TOWN OF HERNDON, VIRGINIA
PLANNING COMMISSION VIRTUAL PUBLIC HEARING AGENDA
NOVEMBER 16, 2020
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
7:00 P.M.

CALL TO ORDER

1. Roll Call

APPROVAL OF AGENDA

APPROVAL OF MINUTES

2. October 5, 2020 Work Session Minutes Draft Minutes

3. October 26, 2020 Public Hearing Draft Minutes

COMMENTS

4. Comments from the Staff Members

5. Comments from the Commissioners

PUBLIC HEARINGS

6. **APPLICATION FOR A SPECIAL EXCEPTION – SE #20-02, 900 Ballou Street,** to consider a special exception to permit a secondary kitchen in a single-family residence in an R-15, Residential Single Family District. The secondary kitchen would be located in the in a new single family detached house proposed to be built and currently under review with a Single Lot Development Plan, TP#20-04. The property is designated in the Herndon 2030 Comprehensive Plan as "Neighborhood Conservation". The property is on the northest corner of the Park Avenue and Ballou Street intersection. Fairfax County Tax Map Reference Number: 0104 05 0035B. Applicant: Mohan Uprety. Property Owners: Mohan K. Uprety and Laxmi P. Uprety.

7. **APPLICATION FOR A SPECIAL EXCEPTION – SE #20-04, 459 Herndon Parkway, units 7 & 8A, Christ Fellowship Church,** to consider a special exception to permit a religious institution with a capacity of 300 or fewer persons. The property is zoned O&LI, Office & Light Industrial, and is designated in the Herndon 2030 Comprehensive Plan as "Regional Corridor Mixed Use". The property is located within the Parkway Crossing Condominiums and on the southeast side of Herndon Parkway approximately 350 feet from its intersection with Spring Street. 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.

8. **APPLICATION FOR A SPECIAL EXCEPTION - SE #20-06, 652 Stuart Court,** to consider a special exception to permit a second kitchen/accessory dwelling unit in a single-family residence in an R-10, Residential Single Family District. The second kitchen/accessory dwelling unit would be located within the existing structure. The property is designated in the Herndon 2030 Comprehensive Plan as "Neighborhood Conservation". The property is located on the north side of Stuart Court approximately 150 feet west of its intersection with Missouri Avenue. Fairfax County Tax Map Number: 0162 18100017. Applicant: Daniel P Brooks. Property Owners: Daniel P Brooks and Chris Mason Palmer.

ADJOURNMENT

TOWN OF Herndon VIRGINIA

MEMORANDUM

To: **Chair Romeo & Members of the Planning Commission**

From: **Michael Wallick, AICP, Transportation Planner** MW

Date: **November 13, 2020**

Subject: SE#20-02, 900 Ballou Street 2nd Kitchen

This memo serves as an addendum to the above referenced case staff report dated November 9th, 2020.

Based upon issues raised at the Planning Commission work session of November 9th and further staff review, the recommended conditions have been revised. See attached. The changes are redlined.

The Town Attorney's office further considered the transferability issue as discussed at the work session and supports the retention of this condition as revised. Staff believes that the transferability condition is important to help mitigate the potential future creation of an unregulated accessory dwelling unit which would be in violation of the zoning ordinance.

Attachment:
1. Revised Conditions

PLANNING COMMISSION

DRAFT CONDITIONS

SPECIAL EXCEPTION SE #20-02

900 BALLOU STREET

NOVEMBER ~~9~~16, 2020

1. Substantial Conformance. The development of the special exception use described in Condition 2 below including the internal layout of the proposed structure regarding dual kitchens and wet bars shall be in substantial conformance with the architectural plans submitted with this application and dated October 1, 2020. Approval of this application on the parcel identified as Fairfax County Tax Map Number 0104-05-0035B, known as 900 Ballou Street, 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 a secondary kitchen in the new single family dwelling proposed ~~at 900 Ballou Street~~on the Property in accordance with TP #20-04 and pursuant to Section 78-80.4(b) of the Town of Herndon Zoning Ordinance (the "Zoning Ordinance"). It is not the intent of this approval to authorize a second kitchen in the existing structure located at 900 Ballou Street.

3. These conditions must be recorded by the applicant among the land records of Fairfax County for the Property prior to the issuance of the building permit for the new single family dwelling. A certified copy of the recorded conditions shall be provided to the Zoning Administrator.

3. Access. No portion of the house shall be separated or partitioned from other areas of the house through the use of keyed locks, deadbolts or other locking mechanisms or drywall or other partitions to form a separate dwelling unit.

