

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, MARCH 29, 2023**

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

ABSENT: Daniel G. Lagana, Franconia District

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The meeting was called to order at 7:30 p.m., by Chairman Phillip A. Niedzielski-Eichner, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Chairman Niedzielski-Eichner announced that, as a result of *Berry v. Board of Supervisors*, Virginia Supreme Court Record Number 211143, the Planning Commission would defer action on all scheduled public hearings to provide time for a closed session discussion. He then stated that the aforementioned Virginia Supreme Court decision would be the topic of discussion. He also explained that this discussion had nullified the Fairfax County Zoning Modernization Project, which was approved by the Board of Supervisors in June 2021. He added that, due to this decision, the Zoning Ordinance that was in place prior to 2021 was the guiding law for the County until further notice.

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APPROVAL OF MINUTES

Commissioner Spain MOVED APPROVAL OF THE MEETING MINUTES FOR THE FOLLOWING MEETINGS:

- JANUARY 11, 2023;
- JANUARY 25, 2023;
- FEBRUARY 1, 2023;
- FEBRUARY 8, 2023; AND

- FEBRUARY 15, 2023.

Commissioner Bennett seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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SEA 95-M-029-02 – MCDONALD’S CORPORATION

(Decision Only) (The public hearing on this application was held on February 8, 2023.)

Commissioner Shumate MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SEA 95-M-029-02 TO A DATE CERTAIN OF MAY 17, 2023, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Bennett seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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RZ/FDP 2021-BR-018 – MARY H. DAY

Commissioner Cortina MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR RZ 2022-SU-00010 TO A DATE CERTAIN OF MAY 24, 2023.

Commissioner Bennett seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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SE 2019-SU-018 – HUMANE SOCIETY OF FAIRFAX COUNTY

Commissioner Spain MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR SE 2019-SU-018 TO A DATE CERTAIN OF MAY 24, 2023.

Commissioners Bennett and Murphy seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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FDPA 78-C-118-023 – BRIAN JAMES NALLS, TRUSTEE AND LAUREN ALEXIS NALLS, TRUSTEES OF THE NALLS FAMILY TRUST

Commissioner Spain MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR FDPA 78-C-118-023 TO A DATE CERTAIN OF MAY 24, 2023.

Commissioner Bennett seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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CSPA 2007-LE-007-02 – PR SPRINGFIELD TOWN CENTER, LLC

In Commissioner Lagana's absence, Commissioner Bennett MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR CSPA 2007-LE-007-02 TO A DATE CERTAIN OF JUNE 7, 2023.

Commissioner Murphy seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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2023 COMPREHENSIVE PLAN AMENDMENT WORK PROGRAM MARK UP (FINAL RECOMMENDATION ON WORK PROGRAM AND SITE-SPECIFIC PLAN AMENDMENT NOMINATION SCREENING

Commissioner Sargeant MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE 2023 COMPREHENSIVE PLAN AMENDMENT WORK PROGRAM, AS SHOWN IN THE PLANNING COMMISSION HANDOUT DATED MARCH 29, 2023, WITH THE RESCISSION OF THE FOLLOWING FIVE PENDING BUT INACTIVE PLAN AMENDMENTS, AS STAFF HAD INDICATED THAT THOSE STUDIES ARE NO LONGER ACTIVE:

- 9439 LEESBURG PIKE, 2019-II-M1;
- 6152 LEESBURG PIKE/DAR AL-HIJRAH ISLAMIC CENTER, SSPA 2021-I-2B;
- 2806 POPKINS LANE, SSPA 2021-IV-4MV;
- I-95 CORRIDOR AREA, LAND UNIT K SOUTH, SSPA 2021-IV-1S; AND
- BOWL AMERICA, 2022-I-L1.

Commissioner Ulfelder seconded the motion.

There was a discussion between Chairman Niedzielski-Eichner and Leanna O'Donnell, Zoning Evaluation Division, Department of Planning and Development on the following:

- Clarification on the additional opportunities to include long-term studies that had policy implications for the County within the Work Program; and
- The opportunities to study larger planning trends throughout the County and discuss such trends with the Commission through various committees.

