

**MINUTES OF
THE FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, OCTOBER 9, 2013**

PRESENT: Peter F. Murphy, Chairman, Springfield District
Frank A. de la Fe, Hunter Mill District
Janet R. Hall, Mason District
Ellen J. Hurley, Braddock District
Jay P. Donahue, 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 Hedetniemi, Commissioner At-Large
James R. Hart, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:16 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

Commissioner Litzenberger announced his intent to defer the public hearing on RZ/FDP 2013-SU-010 - Christopher Land, LLC, from Thursday, October 17, 2013 to Thursday, November 21, 2013.

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Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION ENDORSE THE POLICY ON NONRESIDENTIAL FEES FOR AFFORDABLE HOUSING FOR THE PURPOSE OF TRANSMITTING IT TO THE BOARD OF SUPERVISORS' HOUSING COMMITTEE FOR ITS REVIEW. FOLLOWING CONSIDERATION BY THAT COMMITTEE, HE FURTHER MOVED THAT THE BOARD OF SUPERVISORS BE REQUESTED TO ALLOW FORMAL CONSIDERATION OF THE CONCEPT BY AUTHORIZING AN AMENDMENT TO THE COMPREHENSIVE PLAN.

Commissioner Flanagan seconded the motion, which carried by a vote of 9-1-2. Commissioner Migliaccio opposed the motion. Commissioners Hurley and Donahue abstained.

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SE 2013-LE-003 - DDR SOUTHEAST SPRING MALL, LLC (Decision Only) (The public hearing on this item was held on September 19, 2013. A complete verbatim transcript of the decision made is in the date file.)

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2013-LE-003, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS, WITH THE ADDITION OF DEVELOPMENT CONDITION NUMBER 15 WHICH STATES, "DONATION DROP BOXES USED FOR THE COLLECTION OF CLOTHING AND/OR OTHER DONATED MATERIALS SHALL NOT BE PERMITTED ON THE SUBJECT PROPERTY," WITH THE DEVELOPMENT CONDITIONS TO BE DATED OCTOBER 9, 2013.

Commissioner Litzenberger seconded the motion, which carried by a vote of 10-0-2. Commissioners de la Fe and Sargeant abstained.

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Commissioner Hart announced that the Planning Commission's Environment Committee would meet at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center on Wednesday, November 6, 2013, to receive a briefing on the Green Building Policy Plan Amendment. He also announced the following tentative meeting dates:

- Wednesday, January 22, 2014 (Planning Commission workshop on Green Building Policy Open Option items)
- Wednesday, April 30, 2014 (Planning Commission public hearing on Green Building Policy)

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FSA-23-2 – VERIZON WIRELESS, 4050 Legato Road

Chairman Murphy MOVED THE CONSENT AGENDA ITEM.

The motion carried by vote of 12-0.

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. COUNTY CODE AMENDMENTS (STORMWATER MANAGEMENT ORDINANCE) AND PUBLIC FACILITIES MANUAL AMENDMENTS (STORMWATER MANAGEMENT ORDINANCE)
2. RZ 2013-SP-005 - MHI-SPRING LAKE, L.L.C.

This order was accepted without objection.

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COUNTY CODE AMENDMENTS (STORMWATER MANAGEMENT ORDINANCE) – To consider proposed revisions to The Code of the County of Fairfax, Virginia, (County Code) as follows: the adoption of Chapter 124 (Stormwater Management Ordinance), repeal of Chapters (Pollution of State Waters) and 106 (Storm Drainage), and proposed amendments to Chapters 101 (Subdivision Ordinance), 104 (Erosion and Sedimentation Control), 112 (Zoning Ordinance), 118 (Chesapeake Bay Preservation Ordinance), and Appendix Q (Land Development Services Fees) of The Code of the County of Fairfax, Virginia. Pursuant to authority granted by *Virginia Code* Sects. 15.2-107, 15.2-2204, 15.2-2241 (A)(9), 15.2-2286(A)(6), and Virginia Administrative Code Sections 4VAC50-60-820, 4VAC50-60-825, and 4VAC50-60-830, the amendments propose to implement fees charged under Chapter 124 for Chesapeake Bay Act Land-Disturbing Activities, VSMP Permit maintenance and modifications, amendments to the fees charged under Chapter 101, Art. 2, Sec. 101-2-9 (Subdivision Ordinance), Chapter 104, Art. 1, Sec. 104-1-3 (Erosion and Sedimentation Control), and Chapter 112, Art. 17, Part 1, Sec. 17-109 (Zoning Ordinance) of the County Code for the review of plans, processing of permits, and performing site inspections. The new ordinance and proposed amendments implement the Virginia Stormwater Management Act (762.1-44.15:24, et seq.) and associated regulations, the Virginia Erosion and Sediment Control Law (762.1-44.15:51, et seq.) and associated regulations, and the Virginia Chesapeake Bay Preservation Act (762.1-44.15:67, et seq.) and associated regulations. The proposed Stormwater Management Ordinance includes the following: 1) General Provisions including: Purpose and Administration, Definitions, Areas of Applicability, Exemptions, Right of Entry, Severability, Applicability of and Conflicts with Other Laws and Regulations, Time Limits on Applicability of Approved Design Criteria, Grandfathering, Chesapeake Bay Preservation Act Land-Disturbing Activity; 2) General Administrative Criteria for Regulated Land-Disturbing Activities including: Applicability, Permit Required, Annual Standards and Specifications for State Agencies, Federal Entities, and Other Specified Entities, Security for Performance, Monitoring, Reports, Investigations, and Inspections, Stormwater Pollution Prevention Plan Requirements, Stormwater Management Plans, Pollution Prevention Plans, Stormwater Management Plan Review, Long-term Maintenance of Permanent Stormwater Management Facilities, Construction Record Drawings; 3) Fees including: General, Exemptions, Fees for Coverage Under the General Permit for Discharges of Stormwater from Construction Activities and Permits for Chesapeake Bay Preservation Act Land-Disturbing Activities, Fees for the Modification or Transfer of Registration Statements for the General Permit for Discharges of Stormwater from Construction Activities, State Permit Maintenance Fees; 4) Technical Criteria for Regulated Land-Disturbing Activities including: Applicability, Water Quality Design Criteria

