



# County of Fairfax, Virginia

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October 23, 2014

**2014 Planning  
Commission**

**Peter F. Murphy**  
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*Springfield District*

**Frank de la Fe**  
Vice Chairman  
*Hunter Mill District*

**Janet R. Hall**  
Secretary  
*Mason District*

**James R. Hart**  
Parliamentarian  
*At-Large*

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**John Ulfelder**  
*Dranesville District*

**Earl L. Flanagan**  
*Mount Vernon District*

**Janyce N. Hedetniemi**  
*At-Large*

**Ellen J. "Nell" Hurley**  
*Braddock District*

**John L. Litzenberger**  
*Sully District*

**Kenneth A. Lawrence**  
*Providence District*

**James Migliaccio**  
*Lee District*

**Timothy J. Sargeant**  
*At-Large*

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**Jill G. Cooper**  
*Executive Director*

**Kimberly A. Bassarab**  
*Assistant Director*

**John W. Cooper**  
*Clerk to the Commission*

Scott E. Adams  
McGuire Woods  
1750 Tysons Boulevard  
Suite 1800  
Tysons Corner, Virginia 22102-4215

**Re: SE 2014-SU-010 – CSH Artisan Fairfax, LLC  
Sully District**

Dear Mr. Adams:

At its October 22, 2014 meeting, the Planning Commission voted 10-0-1 (Commissioner Sargeant abstained; Commissioner de la Fe was absent from the meeting) to **RECOMMEND APPROVAL** of the above referenced application to the Board of Supervisors. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,

Jill G. Cooper, AICP  
Executive Director

cc: Michael R. Frey, Supervisor, Sully District  
John Litzenberger, Planning Commissioner, Sully District  
Catherine A. Chianese, Assistant County Executive, County Executive Office  
William O'Donnell, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
October 22, 2014 date file

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Planning Commission Meeting  
October 22, 2014  
Verbatim Excerpt

SE 2014-SU-010 – CSH ARTISAN FAIRFAX, LLC

Decision Only During Commission Matters  
(Public Hearing held on September 18, 2014)

Commissioner Litzenberger: I have a decision only tonight, Mr. Chairman. It has to do with the Artisan Elderly facility proposed in Chantilly. I'd like for Ms. Abrahamson to give us an update on the research on this on this.

Kris Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning: How much of an update do you want? I can go through – we've – I'll give you the short version and if you want me to expand, I can give you more. The concerns of the Commission, primarily, were with the status of the service station, which is on the same service drive as the proposed use. We have been out to the site. The service station is indeed in violation as we – I think, Billy – had mentioned to you before. We have at this point elected not to file a notice of violation with him because they have hired an attorney who has requested a pre-application meeting, which Billy and I are trying to set up with him as we speak, and we anticipate that you will be seeing that Special Exception application shortly. We think that is the better way to proceed at this point. The issue of the service drive will be addressed through that application, which is where it should be addressed because that is the property that currently owns it. This particular property is not dependent on that particular service drive and therefore we are comfortable with where we are on this case at this time.

Commissioner Litzenberger: Ms. Abrahamson, how long will it take to go through that whole process and get the service drive accepted?

Ms. Abrahamson: Let me get out my crystal ball. I mean, we're trying to set up a meeting with them as soon as possible, within the next week to two weeks, depending on mutual schedules. I'm reasonably comfortable we can do that. We'll talk to them about what our concerns are. There was a previous Special Exception on this that expired. He never implemented it and it just expired. So we have a pretty good idea of what the issues were, although that's an old SE and – you know, times have changed. We have a pretty good idea where we're going. My guess is we would do as much as we could as staff to expedite it. My second guess would be the supervisor would also be in favor of probably expediting it, but I – that's a guess. In the best case scenario right now, it would be on staff probably about seven months, if they filed immediately, before we would get it to Board. If it's expedited by the Board member, we could probably do a little better than that – maybe five to six, but that's probably about what we would be looking at. If they proceed with it on a, you know, an expeditious basis. I think if they don't proceed with on an expeditious basis, we would issue the notice of violation and take action through the courts, which would take a lot longer than the SE, probably, to resolve.

