



APPLICATION ACCEPTED: July, 9 2009
PLANNING COMMISSION: December 2, 2009
BOARD OF SUPERVISORS: Not yet scheduled

County of Fairfax, Virginia

November 18, 2009

STAFF REPORT

SPECIAL EXCEPTION APPLICATION SE 2009-DR-014

DRANESVILLE DISTRICT

APPLICANT: Sherwood Development Group LLC

ZONING: C-5

PARCEL: 20-4 ((1)) 27A

ACREAGE: 1.14 Acres

PLAN MAP: Residential; 1-2 du/ac

SE CATEGORY: Category 5: Quick-Service Food Store

SE PROPOSAL: The applicant seeks approval of a Special Exception to permit a quick-service food store within an existing shopping center.

STAFF RECOMMENDATIONS:

Staff recommends approval of SE 2009-DR-014, subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Kelli Goddard-Sobers

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

The approval of this special exception does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.

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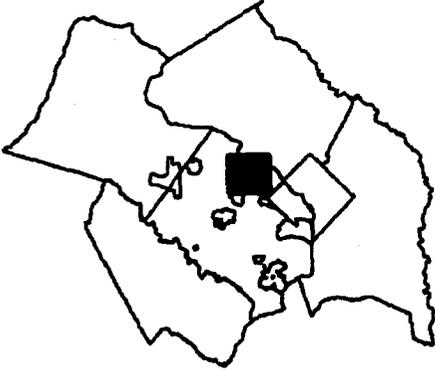


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

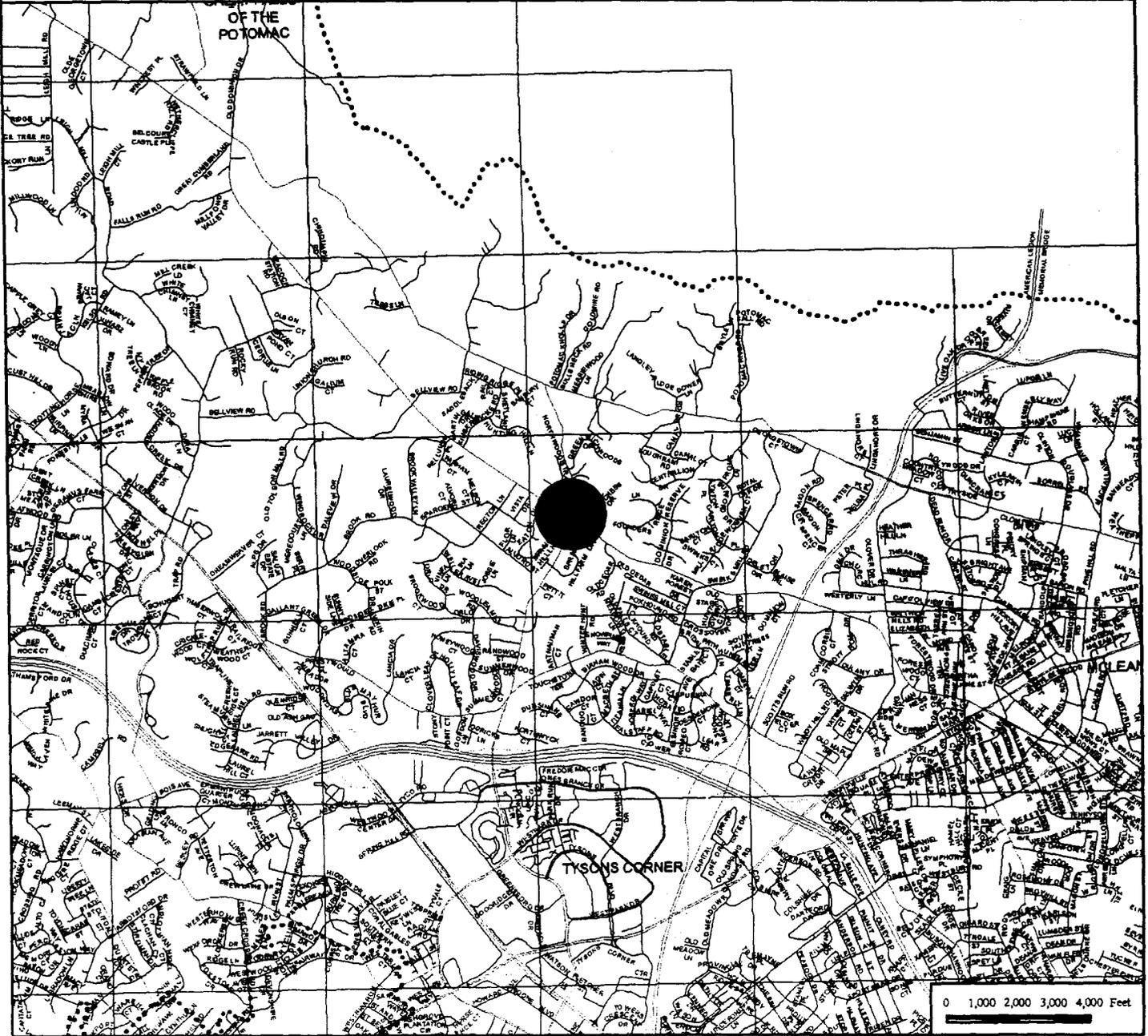
Special Exception

SE 2009-DR-014

Applicant: SHERWOOD DEVELOPMENT GROUP LLC
Accepted: 07/09/2009
Proposed: QUICK SERVICE FOOD STORE
Area: 1.14 AC OF LAND; DISTRICT - DRANESVILLE



Zoning Dist Sect: 04-0504
Art 9 Group and Use: 5-20
Located: 8100 OLD DOMINION DRIVE, SUITE E
Zoning: C- 5
Plan Area: 2,
Overlay Dist:
Map Ref Num: 020-4 /01/ /0027A



