

**Department of Community Development
Staff Report**

PROPERTY OWNERS: 1720 Voyager LLC and Following the Child LLC

APPLICANT: Beth Ann Slater, Middleburg Montessori School

LOCATION: 7296 and 7274 Rectors Lane, Middleburg, Virginia

DISTRICT: Scott District

PIN(S): 6073-89-6367-000 and 6073-89-9285-000

ACREAGE: 4.35 Acres

ZONING: Residential Village (V)

LAND USE: Village

MEETING DATE: September 8, 2016

REQUEST: SPEX-16-005332: The applicant is seeking approval of a Category 5 Special Exception to allow a primary school for students less than 15 years of age and a Category 5 Special Permit to allow a nursery school for children under six years of age, in accordance with Sections 5-006 and 5-500 of the Zoning Ordinance.

ISSUES: There are three items that require two findings and one waiver from the Board of Supervisors, should the application be approved. These items are summarized below with additional information and staff evaluation included within the report.

1. The Zoning Ordinance (Section 5-502.1) requires that structures used for a primary school shall be at least 100 feet from an adjoining property except where such use proposes to utilize an existing structure and the Board of Supervisors finds that a lesser setback will not cause an undue impact on the adjoining property. The existing structure on the western most parcel is approximately 41 feet from the adjoining property.
2. The Zoning Ordinance (Section 5-502.2) requires that a parcel used as a primary school shall have minimum road frontage on a road designated as a major collector in the Comprehensive Plan unless the Board of Supervisors finds that the type and amount of traffic generated by the new

facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage. Rectors Lane (Route 828) does not meet this requirement.

3. The Zoning Ordinance (Section 5-504.3) requires all primary schools located in residential zoning districts to have a minimum lot size of five acres, unless the Board of Supervisors waives this requirement for a primary school located in a Residential Village (V) district with less than 50 primary school students (ages 6-14). Combined, the two parcels total 4.35 acres. The Planning Commission has recommended a condition to limit the number of primary school students to 49, including both parcels.

RECOMMENDATION: The Planning Commission voted unanimously to recommend approval of Special Exception/Special Permit SPEX-16-005332, subject to conditions. Should the Board of Supervisors approve the application, these conditions will replace the previously approved conditions and apply to both parcels. The application satisfies the standards of Zoning Ordinance Sections 5-006 and 5-500.

Topic Description:

The applicant is requesting a Special Exception to allow a primary school for students under the age of 15 and a Special Permit to allow a nursery school for children under the age of six. This application would expand the current Middleburg Montessori School campus to include the adjacent property to the west. The existing school has a current enrollment of 42 students with an allowable total of 84 students, as well as one part-time and six full-time staff members.

With the expansion, the applicant intends to reuse an existing house on the new parcel to accommodate additional nursery school children (birth-age 5) and primary school children (ages 6-14). The applicant states that the total number of students enrolled on the entire campus between the two parcels would not exceed 138, which equates to an additional 54 students.

Property improvements would be added in phases, including the following:

- the enrollment of additional students, starting with children ages birth to 16 months and slowly progressing to the enrollment of older students ages 12 to 14 years;
- providing housing for no more than four non-related staff members in the existing building; which is allowed by-right in the Residential Village (V) district;
- hiring additional teachers and other staff as needed;
- the installation of a fenced outdoor recreation area for younger students;
- the construction of a lighted pathway connecting the two parcels; and
- eventually offering teacher training classes that would be open to Montessori educators outside of the immediate area.

The Planning Commission has recommended a condition that would require the applicant to fence the entire perimeter of the two properties. After this fencing is in place, the applicant plans to use this area to provide outdoor recreation for the older primary school students.

The applicant states that hours of operation in the new building would follow the current school schedule: Monday through Friday, 8:00 a.m. to 3:00 p.m. with an after school option until 6:00 p.m. Staff hours are from 7:00 a.m. to 7:00 p.m. year round. Children currently arrive to school at staggered times, usually between 8:00 a.m. and 8:30 a.m., although some arrive as late as 9:00 a.m. Care givers pick up their children in the same time-staggered fashion. Families can choose to enroll their children in a twelve-month or nine-month school year.