Commissioner Litzenberger: About how long would that take? Ballpark.

Ms. Abrahamson: By the time it goes through – you know, and again, there's so many things that can happen. Usually what happens is they file an appeal immediately on something and then it goes through an appeal process at the Board of Zoning Appeals. If they do that route, you know, I would say at least a year by the time we've worked through an appeal; and the courts, it could be longer. Depending on the court's calendar, you know, things can take a very long time. Our goal is to not have court cases and generally what we try to do is work with applicants on violation situations to resolve them and we're usually pretty successful in that. We have a very small percentage that we actually have to take to court.

Commissioner Litzenberger: One point that Commissioner Hall made last time was the – the access drives from route 50 to the service road and maybe a necessity of possibly some stop signs or something to that effect. Would that be addressed during that process also?

Ms. Abrahamson: Well, yes.

Commissioner Litzenberger: Okay.

Ms. Abrahamson: If – if it becomes a public service drive in the public system, it will be subject to VDOT and VDOT's warrants. If it remains a private road in the interim, then it would be up to whatever the applicant wants to do because we don't control it as a private. So, you know, most likely what will happen is it will be in the VDOT system because we are – you know, we would seek dedication of that and – you know, that's what was previously conditioned as well. And if, you know, any signage or anything is necessary with that, as long as it meets VDOT warrants – and there are warrants for stop signs and other, you know, notices as well as signals.

Commissioner Litzenberger: So all of that would take place during the process, the SE process.

Ms. Abrahamson: It would – yes, it would, you know – what we would do – we'd look at it, we'd see what we can do. If we think it has any hope of making the warrants or if it's even close, we usually have them do at least a warrant analysis, if it's close. If it's, you know, if there's six of the seven or eight – I think there's eight; I'm not sure anymore – criteria it doesn't meet, then we wouldn't tell them to do a warrant analysis. But if they're really close, we'd have them do that analysis and as a condition of the SE we would ask them to put any kind of materials necessary in place. But right now I can't tell you what that is because I'd have to run the numbers in today's time.

Commissioner Litzenberger: Okay. Will Mr. Adams please come down?

Scott Adams, Esquire, Applicant's Agent, McGuireWoods LLP: Good evening.

Commissioner Litzenberger: Give us your name and –

Mr. Adams: Scott Adams with McGuireWoods. I represent the applicant.

Commissioner Litzenberger: Thank you. I know you've told us this at Supervisor Frey's office, but I don't recall. Once, say, if the Board of Supervisors does in fact support this, which I think your Board dates to December, how long before the facility would be operational?

Mr. Adams: To go through site plan, building permit, construction, occupancy, probably around two years would be my guess.

Commissioner Litzenberger: Okay, thank you.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes, can I ask one question of staff?

Ms. Abrahamson: Sure.

Commissioner Hart: We have other SE uses that have been approved, subject to an applicant demonstrating or obtaining offsite easements. This one doesn't have that and we got new conditions that, I guess, didn't require that either. It seemed to me that the – the application would have been stronger with at least the service drive being available with a public easement, or dedication, or something; and that the current – in the absence of that, the fallback position which, I guess, staff is comfortable with, is basically the U-turns on 50 at the stop lights and dealing with it that way. What I wondered and what Commissioner Litzenberger had – we had discussed a little bit yesterday was, is there any point in putting a condition in requiring this applicant to diligently pursue something? It seemed to me that they – whether there's enforcement or not against the service station is somewhat extraneous and it's nothing, really, this applicant is going to be involved in directly. But is there's something for this applicant to diligently pursue, whether or not the service station follows through on its – on its own application – something to either obtain – the offsite easement or do something with that?

