

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
WEDNESDAY, FEBRUARY 3, 2021**

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 Planning Commission conducted a wholly electronic meeting using Fairfax County's videoconferencing system because the COVID-19 pandemic made it unsafe to physically assemble a quorum in one location or have the public present. The meeting was accessible to the public via Channel 16, live online video stream, and live audio. Testimony from the public could be provided through a phone call, recorded video, or submission of written testimony by mail or electronic means.

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The meeting was called to order at 7:30 p.m., by Chairman Peter F. Murphy.

The attending Commissioners attended the meeting from the following locations:

- Murphy Peter F. Murphy participated from Conference Room 11 of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035;
- John C. Ulfelder participated from the Dranesville District office, 397 Herndon Pkwy, Suite 110, Herndon, VA 20170;
- Timothy J. Sargeant participated from the Mount Vernon District office, 2511 Parkers Lane, Mt. Vernon, VA 22306;
- Julie M. Strandlie participated from her residence, Alexandria, VA. Commissioner Strandlie was not present for the roll call;
- John A. Carter participated from the Hunter Mill District office, 1801 Cameron Glen Drive, Reston, VA 20190;

- Daniel G. Lagana participated from the Lee District office, 6121 Franconia Road, Alexandria, VA 22310;
- Walter C. Clarke participated from the Mount Vernon District office, 2511 Parkers Lane, Mt. Vernon, VA 22306;
- Phillip A. Niedzielski-Eichner participated from the Providence District office, 3001 Vaden Drive, 2<sup>nd</sup> Floor, Fairfax, VA 22031;
- Evelyn S. Spain participated from the Sully District office, 4900 Stonecroft Boulevard, Chantilly, VA 20151;
- Andres Jimenez participated from his residence;
- Candice Bennett participated from the Lee District office, 6121 Franconia Road, Alexandria, VA 22310; and
- Mary D. Cortina participated from the Braddock District office, 9002 Burke Lake Road, Burke, VA 22015.

Upon verifying the attendance of each Commissioner from their respective location, the meeting proceeded with Commission matters.

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#### COMMISSION MATTERS

Chairman Murphy relinquished duties of the virtual Chair and the virtual gavel to Vice Chairman Ulfelder.

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#### PRELIMINARY MOTIONS FOR CONDUCTING ELECTRONIC MEETING

Commissioner Murphy MOVED THE FOLLOWING:

- THE PLANNING COMMISSION CERTIFY FOR THE RECORD THAT EACH MEMBER'S VOICE MAY BE ADEQUATELY HEARD BY EACH OTHER MEMBER OF THIS COMMISSION;
- THE PLANNING COMMISSION CERTIFY THAT THE STATE OF EMERGENCY CAUSED BY THE COVID-19 PANDEMIC, MAKES IT UNSAFE FOR THE PLANNING COMMISSION TO PHYSICALLY ASSEMBLE AND UNSAFE FOR APPLICANTS, STAFF, AND THE PUBLIC TO PHYSICALLY ATTEND ANY SUCH MEETING IN PERSON. AND THAT AS SUCH, AN IN-PERSON MEETING CANNOT BE IMPLEMENTED SAFELY OR PRACTICALLY;

- THE PLANNING COMMISSION CONDUCT THIS MEETING ELECTRONICALLY THROUGH THE COUNTY’S VIDEO CONFERENCING SYSTEM AND THAT THE PUBLIC MAY ACCESS THIS MEETING BY WATCHING CHANNEL 16, OR ITS LIVE STREAM, OR LISTENING TO ITS LIVE AUDIO AT 703-324-5300, AND MAY PARTICIPATE IN PUBLIC HEARINGS BY TELEPHONE, BY YOUTUBE, VIA VIDEO SUBMISSION OF A WITTEN TESTIMONY; AND
- THE PLANNING COMMISSION CERTIFY THAT ALL THE MATTERS ADDRESSED ON TODAY’S AGENDA MUST ADDRESS THE EMERGENCY ITSELF AND ARE NECESSARY FOR THE CONTINUITY IN FAIRFAX COUNTY GOVERNMENT UNDER THE ORDINANCE ADOPTED BY THE BOARD OF SUPERVISORS ON MAY 12, 2020, AND OR ARE WITHIN THE PREVUE OF AMENDMENT 28 TO HOUSE BILL 29, AS APPROVED BY THE GOVERNOR OF VIRGINIA ON APRIL 24, 2020.

