



Town of Vienna

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Meeting Minutes Planning Commission

Wednesday, May 8, 2019

8:00 PM

COUNCIL CHAMBERS-VIENNA TOWN
HALL

The Planning Commission met in regular session on Wednesday, May 8, 2019, at 8:00 p.m. in the Council Chambers of the Vienna Town Hall, 127 Center Street South, Vienna, Virginia. Michael Gelb, Chairman, presiding and the following members present: David Miller, Mary McCullough, Sarah Couchman, Steve Kenney, Sharon Baum, and Walter I. Basnight. Also, in attendance and representing Town staff were Cindy Petkac, Director of Planning & Zoning, Kelly O'Brien, Principal Planner, and Jennifer Murphy, Clerk to the Commission. Andrew Meren is absent.

Roll Call

Andrew Meren is absent.

Communication from Citizens and/or Commissioners

Chairman Gelb suggested changing the order of the agenda and asked if the applicants for Item No. 2, Bear Branch Tavern are present. Ms. O'Brien answered yes. Chairman Gelb stated that since Item No. 2 will not take long to review he suggested changing the order of the agenda.

There being no further comment, Chairman Gelb called for a motion.

Commissioner McCullough made a motion to change the order of the agenda, moving the regular business item ahead of the public hearing.

There being no discussion Chairman Gelb called the question.

Motion: McCullough

Second: Basnight

Vote: 7-0

Regular Business

Recommendation by the Planning Commission to the Board of Zoning Appeals for conditional use permits for outdoor dining and live entertainment for a restaurant use, located at 133 Maple Avenue East, in the C-2 General Commercial and RM-2 Multifamily, Low Density zoning districts. Application filed by Adam Lubar of Speakeasy Restaurants LLC.

Chairman Gelb invited staff to present. Principal Planner, Kelly O'Brien presented staff's report, stating that they are reviewing a conditional use permit for outdoor seating and live entertainment. The site is situated on the ground floor of a three-story condominium; the Vienna Professional Center. It was originally

constructed in 1983 consisting of eight separate units including a basement. The property is bounded to the north by the W&OD (Washington & Old Dominion) Trail, running parallel along the property line is the Patrick Henry Library, and to the rear is the Vienna Elementary School property. Across Maple Avenue there are various commercial buildings including the Vienna Inn. Ms. O'Brien presented views of the site, stating that the site was previously occupied by Cardinal Bank. It has since been vacated.

Ms. O'Brien noted that the applicant purchased the basement suite and intends for the rear of the building to operate as the front entrance of the establishment. The vestibule will consist of a back deck and patio. The existing bank drive-thru will be used for outer dining.

Ms. O'Brien stated that the application is a request for recommendation to the BZA (Board of Zoning Appeals) on two conditional use permits; one for outdoor dining and the second for live entertainment for restaurant use. With respect to outdoor dining, the applicant received approval in September 2018 on a parking modification allowing up to 300 seats. The current plan proposes 249 seats, with 159 indoor seats and the remaining 90 seats to be split for outdoor seating. She noted that there will be 12 seats at the vestibule area, shown in red. The remaining 78 seats will be for the deck located at the new front of the restaurant.

Ms. O'Brien stated that the second conditional use request is for live entertainment. The applicant has provided an information sheet. The intent is to provide one or two musicians playing acoustic instruments. The area has been noted on the plan, circled in red. There will be outdoor space set aside for the musicians, weather permitting. Entertainment during inclement weather would occur indoors. Indoor hours are not listed on the sheet. There is a preliminary schedule of Thursdays, Fridays, and Saturdays. Thursday and Friday entertainment would be during the evening with Saturday entertainment during the afternoons and evenings.

Ms. O'Brien stated per town code section 18-215 the town has a total of 90 days to review the application from the date it was deemed complete, which was June 20, 2019. The BZA is scheduled to meet June 19th. She noted that the applicant will speak to it but staff received a comment letter from one of the condo owners expressing concern for live music. The applicant held a board meeting at 5 pm this evening with the condo owners. Chairman Gelb thanked staff and asked for questions from commissioners.

Commissioner Baum asked for the distance from Bear Branch Tavern to Whole Foods' outdoor seating area. Ms. O'Brien answered that it is approximately 20 feet beyond the WO&D Trail. Commissioner Baum asked if they will be able to hear outside music. Ms. O'Brien responded that she has only heard noise from Maple Avenue traffic. Commissioner Baum asked if they are able to hear it from within the library. Ms. O'Brien thought it unlikely since the library's parking lot creates distance between buildings.

There being no further questions Chairman Gelb invited the applicants forward to present.

Adam Lubar, residing at 6305, Long Meadow Road, Mclean and Chris Lefbom, residing at 3127 Valley Lane, Falls Church, Virginia, were present representing the application. Mr. Lubar stated in response to questions regarding noise or music heard during the day from Whole Foods or the library it is their intention that any

live music add to the ambience of the restaurant as a whole. They do not wish to be considered a live music venue. Performances will be limited to one person with an acoustic guitar. It will not be louder than music heard over a music system. Mr. Lubar stated in response to concerns for noise heard at Whole Foods, he would assume that noise from traffic along Maple Avenue would be more disturbing. With respect to noise disturbing fellow tenants in the building they met to discuss it today and have agreed to the terms listed within the letter. There will be no live music outdoors on Thursdays. Fridays will not have live music until after 9:00 pm. They have heard no concerns for the rest of the weekend days. Additionally, they are seeking recommendation for live music indoors as stated in their application. Indoor live music would occur Thursdays, Fridays and Saturdays.

Chairman Gelb asked if that is to occur from 6:00 to 9:00 pm and from 6:00 pm to 12:00 am. Mr. Lefbom answered that patrons from their other locations prefer music later in the evenings. When they originally submitted their application they provided a broad range assuming they would make changes accordingly dependent upon their customer's wants. They anticipate narrowing it down as they move forward.

Commissioner Baum asked if the other condominium owners expressed reservations regarding live music during the day. Mr. Lubar asked for indoors or outdoors. Commissioner Baum answered indoors. Mr. Lefbom answered no, stating that the gentleman who submitted the letter is present. It was his understanding one else had issue with indoor music. Commissioner Baum noted that sound may pass through the ventilation system and walls. Mr. Lefbom stated that they intend to install all acoustic ceilings. Additionally, the system will be self-contained so that nothing will emit.

Commissioner Miller clarified for the record that it will be Saturdays from 2:00 to 11:00 pm, or 9:00 pm to 12:00 am. Mr. Lefbom answered that is correct. Chairman Gelb asked if they want approval for both time periods and the opportunity to figure it out according to the business. Mr. Lubar answered yes, stating that they thought it would be best to apply for both. Additional discussion followed.

