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PLANNING COMMISSION
Work Session
Monday, December 7, 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments. The meeting was broadcast and recorded through Cisco WebEx and details for the meeting were made available to the public on Wednesday, November 4, 2020. In attendance electronically were: Chairman Romeo, Vice Chair George Burke and Commissioners: Jay Donahue, Paul LeReche, Kevin Moses, Sean Regan and Meron Yohannes.

Staff present during the meeting: Lesa Yeatts, Town Attorney; Lisa Gilleran, Director of Community Development; David Stromberg, Zoning Administrator; Michael Wallick, Transportation Planner and Erika Orellana, Clerk to Boards and Commissions.

STAFF ANNOUNCEMENTS

Erika Orellana, Clerk to Boards and Commissions, stated that the Planning Commission work session will be held electronically. Individuals are encouraged to participate and to provide comments for the record at planning.commission@herndon-va.gov. Ms. Orellana informed that the next scheduled meeting for the Planning Commission would be a public hearing to be held on December 14, 2020.

Ms. Orellana stated, for the record, that:

The Planning Commission work session held that evening was being 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.

December 7, 2020

Work Session

- 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 begin with a roll call and determination of quorum; and
- All votes, including adjournment, will be by roll call vote.

1. ROLL CALL /DETERMINATION OF QUORUM

Chairman Romeo called the work session to order at 7:02 p.m. and asked the Clerk to call roll call.

Ms. Orellana called roll call.

Chairman Romeo stated, for the record, that there was a quorum present, electronically, that evening.

ANNOUNCEMENT

Chairman Romeo announced that Lesa Yeatts, Town Attorney and Parliamentarian, Lisa Gilleran, Director of Community Development, David Stromberg, Zoning Administrator and Michael Wallick, Transportation Planner were also present.

NEW BUSINESS

2. Proposed Changes to the 2021 Planning Commission Meeting Schedule

Chairman Romeo called on Lisa Gilleran, Director of Community Development, for the staff memo. Ms. Gilleran presented the staff memo dated November 9, 2020, which is on file in the office of Community Development.

Ms. Gilleran stated that per the bylaws, the 2021 November public hearing is scheduled for Monday, November 22nd, which is the Monday before Thanksgiving. To make a quorum more likely and to 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 make a quorum more likely and encourage the public and applicants

December 7, 2020

Work Session

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 commissioners to address questions to staff.

There were no questions by the Commissioners for staff.

PUBLIC HEARINGS

3. **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.

Chairman Romeo called on Michael Wallick, Transportation Planner, for the staff memo. Mr. Wallick presented the staff memo dated December 3, 2020, which is on file in the office of Community Development.

Mr. Wallick explained that the applicant has requested a continuation of SE #20-04 to the January 25, 2021 Planning Commission public hearing. Since the November 16, 2020 Planning Commission public hearing, the applicant has informed staff that the Parkway Crossing Condominium Unit Owners Association Board of Directors held a meeting on September 29, 2020 and voted to approve initiation of a study to explore the prospects and process for amending the condominium by-laws to relax the use and parking rate restrictions on first floor condominium units.

Mr. Wallick stated that staff believes that no action on this case should be taken until the applicant and the condo association have resolved the parking conflict and are able to provide to the town a shared verification of how it has been resolved. For those reasons, staff is recommending a continuation of the special exception.

Chairman Romeo called on the Commissioners to address comments or questions to staff.

December 7, 2020

Work Session

There were no questions by the Commissioners for the staff for this item.

4. **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.

Chairman Romeo called on Michael Wallick, Transportation Planner, for the staff report. Mr. Wallick presented the staff report dated December 7, 2020, which is on file in the office of Community Development.

Mr. Wallick provided an overview of the application, SE#20-03, This application is to consider a special exception to permit an accessory dwelling unit above an existing detached garage in an R-15, Residential Single Family, district. The property is located within the boundaries of the Town of Herndon Historic District Overlay.

Staff recommended approval with the draft conditions in accordance with Alternative #2, which is as follows:

Staff believes this proposal meets the conditions for approval of a special exception and recommends approval with the following conditions:

[Note: Below are the conditions recommended by staff.]

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").

December 7, 2020

Work Session

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

December 7, 2020

Work Session

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 or 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.

Chairman Romeo called on the commissioners to address comments or questions to staff.

Commissioners had questions on clarification on the conditions, square footage, how height is measured, and steps for removal of the second kitchen to convert it to a wet bar. David Stromberg, Zoning Administrator, Ms. Gilleran and Mr. Wallick provided responses.

December 7, 2020

Work Session

DISCUSSIONS

5. Items of Interest

Ms. Gilleran asked the Commissioners for if they would like more information on the regulations for accessory dwelling units and, if so, that staff would compile research and provide the Commissioners with a briefing at the February meetings. Commissioners agreed for the information to be provided in February and look forward to it.

6. COMMENTS FROM THE STAFF

There were no comments from the staff.

7. COMMENTS FROM THE COMMISSIONERS

Chairman Romeo brought the attention to that it was the 79th anniversary for the Pearl Harbor.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:45 p.m.

A handwritten signature in blue ink, reading "Michael Romeo", is positioned above a horizontal line.

**Michael Romeo, Chairman
Planning Commission**

A handwritten signature in blue ink, reading "Erika Orellana", is positioned above a horizontal line.

**Erika Orellana
Clerk to Boards & Commissions**

Minutes approved by the Planning Commission: January 25, 2021