Ms. Abrahamson: And that's a difficult question to answer. I'll do my best. The problem that we have with this application is we have to have a nexus, a determination, with the use that is being requested and the conditions we're proposing. There has been no determination from staff, from VDOT, or the transportation staff looking at the numbers generated by this actual use that would support that type of condition, frankly. You know, it – the trip generation on this use – I've said for, you know – this is, like, the dream use on that property when it comes to trip generation because it's so low and the impacts are – are so minimal. That doesn't mean that it's not going to generate any trips and it doesn't mean that some people – I've used that service drive, ok, illegally. I'm getting – but, you know, I – I understand the attraction. I understand the Commission's concern, but when you look at the numbers, which is what we have to look at, and we have done due diligence, and we have gone back twice to look again and make sure we didn't miss something, there isn't any reason why staff would make that recommendation to you because we couldn't support that nexus here with this use. I don't like U-turns either, but the

level of U-turns that are anticipated to be generated is acceptable in VDOT's system, so the answer is, you know, we could put a condition on here that says that they'll diligently pursue a public access easement on that service road. I don't know how we will enforce it. "Diligently pursue" is one of those phrases that, as – in my job, I hate because I don't know what it means, okay. I don't know how to demonstrate it. I don't know how to make sure it happens, you know. Somebody, you know – Scott's a good guy. He'll go out and he'll try real hard but, you know, some other applicant might just say, "well, you know, I talked to the guy and he said, 'no dice. I'm through.'" Okay, he said, "I diligently pursued it." You know, we've had people file letters. But the bottom line is if he doesn't want to do it, then he should decide to take umbrage with it. I don't know that I could defend it, I don't know that the county attorney would suggest defending it, and I don't know how far we can push it. We can try. I think this applicant would probably be willing to try, but I don't know how far you can push what "diligently pursue" really means when you can't control the property, and when you're putting them in a position where another property owner has them over a barrel, basically – because he owns that property and he can say, "sure, I'll give it to you for \$2 million," or whatever – and we can't do anything about that. You know, it's not something – if this had the use that required it, we'd – we'd push harder because we'd have a nexus to push harder. We don't really have it here. And that's kind of, I guess, a long way to say I don't know the answer to your question, really.

Commissioner Hart: Not to prevent the U-turns or not to prevent the cut-throughs to the neighborhood that – that –

Ms. Abrahamson: We think that while there is no way to totally preclude U-turns or totally preclude people from going through the neighborhood, when you look at the trip distribution that we can anticipate, none of us will really know what happens until it's out there, because all we can use are the – the numbers and the models. The trip generation on this is so low and the – the timing on the lights that exist work so that there is actually a break, and if you go out and actually try to get out, you can get out. It's not one of those things where, like, I'm taking my life in my hands and I'm just going to go because I've been sitting here for half an hour. The signals are timed in such a manner that there is a break and even at the busiest times, you can get in and out of here. You couldn't get a stack of 20 cars out of here, but this use doesn't have that kind of generation even when the shifts change. So there's no – there's just no way to say that this is an unacceptable level without that. If they can get agreement to do it – if we can get this – the SE, sure, we'll get it. It will – it needs to be in the system eventually. We're going to do what we can to get the other guy out of trouble but, you know, putting that on this owner as a condition of his pretty low generation use is really not something that we can professionally tell you is a good idea. There isn't a nexus there. I can't tell you no one will ever do it, but I can tell you it's going to be at such a low level that it won't be a problem. And it's really a pain in the butt for people to go through the neighborhood, although somebody may figure it out. You know, it's not a direct cut-through. It's not a direct way to get to that light.

Commissioner Hart: All right. Thank you.

Chairman Murphy: Mr. Lawrence, then Ms. Hall.

Commissioner Lawrence: Thank you, Mr. Chairman. I'll try to be as brief as I can. I had gained the understanding that there was going to be agreement of you putting some signage on the service road that said don't park on this side, and that eased a concern that I had about single-axel trucks with medical supplies and taking people away for dialysis and patients with Alzheimer's may be compromised in other ways. And I thought that would balance it out. Is there any reason to believe that that's not going to happen, given the timeframes that we just heard for these things to develop?

