



CITY OF FAIRFAX

Department of Community Development & Planning

Special Use Permit SU-15110071

PUBLIC HEARING DATE

February 2, 2016

APPLICANT

George Mason University, Sub-lessee

AGENT

Peter Rosen,
Director Real Estate Management

PARCEL DATA

Tax Map ID
57-2-((43))-B1-104

Street Addresses
3950 University Drive, Suite 105

Zoning District
C-2 Retail Commercial District and
Old Town Fairfax Transition Overlay
District

APPLICATION SUMMARY

Request by George Mason University, Peter Rosen, Agent, pursuant to City Code Section 110-782(b)(1), for renewal of a special use permit to allow a school of general instruction in the C-2 (Retail Commercial) and Old Town Fairfax Transition Overlay Districts on the property located at 3950 University Drive in the downtown mixed-use project known as Old Town Plaza and formerly known as Old Town Village and more particularly described as Tax Map Parcel 57-2-((43))-B1-104.

STAFF RECOMMENDATION:

Staff recommends approval of the applicant's special use permit request, subject to the following conditions:

1. The class size for each instructional period will be generally between 10 and 40 students. Class sizes in excess of 60 students shall not be scheduled unless the additional parking demand is assessed and mitigation measures, as necessary, are approved by the Director of Community Development and Planning.
2. The SUP shall be valid for a period of two years with the possibility of renewal by the Board of Zoning Appeals. The application for renewal shall be submitted no less than six months prior to expiration of the SUP and will be subject to work session review by City Council prior to going to public hearing before the Board of Zoning Appeals.

BACKGROUND INFORMATION

On February 22, 2011, a special BZA meeting was held where the applicant requested and the BZA approved, with conditions, a special use permit to allow a school of general instruction (nutrition and food preparation demonstration classroom) on the premises known as 3950 University Drive, Suite 105 in the former Metro Diner space. Staff's report supported the request because there was no additional traffic generated by the use and the downtown area was to receive additional pedestrian traffic. George Mason University Health and Human Services building was to be under construction and completed within the five year timeframe. The conditions approved with the application limited the class size to between 10 and 40 students; approval was for a total of five years with an option for renewal with City Council considering the renewal at a work session prior to the application going forward to the Board of Zoning Appeals; and review of the parking demand generated by the use with the GMU representative and Director of Community Development and Planning to determine if available parking at this location was insufficient due to this use.

This current request by the applicant is to operate the school of general instruction in the same exact manner that they have been operating for the last four years. GMU is constructing the new on-campus facility in the new Health and Human Services building to which the classroom operation is to relocate and anticipates it's completion within the next 18 months. Alterations to the Metro Diner space have consisted of the addition of a projector and pull down screen to the ceiling to accommodate the professor's presentation needs. A white eraser board easel, on rollers, has been provided so the professor can instruct during the class.

ANALYSIS

A Memo dated January 20, 2016, has been submitted to City Council for their consideration of this renewal for a school of general education for nutrition and food preparation demonstration classroom (See Attachment 1). As of the writing of this staff report, no comments regarding the application have been received from the City Council. The following items related to the continued use of the property were provided for consideration.

Class size

The approved SUP specifies class sizes generally between 10 and 40 students in each instructional period. This is proposed to continue. The facility can accommodate this class size and there have been no complaints for this use in this location.

Timing

The approved SUP includes a five year expiration. The renewal application is for an additional two years since GMU is building a facility to house this kitchen function. The construction of the new facility is anticipated to be completed in approximately 18 months. The two year timeframe for this continued use is to accommodate any delays in the construction not foreseen at this time.

Parking

The approved SUP required City review of parking demand two years after the original approval. That review was completed and parking was determined to be sufficient. No demand management measures were required and no discernable issues with parking for this operation have been identified since that review.

It should be further noted that there have been no complaints regarding parking or this use with the City of Fairfax.

CONCLUSION

The applicant is proposing to operate the current use with the same class size of a minimum of 10 and a maximum of 40 participants with an instructional period of up to five sessions per day. The applicant is proposing to change the duration of the special use permit from five years to an additional two years with the option to return to the BZA for an additional renewal, should that be necessary. There is anticipated to be no change in the number of trips or the parking demand generation for the classroom space. The continuity of this use in this space assures that there will be pedestrian traffic in this area of the downtown of the City of Fairfax.

RECOMMENDATION

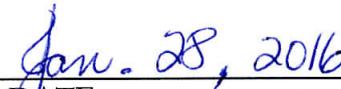
Staff recommends approval of the applicant's request to renew the Special Use Permit to allow a school of general instruction at 3950 University Drive, subject to the following conditions:

1. The class size for each instructional period will be generally between 10 and 40 students. Class sizes in excess of 60 students shall not be scheduled unless the additional parking demand is assessed and mitigation measures, as necessary, are approved by the Director of Community Development and Planning.
2. The SUP shall be valid for a period of two years with the possibility of renewal by the Board of Zoning Appeals. The application for renewal shall be submitted no less than six months prior to expiration of the SUP and will be subject to work session review by City Council prior to going to public hearing before the Board of Zoning Appeals.

PREPARED BY:

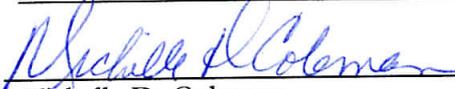


Lisa G. Feibelman, AICP, LEED Green Associate
Deputy Zoning Administrator



DATE

REVIEWED AND APPROVED:



Michelle D. Coleman
Zoning Administrator



DATE

REVIEWED AND APPROVED:

Brooke Hardin, AICP
Director, Community Development & Planning

DATE

ATTACHMENTS

1. Memo to City Council dated January 20, 2016
2. Applicant's Statement of Support, Renewal Application with Vicinity Map and Floorplan
3. Clerk's letter of approval
4. Previous Staff Report for February 22, 2011
5. Sample Motions



City of Fairfax

Community Development & Planning

Memorandum

DATE: January 20, 2016

TO: Honorable Mayor and Members of City Council

THROUGH: Robert Sisson, City Manager *RS*

FROM: Brooke Hardin, Community Development and Planning Director *BH*

SUBJECT: BZA Renewal of SUP for George Mason University Nutrition Classroom at Old Town Plaza

The Special Use Permit (SUP) for George Mason University's classroom space at Old Town Plaza, authorized by the Board of Zoning Appeals (BZA) in 2011, will expire in February 2016. George Mason University (GMU) has applied to the BZA for a renewal of the SUP for a period of two years while the on-campus facility to which the classroom will relocate is under construction. No changes to the operations or facilities are being proposed in the renewal application.

The 2011 BZA approval conditioned a City Council work session prior to consideration of a renewal of the SUP. As there have been City Council discussions in the intervening years regarding tenants and leasing at Old Town Plaza, including the university's classroom, and as there are no proposed changes to the operations or facilities, staff requests that the City Council review this memorandum and direct any subsequent comments or questions to staff by January 27 in lieu of a work session.

The renewal application is scheduled to be heard by the BZA on February 2, 2016.

Application

On February 22, 2011, the BZA approved, with conditions, the application by GMU requesting special use permit approval to allow a school of general instruction on the premises known as 3950 University Drive, Suite 105. The renewal application proposes to continue to use the premises of the former Metro Diner restaurant for cooking classes for a period of no more than two years as the Health and Human Services building currently under construction on the GMU campus is scheduled for occupancy in approximately 18 months. The property is in the C-2 (Retail Commercial) and Old Town Fairfax Transition Overlay Districts. There are no proposed changes to the program or the physical space. The information below highlights items related to the continued use of the property as a school of general education for nutrition and cooking preparation demonstration classroom instruction.

Class size

The approved SUP specifies class sizes generally between 10 and 40 students in each instructional period. This is proposed to continue. The facility can accommodate this class size and there have been no complaints for this use in this location.

