

## **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](mailto:zetts@attglobal.net); Vice Chair: John Schaefer [johnr.schaeffer@att.net](mailto:johnr.schaeffer@att.net)

From February 2014 through April 2014, the P&Z Committee reviewed 4 land use cases and the MCA Board adopted resolutions on the 2 cases that were ready for public hearing. All committee resolutions can be found on our webpage: <http://mcleancitizens.org/pz.asp>

## **Federal Realty Chesterbrook Shopping Center – Proffered Condition Amendment 85-D-081-02**

The shopping center on Old Dominion Drive has a building in the north-east corner (not directly visible from Old Dominion) with 5 leasable units. With the downturn in retail, there are 4 vacant stores and the owner is having difficulty leasing them. The 1986 proffers limit this building to retail only, which excludes such retail services as hair dresser, nails, a sandwich shop, etc. The additional uses sought by the owner would not increase the need for parking or require additional signage.

At our October 29 meeting, we objected to a few of the proposed uses, such as kennels and veterinary hospital, and the applicant removed them. We also requested the applicant consider a proffer to implement a safe pedestrian walkway from Old Dominion Drive down to the main shopping center.

The applicant returned on January 28 to present the finalized list of proposed uses. The property is zoned C-6, and the Zoning Ordinance allows 35 different uses in the C-6 Commercial district. Of these 35, the applicant is requesting the following 16 be permitted on this property.

- Accessory uses as permitted by Article 10
- Business service and supply service establishments
- Colleges, universities
- Community clubs, center and meeting halls
- Eating establishments
- Fast food restaurants, limited by the provisions of Section 4-605
- Financial institutions
- Garment cleaning establishments
- Health clubs
- Offices, limited by the provisions of Section 4-605
- Personal service establishments
- Private clubs and public benefit associations
- Private schools of special education
- Quick service food stores, limited by the provision of Section 605
- Repair service establishments
- Retail sales establishments

At this time, it is unknown which uses and/or tenants would be established here. This is only the list of uses that would be permitted.

The applicant returned to P&Z yet again on February 25, 2014 to discuss the proposed proffered conditions, which had been significantly enhanced. Some of these proffers were proposed by the

P&Z committee while others were requested by a coalition of 5 neighboring homeowner associations.

1. If, and when, there is a change in use, the Applicant will provide a parking tabulation to the Zoning Permit Review Branch to demonstrate that there is adequate parking on the Application Property and the main shopping center to accommodate the parking required by the Fairfax County Zoning Ordinance for the proposed mix of uses.
2. Construct a pedestrian walkway with handrails on the east side of the building originating at the striped pedestrian crossing on Old Dominion Drive and terminating at the sidewalk in front of the applicant's building.
3. Construct a concrete pad at the site of the existing bus stop on the east side of Old Dominion Drive which will accommodate a future bus shelter to be provided by others.
4. Plant shrubs a minimum of 24 inches in height on the north side of the property that abuts the church property.
5. Upgrade any exterior lighting on the property that does not meet current Fairfax County lighting standards.
6. Create a striped pedestrian crosswalk connecting the bus stop on the east side of Old Dominion Drive to the Starbucks building, then continue on to the main shopping center. The crosswalk would include two ramps for ADA compliance.
7. If, and when, the main shopping center is renovated, construct a striped crosswalk from the applicant's property to the main shopping center building.
8. If the 15-foot storm water sewer easement on the north side of the applicant's building is reduced in width, supplement the existing landscaping to enhance the transitional buffer.

On March 5, the MCA Board of Directors approved a resolution in support of Federal Realty's Proffered Condition Amendment.

<http://mcleancitizens.org/MCAResolutionFederalRealtyPCA.pdf> The Fairfax County Board of Supervisors approved the PCA on April 29.

### **Bell Tower Enclosed Wireless Antenna at Andrew Chapel Church 2232 Review and Special Exception Application 2013-DR-019**

Community Wireless Structures is proposing to construct a bell tower on the property of Andrew Chapel United Methodist Church (ACUMC) located just off Route 7 at 1301 Trap Road in Vienna. The 120-foot bell tower would house and conceal wireless antennas for up to 4 wireless carriers, and it would be sited behind the church's rear parking lot roughly 430 feet from Trap Road and 140 feet from Route 7. While the bell tower would have 3 visible bells, they would be non-functioning and the tower would not emit sound. A 35' x 70' compound at the base of the bell tower would enclose the carriers' electronic equipment and be surrounded by an 8' wood fence. Landscaping around the compound would provide a transitional screen comprising 39 trees and 11 shrubs.

