County of Fairfax, Virginia

MEMORANDUM

DATE: March 2, 2016

TO: Fairfax County Planning Commission
Land Use Committee – Meeting Date: March 10, 2016

FROM: Leslie B. Johnson
Zoning Administrator

SUBJECT: **Proposed Zoning Ordinance Amendment Regarding the PDC/PRM Districts and Other Changes**

On December 8, 2015, the Board of Supervisors (Board) requested that the Planning Commission conduct a public input session to receive comments regarding the proposed Zoning Ordinance Amendment related to the PDC and PRM Districts, among other changes. The Planning Commission held this public input session on January 20, 2016 and received verbal testimony from eight speakers and received written comments from several other individuals and/or groups. Copies of the written comments are attached hereto. The comments received were varied, some of which were favorable and others were in opposition to the changes. Responses in favor of the development focused generally on the effective use of resources (transportation, environmental quality, quality of life) brought about by mixed-use development at higher intensities and responses in opposition of the amendment generally raised concerns that the changes will allow for excessive development and that the public hearing process is ineffective in considering public input by granting the Board too much discretion to approve applications when there is opposition. Specific comments include:

Density/Intensity – 5.0 Floor Area Ratio (FAR)

1. The amendment proposes sweeping changes to land use policies by allowing excessively high FAR in the selective areas without appropriate public input and without demonstration that such intensity is warranted in any geographic location in the county.
2. The changes rely too heavily on the comprehensive plan, which doesn't currently permit such high intensity. Additionally, the comprehensive plan is sometimes changed without adequate public input or without regard for impacts on existing neighborhoods.
3. High FAR is a disincentive to consolidation of smaller parcels.

4. Changes may permit one developer to obtain a high FAR on a single parcel within a larger land bay, while leaving the remaining parcels in the land bay with a diminished opportunity to achieve a higher FAR. (Essentially, the "hoarding" of intensity by the development that receives rezoning approval first.)

Parking

1. Parking reductions should not be permitted for residential uses.
2. Any parking reduction request should include an analysis of potential impacts on adjacent streets and neighborhoods.
3. Objection to eliminating the provision of structured or below surface parking as a criteria for allowing the Board to increase FAR in the PDC District, from 1.5 up to a maximum of 2.5 under the current regulations.
4. The county should develop shared parking reduction standards for mixed use developments and revise current review processes to be more time effective and less cumbersome.
5. Parking reductions at all Metro station areas should be by-right and reductions in other areas should be permitted subject to a case-by-case review.
6. Interim parking standards should be developed to accommodate parking during redevelopment.

Traffic

1. Increased FAR creates more development without regard for traffic impacts.
2. Implementation plans are needed for redevelopment areas and areas around mass transit to make sure development only occurs with the corresponding road improvements needed in the region.

Environmental

1. Changes will be positive, as they encourage revitalization in older areas of the county and will effectively plan for mass transit and protection of environmental quality by focusing development in nodes.
2. Concerns that permitting a higher FAR will lead to the creation of more heat islands and high nutrient runoff caused by lack of green space to accommodate pets and pet waste.

Staff is proposing changes to the text of the amendment to address some of the concerns that have been expressed. Attached is a revised draft of the proposed text changes. A more detailed analysis of these changes and the other topic areas related to this proposed amendment will be provided in the Staff Comment section of the Staff Report. The full Staff Report will be prepared as part of the package to be provided to the Board for the authorization to conduct the public hearings for the amendment. The text changes proposed by staff are:

1. Include an option for maximum FAR of up to 5.0 in Transit Station Areas and a maximum of up to 4.0 in Community Business Centers and Commercial Revitalization Districts, as an alternative to staff's current proposal to permit a maximum FAR of up to 5.0 for all of these areas.
2. Eliminate the phrase "at the discretion of the Board" in reference to the Board's ability to approve an increase in FAR for the identified selective areas. This change is in response to concerns expressed by some at the public input session that the proposed language gave too much discretion to the Board coupled with the perception that there would be limited opportunity for public input into the decision making process.
3. Include a new provision to allow for the approval of a temporary parking reduction and/or relocation plan by the Director of the Department of Public Works and Environmental Services (DPWES) in conjunction with a site plan or by the Board in conjunction with a rezoning to accommodate on-site redevelopment and construction.

Subject to Planning Commission concurrence with these changes, staff recommends that the Planning Commission forward this summary memorandum to the Board in support of moving toward the preparation of the full Staff Report and the Board's authorization of the amendment for public hearing. Staff recommends an April timeframe for the authorization, with the Planning Commission public hearing in May and the Board public hearing in June.

LBJ/DP

cc: Fred Selden, Director, Department of Planning and Zoning

Attachments: A/S

Amend Article 2, General Regulations, as follows:

- **Amend Part 4, Qualifying Lot and Yard Regulations, Sect. 2-418 Waiver of Yard Requirements in Selective Areas, to read as follows:**

~~Waiver~~ Reduction of Yard Requirements in Selective Areas

~~Notwithstanding any other provision of this Ordinance and~~ Except in a Commercial Revitalization District, the minimum yard requirements and other required distances from lot lines set forth in this Ordinance may be ~~waived~~ reduced for developments located in an area where specific design guidelines have been established in the adopted comprehensive plan, such as in Community Business Centers ~~(CBCs)~~, Commercial Revitalization Areas and ~~areas around transit facilities~~ Transit Station Areas, in accordance with such recommendations. Such ~~waiver~~ reduced yards or other required distances from lot lines may be approved by the Board, in conjunction with the approval of a rezoning or special exception, or by the Director in approving a site plan, when it is determined that such ~~waiver~~ reduction is in accordance with, and would further implementation of, the adopted comprehensive plan. Yard requirements in a Commercial Revitalization District and any allowable reductions thereof, shall be ~~provided~~ in accordance with the provisions of that district.

- **Amend Part 5, Qualifying Use, Structure Regulations, Sect. 2-505, Use Limitations on Corner Lots, by adding a new Par. 2 as follows:**

2. Notwithstanding the above, the Board, in conjunction with the approval of a rezoning or special exception application, may modify the sight distance requirements on a corner lot based upon an evaluation of the specific development proposal which shall consider the demonstrated compliance with sight distance requirements of the Virginia Department of Transportation and a specific sight distance analysis and/or any other relevant design guidelines that would demonstrate safe and adequate vehicular, bicycle and/or pedestrian movements at an intersection.

Amend Article 6, Planned Development Districts, as follows:

- **Amend Part 2, Planned Development Commercial District, as follows:**

  - **Amend Sect. 6-203, Secondary Uses Permitted, by adding a new Par. 4D and relettering the subsequent paragraphs accordingly, as follows:**

    4. Commercial and industrial uses of special impact (Category 5), limited to:

       D. Commercial Recreation Restaurants, limited by the provisions of Sect. 9-506

- **Amend Sect. 6-206, Use Limitations, by revising Paragraphs 9 and 10A and by adding a new Par. 16, as follows:**

9. Notwithstanding the provisions of Par. 5 and 6 above, ~~housing for the elderly~~ independent living facilities, assisted living facilities and/or nursing facilities as ~~a~~ secondary uses need not be designed to serve primarily the needs of the residents and occupants of the planned development in which located but shall be designed so as to maintain and protect the character of adjacent properties. The gross floor area devoted to ~~housing for the elderly~~ independent living facilities, assisted living facilities and/or nursing facilities as ~~a~~ secondary uses shall not exceed fifty (50) percent of the gross floor area of all uses in the development.

10. Fast food restaurants shall be permitted only in accordance with the following:

    A. Fast food restaurants may be permitted as a secondary use when shown on an approved final development plan, and provided such use is located in a residential and/or nonresidential structure containing at least one (1) other permitted principal or secondary use, in accordance with the following:

        (1) Such fast food restaurants shall be oriented to cater primarily to occupants and/or employees in the structure in which located, or of that structure and adjacent structures in the same building complex which are accessible via a clearly designated pedestrian circulation system; and

        (2) Such use(s) shall comprise not more than fifteen (15) percent of the gross floor area of the structure.