Ms. Abrahamson: If the applicant consents to do some offsite signage on the service drive, as long as that service drive is not in no-man's land in – in – it could happen. Right now, it's kind of in an ambiguous situation. We've got a site where it's in private ownership at the moment – or at least most of it is. There's a little piece that's not. Most of it is in private ownership. We can't put signs legally on Matthews property while it's in private ownership. When they come through, we've already been through this in 1971 – 1971, when they did their Special Exception and even then we said, "you need to dedicate that service drive." It's going to be a request again when it comes to you as a Special Exception. If they elect for some reason not to pursue the Special Exception, we will – we will prosecute them and it will be their choice what they do with that property. They have a viable commercial use on it right now. You know, if they want to continue that viable commercial use, it needs a Special Exception. If they don't, they could abandon it. they could walk away and we would get nothing – we – until someday, something will happen. So I – we're kind of in this – I can't guarantee you the answer to that question. If it's in the public sector, we can pursue it through VDOT as a – you know, as a sign and, you know, if it meets, warrants whatever we want in there, we can do through the public system – it will have to have VDOT approval, so anything would be subject to VDOT. Right now, only a little, tiny piece in the wrong area is subject to VDOT approval because we have a little, tiny piece that's dedicated. Until that happens, it's private, and so even if this applicant would try and take, you know, do the due diligence and – and try and, even if the owner agrees, the guy doesn't have to leave it there. He doesn't have to do what you want. I have no way to force him. The only way I have to force him is by – you know, by the grace of God, he's in violation. So, we can enforce that and get him to come back in and – and redo his application, but I – I can't guarantee if he's going to do that or what's going to come through.

Chairman Murphy: Okay. I just want to remind everyone we are on verbatim because this is a decision only.

Ms. Abrahamson: Okay, the short answer is no.

Chairman Murphy: That's the way to go on verbatim. Okay. Anyone else?

Ms. Abrahamson: There's no good answer.

Chairman Murphy: All right, Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I want to thank all of the commissioners for their constructive recommendations. The staff worked long and hard along with applicant to try to iron out all of the concerns of the neighbors and they did a really good job. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2014-SU-010, SUBJECT TO THE DEVELOPMENT CONDITIONS DOWN DATED OCTOBER 21<sup>ST</sup>, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Before we vote, can we ask the applicant if they're on board with the new development conditions? I think we're supposed to do that –

Chairman Murphy: Right. I was just going to bring that up. Could you come forward again, please?

Mr. Adams: Good evening again. We are comfortable with the development conditions that were circulated yesterday.

Chairman Murphy: Okay.

Commissioner Litzenberger: My mistake. Let me read it. Mr. Adams, I request the applicant confirm for the record the proposed development conditions now dated 21 October, 2014.

Mr. Adams: We confirm that we are comfortable with those.

Commissioner Litzenberger: Thank you.

Chairman Murphy: All right.

Commissioner Litzenberger: All right. I have three – four more.

Chairman Murphy: Okay, all those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2014-SU-010, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman? Abstain; not present for the public hearing.

Chairman Murphy: Mr. Sargeant abstains; not present for the public hearing. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE ADDITIONAL STANDARD FOR MEDICAL CARE FACILITIES, SECTION 9-308.5, REQUIRING A 100-FOOT SETBACK FROM ADJACENT RESIDENTIAL PROPERTIES ZONED TO THE R-1 DISTRICT, IN FAVOR OF THE 30-FOOT SETBACK SHOWN ON THE SE PLAT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE NORTH, NORTHWEST, AND EAST BOUNDARIES IN FAVOR OF THE LANDSCAPING SHOWN ON THE SE PLAT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG ROUTE 50, LEE JACKSON MEMORIAL HIGHWAY.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE MAJOR PAVED TRAIL REQUIREMENT ALONG THE NORTH SIDE OF ROUTE 50, LEE JACKSON MEMORIAL HIGHWAY, IN FAVOR OF THE TRAIL SHOWN ON THE SE PLAT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Abstain.

