

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, OCTOBER 7, 2020**

PRESENT: Peter F. Murphy, Chairman, Springfield District
John C. Ulfelder, Vice Chairman, Dranesville District
Timothy J. Sargeant, Secretary, Commissioner At-Large
Julie M. Strandlie, Parliamentarian, Mason District
Mary D. Cortina, Braddock District
John A. Carter, Hunter Mill District
Daniel G. Lagana, Lee District
Walter C. Clarke, Mount Vernon District
Phillip A. Niedzielski-Eichner, Providence District
Evelyn S. Spain, Sully District
Candice Bennett, Commissioner At-Large
Andres Jimenez, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 7:31 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

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PUBLIC FACILITIES MANUAL PROJECT PHASE 2 UPDATE

(Decision Only) (Public Hearing on this application was held on September 17, 2020)

Commissioner Jimenez MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENT TO THE PUBLIC FACILITIES MANUAL, AS SET FORTH IN THE STAFF REPORT DATED JULY 28, 2020, WITH THE EXCEPTION OF PROPOSED SECTION 8-0301.1 I, RELATED TOT LOT SURFACES.

Commissioner Sargeant seconded the motion, which carried by a vote of 12-0.

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PCA 78-S-063-08/RZ/FDP 2019-SU-005 – STANLEY MARTIN COMPANIES, LLC

(Decision Only) (Public Hearing on these applications was held on September 17, 2020)

Commissioner Spain MOVED THE FOLLOWING:

- THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 78-S-063-08;
- THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2019-SU-005 AND ITS ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO PROFFERS DATED AUGUST 27, 2020;
- THE PLANNING COMMISSION APPROVE FDP 2019-SU-005, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 2, 2020;
- THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVES THE WAIVERS AND MODIFICATIONS CONTAINED IN THE HANDOUT DATED OCTOBER 7, 2020, WHICH WILL BE MADE PART OF THE RECORD;
- MODIFICATION OF PARAGRAPH 2 OF SECTION 6-107 OF THE FAIRFAX COUNTY ZONING ORDINANCE TO MODIFY THE MINIMUM 200 SQUARE-FOOT PRIVACY YARD FOR THE REAR LOADED SINGLE-FAMILY ATTACHED DWELLINGS, IN LIEU OF COMMUNITY OPEN SPACE, AS SHOWN ON THE CDP/FDP;
- WAIVER OF PARAGRAPH 5 OF SECTION 11-203 OF THE FAIRFAX COUNTY ZONING ORDINANCE TO OMIT LOADING SPACE REQUIREMENTS FOR THE MULTI-FAMILY UNITS, WHICH ARE PROPOSED TO RESEMBLE SINGLE-FAMILY ATTACHED STRUCTURES;
- MODIFICATION OF PARAGRAPH 2 OF SECTION 11-302 OF FAIRFAX COUNTY ZONING ORDINANCE TO PERMIT PRIVATE STREETS IN THE PROPOSED DEVELOPMENT TO EXCEED THE MAXIMUM 600-FOOT LENGTH LIMITATION, AS SHOWN ON THE CDP/FDP;
- WAIVER OF THE TRANSITIONAL SCREENING REQUIREMENTS BETWEEN MULTI-FAMILY AND SINGLE FAMILY ATTACHED USES, AS SET FORTH IN SECTION 13-300 OF THE FAIRFAX COUNTY ZONING ORDINANCE; AND
- WAIVER OF PARAGRAPH 2 OF SECTION 17-201 REQUIRING A MAJOR PAVED TRAIL PER THE COMPREHENSIVE PLAN TRAILS PLAN MAP, IN FAVOR OF THE EXISTING TRAILS, AS SHOWN ON THE CDP/FDP.

Commissioner Sargeant seconded the motions, which carried by a vote of 9-3. Commissioners Carter, Strandlie, and Cortina voted in opposition.

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SE 2019-MA-014 – LORA L. SEEDS

(Decision Only) (Public Hearing on the application was held on September 16, 2020; Decision Only from September 23, 2020)

Commissioner Strandlie MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2019-MA-014, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED OCTOBER 6, 2020.

Commissioner Sargeant seconded the motion, which was carried by a vote of 12-0.

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Commissioner Ulfelder announced the Housing Committee would meet Thursday, October 8, 2020, at 7:30 p.m., in Conference Room 11 of the Fairfax County Government Center, located at 12000 Government Center Parkway, Fairfax, Virginia 22035. The topic of discussion would be affordable housing in Fairfax County.