Commissioner McCullough noted a reduction of 300 down to 249 seats with 90 outdoor seats since their first review. She thanked Commissioner Miller for confirming the times. She questioned the use of and versus or and asked if it depends on the performer or the needs of the restaurant on any given day. Mr. Lefbom answered yes. Commissioner McCullough asked if indoor music would be year round with outdoor music occurring seasonally. Mr. Lefbom answered yes that is correct.

Commissioner Kenney asked if it will be acoustic guitar only. Mr. Lefbom answered yes. Commissioner Kenney asked if that meant no drums. Mr. Lefbom asked if Commissioner Kenney was referring to outdoor or indoor Mr. Kenney asked for either. Mr. Lefbom answered that outdoors will have acoustic only; indoors will offer acoustic 99 percent of the time. Commissioner Kenney asked for the other one percent. Mr. Lefbom answered that during events like Mardi Gras they may want to have a band. Additionally, the School of Rock is located next door. They have considered offering to host a party for the kids enrolled. The School of Rock kids currently perform at area events and are considering whether to have a venue next door. It would be no more than two or three bands coming by with their parents so they can sing and perform.

Commissioner Kenney asked about indoor music during the day sound that could travel up to neighboring tenants. They currently have a problem with a business in town that has had issues with noise violations. Mr. Lefbom answered that during the day on Saturdays would be from 2:00 to 5:00 pm.

Mr. Lefbom noted that operational hours are mostly at night. Commissioner Kenney asked if they have events on Thursdays from 6:00-9:00 p.m., stating that some business owners operate during that timeframe as stated in the letter submitted by the financial planner. Mr. Lefbom agreed, stating that neighbor is present to answer any questions. They were able to clarify their issues today. Commissioner Kenney asked if they are doing anything more than installing an acoustical ceiling, like lead sheets or anything above the ceilings. Mr. Lefbom and Mr. Lubar answered no. Commissioner Kenney asked if they are using any bass or amplifiers. Mr. Lefbom answered that there will be a speaker, a monitor, and a receiver. Although amplified their goal is to keep it at the same level that you would listen to music at your house. Commissioner Kenney noted that he has teenage sons so that could be any level. Mr. Lefbom responded that they offer live entertainment at their four restaurants, which are all acoustic. Mr. Kenney suggested installing additional insulation in the vicinity where live music is on the other side.

Commissioner Couchman stated that she is excited for the project. It is something that the town is in need of and thanked the applicants. The applicants thanked Commissioner Couchman for her comments.

There being no further questions, Chairman Gelb invited the neighboring tenant up to speak.

Matt Felber, residing at 2650 Oakton Glen Drive and Marie Isabel Laurion, residing at 621 Blackstone Terrace approached to speak. Mr. Felber explained that he and Ms. Laurion owned the business in the building. Chairman Gelb stated that they have heard from the applicants and asked for their comments. Mr. Felber stated that originally they understood there to be indoor music, which they had been alright with. They assumed there would be no music until much later in the evening. When they reviewed the sign and notification letter it was unclear if music would be indoors or outdoors and at what times. They had originally been concerned for outdoor music because their windows are often open. They typically meet with clients later in the evening. After speaking with the applicants they agreed, as stated, that they would not have outside music on Thursdays; Fridays would start after 9:00 p.m. He asked if that was correct. Mr. Lefbom and Mr. Lubar answered yes.

Mr. Felber asked at what time they anticipate indoor entertainment. Mr. Lefbom answered at the same times. Mr. Felber stated that is fine if things don't start until 9:00 p.m. on Fridays. They had been concerned for the library as well but the altered times should be fine, stating that it's a pretty quiet building. They wanted to make sure that their clients and staff were not disturbed. He did not think the indoor music would affect them, stating that it is a solid building. If they experience any issues they will speak with the applicants.

Chairman Gelb asked Ms. Laurion if she wanted to add anything. Ms. Laurion stated that her office is located directly above where the patio will be located. She originally had concerns that she would be most affected. Mr. Felber thanked the commission for listening to their comments. There being no further comments, Ms. Laurion and Mr. Felber were seated.

David Patariu, residing at 205 Niblick Drive, SE approached to speak. Mr. Patariu stated concern that acoustic instruments can be amplified. He asked if they will be

using amplified instruments or if the singers will be amplified; and to what decibel level if they are amplified. He noted that you cannot measure sound using decibel levels. He asked what decibel level they will strike music to the benefit of the community. With respect to the library parking lot he stated that when people drink they smoke outside. He asked how they will ensure people are parking in the right place and that there won't be piles of cigarettes and beer bottles. There being no further comment, Mr. Patariu thanked the commission and was seated.

Addressing staff, Commissioner Miller stated that Whole Foods currently has a CUP for outdoor entertainment. He wondered if there were any limitations. Chairman Gelb recalled extensive discussion regarding decibel levels and how to measure them. He stated that there was an understanding that decibel levels do not necessarily tell you what you need, that they rely on the town's noise ordinance. Additional discussion followed.

There being no further discussion, Chairman Gelb called for a motion.

Commissioner Couchman made a motion that recommendation for approval be made to the Board of Zoning Appeals for conditional use permits for outdoor dining for restaurant use, on property located at 133 Maple Avenue East, tax map parcels 0384-54-0100 and 0100A in the C-2 General Commercial and RM-2 Multifamily, Low Density zoning districts. Recommendations are subject to the April 19th, 2019 plans.

Chairman Gelb asked for comments. There being none, he called the question.

Motion: Couchman

Second: McCullough

Vote: 7-0

Chairman Gelb called for a motion on live entertainment.

Commissioner Miller noted the hours for the record, stating that it is Thursdays indoors only from 6:00 pm to 9:00 pm or 9:00 pm to 12:00 am, year round, Fridays from 9:00 pm to 12:00 am seasonally, Saturdays from 2:00 pm to 5:00 pm or 9:00 pm until 12:00 am, seasonally. Chairman Gelb asked for clarification of indoor or outdoor on Fridays and Saturdays. Commissioner McCullough stated that it was also Fridays from 6:00 pm to 9:00 pm indoors and from 9:00 pm until 12:00 am outdoors.

Chairman Gelb invited the applicant forward to clarify the hours they are requesting. Mr. Lefbom explained that the application is for Thursdays, indoor entertainment with the same timeframe discussed. Seasonally it would be allowed outdoors. Off season it would be allowed indoors. Additional discussion followed.

There being no further discussion, Chairman Gelb called for a motion.

Commissioner McCullough made a motion that recommendation for approval be made to the Board of Zoning Appeals for conditional use permit, allowing restaurant use subject to plans dated April 19, 2019 on the land known as 133 Maple Avenue East, more particularly described as tax map parcels 0384-54-0100 and 0100A for the following: Thursdays, indoors only, Fridays indoors from 6:00 pm to 9:00 pm and 9:00 pm to 12:00 am outdoors seasonally, and/or from 9:00 pm to 12:00 am. For Saturdays, both indoor and outdoor, from 2:00 pm to 5:00 pm, and/or 9:00 pm to 12:00 am.