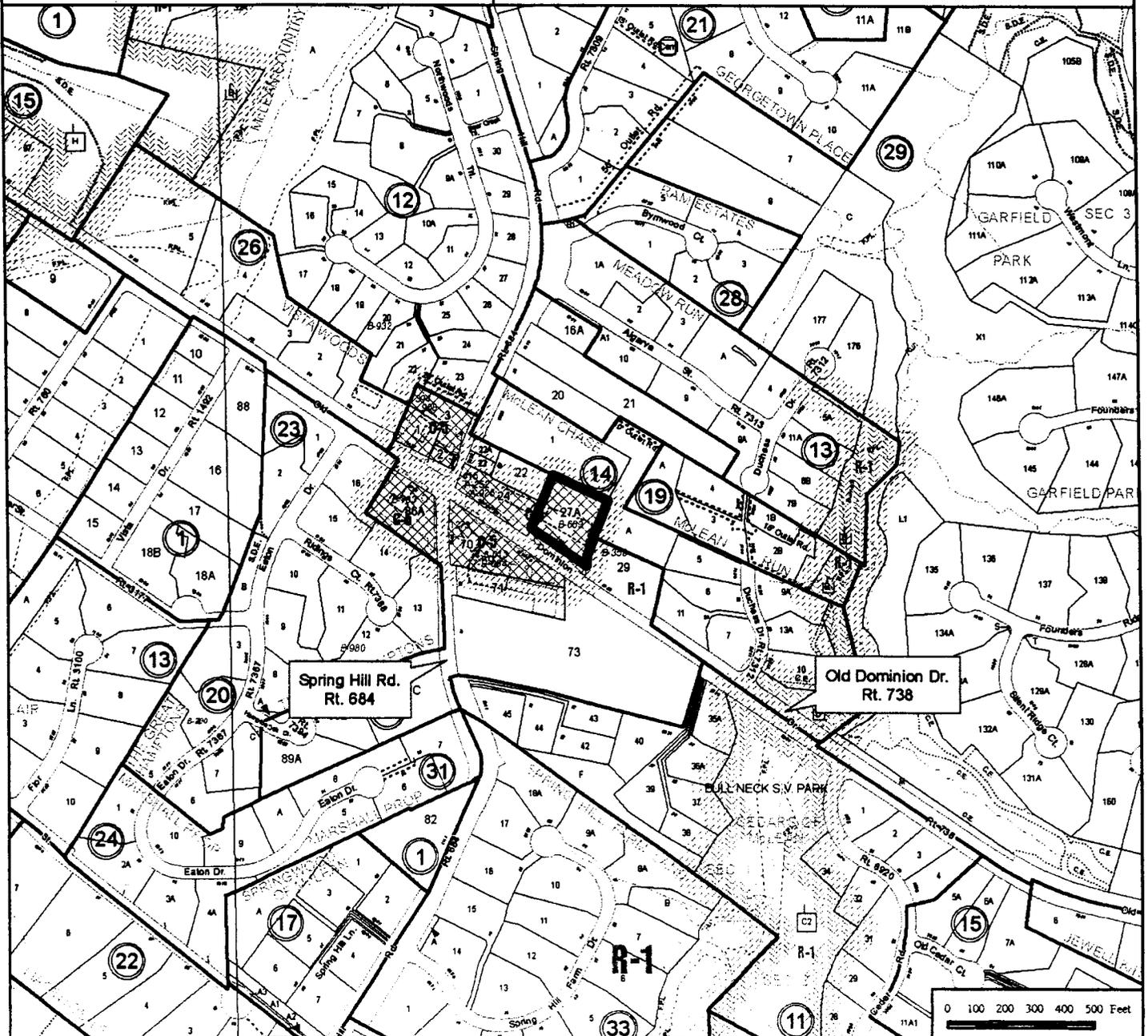
Special Exception

SE 2009-DR-014



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**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS WILL BE
FOUND AT THE BACK OF THIS REPORT**

DESCRIPTION OF THE APPLICATION

The applicant, Sherwood Development LLC, requests a Category 5 special exception to permit a quick-service food store use within the footprint of an existing shopping center, which is zoned C-5. The applicant is the lessee of approximately 1,800 square feet (sq. ft.) of the subject property identified as 8100 Old Dominion Drive, Suite E, located at the eastern end of an existing shopping center originally approved under the name "Chang Shopping Center". The applicant is proposing to use the space for a health food market which has been deemed by Zoning Administration Division (ZAD) staff to be a quick-service food store use. Because the shopping center contains only five other tenants, the applicant could not locate within the shopping center by-right since the use limitations for the C-5 District allow quick service food stores by right only in shopping center with six other tenants.

The applicant is proposing an organic food market (under the business name "Nourish Market") which would sell both packaged and prepared all natural foods and products. No exterior changes are proposed to the site. The proposed hours of operation would be from 7 am to 9 pm, 7 days a week. A total of 10 employees are proposed, with approximately three on-site per shift.

The applicant's Statement of Justification can be found in Appendix 3.

LOCATION AND CHARACTER

The subject 1.14 acre property, which is zoned C-5, is located in the northeast quadrant of the intersection of Old Dominion Drive and Spring Hill Road. The site is developed with a 9,300 sq. ft. shopping center. Surface parking lots are located at the front and rear of the site and contain a total of 40 parking spaces. Eighteen (18) parking spaces are located along the front of the shops and a small surface parking lot consisting of 22 parking spaces is located at the rear of the shopping center. Vehicular access to the site is provided via two ingress/egress points from Old Dominion Drive and one interparcel access point from the adjacent property to the west. Pedestrian access is provided by an 8-foot wide asphalt trail located along the site's Old Dominion Road frontage. Some landscaping, consisting of trees and shrubs, is provided next to the asphalt trail in an island along the property's frontage on Old Dominion Drive and transitional screening and barriers are provided along the northern, western and eastern property lines. There is also an open space area behind the building where a septic field is located.

