



ARLINGTON COUNTY, VIRGINIA
ARLINGTON COUNTY PLANNING COMMISSION

2100 CLARENDON BOULEVARD, SUITE 700
ARLINGTON, VIRGINIA 22201
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FREIDA WRAY
COORDINATOR

GIZELE C. JOHNSON
CLERK

ROSEMARY CIOTTI
CHAIR

STEVE SOCKWELL
VICE CHAIR

October 8, 2011

Arlington County Board
2100 Clarendon Boulevard
Suite 300
Arlington, Virginia 22201

SUBJECT: 5. ZOA-11-02. Proposed amendments to the Arlington County Zoning Ordinance, Section 1. Definitions, Section 19. "C-1" Local Commercial Districts, Section 26. "C-2" Service Commercial – Community Business Districts, and Section 27A. "C-R" Commercial Redevelopment Districts, to define the term "Large Format Sales Establishments", as being, among other provisions, a use under one ownership where the primary activity is the sale of food, merchandise and/or other personal and business services; and to provide that Large Format Sales Establishments having a gross floor area of 50,000 square feet or more on any level or that propose to provide 200 or more parking spaces, are prohibited except after approval by the County Board of a Special Exception Use Permit. Commercial uses meeting the above referenced definition on properties zoned "MU-VS", "C-O-A", "C-3", "C-M", "M-1", "M-2", by reference in the Zoning Ordinance, would also be subject to this provision. *(Revised Advertisement)*

OR,

ZOA-11-02. Proposed amendments to the Arlington County Zoning Ordinance, Section 19. "C-1" Local Commercial Districts, Section 26. "C-2" Service Commercial – Community Business Districts, and Section 27A. "C-R" Commercial Redevelopment Districts, to provide that uses otherwise permitted in those zoning districts, but that have a gross floor area of 50,000 square feet or more on any level or that propose to provide 200 or more parking spaces, are prohibited except after approval by the County Board of a Special Exception Use Permit. Commercial uses meeting the above criteria on properties zoned "MU-VS", "C-O-A", "C-3", "C-M", "M-1", "M-2", by reference in the Zoning Ordinance, would also be subject to this provision. *(Previous Advertisement)*

RECOMMENDATIONS: 5. Adopt the ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance, Sections 1, 19, 26,

P.C. #42

and 27A in order to provide that “Large Format Sales Establishments”, as defined, may only be approved by the County Board through Special Exception Use Permit, pursuant to review by the County Attorney of the language under *SECTION 19.A. Uses Permitted*, that appears to create a conflict between either the lead-in sentence (lines 29-30), “*The following uses are permitted, provided that they are not Large Format Sales Establishments, as defined in Section 1*” and number 12 on the list of permitted uses (lines 44-46) “*Grocery, fruit or vegetable store without restriction or maximum gross floor area. Delivery of groceries to off-site locations is permitted when it involves less than thirty (30) percent of the amount of the sales from these stores.*”, or the first sentence of the definition of a Large Format Sales Establishment (lines 3–5), “*SECTION 1. DEFINITIONS. Large Format Sales Establishment. A use for which one Certificate of Occupancy is to be sought or issued and that either occupies 50,000 square feet or more on any one level or provides 200 or more parking spaces dedicated to that use.*”

The Planning Commission heard this item at its October 5, 2011 carry-over meeting. Richard Tucker, CPHD Planning, presented the proposed Zoning Ordinance amendment and the staff recommendation. He described the type of retail establishment that would be subject to the new ordinance requirement for a special exception use permit and identified sites where big box development could potentially occur.

Public Speakers

John Breyault, President of the Long Branch Creek Civic Association, read a letter co-authored by himself and Dr. Alfred Taylor, President of the Nauck Civic Association. He identified potential impacts of by-right development on the Lower Shirlington Crescent area and expressed support for the proposed zoning ordinance amendment requiring a use permit for big box retail development. It is a mechanism that would ensure that redevelopment of this type in the Lower Shirlington Crescent area complies with the spirit and letter of the proposed amendment and allows citizens an opportunity to provide input. He further requested that the future Lower Shirlington Crescent Special Study is concluded prior to consideration of any use permit of this type being issued in the Lower Shirlington Crescent area.

David Lasso, who represents the American Service Center (ASC), indicated that the ASC supports the proposed ordinance amendment. The text is very clear that car dealerships and services are excluded from uses requiring a special exception use permit.

Planning Commission Discussion

Commissioner Malis asked for clarification of the first sentence of the ordinance text describing the use which determines whether a project is a large format establishment. The language seems to predicate the definition on a future application for a Certificate of Occupancy (CO). She asked why the text reads “one Certificate of Occupancy is to be sought” rather than “one Certificate of Occupancy is required”. She wondered how staff will determine when the plan is submitted the number of CO’s that will be sought in the future. Mr. Tucker responded that the proposed ordinance attempts to distinguish an individual use in a single building, having 200 parking spaces and a single CO.