Commissioner Shumate MOVED THAT THE PLANNING COMMISSION APPROVE THE FOLLOWING AMENDMENTS TO THE MAIN MOTION:

- THAT SSPA NOMINATION CPN22-MA-006 BE ADDED TO THE WORK PROGRAM AS A TIER 2 NOMINATION, WITH THE AUTHORIZATION LANGUAGE TO BE NOTED AS FOLLOWS:
 - CONSIDERATION THAT A COMPREHENSIVE PLAN AMENDMENT FOR THE ASSEMBLAGE OF PARCELS ALONG GALLOWS ROAD SHOULD ENSURE A MORE LOGICAL PLANNING AREA IN ADDITION TO THE NOMINATION AREA AND INCLUDE PARCEL 59-2 ((1)) 29B, TO ENSURE THE OPPORTUNITY TO CONSIDER THE FULLEST EXTENT OF THE TRANSITION FROM THE PROPOSED DEVELOPMENT TO THE TOWNHOUSE COMMUNITY TO THE WEST.

Commissioner Ulfelder seconded the motion to amend the previous motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

Commissioner Cortina MOVED THAT THE PLANNING COMMISSION APPROVE THE FOLLOWING AMENDMENTS TO THE MAIN MOTION:

- THAT FOR SSPA NOMINATION CPN22-BR-001, EVERGREEN INVESTMENT COMPANY, LLC, TIER 2, THE PLANNING COMMISSION CONCUR WITH THE STAFF RECOMMENDATION TO EXPAND STUDY AREA TO INCLUDE BALANCE OF SUB-UNITS J1 AND J2 OF THE FAIRFAX CENTER SUBURBAN CENTER TO CONSIDER THE RELATIONSHIP OF RESIDENTIAL USES TO THE OFFICE USES IN THE BROADER AREA, AND ADDITIONAL CONSIDERATION OF THE DENSITY, BULK, MASS, AND ORIENTATION OF THE BUILDING AND AMENITIES TO ADJACENT PROPERTIES AND THE PLANNED ROUTE 50 INTERCHANGE AT THE SITE; AND
- THAT FOR SSPA NOMINATION CPN22-BR-002, EQU FAIRFAX CORNER, LLC, TIER 1, THE PLANNING COMMISSION CONCUR WITH THE STAFF RECOMMENDATION TO INCORPORATE INTO THE FAIRFAX CENTER AREA PHASE 3 CORE STUDY, AND ADDITIONAL CONSIDERATION OF THE SITE TOPOGRAPHY, AND PEDESTRIAN CONNECTIVITY TO THE ADJACENT FAIRFAX CORNER DEVELOPMENT. ACCORDINGLY, THE AUTHORIZATION FOR PHASE 3 WOULD THEN BE TO PURSUE A THIRD PHASE OF THE FAIRFAX CENTER AREA SUBURBAN CENTER STUDY TO EVALUATE AND UPDATE PLAN RECOMMENDATIONS FOR THE CORE AREA. THE STUDY WILL INCLUDE A TRANSPORTATION ANALYSIS AND MAY ALSO INCLUDE EDITORIAL UPDATES FOR THE FAIRFAX CENTER AREA TO ENSURE THAT PLAN RECOMMENDATIONS ACCOUNT FOR EXISTING AND ENTITLED DEVELOPMENT. THE STUDY SHOULD INCLUDE TAX MAP PARCEL 56-2 ((1)) 1C, RESERVE AT FAIRFAX RIDGE, FOR AN INCREASE IN INTENSITY UP TO A 0.42 FLOOR-AREA RATIO TO ACCOMMODATE ADDITIONAL RESIDENTIAL USES AND CONSIDER TOPOGRAPHY AND PEDESTRIAN CONNECTIVITY TO THE ADJACENT FAIRFAX CORNER DEVELOPMENT.

Commissioners Ulfelder and Murphy seconded each motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

Commissioner Clarke MOVED THAT THE PLANNING COMMISSION APPROVE THE FOLLOWING AMENDMENT TO THE MAIN MOTION:

- THAT SSPA CPN22-MV-003, BALLSTON BOULEVARD, BE ADDED TO THE WORK PROGRAM AS A TIER 2 ITEM AND THAT THE STUDY AREA TO BE CONSIDERED APPROPRIATE LOCATIONS FOR RESIDENTIAL USES WITHIN THE I-95 CORRIDOR INDUSTRIAL AREA.

