

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, JANUARY 8, 2015**

PRESENT: Peter F. Murphy, Springfield District  
Frank A. de la Fe, Hunter Mill District  
Julie M. Strandlie, Mason District  
James R. Hart, Commissioner At-Large  
Ellen J. Hurley, Braddock District  
John C. Ulfelder, Dranesville District  
James T. Migliaccio, Lee District  
Earl L. Flanagan, Mount Vernon District  
Kenneth A. Lawrence, Providence District  
John L. Litzenberger, Jr., Sully District  
Janyce N. Hedetniemi, Commissioner At-Large  
Timothy J. Sargeant, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:20 p.m. by Chairman Peter F. Murphy in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

In accordance with the Commission Bylaws, Chairman Murphy announced that Planning Commission Officers would be elected on Wednesday, January 14, 2015.

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Commissioner Lawrence announced that the Planning Commission's Tysons Committee would meet at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center on Wednesday, January 14, 2015.

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Commissioner Hart announced that the Commission's Environment Committee would meet at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center on Thursday, January 22, 2015.

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SE 2014-MV-045 - ZAHIDA BABAR d/b/a AZEEM DAY CARE

Commissioner Flanagan: Thank you, Mr. Chairman. As I announced last night, Zahida Babar has asked that the public hearing tonight for SE 2014-MV-045 be deferred to allow her to meet next week with the Skyview Park Homeowner Association about the homeowner association's required townhome childcare facility permit she has requested from them. I agree and MOVE THAT THE PUBLIC HEARING FOR SE 2014-MV-045 BE DEFERRED TO A DATE CERTAIN OF JANUARY 22, 2014 [sic].

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger. Is there a discussion of the motion?

Commissioner Hart: 2015.

Chairman Murphy: 2015.

Commissioner Flanagan: Oh, 2015, I'm sorry, yes.

Chairman Murphy: You know, I called - - I said we were here in December last night, so - all those in favor of the motion to defer the public hearing on SE 2014-MV-045 to a date certain of January 22<sup>nd</sup>, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

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#### ORDER OF THE AGENDA

Chairman Murphy established the following order of the agenda:

1. FAIRFAX COUNTY CODE AMENDMENT (AS-BUILT REQUIREMENTS)
2. FAIRFAX COUNTY CODE AMENDMENTS – PROPOSED AMENDMENTS TO CHAPTER 124 (STORMWATER MANAGEMENT ORDINANCE), CHAPTER 101 (SUBDIVISION ORDINANCE), AND APPENDIX Q (LAND DEVELOPMENT SERVICES FEES) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA REGARDING THE IMPLEMENTATION OF THE VIRGINIA STORMWATER MANAGEMENT ACT (*VIRGINIA CODE ANN. SECT. 62.1-44.15:24, ET SEQ.*) AND VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) REGULATION (9 VAC 25-870, ET SEQ.)
3. SE 2014-MV-020 – KAUSAR S. MIRZA d/b/a FUNLAND MINI-CENTER
4. DPA-A-502-07/PCA-A-502/PRC-A-502-03 – LAKE ANNE DEVELOPMENT PARTNERS LLC

This agenda was accepted without objection.

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FAIRFAX COUNTY CODE AMENDMENT (AS-BUILT REQUIREMENTS) – Pursuant to *Virginia Code* Ann. 715.2-1427 (2012) and 15.2-2204 (Supp. 2014) the proposed amendments revise the County's as-built requirements to include geographic coordinates for stormwater management structures to align with the Stormwater Management Ordinance. This information is necessitated by the Virginia Stormwater Management Program Permit Regulations (9VAC25-870-126) and the Stormwater Management Ordinance. The amendments relocate and consolidate the detailed provisions of the as-built site plan and subdivision plan requirements from the Zoning and Subdivision Ordinances into the new PFM Section 2-1300. In addition, existing as-built provisions in PFM Section 6-1607.3 are being moved to PFM Section 2-1300. The PFM is being revised to clarify existing as-built requirements and add requirements for certain structures and features such as, but not limited to, retaining walls, number of parking spaces, critical slope information, pedestrian bridges and bus shelters. COUNTYWIDE. PUBLIC HEARING.

Commissioner Hedetniemi asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, she asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hedetniemi for action on this case.

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Chairman Murphy: The public hearing is closed; Ms. Hedetniemi.

