



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of May 14, 2011

**DATE:** May 4, 2011

**SUBJECT:** U-1671-65-3 USE PERMIT AMENDMENT for modification of Condition #48 regarding lighting installations underneath the Old Dominion Drive bridge; located at 4763 Old Dominion Drive (RPC# 03-065-001).

**Applicant:**

Marymount University

**By:**

Walsh, Colucci, Lubeley, Emrich, and Walsh, P.C.  
2200 Clarendon Boulevard, Suite 1300  
Arlington, Virginia 22201

**C.M. RECOMMENDATION:**

Approve the use permit amendment subject to all previously approved conditions and the modified condition of the staff report.

**ISSUES:** This is a request for an amendment to the use permit for the Marymount-26<sup>th</sup> Street Project to modify Condition #48 pertaining to the installation of lighting underneath the Old Dominion Drive bridge, and no issues have been identified.

**SUMMARY:** This is a request to modify Condition #48 of the use permit for the Marymount-26<sup>th</sup> Street Project, which was approved by the County Board on July 9, 2007. The current condition language requires the applicant to install lighting under the Old Dominion Drive bridge, which is owned by the Virginia Department of Transportation (VDOT). When the applicant approached VDOT to obtain a permit for the lighting installation, the request was denied due to VDOT's desire not to allow improvements to the bridge prior to VDOT maintenance work on the bridge. VDOT has not yet scheduled the maintenance work. As a result, the applicant has not been able to fulfill the requirements that would allow them to receive a Master Certificate of Occupancy (MCO) for the project. The applicant is proposing to modify Condition #48 to allow issuance of the MCO subject to submission of a bond equal to the cost of installing the subject lighting. As proposed, the bond would be released when the lighting is installed. Therefore, staff recommends that the use permit amendment for modification of

County Manager:

*BMD/GA*

Staff: Matthew Pfeiffer, DCPHD, Planning Division  
Robert Gibson, DES, Transportation Planning

6.

PLA-5881

Condition #48 be approved subject to all previously approved conditions and the modified condition of the staff report.

**BACKGROUND:** Marymount University is proposing a modification of Condition #48 regarding the required installation of lighting under the Old Dominion Drive bridge. The following provides additional information about the site and location:

Site: The 63,315 square foot site is located on a triangular piece of property bounded by Old Dominion Drive, Yorktown Boulevard, and 26<sup>th</sup> Street North.

Zoning: The site is zoned “S-3A” Special Districts.

Land Use: The site is designated on the General Land Use Plan (GLUP) as “Public” (Parks--local, regional, and federal--; schools --public--; parkways, major unpaved rights-of-way; libraries; and cultural facilities).

Neighborhood: The site is not located within a specific civic association. Four (4) civic associations surround the property: Old Dominion, Donaldson Run, Yorktown, and Rock Spring. Representatives of the subject civic associations discussed the applicant’s request at the April meeting of the Neighborhood Relations Committee held between the applicant (Marymount University) and the surrounding communities. The Donaldson Run Civic Association has responded to staff that they support the applicant’s proposal; none of the remaining civic associations consulted have responded to staff as of the date of the report.

In January 2010, the County Board approved an amendment to the use permit for the Marymount-26th Street project to allow a modification to Condition #68 regarding the provision of public art underneath the Old Dominion Drive bridge. When Marymount University approached VDOT for a permit for public art, they were told by VDOT that no permit would be issued until VDOT maintenance on the bridge was completed. As a result of VDOT not issuing a permit for public art on the subject bridge, Marymount University received approval from the County Board to reallocate the funds for the subject public art to a new corner landscape treatment located at 26<sup>th</sup> Street and Old Dominion Drive.

**DISCUSSION:** VDOT, the owner of the Old Dominion Drive bridge, has denied the applicant’s request for a permit to install lighting under the bridge due to their desire not to have improvements made to it prior to VDOT bridge maintenance work. VDOT has identified the subject bridge as in need of maintenance, and is reviewing a schedule for when that work could be done. As the Master Certificate of Occupancy (MCO) for the Marymount-26<sup>th</sup> Street project cannot be issued until the subject lighting is installed, the applicant has requested relief from Condition #48 to allow the MCO to be issued. The proposed language would allow Marymount to receive their MCO provided they post a bond for an amount equal to the work, which would be released when the lighting is installed at a future date. The bond would be posted by releasing to the applicant the general bond for the project (required by Condition #33) *minus* the cost of the lighting work. This bond would be held by the County until the work is completed by Marymount University, or if in three (3) years time VDOT has not issued a permit to Marymount University for the lighting installation, Marymount University could request that the County release the remainder of the bond.