        (3) No drive-through facilities shall be permitted when such fast food restaurant is located in a building with any residential uses.

16. Off-street parking and loading facilities and private streets shall be provided in conformance with the provisions of Article 11, to include any possible parking reductions or alternate locations set forth in Sect. 11-102. Any such parking reduction may be approved by the Board as part of a rezoning and/or special exception when it is demonstrated by the applicant and determined by the Board that any such reduction(s) meets all applicable requirements of Sect. 11-102 and is/are in furtherance of the recommendations of the adopted comprehensive plan. It is intended that a substantial portion of the required parking should be provided in above and/or below grade parking structures.

- **Amend Sect. 6-207, Lot Size Requirements, by revising Par. 1C, as follows:**

1. Minimum district size: No land shall be classified in the PDC District unless the Board finds that the proposed development meets at least one (1) of the following conditions:

A. The proposed development will yield a minimum of 100,000 square feet of gross floor area.

B. The proposed development will be a logical extension of an existing P District, in which case it must yield a minimum of 40,000 square feet of gross floor area.

C. The proposed development is located within an area designated as a Community Business Center, Commercial Revitalization Area or Transit Station Area in the adopted comprehensive plan or is in a Commercial Revitalization District and a final development plan is submitted and approved concurrently with the conceptual development plan for the proposed development. The conceptual and final development plan shall specify the uses and gross floor area for the proposed development and shall provide site and building designs that will complement existing and planned development by incorporating high standards of urban design, to include provision for any specific urban design plans in the comprehensive plan for the area and for safe and convenient pedestrian, bicycle and vehicular movement and access.

- **Amend Sect. 6-208, Bulk Regulations, by revising Par. 3 and adding a new Par. 4 to read as follows:**

3. Maximum floor area ratio: ~~1.5, which may be increased by the Board, in its sole discretion, up to a maximum of 2.5 in accordance with and when the conceptual and final development plans include one or more of the following:~~

~~A. More open space than the minimum required by Sect. 209 below - Not more than 2% for each additional 1% of the gross area provided in open space.~~

~~B. Unique design features and amenities within the planned development which require unusually high development costs and which achieve an especially attractive and desirable development, such as, but not limited to, terraces, sculpture, reflecting pools and fountains - As determined by the Board in each instance, but not to exceed 35%.~~

~~C. Below-surface off-street parking facilities - Not more than 5% for each 20% of the required number of parking spaces to be provided.~~

~~D. Above-surface off-street parking facilities within an enclosed building or structure - Not more than 3% for each 20% of the required number of parking spaces to be provided.~~

2.5. *Option 1:* However, the Board may approve an increase up to 5.0 for developments located in a Commercial Revitalization District, Community Business Center Area and/or Transit Station Area only when the proposed development is implementing the site specific density/intensity and other recommendations in the

adopted comprehensive plan.

Option 2: However, the Board may approve an increase up to 5.0 when the property is located in a Transit Station Area, as identified in the adopted comprehensive plan, and when the proposed development is implementing the site specific density/intensity and other recommendations in the adopted comprehensive plan. For developments located in a Commercial Revitalization District and/or Community Business Center Area, as identified in the adopted comprehensive plan, the Board may approve an increase up to 4.0 when the proposed development is implementing the site specific density/intensity and other recommendations of the comprehensive plan.

(The advertised range for maximum FAR in both options is 2.5 to 5.0 for areas within any or all of the Selective Areas)

The maximum floor area ratio permitted by this Part shall exclude the floor area for affordable and bonus market rate dwelling units provided in accordance with Part 8 of Article 2 and the floor area for proffered bonus market rate units and/or bonus floor area, any of which is associated with the provision of workforce dwelling units, as applicable.

4. Notwithstanding the definition of gross floor area, any cellar space shall be counted as part of the gross floor area and shall be included in the calculation of the floor area ratio for any rezoning to the PDC District approved by the Board after *[date of adoption]*, except when such cellar space:

   A. has a structural headroom of less than six (6) feet, six (6) inches and is specifically identified for mechanical equipment; or

   B. is specifically identified for storage and/or other uses that are accessory to the principal uses in the building; or

   C. is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock utilized for the temporary loading and unloading of goods; or

   D. is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

- Amend Part 4, Planned Residential Mixed Use District, as follows:

- **Amend Sect. 6-401, Purpose and Intent, as follows:**

The PRM District is established to provide for high density, multiple family residential development, generally with a minimum density of 40 dwelling units per acre; for mixed use development consisting primarily of multiple family residential development, generally with a density of at least twenty (20) dwelling units per acre, with secondary office and/or other commercial uses. PRM Districts should be located in those limited areas where such high density residential or residential mixed use development is in accordance with the adopted comprehensive plan such as within areas delineated as Transit Station Areas, Community Business Centers, Commercial Revitalization Areas and Urban and Suburban Centers as well as developments located in Commercial Revitalization Districts. The PRM District regulations are designed to promote high standards in design and layout, to encourage compatibility among uses within the development and integration with adjacent developments, and to otherwise implement the stated purpose and intent of this Ordinance.

To these ends, rezoning to and development under this district will be permitted only in accordance with development plans prepared and approved in accordance with the provisions of Article 16.

- **Amend Sect. 6-403, Secondary Uses Permitted, by adding a new Par. 5A and relettering the subsequent subparagraphs accordingly, and by adding new Paragraphs 13 and 23 and renumbering the subsequent paragraphs accordingly, as follows:**

5. Commercial and industrial uses of special impact (Category 5), limited to:

   A. Commercial recreation restaurants, limited by the provisions of Sect. 9-506

13. Kennels, limited by the provisions of Sect. 406 below.

23. Veterinary hospitals, limited by the provisions of Sect. 406 below.

- **Amend Sect. 6-406, Use Limitations by revising Par. 9 and adding new Par. 13 to read as follows:**

9. Off-street parking and loading facilities and private streets shall be provided in conformance with the provisions of Article 11, to include ~~the~~ any possible parking reductions or alternate locations as may be permitted in Sect. 11-102. ~~based on hourly parking accumulation characteristics of the various uses and/or proximity to a mass transit station.~~ Any such parking reduction may be approved by the Board as part of a rezoning and/or special exception when it is demonstrated by the applicant and determined by the Board that any such reduction(s) meets all the applicable requirements of Sect. 11-102 and is/are in furtherance of the recommendations of the adopted comprehensive plan. It is intended that a substantial portion of the required parking should be provided in above and/or below grade parking structures.

13. Kennels and veterinary hospitals shall be located within a completely enclosed building which is adequately soundproofed and constructed so that there will be no

emission of odor or noise detrimental to other property in the area. In addition, the Health Department shall approve the construction and operation of all veterinary hospitals prior to issuance of any Building Permit or Non-Residential Use Permit.

- **Amend Sect. 6-408, Bulk Regulations, by revising Par. 2 and adding a new Par. 3, to read as follows:**

2. Maximum floor area ratio: 3.0. *Option 1:* However, the Board may approve an increase up to 5.0 for developments located in a Commercial Revitalization District, Community Business Center Area and/or Transit Station Area only when the proposed development is implementing the site specific density/intensity and other recommendations in the adopted comprehensive plan.