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ORDER OF THE AGENDA

Secretary Sargeant established the following order of the agenda:

1. CODE AMENDMENT – AMENDMENT TO CHAPTER 104 (EROSION AND SEDIMENTATION CONTROL) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA (COUNTY CODE) RE: ENFORCEMENT
2. PCA/CDPA/FDPA 2016-MA-022 – EYA DEVELOPMENT LLC
3. CSPA 2012-MV-008 – FPRP DEVELOPMENT INC.
4. SEA 2018-MA-008 – TRUSTEES OF LINCOLNIA UNITED METHODIST CHURCH AND LUCA’S RAINBOW BILINGUAL PRESCHOOL, LLC

The order was accepted without objection.

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CODE AMENDMENT – AMENDMENT TO CHAPTER 104 (EROSION AND SEDIMENTATION CONTROL) OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA (COUNTY CODE) RE: ENFORCEMENT – The proposed amendment includes revisions to the provisions for monitoring, inspections, notices, stop work orders, violations, penalties, injunctions, and other legal actions. The proposed amendment to the Erosion and Sedimentation Control Ordinance includes the following:

- 1) Reorganization of Sections 104-1-5 and 104-1-12 for clarity and to align the ordinance with the current process for issuing inspection reports, notices of violations and stop work orders.
- 2) Elimination or revision of outdated language to reflect current language in the Virginia Erosion and Sediment Control Law and associated regulations.
- 3) Addition of a statement, new Subsection 104-1-5(c), that failure to comply with an approved plan, including any plan alterations, is a violation and the permittee or the person responsible for carrying out the plan is subject to penalties under the ordinance.
- 4) Deletion of a redundant requirement from Subsection 104-1-5(a) that an individual holding a certificate of competence, as provided by *Virginia Code*, § 62.1-44.15:52, will be in charge of and responsible for carrying out the land-disturbing activity.
- 5) Incorporation of a provision for the use of civil penalties in lieu of criminal sanctions for violations of any regulation or order of the State Water Control Board, any provision of the County Erosion and Sedimentation Control Ordinance, any condition of a permit, or any provision of the Virginia Erosion and Sediment Control Law. The civil penalty for any one violation ranges from \$100 to \$1,000, and each day during which the violation exists is a separate offense with a maximum total penalty of \$10,000.
- 6) Editorial and minor revisions including changing “shall” to “will” or “must” or “may” throughout the sections of the ordinance being amended. COUNTYWIDE. PUBLIC HEARING.

John Friedman, Site Code Research & Development Branch, Land Development Services, presented the staff report; a copy is in the date file. He stated that staff recommended adoption of this item.

There was a discussion between Mr. Friedman; Ellie Coddling, Director, Code Development and Compliance Division, Land Development Services; Marc Gori, Office of the County Attorney; and Commissioner Ulfelder regarding the following:

- Enforcement of the ordinance for civil penalties compared to criminal penalties;
- The Office of the County Attorney’s criteria for determining whether the County could peruse civil or criminal sanctions on subsequent ordinance violations;
- The County’s process for seeking mediation on civil violations to the ordinance;

- The differences between a Class 1 misdemeanor versus a civil action, and the most effective method in achieving results;
- Whether enforcement with a maximum penalty provision of \$10,000 was adequate and would be restrictive on large multimillion-dollar projects;
- Whether civil penalties not exceeding \$32,500 for each violation would be applicable or enforced;
- Fairfax County Land Development Services' efforts to seek assistance from the Office of the Fairfax County Commonwealth's Attorney regarding prosecution of criminal violations under the proposed code amendment;
- Whether changes were made to the enabling Erosion and Sedimentation Control Ordinance legislation; and
- Whether the Fairfax County Land Development Services kept track of ordinance violations, the method in which violations were issued, the government agency that received copies of those reports, and the public availability of those reports.

The discussion resulted in no changes to this item.

Chairman Murphy called for speakers and recited rules for testimony.

Renee Grebe, 5706 Evergreen Knoll Court, Alexandria, representing Audubon Naturalist Society, addressed the society's concerns with erosion and sedimentation control, due to the rapid pace of development in Fairfax County. A copy of Ms. Grebe's statement is in the date file.