Timing

The approved SUP includes a five year expiration. The renewal application is for an additional two years since GMU is building a facility to house this kitchen function. The construction of the new facility is anticipated to be completed in approximately 18 months. The two year timeframe for this continued use is to accommodate any delays in the construction not foreseen at this time.

Parking

The approved SUP required City review of parking demand two years after the original approval. That review was completed and parking was determined to be sufficient. No demand management measures were required and no discernable issues with parking for this operation have been identified since that review.

ATTACHMENT: 2

Statement of Support

On February 22, 2011, George Mason requested and was granted a Special Use Permit for its current occupancy by the Nutrition kitchen as part of the College of Health and Human Services within the Metro Diner space on the first floor of the Old Town Plaza building in the northwest quadrant of the University Drive/North Street intersection.

The expectation was that a new building would be built on the George Mason campus within the next five years to house the Nutrition kitchen. While that new building is currently under construction, its completion is now expected to be in time for the Fall 2017 semester. Because of this delay, the University must remain in the space another 24 months or less. We will operate as we have for the past 4 years as regards the use of the space and the scheduling of classes; we will also continue to offer continuing education courses to the public; maintain our Community outreach and engagement remain considerations of the Nutrition Department.

The space for food preparation remains essential to the core courses of the department, as we await completion of our new building, scheduled for the fall semester of 2017. Classes will run from 8:00 am to 10 pm, Monday through Friday. During any given week, attendance would run to 500 students. The typical class size would be between 10 and 40.

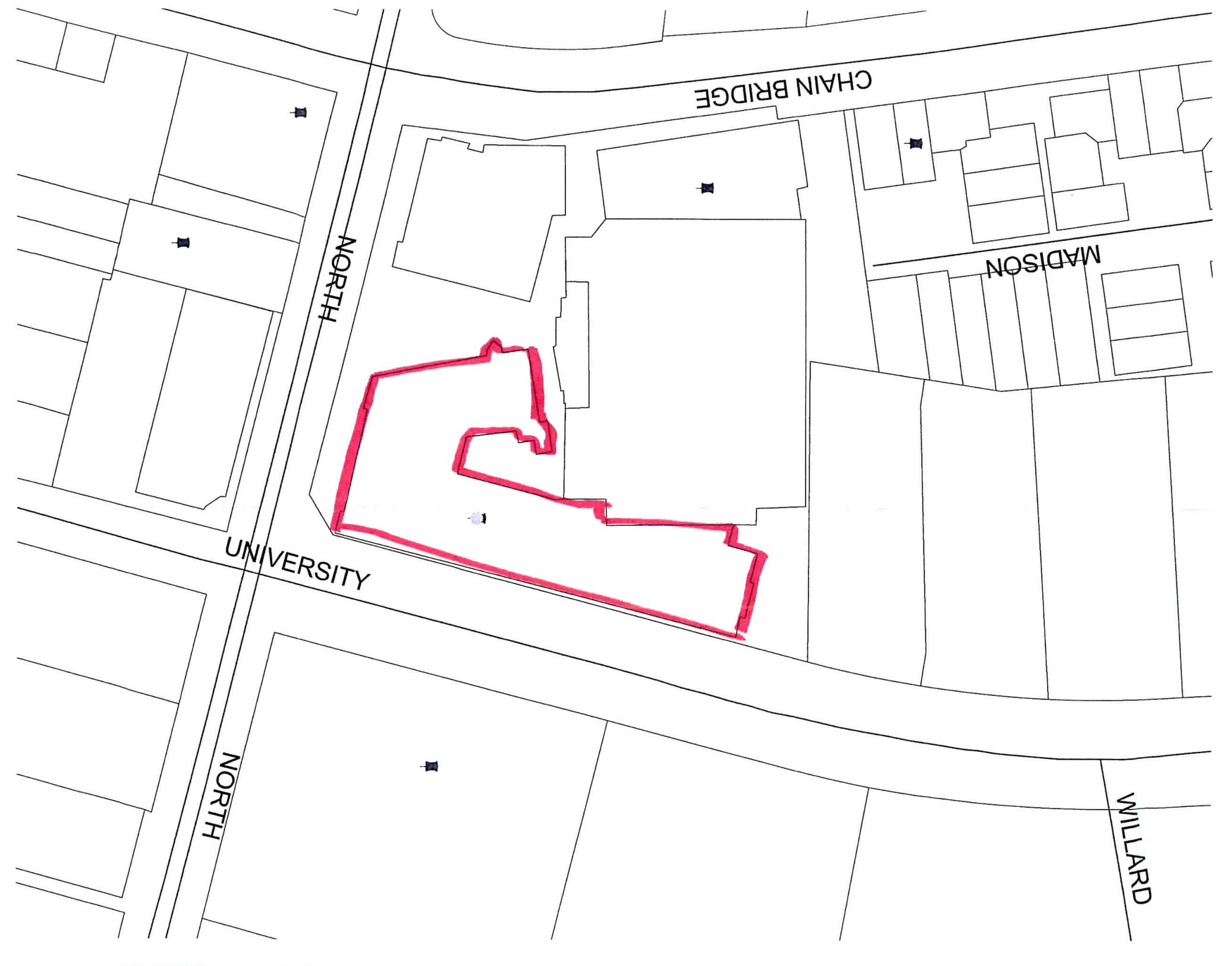
Because the Space is located in the C-2 district, the department's use of the Space requires a Special Use Permit for a school of general education in accordance with Sections 110-782(b)(1) and 110(b)(5) of the City Zoning Ordinance. The proposed use will meet all of the criteria for Special Use Permits listed in Section 110-366(3)(a-m) as agreed when the original Special Use Permit was granted.

The applicant respectfully requests an extension to the Special Use Permit be granted so that this program can continue as an appropriate temporary use in Old Town.