Requirements, Water Quality Compliance, Water Quantity, Offsite Compliance Options, Design Storms and Hydrologic Methods, Stormwater Harvesting, Linear Development Projects, Comprehensive Stormwater Management Plans; 5) Technical Criteria for Regulated Land-Disturbing Activities for Grandfathered Projects and Projects Subject to Time Limits on Applicability of Approved Design Criteria including: Definitions, Applicability, General, Water Quality, Stream Channel Erosion, Flooding, Regional (watershed-wide) Stormwater Management Plans; 6) Exceptions; 7) Appeals including: Right to Administrative Review, Hearings, Appeals of Final Orders; 8) Violations and Penalties including: General Provisions, Criminal Violations and Penalties, Civil Penalties; and 9) Illicit Discharges to the Storm Sewer System and State Waters including: Purpose, Responsibilities of the Director, Illicit Discharges to the Storm Sewer System and State Waters, Standards for Inspection of Industrial and Commercial Property Discharging to the County's Storm Sewer System. The proposed amendment to the Subdivision Ordinance adds requirements of the Stormwater Management Ordinance to the minimum requirements for new subdivisions. The proposed amendment to the Zoning Ordinance adds requirements of the Stormwater Management Ordinance to the minimum requirements for site plans. The proposed amendments to the Erosion and Sedimentation Control Ordinance update the regulatory citations, definitions, administrative requirements, and conservation standards consistent with the Virginia Erosion and Sediment Control Law, reenacted in 2013, and associated regulations. The proposed amendments also explicitly designate the Director of DPWES as responsible for administering the ordinance, incorporate a general right of entry provision for enforcement of the ordinance separate from the existing provisions for inspection related to permits, and incorporate variance provisions. The proposed amendments to the Chesapeake Bay Preservation Ordinance eliminate stormwater management requirements duplicated in the proposed Stormwater Management Ordinance and clarify that enforcement of provisions relating to requirements for erosion and sediment control be conducted under provisions of the Erosion and Sediment Control Act. In addition, the Chesapeake Bay Exception Review Committee is being eliminated. The review and approval of the types of exception requests currently handled by the committee is to be transferred to the Board of Supervisors. The proposed amendments to Appendix Q incorporate fees for: Coverage Under the General Permit for Discharges of Stormwater from Construction Activities (\$308) and Permits for Chesapeake Bay Preservation Act Land-Disturbing Activities (\$308); Modification or Transfer of Registration Statements for the General Permit for Discharges of Stormwater from Construction Activities (\$200 - \$700 depending on disturbed acreage); Annual Permit Maintenance Fees (\$20 - \$1,400 depending on disturbed acreage); Modifications/Waivers/Exceptions (\$710); and Review and Inspection of Stormwater Management and BMP facilities (\$500 - \$3,200 by type of facility) with a maximum cumulative total of \$7,500. Fees for state permits will be paid directly to the state. COUNTYWIDE.