There was a discussion between Ms. Coddling and multiple Commissioners on comments made by Ms. Grebe regarding the following:

- Whether staff had the opportunity to respond to the feedback received from the Audubon Naturalist Society;
- Land Development Services' procedures for citizens to report violations;
- Ticketing response time and subsequent procedures for reported violations as dictated by the ordinance;
- Staff's coordinated efforts with the Fairfax County Environmental Quality Advisory Council, the Northern Virginia Soil and Water Conservation District, and the Department of Public Works and Environmental Services to streamline environmental regulations;

- The total number of Stop Work Orders issued by Land Development Services; and
- Regulations in place to address the impacts of sediment draining into the streams.

The discussion resulted in a request for staff to provide to the Commission a frequency of use for Stop Work Orders and how that tool was used by the County.

Whitney Redding, 7419 Add Drive, Falls Church, representing Friends of Holmes Run, opposed this item. A copy of Ms. Whitney's statement is in the date file.

There being no further speakers, Chairman Murphy called for a rebuttal statement from Mr. Friedman who declined.

There was a discussion between Mr. Friedman and Commissioner Sargeant regarding the following:

- Clarification on the goal of the proposed amendment, as opposed to comments made by citizens, and whether those comments were applicable to Chapter 104 of the amendment; and
- A recommendation for a follow-on motion that supported any effort to monitor and strengthen enforcement mechanisms of the proposed amendment.

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 Sargent for actions on this item.

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Commissioner Sargeant MOVED THE FOLLOWING:

- THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS, THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO THE EROSION AND SEDIMENTATION CONTROL ORDINANCE, AS SET FORTH IN THE STAFF REPORT DATED SEPTEMBER 15, 2020; AND
- A FOLLOW-ON MOTION TO SUPPORT ADDITIONAL EFFORTS TO MONITOR AND STRENGTHEN ENFORCEMENT MECHANISMS.

Commissioners Niedzielski-Eichner and Cortina seconded the first motion, which carried by a vote of 12-0.

Commissioner Cortina seconded the second motion, which carried by a vote of 12-0.

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PCA/CDPA/FDPA 2016-MA-022 – EYA DEVELOPMENT LLC –
PCA, CDPA and FDPA Appl(s). to amend the proffers, conceptual development plan, and second final development plan for RZ 2016-MA-022, previously approved for mixed-use development, to permit 177 single family attached units and associated modifications to proffers and site design at a FAR of .60 (inclusive of bonus density associated with ADUs). Located on the S. side of Arlington Blvd. and W. side of Graham Rd. on approx. 18.16 ac. of land zoned PDC. Comp. Plan Rec: Retail and other commercial uses/residential mixed-use option. Mason District. Tax Map 50-3 ((1)) 5 and 5A. MASON DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

David R. Gill, Applicant's Agent, Wire Gill, LLP, reaffirmed the affidavit dated September 1, 2020.

Sharon Williams, Zoning Evaluation Division, Department of Planning and Development, presented the staff report; a copy is in the date file. She stated that staff recommended approval of PCA 2016-MA-022, CDPA 2016-MA-022, and FDPA 2016-MA-022.

Mr. Gill gave a presentation on the subject applications.

Evan A. Goldman, Applicant's Agent, EYA Development LLC, gave a presentation on the subject applications.

There was a discussion between Ms. Williams; Mr. Gill; Mr. Goldman; Mark E. Hendrickson, Federal Realty Investment Trust; Andrea Dorlester, Planning and Development, Park Authority; and multiple Commissioners regarding the following:

- Modifications of the 10-year canopy cover requirement;
- The applicant's commitment to proffering 0.85 acres of publicly accessible open park space at the site;
- The public access easements that would be available to all members of the community;
- Design and upgrades to the façade of the Loheman's shopping plaza;
- Upgrades to graphics and landscaping, which would be located at rear of the Link Building;
- Possible opportunities for additional space for play areas or sports gatherings at the proposed site;

- Options for connectivity to the park space at the proposed site;
- Possible opportunities for placemaking, incorporating public art, and activation that promoted the history of the site and its surrounding community;
- The applicant's monetary contributions for the construction of an off-site trail along Arlington Boulevard, which would include an extension that linked to the Allen Street bus stop;
- The applicant's commitment to designing the uses to be more urban in character, which would allow for more seating spaces, hardscape zones, tree canopy, and active spaces;
- A list of outstanding issues for the proposed development and staff's highest pressing priorities;
- Whether there was a recreation deficit in the area surrounding the proposed site;
- The number of townhomes that were considered affordable dwelling units and whether they were located throughout the development;
- The price range of the affordable dwelling units; and
- The width of the streets between the townhomes and whether they were two-way streets.