There being no discussion, Chairman Gelb called the question.

Motion: McCullough

Second: Couchman

Vote: 7-0

Communications from Citizens and/or Commissioners

Ms. Petkac noted that they skipped Communication from Citizens and/or Commissioners. Chairman Gelb thanked Ms. Petkac and invited anyone with communications about items not on the agenda.

Bob McCahill, residing at 429 Center Street, North approached to speak. Mr. McCahill stated that he is the president of the North East Vienna Citizens Association (NEVCA). He invited everyone to attend their annual meeting scheduled for next Thursday at 7:30 pm at the Vienna Community Center. They will be discussing two items; Barbara Hildreth the self-described founder of the W&OD Trail and DPW's Water Quality Engineer, Christine Horner will talk about the health benefits of in-town streams. The Town will begin the Piney Branch stream restoration project in the fall.

Mr. McCahill noted that the Bear Branch Tavern is in closer proximity to Piney Branch stream than to Bear Branch. Additional discussion followed.

Concluding Mr. McCahill's communication, he stated that he would leave the commission with the NEVCA agenda. Chairman Gelb thanked Mr. McCahill for his comments. There were no further communications.

Public Hearings

Continued Public Hearing - Sunrise Assisted Living Rezoning, Site Plan Modifications and Conditional Use Permit

Recommendation by the Planning Commission to the Town Council on a proposed rezoning for Sunrise Assisted Living mixed-use building with ground floor retail and senior assisted living facility, located at 100 to 112 Maple Avenue East, from the C-2 General Commercial Zone and C-1A Special Commercial Zone to MAC Maple Avenue Commercial Zone. Application filed by Sara Mariska of Womble Bond Dickinson on behalf of Sunrise Development Inc.

AND

Recommendation by the Planning Commission to the Town Council on a request for site plan modifications of requirements

- 15 foot wide loading space, a reduction of 38 feet from the required 53 foot wide loading space
- 7 bike spaces, a reduction of 20 spaces from the required 27 bike spaces
- Proposed fence to be 8 feet in height, 2 feet greater than the

maximum height of 6 feet

- Building awnings to extend 6 feet from the building face, an increase of 3 feet to the maximum 3 feet permitted.

Application filed by Sara Mariska of Womble Bond Dickinson on behalf of Sunrise Development Inc.

AND

Recommendation by the Planning Commission to the Board of Zoning Appeals on a request for a conditional use permit to allow an assisted living facility for seniors per Section 18-95.5.J. Application filed by Sara Mariska of Womble Bond Dickinson on behalf of Sunrise Development Inc.

Chairman Gelb invited staff to present. Town Planner, Kelly O'Brien thanked Chairman Gelb, stating that this is a continuation of the Sunrise Assisted Living application for rezoning and conditional use permit. The site currently consists of two buildings constructed in 1983, comprising of 10,980 square feet of office space. She presented proposed renderings, stating that it is the same request for re-zoning from C-2, general commercial and C-1A, special commercial to the MAC zone for a proposed mixed-use building with 5,700 square feet retail, commercial space and 83 assisted living units. There is a request for site plan modifications for loading space, bicycle parking, fence height, and to allow awnings to extend into the front setback. Additionally, there is a conditional use permit request for recommendation to the Board of Zoning Appeals for assisted living use.

Ms. O'Brien stated that since their last meeting, the applicant has provided updated proffers. She noted that everything shown in red bullet points are new proffers, which have been added to the site plan. Additionally, the use of property has been updated to reflect new square footage for retail and unit numbers. The applicant will provide further detail regarding the added proffers.

Ms. O'Brien stated that there had been some discussion at the last meeting regarding inbuilt parking. A compact parking space was shown inside the garage, near the entrance. As previously stated, compact parking are not part of town code requirement. Since it does not take away or add to total parking for the building the space has been striped along with storage area next to the handicapped space. This will provide an area for ambulances to park directly and load into the space. Concluding staff's report, Ms. O'Brien thanked the commission.

Chairman Gelb asked if the stripe eliminates the compact space. Ms. O'Brien answered yes. Chairman Gelb asked if it is one compact space. Ms. O'Brien agreed, reiterating that it did not count towards the town's parking requirement. She stated that the applicant has also clarified where bicycle racks would be moved inside the garage. The image being shown to the left indicates the outdoor bicycle racks, which were already discussed at the last meeting. Two of the racks have been moved inside and to the back. Ms. O'Brien noted that the applicant will speak to proffer language regarding working with staff to refine location and style of bicycle racks.

Presenting a parking chart, Ms. O'Brien stated in response to parking questions heard at the last meeting staff looked at parking requirements of neighboring jurisdictions. For nursing and assisted living complex requirement Fairfax County has a requirement for one space per three residents with additional space for employees. She noted that Fairfax City has the most recently updated parking

information due to their zoning update from 2-3 years ago. The chart provides an example of parking requirements based on 83 units ranging from single bedrooms, double and a mix of one or two bedroom. The chart provides a range of the minimum or maximum for each jurisdiction. The Town's currently requires 29 spaces for retail is 29 spaces. The application proposes a parking rate of 0.4 spaces per unit. Based on that calculation they would need to provide 63 spaces and are providing 65 spaces. It is when you use the 1.25 multiplier as part of the MAC code. Additionally, there are seven non-conforming tandem and compact spaces. They are available in the garage. Because they do not meet town code requirements they are not part of the proposal or requirement. It equates to a total of 72 spaces with an ambulance space.

Chairman Gelb thanked Ms. O'Brien, and asked for the actual number of spaces without the 1.25 multiplier. Ms. O'Brien explained that there are 60 spaces in the garage. Since eight of the spaces do not meet requirements there are 52 spaces. When multiplying 52 by 1.25 you get 65 spaces.

Ms. O'Brien stated that the Director of Finance has provided a Fiscal Impact Analysis for the project and an estimate of real estate tax, which would increase to \$48,000 - \$52,000. She stated that it is a range based on analysis of other assisted living and real-estate assessments. For individual resident tax, there is a proposed increase of \$20,000 to \$25,000. The Finance Director wanted her to note that there are currently no residents paying real-estate tax at the site. Additionally, there would be an expense of \$5,000 for landfill fees with an estimated net increase of \$63-72,000. She also noted, per email from the Director, job creations are not covered under fiscal impact. There is the potential for approximately 90 jobs created, which does not include the added retail.