PUBLIC FACILITIES MANUAL AMENDMENTS (STORMWATER MANAGEMENT ORDINANCE) – To consider proposed revisions to the Public Facilities Manual (PFM) as follows: to amend Chapters 6 (Storm Drainage), and 12 (Vegetation Preservation and Planting). The proposed amendments to the PFM are necessary to implement the proposed County Stormwater Management Ordinance and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC 50-60 et seq.). The proposed amendments include the following: 1) The extent of review of downstream drainage systems to determine adequacy is being replaced with a reference to the requirements in the Stormwater Management Ordinance; 2) The use of the critical shear stress method in determining adequacy is being eliminated; 3) The detention method used in demonstrating adequacy is being replaced with a reference to the detention method in the Stormwater Management Ordinance; 4) Specific water quality control criteria related to the Chesapeake Bay Preservation Ordinance is being removed from the PFM and replaced with a reference to the criteria in the Stormwater Management Ordinance; 5) The table of assigned phosphorus removal efficiencies is being deleted and replaced with a reference to state assigned values the use of which is mandatory under the VSMP Permit Regulations; 6) A separate section for each Best Management Practice (BMP) that is listed in the VSMP Permit Regulations is included in the PFM; sections for existing practices have been modified and new sections have been added. Restrictions on the use and location for each BMP are included; 7) Nineteen plates related to design standards and criteria for BMPs, standard BMP plan views, the critical shear stress method, and example problems are being deleted. Standard BMP plan views are included in the online Virginia BMP specifications; 8) Two alternatives are presented for maintenance of stormwater management facilities in residential areas. The first alternative is a continuation of current policy under which the County will maintain dry ponds, extended detention ponds, and regional wet ponds. All other types of BMPs will be maintained by Homeowner Associations (HOAs) or property owners. The second alternative expands County maintenance to the following: sheet flow to a vegetated filter or conserved open space; infiltration practices; bioretention; vegetated swales; wet swales (linear wetlands); filtering practices (e.g. sand filters); constructed wetlands; wet ponds; extended detention ponds; manufactured (proprietary) BMPs. Under the second alternative, HOAs or property owners will maintain the following: rooftop disconnections; soil compost amendment; reforestation; vegetated roof; rainwater harvesting; permeable pavement; 9) additional amendments related to implementation of the Stormwater Management Ordinance are included. COUNTYWIDE. JOINT PUBLIC HEARING.

Commissioner Hart announced that he would defer the decision only on these applications at the end of the public hearing.

Paul Shirey, Department of Public Works and Environmental Services (DPWES), presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of the proposed amendments.

Commissioner Hart noted the complex nature of the amendments and asked Mr. Shirey if staff had a preference whether the county or homeowner associations (HOA) should be responsible for the maintenance of stormwater facilities in new residential areas. Mr. Shirey explained that county maintenance would be better because it would allow for greater control of the best management practice (BMP) features and compliance with Municipal Separate Storm Sewer System permit. He added that it would also reduce the number of enforcement actions against homeowners and the staff time related to those activities. He further clarified that no existing facilities would be retroactively covered by these amendments.

Referencing G. Proposed Amendments, Paragraph 2, Exemptions, under Article 1, General Provisions, of the Proposed County Code Amendment, Commissioner Hart asked how staff arrived at 2,500 square feet as the threshold for the exemption from provisions of the Virginia Stormwater Management Act. Mr. Shirey explained that the number was larger than the number of square feet for many residential lots in the county; thus, the provision exempted approximately 90 percent of infill building permits. When Commissioner Hart asked if staff preferred to use a set number or a percentage to describe the amount of imperviousness, Mr. Shirey stated that using both provided a balance.

When Commissioner Hart noted the abolishment of the Chesapeake Bay Exception Review Committee, Mr. Shirey confirmed that staff anticipated no increase in cases, adding that the Board of Supervisors would handle future cases and noted that the fees for those cases would not change. Commissioner Hart then referenced an underground stormwater facility in a school that failed a few years ago and asked Mr. Shirey if these amendments would address a similar situation. Mr. Shirey said they would not. When Commissioner Hart asked what a rooftop disconnection was, Mr. Shirey said it was a BMP feature consisting of disconnecting a downspout from a paved surface and providing a flow path for runoff.

Commissioner Hart recalled a discussion during the Planning Commission's September 19, 2013 Environment Committee meeting, with members of the Northern Virginia Building Industry Association (NVBIA), regarding an example of the issues with an underground detention system for a church, and asked Mr. Shirey if staff had further evaluated that situation in light of these amendments. Mr. Shirey said there was extensive review on the detention requirement and methods of addressing inadequate outfall either through state regulations or the proposed county Ordinance, both of which resulted in a large facility. He did note, however, that if the outfall were inadequate simply because of erosion, then the facility would be significantly smaller in size. When Commissioner Hart noted that the church facility would need repair regardless of changes to the regulations, Mr. Shirey said that staff was still evaluating the differences between the state and county regulations and the current PFM. In addition, he said that discussion with NVBIA members was ongoing, and should be completed within a month.

Commissioner Sargeant referenced page 8 of the Proposed County Code Amendment, paragraph 5 under Article 2, General Administrative Criteria for Regulated Land-Disturbing Activities, and

asked staff to describe the cost reduction modifications in the regulations. James Patteson, Director of the Department of Public Works and Environmental Services (DPWES), said that although the impacts were still under review, staff did not feel the fiscal impacts to the county would be substantial.

Commissioner Sargeant asked if staff had a process to collect the required pollution prevention data in coordination with the Department of Environmental Quality (DEQ). Mr. Shirey said that coordination was under review and ongoing. Mr. Patteson added that while the state would review the prevention plan, the county would hold inspections during site plan review.

Commissioner Lawrence stressed the importance of acknowledging that depending on the situation, any given element in this process might become a major driver. He stated, therefore, that it would be essential not to generalize from the example cited earlier regarding the church site. He then asked if staff had considered hiring contractors for maintenance and, if so, would there be economies of scale. Mr. Patteson confirmed that there would be. He added that such distribution of maintenance would help to better control future stormwater going into county streams.

