



A handwritten signature in blue ink, appearing to read 'C. Johnston', located to the right of the city logo.

MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Mike Craig, Senior Planner, and James Newman, Zoning Administrator
DATE: January 6, 2021 for the January 12th City Council Meeting
RE: Special Use Permit for a School in the R-2 Zoning District at 123 Lee Drive

Issue

Should the City Council approve of a Special Use Permit for a School in the R-2 Zoning District at 123 Lee Drive?



RECOMMENDATION

Approve the special use permit with the following recommended conditions.

CONDITIONS

1. 490 Central Road shall be the primary access point, and shall be the business address for the school. Lee Drive is to be used for emergency vehicles and disabled persons only.
2. The use is permitted while the use and property are in compliance with the easement held by the Virginia Department of Historic Resources. Failure to comply with the easement will result in revocation of this special use permit.

3. No signage (other than signage necessary for traffic management) shall be placed on the Lee Drive access.
4. The applicant shall complete a Fire Service Plan, to be approved by the Fire Marshal and National Park Service prior to the commencement of the use on-site.
5. Any additions to the 1859 Braehead Manor historic structure, construction of new buildings, or substantial modifications of the grounds at 123 Lee Drive shall require an amendment to this special use permit in accordance with § 72-22.6 Special Use Permits. The construction of improvements required by the Fire Service Plan shall not require an amended special use permit.
6. The use is permitted only so long as it continues and is not discontinued for more than 24 months.

City Code Section 72-22.6.E.1 states that all Special Use Permits shall commence within two years of approval of the permit.

Condition one is changed since Council public hearing and Planning Commission action to specifically state that, in addition to access being allowed only via Central Road, '490 Central Road' address will be the address of the use so that GPS and other electronic mapping for the property would direct drivers to a Central Road route. However, as there is no public trash service routes on Central Road, trash pick-up will remain on Lee Drive, as currently occurs.

GENERAL BACKGROUND

Brompton Community School, LLC proposes to operate a school at 123 Lee Drive (Braehead Manor) in the R-2 Zoning Districts. Operating a school in the R-2 Zoning District requires a Special Use Permit. The school would teach Kindergarten through 8th grade with approximately 116 students and staff.

123 Lee Drive is an 18.85-acre property adjacent to the Fredericksburg National Battlefield. The property generally slopes from Lee Drive down toward the Battlefield Industrial Park and is wooded. The school would operate from Braehead Manor, which is an historic home built in 1859. Per the applicant, the structure is two stories in height with an additional basement level. The basement and first floor are each 2,123 sq. ft., and the second floor area is 1,256 sq. ft, for a total of 5,502 sq. ft. Several minor outbuildings surround the main structure.

In 2013 and 2014 Council approved Special Use Permits for the property. These permitted the home to be used as a Bed and Breakfast Inn and an events center. Per the Commissioner of the Revenue, the Bed and Breakfast and events center uses ceased operation as of November 1, 2018. Therefore the Special Use Permits expired on November 1, 2020.

A 50-space parking lot and vehicular and pedestrian access way from Central Road were developed through an adjoining parcel at 490 Central Road as part of those projects. The 490 Central Road parcel is zoned I-2, General Industrial and is in the Battlefield Industrial Park. The school would use the parking lot on this parcel and travel way from Central Road as their main access point. Limited access to the 123 Lee Drive parcel is available from Lee Drive through the

Fredericksburg National Battlefield. Access through from Lee Drive will be limited to disabled persons and emergency vehicles.

The property is historic, but is not within the City's Old and Historic Overlay District. 123 Lee Drive is the subject of a historic preservation easement administered by the Virginia Department of Historic Resources (VDHR). The easement requires VDHR approval prior to any interior or exterior changes to the building or alterations to the site. The site was previously rehabilitated between 2009-2011 to make it suitable for a residence, with modern electrical, plumbing, and mechanical systems installed.

ELEMENTARY AND MIDDLE SCHOOL

Schools are defined in City Code Section 72-84 as:

"A public or private school offering general, technical, or alternative instruction at the elementary, middle, and / or high school levels that operates in buildings or structure or on premises on land leased or owned by the education institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, before and after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution."

