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PLANNING COMMISSION
Work Session
Monday, November 9, 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.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 November 16, 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

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readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.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 begin with a roll call and determination of quorum; and
- All votes, including adjournment, will be by roll call vote.

ANNOUNCEMENT

Chairman Romeo welcomed newly appointed Commissioner Jay Donahue. Chairman Romeo thanks Commissioner Sean Regan for his time in serving on the Planning Commissioner and wished him the best as a Town Council member.

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.

PUBLIC HEARINGS

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2. **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 northeast 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.

Chairman Romeo called on Michael Wallick, Transportation Planner, for the staff report. Mr. Wallick presented the staff report dated November 9, 2020, which is on file in the office of Community Development.

Mr. Wallick provided an overview of the application, SE#20-02, a request for a secondary kitchen that would be located on the main level of a new single-family detached house. The applicant states that the primary need for a secondary kitchen is that members of the family are vegetarian due to religious beliefs. Two kitchens would allow for vegetarian food preparation in one space and non-vegetarian food preparation in a separate space.

Staff explained that the zoning ordinance lists uses permitted in a zoning district by-right, by special exception, or not permitted. Special exceptions differ from by-right uses in that they have the potential to have greater impact on neighboring properties and therefore are subject to more thorough review as specified in Section 78-155.3(e).

Staff recommended approval 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 Conformance. 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.

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2. Permitted Use. This special exception is granted to allow a second kitchen in the new single family dwelling proposed at 900 Ballou Street in accordance with TP #20-04. It is not the intent of this approval to authorize a second kitchen in the existing structure located at 900 Ballou Street.
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 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 second kitchen shall be removed 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 zoning ordinance. Revocation of this special exception shall require immediate removal of the second kitchen inclusive of all kitchen appliances, associated electrical outlets, plumbing, cabinetry and counters.

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

Commissioners provided their comments and questions for item SE#20-02. Commissioner LeReche asked if the owner understood the condition requiring that if the property was sold, the second kitchen would need to be removed. Mr. Wallick said he would reach out and further clarify that point with the applicant. Commissioner Yohannes commented her concern with overcrowding and asked about town regulations. Mr. Stromberg provided a brief explanation of the overcrowding regulations in the zoning ordinance. Vice Chair Burke stated that he was not in agreement with the second wet bar located in the basement but that the wet bar was not before the Commission for approval. Commissioner Regan requested that the site plan for the proposed new house be included in the presentation for the public hearing.

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3. **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.

Chairman Romeo called on Michael Wallick, Transportation Planner, for the staff report. Mr. Wallick presented the staff report dated November 9, 2020, which is on file in the office of Community Development.

Mr. Wallick provided an overview of the application, SE#20-04, to use Suites 7 and 8A within the Parkway Crossing Condominiums at 459 Herndon Parkway, to operate Christ Fellowship Church, an existing church that has been part of the Herndon community since 1991.

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 site shall be operated in substantial conformance with the special exception application submitted August 19, 2020, except where modified by these conditions.
2. Permitted Use. This special exception is granted to allow a religious institution at 459 Herndon Parkway, Suites 7 and 8A.

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3. Prohibited Accessory Uses. This special exception prohibits a daycare or school accessory use. A daycare or school accessory use may be granted through an additional special exception application.
4. Occupancy. The number of church attendees at any one time, exclusive of staff and volunteers, shall be limited to 50 on weekdays, Monday through Friday, and 85 on weekends, Saturday and Sunday.
5. Inspection. The premises shall be made available for inspection by authorized representatives of the town upon reasonable notice.
6. Expiration. This special exception does not run with the land and shall expire under the following condition(s):
 - a. A discontinuation of the use for which the special exception was granted for a continuous twelve-month period;
 - b. Failure to commence operation of the use within twenty-four months of approval of the special exception;
 - c. A change in substantial ownership of possession of the subject land.
 - d. Notwithstanding the foregoing, the transfer of ownership from the current owner, HLI Group, LLC, to the prospective purchaser, Christ Fellowship Church/Pastor Walter Hamilton III shall not cause this special exception to be void.
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 zoning ordinance.

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

Commissioners provided their comments and questions for item SE#20-04. Commissioners asked for clarification on the conditions and parking policy. Commissioner LeReche requested that staff confer with the Building Official to clarify the occupancy limits of the space. Commissioner Regan stated this use was potentially a good fit because the parking demand would be opposite times from the office demand. Commissioners did not have major issues with this item.

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4. **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.

Chairman Romeo called on Michael Wallick, Transportation Planner, for the staff report. Mr. Wallick presented the staff report dated November 9, 2020, which is on file in the office of Community Development.

Mr. Wallick provided an overview of the application, SE#20-06, which provides independent living space, consisting of a first-floor bedroom, bathroom, and kitchen totaling 485.5 square feet, which the applicant constructed for his partner.

Mr. Wallick explained that the zoning ordinance lists uses permitted in a zoning district by-right, by special exception, or not permitted. Special exceptions differ from by-right uses in that they have the potential to have greater impact on neighboring properties and therefore are subject to more thorough review as specified in Section 78-155.3(e).

Staff recommended approval 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 accessory dwelling unit shall be developed and maintained in substantial conformance with the SE#20-06 application materials submitted September 16, 2020.
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.

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3. One Accessory Dwelling Unit per Lot. There shall be no more than one accessory dwelling unit on the lot in addition to the principal dwelling.
4. Size Limit. The floor area of an accessory dwelling unit shall not exceed 490 square feet.
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.
6. Occupancy Standards. The accessory dwelling unit shall be subject to the dwelling unit occupancy standards of section 78-170.6. 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.
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.
8. Not to be Sold Separately. The accessory dwelling unit shall not be sold apart from the principal dwelling upon the same lot.
9. Compliance with Health, Safety, Sanitation and Building Code Regulations. The accessory dwelling unit shall meet the applicable code regulations for building.

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safety, health, and sanitation standards. During reasonable hours the applicant shall make provisions to allow officials to make the appropriate inspections.

10. 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.
11. 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, 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.
12. 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 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.
13. 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 any and all kitchen related equipment located in the basement.

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

Commissioners provided their comments and questions for item SE#20-06. Commissioners requested an explanation on what makes this space an accessory dwelling unit and Mr. Stromberg responded. Commissioners asked for clarification on parking requirements for accessory dwelling units and clarification on the draft conditions. Commissioners did not have major issues with this item.

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DISCUSSIONS

5. Items of Interest

There were no items of interest.

6. COMMENTS FROM THE STAFF

Lisa Gilleran, Director of Community Development, welcomed newly appointed Jay Donahue and congratulated Commissioner Regan for his time in serving on the Planning Commissioner and wished him the best as a Town Council member.

7. COMMENTS FROM THE COMMISSIONERS

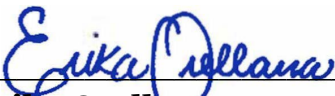
Commissioners thanked Commissioner Regan in serving in the Planning Commission.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:24 p.m.



Michael Romeo, Chairman
Planning Commission



Erika Orellana
Clerk to Boards & Commissions

Minutes approved by the Planning Commission: December 14, 2020