Chairman Murphy: Same abstention.

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(The motions carried by a vote of 10-0-1. Commissioner Sargeant abstained; Commissioner de la Fe was absent from the meeting.)

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# County of Fairfax, Virginia

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October 14, 2014

**2014 Planning  
Commission**

**Peter F. Murphy**  
Chairman  
*Springfield District*

**Frank de la Fe**  
Vice Chairman  
*Hunter Mill District*

**Janet R. Hall**  
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*Clerk to the Commission*

Scott E. Adams  
McGuire Woods  
1750 Tysons Boulevard  
Suite 1800  
Tysons Corner, Virginia 22102-4215

**Re: SE 2014-SU-010 – CSH Artisan Fairfax, LLC  
Sully District**

Dear Mr. Adams:

At its October 9, 2014 meeting, the Planning Commission voted 11-0 (Commissioner Lawrence was absent from the meeting) to **DEFER THE DECISION ONLY** on the above-referenced application to a date certain of October 22, 2014. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,

Jill G. Cooper, AICP  
Executive Director

cc: Michael R. Frey, Supervisor, Sully District  
John Litzenberger, Planning Commissioner, Sully District  
Catherine A. Chianese, Assistant County Executive, County Executive Office  
William O'Donnell, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
October 1, 2014 date file

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Planning Commission Meeting  
October 9, 2014  
Verbatim Excerpt

SE 2014-SU-010 – CSH ARTISAN FAIRFAX, LLC

During Commission Matters

Commissioner Litzenberger: Thank you, Mr. Chairman. We've been doing a lot of work – especially the staff and the applicant – in trying to address all the concerns that were raised on the elder care facility proposed for Chantilly. Could Mr. Adams come down with the applicant and give us an update on how things are going with their title search?

Scott Adams, Applicants Agent, McGuireWoods, LLP: Good evening. I'm Scott Adams with McGuireWoods on behalf of the applicant. Thank you for the opportunity to come down and update you on what we've been doing since the public hearing on this case. As you may recall, when we were here the last time, the big issue that was remaining related to the service drive that runs parallel to Route 50 between Downs Drive and Chantilly Drive. And we have been doing a lot of work trying to figure out the current status in the ownership of that service drive – and also working with the service station owner regarding the access on that and trying to clean up that situation. I guess – before I get into, maybe, the details of those efforts – I did want to just, I think, make a point that may have been lost at the last meeting, which is the necessity of that service drive – or, better said, that the lack of necessity of that service drive for this project. Our traffic consultant – I think you'll hear from County staff – have identified the traffic generated by this site is fully addressed by access off of Route 50 onto Downs Drive. And the service drive really is a secondary access to and from the site that provides, you know, a convenience but not a necessity to provide adequate access to and from the site. That said – obviously, there was a concern raised at the last meeting that we did want to address. And we started off by reviewing the Special Exception for that service station in more detail. I think staff can talk a little bit more about the current status of that Special Exception. But on the Special Exception plat, it does show that that service drive was intended to be dedicated for public right-of-way purposes. There's a development condition that requires that that service drive be dedicated. Following up on that, we did do a title search on that property and determined that – the service drive never was dedicated. So there is a conflict there between the approval and what's actually happened on the ground. We also found that there was no ingress/egress easement that was ever granted over the service drive. So with that said, there seems to be an option of the County going out and trying to get the right-of-way dedicated on the service drive. But at this point, that condition appears to not have been complied with. All that said, we did actually reach to the service station operator – trying to arrange for some sort of alternative access, even though – technically, the County should've gotten that public right-of-way. We did reach out to them – talked to them extensively – met with them – trying to get an alternative access and also get some "No Parking" signs along that service drive and, unfortunately, were not able to come to an agreement with the operator for a number of reasons – I think one of which was getting some pressure from the neighbors to not work with us to try and clean up that situation, which I think was – is unfortunate. So that's sort of where we are tonight. The right-of-way should've been dedicated. It never was, despite our best efforts. We haven't been able to secure some sort of alternative right

to use that service drive, but we have been assured by the operator that he has no intention of closing that down or prohibiting access along the service drive.