Commissioner Hedetniemi: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED AMENDMENTS TO THE PUBLIC FACILITIES MANUAL AND CHAPTERS 101 (SUBDIVISION ORDINANCE) AND 112 (ZONING ORDINANCE) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, REGARDING AS-BUILT REQUIREMENTS, AS SET FORTH IN THE STAFF REPORT DATED DECEMBER 2<sup>ND</sup>, 2014, AND I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THIS AMENDMENT SHALL BECOME EFFECTIVE AT 12:01 A.M. ON FEBRUARY 18<sup>TH</sup>, 2015.

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Fairfax County Code Amendment, As-Built Requirements, as articulated by Mrs. Hedetniemi, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

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FAIRFAX COUNTY CODE AMENDMENTS – PROPOSED AMENDMENTS TO CHAPTER 124 (STORMWATER MANAGEMENT ORDINANCE), CHAPTER 101 (SUBDIVISION ORDINANCE), AND APPENDIX Q (LAND DEVELOPMENT SERVICES FEES) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA REGARDING THE IMPLEMENTATION OF THE VIRGINIA STORMWATER MANAGEMENT ACT (VIRGINIA CODE ANN. SECT. 62.1-44.15:24, ET SEQ.) AND VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) REGULATION (9 VAC 25-870, ET SEQ.) – Proposed amendments to Chapter 124 (Stormwater Management Ordinance), Chapter 101 (Subdivision Ordinance), and Appendix Q (Land Development Services Fees) of The Code of the County of Fairfax, Virginia. Pursuant to authority granted by Virginia Administrative Code Sections 9VAC25-870-820, 9VAC25-870-825, and 9VAC25-870-830, the amendments propose to implement fees charged under Chapter 124 for Chesapeake Bay Act Land-Disturbing Activities and fees related to the General Permit for Discharges of Stormwater from Construction Activities. The proposed amendments to the Stormwater Management Ordinance include the following: 1) definitions were added and definitions were modified for consistency with state regulations; 2) a minor change was made to one of the exemptions clarifying that the common plan of development or sale referred to in the exemption is one that disturbs one acre or greater of land; 3) new provisions were added and existing provisions were modified indicating that registration statements are not required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale; 4) a requirement was added that a stormwater management plan approved for a residential, commercial, or industrial subdivision governs the development of the individual parcels, including those parcels developed under subsequent owners and that a note be placed on the subdivision plat stating said requirement; 5) the appeals procedure was streamlined and the requirement for a

hearing officer to be appointed was eliminated; 6) a clarification was added to the requirements for grandfathered projects and projects subject to time limits that BMPs for such projects are subject to current requirements for testing, inspection, plan submission, and dam standards in effect at the time of plan submission; and 7) additional minor changes and editorial corrections were made. The proposed amendment to the Subdivision Ordinance adds a requirement for a note on the final subdivision plat stating that individual parcels shall be developed in accordance with the approved stormwater management plan for the subdivision. The proposed amendments to Appendix Q: 1) clarify that a permit fee is not required for Chesapeake Bay Preservation Act land-disturbing activities exempt from the Stormwater Management Ordinance; 2) eliminate fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from construction activities for Small Construction Activity/Land Clearing for: i) areas within common plans of development or sale with land-disturbance acreage less than one acre; and ii) sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres for construction of single-family detached residential structures; 3) eliminates the fee for annual permit maintenance for Chesapeake Bay Preservation Act land-disturbing activities; 4) and eliminate fees for annual permit maintenance for: i) areas within common plans of development or sale with land-disturbance acreage less than one acre; and ii) sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres for construction of single-family detached residential structures. The proposed amendments implement the Virginia Stormwater Management Act. COUNTYWIDE. PUBLIC HEARING.

Commissioner Hart asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hart for action on this case.

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Chairman Murphy: The public hearing is closed; Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO CHAPTER 124, STORMWATER MANAGEMENT ORDINANCE; CHAPTER 101, SUBDIVISION ORDINANCE; AND

APPENDIX Q, LAND DEVELOPMENT SERVICES FEE SCHEDULE OF THE COUNTY  
CODE, AS CONTAINED IN THE STAFF REPORT DATED DECEMBER 2, 2014.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt these Code amendments as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

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SE 2014-MV-020 – KAUSAR S. MIRZA d/b/a FUNLAND MINI-CENTER – Appl. under Sects. 6-105, 6-106, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 9078 Furey Road, Lorton, 22079, on approx. 6,021 sq. ft. of land zoned PDH-12. Tax Map 107-2 ((12)) 228 A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Kausar S. Mirza, Owner, Funland Mini-Center, reaffirmed the affidavit dated May 30, 2014.