PLANNING COMMISSION MEETING – OCTOBER 28, 2020

The Planning Commission held a public hearing on October 28, 2020. At this meeting two public comment letters were read into the record, both in favor of the application. The Commissioners asked a variety of questions:

1. What changes to the building are required by the building code?

The applicant will need to install emergency exit signage and lighting; they will need to make improvements to their heating system, and provide improved access for disabled persons. The Building Official has discussed these issues with the applicant and the project architect, but no permits have been officially submitted yet.

2. How is the occupancy limit determined?

The occupancy limit is determined by the Virginia Building Code. The Code would allow an occupancy limit of approximately 120 people for this structure, depending on the final layout of the rooms.

3. Are there any changes being made to the site?

Internal changes are being made to the property to make it in compliance with the building code. These changes include adding emergency lighting (battery backup) and exit signage (photo luminescent signage), as well as improved access for disabled persons, such as with removable ramps.

4. What agencies govern the operations of private schools?

Per the United States Dept. of Education, licensing and accreditation are optional for private schools in Virginia. Licensing is required if the school will have disabled students; the applicant states they do not work with disabled students. The applicant aims to achieve accreditation within 5 years of operating.

5. What will the utilities impact of the use be?

The site utilizes well water, but is connected to the City's sanitary sewer system for waste disposal. Per the applicant, while the well water is treated and drinkable, potable water will be brought into the site.

PLANNING COMMISSION MEETING – NOVEMBER 18TH 2020

The Planning Commission continued discussion to their Nov. 18th meeting. There was further discussion about Condition #5 and ensuring that the City has a mechanism for input if changes are made to the site. Following discussion, the Commission voted 6-0 (with 1 absent) to recommend **approval**.

CITY COUNCIL MEETING – DECEMBER 8TH, 2020

City Council held a public hearing on December 8th, 2020. At the meeting, there was discussion about the need for dialogue between the applicant and the nearby Braehead Woods neighborhood:

1. Will there be any changes to the site for security?

The applicant will be adding security cameras.

2. Concerns about limited space for events

In cases where events will exceed the fire and building code capacities, events will be staggered or held outdoors.

Council had additional discussion and determined to hold the vote on January 12th, 2021.

PUBLIC COMMENT

Five public comment were submitted for this request. Out of those five comments, two were opposed, due to concerns about impacts to infrastructure. Two comments favored having additional educational choice, and there was one comment that had a series of questions about the use.

The applicant met with residents of the Braehead Woods neighborhood on December 16th, 2020. Residents had questions about addressing, trash pickup, and traffic impacts.

PREVIOUS SPECIAL USE PERMITS

Two previous Special Use Permits were approved for this property. On August 13, 2013 Council approved an SUP for a bed-and breakfast, subject to three conditions:

1. The use of the property shall commence within 18 months of adoption of this Resolution.
2. The use is permitted only so long as it continues and is not discontinued for more than two years.
3. Meetings and events shall be limited to 30 or fewer attendees.

On January 14th, 2014, City Council approved an SUP for the addition of an outdoor event venue. The application was approved subject to conditions:

1. The use shall be in accordance with the application and supporting materials dated May 31, 2013, and November 1, 2013.
2. Before the outdoor event venue use commences, the applicant shall submit a site plan to the City showing all facilities on the property and the property to be used for off-site

parking. The plan must identify and appropriately protect any wetlands and RPA area, and include an alternative parking plan that complies with the UDO.

3. The outdoor event venue is permitted only as it is not discontinued for more than two years.
4. Outdoor events are limited to a maximum of 200 attendees.
5. Outdoor events shall comply with the City's noise ordinance.

SPECIAL USE PERMIT ANALYSIS

Special User Permit applications are evaluated according to the criteria contained in the UDO, Section 72-22.6, as follows:

(1) The proposed special use at a specified location shall be:

(a) In harmony with the adopted Comprehensive Plan;

The property lies within Land Use Planning Area 9: Braehead / National Park. 123 Lee Drive is listed as a Historic Resource in Table 11-40 and is described as "within the Park boundary is the Braehead Manor, which is privately owned but protected through a preservation easement held by the Virginia Department of Historic Resources" (page 11(9)-1).

The future land use map in the Comprehensive Plan designates this property as Preservation. This category provides for:

"Land expected to remain essentially undeveloped has been designated under this general category, which acknowledges existing constraints and limitations of floodplains and certain Chesapeake Bay resource protection areas. Limited development may occur in certain areas, but with severe restrictions."