Commissioner Sargeant seconded the motions, which carried by a vote of 11-0. Commissioner Strandlie was absent from the vote.

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Chairman Murphy resumed the duties of the virtual Chair and the virtual gavel.

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ELECTION OF OFFICERS

Commissioner Cortina MOVED THE FOLLOWING SLATE FOR THE 2021 FAIRFAX COUNTY PLANNING COMMISSION ELECTION OF OFFICERS:

- PETER F. MURPHY, SPRINGFIELD DISTRICT, CHAIRMAN;
- JOHN C. ULFELDER, DRANESVILLE DISTRICT, VICE CHAIRMAN;
- TIMOTHY J. SARGEANT, AT-LARGE, SECRETARY; AND
- JULIE M. STRANGLIE, MASON DISTRICT, PARLIAMENTARIAN.

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

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PA 2020-CW-2CP - HOUSING ELEMENT AND WORKFORCE DWELLING UNIT POLICY

(Decision Only) (Public Hearing on this item was held on January 27, 2021)

Commissioner Bennett MOVED THE FOLLOWING:

- THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATIONS FOR PA 2020-CW-2CP, AS SHOWN ON PAGES 30 THROUGH 118 IN THE STAFF



REPORT, AS WELL AS THE RELATED WDU ADMINISTRATIVE POLICY GUIDELINES, AS SHOWN ON PAGES 119 THROUGH 133, WITH THE TWO MODIFICATIONS TO THE PLAN AMENDMENT TEXT AS SHOWN ON A HANDOUT DATED JANUARY 27, 2021. THE FIRST MODIFICATION WOULD REVISE THE WDU COMMITMENT LEVELS FOR RENTAL UNITS AT THE 60 PERCENT AND 70 PERCENT OF AMI INCOME TIERS TO THREE PERCENT WDU COMMITMENT AT 70 PERCENT OF AMI AND TWO PERCENT WDU COMMITMENT AT 60 PERCENT AMI, IN OPTION 1 OF THE TYSONS URBAN CENTER LANGUAGE. THE COMMITMENT LEVEL AT 80 PERCENT WOULD REMAIN UNCHANGED. THE SECOND MODIFICATION WOULD REVISE THE COMMITMENT LEVELS OF THE WDU RENTAL UNITS PROVIDED IN HIGH-RISE CONDOMINIUMS TO 14 PERCENT AND 16 PERCENT OF THE TOTAL UNITS, DEPENDENT ON WHETHER THE UNITS ARE PROVIDED ON-SITE OR OFF-SITE OF THE DEVELOPMENT PROJECT, AND DIVIDED INTO 60 PERCENT, 70 PERCENT, AND 80 PERCENT OF AMI INCOME TIERS, AS A FIRST OPTION, AND TO 10.8 PERCENT AND 12.3 PERCENT, DEPENDENT ON WHETHER THE UNITS ARE PROVIDED ON-SITE OR OFF-SITE OF THE DEVELOPMENT PROJECT, SERVING THE INCOME TIER OF 60 PERCENT AMI, AS A SECOND OPTION; AND

- THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DIRECT STAFF TO EXPLORE ADDITIONAL INCENTIVES THAT COULD BE CONSIDERED FOR WORKFORCE DWELLING UNIT PRODUCTION AND EXPLORE THE SUGGESTED RECOMMENDATIONS THAT COULD HELP REDUCE THE COST OF PRODUCING AFFORDABLE UNITS THAT MAY NOT ALREADY BE AVAILABLE AS PART OF THE BOARD'S AUTHORITY.

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

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

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#### ORDER OF THE AGENDA

Secretary Sargeant established the following order of the agenda:

1. SE 2020-SP-017 – THE MICHAELS DEVELOPMENT COMPANY I, L.P.

This order was accepted without objection.

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This application was located in the Springfield District therefore, Chairman Murphy relinquished the Chair to Vice Chairman Ulfelder.