There were no disclosures by Commission members.

Megan Duca, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2014-MV-020.

Commissioner Flanagan asked how long Funland Mini-Center had been operating, to which Ms. Duca replied that Ms. Mirza had operated the facility with a state license for approximately 10 years, adding the number of children had varied between seven and 12 over that time period. When Commissioner Flanagan asked whether a special exception application would be required for the facility to continue operating, William Mayland, ZED, DPZ, confirmed that it would, adding that Ms. Mirza was one of many applicants to file such an application in order to bring her facility into compliance with the Fairfax County Zoning Ordinance. Further discussion between Commissioner Flanagan and staff revealed that the facility was located in a PDH-12 (Planned Development Housing – 12 Dwelling Units per Acre) district along a two-lane private road with a fire lane in front of the application site. In reply to a question from Commissioner Flanagan, Mr. Mayland noted that the proffer commitments included in the original PDH development required the establishment of a homeowners association (HOA).

Ms. Mirza explained that she had run a state licensed day care facility, which permitted up to 12 children, at her residence since 2005. She added that she had a two-car garage and two off-street parking spaces that were all used by her clients, all of whom lived in the community. In addition, she noted that her clientele currently consisted of three families who each brought two children to her for child care. She further noted that she had received no complaints from any of her neighbors.

Chairman Murphy asked her if she agreed with the conclusions in the staff report. Ms. Mirza replied that she did.

Chairman Murphy called the first listed speaker and recited the rules for testimony.

Tracy Gray, President, Laurel Highlands Homeowners Association (HOA), 9101 Purvis Drive, spoke in opposition to the application, citing parking issues and conflict with the HOA's current policies. Referencing Photo A1 in Appendix 3, he noted that one of the cars in the photo was parked in fire lane while picking a child up. He noted his surprise that the picture was included in the staff report because it showed a clear violation of the Fairfax County Zoning Ordinance. He also noted that the violation had not been reported to him or anyone else on the HOA Board, but said that such violations occurred on a regular basis. In addition, Mr. Gray said that the subject facility was on Furey Road, a main artery that was designed to take the traffic into and out of the community, and stated that additional vehicles parked for pickup or drop-off would have negative impacts on the community. He said that the Planning Commission's approval of this application would contradict the HOA policy and therefore requested denial of the application.

Commissioner Flanagan asked how large the Laurel Highlands HOA was. Mr. Gray said it consisted of 249 residences, including single-family homes and townhomes. When Commissioner Flanagan asked Mr. Gray if the HOA would find the facility compatible with only seven children, Mr. Gray said yes, as long as the applicant abided by the association's policies. Commissioner Flanagan asked if the addition of five children to a total of 12 children would be compatible with the HOA's policies, to which Mr. Gray replied no.

In response to a question from Commissioner Hart, Mr. Gray confirmed that the fire lane was in front of the subject property and, while there was curbing across the street, there were no provisions for on-street parking. Commissioner Hart asked why the applicant would not be permitted to park on the street. Mr. Gray said that the proffer conditions required the residents to use their garages and driveways, adding that guests and commercial vehicles would thus have space available to park. Commissioner Hart asked whether vehicles parked on the street were towed. Mr. Gray said that residents' vehicles that were parked on the street overnight would be towed, as would vehicles parked along any yellow-painted curb. Commissioner Hart questioned the enforceability of HOA's no-parking policy if there were no signs prohibiting it.

Commissioner Sargeant asked Mr. Gray whether the HOA Board had taken action on other childcare centers in the area with similar HOA violations. Mr. Gray said not yet, adding that HOA board members were hoping that the owners would comply with the regulations prior to the approval of their respective applications. Commissioner Sargeant noted that it would be

helpful to have a clearer understanding with regard to HOA covenants versus the Fairfax County Code and thence proceed with the application.

Mr. Mayland pointed out that Fairfax County did not enforce HOA covenants. He added that he had received and read a copy of the Laurel Highlands HOA policy and said that he believed that Ms. Mirza's facility was not in violation of the policy. He pointed out that the policy addressed one non-resident employee, which the applicant requested, and noted that there was no mention in the policy regarding the number of children allowed in the facility. He added that the policy included language regarding compliance with the county Zoning Ordinance and stated that the applicant was attempting to do so with the subject application.