RECEIVED

NOV 16 2015

Community Dev & Planning



CHAIN BRIDGE

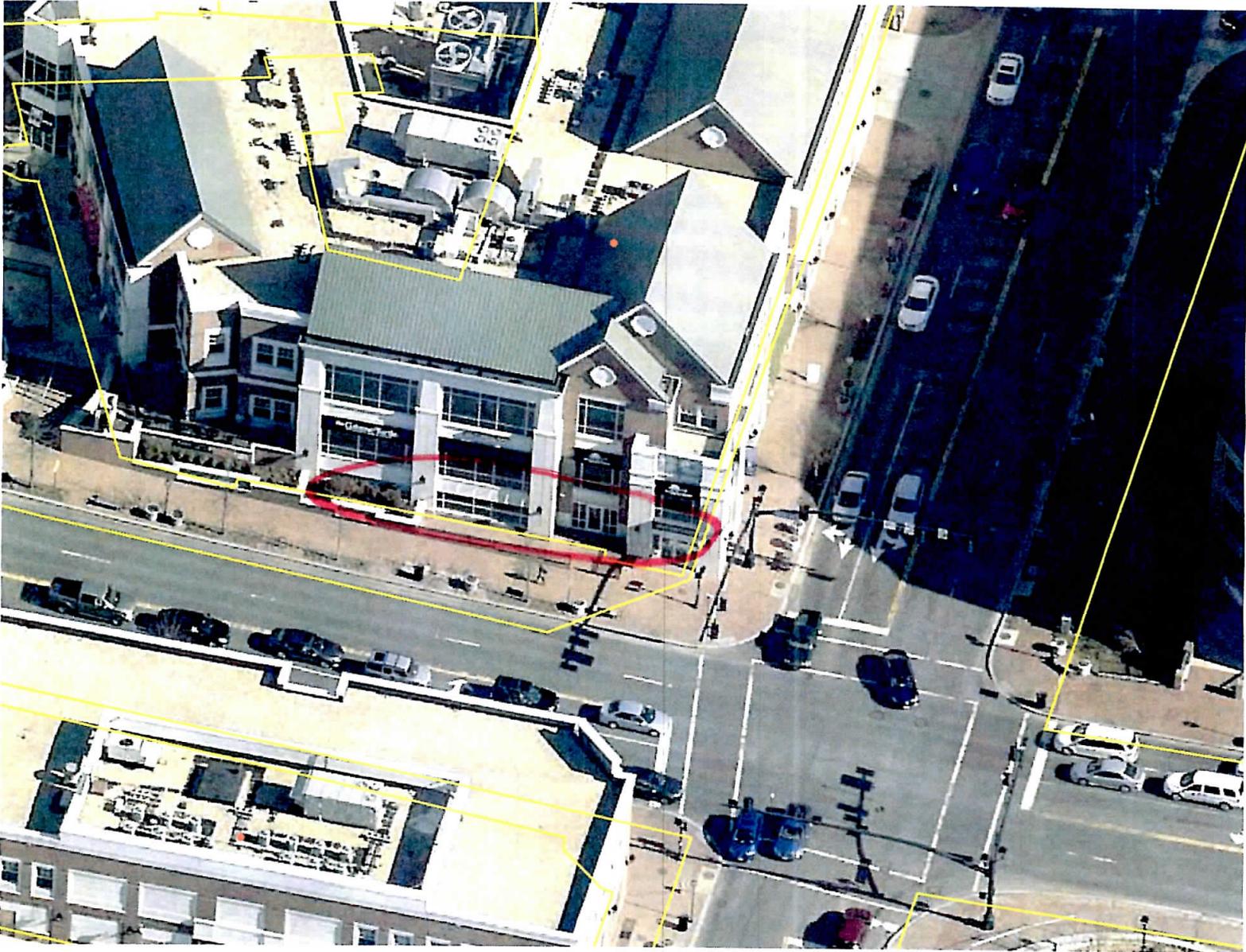
NORTH

MADISON

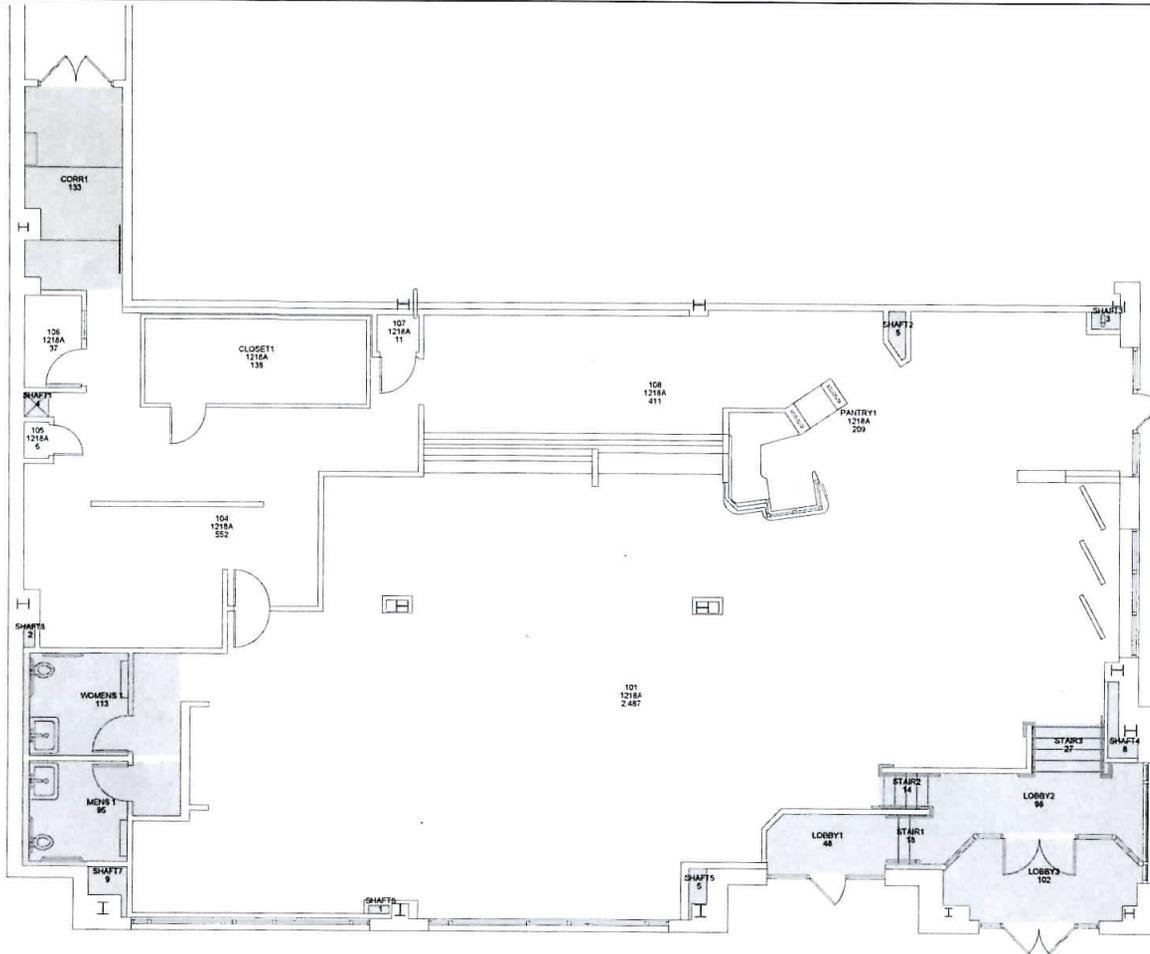
UNIVERSITY

NORTH

WILLARD



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>Bldg Code	Bldg Name	>Floor	Area
0287	3950 UNIVERSITY DRIVE	1	4,536.00

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NOV 13 2015
 Community Dev & Planning

Office of Space Management
Campus Planning Division
Facilities Administration



PROJECT NO:
 DATE: 11/4/15
 DRAWN: GUEST
 CHECKED:
 SCALE: NTS

3950 UNIV DRIVE01-SP.dwg
ARCHITECTURAL PLAN

Building 0287
Floor 1

RECEIVED

NOV 13 2015

Community Dev & Planning

**AFFIDAVIT CITY
OF FAIRFAX**

I, George Mason University, by Peter M. Rosen
do hereby make oath or affirmation that
(name of applicant or agent)

I am an applicant in Application Number _____ and that to the best of my knowledge and belief, the following information is true:

1. (a) That the following is a list of names and addresses of all applicants, title owners, contract purchasers, and lessees of the property described in the application, and if any of the foregoing is a trustee, each beneficiary having an interest in such land, and all attorneys, real estate brokers, architects, engineers, planners, surveyors, and all other agents who have acted on behalf of any of the foregoing with respect to the application (attach additional pages if necessary):

Name	Address	Relationship
George Mason University	4400 University Dr. Fairfax, VA. 22030-444	Tenant/Sublessee
Agent: Peter Rosen		

(b) That the following is a list of the stockholders of all corporations of the foregoing who own ten (10) percent or more of any class of stock issued by said corporation, and where such corporation has ten (10) or less stockholders, a listing of all the stockholders (attach additional pages if necessary):

Corporation Name: _____

Name	Address	Relationship
Agent: Greg Reed CH Realty III/Old Town Village L.L.C.		Applicant/Title Owner of Tax Map 57 2 43 B1 10A
Kimco Realty Corp. 1954 Green Spring CT. Timonium, MD. 21093		

(c) That the following is a list of all partners, both general and limited, in any partnership of the foregoing (attach additional pages if necessary):

Partnership Name: _____

Name	Address	Relationship
Agent: Robert Giamo		
12276 Rockville Pike, Rockville, MD 20852		Tenant/Sub lessor

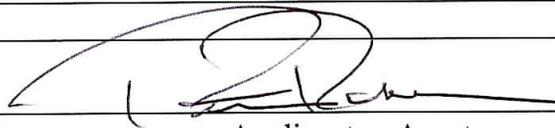
2. That no member of the City Council, Planning Commission, BZA, or BAR has any interest in the outcome of the decision. EXCEPT AS FOLLOWS: (If none, so state.)