Providing an overview of the project, Ms. O'Brien explained that the application was reviewed in work session on February 21, 2019. They held their first public hearing on April 24th, which was continued to tonight's hearing. The application is currently scheduled for public hearing with the BZA for May 15, 2019 for review of a conditional uses permit and with Town Council on June 3, 2019. She stated that the Commission must provide a decision to Town Council in order to meet the 100 day limitation of August 2nd. If approved for rezoning the application will go back to the BAR for final approval, which are based on conformance to the consent plan. Ms. O'Brien presented a process chart to the commission, stating that it includes the Flagship Carwash and Chick-Fil-A project, which was the first project approved under MAC rezoning. It also required a conditional use permit. That project was reviewed by the Planning Commission in December 2015, and received recommendation. There were two subsequent hearings held March 23rd and April 13th 2016 for review of a conditional use permit for a drive-thru for the Chick-Fil-A and carwash. The application was later reviewed by the BZA for conditional use permit on April 20, 2016. Town Council approved the entire project on May 9, 2016. She stated that this is the second MAC application for rezoning with a conditional use permit and plan amendments to be reviewed simultaneously.

Ms. O'Brien stated in response to questions as to whether the application can be reviewed for CUP, a rezoning affidavit was submitted during application submittal in which the property owner gives the applicant permission to request all rezoning, use permits, and site modifications. Chairman Gelb asked if staff reviewed their information with the Town Attorney and whether he advised them to move forward with the conditional use permit application. Ms. O'Brien answered yes.

Commissioner Baum asked if they expect to collect \$20-25,000 in business tax from the applicant. Ms. O'Brien explained that the site is currently vacant. The Town is still collecting property tax of some type even though the site is vacant. It is approximately \$6,000 currently collected. Commissioner Baum asked how much was collected when a business was in operation on site. Ms. O'Brien answered that the Finance Director provided information based on existing and proposed circumstances. She did not provide retroactive numbers as is standard practice.

Commissioner Couchman asked if the chart provides information on the increase from when it was functioning previously or what it is currently. Ms. O'Brien answered what it is currently. Commissioner Couchman stated regardless of what it was before the Town would collect that plus \$48-52,000 with an increase of \$20-25,000 for BPOL (Business, Professional, and Occupational License) when it was previously zero. Ms. O'Brien agreed. Additional discussion followed. Chairman Gelb asked if the former urgent care facility paid personal tax. Ms. O'Brien answered that she would have to confirm with the Director of Finance. She recalled that the director had a rate of calculation specifically for this proposed use. Chairman Gelb thanked staff and asked for further questions. Hearing none, he invited the applicant forward to present.

Sarah Mariska, attorney representative with Womble Bond Dickinson was present representing the application. Ms. Mariska introduced Jerry Young, Senior Vice President of Development and Investments with Sunrise Assisted Living. She stated that they have been working on the project for almost a year, having held many discussions with the BAR, the Planning Commission, and Town Council resulting in many changes. Staff has summarized their most recent changes. They have tried to be as responsive as possible to all comments heard having captured those responses in their proffers.

Providing a brief overview of proposed updated proffers, Ms. Mariska stated the following:

Proffer 2 reflects the current development, which notes its reduced unit count from where they originally started. This was to address concerns heard on the number of proposed units. They are also proposing retail in the first floor, which is something that does not currently exist there. In response to concerns heard for parking they are eliminating restaurant use from the site as it is perceived to have a higher turnover and higher parking demand.

Proffer 3 is in response to questions heard regarding the design. It allows them to leave the discussion open so that they can continue to work on it with the BAR finalizing design of the site. The last sentence of that proffer calls out their desire to continue to work on the column design element.

Proffer 4 offers a commitment to memorializing their commitment to public art at the site. Sunrise commits to having public art at the pocket park, which will be an attractive feature to the site.

Proffer 5 is a response to concerns heard for the potential treatment between the Vienna Inn and the Sunrise facility. They hope to ensure that it remain as attractive as possible and will be a nice condition for the pocket park.

Proffer 6 responds to previous discussions about the storm box culvert and their commitment to those improvements. She stated that it has been reflected on their

plans as well as in the proffers so that there is no question that the infrastructure would be upgraded for this development.

Proffer 7 reflects the prospective bicycle racks discussed at the last hearing. As was highlighted during the staff report, they have indoor and outdoor bicycle racks. They heard a request at the last meeting to provide town specific bike racks, which they are happy to commit to. She stated that they are happy to keep that conversation going to ensure they are incorporated into the plan.

To address parking and traffic concerns they have provided two proffers, 8A & 8B; both of which reference district standards. She noted that they have worked on these types of proffers in and across Virginia, Maryland and the District of Columbia. Sunrise has a long experience with these kinds of techniques, which are very successful. The Transportation Demand Management (TDM) plan intends to reduce single occupancy travel to the site and ensures incentivizing the use of transit, like carpooling. It ensures that both employees and visitors to the site know of these options and can take advantage of them. She stated that these programs are very successful and noted that their traffic engineer is present to answer questions. They can speak to the efficacy of the program.

Proffer 9 discusses parking management provided. It is another standard industry practice but they would also commit to working with town staff on their parking management plan. They would review what conditions valet parking would be used. Valet parking spaces have been added to the plan as well. They will work to figure out what conditions valet parking would be implemented and properly operated, providing yearly parking counts to better understand what usage work is onsite. Although they do not think there will be any issues there would be a mechanism for addressing those concerns with the Town. It may include a myriad of options that could be work on. She stated that a few have been listed within the proffer, but they are not the only items. They are willing to sit down to come up with a plan that addresses any impacts as they arise. Based on the parking studies provided, their experience across the country, and the number of employees they manage, they do not believe there will be a parking problem. If there were an issue, language has been built in to the proffer to address it.

Concluding her overview of proposed proffers, Ms. Mariska stated that they are trying to respond to all comments heard putting those commitments in writing. They feel this to be an ideal site for assisted living as it does not currently exist in town. It will allow residents to age and place.

Jerry Young, Senior Vice President of Development with Sunrise Senior Living, located at 7902, Westpark Drive Mclean, VA thanked the commission for hearing their continued application. They have tried to incorporate all comments and concerns heard trying to address them to the best extent possible. The core service of the site is assisted living and dementia care. It is their mission as a company to improve the quality of life and dignity for all seniors. They are bringing a much needed service to the heart of the Town. This project, in this particular location, will provide a service for a vulnerable population. It will allow them to remain in town providing both desperately needed services while fulfilling other visions for retail along the corridor with additional business operations. He asked to answer any questions from the commission or members of the public. Thanking the Commission, they respectfully request recommendation to proceed further into the process.

Chairman Gelb thanked the applicants and called for questions.

Commissioner McCullough asked for clarification on the number of units. She asked for the difference of the number of units versus the number of beds. Mr. Young answered that their units are divided up between studios and doubles, and another flexible unit referred to as a Denver unit. They like to offer a variety of units in response to a variety of family needs. A double has a two-bedroom and a shared common bathroom. It allows for a husband and wife or siblings to share a space. In some instances it is for memory care or potentially for strangers. They find that in very high-end neighborhoods like the Town there is a strong preference for private living. A bedroom can be used as a sitting room or a den. Functional usage can vary and there can be a mixture.