Commissioner Sargeant asked Mr. Mayland if the Zoning Ordinance addressed seven children versus five. Mr. Mayland said yes, by distinguishing the number of children permitted in either a single-family detached dwelling, as opposed to a single-family attached dwelling. Commissioner Sargeant asked Mr. Mayland whether the county might amend the Zoning Ordinance given the number of daycare owners submitting applications to come into compliance with the county code. Mr. Mayland said that he anticipated an amendment only addressing the hours of operation related to the non-resident employees. Commissioner Sargeant asked what enforcement tools might the HOA have available to enforce Development Condition Number 8. Mr. Mayland said that residents could contact the staff at the Fairfax County Department of Code Compliance, who would determine whether there was a violation and then work with the applicant to ensure compliance thereafter.

In reply to questions from Commissioner Lawrence, Mr. Gray confirmed that a facility with 12 children and two assistants would be in violation of the HOA's covenants. In addition, he said that the applicant had signed the covenant. Commissioner Lawrence asked Ms. Duca if the applicant understood that the HOA could take action against her for violating the covenant. Ms. Duca stated that staff had discussed with Ms. Mirza the need to address the HOA covenant issues separately from the application.

Commissioner Hurley pointed out that the approval of 12 children would be in compliance with the HOA policies since the number of children was not specifically stated and asked Mr. Gray if the HOA would authorize the current request since one of the assistants currently lives onsite. Mr. Gray pointed out that the application requested two assistants with no requirement for a live-in assistant; therefore, he assumed that another non-resident assistant would be provided, which was a clear violation of the HOA policy. Commissioner Hurley asked Mr. Gray if the Board might accept a development condition or proffer wherein one assistant would not be a resident and would not arrive or depart by car, and the second assistant would live in the facility with the owner. This would comply with the current HOA policy and would allow the applicant to continue to run her facility. It would also give the HOA Board time to modify its policy. Mr. Gray agreed.

Commissioner Ulfelder asked staff if the applicant was required to have two assistants once she had more than seven children. Ms. Duca explained that that state had a points system that was based on the age of the children in a facility and said that the age of the children in the applicant's care determined the number of assistants required at her facility.

Tina Bryan, 8152 McCauley Way, Lorton, said that Ms. Mirza cared for two of her children and noted that while she often walked them to the facility, she dropped them off from the street in inclement weather. In addition, she pointed out that there was another way to access the facility without using Furey Lane. She stated that she supported the application and said that she did not feel it would be in violation of the HOA's policies.

Commissioner Flanagan asked Ms. Bryan if her residence was within the HOA's boundaries, to which she replied yes.

Tasha Ferguson, 9082 Furey Road, Lorton, said that Ms. Mirza cared for two of her children and noted that she lived next door to her and, therefore, walked them to the facility. She said that she preferred Funland not only because of its proximity, but also because it was safer than others in more densely located areas.

Ishrat Bano, 9080 Furey Road, Lorton, stated that she was a neighbor of the applicant and spoke in support of the application.

Mohammad Kahalid Khan, 8706 Pinnacle Rock Court, Lorton, noted that his wife was an assistant to Ms. Mirza. He added that he dropped her off and picked her up every day from the facility and had not noticed any congestion.

Fabricio Lisano, 8187 Usher Drive, Lorton, noted that he was a neighbor of the applicant and stated that he had never seen congestion related to the childcare facility.

Rahel Ashaw, 8923 Milford Haven Court, Unit 23B, Lorton, noted that she had a 13-year old daughter with special needs which Ms. Mirza cared for. She added that she was very happy with the facility and stated that her daughter was very happy with Ms. Mirza.

Brittany Green, 8286 Armetale Lane, Fairfax Station, said that Ms. Mirza cared for two of her children and stated that she used the driveway to drop off/pick up the children. She added that she had never seen congestion related to the residence. In addition, she said that the facility was always adequately staffed and should be allowed to continue to run with no problem.

Emanuala Rakotoarisoa, 8087 Horseshoe Cottage Circle, Lorton, said that Ms. Mirza cared for two of her children, noting that she drove them to the residence where a parking space onsite was always available. She said that she had never seen traffic problems related to the childcare facility and commended Ms. Mirza for her service.

Jennifer O'Conner, 9650 Potters Hill Circle, Lorton, pointed out that prior to November 2014, she had parked in the fire lane with the assumption that the yellow curb meant that people could load/unload passengers. She added that others in the community had been under the same assumption and were informed of the violation and had since stopped. She further stated that the term "congestion" was subject to interpretation and said that she never saw more than one other vehicle when she dropped off her children.

Bianca Word, 9532 Shepherd Hills Drive, Lorton, noted that neither she nor her mother ever noticed any congestion when dropping off her children.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Mirza, who noted that she did not allow parents to park in the fire lane.