This telecommunications facility would significantly improve coverage on both sides of Route 7 north of Lewinsville Road. The applicant presented area maps provided by T-Mobile and Verizon showing the coverage of their wireless signals, with and without the proposed facility, establishing the need for additional coverage along that segment of Route 7. Per the requirements of the 2232

statute, the applicant evaluated 13 alternative sites for the facility, the majority of which were too distant from the targeted area along the Route 7 corridor. Sites that were more proximate to Route 7 were problematic either because ground leases were unobtainable or they were still outside of the needed coverage radius.

Community members expressed opposition to the bell tower based primarily on perceived health hazards. However, under Federal law, Fairfax County cannot deny a permit for a wireless antenna facility on the basis of the effects on health unless it can be shown the antennas would be transmitting at a radiated power in excess of prescribed FCC limits. In general, wireless antennas for mobile devices have limited areas of coverage and transmit at relatively low power to avoid excessive overlap with other nearby wireless cells. Some in the community also questioned whether the applicant had performed proper due diligence in evaluating alternative sites. The applicant provided documentation listing 4 sites that CWS had identified, plus 9 other alternative sites that Fairfax County planning staff had recommended for evaluation.

Four balloon flyovers were conducted to allow the community to assess the visual impact of the bell tower. At the request of staff, the apparent mass of the three-sided, triangular bell tower was slightly reduced by decreasing the length of each side from 17.5 feet to 15.5 feet. At the April 29 P&Z, the applicant showed photo-simulations of the proposed tower. Given the hilliness and heavy tree coverage of the local area, relatively few homes will have a direct view of the bell tower, specifically a dozen homes that are adjacent to ACUMC on Windsor Meadow Lane and the other side of Route 7.

The original proposal had called for a 140-foot antenna that would house 5 wireless carriers. The applicant lowered the antenna height to 120 feet with 4 carriers to reduce visual impact. The committee expressed concerns about providing a good transitional screen around the equipment compound; in response, the applicant is committing to a landscaping plan that will provide a substantial buffer. The committee also expressed concerns about possible damage to existing, mature trees during the construction phase that would cause the trees to die a few years after construction is completed. The applicant agreed to fence off the area around these trees to preclude impact damage and soil/root compaction. There are no proposed changes to the existing church and pre-school use on the property. The wireless facility would be visited by a technician from each of the 4 carriers once a month for inspection and, as needed, to perform repairs.

On June 4, the MCA Board will consider a resolution on this 2232 Review and Special Exception. The Planning Commission public hearing is scheduled for June 18.

### **Capital One Bank - Proffered Condition and Final Development Plan Amendment 2010-PR-021-01**

In September 2012, the Fairfax County Board of Supervisors approved a rezoning of Capital One's 26-acre headquarters property located at the junction of Dolley Madison Boulevard and the Capital Beltway in McLean. As a part of the rezoning, the Board approved 4.5 million square feet (MSF) of new, mixed-use development comprising 12 high-rise buildings, 6 office, 5 residential and 1 hotel, which would be built out in 5 phases of development over a period as long as 25 years.

The applicant is now proposing changes to the proffered conditions and development plans approved in 2012, none of which include any increase in square footage over the approved 4.5

MSF, and gave presentations to the committee in July 2013 and February 2014. The most significant change involved Block B, a parcel located adjacent to the I-495 Beltway, which is planned for 2 office buildings and a hotel. In response to changing business needs, the applicant proposed consolidating the two office buildings into a single, 470-foot office building comprising 965,000 square feet of floor space. This headquarters building, referred to as Building 3, would be 32 stories (400 feet) with an additional 70-foot structure on top of the building to house the mechanical equipment. This upper mechanical space is architecturally integrated with the building. Other proposed modifications included:

1. Constructing the Block B buildings prior to developing Block A. This change requires an amendment to Capital One's Final Development Plan (FDP).
2. The Block B hotel/conference center would be sited next to the Jones Branch Connector Road. Both the hotel and headquarters office building would have retail space.
3. The only change in Block A would be increasing the height of the office building from 21 to 26 stories.
4. Of key interest to MCA was the proffered, 30,000 square foot East Tysons Community Center (CC). The original plan had called for the CC to occupy the first 3 floors of a high-rise office building in Block B. The applicant now proposed to build the CC in a temporary building at the corner of Dolley Madison Boulevard and Old Meadow Road within 1/8-mile of the McLean Metro station. Again, the scale of these development phases is multi-decade. In a later development phase, at Capital One's expense, the temporary CC building would be demolished in order to develop a high-rise office building on that same site and a new CC would be developed in the first two floors of that building. During the construction of the office building, Capital One would lease space in one or two other locations in Tysons which would serve as an interim CC until the new CC was ready for occupancy.
5. Once the new headquarters building is constructed, the applicant would build a temporary, turf and lighted athletic field on the site of the proposed hotel in Block B. This athletic field will serve the public until market conditions justify the development of the hotel.
6. The proposed civic plaza in Block B would be redesigned as a linear pocket park that would connect with a pocket park next to the existing headquarters building.
7. The re-planning of Block B would also result in a slight realignment of a section of Capital One Drive, and the construction of Old Meadow Road would be moved ahead in schedule. By the time Block B is completed, two-thirds of Capital One's grid of streets would be completed.