Kate Schwartz, Historic Resources Planner, reviewed the application to ensure it meets the goals of the Comprehensive Plan. She stated it meets the goals and policies set forth in Chapter 8 "Historic Preservation" includes a vision for historic preservation in the City of Fredericksburg. The section entitled Managing Change on page 8-3 states:

"Since the key to preservation is for buildings to remain in active use, the Fredericksburg review board works with property owners who seek a viable use of their property whether residential, commercial, or otherwise. The City has recognized that the historic parts of the City remain attractive as well as active because they have been adapted to meet changing needs (such as plumbing and air conditioning). Old buildings not adapted to contemporary uses end up abandoned as economically unfeasible...."

The Historic Preservation Goals, Policies, and Initiatives on pages 8-10 through 8-11 include:

Goal 3: Heritage Resources

Continue to recognize, protect, and interpret significant architectural, historical, and archaeological resources that constitute the community's heritage.

Policy 4:

When considering the adaptive reuse of any public building, ensure that the structure's historic integrity will be preserved.

Initiative 10:

Continue to work with the National Park Service, to protect the integrity of the National Military Park as well as to address infrastructure issues and traffic patterns.

The 2010 Historic Preservation Plan expands upon the Comprehensive Plan and includes the following provisions:

Goal 3:

To aid in the preservation of Fredericksburg historic properties, zoning regulations and granting special use permits should be reviewed when a historic building or structure is to be restored, preserved, or reused.

Initiative 1:

Applicants who are working on rehabilitating, restoring, reusing, or preserving historic buildings or structures may apply for a special exception from zoning regulations to include issues related to set backs, use, density, height, and parking.

Comprehensive Plan, Chapter 4 Public Services, Public Facilities, and Preserved Open Space generally focuses on the public aspects of these components, though private schools and health services are discussed on page 4-3 and 4-7 respectively. Goals include:

Goal 3: Education Facilities

Provide high quality education facilities.

Goal 4: Educational System

Provide a quality education that assures opportunity for all students, so that they are encouraged to meet high academic standards and empowered to become productive citizens.

(b) In harmony with the purpose and intent of the zoning district regulations;

The purpose of the R-2 Residential (R2) Zoning District states *"...The district also allows selected uses which are compatible with the low-density residential character of the district and to implement the stated purposes and intent of the Comprehensive Plan."*

The proposed school would be a limited use compatible with the adjacent R2.

(c) In harmony with the existing uses or planned uses of neighboring properties.

123 Lee Drive is between the Fredericksburg National Battlefield and the Battlefield Industrial Park. Utilizing the historic structure as a school between these two uses is an appropriate transition.

In considering an application for a Special Use Permit, the City Council shall consider potential adverse impacts including:

1. Traffic or parking congestion;

The primary vehicular access to the school will be from Central Road to the 50 space parking lot at 490 Central Road. Secondary and emergency vehicle access will be from Lee Drive. The Fire Department requires that the access from Lee Drive be widened by to accommodate the City's tower truck in case of emergency. The National Park Service met on-site with the Fire Department and will permit the driveway expansion and are investigating the feasibility of widening the access point.

2. Noise, lights, dust, odor, fumes, vibration, and other factors which adversely affect the natural environment;

No excessive noise, odor, fumes, or vibration are associated with the proposed use.

3. Discouragement of economic development activities that may provide desirable employment or enlarge the tax base;

The use constitutes economic development.

4. Undue density of population or intensity of use in relation to the community facilities existing or available;

The Fire Department identified two site modifications necessary to adequately provide fire suppression services: the installation of a fire hydrant in proximity to the property and the widening of the driveway to the property from Lee Drive. The driveway is within the Fredericksburg National Battlefield. The Park Service is working with the applicant to review and approve the proposed widening. The fire hydrant will be located on the property at 490 Central Road and will not require oversight from the National Park Service or the Virginia Department of Historic Resources.

5. Reduction in the availability of affordable housing in the neighborhood;

Not applicable, this Special Use application is for a commercial use in an existing building.

6. Impact on school population and facilities;

This Special Use application is for a private school, which would provide additional educational facilities for the residents of the City of Fredericksburg.