Michelle Brickner, Deputy Director, DPWES, Land Development Services, pointed out that some generalizations could be made in terms of water quality facilities, and said that the large facility on the example church site would be required regardless of the proposed amendments. When Commissioner Lawrence noted that downstream analysis would be necessary to ensure adequate outfall as an erosion control measure, Ms. Brickner concurred.

Commissioner Hurley asked if the county would relax current regulations to align with the state or retain them, even if they were more stringent. Mr. Shirey said that the current PFM regulations were more stringent and would remain in place; however, the regulations regarding outfall were under review.

Commissioner Hurley expressed concern about using county funds to pay for detention in residential subdivisions. Referencing the first paragraph on page 5 of the Proposed County Code Amendment, she asked about the county's endorsement of offsite stormwater options. Mr. Shirey pointed out that the county must comply with the state regulation. Referencing Paragraph 2 under Article 1, General Provisions, Commissioner Hurley asked if the exemption applied if the building were razed and a new residence built within the same footprint. Mr. Shirey pointed out that building footprint did not matter, but rather the total amount of imperviousness on the lot.

Referencing Appendix Q of the Proposed County Code Amendment, Commissioner Flanagan asked about the maximum cumulative fee of \$7,500. Ms. Brickner explained that it was the maximum amount for the review fee for the stormwater facilities.

When Commissioner Flanagan asked about the county's liability in taking on the maintenance of the facilities, Randy Bartlett, Deputy Director, DPWES, pointed out that the county's Municipal Separate Storm Sewer System (MS4) permit required the county to ensure that all facilities in the county were properly maintained, regardless of who did the work.

Mr. Bartlett and Commissioner Hurley briefly discussed taxpayer funding for detention ponds in residential subdivisions, wherein it was discussed that county maintenance was more beneficial in that there would be better compliance. In addition, Mr. Patteson explained that small subdivisions would be permitted to put some systems in without having to create outlots, thereby avoiding the requirement to create an HOA simply to maintain a stormwater detention system.

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

Christopher Spahr, representing the Northern Virginia Building Industry Association (NVBIA), 2640 South Kenmore Court, Arlington, noted that a major role of the NVBIA's Fairfax County chapter was to participate on what's called the NVBIA/NAIOP (National Association for Industrial and Office Parks) Fairfax Committee, a joint committee of industry members from both associations and county staff, which met every month to discuss pertinent items. He stated that the industry supported county efforts to improve the environmental management of projects and the quality of streams. With regard to this ordinance, he said that the joint committee had formed a special subcommittee to study in greater detail the possible impacts of its implementation and any unintended consequences that could occur upon combining state and county regulations. He pointed out that additional amendments might be required as the impacts were discovered and addressed. Mr. Spahr commended county staff for their professionalism and added that the subcommittee would continue its work and provide comment as implementation was ongoing.

Paul Johnson, 12744 Lavender Keep Circle, Fairfax, pointed out that HOAs were perpetually under pressure to take the low bid from contractors for maintenance of stormwater systems, adding that the residents must trust that the contractors would do the work correctly and in compliance with the regulations. He also said that these facilities not only served the communities where they were built, but were part of the countywide system that experienced issues with nitrogen and phosphorous seepage into its streams. Consequently, Mr. Johnson stated that although developers might pay for initial upgrades and/or maintenance, the continued ongoing maintenance should be funded countywide.

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 Hart for action on this item. (A verbatim excerpt of the decision is in the date file.)

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON PROPOSED CHAPTER 124, (STORMWATER MANAGEMENT ORDINANCE), REPEAL OF CHAPTERS 105 (POLLUTION OF STATE WATERS) AND 106 (STORM DRAINAGE), AND PROPOSED AMENDMENTS TO CHAPTERS 101 (SUBDIVISION ORDINANCE), 104 (EROSION AND SEDIMENTATION CONTROL), 112 (ZONING ORDINANCE), 118 (CHESAPEAKE BAY PRESERVATION ORDINANCE), AND APPENDIX Q (LAND DEVELOPMENT SERVICES FEES) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA REGARDING IMPLEMENTATION OF THE VIRGINIA STORMWATER

MANAGEMENT ACT (VA. CODE ANN. § 62.1-44.15:24, ET SEQ.) AND VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) PERMIT REGULATIONS (4 VAC 50-60 ET SEQ.) AND PROPOSED AMENDMENTS TO CHAPTER 6 (STORM DRAINAGE) AND CHAPTER 12 (VEGETATION PRESERVATION AND PLANTING) OF THE PUBLIC FACILITIES MANUAL REGARDING WATER QUALITY CONTROLS, ADEQUATE OUTFALL, DETENTION, MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES, AND REPLANTING OF DISTURBED AREAS, TO A DATE CERTAIN OF OCTOBER 24, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioners Lawrence and Hall seconded the motion, which carried by a vote of 12-0.

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The Commission went into recess at 9:29 p.m. and reconvened in the Board Auditorium at 9:45 p.m.

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The next public hearing was in the Springfield District; therefore, Chairman Murphy relinquished the Chair to Vice Chairman de la Fe.