Commissioner Litzenberger: The gas station operator – he hired Mr. Keith Martin, who many of us know. And he called me. I asked him if they would oppose putting up “No Parking” signs on the north side. He said they would not. So have you discussed that with the gas station operator at all?

Mr. Adams: We discussed it with the gas station operator before he hired Mr. Martin. He did indicate to us verbally that he was not opposed to putting up signs along the service drive so that’s – I would confirm what Mr. Martin told you.

Commissioner Litzenberger: Okay, thank you.

Vice Chairman de la Fe: Anything else?

Commissioner Hart: Mr. Chairman?

Vice Chairman de la Fe: Yes, Mr. Hart.

Commissioner Hart: Did you want to do questions? Or –

Vice Chairman de la Fe: We are on verbatim, but go ahead.

Commissioner Hart: Okay, well I’ll keep it short. I don’t know exactly what was going to happen tonight. I guess my hope was that – or my observation would be that – I believe nothing would be hurt by another short deferral. To my mind, the issues of the enforcement against the service station and the approval of the new use – they’re easily conflated. But they’re really separate things. The problem that I’ve had is that the application is about, I think – about as good a use as we can get for that vacant lot. It’s got a lot of challenges with the RPA and it’s so shallow and it doesn’t have very good access. The access is very difficult and the service drive, whether it’s essential or not, makes it better than it is without it. It should’ve been straightened out. I think the applicant assumed that it probably had been straightened out a long time ago. I think staff assumed – I think staff said so at the public hearing that staff had assumed it was a service drive. I believe that the confirmation that this site would have the ability for public ingress and egress over the service drive would help – would be consistent with the other objective of minimizing the cut-through traffic through the neighborhood. Our role, in making a recommendation to the Board, has to include – I think – mitigation of what impacts are caused by a Special Exception use. And a Special Exception use in a residential area could have some transportation impact. My feeling would be – rather than try and decide this tonight, based on that – if Mr. Martin was just hired yesterday, I think the owner of the property needs to talk to the service station operator. The neighbors probably need to reflect on this. It should be in everyone’s interest to straighten out this service drive business. And if we don’t do it now, all the papers are just going to go back up on the shelf like they did after the service station was approved and no one will look at them again until there’s a problem. I don’t mean to be going on and on, but I guess I am. So anyway – and Ken had one – excuse me, Commissioner Lawrence had one other issue from the last hearing. I thought we were going to do a development condition, possibly, about truck deliveries

or something and I never saw that – or maybe something's happened on that either – but that seemed to me was another loose end we were perhaps going to improve.

Vice Chairman de la Fe: Okay. Anything else? And don't forget we are –

Commissioner Hall: I know.

Vice Chairman de la Fe: Ms. Hall.

Commissioner Hall: And I'll make it short and sweet. I agree with everything Commissioner Hart has said. I do support the deferral. Just as we're talking about the "No Parking" signs – who's going to put those up? Who's going to be responsible? I think that needs to be spelled out. The other thing was – during the public hearing, the way the drive-throughs go straight across into that service lane – there's no yield sign – there's no stop sign. That needs to be signed and I haven't heard anybody address that so I would recommend we defer decision – work out that signage – because either slowing the cars down off of 50 – I mean it – that would take a lot of the danger away. So I would just say that. Thank you.

Vice Chairman de la Fe: Okay. Mr. Litzenberger?

Commissioner Lawrence: Mr. Chairman?