NONE

3. That within five (5) years prior to the filing of this application, no member of the City Council, Planning Commission, BZA, or BAR or any member of his or her immediate household and family, either directly or by way of a corporation or a partnership in which anyone of them is an officer, director, employee, agent, attorney, or investor has received any gift or political contribution in excess of \$100 from any person or entity listed in paragraph one. EXCEPT AS FOLLOWS: (If none, so state.)

NONE

WITNESS the following signature:



Applicant or Agent

ALL APPLICANTS MUST SIGN AND HAVE THEIR SIGNATURES NOTARIZED.

The above affidavit was subscribed and confirmed by oath or affirmation before me on this 10th day of November, 2015, in the State of Virginia

My commission expires: August 31, 2019

Lisa Ann Reeves/7629509
Notary Public/Registration #





City of Fairfax

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City Hall • Fairfax, Virginia 22030-3630

February 25, 2011

George Mason University
4400 University Drive
Fairfax, VA 22030-4444

RE: 3950 University Drive / SU-11010093

Dear Mr. Rosen,

This letter is to confirm that the Board of Zoning Appeals, at its February 22, 2011 meeting, approved your request for a special use permit pursuant to City Code Sections 110-37(1) to allow a school of general instruction in the C-2 (Retail Commercial) and Old Town Fairfax Transition Overlay Districts on the premises known as 3950 University Drive, Suite 105 in the downtown mixed-use project known as Old Town Plaza and more particularly described as Tax Map Parcel 57-2-((43))-B1, with the following conditions:

1. The class size for each instructional period will be generally between 10 and 40 students. Class sizes in excess of 60 students shall not be scheduled unless the additional parking demand is assessed and mitigation measures, as necessary, are approved by the Director of Community Development and Planning.
2. The SUP shall be valid for a period of five years with the possibility of renewal by the Board of Zoning Appeals. The application for renewal shall be submitted no less than six months prior to expiration of the SUP and will be subject to work session review by City Council prior to going to public hearing before going to the Board of Zoning Appeals.
3. Two years after the granting of this Special Use Permit George Mason University ("GMU") representatives shall meet with the Director to review the parking demand which the use has generated. In the event the Director determines that the available parking is insufficient, GMU will work with the Director in implementing means of reducing parking demand.

Should you have any questions pertaining to this matter, you can contact me at 703-385-7820.

Sincerely,

Alexis El-Hage
BZA Secretary

Cc: Sarah Hall and Greg Reed





CITY OF FAIRFAX

Department of Community Development & Planning

Special Use Permit SU-11010093

PUBLIC HEARING DATE

February 22, 2011

APPLICANT

George Mason University, Sub-lessee

AGENT

Peter Rosen,
Director Real Estate Management

PARCEL DATA

Tax Map IDs
57-2-((43))-B1

Street Addresses
3950 University Drive, Ste 105.

Zoning Districts
C-2 Commercial District
Old Town Fairfax Transition Overlay District



APPLICATION SUMMARY

Request by George Mason University, Peter Rosen, Agent, pursuant to City Code Section 110-782(b)(1), for a special use permit to allow a school of general instruction (nutrition and food preparation demonstration classroom) in the C-2 (Retail Commercial) and Old Town Fairfax Transition Overlay Districts on the property located at 3950 University Drive in the downtown mixed use project known as Old Town Plaza and formerly known as Old Town Village and more particularly described as Tax Map Parcel 57-2-((43))-B1 .

STAFF RECOMMENDATION:

1. The class size for each instructional period will be generally between 10 and 40 students. Class sizes in excess of 60 students shall not be scheduled unless the additional parking demand is assessed and mitigation measures, as necessary, are approved by the Director of Community Development and Planning.
2. The SUP shall be valid for a period of five years with the possibility of renewal by the Board of Zoning Appeals. The application for renewal shall be submitted no less than six months prior to expiration of the SUP and will be subject to work session review by City Council prior to going to public hearing before the Board of Zoning Appeals.
3. Two years after the granting of this Special Use Permit George Mason University ("GMU") representatives shall meet with the Director to review the parking demand which the use has generated. In the event the Director determines that the available parking is insufficient, GMU will work with the Director in implementing means of reducing parking demand.

Special Exception - SU-11010093

Page 2

Property Description

The subject 4,855-square foot tenant space is located at the intersection of North Street and University Drive within Old Town Plaza (also known as Old Town Village). The property is zoned C-2 Retail Commercial within the Old Town Fairfax Transition Overlay District. The subject site is adjacent to and south of the recently-approved Madison Mews townhouse community. Properties to the east of the site across University Drive are developed with office uses and are zoned C-2 Commercial with the Old Town Fairfax Transition Overlay District (Transition District). Properties to the south of the site across North Street are zoned C-2 Retail Commercial with the Old Town Fairfax Historic District overlay (Historic District), and properties to the west of the site across Chain Bridge Road are zoned C-1L Limited Office with the Historic District overlay and R-2 Residential District, also with the Historic District overlay.

Adjacent Properties

Direction	Existing Zoning	Current Use	Comprehensive Plan Future Land Use Designation
North	R-M Multifamily and C-2 with the Transition District	Residential (under construction) and Existing Office	Mixed Use + Transition District
South	C-2 with the Historic District	Retail – Commercial and Office	Mixed Use + Historic District
East	C-2 Retail with the Transition District	Retail – Commercial	Mixed Use + Transition District
West	C-1L Office w/ Historic District; R-2 Residential District w/ Historic District	Commercial Office and Residential	Mixed Use + Historic District

In 2005 the OTV site was approved for redevelopment with a mix of office, retail and restaurant uses. The southern parcel of the site (generally known as Webb lot) is located across North Street from the larger tract (formerly known as the Logan/Sipan properties). The overall project was approved for 159,224 square feet of developed floor space, with 139,446 square feet located on the north side of North Street and the remaining 19,778 square feet located on the Webb lot portion. The overall project includes 92,506 square feet of office space and 66,718 square feet of retail and restaurant space. A parking garage with 558 parking spaces was constructed to support the OTV project with an additional 29 surface parking spaces provided on the Webb lot. Of the total 558 parking spaces supporting the OTV development 458 were required by ordinance leaving the remaining 100 parking spaces as dedicated public parking in support of the downtown area.

The subject tenant space was originally occupied by a full-service restaurant with 130 seats (120 seats inside and 10 seats outside). The restaurant, known as the Metro Diner, opened in August 2008 and closed in October 2009.

Business Description

The applicant proposes to use the existing tenant space as a classroom for nutrition and food preparation demonstration as part of George Mason University’s Department of Food and Nutrition Services under the College of Health and Human Services. The Department will offer undergraduate and graduate courses and degrees of study applying the principles of nutrition and the latest scientific evidence and methods of nutrition for diverse populations. Students will learn how to plan, purchase, and prepare culturally appropriate diets and to assess the nutritional needs of individual, families, and communities.

Special Exception - SU-11010093

Page 3

Additionally, continuing education courses open to the public and community outreach and engagement are an intended part of the strategic plan for the College of Health and Human Services.

According to George Mason University representatives demonstration classrooms for food preparation are currently planned for inclusion in a new building to be constructed on the George Mason campus in approximately five years. In the interim period the University would like to utilize the former Metro Diner restaurant space, with its existing commercial kitchen and seating space, to provide a temporary location for core courses. Initially classes would run from 9:30 a.m. to 10:00 p.m. Monday through Friday. After the initial semester, when full teaching capacity is achieved, early classes will begin at 8:00 a.m. Class sizes will range from 10 to 40 students with a total number of approximately 500 students moving through the classroom per week.

