

Planning and Zoning (P&Z) Committee

The P&Z Committee meets monthly on the last Tuesday of the month at 7:30 p.m. at the McLean Community Center, unless otherwise announced. Committee Chair: Mark Zetts zetts@attglobal.net; Vice Chair: John Schaefer johnr.schaeffer@att.net

From March 2015 through May 2015, the P&Z Committee reviewed 8 land use cases and the MCA Board adopted resolutions on the 3 cases that were ready for public hearing. All committee resolutions can be found on our webpage: <http://mcleancitizens.org/pz.asp>

Sunrise Senior Living – Special Exception for an Assisted Living Facility, SE 2014-DR-068

On June 5, 2015, Sunrise Senior Living withdrew its Special Exception permit application to construct a 40,000 square foot, 73 units/90-bed assisted living facility at 1988 Kirby Road. This 3.7-acre property, situated at the intersection of Kirby Road and Westmoreland Street, is in the R-3 residential district and is currently developed with a church. Sunrise's purchase contract for the property was contingent on developing the assisted living facility, so presumably the property will be placed back on the market.

Tysons - Cityline Scotts Run Station North Rezoning – RZ/CDP 2011-PR-009

On May 14, Cityline briefed the committee on its Scotts Run Station North rezoning application that consolidates 3 parcels comprising 9.4 acres adjacent to the McLean Metro Station. The property is bounded by the Gates of McLean Condominiums to the north, Scotts Run Road (Capital One Bank) to the west, Dolley Madison Boulevard to the south and the Dulles Airport Access Road to the east. The Scotts Run stream RPA straddles the boundary with the Gates of McLean Condominiums. This property, entirely within ¼-mile of the Metro station, had been formerly developed with the Westgate Cleveland office building, however that was demolished in 2014 and replaced with a 711-space parking lot that is used for Silver Line Metro commuters.

While the property will remain a commuter parking lot for many years, Cityline filed an application to 1) rezone the property from C-3 Office to the Planned Tysons Corner (PTC) district and, 2) obtain Conceptual Development Plan approval for a mixed use, transit-oriented development. The applicant is proposing to build 6 high-rise buildings, 3 residential and 3 office, with an option to build a 216-room hotel in place of one of the office buildings. All six buildings would have ground floor retail and services. The maximum gross floor space would be 1.5 million square feet equating to a floor/area ratio of 2.96. While the final heights of the building would not be established until Final Development Plan approval, the heights are currently proposed between 6 and 36 stories or 103' to 332'. In accordance with Comprehensive Plan guidance, the tallest buildings would be located nearest to the Metro station.

The three residential buildings would house a maximum of 497 apartment units, with 20% dedicated to affordable workforce housing, and 1.3 to 1.6 parking spaces would be provided per unit on average. The maximum number of parking spaces provided for the development would be 2,188, although this number could be reduced when the applicant files for Final Development Plan approval. The three office buildings would comprise a maximum of 954,000 square feet of floor space and be situated parallel to Dolley Madison Boulevard. The residential buildings would be

constructed behind them to the north. This juxtaposition would help shield the residential buildings from the noise of the Metro and give the residents a view of the wooded Scotts Run stream valley area.

This property currently has constrained vehicle access which is problematic. Ingress/egress is limited to Scotts Crossing Road and, as such, the development will be limited to a maximum floor space to 1.2 million square feet and a floor/area ratio of 2.37 if new road connections cannot be constructed to improve vehicular access to the property. To improve access, the applicant is proposing to:

- Construct two new public streets: Grover Street, running parallel to Dolley Madison Boulevard, and North Dartford Drive, running parallel to Scott Crossing Road,
- Construct a road along the north of the property that would connect the exit ramp coming off the eastbound Dulles Airport Access Road to Scotts Run Road.
- Connect North Dartford Drive to Dolley Madison Blvd.
- Connect Grover Street to Scotts Run Road.

While these improvements would greatly improve site access, permission from several agencies would be needed to connect to Dolley Madison Blvd, Scotts Run Road and the Dulles Airport Access Road. Furthermore, some right-of-way would have to be acquired from the Gates of McLean Condominium Owners Association in order to extend the connector road all the way to Scotts Crossing Road. The applicant has agreed to work with all parties including WMATA, VDOT, MWAA and the Federal Highway Administration to get the necessary approvals. In addition, the applicant would proffer up to \$930,000 towards the construction of the connector road and \$45,000 towards improvements for Dolley Madison Blvd.