7. Destruction of or encroachment upon conservation or historic districts;

123 Lee Drive is not within the City's historic preservation overlay district. However, it is subject to a historic preservation easement from the Virginia Department of Historic Resources. The proposed project will not significantly alter the grounds or the historic structure.

8. Conformity with federal, state and local laws, as demonstrated and certified by the applicant; and

The applicant states they have conformed to all federal, state, and local laws.

9. Massing and scale of the project.

The business will operate within the existing building; no expansion is proposed as part of this Special Use Permit.

CONCLUSION

Brompton Community Schools proposes to reuse 123 Lee Drive (Braehead Manor) for a community school serving kindergarten through 8th grade. The proposal requires minimal change to the interior and exterior of the property. The proposal meets the Comprehensive Plan by providing for an adaptive reuse of Braehead, providing educational facilities for the region, and limiting the impact on the resource and the adjacent National Battlefield. The Applicant is working with the Fire Department and National Park Service to ensure that adequate emergency vehicle access can be provided. If access can be provided, then this proposal meets all the criteria for approval. **Approval** is recommended.

ATTACHMENTS:

1. Resolution



**January 12, 2021
Regular Meeting
Resolution 21-__**

MOTION:

SECOND:

RE: Granting a Special Use Permit for Brompton Community School at 123 Lee Drive, in the R-2 Zoning District

ACTION: APPROVED: AYES: 0; NAYS: 0

Brompton Community School, LLC has applied to the City Council for a special use permit for an elementary and middle school for grades Kindergarten through 8th grade, located at 123 Lee Drive. The subject property is in the R-2 Residential zoning district, adjacent to the Fredericksburg National Battlefield. A school use is permitted in the R-2 zoning district only by special use permit.

City Council, after notice and a public hearing, has considered the application in light of its conformity with the City's Comprehensive Plan, its harmony with the purposes and standards of the zoning district regulations, its compatibility with existing or planned uses of neighboring properties, and whether the proposed special use and related improvements will be designed, sited, landscaped, and otherwise configured so that the use will not hinder or discourage the appropriate development or use of adjacent, neighboring, or community land or structures, or impair their economic, social, or environmental value.

Therefore, the City Council hereby resolves that:

- City Council grants to Brompton Community School, LLC, a special use permit for a school use, in accordance with their application dated September 1, 2020, and in accordance with the following conditions:
 1. 490 Central Road shall be the primary access point, and shall be used as the business address for the school. Lee Drive is to be used for emergency vehicles and disabled persons only.
 2. The use is permitted while the use and property are in compliance with the easement held by the Virginia Department of Historic Resources. Failure to comply with the easement will result in revocation of this special use permit.
 3. No signage (other than signage necessary for traffic management) shall be placed on the Lee Drive access.
 4. The applicant shall complete a Fire Service Plan, to be approved by the Fire Marshal and National Park Service prior to the commencement of the use on-site.
 5. Any additions to the 1859 Braehead Manor historic building, construction of new buildings, or substantial modifications of the grounds at 123 Lee Drive shall require an amendment to this special use permit in accordance with § 72-22.6 Special Use Permits. The construction of improvements required by the Fire Service Plan shall not require an amended special use permit.

6. The use shall commence within 24 months of the date of adoption of this resolution. The use is permitted only so long as it continues and is not discontinued for more than 24 months

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 21-__, adopted at a meeting of the City Council held January 12, 2021, at which a quorum was present and voted.

Tonya B. Lacey, MMC
Clerk of Council



**PLANNING COMMISSION
MINUTES
November 18, 2020
7:30 p.m.
ELECTRONIC MEETING / COUNCIL CHAMBERS, CITY HALL**

You may view and listen to the meeting in its entirety by going to the Planning Commission page on the City's website:

<https://amsva.wistia.com/medias/urchrllcc>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Planning Commission page.

MEMBERS

Rene Rodriguez, Chairman (live)
David Durham, Vice-Chairman (electronic)
Kenneth Gantt (live)
Chris Hornung (absent)
Adam Lynch (live)
Tom O'Toole (electronic)
Jim Pates, Secretary (electronic)

CITY STAFF

Chuck Johnston, Plng & Bldg Dept Director (live)
Mike Craig, Senior Planner (live)
James Newman, Zoning Administrator (electronic)
Susanna Finn, Community Dev. Planner (electronic)
Cathy Eckles, Administrative Assistant (live)

1. CALL TO ORDER

This meeting was held live and electronically by 'Go to Meeting' application, pursuant to City Council Ord. 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

Members of the public were invited to attend in person with social distancing practices and masks required or access this meeting by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at www.facebook.com/FXBGgov.