SURROUNDING AREA DESCRIPTION			
Direction	Use	Zoning	Plan
North	Single-family detached (McLean Chase)	R-1 Cluster	Residential, 1-2 du/ac
South	Auto Parking	C-5	Residential, 1-2 du/ac
East	Single-family detached (Spring Hill)	R-1	Residential, 1-2 du/ac
	Homeowners Association Open Space (McLean Chase)	R-1 Cluster	
West	Single-family detached (Spring Hill)	R-1	Residential, 1-2 du/ac
	Specialty Center (7-11, Sweet Stuff Bakery, Cleaners)	C-5	

BACKGROUND

On March 23, 1999, Site Plan #9588-SP-01-2 titled "Chang Shopping Center" was approved for the referenced property. Subsequently, the 9,300 sq. ft. shopping center was built in 2001.

On March 25, 2009, the applicant requested a use determination for the proposed health food market from the Zoning Administrator. In an interpretation letter dated May 22, 2009, the Zoning Administrator stated that the proposed health food market was considered a quick service food store. As such, the applicant could not locate within the shopping center without the approval of a Special Exception. Specifically, the use limitations for the C-5 District, as provided in Section 4-505 of the Zoning Ordinance, allow quick service food stores by right only in shopping center with six other tenants. The subject shopping center only has five other tenants.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area II

Planning District: McLean

Planning Sector: M-6 Spring Hill Community Planning Sector

Plan Map: Residential, 1-2 du/ac

Fairfax County Comprehensive Plan, 2007 Edition Area II, McLean Planning District, Amended through 1-26-2009, M-6 Spring Hill Community Planning Sector, Page 126 states:

Commercial use is limited to a small existing area at the junction of Old Dominion Drive and Spring Hill Road.

ANALYSIS

Special Exception (SE) Plat (See Appendix 4)

This application seeks approval for a quick-service food store use to be located in an existing tenant space within the existing shopping center. Since no exterior changes are being proposed to the shopping center building or to the site under this application, the SE Plat submission requirements were waived. In lieu of the SE Plat, the As-Built Plan # 9588-SAB-01-1 for the shopping center has been accepted (see Appendix 4).

The SE Plat depicts a 9,300 sq. ft. shopping center with surface parking lots located at the front and rear of the site containing a total of 40 parking spaces. Eighteen (18) parking spaces are located along the front of the shops and a small surface parking lot consisting of 22 parking spaces is located at the rear of the shopping center. Vehicular access to the site is provided via two ingress/egress points from Old Dominion Drive and one interparcel access point from the adjacent property to the west. Pedestrian access is provided by an 8-foot wide asphalt trail located along the site's Old Dominion Road frontage. Some landscaping consisting of trees and shrubs is provided next to the asphalt trail in an island along the property's frontage on Old Dominion Drive. Existing transitional screening and barriers are located along the northern, western and eastern property lines. There is also an open space area behind the building where a septic field is located.

Land Use/Environmental Analysis

The Comprehensive Plan site-specific text states that commercial use is allowed in the area where the subject property is located. The applicant is not proposing any expansion to the existing shopping center nor any other physical changes to the site. Therefore, staff does not have any land use issues or environmental issues with this application.

Transportation Analysis (Appendix 6)

The applicant will be leasing a 1,800 sq. ft. tenant space within the existing shopping center. Staff finds that the proposed use will not result in any adverse transportation impacts and the required parking for the quick service food store already exists on site. Therefore, staff has no transportation issues with this application.

Urban Forestry and Stormwater Analysis

As stated previously, there are no land disturbing activities proposed under this application. A review of this application by the agencies listed above raised no issues.

Sanitary Sewer Analysis (Appendix 7)

DPWES staff has stated that the site is located in a non-approved sewer service area and as such, has no impact to the sanitary sewer system. However, DPWES recommended that the applicant contact the Health Department for an appropriate course of action. The applicant contacted the Health Department as advised and was informed that no cooking activities should take place which would require a grease trap. The applicant has stated that no cooking activities will take place which will require the need for a grease trap.

ZONING ORDINANCE PROVISIONS

Bulk Standards		
Standard	Required	Provided
Minimum Lot Area	40,000 sq. ft.	1.14 acres
Minimum Lot Width	200 feet	230.91 feet
Maximum Building Height	40 feet	22 feet
Front Yard	45 degree angle of bulk plane, 40 feet minimum	56.5 feet
Side Yard	No requirement	N/A
Rear Yard	20 feet	112 feet
Maximum FAR	0.30	0.17
Open Space	20%	39%
Parking Spaces	40	40

Parking Tabulation		
	Required	Provided
Total parking spaces provided on the property	40	40
Parking required for a quick service food store (6.5 spaces/1,000 GFA per Par. 17 of Sect. 11-104)	12	12
Remaining	28	28

The shopping center provides 40 parking spaces as required by Par. 23 of Sect. 11-104 of the Zoning Ordinance, which requires 4.3 parking spaces per 1,000 square feet of the shopping center. As noted above, per Par. 17 of Sect. 11-104, the proposed quick-service food store use would require twelve (12) parking spaces. In its May 22, 2009, response to the applicant's March 25, 2009, use determination request, the Zoning Administrator stated that no additional parking spaces would be required for the quick service food store at the referenced property, since the use is included as part of the 40 required parking spaces.

Special Exception Requirements (Appendix 6)

- General Special Exception Standards (Sect. 9-006)
- Standards for All Category 5 Uses (Sect. 9-503)
- Additional Standards for Automobile-Oriented Uses, Car Washes, Drive-In Financial Institutions, Drive-Through Pharmacies, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Stations/Mini-Marts (Sect. 9-505)

General Standards (Sect. 9-006)

Paragraph 1 requires that the proposed use be in harmony with the *Comprehensive Plan*. The *Comprehensive Plan* states that commercial use is limited to a small existing area at the junction of Old Dominion Drive and Spring Hill Road. The shopping center where the proposed quick-service food store will be located falls within this small commercial area. Therefore, this standard has been met.

Paragraph 2 requires that the proposed use be in harmony with the purpose and intent of the applicable zoning district regulations. In staff's opinion, the quick-service food store use is consistent with the purpose of the C-5 District, which is "to provide locations for convenience shopping facilities in which those retail commercial uses shall predominate that have a neighborhood-oriented market of approximately 5000 persons, and which supply necessities that usually require frequent purchasing and with a minimum of consumer travel." Because the applicant is proposing to sell items that require frequent purchasing (ie, food), staff believes that this standard has been met.

