MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, FEBRUARY 19, 2014

PRESENT: Frank A. de la Fe, Hunter Mill District
John C. Ulfelder, Dranesville District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
James T. Migliaccio, Lee District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Earl L. Flanagan, Mount Vernon District
John L. Litzenberger, Jr., Sully District
Peter F. Murphy, Springfield District

The meeting was called to order at 8:20 p.m., by Vice Chairman Frank A. de la Fe in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Migliaccio announced that the Planning Commission's Parks Committee would meet on Thursday, February 27, 2014, at 7:00 p.m., in the Board Conference Room of the Fairfax County Government Center, to discuss the 2014 Needs Assessment and receive a briefing on the Parks 2232 process.

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Commissioner Hart announced that the Commission's Environment Committee had met earlier this evening for a presentation from Mitre Corporation regarding its report on Building Energy Technology recommendations to Fairfax County. He added that the Committee would meet again on the following dates at 7:00 p.m.:

- Thursday, March 6 – 7:00 p.m., Board Conference Room (Discussion on Electric Vehicle Charging Station Infrastructure)
- Thursday, March 20 – 7:00 p.m., Board Conference Room (Discussion on Electric Vehicle Charging Station Infrastructure)
- Thursday, May 8 – 7:00 p.m., Location to be determined (White Paper for Electric Vehicle Charging Station Infrastructure)
- Wednesday, June 18 – 7:00 p.m., Board Conference Room (Discussion on Building Energy Technology recommendation)
- Thursday, July 10 – 7:00 p.m., Board Conference Room – No topic/agenda

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On Commissioner Lawrence's behalf, Vice Chairman de la Fe announced that the Tysons Committee would meet on Thursday, February 20, 2014, at 7:00 p.m., in the Board Auditorium, to discuss the Tysons Plan Amendment. He added that the meeting would be open to the public.

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RZ/FDP 2012-PR-002 – GREENSBORO PARK PROPERTY OWNER, LLC (Decision Only)
(The public hearing on this application was held on February 6, 2014.)

Commissioner Lawrence: Thank you, Mr. Chairman. Before we go on verbatim, I would like to do a little bit of preliminary –

Vice Chairman de la Fe: Okay.

Commissioner Lawrence: – if I may.

Vice Chairman de la Fe: That's fine.

Commissioner Lawrence: Mr. Bobby Katai is here with us this evening and he sent a memo over to the Commission today summarizing what had been done with the applicant. And remember that we deferred the decision in order to do some more work on stormwater management. There were also questions raised about proffers, one in particular that I follow up on is our bird design proffer; and the proffer that's in there is pretty much the standard proffer for Tysons that we've had for several years now. And what it says is look at what bird design technology there is, decide what you're going to do, and tell us what you do and what you don't do so we end up with data on what things get done and what things are not done and why. That's what that proffer does and it's still there in the same form it was in the public hearing for that reason. That's – that's what we got right now. As to the stormwater management, Bobby, could you give us a very short thing about what happened?

Bob Katai, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ): Yes, at the February 6th public hearing, the Planning Commission requested that the applicant review the stormwater management techniques that were going to be utilized for the existing office building portion of the site and see if they could add some additional features to raise the retention rate from 0.39 of the first inch of rainfall to something higher. The applicant did that and decided to utilize pervious pavers for those parking areas that are going to be retained and, in doing so, they will be raising – they are proffered to raise the retention rate to 0.44.

Commissioner Lawrence: Thank you very much. I – I think that is a significant alteration because it gives us some of what we're searching for even before the rest of the site gets developed, and I thank the applicant for having had the flexibility to do that. Mr. Chairman I'm going to move this matter so that they can keep their Board date. There are a lot of waivers and, with your permission, I'd like to move the waivers en bloc.