The discussion resulted in no changes to the proposed applications.

There being no listed speakers, Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted a rebuttal statement was not necessary.

Commissioner Strandlie announced her intent to defer the decision on the applications, which would allow the applicant additional time to mitigate any outstanding issues. She also echoed Commissioner Lagana's comments regarding opportunities for placemaking and incorporation of art that promoted the history of the site and the surrounding community.

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 Strandlie for actions on these applications.

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Commissioner Strandlie MOVED TO DEFER THE DECISION ONLY ON PCA/CDPA/FDPA 2016-MA-022, EYA DEVELOPMENT, LLC, TO A DATE CERTAIN OF OCTOBER 14, 2020, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioners Sargeant and Niedzielski-Eichner seconded the motion, which carried by a vote of 12-0.

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CSPA 2012-MV-008 – FPRP DEVELOPMENT INC. – CSPA Appl.
Appl. under Sect(s). 12-304 of the Zoning Ordinance to amend the previously approved Comprehensive Sign Plan associated with RZ 2012-MV-008 to permit sign modifications. Located on the S. side of Silverbrook Rd. and W. side of Powerhouse Rd. on approx. 7.56 ac. of land zoned PDC. Mount Vernon District. Tax Map 107-1 ((9)) H1.
MOUNT VERNON DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

Wanda Suder, Zoning Evaluation Division, Department of Planning and Development, presented the staff report; a copy is in the date file. She stated that staff recommended approval of CSPA 2012-MV-008.

Lori Greenlief, Applicant's Agent, McGuireWoods LLP, gave a presentation on the subject application.

Commissioner Sargeant complimented the applicant on reinventing the new site. He added the revised signage was helpful, necessary, and brought vibrance to the site.

Commissioner Strandlie suggested language changes of instances from "shall" to "must" in the development conditions dated September 22, 2020. Neither Ms. Suder nor Ms. Greenlief expressed objections to such changes.

There being no listed speakers, Chairman Murphy called for virtual speakers, but received no response; therefore, he noted that a rebuttal statement was not necessary. 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 Clark for action on this application.

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Commissioner Clarke MOVED THAT THE PLANNING COMMISSION APPROVE CSPA 2012-MV-008, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 22, 2020, WITH THE CHANGES THAT WERE NOTED AT THE MEETING.

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

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SEA 2018-MA-008 – TRUSTEES OF LINCOLNIA UNITED
METHODIST CHURCH AND LUCA'S RAINBOW BILINGUAL

PRESCHOOL LLC – SEA Appl. under Sect. 3-204 of the Zoning Ordinance to amend SE 2018-MA-008 previously approved for a place of worship with a child care center to add land area and modify development conditions and associated modifications to site design. Located at 6323 and 6335 Little River Turnpike, Alexandria, 22312 on approx. 2.85 ac. of land zoned R-2 and HC. Tax Map 72-3 ((1)) 60 and 72-4 ((1)) 10. MASON DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

Flor D. Brea, Applicant, reaffirmed the affidavit dated April 24, 2020.

Zachary Fountain, Zoning Evaluation Division, Department of Planning and Development, presented the staff report; a copy is in the date file. He stated that staff recommended approval of SEA 2018-MA-008.

Commissioner Strandlie 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 Strandlie for action on this application.

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Commissioner Strandlie MOVED THE FOLLOWING:

- THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS, APPROVAL OF SEA 2018-MA-008, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 22, 2020; AND
- THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS, APPROVAL OF THE WAIVERS AND MODIFICATIONS CONTAINED IN A HANDOUT DATED OCTOBER 7, 2020 AND MADE PART OF THE RECORD.

Commissioner Cortina seconded the first motion, which carried by a vote of 12-0.

Commissioner Sargeant seconded the second motion, which carried by a vote of 12-0.

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The meeting was adjourned at 10:10 p.m.
Peter F. Murphy, Chairman
Timothy J. Sargeant, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,
12000 Government Center Parkway, Suite 552, Fairfax, VA 22035.

Minutes by: Samantha Lawrence

Approved on: February 10, 2021

Jacob Caporaletti

Jacob L. Caporaletti, Clerk to the
Fairfax County Planning Commission

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 12 day of October 2021, by
Jacob Caporaletti.

Dorely M. Steele

Signature of Notary

Notary registration number: 7114113

Commission expiration: January 31, 2024