Commissioner Savela requested that the County Attorney review the proposed language regarding the issuing of a CO before the ordinance amendment is heard by the County Board. She is concerned that an applicant might claim that more than one CO will be sought in which case a use permit would not be required; for example, a 100,000 square foot Walmart could potentially co-locate with a 5,000 square foot Duncan Donuts. She is unsure that the specific wording of language clearly gets at the proposed intent.

Commissioner Hunt noted that the language on page 9 of the staff report, line 44 and use 12, could be contradictory, as it identifies as a permitted use “Grocery, fruit or vegetable stores without restriction or maximum gross floor area”.

Commissioner Cole asked for staff to clarify the difference between co-located uses in shopping centers and large format sales establishments. Mr. Tucker responded that in a typical shopping center in Arlington, an individual grocery store, for example, would not contain 50,000⁺ square feet or have 200 parking spaces designated specifically for that store. However, if expanded to more than 50,000 square feet, it would be considered a “Large Format Sales Establishment” and would then be subject to use permit review.

Commissioner Cole expressed concern about big box stores that may have multiple floors with floor plates less than 50,000 square feet, gross floor area greater than 50,000 square feet, and less than 200 parking spaces. There are loopholes, as this configuration would not meet the definition of a large format sales establishment. He asked if staff was concerned that the proposed ordinance amendment incentivizes multi-level stores such as might be possible on the Colony House site. Mr. Tucker responded that the retail parking requirement in the Zoning Ordinance is one space per 250 square feet of GFA, and a multi-level 80,000 square foot store on the Colony House site, for example, would require 320 parking spaces and would require a use permit.

Commissioner Savela noted that at the ZOCO meeting they were told that there would be no nonconforming uses with the proposed amendment, noting that the existing Costco store in Pentagon City currently meets the use definition. She asked how that site would be addressed. Mr. Tucker responded that there are long term plans for redevelopment of the site per the approved Phased Development Site Plan (PDSP), and COSTCO would not be required to come into conformance and seek use permit approval in order to continue to operate.

Planning Commission Motion

Commissioner Cole moved that the Planning Commission recommend that the County Board adopt the ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance, Sections 1, 19, 26, and 27A in order to provide that “Large Format Sales Establishments”, as defined, may only be approved by the County Board through Special Exception Use Permit. Commissioner Monfort seconded the motion.

Commissioner Hunt sought unanimous consent to amend the motion to include the phrase “pursuant to review by the County Attorney of the language under *SECTION 19.A. Uses Permitted*, that appears to create a conflict between either the lead-in sentence (lines 29-30), “*The following uses are permitted, provided that they are not Large Format Sales Establishments, as defined in Section 1*” and number 12 on the list of permitted uses (lines 44-46) “*Grocery, fruit or vegetable store without restriction or maximum gross floor area. Delivery of groceries to off-site locations is permitted when it involves less than thirty (30) percent of the amount of the sales from these stores.*”, or the first sentence of the definition of a Large Format Sales Establishment (lines 3–5), “*SECTION 1. DEFINITIONS. Large Format Sales Establishment. A use for which one Certificate of Occupancy is to be sought or issued and that either occupies 50,000 square feet or more on any one level or provides 200 or more parking spaces dedicated to that use.*” There was no objection, so the amendment became a part of the main motion.

Commissioner Malis commented that it is important that the language is clear, as she expressed concern about the timing and sequence of actions required by the Zoning Administrator upon receiving the plans for the CO.

Commissioner Savela indicated that she will support the motion, but that she struggled with the distinction being drawn between the impact of a large format sales establishment, as defined, and that of a shopping center with, for example, 300,000 square feet of retail GFA comprised of eight (8) stores. Noting that different types of shopping centers may have different impacts, Commissioner Savela was able to justify the distinction that a single big box store is a regional draw, whereas a shopping center with eight stores may be more neighborhood oriented, not providing a regional draw and perhaps having a lesser traffic impact than a big box store. She stated that the proposed ordinance amendment is a legitimate first step, but suspects this ordinance may need modification in the future.

Commissioner Cole indicated that he is in favor of the motion, although he identified several concerns at the Long Range Planning Committee meeting. He noted that the term “Large Format Sales Establishment” is not sufficiently well defined. Establishments with just less than 50,000 square feet or just less than 200 parking spaces will not fall within this definition. The specific omission of distribution centers may have greater impacts than a big box store, but they will not be captured in the proposed amendment because these uses are only allowed in zoning districts affected by the amendment by reference. Although he believes the proposed amendment is too narrowly drawn to offer sufficient protection from the effects of large format retail establishments, he will support it as a first step.

