December 2012

NAIOP Northern Virginia Joins Lawsuit on Accotink TMDL

NAIOP Northern Virginia, along with the National Association of Homebuilders (NAHB) and the Northern Virginia Association of Realtors (NVAR), filed a motion to intervene in a lawsuit by Fairfax County and the Virginia Department of Transportation against the Environmental Protection Agency over the implementation of the TMDL for Accotink Creek in Fairfax County. This motion was approved by Consent Order by Judge Liam O'Grady on November 15, 2012. It is widely expected that EPA will try to negotiate a settlement – this action will allow organizations, such as NAIOP, representing affected land owners a seat at the table.

The original complaint, filed in the U.S. District Court in Alexandria by the Office of the Attorney General for VDOT and by Fairfax County, challenges a massive expansion of EPA’s regulatory power. At issue is EPA’s move beyond its CWA-authorized (Clean Water Act) role of establishing Total Maximum Daily Loads (TMDL) restoration plans with maximum acceptable levels of “pollutant” discharges to meet water quality standards to EPA’s recently claimed authority to control the quantity or flow of water itself. In 2011, the EPA established a TMDL for Accotink Creek to improve the health of aquatic life in the creek. Rather than establish a TMDL for one of the pollutants in Accotink Creek, such as sediment, EPA chose to issue a TMDL for a surrogate, the flow of water. The term “pollutant” is defined in the CWA, EPA’s own regulations and Virginia’s Water Quality Standards Regulation to mean certain specifically enumerated substances, but the flow of water is not among them. According to experts, “EPA literally is treating water itself—the very substance the Clean Water Act was created to protect—as a pollutant,” the complaint notes.

If implemented, the new TMDL will require landowners to retain on-site indefinitely and/or use half of all storm water generated by a 24-hour storm. This requirement will be triggered if a property owner disturbs more than 2,500 square feet of land. This requirement is a vast expansion of existing storm water regulations and is not practical on many sites within the watershed. Neither Virginia nor Fairfax County are certain the requirements outlined in the TMDL can be met and anticipate that it will cost VDOT approximately $70 million and Fairfax County approximately $500 million to implement. The cost to the development industry as a whole will far exceed these estimates and will likely render many development projects unfeasible, which is one of the reasons NAIOP Northern Virginia has joined the lawsuit. Both VDOT and Fairfax County have supported NAIOP joining the lawsuit along with HBAV and NVAR. A hearing is expected the week of December 10 and a decision on the merits of our stand is expected in early 2013. For more information, please contact Martha Marks at mmarks@naiopva.org or 703-845-7080.

Awards

The 2012 NAIOP Awards Gala was once again the best commercial real estate event of the year in Northern Virginia. Close to 700 leaders in the commercial real estate industry joined together to celebrate the Best of NAIOP Northern Virginia. This year 23 awards were given out recognizing the best project in our region. Membership awards for Firm of the Year were presented to First Potomac Realty Trust and the Member of the Year is Ken Wire (McGuireWoods). Presentations and information on the winners can be found on the NAIOP website.
Upcoming Programs

Annual Meeting and Luncheon – December 10. Jim Moran and Tom Davis come from different political camps but they have several things in common – especially their love of Northern Virginia and politics. We’ve asked them to come share their insights about the 2012 election and what we should expect. And, what do they see as shaping up in 2013 for the Virginia statewide elections – including the gubernatorial race? This is also the official Annual Meeting of NAIOP Northern Virginia with the election of fifteen members of the Board of Directors. Registration for members and their guests is $80 and is open through, December 7 Click here to Register.

New Member Orientation – December 14. Are you one of our new members who joined since August of 2012? If so, you are invited to our final New Member Orientation Breakfast for 2012. Come learn how to maximize your investment in NAIOP Northern Virginia. Hear from NAIOP leadership about our government relations efforts, networking and educational events and other valuable insight about the fourth largest NAIOP chapter. If interested in attending, please email Benita Stocks or call her at 703-845-7080. Special thanks to Jones Lang LaSalle for hosting this event.