Analysis of Criteria

Consideration of the applicant's request for a Special Use Permit to allow a school of general instruction requiring Special Use Permit approval by the Board of Zoning Appeals.

The staff recommendation for the proposal to allow a school of general instruction requiring a Special Use Permit is based on analysis of the applicable standards provided in City Code Section 110-366:

Section 110-366 Zoning map amendments and special use permits

(3) Special Use Permit.

The Board of Zoning Appeals may grant special use permits only after considering:

- a. Consistency with the comprehensive plan and other adopted city goals and policies;
 - b. The size and shape of the lot on which the use is proposed;
 - c. Vehicular and pedestrian traffic;
 - d. Trip generation characteristics of the proposed use;
 - e. Site design;
 - f. Lighting, noise, traffic, sight, smoke, dust, odor, vibration and other factors that may affect the serenity of the neighborhood;
 - g. The safety and movement of vehicular traffic upon adjacent streets;
 - h. The safety and welfare of residents living in the area;
 - i. The location, height and design of buildings, walls, fences and landscaping proposed;
 - j. Overall impact of the proposed use upon the development and use of adjacent land;
 - k. Safety and welfare of persons working in the neighborhood;
 - l. Harmony of the proposal with the general purpose and intent of the applicable article of this chapter;
- and
- m. The purpose of the zoning ordinance set forth in the Code of Virginia §15.2-2283

Comprehensive Plan

The Comprehensive Plan's Future Land Use map indicates the subject site is planned for "Mixed Use" development. The text of the approved Comprehensive Plan that was adopted in 2004 states,

Mixed Use

"Certain locations in the City call for a flexible land use category that will permit development with a mixture of appropriate uses. The Mixed Use category permits a combination of commercial, residential and institutional development to be tailored to specific site conditions and transition needs."

The applicant's proposal to utilize the existing Metro Diner restaurant space as a demonstration classroom for studies related to the food and nutrition profession is consistent with numerous land use and economic development polices found within the Comprehensive Plan (see Attachment 5). The proposed demonstration classroom will draw approximately 500 students a week from the GMU campus and surrounding areas to the downtown Fairfax area. As a result of programmatic classroom scheduling these students will be coming to and from the downtown area in relatively small numbers but at a continuous rate throughout the business day and into the evening. The success of the proposed demonstration classroom will increase pedestrian traffic through the downtown area and further link the area to GMU's Fairfax campus. As noted in the applicant's statement of justification community outreach and participation in City-sponsored events will further build the partnership between the City's economic development efforts and GMU.

Staff believes the school of general instruction, as proposed by the applicant, is consistent with and reflective of Comprehensive Plan objectives regarding development of the downtown area as an activity center, promotion of mixed uses to enhance the economic base, improving public/private partnerships, stimulating the downtown business climate, and maximizing economic development opportunities created by George Mason University.

Design and Compatibility

The subject 4, 855 square-foot tenant space was originally developed as a 130-seat restaurant. The existing commercial kitchen will require only minor changes necessary to accommodate the proposed 40-student maximum class size. The proposed use will not require changes to any other portion of the Old Town Village project. As the proposed class sizes will be accommodated entirely within the existing restaurant space and class sizes will be less than half the seating capacity of the restaurant no adverse effects are anticipated for neighboring Old Town Village tenants or surrounding commercial and residential areas. The proposed demonstration classroom will occupy a vacant corner tenant space and likely result in a significant increase in pedestrian activity in the Old Town area.

Staff believes the existing size, shape and site design of the subject site are adequate to accommodate the school of general instruction, as proposed by the applicant, and there will be no impact on the serenity of the surrounding neighborhood.

Trip Generation and Parking

Trip Generation

Based on the information provided by the Institute of Transportation Engineers (ITE) *Trip Generation Report* (8th Edition) the proposed use will generate fewer trips and require less parking than the originally intended restaurant use. As a tenant within a mixed use development the Metro Diner restaurant, or similar restaurant use, would generate approximately 23 percent of the development's daily trip ends. The restaurant use is projected to represent 14 percent of the overall development's A.M. peak traffic and 17 percent of the P.M. peak traffic. Trip generation related to a restaurant use is influenced by seating capacity and tends to peak around meal hours. Similar to the restaurant the proposed demonstration classroom use is projected to generate approximately 20 percent of the developments daily trip ends. Unlike a restaurant use demonstration classroom use is projected to represent four percent of the overall development's A.M. peak traffic and six percent of the P.M. peak traffic. Trip generation for the proposed demonstration classroom is more evenly distributed through the day as students will arrive and exit based on class schedules.

Parking

Similar to trip generation the ITE Parking Manual Report estimates the parking requirement generated by a 4,855 square-foot restaurant at 14 percent of the over parking required for the mixed use development. The ITE Parking Manual report estimates parking for the proposed 40-student demonstration classroom at four percent of the overall parking required for the mixed use development. The subject site's close proximity to George Mason's campus and CUE bus service will likely contribute to a reduced need for parking in comparison to a restaurant use.

Based on the applicant's proposal and staff's analysis both the projected trip generation and the parking demand generation for the demonstration classroom will be less than a comparable family restaurant use. Staff recommends development conditions to limit class size to 40 participants, limit instructional periods to five per day and limiting the duration of the special use permit to five years with a coordinated review for issues after two years.

Staff believes that the proposed use, subject to the recommended conditions, can be accommodated by the existing parking within the Old Town Village garage and will not affect the safety and movement of vehicular traffic on adjacent streets.

Safety and Welfare

The safety and welfare of persons living in the area and working in the neighborhood will not be negatively impacted by the school of general instruction use as proposed by the applicant. The proposed use will generate less vehicle traffic than the approved restaurant use. Occupation of a vacant tenant space and increased pedestrian traffic through the day and evening hours could enhance the economic vitality of the downtown businesses.

Staff believes the proposed use will not have any adverse impact on the safety and welfare of surrounding residents and business. Alternatively the proposed use could have a positive impact by adding to the diversity and the vitality of the downtown area.

Harmony with Applicable Articles

The proposed use will function in much the same way as the existing retail and restaurant business do and will contribute a reliable clientele as George Mason students will be pulled to the downtown to participate in classes. As noted in the analysis in the above paragraphs the proposed use supports numerous *Comprehensive Plan* objectives and integrates into the existing Old Town Village community.

Staff believes the proposed use is in harmony with and conformance to the general purpose and intent of the applicable articles of chapter 110 of the City Code.

FINDINGS

The Special use Permit request to allow a school of general instruction (nutrition and food preparation demonstration classroom) on the subject site, as conditioned, meets the standards of City Code Section 110-366 because:

- 1) The use is consistent with and reflective of *Comprehensive Plan* objectives regarding development of the downtown area as an activity center, promotion of mixed uses to enhance the economic base, improving public/private partnerships, stimulating the downtown business climate, and maximizing economic development opportunities created by George Mason University;

- 2) The existing size, shape and site design of the site are adequate to accommodate the proposed use;
- 3) The proposed use, subject to the recommended conditions, can be accommodated by the existing parking within the Old Town Village garage and will not affect the safety and movement of vehicular traffic on adjacent streets.
- 4) The use will not have any adverse impact on the safety and welfare of surrounding residents and business.
- 5) The proposed use will be an interim use, intended to bridge the gap between the current leasing environment and the ultimate anticipated use of the space (preferably as a restaurant).