Background:

The Middleburg Montessori School has served the surrounding area since it was founded in 1980 and has been operating at its current location, 7274 Rectors Lane, since 2001 after the Board of Zoning Appeals approved a Special Permit to allow a nursery school use. In 2011, the Board of Supervisors approved a Category 5 Special Exception to add a primary school use and a Special Permit to expand the nursery school use beyond 35 students. This approval was contingent upon conditions, which the applicant now appears to be meeting. In 2012, a Minor Site Plan application was approved for the construction of a new building, and in 2014, a Minor Site Plan Amendment was approved to expand the required fencing around the outdoor recreation area.

Planning Commission Action on August 18, 2016:

The Planning Commission discussed this item at its work session and conducted a public hearing. There were no speakers. The Planning Commission voted unanimously to recommend approval of the application with conditions.

Current Location, Zoning and Land Use:

The subject properties are located at 7296 and 7274 Rectors Lane (Route 828) in the Village of Atoka in Scott District. The parcels are zoned Residential Village (V) and consist of 4.3 acres in total. One parcel currently serves as the Middleburg Montessori School. The other parcel is now being used for residential purposes.

Comprehensive Plan:

The subject properties are designated for village use. Chapter 7 of the Comprehensive Plan, the Villages Plan, recognizes the importance of maintaining the character and identity of the County's villages, which have historically provided social and economic services to the rural areas. Chapter 7 anticipates a mix of uses within the villages—residential uses, institutional uses, like churches, and appropriately scaled business and service uses. This chapter also encourages the rehabilitation and adaptive use of existing buildings within the villages, especially to promote low-impact commercial enterprises.

Staff Analysis:

5-006 General Standards for Special Permits and Special Exception Uses

In addition to the special standards set forth hereinafter for specific uses, all special permit and special exception uses shall satisfy the following general standards:

1. The proposed use shall be such that it will not adversely affect the use or development of neighboring properties. It shall be in accordance with the applicable zoning district regulations and the applicable provisions of the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and/or use of adjacent or nearby land and/or buildings or impair the value thereof.

The proposed use will not adversely affect the use or appropriate development of adjacent or neighboring properties or impair their value. The application is in accordance with Residential Village (V) zoning district regulations and in conformance with the Comprehensive Plan.

2. The proposed use shall be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.

The applicant did not estimate a number of trips per day to the school but did state that student drop-off and pick-up times are generally staggered. The vehicular traffic associated with the new use is not expected to significantly conflict with existing and anticipated traffic in the neighborhood and streets serving the site. The applicant would be required to comply with all Virginia Department of Transportation (VDOT) requirements. It is likely that VDOT will expect the applicant to install a commercial entrance for the new ingress off Rectors Lane (Route 828).

3. In addition to the standards which may be set forth in this Article for a particular category or use, the BZA and Board may require landscaping, screening, yard requirements or other limitations found to be necessary and appropriate to the proposed use and location.

The applicant is not proposing to install landscaping at this time. Instead, the applicant plans to retain the existing trees and other natural vegetation, landscaping, and fencing. The Planning Commission has recommended conditions that would require the applicant to retain all existing vegetation around the perimeter of the subject properties and install a non-scalable fence in the same area. Another condition recommended by the Planning Commission would require the

applicant to effectively screen the new parking area. A stone wall, approximately three feet in height with end stone pillars, borders the subject properties to the south. It provides adequate screening from motorists traveling along Rectors Lane (Route 828). The Planning Commission has recommended a condition that would require the applicant to retain the stone wall, except in the instance where a portion could potentially have to be removed should a commercial entrance be required on Rectors Lane.

Staff notes that in the 2011 conditions, fencing was required along John S. Mosby Highway (Route 50) and Rectors Lane (Route 828). It appears that this condition has been met with the exception of a locked farm gate across a private entrance along Route 50. The Planning Commission has recommended a condition that would require that non-scalable wire fencing be installed on the gate and that this gate remained locked at all times.

4. Open space shall be provided in an amount at least equal to that specified for the zoning district in which the proposed use is located.

Open space is not required for this application.

5. Adequate utility, drainage, parking, loading, and other necessary facilities to serve the proposed use shall be provided. Low impact development techniques are encouraged by the County and shall be incorporated into the site and facility design when deemed appropriate by the applicant after consultation with appropriate county officials. Parking and loading requirements shall be in accordance with the provisions of Article 7.