Commissioner McCullough thanked Mr. Young, and asked if there are ever two individuals, not related to each other, sharing a unit. Mr. Young answered yes; stating that it is a choice made by family members but can also happen in memory care as care services and needs increase. Commissioner McCullough asked for the practice when someone comes in to provide independent care or assistance to a resident, when it is not part of normal services received at Sunrise. She asked if that occurs regularly. Mr. Young explained that would be services not provided like hospice services or additional medical care such as skilled nursing services, therapies like occupational or speech therapies.

Commissioner McCullough asked how the occupational therapists or hospice staff is factored into parking. Mr. Young stated that their parking and traffic consultant can provide specifics, but general standards for parking ratios take such scenarios into account. Visitor parking includes family as well as service providers.

Commissioner McCullough stated that Proffer 8B indicates that, at the time of occupancy, the applicant would provide employees with a onetime, pre-paid \$25 smartcard. She stated that it has been her experience when commuting into the District of Columbia it costs over \$4.10 for a roundtrip fare. She is not asking for an increase, stating that it is something to consider if it is going to be a practice when moving in to the building. Oftentimes businesses provide that to any new employee, not just on the day they open. She stated that since they are a large corporation, they have the ability to provide subsidized transit benefits for employees. Providing an example, Commissioner McCullough stated that her work provides a transit subsidy on a Metro Card every month. Others put money into a transit subsidy account, which has a tax savings benefit. She stated that Sunrise could consider providing such a benefit to help their employees, to encourage them to use mass transit. Mr. Young stated that had been their intention as a benefit to all new employees hired. He stated that they can amend the language to properly reflect that. It is not an uncommon proffer typically found in transportation management programs across the country to encourage using mass transportation. Commissioner McCullough thanked Mr. Young.

Chairman Gelb stated although a \$25 prepaid, onetime card is nice he asked long term how much that helps. He asked if the applicants would look at it more closely to consider other financial incentives. He is aware of local companies providing shuttle service to and from metro for employees. He was not aware of the cost or volume required but it is something else that may be effective in reducing parking demands.

Commissioner Basnight stated that his former employer provided a similar benefit. It was also a benefit for the organization as it cut down on absenteeism. He implored the applicant to consider it, stating that it would be good for the employees and for

the community.

Commissioner Baum asked who determines the maximum number of patients allowed at a facility. Mr. Young answered that each state has a governing body that licenses the type of use. Their state license would include that limitation. Commissioner Baum asked for the name of the licensing entity. Mr. Young answered Virginia's Department of Health. Commissioner Baum asked for the maximum number of patients allowed at the facility per Virginia's Department of Health. Mr. Young answered that it is usually a license submitted subsequent to zoning approvals and construction of the building. Commissioner Baum asked for the maximum number of patients allowed.

There being technical audio difficulties, Chairman Gelb called for a short break.

Resuming the hearing, Chairman Gelb directed Commissioner Baum to continue with her questions.

Commissioner Baum asked for the maximum number of patients allowed. Mr. Young answered that it is relatively early in the process. He could estimate a range of 100 to approximately 115 persons. Commissioner Baum asked if they anticipate exceeding 83 people. Mr. Young stated that it was never stated that there would be 83 beds. They have only stated 83 units. Commissioner Baum asked, beyond that number, how many daytime residents they anticipate having. Mr. Young asked for clarification. Commissioner Baum stated that the Nursing Center in Fairfax City allows for daytime adult care. Mr. Young stated that is not a program that they run.

Commissioner Miller estimated approximately 126 units. He asked if that would equate to 215 persons. Mr. Young answered Yes, explaining that they never anticipate reaching their theoretical maximum. Their licenses do not necessarily go to that point. Chairman Gelb asked how many units would be on the 3rd floor memory care. Mr. Young stated that they have 26 units for memory care. Chairman Gelb asked if that is where you will most frequently have shared units. Mr. Young stated that of the 26 units, 10 are studios which are never shared. Chairman Gelb stated there could be at least 45 residents at max. Mr. Young answered yes.

Chairman Gelb asked if memory care required more or the same number care ratio. Mr. Young answered that it varies based on needs and/or specific stopping barriers. Chairman asked if it is generally more. Mr. Young answered that generally, memory care residents require more labor hours per person. The 26 units represent a minority of total units in the building. Chairman Gelb asked how they deal with patients that will end up needing memory care. He asked how they know that the memory care facility remains roughly the same, not increasing parking demands because more service is needed. Mr. Young explained that the memory care floor is specially designed. It is secured having special dedicated common space that does not exist on other floors. They would be unable to turn the first or second floors into memory care floors. If residents begin to need memory care services and there is no more room, Sunrise has a number of other communities across Northern Virginia. They would be happy to refer them to. Chairman Gelb asked if they would work with the family if needs change and there is not enough room; not increasing the memory care population. Mr. Young agreed, stating that they do not have the ability to convert additional floors at this time. Chairman Gelb stated that it would not change parking needs because of more employees needed to serve in memory care. Mr. Young answered that is correct.

There being no further questions Chairman Gelb invited public comment, stating that there is a sign-up sheet. Each speaker is limited to three minutes.

Michael Magnotti, residing at 526 Druid Hill Road, NE approached to speak. Mr. Magnotti stated that he owns the building next door at 108 Center Street North. He has also been a Vienna resident since 1960. He has run a real estate appraisal company in town since 1990. He stated that he is pro-development and pro-business but the Flagship carwash currently under development is a monstrosity. It is the only thing anyone talks about. Although the current project under review is not a monstrosity it is in the wrong place.

Parking is a number one concern, stating that area is already a disaster. This project will not going to make it better. The lot is already used for parking with street parking full most of the time. The neighboring Starbucks recently closed but something else will move in. he did not expect the new retail to do well, stating there is nowhere to park except for his lot or possibly the Vienna Inn's lot. Additionally, he does not want to see the town turned into a little city. He is not against assisted living but does not want it right next door, in the center of town. The proposed design looks like a city scape, which is the general consensus he is hearing from other town residents. He stated that as a real estate appraiser the numbers presented do not add up. Mr. Magnotti thanked the commission and was seated.

Nancy Logan, residing at 410 Millwood Court SW approached to speak. Ms. Logan agreed with Mr. Magnotti's comments, stating that she loves the idea of having assisted living but this is not the right location place. She stated that the Town is giving away the farm. They need to look at this location. It is the entree to their marquee on Church Street. It is not part of the Church Street vision. She stated that this project effects both Maple Avenue and Church Street. The building is too tall, equaling almost six-stories that includes a mezzanine that is really another floor. She would like the Town to revisit the definition of pocket parks, stating that what is presented is not a public space. It is not even green. She noted that impervious surfaces exceeds 80 percent to almost 87 percent. It provides no green space. The public art and public park are not really a place that anybody is going to go and enjoy, which is sad. She would prefer a larger setback with a larger sidewalks around the complex and more parking. She noted the Fiscal Impact document was very misleading and does not help. She would prefer a hotel or something that could actually help the Town. There are a lot of incentives that they could offer to an organization or company. Sunrise does not currently own the property, which is important to note as well. Their project is contingent on approvals. She stated that there are other options like hotels or condos and wished they could switch locations with the 444 Maple Ave project. She would prefer to have a senior living at the corner of Nutley and Maple Avenue. She stated that they should be very astute in the value of what they have and not give it away to the next person in line that comes in with a project. There being no further comment, Ms. Logan thanked the Commission and was seated.

