

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, SEPTEMBER 27, 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
Daniel G. Lagana, Franconia District
Walter C. Clarke, Mount Vernon District
Candice Bennett, Commissioner At-Large
Vacant, Commissioner At-Large

ABSENT: Peter F. Murphy, Springfield District

OTHERS: Sunny Yang, Zoning Evaluation Division (ZED),
Department of Planning and Development (DPD)
Mary Ann Tsai, ZED, DPD
Elizabeth A. Crowell, Park Authority
Aaron Klibaner, Planning Division (PD), DPD
Graham Owen, PD, DPD
Thomas Burke, Transportation, Fairfax County Department of
Transportation (FCDOT)
Arpita Chatterjee, FCDOT

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The meeting was called to order at 7:31 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 welcomed everyone to the meeting and stated there was one item to address during Commission Matters, followed by the conduct of two public hearings. He noted that, following the public hearings, the Commission would convene in a closed session to consult with legal counsel regarding the recent Virginia's General Assembly ruling which included the *Gloss v. Wheeler* decision by the Virginia Supreme Court that affected the Planning Commission's public notice process, meeting requirements, and procedures under the Virginia Freedom of Information Act.

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Commissioner Lagana stated that on September 14, 2023, there was an error in the motion for applications PCA/FDPA 2004-LE-012-02/CDPA 2004-LE-012, RH Senior Housing LLC, A Virginia Limited Liability Corporation. He noted that at the time, the Planning Commission recommended approval for the FDPA 2004-LE-012-02 application. However, he explained that the Commission was required to either approve or deny an FDPA application instead of making a recommendation to the Board of Supervisors. Commission Lagana also noted that on September 26, 2023, the Board of Supervisors approved PCA/FDPA 2004-LE-012-02 and CDPA 2004-LE-012. Therefore, Commission Lagana MOVED THAT THE PLANNING COMMISSION AMEND THE MOTION ADOPTED FOR THIS APPLICATION ON SEPTEMBER 14, 2023, BY CHANGING IT FROM A MOTION TO RECOMMEND APPROVAL OF FDPA 2004-LE-012-02 TO A MOTION TO APPROVE.

Commissioner Cortina seconded the motion, which was carried by a vote of 9-0-1. Commissioner Murphy was absent from the meeting. Commissioner Bennette abstained from the vote.

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Commissioner Spain reminded Commissioners to review the June 2023 and July 2023 meeting minutes. She then noted that she intended to move approval on those minutes at the October 11, 2023, Planning Commission meeting.

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Commissioner Cortina announced that on Thursday, September 28, 2023, the Planning Commission's Environment Committee would jointly meet with the Environmental Quality Advisory Council (EQAC) 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 agenda included a presentation and roundtable discussion with the Chair of the Chesapeake Bay Exception Review Committee (ERC) on resource protection areas the potential collaboration between the Planning Commission and ERC. Commission Cortina noted that ERC and EQAC were important advisory groups to the Board of Supervisors and encouraged all Commissioners, members of the Environment Committee, and interested members of the public to attend.

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ORDER OF THE AGENDA

Secretary Spain established the following order of the agenda:

1. RZ/FDP 2022-HM-00025 – SEM FAIRFAX LAND ASSOCIATES, LLC
2. PA 2015-IV-FH1 – TOPGOLF SITE KINGSTOWNE AREA

This order was accepted without objection.

Chairman Niedzielski-Eichner recited the rules for public testimony.

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RZ/FDP 2022-HM-00025 - SEM FAIRFAX LAND ASSOCIATES, LLC – Appls. to rezone from the R-E to PDH-1 District to permit a residential development with an overall density of 0.90 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located on the W. side of Lake Fairfax Dr. and generally S.E. of Hunt Club Rd., immediately N. of Lake Fairfax Park and S. of Green Run Ln. on approx. 8.87 ac. of land. Comp. Plan Rec: private recreation with an option for residential uses at 0.5 to 1.0 du/ac. HUNTER MILL DISTRICT. PUBLIC HEARING.

John C. McGranahan, Applicant's Agent, Hunton Andrews Kurth LLP, reaffirmed the affidavit dated August 23, 2023.

There were no disclosures from the Commission.

Sunny Yang, Zoning Evaluation Division (ZED), Department of Planning and Development (DPD) presented the staff report, a copy of which is in the electronic date file. She noted that staff recommended approval of applications RZ/FDP 2022-HM-00025.

Mr. McGranahan gave a presentation on the subject applications.