Commissioners Ulfelder, Murphy, and Sargeant seconded the motion, which was carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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CAPITAL IMPROVEMENT PROGRAM (CIP) – FISCAL YEARS 2024 – 2028
ADVERTISED (WITH FUTURE FISCAL YEARS TO 2033)

Commissioner Sargeant MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE ADVERTISED FAIRFAX COUNTY CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEARS 2024 THROUGH 2028, WITH FUTURE FISCAL YEARS TO 2033.

Commissioners Cortina, Murphy, and Niedzielski-Eichner seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

Commissioner Carter made a follow-on motion wherein he MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY DIRECT FAIRFAX COUNTY STAFF TO IDENTIFY AND AGGRESSIVELY PURSUE OPPORTUNITIES FOR BUILD BACK BETTER/INFRASTRUCTURE INVESTMENT FUNDING TO REALIZE FAIRFAX COUNTY PLANNED BUT UNFUNDED CONSTRUCTION AND MAJOR MAINTENANCE NEEDS.

Commissioners Jimenez and Niedzielski-Eichner seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

Commissioner Cortina made a follow-on motion wherein she MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ON THE FOLLOWING:

- DIRECT STAFF IN THE DEPARTMENT OF MANAGEMENT AND BUDGET WORK TO WORK WITH THE PARK AUTHORITY STAFF TO STUDY THE FOLLOWING:
 - DETERMINE SPECIFIC BONDING AND CASH FLOW REQUIREMENTS FOR UPCOMING BOND CYCLES, REVIEW THE AMOUNTS OF FUTURE

PARK AUTHORITY BOND REFERENDUMS, AND EXPLORE ALL FINANCING OPTIONS AVAILABLE TO SUPPORT THE RENOVATION OF THE PARK AUTHORITY (FCPA) REC CENTER FACILITIES IMMEDIATELY IN NEED OF RENOVATION;

- o IDENTIFY OPTIONS TO ADDRESS PROJECTED CASH FLOW LIMITATIONS FOR THE FISCAL YEARS 2024 To 2026 TO ALLOW FOR INVESTMENT IN REC CENTER FACILITIES NOW AS A BRIDGE TO FUTURE RENOVATION PROJECTS; AND
- o ENCOURAGE CIP PLANNING STAFF TO MORE REGULARLY COORDINATE WITH FCPA STAFF TO ENSURE THAT MAJOR PARK PROJECTS ARE CONSIDERED IN PLANNING AND SCHEDULING BOND CAPACITY, AND THAT STAFF SHOULD CONTINUE TO WORK TOGETHER TO IDENTIFY AND PRIORITIZE SPECIFIC PARK CAPITAL NEEDS.

Commissioners Bennett, Ulfelder, and Niedzielski-Eichner seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

Commissioner Niedzielski-Eichner made a follow-on motion wherein he MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DIRECT STAFF TO REVISIT AND EVALUATE THE BOND REFERENDUM PLAN ON AN ANNUAL BASIS TO DETERMINE IF THE CAUSES OF THE BOND SALE BACKLOG ARE MITIGATED AND A RETURN TO THE FOUR-YEAR CYCLE IS DESIRABLE. IN ADDITION, THE COMMISSION RECOMMENDS THAT THE BOARD DIRECT STAFF TO IDENTIFY ANY SIGNIFICANT SYSTEMIC CAUSES OF THE BACKLOG IN UNSOLD BONDS THAT, IF ADDRESSED, MIGHT EXPEDITE BOND SALES AND FACILITY CONSTRUCTION.

Commissioners Ulfelder seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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The next item on the agenda for Commission Matters was a recommendation by Chairman Niedzielski-Eichner to establish a limited term Policy Plan Committee. Therefore, he relinquished the Chair to Vice Chairman Sargeant.