The Planning Commission voted 7-0 to support the amended motion. Commissioners Ciotti, Cole, Harner, Hunt, Malis, Monfort, Savela, and Serie supported the motion.

Respectfully Submitted,
Arlington County Planning Commission

A handwritten signature in cursive script that reads "Rosemary Ciotti".

Rosemary Ciotti
Planning Commission Chair

Gizele Johnson

From: JammingEcono <jammingecono@gmail.com>
Sent: Wednesday, October 05, 2011 7:25 PM
To: Rosemary.Ciotti@gmail.com
Cc: aotjr@aol.com; Cole.arl@gmail.com; pfallon591@aol.com; bharner@mac.com; nwhunt@concentric.net; Srklein@verizon.net; IAMalis@cs.com; cmonfort@comcast.net; Terry_Savela@alum.wellesley.edu; tserie@aol.com; sock3@verizon.net; Freida Wray; Gizele Johnson
Subject: Long Branch Creek Civic Association/Nauck Civic Association letter to Planning Commission re: ZOA-11-02
Attachments: LBCCA-NCA_Letter_ZOA-11-02_10052011 (FINAL).pdf

Dear Chairwoman Ciotti,

At the October 5, 2011 public hearing of the Arlington County Planning Commission, I presented a letter from the presidents of the Long Branch Creek Civic Association and Nauck Civic Association to the Commission supporting ZOA-11-02. For your reference and the reference of the copied commissioners, I have attached that letter.

Should you have any questions, please do not hesitate to contact me at your convenience.

Kind regards,

JDB

John Breyault
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Nauck Civic Association
P.O. Box 4037
Arlington, VA 22204

October 5, 2011

Rosemary Ciotti, Chair
Arlington County Planning Commission
#1 Courthouse Plaza
2100 Clarendon Boulevard
Suite 700
Arlington, VA 22201

Dear Ms. Ciotti:

On behalf of the members of the Long Branch Creek Civic Association (LBCCA) and the Nauck Civic Association (NCA), we urge the Planning Commission to support Agenda Item 5 (ZOA-11-02, hereafter "proposed amendments"), which will be discussed at the Commission's public hearing on October 5, 2011.

We understand that such "big box" retail development is a possibility for the industrial properties located in the Lower Shirlington Crescent area. We are particularly concerned that "by-rights" development in the area may not give surrounding civic associations the opportunity for substantive input into the planning process.¹ Such community dialogue is critical to ensure that development is properly integrated into the fabric of the surrounding neighborhoods.

Residents of the LBCCA and NCA would be directly affected by development in the Lower Shirlington Crescent that changes traffic patterns, increases vehicular and pedestrian traffic and creates additional noise and light pollution. The proposed amendments would clearly benefit the residents of the surrounding civic associations by requiring developers of large-scale retail establishments in the Lower Shirlington Crescent area to obtain a Special Exception Use Permit. The permitting process would then allow for ample input from surrounding affected communities to mitigate negative impacts of the development.

We are concerned, however, that the proposed amendments would only apply to Large Format Sales Establishments having a gross floor area of 50,000 square feet or more on any level or that propose to provide 200 or more parking spaces. We would urge the Commission to consider the possibility that a retailer could narrowly tailor their development plans so as to fall just shy of this 50,000 square feet/200 parking spaces limit. We would recommend that the Commission consider

¹ For additional discussion, see generally: "EXCLUSIVE: Board Acts as Walmart Eyes Shirlington Site," ARLnow.com. July 14, 2011. Retrieved Online October 5, 2011:
<http://www.arlnow.com/2011/07/14/exclusive-board-acts-as-walmart-eyes-shirlington-site/>

mechanisms to ensure that any development in the Lower Shirlington Crescent area abides by the spirit, as well as the letter, of the proposed amendments.

We also understand that the Commission's Long Range Planning Committee (LRPC) will soon be considering a Lower Shirlington Crescent Special Study.² We would therefore further urge the Commission to allow this special study to be conducted before any Special Exception Use Permit is considered for the properties in question.

In conclusion, we appreciate your attention to our concerns on this important issue. We applaud your consideration of a special study for the Lower Shirlington Crescent area and look forward to partnering with the LRPC and the full Commission as that process moves forward.

Sincerely,



/s/

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cc: Steve Cole
Peter Fallon
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Suzanne Klein
Inta Malis
Charles Monfort
Terry Savela
Terry L. Serie
Stephen Sockwell, Vice-Chair
Freida Wray, Planning Commission Coordinator
Gizele M. Carnell Johnson, Planning Commission Clerk

² Savela, Terry, ed. "Agenda for the Long Range Planning Committee October 27, 2011 Meeting." Arlington County Planning Commission. Arlington, VA: n.p. Retrieved Online October 5, 2011: <http://www.arlingtonva.us/departments/Commissions/plancom/PlancomLRPC.aspx>