Commissioner Lawrence thanked the speakers for their remarks, but pointed out that the Commission's decision would be based solely on land use issues, adding that the decision would be independent of the HOA's covenant.

Chairman Murphy noted that the Commission had received individual letters regarding the facility and said they would be entered into the official record.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

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Chairman Murphy: The public hearing is closed; Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. Based upon the testimony, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2014-MV-020 TO A DATE CERTAIN OF JANUARY 22, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Are we – we okay on the – Kim – on that date? Are we jamming the - - I know it's a decision only, but I just wanted to - - I guess we can squeeze one more.

Kimberly Bassarab, Assistant Director, Planning Commission Office: Yes, we're okay.

Chairman Murphy: Okay. All right. Seconded by Mr. Lawrence. All those in favor of the motion to defer decision only on SE 2014-MV-020 to a date certain of January 22<sup>nd</sup>, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

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DPA-A-502-07 – LAKE ANNE DEVELOPMENT PARTNERS LLC – Appl. to permit the 7th amendment of the Development Plan for RZ A-502 to permit a mixed use development with an overall Floor Area Ratio (FAR) of 1.11, associated modifications to site design, and a waiver #8260-WPFM-001-1 for the location of underground storm water facilities in a residential area. Located on the S. side of Baron Cameron Ave. at its intersection with Village Road, on approx. 24.30 ac. of land zoned PRC. Comp. Plan Rec: Residential Planned Community. Tax Map 17-2 ((8)) 6 C, 17-2 ((14)) (1) 2 G, 17-2 ((16)) 1 A, and 17-2 ((7)) 6 B2 and 6 B3, 17-2 ((1)) 7, 17-2 ((31)) 1645, 17-2 ((31)) common elements (part) (parking lot), and a portion of Village Road to be vacated/abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Village Road to proceed under Section 15.2-2272 (2) of the *Code of Virginia.*) (Concurrent with PCA A-502 and PRC A-502-3.) HUNTER MILL DISTRICT.

PRC-A-502-03 – LAKE ANNE DEVELOPMENT PARTNERS LLC – Appl. to approve a PRC plan associated with RZ A-502 to permit a mixed use development, with an overall Floor Area Ratio (FAR) of 1.11, and waiver #8260-WPFM-001-1 for the location of underground storm water facilities in a residential area. Located on the S. side of Baron Cameron Ave. at its intersection with Village Road, on approx. 24.30 ac. of land zoned PRC. Comp. Plan Rec: Residential Planned Community. Tax Map 17-2 ((8)) 6 C, 17-2 ((14)) (1) 2 G, 17-2 ((16)) 1 A, 17-2 ((7)) 6 B2 and 6 B3, 17-2 ((1)) 7, 17-2 ((31)) 1645, 17-2 ((31)) common elements (part) (parking lot), and a portion of Village Road to be vacated/abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Village Road to proceed under Section 15.2-2272 (2) of the *Code of Virginia.*) (Concurrent with DPA A-502-07 and PCA A-502.) HUNTER MILL DISTRICT.

PCA-A-502 – LAKE ANNE DEVELOPMENT PARTNERS LLC – Appl. to add proffers to RZ A-502 previously approved for residential, commercial, institutional, and park uses to permit a mixed-use development, associated proffers, and associated modifications to site design with an overall Floor Area Ratio (FAR) of 1.11, and waiver #8260-WPFM-001-1 for the location of underground storm water facilities in a residential area. Located in the S. side of Baron Cameron Ave. at its intersection with Village Road, on approx. 24.30 ac. of land zoned PRC. Comp. Plan Rec: Residential Planned Community. Tax Map 17-2 ((8)) 6 C, 17-2 ((14)) (1) 2 G, 17-2 ((16)) 1 A, 17-2 ((7)) 6 B2 and 6 B3, 17-2 ((1))

7, 17-2 ((31)) 1645, 17-2 ((31)) common elements (part) (parking lot), and a portion of Village Road to be vacated/abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Village Road to proceed under Section 15.2-2272 (2) of the *Code of Virginia*.) (Concurrent with DPA A-502-07 and PRC A-502-3.)  
HUNTER MILL DISTRICT. JOINT PUBLIC HEARING.

Lynne Strobel, Esquire, Applicant's Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated December 18, 2014.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had two pending cases with Ms. Strobel's law firm in which there were attorneys representing adverse parties, but indicated that it would not affect his ability to participate in this hearing. In addition, his law firm had two pending cases with Odin, Feldman & Pittleman, PC in which there were attorneys representing adverse parties, but indicated that it would not affect his ability to participate in this hearing.