The applicant had previously rezoned the Scotts Run Station South development in 2013 and, as part of that rezoning and this proposed rezoning, had proffered to construct a new Fire and Rescue Station and a turfed and lighted athletic field on a property at the end of Old Meadow Lane. The fire station will be delivered in 2020 and the athletic field 3 years later.

As with all Tysons rezoning approvals under the new Tysons Comprehensive Plan, the applicant's proffers includes contributions to public schools, parks, affordable housing and Tysons transportation improvements as each building goes through Site Plan approval. The MCA resolution provides greater detail on the applicant's contributions.

With the contribution to public facilities, public roads and compliance with the Tysons Comprehensive Plan, on May 29 the MCA Executive Committee, on behalf of the Board of Directors, adopted a resolution in support of the Scotts Run Station North rezoning. <http://mcleancitizens.org/pz/Resolutions/MCAResolutionCitylineRezoningSRSNorth.pdf> At its June 2 public hearing, the Board of Supervisors approved RZ/CDP 2011-PR-009.



Source: Fairfax County Staff Report RZ/CDP 2011-PR-009

Krishna R. Murthy – Special Exception Adding Fill in a Floodplain, SE 2014-DR-033

Mr. Krishna Murthy owns a ½-acre parcel at 8512 Lewinsville Road in the R-1 residential district and it is currently developed with a single-family detached dwelling and two storage sheds. The house was built in the late 1950s and is in poor condition, and Mr. Murthy was proposing to demolish the house and build a 1,998 square foot single-family detached dwelling above the flood level. However this property lies entirely within the 100-year floodplain and the Resource Protection Area (RPA) associated with Rocky Run which prevented him from rebuilding. He therefore filed applications for:

- A Special Exception permit that would allow him to add 123 cubic feet of fill dirt to the property to raise the first floor of the house 21 inches above the flood level,

- A Water Quality Impact Assessment to assess the impacts of demolishing the existing structure and rebuilding, and
- An RPA Encroachment Exception that, based upon the impact assessment, would permit the redevelopment within the RPA.

While such development in a floodplain and RPA is normally prohibited, there were extenuating circumstances:

- The lot was recorded in 1956, well before the property was declared an RPA in 1990.
- The lot does not conform to the minimum lot size requirement for an R-1 property because it recorded before the adoption of the current Zoning Ordinance.
- The proposed redevelopment satisfied the findings and criteria for an RPA encroachment in accordance with the County's Chesapeake Bay Preservation Ordinance.

In view of this, county staff recommended that no more than 10,200 square feet of RPA be disturbed and that the house be sited closer to Lewinsville Road. Staff further recommended that the applicant provide 8,650 square feet of supplemental plantings consisting of 20 overstory trees, 40 understory trees and 220 shrubs to mitigate the encroachment. Lastly, the applicant agreed to dedicate 5 feet of property frontage for a future bike trail. The applicant briefed the P&Z committee on November 24, 2014 before staff had completed the impact assessment and committee members deferred taking a position until the RPA exception process, known to be stringent, was completed. Based on the staff report and SE development conditions, the committee drafted a resolution in support of the SE. On April 12, 2015, the MCA Executive Committee, on behalf of the MCA Board of Directors, adopted a resolution in support of Special Exception 2014-DR-033, Water Quality Impact Assessment 6100-WQ-003-2 and RPA Encroachment Exception 6100-WRPA-005-2.

<http://mcleancitizens.org/pz/Resolutions/MCAResolutionMurthySE.pdf> At the June 11 public hearing, the Fairfax County Planning Commission recommended approval of these applications to the Board of Supervisors who subsequently approved them on June 23.