Commissioner Carter made remarks on the history and ownership of the subject property. He stated that the Johnson Family had owned the subject property during the Civil War. He went on to state that the Johnson family had slaves, but also contributed to the Union and had signed the oath that was required at that time to join. He went on to state that the Johnson Family's allegiance to the Union caused numerous problems in the region and that it was a significant part of Fairfax County's history.

Commissioner Spain corrected Commissioner Carter for his reference to people as "slaves" and noted that the proper term is "they were enslaved." She voiced her appreciation to staff and the applicant for giving the respect and recognition of the grave site through the preservation of the cemetery. Commissioner Spain acknowledged and commended the developer on their commitment to maintaining diversity in the neighborhood through their efforts in incorporating appropriate signage and publications to highlight the historical significance of the site. She also commended the applicant for providing updates on parking around the cemetery.

Commissioner Spain asked Mr. McGranahan to confirm that the homeowner's associations (HOA) would maintain the cemetery grounds under the proposal. Mr. McGranahan confirmed the HOA's commitment.

There was a discussion between Ms. Yang; Mary Ann Tasi, ZED, DPD; Elizabeth A. Crowell, Park Authority; and multiple Commissioners on the following issues:

- The applicant indicated that the cemetery would not allow for new graves sites;

- Confirmation that the prospective homeowner's association (HOA) for the subject development would consist of the proposed eight homes;
- Clarification on the HOA's maintenance obligations;
- Explanation of the decrease to the square-footage of the proposed dwelling on Lot 6 due to its relocation;
- The applicant confirmed that there were no visitors at the cemetery in its current condition due to the primary access being located on a private road and the property not being adequately maintained;
- Confirmation that the roads accessing the proposed development would be public roads;
- Clarification on the applicant's plans for screening or tree canopy between Lot 7 and the log house on the subject property;
- Clarification on guidelines for maintenance and preservation of the cemetery lot;
- Explanation of on-site security for the log house;
- Explanation of the HOA's legal liabilities regarding this log house; and
- Explanation of the proposed lighting for the historical site.

There were no listed speakers. Chairman Niedzielski-Eichner called for speakers from the audience.

Heidi Keusenkothen, 10909 Hunt Club Road, Reston, spoke in support of the changes made to the subject application. Ms. Keusenkothen stated that there were nine gravestones displaced during excavation of the subject area and requested that these graves sites be marked to ensure their preservation.

Chairman Niedzielski-Eichner informed Ms. Keusenkothen that there would be time for the application to respond to her concerns prior to the Board of Supervisors' public hearing for this proposal and instructed her to direct all questions and comments to the Commission.

Ms. Keusenkothen continued her testimony where she noted that Fairfax County had errors in the paperwork related to the tax records of the subject property. She requested that the tax records pertaining to this property be presented online, along with all other information that was presented online related to this property.

Heather Greenfield, 1421 Green Run Lane, Reston, thanked the Commissioners, particularly Commissioners Carter and Spain, for their in-depth historical research of the subject property and the family, along with the developers for making the recent changes regarding the conservation easement.

There being no more speakers, Chairman Niedzielski-Eichner called for closing remarks from staff to which they declined.

Chairman Niedzielski-Eichner called for a rebuttal statement from Mr. McGranahan, who responded to the testimony from Ms. Keusenkothen on the topic of unmarked graves and removal of existing gravestones. Mr. McGranahan explained that the applicant or any affiliated agent did not remove any existing gravestones. He went on to state that they have located the gravestones onsite using GPS tracking and those gravestones were not visible due to the current

overgrowth of vegetation. Mr. McGranahan affirmed their commitment to working with Fairfax County to preserve and restore the gravesites along with making the information available for further review to the County and residents thereafter.

Commissioner Cortina informed Mr. McGranahan that the applicant had the option to submit their findings of historical artifacts as an exhibit in the application and it could subsequently become available online to the public. This path entailed additional effort on behalf of the applicant, but such effort would remove the need for residents to go to the courthouse to get registered, prior to being given access to those records.

On behalf of the applicant, Mr. McGranahan stated his agreement to Commissioner Cortina's request.

There was a discussion between Commissioner Ulfelder and Ms. Crowell on efforts in updating records of cemeteries on enslaved individuals. Ms. Crowell stated that her branch were in the process of conducting a cemetery inventory.

In response, Ms. Crowell noted that in the 1980's, there were some studies done on the historic period cemeteries that included data graves of enslaved individuals.

Commissioner Ulfelder made remarks in which stated that creating a master list of those findings would be beneficial to many people who might want to visit said sites.