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Commissioner Niedzielski-Eichner stated that at the Saturday, March 11, 2023, Planning Commission Planning Session meeting, he suggested the creation of a new limited term Policy Plan Committee, the membership of which would consist of the Chairs of various special committees. The goals of this Committee were to consider major updates to the Policy Plan, such

as review or update existing plan elements, incorporate new plan elements, and to ensure that the plan was in alignment of the ten outcome areas of the 2021 strategic plan for Fairfax County, the One Fairfax Policy, and other policies and initiatives. Commissioner Niedzielski-Eichner said that the goal of the Committee was a new Policy Plan that reflected current Countywide trends and keeps up with land use trends or needs. This process could potentially lead to recommended updates to the Area Plans volumes of the Comprehensive Plan, the Zoning Ordinance, the Public Facilities Manual, and/or other guiding documents. In addition, Commissioner Niedzielski-Eichner explained that the urban areas of the County were broader than Tysons or Reston and in the interest of considering a future Policy Plan, it was appropriate to expand the focus of the existing Tysons Committee to all County urban and activities; therefore, he intended to move that the Tysons Committee's purpose be redesignated as the Urban Development and Placemaking Committee.

Commissioner Niedzielski-Eichner MOVED ON THE PLANNING COMMISSION APPROVE THE FOLLOWING:

- THE FORMATION OF THE PLANNING COMMISSION'S POLICY PLAN COMMITTEE AS A SPECIAL COMMITTEE, WITH THE COMMITTEE TO REMAIN IN OPERATION UNTIL THE BOARD OF SUPERVISORS APPROVE THE COMPLETE UPDATED POLICY PLAN, WHICH IS ESTIMATED TO BE COMPLETED BY THE END OF 2026;
- THAT THE APPOINTEES TO THE NEWLY FORMED POLICY COMMITTEE CONSIST OF ALL MEMBERS OF THE PLANNING COMMISSION AND EACH MEMBER OF THE POLICY COMMITTEE MAY BE ASKED TO ESTABLISH AN INFORMAL WORKING RELATIONSHIP WITH A STAFF LIAISON TO FACILITATE COMMUNICATION AND EFFICIENT CONDUCT OF WORK. THE CHAIRPERSON OF THE HOUSING, ENVIRONMENT, SCHOOLS, PARKS, LAND USE PROCESS REVIEW, TRANSPORTATION, AND TYSONS SPECIAL COMMITTEE WILL BE EXPECTED TO ESTABLISH AN INFORMAL POINT OF CONTACT WITH A STAFF PERSON WHO HAS A RELATED POLICY PLAN TOPICAL LEAD RESPONSIBILITY; AND
- THAT THE TYSONS COMMITTEE BE REDESIGNATED AS THE URBAN DEVELOPMENT AND PLACEMAKING COMMITTEE, WHOSE RESPONSIBILITIES EXTEND TO ALL COUNTY URBAN AND ACTIVITY CENTERS.

Commissioner Ulfelder seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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Chairman Niedzielski-Eichner resumed duties of the chair.

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Commissioner Sargeant MOVED THAT THE PLANNING COMMISSION RECESS AND GO INTO CLOSED SESSION FOR A LEGAL BRIEFING REGARDING *BERRY V. BOARD OF SUPERVISORS*, VIRGINIA SUPREME COURT RECORD NUMBER 211143, AS PERMITTED BY *VIRGINIA CODE SECTION 2.2-3711(A)(7) AND (8)*.

Commissioners Ulfelder seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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Chairman Niedzielski-Eichner announces that the Planning Commission will return to dais after closed session to make the last motion.

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The Commission went into closed session at 8:26 p.m. and reconvened in the Board Auditorium at 10:42 p.m.

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Commissioner Sargeant MOVED THAT THE PLANNING COMMISSION CERTIFY THAT, TO THE BEST OF EACH MEMBER'S KNOWLEDGE, ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM THE OPEN MEETING REQUIREMENTS BY VIRTUE OF *VIRGINIA CODE SECTION 2.2 3711*, AND ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE IDENTIFIED IN THE MOTION BY WHICH CLOSED SESSION WAS CONVENED, WERE HEARD, DISCUSSED, OR CONSIDERED BY THE PLANNING COMMISSION DURING THE CLOSED SESSION.

Commissioners Ulfelder seconded the motion, which carried by a vote of 11-0. Commissioner Lagana was absent from the meeting.

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The meeting was adjourned at 10:43 p.m.
Niedzielski-Eichner, Chairman
Evelyn S. Spain, Secretary

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

By: Satabdi Samaddar
Approved on: June 7, 2023

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 14th day of June 2023 by

Clin Jones
Signature of Notary

Notary registration number: 8018276

Commission expiration: January 31, 2026

Notary Seal