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RZ 2013-SP-005 – MH1 SPRING LAKE, LLC – Appl. to rezone from R-1 to R-3 to permit 13 single-family detached houses at an overall density of 2.46 dwelling units per acre (du/ac). Located at 6408 Spring Lake Dr., Burke, 22015, on approx. 5.28 ac. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 88-1 ((2)) 8. SPRINGFIELD DISTRICT. PUBLIC HEARING.

Elizabeth Baker, Applicant's Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated July 29, 2013. Commissioner Hart disclosed that Hart and Horan, PC currently had had one pending case with Ms. Baker's firm but indicated that there was no financial relationship and it would not affect his ability to participate in this case.

Commissioner Murphy announced that he would defer the decision only on this application at the end of the public hearing.

Joseph Gorney, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the application.

Ms. Baker provided a brief description of the proposed site and noted that Madison Homes ("the applicant") had purchased the Parcel 8, or the back portion of the property, for infill development. She pointed out that the applicant had no agreement with the church to purchase the front portion, Parcel 10. She pointed out that the subject area was planned for two to three

units per acre, which would be compatible with the surrounding communities. She added that the applicant proposed to build 13 single family homes, along with a new public street, designed to blend in with the current surrounding neighborhoods. Detailing the neighboring subdivisions and layout of the homes, Ms. Baker stated that the applicant had carefully considered the proposed layout in this proposal. She noted that tree preservation was a major element in the proposal and said that the applicant had worked with the Fairfax County Urban Forester to provide between 25 and 75 feet of preservation along the periphery of the property and in each back yard. She further added that the applicant had also made several tree preservation proffer commitments, including tree preservation easements and a tree bond to ensure preservation and/or replacement of the trees should anything happen to them. Ms. Baker pointed out that the architecture of the homes was particularly designed to blend in with the surrounding neighborhoods. In addition, she pointed out that the applicant had eliminated two lots, in response to community concerns, resulting in an increase in tree preservation and a change in the design of the internal road so that it would curve. She noted that few sidewalks currently existed in the neighborhood and that the applicant would provide curb and gutter, and sidewalk along the new frontage, and extending past it to connect Spring Lake Drive with the new street. With regard to stormwater management, Ms. Baker stated that the applicant proposed to upgrade the current stormwater management pond on the church site, adding it would be enlarged and enhanced to provide best management practice (BMP) measures that would serve the church, the proposal site as well as residents from a nearby subdivision with stormwater issues. In addition, she said that the applicant would install infiltration trenches or rain gardens on the proposed site to improve the detention. She stated that the Homeowners Association (HOA) would be responsible for the maintenance of the offsite pond and that the agreement was addressed in the proffers. She noted that the applicant had reduced the size of the offsite detention pond, in addition to modifying the proposed maintenance access to be from the church parking lot, thereby providing additional tree preservation and supplemental plantings around the pond. Ms. Baker explained that the applicant had considered installing the pond onsite; however, placing it offsite provided superior detention for a larger area and more BMPs and could be easily enhanced and buffered. Addressing traffic, she explained that the impacts would be minimal. She also noted that the applicant would provide contributions for public schools, the Housing Trust Fund, and others. With regard to compatibility, she stated that the proposal was comparable to the surrounding area in residential use, density, and lot size. In closing, Ms. Baker thanked those who participated in the community and committee meetings and requested approval of the applications.

Commissioner Hart noted that the language regarding Lot 3 needed to be clarified to show that the house would front onto Spring Lake Drive and asked where a bus stop would be located. Ms. Baker replied saying, there was a school bus stop located north of the subject site.

When Commissioner Hart asked about the proposed curb, gutter, and sidewalks, Ms. Baker identified the location of the proposed sidewalk. She added that parking would be available in the residents' driveways. Commissioner Hart asked about the applicant's proposal to refurbish the shoulder near the church property. Ms. Baker said that, although it was typically Virginia Department of Transportation's (VDOT) responsibility, the applicant would fix the shoulder near the church because it was in disrepair.

Commissioner Hurley asked where people might park for a large event. Ms. Baker explained that there would be sidewalks on both sides of the new internal street and there will be a sidewalk up

Spring Lake in front of the three new homes. When Commissioner Hurley asked if the church parking lot might be used for such occasions, Ms. Baker explained that it was a separate lot but that she would look into that as a possibility. Commissioner Hurley referenced emails from citizens who did not want the proposed sidewalks. Ms. Baker stated that the applicant had provided it upon request of the citizens at its first committee meeting. She further added that the dry pond was the best option for this site.

Commissioner Flanagan asked about stormwater drainage, and the preservation of trees during and after construction as well as their preservation for future home buyers, and lot sizes. Ms. Baker stated that while fencing would be installed during construction, it would be removed once it was completed. She added that the rear yard on Lot 9 would maintain its natural grade and flow to the storm drain system. Ms. Baker also noted that easements and deed restrictions would ensure their preservation from deliberate destruction by future residents. With regard to lot size, Ms. Baker noted that Appendix 16 contained a list detailing each lot size.