In comments dated 7/18/2016, the Virginia Department of Health (VDH) states that the design flow of the currently issued permit for 7296 Rectors Lane (Route 828) is for Residential Strength sewage (450 gallons per day) for a four (4) bedroom residence, limited to six (6) persons. Prior to the use of the property as a school, VDH will require the applicant to hire a private Onsite Soil Evaluator (OSE) or professional engineer to conduct a wastewater use analysis for the proposed school use and provide the VDH with an OSE/PE report based on current VDH regulations. The Planning Commission has recommended a condition that would require the applicant to comply with all Virginia Department of Health (VDH) requirements and obtain the Operation Permit for the proposed school use at 7296 Rectors Lane prior to release of the Site Plan.

Off-street parking is represented on the Special Exception/Special Permit plat. It is proposed outside of the minimum front yard setback, which is 50 feet from the centerline of Rectors Lane (Route 828). Parking, site drainage, and other necessary facilities for the proposed use will be addressed during the Site Plan application process.

6. Signs shall be regulated by the provisions of Article 8, except as may be qualified in the Parts that follow for a particular category or use. However, the BZA and the Board, under the authority presented in Section 007 below, may impose more strict standards for a given use than those set forth in this Ordinance.

No additional signs are proposed on the subject properties at this time. However, if a sign is proposed in the future, sign height, width, and installation would be regulated by Article 8 of the Zoning Ordinance.

7. The future impact of a proposed use will be considered and addressed in establishing a time limit on the permit, if deemed appropriate. Existing and recent development, current zoning and the Comprehensive Plan shall be among the factors used in assessing the future impact of the proposed use and whether reconsideration of the permit after a stated period of time would be necessary and appropriate for the protection of properties in the vicinity and to ensure implementation of the Comprehensive Plan.

The applicant has requested no time limit be placed on the proposed use.

8. The proposed use shall be such that air quality, surface and groundwater quality and quantity, are not degraded or depleted to an extent that would hinder or discourage the appropriate development and/or use of adjacent or nearby land and/or buildings or impair the value thereof.

The proposed use should not affect air quality and surface or groundwater.

9. Except as provided in this Article, all uses shall comply with the lot size, bulk regulations, and performance standards of the zoning district in which located.

The applicant will be required to comply with all applicable zoning district regulations.

5-500 Category 5 Educational Uses

In addition to the general standards set forth in Section 006 above, the following standards shall apply:

5-501 Standards for All Category 5 Uses

1. All off-street parking and loading areas, swimming pools and tennis courts and similar facilities shall be effectively screened and shall not be located in any required yard in all Residential and Rural District.

The Planning Commission has recommended a condition that would require the applicant to effectively screen off-street parking and provide it outside of the required front yard setback.

5-502 Additional Standards for All Category 5 Uses Other than Pre-School/Day Care Center/Nursery School

1. No structure used for or in conjunction with the use shall be located within 100 feet of any adjoining property which is in a Residential or Rural District, except where such use proposes to utilize an existing structure and the Board of Supervisors or the Board of Zoning Appeals find that the lesser setback will not cause an undue impact on adjoining properties because of the specific characteristics of the proposed school or adjoining property.

The applicant proposes to use an existing structure on the new parcel that is approximately 41 feet from an adjoining property on the west side. Due to existing vegetation on the subject property, which the applicant would be required to retain, and a proposed condition that would require the applicant to construct a non-scalable fence around the perimeter of the subject properties, it is not

anticipated that the lesser setback will cause undue impact on the adjoining property. The Board of Supervisors found that the lesser setback of the existing school building did not cause undue impact when the 2011 Special Exception/Special Permit was approved.

2. The site shall have minimum road frontage, as required for the site's zoning district, on a road designated as a major collector in the Comprehensive Plan, unless the Board of Supervisors or the Board of Zoning Appeals find that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.

The Comprehensive Plan does not classify Rectors Lane (Route 828) as a Rural Major Collector; however, the type and amount of traffic associated with the use is not anticipated to cause undue impact on the neighbors or adversely affect safety of road usage.

3. All off-street parking and loading spaces, swimming pools and tennis courts and similar facilities shall be effectively screened and shall not be located in any required yard in all Residential and Rural Districts.

The applicant intends to provide additional off-street parking for the new school building, noted on the Special Exception/Special Permit plat. The effectiveness of the existing screening, natural vegetation, and the stone wall will be determined during the Site Plan application process. Parking will not be located in any required yard.

