County of Fairfax, Virginia

MEMORANDUM

Office of the County Attorney
Suite 549, 12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Phone: (703) 324-2421; Fax: (703) 324-2665
www.fairfaxcounty.gov

DATE: December 13, 2010

TO: William O'Donnell, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Bette R. Crane, Paralegal
Office of the County Attorney

SUBJECT: Revised Affidavit
SE 2010-MA-020
Applicant: Higher Horizons Day Care Center, Inc.
PC Hearing Date: 1/13/11
BOS Hearing Date: 1/25/11

REF.: 109646

Attached is an affidavit which has been approved by the Office of the County Attorney for the above-referenced case. Please include this affidavit dated 12/9/10, which bears my initials and is numbered 109646d, when you prepare the staff report.

Thank you for your cooperation.

Attachment
cc: (w/attach) Laura Gumkowski, Planning Technician
Zoning Evaluation Division
Department of Planning and Zoning

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SPECIAL EXCEPTION AFFIDAVIT

DATE: December 9, 2010
(enter date affidavit is notarized)

I, Sara V. Mariska, attorney/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

109646d

in Application No.(s): SE 2010-MA-020
(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)
Higher Horizons Day Care Center, Inc. Agents: Mary Ann Cornish Ethel Rollins Cross Tyrone (nmi) Bradley Ernestine (nmi) Heastie Francine (nmi) Williams	5920-B Summers Lane Falls Church, VA 22044	Applicant/Sub-lessee of Tax Map 51-3 ((23)) C1 pt., C pt.
McIlvaine Associates Limited Partnership, LLLP Agent: James L. McIlvaine, Jr.	6231 Leesburg Pike, Suite 100 Falls Church, VA 22044	Ground Lessee/Sub-lessor Owner by virtue of 90+ year lease of Tax Map 51-3 ((23)) C1 pt., C pt.

(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: December 9, 2010
(enter date affidavit is notarized)

109646d

for Application No. (s): SE 2010-MA-020
(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)
Ronald George Eaton and Diana Joyce Meyer, Trustees of The Eaton/Meyer Family Trust f/b/o Diana Joyce Meyer and Richard George Eaton	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
Robert L. Wilson and Julie A. Wilson, Trustees of the Wilson Family Trust f/b/o Robert L. Wilson and Julie A. Wilson	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
Paula S. Schuman and Phillip B. Zipin, Trustees of the Paula Schuman Revocable Living Trust f/b/o Paula Schuman	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
Janine E. Flynn, Trustee of the Janine E. Flynn Trust f/b/o Janine E. Flynn	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
John A. Lewis, Trustee of the John A. Lewis 2005 Trust f/b/o John A. Lewis	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
Richard Luney	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
Paula S. Schuman	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
James McCrea Luney and Theresa Luney, Trustees of the James M. and Theresa Luney Living Trust f/b/o James M. Luney and Theresa Luney	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.

(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 Attachment to Par. 1(a)

DATE: December 9, 2010
(enter date affidavit is notarized)

109646 d

for Application No. (s): SE 2010-MA-020
(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)
John A. Lewis, Trustee for William R. Lewis under the terms of the Raymond J. Poppelman 1978 Family Trust f/b/o William R. Lewis	501 S. Brand Boulevard, #4 San Fernando, CA 01340	Title Owner/Ground Lessor of Tax Map 51-3 ((23)) C1 pt., C pt.
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C. Agents: Martin D. Walsh Lynne J. Strobel Timothy S. Sampson M. Catharine Puskar G. Evan Pritchard Sara V. Mariska Elizabeth D. Baker Inda E. Stagg Kara M.W. Bowyer Megan C. Rappolt Elizabeth A. McKeeby	2200 Clarendon Boulevard 13th Floor Arlington, Virginia 22201	Attorneys/Planners/Agent
Arencibia Architects, Inc. Agent: Javier A. Arencibia	13368 Point Rider Lane Herndon, VA 20171	Architect/Agent
Trimark Corporation Agent: Viet Duong	6231 Leesburg Pike, Suite 100 Falls Church, VA 22044	Agent for McIlvaine Associates Limited Partnership, LLLP

(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

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(enter date affidavit is notarized)

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for Application No. (s): SE 2010-MA-020
(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) Higher Horizons Day Care Center, Inc.
5920-B Summers Lane
Falls Church, VA 22044

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)
A non-stock, not-for-profit corporation with no shareholders.

(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: December 9, 2010
(enter date affidavit is notarized)

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for Application No. (s): SE 2010-MA-020
(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)
Arencibia Architects, Inc.
13368 Point Rider Lane
Herndon, VA 20171

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)
Javier A. Arencibia

(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 Attachment to Par. 1(b)

DATE: December 9, 2010
(enter date affidavit is notarized)

109646d

for Application No. (s): SE 2010-MA-020
(enter County-assigned application number (s))

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Trimark Corporation
6231 Leesburg Pike, Suite 100
Falls Church, VA 22044

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)
Charles R. Rowsie
Sara A. Marsh

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

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)

(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

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(enter date affidavit is notarized)

109646 d

for Application No. (s): SE 2010-MA-020
(enter County-assigned application number(s))

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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)
McIlvaine Associates Limited Partnership, LLLP
6231 Leesburg Pike, Suite 100
Falls Church, VA 22044

(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**)

General Partners:
James L. McIlvaine, Jr.
Don C. McIlvaine
Karen M. Bachand

Limited Partners:
Mark M. Durfee
Kristen C. Durfee
M. Joshua Durfee
Mary Shannon Scay
Jennifer (nmi) McIlvaine
Rebecca (nmi) McIlvaine
Abigal (nmi) McIlvaine
Lawrence F. Nerenberg
Jonathan M. Nerenberg
Rebecca Sue Morris
Catherine Ann Roche

(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: December 9, 2010
(enter date affidavit is notarized)

109646d

for Application No. (s): SE 2010-MA-020
(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.

Application No.(s): SE 2010-MA-020

(county-assigned application number(s), to be entered by County Staff)

SPECIAL EXCEPTION AFFIDAVIT

DATE: December 9, 2010 1096462

(enter date affidavit is notarized)

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.)

Don C. McIlvaine, a general partner of McIlvaine Associates Limited Partnership, LLLP (the ground lessee/sub-lessor in Section 1(a) of this affidavit) donated in excess of $100 on behalf of Ravensworth Properties LLC to Chairman Sharon Bulova. However, Ravensworth Properties LLC is not associated with this application.

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: Sara V. Mariska

(check one) [ ] Applicant [✓] Applicant's Authorized Agent

Sara V. Mariska, attorney/agent

(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 9 day of December 20 10, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K Follin

Notary Public

My commission expires: 11/30/2011

KIMBERLY K. FOLLIN
Registration # 283945
Notary Public
COMMONWEALTH OF VIRGINIA