Vice Chairman de la Fe: That would be fine unless everyone has received a copy of the numerous waivers and, unless somebody objects, it would be all right to move them en bloc as

far as I'm concerned. Is that all right? Hearing no objection, so moved until we change the Ordinance to get rid of waivers for urban areas.
Commissioner Lawrence: Mr. Chairman, tonight we have the decision only on RZ/FDP 2012-PR-002. We had the public hearing on February the 6th. This is a significant application for Tysons in that it is a composite where a site is to be partly developed and partly stay the same for an indeterminate period of time as there are revenue producing buildings on the site. We all know – at least we have found out in doing the work we've - been done at Tysons – that consolidation is not simple or easy, and I think we've had the big consolidations that we're going to have. I'd like to be surprised and find there are others, but I don't think that's coming. I think we're going to have more like this one rather than more like the great big ones that we started out with. That being the case and Tysons being a place where there is a tremendous amount of surface parking, I think we have created a pretty valuable piece of -- offering here. As we go forward we can look at what happens to the surface parking on those areas that aren't going to be redeveloped for some period of time. The way we set this up, the applicant's going to be there repaving anyway at some period. Now, we have a date certain so that if they don't get around to it they'll – they'll still do it by a certain length of time, but we're going to get additional stormwater management benefits before we have the rest of the site developed, thanks to the work of our county staff. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2012-PR-002, SUBJECT TO THE PROFFERS DATED FEBRUARY 19TH, 2014, HANDED OUT TONIGHT.

Commissioner Hart Second.

Vice Chairman de la Fe: Moved, and seconded by Mr. Hart. Any discussion? Yes.

Commissioner Hall: I'll be abstaining; not present for the public hearing.

Commissioner Hurley: Abstain.

Vice Chairman de la Fe: And the same goes for you? Okay. Okay. Hearing no further discussion, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? No? And with two abstentions, Commissioners Hart [*sic*] and Hurley were not here.

Commissioner Hart: Hall.

Vice Chairman de la Fe: Not Hart, Hall.

Commissioner Hart: I voted yes.

Vice Chairman de la Fe: I still – I still –

Commissioner Hart: You're doing it again.

Vice Chairman de la Fe: You guys have to either change your name or change your chair positions. But the motion carries. Mr. Lawrence.
Commissioner Lawrence: Certainly, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2012-PR-002, SUBJECT TO DEVELOPMENT CONDITIONS DATED JANUARY 22ND, 2014, AND SUBJECT TO THE BOARD'S APPROVAL OF RZ 2012-PR-002.

Commissioner Hart: Second.

Vice Chairman de la Fe: Been moved, and seconded by Mr. Hart. Any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? No?

Commissioners Hall and Hurley: Abstain.

Vice Chairman de la Fe: And two abstentions; same division as before. Mr. Lawrence.

Commissioner Lawrence: Finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS AND WAIVERS, AS ELICITED IN THE HANDOUT DATED FEBRUARY 19TH, 2014, THAT WAS PROVIDED TO YOU TODAY, AND WHICH SHALL BE MADE A PART OF THE RECORD OF THE CASE.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? Nay? And the same abstentions. So it's the same division.

The motions each carried by a vote of 7-0-2. Commissioners Hall and Hurley abstained from the votes. Commissioners Flanagan, Litzenberger, and Murphy were absent from the meeting.

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ORDER OF THE AGENDA

On behalf of Commissioner Hall, Vice Chairman de la Fe noted that there would be only one public hearing this evening.

1. RZ 2013-LE-013 – EASTWOOD PROPERTIES, INC.

This agenda was accepted without objection.

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RZ 2013-LE-013 – EASTWOOD PROPERTIES, INC. – Appl. to rezone from R-1 to R-8 to permit residential development with a total density of 7.8 du/ac and waiver of the minimum district size requirement. Located on the S. side of the Franconia-Springfield Bypass, approx. 750 ft. W. of its intersection with Beulah St. on approx. 1.79 ac. of land. Comp. Plan Rec: 5-8 du/ac. Tax Map 91-1 ((1)) 18, 19, and 20. LEE DISTRICT. PUBLIC HEARING.

Lori Greenlief, Applicant's Agent, McGuireWoods LLP, reaffirmed the affidavit dated February 6, 2014. There were no disclosures by the Commissioners.