5-503 Additional Standards for Pre-School/Day Care Center/Nursery School

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area shall be of such size that 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed.

For the purpose of this provision, usable outdoor recreation area shall be limited to:

- A. That area not covered by buildings or required off-street parking spaces.
- B. That area outside the limits of the required front yard.
- C. Only that area which is developable for active outdoor recreation purposes.

The new outdoor recreation area planned for the nursery school children on PIN 6073-89-9285-000 would not be covered by buildings or off-street parking or located within the limits of the required front yard. The applicant has stated in the Statement of Justification that during the second phase of the project, children ages 3-6 years would be using this recreation area. The Planning Commission has recommended a condition that would require the size of the new outdoor recreation area to accommodate its use of space per child at any given time. The outdoor recreation area on the existing school property meets this standard.

2. All outdoor recreation area shall be fully fenced.

Staff has prepared a condition for Board of Supervisors' consideration that would require the applicant to completely surround the new nursery school outdoor recreation area with a wood fence at least four feet in height.

5-504 Additional Standards for Primary School, Secondary/Advanced Schools and Technical Schools (Indoor)

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area for a private school of general education shall be of such size that:
 - A. 200 square feet of usable outdoor recreation area shall be provided for each child in grades kindergarten through three (3) that may use the space at any one time, and
 - B. 430 square feet of usable outdoor recreation area shall be provided for each child in grades four (4) through twelve (12) that may use the space at any one time. Such usable outdoor recreation shall be delineated on a plat submitted at the time the application is filed. For the purpose of this provision, usable outdoor recreation area shall be limited in the same manner as paragraph 503.1.

The school will rotate the student use of the outdoor recreation area, as shown on the Special Exception/Special Permit plat, to meet the aforementioned standard for primary school students. The outdoor recreation area on the existing school property meets this standard.

The Planning Commission has recommended a condition that would require the applicant to fence the entire perimeter of the two properties. After this fencing is in place, the applicant plans to use this area to provide outdoor recreation for the older primary students.

2. All outdoor recreation areas for primary schools shall be fully fenced, unless waived by the Board with approval of a Special Exception.

The applicant will be required to comply with this standard.

3. The following standards shall apply to primary and secondary/advanced schools in residential zoning districts:
 - A. Minimum lot size shall be 5 acres, except that the Board of Supervisors may waive this requirement for a primary school located in the Residential-Village District, when such serves less than fifty (50) students.
 - B. All exterior lighting shall be designed and installed so that all direct rays are confined to the site and adjacent properties are protected from glare.

The combined acreage of both parcels is 4.35, and the properties are zoned Residential Village (V). The applicant does not intend to enroll more than 50 primary school students (ages 6 to 14) in the school, which applies to both parcels. The Planning Commission has recommended a condition that would require the applicant to enroll no more than 49 primary students in the school, including both parcels.

Staff and Agency Review Comments:

Staff and certain referral agencies have reviewed this application for conformance with the Comprehensive Plan, the Zoning Ordinance, and other relevant policies and regulations. Findings, comments, and recommendations are summarized below. Following each comment is a staff note in italics stating how the comment has been addressed.

Planning Considerations:

See analysis provided within the staff report.

Preservation Planner Analysis:

The subject properties are located adjacent to the Atoka Historic District, which was listed in the National Register of Historic Places in 2004. The planned reuse of the subject properties does not diminish the integrity of this district. The subject properties are also a part of the inventory of the Cromwell's Run Rural Historic District and Expansion. However, due to the relatively recent construction of the architecture, the properties were labeled non-contributing to the rural district. A historic stone wall, which is in good condition, borders the subject properties on the south side. The wall is a remnant of the time when Rectors Lane was a part of the Ashby's Gap Turnpike and later, the state highway. This important landscape feature should be retained, if possible.

Zoning Considerations:

The Zoning Office reviewed the Special Exception/Special Permit request and notes the following findings:

1. The subject property is zoned Residential - Village (V).

Noted, no action required.

2. Section 3-305 Educational Uses (Category 5), use 1 (Preschool/Nursery School, Child Day Home) allows the proposed use with the approval of a Special Permit application, with subsequent Site Plan approval, in the V zoning district.

Noted, no action required.

3. Section 3-305 Educational Uses (Category 5), use 2 (Primary School) allows the proposed use with the approval of a Special Exception application, with subsequent Site Plan approval, in the V zoning district.