Commissioner Litzenberger asked how long the tree bond would be in effect and what the average square footage of the proposed homes were. Ms. Baker answered that the bond would be effective for two years after the release and the average home ranged from 2,800 to 3,200 square feet.

Commissioner Hedetniemi asked Ms. Baker to demonstrate where sidewalks were located throughout the proposed site. Ms. Baker detailed the proposed plan. She added that the applicant had held meetings in May and June with the community to discuss the proposal and make changes.

Commissioner Lawrence asked who would maintain the pond. Ms. Baker explained that the new HOA would be responsible for its maintenance, adding that the homeowners would be notified of that prior to purchase of the property. When he asked about the sidewalks, Ms. Baker explained that they were all in the public right-of-way; however homeowners would be responsible for snow removal in front of their respective homes. He asked about the documentation for the tree save and preservation areas, to which she responded that a deed restriction would be in place and would run with the land.

Vice Chairman de la Fe called the first listed speaker and recited the rules for testimony.

James A. Ray, representing Calvary Christian Church, 43245 Lighthouse Place, South Riding, provided a brief history of the Calvary Christian Church and noted that he had attended the meeting with the applicant. He pointed out that that the church had no intention of relocating or selling the lot the church stood on. He added that although the church had considered several opportunities, the funds from the sale of the back parcel would be used to help several missions it currently supported, as well as to repair the church building. He said that he was happy that Madison Homes had purchased the property and said they were a pleasure to work with.

Deborah Calcaterra, 6455 Honey Tree Court, Burke, spoke in opposition to the application, citing its density. She said that the development would negatively impact the character of the existing neighborhood and pointed out that the addition of so many homes would cause

additional stormwater runoff onto her property. She also expressed concern regarding tree preservation and proposed plantings near her property line.

Commissioner Hall commented on how Ms. Calcaterra's lot was so much larger than many of the surrounding lots. Ms. Calcaterra explained that the builder had gone bankrupt and so only a few large lots could be built. Commissioner Hall explained that while she understood Ms. Calcaterra's opposition, it appeared that the majority of the surrounding neighborhoods had been developed at R-3.

Jon Allan, speaking O/B/O Mary Allan, 6417 Spring Lake Drive, Burke, stated that Ms. Allen opposed the application because it was incompatible with the surrounding neighborhoods. In addition, the proposed development would be too dense by comparison. In her remarks, Ms. Allen expressed concern about the number of homes and the resulting impervious surface and loss of trees, as well possible impacts on water and air quality. Ms. Allen's statement also pointed out that all of the lots directly adjacent to the subject site were significantly larger than those proposed by Madison Homes. Ms. Allen further noted that the visual appearance of the proposed neighborhood would have a negative impact on the surrounding neighborhoods and, therefore, requested that the Planning Commission deny the applications.

Commissioner Hall asked Mr. Allen what density was preferred on the subject site. He said that 10 homes, rather than 13, would be more appropriate.

Jon Allan, 6417 Spring Lake Drive, Burke, expressed concern that the applicant had failed to hear the citizens' concerns regarding the development. He said that the current proposal was not in conformance the Comprehensive Plan, adding that staff had failed to make the applicant comply with established guidelines. He added that despite efforts by the community to work with the developer and provide suggestions and alternatives, the applicant refused to decrease the number of lots to ten or provide stormwater detention onsite. He requested that the Commission deny the applications.

Mr. Allen reiterated to Commissioner Flanagan that he preferred that the site be developed with ten homes only. After a brief discussion between Commissioner Migliaccio and Mr. Allen regarding the number of homes abutting the subject site, Vice Chairman de la Fe suggested they continue the discussion at a later time.

A brief discussion ensued between Commissioner Hurley and Mr. Allen regarding whether he preferred tree preservation or the onsite stormwater detention pond. He stated that if the trees were to be cleared anyway, simply decrease the number of homes to ten, thereby making room for the detention pond.

Kevin Cahill, 9817 Westwood Manor Court, Burke, spoke in opposition to the applications, noting that the proposed development not only failed to be in conformance with Comprehensive Plan guidelines, but was a far more dense development than the surrounding area, with the homes having three floors in comparison to its neighbors. He stated that the staff report provided no analysis of the proposed plan and failed to provide metrics that the citizens could use to compare the subject site to the surrounding area. He had provided calculations that were far higher than those noted in the staff report and said that such density in addition to so much impervious

surface would greatly impact the adjacent homes. He further noted that the size of the detention pond had been grossly underestimated.

Commissioner Murphy asked Mr. Cahill how he arrived at the square footage calculations for the homes. Mr. Cahill explained that he referred to the drawings in the application, which depicted each home as having three floors above ground, and calculated the square footage.

Commissioner Murphy questioned the applicant about the number of above-ground floors the homes would have and was told that what looked like a third floor to the speaker was only dormer windows.

When Mr. Cahill stated that the applicant could add a floor, Commissioner Murphy asked staff if that were possible. Mr. Gorney explained that it would be unlikely that the builder would be able to add anything on the top of the homes; however, the basement space might be usable in one or two of the homes.