Staff supports the applicant's proposed amendment to Condition #48. As the bridge is owned and maintained by VDOT, the subject condition is contingent on the cooperation of a third party. Staff supports allowing the applicant to receive their MCO with the understanding that the bridge lighting will be installed by Marymount when VDOT has completed maintenance for the bridge. Staff has been working with VDOT on their efforts to develop a maintenance schedule for the subject bridge, and is confident that maintenance will be performed within three (3) years, thus allowing installation of the lighting. Representatives from the surrounding communities have been briefed on the proposal and support the applicant's request.

**CONCLUSION:** The applicant is proposing relief from the timing requirements of Condition #48 regarding the installation of lighting under the Old Dominion Drive bridge. Staff supports allowing the applicant to receive their MCO for the project given that a bond for the subject lighting installation will be held by the County until the required work is completed. From working with VDOT, staff anticipates that the VDOT maintenance work will be completed within three (3) years and Marymount will be issued a permit for the lighting installation. Therefore, staff recommends approval of the use permit amendment for modifications to Condition #48 subject to all previously approved conditions and the new modified condition of the staff report.

Modified Condition:

**Lighting Plan for Public Areas**

48. The developer agrees to include a lighting plan for all internal and external public areas, including parking areas and lighting under the Old Dominion Drive bridge along Yorktown Boulevard, as part of the final site development and landscape plan. This lighting plan shall be subject to review by the County Manager. The developer shall include in the site development and landscape plan certification that the lighting plan meets the minimum standards of the Zoning Ordinance, Section 2, Subsection H, and the Illumination Engineering Society of North America Standards. Further, the developer agrees that such lighting shall meet dark sky standards as of the date of this approval. The developer agrees to obtain the approval of all lighting from the County Manager, and to install approved lighting, with the exception of the lighting under the Old Dominion Drive bridge, before the issuance of the First Certificate of Occupancy for occupancy of the applicable phase of the project.

Prior to the issuance of the Master Certificate of Occupancy, the developer agrees to either 1) complete the installation of lighting under the Old Dominion Drive bridge which spans Yorktown Boulevard; or 2) post a bond in an amount which is a portion of the bond amount required in Condition #33, which is equal to the cost of installing such lighting under the Old Dominion Drive bridge; and which is acceptable to Arlington County. Such bond may be released to the developer upon completion of said lighting installation under the bridge. In the event that neither the necessary VDOT approvals to install the lights under the bridge have been issued by VDOT nor the lighting installed by the developer as of June 1, 2014, the developer may request in writing a review by the County Manager or his designee, at which time the County Manager may, upon

determination that necessary VDOT approvals for said light installations are not reasonably likely to be forthcoming, release the bond amount to the developer.



care and learning center for 60 children, three to five years old, 7:00 a.m. to 6:00 p.m., Monday through Friday.

April 3, 1982

Approved a use permit for an off- site parking area incidental to a use permitted in an "R" District for the parcel of real property known as 4761 Old Dominion Drive (U-2332-82-2), subject to conditions, and with review in one (1) year:

April 8, 1983

Renewed a use permit for an off- site parking area incidental to a use permitted in an "R" District for the parcel of real property known as 4761 Old Dominion Drive (U-2332-82-2), subject to all previous conditions and with no further review.

August 16, 1986

Approved a use permit amendment (U-1974-74-4) to expand the enrollment in a day care center from 60 to 120 children, ages two to six years, from 7:00 a.m. to 6:00 p.m. on weekdays, subject to a condition and review in three years.

July 9, 1988

Approved a use permit amendment (U-1671-65-2) to address the change in program from a junior college with an enrollment of 1,000 students to a university with an enrollment which may exceed 1,000 students and to permit the construction of a three story addition containing 32,804 square feet of gross floor area to provide additional library space and related services, subject to conditions and review in 18 months.

January 9, 1990

Requested Marymount University to work with the County staff to address parking issues and to designate a liaison to speak with affected civic associations.

Renewed a use permit (U-1671-65-2) for a program change from a junior college with an enrollment of 1,000 students to a university with an enrollment which may exceed 1,000 students, and for construction of a three story addition for additional library space and related services, subject to all previous conditions and review in six months.