RECOMMENDATION

Staff recommends the Board of Zoning Appeals approve the requested Special Use Permit to allow a school of general instruction within the Old Town Village development subject to the following conditions:

1. The class size for each instructional period will be generally between 10 and 40 students. Class sizes in excess of 60 students shall not be scheduled unless the additional parking demand is assessed and mitigation measures, as necessary, are approved by the Director of Community Development and Planning.
2. The SUP shall be valid for a period of five years with the possibility of renewal by the Board of Zoning Appeals. The application for renewal shall be submitted no less than six months prior to expiration of the SUP and will be subject to work session review by City Council prior to going to public hearing before the Board of Zoning Appeals.
3. Two years after the granting of this Special Use Permit George Mason University ("GMU") representatives shall meet with the Director to review the parking demand which the use has generated. In the event the Director determines that the available parking is insufficient, GMU will work with the Director in implementing means of reducing parking demand.

PREPARED BY:

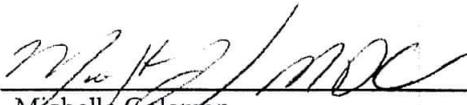


Monty Lowe, AICP
Deputy Zoning Administrator



DATE

REVIEWED AND APPROVED:



Michelle Coleman
Zoning Administrator

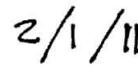


DATE

REVIEWED AND APPROVED:



David B. Hudson
Director, Community Development & Planning

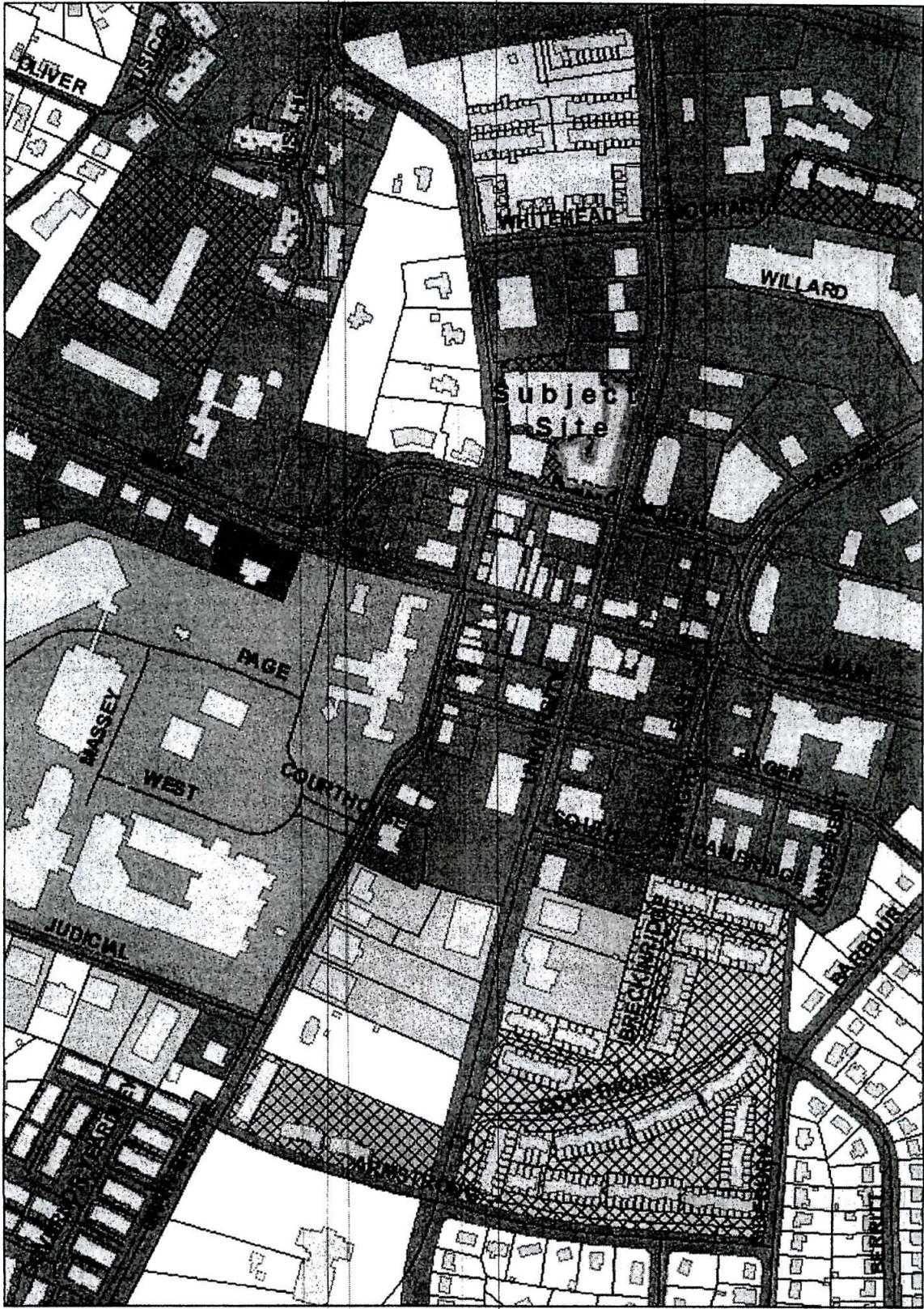


DATE

ATTACHMENTS

1. Vicinity Map
2. Application
3. Applicant's Statement of Support
4. Related Comprehensive Plan Objectives
5. Sample Motions

Location Map



Attachment 1

8

RECEIVED

FEB 02 2011

Dept. of Community
Development & Planning

Application No. SU 11010093

LAND USE APPLICATION CITY OF FAIRFAX

I/We George Mason University by Peter M. Rosen

(name of applicant)

(authorized agent's name and relationship to applicant)

not for profit

a corporation / general partnership / limited partnership / sole proprietorship / individual (circle one) which is the
property owner / contract purchaser / lessee (circle one) sublessee

of Unit RB-101A Old Town Village / Tax Map# 57 2 4-3 B1 101

(address and tax map # of subject property)

hereby apply for a Special Use Permit / Special Exception / Variance (circle one) pursuant to
Section 110-782 (a) (1) of the City Code to allow (describe request) a school of

general education on property zoned C-2

City Code References: 110-762 (b) (5), 110-366 (4)



(signature of applicant or authorized agent)

Director of Real Estate

(title or relationship)

Address 4400 University Drive, MS 1E4
Fairfax, Virginia 22030 Phone: (703) 993-3146

THE FOLLOWING MUST BE COMPLETED BY THE PROPERTY OWNER

I/We CH Realty III / Old Town Village, L.L.C. by _____ hereby certify that the applicant
named above has the authority vested by me to make this application.

see attached

(signature of owner or authorized agent)

(title or relationship)

Address _____ Phone: _____

FOR OFFICE USE ONLY

Proposal filed: 2/2/11

Received by: ade

Fee Paid: \$ 4800.00

Receipt No. 33638

Previous Cases: _____

Current status of business license and fees:

Treasurer: ALL PAYMENTS ARE CURRENT. JBL TRERS. OFC. 2/3/2011

Commissioner of Revenue: CH Realty III / Old Town Village LLC has met

the filing requirements of this office. (2) No fees are required
from George Mason University at this time

Department of Community Development and Planning
City of Fairfax, Virginia

2-3-11

Attachment 2

9

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FEB 02 2011

Dept. of Community
Development & Planning

Application No. SU 11010093

LAND USE APPLICATION CITY OF FAIRFAX

I/We George Mason University by Peter M. Rosen
(name of applicant) (authorized agent's name and relationship to applicant)

not for profit / general partnership / limited partnership / sole proprietorship / individual (circle one) which is the

property owner / contract purchaser / lessee (circle one) sublessee
of Unit RB-101A Old Town Village / Tax Map# 57 2 43 B1 101
(address and tax map # of subject property)

hereby apply for a Special Use Permit / Special Exception / Variance (circle one) pursuant to
Section 110-782(a) (1) of the City Code to allow (describe request) a school of

general education on property zoned C-2
City Code References: 110-762 (b) (5), 110-366 (4)

(signature of applicant or authorized agent) Director of Real Estate (title or relationship)

Address 4400 University Drive, MS 1E4 Fairfax, Virginia 22030 Phone: (703) 993-3146

THE FOLLOWING MUST BE COMPLETED BY THE PROPERTY OWNER

I/We CH Realty III / Old Town Village, L.L.C. by WILBUR G. SIMMONS III hereby certify that the applicant
named above has the authority vested by me to make this application.