Nicholas Rogers, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application RZ 2013-LE-013.

Commissioner Hart asked whether there was a conflict in the revised proffers, dated February 18, 2014, in the language between Proffer Numbers 17, Barbara Road Construction Entrance, and 31, Conservation Easement, pointing out that if Proffer Number 17 provided a conservation easement, there should not be a provision for a road to go through it as provided in Proffer 17. Mr. Rogers explained that in the event the easement should need to be reconsidered to provide the construction entrance, Virginia Department of Transportation (VDOT) or the applicant's project management team must make sure to offset the benefits provided by that easement. Commissioner Hart suggested that language be added to Proffer Number 31 for a contingency in the event the easement was encroached. He also said that there was nothing in Proffer Number 17 to indicate that the easement would be restored to its original state after construction. Mr. Rogers agreed and said that the language could be clarified, particularly in Proffer 31, and stated that Proffer Number 17 resulted from the applicant's outreach to the owner of Parcel 12, whereupon it was agreed that the site would be returned to its original state. When Commissioner Hart asked whether the space might be compensated for onsite in another location if the easement were lost, Mr. Rogers said that staff would need to investigate whether that option was available, given the current development plan.

Commissioner Migliaccio noted that the connection from Barbara Road and Alforth Avenue had been placed on the Generalized Development Plan (GDP) because staff had requested it; however, neither the community nor the Lee District Supervisor's Office supported it. He pointed out that there were better locations for such a connection and added since that the chances of this connection not taking place were not very good and he would be happy to make a motion to remove it from the plan.

Commissioner Sargeant asked if the new development was being incorporated into the existing nearby homeowners association (HOA) to avoid creating a new one. Mr. Rogers said that while he would defer to the applicant to address this question, he noted that during the review process the applicant had expressed their intent for the existing Devonshire HOA to annex the new

residences. Commissioner Sargeant referenced revised Proffer Number 19, Noise, and asked if testing would take place after the acoustic measures were installed. Mr. Rogers said that it would be done during the implementation stages. Referencing Proffer Number 37, Recreation Contribution, Commissioner Sargeant asked if there were existing parks nearby to which the applicant could make a contribution. Mr. Rogers said that he would determine if there were, but pointed out that there was flexibility in the proffers for coordination with Lee District staff to best funnel the funds to an appropriate location.

Commissioner Hurley questioned the need for Proffer Number 44, Color, placing such specificity on the color of the homes, to which Mr. Rogers deferred to the applicant for a response. Referencing Proffer Number 43, Construction Traffic, Commissioner Hurley suggested removing the word "Lane" from the second sentence and instead replacing it with "public school." Mr. Rogers concurred. Commissioner Hurley referenced Proffer Number 40, Tot Lot, and asked when the decision regarding its construction/removal would be made and who would make that decision, the existing Devonshire community or the new development. Mr. Rogers deferred to the applicant to provide clarification on this question.

Ms. Greenlief explained that the application provided a logical and compatible connection to the existing subdivision and had the support of the Lee District Land Use Committee. She noted that the majority of the homes would back onto existing Board of Supervisors' land designated as permanent open space, thus minimizing the impact to the residents in Windham Estates and Devonshire Townhomes. She added that the proposal provided more than the required open space than was required by the Comprehensive Plan, in addition to an active recreation area in the form of a tot lot. She referenced Commissioner Sargeant's remarks regarding Proffer Number 19, noting that it would address specific elements on each lot and added that the applicant had also committed to universal design and green building practices. Addressing Commissioner Hart's earlier concerns, Ms. Greenlief explained that Proffer 31 dealt with the potential for a permanent road connection, whereas Proffer 17 referenced a temporary construction entrance from the end of Barbara Road to the subject property that would cross property currently in a VDOT right-of-way. She added that the intent in the last sentence of the proffer was to commit to the replacement of the fence and grass in that easement with VDOT's permission. She further acknowledged Commissioner Hart's request for contingency language in Proffer 31 and concurred. She also addressed Commissioner Hurley's remarks, stating that Proffer Number 44 was requested by Windham Estates, which would have a view of the end of one of the rows of the new homes. In addition, she stated that the applicant would concur with Commissioner Hurley's suggestion to change the language in Proffer Number 43. With regard to the tot lot in Proffer Number 40, Ms. Greenlief explained that the applicant intended to construct the lot and, in the event that it was not used, the lot could be reassessed for possible changes to a more appropriate use.