Paragraph 3 requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with applicable zoning district regulations and the adopted Comprehensive Plan. It further states that the location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof. The proposed use will be located within an existing shopping center. No physical changes are being proposed to the building or the site. The quick service food store proposed hours of operation are 7:00 am to 9:00 pm, seven (7) days a week and the applicant anticipates that the busiest time for the proposed use will be during the weekends. Staff has determined that the proposed quick service food store will not generate a large number of vehicular trips to the site, as it will be a specialty store (a health food market) selling higher priced food items, unlike the quick service food store in the adjacent shopping center (7-11). Based on ITE trip generation rates, staff anticipates that the 1,800 sq. ft. quick service food store would generate 200 peak hour trips. Therefore, staff finds that the proposed use is harmonious with the abutting uses and will not adversely affect the use or development of these neighboring properties in accordance with the applicable zoning district regulations and the adopted Comprehensive Plan. Therefore, this standard has been met.

Paragraph 4 states that the proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood. The pedestrian and vehicular traffic will not be hazardous or conflict with anticipated traffic in the neighborhood. As discussed above, staff does not believe that the proposed use will cause an appreciable impact to peak hour traffic. It is estimated that there will be 100 patrons per day and there will be a maximum of 10 employees. However, there will only be three (3) employees on site per shift. As discussed above, staff anticipates that the proposed 1,800 sq. ft. quick service food store will generate 200 peak hour trips. Staff believes that the existing shopping center site layout provides the required parking, and accommodates vehicular circulation on-site. Therefore, staff finds this standard has been met.

Paragraph 5 states that in addition to the standards which may be set forth in this Article for a particular category or use, the Board may require landscaping and screening in accordance with the provisions of Article 13. There are existing barriers and transitional screening provided on-site between the shopping center and the adjacent residentially zoned properties, which was originally installed as part of the shopping center development in 2001. Staff determined during a site visit that the landscaping on site appears to be well maintained and does not believe that any additional landscaping is necessary. Therefore, staff finds that this standard has been satisfied.

Paragraph 6 states that open space should be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

Twenty percent (20%) open space is required in a C-5 district, and 39% open space is provided on-site. Therefore, staff finds that this standard has been met.

Paragraph 7 states that adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. As discussed earlier in the report, the applicant is not proposing any construction on-site or any modifications to the exterior of the building, architecture, site layout, parking, or existing landscaping at the shopping center. The existing utilities, drainage, parking and other necessary facilities on-site are adequate for the proposed use. Therefore, this standard has been met.

Paragraph 8 states that signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance. The applicant proposes to erect building-mounted signage above the suite's entrance to display the name of the proposed establishment (Nourish Market). All the other tenants in the shopping center have building-mounted signage. It should be noted that any proposed signage will be required to conform with the provisions of Article 12.

Category 5 Standards (Sect. 9-503)

The Category 5 Standards require that the proposed development meet lot size and bulk regulations for the Zoning District, comply with performance standards and be subject to site plan review. As depicted in the bulk standards chart the application meets all bulk standards and complies with the performance standards as outdoor lighting is already provided on-site and the use will not be producing any additional noise than what is already generated by the existing shopping center.

Additional Standards for Automobile-Oriented Uses, Car Washes, Drive-In Financial Institutions, Drive-Through Pharmacies, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Stations/Mini-Marts (Sect. 9-505)

Standard 1A requires that such the use shall have on all sides the same architectural features or shall be architecturally compatible with the building group or neighborhood with which it is associated. As discussed earlier in the report, the proposed quick service food store will be located within existing interior tenant space within the existing shopping center. Therefore, this standard has been met.

Standard 1B requires that the use shall be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties. There are three vehicular points of access to the site. The first entrance, located in the

southwestern corner of the site, is two-way and provides access from Old Dominion Drive. The second access point, located in the southeastern corner of the site, is an entrance only from Old Dominion Drive. The third point provides interparcel access from the adjacent western property. All three access points allow vehicular circulation to be coordinated between the subject site and the adjacent property to the west. Therefore, this standard has been met.

Standard 1C requires that the site shall be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation. Parking and stacking spaces shall be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site. The drive aisle at the front of the site is approximately 22 feet wide and provides enough space for vehicles entering and exiting the site, and for vehicles turning in and backing out of parking spaces. As noted above, the site has two direct access points from Old Dominion Road; including one located at the southeastern end and the other at the southwestern end of the property. Eighteen (18) parking spaces are provided along the front of the shopping center which can be directly accessed from these entrances. Additionally, there are twenty-two parking spaces provided at the rear of the site, with ample space provided for safe and efficient on-site circulation. Staff finds this standard has been met.

Standard 1D requires that in reviewing the use or combination of uses, it shall be determined that the lot is of sufficient area and width to accommodate the use and that any such use will not adversely affect any nearby existing or planned residential areas as a result of the hours of operation, noise generation, parking, glare or other operational factors. The lot does have sufficient area and width to accommodate the use within the existing shopping center. The proposed use will not differ from the existing tenants in the shopping center, even though it is considered a quick service food store. The proposed hours of operation, which are 7:00 am through 9:00 pm, seven (7) days a week, are similar to those of other uses in the shopping center. The noise and glare from cars and the glare from parking lot lighting on site will be buffered by the existing transitional screening and architectural block walls on the property. Therefore, staff finds this standard has been met.

Standard 3A requires that there shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart. The applicant is not proposing any outdoor storage or display of goods; therefore staff finds that this standard has been met.

Summary of Zoning Ordinance Provisions

All applicable standards have been satisfied with the proposed development conditions.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

In staff's opinion, with the adoption of the proposed development conditions, this Special Exception is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions.