Developing Leaders

Philanthropy – Alternative House Snack Pack Project. In September, the Developing Leaders Committee chose Alternative House to support as part of their community outreach. Alternative House is a local organization that provides counseling, shelter and neighborhood-based support services for children, youth and families. The DLs planned a donation of Snack Packs - small baggies of food that the Alternative House provides to children who participate in some of their programs. DL volunteers set a goal of donating 1600 Snack Packs. With amazing planning, they exceeded their goal and delivered well over 2100 Packs plus surplus food for the shelter in early September. This was reportedly the largest single donation of goods to Alternative House. More than 30 chapter DLs and staff from Suffolk Construction volunteered to help with the project. Our thanks to Megan Murphy, Suffolk Construction, Nancy Hott, Stewart Title & Escrow, Inc., Michael Rockefeller, Bond Beebe Accountants & Advisors, Kaitlyn Mulvey, The JBG Companies, and Brandon Young, Interstate Worldwide Relocation Services, for taking leadership roles in this effort.

Government Relations

Phil Abraham, the Virginia Association for Commercial Real Estate’s (VACRE) lobbyist in Richmond will be the guest speaker at the December 18 Government Relations Committee meeting. Since NAIOP is a member of VACRE, Phil represents NAIOP’s interests at the General Assembly and on state regulatory matters. Come hear his report about the statewide elections and what issues he expects to be addressed during the 2013 session. The Governor will release his new budget on December 17 so the timing is perfect to have Phil give us an update. This meeting is open to all NAIOP Northern Virginia members, so if you are interested in attending, RSVP to Eric Dobson. Lunch will be provided courtesy of McGuireWoods.
The Government Relations Committee continues to meet on a monthly basis at McGuireWoods in Tysons. If you are interested in attending or participating in NAIOP’s extensive Government Relations efforts, please email Eric Dobson or call 703-845-7080.

**Alexandria.** The City of Alexandria has released its draft Housing Master Plan for public review and comment. The Housing Master Plan is intended to guide future preservation and enhancement of affordable housing opportunities, community diversity, and economic sustainability in Alexandria. The draft Plan is available on the City’s [website](#). A series of meetings are scheduled in the coming months to get public input.

NAIOP has worked closely with the City of Alexandria on their efforts to formalize an “Art Policy” for development projects. The City has proposed moving away from a negotiated contribution and adopting a set “per sf rate.” NAIOP and NVBIA held numerous meetings with staff and city leaders and ultimately a compromise of $.30 per sf for public art is being supported. New guidelines will also be adopted which provide clarity on what is acceptable in meeting this requirement in site design.

The next subcommittee will be January 10, 2013 at 8:30 AM at Alexandria City Hall.

**Arlington.** Over the next several months Arlington County will be revising its noise ordinance to remove the vagueness from it, as the Arlington ordinance closely mirrors Virginia Beach ordinance, which was ruled unconstitutional due to its vagueness. Changes proposed will allow noise to be measured within a structure and not just at the property line; provide a civil penalty in which each day of violation is an individual offense; allow a citation to remain in place during appeal; and, cast a broad net for the liability for both civil and criminal penalties. It is expected to be adopted no earlier than early 2013. NAIOP will continue to monitor this issue as it impacts both construction and occupancy of buildings.

The County Manager presented the draft Community Energy Plan to the County Board on November 27. Copies of the report are available on the County’s [website](#). NAIOP continues to work with the County on the technical and financial feasibility of some of the components that are being proposed. It will ultimately be adopted as part of the County’s Comprehensive Plan and part of the development process.

The subcommittee will meet next on December 12 at 8:30 AM at Walsh Colucci to discuss Minimum Acceptance Standards for siteplans, TDM formulas and the proposed noise ordinance changes.

**Fairfax.** On December 6 over two dozen NAIOP members attended an important meeting with key Fairfax staff to discuss new feeds in DPWES LDS and in DPZ and to discuss the possibility of Fairfax going to an Enterprise System for their fees. Eta Davis, DPWES, and Michelle Brickner, Deputy Director, DPWES – Land Development Services (LDS) discussed an approximate 2.5% increase in fees effective July 1. Regina Coyle, Assistant Director, DPZ – Zoning Evaluation Division, discussed a wide range of fee adjustments (including several decreases) based on a review that they are conducting to provide for consistency and clarity in their fee structure. The last agenda item was a Q&A session on stormwater management with Randy Bartlett, Deputy Director, DPWES, where he outlined some of the upcoming challenges and ways for industry to engage. It is his view that Stormwater Management is at a critical crossroads where local government and landowners and developers must begin to think about solutions in a new way as the science of management and the political culture are changing.