   Option 2: However, the Board may approve an increase up to 5.0 when the property is located in a Transit Station Area, as identified in the adopted comprehensive plan, and when the proposed development is implementing the site specific density/intensity and other recommendations in the adopted comprehensive plan. For developments located in a Commercial Revitalization District and/or Community Business Center Area, as identified in the adopted comprehensive plan, the Board may approve an increase up to 4.0 when the proposed development is implementing the site specific density/intensity and other recommendations of the comprehensive plan.
   (The advertised range for maximum FAR in both options is 3.0 to 5.0 for areas within any or all of the Selective Areas)

   ~~, provided t~~ The maximum floor area ratio permitted by this Part shall exclude the floor area for affordable and bonus market rate units provided in accordance with Part 8 of Article 2 and the floor area for proffered bonus market rate units and/or bonus floor area, any of which is associated with the provision of workforce dwelling units, as applicable.

3. Notwithstanding the definition of gross floor area, any cellar space shall be counted as part of the gross floor area and shall be included in the calculation of the floor area ratio for any rezoning to the PRM District approved by the Board after *[date of adoption]*, except when such cellar space:

   A. has a structural headroom of less than six (6) feet, six (6) inches and is specifically identified for mechanical equipment; or

   B. is specifically identified for storage and/or other uses that are accessory to the principal uses in the building; or

C. is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock utilized for the temporary loading and unloading of goods; or

D. is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

- **Amend Sect. 6-409, Open Space, by revising Par. 1 to read as follows:**

1. Not less than 20% of the gross area shall be landscaped open space, unless modified by the Board in accordance with the provisions of Sect. 9-612. Not more than one-half (1/2) of the minimum required landscaped open space shall be permitted above the street level, unless otherwise modified by the Board upon specific request.

- **Amend Part 5, Planned Tysons Corner Urban District, by amending Par. 5 of Sect. 6-505, Use Limitations, as follows:**

5. Notwithstanding the definition of gross floor area, any cellar space shall be counted as part of the gross floor area and shall be included in the calculation of the floor area ratio, except that space used for mechanical equipment with structural headroom of less than six (6) feet, six (6) inches; and that area that is specifically identified and used for storage and/or for accessory uses and/or loading space and associated loading docks; and that area specifically identified and used for primarily an unmanned datacenter or other similar mechanical, telecommunication or electronic equipment.

Amend Article 9, Special Exceptions, Part 5, Commercial and Industrial Uses of Special Impact, as follows:

- **Amend Sect. 9-506, Additional Standards for Commercial Recreation Restaurants, by deleting Par. 2 and renumbering subsequent paragraphs accordingly, as follows:**

~~2. No person under 18 years of age shall be permitted to frequent the premises unless accompanied by a parent or guardian.~~

- **Amend Sect. 9-518, Additional Standards for Vehicle Sale, Rental and Ancillary Service Establishments, by amending Par.7 and adding a new Par. 9, as follows:**

7. In the C-3, C-4, I-3, I-4, I-5, ~~PDC,~~ and PRC ~~and PRM~~ Districts, only vehicle rental establishments may be allowed and such use shall be subject to Paragraphs 1 through 6 above and the following:

A. Vehicle rental establishments shall be limited to the rental of automobiles and passenger vans and the rental of trucks or other vehicles shall not be permitted.

B. There may be a maximum of twenty-five (25) rental vehicles stored on site and such vehicles shall be stored in a portion of the parking lot designated on the special exception plat for the storage of rental vehicles.

C. There shall be no maintenance or refueling of the rental vehicles on-site.

9. In the PDC and PRM Districts, vehicle sale, rental and ancillary service establishments shall only be permitted when specifically identified on an approved final development plan and provided there shall be no outside display or storage of vehicles. All vehicle display or storage shall occur within an enclosed building or parking garage and any ancillary service establishment use shall occur within a completely enclosed building.

Amend Article 11, Off-Street Parking and Loading, Private Streets, Part 1, Off-Street Parking, as follows:

- Amend Sect. 11-101, Applicability, by amending Par. 1 as follows:

1. Except as provided for in a Commercial Revitalization District, in any R, C or I district, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations, and in the PDH, PDC, PRC and PRM Districts, the provisions of this Part shall have general application as determined by the Director. However, for the redevelopment of an existing property that includes the retention of some uses/structures and the elimination of some on-site parking during the redevelopment process, the Board, in conjunction with a rezoning or special exception, or the Director, in conjunction with a site plan, may approve a temporary reduction and/or relocation of the minimum required off-street parking spaces subject to time limits and conditions appropriate to ensure the continuation of safe and adequate utilization of the property.

   In the PTC District off-street parking shall be provided in accordance with Sect. 6-509, and Sect. 11-102 below shall have general application as determined by the Director. Additionally, subject to the approval of a parking redesignation plan pursuant to Par. 12 of Sect. 11-102, for an existing use located in the Tysons Corner Urban Center but not in the PTC District an owner may voluntarily elect to reduce the number of off-street parking spaces required pursuant to Sections 11-103, 11-104, 11-105 and 11-106 for the site to a number between what is currently approved for the site and the applicable minimum parking rate specified for the PTC District. However, this voluntary parking reduction is not an option if the currently approved number of parking spaces on the site is specified by a special permit, special exception or proffered condition.

- Amend Sect. 11-102, General Provisions, by revising Par. 5, as follows:

5. Subject to conditions it deems appropriate, the Board may reduce the number of off-

street parking spaces otherwise required by the strict application of the provisions of this Part when a proposed development is within reasonable walking distance to: ~~Within the an area in proximity~~

A. a mass transit station and/or within an area designated in the adopted comprehensive plan as a Transit Station Area wherein the ~~which~~ station either exists or is programmed for completion within the same time frame as the completion of the subject development~~,~~; or

B. an existing transportation facility consisting of a streetcar, bus rapid transit, or express bus service or wherein such facility is programmed for completion within the same timeframe as the completion of the subject development and will provide high-frequency service; or ~~along a corridor served by a mass transit facility which facility that is conveniently accessible to the proposed use and offers a regular scheduled service,~~; or

C. a bus stop when service to this stop consists of more than three routes and at least one route serves a mass transit station or transportation facility and provides high-frequency service.

~~the Board may, subject to conditions it deems appropriate, reduce the number of off-street parking spaces otherwise required by the strict application of the provisions of this Part.~~ Such reduction may be approved when the applicant has demonstrated to the Board's satisfaction that the spaces proposed to be eliminated are unnecessary based on the projected reduction in the parking demand resulting from the proximity of the mass transit station or ~~mass transit~~ transportation facility or bus service and such reduction in parking spaces will not adversely affect the site or the adjacent area. For the purposes of this provision, a determination regarding the completion time frame for a mass transit station or transportation facility shall include the funding status for the transportation project.

Amend Article 13, Landscaping and Screening, Part 3, Transitional Screening and Barriers, by revising Par. 11 of Sect. 305, Transitional Screening and Barrier Waivers and Modifications, as follows:

11. Transitional screening and barriers may be waived or modified where the subject property abuts a railroad, ~~or~~ interstate highway right-of-way, ~~except~~ the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road.

Amend Article 16, Development Plans,

- **Amend Part 1, Standards for All Planned Developments, by revising Par. 1 of Sect.**

16-102, Design Standards, as follows:

Whereas it is the intent to allow flexibility in the design of all planned developments, it is deemed necessary to establish design standards by which to review rezoning applications, development plans, conceptual development plans, final development plans, PRC plans, site plans and subdivision plats. Therefore, the following design standards shall apply:

1. In order to complement development on adjacent properties, at all peripheral boundaries of the PDH, PRM, PDC, <u>and</u> PRC Districts the bulk regulations and landscaping and screening provisions shall generally conform to the provisions of that conventional zoning district which most closely characterizes the particular type of development under consideration. <u>In a rezoning application to the PDC or PRM District that is located in a Commercial Revitalization District or in an area that is designated as a Community Business Center, Commercial Revitalization Area or Transit Station Area in the adopted comprehensive plan, this provision shall have general applicability and only apply at the periphery of the Commercial Revitalization District, Community Business Center, Commercial Revitalization Area, or Transit Station Area, as necessary to achieve the objectives of the comprehensive plan.</u> In the PTC District, such provisions shall only have general applicability and only at the periphery of the Tysons Corner Urban Center, as designated in the adopted comprehensive plan.