Dr. Shore Armani – Special Exception for Office Use, SE 80-D-053

Dr. Shore Armani obtained a Special Exception permit in 2004 to operate a medical office out of a single-family detached dwelling at 1580 Chain Bridge Road. This property is located at the corner of Pathfinder Lane and Chain Bridge Road and it abuts the parcel with the electrical substation. The permit was granted for a 7-year term and Dr. Armani has since renewed the permit administratively twice for 2-year terms. Having briefed P&Z in October 2014 and May 2015, the applicant was seeking to renew the permit for a longer term and requested the Special Exception be renewed for a 15-year term, with the option to administratively renew every 5 years thereafter. The committee felt a 15-year term was too long and it contravened Comprehensive Plan guidance that recommends that Special Exception approvals not impede potential future redevelopment within the McLean Community Business Center. The applicant was also seeking approval to rent out a dwelling unit in the basement for security purposes. County staff recommended approval of the Special Exception with the condition that a basement window be enlarged in order to serve as an emergency exit. The applicant was not seeking to increase the permitted number of patients seen per day (13), or in the hours of operation 8:30 a.m. to 5:30 p.m. On June 3, the MCA Board

of Directors approved a resolution in support of the Special Exception.

<http://mcleancitizens.org/pz/Resolutions/MCAResolutionArmaniSEA.pdf> At the June 10 public hearing, the Planning Commission recommended approval and it was approved by the Board of Supervisors on June 23.

Mt. Daniel Elementary School Expansion - 2232 Review FS-D14-53

Mt Daniel Elementary School is located at 2328 North Oak Street in Falls Church. Built in 1951, it is operated by the Falls Church City Public Schools (FCCPS) system, however the 7.31-acre property lies within Fairfax County. Mt Daniel elementary includes kindergarten and first grade education and FCCPS is proposing to increase the number of classrooms from 17 to 36. This would permit them to later transfer the second grade from Jefferson Elementary to Mt Daniel so that by 2018 the student body would double from 394 to 792 students. The larger number of staff and the need to accommodate more visitors would necessitate increasing number of parking spaces from 65 to 110. Because the property is in Fairfax County and FCCPS is expanding a public facility, Virginia State Code requires a 2232 Review. FCCPS had added 4 new classrooms in 2005 and numerous residents had spoken in opposition at the Planning Commission public hearing.

Prior to the applicant's November 2015 visit to P&Z, the committee received numerous e-mails from the surrounding community expressing concern over the location and extent of this new expansion. Committee members shared these concerns as the expansion represents a huge increase in intensity, not only expanding kindergarten and 1st grade to accommodate population growth, but also repurposing the school by adding 2nd grade education.

Moreover, the school is located at the terminus of North Oak Street, which serves as its sole ingress/egress and is less than 26 feet wide. VDOT requirements for a school bus access road specifies a minimum of 24 feet of roadway, plus an additional 8 feet for each parking lane. With parking on both sides of North Oak Street, this equates to a need for 40 feet of roadway. Many homes on North Oak Street were constructed in the 1940's and the driveways are narrow which makes the residents reliant upon on-street parking. Furthermore, the lots are zoned R-4 with 80-foot lot widths that further limit the amount of available parking space without encroaching on driveway openings.

As for vehicle traffic, the narrowness of the street necessitates cars move to the side to yield to oncoming cars when parked cars are present. It is one thing for the residents to yield to one another on what is essentially a cul-de-sac, and entirely another for the vehicles going to and from a public facility such as an elementary school. Students at Mt Daniel Elementary are too young to walk to school and they are either bused or driven to school. While the county staff report stated the road network could handle the proposed expansion, the report also recommended the parking and traffic be monitored, along with the performance of the intersection of North West Street and North Oak Street in Falls Church City. It further recommended the staggered drop-off and pickup of students be monitored to limit congestion on North Oak Street. The fallacy of this recommendation is it would be the responsibility of the community to do the monitoring, not Falls Church City or Fairfax County's, and even if there were parking problems or traffic congestion, Falls Church City would not be required to remediate them. The public is free to travel and park on public streets and, unlike a Rezoning or Special Exception approval, Fairfax County cannot set any conditions when approving a 2232, such as requiring the applicant to monitor and remediate parking or congestion.

Two years ago, FCCPS began shuttling attendees to the school by bus for special events and blocking off access North Oak except for local residents. The School Board recently passed a resolution pledging to continue this program, however this pledge is completely non-binding and would not encumber any future School Board. These proposed mitigations are not appropriate and approval of an expansion of a public facility should not be predicated on such mitigations which could ultimately prove to be ephemeral.