Vice Chairman de la Fe: Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. First, I asked that – heading to the green time on the tight left turn onto the major arterial we looked into. Has that happened?

Mr. Adams: I'm sorry. Could you say that again? The –

Commissioner Lawrence: In the interest of being as short as I possibly can – me too.

Vice Chairman de la Fe: Okay.

Commissioner Litzenberger: Mr. Chairman, I would like to have Mr. O'Donnell tell us what the staff has been working on, please.

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning: Sure. I'm William O'Donnell with the Department of Planning and Zoning. What Scott Adams has mentioned on the record is true. I'd like to further elaborate on some of the information he's provided, which we'll probably have to look into further. But 1971 – the Special Permit was approved for the service station. In 1997, there was a request to replace the gas pumps with five new pumps and a canopy over the pumps. Then later in 1997, they filed an SE and was approved for the service station/mini mart. And what Scott has mentioned on the record is – yes, as part of that development – as part of that approval, there was a development condition that 70 feet – 75 feet of right-of-way be dedicated in front of the service station. In 2000, the Board permitted an 18-month extension of that Special Exception because they hadn't commenced construction of the approval. And then in October 5<sup>th</sup>, 2001, the SE expired. There is a non-RUP on file, which I

assume is based on the site plan that was filed according to the original Special Permit, which is probably the 1974 timeframe. Land development history on our LDIS system shows about 40 instances of building permits that were approved, ranging from sign permits to electrical mechanical permits. And, ironically, there is a complaint that was filed for unapproved additions on 2012, but that was closed. At this point, staff would have to consider re-opening some of those investigations because of all the testimony that has been taking place. And then I would like to further reiterate that, during our analysis of the Special Exception, we did not assume the need for the service road. We felt comfortable that there is adequate access, regardless of the service road. And as I indicated at the public hearing, there are the two instances of traffic lights between the Chantilly Plaza and Chantilly Road that does provide adequate green time for one to exit the site. And if need be – if they needed to do – go eastbound on Route 50, they could do a U-turn at Chantilly Road or even further up towards Lowe's Improvement. So with that being said, I also have Bob Pikora from Fairfax Department of Transportation, who could further reiterate what I had said about the access. But staff has found that the application meets the general standards of the Special Exception request. It meets the medical care facility additional standards. And we support the application.

Vice Chairman de la Fe: Okay. Mr. Litzenberger.

Commissioner Litzenberger: Two quick questions and then I'll move. For transportation, did you check to make sure the lights are sequenced so that people can get out easily at that stop sign on Downs Drive?

Robert Pikora, Fairfax County Department of Transportation (FCDOT): Commissioner, my name is Bob Pikora with FDOT, as Billy had mentioned. We had not looked at the lights specifically because they are controlled by VDOT. If we change any of the light timings for the signal at Chantilly, we're also looking at changing all the light signals upstream and downstream of the site. So we have not looked at that perspective of changing the light timing.

Commissioner Litzenberger: So you didn't – okay. Let me put it this way. Mr. O'Donnell stated that, based on the County transportation requirements, the service road would be just over and above what was required – that if it was just Downs Drive, it would be good enough to handle the traffic going to and from the facility?

Mr. Pikora: Yes sir.

Commissioner Litzenberger: Okay. I'm ready to move.

Vice Chairman de la Fe: Okay. Mr. Litzenberger.

Commissioner Litzenberger: I think we still – a little more homework here to answer the other Commissioners' questions. One thing I did is I drove over there and I looked at it for a third time. And I confirmed what Mr. O'Donnell stated that there's about a two-minute break between when the Staples light comes on and the Chantilly Road light. So in two minutes, a lot of traffic can flow through a traffic sign to get across street and the left-turn lane extends all the way to Downs Drive. Secondly, I mentioned I spoke with the gas station operator and his attorney and they did not oppose the "No Parking" signs. As Mr. O'Donnell mentioned the last time, the service drive

is 29 feet wide so if there's no parking on the north side, they can queue up for the gas station on the south side. There's still more than enough space for two trucks to pass each other. But I want to get the questions answered, as requested by Mr. Lawrence, Mr. Hart, and Ms. Hall. So I  
MOVE THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2014-SU-010, TO A DATE ABSOLUTELY CERTAIN OF October 2<sup>nd</sup> – OCTOBER 22<sup>ND</sup>, excuse me.