In addition to constructing the temporary and permanent Community Centers and the temporary athletic field, the applicant proffered 1) a contribution of \$500,000 towards road improvements on Dolley Madison Boulevard and, 2) the dedication of an additional 1/2-acre of land to widen the streets on the applicant's property.

One concern of MCA was the 470-foot height of Building 3. The building is situated up against the Beltway because otherwise, its enormous size would have cast a large, undesirable shadow on public spaces. This area of Capital One's property, adjacent to the Beltway, is designated a Tier 2 area in the Tysons Comprehensive Plan; Tier 2 areas are planned for building heights in the range

of 175 to 225 feet. In Tier 1 areas, located adjacent to the Metro stations, building heights of up to 400 feet are permitted. When calculating building heights, penthouse structures on top of the roof are not included as long as they occupy less than 25% of the roof area. Since the 70-foot mechanical-space structure on top of Building 3 covers well over 25%, it is included in the tally and results in a 470-foot building. While situating a building with a height of 470' in a Tier 2 area would appear to violate the Tysons Comprehensive Plan height limitation for Tier 2, other provisions in the Tysons Comprehensive Plan suggest that there are instances when a building of this height would be permissible in Tier 2. For example, the Tysons Comprehensive Plan has specific language for the Scotts Run Crossing subdistrict that recommends the tallest buildings be either at the Metro station or adjacent to the I-495 Beltway. Furthermore, the Zoning Ordinance permits the increased height of this mechanical space structure, but advises, "...*these features should not excessively increase the building height.*" Between the Zoning Ordinance and Comprehensive Plan, there is language that, in the aggregate, provides the flexibility to permit the 470-foot height of Building 3 in its proposed location.

Nonetheless, the height of the building represented a quandary to MCA in that MCA firmly believes building heights are a key feature of redevelopment in Tysons that should be fairly and consistently enforced. The Comprehensive Plan recommendations for the building heights in each of the six Tiers were drafted with deliberation and due consideration. If it became a regular practice in Tysons to add 70 feet or more of mechanical space to the roof tops, the recommended maximum building heights in the Comprehensive Plan would become moot and serve little purpose. Selective enforcement of such guidelines, to some degree, erodes public confidence in the usefulness of the Comprehensive Plan. On the other hand, MCA recognizes that this is not just another office building. It is an architecturally significant building that would serve as the headquarters of a major US corporation, situated in a very prominent and visible location on I-495 at the northern entrance into Tysons. It would contribute the quality of the Tysons' skyline and it would be, by far, the largest building in Tysons.

On April 2, the MCA Board of Directors adopted a resolution conditioning its support of the Capital One Bank's PCA/FDPA on Fairfax County designating Building 3 as a gateway landmark building. This is a designation given to significant and iconic buildings that are situated at the portals of Tysons. There are only 4 such buildings in Tysons and such a designation justifies a greater height allowance. <http://mcleancitizens.org/MCAResolutionCapitalOnePCAFDPA.pdf>

The Board of Supervisors public hearing for Capital One's PCA/FDPA 2010-PR-021 is scheduled on May 13.

### **JBG - 6862 Elm Street Rezoning and Final Development Plan (McLean CBC)**

JBG made presentations to P&Z in June, September and October of 2013 and January, February, March and April of 2014. At the April 29 meeting, JBG showed us the latest refinement of their new design that sets back the upper floors of the apartment building that was done at the request of county staff.



**LATEST DESIGN**

**Fleetwood Avenue View (East) (McLean House in left background)**

Source: JBG presentation 4/29/2014



**PRIOR SETBACK DESIGN**  
**Fleetwood Avenue View (East)**

Source: JBG presentation 12/20/2013

To recap, the features of their development include:

- a) A 240-unit apartment building.
- b) Four or more levels of underground parking beneath the apartment building would provide parking for the apartment building, existing office building and the retail use. The total number of underground parking spaces will not be established until later, but the county requires at least 1.6 parking spaces per apartment unit and the number of underground spaces could be as high as 616.
- c) Some 55 surface parking spaces around the apartment building.
- d) Approximately 8,730 square feet of retail space would be added to the ground floor of the existing office building.
- e) Apartment building height: 75 feet. (The office building is 90 feet.)
- f) The development would have 35% open space versus a county requirement of 20%.
- g) At one time, JBG proposed a small, standalone retail building fronting on Elm Street. This feature has been removed from the plan and in its place would be landscaped open space and a lawn.

- h) JBG would improve two existing, mid-block walking/biking trails. One that run from Fleetwood Road to Beverly Road and a second trail on the east side of the JBG property that connects to Elm Street.