The applicant return to P&Z on April 28, 2015 to update the committee on the finalized plans and the committee subsequently approved a draft resolution in opposition. On June 3, the MCA Board of Directors approved a resolution recommending denial of the proposed expansion of Mt Daniel. <http://mcleancitizens.org/pz/Resolutions/MCAResolutionMtDaniel2232.pdf> On June 24, the Planning Commission held a public hearing at which several commissioners expressed concerns on the impacts of doubling the school's student body given its location. MCA and 4 speakers from the community testified in opposition. On a motion by Dranesville Planning Commissioner John Ulfelder, the PC voted to defer decision until July 15 to give the applicant time to address the problems.

Fairfax County Noise Ordinance Amendment

Fairfax County is amending its Noise Ordinance. County staff have been working on a draft amendment since April 2014, and they published a third draft on January 29, 2015 that was advertised in March for a BoS public hearing on May 12. The Noise Ordinance is Chapter 108.1 of the Fairfax County Code and amendments do not go before the Planning Commission, only the Board of Supervisors. The staff report states that Fairfax County is becoming more urban and with urbanization comes higher levels of noise and the draft Ordinance seeks to accommodate these higher noise levels with a secondary objective of making the Ordinance easier to enforce.

Committee members discussed these proposed changes at our January, February and April meetings and felt that our stable, low-density, suburban McLean neighborhoods are not urbanizing and the purpose of the Noise Ordinance is to protect the peace and quiet and enjoyment of our homes and properties.

MCA, in conjunction with Supervisor John Foust's office, sponsored a well-attended public workshop on April 29 at the McLean Community Center, at which county staff gave a talk on the proposed changes to the Noise Ordinance, followed by a good hour of questions and comments by the attendees. Prior to the Q&A, the chair of the P&Z committee played for the audience four recordings of white noise, each 15 seconds in duration. The clips had recorded sound levels of 55, 60, 65 and 72 dBA respectively to demonstrate the relative loudness of these sound levels. These are sound levels specified in the proposed Noise Ordinance Amendment, however very few people are familiar with how loud these levels actually are. The air conditioner was silenced to quiet the room and a noise meter was used to calibrate the playback volume. While the purpose was to demonstrate, not take a survey, the audience registered no objection to the 55 dBA level, but at 65 dBA the sentiment was clearly unfavorable. In addition to the white noise, four clips of recorded tones were also played, as was one 15-second clip of impulse noise. Then a resident from the West Lewinsville Heights neighborhood played a video he recorded on a property that abuts the McLean High School softball field. The purpose of the video was to demonstrate the high sound levels at which recorded music is played during softball practice and games. A sound level in excess of 65 dBA was measured half way between the property line and the house, making normal conversation unintelligible. The video is available on YouTube.

In addition to continuous noise, the Amendment seeks to regulate impulse noise, generally defined as a brief, sub-second burst of noise such as a pile driver, discharging a weapon or loud impacts from construction activity. The proposed limits are 100 dBA and 80 dBA during the day and night respectively. The existing ordinance sets 55 dBA as the maximum level for any noise source in a residential area. Impulse noise aside, the Amendment proposes a daytime maximum level of 60 dBA for residential areas, 65 dBA for mixed-use and commercial areas and 72 dBA for industrial districts. Whereas the county's existing noise ordinance sets a maximum noise level of 55 dBA, it also limits the level of noise by frequency band, because higher frequency noise is more irritating. To make code enforcement easier, the amended ordinance drops the measurement of noise by frequency.

Of particular concern, the Amendment would allow up to 72 dBA noise levels from Activities on School and Recreational Grounds in residential districts that includes the allowance of amplified noise through mounted loud speakers.

Another concern is the assumption that the county is rapidly urbanizing. This is inherently false; certain parts of the county are urbanizing, specifically Tysons, but nearly 50% of the county is zoned for low- to mid-density residential suburban neighborhoods where there is a presumption of low ambient noise which is one reason such neighborhoods are sought after and cherished. It is very curious then that the Amendment is silent about specifically allowing higher noise levels in a dense urban area such as Tysons where one would naturally presume to find higher ambient noise levels.