Amend Appendix 7, Commercial Revitalization Districts, as follows:

- **Amend Par. 3A of Sections A7-109, A7-209, A7-309 and A7-509, Additional Provisions, as follows:**

3. The off-street parking, loading and private street requirements of Article 11 shall apply, except as set forth below:

   A. The minimum off-street parking requirements for any non-residential uses may be reduced by <u>up to</u> twenty (20) percent by the Board when it is demonstrated by the applicant and determined by the Board that such reduction is in furtherance of the goals of the Commercial Revitalization District as set forth in the adopted comprehensive plan. Such request may also be considered in conjunction with a rezoning and/or special exception application. The fee for a parking reduction set forth in Sect. 17-109 shall not be applicable.

      <u>In conjunction with a rezoning to a mixed-use development in a PDC or PRM District, the minimum off-street parking requirements for residential and non-residential uses may be reduced by up to twenty (20) percent by the Board when it is demonstrated by the applicant and determined by the Board that such reduction is in furtherance of the recommendations of the adopted comprehensive plan for the area and that such reduction will not adversely affect the site or the adjacent area. Such parking reduction shall be subject to the fee set forth in Sect. 17-109.</u>

- **Amend Par. 3A of Sect. A7-409, Additional Provisions, as follows:**

3. The off-street parking, loading and private street requirements of Article 11 shall apply, except as set forth below:

   A. Notwithstanding the provisions of Article 11, the minimum off-street parking requirements for all non-residential uses shall be reduced by twenty (20) percent. In conjunction with a rezoning to a mixed-use development in a PDC or PRM District, the minimum off-street parking requirements for residential and non-residential uses may be reduced by up to twenty (20) percent by the Board when it is demonstrated by the applicant and determined by the Board that such reduction is in furtherance of the recommendations of the adopted comprehensive plan for the area and that such reduction will not adversely affect the site or the adjacent area. Such parking reduction shall be subject to the fee set forth in Sect. 17-109.

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January 20, 2016

Fairfax County Planning Commission
12000 Government Center Parkway
Fairfax, VA 22035

Re: Proposed Zoning Ordinance Amendment for Modifications to the Planned Commercial District (PDC) and Planned Residential Mixed Use (PRM) District and Related Changes

Dear Planning Commissioners:

The Southeast Fairfax Development Corporation (SFDC) received a presentation at its September 2015 Board of Directors meeting from Zoning Administrator Leslie Johnson regarding this proposed Zoning Ordinance Amendment. Subsequently, county staff has participated in discussions of the proposal with the Mount Vernon Council of Civic Associations, which has a representative on the SFDC Board.

At its meeting earlier today, the SFDC Board voted to generally **endorse** the proposed Zoning Ordinance Amendment. While there are some issues remaining, such as the change to the method of calculating FAR, we support the intent of the Amendment to provide a legal mechanism in the Zoning Ordinance to implement the Comprehensive Plan in areas that are planned for higher density development than that currently allowed in any Zoning district.

The SFDC Board of Directors took this action under the provisions of paragraph B4 of our Memorandum of Understanding with the Fairfax County Board of Supervisors, which calls for SFDC to review initiatives and projects and formally support those that SFDC deems supportive of revitalization objectives.

Thank you very much for your consideration of these comments. Please feel free to contact me if you have any questions regarding SFDC's position on this matter.

Sincerely yours,

Walter C. Clarke
President

CC: Supervisor Dan Storck
Supervisor Jeff McKay
Jill G. Cooper, Planning Commission
Leslie Johnson, Zoning Administrator
Barbara Byron, Office of Community Revitalization
SFDC Board of Directors

From: Fred Costello [mailto:facinc@verizon.net]
Sent: Friday, January 22, 2016 10:21 AM
To: DPZ ORDADMIN
Subject: Additional testimony re: WORKSHOP ON ZOA PDC/PRM AMENDMENTS

Testimony submitted to the Planning Commission
January 22, 2016
Frederick A. Costello, 12864 Tewksbury Drive, Herndon, VA 20171

This is a follow-up to my presentation at the Planning Commission workshop on January 20, 2016. These additional comments are conditioned by the comments made by the Commissioners at the workshop.

I was happy to hear Commissioner Hart voice his concern over the phrase "in the discretion of the Board". I think that he and I both hope this will be deleted. I was also happy to hear Commissioner Sargeant say that the Planning Commission does want stable neighborhoods. Stability would be better ensured if the neighborhoods, rather than the central planners, had control of their redevelopment. Developers can continue their practice of offering to buy neighborhoods if redevelopment is economically warranted.

I remain concerned about the decreased opportunities for the citizens to influence proposals before they are submitted to the Planning Commission. Many citizen concerns might be allayed if they had time to study the staff report. Perhaps a preliminary copy of the staff report could be made available to the public. The Planning Commission could insist on having more time for the citizens to review the staff report.

I also remain concerned that, with no stable long-range plan, the county is unable to plan for long-term increases in traffic, perhaps not allowing enough easement space for widening roads. Without a long-range plan, the county also may not allow for park space, open space, and schools. The Comprehensive Plan is too easily changed to be considered a long-range plan. The Planning Commission could require all changes to the Comprehensive Plan be tested against a long-range plan.

Thank you for the opportunity to speak and to submit this addendum.

Fred Costello
703-620-4942

McLean Citizens Association

One Hundred Years and Counting

January 21, 2016

Fairfax County Planning Commission
12000 Government Center Parkway
Suite 330
Fairfax, VA 22035

Re: Proposed Zoning Ordinance Amendment Regarding the PDC and PRM Districts

Dear Commissioners,

The McLean Citizens Association (MCA) opposes the proposed amendment to the County's Zoning Ordinance. The amendment (ZOA) addresses Planned Development Commercial (PDC) and Planned Development Residential Mixed Use (PRM) districts. In sum, the proposed revisions to the Zoning Ordinance would permit major changes in land use in Commercial Revitalization Districts (CRD) and Commercial Revitalization Areas (CRA) and transit station areas on the Silver Line outside of Tysons. The ZOA would enable increased density as high as 5.0 Floor Area Ratios (FAR). For the reasons explained herein, the MCA must oppose this proposed amendment.

While the proposed increase in FAR of up to 5.0 would be appropriate for the Silver Line station areas in Reston and beyond, such densities in the cited revitalization districts, well-distant from any rail station, would be inconsistent with the County's existing Transit Oriented Development (TOD) policies. These densities would also contrast sharply with the County's goals and adopted Comprehensive Plan for Tysons. Moreover, enabling such high densities outside of rail stations would unfairly discriminate against Tysons landowners that are located beyond the ¼ mile TOD area and against all Tysons landowners that are paying additional taxes to support non-rail transit, road improvements and bike and pedestrian facilities.

While the MCA supports reasonable revitalization plans, this ZOA is fundamentally unsound. The County's well-vetted TOD policy was adopted after months of study and debate by affected stakeholders. The existing policy correctly limits high density to the quarter-mile ring around heavy rail stations. The County specifically rejected high density (including FARs up to 5.0) around non-rail transit stations. The ZOA would, without proper explanation, turn the TOD policy on its ear by allowing high density at locations served with only bus transit—something the TOD policy rejects. The County specifically and properly rejected granting additional density to Tysons landowners located outside the quarter-mile TOD rings and served only by bus transit. In fact, the proposed densities ranging from FAR 2.5 to 5.0 would not be permitted in 75% of Tysons, the County's designated Urban Development Area.