Fairfax County is proposing some changes to the PFM (Public Facilities Manual) as it relates to development in Tysons. For a copy of the proposed changes and to provide input, please contact Jan Leavitt with Fairfax County. These changes are intended to allow flexibility in meeting the urban design standards prescribed for the Tysons area. This will be a topic of discussion at the [January 3, 2013 Fairfax Government Relations Subcommittee meeting](#).
Two new co-chairs have been named for the Government Relations Fairfax Subcommittee. Ed Zaptin, First Potomac Realty Trust, and Scott Finberg, PS Business Parks, are the new chairs and will be working hard to maintain our excellent relationship with Fairfax County DPWES and DPZ staff. Rob Walker, William H. Gordon Associates, had chaired the subcommittee for the last five years and it will be a big challenge to fill his shoes. We thank him for all his hard work on behalf of NAIOP.

The subcommittee will meet at 8:30 on the first Thursday of the month at Three Flint Hill. Thanks to First Potomac Realty Trust for hosting the meeting and providing morning coffee and pastries.

**Loudoun.** Phase II WIP Stakeholders Committee has been formed, with NAIOP represented, and they will review and comment on Loudoun’s plan to meet its Phase II requirements. For more info, [click here](#).

Route 28 Zoning Ordinance Technical Committee (ZORTAC) has been established by the County to work with the staff and the County’s consultant formulating changes to the Zoning Ordinance so as to implement the County’s goals as detailed in the Route 28 CPAM adopted last year. The consultant has a first draft of possible ordinance changes which includes, among other items, the establishment of up to four new zoning districts. Copies of the draft ordinance can be reviewed at the [County web site](#).

Business Friendly ZOAM initiative is underway and the Planning Commission has completed its review of the initial set of business friendly zoning ordinance amendments recommended by a Board appointed stakeholders group. The Planning Commission reviewed approximately 135 stakeholder recommended changes, primarily in the PD-OP, PD-IP, CLI and MR-HI zoning districts. Based primarily on staff recommendations the Planning Commission has indicated support for about half of the recommended changes. The Board of Supervisor hearing is set for December 11. Click here for the [staff report](#). NAIOP members involved in the ZOAM have been pushing for adoption of more of the proposed changes.

Zoning Ordinance Action Group (ZOAG) was established this Fall by the Board of Supervisors. The ZOAGs initial work program will be picking up the remaining recommendations made by the original ZOAM group and hopefully moving those forward for action next year. Going forward the ZOAG will Review and comment on all proposed changes to the Zoning Ord. regardless of what the source. For more information, [click here](#).

Brian Palmer, Duke Realty, has agreed to join Lou Canonico, christopher consultants, ltd., as co-chair of the subcommittee. The subcommittee will meet at 3:30 PM on December 12 at the Loudoun Government Center.

Prince William. This week the subcommittee met with Planning Director Chris Price on the plans for a redevelopment program/policy to encourage and guide the redevelopment of properties in Prince William County. The county is looking for input from the commercial development community as they develop this ordinance. The plan would address issues such as property consolidation, zoning changes and incentives and grants that might be available for the County to access and spur redevelopment.

The subcommittee will meet by conference call at noon on January 9, 2013

### Past Programs

**Office Buildings of the Future.** NAIOP Corporate held a competition earlier this year to challenge architects to come up with concepts on the Office Building of the Future. In announcing the finalists in October of this year, several NAIOP Northern Virginia firms were represented. Gensler and Hickok Cole were two of the four winners and KGD Architecture received honorable mention. NAIOP Northern Virginia held a luncheon program to further highlight the innovative ideas and creative solutions these firms came up with regarding the office building of the future. Each of the firms winning submissions can be found on the NAIOP [website](#).
Prince William County: I-95/Route 1 Corridor. Major public and private sector investments in the I-95/Route 1 Corridor of Prince William County are remaking this Gateway to Northern Virginia. In early October, NAIOP convened a group to discuss these changes. Prince William Economic Development Director Jeff Kaczmarek discussed the demographics and investment opportunities; Richard Lake, Roadside Development, talked about what they have already accomplished at their Stonebridge at Potomac Town Center and what their expectations are for the next few years at their 24/7 mixed-use center; Traci Morris-Cole, I-95 Business Parks, talked about their available space and trends they see in both the industrial and office markets; and, Casey Tischer, SunCal talked about their purchase of Potomac Shores and their confidence in the market for residential development but also as a major destination on the banks of the Potomac River. All of the presentations can be found on our website. Thanks to I-95 Business Parks and Prince William County Economic Development for their support of this event.