Staff Recommendations

Staff recommends that the Board of Supervisors approve SE 2009-DR-014, subject to the proposed development conditions in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

The approval of this special exception does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. As-Built Plan # 9588-SAB-01-1
5. Interpretation Letter from Zoning Administration Division dated May 22, 2009
6. Transportation Analysis
7. Sanitary Sewer Analysis
8. Applicable Zoning Ordinance Provisions
9. Glossary of Terms

PROPOSED DEVELOPMENT CONDITIONS

SE 2009-DR-014

November 18, 2009

If it is the intent of the Board of Supervisors to approve SE 2009-DR-014, located at 8100-E Old Dominion Drive [Tax Map 20-4-((1))-27A], to permit a quick-service food store, pursuant to Section 9-500 of the Fairfax County Zoning Ordinance, the Staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose and/or use indicated in the Special Exception application, as qualified by these development conditions.
3. A copy of this Special Exception and the Non-Residential Use Permit shall be posted in a conspicuous space on the property of the use and be made available to all departments of Fairfax County during the hours of operation of the permitted use.
4. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Section 9-004 of the Zoning Ordinance.
5. Existing lighting, including streetlights, security, pedestrian, and/or other incidental lighting, may remain. All new and replacement lighting fixtures shall be in accordance with the Performance Standards contained in Part 9 of Article 14 of the Zoning Ordinance.
6. Off-street parking shall be provided on-site in accordance with Article 11 of the Zoning Ordinance and per the approved site plan for the shopping center.
7. All signage shall meet the requirements of Article 12 of the Zoning Ordinance.
8. There shall be no outdoor storage of materials or equipment, or display of goods on site.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception Amendment shall not be valid until this has been accomplished.

The approval of this special exception does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exception Amendment shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception Amendment. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

SPECIAL EXCEPTION AFFIDAVIT

DATE: October 22, 2009
 (enter date affidavit is notarized)

I, Elizabeth A. McKeeby, agent, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

106 481 a

in Application No.(s): SE 2009-DR-014
 (enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Sherwood Development Group, LLC Agents: Karen K. Sherwood Elise Renata Pimenta Estanislau	1133 Dogwood Drive McLean, Virginia 22101	Applicant/Lessee of Tax Map 20-4 ((1)) 27 A
McLean Village LLC Agents: Elaheh Janati Tabar Babak Arvanaghi	927 S. Walter Reed Drive Arlington, Virginia 22204	Title Owner of Tax Map/Lessor 20-4 ((1)) 27 A

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Special Exception Attachment to Par. 1(a)

DATE: October 22, 2009
(enter date affidavit is notarized)

106481 a

for Application No. (s): SE 2009-DR-014
(enter County-assigned application number (s))

(NOTE: All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel (s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.	2200 Clarendon Boulevard 13th Floor Arlington, Virginia 22201	Attorneys/Planners/Agent
Agents: Martin D. Walsh Lynne J. Strobel Timothy S. Sampson M. Catharine Puskar Sara V. Mariska G. Evan Pritchard Elizabeth D. Baker Inda E. Stagg Kara M. W. Bowyer Megan C. Shilling Elizabeth A. McKeeby J. Christopher Barker		

(check if applicable)

There are more relationships to be listed and Par. 1(a) is continued further on a "Special Exception Attachment to Par. 1(a)" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: October 22, 2009
(enter date affidavit is notarized)

106481a

for Application No. (s): SE 2009-DR-014
(enter County-assigned application number(s))

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code) Sherwood Development Group, LLC
1133 Dogwood Drive
McLean, Virginia 22101

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial and last name)
Karen K. Sherwood

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Special Exception Attachment to Par. 1(b)

DATE: October 22, 2009
(enter date affidavit is notarized)

106481a

for Application No. (s): SE 2009-DR-014
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

David J. Bomgardner, E. Andrew Burcher,	J. Randall Minchew,
Thomas J. Colucci, Peter M. Dolan, Jr.,	M. Catharine Puskar, John E. Rinaldi,
Jay du Von, Jerry K. Emrich, William A.	Lynne J. Strobel, Garth M. Wainman,
Fogarty, John H. Foote, H. Mark Goetzman,	Nan E. Walsh, Martin D. Walsh
Bryan H. Guidash, Michael D. Lubeley,	

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

McLean Village LLC
927 S. Walter Reed Drive
Arlington, Virginia 22204

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

Elaheh Janati Tabar, Managing Member
Babak Arvanaghi, Member

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Exception Attachment to Par. 1(b)" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: October 22, 2009
(enter date affidavit is notarized)

106481a

for Application No. (s): SE 2009-DR-014
(enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)
None

(check if applicable) [] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) [] There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: October 22, 2009
(enter date affidavit is notarized)

106481a

for Application No. (s): SE 2009-DR-014
(enter County-assigned application number(s))

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: October 22, 2009
(enter date affidavit is notarized)

106481a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

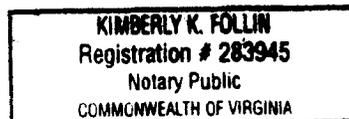
(check one) Elizabeth A. McKeeby
[] Applicant [x] Applicant's Authorized Agent

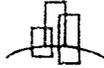
Elizabeth A. McKeeby, agent
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 22 day of October, 2009, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K. Follin
Notary Public

My commission expires: 11/30/2011





WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

Martin D. Walsh
(703) 528-4700 Ext. 5422
mwalsh@arl.thelandlawyers.com

RECEIVED
Department of Planning & Zoning
JUN 16 2009
Zoning Evaluation Division

June 15, 2009

Via Hand Delivery

Ms. Regina C. Coyle, Director
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

**Re: Special Exception Request (the "Application")
Sherwood Development Group LLC (the "Applicant")
Fairfax County Tax Map Reference: 20-4-((01))-27A (the "Subject Property")**

Dear Ms. Coyle:

Please accept the following as a statement of justification for the above-referenced Application. The Applicant is the lessee of the Subject Property, identified as 8100 Old Dominion Drive, Suite E, located at the eastern end of the Shopping Center, originally approved under the name "Chang Shopping Center". The approximately 9,300 square foot Shopping Center was constructed in 2001 and is located on the northern side of Old Dominion Drive, between Spring Hill Road and Duchess Drive. The approximately 49,444 square foot (or 1.135 acre) Subject Property is to be zoned C-5, Neighborhood Retail Commercial District. The Subject Property is bounded by land which is zoned C-5 on the west and south, and by land which is zoned R-1 on the north and east.