David Patariu, residing at 205 Niblick Drive, SE approached to speak. Mr. Patariu provided handouts to the commission, stating that he commented concerns on ambulances at the entrance to the building. He has yet to hear those concerns addressed. On that basis they should deny the application. He has additional concerns for provided off-street parking. The plan simply states an examination of the numbers, which raises concern. Despite a 300 percent growth in size of development from 10,908 square feet to 32, 130 square feet, parking is only increased by a nominal amount. The numbers show a mismatch between growth, building size,

and parking capacity, stating that it should raise serious concerns and require deeper examination of their parking capacity by this commission. Secondly, such a development in Fairfax County would require substantially more parking. Fairfax County updated their zoning on December 3rd, 2018 for continuing care facilities. This includes assisted living facilities like Sunrise, which require 0.75 parking spaces for beds. He noted comparison per unit to 0.4 parking spaces. He stated that it is per unit and not bed, which is further reduced by the MAC's 1.25 credit. This equates to 0.32 per unit, which is also in fewer parking spaces than a per bed assessment.

Mr. Patariu stated that Fairfax County requires 92 spaces under their new continuing care zoning rules. The town should consider that when reviewing the project. Additionally, the Wells and Associates WRA report to the town compares the location to Washington D.C. making the argument that a high implore use of public transportation is expected. He stated that is not a valid comparison. They should be comparing it to the Oakton Hunter Mill location. It is more relevant to the Town. Additionally, the WRA report suggests removing the Washington D.C. location from the calculation. It may not be similar in character to the proposed facility. The WRA report also flags the laws permitted by the MAC, the only designation, incentive factor, associated with providing parking within a structure with a 1.25 reduction in required parking. It further reduces required parking spaces for the site. Mr. Patariu expressed concerns for loading requirements as noted on the last page of his handout, which includes a chart of Fairfax County's minimum loading requirements.

Wrapping up his comments, Mr. Patariu noted when considering changing the order of the agenda they should think about the residents. He's had to adjust his child care obligations and will have to Uber home. There being no further comment, Mr. Patariu thanked the commission and was seated.

Chuck Anderson, residing at 125 Pleasant Street, NW approached to speak. He apologized for submitting so much information at 4:00 pm this afternoon. He stated when he served for eight years as a planning commissioner he recalled only reviewing conditional use permits for cell towers and outside parking. They reviewed a conditional use permit for a one week hypothermia shelter at Church of the Holy Comforter he kept the application because it was such a complete submittal. He had referred to it at the time as the gold standard of application submittals. The index provided the main level floor plan, hypothermia shelter floor plan, hyperthermia shelter daily schedule, shelter volunteer organizational chart, volunteer check-in sheet, and hypothermia on the countdown calendar. The Commission spent two to three sessions reviewing the application for a one-week shelter. He compared it to the Commission's current charge of reviewing for an assisted care facility, stating that it something that they have barely looked at.

Mr. Anderson stated that a conditional use permit is not a by right use at all. It has to be the right type of business for the right type of location. He stated that this is a much bigger consideration. With that in mind, he tried to compare considerations for this specific type of facility against the criteria of a conditional use permit under their statute. There are three; one is that it will not adversely affect the health or safety of persons residing or working in the neighborhood. The second, it will not be detrimental to the public welfare or injurious to property or improvements. The third, it will be in accordance with the purposes of the Town's master plan. He apologized for his previous comments about the town's master plan, stating that the master plan is now comprehensible. With that in mind, in terms of health and safety, he felt there to be a number of issues, serious medical issues and security issues.

Fairfax County Department of Planning and Zoning, which has a great deal of experience does not review the use on its own. They refer review to a group called the Healthcare Advisory Board, which consists of healthcare professionals. Every assisted living facility undergoes a rigorous review process as provided an example of their notes and review. It deals with things like security, medications, and demand for beds in the area. An application goes through a serious review before it is approved. The town does not have the infrastructure in place like public welfare or impacts on property values and improvements. The real impact is on neighboring properties; retail businesses, which could benefit from synergies of business that creates pedestrian traffic. He could not see that happening with an assisted care facility.

Mr. Anderson's final comment is in accord with the town's master and comprehensive master plan. Because his speaking time expired; he stated that his written comments mention relevant sections from the MAC. There being no further time, Mr. Anderson thanked the Commission.

Shelly Ebert, residing at 402 Roland Street, SW, approached to speak. Ms. Ebert stated that she has attended every Sunrise meeting except for one work session with BAR. She attended all community work sessions, noting that she asked for the second one to which Sunrise agreed to. She has spent hours on the phone with Mr. Young who has given so much of his one-on-one time.

She visited every single Sunrise facility in the local area. Some she did not enter the facility; she has just looked at their parking lots. She stated that she likes Sunrise, wishing they would move to the west end of town near her neighborhood. She has continued concerns for parking and the 0.4 per unit rate. She disagrees with giving the application an incentive and letting them set the rate. She stated allowing an incentive on top of that makes it more questionable. She noted that every Sunrise she has visited has reserved parking spaces for their residents. While there has been a lot of talk about visitors and employees they have not discussed residential parking. She has been told by Sunrise representatives that they are willing to put in writing the removal of all resident parking so that they cannot bring a car there. When visiting other Sunrise locations, she has noticed that the two resident parking spaces are the only ones open on the lots. If they are removed she would like to see it documented in writing because it was something they have told the community. Although it does not solve all parking problems two spaces are enough to cripple a small business that is struggling. Ms. Ebert concluded her comments and thanked the commission.

Carrie Williams, residing at 207 Center Street, North, approached to speak. She stated that she lives close to the proposed facility and owns 101 Church Street, NW, located at the corner of Church and Center Street North. She recently had to close a business due to lack of parking. She has real concerns for the project. It is a great project but she questions their parking numbers. She invited everyone to attend Thursday nights Town/Business Liaison Committee (T/BLC) meeting on Church Street parking. They are meeting with Church Street building owners and their tenants. There have been huge parking concerns since Orangetheory Fitness and the Bundt Cake stores opened. She agreed with previous statements that two parking spaces means so much to a retail business. She often finds Center Street parked out from Maple Avenue up to her house at Wilmar Place NE. Currently it is from employees working on Church Street hoping to leave their own parking lots open to potential customers.

Ms. Williams stated that parking needs to be considered until the town fulfills its parking obligations per Church Street Vision. It has been 20 years since the enactment of the Church Street Vision and there is nothing. Owners have spent a lot of money on their buildings in town. Allowing this project will create further problems. She stated that the parking meeting with T/BLC is scheduled from 6 pm to 10 pm on Thursday. It would allow the commission further opportunity to hear public comment from people experiencing similar problems. There being no further comments, Ms. Williams thanked the commission and was seated.