Chairman Rodriguez called the meeting to order at 7:30 p.m. and explained electronic meeting procedures.

2. PLEDGE OF ALLEGIANCE

3. DETERMINATION OF A QUORUM

Mr. Hornung was absent, all other members were present.

4. APPROVAL OF AGENDA

Mr. Gantt moved for approval of the agenda as submitted. Mr. Durham seconded.
Motion passed 6-0-1.

5. APPROVAL OF MINUTES

October 28, 2020

Mr. Durham motioned to approve the minutes as submitted. Mr. Gantt seconded.
Motion passed 6-0-1.

6. DECLARATION OF CONFLICT OF INTEREST

None.

7. PUBLIC HEARING

A. Continued Item

1. **Brompton Community School LLC** requests a **Special Use Permit** for an elementary school at 123 Lee Drive/GPIN 7778-76-8624. This property is the historic Braehead Manor.

Mr. Newman recapped the staff report from October 28, 2020 with a PowerPoint presentation (Att. 1). Applicant Amber Dawson was present electronically.

Mr. O'Toole noted the project is to use potable well water and asked why the City doesn't require connection to public water. Mr. Newman said the property has a working well, but applicant wants potable water. Mr. Johnston noted that new construction would be required to connect to public water, but as this is a reuse of an existing building, such connection would not be required. Ms. Dawson that the previous owner considered public water connection, but did not pursue it because of the cost. Mr. O'Toole questioned why in the previous special use permit there was a condition to confine events to the side of the building away from Lee Drive. Mr. Newman said that this was due to the large number of people (250+) anticipated at events, but it is not a concern for the school. Mr. O'Toole asked for staff or applicant to discuss the licensing requirements. Ms. Dawson noted that the Commonwealth of Virginia does not require licensed teachers for private schools if there are no disabled students, however, the Brompton Community School has made licensing a requirement of its teachers. She said the school accreditation process is five years, as a program has to be established and observed over time, but it is not required or mandated by the state. Mr. O'Toole requested a condition added that the accreditation process will be completed in a timely manner. Ms. Dawson stated the National Park Service (NPS) has approved the driveway expansion and the fire hydrant is still in the works.

Mr. Pates asked about Condition No. 5 that requires an amendment to the Special Use Permit for any additions or new construction. Mr. Newman said that one of the Commissioners asked for this at the previous meeting, so that any changes to the site would be in conformance with the easement and City would have local control. Mr. Pates noted his disagreement with this condition because it should be under the control of the Department of Historic Resources' (DHR's) easement and he doesn't think it is appropriate or within the Commission's purview. Mr. Craig noted that the City Attorney had a similar concern as she felt the City shouldn't become a middle party. Staff explained that the purpose of the condition was to ensure that any substantial changes were considered locally. Mr. Durham clarified that the purpose of Condition No. 5 is not to step in between DHR and the property owner, but just an additional avenue for the City to review changes that DHR may agree to. Mr. Craig said yes and that this is in lieu of having a condition that states the use will be in conformance with the GDP. Mr. Craig noted that Condition No. 5 will only apply to the special use for a school use.

Mr. Lynch questioned the revenue implications of this change in use and what will this do to the amount of tax revenue the City will receive. Mr. Durham noted that the property is currently not generating any revenue. Mr. Johnston said that property taxes are based on size and improvements so the assessed valuation is not changing. Chairman Rodriguez asked if federal and state funds will be affected by pulling students from the public school system. Mr. Johnston does not know how substantial that may be.

Chairman Rodriguez asked if there are any proposed modifications to make the property ADA accessible. Ms. Dawson noted there are some portable ramps proposed per ADA compliance requirements.

No public speakers being present and no public comments being received, Chairman Rodriguez closed the public hearing. Mr. Gantt motioned to recommend approval to the City Council of the special use permit with the conditions noted. Mr. Durham seconded. Mr. Pates noted he still thinks Condition No. 5 is out of the Commission's purview.

Motion passed 6-0-1.