There were no further comments or questions from the Commission; therefore, Chairman Niedzielski-Eichner closed the public hearing and recognized Commissioner Carter for action on these cases.

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Commissioner Carter MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2022-HM-00025 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERED CONDITIONS CONSISTENT WITH THOSE DATED SEPTEMBER 7, 2023.

Commissioners Sargeant and Niedzielski-Eichner seconded the motion, which was carried by a vote of 10-0. Commissioner Murphy was absent from the meeting.

Commissioner Carter MOVED THAT THE PLANNING COMMISSION APPROVE FDP 2022-HM-00025.

Commissioner Sargeant and Chairman Niedzielski-Eichner seconded the motion, which was carried by a vote of 10-0. Commissioner Murphy was absent from the meeting.

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PA 2015-IV-FH1 – TOPGOLF SITE KINGSTOWNE AREA – concerns approx. 17.4 ac. generally located at 6625 South Van Dorn Street, Alexandria, VA, 22315, Tax Map Parcels 91-2 ((1)) 35A and 35B in the Lee District. The area is planned for residential use at 3-4 du/ac. In 2015, the Board of Supervisors directed staff to consider a mix of residential uses up to 275 dwelling units and 20,000 square feet of retail use which may be increased to 70,000 square feet to accommodate a retail anchor such as a grocery store. The current proposal reflected in the Staff recommendation considers 174 single family attached residential units with no retail use, at a density up to 10 dwelling units per acre including affordable housing units, and other conditions. The amendment proposes a reduced density, no retail use, and other conditions. Recommendations relating to the transportation network may also be modified. **FRANCONIA DISTRICT. PUBLIC HEARING.**

There were no disclosures from the Commission.

Aaron Klibaner, Planning Division (PD), Department of Planning and Development (DPD) presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of the plan amendment, PA 2015-IV-FH1.

Commissioner Lagana commented on the development of the subject site over the course of eight years. He noted the improvements made to the approach from the applicant to ensure community engagement was at the forefront of their efforts in the planning process. He also noted the applicant's commitment to protecting the nearby wetlands of Huntley Meadows.

Commissioner Cortina raised concerns related to sediment runoff from a neighboring townhome community. She went on to explain her concerns regarding language in the proposed application to uphold the necessary erosion and sediment mitigation efforts needed to protect Huntley Meadows Park in the event of extreme weather events. In response, Graham Owen, PD, DPD, stated that there were future plan applications that would include an environmental review of the subject site, and would provide opportunities to address her concerns.

Chairman Niedzielski-Eichner called the first listed speaker and recited the rules for public testimony.

Mark Looney, Applicant's Agent, Cooley, LLC, spoke on behalf of EYA as the Nominator for this plan amendment. Mr. Looney gave a presentation on the proposed plan amendment.

Chairman Niedzielski-Eichner called for the next listed speaker, who wished to testify via YouTube video. There was a delay in audio; therefore, Chairman Niedzielski-Eichner recognized the next listed speaker, allowing time for Channel 16 staff to resolve the issue.

Keith Jerdan, 6567 Kelsey Point Circle, Kingstowne, spoke in support of the proposed plan amendment. A copy of Mr. Wagner's written statement is in the date file.

Paul Wagner, 6566 Kelsey Point Circle, Alexandria, spoke in opposition to the proposed plan amendment. Mr. Wagner noted the close vicinity of the proposed development where he resided and the potential impacts his property would incur due to the development of the subject property. Mr. Wagner also shared environmental concerns related to the current topography of the area and the future management of the subject site.

Aaron Wilkowitz, 6800 Walnut Street, Falls Church, representing Yes, In My Back Yards of Northern Virginia, supported the proposal. A copy of Mr. Wilkowitz's YouTube testimony can be viewed by contacting the Fairfax County Cable and Consumer Services, Channel 16.

Michael Riccard, 7740 Effingham Square, Alexandria, spoke in support of the proposed plan amendment. Mr. Riccard supported the efforts in the development of additional park and open space and suggested it was necessary to meet the needs of the Kingstowne communities.

Mark Engelbaum, 5666 Tower Hill Circle, Alexandria, spoke in support of the proposed plan amendment. Mr. Engelbaum commended the applicant's efforts, in particular their efforts in regard to community engagement.

Michael Lamarche, 6090 Kingstowne Village Pkwy, Alexandria, representing Kingstowne Residential Owners Corporation voiced support of the proposed plan amendment. A copy of Mr. Lamarche's written statement is in the date file.