Commissioner Donahue questioned the efficacy of measuring an application against both the Comprehensive Plan and the subject site's adjacent communities, particularly since it seemed contradictory.

William O'Donnell, Planning Division, DPZ, explained that each proposal was evaluated against what Comprehensive Plan recommended for a subject site, which would be up to three dwelling units per acre in this case. He added that staff could only address what was on the Plan map and must evaluate the application against that, and then attempt to balance it with the existing conditions to make their recommendations.

Mr. Cahill countered that Objective 13 of the Comprehensive Plan stated that when the text and map were in conflict, the text prevailed; therefore the site should be built in compliance with the current built environment.

Vice Chairman de la Fe noted that the issue would not be resolved this evening, but pointed out that the majority of the developments abutting the proposal site were in the R-3 and R-2 districts.

Commissioner Lawrence pointed out to Mr. Cahill that improvements like the stormwater detention pond would not occur at this site without this proposal, and asked Mr. Cahill to consider alternative methods in resolving the outstanding issues.

Commissioner Flanagan noted that Mr. Cahill's statement this evening had noted several objectives from the Policy Plan and requested that he submit a document specifying how the applicant failed to meet those objectives.

Jeffrey Sands, 9711 Velilla Road, Burke, expressed concern about using Spring Lake Drive as a transportation corridor and said the additional traffic would be cause for more accidents. He detailed his drive through the neighborhood and said that alternative routes should be considered. In addition, he suggested that the driveways be eliminated and the homes be built facing inward, and the roads widened.

A brief discussion between Commissioner Murphy and Mr. Sands ensued wherein it was revealed that traffic calming measures had once been considered on Spring Lake Drive; however, the community had turned them down.

During a brief discussion with Commissioner Flanagan, Mr. Sands reiterated that there should be no driveways and that the road should be widened, specifically to 30 feet.

James R. Rowland, 6403 Spring Lake Drive, Burke, spoke in opposition to the application, citing its lack of compatibility with the surrounding community. In addition, he echoed the previous speaker's remarks on the transportation issues and requested that the Commission deny the application.

Commissioner Hurley asked Mr. Rowland if he would prefer tree preservation or the onsite dry pond. He said he would prefer the onsite dry pond.

Commissioner Sargeant suggested that staff determine the VDOT right-of-way on Spring Lake Drive during the deferral period.

Mariane F. Rowland, 6403 Spring Lake Drive, Burke, opposed the development, echoing previous speakers' remarks regarding incompatibility with the surrounding area, the placement of the stormwater detention pond offsite, the applicant's apparent disregard for the community recommendations for alternatives, and the county's refusal to take the developer to task regarding compliance with county guidelines. She requested denial of the applications.

Commissioner Murphy noted that until the Board of Supervisors made its decision on the stormwater management amendments, the process would be ongoing, adding that it would continue to be a transparent process.

Commissioner Hart asked Ms. Rowland what made the onsite detention pond better than the proposed improvement of the existing offsite pond. She said that the community preferred the onsite option with fewer homes.

Commissioner Hurley asked whether Ms. Rowland preferred tree preservation or the onsite stormwater detention pond. She reiterated that she preferred the onsite detention pond because it could then be built at the same time on the same lot with fewer homes in a manner that would fit the fabric of the surrounding community.

Commissioner Murphy told Ms. Rowland that he had received comments from citizens who had signed her electronic survey, and suggested that the survey should be updated in keeping with modifications in the application, since the survey still showed the original proposed 15 homes.

Richard Miserendino, 6409 Spring Lake Drive, Burke, also spoke in opposition to the application. He noted that the applicant's statements this evening were inconsistent with those made at the first community meeting where a citizen had been told by a representative that the church parcel would be developed at some point in time. He echoed earlier that the staff report failed to provide a proper analysis, particularly with regard to recommendations on the detention pond and tree preservation. He also noted that with the current proposal there would be two

incomplete sidewalks and stated that a much better use would be a continuous sidewalk running from Old Keene Mill Road to the school bus stop at Summerday Road. In addition, he said that the staff report should have included the community concerns and comments with recommendations to address those concerns.

There was a brief discussion between Commissioner Murphy and Mr. Miserendino regarding sidewalk construction and connections in the county wherein Commissioner Murphy pointed out that the applicant would only develop the property within this development.

When Commissioner Sargeant asked if the Church owned the property on Parcel 10, Mr. Gorney confirmed that it did, adding that there was no indication from the church that the property was for sale.

Commissioner Hedetniemi asked Mr. Miserendino about the proposed sidewalk, to which he reiterated his earlier remarks.

Vice Chairman de la Fe explained to Mr. Miserendino that while citizen letters, emails, and public comments, were always reviewed by the Planning Commission and staff for consideration in the final decision on an application, they would never be included in the staff report because it was a detailed analysis of the application provided by various county staff members.

Michael Grabski, 9819 Westwood Manor, Burke, noted that the existing detention pond had been cited for not being up to county code, adding that the area surrounding it was overgrown and would require tree removal to repair it. He stated that, rather than building a house on Lot 3, the builder could instead remove the trees to build a new detention pond on application site that would be code compliant. In addition, Mr. Grabski pointed out that the Tree Preservation Plan had several errors and misidentified species.