July 30, 1991

Renewed a use permit (U-1671-65-2) for a university with an enrollment which may exceed

1,000 students, and associated library and related services, subject to all previous conditions, one new condition, and review in one year.

Established a Mission Statement for the Working Group as agreed to by representatives of Marymount University.

August 10, 1991

Approved and ratified the Purchase Agreement attached to the County Manager's August 8, 1991 replacement report between the County and Marymount University for the sale to the University of a parcel of land bounded by Old Dominion Drive, Yorktown Boulevard, and North 26th Street for \$1,087,500, and authorized the Chairman to execute the deed conveying the property, with the contract and deed subject to changes which either clarify or improve the County's position and do not adversely affect the County's interest, as determined by the County Manager and approved by the County Attorney.

September 18, 1991

Renewed a use permit (U-2332-82-2) for an off-site parking area incidental to a use permitted in zoning district "R-6," One-Family Dwelling District, for the parcel known as 4761 Old Dominion Drive, subject to all previous conditions and one new condition.

May 16, 1992

Carried over to the May 26, 1992 recessed session, a rezoning (Z-2404-92-1); use permit amendment and review (U-1671-65-2); and abandonment and conveyance to Marymount University of a portion of right-of-way for Yorktown Boulevard at North 26th Street.

May 26, 1992

Approved a rezoning (Z-2404-92-1) of approximately 42,357 square feet of land at the intersection of Yorktown Boulevard and North 26th Street from "S-3A," Special District, "R-10," One-Family Dwelling District; and Approved a use permit amendment (U-1671-65-2) to incorporate into the university site approximately 42,357 square feet of land on which a parking facility containing 289 spaces will be constructed for the parcels of real property known as 2807 North Glebe Road and the property at the

intersection of Yorktown Boulevard and North 26th Street, approval is granted and the parcels so described shall be used according to the use permit approval requested by the application, subject to all previous conditions, new conditions, and review of the operation of the garage in one year following the issuance of a certificate of occupancy; and

Abandoned and conveyed to Marymount University the portion of the right-of-way for Yorktown Boulevard at North 26th Street, as shown on a plat attached to the County Manager's May 5, 1992 report, subject to conditions.

July 16, 1998

Approved a use permit amendment (U-1671-65-2) for construction of an addition to provide gymnasium, locker rooms, and ancillary space to Butler Hall at Marymount University (approximately 27,000 square feet of gross floor area) for the parcel of real property known as 2807 North Glebe Road, subject to all previous conditions; amended conditions, and new conditions; and review in one year following issuance of a Certificate of Occupancy.

December 12, 2006

Deferred consideration of a use permit amendment (U-1671-65-2) for the construction of additional classrooms, faculty offices, academic space, laboratories, dorm rooms, accessory uses, parking; 2807 N. Glebe Rd., 4655 N. 26<sup>th</sup> St. and subject property bounded by Old Dominion Dr., Yorktown Blvd. and N. 26<sup>th</sup> St. (Marymount University) (RPC #03-065-001, 03-047-001, -217) to the March 17, 2007 meeting.

March 17, 2007

Deferred consideration of a use permit amendment (U-1671-65-2) for the construction of additional classrooms, faculty offices, academic space, laboratories, dorm rooms, accessory uses, parking; 2807 N. Glebe Rd., 4655 N. 26<sup>th</sup> St. and subject property bounded by Old Dominion Dr., Yorktown Blvd. and N. 26<sup>th</sup> St. (Marymount University) (RPC #03-065-001, 03-047-001, -217) to the June 9, 2007 meeting.

June 9, 2007

Deferred consideration of a use permit amendment (U-1671-65-2) for the construction of additional

classrooms, faculty offices, academic space, laboratories, dorm rooms, accessory uses, parking; 2807 N. Glebe Rd., 4655 N. 26<sup>th</sup> St. and subject property bounded by Old Dominion Dr., Yorktown Blvd. and N. 26<sup>th</sup> St. (Marymount University) (RPC #03-065-001, 03-047-001, -217) to the July 7, 2007 meeting.