Commissioner de la Fe acknowledged the residents who were in attendance and thanked them in advance for their interest and participation. He pointed out that tonight's hearing would focus on the land use issues associated with the redevelopment, not the relocation and affordability issues that were part of the Comprehensive Agreement. He added that the latter issues would be addressed at a public hearing before the Board of Supervisors currently scheduled for January 27, 2015. He noted that as part of her ongoing outreach to the tenants at Crescent, Supervisor Hudgins would post a briefing on the relocation plan for the residents at 7:00 p.m. on Wednesday, January 14, 2015, and said that she had also met with stakeholders throughout the process. He further noted that the relocation plan, as contained in the proposed Comprehensive Agreement was now available on the county's purchasing website under PPEA Opportunities [<http://www.fairfaxcounty.gov/dpsm/tempdocs/crescentinterimagreement.pdf>].

Mary Ann Tsai, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of applications DPA-A-502-07, PRC-A-502-03, and PCA-A-502.

Commissioner de la Fe asked Ms. Tsai if the Crescent tenants would be members of the Reston Association. Ms. Tsai said they would become members. Commissioner de la Fe asked whether the recreational facilities were provided by the Reston Association. Ms. Tsai confirmed that many of them were.

Ms. Strobel provided a brief history of the Lake Anne Village Center and noted that the Fairfax County Board of Supervisors had designated it a historic overlay district, as well as a commercial revitalization area, with the intention of encouraging economic development and reinvestment in existing businesses. She added that the county further invested in the area by purchasing the Crescent Apartments to preserve affordable housing, adding that the Board continued to work with the community to develop ways to encourage a mix of uses at an intensity that would revitalize the area. She said that the applicant proposed a design that would meet the goals of the

Comprehensive Plan while remaining true to Robert E. Simon's vision to create a community where people could live and work in an urban and sustainable environment. Ms. Strobel then introduced Michael E. Hickok from Hickok Cole Architects, Inc. to provide a brief presentation on the design of the proposed application.

Michael E. Hickok, Architect/Agent for Applicant, Hickok Cole Architects, Inc., gave a brief presentation detailing the layout of the proposed site.

Ms. Strobel addressed the outstanding issues mentioned during Ms. Tsai's presentation, beginning with the Fairfax County Park Authority's (FCPA) recommendation of a "fair share" contribution. She acknowledged an ongoing disagreement with the FCPA regarding the contribution, but pointed out that the Park Authority had not acknowledged or recognized that the applicant would provide significant and costly improvements to Washington Plaza which was a public area serving the greater Reston community, at a cost of over \$1.2 million. She added that this improvement would support the consideration of an alternative formula to the typical \$893 per person as recommended by the FCPA, while the application of a typical formula would result in a contribution of over \$1.4 million. In addition, she referenced Commissioner de la Fe's earlier remarks and pointed out that residents would contribute to the parks maintained by the Reston Association (RA). She stated that the applicant was working with the Fairfax County Department of Transportation (FCDOT) on the timing of the vacation and/or abandonment of right-of-way for the realignment of Village Road, adding that after a meeting on this topic on January 6, 2015, she anticipated an agreement/memorandum between Fairfax County and the applicant with general proffers that would define a specific procedure. With regard to retail development, Ms. Strobel stated that the applicant had agreed to proffer to first floor retail on Land Units A and D. She noted that the three-year time period suggested by staff for the applicant to market the grocery store was too long of a time-period and said that the applicant needed to be able to design the space, adding that delaying it for three years would not economically viable. She further added that the applicant was in the process of securing a lease for a grocery store and had proffered to continue those efforts for at least one year following the zoning approval. Addressing the elevated walkway, Ms. Strobel pointed that the difference in time it would take a pedestrian to walk from the garage to the grocery store using the walkway, as compared to the time it would take without it, was negligible. She stated that given the cost of construction, at approximately \$260,000, the applicant felt that this improvement should be within its discretion. Ms. Strobel noted that the applicant was concerned with regard to staff's recommendation for Building D1 to comply with LEED certification, particularly if the building were to become grocery space, for which LEED requirements were difficult to meet. She stated that the applicant would comply with LEED if the building use were something other than a grocery store. She added that the RA had requested the inclusion of several commitments that were made with the applicant, to be memorialized in the proffers, which she provided this evening, adding that they would be incorporated into the current proffers prior to the Planning Commission's decision. Ms. Strobel pointed out one last issue related to proposed Development Condition Number 2, requiring substantial conformance with the informational sheets in the development plan, and said that the applicant had proffered to the necessary elements of those sheets and did not agree that they should be fully proffered because it would impact the flexibility of the applicant on the timing of construction, based on market conditions. She noted that the applicant had worked with the Reston community and received recommendations of

approval from the Planning and Zoning Committee, as well as the Design Review Board. She added that staff recommended approval and requested that the Planning Commission favorably consider this application.