There were no more listed speakers; therefore, Chairman Niedzielski-Eichner called for speakers from the audience.

Colin McGuinness, Alexandria, spoke in opposition to the high-density proposed development. Mr. McGuinness stated that the existing golf facility on the site had quickly become an integral part of the community where he and many others were able to secure employment that helped them earn money and gain work experience.

Kenneth Behle, Alexandria, spoke in opposition to proposed plan amendment. Mr. Behle supported the current golf establishment due to its significant positive impact on the community. A copy of Mr. Behl's written statement is in the date file.

There being no more speakers, Chairman Niedzielski-Eichner called for a rebuttal statement from Mr. Looney, the nominator for the plan amendment, who responded to the concerns raised in the testimony from the speakers by informing the Commission that the current establishment was contracted to be a temporary operation for the subject site.

There was a final discussion between Mr. Looney; Thomas Burke, Transportation, Fairfax County Department of Transportation (FCDOT); and multiple Commissioners on the following:

- Clarification on the rights of the owner to pursue further development of the subject property;

- Confirmation that the Board of Supervisor approved the adopted Comprehensive Plan, which allowed for the development of 205 dwelling units on the subject property;
- Clarification that the proposed amendment requested approval of an additional option to develop 174 dwelling units on the subject property;
- Concerns related to the walkability of the subject property;
- Explanation that the current countywide trails plan supported the development of a walking/bike path along South Van Doran Street to expand pedestrian and bicyclist accessibility;
- Explanation of the on-site stormwater management system and its impact on surrounding communities;
- The addition of language to set expectations by applicant in rezoning phase of the proposed development; and
- Explanation of items addressed during the community townhall meetings.

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

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Commissioner Lagana MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF STAFF'S RECOMMENDATION ON PA 2015-IV-RH1, TOPGOLF SITE KINGSTOWNE AREA, AS SHOWN ON PAGES 10 AND 11, OF THE STAFF REPORT ADDENDUM DATED SEPTEMBER 13, 2023.

Commissioners Bennett, Sargeant, Clarke, Niedzielski-Eichner, and Ulfelder seconded the motion, which was carried by a vote of 10-0. Commissioner Murphy was absent from the meeting.

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Chairman Niedzielski-Eichner MOVED THAT THE PLANNING COMMISSION RECESS AND GO INTO CLOSED SESSION PURSUANT TO *VIRGINIA CODE* SECTION 2.2-3711, SUBPART 8, FOR THE PURPOSE OF ENGAGING IN CONSULTATION WITH LEGAL COUNSEL REGARDING SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE. THE SUBJECT MATTER OF THE LEGAL CONSULTATION CONCERNS RECENT VIRGINIA SUPREME COURT DECISIONS, INCLUDING *GLOSS V. WHEELER*, THAT AFFECT THE PLANNING COMMISSION'S PUBLIC NOTICE AND MEETING REQUIREMENTS AND PROCEDURES UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT.

Commissioner Sargeant seconded the motion which was carried by a vote of 10-0. Commissioner Murphy was absent from the meeting.

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The Planning Commission went into closed session at 9:48 p.m. and reconvened at 10:37 p.m.

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In accordance with *Virginia Code* Section 2.2 3712, Chairman Niedzielski-Eichner MOVED THAT THE MEMBERS CERTIFY THAT, TO THE BEST OF EACH MEMBER'S KNOWLEDGE, ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM OPEN MEETING REQUIREMENTS UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT AND ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE IDENTIFIED IN THE MOTION BY WHICH THE CLOSED MEETING WAS CONVENED, THAT IS CONSULTATION WITH LEGAL COUNSEL, WERE HEARD, DISCUSSED OR CONSIDERED IN THE CLOSED SESSION MEETING BY THE FAIRFAX COUNTY PLANNING COMMISSION.

Commissioners Sargeant, Spain, and Cortina seconded the motion which was carried by a vote of 10-0. Commissioner Murphy was absent from the meeting.

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The meeting was adjourned at 10:39 p.m.
Phillip A. 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.

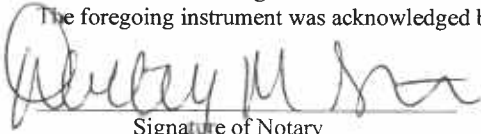
Minutes by: Satabdi Samaddar
Approved on: November 15, 2023



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

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 28 day of November, 2023, by



Signature of Notary

Notary registration number: 7114173

Commission expiration: January 31, 2024