The Applicant, Sherwood Development LLC requests a Category 5 Special Exception to permit a quick-service food store use to be located in Suite E of the existing shopping center. Suite E consists of approximately 1,800 square feet. As you may be aware, the Applicant received a zoning interpretation letter from Michelle O'Hare, dated May 22, 2009 indicating that the use of the full 1,800 square feet of space they had leased could not be used for the proposed Nourish Market due to the limitations provided in Zoning Ordinance Section 4-505 as the shopping center has only five *other* tenants, instead of six. Thus, as suggested in the May 22, 2009 zoning interpretation letter, the Applicant is currently pursuing the by-right fast food restaurant use for a 1,500 square foot portion of the leased space while this Application is pending. Please see a copy of the aforementioned zoning interpretation letter attached for your ease of reference.

The Applicant proposes an approximately 1,800 square foot organic food market (under the business name of "Nourish Market") which sells both packaged and prepared all natural foods and products. The Applicant's business supports local organic farming and proposes to incorporate green building practices pursuant to the U.S. Green Building Council's LEED Interiors program. The food market would serve the neighboring community while promoting the principles of sustainability via the sales of locally grown and responsibly produced food and personal products.

The proposed hours of operation are 7:00 AM through 9:00 PM, 7 days per week. Nourish Market proposes a maximum total number of ten employees and anticipates that there will be three employees per shift. The estimated number of patrons per day is approximately 100. The Applicant is not proposing any modification whatsoever to the exterior of the building, architecture, site layout, parking or existing landscaping at the shopping center. This request for a Special Exception is relative to the quick-service food store use classification only.

In regard to traffic impacts, patrons of the market are expected to be fairly evenly spread throughout the day, thus causing no appreciable impact to peak hour traffic. Typically the busiest time for this type and size of market would be on weekend days. The market will utilize existing surface parking on the site which had been confirmed to be in accordance with Zoning Ordinance Section 11-104, Paragraph 23, and the approved ratio of 4.3 parking spaces per 1,000 square feet at the shopping center.

The Subject Property is located within the Comprehensive Plan's McLean Planning District, and more specifically, within the M-6 Spring Hill Community Planning Sector. Land Use Recommendation #7 for the Spring Hill Community Planning Sector is specific to the Subject Property and states that commercial uses are limited to the small existing area at the intersection of Old Dominion Drive and Spring Hill Road. As described herein, Nourish Market serves to improve and diversify the neighborhood services provided by the shopping center and is in harmony with the adopted Comprehensive Plan.

The Subject Property is not known to contain any hazardous and/or toxic substances. This proposal for Nourish Market to be established in the existing shopping center conforms with the provisions of all applicable ordinances, regulations, and adopted standards, including the Additional Standards for Quick-Service Food Stores, with the exception of one requested modification. Due to the very minor nature of this Special Exception request, the Applicant requests a modification of the Zoning Ordinance requirements in Section 9-011 for the submission of the Special Exception Plat. Because the Application does not request any changes to the site or building, and only applies to the quick-service food store use, the Applicant respectfully requests that approved As-Built Site Plan # 9588-SAB-01-1 be accepted in lieu of a new plat to fulfill the submission requirement of the Special Exception Plat.

June 15, 2009

Page 3

Should you have any questions regarding this proposal, or require additional information, please do not hesitate to call me. I would appreciate the acceptance of this application and scheduling of a public hearing before the Fairfax County Planning Commission at your earliest convenience.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

Martin D. Walsh by em

Martin D. Walsh

Enclosure

cc: Karen Sherwood
Elizabeth McKeeby



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax Cou

May 22, 2009

Ms. Karen Sherwood
1133 Dogwood Drive
McLean, VA 22101

Re: Proposed Market
8100 Old Dominion Drive, Suite E
Chang Shopping Center
Tax Map Ref: 20-4 ((01)) 0027A
Zoning District: C-5

Dear Ms. Sherwood:

This letter is in response to your March 25, 2009 written inquiry to Eileen M. McLane requesting a use determination for the proposed health food market you would like to establish at the referenced property. As stated in your letter, the Zoning Permit Review Branch denied your building permit because the shopping center at the referenced property only contains a total of six uses, and it is required to have at least six other uses in addition to the proposed health food market. You indicate that the abutting property, 8108, 8110 and 8112 Old Dominion Drive, appears to meet the definition of a shopping center because the two properties share a drive aisle and have various easements across the property boundaries. You explain that if the two properties are considered as one shopping center there would be more than six uses, which would allow you to establish the market at the referenced property. In a subsequent telephone conversation, you stated that the size of the proposed market is 1800 square feet. You also asked what the parking requirements would be for your proposed business.

As the proposed store is to occupy 1,800 square feet space and is to be used for the retail sale of food or food and other items, the use is deemed a quick-service food store, which is defined in Article 20 of the Fairfax County Zoning Ordinance as follows:

QUICK-SERVICE FOOD STORE: Any building, except a service station or service station/mini-mart, which contains less than 5000 square feet of net floor area and which is used for the retail sale of food or food and other items.

The referenced property is zoned C-5 Neighborhood Retail Commercial District. Enclosed are the C-5 District regulations for your reference. A quick-service food store is permitted in the C-5 District, provided it can meet the limitations in Section 4-505 of the Zoning Ordinance, which permits a quick service food store by-right when:

- Such a use is located within a building of a shopping center, which building contains at least six (6) other uses, which are not fast food restaurants, permitted by-right under Paragraph 1 of Section 4-505, drive-in financial institutions, or quick-service food stores; and
- All uses within that building are connected by party walls or partitions to form one continuous structure; and
- The shopping center and the building in which such a quick-service food store is located shall be subject to an approved unified site plan. In addition, vehicular access to the use shall be provided only via the internal circulation system of the shopping center.