When re-planning Tysons, the County conducted Consolidated Traffic Impact Analyses to determine the impact of significantly higher densities on the road network within Tysons and in the adjacent communities. This ZOA would allow piecemeal rezoning of parcels to the higher intensity PDC/PRM districts that would each be independently assessed for traffic impacts and mitigation measures. The ability of many of these revitalization districts and their concomitant road

networks to absorb the increased vehicle trips and support high-quality bus transit is limited. The lack of a comprehensive assessment of the transportation impacts would result in the higher density being awarded first-come, first-served until the road network becomes saturated -- and aggressive TDM measures and bus transit reach their maximum effectiveness. A key design principle of the County's TOD policy is that a non-degradation policy should be applied to areas immediately adjacent to a TOD area and to arterials serving the TOD area. This policy requires that traffic flow in these adjacent areas and on arterials perform no worse after development of a TOD takes place. While the County's revitalization areas are not, *per se*, TOD areas, the proposed ZOA would fundamentally allow TOD densities. The MCA believes that a non-degradation policy should be an essential requirement for substantial increases over the current FAR limits in PDC and PRM districts.

The ZOA's proposed range of density would also adversely affect the planned redevelopment of the McLean Community Business Center (CBC), a Commercial Revitalization District. Given that an FAR of 2.5 to 5.0 would not be permitted outside the immediate station areas within Tysons, it would behoove a developer to purchase property in the nearby McLean CBC, then submit a rezoning application and concurrent Comprehensive Plan Amendment for TOD densities under the guise of CBC revitalization. The premise of designating Tysons as the County's Urban Development Area was to concentrate the higher intensity redevelopment in Tysons proximate to the Metro stations and to protect the surrounding suburban residential communities from density sprawl. MCA's support of the 2010 Tysons Comprehensive Plan Amendment was predicated on this protection.

Moreover, the redevelopment of the McLean CBC already faces headwinds in the form of traffic congestion resulting from both the urbanization of Tysons and regional growth. Notwithstanding the continuing efforts of the Fairfax County Department of Transportation to mitigate the future traffic impacts of Tysons' redevelopment on the McLean CBC, clearly these added vehicle trips and travel delays will set an upper limit on the amount of density the CBC can absorb while maintaining a well-functioning transportation network. The ZOA's higher permitted density, which the County appears to be encouraging, would undermine the balance between redevelopment and infrastructure in McLean.

The ZOA further proposes a relaxation of landscaping and transitional screening in the PDC and PRM districts in a CRD and would establish a design standard that such landscaping and screening should only apply at the periphery. This is ill-advised; redevelopment of revitalization areas may occur over a long time horizon. Interim landscaping and transitional screening may be more appropriate to buffer sharply disparate levels of intensity. In addition, the ZOA would modify the bulk regulations of the PDC district by eliminating the criteria by which developers can be awarded increased density by providing certain urban design elements within a development. These changes would conflict with the planning objectives of the McLean CBC Comprehensive Plan and would impede its implementation.

At the same time, the MCA notes the background information published with the draft ZOA does not include any discussion of the potential need for similar tax or service districts in PDC or PRM areas. In the event the County does not tax landowners in these zoning areas for the costs of the infrastructure necessary to allow higher densities, the County will be discriminating against Tysons landowners, businesses and residents that are paying higher taxes. Every local tax dollar spent on transportation facilities not funded by PRC and PRM landowners receiving additional density must come from county taxpayers, either in the form of higher taxes or reduced services.

For these reasons, the ZOA should not be recommended by the Planning Commission nor adopted by the Board of Supervisors.

In the event you cannot shelve the entire proposed ZOA, we request the following specific changes:

- Remove the McLean CBC from the list of applicable Selective Areas;
- The Comprehensive Plan should amend the planning objectives of the Revitalization Districts:
    - As with Tysons, strongly encourage consolidations of property that enable land dedication for transportation improvements and public facilities.
    - Recommend the establishment of a financing plan for road and transit improvements, including roads and intersections in neighboring communities, to mitigate any degradation resulting from sharp increases in density in a CRD.
    - Recommend the establishment of a tax or service districts in each specific CRD similar to those created in Tysons and the Dulles Corridor.
    - Recommend transportation modeling and analysis on large-scale areas to test the efficacy of planned transportation improvements.
- Add Fairfax Forward program items for Comprehensive Plan amendments for each affected PDC or PRM area receiving significant increases in density in a CRD.
- Create a tier of PDC and PRM zoning districts with maximum FARs of 3 and 5.
- Retain the deleted text in section 6-208 A through D.
- In section 16-102 (1) pertaining to landscaping and screening in the PDC/PRM districts, change the word "shall" to "may" (page 14, line 32).

Thank you for considering the MCA's comments.

Sincerely,

Jeff Barnett
President, McLean Citizens Association

cc: John Foust, Dranesville District Supervisor
John Ulfelder, Dranesville District Planning Commission
Benjamin Wiles, Staff
Fred Selden, Director, Fairfax County Department of Planning & Zoning
Leslie Johnson, Fairfax County Zoning Administrator
Donna Pesto, Fairfax County Department of Zoning Evaluation

THE JBG COMPANIES

Ms. Leslie Johnson, Zoning Administrator
Fairfax County Department of Planning & Zoning
Zoning Administration Division
12055 Government Center Parkway
Suite 807
Fairfax, VA 22035

RE: Zoning Ordinance Amendment Regarding the Planned Residential Mixed Use (PRM) District, Planned Commercial District (PDC), Commercial Revitalization Districts (CRD) and Other Changes

Dear Ms. Johnson:

We would like to commend you on your diligent work in preparing a thoughtful proposal to amend the PRM, PDC, and CRD districts to allow for the vision of development around existing and planned Metro stations in Fairfax County. After the extensive time, effort, and patience that the County, citizens, and landowners have put in to the Silver Line extension, it is exciting to be discussing land use changes that can continue the success of Metro's arrival. While we think the draft proposal is a very good start, we think additional parking provisions are critical to fulfill the vision of walkable neighborhoods surrounding the Metro stations.

Specifically with respect to parking, though the draft amendment clarifies instances where a parking reduction is permitted within a reasonable distance to transit and provides for a 20% parking reduction for residential uses in CRDs, overall the draft doesn't address the realities of parking in redevelopment projects:

- First, the County should allow for reduced parking ratios in all Metro station areas (within a ½ mile) on a by-right basis like in Tysons. Under the PTC zoning district, owners can take advantage of lower parking requirements in Tysons without a legislative zoning application or a lengthy parking study review process. The ability of Metro station areas to support far less parking has been widely demonstrated both nationally and in the broader Washington Metropolitan area, and is a strong mitigant of traffic. As such, we strongly encourage the incorporation of lower minimum parking ratios in those PRM, PDC, and CRD districts supported by transit.

- Second, we strongly encourage the incorporation of standard shared parking ratios for mixed-use projects that applicants could propose within their applications and/or site plans. Similar to lower transit-related parking ratios, the merits of shared parking have been clearly demonstrated broadly and within the County. However, the process to secure such approvals has become cumbersome and time consuming. The ULI publication, *Shared Parking*, has

successfully served as the basis for the County's review and approval of shared parking reductions for decades and would provide a good framework for such a modification to the zoning ordinance.

- Third, the County should provide greater flexibility for parking reductions, with Board approval, for properties that can demonstrate a lower parking demand than zoning requirements. Currently property owners have no option to justify a parking reduction except through transit, implementation of TDM programs and/or shared/mixed use. There should be an opportunity for a parking reduction based on site-specific characteristics and demonstrated parking demand, especially in light of limited County resources.

- Fourth, there needs to be much greater flexibility to accommodate interim parking conditions during redevelopment. Several projects, including our Reston Heights and Elm Street projects, have highlighted a major issue with the County's parking regulations – most of the redevelopment sites subject to these zones are infill sites, and as such, have current uses that will remain. In such instances and in order to facilitate redevelopment, surface parking may be reduced or will result in an interim condition where zoning-required parking is not feasible and/or practical. This issue is certain to occur for infill residential development on existing office sites in Reston. Applicants should be given the ability to develop a plan in partnership with the County to meet interim demand by looking at actual parking needs, tandem/valet plans, and use of off-site under-utilized spaces despite zoning required minimums and without meeting PFM standards.