Lunch with Scott York. At the start of October, NAIOP members gathered at WestDulles Properties to hear from Scott York about Loudoun’s efforts to make the County more business friendly. It was a great opportunity to have face time with the Chairman to hear about the challenges and opportunities facing the County. A detailed Q&A session followed. Chairman York remarked that some of the best talent in Loudoun County was sitting right there in the room. The “Lunch with” programs are an opportunity for NAIOP members to meet with local, regional and state officials in a smaller, low key setting. Thanks to WestDulles Properties for hosting the event.

Membership News

2013 Membership Renewal. The renewal cycle is in full swing. Corporate NAIOP is sending invoices by mail and reminders via email. Click here for information on renewing online. We look forward to your continued involvement in the chapter. If you have any questions about your membership or the chapter please call Benita Stocks, Director of Membership, NAIOP Northern Virginia at 703-845-7080.

Get Involved. Your commitment to NAIOP Northern Virginia is greatly appreciated and it makes everything we do possible – advocating on behalf of the industry and providing members with resources and educational programming that is both relevant and dynamic. We couldn’t do it without you! One of the best ways to get the most out of your membership is to participate in one of our committees. Chapter committees work hard in support of the chapter and we welcome your help. A few examples of the committees include:

- Developing Leaders Committee, for professionals age 35 or younger, offers professional development, peer-to-peer networking, access to senior professionals, leadership development
- Education Committee is your pick if you want to impact chapter programs
- You’ll be interested in the Government Relations Committee if you are active in the local jurisdictions. This is an opportunity to work with local government on important issues
- Membership Committee, because of our outreach efforts to current and prospective members, is great for members who like to network and who want to spread the word about NAIOP Northern Virginia.

Welcome New Members. NAIOP Northern Virginia membership continues to grow and we are very pleased to welcome the following new members who have joined since October 1, 2012:

Faris Abboushi - Bowman Consulting Group, Ltd.
Ghazi Alahmadi - George Mason University
Michael Alexander - Cassidy Turley
Mohamad Alnoor - George Mason University
Paul Apostolakis - George Mason University
Henry Ashton - HITT Contracting Inc.
Yvonne Baker - KBS Realty Advisors
Brandon Rhett Butler - George Mason University
Kinnery Clinebell - PNC Real Estate Finance
Terry Coakley - Coakley & Williams Construction, Inc.
Jeffrey Edelstein - Roadside Development
John Engel - Pillsbury Winthrop Shaw Pittman LLP
Chapter Sponsors

Thank you to our Chapter Sponsors. Their annual support ensures we are able to provide the quality programming and consistent government relations efforts that have made our chapter strong. If you are interested in joining this group of companies dedicated to the strength of the Northern Virginia economy, please give us a call and we can talk to you about the benefits of Chapter Sponsorship.

Thank you to these new Chapter Sponsors in 2012:

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Thank you also to Sponsors who increased their commitment to NAIOP Northern Virginia for 2012 and moved into a new Sponsor category:

**Avision Young**, Benefactor; **Brookfield Office Properties**, Patron; and, **SunTrust Bank**, Patron

Are you interested in being a chapter sponsor in 2013? Chapter Sponsors are those firms doing business in Northern Virginia who are leaders in supporting the efforts of NAIOP Northern Virginia. If you have questions about Sponsorship, please call Michelle Melvern at 703-845-7080.

NAIOP Northern Virginia Staff

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In the Know is an email newsletter for NAIOP Northern Virginia members. It is a quick read summary of key issues related to NAIOP and our industry. We hope you enjoy this benefit of your membership. If you are not interested in receiving this free member benefit, unsubscribe here.