A key concern of the residents of the abutting McLean House is the potential for increased illegal parking on their private property as the available on-street parking on Fleetwood Road becomes scarcer. JBG is working with McLean House representatives on this issue.

As for transportation impacts, the new development would add 1,774 daily trips on top of the existing 1,317 trips generated by the office building. The number vehicle trips during peak traffic hour at the three nearest intersections would increase as follows:

<b>Intersection</b>	<b>Increase in Number of Trips at AM/PM Peak Hour</b>
Fleetwood and Elm	13%
Beverly and Elm	6.5%
Fleetwood and Beverly	8%

JBG’s scheduled public hearings at the Planning Commission and Board of Supervisors are June 18 and July 1 respectively.

**Update on Residential Studio Units (RSU) Zoning Ordinance Amendment (ZOA)**

Fairfax County is proposing a change to the Zoning Ordinance that would create a new type of housing stock called Residential Studios. Residential Studios are defined as a rental efficiency apartments of less than 500 square feet, with a bathroom and kitchen, but no bedroom. These units would be targeted to households making less than 60% of the Area Median Income (AMI) which is currently \$45,000. Approximately 25% of county households are in this category. A key objective of this amendment is to eliminate homelessness, but these units would also provide homes for the low-income elderly, the disabled and households making under \$45K.

The Planning Commission’s RSU Committee continues to meet to evaluate the RSU ZOA and recommend modifications. The latest draft of the ZOA, dated April 9, is available here: [http://www.fairfaxcounty.gov/planning/rsu/4\\_9\\_14\\_Draft\\_Res\\_Studio\\_Amendment.pdf](http://www.fairfaxcounty.gov/planning/rsu/4_9_14_Draft_Res_Studio_Amendment.pdf)

The language of the amendment still requires at least 80% of the units be affordable, with up to 20% to be rented at market rates. Lease terms could not be longer than 12 months and once a household income exceeded 60% AMI, the renter(s) would have 9 months to vacate or until the end of the lease, whichever came first.

As for parking, despite many community members testifying to the importance of providing adequate parking for these facilities and emphasizing RSU would be allowed to have up to 3 occupants, the ZOA is still recommending the developer only be required to provide a minimum of 1.0 parking spaces per unit. A developer could also apply for a waiver to provide fewer than 1.0 parking spaces per unit if it could be shown that there is sufficient public bus transit or alternate parking facilities.

As originally proposed, these units would have been permitted by Special Exception permit in Residential districts R-E, R-1 through R-30, and all Commercial, Industrial and Planned districts, with no more than 75 RSUs, and as few as 3, on any given property.

On November 18, in response to public comment throughout the county, the Board of Supervisors (BOS) voted to amend the ZOA to restrict RSUs in Residential Districts to R-12 and higher, and in Planned Districts to PDH-12 and higher. This change reflected very strong public reservations about allowing multi-family development in low- to mid-density residential areas, which is currently not permitted. RSUs would still be permitted in all Commercial and Industrial Districts by Special Exception (SE) permit. The Board also directed that single-family homes could not be converted to an RSU use. These aspects of the original ZOA represented a very significant change Fairfax County zoning. While the Board also increased the minimum number of RSUs in any given development from 3 to 30, in the latest draft of the ZOA, the RSU committee/county staff is proposing to lower the minimum number of RSU in any given development to 16.

The draft ZOA also states the transportation needs of the tenants are an essential element of the development plan and developers are required to identify the nature, location, proximity and availability of public transportation.

Another notable change deals with on-site management. Whereas, originally, on-site management was optional, the draft ZOA now requires on-site management agent for no fewer than 8 hours a day and further requires developers to provide a space of at least 80 square feet to serve as a management office.

While some of the BOS and Planning Commission changes are welcome, MCA will continue to press for:

1. Requiring more than 1.0 parking spaces per unit.
2. Requiring that RSUs developments be located within ½-mile of active transit and near retail and services.
3. Adding language providing for the services needed by the elderly and disabled.

The draft ZOA specifies 17 additional standards that must be met by the developer to obtain an RSU SE permit, and one of the key objectives of these additional standards is to reduce the impact of RSU developments on neighboring uses. SE additional standards, however, can be modified by the Board of Supervisors. The only elements of an RSU SE that cannot be modified are those that are written into the definition of a Residential Studio, i.e.: 1) zero bedrooms, 2) a maximum household income of 60% AMI, 3) a maximum of 75 units and, 4) a minimum of 80% of the units designated as affordable units. We will continue to monitor the proceedings of the PC RSU committee.

The Planning Commission RSU committee is scheduled to meet on May 6 and May 27 at 7:00 PM at the Fairfax County Government Center. As of this date, there is no scheduled date for a Planning Commission public hearing on the RSU ZOA.