- Lastly, it should be clarified that previously zoned projects can take advantage of the 20% parking reduction for residential uses in the CRD zone. The draft clearly would allow it for a new rezoning application, but the provisions should to be flexible enough that the Board can approve a reduction after the rezoning stage.

We appreciate your consideration of these comments, and are available to discuss further or help in any way. We look forward to working closely with you to facilitate redevelopment in Fairfax County.

Sincerely,

Greg Trimmer
Principal
The JBG Companies

cc: Tom Biesiadny, FCDOT
James Patteson, DPWES

Statement Opposing Proposed Zoning Ordinance Amendment Regarding PDC and PRM Districts in Selective Areas

Planning Commission Information Meeting
20 January 2016

Clyde A. Miller, President
Holmes Run Valley Citizens Association

Thank you for the opportunity to speak.

This statement opposes the proposed amendment in its current form. I have submitted a 9-page paper dated 13 Jan that explains the comments that follow.

The amendment advocates that zoning ordinance requirements for PDC and PRM districts in Selective Areas should be relaxed and the Board of Supervisors given latitude and discretion to make the appropriate decisions in response to rezoning applications. The implicit assumption is that the Board and all future Boards will make the "right decisions." But county government is not based on the assumption that elected officials will do the right thing. Our government is based on transparency and due process that limits the power of elected officials and ensures adequate involvement of residents in decisions that affect their communities. **Much of the opposition to the proposal is based on the conclusion that the amendment would give the Board unnecessary and undue power to impose land-use decisions.**

The conclusion is supported by the fact that the Board's public hearing process is NOT a reliable means for assuring adequate community engagement. The hearing process implicitly assumes that land use proposals are thoroughly vetted at the district level prior to publication for hearings. But Mason District Supervisor Penny Gross, in Board hearings, commonly recommends approval of land-use proposals that have NOT been reviewed by the community. One example is last week's hearing regarding a real estate exchange agreement for Bailey's, a second in the 13 Jan 2015 hearing on a concurrent plan amendment for Bailey's. **In Mason District, there is NO expectation that Supervisor Gross will vet land-use proposals with the community prior to submitting them for Board approval.**

The proposed amendment would give the Board unnecessary and unwarranted power to impose land use decisions absent community participation.

A second principal issue is that existing comprehensive plans are based on the existing regulations for PDC and PRM districts. Modifying these regulations easily could lead to approval of developments very different from those intended by the communities that developed the plans. If the amendments were adopted, it would be necessary to revisit and revise these plans to take the changes into account.

Regarding CBCs: Community Business Centers should NOT be designated Selective Areas. They are locations that provide neighborhoods necessary commercial services and retail outlets. Designating them Selective Areas would mean that the community intends to redevelop every one of them as a high-density residential district, effectively a revitalization district, in which case neighborhoods likely would be deprived of necessary services. If additional areas are

to be designated revitalization districts, the Board should make those determinations after adequate public review.

Regarding TSAs: Transit Station Areas should be in an overlay district separate from revitalization districts. TSAs are limited areas surrounding heavy rail stations. As such, they are candidates for more intensive development than would be appropriate for revitalization districts and so should be in a separate category.

Regarding FARs: Opposition to the proposal to allow elevated FARs is based, in part, on the conclusion that they are unnecessary. The existing comprehensive plans for revitalization districts can be achieved with current FARs. Furthermore, attempts to apply the elevated FARs to existing plans for Annandale and Seven Corners, as examples, could produce unintended results because:

1. Neither plan recommends site-specific FAR ceilings at the parcel or development project level, and
2. The amendment would allow "other recommendations" of comprehensive plans to be used as a basis for elevated FARs. This begs the question, what "other recommendations" in comprehensive plans would justify elevated FARs.

Finally, as mentioned earlier, allowing elevated FARs could lead to unintended consequences in currently planned areas, and it would be necessary to re-plan these areas to account for the change. **Elevated FARs should NOT be allowed in Community Business Centers or in revitalization districts or areas.**

Regarding Open Space: The proposal to limit open space above ground level to 50% of the required open space implies that 50% of open space above ground level is acceptable to the community, even expected, and it is NOT. **The open space amendment is not helpful and should not be adopted.**

Regarding Off-Street Parking: There is no reason to expect that PDC or PRM districts in revitalization districts would require less parking than those outside revitalization districts. Consequently, there is no basis for the proposed 20% blanket reduction in off-street parking. The off-street parking amendment should not be adopted.

Regarding Design Standards Modifications: The amendment proposes to relax Sect. 16-102 standards for Selective Areas to eliminate the requirement that they complement adjacent properties in their interiors. Revised language is proposed in the 13 Jan paper to better protect the character of neighboring properties within Selective Areas.

Finally, Regarding Concurrent Plan Amendments in Revitalization Districts: Ethics require that the amendment acknowledge the Board's policy of accepting concurrent plan amendment proposals with rezoning applications for developments in revitalization districts and areas. The practice effectively nullifies the authority of current comprehensive plans to impose any particular planning guidance whatsoever, including their ability to limit FARs. The amendment should clearly state and explain this fact. Anything less would be dishonest.

Thank you for the opportunity to speak. I would be happy to answer any question.

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February 29, 2016

BY ELECTRONIC MAIL

The Honorable Timothy J. Sargeant and
Members of the Fairfax County Planning Commission
Government Center
12000 Government Center Parkway, Suite 330
Fairfax, Virginia 22035

Proposed Zoning Ordinance Amendment Regarding the Planned Residential Mixed Use (PRM) District, Planned Development Commercial (PDC), Commercial Revitalization Districts (CRD) and Other Changes

Dear Commissioner Sargeant and Members of the Fairfax County Planning Commission:

This letter is to request consideration of two additional clean-up changes to the proposed Zoning Ordinance Amendment (ZOA) regarding the Planned Development Commercial (PDC) District, Planned Residential Mixed Use (PRM) District and Commercial Revitalization District (CRD). The ZOA proposes changes to the maximum FAR in the PDC, PRM and CRD Districts in certain geographic areas of the County along with several other text changes, including the addition of uses that can be appropriate and desired in mixed use developments.

A. PDC Fifteen (15) Percent Limitation on "Fast Food".

One of the changes in the draft proposal prepared by County Staff dated October 29, 2015 is an amendment to the use limitations in the PDC District to allow fast food restaurants to be located in a residential building with the approval of a Final Development Plan (FDP), rather than as a separate Special Exception (SE) application. Currently, fast food restaurants are permitted within non-residential structures in a PDC District when shown on an approved FDP but cannot comprise more than fifteen (15) percent of the gross floor area of the structure. Fast food restaurants are permitted in residential buildings and/or in excess of fifteen (15) percent of the GFA in non-residential buildings with approval of a Special Exception. Specifically, Par. 10 of Sect. 6-206, Use Limitations, states the following:

10. Fast food restaurants shall be permitted only in accordance with the following:

    A. Fast food restaurants may be permitted as a secondary use when shown on an approved final development plan, and provided such use is located in a nonresidential structure containing at least one (1) other permitted principal or secondary use, in accordance with the following:

        (1) Such fast food restaurants shall be oriented to cater primarily to occupants and/or employees in the structure in which located, or of that structure and adjacent structures in the same building complex which are accessible via a clearly designated pedestrian circulation system; and

        (2) Such use(s) shall comprise not more than fifteen (15) percent of the gross floor area of the structure.