Chairman Murphy called the first listed speaker and recited the rules for testimony.

Rabbi Michael Holzman, representing the Northern Virginia Hebrew Congregation, 1331 Wiehle Avenue, Reston, expressed concern that the current residents at Crescent Apartments might not have a voice with regard to the affordable units. He pointed out that the county's Request for Proposals (RFP) specified that 70 percent of the affordable units would be leased at 60 percent of the area median income (AMI), while only 14 percent of the current tenants living at Crescent made between 50- and 60 percent of the AMI. He pointed out that current residents were paying more than 30 percent of their incomes toward rent and added that while they did not currently pay for utilities they would under the new plan. He stated that members of his organization had spoken to the Board of Supervisors about these discrepancies and never received a response. He pointed out that the Board's meeting on the issues related to this case that was scheduled on January 27 would take place prior to the public hearing later that same day. He pointed out that the decision would have been all but made by that point and further noted that the meeting would occur at a time of day when residents would be unable to attend. He said that this evening's meeting was the first opportunity the citizens had to voice their concerns to the Commissioners.

Commissioner Lawrence asked Mr. Holzman if he had any suggestions, similar to the tiered approach offered by the county, for the affordable housing. Mr. Holzman acknowledged the county's tiered approach and stated that it was not aligned with the residents currently living at the Crescent. Commissioner Lawrence pointed out that building costs were factored into the rents and suggested a short period of time to assess the current rent structure and what could be expected. Mr. Holzman reiterated that he had requested meetings with Board members to discuss financial solutions for 18 months.

Commissioner Flanagan asked Mr. Holzman to specify the number of current residents at Crescent Apartment and percentage AMI breakout of those residents. Mr. Holzman explained that 181 residents lived at the apartment, with 26 residents at between 50% and 60% AMI. He explained that no one else currently living at Crescent Apartments would have a problem find housing under the new RFP tiered AMI percentages. When Commissioner Flanagan asked Mr. Holzman if he had information regarding residents living on salaries below 50% AMI, Mr. Holzman said that he did not, reiterating that he had requested the information but had not received a response. He added that upon speaking with 70 residents, who were present at this evening's hearing, it was revealed that the RFP breakout should have been 30% of the residents at 60% AMI and 70% at lower AMI percentages.

Commissioner de la Fe explained that the proposed tiered approach was similar to what Mr. Holzman suggested. Mr. Holzman agreed and reiterated that only 26 of the current residents were living at the 60 percent rate, to which Commissioner de la Fe countered that the language said, "up to 60 percent of AMI," and included the rents of everyone under that rate. When Mr. Holzman questioned whether the developer had included those rents, Commissioner de la Fe said that he would ask the applicant if they were included.

Herminda Belleza, 1564 Cameron Crescent Drive, Reston, said that she was a resident at Crescent who worked seven days a week with 40 percent of her salary going toward rent. She noted that she lived there because of its affordability, location near a good school, safety, and the opportunity to be near fields and parks. She expressed concern that the proposal would raise the rents and worried that she might have to relocate with her daughter to find a more affordable home.

Eileen Belleza, 1564 Cameron Crescent Drive, Reston, noted that she was an student at Langston Hughes Middle School and was recently accepted into the National Junior Honor Society, which she attributed to the quality of Fairfax County schools and the safety of the neighborhood in which the Crescent Apartments were located.

John Lovaas, 11437 Washington Plaza West, Reston, spoke in support of the application and noted his agreement with Mr. Holzman's statement. He noted that the proposal would feature space for an expanded Reston Farmers Market, which he had founded. He also noted that the proposed path would provide the connectivity envisioned by Robert E. Simon.

Cate Fulkerson, representing Reston Association (RA), 12001 Sunrise Valley Drive, Reston, noted that the RA comprised approximately 21,300 residential units and a population of over 60,000 people, and stated that its members had been involved in the planning and design of the application. She stated that the RA supported the application, conditioned upon the changes made to the proffers that Ms. Strobel noted during her presentation.