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SE 2020-SP-017 - THE MICHAELS DEVELOPMENT COMPANY I, L.P., - Appl. under Sect. 3-104 of the Zoning Ordinance to permit an independent living facility. Located at 13090 Autumn Willow Dr. and 13208 Lee Hwy., Fairfax, 22030 on approx. 20.53 ac. of land zoned R-1 and WS. Tax Map 55-3 ((1)) 26A and 26B. SPRINGFIELD DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

Brian J. Winterhalter, Applicant's Agent, Cooley LLP, reaffirmed the affidavit dated January 19, 2021.

Sharon Williams, 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 application SE 2020-SP-017.

Mr. Winterhalter gave a presentation on the subject application.

There was a discussion between Ms. Williams; Mr. Winterhalter; Andrea Dorlester, Fairfax County Park Authority; and multiple Commissioners regarding the following:

- Clarification on the relationship between the Redevelopment and Housing Authority parcel and the Park Authority parcel;
- Whether a fee simple ownership transfer of any property from the Park Authority be applicable prior to, as a result of, or after approval of the application;
- Clarification on the parties responsible for development and grounds maintenance of the Redevelopment and Housing Authority parcel;
- In terms of the natural resource impact, the reasons why the Park Authority requested or expected the applicant to use specific plant species on Parcel 26B;
- The applicant and Park Authority's coordinated efforts to mitigate any outstanding issues prior to the development of the project;
- The Park Authority's December 8, 2020 memorandum, regarding the status of an agreement between the Fairfax County Redevelopment Housing Authority, the applicant, and the Park Authority, on the transfer of an adjacent 9.6-acre parcel from Willow Pond Park parcel that would facilitate stormwater conveyance from the Housing Authority's parcel to Little Rocky Run;
- Whether there were outstanding issues not addressed in the development conditions;
- The original title owners of the Fairfax County Redevelopment Housing Authority parcel;



- The status of an effort to include electronic vehicle charging stations as part of the development;
- Clarification of the low-income tax credit application component of the application for the program.

The discussion resulted in applicant's commitment to include electronic vehicle charging stations as part of the proposal. Commissioner Murphy also requested that any outstanding issues with the Park Authority be addressed before the application was presented to the Board of Supervisors on February 23, 2021.

There being no listed speakers, Vice Chairman Ulfelder called for virtual speakers, but received no response; there were no further comments or questions from the Commission, Vice Chairman Ulfelder closed the public hearing and recognized Commissioner Murphy for actions on this application.

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Commissioner Murphy MOVED THE FOLLOWING:

- THE PLANNING COMMISSION RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS OF SE 2020-SP-017, SUBJECT TO DEVELOPMENT CONDITIONS DATED JANUARY 25, 2021; AND
- THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS, APPROVAL OF THE WAIVERS AND MODIFICATIONS CONTAINED IN A HANDOUT DATED FEBRUARY 3, 2021, WHICH WOULD BE MADE PART OF THE RECORD.

Commissioner Niedzielski-Eichner seconded the motions, which carried by a vote of 12-0.

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Chairman Murphy resumed the duties of the virtual Chair and the virtual gavel.

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PRELIMINARY STATEMENT FOR CONDUCTING ELECTRONIC QUESTION AND ANSWER SESSION FOR THE ZONING ORDINANCE MODERNIZATION PROJECT

Chairman Murphy made preliminary comments concerning the proposed zMOD amendments and public hearing that was held on Thursday, January 28, 2021. Chairman Murphy announced the question and answer session participation process held at the public meeting on Wednesday, February 3, 2021, where the Commission would have an opportunity to ask questions of staff regarding this item. Chairman Murphy added this was not a public hearing, but rather a public meeting and that, while anyone was welcomed to watch or listen, the Commission would not be

receiving comments or questions from the public during this meeting. Citizens had another opportunity to testify before the Board of Supervisors when these amendments were brought forward. Chairman Murphy addressed concerns raised by citizens and clarified any misunderstandings regarding the Planning Commission's authority and obligations to conduct the Thursday, January 28, 2021 public hearing electronically due to of the COVID-19 pandemic emergency. Chairman Murphy read the following statement:

- The Planning Commission's authority to meet electronically during this emergency was based on two lines of authority. First, State Law empowers a locality, in case of disasters to adopt an ordinance providing "a method to assure continuity in its government." The Governor has found that the COVID-19 pandemic constitutes a disaster. On May 12, 2020, The Board of Supervisors adopted an ordinance, laying of the procedures under which we could conduct electronic meetings to continue governmental operations and carry out our essential business during the state of emergency, if it is practical, impractical, or assemble a quorum in a single location. In addition, last year the General Assembly with the input from the Governor, approved legislation that allowed any public body to meet electronically in these circumstances if the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body and the discharge of its lawful purposes, duties, and responsibilities. It is certainly unfortunate the pandemic has kept us from meeting as we did before, but we cannot simply put everything on hold until things are back to normal. The General Assembly recognized that. In keeping with State law and the County ordinance regarding continuity and government, the Commission meets electronically only when it has determined that assembly in person would be impractical or unsafe. Some speakers at the Thursday, January 28, 2021 public hearing expressed concern that the only permissible purpose of an electronic meeting was to address the emergency. However, that restriction did not apply here. The Planning Commission met to perform functions essential to the continuity of government, and the 2020 State Legislation explicitly authorized meetings to carryout mandatory and necessary business of a public body. Some people have also complained that consideration of the zMOD amendments is not an emergency that we should deal with now when an in person hearing is possible. But again, the General Assembly has made it clear, that public bodies can indeed be able to meet electronically to carry on the operations of government. The matter being considered need not itself be an emergency, however one might define that term. In fact, State law required the Planning Commission to hold a public hearing on any proposed zoning amendment, and then report its recommendation to the Board of Supervisors without undue delay. That obligation wasn't suspended when the government declared a State of Emergency. We can't simply put an amendment on the back burner indefinitely. The consideration of zoning amendments is certainly one of the Commission's essential functions, and as the courts have recognized, one of the most essential powers of government." Clearly, a proposed set of Zoning Ordinance such as zMOD, qualifies as business statutory required or necessary to continue operations of the Commission, and the discharge of its lawful purposes, duties, and responsibilities which State law explicitly authorizes us to consider at an electronic meeting.



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Commissioner Niedzielski-Eichner made comments to Chairman Murphy's preliminary statement regarding the Planning Commission's authority and obligations to conduct the Thursday, January 28, 2021, public hearing electronically due to of the COVID-19 pandemic emergency and legislative State law which supported those obligations.

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Commissioner Sargeant presented the list of questions for the zMOD questions and answer session, a copy of which is in the date file.

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zMOD – ZONING ORDINANCE MODERNIZATION PROJECT  
QUESTION & ANSWER SESSION

(Public Hearing on this item was held on January 28, 2021)

ZONING ORDINANCE MODERNIZATION PROJECT – repeal of Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax and the replacement with a new Zoning Ordinance (Chapter 112.1) to promote the health, safety, and general welfare of the public. proposed changes include (1) Reorganize and reformat the Ordinance into nine articles, revise it to include new tables and graphics, and edit for plain language and readability. (2) Revise provisions throughout the Ordinance, such as the bulk regulations, parking rate table, the transitional screening and barrier table, and the airport noise compatibility table, to align with the new uses. COUNTYWIDE.  
QUESTION AND ANSWER SESSION.

Barbara Byron, Director, Department of Planning and Development, gave a presentation on the subject item.

Donald L. Elliott, Applicant's Consultant, Clarion Associates, LLC, gave a presentation on the subject item.

Multiple Commissioners made comments on statements made by Mr. Elliott during his presentation, which they deemed were offensive to the citizens of Fairfax County who took the time to offer testimony on this item. Mr. Elliott clarified his comments and apologized to the Commission and the citizens of Fairfax County.