When Commissioner Hurley again asked when the decision regarding the construction/removal of the tot lot would be made and who would make that decision, Ms. Greenlief said that the developer would construct the tot lot with the development. She explained that if it was later determined that the lot was not needed, the Devonshire HOA, including the existing and new developments, would make the decision regarding future changes.

Commissioner Lawrence asked if the Devonshire HOA had expressed a desire to annex the new development. Ms. Greenlief said yes. When he asked if the proffers for both developments would be the same, Ms. Greenlief said they would not, noting that the residents at Devonshire Townhomes had received a copy of the proffers. She added that the applicant was still in negotiations with Devonshire regarding the construction entrance.

Commissioner Migliaccio asked Ms. Greenlief if she would be amenable to removing the page depicting the connection from Barbara Road and Alforth Avenue through the easement from the GDP. Ms. Greenlief confirmed that she would. Commissioner Migliaccio asked Ms. Greenlief to describe where the discussions stood regarding Barbara Road and Alforth Avenue and to go over Proffer Number 43, as well as how the applicant would provide safety measures beyond what had been discussed during the Lee District Land Use Committee meetings. Ms. Greenlief pointed out that because Alforth Avenue was a private road, negotiations were ongoing with the Devonshire subdivision for a construction access road. She added that language had been drafted and modified, and was very close to being executed. She noted, however that the Barbara Road construction access would be in use for 60 percent of the development and said that the road was narrow; therefore, the applicant had proffered to work with the Supervisor's Office for an additional police presence during the first month of construction within that neighborhood to slow down traffic/trucks and would also coordinate with the school system to ensure that a flagman was out 10 minutes before the school bus arrived, remaining until it left in the morning and afternoon. In addition, she said that the applicant would work with VDOT to try to extend the yellow line around a curve the trucks would be using and install temporary signs throughout the neighborhood.

Commissioner Hart again expressed concern about Proffer Numbers 17 and 31, noting the conflict in language and pointing out that a conservation easement would be recorded prior to the issuance of any building permits. William O'Donnell, ZED, DPZ, suggested that an interim sheet be added to the GDP depicting the temporary access and describing how the applicant would return the impacted area to its original state.

Commissioner Hurley referenced Proffer Number 18, Timing of Construction Entrances, and asked Ms. Greenlief if Barbara Road would be the sole construction access in the event the applicant could not reach an agreement with the Devonshire HOA. Ms. Greenlief said yes.

Vice Chairman de la Fe called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary. He then called for concluding remarks from the Planning Commission.

Commissioner Migliaccio asked Ms. Greenlief if one week would be enough time to resolve the issues discussed during tonight's meeting, to which she responded yes.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Migliaccio for action on this case.

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Commissioner Migliaccio: Thank you, Mr. Chairman. Based on what we heard tonight from the Planning Commission in the questions and the comments, we're going to – I'm going to move for a deferral period of one week. So therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS FOR RZ 2013-LE-013, TO A DATE CERTAIN OF FEBRUARY 27TH, 2014.

Commissioner Sargeant: Second.

Vice Chairman de la Fe: Been moved, and seconded by Mr. Sargeant. Any comments? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? Motion carries.

The motion carried by a vote of 9-0. Commissioners Flanagan, Litzenberger, and Murphy were absent from the meeting.

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The meeting was adjourned at 9:19 p.m.
Peter F. Murphy, Chairman
Janet R. Hall, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord

Approved on: September 18, 2014

John W. Cooper, Clerk to the
Fairfax County Planning Commission