Commissioner de la Fe clarified that the conditions distributed to the Commissioners this evening by Ms. Strobel were the changes requested by the RA.

Christopher LoPiano, Senior Vice President for Real Estate, Community Preservation & Development Corporation (CPDC), 8403 Colesville Road, Silver Spring, MD, supported the application. He said that the existing residents would benefit greatly from this revitalization and noted that CPDC's role focused on the preservation of the units of affordable housing currently provided by Crescent. He said that the existing two buildings would be razed and replaced with newer, higher quality buildings while maintaining affordability. He added that the units must be built during Phase I of the development before anything else was built and request the Commission's approval of the application. Addressing Mr. Holzman's concerns, Mr. LoPiano stated that while he had not directly surveyed the current Crescent residents regarding their incomes, he had seen information verifying that the salaries which did not match those in the RFP. He added, however, that rental subsidies would help those residents earning lower salaries in order to maintain their residency, thereby preventing the widespread displacement predicted by Mr. Holzman.

Richard Thompson, representing Lake Anne of Reston Condominiums (Heron House), 11402 Washington Plaza West, Reston, noted that many of the units at Heron House were commercial units with local business owners. He spoke in support of the application and said that his community would benefit greatly from the revitalization proposed in the application.

Raghav Rathi, 1535 Cameron Crescent Drive, Reston, noted that her family lived at the Crescent and expressed concern about the possible relocation of the current Crescent residents. She noted that her family did not own a vehicle and depended on transit to get to and from work. She added that her parents depended on rent subsidies and provided a brief description of her family financial situation while living at the Crescent and stated that any increase would be detrimental. She suggested that the rents remain equivalent to the current rental structure, and said that the residents should be permitted to move into the new building.

Sandy Recard, 1560 Cameron Crescent, Reston, noted that she did not have a voucher and expressed concern about possibly being displaced.

Kathryn Laskey, 1820 Post Oak Trail, Reston, said that she chose to live in Reston because of its walkability in a community where people would live and work. She expressed concern about the affordable unit rental process described in Mr. LoPiano's testimony and urged the county to seek ways to ensure continued affordability that would allow Reston to remain the community it had always been.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Strobel, who said that the proffers were consistent with the RFP, but noted that the information provided by the Crescent Apartments did indicate a greater need for affordability in the replacement units. She added that the applicant was working on a solution to ensure that the residents would not be displaced. She further noted that she would continue to work with staff during the deferral period and would incorporate the conditions from the RA into the proffers.

Commissioner Lawrence suggested that the applicant consider including a proffer addressing bird-friendly design.

Commissioner de la Fe asked what percentage of the units in the entire development would be affordable. Ms. Strobel said that the county had suggested a combined workforce and affordable housing of 20 percent for all of the market units, in addition to the 181 affordable units at the Crescent Apartments.

Commissioner Flanagan expressed concern that the replacement unit rents will be higher than they are paying now. Mr. LoPiano stated that he would be working with the Fairfax County Redevelopment and Housing Authority (FCRHA) to ensure that the current residents would not be displaced, adding that all attempts would be made to match the existing rents.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on this case.

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Chairman Murphy: The public hearing is closed; Mr. de la Fe.

Commissioner de la Fe: Thank you very much. I would like to thank everyone that came out and, as has been indicated, I will defer decision on this to try to resolve some of the issues that were raised and some of the issues that are in the staff report to the best of our ability before the decision is made. I don't know whether we can resolve all of them. The issue of affordability and what rents are charged to current residents and so forth are part of the cooperative agreement that will be done by the county and the developer and I would remind everyone of the meeting next Wednesday that supervisor Hudgins is holding that will be able to discuss this stuff further. With that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY, WITH THE RECORD REMAINING OPEN FOR ANY FURTHER COMMENT, FOR PCA A-502, DPA A-502-07, AND PRC A-502-03, TO A DATE CERTAIN OF JANUARY 22<sup>ND</sup>, 2015.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of the motion? All those in favor of the motion to defer decision on these applications, with the record remaining open for comment, to a date certain of January 22<sup>nd</sup>, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

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The meeting was adjourned at 10:47 p.m.

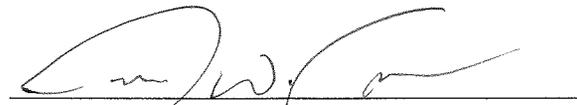
Peter F. Murphy, Chairman

James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord

Approved on: September 17, 2015



John W. Cooper,  
Clerk,

Fairfax County Planning Commission