There was a discussion between Ms. Byron, Carmen Bishop, Zoning Administration Division (ZAD), Department of Planning and Development (DPD); Casey Judge, ZAD, DPD; Mr. Elliott; and multiple Commissioners regarding the following:



- A response from staff to Lemon Road Civic Association’s comments regarding outdoor vehicle storage policies;
- A response from staff to the Lemon Road Civic Association’s comments regarding front lot line standards;
- Current home occupancy limits;
- Modifications made to affordable living units (ALUs) standards.
- The types of businesses that were required to obtain home occupation permits;
- Citizen concerns regarding accommodations for landscaping vehicles at ALU sites;
- The efforts by the County to implement proactive enforcement; a tactical recommendation 5.2 from the zMOD initiative in the Economic Success Plan;
- Clarification on whether there were limits to the number of accessory uses in a single-family residential use; and
- Clarification on whether the definition of a minor sign as an accessory to the principal use meant that only the primary residential could display signs.

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The Commission went into recess at 11:06 p.m. and reconvened electronically at 11:19 p.m.

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Commissioner Niedzielski-Eichner suggested that questions he submitted, questions number 24, 25, 26, 28, 29, and 30, be removed from the list because those questions had been referenced and addressed during previous discussions. Commissioner Sargeant suggested the questions Niedzielski-Eichner referenced remain on the list for purpose of record keeping.

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The zMOD question and answer session resumed between Ms. Byron, Carmen Bishop, Zoning Administration Division (ZAD), Department of Planning and Development (DPD); Casey Judge, ZAD, DPD; Mr. Elliott; and multiple Commissioners regarding the following:

- The use standards for the Water Supply Overlay District and how it would interact with the home-based business use standards, when permitted by administrative approval;

- Concerns regarding disposal of the waste from medical uses on well water and septic systems;
- Whether Article 4 of the Use Standards would be amended, or Article 2 of the standard permitted use apply in the event that subsequent study conclude that greater restrictions on the disposal of waste from medical uses were warranted;
- Staff’s rationale of allowing up to 50 percent of lots to contain enclosed accessory structures and the impact of this change to impervious areas;
- Staff’s rationale for removing language that addressed landscaping standards for the Planned Development Districts and the benefits it provided to those districts;
- Staff’s rationale for allowing open space to be fragmented with cluster developments;
- Changes in the plan that were most consequential to the County, established neighborhoods, and existing residents;
- Other potential uses other than ALUs and Home-Based Businesses (HBBs), that could be approved administratively;
- The impacts of postponing consideration of changes to ALUs and HBB developments, whether those changes could be delayed by the Board of Supervisors for future consideration, and if it necessary to approve the zMOD package in its current form;
- Whether a pilot program could be established to evaluate what impacts might be experienced by neighborhoods as a result of zMOD;
- Whether the number of HBBs and ALUs should be limited due to their proximity to other HBBs or ALUs to prevent flooding a particular neighborhood;
- Whether it was possible to appeal the Zoning Administrator’s decision on a ALU permit application;
- Whether the ALUs could be limited by zone or prohibited in higher density zones, such as R-4 districts and higher;
- Considerations given to prohibit authorization of certain businesses on septic and/or adjacent to groundwater sources;
- Rationale for allowing food trucks as an acceptable use in a residential neighborhood, as a business or for special events;  
Whether food trucks were considered a by-right permissible use;
- Whether a driveway was considered an acceptable parking area for a food truck;



- Whether the sign ordinance, as amended on March 19, 2019, was within the scope of the zMOD;
- Staff’s rationale for dropping the time limit requirement for minor signs on residential properties;
- Regulation options for permanent minor signs for homeowners with HBBs versus a homeowners without such a use; and
- Mitigation measures that would address concerns from neighborhoods with smaller homes on large lots that offered a broad allowance for affordable housing would make them targets them for tear-down and rebuild by developers.

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Commissioner Sargeant reminded the Commission of its January 28, 2021 public hearing decision to defer the decision only on the Zoning Ordinance Modernization Project to Wednesday, February 10, 2021, with the record remaining open for written comments.

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Commissioner Sargeant announced that the public hearing on the revisions for the Zoning Ordinance Modernization Project (Flags and Flagpoles) would be held electronically on Wednesday, February 10, 2020, at 7:30 p.m.

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The meeting was adjourned at 1:04 a.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: June 30, 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 20 21, by  
Jacob Caporaletti.

*Dorothy M. Steele*  
Signature of Notary



Notary registration number: 7114113

Commission expiration: January 31, 2024