    B. Fast food restaurants not permitted under the provision of Par. A above may be permitted as a secondary use by special exception, in accordance with the following:

        (1) The structure containing the fast food restaurant shall be designed as an integral component of a building complex, and shall be reviewed for compatibility with the approved PDC development; and

        (2) The fast food restaurant shall be safely and conveniently accessible from surrounding uses via a clearly defined pedestrian circulation system which minimizes points of conflict between vehicular and pedestrian traffic. Pedestrian ways shall be

> prominently identified through design features such as, but not limited to, the use of special pavement treatments for walkways and crosswalks, and/or the use of consistent and distinctive landscaping. Vehicular access to the use shall be provided via the internal circulation system of the building complex, and no separate entrance to the use shall be permitted from any thoroughfare intended to carry through traffic.

We support the proposed ZOA to allow fast food restaurants in residential structures in the PDC District with approval of an FDP as it will further the objective to create more vibrant live, work and play environments in the mixed-use commercial areas throughout the County. However, the use limitation set forth in Par. 10.A.(2) above which restricts fast food restaurants to no more than fifteen (15) percent of the gross floor area of either a non-residential structure (or residential structure as proposed with the ZOA) should be deleted. Inexplicably, this use limitation is only applicable to the PDC District and is inconsistent with all other Planned Development Districts. Specifically, the Planned Residential Community (PRC), PRM and Planned Tysons Corner (PTC) Districts permit fast food restaurants, without any use limitations, as either a permitted or secondary use when shown on an approved development plan. Furthermore, fast food restaurants are also allowed in the Planned Development Housing (PDH) District with approval of a Special Exception, but without limitation on the amount of gross floor area devoted to such use.

For background purposes, fast food restaurants were added as a permitted use in the PDC District pursuant to Zoning Ordinance Amendment 88-159 ("1988 ZOA"). The 1988 ZOA was primarily related to allowing "food courts" with approval of a special exception in the PDC District but also addressed the need to permit other fast food restaurant uses such as a sandwich shop or delicatessen in a building in PDC office complexes, with the 15% use limitation. As the County has evolved and adopted initiatives to revitalize and encourage investment in commercial areas to accommodate more mixed-use and higher intensity environments, the restriction on the amount of gross floor area devoted to fast food restaurants in the PDC District unnecessarily and artificially limits the ability to meet consumer demand and to create the desired mixed-use environments.

The restaurant industry has evolved from what was typically associated with fast food chains, with primarily carry-out, paper-packaged, pre-cooked food, to what is now known as "fast casual" restaurants, which tend to provide more disparate menus and a higher quality food and atmosphere than traditional fast food. Fast casual customers may still order at a counter and restaurants tend to be smaller, but the food is typically served with real plates and cutlery rather than disposable implements. These types of restaurants typically have visually appealing architecture, and contribute towards creating a sense of place, often with wi-fi capability, inviting people to gather and linger, which can further enhance the mixed-use environment. Combined with the evolution away from classic strip commercial designs to today's more interesting, more successful smaller building, pedestrian and plaza integrated, multiple building retail designs, the 15% limitation per building is long outdated and counter-productive.

B. <u>PDC Twenty-Five (25) Percent Limitation on Non-Residential Secondary Uses.</u>

Similarly, Section 6-206.5 of the PDC District limits the amount of GFA that can be devoted to all other secondary uses besides residential: "*. . . the gross floor area of all other secondary uses shall not exceed twenty-five (25) percent of the gross floor area of all principle uses in the development. . . .*" While restaurants are principal uses, fast food restaurants are secondary uses. The application of an outdated definition of "fast food" to this more current "fast food casual" genre is imposing an artificial impediment to accomplishment of the vibrant mixed-use environment envisioned and desired today. That limitation should be changed to 50% and modifiable by the Board in conjunction with its approval of a CDP or CDPA, comparable to secondary residential uses in the PDC.

The flaw created by these two limitations is personified in the recently approved Comprehensive Plan Amendment and PCA/CDPA/FDPA at Commonwealth Centre, enabling the addition of a mixed-use commercial component anchored by a Wegmans to what was essentially an office park. ZED and OCP Staff spent considerable time with the Applicant and its consultants to create a pedestrian-oriented, small building retail complex in addition to the Wegmans, taking care to provide substantial plazas, pedestrian walkways, and outdoor seating in conjunction with those walkways as well as restaurants. Classification of the "fast food casual" components as secondary uses rather than principal restaurant uses will unnecessarily and inordinately restrict this critical design component. The twenty-five (25) percent non-residential secondary use cap in the PDC District will also disincentivize

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conversion of the all-office Land Bay D to a residential and retail mixed-use area as strongly urged by Staff in furtherance of the Comprehensive Plan vision that the imbalance of land use and transportation impacts, created in the Dulles Suburban Center by the overwhelming predominance of office and industrial uses, be corrected by the infusion of mixed-use residential and retail components – there will not be adequate principal use FAR remaining in Commonwealth Centre to accomplish a meaningful non-residential, non-office mixed-use element in Land Bay D. And that cap will also deny realization of the anticipated "fast food casual" component in the recently approved Wegmans Application.

In order to correct these inconsistencies in the Zoning Ordinance among the P-Districts, we urge (i) that the PDC 15% use limitation on the amount of fast food located within a non-residential or residential structure be deleted as part of the several other minor clean-up text changes in the proposed ZOA, and (ii) that the PDC 25% secondary use limitation be increased to the same 50% as residential. Attachment A reflects in red (page 7) suggested edits to the Staff Draft PDC District necessary to accomplish correction of the current inconsistent treatment of the PDC District.

Very truly yours,

Francis A. McDermott

Attachment

Proposed PDC, PRM CRD District Text Changes

Amend Article 2, General Regulations, as follows:

- **Amend Part 4, Qualifying Lot and Yard Regulations, Sect. 2-418 Waiver of Yard Requirements in Selective Areas, to read as follows:**

  ~~Waiver~~ Reduction of Yard Requirements in Selective Areas

  ~~Notwithstanding any other provision of this Ordinance and~~ Except in a Commercial Revitalization District, the minimum yard requirements and other required distances from lot lines set forth in this Ordinance may be ~~waived~~ reduced for developments located in an area where specific design guidelines have been established in the adopted comprehensive plan, such as in Community Business Centers ~~(CBCs)~~, Commercial Revitalization Areas and ~~areas around transit facilities~~ Transit Station Areas, in accordance with such recommendations. Such ~~waiver~~ reduced yards or other required distances from lot lines may be approved by the Board, in conjunction with the approval of a rezoning or special exception, or by the Director in approving a site plan, when it is determined that such ~~waiver~~ reduction is in accordance with, and would further implementation of, the adopted comprehensive plan. Yard requirements in a Commercial Revitalization District and any allowable reductions thereof, shall be ~~provided~~ in accordance with the provisions of that district.

- **Amend Part 5, Qualifying Use, Structure Regulations, Sect. 2-505, Use Limitations on Corner Lots, by adding a new Par. 2 as follows:**

  2. Notwithstanding the above, the Board, in conjunction with the approval of a rezoning or special exception application, may modify the sight distance requirements on a corner lot based upon an evaluation of the specific development proposal which shall consider the demonstrated compliance with sight distance requirements of the Virginia Department of Transportation and a specific sight distance analysis and/or any other relevant design guidelines that would demonstrate safe and adequate vehicular, bicycle and/or pedestrian movements at an intersection.

Amend Article 6, Planned Development Districts, as follows:

- **Amend Part 2, Planned Development Commercial District, as follows:**

  - **Amend Sect. 6-203, Secondary Uses Permitted, by adding a new Par. 4D and relettering the subsequent paragraphs accordingly, as follows:**

    4. Commercial and industrial uses of special impact (Category 5), limited to:

D. Commercial Recreation Restaurants, limited by the provisions of Sect. 9-506

Amend Sect. 6-206, Use Limitations, by revising Paragraphs 5, 9, 10A and 11 and by adding a new Par. 16, as follows:

5. Secondary uses shall be permitted only in a PDC District which contains one or more principal uses. Unless modified by the Board in conjunction with the approval of a conceptual development plan in order for further implementation of the adopted comprehensive plan~~,~~ (i) the gross floor area devoted to dwellings as a secondary use shall not exceed fifty (50) percent of the gross floor area of all principal uses in the development, except that the floor area for affordable and market rate dwelling units which comprise the increased density pursuant to Part 8 of Article 2 shall be excluded from this limitation~~.~~ and (ii) ~~T~~the gross floor area of all other secondary uses shall not exceed ~~twenty-five (25)~~ **fifty (50) percent of the gross floor area of all principal uses in the development~~:~~ unless modified by the Board and in conjunction with the approval of a conceptual development plan in order to further implementation of the adopted Comprehensive Plan.