As the referenced property has only six tenant spaces, it does not meet the first use limitation, which requires that there be a minimum of six other uses besides the quick service food store. Furthermore, all uses must be connected by party walls or partitions and contained within in one continuous structure, as described in the second use limitation. As such, the shops located on the abutting property cannot be counted towards the requisite number of uses since all uses are required to be under one roof.

It is further noted that the two abutting properties would not be considered one shopping center, as they do not meet each aspect of the definition, which is provided under Article 20 of the Zoning Ordinance as follows:

SHOPPING CENTER: Any group of two (2) or more commercial uses which (a) are designed as a single commercial group, whether or not located on the same lot; (b) are under common ownership or are subject to reciprocal parking and ingress and egress agreements or easements; (c) are connected by party walls, partitions, canopies or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by common parking areas, travel lanes, walkways or accessways designed to facilitate customer interchange between the uses on site; (d) share common points of vehicular access; and (e) otherwise present the appearance of one (1) continuous commercial area. For the purpose of this Ordinance, a grouping of predominantly office uses which meet the characteristics specified herein shall not be deemed to be a shopping center.

According to County records, the abutting properties were constructed and developed independent of each other, and they were not designed to be a single commercial group. The abutting property, 8108, 8110 and 8112 Old Dominion Drive, was developed approximately 40 years ago. Our records indicate that the site plan for the abutting property was approved in 1965 and was designed to operate as a stand alone commercial site. The referenced property was developed much later, as the site plan was approved in 1999. Additionally, there are no records indicating that the abutting properties are subject to a reciprocal parking agreement, which is a requirement for a shopping center.

Given the above information, the proposed 1800 square foot health food market does not meet the use limitations under Section 4-505 of the Zoning Ordinance; therefore, the health food market as proposed is not permitted as a by-right use at the referenced property. Quick-service food stores that do not meet the use limitations may be permitted in the C-5 District, subject to approval of a special exception that is in accordance with the provisions of Article 9 of the Zoning Ordinance. A special exception requires the filing of an application, a fee, notices and public hearings before the Planning Commission and Board of Supervisors. For more information on special exception process, please contact the Zoning Evaluation Division, Department of Planning and Zoning, at 703-324-1290.

An option for you to consider is changing your use to a fast food restaurant. Under Article 20 of the Zoning Ordinance, a fast food restaurant is defined as follows:

FAST FOOD RESTAURANT: Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in ready-to-consume state for consumption either within the restaurant, within a motor vehicle parked on the premises, or off-premises, and whose design or principal method of operation includes one or more of the following characteristics:

1. Food, frozen desserts, or beverages are served in edible containers or in paper, plastic or other disposable containers. Eating utensils, if provided, are disposable.
2. Food, frozen desserts, or beverages are usually served over a general service counter for the customer to carry to a seating facility within the restaurant, to a motor vehicle or off-premises. If consumed on premises, customers generally are expected to clear their own tables and dispose of their trash.
3. Forty-five (45) percent or more of the gross floor area of the establishment is devoted to food preparation, storage and related activities which space is not accessible to the general public.
4. Food, frozen desserts, or beverages are served to the occupants of motor vehicles while seated therein, such as through a drive-in window.

For the purpose of this Ordinance, a fast food restaurant shall not be deemed an eating establishment.

In the C-5 District, a fast food restaurant is permitted by right subject to the use limitation of Section 4-505 which states, in pertinent part:

Ms. Karen Sherwood
8100 Old Dominion Drive, Suite E
May 22, 2009
Page 4

Fast food restaurants without any drive-through facilities shall be permitted by right when located in a shopping center, and the fast food restaurant does not occupy (a) more than 1500 square feet of gross floor area and (b) more than thirty-five (35) percent of the gross floor area of the building in which located.

To change your use to a fast food restaurant would require you to reduce the square footage of the establishment to 1500 square feet, remove some of the display tables and shelves, and add either tables and chairs or a large service counter with some type of demising wall. It is recommended that our office review your revised layout prior to the submission of a building permit application to ensure that it would meet the definition of a fast food restaurant. If you intend to pursue the special exception for the quick service food store, please note that you can operate as a fast food restaurant while your special exception application is pending. Prior to occupancy, the issuance of a Non-Residential Use Permit (Non-RUP) is required pursuant to Section 18-702 of the Zoning Ordinance. For more information on obtaining a Non-RUP, please contact the Zoning Permit Review Branch at 703-222-1082.

As for the parking requirements, Site Plan #9588-SP-01-2, titled "Chang Shopping Center," was approved on March 23, 1999 for the referenced property. There are 40 required and 40 provided parking spaces. According to the site plan, the parking rate was based on 4.3 spaces per 1,000 square feet of gross floor area for a shopping center. Pursuant to Paragraph 23 of Section 11-104 of the Zoning Ordinance, no additional parking spaces are required for either a fast food restaurant use or a quick service food store at the referenced property, as these uses are included as part of the 40 required parking spaces.

Finally, please be advised that zoning application fees are set to increase significantly effective July 1, 2009. I trust that this letter satisfactorily responds to your request. Should you have any additional questions, please feel free to contact me at 703-324-1314.

Sincerely,

Michelle O'Hare, Deputy Zoning Administrator
Ordinance Administration Branch

Enclosure

cc: John W. Foust, Supervisor, Dranesville District
Michelle M. O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch
Diane E. Johnson-Quinn, Deputy Zoning Administrator, Zoning Permit Review Branch



County of Fairfax, Virginia

MEMORANDUM

DATE: September 4, 2009

TO: Regina Coyle
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Angela Kadar Rodeheaver
Site Analysis Section
Department of Transportation

FILE: 3-5 (SE 2009-DR-014)

SUBJECT: Transportation Impact

REFERENCE: SE 2009-DR-014 – Sherwood Development Group LLC
Traffic Zone: 1549
Land Identification Map: 20-4 ((1)) 27A

Transmitted herewith are the comments from the Department of Transportation with respect to the referenced application. These comments are based on a plat made available to this office dated July 21, 2001, as built. The applicant proposes a health food market in a leased space at the end of a six tenant shopping center. An interpretation letter from the Zoning Administrator stated that the space could not be so used as that was deemed a quick service food store use and the shopping center must have six other tenants per the Zoning Ordinance. The Zoning Administrator advised the applicant to pursue a by-right fast food restaurant use while the Special Exception application is pending approval of a quick service food store use.