Noted, no action required.

4. Section 5-006 *General Standards for Special Permits and Special Exception Uses* applies to the subject property. Zoning staff defers to Planning staff in the compliance assessment of these standards.

Analysis provided in this report.

5. Sections 5-501 Standards for All Category 5 Uses, 5-502 *Additional Standards for All Category 5 Uses Other than Pre-School/Day Care Center/Nursery School*, 5-503 *Additional Standards for Pre-School/Nursery School, Child Day Centers and Child Care Facilities*, and 5-504 *Additional Standards for Primary School, Secondary/Advanced Schools and Technical Schools (Indoor)* applies to the subject property. Zoning staff defers to Planning staff in the compliance assessment of these standards.

Analysis provided in this report.

Zoning staff notes the following, should the Board of Supervisors decide to approve the request:

- The Board of Supervisors must make a finding that the existing structure, which is located less than 100 feet from any adjoining property line, that the lesser setback will not cause an undue impact on the adjoining property because of the specific characteristics of the proposed school or adjoining property (Section 5-502.1 of the Zoning Ordinance (ZO)).
- The Board shall make a finding that the type and amount of traffic by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage on a road that is not designated as a major collector (Section 5-502.2 of the ZO).
- All off-street parking and loading spaces shall be effectively screened and shall not be located in any required yard (Section 5-502.3 of the ZO). The minimum front yard setback is 50 feet from the centerline of Rectors Lane. The proposed additional parking area will need to remain outside of the front setback area.
- Section 5-504.3.A requires a minimum lot size of 5 acres for a primary school located in a residential zoning district. The Board of Supervisors may waive this requirement in the V District if the school serves less than 50 students. Based upon the applicant's Statement of Justification, it appears that the education of the primary students is limited to 30 students on the new parcel. Nevertheless, the Board must waive the lot size requirement based on this standard.

Analysis provided in this report.

6. The applicant will be required to file a Site Plan application, should the Special Permit/Special Exception request be approved by the Board of Supervisors.

Should the Board of Supervisors approve this application, the applicant will be required to submit a Site Plan application.

7. Lighting will be reviewed during the Site Plan application for conformity with Article 9 of the Zoning Ordinance.

The only lighting proposed at this time includes a lighted pathway between the two parcels, which is intended to be installed during Phase III of the project. All lighting proposed by the applicant shall comply with the standards of Article 9 of the Zoning Ordinance.

8. Landscaping will be reviewed during the Site Plan application for conformity with Article 7 of the Zoning Ordinance.

At this time, the applicant does not propose to install new landscaping.

Virginia Department of Health (VDH):

1. On December 08, 2015, the Department issued a conditional construction permit for 7296 Rectors Lane. That permit was issued based on site and soil evaluation and design provided by Mr. Mathew D. Tolley, Private Onsite Soil Evaluator (OSE). The Department has not received back from the owner the recorded notice that outlines the conditional aspects of the permit nor has the Department received an inspection report and completion statement from the Private OSE stating the work has been completed. The Department will require the above documents prior to the issuance of a new Operation Permit for the system.
2. In the letter from Beth Ann Slater (RE: Health Department) she states the current system allows for 480 GPD (gallons per day), however the design flow of the currently issued permit is for Residential Strength sewage with a design flow of 450 GPD (4 bedrooms, limited to 6 persons).
3. Prior to approval of the expansion of the school the owner will need to have a Private OSE or Professional Engineer conduct a wastewater use analysis of the proposed expansion and provide the Department with an OSE/PE report that includes any expansion/modifications required for permit to review and approve based on current VDH regulations.

The comments above are provided for reference. The Planning Commission has recommended a condition that would require the applicant to meet all VDH regulations.

Department of Fire & Rescue and Emergency Management:

No comment provided.

Virginia Department of Transportation (VDOT):

VDOT has no objection to the approval of the Special Exception & Special Permit. However, the applicant will have to address the following standards at the Site Plan stage:

1. The application will be required to complete a turning lane warrant analysis at the Site Plan stage [for the entrance of the new parcel].
2. The applicant will be required to provide an intersection sight distance profile on the Site Plan.
3. The applicant will be required to show the commercial entrance standard for commercial entrances on the Site Plan.

The comments above are provided for reference. The Planning Commission has recommended a condition that would require the applicant to comply with all VDOT standards.