BY: [Signature] VICE PRESIDENT
(signature of owner or authorized agent) (title or relationship)
Address 170 W. RIDGELY RD. STE 210 LUTHERVILLE MD 21093 Phone: 410-684-2000

FOR OFFICE USE ONLY

Proposal filed: _____ Received by: _____
Fee Paid: _____ Receipt No. _____
Previous Cases: _____
Current status of business license and fees: _____
Treasurer: _____
Commissioner of Revenue: _____

**AFFIDAVIT
CITY OF FAIRFAX**

I, George Mason University, by Sarah E. Hall do hereby make oath or affirmation that
(name of applicant or agent)

I am an applicant in Application Number _____ and that to the best of my knowledge and belief, the following information is true:

1. (a) That the following is a list of names and addresses of all applicants, title owners, contract purchasers, and lessees of the property described in the application, and if any of the foregoing is a trustee, each beneficiary having an interest in such land, and all attorneys, real estate brokers, architects, engineers, planners, surveyors, and all other agents who have acted on behalf of any of the foregoing with respect to the application (attach additional pages if necessary):

Name	Address	Relationship
See Attachments		

(b) That the following is a list of the stockholders of all corporations of the foregoing who own ten (10) percent or more of any class of stock issued by said corporation, and where such corporation has ten (10) or less stockholders, a listing of all the stockholders (attach additional pages if necessary):

Corporation Name: _____

Name	Address	Relationship
See Attachments		

(c) That the following is a list of all partners, both general and limited, in any partnership of the foregoing (attach additional pages if necessary):

Partnership Name: _____

Name	Address	Relationship

11

2. That no member of the City Council, Planning Commission, BZA, or BAR has any interest in the outcome of the decision. EXCEPT AS FOLLOWS: (If none, so state.)

None

3. That within five (5) years prior to the filing of this application, no member of the City Council, Planning Commission, BZA, or BAR or any member of his or her immediate household and family, either directly or by way of a corporation or a partnership in which anyone of them is an officer, director, employee, agent, attorney, or investor has received any gift or political contribution in excess of \$100 from any person or entity listed in paragraph one. EXCEPT AS FOLLOWS: (If none, so state.)

None

WITNESS the following signature: Sarah E Hall
Sarah E. Hall, Applicant or Agent

ALL APPLICANTS MUST SIGN AND HAVE THEIR SIGNATURES NOTARIZED.

The above affidavit was subscribed and confirmed by oath or affirmation before me on this 1st day of FEBRUARY, 20 11, in the State of VIRGINIA

My commission expires: 4-30-2014

Susanna Price / #134347
Notary Public/Registration #



12

Attachment A

George Mason University
4400 University Drive
Fairfax, VA 22030-4444
Agents: Dean Shirley Travis
Peter Rosen

Tenant/Sublessee

CH Realty III/Old Town Village, L.L.C.
2100 McKinney Avenue, #700
Dallas, TX 75201
Agent: Greg Reed

Applicant/Title Owner of
Tax Map 57 2 43 B1 101

Silver Diner Metro, LLC
12276 Rockville Pike
Rockville, MD 20852
Agent: Robert Giaimo

Tenant/Sublessor

Blankingship & Keith, P.C.
4020 University Dr.
Suite 300
Fairfax, VA 22030
Agent: Sarah E. Hall

Attorneys

Attorney/Agent

Attachment B

CH Realty III/Old Town Village, L.L.C.

Manager/Member: KRS Old Town, Inc.

KRS Old Town, Inc.

Sole Shareholder: Kimco Realty Services, Inc.

Officers:

William Brown, President; Milton Cooper, Executive Chairman; David B. Henry, CEO; David R. Lukes, EVP, CFO and Chief Admin Officer; Glen G. Cohen, VP, Treasurer and Chief Accounting Officer; Stuart Cox, VP & Assistant Secretary; Wilbur E. Simmons, III, VP

Kimco Realty Services, Inc.

Sole Shareholder: Kimco Realty Corporation

Kimco Realty Corporation

Publicly traded.

Silver Diner Metro, LLC

Sole Owner: Silver Diner Development, LLC

Silver Diner Development, LLC

Sole Owner: Silver Diner, Inc.

Silver Diner, Inc.

Sole Owner of 10% or greater interest: Catherine Britton

Blankingship & Keith, P.C.

Shareholders: John A.C. Keith
William H. Casterline Jr.
Sarah E. Hall
Paul B. Terpak
Peter S. Everett
David Rust Clarke
David J. Gogal
Elizabeth C. Morrogh
Robert J. Stoney
Wm. Quinton Robinson
John F. Cafferky
William B. Porter
Gifford R. Hampshire
William L. Carey
Mary McGowan

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STATEMENT OF SUPPORT

FEB 1 2011

Dept. of Community
Development & Planning

In August 2008 Silver Diner Metro, LLC ("Silver Diner") opened a Metro Diner on the first floor of the Old Town Plaza building in the northwest quadrant of the University City of Fairfax at the intersection of Old Town Plaza and University Avenue. With 120 seats inside and 10 outside and reasonably priced good food and a good time vibe, the Metro Diner was exactly the type of vibrant retail use the City of Fairfax sought in Old Town Plaza. Unfortunately, the effects of the dramatic downturn in the economy which began in late 2008 were such that the Metro Diner could not survive, and it closed in October 2009. The 4,855 square foot space it had occupied (the "Space") has remained vacant since that time. Despite Silver Diner's aggressive efforts to sublet the Space to another restaurant, no sublessee was found which was willing to attempt a restaurant use in the Silver Diner space at this time.

The City of Fairfax and Silver Diner are exceedingly fortunate to have found an interim user of the Space which will not only bring people to Old Town and fill the Space but also contribute to the larger community. That temporary user is George Mason University's newly founded Department of Nutrition and Food Studies (the "Department"). Part of GMU's College of Health and Human Services, the Department will offer courses and degrees of study designed to prepare students to apply the principles of nutrition and the latest scientific evidence and methods of nutrition to the health practices of diverse populations. Students will learn how to plan, purchase, and prepare culturally appropriate diets and to assess the nutritional needs of individuals, families, and communities.

A space for food preparation is essential to the core courses planned by the new Department, and such space will be included in the building which will be constructed for the Department on the GMU campus within approximately five (5) years. In the interim, the Silver Diner space with its existing commercial kitchen and seating would provide a perfect temporary location for these core courses since demonstrations in the kitchen may be shown on flat screen monitors in the "classroom area," the former Metro Diner seating area. GMU seeks to take possession of the Space at the beginning of March 2011 in order to make minor modifications to accommodate cameras in the kitchen and flat screen monitors so that classes may begin in August 2011.

During the first semester classes would run from 9:30 a.m. to 10:00 p.m. Monday through Friday. When full teaching capacity is achieved in subsequent semesters, classes would begin at 8:00 a.m., and the total number of students who would attend classes in the Space each week would be approximately 500. Class size would vary depending upon the type of classes, the range being from 10 to 40 students. The graduate level classes, which would meet during the evening hours, would be among the smaller classes. In addition to academic courses for GMU students, continuing education courses open to the public would be offered in the Space.

Community outreach and engagement is part of the strategic plan for the College of Health and Human Services and will be an integral part of the operations of the new Department of Nutrition and Food Studies. Among the activities being considered by the Department are interaction with the City's Farmer's Market, participation in the annual Chocolate Festival and the Taste of Fairfax Festival, and broadcasts via the City of Fairfax Cable channel of live feed of

Attachment 3

16

the instructional activities in the Space. Preliminary discussions have already taken place regarding opportunities for guest celebrity chefs in the Space. In sum, the presence of the Department's classes in this Space would contribute to an interest in and excitement about nutrition and food in the larger community and create a mutually beneficial synergy between the Department and the City's food service community.