By any measure, the proposed Noise Ordinance Amendment is complicated and even those who are familiar with other county code such as the Zoning Ordinance may find it a difficult read. The P&Z committee drafted a 5-page resolution that identifies 19 major issues that the committee felt were deficiencies that would either result in undesirable noise levels or impediments to good enforcement. One particular example is the previous approvals of permits for Special Exceptions or Special Permits in residential neighborhoods. When these permits were approved, the community was assured the noise levels would be limited to 55 dBA. If the community had known these uses would be allowed noise levels of 60 dBA, the community may have come out in opposition due to unwanted noise impacts. Yet another concern is the Amendment raises the allowable noise levels in mixed-use areas to 65 dBA 24-hours a day. There are several residential buildings in McLean located in mixed-use area: McLean House, The Ashby, Paladium and the not-yet-built JBG building. Unless a building was constructed with sound-deadening materials and sealants in the exterior walls, ground level noise is a problem.

On May 6, after lengthy deliberation, the MCA Board of Directors adopted a resolution opposing the Noise Ordinance Amendment and recommending it be remanded to staff for further analysis and consideration of 19 issues. While the full list of issues can be read at: http://mcleancitizens.org/pz/Resolutions/MCAResolution_NoiseOrdinance.pdf a subset includes:

- 1) The definitions of Impulse Sound and Continuous Sound be amended to more closely adhere to the definitions promulgated by the federal government.
- 2) The maximum sound level in Residential districts be retained at 55 dBA.
- 3) All non-residential uses in a Residential district adhere to the 55 dBA maximum.
- 4) The continuous and impulsive noise of construction-related activities of real property be limited to a maximum sound level of 80 dBA unless a Waiver is obtained.

- 5) The use of loudspeakers and instruments on school or recreational grounds have a maximum sound level of 55 dBA, as measured at the property boundary, and start no earlier than 8 a.m..
- 6) The Tyson Planned District be added as a separate zoning category for regulation noise.
- 7) The maximum sound levels in Mixed Use Areas be established at 60 dBA from 10 p.m. to 7 a.m.
- 8) The maximum sound levels in Mixed Use Areas revert to 55 dBA when the non-residential uses are closed.
- 9) The nighttime impulse sound level in Residential districts be established at 70 dBA.
- 10) Maximum sound levels in the commercial district be lowered from 65 to 60 dBA from 10 p.m. to 7 a.m. at any property line abutting dwelling units.

Staff released an update to the Amendment before the May 12 public hearing. There were only 7 modifications, but 3 of them were changes MCA had recommended. Two related to modifying the definition of impulse noise and the third reducing the noise level in Mixed Use areas by 5 dBA at night. Staff also recommended a study be conducted 18 months after adoption of the Amendment to determine the effectiveness of the new ordinance, something MCA had also requested in the resolution.

The Board of Supervisors held a public hearing on the Noise Ordinance Amendment on May 12. Thirty six people testified, almost all of them opposing at least one aspect of the amendment, however many were critical of the whole ordinance noting it was not ready to be enacted into law. The Board deferred the decision until June 23 to give staff time to consider public comments and make changes. On June 9, the Board met with staff to provide direction on which parts of the ordinance the supervisors felt were problematic. Supervisor Foust advocated for the lower noise threshold in residential neighborhoods and for lower sound levels from loudspeakers. At least 3 other supervisors agreed that loudspeaker noise was a problem, however the Board was unable to agree on how to direct staff in the matter before the meeting ended. So the Board decided it would defer the scheduled June 23 decision to a date later in the Fall, but it would meet again with staff in September to continue discussion of the noise issues.

McLean Community Center Expansion

At our April meeting, the committee received a briefing from representatives of the MCC and architect, Greg Lukmire, on the planned \$8 million expansion of the MCC. The MCC was constructed in 1974 and, having been expanded 3 times before, currently comprises 57,000 square feet. The renovation will add a total of 7,750 square feet to allow for a fitness room; conference rooms of different shapes and sizes; renovation of the administrative area; added circulation and lobby space; additional restrooms; and bringing the entire building into full ADA compliance. Another improvement of note: Storm water management will be significantly improved and the spot flooding that occurs on the property after heavy rainfall will be eliminated.

The additional meeting space will require 27 parking spaces be added to the property. The project planners determined that 27 spaces could be added without enlarging the existing parking lot by rearranging and re-striping the spaces. The committee was assured however that the re-striping would not result in narrower parking spaces. The committee had no concerns on the proposed

expansion. As a public facility, the expansion will require a 2232 Review and the application will be filed later this year.