Commissioner Migliaccio asked if the county's Urban Forester had walked the site. Mr. Gorney confirmed that he had. When Commissioner Migliaccio asked Mr. Grabski if he was a certified arborist, Mr. Grabski said the he was not.

Sebastian Lorigo, 6421 Spring Lake Drive, Burke, agreed with earlier remarks regarding a need for a reduction in the number of homes and said that the dry pond should be onsite because it would save more trees.

There being no more speakers, Vice Chairman de la Fe called for a rebuttal statement from Ms. Baker, who explained that zoning was based on gross density and stated that all but one of the immediately adjacent properties were proffered rezonings, and provided the gross densities of each subdivision. She noted that Westwood Manor was in the R-3 District, but proffered at 2.3 dwelling units per acre (du/ac); Spring Lakes was zoned R-2, but proffered at 1.86 du/ac; Summerday was proffered at 1.5; and Four Oaks Estates subdivision, although a cluster subdivision, was proffered at 2.5 du/ac. She pointed out that if the applicant were to put the stormwater detention pond onsite and retain all 13 lots, the average lot size would decrease by approximately 900 square feet from 15,200 to 14,435. She did, however, note that the gross density, should the applicant entertain reducing the number of lots to 10, would be 1.89. Ms. Baker noted that the applicant had previously met with county staff from DPWES and discussed

the stormwater detention pond at length, adding that she was confident that it would solve the imperviousness onsite and the concerns brought up by the speakers this evening. She pointed out that the homes would be two stories with dormer windows added for embellishment. She noted the Zoning Ordinance regulations addressing setback and height requirements and said that the applicant was bound by those requirements. Addressing transportation, Ms. Baker described the sidewalk on Spring Lake Drive, adding that that parking would not be allowed. She stated that Proffer Number 4A, provided for parking signs as approved by VDOT. She also addressed the concerns about cut-through traffic and said that Proffer Number 4D provided for a future four-way stop sign if deemed appropriate at the intersection of Spring Lake Drive and Westwood Manor/Katherine's Drive. She further reiterated that the church had no agreement with Madison Homes to sell Parcel 10 and added that the interparcel stub was provided as part of VDOT's plan for future construction of an additional street connection.

During a brief discussion with Commissioner Sargeant, Ms. Baker explained that the public right-of-way would be 50 feet on Spring Lake Drive.

Commissioner Donahue asked Ms. Baker if the lots sizes she'd cited during her rebuttal were based on 13 lots or less. Ms. Baker said the 14,435 square-foot lot size would pertain to 13 houses with an onsite detention pond. Commissioner Donahue pointed out that the speakers had said they wanted the onsite pond, but only 10 homes on the property.

Commissioner Murphy asked for staff's position on the stormwater detention pond. Mr. Gorney explained that the improved detention pond would capture runoff from the proposal site, in addition to a small amount from the adjacent Honey Tree subdivision, and sheet flow from the existing tree preservation areas. He added that upon evaluating the proposal the pond met standards for water quality, phosphorous removal, adequate outfall, along with a lower rate of release for the detention.

Commissioner Flanagan asked about an additional sidewalk near the VDOT right-of-way. Mr. Gorney noted that staff had not emphasized more pavement because of the tree-save area, adding that the current shoulder and ditch would also impose on that space. He noted that prohibiting parking, along with the provision of a sidewalk with curb and gutter would be more beneficial. Commissioner Flanagan suggested that staff reconsider widening the road so that cars could park on the street and possibly even allow space for bicycle lanes.

Michael Davis, Fairfax County Department of Transportation, pointed out that the road network in a residential community should be conducive to reduced speeds, whereas wider roadways tended to attract higher speed travel. He added that staff supported the proposal because it met the county standards for road design.

Commissioner Hurley asked if the sidewalk could be continued to Old Keene Mill Road with this proposal. Mr. Gorney explained that this applicant could provide frontage only for the property specified on the application.

Commissioner Sargeant suggested that staff contact Fairfax County Public Schools to determine if the school bus stop might be more accessible to the residents. Mr. Gorney assured him that he would contact them during the deferral period.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Murphy for action on this case. (A verbatim excerpt of the decision(s) is in the date file.)

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Commissioner Murphy MOVED THAT THE PLANNING COMMISSION DEFER DECISION ONLY ON RZ 2013-SP-005 TO A DATE CERTAIN OF NOVEMBER 21ST WITH THE RECORD REMAINING OPEN FOR COMMENT.

Commissioners Hedetniemi and Lawrence seconded the motion, which carried unanimously.

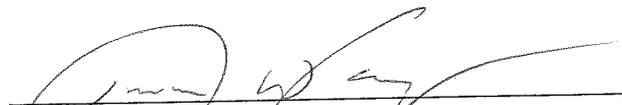
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The meeting was adjourned at 12:47 a.m.
Peter F. Murphy, Chairman
Janet R. Hall, Secretary

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: July 17, 2014



John W. Cooper, Clerk to the
Fairfax County Planning Commission