July 7, 2007

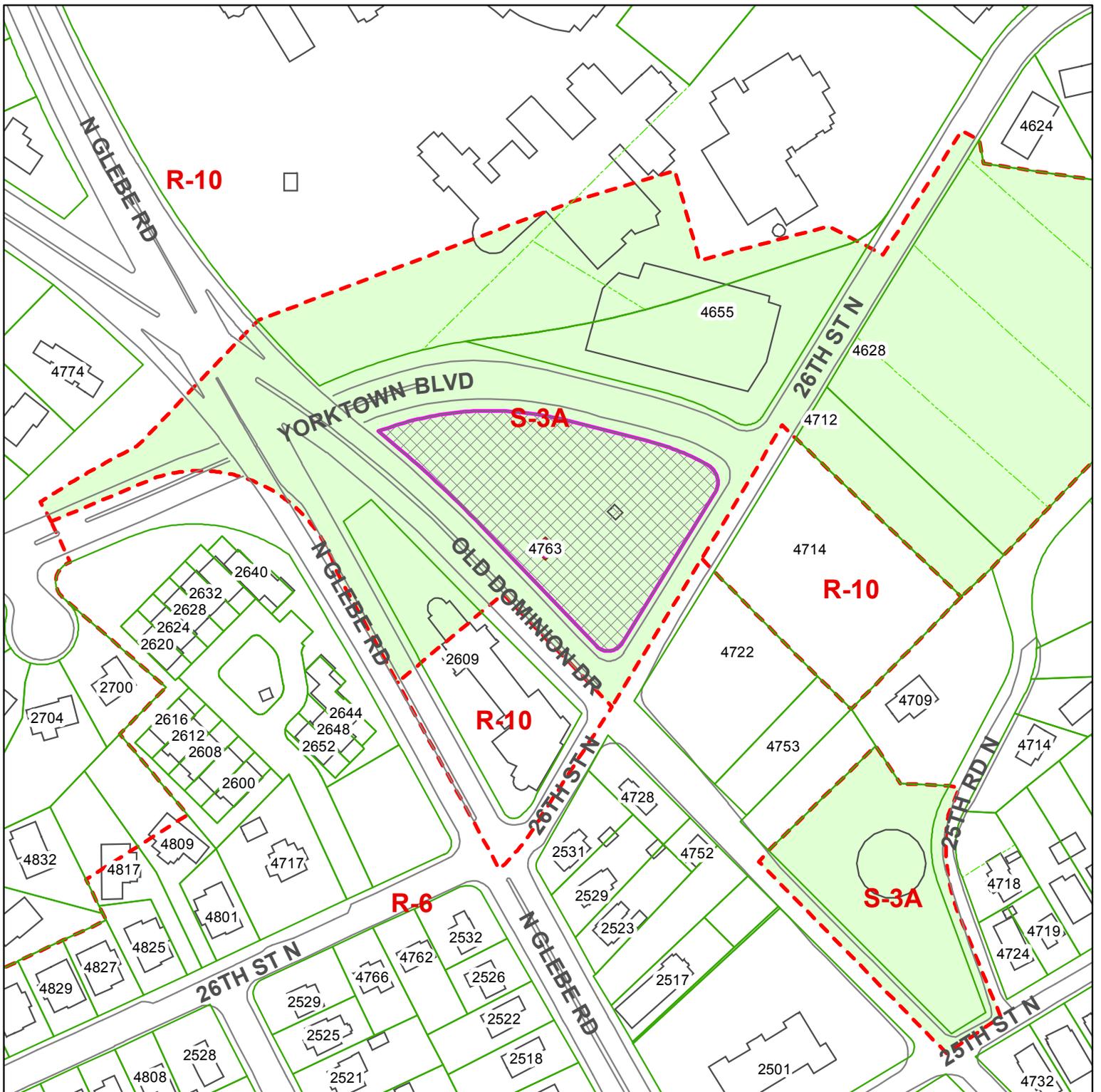
Approved use permit amendment (U-1671-65-2) for the construction of additional classrooms, faculty offices, academic space, laboratories, dorm rooms, accessory uses, parking; 2807 N. Glebe Rd., 4655 N. 26<sup>th</sup> St. and subject property bounded by Old Dominion Dr., Yorktown Blvd. and N. 26<sup>th</sup> St. (Marymount University) (RPC #03-065-001, 03-047-001, -217).

January 23, 2010

Approved use permit amendment for modification to Condition #68 for required public art under the Old Dominion Drive Bridge.

September 25, 2010

Approved use permit amendment for a comprehensive sign plan.



**U-1671-65-3**

**4763 Old Dominion Drive**

**RPC: 03-065-001**



 Case Location(s)  
 Scale: 1:2,000

Note: These maps are for property location assistance only. They may not represent the latest survey and other information.