4. Family. The inhabitants of ~~900 Ballou Street~~ the new single family dwelling on the Property shall consist of one family as defined by Section 78-180 of the ~~Town of Herndon~~ Zoning Ordinance.

5. Inspection. The premises shall be made available for inspection by authorized representatives of the town upon reasonable notice.

6. Transferability. This special exception does not run with the land and is not transferable to a future owner or to a different parcel. The secondary kitchen shall be removed or converted to a use permitted by the Zoning Ordinance prior to the sale of the property.

7. 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 ~~z~~Zoning ~~o~~Ordinance. Revocation of this special exception shall require immediate removal of the secondary kitchen inclusive of all kitchen appliances, associated electrical outlets, plumbing, cabinetry and counters.

TOWN OF Herndon VIRGINIA

MEMORANDUM

To: **Chair Romeo & Members of the Planning Commission**

From: **Michael Wallick, AICP, Transportation Planner** MW

Date: **November 13, 2020**

Subject: SE#20-04, Christ Fellowship Church, 459 Herndon Parkway

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This memo serves as an addendum to the above referenced case staff report dated November 9, 2020.

New Information

Since the work session, staff was notified that the Parkway Condominium Association's by-laws do not allow parking of each unit at more than a 1 space per 300SF. This allowance would conflict with the 1 space per 4 seats parking that is required by zoning for the church. In addition, there is some uncertainty as to the actual square footage of the units to be used by the church. This is more important now given that the condo associations parking by-laws are based on square footage. Lastly, the applicant has requested the ability to increase the allowed seats to 132. This request requires the town's building official to confirm the occupancy of the combined units, would require a revised floorplan, and of course, would be dependent on how the parking conflict is addressed.

Staff Analysis

Additional time will be needed for staff to further evaluate this case based on this new information. Staff believes also 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 revising its recommendation as stated below.

Revised Staff Recommendation

Staff recommends a continuance of SE#20-04 to the December 14, 2020 Planning Commission public hearing.

TOWN OF Herndon VIRGINIA

MEMORANDUM

To: **Chair Romeo & Members of the Planning Commission**

From: **Michael Wallick, AICP, Transportation Planner** MW

Date: **November 13, 2020**

Subject: **SE#20-06, 652 Stuart Court 2nd Kitchen & ADU**

This memo serves as an addendum to the above referenced case staff report dated November 9th, 2020.

Based upon issues raised at the Planning Commission work session of November 9th and further staff review, the recommended conditions have been revised. See attached. The changes are redlined.

The Town Attorney's office further considered the change in ownership issue as discussed at the work session and supports the retention of this condition as revised. Staff believes that the Change in Ownership condition is important to help mitigate the potential future creation of an unregulated accessory dwelling unit which would be in violation of the zoning ordinance.

Attachment:

1. Revised Conditions

PLANNING COMMISSION

DRAFT CONDITIONS

SPECIAL EXCEPTION SE#20-06

652 STUART COURT

NOVEMBER ~~9~~16, 2020

1. Substantial Conformity. The development and maintenance of the special exception use described in Condition 2 below ~~accessory dwelling unit~~ shall be ~~developed and maintained~~ in substantial conformance with the SE#20-06 application materials submitted September 16, 2020. Approval of this application on the parcel identified as Fairfax County Tax Map Number 0162-18-100017, known as 652 Stuart Court, 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 an existing single family dwelling on the Property pursuant to Section 78-80.4(a) of the Town of Herndon Zoning Ordinance (the "Zoning Ordinance").

~~1.~~3. 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~~2~~. 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~~3~~. One Accessory Dwelling Unit per Lot. There shall be no more than one accessory dwelling unit on the ~~lot~~ Property in addition to the principal dwelling.

6~~4~~. Size Limit. The floor area of ~~an~~ the accessory dwelling unit shall not exceed 490 square feet.

7~~5~~. 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~~6~~. 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, ~~E~~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~~7~~. 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~~8~~. Not to be Sold Separately. The accessory dwelling unit shall not be sold apart from the principal dwelling upon the same lot.

11~~9~~. Compliance with Health, Safety, Sanitation and Building Code Regulations. The accessory dwelling unit shall meet the applicable code regulations for building, safety, health, and sanitation standards. During reasonable hours the applicant shall make provisions to allow officials to make the appropriate inspections.

12~~0~~. 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 annually by zoning and building officials during reasonable hours and upon prior notice.

13~~1~~. 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 ~~subject land~~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 eighteen 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~~2~~. Change in Ownership. The owner shall remove the food preparation area, as defined in the zoning ordinance at the time of approval of this Special Exception from the accessory dwelling unit 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.

153. 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 ~~z~~Zoning O~~o~~rdinance. 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~~any and all kitchen related equipment located in the basement~~.