Chairman Romeo recognized the applicants to provide their comments.

Thomas J. O'Neil, O'Neil Architects, Inc. owners, applicants and Leland D Ewers, Mary Jo Ewers, owners, were present for the public hearing.

Mr. O'Neil, applicant, provided his comments.

Chairman Romeo called on the Planning Commissioners individually for questions to the applicant.

There were no questions for the applicant by the Commissioners.

Chairman Romeo recognized the public for comments on this item.

There were no comments by the public for this item.

Following the public hearing, Commissioner Yohannes moved approval of SE#20-03 resolution with the conditions dated December 14, 2020 as presented by staff recommendation. This motion was seconded by Vice Chair Burke.

There was no discussion on this motion.

The question was called on the motion, which carried by a vote of 7-0, The vote was: Commissioners Donahue, LeReche, Moses, Regan, Yohannes, Vice Chair Burke and Chairman Romeo voting "Aye."

[**Note:** Below is the approved resolution and conditions for SE#20-03**.**]

TOWN OF HERNDON, VIRGINIA

PLANNING COMMISSION

RESOLUTION

DECEMBER 14, 2020

Resolution- to consider Special Exception Application SE #20-03, to permit an accessory dwelling unit as an accessory structure associated with a single-family residence in an R-15, Residential Single Family District.

WHEREAS, the applicant, Thomas J. O'Neil, O'Neil Architects, Inc., has submitted a request for a special exception to permit an accessory dwelling unit and secondary kitchen within an existing residence on a property located at 763 Dranesville Road and identified as Fairfax County Tax Map #0104 03110006A; and

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing in accordance with the provisions of §15.2-2204 of the State Code; and

WHEREAS, the Planning Commission has found that the application, SE #20-03 with conditions meets the purpose and intent of the Zoning Ordinance, in particular Sections 78-80.4(a) and 78-155.3.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Herndon, Virginia, hereby:

Recommends approval of Special Exception Application SE #20-03, in accordance with the conditions set forth below to achieve compliance with the standards found in Sections 78-80.4(a) and 78-155.3;

December 14, 2020
(public hearing)

PLANNING COMMISSION DRAFT CONDITIONS
SPECIAL EXCEPTION SE #20-03
763 DRANESVILLE ROAD
DECEMBER 14, 2020

1. Substantial Conformity. The development and maintenance of the special exception use described in Condition 2 below shall be in substantial conformance with the SE #20-03 application Plans and Elevations prepared by O'Neil Architects and dated October 6, 2020 and the Site Plan prepared by O'Neil Architects and dated December 1, 2020. Approval of this application on the parcel identified as Fairfax County Tax Map Number 0104 03110006A, known as 763 Dranesville Road, Herndon, Virginia (the "Property"), shall not relieve the applicant or the owners of the Property, or their successors or parties developing, establishing, or operating the approved special exception, from the obligation to comply with and conform to any other Zoning Ordinance, codified ordinance, or regulatory requirement.

2. Permitted Use. This special exception is granted to allow an accessory dwelling unit in a detached structure on the Property pursuant to Section 78-80.4(a) of the Town of Herndon Zoning Ordinance (the "Zoning Ordinance").

3. Recordation. These conditions must be recorded by the applicant among the land records of Fairfax County for the Property prior to the issuance of the occupancy permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Administrator.

4. Compliance with Building and Zoning Standards. The accessory dwelling unit shall comply with all applicable building and development standards for dwelling units in the zoning district in which the accessory dwelling unit will be located.

5. One Accessory Dwelling Unit per Lot. There shall be no more than one accessory dwelling unit on the Property in addition to the principal dwelling.

6. Size Limit. The floor area of the accessory dwelling unit shall not exceed 535 square feet.

7. Limit on Bedrooms and Occupancy. The accessory dwelling unit shall not contain more than one bedroom or be occupied by more than two persons.

8. Occupancy Standards. The accessory dwelling unit shall be subject to the dwelling unit occupancy standards of section 78-170.6. Pursuant to Section 78-80.4(a)(8) of the Zoning Ordinance, either the accessory dwelling unit or the principal dwelling shall be occupied by the owner of the principal dwelling. Additionally, either the accessory dwelling unit or the principal dwelling on a property shall be occupied by at least one person who meets the following qualifications:

a. The person is at least 62 years of age; or

b. The person has a physical, mental, or cognitive disability:

1. As certified by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board; or

2. As confirmed in writing signed by a licensed medical practitioner or a practitioner licensed in an allied health field.

3. This section shall not be deemed to exclude individuals who meet the qualifications above and are able to seek or engage in employment.

9. Parking. There shall be a minimum of one off-street parking space with convenient access to the street for the accessory dwelling unit. The parking shall be in addition to the two parking spaces required for the principal dwelling.

10. Not to be Sold Separately. The accessory dwelling unit shall not be sold apart from the principal dwelling upon the same lot.

11. Certificate of Appropriateness. The outside elevations of the garage and accessory dwelling unit must comply with any Certificate of Appropriateness issued for this structure.
Approval of this special exceptions shall not be implied to limit the authority of the Historic District Review Board, provided such approval does not result in noncompliance with the zoning ordinance or these conditions.

12. Zoning Inspection Permit and Inspections. A Zoning Inspection Permit for the accessory dwelling unit is required prior to issuance of the occupancy permit. Following occupancy, the accessory dwelling unit shall be inspected by zoning and building officials during reasonable hours and upon reasonable prior notice.

13. Approval linked to Property Owner, Not Land. This Special Exception shall not run with the land and shall terminate by either a change in substantial ownership or possession of the Property, a discontinuation of the use for which the Special Exception was granted for a continuous six month period, a failure to obtain a Zoning Inspection Permit for the use for which the Special Exception was granted within 24 months from the date of approval of the Special Exception, or at any time the use does not comply with any of the conditions of the approved Special Exception.

14. Change in Ownership. The owner shall remove or convert the space to a use permitted by the zoning ordinance and the zoning administrator shall be notified at least thirty days prior to the sale or transfer of the property. Upon the sale of transfer of the property, the property owners shall permit the inspection of the accessory dwelling unit by zoning and building officials within fifteen days to ensure compliance with the conditions of the Special Exception.

15. Revocation. Any violation of the aforementioned conditions or other sections of the Herndon Town Code shall be grounds for revoking the special exception pursuant to the manner described in Section 78-155.3(h) of the Zoning Ordinance. Revocation of this special exception shall require immediate removal of the food preparation area, as defined in the zoning ordinance at the time of approval of this Special Exception from the accessory dwelling unit.

COMMENTS BY COMMISSIONER REGAN

Commissioner Regan provided final comments regarding his experience with the Planning Commission.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:53 p.m.

Michael Romeo, Chairman
Planning Commission

Collin Okoniewski,
Planning Operations Manager

Minutes approved by the Planning Commission: January 25, 2021