Christopher Hogan, residing at 226 Glen Avenue SW approached to speak. Mr. Hogan stated that the building looks very crowded and parking appears too tight to people. The applicant has had to modify their design to allow for so much retail at the first floor. He suggested getting rid of the retail and its associated parking to make full use of the building. He noted that a business that has never offered retail should tell you how useful retail is to them.

Mr. Hogan questioned whether the site would be successful, stating that he has had family members die in assisted living. Although it is a perfectly useful and necessary service he has such negative connotations with the business he will never set foot in a facility again. He asked if commissioners would do their Christmas shopping at the hospital gift shop. That is because of the negative connotations associated in going to a hospital. He stated that the prospective retail, if it is built, will be burdened by its parking and also by its hydro-building that sits above it. There being no further comment, Mr. Hogan thanked the commission and was seated.

John Pott, residing at 134 Wade Hampton Drive SW approached to speak. Mr. Pott stated that it is important at the outset of these projects to know who owns the property as it affects the comments that they make. He suggested that staff provide present ownership as part of their presentation of a project. With respect to the project he stated that he likes Sunrise. It offers a wonderful service to the community. He has visited several of their facilities and visited the Oakton location from 3:00 pm to 3:40 pm on a Thursday. He counted ten persons leaving the property through a gap in the fence walking towards the Giant parking lot. He was unaware of their employment status but watched them all get in their cars. One or two may have gone to the bus. He stated that this discrepancy in parking ratios partly relates to employees' use of other parking facilities. He noted that there is also a special space for Employee of the Month, which implies a special favor an employee to be able to park in the normal car park. He has found the same situation at the Kensington car park in Falls Church. He was uncertain if the Town's consultants recognized this fact, stating that some employees appear to be asked to park offsite. There being no further comment, Mr. Pott thanked the commission and was seated.

Laura Bligh, residing at 226 Glen Avenue, SW approached to speak. She stated that it is a very nice-looking building, but agrees with comments heard on parking. She has heard rumors about a possible garage project next to the Patrick Henry Library, right across the street from the subject project. If that works out it would make all the difference. She stated with respect to encouraging employees to use mass transit, a \$25 smart chip card is insufficient. As a member of the public she asks that they consider increasing the amount. There being no further comment, Ms. Bligh thanked the commission and was seated.

There being no further public comment, Chairman Gelb asked for a motion to close the public hearing.

Commissioner Basnight made a motion to close the public hearing.

Motion to close: Basnight

Second: Couchman

Carries: 7-0

Chairman Gelb asked for questions. Commissioner McCullough stated appreciation of the applicant's efforts in addressing concerns for ambulance access. They continue to hear concerns over and over again for parking. They cannot move forward because parking it is such a critical element. She stated that the Town has inadequate parking, which is not the fault of the applicant. The location is a tough area for parking. She asked if they have considered reducing their number of units maintaining the number of parking spaces needed for the facility. Although there is talk of a municipal parking garage that is at least five years out. It could be a tremendous burden to the businesses and those who trying to do business on Maple Avenue and Church Street. She asked if there was also an option for increasing bicycle parking and if it were possible to provide another bike corral.

Commissioner Basnight asked if they have considered overflow valet parking. They could find a business in the area to work with. Mr. Young answered yes, stating that they are very much interested in finding a parking solution. Commissioner Basnight stated that he would like to hear about it. Mr. Young stated that they have been considering creative arraignments for off-site parking. They are willing to explore options as part of their traffic management plan but there are challenges to the location. Although they offer a small amount of residential parking they are willing to expressly forbid it through a proffer. They have also looked at unit reductions and ways of freeing up a 3-5 unit loss. Additionally, they would be willing to alter their proffers for \$20,000 in yearly funds towards transportation costs. He stated that they will continue to work with staff to resolve potential future issues. Commissioner Basnight noted that he would like to see a parking garage constructed but that won't happen in time for this project.

Following up on transportation incentives, Commissioner Baum asked how much that breaks down per employee and per year. Mr. Young answered it is approximately \$250 a year. Commissioner Baum asked about ambulance response times in the event of a life-threatening emergency and procedures ensuring that the ambulance does not double park out front. Mr. Young answered that they have a very good relationship with local emergency services at each of their operating communities. It is one of their standard operating practices. Having 37 years of experience across 328 communities they have developed a process where emergency services know where to come. An additional benefit is that they have retained the current access to the site as it stands today. To access the garage, the curb cut is off of Center Street North. The behavior and usage of EMS to access the site does not change.

Chairman Gelb stated that it is a good service to the town. At the moment he struggles to support the application due to parking, stating that although it is not the applicant's fault it is their problem. Losing units is expensive but it may be more practical than trying to create more parking spaces. They would all love it if they could do that.

Addressing staff, Commissioner McCullough asked if the Commission is considering four modifications from MAC code requirements. She asked if the applicant can request modification for any type of provision under MAC such as the first floor having retail facing Maple Avenue. Ms. Petkac responded that it is not a

requirement of MAC that retail be on the ground floor. It only requires retail on the ground floor for mixed use development. This is also a conditional use. Commissioner McCullough asked if they removed retail from the first floor could they proceed with their MAC application. Ms. Petkac answered yes. Additional discussion followed.

Commissioner McCullough asked the applicant if removal of retail is an option to consider. Mr. Young answered that it is an option that was presented at a previous joint session with Town Council and the Planning Commission. It was their understanding that the spirit of the plan requires retail or intends to have at least high activity on the ground floor, particularly on Maple Avenue. As was previously mentioned retail is what is driving significant components of the calculated parking demand. That is something if there is additional flexibility; not complete elimination but reduction of retail space is another potential solution.

Mr. Young stated concern that they will not be able to settle into a project that can be voted on. While they understand the Commission's concerns, they are proposing this particular project with this design in an effort to find the right balance. He noted that the option of one bay of retail instead of two may allow a far more robust parking consideration. Commissioner McCullough thanked Mr. Young, stating that for her they have to consider the spirit and intent of the MAC, which is most important, and how each independent application provides benefit to the community. In this instance it is commercial. They are not a mixed-use development but it is a benefit to have such a facility in the community. People do want it but have tremendous concerns for parking and their impacts. She appreciated the applicants desire to follow the intent of the MAC. Removal of retail would meet those concerns while providing benefit to the town.