This department has no transportation issues with this application.

AKR/LAH/lah



County of Fairfax, Virginia

MEMORANDUM

DATE: August 18, 2009

TO: Staff Coordinator
Zoning Evaluation Division
Department of Planning & Zoning

FROM: Lana Tran (Tel: 703 324-5008)
Wastewater Planning & Monitoring Division
Department of Public Works & Environmental Services

SUBJECT: Sanitary Sewer Analysis Report

REFERENCE: Application No. SE2009-DR-014
Tax Map No. 020-4-/01/ /0027A

The site is in the non-approved sewer service area. As such, the proposed request has no impact to the sanitary sewer system. Please contact the Health Department for an appropriate course of action. If you have any questions or comments, do not hesitate to contact me at the number above.

Department of Public Works and Environmental Services
Wastewater Planning & Monitoring Division
12000 Government Center Parkway, Suite 358
Fairfax, VA 22035-0052
Phone: 703-324-5030, Fax: 703-324-3946



9-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.

9-503 Standards for all Category 5 Uses

In addition to the general standards set forth in Sect. 006 above, all Category 5 special exception uses shall satisfy the following standards:

1. Except as qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located.
2. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan or photometric plan as may be required by Part 9 of Article 14.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

9-505 Additional Standards for Automobile-Oriented Uses, Car Washes, Drive-In Financial Institutions, Drive-Through Pharmacies, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Stations/Mini-Marts

1. In all districts where permitted by special exception:

A. Such a use shall have on all sides the same architectural features or shall be architecturally compatible with the building group or neighborhood with which it is associated.

B. Such a use shall be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties.

C. The site shall be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation. Parking and stacking spaces shall be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

D. In reviewing such a use or combination of uses, it shall be determined that the lot is of sufficient area and width to accommodate the use and that any such use will not adversely affect any nearby existing or planned residential areas as a result of the hours of operation, noise generation, parking, glare or other operational factors.

E. For a drive-through pharmacy, signs shall be required to be posted in the vicinity of the stacking area stating the limitations on the use of the window service and/or drive-through lane. Such signs shall not exceed two (2) square feet in area or be located closer than five (5) feet to any lot line.

2. In the C-3 and C-4 Districts, in addition to Par. 1 above:

A. All such uses, except drive-in financial institutions, shall be an integral design element of a site plan for an office building or office building complex containing not less than 35,000 square feet of gross floor area.

B. Such a use shall have no separate and exclusive curb cut access to the abutting highway.

C. There shall be no outside storage or display of goods offered for sale.

D. Service stations shall not include any ancillary use such as vehicle or tool rental, and shall be limited to the servicing and retail sales of products used primarily by passenger vehicles.

E. Service stations shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than two (2) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

3. In the C-5 and C-6 Districts, in addition to Par. 1 above:

A. There shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart.

B. Service stations and service station/mini-marts shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than two (2) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two hours.

4. In the C-7, C-8 and C-9 Districts, in addition to Par. 1 above:

A. In the C-7 or C-9 District, there shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart.

B. Service stations and service station/mini-marts shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than four (4) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

C. The outdoor area devoted to any use such as vehicle or tool rental shall be limited to the area so designated on an approved special exception plat.

5. In the I-3, I-4, I-5 and I-6 Districts, in addition to Par. 1 above:

A. All such uses, except drive-in financial institutions, shall be an integral design element of a site plan for an industrial building or building complex containing not less than 30,000 square feet of gross floor area.

B. In an I-3 or I-4 District, there shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station.

C. In an I-3 or I-4 District, service stations shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than four (4) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

D. No Building Permit shall be approved for such a use unless a Building Permit has been approved for the related industrial building(s).

E. The outdoor area devoted to any use such as vehicle or tool rental shall be limited to that area so designated on an approved special exception plat.

6. In the PDH and PDC Districts, in addition to Par. 1 above:

A. In the PDH District, fast food restaurants may be permitted only in accordance with the provisions of Sect. 6-106 and the following:

(1) Such use may be permitted only upon a finding by the Board that the planned development is of sufficient size to support the proposed use, and that the use is designed to serve primarily the needs of the residents of the development.

(2) Such use shall be designed and located so as to maintain the intended secondary nature of the use, and so that the associated impacts, including but not limited to associated on-site and off-site vehicular traffic, noise, odors, and visual impact, will not adversely affect the residential character of the development and surrounding properties.

(3) All direct vehicular access to the use shall be provided via the internal circulation system of a commercial area of the PDH development, which commercial area shall contain not less than three (3) non-automobile-related commercial establishments.

(4) The proposed development shall provide clearly designated pedestrian facilities for safe and convenient access from surrounding residential and commercial uses.

B. In the PDC District, fast food restaurants may be permitted only in accordance with the provisions of Sect. 6-206.

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of-way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to the single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance provisions. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses; building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR '3-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the Plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

LEQ: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area; information such as topography, location and size of proposed structures, location of streets, trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for rezoning to all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

EASEMENT: A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

ERODIBLE SOILS: Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to let light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

OPEN SPACE EASEMENT: An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, at the request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

PLANNED DEVELOPMENT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to provide a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the property. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning application of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

PLAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers and operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 404 of the Zoning Ordinance.

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers.

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

BF	Agricultural & Forestal District	PDH	Planned Development Housing
DU	Affordable Dwelling Unit	PFM	Public Facilities Manual
RB	Architectural Review Board	PRC	Planned Residential Community
MP	Best Management Practices	RC	Residential-Conservation
OS	Board of Supervisors	RE	Residential Estate
ZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CB	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DUIAC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		