   The floor area for dwellings shall be determined in accordance with the gross floor area definition except the following features shall not be deemed gross floor area: balconies, porches, decks, breezeways, stoops and stairs which may be roofed but which have at least one open side; or breezeways which may be roofed but which have two (2) open ends. An open side or open end shall have no more than fifty (50) percent of the total area between the side(s), roof and floor enclosed with railings, walls, or architectural features.

9. Notwithstanding the provisions of Par. 5 and 6 above, ~~housing for the elderly~~ independent living facilities, assisted living facilities and/or nursing facilities as ~~a~~ secondary uses need not be designed to serve primarily the needs of the residents and occupants of the planned development in which located but shall be designed so as to maintain and protect the character of adjacent properties. The gross floor area devoted to ~~housing for the elderly~~ independent living facilities, assisted living facilities and/or nursing facilities as ~~a~~ secondary uses shall not exceed fifty (50) percent of the gross floor area of all uses in the development.

10. Fast food restaurants shall be permitted only in accordance with the following:

    A. Fast food restaurants may be permitted as a secondary use when shown on an approved final development plan, and provided such use is located in a residential and/or nonresidential structure containing at least one (1) other permitted principal or secondary use, in accordance with the following:

       (1) Such fast food restaurants shall be oriented to cater primarily to occupants and/or employees in the structure in which located, or of that structure and adjacent structures in the same building complex which are accessible via a clearly designated pedestrian circulation system; and

       ~~(2) Such use(s) shall comprise not more than fifteen (15) percent of the gross floor area of the structure.~~

(3) No drive-through facilities shall be permitted when such fast food restaurant is located in a building with any residential uses.

11. Kennels and veterinary hospitals shall be located within a completely enclosed building which is adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area. ~~In addition, the Health Department shall approve the construction and operation of all veterinary hospitals prior to issuance of any Building Permit or Non-Residential Use Permit.~~

16. Off-street parking and loading facilities and private streets shall be provided in conformance with the provisions of Article 11, to include any possible parking reductions or alternate locations set forth in Sect. 11-102. Any such parking reduction may be approved by the Board as part of a rezoning and/or special exception when it is demonstrated by the applicant and determined by the Board, in its discretion, that any such reduction(s) meets all applicable requirements of Sect. 11-102 and is/are in furtherance of the recommendations of the adopted comprehensive plan. It is intended that a substantial portion of the required parking should be provided in above and/or below grade parking structures.

- **Amend Sect. 6-207, Lot Size Requirements, by revising Par. 1C, as follows:**

1. Minimum district size: No land shall be classified in the PDC District unless the Board finds that the proposed development meets at least one (1) of the following conditions:

   A. The proposed development will yield a minimum of 100,000 square feet of gross floor area.

   B. The proposed development will be a logical extension of an existing P District, in which case it must yield a minimum of 40,000 square feet of gross floor area.

   C. The proposed development is located within an area designated as a Community Business Center, Commercial Revitalization Area or Transit Station Area in the adopted comprehensive plan or is in a Commercial Revitalization District and a final development plan is submitted and approved concurrently with the conceptual development plan for the proposed development. The conceptual and final development plan shall specify the uses and gross floor area for the proposed development and shall provide site and building designs that will complement existing and planned development by incorporating high standards of urban design, to include provision for any specific urban design plans in the comprehensive plan for the area and for safe and convenient pedestrian, bicycle and vehicular movement and access.

- **Amend Sect. 6-208, Bulk Regulations, by revising Par. 3 and adding a new Par. 4 to read as follows:**

3. Maximum floor area ratio: 2.5. However, the Board may approve an increase up to 5.0 only when, in the discretion of the Board, the proposed development is implementing the site specific density/intensity and other recommendations in the adopted comprehensive plan for developments located in a Commercial Revitalization District, Community Business Center, Commercial Revitalization Area and/or Transit Station Area. ***(Advertised range for maximum FAR is 2.5 to 5.5 for areas within the Selective Areas)*** ~~1.5, which may be increased by the Board, in its sole discretion, up to a maximum of 2.5 in accordance with and when the conceptual and final development plans include one or more of the following:~~

   ~~A. More open space than the minimum required by Sect. 209 below - Not more than 2% for each additional 1% of the gross area provided in open space.~~

   ~~B. Unique design features and amenities within the planned development which require unusually high development costs and which achieve an especially attractive and desirable development, such as, but not limited to, terraces, sculpture, reflecting pools and fountains - As determined by the Board in each instance, but not to exceed 35%.~~

   ~~C. Below-surface off-street parking facilities - Not more than 5% for each 20% of the required number of parking spaces to be provided.~~

   ~~D. Above-surface off-street parking facilities within an enclosed building or structure - Not more than 3% for each 20% of the required number of parking spaces to be provided.~~

   The maximum floor area ratio permitted by this Part shall exclude the floor area for affordable and bonus market rate dwelling units provided in accordance with Part 8 of Article 2 and the floor area for proffered bonus market rate units and/or bonus floor area, any of which is associated with the provision of workforce dwelling units, as applicable.

4. Notwithstanding the definition of gross floor area, any cellar space shall be counted as part of the gross floor area and shall be included in the calculation of the floor area ratio for any rezoning to the PDC District approved by the Board after *[date of adoption]*, except when such cellar space:

   A. has a structural headroom of less than six (6) feet, six (6) inches and is specifically identified for mechanical equipment; or

   B. is specifically identified for storage and/or other uses that are accessory to the principal uses in the building; or

   C. is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock utilized for the temporary loading and unloading of goods; or

D. is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

- Amend Part 4, Planned Residential Mixed Use District, as follows:

- **Amend Sect. 6-401, Purpose and Intent, as follows:**

The PRM District is established to provide for high density, multiple family residential development, generally with a minimum density of 40 dwelling units per acre; for mixed use development consisting primarily of multiple family residential development, generally with a density of at least twenty (20) dwelling units per acre, with secondary office and/or other commercial uses. PRM Districts should be located in those limited areas where such high density residential or residential mixed use development is in accordance with the adopted comprehensive plan such as within areas delineated as Transit Station Areas, Community Business Centers, Commercial Revitalization Areas and Urban and Suburban Centers as well as developments located in Commercial Revitalization Districts. The PRM District regulations are designed to promote high standards in design and layout, to encourage compatibility among uses within the development and integration with adjacent developments, and to otherwise implement the stated purpose and intent of this Ordinance.

To these ends, rezoning to and development under this district will be permitted only in accordance with development plans prepared and approved in accordance with the provisions of Article 16.

- **Amend Sect. 6-403, Secondary Uses Permitted, by adding a new Par. 5A and relettering the subsequent subparagraphs accordingly, and by adding new Paragraphs 13 and 23 and renumbering the subsequent paragraphs accordingly, as follows:**

5. Commercial and industrial uses of special impact (Category 5), limited to:

A. Commercial recreation restaurants, limited by the provisions of Sect. 9-506

13. Kennels, limited by the provisions of Sect. 406 below.

23. Veterinary hospitals, limited by the provisions of Sect. 406 below.

- **Amend Sect. 6-406, Use Limitations by revising Par. 9 and adding new Par. 13 to read as follows:**