Mr. Young noted that assisted living, senior housing, has the lowest parking demand potentially offered for this site. This is a uniquely challenging site as it is at the low point of town with significant drainage issues that we've been made aware by both business neighbors and staff. Having such a high water table makes underground parking significantly challenging; not merely expensive but in practicality challenging. To get more than one floor of parking achieved in this application would be extraordinarily difficult. He reiterated senior housing has the lowest parking demand that also offers the least financial impact to the town. Their units are also not bringing new families with school age children and those relating demands for additional services. Any change to the total square footage is a consideration to a change in the amount of parking. That is tied entirely to functional uses. A medical office building has extraordinarily high demand for both traffic and parking. Transitioning to assisted living significantly reduces all of that. After many months of review they feel this is to be the best possible project.

Chairman Gelb thanked Commissioner McCullough for her questions regarding waiving the requirements and Mr. Hogan for also throwing it into the mix of conversation. He noted that this is what happens when they can take some time and dig into the project, learning more that there may be another way to address it. He could not say whether it would be successful but urged the applicant to consider the option of removing the retail. He noted that the applicant may have the option of asking for additional time.

Commissioner Miller stated that he did not want to sound harsh but the applicant's issues stated are the applicant's problems and not the Towns. It is the Planning Commission's job to consider what is best for the town. They have to ensure that this

project is best for the town. Chairman Gelb agreed, stating that he is aware of the issues of the site. It is an issue that would exist for any development. He stated that there are solutions as was discussed.

Commissioner Couchman respectfully disagreed, stating that because they are problems that any developer will encounter with this site is precisely the reason they are also their problems. It can be very discouraging to developers when bringing a project that has put so much effort in addressing their concerns to tell them that. She stated that she appreciated all that the applicant and their team has done in addressing their concerns. Parking is a problem, but the applicant is working within the parameters set forth. Obviously, the Town is revisiting parking issues when they go through revisions to the MAC. Additional discussion follows.

Commissioner McCullough stated in response that the use is not pedestrian friendly she noted that depending on conditions you can take your family member out in a wheelchair for a stroll down the street and take them to lunch, the park, or the library. She stated that the facility would be very pedestrian friendly; an asset and benefit to other residents needing to place loved ones there. She thanked the applicants for their consideration of their previous comments.

Commissioner Kenney agreed, stating that the removal of retail will only benefit the project. From a parking standpoint he too has a lot of concerns. He continues to have strong concerns about the mezzanine, stating that it is not a mezzanine it is a floor. He suggested that reconfiguring the project using the retail space for commercial on the first floor maybe a win-win scenario. He would feel more comfortable supporting the project if they were able to match up the design to Fairfax County's building code definition for mezzanine. The Town's Zoning Administrator has made a determination; so that it technically meets the Town's zoning definition but it's a very generous definition. He liked the architecture, stating that it is a nice looking building although he would love for it to be located one block north but that is not MAC land. Additionally, he had concerns for the loading dock, stating they will be unable to unload in the given loading space without extending overtop of the public sidewalk. He stated that he is willing to support the motion if they can have one motion for use. He would like to see what the applicant is able to come up with for the building.

Commissioner Miller stated that he is struggling with making a recommendation on senior living. They are so unique that he does not understand enough about their uniqueness to apply any conditions. It appears that the Town does not have any experience with these facilities and Fairfax County does. He suggested entertaining as a policy that the project adhere in every aspect to conditions set forth in Fairfax County for this sort of business. He is familiar with the lending process for these types of facilities and only knows a little bit about them. He does know enough to make recommendation. They are different than an apartment building as they are businesses that have people living in them. They can consider them like a vendor, more as businesses and less as an apartment building. Fairfax County has had lots more experience than the Town. They should lean on that experience to help figure out if what they have been through works.

Ms. Petkac noted that they do not normally send materials to Fairfax County for review. The Town has criteria for conditional use permits per §18-209.

Commissioner Baum agreed with Commissioner Miller's comments, stating that as a certified EMR (Emergency Medical Responder) she is familiar with emergency protocols. In an emergency setting, ambulance responders will park where they want to park; especially when performing a load and go. Although they do not

require Fairfax County review it would be good to have it reviewed by their healthcare advisory board. Until they can get a better idea of what's going on. Addressing staff, Commissioner Couchman asked if they are aware of any similar review procedures conducted for the urgent care facility. There are lots of medical facilities in town. Town Zoning Administrator, Frank Simeck stated that the other facilities are by-right uses because they are located in the commercially zoned areas not requiring a conditional use permit.

Commissioner McCullough asked how many facilities are located in Fairfax County. Mr. Young was uncertain of the exact number estimating approximately 8 to 10 locations. Commissioner McCullough asked if they had to undergo the review process with Fairfax County at least 8 to 10 times to get permitted, develop and operate assisted living facilities on a wide range for care. Mr. Young answered that is correct. He explained that they recently received approval for a project in Fairfax on US Route 50. They have also received approval for projects in Burke and McLean. Operationally, functionally, and services offered are entirely consistent with projects previously approved by Fairfax County.

Chairman Gelb agreed that he is comfortable that Sunrise is familiar with the process and cleared. He stated that on the other hand, since they have been through the process many times he asked why they would have a problem voluntarily going through Fairfax County's advisory review for the facility. Additional discussion followed.

Commissioner Basnight stated that regarding conditional use permits it's either to recommend or not to recommend to the BZA. It is ultimately the BZA's decision and not the Commissions. Commissioner McCullough stated that §18-209 states that in granting any use the Board of Zoning Appeals may impose such conditions. It is never a requirement to impose conditions; it may, and may means possibility.

There being no further discussion Chairman Gelb called for a motion for the conditional use for assisted living.

Commissioner McCullough made a motion for recommendation to the Board of Zoning Appeals on a request for conditional use permit to allow an assisted living facility for seniors per §18-951.5.J.

Commissioner Couchman seconds the motion. Chairman Gelb asked for further discussion in the motion. Discussion followed regarding amending the motion.

Commissioner Miller made an amendment to the motion that the approval be contingent upon MAC approval.

Chairman Gelb agreed, stating that legal counsel advised that the CUP would include the contingency that it be upon rezoning. It's contingent on approval of rezoning. Commissioner McCullough asked if that wouldn't be made by BZA rather than the Planning Commission. Chairman Gelb agreed, stating that it was council's advice that they include it be contingent on rezoning. Ms. Petkac stated that it was provided as part of staff's sample language.

Commissioner McCullough stated that they have not used that language on previous conditional use permit recommendations. She does not accept the amendment.

Chairman Gelb asked for further discussion, hearing none he called the question on

the motion as it stands without any contingencies or conditions.

Motion: McCullough

Second: Couchman

Vote: 4-3

Nays: Miller, Baum, Kenney

Commissioner McCullough asked if they need to schedule anything further for the application. Chairman Gelb stated that the application on rezoning will be scheduled for May 22, 2019.

Chairman Gelb thanked the applicant for their time and urged them to work hard over the next few weeks.

New Business

None

Planning Director Comments

There were no director comments.

Approval of the Minutes:

None

Meeting Adjournment

There being no further comments the meeting was adjourned at 10:56 pm.

Respectfully Submitted,

Jennifer M. Murphy

Commission Clerk

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