

MINUTES OF REGULAR MEETING OF
THE BOARD OF ZONING APPEALS
CITY OF FAIRFAX
CITY HALL, FAIRFAX, VIRGINIA
May 3, 2016

Members Present: John O'Brien Clarke Jr., Chairman
Ed Calabria, Vice-Chairman
Robert Matthews
Gary Perryman

Staff Present: Michelle Coleman, Zoning Administrator
Lisa Feibelman, Deputy Zoning Administrator
Ann Feeherry, Secretary

1. **Call to Order:** Chairman Clarke called the meeting to order.
2. **Opening of the Public Hearing:** Chairman Clarke opened the public hearing at 7:00 p.m. and explained the procedure for the meeting.
3. **Adoption of Agenda:** Approved 4:0
4. **SU-16030046**

Request of GLIC Real Estate Holding, LLC, by Lynne J. Strobel, agent, pursuant to City Code Sections 110-782(b)(1), 110-762(b)(5), and 110-366, for renewal of a special use permit to allow a school of general instruction (George Mason University classrooms and offices) on the property located at 10340 Democracy Lane and more particularly described as Tax Map Parcel 57-2-((20))-(4E)-001.

Lisa Feibelman, Deputy Zoning Administrator, presented the staff report which is incorporated into the record by reference. She stated the applicant is requesting a renewal of a special use permit which was originally approved with conditions on June 7, 2011.

The conditions approved with the application limited the maximum student on the property to 253 total on any given day; set a 3,500 square feet of gross floor area vacancy rate for one year period to re-evaluate the parking demand and adequacy of on-site parking; interior construction and modifications were to be completed in substantial conformance with the plan entitled "GMU Expansion Plan" prepared by Miller Architects and dated March 29, 2011; and the Special Use Permit was to be valid for five years with the option of renewal.

Mrs. Feibelman stated the applicant is proposing to operate three classrooms and a reduced office, conference and work space with the potential that the class schedules could resume to the extent previously approved five days a week. The applicant is proposing to change the duration of the special use permit from five years to an unlimited time period. Due to the Zoning Ordinance re-write proposing a reduction in the requirement of parking, there being no complaints from other tenants in the building, there being a reduction in the office space of over 2,000 square feet and that the students provide pedestrian traffic in this area of the downtown of the City of Fairfax staff is in support of the Special Use Renewal.

Staff recommends approval of the applicant's request to renew the Special Use Permit to allow a school of general instruction at 10340 Democracy Lane, in Suites 300 and 306, subject to the following conditions:

1. There shall be no more than 253 students on the property daily Monday through Friday and the class size shall be limited to 25 students.
2. The applicant shall maintain a vacancy of 3,500 square feet of gross floor area in the office building in order to accommodate required parking for a period of one year from the date of approval of the special use permit and until the applicant and a GMU representative shall meet with City staff to review the parking demand and the adequacy of the on-site parking. If the parking is found to be sufficient to accommodate the GMU use and other tenants that would fully occupy the office building, the 3,500 square-foot occupancy limitation may be removed.

Mr. Clarke asked the Deputy Zoning administrator questions regarding the 3,500 square feet vacancy condition and clarified that the applicant for this Special Use Permit is not George Mason University, but instead the Real Estate Holding company who owns the property.

Lisa Feibelman stated that the vacancy condition is an agreement between the City and the building property owner to maintain 3,500 square feet of vacancy out of entire total square footage of the property.

Mr. Clarke asked if when the Zoning Rewrite is approved then will the newly adopted parking requirements apply to this Special Use Permit, prospectively from that point forward. He also asked if this particular use would be reviewed under the Board of Zoning Appeals or City Council after the new ordinance was adopted.

Michelle Coleman stated that when the previous Special Use Permit was initially approved in 2011, the vacancy condition was set in order to analyze how the use operated and to determine the parking demand. If the new zoning ordinance is adopted, then the new parking regulations would apply to this use and provide relief for parking regulations. She also confirmed that this particular use would be reviewed under City Council after the adoption of the new Zoning Ordinance.