Because the Space is located in the C-2 district, the Department's use of the Space requires a Special Use Permit for a school of general education in accordance with Sections 110-782(b)(1) and 110-762(b)(5) of the City Zoning Ordinance. The proposed use will meet all of the criteria for Special Use Permits listed in Section 110-366(3) (a-m). The various criteria are addressed as follows:

(a) and (j) The proposed use is consistent with the Comprehensive Plan and the City's goals for Old Town. Having classes in the Space will bring GMU students and others to Old Town Plaza, thereby increasing the vitality of this area. Dr. Stephen S. Fuller, the Director of GMU's Center for Regional Analysis, estimates that undergraduate students in this area spend between \$603 and \$923 per month for a wide range of goods and services and that the 500 students per week who would attend classes in the Old Town Plaza space would constitute a major boost to the market potential that nearby businesses could capture. Dr. Fuller also believes that these students would comprise one of the largest or possibly the largest concentration of spending potential that would exist in the City's downtown area. The impact of the proposed use on the adjacent properties would only be positive.

(b), (e), (f), and (i) The 4,855 square foot space is perfectly suited to the proposed use. Only minor interior changes would be made and no exterior changes. Nothing about the use would adversely affect the serenity of the neighborhood.

(c), (d), and (g) Vehicular and pedestrian traffic would not be problematic, and it would clearly be less than the traffic generated by a 130 seat restaurant. Furthermore, a significant portion of GMU students would take the CUE bus to the Space or would carpool. Neither the safety nor movement of vehicular traffic on adjacent streets would be adversely affected.

(h) and (k) The safety and welfare of persons living in the area and working in the neighborhood would only be enhanced by the proposed use. Vacant space is not conducive to a safe and vibrant neighborhood.

(l) and (m) The proposed use is precisely the type of Special Use Permit use suitable for this C-2 Retail Commercial development. It would be in harmony with and would enhance the existing retail uses and would encourage other retail uses to locate in Old Town.

The Applicant respectfully requests that this Special Use Permit be granted so that this appropriate temporary use may be established in Old Town.

U:\Land Use & Development\SEH\Silver Diner\Statement Of Support.Docx

Related Comprehensive Plan Objectives

Objective LU-4

Promote Old Town Fairfax as the City's historic core and downtown cultural activity center

LU 4.2 Encourage a mix of uses in projects located in Old Town Fairfax

"A compatible mix of office, retail residential and cultural/entertainment uses contributes to a more stimulating environment, extending the period of activity past 5:00 p.m."

LU 4.3 Attract and retain cultural facilities and activities in the Old Town and establish a unique niche to draw people to Old Town, particularly during evening hours.

The City should reinforce the identity of the downtown as its focal point and center of activity by holding major civic events and by encouraging the establishment of cultural facilities in the Old Town. "Nightlife is essential to Old Town Fairfax. The City should support and encourage private sector efforts to establish cultural and entertainment uses to provide an effective draw, supporting existing and additional restaurants, inns and retail establishments."

LU 4.4 Promote appropriate retail, restaurant and lodging facilities to enhance the economic base of Old Town Fairfax.

"A "critical mass" of these uses is essential to the economic vitality of the Old Town. To achieve enhanced vitality in that area, a continuous pattern of retail shops and restaurants along Old Town street fronts should be developed."

Objective LU-5

Utilize the Economic Development Authority to effectively participate in public/private partnerships for development initiatives

LU 5.3 Participate with other local jurisdictions, agencies, institutions, and the private sector in cooperative ventures to create opportunities for development and redevelopment in areas that span jurisdictional boundaries.

"The City should actively promote and support cooperation with Fairfax County, George Mason University, and private developers to fulfill local market demand, relate to surrounding land uses, and meet economic development objectives articulated in the Comprehensive Plan."

Objective EC-1

Provide entrepreneurial leadership to stimulate a climate of businesses complementary to the economic, residential and aesthetic interests of the City.

EC 1.5 Establish and reinforce Old Town Fairfax as an economic and cultural focal point.

“In addition to capturing university-oriented business, a more intense local market within walking distance of Old Town must be cultivated to assure continuous activity—especially during evenings and weekends.”

Objective EC-2

Maximize economic development opportunities created by the proximity of George Mason university (GMU)

EC 2.1 Facilitate enhanced land use and transportation between GMU and adjacent portions of the City.

“...the City should ensure that the redevelopment that will occur in the City adjacent to GMU capitalizes on the market created by the University and is accomplished in a manner sensitive to the nearby residential areas.”

EC 2.3 Make the City of Fairfax a positive element in the GMU experience and campus environment

“The ongoing expansion of enrollment and residential living at GMU presents an opportunity for the expansion of the local economy as well. Using well-planned additions of retail space, pedestrian amenities and cultural facilities, Old Town Fairfax can capture the spending power of local college students while enhancing the environment that City residents already enjoy.”

APPROVAL WITH CONDITIONS

(Recommended by Staff)

I MOVE THAT THE BOARD OF ZONING APPEALS APPROVE THE REQUEST OF GEORGE MASON UNIVERSITY, BY PETER ROSEN, AGENT, PURSUANT TO CITY CODE SECTIONS 110-782(b)(1), FOR A SPECIAL USE PERMIT TO ALLOW A SCHOOL OF GENERAL INSTRUCTION (GEORGE MASON UNIVERSITY NUTRITION AND FOOD PREPARATION CLASSROOM) IN THE C-2 RETAIL COMMERCIAL DISTRICT AND OLD TOWN FAIRFAX TRANSITION OVERLAY DISTRICTS ON THE PREMISES KNOWN AS 3950 UNIVERSITY DRIVE AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 57-2-((43))-B1-104, SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE CLASS SIZE FOR EACH INSTRUCTIONAL PERIOD WILL BE GENERALLY BETWEEN 10 AND 40 STUDENTS. CLASS SIZES IN EXCESS OF 60 STUDENTS SHALL NOT BE SCHEDULED UNLESS THE ADDITIONAL PARKING DEMAND IS ASSESSED AND MITIGATION MEASURES, AS NECESSARY, ARE APPROVED BY THE DIRECTOR OF COMMUNITY DEVELOPMENT AND PLANNING.
2. THE SUP SHALL BE VALID FOR A PERIOD OF TWO YEARS WITH THE POSSIBILITY OF RENEWAL BY THE BOARD OF ZONING APPEALS. THE APPLICATION FOR RENEWAL SHALL BE SUBMITTED NO LESS THAN SIX MONTHS PRIOR TO EXPIRATION OF THE SUP AND WILL BE SUBJECT TO WORK SESSION REVIEW BY CITY COUNCIL PRIOR TO GOING TO PUBLIC HEARING BEFORE THE BOARD OF ZONING APPEALS.

DENY

I MOVE THAT THE BOARD OF ZONING APPEALS DENY THE REQUEST OF GEORGE MASON UNIVERSITY, BY PETER ROSEN, AGENT, PURSUANT TO CITY CODE SECTIONS 110-782(b)(1), FOR A SPECIAL USE PERMIT TO ALLOW A SCHOOL OF GENERAL INSTRUCTION (GEORGE MASON UNIVERSITY NUTRITION AND FOOD PREPARATION CLASSROOM) IN THE C-2 RETAIL COMMERCIAL DISTRICT AND OLD TOWN FAIRFAX TRANSITION OVERLAY DISTRICTS ON THE PREMISES KNOWN AS 3950 UNIVERSITY DRIVE AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 57-2-((43))-B1-104 FOR THE FOLLOWING REASONS:

(Reasons to be provided by the Board of Zoning Appeals)