Commissioners Hall and Hedetniemi: Second.

Vice Chairman de la Fe: October 22<sup>nd</sup>? Seconded by Mrs. Hall and Mrs. Hedetniemi. Any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Litzenberger: Thank you.

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(The motion carried by a vote of 8-0. Commissioners Flanagan, Migliaccio, Murphy, and Sargeant were absent from the meeting.)

JLC



# County of Fairfax, Virginia

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October 3, 2014

**2014 Planning  
Commission**

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Chairman  
*Springfield District*

**Frank de la Fe**  
Vice Chairman  
*Hunter Mill District*

**Janet R. Hall**  
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*Mason District*

**James R. Hart**  
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*Mount Vernon District*

**Janyce N. Hedetniemi**  
*At-Large*

**Ellen J. "Nell" Hurley**  
*Braddock District*

**John L. Litzenberger**  
*Sully District*

**Kenneth A. Lawrence**  
*Providence District*

**James Migliaccio**  
*Lee District*

**Timothy J. Sargeant**  
*At-Large*

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**Jill G. Cooper**  
*Executive Director*

**Kimberly A. Bassarab**  
*Assistant Director*

**John W. Cooper**  
*Clerk to the Commission*

Scott E. Adams  
McGuire Woods  
1750 Tysons Boulevard  
Suite 1800  
Tysons Corner, Virginia 22102-4215

**Re: SE 2014-SU-010 – CSH Artisan Fairfax, LLC  
Sully District**

Dear Mr. Adams:

At its October 1, 2014 meeting, the Planning Commission voted 11-0 (Commissioner Lawrence was absent from the meeting) to **DEFER THE DECISION ONLY** on the above-referenced application to a date certain of October 9, 2014. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,

Jill G. Cooper, AICP  
Executive Director

cc: Michael R. Frey, Supervisor, Sully District  
John Litzenberger, Planning Commissioner, Sully District  
Catherine A. Chianese, Assistant County Executive, County Executive Office  
William O'Donnell, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
October 1, 2014 date file

To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.





Planning Commission  
Verbatim Excerpt  
October 1, 2014

SE 2014-SU-010 – CSH ARTISAN FAIRFAX, LLC

During Commission Matters

Commissioner Litzenberger: I had a decision only this evening. I'm going to defer it again. I want to give the Commission an update. This was the Alzheimer's facility in Chantilly. What we found out is - - I want to thank Commissioner Migliaccio for his recommendation to conduct a title search - - what they found was that at a rezoning in 2004, the - the applicant had proffered to dedicate an easement for the public service road. There was a question last week. That was not accomplished. The documents were never submitted, so they have to get that straightened out. And, secondly, our staff, or Mr. O'Donnell, mentioned that due to the timing of the lights, getting out on Route 50 from Downs Drive shouldn't be an issue, and I drove over there this weekend and circled through that development three different ways and he was correct. That's - if you're a little bit patient, when the traffic lights line up, there's plenty of time to go across Route 50 and get into the turn lane. And lastly, what I found out was that the landowner is a person that lives in the subdivision, who's against it, but they - the Sunoco franchise had rights to that, but then they sold it to Shell, who then hired an operator to run it; so, between those three entities you're going to have to figure out how to fix the easement problem with the titling. So, that said, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2014-SU-010 TO A DATE CERTAIN OF OCTOBER 9<sup>TH</sup>, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to defer the application S-2014-SU-010 [*sic*] to a date certain of 10/9, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

JN