Mr. Clarke stated from the staff report and presentation that the applicant is proposed to lease 1,500 square feet less in the renewal than in the previously approved Special Use Permit.

Mr. Perryman mentioned the considerable difference in parking for office space and classroom space. He asked if there parking regulations differentiate between school use and office use.

Ms. Coleman stated that the classrooms for this School of General Instruction are designed as cubicles, and that it is unlikely the cubicles will be fully occupied at one time. She stated that the proposed use is unlike a traditional office space, and that the classroom occupancy will fluctuate which will impact the parking demand.

Mr. Perryman expressed his concern that after the adoption of the new Zoning rewrite this particular Special Use would no longer have a public hearing with Board of Zoning Appeals, but instead would be a use that is reviewed by City Council.

Ms. Coleman shared that if the applicant operates differently than how it is represented in this public hearing and staff report, then they would be in violation of this Special Use Permit renewal. Anyone else that would use operate in these spaces would need to operate in the same manner as approved by the Board of Zoning Appeals.

Mr. Clarke conveyed that an existing condition is that the class size is limited to 25 students a class and that the total number of students participating in the School of General Instruction have been accounted for within the approval conditions.

Mr. Matthews questioned how much a parking study would cost, and suggested it might be a useful resource to have in order to analyze the parking demand.

Ms. Strobel shared that this use has been operating successfully in the space since the original approval in 2011. She verbally proposed a new condition which would relieve the applicant of the the previous 3,500 square feet vacancy condition after a formal parking study is completed and can convey the parking demand to the satisfaction to the City. She noted that an informal parking day count had been completed throughout the application process and it demonstrated that there is other parking available to the surrounding businesses during the Universities hours of operation.

Mr. Clarke expressed that the applicant is proposing to remove the 3,500 square feet vacancy condition after the formal parking study has been approved by City Staff as adequate. He conveyed that either a formal study needs to be submitted and approved by City Staff, or the Zoning Rewrite needs to be approved and adopted before the 3,500 square feet vacancy is leased by the property owner.

Mr. Calabria expressed that the property owner could lease a considerable amount of space currently available and the applicant would still be in compliance with the 3,500 square feet vacancy condition.

Mr. Matthews followed by asking the City Staff if they are in support of the applicant's newly proposed condition.

Ms. Coleman shared that the City Staff was made aware of this condition prior to the public hearing and the staff is in full support of the newly proposed condition.

Discussion

Mr. Matthews announced that the past five years of operation at this location has ran smoothly, and would like to see it continue. He supported the applicant's proposed verbal condition and suggested that it is more easily understood and read.

Mr. Perryman stated that he was in favor of this business and has visited the site many times over the past five years of operation, and wants to ensure the use continues to run smoothly.

Mr. Calabria expressed that he was in favor of this application, as written, and was impressed with the last five years and would like to see more operations similar to this.

Mr. Clarke suggested modifying the language of the proposed verbal condition to convey that the City of Fairfax has the ability to determine the provided parking study as being accurate or insufficient.

Motion Approved 4:0.

5. Reconsideration of November 4, 2014 Meeting Minutes (continued from February 2, 2016)

Mr. Calabria made a motion to approve the November 4, 2014 meeting minutes. Motion was seconded by Mr. Matthews. Motion was approved 4:0.

6. Consideration of February 3, 2015 Meeting Minutes (continued from February 2, 2016)

Mr. Calabria made a motion to approve the February 3, 2015 meeting minutes. Motion was seconded by Mr. Perryman. Motion was approved 4:0.

7. Consideration of May 5, 2015 Meeting Minutes (continued from February 2, 2016)

Mr. Calabria made a motion to approve the May 5, 2015 meeting minutes. Motion was seconded by Mr. Matthews. Motion was approved 4:0.

8. Consideration of February 2, 2016 Meeting Minutes

Mr. Calabria made a motion to approve the February 2, 2016 meeting minutes. Motion was seconded by Mr. Perryman. Motion was approved 4:0.

9. Staff Comments – General Discussion

10. Board Comments – General Discussion

11. Adjournment – 8:00pm

ATTEST:

Ann C. Feeherry

Ann Feeherry, Secretary